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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 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 legal system that binds Portugal to international law is laid down in Article 8 of the Constitution of the Portuguese Republic (CRP).

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Article 8(1) of the CRP states that the rules and principles of general or customary international law form an integral part of Portuguese law, i.e. the so-called international ius cogens does not require any form of acceptance, which distinguishes it from international conventional law, which is regulated in Article 8(2).
In fact, Article 8(2) of the CRP contains a general clause of full acceptance of international conventional law, although this is subject to the official publication of the conventions and the regularity of Portugal's binding process. On the other hand, they only come into force in the domestic legal system once and for as long as they bind Portugal, i.e. international rules only come into force in our legal system once they have come into force in the international legal system and cease to be in force in the domestic legal system or are modified, to the extent that this happens at the international level. It is important to emphasise that the possible non-enforcement of a treaty in the domestic legal system, due to the omission of rules relating to the constitutional process mentioned above, does not prevent the Portuguese State from being bound by that treaty in the international legal system.
The constitutionality of the rules contained in an international treaty or convention is a different matter. There is a preventive review procedure whereby the President of the Republic may ask the Constitutional Court to examine the constitutionality of any provision contained in an international treaty that has been submitted to him for ratification, or in an international agreement whose decree of approval has been sent to him for signature (Article 278(1) of the Constitution). If the Court declares a provision in a treaty to be unconstitutional, the treaty can only be ratified if the Assembly of the Republic approves it by a two-thirds majority of the members present, provided that this is greater than the absolute majority of the members in full exercise of their office (Article 279(4) of the CRP).
As regards the rules adopted by the competent bodies of international organisations to which Portugal is a party and which are directly applicable in the internal order (Article 8(3) of the CRP), there is a maximum degree of automaticity, as laid down in the respective constituent treaties. Not only is there no need for legislative intervention, but there is also no need for internal approval or ratification equivalent to that required for treaties. Article 8(3) of the CRP was conceived from the perspective of Portugal's integration into the European Communities and the consequent adoption of Community law, but the majority of legal scholars believe that its scope has never been exhausted there, as it applies to other international organisations.
The Kyoto Protocol was approved by Parliamentary Decree 7/2002 of 25 March. The Paris Agreement was approved by Assembly of the Republic Resolution 197-A/2016 and ratified by Presidential Decree 79-M/2016. The Aarhus Convention was signed in 1998, approved for ratification by Parliamentary Resolution no. 11/2003 of 25 February and ratified by Presidential Decree no. 9/2003 of 25 February.

I.A.2. EU rules

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

- At the national level, Portugal has set itself more ambitious targets for reducing greenhouse gas (GHG) emissions, as set out in the Climate Framework Law (Law No. 98/2021), the Roadmap for Carbon Neutrality (Council of Ministers Resolution No. 107/2019 of July 1) and the National Energy and Climate Plan (Council of Ministers Resolutions No. 53/2020 of July 10 and No. 149/2024 of October 30).
- The "Fit for 55" package (55% emission reduction target by 2030), consisting of a series of regulations and directives adopted in 2023, led to the modification of the EU ETS (carbon market); the creation of the Social Climate Fund to support households and businesses in the energy transition and a ban on the sale of new fossil fuel cars by 2035.
- Emissions Trading Scheme (RCLE-UE) - Decree-Law No. 12/2020, of April 6, establishes the legal framework for greenhouse gas emissions trading (CELE) and the rules for the fourth CELE period from 2021 to 2030. This decree transposes into national law Directive (EU) No. 2018/410 of the European Parliament and of the Council of March 14, 2018 (ETS Directive), which amends Directive 2003/87/EC to improve the cost-effectiveness of emission reductions and investment in

low-carbon technologies, and Decision (EU) 2015/1814 of the European Parliament and of the Council of October 6, 2015.

- Directive (EU) 2018/2001 (RED II), as amended by RED III, incorporated into the National Energy and Climate Plan (PNEC 2030) - Resolution of the Council of Ministers No. 149/2024, of October 30.
- Energy Efficiency Directive - Directive 2012/27/EU of the European Parliament and of the Council of October 25, 2012, and Directive 2018/2002 of the European Parliament and of the Council of December 11, 2018, the latter implemented by Decree-Law No. 101-D/2020, of December 7.
- Regulation on Land Use, Land Use Change and Forestry (LULUCF) - Regulation (EU) 2018/841 of the European Parliament and of the Council of May 30, 2018, with direct application in Portuguese law and implementation through the National Energy and Climate Plan (PNEC 2030).
- Effort Sharing Regulation - Regulation (EU) 2018/842 of the European Parliament and of the Council of May 30, 2018, with direct application in Portuguese law.
- European Green Deal and European Climate Law - Regulation (EU) 2021/1119 of the European Parliament and of the Council of June 30, 2021, with direct application in Portuguese law.
- Regulation (EU) 2019/631 of the European Parliament and of the Council, of April 17, 2019, with direct application in Portuguese law.

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

Yes. Portugal has been the subject of infringement proceedings by the European Union for failing to implement climate change legislation.

The European Commission has brought a case against Portugal before the ECJ (INFR(2022)2085) for failing to fully align its national legislation with the European Industrial Emissions Directive (Directive 2010/75/EU), although this case is not directly related to climate legislation.

At the national level, environmental associations, including Último Recurso, Quercus and Sciaena, have sued the Portuguese state for alleged non-compliance with the Climate Change Framework Law.

There are several examples in the field of the environment and nature protection that have an impact on climate change:

- On September 26, the European Commission opened formal proceedings against Portugal for failing to fully transpose the Corporate Sustainability Reporting Directive (CSRD) into national law. This is the first step in the infringement procedure, which could ultimately lead to the case being referred to the Court of Justice of the European Union if the situation is not rectified.
- - The European Commission has launched an infringement procedure by sending a letter of formal notice to Portugal [INFR(2024)2225] for failing to fully align its national legislation with European law Industrial Emissions Directive (Directive 2010/75/EU), stressing that "industrial activities can have a significant impact on the environment and health".
- - The European Commission has launched an infringement procedure by sending a letter of formal notice to Portugal [INFR(2024)2224], for failing to correctly transpose the Directive on the limitation of emissions of certain pollutants into the air from combustion plants [Directive (EU) 2015/2193].

- Urban waste water treatment (Directive 91/271/EEC):
  - Case C-557/10 (Commission v Portugal): In 2012, the Court of Justice of the European Union (CJEU) ruled against Portugal for failing to ensure adequate collection and treatment of urban waste water in several agglomerations (e.g. Matosinhos, Vila Real de Santo António, Costa de Aveiro). The infringement concerned failures both in the installation of collection systems and in the provision of secondary or equivalent treatment.
  - Case C-220/16 (Commission v Portugal): In 2017, the ECJ again condemned Portugal, this time specifically for failing to ensure that urban waste water from 14 agglomerations was subject to more stringent treatment (removal of nitrogen and/or phosphorus) before being discharged into sensitive areas, as required by the Directive.
  - Requests for sanctions: Due to continued non-compliance after the first judgment (C-557/10), the European Commission again referred Portugal to the ECJ (under Article 260 TFEU), requesting the imposition of financial penalties (a fine and a periodic penalty payment). In October 2021 (Case C-557/10 - Penalties), the CJEU ordered Portugal to pay a lump sum of €3 million and a daily penalty payment of €8,000 (from the date of the judgment until full compliance with the 2012 judgment) for failing to fully remedy the deficiencies in waste water treatment in three agglomerations (Matosinhos, Vila Real de Santo António and Companheira).
  - The European Commission has decided to open infringement proceedings by sending a letter of formal notice to Portugal [INFR(2024)2193] for failing to fully comply with its obligations under the Urban Waste Water Treatment Directive (Directive 91/271/EEC).

