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Climate change-crisis / Overtourism
Questionnaire

Republic of Bulgaria

Introduction

In keeping with the Guiding Principle [Leitmotiv] of the Greek presidency of ACA-Europe, the first seminar, which will be held in Athens in November 2025, will focus on the role of the administrative judge when confronted with current challenges related to the climate crisis and the harmful effects of overtourism. The following questionnaire focuses on the six points outlined in the Guiding Principle. The presentation of the regulatory framework in the various countries [international law, European law and national law] and the application of this normative framework by judges in each country will enable us to address questions relating to the effectiveness and relevance of the traditional tools and methods available to judges when they are called upon to rule on disputes concerning the aforementioned challenges.

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Part A: Climate change-crisis

I. The regulatory framework

I.A. Supranational rules

I.A.1. Rules of international law

➥ What international instruments [treaties/conventions] relating to climate change are in force in your country?

Kyoto Protocol ☑

Paris Accords ☑

Aarhus Convention (procedural matters) ☑

Other (please specify) ☑

Bulgaria is a party to The United Nations Framework Convention on Climate Change (UNFCCC), adopted on 5 June 1992 in Rio de Janeiro, also is a party to a number of environmental conventions regulating the international legal regime in the field of the environment and the protection of biodiversity, water, air and soil in transboundary contexts: Convention on the Cooperative and Sustainable Use of the Danube River, Convention on the Protection

of the Black Sea, Convention on the Protection and Use of Transboundary Watercourses and International Lakes, Convention on the Transboundary Impacts of Industrial Accidents, Convention on Environmental Impact Assessment in a Transboundary Context, Convention on Long-range Transboundary Air Pollution, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Stockholm Convention on Persistent Organic Pollutants, Rotterdam Convention on the Prior Informed Consent Procedure in International Trade in Certain Hazardous Chemical Substances and Pesticides , etc.

- What is the formal validity of the aforementioned rules of international law in your country's legal system? (please describe briefly the procedure for incorporating international rules into the legal system)

Pursuant to Article 5 para. 4 of the Constitution of the Republic of Bulgaria, all international instruments ratified in accordance with the procedure established by the Constitution, promulgated and entered into force for the Republic of Bulgaria shall be considered part of the domestic legislation of the country. They shall take priority over the national legislation which provides otherwise.

I.A.2. EU rules

- Which are the main EU climate change rules that have been incorporated into your national legislation?

Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe,OJ L 152, 11.6.2008;

Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC, OJ L 344, 17.12.2016;

Decision 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (OJ L 140/136, 5 June 2009);

Commission Regulation (EU) 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (OJ L 302/1, 18 November 2010);

Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC;

Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms;

Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the

Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the

Community (OJ L 140/63, 5 June 2009);

Decision 529/2013/EU of the European Parliament and of the Council of 21 May 2013 on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities (OJ L 165/80, 18 June 2013);

Commission Regulation (EU) 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community;

Commission Regulation (EU) 600/2012 of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council;

Commission Regulation (EU) 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council;

Commission Regulation (EU) 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No. 280/2004/EC and No. 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No. 920/2010 and No. 1193/2011;

Regulation (EU) 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No. 280/2004/EC;

Commission Regulation (EU) No. 1123/2013 of 8 November 2013 on determining international credit entitlements pursuant to Directive 2003/87/EC of the European Parliament and of the Council;

(New, SG No. 41/2015) Regulation (EU) No. 421/2014 of the European Parliament and of the Council of 16 April 2014 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions (OJ, L 129/1 of 30 April 2014).

- Has your country been the subject of proceedings for failure to fulfil its obligations under EU legislation in this area?

Yes.

- If so, please indicate what stage has been reached in the proceedings (warning letters, Commission appeals, rulings by EU courts)

Judgment of the Court of Justice of the EU (Third Chamber) of 5 April 2017

European Commission v Republic of Bulgaria, C-488/15,ECLI:EU:C:2017:267
Action for failure to fulfil obligations under Article 258 TFEU, brought on 14 September 2015.

The CJEU declared that the Republic of Bulgaria has failed to fulfil its obligations under the provisions of Article 13(1) of, in conjunction with Annex XI to, Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe, and in view of the fact that the daily and annual limit values for PM10 concentrations in all of the aforementioned zones and agglomerations continued to be exceeded, the Republic of Bulgaria has failed to fulfil its obligations under the second subparagraph of Article 23(1) of that directive and in particular the obligation to keep the exceeded period as short as possible, as regards the period from 11 June 2010 to the year 2014 inclusive.

