



The European Law Students' Association

MAYNOOTH

ELSA Maynooth International Negotiation Competition 2017 Competition Rules

1. NATURE AND PURPOSES OF THE COMPETITION

A. General Nature of the Competition

The ELSA Maynooth International Negotiation Competition (hereinafter referred to as 'the Competition') is a competition in which a team of two students or recent graduates representing a party/client negotiates either a transaction or the resolution of a dispute with an opposing team of two students or recent graduates.

B. Overall Purposes of the Competition

The purposes of the Competition are to:

- i. Promote greater interest among law students in legal negotiation;
- ii. Provide a means for law students to practise and improve their negotiating skills; and
- iii. Provide law students with a critique of their performance from experienced legal negotiators.

2. ADMINISTRATION, ENTRY, AND EXPENSES

A. Organisation and Administration of the Competition

The Competition is organised and administered by ELSA Maynooth; it is sponsored by Maynooth University Department of Law. ELSA Maynooth may also appoint persons to serve as Advisors to the Competition. Such advisors may be drawn from persons with extensive competition experience or connected with Competition sponsors.

Advisors may participate in Competition functions and provide input to the Organising Committee.

B. Entry into the Competition, Eligibility and Deadline

The competition is designed for students of law or related disciplines rather than practitioners. Participants must be current students (including postgraduate students) or immediate graduates, or persons engaged in postgraduate practical legal training. Students enrolled in postgraduate study, such as on a master's degree or practical legal training, are eligible so long as they have not practised law (other than in temporary jobs or apprenticeships) between their initial and postgraduate studies. A person whose last law graduation was more than twelve months prior to the Competition is not eligible.



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C. Selection of Teams to Represent a University

A team representing a university at the Competition should be selected in a transparent, fair, institutionally inclusive, competitive process. Upon good cause shown, the Organising Committee may grant exceptions to this policy.

D. Substitutions of Team Members

When one member of a qualifying team is unable to participate in the Competition, a substitute from the same law school may be used.

E. Participant Expenses

Travel, accommodation, and incidental costs incurred by participants in the Competition will not be reimbursed by the Competition and will be the responsibility of the participants. Judges, faculty advisors, and others participate voluntarily and are not reimbursed by the Competition. The Competition is not liable for any costs or risks associated with attending the Competition.

G. Entry Fee

Participation fees shall be set by the Organising Committee in accordance with the standard participation fee regulations of ELSA International. Participation fees for ELSA members shall be set at the discretion of the Organising Committee.

3. NEGOTIATION SIMULATIONS

A. The Simulations

A different simulation will be used for each round of the competition. Each simulation will consist of the following:

- i. General Information provided to all participants; and
- ii. Information known only to the participants representing a particular side, which shall be labelled Confidential Information.



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B. Distribution of and Access to the Simulations

Approximately two to three days before the Competition, each participating team will receive its General and Confidential Information for each of the negotiation simulations. Judges will have access to simulation materials provided to all participants as well as a Confidential Summary for Judges. No one having access to confidential

information for both sides may act as a coach or participant, or directly or indirectly allow coaches or participants access to such information prior to the end of the round.

C. Interpreting the Simulations and Inventing Self-Serving Facts

As in any negotiation session, the facts are subject to reasonable interpretation by the parties. Teams are allowed to invent or infer facts that are not materially self-serving. A material, self-serving fact is one that significantly changes the relative leverage between the parties. Whether a team's interpretation of the facts is reasonable, or whether a team has invented or inferred material, self-serving facts, is a matter to be determined by the Judges during the round. Decisions in this regard are not subject to dispute, nor are they reviewable. However, Judges may seek clarification from the organisers prior to scoring the round to assist them in making any such determinations.

4. THE COMPETITION FORMAT; SUPPLEMENTARY MATERIALS; TIME-KEEPING; AND RECORDING OF ROUNDS

A. Rounds

The competition will consist of at least two rounds. Unless otherwise announced, each team in each round will participate in a:

- i. 10 minute pre-negotiation session with the Judges (5 minutes per team);
- ii. 50 minute negotiation session;
- iii. 10 minute period for teams to prepare for their reflection;
- iv. 20 minute reflection period (10 minutes per team) in the presence of the Judges; and
- v. 10 minute comment period during which the Judges give the teams feedback (with both teams present).

B. Language

All oral and written communications must be in English.

C. Pre-Negotiation Session with the Judges

In two successive periods of up to five minutes each prior to the negotiation, team members (without the other team present) should introduce themselves to the judges and then the team members should address the following questions in front of the judges:



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- i. What do you see as the client's most important goals and interests in the upcoming negotiation?
- ii. What negotiating style, strategy and/or tactics do you plan to use to accomplish those goals in the upcoming negotiation?
- iii. Do you see any potential ethical issues arising in the upcoming negotiation and/or any other limitations on your role, including your authority?

