

THEMIS COURT SIMULATIONS 2023

RULES OF PROCEDURE

A. GENERAL PROVISIONS

Article 1: Scope

1. *Rules of Procedure* is adopted prior to the Oral Proceedings before the conference and shall not be appealed.
2. The provisions of Rules of Procedure shall be applicable throughout all sessions of Themis Court Simulations 2023 Conference (hereinafter will be referred as TCS 2023) unless otherwise is stated by the Secretariat.
3. The Rules of Procedure shall be explained to all court members, at the beginning of the first session by designated members of the Secretariat. The Court members shall not diverge from these rules specified by the Secretariat.
4. The Secretariat and the President of the Court are exclusively authorized to interpret the stipulated rules in accordance with the purpose and the spirit of the Rules of Procedure.

Article 2: Official Language

1. English shall be the official and the working language of TCS 2023.
2. No other language shall be accepted by the Secretariat.

Article 3: Dress Code

1. The dress code is formal business attire and is mandatory during the Conference.

Article 4: Participation

1. All Judges shall have equal vote within the Court.
2. Motions and decisions shall always pass with majority.
3. During the Deliberations, Judges shall decide in accordance with the majority of the Court. In case of equal votes, President Judge/ Arbitrator¹ shall be the tiebreaker.

Article 5: Credentials

1. The credentials of all participants have been accepted upon registration.
2. Actions relating to the modification of rights, privileges, or credentials of any Member may not be initiated without the written consent of the Secretary-General.
3. Any representative to whose admission a Member objects will provisionally be seated with the same rights as other representatives, pending a decision from the Secretary- General.
4. Badges given upon registration are used to show the verification of credentials. Every participant is required to have their badges with them at all times. TCS holds the right to restrict participation of anyone without a badge.

Article 6: Secretariat

1. The Secretariat shall consist of Secretary- General, Deputy Secretary General, Under Secretaries-General and Academic Assistants. The Secretariat shall be responsible for following the Rules of Procedure and the members shall refrain from such behaviors and actions that might not fall under the provisions of this document.
2. The Secretary-General or a member of the Secretariat designated by her/him at any time may deliver either written or oral statements to the Courts.
3. The Secretary-General may address to the Courts in anytime.
4. In the absence of Secretary General, Under Secretary-General of the Court will be the representative of hers/his and shall perform the duties of the Secretary-General.
5. The decisions of the Secretariat shall not be appealed.

Article 7: The Secretary-General

1. The Secretary-General shall act in full capacity throughout the TCS 2023. The decisions and directives of the Secretary-General shall be final and binding.
2. The Secretary-General shall refrain from any actions that might undermine her position as an international official responsible only to TCS 2023.
3. Each participant undertakes to exclusively respect the international character and the responsibilities of the Secretary-General and her staff and not to seek to influence them in the discharge of their responsibilities.

Article 8: Courtesy and Disciplinary Rules

1. All participants hold the responsibility to show diplomatic courtesy during all the sessions, to show utmost respect to the members in the Court.
2. Official warning may only be directed by the Secretary-General, when a participant acts against the Rules of Procedure insistently.

Article 9: Note Passing

1. The communications between Judges and the President Judge shall be made by note passing by the aid of Administrative Staff. Note passing shall be made via the Message Papers prepared by TCS 2023.
2. Note passing between the Parties and the Judges -excluding the President Judge- or between the Claimant and the Respondent²are strictly forbidden.

Article 10: Electronic Devices

1. President Judge may allow Counsels and Judges to use electronic devices. However, he/she may prohibit the usage of such electronic devices at any time when he/she finds necessary.

2. Electronic devices shall be used in the benefit of the Court Proceedings.
3. Using electronic devices for purposes that do not fall under the mission of the Court and provisions of this document is strictly prohibited.

Article 10: Quorum

1. The Quorum is met when the simple majority of the registered Judges (including the President Judge), the Rapporteur and one of the Counsels for each side are present at the beginning of each session.
2. Quorum shall be sought through formal Roll Call at the beginning of each session.
3. Members, who arrive late to the session, shall pass a note to the President Judge in order to participate in the proceedings and to be added to the Roll Call.
4. The required majorities shall be calculated according to members recorded as present in the Roll Call.
5. If one of the Parties is late more than thirty minutes regarding the designated time announced on the TCS 2023 Schedule, the President Judge has the authority to start the session.