I.B. Rules of national law

I.B.1.1. Does your country have any principles or provisions at constitutional level:

for the protection of the environment in general ☑
for climate change ☑
for the protection of health ☑
for the protection of young people or other population groups ☑

1.B.1.2. If so, do these provisions:

Contain only substantive rules? ☑
Or do they also establish procedural guarantees? ☑

Do they make explicit reference to: solidarity between generations? ☑
the rights of future generations? x□
vulnerable groups? x□

I.B.2. Has the national legislator adopted specific legal instruments to address climate change issues, apart from the legislation necessary to comply with secondary EU law?

yes □

no ☑

If so, please briefly mention this legislation, as well as the main content of the relevant substantive and procedural rules.

I.B.3. Does your country have a specific action plan to address climate change?

yes ☑

no □

If so:

- What is the level of planning (national, regional, etc.)?

The aim of the Strategy/action plan is to serve as a reference document, setting a framework for climate change adaptation action and priority directions up to 2030 and 2050.

- Please specify whether this planning is limited to defining policy guidelines (for example: limits on the use of fossil fuels; favouring other forms of energy; support for 'green' investments; improvement of infrastructure, buildings and vehicles - in the public or private sectors; cost sharing for the 'green' transition; special measures for vulnerable population groups; management of climate change-related crises, etc.),
- or whether it also contains binding rules?

The National Action Plan on Climate Change is an instrument for defining the framework of the state policy in the field of climate change for the envisaged action period in accordance with the policy of the European Union and the international treaties in the field of climate change to which the Republic of Bulgaria is a party. Another measure is climate action plan - Integrated energy and climate plan of the Republic of Bulgaria 2021 – 2030. The Ministry of environment and water adopted a long-term climate change mitigation strategy (until 2050) following the EU policy in the field of climate changes. Bulgaria implemented innovative measures for climate change mitigation and adaptation in Bulgarian municipalities. By Decision № 621/25.10.2019 was approved by Council of Ministers the National Climate

Change Adaptation Strategy and Action Plan for the Republic of Bulgaria.

The aim of the Strategy is to serve as a reference document, setting a framework for climate change adaptation action and priority directions up to 2030.

I.B.4. In your legal system [in the Constitution and/or in the laws] is there an explicit obligation for the State and/or other public-sector bodies to adopt positive measures or avoid certain actions in relation to climate change?

Yes.

↳ If so, what is the nature of these measures?

(a) preventive measures

(b) repressive measures

(c) restitution measures

These measures are mainly preventive and restitution measures.

↳ Do individuals have any rights to ensure that this obligation is met? If so, under what conditions?

Climate change is as 'a common concern of humankind'. Article 120, para. 2 of the Bulgarian Constitution gives a right to a/an individual/legal entities, associations, non-personalized organizations or NGOs, if they have a "special interest" or a "direct and personal interest", to bring an action against an individual administrative act, which affects them, except those listed expressly by the law. Access to the administrative court of the above-mentioned applicants, concerning environmental and climate cases, is also based on Article 18 of the Administrative procedure code (APC). State, local, or other public authorities can be legally entitled to bring an action against the environmental administrative act, strictly if that right is provided by the law. Citizens and NGOs in environmental matters based on Article 9 par. 2 of the Aarhus Convention have access to review procedure before the administrative court and if they have interest in bringing the action before the court.

Administrative procedure code does not recognize class actions procedure for settle environmental disputes. In the civil law, when the multiple individuals or bodies are affected from the violation of the environmental legal norms, they may bring the case together before the civil court. The applicable law is the Bulgarian Civil procedure code (Articles 379-388). Decisions of administrative authorities or of first instance administrative courts may be challenged by individuals who claim that their subjective rights have been violated by the decision. The administrative authority which issued the contested decision may also challenge the ruling of a first instance administrative court before the Supreme administrative court. Supreme administrative court of the Republic of Bulgaria applies the Constitution and the ordinary law, when referred to by an individual, with actions against administrative acts, which violate the Environmental Law. When the matters concern the breaches of the European Union Law or International Legal acts (ratified by the National Assembly), the Supreme administrative court applies their legal terms as well.

↳ Is the legal pursuit of this right regulated?

Yes.

➥ Do individuals have any rights to ensure that private persons comply with similar obligations?

The environmental legal obligations of individuals/private persons, as well as the subjective environmental rights, could be divided into 2 main groups (Article 55, para. 2 of the Constitution): a) fundamental obligations related to ensuring a favourable and healthy environment, and b) derivative obligations related to the fundamental environmental legal obligations. The first group includes the obligation of Bulgarian citizens to protect the environment under the Constitution, and the second group of obligations is related to the protection of the environment from pollution and the rational use of natural resources under general and specific environmental legislation. The basic legal obligations are institutionalized natural obligations, while the derived legal obligations are called to ensure the realization of the basic legal obligations.

