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ANSWERS CLARIFICATION QUESTIONS

HELGA PEDERSEN MOOT COURT COMPETITION

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Note to Teams

The questions below were submitted by the teams through the official clarification questions form, in accordance with the Rules of the 15th Edition of the Helga Pedersen Moot Court Competition, and have been answered by the Case Authors.

Questions on the same or similar points have been merged and are addressed only once. In line with the Rules, the Case Authors may decline to answer questions that they consider unrealistic, irrelevant, or that teams can reasonably be expected to work out for themselves. Where this is the case, the answer refers teams to the facts of the case or indicates that the matter is for the teams to argue.

These answers should be read together with the Case. Teams are reminded that their arguments shall be based on the facts of the Case and the clarifications below.

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A. The State Electoral Commission

Question 1. How are the members of the State Electoral Commission appointed? In particular, who formally appoints them after nomination, by what majority, and under what rules may they be recused or dismissed? How are the President of Haberland, the Judicial Council and the Ombudsperson, who nominate members of the Commission, themselves elected or appointed (§§ 38–39)? Is the Ombudsperson elected by Parliament?

Answer: All relevant information is included in the facts of the case.

Question 2. At the time the current members of the State Electoral Commission were nominated, what was the party composition of Parliament and what was the political affiliation, if any, of the President (§ 38)? How many of the six members nominated by political actors were nominated by actors associated with GDF, and are the President, the Judicial Council or the Ombudsperson affiliated with GDF?

Answer: All relevant information is included in the facts of the case.

Question 3. Are the decisions of the State Electoral Commission advisory in nature, or are they legally binding (§§ 14 and 41)?

Answer: See the facts of the case.

Question 4. What procedures or guidelines does the State Electoral Commission follow when examining complaints concerning electoral irregularities? Is it subject to any procedural time limits when examining such complaints, including the authenticity of the video (§ 13)? Which deadline applied to the complaint filed on 4 May 2025, and did the 48-hour rule apply?

Answer: The internal procedures or guidelines of the State Electoral Commission are not part of the case file. For the applicable deadlines, see the facts of the case.

Question 5. Has a petition to the State Electoral Commission to stop the dissemination of material before an election ever been successful in the past? What has previously been considered "sufficiently reliable evidence" for this purpose?

Answer: Yes, such requests were successful in the past. The Administrative Court regularly uses the standard of balance of probabilities in reviewing such cases on appeal.

Question 6. What are the post-election duties of the State Electoral Commission, and does any other body deal with these matters?

Answer: The question is unclear. For the role of the State Electoral Commission, see the facts of the case.

B. The fabricated video and the investigation

Question 7. On what date did the State Electoral Commission appoint the independent expert, and on what date did the expert first inform the Commission that the video had been fabricated and deliver the report (§§ 13 and 18)? Why was the Commission's final determination only issued on 30 May 2025, after the election of 19 May 2025?

Answer: The State Electoral Commission appointed the expert on 5 May 2025. The expert delivered her report on 20 May 2025. No further information is available.

Question 8. What criteria were used to select the independent expert appointed by the State Electoral Commission?

Answer: The State Electoral Commission selects independent (i.e. not proposed by either party) experts from the national list of experts certified in the relevant field, e.g. constitutional, election, administrative law, and IT with proven experience of over 15 years. In addition, the Commission has a technical support service, which includes its own IT specialists.

Question 9. What investigative steps, beyond those described in § 12, did the State Electoral Commission take between the urgent complaint of 4 May 2025, its preliminary finding of 6 May 2025 and election day? Following the submission of the applicants' forensic report on 8 May 2025, did the Commission or the Administrative Court take any steps to obtain an independent expert assessment before election day? Did the Commission have access to timely and effective independent forensic expertise, and is there a protocol for conducting authenticity checks?

Answer: All relevant information is included in the facts of the case.

Question 10. Did the State Electoral Commission's preliminary finding of 6 May 2025 contain any reasoning beyond that described in § 12? In particular, did the Commission consider whether removal of the video was "necessary to preserve the fairness of the election" under Article 39, independently of whether its authenticity had been established?

Answer: All relevant information is included in the facts of the case. It is for teams to argue the case.