B. COMPOSITION OF THE COURT

Article 11: Members of the Court

1. The Court consists of the President Judge, Vice President Judge, Rapporteur, the Judges, and
the Counsels of two opposing parties.

Article 12: President Judge

1. The President Judge shall be the moderator of the Oral Proceedings and the representative of the Secretariat. He/she shall be responsible for applying the Rules of Procedure during the sessions.
2. The President Judge should preserve their impartiality during the Conference.
3. The President Judge is responsible for reporting any inconveniences or rule violations by the Court members to the Secretariat.
4. Vote of the President Judge shall be equal with the other Judges.
5. The President Judge shall have the authority to skip the voting procedure for motions rise by the Counsels. He/she shall have the full discretion on deciding upon these motions.
6. The President Judge shall also act in accordance with the stipulated provisions of the Rules of Procedure.

Article 13: Vice President Judge

1. Vice President Judge shall act as the deputy of the responsible President Judge.
2. In the absence of the Present Judge, Vice President Judge has the ultimate authority to moderate the sessions.
3. In the absence of the Registrar/ Clerk, Vice President Judge shall take notes of the Oral proceedings.
4. The Vice President Judge shall also act in accordance with the stipulated provisions of the Rules of Procedure.

Article 14: Rapporteur/Clerk

1. The Rapporteur shall be responsible for taking notes of court proceedings, arguments of the parties, substantive deliberations of the Judges, testimonies of witnesses, and procedural decisions taken by the President Judge. When needed, these notes will be used in deliberations and Verdict writing.
2. The Rapporteur is not a Judge and has no right to participate to the deliberations and oral proceedings. During the voting procedure the Rapporteur is not possessed with expressing his/her opinions.
3. The Rapporteur is required to fully comprehend the case and shall only be consulted regarding the motions of the Judges.
4. The Rapporteur shall be prior address of TCS 2023 Press Team. Related information and updates shall be provided from the records of the Rapporteur. However, the Rapporteur is not allowed to share substantive outcomes and conclusions of the Judges.

Article 15: Judges/ Arbitrators

1. The Judges are expected to determine the relevant facts of the case and apply the related law accordingly. The expressions of the Judges should be grounded with legal basis.
2. The argumentations made within the Deliberations by the Judges are expected to be included in the Verdict.
3. The Judges shall write the Verdict. The President Judge shall announce the Verdict in the last session of TCS 2023. The Verdict will be sent to all members of the court upon request.
4. The Judges, with respect to the solemn undertaking, are expected to be impartial during the proceedings. If any of the Judges fail to provide the impartiality, the President Judge shall give an official warning in accordance with the Secretariat.
5. The Judges should refrain from violating the secrecy of the proceedings. Thus, it is highly expected from the Judges not to share any related information from the Deliberations and other Court Proceedings. Judges may be warned by the Secretariat if they demonstrate partiality or disclose any exclusive information.
6. All Judges have an equal vote in substantive and procedural matters. 7. During the Oral Proceedings, the Judges may be allowed to ask questions to the Counsels.

Article 16:

Counsels

1. The Counsels are representatives of the Claimant and the Respondent.
2. The Counsels are required to serve in the best interests of their party in all actions relating to the proceedings.
3. The Counsels are not eligible for voting in substantive or procedural matters.
4. The Counsels shall refrain from acting against the directives of the President Judge, the Secretariat and the Rules of Procedure. The President Judge or the Secretariat may warn Counsels if they demonstrate such actions and behavior.
5. The Secretariat and the President Judge shall ensure that the Judges are fully aware of the pre-hearing submissions of the Parties.
6. The Counsels are required to make all of their statements standing before the

Court. C. ORAL HEARINGS BEFORE THE COURT

Article 17: Oaths

1. Before exercising their functions under the Rules of Procedure, the Oaths given in the following paragraphs shall be made by the Board, and the Judges. The Registrar shall take the Oaths prior to the Oral Proceedings. The Oath for the President Judge/Vice President Judge shall be taken as follows:

“I, as the President Judge of ... Court, solemnly undertake that I will perform my duties and exercise my powers honorably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of the submissions and the secrecy of Deliberations”

2. The Oath for the Judges shall be taken as follows:

“I, as the Judge/ Arbitrator of ... Court, solemnly undertake that I will perform my duties and exercise my powers honorably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of the submissions and the secrecy of Deliberations.”