D. Breaks during the 50 Minute Negotiation Session

Each team may take one break of no more than 5 minutes during the 50 minute negotiation session. If a team decides to take a shorter break, they should announce the shorter time to the judges and the other team at the beginning of the break, and then both teams must return to the negotiation at the end of the specified time. Even if a team decides to take a break shorter than 5 minutes, each team may call no more than one break. The 50-minute period will continue to run during any such break. Both teams must leave the room during the break. During a break, teams may not confer or pretend to confer with any other person, including their 'clients'.

E. Reflection

Following a 10 minute preparation period, during which teams may not confer with any other person, each team will have 10 minutes in which to analyse for the Judges the team's performance in the negotiation in the presence of the Judges. This reflection will take place without the opposing team being present. Students will begin this 10 minute period by answering the following questions:

- i. In reflecting on the entire negotiation, if you were to be faced with a similar situation tomorrow, what would you do similarly and what would you do differently?
- ii. How well did your strategy work in relation to the outcome?
- iii. What potential or actual ethical issues, if any, arose during the negotiation and how did they affect any strategic choices that you made?

Judges may ask questions, but teams should ordinarily be allowed to address the specified questions first. In addition, the team may use this period as an opportunity to explain why it chose a particular approach or a specific tactic. The Judges may take into consideration for scoring purposes anything said during this session.

F. Supplemental Materials

The Competition is designed to focus on negotiating skills as demonstrated on the day of the Competition. Outside or supplemental materials may unnecessarily distract from that focus. Competitors may bring and/or use blank flip charts or black/white boards. Such flip charts or boards may be used only while both parties are present during the negotiation session; they may not be written on during the pre-negotiation session or reflection. During the pre-negotiation session, the negotiation session, or the reflection, no prepared or outside materials, except business cards, may be presented to the other team(s) or to the Judges. This restriction includes food, drinks, gifts and any other materials brought in from outside. Occasionally, the presentation of materials may be specifically authorised by the general or confidential information. If such a presentation is authorised and that authorisation is contained in a team's confidential information, the team making the presentation must expressly note the permission at the



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time of presentation so that the Judges and other team(s) will understand that there has been no rule violation. The teams may themselves use previously prepared notes in any format or medium, including a laptop computer, during the pre-negotiation session, the negotiation session, or the reflection. Teams may also use calculators or timekeeping devices. Email, instant messaging, and other means of communication are prohibited at all times during a round.

G. Timekeeping

Responsibility rests with the student participants for timekeeping and for adherence to allotted time periods and breaks. Responsibility for timekeeping during the reflection periods rests jointly with the participants and the Judges, each having the responsibility to terminate the period at the end of 10 minutes. However, if resources and volunteers are available, timekeepers or timekeeping devices may be provided, but no individual identified with a participant may act as timekeeper in a negotiation involving such participant. Decisions by the Judges as to elapsed time are final. Judges have discretion to grant a short amount of additional time of no more than three minutes to allow a team to answer the reflection questions if they were unable to do so because of questioning by the Judge(s).

H. Recording of the Rounds

The Organising Committee may arrange for video or audio recording of the rounds. By entering, students agree to be recorded and for the use of the video for educational and/or promotional purposes. In addition, non-disruptive recording by individual teams or spectators (for educational purposes only) is permitted with prior permission from those involved and the Organising Committee of the Competition, provided a copy of that recording is provided to the Organising Committee in due course.

I. Variations in Format and Timing

Upon prior notice to the participating teams, the Organising Committee may vary the format and timing of the Competition.

5. COMPETITION SCHEDULE

A competition schedule shall be circulated to participating teams a few days in advance of the Competition. Each team competing does not need to be on site until shortly before their scheduled round. However, each team should allow sufficient time to arrive in case of unexpected delays.



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B. Submission of Enquiries about the Simulations in Advance of the Team Briefings

Submission of enquiries relating to the simulated fact patterns may be made in advance of the briefing, must be in writing and must be submitted by e-mail to the Organising Committee. Enquiries shall be answered only if necessary to clarify a bona fide and fundamental ambiguity in the simulation.

6. PERMISSIBLE ASSISTANCE AND PROHIBITED COMMUNICATIONS

A. Assistance Prior to a Round

The faculty adviser and/or any other person who has not received the full negotiation simulations may advise the team in its planning and preparation for the competition.