- Management of landfills (Directive 1999/31/EC):
  - Case C-60/15 (Commission v Portugal): In 2016, the ECJ ruled against Portugal for failing to take the necessary measures to close, reclaim and seal 61 landfills receiving municipal or other waste that had not been granted a permit to operate after 16 July 2009 or that, although permitted, did not comply with the technical requirements of the Directive. Several of these landfills were still not in compliance at the time of the procedure.
  - The European Commission has launched an infringement procedure by sending a letter of formal notice to Portugal [INFR(2023)2148] for failing to correctly transpose the Waste Framework Directive (Directive 2008/98/EC on waste, as amended by Directive 2018/851/EU).

- Air quality (Directive 2008/50/EC):
  - Infringement INFR(2020)2297: In February 2022, the European Commission sent a reasoned opinion (second stage of the infringement procedure) to Portugal for systematic non-compliance with EU limit values for nitrogen dioxide (NO2) in the zones of Lisbon Nord, Porto Litoral and Entre Douro e Minho I (Braga). The Commission considered that Portugal had not taken sufficient measures to ensure that the period of exceedance was as short as possible. If Portugal fails to remedy the situation, the Commission may refer the case to the ECJ. Note: Watch this space for further developments, but this is a concrete example of an active case.

- Nature Conservation (Habitats Directive 92/43/EEC and Birds Directive 2009/147/EC):
  - Case C-142/16 (Commission v Portugal): In 2017, the ECJ ruled against Portugal for failing to designate sufficient sites as Special Protection Areas (SPAs) to protect several species of wild birds (such as the lesser spotted eagle, little bustard, golden oriole, among others) and for failing

to take the necessary measures to prevent the deterioration of habitats in these sites.

- Infringement INFR(2019)2214: In December 2021, the European Commission sent a reasoned opinion to Portugal for failing to ensure adequate protection of its Natura 2000 sites. The criticism focused on the lack of specific and detailed conservation objectives and the measures necessary to achieve them in all sites designated under the Habitats Directive. of climate legislation.
- The European Commission has launched an infringement procedure by sending Portugal a letter of formal notice [INFR(2024)2050] for failing to correctly transpose the Habitats Directive (Directive 92/43/EEC) into national law. Contrary to the Directive and the case law of the European Court of Justice, Portuguese legislation allows not only mitigation measures, but also compensation measures for the expected damage caused by the project to be taken into account when determining whether a project has a significant impact on Natura 2000 sites.

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	**x**
for climate change	☐
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:

Contain only substantive rules?	**x**
Or do they also establish procedural guarantees?	**X**

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

The Constitution of the Portuguese Republic enshrines the following as economic, social and cultural rights (which enjoy mediated application through legislation and direct applicability insofar as they are qualified as rights analogous to rights, freedoms and guarantees): the right to health (Article 64), which includes the right to environmental health and the State's duty to control the use of chemical and biological products; the right to the environment and quality of life (Article 66), which includes the right to a human, healthy and ecologically balanced living environment, among other duties. The right to the environment and quality of life (Article 66), which includes the right to a human, healthy and ecologically balanced living environment. In this context, the state has the duty, among others, to prevent and control pollution and its effects and harmful forms of erosion, to promote the rational use of natural resources, safeguarding their capacity for renewal and ecological stability, with respect for the principle of solidarity between generations, and to promote the integration of environmental objectives into the various sectoral policies; and the rights of the child (Article 69). The rights of children (Article 69), namely to their integral development, of young people (Article 70) to

the development of their personality, of disabled citizens (Article 71) to integration and of senior citizens (Article 72) to personal autonomy and prevention against isolation or social marginalization.

At the substantive level, the following laws stand out:

Basic Law on the Environment (Law No. 19/2014, of April 14), which

- presents the definition of sustainable development (article 3, point f) and refers to a model that "meets the needs of the present without compromising the ability of future generations to meet their own needs".

- Article 4 enshrines the principle of intergenerational solidarity in Article 5, which states that "public environmental policy shall aim to ensure that the various components of the environment are used and managed in a sustainable manner, contributing to balanced development and aiming to meet the needs and improve the quality of life of present generations, without compromising the satisfaction of the needs and quality of life of future generations".

Basic Climate Law (Law No. 98/2021, of December 31), where

- Article 3 (Objectives) refers to ensuring "a just and sustainable future" and the need to "ensure the protection of the environment and respect for the biophysical limits of the planet that guarantee a safe and healthy future for present and future generations".

- Article 6 (Right to Climate Equilibrium) states that "everyone has the right to climate equilibrium under constitutional and internationally established conditions" and that "the right to climate equilibrium consists of the right to defend oneself against the effects of climate change, as well as the power to require public and private entities to comply with their duties and obligations in climate matters in order to protect existing and future ecological resources essential for the health, well-being, and quality of life of present and future generations.

- Article 7 introduces the concept of climate justice, which includes "intergenerational equity that ensures the protection of future generations.

Finally, in procedural terms, the following are also relevant

- Law no. 83/95, of August 31, on the Right of Procedural Participation and Popular Action, which enshrines the right of popular action when it comes to the environment, which has a more favorable regime in terms of the inquisitorial process (art. 17), appeals (art. 18), extension of the effects (art. 19), and above all, the tendency for the action to be free of charge (art. 20).

- the aforementioned Basic Law on the Environment (Law 19/2014), which enshrines procedural rights in environmental matters (Article 6), such as the right to procedural participation and access to environmental information, and procedural rights (Article 7). These include the right of action to defend subjective rights and legally protected interests, as well as to exercise the right of public action and popular action, the right to promote the prevention, cessation and reparation of violations of environmental goods and values as quickly as possible and the right to request the immediate cessation of the activity causing a threat or damage to the environment, as well as the restoration of the previous situation and the payment of the respective compensation, under the terms of the law.

- Regulation (EC) No. 1367/2006, implementing the Aarhus Convention, which establishes a more advantageous regime for access to administrative information and administrative challenges.

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 Framework Act sets concrete targets for the first time to bring forward the EU's common goal of achieving carbon neutrality by 2045 (rather than 2050). With this law, Portugal has recognised the climate emergency and established the Climate Action Council (Law No. 43/2023, of August 14), which will issue opinions on, among other things, the annual State Budget. Every two years, the government is required to submit a report on the national situation to Parliament (in 2024, additionally, a green industrial strategy), and every five years the latter must set progressively more ambitious targets for reducing GHG emissions – and achieve its own carbon neutrality by 2025.
Unfortunately, this Climate Action Council has not yet taken office, as it has 17 members and does not comply with gender parity, with only five women having been appointed. A legislative amendment was under discussion for approval by Parliament but was derailed by the dissolution of Parliament in March 2025.
In the meantime, the Government has created the Agency for Climate (Decree-Law No. 122/2024 of 31 December), which, among other powers, will support the definition and implementation of the strategic objectives and priorities and the formulation of public climate action policies defined by the Government and, essentially, monitor the development of economic and financial instruments in the area of climate change.
It also commits to ensuring that Portuguese forests will act as a carbon sink of around 13 megatonnes of CO2 between 2045 and 2050 and to the phasing out of all direct and indirect state subsidies for fossil fuels by 2030.