3. The Oath for the Counsels shall be taken as follows:

“I solemnly declare upon my conscious and honor that I will speak the truth, the whole truth and nothing but the truth.”

Article 18: Opening Statements

1. The Hearing shall commence with the Opening Statements of the Claimant and then followed by the Respondent.
2. Opening Statements should emphasize and clarify the written arguments in the briefs on the merits. Oral Statements read from a prepared text is not favored.
3. During the Opening Statements, questions from the Judges cannot interrupt the Counsel. The Questioning shall take place at the end of each Opening Statements of the Parties.
4. The President Judge shall announce the time allocated for Opening Statements which

shall be equal to both Parties.

5. The Counsels may raise a motion – immediately after the announcement of the duration- to alter the time allocated for the Opening Statements.

6. Opening Statements cannot be divided into two for each Party. Only one Counsel from each party shall deliver the speech.

7. During the Opening Statements, Counsels shall not allow to use the projector.

Article 19: Evidence Presentation

1. The Claimant shall be the first to present Evidence Material, followed by the Respondent.

2. Parties shall present any evidence material such as, legal sources, reports, resolutions of international organizations, news articles, maps, charts, videos, photographs, written Statements of Experts or anything in essence that supports the construction of the case, or they deemed as relevant to the case³.

3. Each piece of Evidence shall be submitted to the Court before its presentation. Evidence not submitted during the Written Proceedings, shall not be regarded during the Oral Proceedings.

4. The Court shall have the authority, in accordance with their discretion, to freely evaluate all Evidence submitted in order to determine its relevance or admissibility.

5. The time allocated for Evidence Presentation shall be announced by the President Judge – equal to both Parties- and the motion to alter the time will be accepted after the announcement.

6. During the Evidence Presentation, the Counsels are expected to introduce the evidence and then explain the context and the relevancy of the material. The Counsels shall be granted to use the projector.

7. Following the Claimant's Presentation of Evidence, the Court shall then move onto the presentation by the Respondent, where the same rules of Evidence Presentation by the Claimant will be applied to the Respondent.

8. The Objections from the Opposing Party shall be accepted during the Evidence Presentation of the other Party. Objections may interrupt the speaker.

9. During the Evidence Presentation, the Objections stated below shall be in order:

- Immaterial
- Irrelevant
- Prejudicial

10. If the issues were not known at the time when the Evidence was submitted, the Opposing Party may state it in a written form via Message Paper without interrupting the speaker.

11. Evidence ruled Immaterial shall not be considered by the Court. The Judges cannot refer

to an evidence ruled Immaterial in the Verdict.

12. Parties may divide the phase into two between the Counsels. However, a Counsel cannot be granted twice during the Evidence Presentation.

³For the ICC, the parties may present relevant case- law to support their arguments.

Article 20: Witness Testimonies

1. During the Hearing, both Parties may present witnesses. A Party may introduce two witnesses only.

2. Questioning of the witnesses shall start with the Claimant and the Court will then entertain the witness testimonies of the Respondent and the order will follow as stated.

3. The parties cannot introduce their Clients in addition to two witnesses. The Clients will be counted as a witness also.

4. The list of the witnesses should be submitted during the Written Proceedings stating their names, professions, and their relevancy to the case. The court shall not regard a witness submission during the Oral Proceedings.

5. The time allocated for witnesses –equal to all witnesses- shall be announced by the President Judge. The extension motions will be accepted after the announcement.

6. Prior to the questioning of a witness by Parties; it is expected from the Counsel to introduce the witness to the court where stating their names, professions, age and the witness' relevancy to the case.