➥ Are there specific regulations for the ecological damage caused by climate change?

Act on liability for preventing and remedying ecological damages, last amended SG. 102/8 Dec 2023. The Act regulates the liability for the prevention and elimination of ecological damage, taking into account the "polluter pays" principle and the principle of sustainable development. It defines: 1. ecological damage and imminent threat of occurrence of such damage; 2. powers of executive authorities and rights and obligations of operators; 3. procedures for selection and implementation of preventive and remedial measures, including consultations with the public; 4. property liability of operators and financial and economic organisation for providing activities for prevention and remedying of ecological damage; 5. requirements for cooperation and exchange of information on ecological damage with other states and the European Commission ; 6. The Minister of Environment and Water, the directors of the Regional Inspectorates of Environment and Water (RIEW), the directors of the Water Management Directorates and the directors of the National Parks are the competent authorities under this Act.

I.B.5. In your country, is the allocation of public responsibilities in the field of climate change subject to regulation?

yes ☑

no □

➥ If so, which are the authorities responsible for managing issues related to the climate crisis [protection against the effects of the crisis and/or disaster management]?

Special Ministry ☑

Legal entity under public law ☑

Other organisational unit □

- Is there a body responsible for: the collection and processing of scientific data? yes ☑ no □
- conducting comparative studies and surveys? yes ☑ no □
- monitoring the implementation of measures and the achievement of objectives? yes ☑ no □
- evaluating research carried out on climate change? yes ☑ no □

- If so, please describe the composition and the operating rules of the competent bodies (participation of elected representatives, scientists, guarantees of independence)?

The main competent bodies are the Ministry of Environment and Water and the National Institute of Meteorology and Hydrology (NIMH). Regional and local authorities are also the competent bodies, NGOs, other professional bodies and universities.The composition of their work includes the steps, methods, and content in developing strategic documents and adherence to the principle of public partnership between state institutions and citizens and their organizations.

- What is the nature of power allocated to these bodies (purely advisory power, decision-making power)?

Depending of their activities they may have purely advisory power or decision-making power. For example in the tourism sector the responsible Ministry controls the climate change policy legal framework, introduces climate change education in schools' and universities' curricula, and controls the Development of the NAS and Action Plan for climate changes. National Expert Council on Climate Change is responsible to make review of the reports under NAS within the relevant time limits and the approved format. In case of non-performance of the interim objectives – the Council provides recommendations for further actions/measures to achieve the ultimate goals of the Strategy of Bulgaria,

also concerning climate changes. It makes an assessment of the need for revision/update of the NAS and preparation of relevant recommendations for updating (with specific deadlines), provides opinions on various issues related to the national policy on climate change, including on draft legislation discussed at EU and national level, on elaborated national reports, plans, etc. The majority of its members are not independent experts, they represent different ministries and government agencies, and also there are members of the Bulgarian Academy of Sciences, the National Association of Local Municipalities, or NGOs whose activities are related to climate change mitigation.

➥ Is prior consultation with a court or other independent bodies provided for when adopting a regulation concerning climate change?

The court does not participate in the process in adopting a regulation concerning climate change, but many independent bodies, such as private organizations, N GO-s, prepare legal analyses, focusing on the necessary changes that need to be made to implement the EC and international rules.

➥ Is there a provision for public participation in the development of climate action plans or legislation? If so, what form of participation (consultation, other)?

A very useful form of participation is the involvement in working groups set up by administrative experts or in public consultation groups.

➥ Is access to relevant information guaranteed? yes ☑ no □

Yes.

II. The application of the regulatory framework by the judge

II.A. Have any disputes been brought before the courts in your country that involve, directly or indirectly (as a result of the claims, allegations and arguments of the parties to the dispute), issues related to climate change?

If so:

-Please mention the main categories of cases in which issues related to climate change arise:

(a) cases related to energy sources (conventional/renewable),

(b) cases related to the improvement of infrastructure (buildings/vehicles),

(c) cases related to environmental impact assessment during project authorisation.

- Please mention the important cases brought before the courts in your country and the judgments handed down.

(a)

On February 23 2018, the Administrative Court–City of Sofia ("ACCS") rendered a Judgment repealing two chapters of Decision P-1/31.07.2015 ("Decision SP-1") of the Bulgarian Energy and Water Regulatory ommission ("EWRC"), which had considerable adverse effects on producers of electricity from wind energy, commissioned before the July 1 2011. This long waited positive development has the potential for a major positive impact on the wind RES business in Bulgaria and to a certain extent mitigates the series of adverse measures adopted by the State in the last 3 years.

