

ELSA's NATIONAL NEGOTIATION COMPETITION 2015

Welcome to the 2015 National Negotiation Competition.

This competition has the pleasure of being hosted and sponsored by [Arntzen de Besche](#). With more than 135 highly skilled lawyers, they are amongst the leading law firms in Norway. Arntzen de Besche provides legal services that add value, simplify complicated transactions and solve complex and demanding negotiations.

The winning team will have the pleasure of being coached and sponsored by [The Norwegian Association of Lawyers](#) (Juristforbundet) before and during the participation in the International Negotiation Competition. The Norwegian Association of Lawyers is a professional network and a trade union for lawyers, attorneys and law student. They provide members with relevant advice and support from their studies and throughout their careers.

ELSA Norway would like extend our sincere gratitude and appreciation both to Mr. Erlend Haaskjold (Arntzen de Besche) and Roar T. Wægger (The Norwegian Association of Lawyers) for making this competition possible.



Erlend Haaskjold
Arntzen de Besche



Roar T. Wægger
The Norwegian
Association of Lawyers



Mubin Kapur
ELSA Norway



Pauline Hellge
ELSA Norway

**NATIONAL NEGOTIATION COMPETITION 2015
ELSA Norway**

General information

Attached to this document you will find:

1. Program.
2. Competition rules.
3. "Judgepack".
4. Team pairings.

IMPORTANT INFORMATION #1:

IF YOU ALLREADY AT THIS POINT KNOW THAT YOU CAN NOT PARTICIPATE IN THE INTERNATIONAL NEGOTIATION COMPETITON IN DUBLIN (6-10 JULY 2015) YOU IMMEDIATELY HAVE TO INFORM ELSA NORWAY.

IMPORTANT INFORMATION #2:

Each team may ask any questions about the rules or the scenarios. Any question about the **scenarios** submitted after 7th April 2015 will not be answered. See Rule 6a. Questions must be submitted by e-mail: forhandling@elsa.no.

NATIONAL NEGOTIATION COMPETITION 2015
ELSA Norway

1. PROGRAM

Monday 13th April

Time:	Subject:	Place:
13:00 - 14:00	Team/Competitor registration	Domus Nova, Room IN71, St.Olavs plass 5
14:00 - 14:30	Welcome Reception	Juristenes Hus, Kristian Augustsgt. 9

Tuesday 14th April

18:00 - 20:30	Round 1 – Team A vs Team B	AdeB, Bygdøy allé 2 – see map
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Wednesday 15th April

18:00 - 20:30	Round 2 – Team B vs Team C	AdeB, Bygdøy allé 2 – see map
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Thursday 16th April

15:00 - 16:00	Lecture: Negotiations	AdeB, Bygdøy allé 2 – see map
16:00 - 18:30	Round 3 – Team C vs Team A	AdeB, Bygdøy allé 2 – see map
18:30 - 19.15	Awards and Pre Drinks	AdeB, Bygdøy allé 2 – see map
19:30 - 23:00	Awards Dinner	Resturant Louise, Stranden 3 – see map

This draft programme is subject to change

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2. COMPETITION RULES

1. NATURE AND PURPOSE OF THE COMPETITION

- a. **General Nature of the Competition.** ELSA's National Negotiation Competition is a competition in which a team of two law students representing a party/client negotiates either a transaction or the resolution of a dispute with an opposing team of two law students.
- b. **Overall Purpose of the Competition.** The purposes of ELSA's International Negotiation Competition are to:
- promote greater interest among law students in legal negotiation;
 - provide a means for law students to practice and improve their negotiating skills in cross-border transactions and disputes;
 - enable law students to meet law students from other faculties in Norway;
 - provide law students with a critique of their performance from experienced legal negotiators;
 - help law students become aware of and experience the special aspects of international legal negotiations, including the enhanced difficulties of crosscultural communication as well as the potential differences in negotiating styles, ethical limitations, social norms, and business practices; and
 - designate the national Norwegian negotiation team

2. ADMINISTRATION, ENTRY INTO THE COMPETITION, AND EXPENSES

- a. ELSA's International Negotiation Competition is organized and administered by ELSA Norway's *executive committee* for academic activities. The competition is sponsored by **Arntzen de Besche**, and the winning team will be coached and sponsored by **The Norwegian Association of Lawyers**. The Norwegian Association of Lawyers will also be responsible sponsors for the national Norwegian team participating in The International Negotiation Competition in Dublin.