7. The witness testimonies shall proceed in the stated order below:

- Witness #1 by the Claimant
- Witness #1 by the Respondent
- Witness #2 by the Claimant
- Witness #2 by the Respondent

8. The Witness Testimony starts with the direct-examination of the Party who called the witness by asking questions. As soon as the Party indicates that it does not have any questions to the witness it shall state “*your witness*” to the opposing party. Then the opposing Party shall have the right to cross-examine the witness by asking questions. The content of cross examination shall be limited to the questions asked and the answers given during direct examination. As soon as the party indicates that it does not have any questions to the witness it shall state “*no further questions.*”

9. The Counsels may only ask questions. Explanations or leading argumentations are strictly forbidden.

10. For each Witness Testimony, one counsel may do the direct-examination and same rule shall apply to the cross-examination. Dividing the phase is strictly out of order.

11. After each witness testimony, the Judges shall ask further questions to the witnesses. The President Judge may limit the Questioning time, if necessary. There shall not be a limited number of questions for Judges, yet they may ask only one question at a time. The President Judge shall moderate the process.

12. If a Judge wishes to ask an additional question right after the answer, he/she shall raise a motion to follow-up. The President Judge may grant it or overrule it. The follow-up question should be related to the previous question of the Judge.

13. The Objections⁴ stated below shall be in order during the Witness Testimonies:

- Ambiguous
- Argumentative
- Badgering
- Composed
- Incompetent
- Leading Question
- Nothing Pending
- Prejudicial Speculation

Article 21: Rebuttal and Surrebuttal

1. The Rebuttal/Surrebuttal phase consists of rebutting the Opposing Party and compensating the lack sections of the arguments provided by the Parties themselves. The context of the Rebuttal/Surrebuttal shall be evidence presented, questions asked by Judges, counter-claims, witness testimonies and memorials.

2. The phase shall start with the Rebuttal of the Claimant following by the Surrebuttal of the Respondent.

3. Allocated time for Rebuttal and Surrebuttal –equal for both- shall be notified by the President Judge and a motion to alter the time shall be granted respectively.

4. During the Rebuttal/Surrebuttal, presentation of new arguments is strictly prohibited.

5. Parties may divide the phase into two between the Counsels. However, a Counsel cannot be granted twice during the Evidence Presentation.

6. The Judges may interrupt the Counsels with questions during the Rebuttal and

Surrebuttal. 7. The scope of surrebuttal shall be limited to the content of Rebuttal.

Article 22: Questioning of Parties by Judges

1. Each Judge shall ask one question at a time; but the number of questions per Judge shall not be limited.

2. Presidency may allow follow- up questions if the Judge whose question has just been

answered raises the request. Presidency shall have absolute discretion on this matter.

⁴Objections will be defined in further phases of the RoP.

3. Only one Counsel at a time shall answer a question. During the Judges' Questioning, the responder⁵ Counsel may raise a request to consult to its Co-Counsel. The time allocated for consulting cannot exceed thirty seconds. The President Judge has the full discretion on granting or overruling such requests.

4. The Judges cannot ask leading questions; their duty is to enlighten the facts provided by both Parties.

5. The Judges shall judicially knowledge all the materials and speeches submitted within the Court Proceedings.

Article 23: Statements of Experts

1. Judges shall be entitled to call Experts before the Court. The Registrar/Clerk shall take the Oath of the Expert which must be taken as follows:

"I solemnly declare, upon my honour and conscious that I shall speak the truth, the whole truth and nothing but the truth."

2. Experts hold the responsibility to have the legal competence to give their statements under the Oath.

3. Experts before the Court shall state their opinion regarding the subject that they have been requested.

4. Time allocated for this phase shall not be limited, the Bench may decide upon the matters such as time and termination of the phase.

Article 24: Closing Statements

1. During the Closing Statements, Parties shall briefly summarize what they have proven and discussed on the previous phases.

2. Claimant shall start with their Closing Statements followed by the Respondent.

3. Closing Statements cannot be divided into two per each Party. Only one Counsel is allowed to make the Statement.

4. The Judges may not interrupt the speaker for questions at any time during the Closing Statements.

5. The allocated time for Closing Statements shall be announced by the President

Judge. ***D. PROVISIONS GOVERNING DELIBERATIONS***

Article 25:

1. The Deliberation shall commence after every Oral Hearings -Opening and Closing Statements-, Evidence Presentation and Witnesses' Testimonies etc.