The Decision SP-1 was adopted by EWRC in 2015 following an amendment of the Bulgarian Energy Act ("EA") adopted in July 2015 requiring EWRC for the first time to setup the Net Specific Generation of Electricity ("NSGE") of RES GenCos. The claimed aim of the EA amendment was to reduce the imbalances in the energy sector, in particular by limiting the amounts of electricity subject to mandatory off-take under Feed-in Tariffs ("FiTs").

According to the amendments, the electricity produced by RES GenCos would be purchased by the end suppliers and the public supplier under the FiTs up to a predetermined amount (the NSGE) to be set by EWRC, where any surplus would be either sold on the liberalized market on freely negotiated prices or to the end suppliers/public supplier at a significantly reduced (almost 8 times) purchase price (i.e. the price for surplus on the balancing market).

The NSGE provided under Decision SP-1 represents a specific amount of electricity per 1 kW installed capacity to be purchased by the end suppliers and the public supplier under the FiTs. In practice it considerably reduced the revenues from the amounts of electricity sold under FiTs for most RES GenCos as some of the RES GenCos reached the NSGE already in August of the same year.

Decision SP-1 was rendered by the EWRC in great rush – within only 1 week of the adoption of the amendments to the EA and it was not subject to public discussion. After publishing a first draft on the website of the EWRC on July 31 2015, it disappeared from the official website and a new draft was published on August 3 2015 with some prices for PV power plants being amended. As a result, the adopted NSGE values were very controversial and led to a number of court cases.

Judgment No. 1177 of February 23 2018 issued under administrative case No. 8522/2015 revokes Chapters 1.7 and 1.8 of Decisions SP-1, which set the NSGE for wind RES GenCos, commissioned before July 1 2011. Although this is not the first ACCS judgment revoking chapters of Decision SP-1, it is of paramount importance as it is the first to concern the majority of wind GenCos and it is one of the firsts rendered in cases where an economic expert report has been admitted as evidence.

The ACCS panel has considered that Decision SP-1 is entirely deprived of factual grounds and argumentation, which is a serious breach of administrative procedural rules and of the rules relating to the form of the decision.

Further, the ACCS panel also entirely rejected the attempts by the EWRC to justify the decision by presenting a so called "financial model", which allegedly served as a ground and argumentation when rendering Decision SP-1. The panel also considered that the economic expert report requested in the court proceedings by the EWRC also did not satisfied the evidentiary burden of the EWRC to prove all legal prerequisites for rendering the decision, including factual and legal grounds, arguments, motivation etc.

With its Judgement No. 1115/28.01.2019, court case No.5284/18, Supreme Administrative Court confirmed the judgment of the first instanced court partially.

(b)

By Judgement No. 6834 of 23.05.2018 court case No. 13132/2017, the Supreme Administrative Court dismissed

the appeal of an environmental organization against Decision No. 3-3/2017 of 19.10.2017 on the Environmental Impact Assessment (EIA) of the Minister of Environment and Water, which approved the implementation of an investment proposal for "Improvement of the route of Lot 3.2 of the Struma Motorway along the Eastern Option D 10.50". In dismissing the appeal, the Court noted that the Environmental Impact Assessment report contained detailed analyses of both the radiation hazards and the hazards arising from the seismic sensitivity of the ground. The chosen option has the advantage of a total of eight environmental components and factors, of which human health is the most important.

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By Judgment No. 2741 of 18.03.2025, court case No. 6675/2024, the Supreme Administrative Court ruled that when examining the environmental impact assessment of an investment proposal related to the land filling of waste, it should be considered whether the waste has been pre-treated with regard to its possible impact on human health and the environment.The Court referred to Article 39 of Decree 6/27.08.2013 on the conditions and requirements for the construction and operation of landfills and other facilities and installations for the recovery and disposal of waste and stated that, in the operation of landfills, the operator controls the type and composition of the waste received for disposal and, in particular, monitors compliance with the requirement to pre-treat waste prior to its disposal. The obligation to pre-treat waste is a fundamental obligation of the operator of a landfill and the above-mentioned legal act does not provide for any derogation from this obligation.The Court held that, in addition to being mandatory, waste disposal must not endanger human health or the environment. According to the Court, this obligation also arises from Article 6(A) of Council Directive 1999/31/EC of 26 April 1999.

II.B. Organisation of the judicial system: Does the system of dual jurisdiction (civil courts for private disputes, administrative courts for administrative disputes) apply in your country?

yes ☑

no □

- If so, are issues related to climate change dealt with:

-mainly by the administrative courts, when they examine the legality of the actions or omissions of the State and other public entities;

-mainly by the administrative courts, when they examine compensation claims against the State and other public entities;

-mainly by the civil courts (in disputes aimed at protecting the applicant against actions by individuals)?

