

# ELİG

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Her yıl Uluslararası Hukuk Öğrencileri Birliği (ILSA) tarafından düzenlenmekte olan Philip C. Jessup Uluslararası Hukuk Kurgusal Duruşma Yarışması'nın finali Washington DC'de birçok ülkeden 500'den fazla hukuk fakültesinin katılımıyla gerçekleştirilmektedir.

2016 yılında 57.'si gerçekleştirilecek olan bu köklü kurgusal duruşma yarışmasına katılacak olan öğrencilerimizin yoluna ışık tutmak amacıyla, geçtiğimiz sene Türkiye şampiyonu olarak ABD finallerinde ülkemizi temsil etmeye hak kazanan Ankara Üniversitesi Hukuk Fakültesi Jessup takımı üyeleri tarafından hazırlanan yazının bir kopyasını ekte size takdim ediyoruz.

Üniversitenizin hali hazırda katıldığı yahut ileride katılmayı değerlendireceği Jessup Uluslararası Hukuk Kurgusal Duruşma Yarışması için rehber niteliği taşıyan bu yazı, hem öğrencilerimizin genel olarak Jessup'a hazırlanma sürecine, hem de ulusal ve uluslararası elemelerdeki tecrübelerine ilişkindir. Bu vesile ile farklı ülkelerden akademisyenleri, avukatları ve hukuk öğrencilerini buluşturan, final maçında Uluslararası Adalet Divanı hâkimlerini jüri olarak izleme şansı bulabileceğiniz bu eşsiz hukuk etkinliğine katılmak isteyen öğrencilerimize, süreçle ilgili bilgi ve tecrübe desteği verebilmiş olduğumuzu umuyoruz. Bu metnin kurumunuz bünyesinde uygun gördüğünüz gibi dağıtımını nazik himayenize bırakıyoruz.

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Philip C. Jessup International Law Moot Court Competition

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Supported by ELIG, Attorneys-at-Law

Greetings to all those who took their time to inform themselves about a really challenging student organization and a law event: Philip C. Jessup Moot Court Competition.

We, as the members of 2015 Ankara University Law Faculty Jessup Moot Court Team, competed in the Turkish National Rounds and managed to become Turkish National champion and were entitled to represent Turkey in the International Rounds. We believe that to spread information regarding Jessup and moot court activities in general, it is always helpful to share past experiences with new attendees or other interested parties as one legendary Jessup participant had also done with us which had inspired us similarly.

## **INTRODUCTION**

### **1. What is Jessup Moot Court Competition?**

Jessup Moot Court Competition or “Philip C. Jessup International Law Moot Court Competition” is world’s largest moot court competition which will be held for the 57th time this year. Every year around the world, law students participate in this Competition where a fictional problem is brought before respected jurists who act as the judges of the International Court of Justice (“ICJ”) and participants have the chance to enhance their presentation and advocacy skills as well as deepening their international law knowledge and legal writing skills while having to compete against other dedicated and prestigious students all around the world.

The Competition is organized annually by International Law Students Association (“ILSA”) with the support of global law firms and top ranking universities. It offers numerous awards as well as an unmissable chance to network with lawyers and academicians as well as notable jurists such as real ICJ judges.

Every year, more than 500 teams compete from around 92 countries, but only national champions and other high ranking teams find the chance to present their cases and oral arguments in International Rounds held in Washington D.C. Turkish law students have been participating in International Rounds of Jessup in Washington D.C. since the 1960s, having been the first participants outside North America and Australia.

## **2. How do I participate in Jessup Moot Court Competition?**

Any team formed of law students is able to compete in Jessup Moot Court Competition as long as they fulfill the team eligibility requirements decided by the ILSA in the Official rules.

Each institution can be represented by one team which needs to fill out the application form and transfer the registration fee within the schedule announced by ILSA in order to participate. After the registration, one must prepare for the oral and written phases of the competition.

## **GETTING FAMILIAR WITH JESSUP TERMS**

### **1. What is a Compromis?**

The Compromis, in other words the Jessup Problem, is a hypothetical case including issues of international law. It is published by the ILSA every year at the beginning of September. The Compromis comprises of **stipulated facts**. Therefore, it is crucial to have a strong grasp of the Compromis.