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.)?

Just National.

National Energy and Climate Plan (PNEC 2030) (Resolution of the Council of Ministers No. 53/2020, of 10 July

- 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?

Portugal is committed to achieving carbon neutrality by 2050, i.e. balancing carbon emissions and removals from the atmosphere, in order to contribute to limiting global warming to 1.5ºC above pre-industrial levels, as set out in the Paris Agreement.

The goal of achieving carbon neutrality by 2050 is enshrined in the Climate Framework Law, which also provides for the possibility of bringing this date forward to 2045.

In line with the principle of transparency, the Climate Framework Law calls for greater availability of information to citizens and civil society to enable their participation in climate action and systematic monitoring of information.

It consolidates the objectives, principles and obligations of different levels of government for climate action through public policies and establishes new provisions in relation to climate policy, namely

- It sets out rights and duties in relation to climate, strengthening the right of citizens to participate;
- Introduces a new right for all citizens to "climate justice", defined as "the right to protection from the impacts of climate change and the power to require public and private entities to fulfil their climate-related duties and obligations";
- Creates new requirements and timetables for climate policy planning and assessment tools, including the development of five-year sectoral plans for mitigation and adaptation, and a green industrial strategy to support the industrial sector in the climate transition process;
- Defines new principles and standards for economic and financial instruments, with a particular focus on the government budget process, green taxation and sustainable financing, promoting a just transition to a low-carbon economy;
- Defines principles and standards for sectoral climate policy instruments, in particular in the areas of energy, transport, materials and consumption, the agri-food chain and carbon sequestration;
- Provides for no coal-based electricity generation after 2021;
- Specifies that from 2035 no cars can be sold that run exclusively on fossil fuels;
- Bans the use of natural gas for electricity generation from 2040.

In a nutshell, the main *binding* measures in the Portuguese framework resulting from the **Climate Framework Law (Law No. 98/2021)** and the targets and policies set out in the **National Energy and Climate Plan 2030 (PNEC 2030)** are:

National Emission Reduction Targets (Climate Framework Law - LBC):

- **Carbon neutrality by 2050:** The law sets a binding target for Portugal to achieve climate neutrality by 2050 at the latest.
- **Interim Targets:** Sets legally binding national targets for the reduction of greenhouse gas (GHG) emissions compared to 2005:
    - A reduction of at least **55% by 2030**.
    - A reduction of between **65% and 75% by 2040**.

Carbon Budgets (LBC):

- The Act establishes a system of **carbon budgets**, which are five-year limits on total GHG emissions.
- These budgets are proposed by the government and approved by the Assembly of the Republic, and become **binding** for the period in question. The first budget covers 2023-2025 and the next one 2026-2030.

Ban on the exploitation of fossil fuels (LBC):

- The law prohibits the granting of **new licences or authorisations** for the exploration or exploitation of hydrocarbons (oil and natural gas) and the licensing of new coal-fired power stations. It also restricts the exploitation of metallic mineral deposits in protected marine areas.

Elimination of Environmentally Harmful Subsidies (LBC):

- This provides for the evaluation and subsequent **phasing out of environmentally harmful subsidies**, particularly those related to fossil fuels, by 2030, through the submission of a report and timetable by the government.

Renewable Energy and Energy Efficiency Targets (PNEC 2030 and LBC):

- Although detailed in PNEC 2030, these targets are strong policy objectives that often translated into binding rules and mechanisms (e.g. auctions, efficiency obligations):
  - Achieve a share of at least **47% of energy from renewable sources in gross final energy consumption by 2030**.
  - Achieving a target of a **35% reduction in primary energy consumption** by 2030 (energy efficiency target), compared to the European Reference Scenario.

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?

X (a) preventive measures

X (b) repressive measures

X (c) restitution measures

As mentioned above, Article 66 of the Constitution of the Portuguese Republic provides for the right to a healthy and ecologically balanced environment. Article 66(2) of the CRP assigns various tasks to the State in order to guarantee the right to the environment and quality of life.

In turn, the Basic Climate Law, approved by Law No. 98/2021 of 31 December, approves a comprehensive framework to regulate the State's climate policy. Given the foreseeable effects of climate change, the State has a duty to protect the rights of citizens by adopting preventive adaptation measures that guarantee climate security. Climate security is a concept that encompasses

security in four areas: energy, health, food and nutrition.

This law now explicitly states that the government must promote the safety and integrity of persons and the regular exercise of rights, freedoms and guarantees in the exercise of its powers in matters relating to climate, internal security, civil protection, national defence, housing, public works and spatial planning.

These responsibilities include identifying and declaring critical areas where human health and safety are likely to be at risk and where special civil protection measures will be taken.

Climate security also requires strategic thinking that encompasses impacts on neighbouring regions with which there are cooperative relationships, as well as the impact of climate change on international security and defence. As a result, the Armed Forces must now incorporate climate change considerations into their strategy, both internationally and domestically.

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

Yes. In Portugal, there are no specific procedural means for the protection of the environment, and the general rules and the main and precautionary procedural means of administrative litigation apply.
However, it should be noted that the mechanism specifically designed to protect the environment is the "popular action" (a type of class action). Such an action can be brought under both the right to a healthy and ecologically balanced living environment, which is explicitly recognised in the Constitution (Article 66), and the Basic Law on Environmental Policy (Law 19/2014 of 14 April), which guarantees everyone full and effective protection of their rights and interests in environmental matters.
Article 52(3) of the Constitution of the Portuguese Republic recognises "popular action" as a form of legal standing of citizens (individually or through associations), which may be exercised before any court, for the defence of environmental interests, without the need to invoke a personal and direct interest or to demonstrate any link with the relationship in dispute. Law No. 83/95 of 31 May 1995 regulates "popular action".
The "popular action" is not a legal remedy, but a legal status that allows you to bring any action (including injunctions) before any court that is deemed necessary to defend general interests, such as the preservation of the environment.
A popular action can be brought by "any citizen exercising his civil and political rights" (first part of Article 2(1) of Law 83/95 of 31 May), without the need to invoke a qualified interest.
It can also be brought by 'associations and foundations defending the interests referred to in the article [general interest], whether or not they have a direct interest in the claim' (second part of Article 2(1) of Law No 83/95), provided, of course, that the intervention is covered by their respective statutes. These associations are exempt from the costs of proceedings [Article 4(1)(b), (f) and (g) of the Regulation on the costs of proceedings].
Finally, local authorities may also bring an action under this standing "in respect of the interests for which they are responsible in the territory of their respective districts" (Article 2(2) of Law 83/95 of 31 May).
Article 9(2) of the Code of Administrative Procedure (CPTA) extends this standing to the Public Prosecutor's Office in the context of administrative proceedings.
According to Article 20 of the Law on Popular Action, this legal standing does not require an advance on costs.

In addition, the CRP recognises the right to complain to the Ombudsman (Article 23) and the right to petition, complain and report to sovereign bodies or other public authorities.
Citizens may also defend environmental assets or interests in administrative proceedings by exercising their right to procedural participation (Article 267(4) of the CRP).

The Climate Framework Law provides that the state and local authorities can be held liable for failing to fulfil their climate obligations (Article 5), which means that citizens or organisations can take legal action against the state for failing to ensure the proper implementation of climate policy.