⁵ A responder Counsel does not mean a Counsel from the Respondent Party. The phase signifies the responder of the question that is directed by a Judge.

2. The Deliberation phase shall hold in secrecy. Press team members will only be allowed in the Courts upon the decision of the President Judge during this phase.

3. Judges are not required to stand up while making statements.

4. The Deliberation will start with the determination of the topic to be discussed with a motion raised by the Judges. The President Judge may consider suggestions of the Judges when determining the topics.

5. The Deliberations shall continue with moderated or unmoderated discussions. The last speaker shall be the President Judge in the discussions. The mode of the deliberation may be altered at any time by the discretion of the President Judge.

6. In moderated discussions, the President Judge shall grant the permission to speak to Judge who wish to deliver a speech.

7. During the unmoderated discussions, the Judges may speak without seeking permission, but a Judge cannot interrupt one another. When the speech of a Judge takes excessive time and blocks the negotiation process, the President Judge may ask the Judge to end his/her speech.

8. Time allocated for each Deliberation and whether there will be a speaker time within the discussions, shall be determined by the President Judge in accordance with the flow of the discussions.

9. If the outline is not exhausted in a deliberation, the President Judge may choose to terminate the deliberation to go back into the Oral Hearings and revive the remaining outline at the beginning of the following Deliberation.

Article 26: Summons for the Advocates

1. Upon the Motion of a Judge or the discretion of the President Judge, the Court may summon the Counsels to the Court to be questioned one more time. A motion to summon the advocates shall pass with the simple majority of the Judges.

2. During the Summons, Counsel shall join the Deliberation of the Court. The following rules shall apply:

a. Counsel participation shall be **strictly** limited to:

i. Answering questions posed by Judges, upon the explicit referral of the President Judge,

ii. Asking questions to fellow Counsels, upon the explicit authorization of the President Judge.

3. There shall be no time limitation for this phase; yet, the Bench shall have the discretion to end the Summons in accordance with the flow of the discussions.

Article 27: Tour de Table

1. It is up to the discretion of the President Judge or to a motion to set a Tour de Table during the Deliberation.

2. In a Tour de Table phase, the Judges shall express opinions on the matter stated by the President Judge.

3. The speeches shall start and follow the alphabetical order of the last names and the President Judge shall make the last speech.

4. The President Judge has authority to determine the speakers' time being equal to all Judges. **Article 28: Points of Order**

1. If a court member notices an improper application of the Rules of Procedure may raise a point of order directly to the Bench.

2. The President Judge takes the point into consideration and evaluates the implementation of the rule according to the Rules of Procedure.

3. The President Judge gives the final decision on the point by themselves.

4. The Point of Order may not interrupt the speaker, unless an irreparable consequence will rise if the error is not corrected.

Article 29: Points of Parliamentary Inquiry

1. Point of Parliamentary Inquiry may rise directly to the President Judge if there is a question regarding the Rules of Procedure. The President Judge shall clarify the matter.

2. This point may not interrupt the speaker.

Article 30: Points of Personal Privilege

1. Point of Personal Privilege is raised to express a personal inconvenience or discomfort that has an affect on their participation to the proceedings. (i.e. room temperature, inaudibility)

2. This point may not interrupt the speaker unless it is raised due to inaudibility.

3. If a Court Member wishes to leave the Courtroom, he/she should get the permission of the President Judge via Message Paper. (i.e. using the restrooms)

Article 31: Moderated Caucus

1. A Judge may propose moving to a Moderated Caucus by raising a Motion during Deliberation, in order to facilitate the debate on a specific issue, when the President Judge announces the floor is open for Motions.

2. The Judge raising the motion must state the purpose of the moderated caucus and specify a total time for the caucus, not exceeding twenty minutes. The President may grant or overrule the motion. The decisions of the Presidency may not be appealed upon this matter.

