

Helga Pedersen
Moot Court Competition



ANSWERS TO
CLARIFICATION QUESTIONS

**HELGA PEDERSEN
MOOT COURT COMPETITION**

10TH EDITION - 2021



Part I: Questions regarding clarification of supporting details for legal submissions of the case

1. Did the courts of Norland evaluate and investigate whether Norland's treatment of the Applicants amounted to inhuman or degrading treatment?
Please see the facts of the case.
2. Can the applicants be self-represented at the Regional Court (second instance)?
Yes. No mandatory legal representation.
3. Were there any existing extraordinary judicial remedies in Norland including but not limited to a Constitutional Court, that would have been entitled to provide either redress in or cassation of the final judgement?
Please see the facts of the case.
4. Although the state of Norland is not part of the European Union (para 30), it still appears to use the Euro - is this a currency conversion? If not, what is the exact relationship between Norland and the EU (is it part of the EEA & Monetary Union, for example).
Not relevant.
5. When did Norland ratify the Convention?
In 1991.
6. When did Norland ratify the UNFCCC?
1994
7. Has Norland ratified the Vienna Convention on the Law of Treaties?
Yes.
8. When did the state confirm the European Human Rights Convention and other Conventions?
Please see Q2 – Q4, Part I above.
9. Has Norland ratified the Aarhus Convention?
Please see the facts of the case.
10. Were the United Nations Framework on Climate Change, the Kyoto Protocol, the Montreal Protocol, and the Paris Agreement transposed into the national legislation of Norland?
Please see the facts of the case.
11. Does Norland fall within the category of a developing country or within that of a developed country under the UNFCCC and Paris Agreement?
A developed country, being at average of the Council of Europe.
12. In regard to the UNFCCC and the Paris Agreement, is Norland a developed or a developing State? If it is a developed one, does it belong to Annex 1 or 2 of the Contracting Parties?
Please see Q11, Part I above.
13. Is Norland a developed or developing country?
Please see Q11, Part I above.
14. Is Norland a developed or a developing country and under which criteria?
Please see Q11, Part I above.
15. Does Norland have a policy of licensing or control of hazardous production activities carried out by legal entities?
Yes.



16. What specific requirements did the Law on Emergency Situations (mentioned in para. 33 of the case) provide regarding the rescue operation protocols during environmental hazards/natural disasters?
Please see the facts of the case.
17. What exactly were the obligations required by the Law on Emergency situations?
Please see the facts of the case.
18. As regards the Paris Agreement, has Norland submitted a Nationally Determined Contribution? If yes, what was its content, and what were Norland's objective and general goals in order to fight climate change in the following years?
Yes, it has submitted, they are included in the strategy in para 37.
19. The question regards citing domestic law. Are the case file paragraphs 31, 33 and 34 direct quotations of domestic law, or paraphrased?
Paraphrased.
20. The question regards the interpretation of 'The Norlandic constitution. Can art. 54.1 be used to base a civil claim? Alternatively, is it to be interpreted in conjunction with article 54.2, meaning that civil action cannot be based on art. 54.1, as 54.2 is meant as a remedy to potential violations of art. 54.1?
For teams to argue.
21. In the constitution of Norland, are the article 54.1 rights and the article 54.2 obligations qualified or absolute, and if qualified, by what?
For teams to argue.
22. For international law to be applicable in a country it must be transposed into national legislation. Did the State of Norland transpose "United Nations Framework Convention on Climate Change, the Kyoto Protocol, the Montreal Protocol, the Paris Agreement and all major Council of Europe and United Nations human rights treaties except for Council of Europe treaties No. 150 and 172" into the legislation?
Please see the law part of the case.
23. Regarding the treaties mentioned in para. 30 of the case, should we understand that once ratified, the international treaties are integrated into the national legal system, therefore binding?
Please see the law part of the case.
24. If Norland has ratified a piece of legislation does that mean it is directly applicable into Norland's domestic law or do other procedures have to take place because Norland is a dualist state?
Please see the law part of the case. Norland is a dualist state.
25. Is there any legislation surrounding Norland's polluting industries? For example, licensing, permits, max. emission...
All relevant laws and drafts are indicated in the law part of the case.
26. What is meant under the phrase "major Council of Europe and United Nations human rights treaties" (mentioned in para 30)?
Not relevant to specify.
27. Is Norland complying with all applicable Paris Agreement requirements?
For teams to argue.
28. What measures of environmental protection does the Norlandic Law on the Environment provide for?
Please see the law part of the case.