Mainly by the administrative courts, when they examine the legality of the actions or omissions of the State and other public entities; mainly by the civil courts, when they examine compensation claims against the State and other public entities.

II.B.1. In your country, does the legislation provide for a specific remedy for cases relating to the climate crisis? If so:

- Which courts have jurisdiction to hear such cases?

See the answer of the third question in para.**I.B.4.**

➥ What is the composition of these courts?

See the answer of the third question in para.**I.B.4.**

➥ What are the main features of the relevant remedies?

Those whose human rights are violated have a right to monetary remedy, including full reparation for climate-related harms. This right and corresponding State duties are found under existing material law.The polluter pays principle is applicable in case of seeking remedy for climate harm.

II.B.2. If the answer to the previous question is no [: if your legal system does not provide for a special remedy]:

➥ Among the remedies generally provided for, which remedies deal mainly with disputes involving issues related to the climate crisis?

actions for annulment against acts or omissions of the State and other public entities □

full jurisdiction remedies for the recognition of a right □

actions for damages □

remedies for the protection of the applicant's personality □

procedures for requesting interim measures □

II.B.3. If your legal system does not provide for a special remedy, are disputes relating to the climate crisis examined:

➥ by specialised divisions of the courts and/or according to a special procedure

yes □

no □

II.B.4. According to existing practice, what is the main legal remedy for disputes relating to climate change?

The main legal remedy for disputes relating to climate change is monetary remedy. Article 204 of the APC states that the administrative judge can order the administration to compensate for damages suffered by an individual due to illegal administrative activity. Environmental and consumer protection organisations, NGOs and associations may also appeal the administrative acts, but following the special conditions provided for by the law.

II.B.5. In your country, are there seminars or other organised training courses for judges, specifically aimed at issues related to climate change?

A variety of training courses and seminars are organized for judges, some of them are aimed at issues related to climate change.

II.C. In your legal system, does the judicial review of laws and regulations:

- is exclusively an ultra vires review (review of legality)?
- or can it also be the subject of a full jurisdiction control?
- If so, under what conditions?

According to the Administrative procedure code the judicial review of regulation is a review of the legality of the administrative act.

II.D. Access to justice and admissibility of appeals:

- Does your legislation provide for specific rules of procedure for disputes relating to climate change?

yes ☐
no ☑

If so:

- which special rules of procedure apply?

- Please indicate the reasons which, according to the legislator, justify the differentiation from the generally applicable rules of procedure.

- **If the legislation does not provide for specific rules** of procedure, please mention any special rules of procedure developed by case-law in your country?

The general court procedure in administrative matters, for which is applicable Administrative procedure code

(APC), is the same as the procedure of judicial review of the administrative acts in environmental matters. The principle is that, that the appeal against the individual administrative act has suspensive effect unless an anticipatory enforcement has been allowed by the administrative authority or by law. But some exceptions may exist. For example, Waste Management Act states that the issued permit and other decisions concerning the site for waste treatment may be appealed before the respective administrative court pursuant to the Administrative procedure code. The appeal does not suspend the execution of the appealed act. The Supreme administrative court has the following powers: power to temporarily suspend the effects of the act means that in any stage of the proceedings and upon request of an applicant the court may temporarily suspend the effects of the individual administrative act under Article 166, para. 2 and para. 4 of APC, powers to annul the administrative act, to amend the act, to substitute court's decision for that of the administration are in Article 173 of APC. When the matter has been left on the assessment of the administrative body, after declaring the invalidity or cancelling the administrative act, the court decides the case on its merits.

If special rules of procedure developed by case-law exist:

- what are the conditions of admissibility according to case-law rules (legal capacity, legitimate interest in bringing an application before the court, conditions of admissibility linked to the nature of the contested acts or omissions, time limit for lodging an appeal, etc.)
- Please indicate the reasons which, according to the case-law, justify the differentiation from the generally applicable rules of procedure.

No special rules exist.

II.D.1. More specifically, with regard to legitimate interest in bringing an application before the court:

- Does your legal system recognize the actio popularis (as a constitutional principle or rule, by legislation or case-law)?

In Bulgaria, Article 120, para. 2 of the Constitution allows citizens associations, bodies or institutions to lodge a claim for protection of their interest against the unlawful administrative acts, also concerning the environmental matters.

How is the legitimate interest in bringing an application before the court, as a condition for the admissibility of an appeal, defined:

- in relation to certain groups or categories of the population [minors, the elderly or other vulnerable groups more exposed to the effects of climate change];
- in relation to legal persons [public law legal entities, private law entities: associations, etc]?

An appeal against an administrative act is examined by the judge, within the limits of the complainant's interest and within the arguments presented to the administrative court by the claimant. Following Article 120, para. 2 of the Constitution and Article 147 of the Administrative procedure code the administrative courts have jurisdiction over the protection of legitimate interests against the public administration and, in particular matters laid down by

law.

