



**Mission Viejo High School Model United Nations
29th Annual Conference
"Through the Fire the Spirit is Forged"**



International Court of Justice
Netherlands v. Sweden

IMPORTANT! You need to send your first and last name to mvhsmunicj@gmail.com by January 4th in order to have a personalized placard for the conference.

Hello justices! My name is Andrew McElvein, and I will be your vice chair for ICJ this year!

This committee is a little different than others, as some of you may already know. The International Court of Justice resolves conflicts between nations, and it is your job as a justice to create a reasonable solution for each case. You will have the opportunity to listen to and question several witnesses for each case to help you make your decision. For this committee, you will not be writing position papers, instead, you will be responsible for writing a **Preliminary Opinion**. This is your unbiased analysis of how you believe the case should turn out based on the information provided and your own research. **Each preliminary opinion should include a background of the case, the defendant's position, the plaintiff's position, your preliminary ruling, and any questions you would like to ask of the witnesses.** Your preliminary ruling should take into consideration **international laws** and **treaties** that pertain to the case. As the cases progress, you are allowed to form new opinions about the case; you are not required to stand by your preliminary opinion. If you have any questions about anything, please feel free to email me at andrew.mcelvein@gmail.com

I. Background:

Note: The case of the Netherlands v. Sweden has already been presented to the ICJ. For the purpose of our conference, you as justices should act as if the case is being newly presented before you. You will make your decisions based on the evidence given and



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arguments made by our lawyers. You are not required to follow the ICJ’s previous rulings on this case, but you should take into consideration the laws and treaties referenced in the case.

This case known as the “Boll case” was heard before the International Criminal Court in 1958. The Hague Conference on Private International Law was created in the late 1800’s and it is law that “works for the progressive unification of the rules of private international law”. This is unique because this is the only case where a convention was drafted. The Netherlands sued the country of Sweden over one Marie Elizabeth Boll. She was the daughter of a Dutch sailor whose Swedish wife had passed away recently. Before Marie’s mom died both her and Marie’s mom lived in Sweden. During this period of time there was a nationality rule where the father of Marie was Dutch and Dutch authorities assigned her guardianship according to their own procedures, even though Marie didn’t live in the same country as her father. Swedish authorities where Marie was living overrode the Dutch decision and placed the Marie under a protective public care based on the fact that Marie was living with her mother’s parents.

II. Plaintiff:

This Convention was primarily created to avoid different conflicts with protective measures on behalf of many young kids around the world. The said object is achieved by giving the resources of a country to the national legislation both in the field of substantive and of adjective law or jurisdiction. Priorities can be taken by many or all governmental authorities as soon and as far as the national authorities gave the “ok” for the protection of the infant. This main principle and idea comes from the Article 7 of this convention. This Article states that, “pending the



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organization of the guardianship and in all cases of urgency, the necessary measures for the protection of the person and the interests of infant may be taken by the local authorities”. Also, Netherlands may be able to grant certain exceptional powers to the local authorities, sets aside law. But, please keep in mind that the Dutch government can undertake to substantiate their contentions in any manner the Court may want or desire.

III. Defendant:

Sweden claims that because Marie was, at the time, living in Swedish territory with her maternal grandparents, she should remain under Swedish care. In putting the infant in Swedish care, Sweden was only following the “Swedish Law of June 6th, 1924” Article 22. Sweden argues that the Netherlands has no right to remove her from her current place of residence

IV. Things to Consider:

- ~What is the ICJ’s role in this case?
- ~ How does the father’s nationality relate to this case?
- ~Who deserves custody of the child and why?

V. Documents:

- ~Swedish Law of June 6th, 1924 Article 22
- ~Hague Convention of 1902 relating to the settlement of guardianship of minors
- ~Hague Convention of 1961 concerning the power of authorities and the law applicable in respect of the protection of minors (technically this has not yet been created, but you may use this for reference)
- ~any other documents or conventions that you find pertinent to the case

VI. Possible Witnesses:

Note: This list is subject to change. If you feel that there are any witnesses that you would particularly like to question, please include those names in you Preliminary Analysis along with your list of possible questions for the witness.

- ~ A major official from the Dutch government
- ~ A major official from Sweden’s Government
- ~ A judge that deals with infant custody’s
- ~ If possible a family member from either side

VII. Sources:



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<http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=37&case=33&code=nls&p3=1>

http://en.wikipedia.org/wiki/Boll_case