3. Adoption of the Motion requires the approval of the **simple majority** of the Judges.
4. If the motion regarding Moderated Caucus perfectly passes, the Judges must raise their placards to be recognized by the President. The Judge who has been recognized by the President starts to talk and the order must be followed by this way.

Article 32: Unmoderated Caucus

1. A Judge may propose moving to an unmoderated caucus by raising a motion. Such a motion may be raised during Deliberations when the President Judge announces the floor is open for motions.
2. Judge who raises the motion must specify the topic and determine the length of the caucus.
3. The President Judge holds the ultimate authority to rule the motion.
4. Adoption of the Motion requires the approval of the **simple majority** of the Judges.
5. If the motion regarding Unmoderated caucus perfectly passes, Judges do not have to be picked by the President Judge; they can discuss freely unless not to interrupt each other's conversation.

Article 33: Suspension and Adjournment

1. Before the Coffee Breaks designated by the Secretariat, the meeting shall be formally suspended by the decision of the President Judge.
2. At the end of the announcement of the Verdict in the last session, the President Judge shall declare the adjournment of the court.

Article 34: Verdict/ Judgement⁶

1. The substantive issues in the case are resolved with the simple majority of the Judges. The Judges are not allowed to abstain in substantive voting procedures.
2. The Judge shall write the Verdict. The Decision and the last word shall be written by the President Judge.
3. The President Judge of the Court shall announce the Verdict in the presence of the Press and the Counsels.

E. OBJECTIONS

Article 35: General Provisions Governing Objections

1. Parties may raise objections to challenge the legal propriety of the opposing party.
2. The participant who is willing to raise an objection must stand up first, state the type of the objection and his/her legal ground.
3. Objections may interrupt the speaker.
4. The President Judge has the ultimate authority to **grant or overrule** the raised objection. Decisions of the Presidency shall not be appealed.

5. If the objection is granted by the Presidency, the assertion subject to objection shall be removed from the Court proceedings and Parties shall refrain from referring to that specific assertion.

Article 36: Objection Immaterial

⁶For the CAS, the Arbitrators write the Award.

1. Parties may raise Objection Immaterial if they conceive that any piece submitted by the opposed party lacks legal grounds or its' authenticity is not proven.
2. The decision of the President Judge upon this objection is open for appeal by a Judge or the opposing Party.
3. This objection may be raised during Evidence Presentation, Rebuttal and Surrebuttal.

Article 37: Objection Ambiguous

1. During direct or cross examination⁷, Parties shall ask precise questions. If the questions are vague or confusing and preventing the witness to give a proper answer, objections shall be in order.

Article 38: Objection Argumentative

1. If Parties give statements during direct or cross examination instead of asking a question; objection shall be in order.

Article 39: Objection Badgering

1. During examination of witnesses, Parties must refrain from distressing the witness.

Article 40: Objection Compound Question

1. Parties may ask one question at a time. If any Party combines multiple questions, objection shall be in order.

Article 41: Objection Incompetent

1. Where a speaker is requested to make a statement or assessment outside the scopes of their technical knowledge or solely during indirect examination, outside the content of the direct examination, competence objection may be raised by the opposing Party.

Article 42: Objection Irrelevant

1. All assertions of Parties shall be relevant to the case at hand.

2. This objection may be raised during Evidence Presentation, Rebuttal and Surrebuttal.

Article 43: Objection Leading Question

1. Objection Leading Question **shall not** regard all *yes* or *no* questions. This objection may only be raised if the question asked by the Counsel strictly leads the witness to answer via yes or no.

⁷Refers to Witness Testimonies

2. This objection may only be raised during cross- examinations.

3. The President Judge must seek whether the raised question seriously motives the witness to answer in accordance with the Counsel's assertion.

Article 44: Objection Nothing Pending

1. Should a witness make a statement which does not answer the question asked during direct or cross examination; the Party not questioning the witness may make an objection.

Article 45: Objection Prejudicial

1. Prejudice is a preconceived judgment formed without a factual basis, a strong bias.

2. All assertions of law and facts shall respect the personal integrity of the Members.

3. This objection may be raised in all phases.

Article 46: Objection Speculation

1. Speculation occurs when a witness is asked to predict the possible outcome of a situation, theorizing about them without their certain knowledge.