➥ Is the legal pursuit of this right regulated?

yes

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

yes

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

Portugal does not have a specific law dealing exclusively with ecological damage caused by climate change, but there is a set of rules that can be applied in such cases: - Basic Climate Law (Law No. 98/2021, of 31 December) - Legal Regime of Liability for Environmental Damage (Decree-Law No. 147/2008) - Environmental damage may give rise to civil liability: Article 483 of the Civil Code states that anyone who causes damage to another person is obliged to repair it.

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

yes X

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 X

Legal entity under public law X

Other organisational unit X

- The State, through the Ministry of the Environment and Energy (Decree-Law No. 32/2024 of 10 May) and local authorities have a duty to promote public policies that ensure climate change mitigation and adaptation. - Agência Portuguesa do Ambiente (APA) - Decree-Law no. 56/2012, of 12 March - Instituto Português do Mar e da Atmosfera (IPMA) - Decree-Law no. 68/2012, of 20 March - Direção-Geral de Energia e Geologia (DGEG) - Decree-Law no. 130/2014, of 29 August - Conselho Nacional do Ambiente e do Desenvolvimento Sustentável (CNADS) - Decree-Law no. 221/97, of 20 August - Agência para o Clima, I. P. (ApC, I. P.) (ApC, I. P.) - Decree-Law no. 122/2024, of 31 December

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

- conducting comparative studies and surveys? no ☐
- monitoring the implementation of measures and the achievement of objectives? yes x
  no ☐
- evaluating research carried out on climate change? yes
  x
  no ☐

- **Collection and processing of scientific data** - In Portugal, the main body responsible for collecting, processing and managing climate and environmental data is the Portuguese Environment Agency (APA) - art. 3, no. 2 of Decree-Law no. 56/2012, of 12 March. The Portuguese Sea and Atmosphere Institute (IPMA) is also responsible for meteorological and climatological monitoring, providing essential data for understanding and forecasting atmospheric phenomena - art. 3, no. 2 of Decree-Law no. 68/2012, of 20 March. º 68/2012, of 20 March;
- **Monitoring the implementation of measures and the achievement of objectives** - In Portugal, the main body responsible for monitoring the implementation of measures and the achievement of climate objectives is the Portuguese Environment Agency (APA) - art. 3, no. 2 of Decree-Law no. 56/2012, of 12 March.
  In addition to the APA, the Climate Agency (ApC) has the mission of leading and coordinating national strategies to combat climate change, including the development and implementation of public climate action policies, raising awareness of society towards more sustainable models and collaboration with European and international institutions - article 4 of Decree-Law no. 122/2024, of 31 December.
- **Evaluating research carried out on climate change** - the APA and ApC mentioned above.

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

- **Portuguese Environment Agency (APA)** - The APA is the main body responsible for implementing climate policy in Portugal. It is a public institution of the indirect administration of the State, with administrative and financial autonomy and its own assets. It develops national policies for adaptation to climate change, promotes their follow-up, monitoring and evaluation, liaises with different sectors and supports the development of adaptation programmes and measures.

  It is composed of the Board of Directors, the Single Auditor, the Advisory Board and the River Basin District Councils.

  Personalities of recognised merit in the area of APA, I.P.'s tasks may sit on the Board of Directors, and representatives of other entities working in APA, I.P.'s areas of intervention may be invited to attend meetings of the Advisory Board.

  Personalities of recognised merit in the field of APA, I.P.'s activities may be part of the

Advisory Board, and representatives of other entities working in APA, I.P.'s areas of intervention may be invited to participate in Advisory Board meetings.

Most of the members of the Advisory Council are appointed by the member of the Government responsible for the Environment.

- **Instituto Português do Mar e da Atmosfera (IPMA)** - A reference centre for climate and meteorological research. It is a public institute, part of the indirect administration of the State, with administrative and financial autonomy and its own assets.

  The IPMA, I.P., carries out the tasks of the Ministry of Economy and the Ministry of Agriculture and Fisheries, under the supervision and guidance of the respective ministers.

  Its structure is made up of the Board of Directors, the Governing Council, the Scientific Council, the Joint Committee, the Monitoring Unit, the Single Auditor, the Technical and Scientific Departments (Department of the Sea and Marine Resources (DRMM), Department of Meteorology and Geophysics (DMG), Department of Administration and Infrastructure (DAI)) and the Regional Delegations (Article 4 of Decree-Law No. 68/2012 of 20 March).

  The Governing Council is made up of a number of members appointed by decree of the Government.

  The Scientific Council is made up of all those who work at the institution in any capacity, including as scholarship holders, whether nationals or foreigners, provided that they hold a doctorate or equivalent degree, have passed the tests for access to the category of assistant researcher or, in the case of scholarship holders, have passed the tests for access to the category of assistant researcher or, even if they do not have these qualifications, are engaged in research at a level equal to or higher than that of assistant researcher or in university teaching at a level equal to or higher than that of assistant professor. The President of the Scientific Council shall be elected by secret ballot by a simple majority of the votes cast.

  The composition of the Supervisory Board, including the Chairman, is proposed by the Management Board and approved by the member of the Government responsible for the maritime sector.

  The Joint Committee is composed of two representatives of IPMA, employees of I.P., elected by the latter, and two representatives of the Board of Directors, appointed by the latter.

- **Directorate-General for Energy and Geology (DGEG)** - The body responsible for energy policy and climate change. It is a service of the direct central administration of the State.

- **National Council for the Environment and Sustainable Development (CNADS)** - An independent advisory body that evaluates environmental and climate policies. It is an independent, consultative body that works with the Minister of the Environment.

  This Council is made up of a President appointed by the Council of Ministers, between five and eight members also appointed by the Council of Ministers (one of whom is appointed by the Ministry of the Environment), one member appointed by the Regional Government of the Azores and one member appointed by the Regional Government of Madeira of Madeira.

  The Council also includes three members nominated by environmental associations, two members nominated by the National Association of Portuguese Municipalities, two members nominated by industrial associations, two members nominated by trade associations, two members nominated by farmers' associations, two members nom two members appointed by trade associations, two members appointed by farmers' associations, two members appointed by socio-professional environmental associations, two members appointed by trade union organisations and two members appointed by the Council of Rectors. Finally, the Council may also include three members co-opted from among personalities of recognised merit in the field of the environment, in accordance with its rules of procedure.

- **Agência para o Clima, I.P. (APC, I.P.)** - A public body, part of the indirect administration of the State, with administrative and financial autonomy and its own assets.

  APC, I.P. carries out its tasks under the supervision and control of the member of the Government responsible for the environment, in coordination with the members of the Government responsible for the economy and agriculture.

  Dedicated to combating climate change and implementing strategies for a sustainable and resilient economy, this body has strategic responsibility for climate change mitigation and adaptation with a particular focus on decarbonising the economy, promoting renewable energy and energy efficiency. It will be responsible for coordinating and implementing policies such as the National Energy and Climate Plan (PNEC 2030).

  ApC, I.P.'s governing bodies are the Board of Directors and the Single Auditor.

  The Board of Directors of ApC, I. P. consists of a Chairman, a Deputy Chairman and two members. Three of the members of the Board of Directors are appointed on the proposal of the member of the Government responsible for the environment, after hearing the members of the Government responsible for the economy and agriculture, in accordance with the provisions of the Manager's Statute Public. The third member is appointed on the proposal of the member of the Government responsible for Finance,

in accordance with the provisions of the Public Manager's Statute.

