

RACSE/ANESC

Moot Court Competition on the European Social Charter

Rules

Terminology: the opposing parties are referred to as “Complainants” and “Respondent Governments”, and their respective pleadings as “Complaint” and “Memorandum”.

1. The moot case

1.1. The moot case shall raise an issue regarding the consistency of a practice or law of a moot State Party with the European Social Charter’s treaty system. The subject matter is brought moot before the European Committee of Social Rights via a moot collective complaint.

1.2. The moot case is written by the Scientific Committee. The statement contains sufficient guidance for the opposing teams to focus their procedural writing on identical issues, while being drafted simultaneously.

2. Teams

2.1. Contest entry is open to law students registered in a university.

2.2. Each participating university can only send one team. Two or more universities may decide to form a team together.

2.3. By drawing lots, half of the teams in the lists receive the status of “complainants”, and the other half the status of “respondent governments”.

2.4. Only the best 10 teams in each category at the end of the written phase can take part to the Oral Phase.

2.5. Each team has two “litigants” (students), a legal / linguistic “advisor” (student) and a coach (assistant / doctoral student / professor). The legal / linguistic “advisor” helps the litigants prepare the reply and the answers to the jury’s questions. He may speak in debates only at the stage of replies and questions. The distribution of roles between litigants and legal / linguistic adviser can be modified during the final hearing.

3. The Scientific Committee

3.1. The Scientific Committee is composed of seven person, as follows:

- a) the General Coordinator of the ANESC, or the First or Second Deputy General Coordinator, or another member of the ANESC Coordination Committee designated by the General Coordinator;
- b) the Coordinator of a national section of ANESC which is not represented in the competition by one of the competing universities;
- c) a member of ANESC who does not teach and has not taught at any of the competing universities;
- d) a member of the European Committee of Social Rights, not belonging to a State represented in the competition by one of the competing universities;
- e) a former member of the European Committee of Social Rights, not belonging to a State represented in the competition by one of the universities competing in the competition;
- f) two members of the Department of Social Rights of the Council of Europe with experience of the collective complaints procedure.

3.2. If one or more of these members are unavailable, they may be replaced by persons with a great expertise in the field of European Social Charter law.

3.3. The Scientific Committee is appointed by the Coordination Committee of the Network after consultation with the Department of Social Rights of the Council of Europe; it is constituted only after the closing of the competition registration by the teams of the interested universities.

3.4. The Scientific Committee drafts the moot case, answers the questions asked by the teams relatively to the case, and assigns a note to the writings.

3.5. The Scientific Committee, chaired by the General Coordinator of the ANESC or by a substitute, shall appoint the six members who will take part in the juries of the oral phase, except for the General Coordinator of the ANESC, the First or Second Deputy General Coordinator, or of the member of Coordination Committee appointed by the General Coordinator.

4. Juries

4.1. Juries (Plenary Jury and Sub-juries) act as the European Committee of Social Rights.

4.2. The Plenary Jury includes all six members of the Scientific Committee who are appointed by the Scientific Committee.

4.3. The Plenary Jury designates a President and a Vice-President from among its members. In the event of a tie, the President has the casting vote.

4.4. The Plenary Jury is composed of two sub-juries of three persons. The President of the Plenary Jury sits on one of the two Sub-juries and serves as its chair. The other Sub-jury is chaired by the Vice-President of the Plenary Jury.

4.5. Sub-juries hear oral argument at the stage of “qualification hearings”.

4.6. The Plenary Jury hears the final hearing, proclaims the victorious team of this final, awards the prize for the best writing, the prize of best pleader of the “qualification hearing” and best pleader of the final hearing.

5. The written phase

5.1. The written phase consists of the drafting of either a collective complaint (for “claimant” teams) or a memorandum (for “respondent governments” teams).

5.2. The complaint or memorandum may not contain more than 9,000 words (including footnotes), otherwise points will be lost.

5.3. The memorandum must be sent to the Scientific Committee in anonymous form, within the deadline set by the competition timetable, failing which it will not be accepted.

5.4. A maximum of 2 questions per team may be asked to the Scientific Committee, within the deadline set by the competition schedule. The questions asked and their answers are communicated to the other teams.

5.5. The complaint and the memorandum are the subject of a note between 0 and 20, delivered by the Scientific Committee on the basis of a grid of quotation which it determines previously. This note is not communicated before the final “hearing”.

5.6. Seven calendar days before the oral phase, the complaints are communicated, in anonymized form, to all the “respondent governments” teams, with the purpose of allowing the preparation of the hearings. Likewise, complaints are communicated to all “complainants” teams.

6. The oral phase

6.1. The oral phase consists of a simulated “hearing” in front of the European Committee of Social Rights, represented by the juries, within the meaning of Article 7 (4) of the Protocol of 9 November 1995. This oral phase consists of two stages: the “qualifying hearing” and the “final hearing”.

6.2. Both in the qualifying hearings and in the final hearing, the performance delivered by the team must not reproduce the argument of the procedural writing, but highlight the important points and respond to

the argument of the opponent. The ability of the teams to respond to the opponent's arguments and the questions of the juries is taken into account in the scoring of pleadings.

6.3. The "litigants" of each team divide the time between them as they wish. The legal / linguistic "advisor" can only speak in debates at the stage of replies and questions.

6.4. During the "qualifying hearings", each team faces a team of the opposite status, designated three days earlier by drawing lots. The result of the draw is communicated to the teams the day before the Oral Phase.

6.5. The "qualifying hearings" take place, in parallel, before one or the other of the two subjuries formed at the beginning of the Plenary Jury.

6.6. For each team, the qualifying hearing lasts for a maximum of 20 minutes. Each team has, at most, 3 minutes of reply. At the end of the debates, the jury submits to each team the same two questions. The first question is addressed first to one of the two teams, and the second question is addressed in the first place to the other team.

6.7. The "qualifying hearing" of each team is rated by the sub-jury between 0 and 20 points. **6.8.** The final hearing is between the "complainants" team and the "respondent governments" team, whose scores for both the writing and the qualifying hearings are the highest. In the event of a tie, the teams are broken down into the best in answering ten questions relatively to the Charter developed by the Scientific Committee.

6.9. The "final hearing" takes place before the Plenary Jury.

6.10. In the final, each team has a maximum of 15 minutes to deliver its argument, and 5 minutes to respond. The "final hearing" cannot be limited to reproduce the arguments developed during the "qualifying hearing". At the end of the debates, the jury submits to each team the same two questions. The first question is addressed first to one of the two teams, and the second question is addressed in the first place to the other team.

7. Bilingualism

7.1. Each team writes its writing and presents its oral argument in English, French or both languages.

7.2. During the hearings, the sub-juries and the plenary panel ask at least one of their questions in the language other than the one chosen by the teams to write most of their writings.

7.3. The questions intended to determine the winning team in case of two teams have an equal score at the end of the qualifying hearings (6.8.) are written half in French and half in English.

8. Valorisation of the participation in the competition as part of the study programme

Each university is free to value as it wishes participation in the competition, as part of its own program of study (exemption from practical work, substitution of all or part of one of the classes, ...).

9. Prizes

The plenary jury awards three prizes:

1. The winning team of the final hearing;
2. The best pleader(s);
3. The best procedural writing.

10. Location

The competition is decided by the ANESC Coordination Committee, after consultation with the relevant national section coordination and in agreement with the university organising it, in the place it determines. The General Coordinator of the Network shall launch the competition in consultation with the Department of Social Rights of the Council of Europe.