



Twenty Eighth Annual Willem C. Vis International Commercial Arbitration Moot Second Virtual Vis Moot

Presiding Arbitrator Instructions

These instructions are additional to and supplement the General Arbitrator Instructions. Those persons who serve as Presiding Arbitrator, will receive an email shortly before the hearing informing them about their position. If the presiding arbitrator does not wish to serve in that capacity or for other reasons a different presiding arbitrator is appropriate, each panel is free to choose its own presiding arbitrator.

For the success of the Vis Moot it is essential, that each session is conducted fairly and marked fairly.

The Presiding Arbitrator is primarily responsible for ensuring that each Moot is conducted fairly and appropriately.

Pre-moot Meeting with Co-Arbitrators

All arbitrators will meet in a designated virtual Arbitrator Room before moving to the respective hearing room. As soon as the panel is complete, the Presiding Arbitrator should speak with the Co-Arbitrators before the commencement of the Moot, and ensure that all arbitrators are familiar with the General Arbitrator Instructions.

Further details on how to get into Arbitrator room and move back into the hearing room are explained in the handbook for arbitrators <https://www.vismoot.org/28th-vis-moot/#rules>. In particular, attention should be drawn to the instruction that arbitrators must appreciate that the hearing is not an oral exam or PhD viva. *Questions whose sole purpose is to make the oral arguments “interesting” and which are not relevant for arguing the case are not appropriate.*

A proper balance should be struck, on the one hand, in allowing the members of the Tribunal to question the students in ascertaining their argument on the facts and law (as in a real arbitration which every Tribunal should be seeking to simulate) and in preventing students being excessively questioned and harassed. When a member of the Tribunal is doing this the Presiding Arbitrator should intervene to prevent it continuing.

To that end, it would be advisable for the Presiding Arbitrator in the pre-moot discussion with the Co-Arbitrators to get an indication of the likely style the Co-Arbitrators plan to adopt. For example, if both Co-Arbitrators indicate they intend to ask frequent questions, the Presiding Arbitrator will need to



manage the hearing in a way that ensures that oralists are not harassed by questions when considered in the totality of the tribunal.

This is not to suggest that the asking of appropriate questions should in any way be restricted. Many teams expect (and want) questions from the arbitrators as they use these as a springboard for demonstrating their skills and knowledge. However, it is again, a matter of balance.

The practice of some arbitrators is to refrain from asking any questions until the oralist has finished his or her submission. This practice is also entirely acceptable. It would be important for a Presiding Arbitrator to know of this style in advance so that the timing of the moot can be properly managed.

Conducting the Sessions

Unless otherwise agreed between the members of the tribunal, the Presiding Arbitrator is responsible for keeping track of the time used by each team, and ensuring equity. As noted in the General Arbitrator Information arguments are scheduled to be around one hour in length, with prolongation possible to a maximum of 90 minutes. The Virtual Hearing Rooms are available for a maximum of two hours.

Post Hearing Feedback and Meeting with Co-Arbitrators

Immediately after the oralists have concluded their submissions, it is usual for the Tribunal to move to the Arbitrator Room again (see our handbook how to do it <https://www.vismoot.org/28th-vis-moot/#rules>) to confer. During this time the Presiding Arbitrator should lead the discussion between the members of the panel regarding the performance of each oralist. As emphasised in the General Arbitrator Instructions it is up to each arbitrator to individually determine the scores he or she wishes to give each oralist. However, wildly divergent scores between arbitrators would be a cause of concern, in particular if under the new scoring system they go beyond 15 points. Divergent scores have in the past been the cause of considerable upset in some teams. Accordingly, in line with the Presiding Arbitrator's duty to conduct a fair arbitration, the Presiding Arbitrator should in such case ensure that the divergent evaluation is not based on an unfamiliarity with the Moot rules or misunderstandings concerning the student's presentation or the underlying legal questions.

Following the brief discussion that will occur between the panel, the arbitrators should move back into the room in order to give feedback to the teams. In the General Arbitrator Instructions this appears under the heading of Evaluation. Teams expect feedback, and there are various educational studies of analogous activities which would strongly suggest that the teams who receive feedback will see the greatest increase in their later performance.

It is important that the individual scores are kept confidential and not provided to the teams.

The Moot Rules are quite generous regarding the level of assistance teams may receive during their preparation of the written memoranda [Rule 80]. The same approach applies *mutatis mutandis* to feedback by arbitrators during the oral hearings. Arbitrators are at liberty to make generic and abstract comments on the persuasiveness of particular arguments, in addition to specific suggestions regarding presentation style – eye contact, speed, etc.



Presiding in Elimination/Final Rounds

The Final Rounds, unlike the General Rounds, are operated on an elimination basis. While the vast majority of aspects of the Presiding Arbitrator's role remains the same in the Final Rounds, there are some differences.

After the oralists have concluded their submissions, you are asked to tell the teams that the Tribunal's decision will be announced on the Vis Moot Facebook page via a live video. Do not inform the teams of the decision. The Tribunal's decision is to be sent to the Vis Moot Directors via email to admin@vismoot.org right after the deliberation. The Tribunal should confer in private and arrive at a decision. Majority decisions are permitted.