- b. Judges** The executive committee appoints persons to serve in the panel of judges. Judges will be persons with extensive competition and negotiation experience or connected with competition sponsors.
- c. Administrator** The executive committee appoints one judge to serve as administrator. The administrator has a casting vote. See Rule 7c.
- d. Entry into the Competition, Qualification as Law Students.** The competition is only for the winners of the local (ELSA Bergen, ELSA Oslo and ELSA Tromsø) negotiation competitions for law students. Participants must be current law students. Students who have received a ranking above second in ELSA's National Negotiation Competition are not eligible to re-enter the competition in a future year.
- e. Participating in the International Negotiation Competition.** If one or two members from the national winning team are unable to participate in the international competition, the next-placed team in ELSA's National Negotiation Competition will be used.
- f. Participant Expenses.** ELSA Norway is responsible for travel and accommodation costs for Team Bergen and Team Tromsø. ELSA Norway will provide Team Oslo, Team Bergen and Team Tromsø with NOK 100 per day (total 5 days) for food and beverage costs. Any other costs will not be reimbursed by ELSA Norway. Judges and others who participate voluntarily are not reimbursed by ELSA Norway.

3. THE NEGOTIATION SIMULATION

- a. The Simulations** A different simulation will be used for each round of the competition. Each simulation will consist of the following:
 - a.** General Information provided to all participants; and
 - b.** Information known only to the participants representing a particular side, which is labelled Confidential Information
- b. Distribution of and Access to the Simulations** Approximately two to three weeks before the competition, each participating team will receive its general and confidential information for each of the negotiation simulations. Judges will have access to simulation materials provided to all participants as well as a

Confidential Summary for Judges. No one having access to confidential information for both sides may act as a coach or participant, or directly or indirectly allow coaches or participants access to such information prior to the end of the round.

- c. Interpreting the Simulations and Inventing Self-Serving Facts** As in any negotiation session, the facts are subject to reasonable interpretation by the parties. Teams are allowed to invent or infer facts that are not materially self-serving. A material self-serving fact is one that significantly changes the relative leverage between the parties. Whether a team's interpretation of the facts is reasonable, or whether a team has invented or inferred material self-serving facts, is a matter to be determined by the judges during the round. Questions of reasonableness of an interpretation, or the permissibility of inferred or invented facts, are entirely within the discretion of the judges, and decisions in this regard are not subject to dispute nor are they reviewable. However, judges may seek clarification from the organizers prior to scoring the round to assist them in making any such determinations.
- d. Clarifications of the Simulations** See Rule 6.

4. THE COMPETITION FORMAT; SUPPLEMENTARY MATERIALS AND TIME-KEEPING

- a. Rounds** The competition will consist of at least two rounds per team. Unless otherwise announced, each team in each round will participate in a:
- i. 10-minute pre-negotiation session with the judges (5 minutes per team, outside of the presence of the other team);
 - ii. 60-minute negotiation session;
 - iii. 10-minute period for teams to prepare for their reflection;
 - iv. 20-minute reflection period (10 minutes per team, outside of the presence of the other team) in the presence of the judges; and
 - v. 15-minute comment period during which the judges give the teams feedback (with both teams present).
- b. Language** All oral or written communications in the presence of the judges must be in English. Interpreters are not permitted.
- c. Pre-Negotiation Session with the Judges** In two successive periods of up to five minutes each prior to the negotiation, team members (without the other team present) should introduce themselves to the judges and then the team members should address the following questions in front of the judges:

- i. What do you see as the client's most important goals and interests in the upcoming negotiation?
 - ii. What negotiating style, strategy, and/or tactics do you plan to use to accomplish those goals in the upcoming negotiation?
 - iii. Do you see any potential ethical issues arising in the upcoming negotiation and/or any other limitations on your role, including your authority?
- d. Breaks during the 60-Minute Negotiation Session** Each team may call either one five-minute break or two, three-minute breaks during the 60-minute negotiation session. If a team decides to take a break, the team should announce the length of the break to the judges and the other team at the beginning of the break, and then both teams must return to the negotiation at the end of the specified time. The 60-minute period will continue to run during any such break. Both teams must leave the room during the break. During a break, teams may not confer or pretend to confer with any other person, including their 'clients'. To minimize the potential for disruption of the competition, others electing to observe the negotiations should not leave the room during the break—unless they are specifically asked by the judges to leave. If they do leave, they should avoid any contact with their teams.
- e. Reflection** Following a 10-minute preparation period, during which teams may not confer with any other person, each team will have ten minutes in which to analyze for the judges the team's performance in the negotiation in the presence of the judges. This reflection will take place without the opposing team being present. Students will begin this 10-minute period by answering the following questions:
- i. In reflecting on the entire negotiation, if you were to be faced with a similar situation tomorrow, what would you do similarly and what would you do differently?
 - ii. How well did your strategy work in relation to the outcome?
 - iii. What potential or actual ethical issues, if any, arose during the negotiation and how did they affect any strategic choices that you made or avoided?

Judges may ask questions, but teams should ordinarily be allowed to address the specified questions first. In addition, the team may use this period as an opportunity to explain why it chose a particular approach or even a specific tactic. The judges may take into consideration for scoring purposes anything said during this session. In other words,

scores on any of the scoring scales may be influenced by what the team says in reflection.

- f. Supplemental Materials** The competition is designed to focus on negotiating skills as demonstrated on the day of the competition. Outside or supplemental materials may unnecessarily distract from that focus. Competitors may bring and/or use blank flip charts or black/white boards. Such flip charts or boards may be used only while both parties are present during the negotiation session; they may not be written on during the pre-negotiation session or reflection. During the pre-negotiation session, the negotiation session, or the reflection, no prepared or outside materials, except business cards, may be presented to the other team(s) or to the judges. This restriction includes any materials brought in from outside. Occasionally, the presentation of materials may be specifically authorized by the general or confidential information. If such a presentation is authorized and that authorization is contained in a team's confidential information, the team making the presentation must expressly note the permission at the time of presentation so the judges and other team(s) will understand that there has been no rule violation. The teams may themselves use previously prepared notes in any format or medium, including a laptop computer, during the pre-negotiation session, the negotiation session, or the reflection. Teams may also use calculators or timekeeping devices. Email, instant messaging, and other means of communication are prohibited at all times during a round.
- g. Time-Keeping Responsibility** Responsibility rests with the student participants for timekeeping and for adherence to allotted time periods and breaks. Responsibility for timekeeping during the reflection periods rests jointly with the participants and the judges, each having the responsibility to terminate the period at the end of ten minutes. However, if resources and volunteers are available, timekeepers or time-keeping devices may be provided, but no individual identified with a participant may act as timekeeper in a negotiation involving such participant. Decisions by the judges as to elapsed time are final. Judges have discretion to grant a short amount of additional time to allow a team to answer the reflection questions if they were unable to do so because of questioning by the judges.

5. COMPETITION SCHEDULE Unless otherwise announced, the schedule for each round of the competition is as follows:

00:00 - 00:10 - Pre-Negotiation Sessions with Judges.

00:10 - 01:10 - Negotiation. Each team may call either one five-minute break or two, three-minute breaks during the 60-minute negotiation session, and any such break will not extend the time.

01:10 - 01:20 - Preparation for reflection. (Judges can have a short break.)

01:20 - 01:40 - Two successive 10-minute reflections.

01:40 - 01:50 - Judges complete their score sheets and write a brief summary comment about each team.

01:50 - 02:05 - Judges give the teams feedback on the negotiation (with both teams present).

6. TEAM BRIEFINGS AND QUESTIONS ABOUT THE SCENARIOS OR THE RULES

- a. **Team Briefings** The team may ask any questions about the rules or the scenarios (both general and confidential information). Any questions must be submitted by e-mail to forhandling@elsa.no. There will not be any opportunity to submit any questions about the scenarios after 7th April 2015.
- b. **Communicating Clarifications.** Because teams representing each side will ask questions separately, if one group raises a question that relates to the general background information (*i.e.*, the information known by both sides), the clarification will be communicated to the other group and to the judges.
- c. **Interpreting the Scenarios and Inventing Self-Serving Facts** See Rule 3c.