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

- **Portuguese Environment Agency (APA)** - Has executive and decision-making powers in the implementation of environmental and climate policies, the management of natural resources and the achievement of national and European objectives.

- **Instituto Português do Mar e da Atmosfera (IPMA)** - Although focused on the production and management of scientific data, IPMA has decisive technical authority in issuing meteorological and seismic alerts and other natural phenomena that require a state response.

- **Directorate-General for Energy and Geology (DGEG)** - This is a public administration body with executive powers. It has the authority to regulate, supervise and implement public policies in the fields of energy (including renewable energy, electricity, fuels) and geological resources (such as mines and quarries).

- **National Council for the Environment and Sustainable Development (CNADS)** - This is an independent advisory body with no executive powers. It issues opinions on public policies and strategies related to the environment and sustainability.

- **Agência para o Clima, I.P. (ApC, I.P.)** - Manages financial instruments such as the Environment Fund and has executive powers to implement decarbonisation and energy transition strategies.

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

1. **National Council for the Environment and Sustainable Development (CNADS)** - The government's independent advisory body on the environment (Article 2 of Decree-Law 221/97 of 20 August):
   - Must be consulted in advance on environmental and climate policies and regulations.
   - It issues opinions and recommendations on climate change regulations.
   - It can propose amendments to regulations before they are adopted.

2. **Mandatory public consultation** - Mandatory public consultation before climate regulations are adopted (Article 23 of the Basic Climate Law - Law No. 98/2021):
   - All environmental and climate regulations must be subject to public consultation, ensuring that the following entities are heard

a) Autonomous regions;

b) Regional Coordination and Development Commissions;

c) the National Association of Portuguese Municipalities;

d) the National Association of Parishes

e) the Economic and Social Council; and

f) National Council for the Environment and Sustainable Development.

- The "ConsultaLEX" portal publishes draft laws and receives contributions from civil society and specialised bodies.

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

The Basic Law on Climate guarantees the public's right to participate in the drafting of climate legislation and plans; it obliges the state to ensure open and transparent public consultations and requires that contributions be duly considered before new regulations are approved.

Decree-Law 151-B/2013 of 31 October provides for mandatory public participation in the assessment of projects that may have an impact on the climate and the environment.

➥ Is access to relevant information guaranteed?

yes X

no ☐

Yes. We have relevant legislation on this:

1. Law no. 26/2016, of 22 August, establishes the system of access to administrative and environmental information, transposing Directive 2003/4/EC of the European Parliament and of the Council (on public access to information on the environment) into national law.
2. The Basic Environmental Law - Law No. 19/2014 of 14 April - explicitly recognises the right of access to environmental information as a right of citizens and an obligation of the State (Articles 6 and 14).
3. Aarhus Convention (ratified by Portugal by Decree of the President of the Republic no. 9/2003 and Resolution of the Assembly of the Republic no. 11/2003) - Binding international treaty guaranteeing access to environmental information, public participation in environmental decision-making and access to justice in environmental matters.
4. Law on Access to Administrative Documents - Law No. 26/2016, of 22 August - regulates the right of any person (citizen, company, organisation, etc.) to access documents held by public or private entities exercising public functions.

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 2023, three environmental associations brought a popular action against the Portuguese state, with a formulation of the claim that was considered by the judgement of The Supreme Court of Justice of 19/09/2024, case no. 28650/23.0T8LSB.S1, to be identical to that accepted in climate actions brought in other states, specifically referring to the case of VEREIN KLIMASENIORIN-NEN SCHWEIZ AND OTHERS ET AUTRES v. SUISSE (53600/20). The Supreme Administrative Court has not yet addressed the legal issues raised by climate change.

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:

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

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

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

Although the division of powers referred to in the questions is correct, two problems arise in Portugal. The first is historical: until the 2004 reform, administrative litigation was interpreted as limited in

terms of guaranteeing the rights of those subject to administrative law, which meant that, traditionally, some essentially administrative matters were assigned by law to civil jurisdiction because it was the only one recognised as independent. This has now changed, but some remnants remain, such as the non-assignment to administrative jurisdiction of disputes relating to environmental offences.
The second concerns the unclear distinction between fundamental rights and rights of personality, which means that some disputes, which typically concern administrative matters relating to the fundamental rights of citizens, are classified by the parties as 'matters of personality' and thus 'accepted' for decision by the civil courts, as appears to be the case in case 28650/23. 0T8LSB.S1.

II.B.1. In your country, does the legislation provide for a specific remedy for cases relating to the climate crisis? These are not really specific remedies. Article 6 of the Climate Law (Law No. 98/2021) refers to typical requests that can be made in administrative proceedings under the Code of Administrative Procedure (CPTA).

If so:

- Which courts have jurisdiction to hear such cases?

Administrative courts

- What is the composition of these courts?

Judges with legal training

- What are the main features of the relevant remedies?

These include all types of protective measures, both precautionary (suspension of the effects of acts or anticipation of the effects of measures to prevent and protect rights and property - Article 112 of the CPTA) and primary, by means of administrative measures which may take the form of annulment, condemnation, compensation and, in certain cases, even substitution (Article 37 of the CPTA).

In addition, there is an urgent procedure of principal protection which, under certain conditions of urgency, makes it possible to order public or private bodies with public powers to take the necessary measures to ensure the protection of rights, freedoms and guarantees (Articles 109 to 111 of the CPTA).

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	**X**
full jurisdiction remedies for the recognition of a right	**X**
actions for damages	**X**

remedies for the protection of the applicant's personality	**X**
procedures for requesting interim measures	**X**

yes ☐

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,

no

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

In addition to what was mentioned in II.B.1, Portugal provides rules to hold companies and public entities liable for climate damage:

- Decree-Law No. 147/2008 of 29 July establishes that polluters must repair the environmental damage they cause;
- The Climate Framework Law requires companies to implement climate risk mitigation plans.
- The state can be held liable for failing to adapt and protect citizens from extreme weather events.

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

Not really.

At the Centre for Judicial Studies (the 'school' for the judiciary), the last training on environmental issues for judges of the administrative and tax courts took place in 2022, and for the general courts it was also in 2022 on environmental crimes.

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

X 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?

It is exclusively an ultra vires review and is subject to a decision on the admissibility of the appeal in accordance with the rules and criteria laid down in Article 150 of the CPTA.

1 - Decisions of the second instance of the Central Administrative Court may, in exceptional cases, be reviewed by the Supreme Administrative Court if they concern the assessment of a matter which is of fundamental importance because of its legal or social relevance, or if the granting of the appeal is clearly necessary for the better application of the law.

2 - The review may be based only on a breach of substantive or procedural law.

3 - The court of review shall apply definitively the law which it considers appropriate to the facts established by the court of appeal.

4 - Errors in the assessment of evidence and in the determination of the material facts of a case shall not be subject to review, except in the case of a violation of an express provision of law which requires a particular type of evidence for the existence of a fact or which establishes the validity of a particular type of evidence.

5 - When reviewing a decision to grant or refuse interim relief, the Supreme Administrative Court, if it does not uphold the judgment under appeal, shall replace it with a decision that resolves the disputed issue by applying the criteria for granting interim relief by reference to the facts established in the lower courts.

6 - The decision as to whether the conditions of paragraph 1 are met in a particular case shall be taken by the Supreme Administrative Court and shall be subject to a preliminary summary assessment by a panel of three judges from among the most senior judges of the Administrative Litigation Section.

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.