According to Article 120, para. 2 of the Constitution of the Republic of Bulgaria, acts and actions of the administration, except for those expressly provided for by law, shall be subject to judicial review of legality. In accordance with the intention of this text, legal entities may appeal against all administrative acts affecting them. In its Judgement No.21 of 26 October 1995 constitutional case No.18/95, the Constitutional Court of the Republic of Bulgaria ruled that an administrative act "affects" within the meaning of Article 120 para. 1 of the Constitution, if it violates or threatens their rights or legitimate interests. This objective violation or threat to a subjective right or legitimate interest of a citizen or legal person is the substantive legal basis for the interest in judicial review.

- Concerning the allegations made by the parties to substantiate their interest in bringing proceedings in the disputes in question, what degree of specification is required?

The appellant must substantiate his legitimate interest by stating the facts on which he bases the impairment of his right.

- What standards of proof are required for the allegations made?

The framework for burden of proof in administrative hearings is primarily governed by APC and Civil proceedings. The administrative body and the persons, for whom the contested administrative act is favourable, shall establish the existing of the factual grounds, pointed out in it, and the fulfilment of the legal requirements at its issue. When a refusal for issue of an administrative act is contested, the appellant shall establish that the conditions for its issue are present. The court shall be obliged to indicate to the parties the distribution of the burden of proof. In administrative hearings, the burden of proof refers to the obligation of a party to present evidence and arguments that support their position.

II.D.2. Nature of the contested acts or omissions:

- What are the categories of cases brought before the courts in disputes concerning climate change?

The typical categories of cases are:

-the legality of a decision of the Council of Ministers to designate a concessionaire for part of Bulgaria's maritime area. The procedure is laid down in the Black Sea Coastal Planning Act;

-the protection of the interests of consumers, in concluding contracts between renewable energy producers and final suppliers/public utilities, taking into account the need to ensure security of energy supply, supply and technical safety, protection of the environment and mitigation of adverse climate change, following the articles of the Directive 2009/28/EC of the European parliament and of the council of 23 April 2009 on the promotion of the

use of energy from renewable sources and amending and subsequently repealing directives 2001/77/EC and 2003/30/EC;

-disputes concerning the compliance of an investment proposal with the principle of "no significant harm" and the determination of significant harm within the meaning of Article 17 of Regulation (EU) 2020/852 for each of the six environmental objectives in procedures for the financing of investment proposals by undertakings from the Structural Funds of the European Union and application of Regulation (EU) 2020/852 of the European parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088;

-the quality of ambient air and environmental protection;

-disputes, concerning environmental impact assessment for the authorization of combustion installations;

-disputes, relating to the construction of projects that may have an impact on the environment.

- What are the admissibility requirements for taking legal action against omissions in disputes concerning climate change?

National legislation does not require special admissibility for taking legal action against omissions in disputes concerning climate change. The substantive law stipulates individuals and associations, also environmental N GO-s to demonstrate a personal and direct infliction of their rights to establish standings. The law determines the standing of the associations before the court, the purpose for which the association is establish the nature and extend of its activities, when the case is about climate change.

- Have the courts in your country been asked to examine questions of cross-border interest [parties to the dispute resident or headquartered in another country, acts or omissions with environmental impacts in another country]?
- If so, how were these disputes handled [limitation of liability only for actions or omissions within the borders of the State or recognition of liability also for actions outside the borders]?

No.

II.E. Nature, extent and intensity of judicial review:

- In matters of climate change, how does the judge consider the delimitation of jurisdictional control in relation to:

  -the political choices made by the legislator or the administration?

  -the balancing of contradictory interests?

  -assessments of an essentially technical nature?

In cases related to climate change and environmental protection, the court is required to apply this law, including the rules of EU law, that governed the disputed legal matters at the date of the issuing of the administrative act. A lawful judicial decision could be a guarantee of balancing the contradictory interests between the parties to the dispute.

II.E.1. On the balancing of conflicting interests, please give examples from the case-law in your country when the conflict concerns:

-environmental protection, and in particular protection against the effects of climate change, on the one hand;

-the protection of private assets and interests, on the other hand.

See II.D.2.

- Can the judge limit the temporal effects of an annulment decision [example: limitation of the retroactive effects of an annulment decision] based on the balancing of conflicting interests?
- If so, under what conditions?

No.

II.E.2. Technical and scientific judgments:

- Please give examples from case-law concerning the criteria and methods used by judges to rule on disputes involving technical and scientific judgments.

There are rules in the Administrative procedure code, which allow judges to integrate expert inputs into legal decisions, achieving a more ecologically aware application of the law.

