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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 ☐

Paris Accords ☐

Aarhus Convention (procedural matters) ☐

Other (please specify) ☐

Hungary is a party to

- Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters;
- Aarhus Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters;
- Espoo Convention on Environmental Impact Assessment in a Transboundary Context;

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- Sofia Amendment to the Convention on Environmental Impact Assessment in a Transboundary Context;
- Cavtat Amendment to the Convention on Environmental Impact Assessment in a Transboundary Context;
- Protocol adopted on May 21, 2003 in Kiev on strategic environmental assessment related to the Convention on environmental impact assessment in a transboundary context done at Espoo;
- Geneva Convention on Long-range Transboundary Air Pollution;
- Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP);
- Helsinki Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on the Reduction of Sulphur Emissions or Their Transboundary Fluxes by at least 30 percent;
- Geneva Protocol to the 1979 Convention on Long-range Transboundary Air Pollution Concerning the Control of Emissions of Nitrogen Oxides or Their Transboundary Fluxes;
- Oslo Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Further Reduction of Sulphur Emissions;
- Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on the Control of Emissions of the Persistent Organic Pollutants;
- Aarhus Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Heavy Metals;
- Göteborg Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on the Abate Acidification, Eutrophication and Ground-level Ozone;
- Vienna Convention for the Protection of the Ozone Layer;
- Montreal Protocol on Substances that Deplete the Ozone Layer;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal;
- Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and Their Disposal;
- Rotterdam Convention for the Application of the Prior Informed Consent Procedure for Certain Hazardous Chemicals and International Trade;
- Stockholm Convention on Persistent Organic Pollutants;
- Minamata Convention on Mercury.

In addition to these, there are several other environmental agreements in force whose subject matter is not closely related to climate change.

↳ 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 Hungarian legal system follows a certain type of dualist model; that is, the Hungarian constitutional system regards international law as a separate legal system, whose norms become part of the Hungarian legal

system only after a separate transposition, by promulgation by law, pursuant to Article Q (3) of the Fundamental Law. However, the generally recognized norms of international law are part of the Hungarian legal system even without a separate transposition, and in their case, Article Q (3) of the Fundamental Law provides for the above transposition.

The procedure for international treaties is regulated by a separate law, namely Act L of 2005 on Procedures Concerning International Treaties. Accordingly, an international treaty falling within the competence of the Parliament shall be promulgated by law. Otherwise, the international treaty shall be promulgated by government decree.

Courts may apply international treaties, but the Constitutional Court has the power to determine their conformity with Hungarian law.

I.A.2. EU rules

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

Since EU climate change norms are primarily contained in regulations and directives as secondary sources of law in the EU's legal source system, EU regulations are part of Hungarian law without any special procedure, in accordance with Article 288 of the TFEU, while climate change directives are transposed according to the rules of Hungarian legislation, either at the level or laws or decrees. Hungary has transposed all EU climate change norms.

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

In the area closely linked to climate change (climate policy), infringement proceedings have been launched against Hungary in the following cases:

1. INFR(2010)0104 - 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 (Text with EEA relevance): formal notice on 28/01/2010; case closed on 28/10/2010;

2. INFR(2010)0244 - Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community: formal notice on 25/03/2010; reasoned opinion on 24/11/2010; case closed on 26/01/2012;

3. INFR(2011)0458 - Directive 2009/30/EC on Fuel quality: formal notice on 17/03/2011; case closed on 27/09/2012;

4. INFR(2011)0819 - Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006: formal notice on 18/07/2011; reasoned opinion on 20/11/2013; case closed on 10/07/2014;

5. INFR(2012)0366 - Directive 2011/63/EU on Fuel Quality: formal notice on 21/09/2012; case closed on 24/01/2013;

6. INFR(2013)0037 - Directive 2009/29/EC amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (ETS): formal notice on 31/01/2013; case closed on 28/03/2014;

7. INFR(2017)0263 - Council Directive (EU) 2015/652 of 20 April 2015 laying down calculation methods and reporting requirements pursuant to Directive 98/70/EC relating to the quality of petrol and diesel fuels: formal notice on 31/05/2017; case closed on 7/12/2017;

8.INFR(2024)0068 - Lack of transposition of Directive (EU) 2023/958 on emission trading system (ETS) in the aviation sector by Hungary: formal notice on 24/01/2024 – ongoing;

9. 10. INFR(2024)0069 - Lack of transposition of Directive (EU) 2023/959 on emission trading system (ETS) - first transposition deadline, by Hungary: formal notice on 24/01/2024 – ongoing;

10. INFR(2024)0190 - Lack of transposition of Directive (EU) 2023/959 on emission trading system (ETS) - second transposition deadline, by Hungary: formal notice on 24/07/2024 – ongoing.