## **2. What is a Memorial?**

Memorial is the written submission of the Parties (the Applicant and the Respondent). Each Jessup Team prepares two Memorials (one for the Applicant Party and one for the Respondent Party) and submits them mid-January. ILSA provides a detailed set of rules for the Memorials, encompassing a wide range of topics from citation to word-count and to sub-sections of the Memorials. Memorials make up one-third of the points in every round; Teams may lose or win the rounds depending on the quality of the Memorials. You will receive your opponents' memorials before each round and have a brief overview of their stance on the issue.

## **3. What is “Corrections and Clarifications”?**

Corrections and Clarifications are announced by the ILSA within due time before the submission of the Memorials. Corrections and Clarifications are a part of the Compromis, thus form stipulated facts to the case at hand.

## **4. What is a “hot bench”?**



“Hot bench” is a term you may hear during the oral rounds. A “hot bench” comprises of Judges who are active during the presentations, ask a number of questions, and direct you to a legal or moral loop hole. If you come across a “hot bench”, try to remain calm and answer as many questions as you can, while strongly supporting your pleadings. In Jessup, your advocacy skills are being tested. Therefore a “hot bench” will simply do its job to ensure that you do not let your emotions and passion overshadow your legal stance or presentation skills.

## STEP BY STEP

### Getting to Know the Compromis

#### 1. What should I do before I read the Compromis?

The Compromis is often released at the beginning of September and if you want to participate to the Jessup Competition, you should put your summer holiday into a good use by studying public international law ("PIL"). You may be confident with your PIL knowledge; however, bear in mind that participating in the Jessup as an advocate requires you to be able to answer even the most challenging international law issues. Therefore, it would be beneficial for you to scrutinize the fundamental subjects of PIL such as, sources of PIL, elements of customary international law, law of treaties and similar. You will find it relatively easy to resort to legal doctrine while making your research; however, in Jessup the case law of ICJ is **vital** since, during the Competition you will be **constantly** asked to make references to precedents. ICJ cases are long and sometimes difficult to understand; for this reason, studying key cases

during summer and analyzing them well will make the process after the release of the Compromis much easier. Moreover, reading legal publications on key case-law would enhance your grasp of the PIL.

## 2. When do I get to see the Compromis?

The Compromis is often released at the beginning of September. Around December, ILSA also releases the Corrections and Clarifications to the Compromis.

## 3. What should I pay attention to while reading the Compromis?

Compromis is stipulated facts by the Parties. Therefore it is crucial for you to realize that everything in the Compromis (and the Corrections and Clarifications) is accepted as facts by your Party. The first thing you should know about reading the Compromis is that it is a never-ending process: You should read the Compromis periodically. After each step of your research and argumentation, you will discover new aspects of the Compromis and may even restructure your whole submission.

**True Fact:** Before the Jessup 2015 Final Round (Jessup Cup Round), during the interview with the writers of the 2015 Compromis, the writers acknowledged that none of the teams paid attention to a particular word quoted in the speech of one Party's head-of-government. The word, considering its meaning, would actually save each team at least five minutes of their precious presentation time. **Therefore:** No word in the Compromis is unnecessary. The choice of words is a result of months of legal work by acclaimed lawyers; every single detail matters for your submissions.

## Before Writing the Memorial

Be sure to have a look at the past few years' award winning Applicant and Respondent memorials. You may be confident in your legal writing; however, Memorials are your formal submissions before the ICJ. Pay very close attention to the use of language and the format.

## Writing the Memorial

### **1. What should I pay attention to while writing the memorial with regards to:**

#### **a. References and resources?**

Plagiarism is a deadly sin. It receives the harshest punishment by the ILSA, reducing your chances to pass the Oral Rounds to a minimum (if not to impossible). Cite every bit of information that is not your original statement. Yet, in the Memorial, your substantive statements **must** have a reference to either the Compromis, or the sources of PIL as codified in Article 38 of the Statute of the ICJ. Check out the ILSA rules for citation and list of authorities.

#### **b. My Party's position?**

The Jessup Compromis is written in a way to appeal to both Parties to the case. Therefore it is perfectly normal that your Party has some strengths and weaknesses. In the Memorial try to hide your weaknesses and focus on your strengths. In the Applicant Memorial, this is of utmost importance to aim for something that cannot be



responded to. As for the Respondent Memorial, you should aim to counter any claim that may be brought before you. All in all: know your strengths and pay attention to the distinction between Applicant and Respondent.

**c. Format?**

Every year, ILSA includes the rules of format among the rules of the Competition. Make sure you check the information provided. Even a single title in the wrong font will lead you to lose points in your Memorial, which may be vital while calculating your final scores.