Question 11. How was the applicants' forensic report submitted as evidence before the Administrative Court for the first time, given that, according to § 13, the State Electoral Commission did not accept it?

Answer: The applicants submitted the report to the court. The State Electoral Commission's position was taken in response to the applicant's submission to the court. The State Electoral Commission appointed its own independent expert and was not dependent on the applicants' submissions in this regard.

Question 12. Does the finding that the video was not AI-generated exclude the use of artificial intelligence in its fabrication, including the superimposition of footage and the reconstruction of audio?

Answer: No, the finding relates solely to the question of whether the video was AI-generated or not.

Question 13. Was the video shared mainly by ordinary social media users, or was it also promoted through paid advertisements or organised campaigns?

Answer: See the facts of the case – the video was shared mainly by ordinary social media users. The available information does not suggest paid advertisements or organised campaigns.

Question 14. What investigation was carried out into possible links, including financial links, between Mr X and GDF, its candidates or affiliated entities during the 2025 campaign? Were Mr X's phone records, bank statements or financial transactions examined, and was his activity reflected in the party's financial statements? What is meant by Mr X not having been "formally engaged" by GDF in the 2025 campaign (§ 18), and on what evidence did the State Electoral Commission base its conclusion that neither GDF, nor another political party, nor any private individual had commissioned the production or dissemination of the video?

Answer: All available information is included in the facts of the case.

Question 15. Did the Meliora Party lodge a criminal complaint against the individuals who published or shared the video?

Answer: No.

Question 16. Through which means did Ms Novak and the Meliora Party publicly deny the authenticity of the video (§§ 11 and 27), and did they have access to influential public media outlets other than social media for this purpose?

Answer: Yes, they were interviewed by the major public media in Haberland which all cited the position of Ms Novak and the Meliora Party.

Question 17. What measures, if any, were taken in the domestic proceedings to assess whether the circulation of the video affected the results of the election of 19 May 2025? Which factors did the Constitutional Court consider in finding that there was no sufficient causal link between the use of microtargeting and the fabricated video and the election results, and what standard of proof did the domestic courts apply?

Answer: See the facts of the case. Otherwise, it is for the teams to argue.

C. The Agora system

Question 18. How does Agora work? In particular, is Agora (a) a chatbot answering questions posed by voters who engage with it of their own accord, (b) an AI-powered website presenting the party programme in a way that changes depending on the reader, (c) an AI-powered distributor of advertisements pre-made by the party to voters based on their predicted interests, (d) a tool that both creates advertisements and targets them at individual voters, or (e) something else? Did Agora create new messages itself (§ 24), or did it only disseminate campaign information prepared by the party (§ 4)?

Answer: See the facts of the case.

Question 19. When was Agora first deployed and when did it begin disseminating personalised political advertisements? How many personalised campaign messages did it generate in total during the campaign? Did GDF continue to disseminate targeted advertisements through Agora during the election moratorium period referred to in § 36?

Answer: Agora was deployed before the election campaign and was disseminating messages during the official campaign period. There is no information available suggesting that GDF violated the moratorium.

Question 20. Was Agora based on open-source code, and was its source code and underlying algorithmic model publicly available during the 2025 campaign, as required by Article 34 of the 2022 Election Law? Was a mere declaration to this effect sufficient, and did the State Electoral Commission or the domestic courts verify compliance?

Answer: See the facts of the case.

Question 21. Was Agora lawful under Articles 33 and 34 of the 2022 Election Law? Does the notion of "open source" in the Election Law mean that an AI system must be made available to all political parties under equal conditions? How are the terms "publicly available data" and "automated data-analysis systems", as used in the 2022 Election Law and the Constitution, defined in Haberland?

Answer: See the facts of the case.

Question 22. How does the State Electoral Commission evaluate requests to register AI tools under § 34, and is registration dependent on the tool's compliance with the 2022 Election Law? What criteria did the Commission apply when assessing Agora's compliance during the 2025 campaign (§§ 4, 34 and 39), what information on Agora's operation was available to it, and what steps, if any, did it take to verify compliance?

Answer: The State Electoral Commission registers AI tools provided that they fulfil the formal requirements (see § 34 of the case). The Commission's technical support staff verifies whether the tool complies with the requirements to use an open-source code and publicly available data.

