**SEMINAR ORGANISED BY THE GREEK COUNCIL OF STATE IN COLLABORATION WITH ACA-EUROPE**

**Athens, 10-11 November 2025**

# Climate change-crisis / Overtourism
# Questionnaire

## 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 X

Paris Accords X

Aarhus Convention (procedural matters) X

Other (please specify) ☐

➥ 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)

The German Constitution (Grundgesetz) provides for a dualistic approach concerning the application of public international law. Thus, the norms of public international law have to be transferred into national law

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| in order for them to be applicable on the national level. Norms of public international law which are transferred into national law share the hierarchical standard of the transfer norm. In some cases, the transfer norm can be found in the constitution itself. Then the norm of public international law has constitutional rank. According to Art. 25 of the constitution, this applies to the "general rules of public international law". As general rules are regarded international customary law and especially ius cogens. The aforementioned international Instruments do not form part of the general rules of public international law. They were transformed into national law by a regular parliamentary law, the rank of which they share. |

**I.A.2. EU rules**

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

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

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| No |

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

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**I.B. Rules of national law**

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

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

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

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| Contain only substantive rules? | X |
| Or do they also establish procedural guarantees? | ☐ |

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| Do they make explicit reference to: solidarity between generations? | ☐ |
| the rights of future generations? | ☐ |
| vulnerable groups? | ☐ |

**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 X
no ☐

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

The Climate Protection Act (Klimaschutzgesetz) of 12 December 2019 defines national climate protection goals in accordance with the Paris Agreement and the corresponding EU legislation. In some parts, it sets stricter goals than demanded by these instruments. It also defines sector specific climate protection goals. In addition, it provides for the adoption of climate protection programs by the federal government.

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

yes X
no ☐

If so:

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

Next to the climate protection plan according to article 15 of the European Governance Regulation, there are climate protection programs on the national (federal) as well as on the state level.

X 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 climate protection programs define the measures to be adopted in order to achieve the climate protection goals which consist of a limitation of annual greenhouse gas emissions.

**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?

The law defines the climate protection goals. The climate protection programs provide for specific measures to be adopted

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

(a) preventive measures

(b) repressive measures

(c) restitution measures

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| This depends on the specific program, which has to be renewed on a regular basis. All kinds of measures could be possible. |

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

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| Individuals only have the right to ensure the fulfillment of these obligations if their subjective rights were impaired by the non-fulfillment of such an obligation. This will mostly not be the case. |

↳ Is the legal pursuit of this right regulated?

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| Only as far, as any act of public administration which impairs the rights of the individual can be subject of judicial review. |

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

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| There is still litigation pending concerning this question. |

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

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| No. |

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

yes ☐
no X

↳ 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 ☐

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↳ Is there a body responsible for: the collection and processing of scientific data? yes X

↳ conducting comparative studies and surveys? no ☐

yes X

- monitoring the implementation of measures and the achievement of objectives? no ☐ yes X no ☐
- evaluating research carried out on climate change? yes X no ☐

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

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| Next to public universities it is the responsibility of the federal government to collect such data. |

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

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

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

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- Is access to relevant information guaranteed? yes X no ☐

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| Yes, under the Environmental Information Act. |

## 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.

There is a large number of cases concerning the permission of energy infrastructure, such as wind energy mills, combustion plants, power lines etc.

There was one successful human rights remedy to the Federal Constitutional Court which held that the climate protection goals of the federal government were not eager enough. The court concluded that this would amount to a disproportionate infringement of human rights in the future when the civil liberties would have to be restricted even more severely in order to insure that the international climate protection goals were met.

There is also civil litigation of a Peruvian farmer pending against an energy company which runs coal combustions plants in Germany. The claimant considers the greenhouse gas emissions emanating from these plants to impair his rights by causing deteriorating environmental conditions for farming in Peru.

**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 X

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 administrative courts concerning the lawfulness of climate protection programs. There have been very few compensation claims which may find its cause in the fact that a concrete damage will be hard to prove. But see above, II. A., the example of the Peruvian farmer.

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

X Which courts have jurisdiction to hear such cases?

Administrative courts hear cases about the alleged shortcomings of public authorities in the field of climate protection law

➥ What is the composition of these courts?

In first and second instance usually five judges (3 professional + 2 lay), at the Federal Administrative Court 5 professional judges

- What are the main features of the relevant remedies?

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| Shortcomings of the climate protection programs |

**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 X

no ☐

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

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| See above |

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

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| yes |

**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?

The legality of laws can only be assessed by the Federal Constitutional Court. Regulations and other norms under the hierarchical rank of a parliamentary law may be subject to the full assessment of any court.

**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 X

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?

n.a.

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.

**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)?

No. But of course NGOs may bring environmental cases according to the Aarhus Convention.

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]?

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| An individual must claim the infringement of a subjective right. An NGO is free of this condition. |

- 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?

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| The administrative judge is under an obligation to assess the case concerning the facts and the law. The parties have to contribute according to their possibilities. |

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

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| The regular standards. The court must gain its own conviction based on the evidence gathered. |

**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?

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| See above, II.A. |

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

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| No special requirements. |

- 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]?

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| The case is still pending (see above). |

**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?

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| Choices by the legislator are to be respected as long as they are constitutional.<br>As to the balancing of contradictory interests, the Federal Constitutional Court recognizes the importance of climate protection to which it as given a constitutional trait when it comes to the protection of human rights (see above). Yet, the court also upholds that the rights stemming from the obligation to climate protection do not automatically outweigh other rights. So, climate protection may be balanced with other interests involved in the case by any court. |

Generally recognized technical guidelines are respected by the courts. In the absence of such a guideline the court assesses if the technical approach used by the public authority is reasonable and without obvious deficiencies.

**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.

Recently there was a fair amount of proceedings directed against the build-up of an LNG infrastructure in Germany. In several cases, the court decided that the supreme interest in a reliable energy supply outweighed the rather small effect the relevant projects had on climate protection. N.b.: According to this jurisprudence, the emissions emanating from the later use of the transported gas by the consumers are not to be attributed to the build-up of the relevant projects of infrastructure, but only to the later consumption activities.

- 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.

- 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]?

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

**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 X
- 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?

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

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

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➥ Is monetary compensation recognised regarding compensation for non-material damage caused by ecological damage?

yes ☐

no ☐

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

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**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?

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| To my knowledge there have not been any cases of provisional judicial protection in the field of climate protection. |

➥ Please mention the measures that the judge may order.

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

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**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?

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| The wording of any court decision has to be so precise that its fulfillment can be easily checked by the court itself upon the request of a party to the previous litigation. |

➥ 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?

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| Judgements are usually observed by the public administration. So, there is no relevant jurisprudence in the field of enforcement. |

**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?

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| See above, the decision by the Federal Constitutional Court |

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

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| No. |

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

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**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]?

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| Yes, the Federal Constitutional Court has made reference to judgments in other countries. |

**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?

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| Both |

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

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| Yes |

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

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| Yes |

**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]

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| There has not been relevant jurisprudence since. |

**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?

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| Not to my knowledge. |

## 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 X

➥ 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?

No

**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]?

Not to my knowledge

**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?

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| The communities would have the right to define the purpose of a building (i.e. for permanent housing only). |

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

yes ☐
no X

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

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

yes ☐
no X

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

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

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**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?

☐

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| No |

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

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- 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 X

- If so, what points were raised in the arguments of the parties to the dispute?

yes ☐

no ☐

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

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**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? ☐

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| There are no relevant disputes. |

**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?

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**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 X

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

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