As we have seen above (II.B.1.), the administrative process is now complete and very broad, with precautionary, principal and enforcement measures. It even includes a form of urgent protection of rights, freedoms and guarantees, so that it would be pointless to create special means.
Not even in terms of legal standing, since protection in general allows for broad legal standing to defend environmental values. Article 9, point Article 9, no.2 of the CPTA states that *"any person, whether or not having a personal interest in the claim, as well as associations and foundations defending the interests in question, local authorities and the Public Prosecutor's Office, shall have the right to bring and intervene, under the conditions laid down by law, any person, as well as associations and foundations defending the interests in question, local authorities and the Public Prosecutor's Office may, in accordance with the law, bring and intervene in main and interim proceedings aimed at defending values and assets protected by the Constitution, such as public health, the environment, town and country planning, quality of life, cultural heritage and the assets*

of the State, the Autonomous Communities and the local authorities, as well as promoting the enforcement of the relevant judicial decisions".

- 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?

We do not have special rules of procedure developed by case-law.

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)?

YES

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]?

In addition to the provisions of Article 9(2) of the CPTA (see II.D. above), we can also refer to the legal regime of popular action.
Thus, 'any citizen exercising his or her civil and political rights' (first part of Article 2(1) of Law 83/95 of 31 May) is entitled to popular action, without having to invoke a qualified interest.
Also entitled to popular action are 'associations and foundations defending the interests referred to in the previous article [diffuse interests], whether or not they have a direct interest in the claim' (second part of Article 2(1) of Law 83/95 of 31 May), provided, of course, that the intervention is covered by their respective statutes.

Finally, local authorities also have the right of popular action 'in relation to interests for which they are responsible in the territory of their respective districts' (Article 2(2) of Law 83/95 of 31 May).

- 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?

In order to assess active legitimacy for the exercise of popular action, it is important to weigh up the nature of diffuse goods and interests in their various forms, and whether these interests are actually in need of popular protection, which means that this weighing up must always start from the object of the process, as configured by the plaintiff, in the consideration of the request and the cause of action.

In the context of popular action, a concept of diffuse, indirect or impersonal active legitimacy has been established, since active legitimacy in this action is not assessed in a concrete and case-by-case manner, but rather in a general and abstract manner. For the plaintiff to be considered a legitimate party, it is sufficient that he or she belongs to certain categories of subjects and that he or she acts to promote legality and protect constitutionally protected goods.

- All citizens exercising their civil and political rights, without the need to invoke a qualified interest.
- Associations and foundations defending diffuse interests, whether or not they have a direct interest in the claim, provided, of course, that the intervention is covered by their respective statutes.
- Local authorities in the interests of the inhabitants of their respective districts.

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

In the popular action, the gathering of evidence by the judge and the inquisitorial principle are specifically reinforced, with the judge taking his own initiative in the gathering of evidence, without being bound by the initiative of the parties (Article 17 of Law 83/95).

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?

We are not involved in any litigation relating to government action or inaction specifically related to climate change.

But we have had some interesting cases decided by the Supreme Administrative Court (STA) in environmental matters:

- In case 0848/08, of 07.01.2009, the STA ruled that the concessionaire of a dam was obliged by article 3, al. a/ii, of Law no. 19/2006, of 12 June, to provide environmental information to an NGO (Querqus) on aspects related to the project's environmental impact assessment procedure;
- In case 059/29.4BEPDL, of 24.06.2021, the STA ruled that an NGO had no legal standing to challenge a decision to open a Public Tender for the Design, Construction and Supply of a Waste-to-Energy Plant on São Miguel Island.
- In case 010/20.1BEMDL-A, of 08.06.2020, the STA ruled, in the context of injunctive relief, that the government's imposition on a municipality of the obligation to amend an urban planning instrument to accommodate the construction of a new high-voltage power

line violated the autonomy of local power.

- In case 01001/16, of 16 February 2017, the STA ruled that under the EIA legal regime, the licensing of a co-incineration activity could be exempted from that

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

Active legitimacy:

- Natural and legal persons (any affected citizen can bring an action).
- Environmental NGOs.
- The public prosecutor's office (can act in defence of diffuse and collective interests - Article 18 of the Code of Administrative Procedure).

Legal basis: Basic Law on Climate (Article 26), Law on Popular Action (Law 83/95) and Article 9 of the CPTA.

- Legitimate interest and legal justification:
- Must show that the omission violates the climate commitments of the state or a private entity.
- Failure may be due to lack of regulation, lack of monitoring or failure to meet climate targets.

Deadlines vary depending on the action:

- For administrative actions - 3 months after the omission is discovered (CPTA, Article 58).
- For environmental popular actions - Up to 5 years after the environmental damage is established (Law 83/95, Article 5).
- For environmental civil liability - Up to 20 years if the damage is continuous (Civil Code, Article 498).

➥ 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]? NO

➥ 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]?

There is no litigation, but there are relevant cases:

Almaraz nuclear power plant (Spain): The Spanish government notified Portugal of the ATI project, triggering the formal transboundary consultation procedure. Portugal (through the Portuguese Environmental Agency - APA) analysed the documentation, requested additional information, held a public consultation in Portugal and presented the Portuguese position to the Spanish authorities, expressing concerns about risks and safety. This is perhaps the most high-profile and clear example of cross-border EIA involving the two countries, with Portugal as a

potential recipient of the impacts.

Retortillo Uranium Mine (Salamanca, Spain): This project also raised concerns in Portugal about potential transboundary environmental impacts, in particular on the water quality of the International Douro River and associated ecosystems. Information and consultation procedures were initiated between Spain and Portugal, in which NGOs and the Portuguese public expressed their concerns.

Alqueva dam (Portugal): In this case, cross-border cooperation focused more on water resource management under the Albufeira Convention (which governs the management of the Portuguese-Spanish river basin) than on a formal cross-border EIA procedure initiated by Spain for the Portuguese project under the Espoo Convention. However, the assessment of downstream impacts in Spain was an important component.

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?

Regarding political decisions by legislators or administrators - Environmental law has constitutional dignity and is part of fundamental personality rights from an anthropocentric perspective. The constitutional paradigm of judicial review of legislative restrictions or limitations of fundamental rights is not limited to the 'minimum content' of the right to a humane, healthy and ecologically balanced living environment. The need to restrict rights 'in order to safeguard other constitutionally protected rights or interests' (Article 18(2) of the Constitution) is recognised, with this function entrusted to the legislature, whose decisions are subject to judicial review. The division of powers between the legislature and the judiciary is essentially determined by the intensity of judicial control of the proportionality of legislative measures; the more rigorous the control, the smaller the margin of discretion available to the legislature, based on the democratic principle and the separation of powers, to give precedence to its own assessment.

With regard to the balancing of conflicting interests - In the event of a conflict of rights, the key to the judge's decision as to which of the rights should prevail and how the rights in question should be reconciled lies in the principle of proportionality, which is enshrined in the last part of Article 18(2) of the Constitution of the Portuguese Republic and which, through its three sub-principles of which, through its three sub-principles of adequacy, enforceability and fairness, provides a formal tripartite structure for weighing, on a case-by-case basis, the objectives pursued by the rules, the goods, interests and values in conflict, the possible measures and their effects, in order to establish a balanced relationship between the conflicting rights.