In addition, 119 infringement proceedings have been launched in the field of environment, but these are not closely related to the climate change crisis (climate policy), which is the subject of the questionnaire; at the same time, they are linked to it, according to the classification available on the Commission's official website. Of these, 3 cases concerning climate change are worth highlighting:

1. INFR(2006)2340 - National Allocation Plans Under Directive 2003/87/EC (Emissions Trading Directive): formal notice + press release on 12/10/2006; reasoned opinion on 12/12/2006; case closed on 21/03/2007;

2. INFR(2007)2158 - Decision 280/2004 on a Monitoring Mechanism of GHG Emissions: formal notice + press release on 27/06/2007; reasoned opinion on 17/10/2007; case closed on 20/11/2009;

3. INFR(2009)2270 - Bad application of 280/2004 & 166/2005 on communication of the 2009 biennial reports of the MS on their greenhouse gas emissions: formal notice + press release on 8/10/2009; case closed on 28/01/2010.

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

See the answer to the previous question.

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? ☒

vulnerable groups? ☒

According to Article P (1) of the Fundamental Law of Hungary, natural resources, particularly arable land, forests and water resources, as well as biological diversity, in particular native plant and animal species and cultural values shall comprise the nation's common heritage; responsibility to protect and preserve them for future generations lies with the State and every individual.

Article XXI (1) of the Fundamental Law states that Hungary shall recognize and implement the right of all to a healthy environment. Article XX of the Fundamental Law stipulates that everyone has the right to physical and mental health, which the State shall facilitate by ascertaining that the agricultural sector is free of all genetically modified organisms, by providing access to healthy foodstuffs and potable water, by the protection of occupational health, by health care institutions and medical care, by supporting sports and regular physical exercise, as well as by ensuring the protection of the man-made and natural environment.

The protection of vulnerable groups is provided for in Article XV of the Fundamental Law, which states that Hungary shall take special measures to protect families, children, women, the elderly and the disabled, while Article XVI sets out the rights of children, and Article XIX provides for the right to social security and social solidarity.

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.

A) Substantive law:
Act XLIV of 2020 on Climate Protection stipulates the criteria that national climate policy must follow. Accordingly, it must be in line with our international and EU commitments on climate protection, provide a valid response across the Carpathian Basin and meet all the challenges we face in terms of the domestic environment, society and economy. It prescribes that the national climate policy must also take into account the possibility of carbon neutral nuclear energy use, and must be based on the polluter-pays-principle and the logic of proportionate and realistic interventions.

Furthermore, it also includes commitments to emission reductions and stipulates that Hungary shall reduce its greenhouse gas emissions by at least 40% by 2030 compared to 1990 and achieve full climate

neutrality by 2050; that is, remaining domestic emissions and removals of greenhouse gases shall be balanced by 2050.

B.) Procedural law:
Hungarian law treats climate change litigation as part of the definition of environmental litigation, in the same way as any other type of litigation that concerns the environment.

Act LIII of 1995 on the General Rules of Environmental Protection (hereinafter referred to as the: the "Environmental Protection Act") contains provisions on environmental associations that differ from the general litigation rules, in accordance with the Aarhus Convention.

Pursuant to Section 99 (1) of the Environmental Protection Act, environmental associations have the status of clients in administrative proceedings before environmental authorities in the territory of their operations.

The Environmental Protection Act also expressly states that, in the event of environmental endangerment, environmental pollution, or environmental damage, the environmental protection association has the right to take action to protect the environment and to request the state organization or local government to take appropriate measures within its competence or to file a lawsuit against the user of the environment.

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.)?

On 30 October 2018, the National Assembly adopted the 2nd National Climate Change Strategy (hereinafter referred to as "the NCCS-2"), which contains commitments up to 2030, with a view to 2050.

In addition, the local government of the capital city of Budapest, the capital of Hungary, also adopted a climate strategy in 2021, which sets out policy guidelines and targets to be achieved.

- 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 NCCS-2 includes an assessment of the expected impacts, natural and socio-economic consequences of climate change in Hungary and the climate vulnerability of ecosystems and sectors, the National Decarbonization Roadmap with targets, priorities and action lines for reducing greenhouse gas emissions by 2050, the National Adaptation Strategy (NAS), and the Partnership for Climate Change Awareness Plan.