7. JUDGES

- a. **Judging Panels** Each round will be observed and evaluated by a panel of judges. These judges will represent negotiation skills from business (not legal), political and legal communities. These judges will evaluate the performance of the participants according to the standards and criteria provided, and according to their own profession. To the extent possible, the competition convener is responsible for selecting judges who are experienced and knowledgeable in negotiation skills
- b. **Judging Materials** Prior to judging, the competition convener will provide each judge with a complete copy of the negotiation simulation, a

confidential summary for the judges, and a Judgepack containing, *inter alia*, the standards and criteria for judging.

- c. **Casting vote** In the event of a parity of votes, the administrator will appoint a winning team by using his/her casting vote.

8. JUDGES' BRIEFING

- a. **Briefing** In addition to providing a complete copy of the negotiation simulation, a confidential summary of the simulation for the judges, and a "Judgepack" prior to judging, the competition convener will organize for briefing for the judges if needed.
- b. **Content of the Briefing** Judges will if needed be briefed before each round in conformity with the information contained in the Judgepack. The judges shall be informed of any relevant clarifications in the negotiation simulation.

9. SCORING The score model is divided in two:

- a. **Judge Score** Each judge will give each team a score in accordance with the scoring sheet (see "Judgepack"). The total of scores from all judges will be divided on the number of judges, thus giving each team an average from each round.
- b. **Bonus score** The judges will together select a winning team from each round. A win will give the team an addition one (1) point. This bonus score will be added to the total average **judge score** from each round.
- c. **Winners** The total score after two rounds will be divided on the number of judges. The team with highest average total score after two rounds will win the competition.
- d. **Casting vote** In the event of parity of voting regards to Clause 9b or 9c, the administrator will appoint a winning team by using his/her casting vote.

10. ATTENDANCE AT NEGOTATING SESSION

Observers Law students from Oslo, Bergen and Tromsø and local as well as national media may attend as observers. Any other observers may be allowed by the executive committee or the administrator.

11. BREACHES OF THE RULES

- a. **Duty to Make a Timely Complaint** Competition participants waive the right to complain about any matter of possible breach that becomes apparent prior to a negotiation, during the pre-negotiation session, during the negotiations between the parties, during the preparation for reflection, or during the reflection sessions if they fail to make a complaint before the end of the second judges' feedback period in the round in which the matter occurred. For matters or possible breaches that only become apparent during the judges' feedback period, competition participants must raise the matter within ten minutes after the end of the second judges' feedback period in the round in which the matter occurred. Otherwise, the right to make a complaint concerning any such matter or possible breach is waived.
- b. **Procedures** A team who wants to complain about any matter or possible breach should seek out the competition convener or any member of the executive committee in a timely manner. Members of the executive committee who are present will conduct a preliminary inquiry, which may include discussing the matter with the judges. The members of the executive committee who are present will make a preliminary determination that (1) there has been a *prima facie* violation of the rules; (2) the matter involves only an appearance of impropriety, not an actual breach of the rules; or (3) the matter appears to involve only harmless error in light of what the judges have indicated. The complaining team shall be informed of its preliminary investigation.

Factual disputes, questions of harmless error, and the remedy for breaches of the rules will be determined by an appeal panel. The appeal panel will include Mubin Kapur from ELSA Norway, Solfrid Brænd from AdeB and at least one judge or the administrator. No member of the appeal panel may be a person identified with a complaining team (or alleged offending team).

The appeal panel will not meet before the conclusion of the last round of negotiations. The appeal panel will not hear a complaint that will have no bearing on the results of the competition. A complaint will be considered to have no bearing on the results of the competition if the alleged offending team would have had no chance of placing in the competition whether or not the complaint is upheld.

The decision of the appeal panel is final.

- c. **Sanctions for Breaches** Breach of any rule may result in disqualification.
- d. With respect to breaches, the appeal panel has full discretion to change the ranking of the offending team in the round, disqualify the team from winning the competition, issue a reprimand, or impose no penalty. When a penalty is imposed, the rankings of the other teams in that round shall be adjusted upward, if appropriate.

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3. "JUDGEPACK"

See attached "Judgepack".

**NATIONAL NEGOTIATION COMPETITION 2015
ELSA Norway**

4. TEAM PAIRINGS

1. TEAMS

Team A **Oslo**
Team B **Tromsø**
Team C **Bergen**

2. PAIRINGS

Tuesday 14th April

Round 1 – Team A vs Team B

Wednesday 15th April

Round 2 – Team B vs Team C

Thursday 16th April

Round 3 – Team C vs Team A