For example, in the case of conflict between the fundamental right to a healthy and ecologically balanced living environment, enshrined in Article 66(1) of the Constitution of the Portuguese Republic, and the right to freedom of economic initiative and private property, also guaranteed by

Articles 61 and 62 of the Constitution of the Portuguese Republic, the search for the instrument that best promotes the supreme value of human dignity must necessarily constitute a guiding principle for the solution of the specific case.

With regard to assessments of an essentially technical nature, technical expert opinions do not constitute binding evidence. However, where questions of an essentially technical nature are involved, the court must, in principle, follow the technical opinion.

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.

Our most relevant example in this area is still the ruling that analysed the compatibility of wind farms in Special Protection Areas under the Birds Directive, which summarises as follows

"I - Special Protection Areas (SPAs) define the most suitable territorial areas for the specific purpose of protecting the birds listed in Annex A-1 of DL 140/99 of 24 April 1999, as well as migratory birds whose frequency in the national territory is regular, in order to avoid changes in these areas with significant negative impact on the survival conditions of these species. 4, as well as migratory birds that regularly pass through the national territory, in order to avoid alterations to these areas that would have a significant negative impact on the survival conditions of these species. The creation of Special Protection Areas, through DL 140/99 and 384-B/99, of 23.9, corresponds to the transposition into national law of the regulation required by the Council Directive of 2 April 1979 on the conservation of wild birds, 79/409/EEC.

II - The authorisation or licensing, in the Special Protection Area (SPA) of the South West Coast, of a wind farm for the production of electricity involving the installation of a number of towers greater than that indicated in paragraph 3 of Annex II to Article 1. No. 2 of DL 69/2000 of 3 May 2000 concerns a project for a sensitive area (Article 2(2)(b)(i) of DL 69/2000) and is therefore subject to an environmental impact assessment.

III - A negative Environmental Impact Statement (EIS) issued by the competent member of the Government is the decision issued in the EIA procedure declaring the project unfeasible, the legal force of which determines the nullity of acts which do not comply with the content of the statement or which "disregard" it - Article 20. Nos. 1, 2 and 3 of DL 69/2000.

Given these characteristics, if the DIA is unfavourable or imposes conditions that the proponent does not accept, it is subject to contentious appeal (after 1.1.04 of challenge in AAE) on the basis of any of the defects inherent in administrative decisions that are binding on individuals.

IV - Article 10 of Legislative Decree 140/99 allows that, despite the conclusion of the EIA or Environmental Impact Assessment that a project will have a negative impact on an SPA or other protected area, if there is no alternative solution and if there are overriding reasons of public interest, taking into account the conditions set out in this provision, an exception to the impossibility of carrying out the project may be made by a joint decision of the Minister for the Environment and the competent Minister, authorising the project.

It is not a negative EIS that is a prerequisite for this exception, but rather the complex situation

described above".

X 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?

Only the Constitutional Court, within the scope of its abstract review, may limit the effects of a declaration of unconstitutionality or illegality, in particular retroactive effects, by weighing the conflicting interests.

The Constitutional Court may issue a declaration of unconstitutionality or illegality without *ex tunc* effect, but with effect from a later date, e.g. from the date of the declaration.

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.

When it comes to "technical discretion", we are not really dealing with an area of free administrative judgement that can be reviewed in a similar way to the review of administrative discretion, since the principles of proportionality or equal treatment have little or no value when the issue is technical in nature (e.g. determining the best techniques). In this case, the court's control is essentially based on external assumptions of legality (compliance with procedural rules in the preparation of the elements of the decision) or on the existence of a manifest or gross error, which only allows the evidence presented to be annulled.

There are no examples in environmental matters, only in the technical aspects of public procurement (e.g. case 071/24.4BELRA, of 04/12/2024).

➥ 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]?

- **Appointment of experts -** Under the Code of Civil Procedure (Articles 467 et seq.), the judge may appoint experts whenever the case involves technical, scientific or specialised matters.
- **Technical opinions -** The parties may submit opinions from lawyers, professors or technical experts (Article 426 of the Code of Civil Procedure), which only represent an opinion on the solution to be given to a particular problem and are therefore not binding on the court, although they should not be disregarded in situations where they are persuasive and useful for the proper resolution of the case.
- **Assistance from specialised scientists -** Although there is no formal mechanism for the permanent presence of scientists in court, if the facts of the case raise technical difficulties whose solution depends on special knowledge that the court does not possess, the judge may appoint a competent person to attend the final hearing and provide the necessary clarifications, as well as to request, at any stage of the proceedings, the technical opinions necessary to ascertain the truth of the facts. Judges may therefore call upon scientific experts, universities and research centres to provide technical opinions. In addition, certain regulatory or public bodies may be called upon to provide technical clarification (Article

601 of the CPC).

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

- Assessment of Evidence
- Appointment of Experts for Technical and Scientific Issues
- Intervention of Specialists
- Consideration of the Principles of Precaution and Proportionality

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?

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

In Portuguese courts, the issue of causality of environmental damage is dealt with on the basis of the general rules of civil liability, but with some specific features due to the diffuse and complex nature of environmental damage. Liability for environmental damage can be civil, administrative or criminal, depending on the offence and the environmental impact. The relevant legislation includes

The Environmental Liability Law (Law No. 147/2008 of 29 July), which transposes Directive 2004/35/EC and imposes an obligation to prevent and remedy environmental damage.

The non-contractual civil liability regime (Articles 483 et seq. of the Civil Code), which requires proof of a causal link between the unlawful act and the damage.

Causality is analysed in accordance with the theory of adequate causality provided for in Article 563 of the Civil Code, according to which, in order for a fact to be the cause of damage, it must be, on a naturalistic level, a condition without which the damage would not have occurred and, in addition, on a general and abstract level, it must be an adequate cause of that damage.

The fact which served as a condition for the damage should only be considered as an adequate cause of the damage if, in view of its general nature and in the light of the rules of common experience, it is irrelevant to the occurrence of the damage and does not alter the "circle of risks" of its occurrence, bearing in mind that adequate causality does not refer to the fact and the damage con-

sidered in isolation, but to the factual process which, in concrete terms, led to the damage within the general or abstract capacity of that fact to produce the damage.

The overall assessment of adequate causality, which does not refer to a fact and the damage considered in isolation, must be based on an objective retrospective prognosis formulated on the basis of the known and knowable circumstances of the entire factual process which, in concrete terms, caused the injury and damage, within the scope of its general or abstract capacity to produce that damage.

In environmental cases, this assessment may be complex because the damage may result from multiple sources of pollution or from combined actions of different agents, and there may be a significant time lag between the action and the damage.

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

yes x

no □

The Portuguese Civil Code, in Articles 496 and 483, provides for the possibility of compensation for non-pecuniary damage (moral damage), provided that the following is proved

- The existence of damage (such as mental suffering, emotional distress or loss of quality of life).
- The causal link between the damage and the wrongful act.
- The seriousness of the damage (the damage must be significant enough to justify compensation).

In environmental disputes, moral damage may be recognised as individual moral damage (where an individual suffers direct effects on his or her health, well-being or quality of life as a result of pollution, excessive noise, environmental degradation or contamination of natural resources) or collective or diffuse moral damage (although case law is more restrictive on this point, legal doctrine recognises that groups of citizens may claim collective moral damage where there is a significant impact on the environment and the quality of life of the population).

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

We do not have any cases in which the polluter pays principle has been applied to climate change issues, but we do have interesting examples of this principle.

This is the case of the eco-tax in the Autonomous Region of Madeira, which was recently ruled against by the Constitutional Court in case no. 545/2024.