Its main objective is

- risk prevention in connection with climate change and climate security,
- risk mitigation,
- the presentation of a set of objectives for awareness raising activities aimed at preventing climate change, as well as preparing for and adapting to climate change,
- the determination of directions for sectoral action

in the fields of human health, agriculture and rural development, water management, forestry, nature conservation, energy infrastructure, tourism, urban development and disaster management.

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?

There is no binding legislation for such active measures, while the Fundamental Law defines the protection of nature and the interests of future generations as the task of all state organizations. According to Article P (1) of the Fundamental Law of Hungary, natural resources, in particular arable land, forests and the reserves of water; biodiversity, in particular native plant and animal species; and cultural artefacts, shall form the common heritage of the nation, it shall be the obligation of the State and everyone to protect and maintain them, and to preserve them for future generations.

Under the Fundamental Law, the Commissioner for Fundamental Rights (hereinafter referred to as "Ombudsman") is responsible for the protection of fundamental rights and one of the Ombudsman's deputies is responsible for protecting the interests of future generations.

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

(a) preventive measures

(b) repressive measures

(c) restitution measures

N/A

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

If there were such a specific legal obligation for administrative action, private individuals (and environmental associations) could file an omission lawsuit under the general rules of the Code of Administrative Litigation.

↳ Is the legal pursuit of this right regulated?

Chapter XXII of Act I of 2017 on the Code of Administrative Litigation contains the procedural rules for the above case and also for other areas of administrative law.

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

There is no specific legal provision for these cases, but individuals can initiate civil proceedings under the general rules on civil actions to protect their personality rights.

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

There are no such rules; general rules apply.

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 ☐

Environment protection and climate policy currently fall under the purview of the Minister for Energy and there is a Deputy State Secretariat for Climate Policy in the Ministry of Energy. In the Ombudsman's Office, the Deputy Commissioner for Future Generations also has certain powers. In the field of environmental impact and disaster management, the National Directorate General for Disaster Management of the Ministry of the Interior and its regional units – namely the county-level disaster management directorates – have powers.

➥ 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 ☐

The executive is in charge of carrying out the aforementioned duties and courts do not have insight into its internal division of labor.

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

N/A

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

N/A

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

The Government sends draft laws to the courts for public comment, but this is not a statutory obligation for prior consultation.
If a bill affects the duties of the courts (for instance, if it defines procedural tasks), pursuant to Section 19 (1) of the Act on Legislation and Section 76 (1) of the Act on the Organization and Administration of Courts, the person responsible for legislative drafting shall be obliged to make arrangements to enable the body concerned [namely the National Office for the Judiciary (hereinafter referred to as "the OBH")] to comment on it.

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

During public consultations, the public can make comments on legislation according to general rules, as described on the website of the relevant ministry.

➥ Is access to relevant information guaranteed? yes ☐
no ☐

Whenever a prior impact assessment is available, it will be accessible during public consultations.

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.

In Hungary, there have not yet been any administrative cases specifically related to climate change. The environmental cases heard by administrative courts have so far only indirectly dealt with climate change issues in the types of cases mentioned above.

The Curia explained in case No. Kfv.IV.37.700/2020/5 that the right to participate in environmental cases and the right to justice are not absolute and unlimited, and that, in environmental administrative proceedings, the legislation guarantees the status of a client for those organizations which operate in the area of environmental assessment.

The Curia has stated in two cases that the courts, as state organizations, are obliged to promote the protection of the interests of future generations under Article P (1) of the Fundamental Law, *inter alia* by informing the Ombudsman, *ex officio*, of the possibility of intervening in proceedings that directly affect the interests of

future generations, in lawsuits regarding the state of the environment (Curia Decisions nos. Kfv.VI.38.029/2021/7 and Kfv.III.37.158/2024/7).

The main question in both cases concerned the issuance of an operating license (for sand and gravel mining and waste recovery activities); the Ombudsman's participation with the aim of protecting the interests of future generations was relevant to the case from a procedural point of view.

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)?

In the Hungarian court system, although the administrative and civil courts are not organizationally separate, jurisdiction is divided according to the subject matter of the dispute, and in administrative disputes, the courts adjudicating administrative cases proceed according to the procedural rules specified in the Code of Administrative Litigation.

In organizational terms, administrative cases are heard by 8 high courts and the Regional Appellate Court of Budapest, which also has an administrative chamber.

In addition, the judges of the Administrative Chamber of the Curia proceed in cassation cases as a forum for extraordinary remedy.

Where the subject of the dispute is an administrative act (or omission to act), a court adjudicating in administrative cases will proceed, and where the subject of the dispute is a dispute between private individuals or a claim for damages against the State, civil courts will adjudicate according to the rules of the Code of Civil Procedure.

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?