Making sure that every part of your Memorial is in accordance with format rules will be harder than you expect, and it will require more time than you anticipated; therefore make sure that you allocated enough time.

**2. When should I submit the Memorial?**

Memorial is submitted around mid-January. For the exact deadline please check the Jessup Calendar. Keep in mind that if you miss the deadline, there is a scale of punishments endorsed by the ILSA. These vary from losing points from your Memorials, ending up with your disqualification from the Competition.

**Preparation Process to Oral Rounds**

**1. What should I do before making my first oral pleading?**

To start with, it would be beneficial to watch videos of previous rounds and observe how the questions are asked by the judges. This would make you more familiar with the atmosphere of the Jessup Competition and help you to visualize the process. Watching previous Jessup rounds is a must; however, you may also want to add other moot court competitions to your watch-list, to see how an agent stands in the podium and how he/she interacts with the judges.

While making an oral pleading before the judges, there are several rules that you have to follow regarding time allocation, scope of the pleadings, communication with the judges. It is required from you to know these rules very well and act accordingly, otherwise you may be subject to an appeal or the judges may factor this into their scores. Therefore make sure that as the team, you read the official rules of Jessup Competition very carefully.

**True Fact:** For example, scope of the rebuttal and surrebuttal are different from each other; however, during the Turkish National Rounds, some competitors did not know the difference and therefore ended up breaching this rule.

After your oral pleading, judges will evaluate your performance based on the criteria set out in the score sheet of the ILSA. You may also find this sample scoresheet online and it would be helpful to see the criteria based on which you will be evaluated. The performance categories are determined as knowledge of the law, questions & answers, knowledge of the facts, style, poise & demeanor and organization & time management. These categories are further clarified in this scoresheet. You should always bear in mind these points while preparing yourself to

oral rounds, and check out yourself regularly whether you fulfill these criteria.

Before you start to prepare your oral presentation, you should also review the previously asked questions by Jessup judges that can be accessed through ILSA's website. You will see that these questions are mostly fundamental public international law questions. Even though they might seem elementary, in fact they will comprise the core of your pleading. You will be periodically questioned for your sources, the credibility of these sources, and why the Court should consider it as applicable law. Therefore make sure that you are able to answer each question on its own merits and also according to your arguments. For example, when you look through the questions, you will realize that the judges often question your sources (Court decisions, doctrine, UNGA Resolutions, Decisions of the UN Bodies, basically anything that you base your claim to) as in the meaning of PIL sources stated in Article 38 of ICJ Statute. Be prepared to explain the connection of everything you present to the judges.

## **2. What should I pay attention to while;**

### **a. Having rounds within team members?**

Having rounds within team members is a crucial part of the preparation process to oral pleadings. Since the team is divided as Applicant and the Respondent, each party can predict the weaknesses of the other party, so you can pretend to be the "hot bench" by using these weaknesses and practice among each other. You should challenge each other with questions as possible as it is. Here are some tips, while having matches within the team;

- i. Keep in mind that you might face with variable judges in the National and International Rounds. For this reason it would be beneficial for you to pretend as certain types of judges while having matches; such as pretending as a judge who;
  1. Has not full knowledge of the facts and asks questions/explanations regarding basic facts of the Compromis,
  2. Wants to challenge you as much as possible and therefore intentionally gives you a hard time with his or her questions,
  3. Wishes to see whether you will be frustrated and lose your calmness when you are interrupted too much and therefore constantly cuts your speech,
  4. Asks two questions at once and observes whether you will answer both questions without being reminded to do so.
- ii. You should make notes of every question asked during the mock matches. Your co-agent might take these notes while you are presenting your claims. Afterwards, you may go through every question and make sure that you have a fulfilling answer to each one of them. If you have any doubts regarding an answer, you can further discuss it with your team mates.
- iii. Your team mates can also take your presentation on a video and afterwards you can evaluate yourself on your speed, style, tone, gesture



and the like. In an oral presentation each of these points are crucial. (You will also see these points listed in judges' scoresheets too.)

- iv. Time management is one of the performance criteria determined by ILSA to score the advocate. Judges are often sensitive about time management; therefore, you should pay attention to your time allocation. This means, you should always check the time while you are doing your oral pleading and act accordingly. In National and International rounds, the bailiff will remind you the remaining time with a placard in every 15, 10, 5, 3 minutes and 1 minute. If you get yourself used to this practice, instead of using a phone or another technological device to manage time, you will not have a difficult time to accommodate yourself in real matches.
  