- Does the judge have the specific tools required to exercise the above mentioned control effectively and efficiently [assistance from specialised scientists, appointment of experts, amicus curiae]?

No.

II.E.3. In the judicial review, how is the diversity and complexity of the factors contributing to the phenomenon of climate change evaluated?

The diversity and complexity of the factors contributing to the phenomenon of climate change require a careful examination of the case, an assessment of the facts relevant to the dispute using all available evidences, and a proper application of the relevant substantive law.

II.F. Civil liability of the State

- With regard to compensation claims, has your country's case-law considered disputes involving the civil liability of the State for damage attributed by applicants to climate change? yes ☑ no □
- If so: to address the relevant issues, does the judge simply apply the standard provisions and methods, for example with regard to proof of damage, causal links or methods of compensation for damage,
- or does he apply specific rules?

The basic legal provisions are in the Civil procedure code and the Administrative procedure code. The specific articles are in the Liability for Prevention and Remedying of Environmental Damage Act, Environmental Protection Act. The applicants have the right to involve the civil liability of the State for damages. There are not special provisions concerning the regard to proof of damage, causal links or methods of compensation for damage. It is possible for a citizen to seek compensation from a person, legal entity or authority on the ground of a violation of certain administrative laws regulating environmental issues.

➥ What is the content of the specific rules and their legal basis?

There are not special rules.

➥ With regard to ecological damage, how are questions of causality dealt with?

The causality must be proved. The main rule on the burden of proof is enshrined in Article 154, para. 1 of the Bulgarian Civil procedure code and applies to both civil and administrative liability claims. It states that 'each party is obliged to establish the facts on which it bases its claims or objections'. However, Article 154, para. 2 states that 'it is not necessary to prove facts for which there exists a presumption established by law.Therefore, each party has the burden of proving the facts on which they rely in the proceedings, unless there is a material law provision which prescribes a deviation from this procedural rule of evidence (a legal presumption in other words).

➥ Is monetary compensation recognised regarding compensation for non-materialyes □
damage caused by ecological damage?
no ☑

➥ Does the 'polluter pays' principle apply to disputes concerning climate change?

Yes.

II.G. Provisional judicial protection [interim measures]

➥ How are requests for provisional judicial protection in climate change cases handled? What parameters are taken into account by the courts?

Applications for provisional judicial protection in climate change cases are regulated by the Civil procedure code. The parameters taken into account by the courts depend on the case.

➥ Please mention the measures that the judge may order.

The judge may stop the execution of an administrative act, order preliminary enforcement of the act or impose injunctions in compensations action.

➥ How does the judge consider the ecological damage alleged by the parties?

The judgement is based on the proved relevant facts of the case.

II.H. Regarding the enforcement of a court decision:

➥ Is there a procedure for checking whether the legislator and/or the administration have adopted the necessary measures to comply with a court decision?

There is not a special procedure.

➥ In case-law, what are the most striking examples of the methods used to monitor the enforcement of judgments in disputes relating to acts or omissions linked to climate change?

The administration is obliged to monitor the enforcement of judgments in disputes relating to acts or omissions

linked to climate change.

III.A. In your country:

- Are there any court decisions that have explicitly recognised the obligation of the State [and/or other public entities] to take positive measures to address climate change?

No.

- Are there any court decisions recognising a right to ensure compliance with this obligation?

My research did not identify any case law.

- If a relevant case-law rule has been formulated, on what legal basis?

My research did not identify any case law.

III.B. If the courts in your country have already considered issues relating to climate change:

- Do the relevant decisions refer to existing practice in another legal system, for example to the case-law of national judges in other countries or to the case-law of judges in supranational bodies:

  -dialogue between the national courts of different countries

  -dialogue between the courts of your country and the European Union judge

  -dialogue between the courts in your country and the ECtHR

  -dialogue between the courts in your country and the bodies of other international organisations [for example the UN]?

Yes.

III.C. In your country's case-law, is the obligation to act against climate change considered mainly:

- as an obligation based on national law
- or as an obligation under international law?

Both**.**

- Within the case-law, can we find decisions aimed at harmonising the rules of international law, European law and national law?

Yes.

- In your country, have any court decisions considered the Paris Agreement to be a legally binding instrument?

My research did not identify any case law.

III.D. Does the approach of the courts in your country align with the approach of the ECtHR in *Verein*

Klimaseniorinnen Schweiz v. Switzerland? [please mention any differences]

Yes. The case raises questions about the relevance of human rights in the context of climate change, the judgment is giving rise to a range of legal as well as non-legal consequences. Also of significance in respect to jurisdiction is the Grand Chamber's rejection of the claim that the responding non-territorial states exercised control of the applicants 'convention interests' by virtue of their emissions.