N/A

➥ What is the composition of these courts?

N/A

➥ What are the main features of the relevant remedies?

N/A

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?

If such a dispute were to arise, the general rules in the Code of Administrative Litigation apply; that is, an administrative action may be brought against an administrative act or, in the case of failure to fulfil an administrative obligation, an omission lawsuit may be initiated.

If the matter is not a matter for judicial proceedings, an inquiry or proceeding may be initiated by the Deputy Ombudsman responsible for future generations.

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

The OBH and the Hungarian Academy of Justice regularly organize training courses for judges on current issues of the application of law.

As an example, Dr. Katalin Sulyok, a nationally and internationally recognized expert, will deliver a lecture on the international experience of climate litigation at a training session organized by the European Legal Advisers Network in May 2025; this Network is comprised of judges who are special advisers working alongside the OBH.

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?

In Hungary, it is the Constitutional Court that examines the conformity of legislation with the Fundamental Law. If a judge has to apply a law that he/she finds to be unconstitutional, he/she shall suspend the litigation process and initiate proceedings before the Constitutional Court. If a local government decree is found to be in conflict with a higher level piece of legislation, the Curia's Local Government Panel shall act to eliminate the conflict of norms.

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.

N/A

- 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?

No case-law is yet available that has developed specific rules of procedure in relation to climate change.

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.

If such a case were to arise, the Curia would examine and admit the application in the light of the weight and social significance of the legal issue raised in the context of the rules governing the admissibility of petitions for cassation [Section 118 (1) (ab) of the Act on the Code of Civil 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, an *actio popularis* cannot be brought before the Constitutional Court or the ordinary courts.

In terms of the right to legal remedy, the Fundamental Law also stipulates that everyone has the right to take advantage of legal remedy against judicial, official or other administrative decisions that violate their rights or legitimate interests, i.e. the right to bring an action is subject to the condition of being affected, of demonstrating the damage to interests, with the additions set out below.

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]; There are no such groups or categories.
- in relation to legal persons [public law legal entities, private law entities: associations, etc]?

The Environmental Protection Act contains provisions on environmental associations that differ from the general rules on litigation, in line with the Aarhus Convention.

Pursuant to Section 99 (1) of the Environmental Protection Act, environmental associations have the status of clients in environmental administrative proceedings in the territory in which they operate.

And Section 17 (d) of Act I of 2017 on the Code of Administrative Litigation provides that an NGO that has been carrying out its registered activity for at least one year in the geographical area affected by the administrative activity in order to protect a fundamental right or to promote a public interest, is entitled to initiate administrative proceedings in matters specified by law or government decree, if the administrative activity affects its registered activity.

Thus, with regard to administrative proceedings, environmental associations with at least one year of activity in the area covered by the case may be plaintiffs in proceedings pending before the courts.

The Environmental Protection Act also expressly states that, in the event of environmental endangerment, environmental pollution or environmental damage, the environmental protection organization is entitled to take action to protect the environment and to request the state organization or local government to take appropriate measures within its competence or to file a lawsuit against the user of the environment.

- 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?

There is no such case-law specifically in relation to climate litigation.

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

To prove claims, the general rules of evidence apply. The court may, at the request of the parties or *ex officio*, appoint a judicial expert to examine the parties' claims if the assessment of the facts/circumstances requires specific expertise.

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?

There is the possibility of litigation under the general rules, as well as the omission lawsuit as described above, but there is no case-law on this.

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

There are no specific laws. Those regulations which govern omission lawsuits should be applied in all fields of law.

- 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 data available.

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?

There is no such practice, but in general, it should be noted that, due to the doctrine of separation of powers, judicial review is limited to the operations of the public administration, and does not include the evaluation or examination of the legislature or the executive's political decisions. The Code of Administrative Litigation explicitly excludes from its scope those disputes which are related to governmental activities.

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.

N/A

- 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?

If such a dispute arose, in an administrative lawsuit, Section 92 (2) of the Act on the Code of Administrative Litigation would allow the court to quash the administrative act with a precise indication of the date of annulment, instead of quashing it *ex tunc*, if this is justified by the protection of the public interest, legal certainty or the particularly important interests of the persons affected by the judgment.

Thus, the court may even fix a specific date, *pro futuro*, as long as the administrative act does not lapse.

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.

N/A

- 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]?

The court may appoint an expert during discovery, whose opinion is then evaluated as part of the evidence.

The Ombudsman, who is also responsible for the interests of future generations, may participate, as an intervener, in administrative proceedings against an administrative decision relating to the state of the environment, on the basis of Act CXI of 2011 on the Commissioner for Fundamental Rights.

