

Guidelines for Writing a Memorial

A well-written submission, a logically built-up argument is easier for a judge to understand. He or she is more likely to pick up counsel's line of argument and, hopefully, its submission. Uniformly used editing rules make it easier for a judge to find the documents, referred to in the Memorials and it will be easier for him or her to read through the document in general. A well written and neatly and uniformly presented document will show the judge that effort is being put into the case. Combine that with excellent legal arguments and most judges will at least be willing to listen to your case with an open mind.

Clarity and consistency is key. As the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia in the *Krajišnik* (18 October 2007) reminds us:

"the forcefulness and efficacy of an appeals brief submission does not hinge on the number of words used to support an argument but rather on the clarity and coherence of the argument, an endeavour aided more by succinct reference to legal and evidentiary issues requiring the Appeals Chamber's attention than by an excessive level of detail that may not bolster the cause of an efficient administration of justice."

Though the comment relates to the submission of an appeals brief, it does provide much useful advice as to how best to draw up any written legal argumentation. It is almost unnecessary to add, that with trying to prepare good memorials, you will train writing and presentation skills, that will be highly useful in your future (legal) career.

The format requirements (Article VIII.1 ROP) of the Memorials will be checked by the TOO (Article VIII.3.1 ROP). The legal contents of the Memorials will be judged by the Board of Review (Article IX ROP).

Guidelines

1. Read the Rules of Procedure on this matter very carefully (especially Article VIII and IX).
2. Start writing your memorials well in advance before the deadline. This guideline may look obvious, but many teams have struggled with deadlines. The first thing to suffer from working against a deadline, is the presentation of the document.
3. Before you start writing the memorial, select a set of editing rules based on Article VIII ROP that you are going to use throughout the memorials. Once you have done so, apply those rules from the start, instead of adapting an already finished document to a set of editing rules. It will save a lot of work.
4. Per section:
 - (a) **Table of Contents:** This should contain a list of the chapters and paragraphs that are included in your memorial, as well as the page numbers on which these chapters/paragraphs can be found.
 - (b) **List of Abbreviations:** This list should contain all the abbreviations used, with the full meaning of each abbreviation. As for the use of abbreviations in general, make sure this is consistent as well; use the same abbreviation throughout the Memorial.
 - (c) **List of Sources:** Make a distinction between the sort of source, e.g. book/periodical/jurisprudence etc. Most important is that the reader should be able to find the document or book referred to, without

problems. As with everything in the Memorial, be consistent in the way you refer to the source throughout the Memorial.

(d) **Statement of Relevant Facts:** Here, a brief summary of the, for the submission relevant, facts has to be written.

(e) **Issues:** Extract the legal issues from your arguments and put them down in a logical order. (preferably under the heading/chapter/division number under which you have placed them in your arguments)

(f) **Summary of Arguments:** Put a very brief summary of your arguments down again in a logical order.

(g) **Jurisdiction of the Court:** Here the (grounds for) jurisdiction of the Court should be clearly stated.

(h) **Arguments:** This chapter contains the legal arguments that will back up your submissions. It is the most important part of the memorial. Make sure your arguments are written down in a logical, clearly understandable manner. Just pretend that the document is going to be read by someone who knows virtually nothing about the case. Ideally, the document should be written such, that the reader is convinced that what you have written is simply the only way one could understand and judge this case. To aid this person, use comprehensible language. Perfect English is not required, you do not get penalty points for spelling mistakes, but the document should be in understandable English. Make sure that you put down in writing exactly what you want to communicate to the judge.

(i) **Submissions:** In your submissions you put down what you want the Court to decide upon your case. A prohibition? A declaratory judgement? Make sure you do indeed put down what you want.

Requirements Regarding the Format of a Memorial (Art. VIII jo. XIII.2)

1.1

Memorial in English; Penalty: disqualification of the team

1.2

Order of sections and all sections included;

(a) Table of Contents;

(b) List of Abbreviations;

(c) List of Sources (treaties, jurisprudence, literature, etc.);

(d) Statement of Relevant Facts;

(e) Issues;

(f) Summary of Arguments;

(g) Jurisdiction of the Court (or other body vested with adjudicatory power);

(h) Argument;

(i) Submissions.