29. What is Norland's remaining annual GHG budget to meet the Paris Agreement's 1.5°C/2°C target?
The estimated average among the Council of Europe Member States.

Part II: Questions regarding the previous floods, climate situation in Norland and Government's preventive measures

1. What is the frequency of Leti's "occasional" (para 3) floods and how extensive property damage usually is?
In the past 20 years, there were floods every 2 years with minor property damage.
2. How far was it foreseeable that the floods would amount to such an extent this year? The case tells us that there have been floods in the past, but was there a rise in the water level in the last years?
Please see the facts of the case.
3. What was the official reason for the previous occasional floods in prior years?
Sudden torrential rains leading to sudden rise of water levels.
4. What was the amount of Norland's GHG emissions historically (since 1990)?
Please see the facts of the case.
5. Can we assume that the stated volume of Norland's greenhouse gas emissions (100M metric tons) is a measure of the standardised CO₂ equivalent (MtCO₂e) and thus takes into account the different warming potentials of the different gases emitted?
Yes.
6. To what extent has the average surface temperature changed in Norland in the past 100 years?
The average at Council of Europe level.
7. Has Norland made any investments in existing industries, with the aim of reducing its greenhouse gas emissions throughout the last 10 years and succeeded in reducing its emissions?
Please see the facts of the case.
8. Has Norland taken action to decrease the high risk in the flooding areas?
The floods were considered occasional and there was no extreme and steady rise of water levels.
9. Considering the previous floods in Leti, did the local government take any measures to prevent them in the future?
Please see Q8 and Q11, Part II.
10. What specific measures did Norland take in order to investigate and mitigate the chance of an extreme weather event as a result of climate change?
After the flooding in Meganissia the Government will fund scientific research which should point out causes of extreme weather events including sudden floods, future risks and measures to be taken urgently, as well as mid- and long-term measures. The research will also cover an assessment of the measures taken in the aftermath of the flood in the case at hand. The national strategy has been updated as well.
11. Is flood resilience infrastructure installed in Leti, and if the answer to this question is affirmative, how effective can it be depending on the severity of floods?
There are embankments around water surfaces.
12. Did Norland invest in polders and embankments?
Please see Q11, Part II.



13. Which actions, if any, were taken by Norland to investigate the cause of the flood and the effectiveness of rescue measures taken during and immediately after the flood?
Please see Q10, Part II.
14. Has the Respondent, despite failing to adopt a national strategy, a specific law, or any specific measures to fight climate change, done any studies on the impact of climate change on its territory or any assessment of the risk posed by climate change on its territory?
Please see Q10, Part II.
15. Did the State take any precautionary measure either prior or after the prediction of heavy rain on 7th June 2020, to fight the long-existing threat of floods in the town of Leti, and if so, what kind of measures were taken exactly?
Please see Q10 and Q11, Part II.
16. What measures regarding floods has Norland taken after the previous floods, or have they taken preventive measures since then to prevent bad things from happening? Or have they at least tried to reduce the risk? For example, have structural precautions been taken to hold back an eventual flood?
Please see Q10 and Q11, Part II.
17. In the prior years, has the state taken any preventive measures on floods in Leti as there were occasional floods before?
Please see Q10 and Q11, Part II.
18. Does Norland have some sort of system in place through which it measures/keeps track of (long-term and short-term) meteorologic events?
Yes – through the State Meteorological Service. See facts of the case.
19. Did Norland take any defence measures with respect to natural disasters and specifically any flood-control measures before the flood occurred? Namely, had they cleaned the sewers, did they have any water barriers or constructed dams, etc.?
Please see the facts of the case.
20. Were there timely warnings or information systems in place during previous floods in the applicants' area and did the applicants comply with the previous warnings?
Please see the facts of the case regarding previous floods in Leti.
21. What do the emergency systems of Norland, as in the broadcasted warning on national television, the warning text messages to the local population, the audio warning system, the evacuation procedures, the pre-emptive testing of these emergency procedures look like exactly and how well known are they to the residents of Norland?
For the type of warning messages see the facts of the case. They are well known to the residents.
22. Does the state usually inform the citizens before every flood?
Weather information/reporting are a part of regular information sharing (e.g. through internet, radio, newspaper or TV news). Specific warnings are issued only when floods present risks to the local population.
23. Has the Government of Norland run any information campaigns regarding the dangers of climate change?
Please see the law part of the case regarding the draft national strategy.
24. Has Norland covered environmental changes in the media or other relevant public sources of information?