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

N/A

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?

N/A

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

N/A

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

N/A

- Is monetary compensation recognised regarding compensation for non-material damage caused by ecological damage? yes ☐ no ☒

The doctrinal reason for this is that the Hungarian Civil Code has not recognized the institution of "non-material compensation" since 2014. However, in the event that someone's personal rights (e.g. the right to

life, bodily integrity, health) are infringed by ecological damage, "compensation for non-material damage" may be claimed.

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

Yes, the Climate Act explicitly states that national climate policy should be based on the polluter-pays-principle and the logic of proportionate and realistic interventions, but there is currently no specific legislation or case-law on this.

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?

In cases concerning climate change, if such a case were to arise before the court, a petition for immediate legal protection could be made under the general rules of the Code of Administrative Litigation; that is, anyone whose rights or legitimate interests are adversely affected by the administrative action or the maintenance of the situation created by it may, at any time during the proceedings, request the court with competence and jurisdiction to order immediate legal protection in order to avert the imminent threat of harm, to settle the disputed legal relationship temporarily or to maintain the situation giving rise to the dispute unchanged.

- Please mention the measures that the judge may order.

Depending on the legal situation, the judge may order the following in the context of immediate legal protection: a stay of proceedings, the lifting of a stay, interim measures or preliminary evidence.

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

There is no case-law in this regard but the reasons justifying the need for immediate legal protection must be detailed in the petition, and the documents certifying these must be attached.

The probability of the facts on which the petition is based should be assessed.

On the basis of these documents, the judge decides on the question of immediate legal protection and may order the parties to be heard if necessary.

On the basis of the principle of proportionality, the court will consider, from the point of view of the public interest and all parties, whether the failure to grant immediate legal protection would not cause more serious harm than would be caused by the granting of immediate legal protection.

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 no such procedure, and the Curia and the courts have no powers vis-à-vis the legislator (other than to comment on legislation).

However, the parties may request the administrative court to force compliance with a court judgment that binds the administrative authority to a new procedure, in the event of failure to enforce the judgment, in accordance with the general rules on administrative litigation.

The plaintiff or interested party may, within ninety days of the expiryof the time limit for compliance, submit a request to the court of first instance for enforcement of the decision. This court shall set a time limit and call on the administrative authority to provide an explanation or to comply with its obligation. If the administrative body fails to do so, the court shall impose a compliance fine, or in addition to this or instead of this, it may impose a fine on the chief of the administrative body. If a compliance fine is imposed, the court may designate another body with equivalent powers or the supervisory body to comply, or, failing this, take interim measures until the administrative body has complied.

- 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?

N/A

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?

N/A

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

N/A

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

N/A

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]?

N/A

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?

There is no case-law on this.

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

There is no case-law on this.

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

There is no specific case-law on this issue, however, the Curia referred to the Paris Agreement as the governing law for combating climate change in its decision Knk.IV.40.669/2021/2 in a referendum case. The referendum question was the following: "Do you agree that Hungary should reduce its greenhouse gas emissions by 65% by 2030 compared to 1990 levels?" The National Electoral Commission refused to certify the question on the grounds of the length of the binding force of the question. This decision was upheld by the Curia, which referred to both the Paris Agreement and the National Climate Change Act in its reasoning.

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]

There is no case-law on this.

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?

No, they have not.

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 ☐

The NCCS-2 includes objectives for tourism too, and the National Tourism Development Strategy follows the principle of coexistence tourism. The growth of tourism has been publicly discussed in the context of restrictions on short-term accommodation services (e.g. Airbnb), which have led several local authorities to adopt regulations restricting Airbnb. Also aimed at reducing the impact of excessive tourism on transport and community coexistence is the mobility point system in Budapest, where rentable e-scooters can be parked. Several districts and municipalities have restricted the rental of this type of equipment and have banned parking on their territory. The following can also be listed here: traffic restrictions on certain road sections and the closure of certain areas to traffic (e.g. in Budapest, the weekend closure of the low quay of Pest, the reservation of the Chain Bridge for pedestrians, cyclists, public transport and taxis).

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?

The courts are not aware of any such initiative.

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]?

Apart from the strategy documents described above, there are no such mandatory guidelines.

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 right to a healthy environment, the right to private property, and the rules on for the protection of children and future generations in the Fundamental Law can provide a basis for addressing the impacts of over-tourism at the level of laws.

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)

N/A

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?

N/A

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

N/A

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? ☐

N/A

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

N/A

➥ 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 ☐

N/A

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

N/A

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? ☐

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?

N/A

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.

N/A