

## ORGANIZING A LEGAL DISCUSSION - IRAC (Issue, Rule, Application, Conclusion)

### Introduction

Most legal writing requires the writer to analyze a set of facts using legal rules gleaned from a myriad of sources, including cases, statutes, and secondary materials. Legal writing has its own specific structure that lawyers everywhere use and they expect to see in your written work: by laying out (esponendo) the issue to be discussed, the legal rule (regola giuridica) relevant to the issue, the analysis of the pertinent facts based on that rule, and the overall (generale) conclusion.

### Where do I use IRAC?

IRAC is used after the facts section, in the 'discussion' section or in the 'argument' section of the brief. Each discrete legal topic will have its own IRAC structure.

### Basic outline of the IRAC format:

#### 1. ISSUE (problema)

Write the issue in the first paragraph at the beginning: What is the legal question you will need to analyze? Why do you need to analyze this issue? This first section should give your reader an understanding of what you intend to discuss and why you must discuss it (perchè è necessario discuterne) → Indication and definition of the main point/facts.

In a *memo*, you should be neutral in your statement of the facts (dichiarazione dei fatti) and also predicting (prevedere) how the judge will rule on the issue (si pronuncerà sulla questione).

- Best → Indicate the relevant issue in a way that reveals (rivela) your conclusion  
Example: The Court will likely rule (probabilmente pronuncerà) that Officer (funzionario) used unconstitutionally excessive force under the Graham test as applied to the facts of this case.
- Good → Indicate the relevant issue in a neutral fashion.  
Example: The judge must decide if the balancing test (test di bilanciamento) in Graham warrants (merita) a finding (una scoperta) of excessive force.
- Not Good → Indicate the relevant issue as a question.  
Example: Did the Officer use excessive force under the Graham test?  
The question format (il formato domanda) is stylistically disfavored (sfavorevole) in the legal profession.

In a *brief*, you should be more opinionated (supponente) and affirm how your client would like the issue to be resolved.

- Best → Affirm that the relevant issue should come out in your client's favor (uscire a favore del cliente) and (briefly) explain why.  
Example: The balancing test in Graham warrants (giustifica) a finding of excessive force because Officer responded to an unthreatening suspect (ha risposto a un sospetto non minaccioso) with a serious (grave) intrusion into his Fourth Amendment rights (diritti del quarto emendamento).
- Good → Affirm that the relevant issue should come out in your client's favor.  
Example: The court should find that the officer used excessive force under the balancing test in Graham.
- Not Good → Indicate the relevant issue in a neutral fashion.

Example: The court will need to employ (dovrà impiegare) the balancing test in *Graham* to decide whether (if) the officer used excessive force.

## 2. **RULE**/EXPLANATION/REASONING

After you lay out the issue (dopo aver formulato la questione), you will need to establish the governing legal rule (norma giuridica)/reason that the court will employ (impiegherà) to resolve that issue. Set out the broadest principles (imposta i principi più ampi) first, after the smaller + secondary components and exceptions to the rule → Discussing in order from most important to least important.

Indicare holdings of cases (i casi trattati) briefly (brevemente), and only include relevant (pertinenti) facts and conclusions.

Depending on the nature of the case, you may also include a paragraph discussing particularly relevant precedent (un precedente) in order to establish how the rule works in practice (come la regola funziona in pratica)

- Order of Authorities: Constitution, statutes, regulations, Supreme Court cases, appellate court cases, trial court cases, secondary sources;
- General → Specific;
- Baseline rule → Exceptions;
- Tip: For concise use of legal sources (per un uso conciso delle fonti legali), use ellipses (punti di sospensione), and minimize use of block quotations (citazioni in blocco = si riporta il testo di un'altra fonte senza apportare modifiche sostanziali);
- Explain the whole rule; don't just give a one-liner.

*Example:* It is well established (è ben stabilito) that “the use of force is contrary to the Fourth Amendment if it is excessive under objective standards of reasonableness (secondo i criteri oggettivi di ragionevolezza).” *Saucier v. Katz*, 533 U.S. 194, 201–02, 121 S. Ct. 2151, 150 L.Ed.2d 272 (2001) (citing *Graham v. Connor*, 490 U.S. 386, 109 S. Ct. 1865, 104 L.Ed.2d 443 (1989)). The reasonableness of the application of force applied by a police officer depends on a balancing of the force applied and the circumstances confronted (affrontate) by the officer. “A claim that (l'affermazione secondo cui) excessive force was used in the course of a seizure (sequestro) is subject to an objective test (è soggetta a un test oggettivo) of reasonableness under the totality (nella totalità) of the circumstances of each case, including the severity of the crime at issue (crimine in questione), whether (se) the suspect posed an immediate threat (rappresentava un'immediata minaccia) to the safety of others, and whether he is actively resisting arrest.” *Sullivan v. Gagnier*, 225 F.3d 161, 165 (2d Cir. 2000) (citing *Graham v. Connor*, 490 U.S. at 395–396). Under the law (secondo la legge), police are not permitted to use any degree of force in all instances—in some circumstances, no use of force is reasonable because none is required. *Bauer v. Norris*, 713 F.2d 408, 412 (2d Cir. 1983) (“the use of any force by officers simply because a suspect is argumentative, contentious, or vituperative is not to be condoned (condonato=scusato)”). The Second Circuit has held (ha sostenuto) that the degree of injury (grado di lesione) is not determinative of an excessive force claim (rivendicazione di forza eccessiva); even an injury that is not permanent or severe can suffice (può bastare). *Robinson v. Via*, 821 F.2d 913, 924 (2d Cir. 1987).