- v. You can have a folder prepared that includes all kinds of information that you might use in a presentation. When you first begin to have matches, you will often look to your file and quote from there. However, as time passes by, you will realize that your need for the folder will diminish. At that point, even if it seems hard in the beginning, you should force yourself to present your case without any document before you; just you and what you have in your mind. An effective presentation occurs when the presenter has direct eye contact with the audience, accordingly being able to present your case without looking to any paper will affect your scores in affirmative way.

### **b. Preparing the arguments and the presentation folder?**

Oral arguments are not written submissions. You have to fit two pleadings within approximately twenty minutes. You will be interrupted by the Judges with various and numerous questions. Therefore, it is crucial for you to pay close attention to the scoresheets of the Judges, and eliminate your arguments.

It is essential to make an outline of your presentation and keep it in your presentation folder. If you are running out of time, make sure this outline shows you which sections you can skip in your presentation and which ones are the stronger and easier to argue on behalf.

You do not have to carry a big folder with you unless it makes you comfortable. Make sure that you have the Compromis and the Clarifications with you at all times, since the Judges tend to ask questions directly relating to them.

It is useful to have important case-law citations under your hand especially if you are not certain of the exact wording of the judgments since judges may also ask about the exact wording of the ICJ in a judgment you have referred to.

### **c. Making an oral pleading before the judges?**

If you are well-prepared in regards to the previous steps, this step should come natural. Always keep the score-sheets of the Judges in mind. Do not compromise from the knowledge of law, your time management, your style, your knowledge of the facts, or your answers. The Judges will aim to distract you from the ideal agent you have been practicing to become for months. However, keep this in mind: This is their job! They are to select the national champions and they are to select the advancing

teams, or even the Jessup Cup champion. They seek the team closest to perfect, and they will try anything to find it. To have a closer look at the criteria, here is what you need to pay attention to:

**i. Knowledge of the Law:** Always know your legal ground and how your reference can and should be regarded as a source of PIL. This part builds up from the very first days of your study, therefore keep calm. The Compromis is aimed to appeal both Parties; therefore there are sources of law that actually form a challenge to your case. If need be, admit the challenge to your case, but present more sources of law to take the legal advantage.

**ii. Questions & Answer:** Your ability to answer the questions while not compromising from the law, facts, style and time is the main challenge of Jessup. You may have prepared the perfect presentation, but a hot bench will force you to change your outline, to reduce your 10-minutes section to a 45-seconds one, with their questions. Welcome the question, answer it, make sure that the Judges are satisfied with your answer, and then **always** lead this answer to a point you have to mention in your presentation and get back on track. This is the tricky part; however, it solely depends on your dialogue with the Judges. In the oral rounds, you will have opponent Teams, however, your true opponents are the Judges. Having an approval of the answer with a gesture and pausing for two seconds to see that gesture from the Judge will enhance your presentation; do not hurry -you will not do the perfect presentation you have dreamed of anyway- but you can at least make sure that you get interrupted less, that you do not interrupt the judges, that you will do

the best you can and enjoy the interaction with the Judges full of highly advanced legal arguments.

**iii. Knowledge of the Facts:** First of all, the Compromis and the Corrections and Clarifications are stipulated facts by the Parties. Do not speculate over the Compromis. You will have your facts; do not draw your own factual conclusions from the Compromis. If a judge asks you a question that forces you to speculate over the Compromis, feel free to state that you fail to answer the question, since there is no information provided, and that you do not wish to mislead the Court with a speculation.

**True Fact:** This has been done in 2015 National Rounds-Finals, and was actually appreciated by the bench.

Secondly, have a strong grasp of the Compromis, the Judges may ask questions directly from the Compromis, or where exactly from the Compromis you have drawn a conclusion you presented before the Court. The Compromis is vital.

**True Fact:** In the International Rounds, Compromis writers also serve as judges, and having them in a hot bench is a unique experience. Show that you respect their work in your presentation.