B. Communication with the Team during a Round

No one may give advice or instructions to – or attempt to communicate in any way with – any of the participants during the period from the beginning of the participants' pre-negotiation session to the completion of the reflection period for that negotiation session.

C. Communication with the Judges during a Round

Faculty advisers and other persons identified with a team may not speak to a Judge during the period from commencement of the pre-negotiation session through to the completion of the judges' scoring.

D. Multiple Teams from the Same University/Institution

Participants, faculty advisers or any other person(s) connected with a team may not communicate with another of its university/institution's teams (if a university/institution has more than one team entered in the Competition) until all of the university/institution's teams have completed the round.

7. ATTENDANCE AT NEGOTIATING SESSIONS

A. Observers

The Organising Committee may authorise observers to attend negotiation sessions if space is available for that purpose.



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B. Coaches and Persons Identified with a Participant

Coaches and persons identified with a participant may watch their team's negotiation, including both pre-negotiation and reflection sessions. However, no participant or other person identified with a participant may attend a negotiation session of any other team, while the team is still in the Competition.

8. BREACHES OF THE RULES

A. Duty to Make a Timely Complaint

Competition participants and faculty advisers waive the right to complain about any matter or possible breach that becomes apparent prior to a negotiation, during the pre-negotiation sessions, during the negotiations between the parties, during the preparation for reflection or during the reflection sessions if they fail to make a complaint before the end of the Judges' feedback period in the round in which the matter occurred. For matters or possible breaches that only become apparent during the Judges' feedback period, Competition participants and faculty advisers must raise the matter within ten minutes after the end of the Judges' feedback period in the round in which the matter occurred. Otherwise, the right to make a complaint concerning any such matter or possible breach is waived.

B. Procedures

A team or its coach who wants to complain about any matter or possible breach should seek out a member of the Organising Committee in a timely manner. Members of the Organising Committee who are present may conduct a preliminary enquiry, which may include discussing the matter with the Judges. The members of the Organising Committee who are present may make a preliminary determination that

- i. There has been a prima facie violation of the rules;
- ii. The matter involves only an appearance of impropriety and not an actual breach of the rules; or
- iii. The matter appears to involve only harmless error in light of what the Judges have indicated.

Factual disputes, questions of harmless error and the remedy for breaches of the rules will be determined by an Appeal Panel. The Appeal Panel will include members of the Organising Committee and at least one, but not more than three, faculty advisers and/or Judges. No member of the Appeal Panel may be a person identified with a complainant school, the alleged offending school or a school currently placed behind the alleged offending school. The Appeal Panel shall not meet before the conclusion of the last round of negotiations. The Appeal Panel shall not hear a complaint that will have no bearing on the results of the Competition. A complaint shall be considered to have no bearing on the results of the competition if the alleged offending team would have had no chance of placing in the Competition whether or not the complaint is upheld. The decision of the Appeal Panel is final.

C. Sanctions for Breaches

Breach of any rule may result in disqualification. The mere act of prohibited communication, receipt of information or attendance as proscribed by Rules 9 and 10 will constitute a presumptive breach of the rules,



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regardless of the substance and of whether initiated by a participant or by any other person. Innocent mistake will not be a complete defence to a complaint based on breach of this rule.

With respect to breaches, the Appeal Panel shall have full discretion to change the ranking of the offending team in the round, disqualify the team from winning the Competition, issue a reprimand or impose no penalty.

9. TEAM IDENTIFICATION AND PAIRING ROUNDS

A. Random Assignment of Letters or Numbers

The Organising Committee may assign each team a random letter or number.

B. Identification of Teams

Teams in the Competition may not identify the university/institution that they represent. If a Judge asks a team member which university/institution the team member represents, the member should respond that the rules do not allow that information to be given until the round is completed.

C. Pairings

Opposing sides will be randomly matched by the Organising Committee. However, teams from the same university/institution shall not be paired against each other insofar as is possible. Furthermore, no team shall negotiate against the same team more than once during the preliminary rounds of the Competition.

10. ADDITIONAL TEAM: UNEVEN NUMBER OF REGISTERED TEAMS

A. Adding Teams to Make a Multiple of Four

The Organising Committee may permit one or more additional eligible teams to participate in the Competition if the number of teams registered does not equal a multiple of four. Any additional team must otherwise qualify for participation in every respect.

B. Splitting Teams

If necessary, the Organising Committee may selectively split a team or teams to compete as single person teams for a particular round if a team cancels or fails to appear and there is insufficient time to find a replacement team.

In such instances, the Organising Committee shall endeavour to see that a team has to split only once during the Competition. If a team splits, the team member who earns the better ranking will count in the scoring for that team for the round in which the team splits.