This topic has not received a major coverage, but the information has been shared regularly.

25. In which contexts has the state used the warning system before, precisely has it been used in the context of floods or any other climate change disasters?

Yes, when there was a risk to a local population.

26. Did the citizens of Norland have access to information about the current ecological situation (the situation with greenhouse emission pollution and climate change) in the country and if they did, in which form this information was provided?

Yes, the information is freely available on the website of the State Meteorological Service, as well as the Department for PSEP.

Part III: Other questions asking for additional factual information

1. The case states that Norland has a population of 10 million. What is the actual size of the country by land?

Not relevant to the facts of the case. It is an average sized country.

2. Was the report “Comparative research on climate change” by the NGO Green World published before or after the flood on the 14th of June 2020?

It was published a few days before the floods.

3. On which date was the Greenworld report published?

Please see Q2, Part III.

4. When exactly in 2020 was the NGO Green World’s study published (mentioned in para 40)?

Please see Q2, Part III.

5. Was the comparative study of NGO Green World (para. 40) published before or after the flood on 14 and 15 June 2020?

Please see Q2, Part III.

6. In which month was the NGO Green World's study: "Comparative research on climate change" in 2020 introduced?

Please see Q2, Part III.

7. Did the NGO Green World Report specifically state that pollution emanating from within a state has a direct or catalysing impact on the degradation of the climate in the MS, or merely that pollution everywhere causes climate change everywhere?

Please see the summary of the report in the law part of the case.

8. Could the State Meteorological Service at any point before 14 June have known about the storm and extreme rainfall that caused the floods?

The State Meteorological Service follows the international standards and uses up-to-date technologies.

9. What exactly did the weather forecasts say about the expected rainfalls on the 14th of June between the 7th of June and 14th of June?

Please see the facts of the case.

10. The weather forecast is mentioned in para. 5 of the case announced heavy rains during the following week. Did it rain for the whole week, or did it only start to rain on the 14th of June?

Please see the facts of the case.



11. The question regards scientific claims in the case file paragraph 2. Are the Norlandic scientists' estimates that rainfall has not been this extreme for the past several hundred years to be regarded as a fact, or are they disputable?
It is their scientific estimate.
12. Were applicants aware that the dangers of climate change could directly affect them?
Please see the facts of the case.
13. How well did the authorities inform the inhabitants of the possible scale of the floods and potential risk to life in the warning mentioned in paragraph 7 of the Case Study?
For the teams to argue.
14. Was the Meganissia area one that was known by the State authorities to be at high risk for flooding and, if so, was there any administrative law providing for flood protection of buildings in the area?
Please see the facts of the case.
15. Did the applicants receive the second text message that ordered immediate evacuation from their home from the Government immediately or was there a delay like the initial text message?
They received it immediately without delay.
16. In the case it was mentioned that inhabitants were warned "for the following 48 hours" we wonder when did these "48 hours" commence exactly?
From the moment the information was issued.
17. Did the rescue teams check if the Applicants had evacuated on 14th June 2020, around 8 a.m., and how many rescue teams were deployed altogether?
Yes, they did. Half of the available rescue teams were sent to check on the local population. The rest remained on standby for any urgent calls to a specific location.
18. Did the Check-in Teams (the Case, § 7) reach the Applicants' house to note the Applicants' presence?
See Q17, Part III above.
19. What concrete actions did the rescue teams undertake in relation to saving the people of Norland from the floods?
They went to check on the local population and assisted with evacuation of those who wanted to be evacuated. Afterwards, they rescued those who had not evacuated but their life was in danger.
20. Were half the homes along the riverbank that were swept away by the flood, part of the 40 homes that were completely damaged or 80 homes severely damaged?
Yes. They were part of the 40 houses that were completely damaged. The numbers 40 and 80 refer to the total number of affected houses in Leti, not only to houses located along the riverbank.
21. For how long have the 20 missing persons been missing now?
Please see the facts of the case - they are still missing.
22. Are the Applicants planning to return and resettle in the affected area within the next 30 years?
They do not know.
23. Is it the first time when the Government of Norland is being sued for failing its obligations concerning climate change?
Yes.