Question 23. Before election day, was the State Electoral Commission authorised and able to inspect the actual content of Agora's advertisements and the criteria used to select their

audiences, beyond the general description submitted upon registration? If not, could it request this information from GDF or the platforms? Was there a publicly accessible record or repository of online political advertisements, including the different versions of GDF's advertisements and the voter groups targeted, available to competing parties or the public during the campaign?

Answer: See the facts of the case, and answer to Question 22 above.

Question 24. How was the data analysed by Agora obtained? Did any of the data, such as browsing habits, online purchases, approximate location or political interests, originate from sources that were not publicly accessible? Were the individuals concerned informed of, or did they consent to, the processing of their data for political profiling and targeted advertising? Did voters need to download an app or create an account, or did Agora operate in the background?

Answer: See the facts of the case.

Question 25. Is there any evidence that Agora was designed to provide voters with contradictory information, or should this be regarded as an imperfection in the system's functioning?

Answer: The campaign content and messaging to be used by Agora were developed by GDF, including their political leadership and marketing advisers. The actual dissemination, fine-tuning, and further tailoring to the recipients was processed by Agora. No further information is available.

Question 26. How were the parties' programmes, in particular GDF's, made accessible to voters? Could voters only access the excerpts presented by Agora, or could they easily obtain the programmes in full?

Answer: Full programmes of the political parties were publicly available on the parties' websites and, upon request, by email or in hard copies.

D. Other parties, campaign financing and expenditure

Question 27. Were the data-driven advertising tools used by other political parties (§ 5) also AI-driven? If not, how did they operate?

Answer: See the facts of the case.

Question 28. How many of the seven parties elected to Parliament used AI in their campaigns, and what share of the seats did they obtain? How many of the parties that used AI tools met the parliamentary threshold, and did any party that met the threshold not use AI tools?

Answer: See the facts of the case.

Question 29. How much did other parties spend on data-driven or AI advertising tools during the campaign, and did any of them also file complaints about Agora? How much has been spent on campaigns in previous elections in Haberland, and for how long have AI-driven advertising tools been used?

Answer: AI tools were introduced by the 2022 Election Law, but they were used for the first time at the 2025 elections. Other parties spent a similar proportion of their budget on AI as GDF did, while absolute amounts differed. For complaints, please see facts of the case.

Question 30. Does the 2022 Election Law set a cap on campaign expenditure and, if so, was GDF's expenditure, including the costs of Agora, within that cap?

Answer: See the facts of the case.

Question 31. How did each party comply with the obligation to report income and expenditure within 30 days after election day (§ 35), when were the reports published, and did the State Electoral Commission identify any irregularities? Did GDF record all its financial resources, including individual donors, and is there a list of them (§§ 30 and 35)?

Answer: All parties complied with the obligation and the reports were published at the same time when submitted to the Commission or shortly after. There is no specific deadline for their publication. No irregularities were identified for any party in this respect.

Question 32. Did political parties receive free airtime or any other public support before election day?

Answer: All parties receive equal free airtime on the national television (10 hours) and national radio (10 hours), including debates. No free airtime was provided on private broadcasters.

E. Polls, election results and the political situation

Question 33. Were any opinion polls or other assessments of voter preferences conducted between 2 May 2025 and election day, or after the election? If so, how did the results compare to the 9–10% recorded in April 2025?

Answer: See the facts of the case.

Question 34. What is meant by the statement that support for new national parties in Haberland was often "volatile" (§ 3), and on what basis was this conclusion reached? What fluctuations in support for newly established parties have historically been observed, and are there precedents of new parties polling above the 5% threshold before an election but falling below it in the final results?

Answer: Based on polls and actual results in previous election cycles in 2021 and 2017. Yes, there are such precedents in the 2021 elections.

Question 35. Is the Meliora Party eligible for state funding following its 4.1% result, and if so, what is the exact amount (§ 37)?

Answer: It is for the teams to argue whether the Meliora Party is eligible.

Question 36. Before the 2025 election, did GDF govern with a single-party majority or in a coalition?

Answer: Coalition.

Question 37. Which authority certified the election results, and how and when were the official results announced (§ 17)? When did the new authorities take office? What are the main stages of the electoral process before, on and after election day?