*Example:* When applying (si applica) the balancing test in *Graham*, the court has held (ha ritenuto) that there is little governmental interest in arresting a suspect for a minor offense (reato minore). See *Jones v. Parmley*, 465 F.3d 46 (2d Cir. 2006) (jury (la giuria) could reasonably find that kicking and punching peaceful protesters (dare calci e pugni ai manifestati pacifici) in violation of local ordinance was excessive); *Thomas v. Roach*, 165 F.3d 137 (2d Cir. 1999) (verbal threats (minacce verbali) are a too minor a crime to create a strong governmental interest in the arrest). Therefore (pertanto), a

suspect's alleged crime (il presunto crimine del sospetto) must be sufficiently serious (grave) to warrant (giustificare) use of painful (dolosa) force, such as a taser, under a Graham analysis. *Tennessee v. Garner*, 471 U.S. at 11. Given that the threat posed by the suspect is "the most important single element" of the Graham analysis, *Chew v. Gates*, 27 F.3d 1432, 1441 (9th Cir. 1994), any arrest in which the suspect poses no threat (non rappresenta una minaccia) and is only wanted (ricercato) for a minor infraction likely does not give rise to a significant governmental interest.

### 3. APPLICATION/LEGAL ARGUMENTATION

In this section, you will apply the rule to your facts, using the cases you've discussed in the rule section to draw analogies or distinctions. You should track the order and key phrases (tenere traccia dell'ordine e delle frasi chiave) of the Rule section so that your reader can easily follow along. Don't be afraid to repeat key terms and phrases— you will frequently need to do so to show that your case follows precedent. This section will be the bulk (maggior parte) of your argument, and may run (potrebbe essere lunga) 5-7 rows.

*Example:* In the instant matter (nella materia considerata), the officer's use of force against Victim was objectively unreasonable (oggettivamente irragionevole) because Victim committed only a minor offense and posed no threat (non costituiva minaccia) to Officer. Officer arrested Victim for loitering (vagabondaggio) under (ai sensi) New York Penal Law § 240.35, which classifies the infraction as a violation – a lower grade than even a misdemeanor (un reato minore). This infraction is even less serious than the one at issue *Thomas* (verbal threats) and is equivalent to the minor ones in *Jones* (protest violation). Moreover (inoltre), Victim posed so little threat (rappresentava una minaccia così piccola) to Officer that sanctioning taser use in this situation would run contrary to precedent (andrebbe contro i precedenti) and notions of justice. Victim did not approach Officer or manifest any intention to harm him (fargli del male). Much like (proprio come) in *Tennessee v. Garner*, 471 U.S. at 21, where substantial force was unreasonable because the fleeing suspect (sospetto in fuga) posed no threat to the officer, Victim was actually attempting (tentando) to escape away from Officer.

### 4. CONCLUSION

Here, you need a sentence or two that concisely state (indichino in modo conciso) the outcome of the issue (l'esito della questione), based on the **Application** of the **Rule** to the facts of the case. It's possible to add some recommendations.

*Example:* Therefore (pertanto), because Victim posed no threat to Officer and was only liable (era responsabile) for a minor infraction, Officer's use of force was excessive under Graham.

### FULL EXAMPLE, in MEMO version

Your client is getting divorced in Connecticut. Her husband argues that she did not fairly and reasonably disclose (rilevato) her property, which Connecticut law requires, because her disclosure inaccurately stated her overall assets (ha dichiarato in modo inesatto i suoi beni complessivi).

ISSUE, or Topic Sentence:

A court will not be convinced (non sarà convinto) that my client's financial disclosures (informazioni finanziarie) are 'incomplete.'

RULE:

A "'fair and reasonable' disclosure (una comunicazione equa e ragionevole) refers to the nature, extent (estensione) and accuracy (accuratezza) of the information to be disclosed (da divulgare)." Friezo v. Friezo, 914 A.2d 533, 545 (Conn. 2007). Friezo notes that "a fair and reasonable financial disclosure requires each contracting party to provide the other with a general approximation of their income, assets (attività) and liabilities (passività)." 914 A.2d at 550.

ANALYSIS: Interpret (interpretare) the Evidence

In Friezo, the defendant (imputato) provided (ha fornito) "an accurate representation, in writing (per iscritto)," that "set forth a list of the defendant's assets and liabilities (ha esposto un elenco delle attività e delle passività del convenuto), most of which were valued individually." Id. at 551, 550. Here, my client provided a similarly detailed written valuation. Her husband's claims (affermazioni) that the schedules (programmi) omit (omettono) key information about the value of my client's real estate holdings (partecipazioni immobiliari) and miscalculate her total assets, undervaluing (sottovalutandoli) them by \$1,000,000, are inaccurate. My client provided either statements (dichiarazioni) of value or recent assessments (valutazioni recenti) of value for each of her properties holdings to her husband. While Schedule (tabella) A inaccurately states (indica in modo impreciso) my client's total assets, this misstatement (inesattezza) is a clerical error (errore di trascrizione); each of her properties is accurately valued individually.

CONCLUSION: Reconnect This Point to Your Thesis

Since Connecticut requires only a "general approximation" of assets, a court will find my client's disclosure to be fair and reasonable.