24. Was the compensation, which was given under the emergency law, disbursed evenly to every citizen of Norland (almost 2,333 per person) or to every family (7,000 per family) not taking into consideration the number of people comprising it?
Per person.
25. Does “evenly” (para 19) mean that the amount of disbursed reimbursement was equal per each affected individual, and in no connection to the actual pecuniary and non-pecuniary damage each individual suffered?
Please see Q24, Part III above.
26. How is the anticipated cost of private insurance which includes natural disasters?
It depends on a number of factors, including the specific type of risks covered, area, type of property, different insurance companies have different prices.
27. Is the €150 a month the applicants spend on health care; the price of the state health insurance scheme premium? or is it just the cost of the subsidised Psychotherapy?
EUR 150 is the average amount the applicants pay directly for the healthcare they receive, not the premiums. The health insurance premiums for the family are directly deducted from their gross salaries (covering the child as well). EUR 150 represents the difference that the applicants need to pay for all treatments all three of them receive, including the psychiatric care, after the payment/reimbursement was made by the State health insurance system.
28. Paragraph 18 states that “In total, the applicants spend around EUR 150 a month on health care.” Does this ‘in total’ refer to all of the applicants put together; OR, does it refer to the cost of the compulsory state health insurance scheme plus the remaining 30% of the payment for psychiatric treatment for each claimant?
See Q27, Part III above.
29. Are the 150€ referring to the monthly fee paid by the Velez for insurance or to the total costs of the psycho-treatment after the events?
See Q27, Part III above.
30. What does the financial aid which was provided by the State in the aftermath of the floods cover?
Please see the facts of the case.
31. For how long did the Applicants have to spend 150 EUR on health care a month and what other charges occurred after the events?
To this day – this is the average monthly amount.
32. In regard to the psychological help that was offered at the shelter after everyone was evacuated (paragraph 14)-was that offered only on the first day after the people's arrival of the shelter, or was that help offered in a constant manner?
The immediate emergency help from the Department for PSEP was offered on the first day. Additional assistance was offered by the Red Cross volunteers during the time the affected population was in the emergency shelter. Afterwards, all affected persons had access to the standard psychological and psychiatric treatment/care available in the country.
33. What is the condition of the emergency shelter facilities?
Regular conditions with capacity in line with the needs and vulnerabilities of affected population.
34. Could you clarify how crowded the shelter was and whether the Applicants received psychological first aid immediately after registering with it?



Regular conditions. For the psychological help, see facts of the case and Q32 above.

35. Is the cause of the applicants' PTSD limited to the events that occurred on 14 and 15 June, or are there other underlying factors that were taken into account?

There are no other underlying factors for their PTSD.

36. PSEP sent a psychologist and Red Cross volunteers to the emergency centre, the latter to do the psychological first aid, the former to assist with trauma. The applicants are known to have recognised and diagnosed PTSD. Can we confirm when the applicants first received mental first aid and/or were assessed and assisted by a mental health professional?

The applicants did not have PTSD before the events. During their stay at the emergency shelter, they were assisted two times by a Red Cross volunteer. Otherwise, see facts of the case.

37. Are the applicants able to go to work due to their mental health and PTSD?

Yes.

38. Did the State of Norland provide the Applicants with psychological help for their suffering from distress and anxiety in relation to future harm?

Please see the facts of the case and Q32 and Q36, Part III above.

39. Para. 12 of the case mentions that the hospital let Mr and Ms Velez stay with David for only a few nights. Does that mean that David was left alone in the hospital for the next few weeks, while his parents were not allowed to visit him?

They were allowed to visit him. They moved to the emergency shelter voluntarily.

40. Were both Ms and Mr Velez the legal owners of the house and did David have any legal title to the house?

Please see the facts of the case.

41. What exactly are the 'concerns about the budgetary impact' referenced in paragraph 37 that were argued by the Ministry of Finance?

Paragraph 39 (not 37). Concerns that the actions envisaged in the strategy and legislation will cost the State a lot of financial resources.