Answer: State Electoral Commission, preliminary results on the eve of the elections and the final on 30 May. The final results confirmed the preliminary results.

F. Domestic proceedings and remedies

Question 38. What is the time limit for challenging a decision or omission of the State Electoral Commission before the Administrative Court? Does "the final fourteen days before an election" in § 40 refer to calendar days or working days?

Answer: Calendar days.

Question 39. What interim measures may the Administrative Court order under the law of Haberland? When it refused interim relief on 12 May 2025 because the State Electoral Commission had not yet issued a final decision, was the Court legally prevented from granting independent interim relief under § 40, or was this an exercise of its discretion?

Answer: See the facts of the case. Otherwise, it is for the teams to argue.

Question 40. Was the Administrative Court's decision of 12 May 2025 open to appeal before the Court of Appeal and, if so, was there an expedited procedure allowing a ruling before election day? Did the applicants appeal that decision, and did the Government argue before the domestic courts that it had not been appealed?

Answer: See the facts of the case.

Question 41. Are there established criteria for assessing "irreversible harm" under Article 40 of the 2022 Election Law, and did the Administrative Court apply them when refusing to order the removal of the video (§ 14)?

Answer: It is for the teams to argue whether the Court applied them. The court assesses on a case-by-case basis.

Question 42. Is there a separate legal mechanism for challenging the overall lawfulness of an election, or does the jurisdiction of the administrative courts extend to reviewing the lawfulness of elections as a whole, rather than being limited to reviewing decisions or omissions of the State Electoral Commission (§§ 19, 40 and 41)?

Answer: See the facts of the case.

Question 43. Do the State Electoral Commission, the courts or the Constitutional Court have the power to annul election results and order new elections, and if so, on what legal basis (§§ 39 and 41)? What falls within the Constitutional Court's power to "quash" an act? On what grounds may elections be annulled, and must the irregularities have affected the results, or is it sufficient that they were capable of doing so?

Answer: See the facts of the case.

Question 44. What relief did Ms Novak and the Meliora Party seek before the administrative courts and before the Constitutional Court (for example, compensation or annulment of the election results)? What was the exact content of the constitutional complaint, and were the issues concerning Agora and the use of AI raised before the Constitutional Court (§ 23)?

Answer: See the facts of the case.

Question 45. Was the analysis by independent researchers of December 2025 and the report of the University of Tirnopolis (§ 24) made public, and was it admitted as evidence and considered by the Constitutional Court before its decision of 30 June 2026?

Answer: See the facts of the case.

Question 46. Does Haberland have any other state authority, such as a media or communications regulator, that can act against manipulated online electoral content, and if so, did the applicants approach it? Is there a specific regulatory framework concerning disinformation, including procedural requirements, and are social media platforms operating in Haberland subject to a framework equivalent to the EU Digital Services Act?

Answer: See the facts of the case.

G. International obligations and national context

Question 47. Which specific Council of Europe treaties has Haberland ratified (§ 29)?

Answer: See the facts of the case, in particular § 29.

Question 48. Did Haberland make a declaration at the time of signing the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law regarding its implementation? Does Haberland's constitutional system give any legal or interpretative effect to treaties that have been signed but not ratified?

Answer: See the facts of the case. International treaties need to be ratified.

Question 49. Has Haberland enacted legislation regulating the deployment of AI systems developed abroad?

Answer: See the facts of the case.

Question 50. What is the historical and political context of Haberland? Are there significant events in its democratic history that affect the current political climate, including any link between dominant parties and particular ethnic or social groups that has led to a specific legislative or constitutional response? Did GDF play a role in the foundation of the State?

Answer: The political parties are not based around ethnic or other groups, but rather political views and programmes. Haberland was founded before the existence of GDF.

H. Questions concerning the scope of the Case

Question 51. May teams invoke violations of Convention rights other than those listed in the Case?

Answer: The alleged violations to be addressed are those set out in the Case. Teams are expected to focus their arguments on these provisions; arguments based on other Convention rights fall outside the scope of the Case and will not be considered by the Judges.

Question 52. Is there any guidance on how to construct a separate analysis under Article 13 that would not be absorbed into the analysis under Article 3 of Protocol No. 1, given that the issues were raised both before and after the election?

Answer: It is for the teams to argue.