III.E. Have the courts in your country referred questions to the CJEU or the ECtHR for a preliminary ruling on matters directly or indirectly related to climate change?

Yes. Judgement of the CJEU of 9 March 2023, C-375/21 ECLI: EU:C:2023:173. The request for a preliminary ruling concerns the interpretation of Article 4(3) TEU, of Articles 13 and 23 of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1) and of Article 15(4) and Article 18 of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ 2010 L 334, p. 17).

Part II: Overtourism

I. The regulatory framework [the rules of law]

I.A. Have the negative effects of the excessive development of tourist activity been adressed by the legislator and the courts of your country, following concerns discussed in the public debate?

yes ☐
no ☑

↳ If so, what are the problems envisaged in the legislation and case-law on this subject?

saturation capacity of urban and non-urban space ☐

deterioration of living conditions in urban areas (increase in housing prices, lack of properties to rent especially for younger generations and/or families with low and medium incomes - particularly in city centres, on islands and in other tourist destinations, deterioration of traffic conditions, insufficient infrastructure, increase in energy consumption, etc.) ☐

overexploitation of natural resources (increased density due to the construction of hotels and other buildings for tourism in extra-urban areas, intensification of land use - particularly in coastal areas and the islands, insufficient infrastructure in small villages, effects on protected landscapes and/or on historical sites and/or archaeological sites and monuments) ☐

other problems ☐

I.B. Has your country taken an initiative/participated in a collective initiative for the establishment, within the EU, of a regulatory framework to address the adverse effects of 'hypertourism'?

If so, what is the content of the proposed measures?

Still not.

I.C. Are there any relevant principles and guidelines at international level?

- If so, have they been recorded:

-in binding texts?

-in non-binding texts?

- Could non-binding texts serve as a basis for regulations [please give examples]?

No**.**

I.D. In your country, are there any constitutional principles or provisions that can serve as a basis for dealing with issues related to overtourism?

The State is obligated under the Constitution and EU law to protect the environment and to preserve nature.The Law on Tourism, based on that constitutional principle, regulates public relations which concern the implementation of management and control in tourism, the interaction of the state and municipalities in the implementation of tourism-related activities, as well as the participation of non-profit legal entities and individuals in these activities.

I.E.1. Has the national legislator established a regulatory framework specifically designed to address the problems resulting from excessive tourist activity?

yes □
no ☑

- If so, please summarise the legislation adopted and the main content of the relevant regulations (for example preventive and/or repressive measures, other provisions)

I.E.2. Does your country have a special action plan to address the problems resulting from excessive tourist activity?

yes □
no ☑

- If so, does this plan establish guidelines for the policies to be followed or does it also contain binding rules?

- What is the level of planning [national, regional, etc.] ?

I.E.3. In your country, are there any regulations concerning:

□

-the allocation of responsibilities for the management of 'hypertourism'?

-other provisions concerning the organisation of the competent authorities? □

National legislation does not adopt special rules for the management of 'hypertourism' and special provisions concerning the organisation of the competent authorities, responsible for that kind of management.

↳ What are the responsibilities assigned to the various bodies (advisory, decision-making)?

↳ Are there any provisions for public participation in the adoption of action plans or laws? yes ☑ no □

II. The application of the regulatory framework by the judge

II.A. Have issues related to 'hypertourism' been the subject of litigation in your country?

yes □
no ☑

↳ If so, what points were raised in the arguments of the parties to the dispute? yes □ no □

↳ Please summarise the landmark cases heard by the courts in your country and the decisions handed down.

My research did not identify any case law.

II.B. According to legal practice, what is currently the main channel through which the relevant disputes are brought before the courts?

-litigations concerning control of the legality of administrative acts or omissions? □

-litigations concerning compensation for damage caused by acts or omissions of the administration? □

-other categories of litigations? □

My research did not identify any case law.

II.C. Please cite any court decisions:

-that have expressly recognised the obligation of the State and/or other public entities to take positive measures in order to address the phenomenon of 'hypertourism'? □

-that have recognised a right of individuals to ensure compliance with this obligation? □

➥ Have case-law rules been formulated in this regard? If so, on what legal basis?

Special case-law rules have not been formulated in this regard.

II.D. Do issues linked to overtourism:

-mainly concern the administrative courts, when they monitor the actions of the State and public entities,

or do they mainly concern the civil courts called upon to judge appeals against the actions of individuals?

administrative courts □

civil courts □

both ☑

II.E. Can examples be found in your country's legislation and case-law that highlight the relationship between climate change and overtourism?

yes □

no ☑

➥ If so, please present the main content of the relevant legislation or court decisions.