**iv. Style, Poise & Demeanor:** Making a presentation before the judges, trying to answer their questions while keeping up with your outline, and the mere idea that your months of work lie before you in the following 20 minutes is



stressful. However, in Jessup, try your best to channel this stress into an image of a calm agent. Watch videos of previous oralists. Most of the videos you will find will belong to the International Final Rounds. Those oralists are performing before the actual ICJ Judges. Do you think they are as calm as they seem? To give an affirmative answer would be impossible. However, do not forget: **None of the Judges pay attention to your sweating forehead, or your shaking hands, or your blushing face – do not stress out on these matters.** You are a human being, and your body will give physical reactions to your excitement, as it deems fit. How you stand in the podium, how you use your gestures, how you present, how you maintain a dialogue with the jury and not with your presentation sheets is what matters. The fact that you are blushing in the meantime is not in the score sheets!

**v. Organisation & Time Management:** The Judges will interrupt you during your presentation. Have a core outline of your presentation at hand, highlighting points you have to mention in your pleadings so that if you lose more time than you anticipated due to a hot bench, you will know your concluding remarks. If you cannot get back at your ideal or threshold outline, do not panic: No one in the room except from your Team, especially not the Judges, actually knows that you are missing some points in your presentation. You do not have to complete every single point; just make sure the words you deem vital come out of your mouth. Never ask for extra time from the bench unless they give it themselves upon their own discretion, and never speak after you see stop sign by the bailiff. In other words stop talking immediately when your time is lapsed, even if you are in the middle of a sentence. You may than

ask the judge the permission to finish your sentence; and if the permission is granted, at that point, only finish your sentence! Do not make any additional points.

**True Fact:** In 2015 Jessup International Rounds Final match, one of the agents of the runner-up team continued her speech in order to complete her argument for about 2-3 minutes after the Bailiff showed the stop sign. Although we do not know how this affected their score, it surely left the whole room in shock, as 600 spectators gasped when the agent continued her speech.

### DOs & DON'Ts?

#### **DON'Ts**

1. Do not rush into presenting your argument, this is not a contest for speaking fast but rather presenting a legal position regarding your pleading.
2. Do not get aggressive with the judges when they interrupt you, they are actually giving you an opportunity to deepen your stance and conduct your arguments better. Remember it is their job to push you to your limits and put you through a challenging experience.
3. Do not try to present everything you have, every argument/claim you prepared or every source you had found. The key to an effective oral pleading is to choose the “strongest argument” and defend your case on the basis of this argument. Due to the fact that you have limited amount of time, you will never be able to speak of

everything you previously prepared yourself. So be wise, and instead of jumping from one topic to another, use your strongest argument to persuade the judges.

4. Do not bring up everything in a rebuttal. As a judge in the Turkish National Rounds once described: “Rebuttals should be used as ‘sharp knives’ to create holes in Respondents’ arguments.” Choose maximum one or two points to mention in rebuttals that you consider as the weakest spot of the Respondent Party; this way you will force the Respondent Party to refer to a subject where they feel vulnerable. (Do not forget that scope of surrebuttals are restricted with the points made in rebuttals)
5. Do not skip a question asked to you without answering it, even if it is a question that could weaken your position. Sometimes there are more than one question asked to you at the same time and judges may seem to forget their unanswered questions; however, they take note of this situation and reflect this later to their scores.

## **DOs**

1. Prioritize Jessup before your summer plans, so as to strengthen your international law knowledge before the competition. You can even start researching for the problem according to the keywords announced by the ILSA.
2. Be prepared to answer questions regarding aspects of the Compromis that you have never considered as important or even relevant.
3. Read the official competition rules carefully, it is important to get a grasp of the procedure and rules which will be followed during rounds.

4. Read *Compromis* every week with your team mates, you will be surprised when you notice a new detail every time you read.
5. Be familiar with court terms such as “May it please the Court...” and the like. You may watch videos of previous moot courts to learn these polite manners to address the judges.
6. Try to practice for oral rounds as much as possible and undertake roles of different types of judges.
7. Try to speak slow and clearly, you do not have to rush anywhere. Judges deem calm presentations better than others.
8. If your team wins the National Rounds, do not stop practicing for oral rounds. Remember, the goal is to go ahead as much as possible in the Advanced Rounds that await you in Washington D.C.
9. Appreciate your time with your team mates as you will share so many memories throughout the year. Enjoy your time with them; there is a good chance that they will become your close friends eventually.
10. And remember, as Harold Koh said, in order to be a good lawyer you should make your arguments look easy and fair while making your opponents’ arguments look complex and unlawful.

To conclude, Jessup Moot Court Competition is a very challenging and demanding experience. However, in the end, we know that even when you are personally and academically pushed to your limits, the experience you earn is priceless and irreplaceable. We sincerely hope that this piece inspires and helps you in your Jessup journey.



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