The Memorial may also include Annexes up to a maximum of five (5) pages. Participating teams are obliged to follow the order as mentioned in this paragraph. Each section shall include only information relevant to that section. Penalty: 2 points per missing section and/or per violation.

1.3

The Argument (section (h)) and the Submissions (section (i)) together, including footnotes, shall not exceed twenty-five (25) pages; Penalty: 5 points per page over 25 pages.

1.4

- The Memorial shall be typed; Penalty: 1 point per violation (max. 4 points)
- on A4 paper (21 cm x 29 3/4 cm); Penalty: 1 point per violation (max. 4 points)
- on one side; Penalty: 1 point per violation (max. 4 points)
- with interline 2 (double spaced); Penalty: 1 point per violation (max. 4 points); NB: to save paper, it is permitted to single space the sections (a) Table of Contents, (b) List of Abbreviations, and (c) List of Sources;
- with a margin of 2,5 cm on both sides and; Penalty: 1 point per violation (max. 4 points)
- with a margin of 2,5 cm at the top and at the bottom; Penalty: 1 point per violation (max. 4 points)
- typestyle: Times New Roman size 12, Courier 10; Penalty: 1 point per violation (max. 4 points).

1.5

- The pages of the sections Argument (h) and Submissions (i) together shall be numbered consecutively in Arabic numbers (1 - 25); Penalty: 1 point per violation (max. 2 points)
- All the other sections of the Memorial shall be numbered consecutively in small Roman numbers (i - ii - ... -iv ... xi ...); Penalty: 1 point per violation (max. 2 points)
- Each page shall be numbered in the middle at the top of the page; Penalty: 1 point per violation (max. 2 points)
- The footnotes shall be placed at the bottom of the page and must be numbered consecutively throughout the Memorial in Arabic numbers (1,2,3,4, etc.); Penalty: 1 point per violation (max. 2 points).

1.6

- Footnotes and quotations shall not be reduced in size; Penalty: 1 point per violation (max. 4 points)
- The standard double spacing between footnotes must be kept. Footnotes and quotations of more than one line in length may be typed single spaced; Penalty: 1 point per violation (max. 4 points).

1.7 *This is where most penalty points are given !!*

- The Listing of the sources in the List of Sources and in the footnotes shall be **complete**: All the sources referred to in the footnotes have to be included in the List of Sources. In the reverse, the List of Sources may not include references to sources other than those referred to in footnotes; Penalty: 2 points for 1-5 violations; 4 points for 6-10 violations; 6 points for 11 or more violations.

- The listing of the sources in the List of Sources and in the footnotes shall be **uniform**, that is, they have to be the same. In order to save space in the Argument, abbreviation of references to sources in the footnotes is permitted. In line with general rules of citation this has to be announced either in the footnotes or in the List of Sources. Thus in case of abbreviation, the following could be done either in the List of Sources or in the relevant footnote itself:

Meron, T. (1991), 'Internal Strife: Applicable Norms and a Proposed Instrument', in: Astrid J.M. Delissen and Gerard J. Tanja (eds.), Humanitarian Law of Armed Conflict - Challenges Ahead - Essays in Honour of Frits Kalshoven, Dordrecht/Boston/London: Martinus Nijhoff Publishers, pp. 249-266 (hereinafter cited as: Meron (1991))

The reference included in the List of Sources always has to include all the details. As long as the abbreviation is announced properly, the reference in the footnote does not always have to include all the details. Please also note that references to articles in books (such as the example above) have to be referred to uniformly, referring to the name of the author of the article in both the List and the notes , instead of the name of the author of the article in the notes and the name of the editor of the book in the

List even when several articles published in that book are used. Penalty: 2 points for 1-5 violations; 4 points for 6-10 violations; 6 points for 11 or more violations.

1.8

Each Memorial shall be bound by a cover: the Memorials for the Applicant by a green cover, the Memorials for the Respondent by a red cover; Penalty: 1 point per violation (max. 4 points).

1.9

The participating teams may not be identified by name or in any other way in the Memorial, except by their designated registration number; Penalty: 6 points.

1.10

The registration number (plus A or B-side) must appear clearly in the middle at the bottom on the cover of the Memorials; Penalty: 2 points.