This ruling by the Portuguese Constitutional Court dealt with an appeal by A., SA against the "Ecotax", an environmental tax levied by the Autonomous Region of Madeira (RAM) on non-reusable packaging for alcoholic beverages. A., SA challenged the Regional Legislative Decree establishing the tax (Regional Legislative Decree No. 8/2012/M), arguing that it was unconstitutional on several grounds, including organic unconstitutionality (lack of regional competence to establish taxes) and substantive unconstitutionality (breach of the principles of equality and proportionality). The company also argued that the tax was unlawful because it

violated several national and regional laws. The case originated from A., SA's challenge of the Ecotax assessments from early 2021, following an initial favourable decision that was subsequently overturned by the Supreme Administrative Court. The tax authority defended the tax on the basis of the competence of the regional assembly and the nature of the tax as a valid environmental measure.

The Court first limited the scope of the appeal to constitutional parameters, excluding arguments based on violations of other laws, such as the LFRA or the CIEC, since this specific type of appeal (under Article 70(1)(b) of the LTC) is limited to constitutional review. The Court then went on to characterise the ecotax, concluding that it was not a fee or a contribution, but a genuine tax. In essence, it classified it as a genuine environmental tax intended primarily for non-fiscal purposes, specifically to encourage the use of reusable packaging and reduce waste, and not to raise revenue. With regard to the challenge based on organic unconstitutionality, the Court confirmed that the Constitution grants the Autonomous Communities their own taxing power (Article 227(1)(i) of the CRP), which allows them to create regional taxes as an exception to the general competence of the National Assembly. The fact that the ecotax is an environmental tax or that it shares collection procedures with a national tax (IABA) does not invalidate this power. Consequently, the Court did not find any organic unconstitutionality.

With regard to the allegations of material unconstitutionality, the Court rejected the argument that the tax violated the principle of equality by taxing only alcoholic beverage packaging. It considered that this particular case was justified by the particular environmental challenges posed by the consumption patterns of those products and that it did not arbitrarily target certain undertakings, but applied to any operator putting such packaging into circulation in Madeira. As regards the allegation of disproportionality, the Court acknowledged the impact of the tax on the freedom of establishment but considered it proportionate. It clarified that the costs paid to the national SIGRE/Ponto Verde system are intended for the management of waste already produced, whereas the Ecotaxa is intended to reduce the production of waste by promoting reuse. The tax is considered to be a less intrusive measure than possible total bans, offering flexibility to economic operators (e.g. change of packaging, passing on of costs to consumers) while at the same time achieving environmental objectives. Consequently, the Court dismissed the appeal on the grounds of constitutionality, holding that the principles of equality and proportionality had not been infringed [133, 134(a), 134(b)].

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?

We do not yet have any court rulings in Portugal that address this specific issue.

- Please mention the measures that the judge may order.

We do not yet have any court rulings in Portugal that address this specific issue.

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

We do not yet have any court rulings in Portugal that address this specific issue.

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 specific procedure to verify whether the legislature and/or the administration have taken the necessary measures to comply with a court decision. There are, however, mechanisms for monitoring the execution of court decisions:

1) Control of the public administration

- If a court decision imposes an obligation on the public administration, non-compliance can be challenged through
- Appeals for the enforcement of administrative judgments (Articles 159 to 166 of the Code of Procedure in Administrative Courts - CPTA), which allow the interested party to seek compliance through the courts.
- Penalties for non-compliance (compulsory fines for those responsible for non-compliance, in accordance with Article 169 of the CPTA).

2) Legislative control

- When a court decision requires the adoption of specific legislation, monitoring compliance is more complex.
  - Appeals to the European Court of Human Rights (ECHR) - if the Portuguese State fails to take measures to comply with court rulings concerning fundamental rights.

- 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?

We do not yet have any court rulings in Portugal that address this specific issue.

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?

Yes. Judgement of The Supreme Court of Justice of 19/09/2024, case no. 28650/23.0T8LSB.S1

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

Yes. Judgement of The Supreme Court of Justice of 19/09/2024, case no. 28650/23.0T8LSB.S1

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

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]?

No

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

X as an obligation based on national law

X 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?

No

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

Although the Paris Convention has been fully incorporated into Portuguese law, there are no records of court decisions in Portugal that have addressed or explicitly declared its legally binding nature.

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]

In 2023, three environmental associations brought a popular action against the Portuguese state, with a formulation of the claim that was considered by the judgement of The Supreme Court of Justice of 19/09/2024, case no. 28650/23.0T8LSB.S1, to be identical to that accepted in climate actions brought in other states, specifically referring to the case of VEREIN KLIMASENIORINNEN SCHWEIZ AND OTHERS ET AUTRES v. SUISSE (53600/20).

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?

So far, there is no record of Portuguese courts referring questions specifically related to climate change to the Court of Justice of the European Union (CJEU) or the European Court of Human Rights (ECHR).

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 ☐

Although there are few legislative expressions on the issue of overtourism, it is not unknown among us, having already been expressed in some policies such as

Local Accommodation (LA) and its responsibility for the housing crisis:

Problem: The massive proliferation of Local Accommodation units (apartments and houses for short-term rental to tourists), especially in Lisbon and Porto, is seen as one of the main causes of the housing crisis. Critics, mostly opposition parties from both the left and the more radical right, argue that the conversion of long-term housing into LA has removed housing from the traditional rental market, inflated rents and property prices, displaced long-term residents (gentrification) and de-characterised historic neighbourhoods.

Protest:

Protests and demonstrations: Several demonstrations were organised by civic movements (e.g. 'Morar em Lisboa', 'Stop Despejos') and residents' associations demanding the right to housing, strict regulation of LA and an end to evictions. The slogan 'Houses are for living' became common to these movements.

Political pressure: Strong pressure on city councils (Lisbon, Porto) and the government to implement measures. This led to the creation of 'containment zones' where new LA licences were suspended or restricted.

Public debate: The issue dominates the public and media debate on housing and tourism.

Government action: The 'More Housing' programme (2023), although controversial and subject to subsequent changes, included measures such as the suspension of new LA licences (except in low-density areas) and tax incentives for owners to convert LA into long-term rentals.

Pressure on infrastructure and public services:

Problem: In areas of high tourist concentration, public transport, waste management, sanitation, security and even health services are overstretched.

Objection: Residents and local associations complain about the deterioration of the quality of life due to the pressure on these services, and demand better planning and investment to accommodate both residents and tourists, or limits on the number of visitors.

Congestion and noise:

Problem: Excessive numbers of tourists, especially in certain areas (monuments, historic neighbourhoods), cause severe pedestrian and road congestion. Vehicles such as tuk-tuks and tourist buses contribute to noise and pollution.

Objection: Residents of neighbourhoods such as Alfama, Bairro Alto (Lisbon) or Ribeira (Porto) complain about the constant noise (day and night) and the difficulty of getting around. In Sintra, car access to the mountains has been restricted because of the traffic chaos caused by visitors to the palaces. In Lisbon, there have been specific protests against the proliferation and lack of regulation of tuk-tuks.

Environmental impact:

Problem: In coastal areas (Algarve) and natural areas (Azores, Sintra, Gerês), excessive numbers of visitors raise concerns about erosion, littering, pressure on water resources and disturbance of wildlife. The environmental impact of cruises (air pollution in the ports of Lisbon and Funchal) is also criticised.

Controversy: Environmental NGOs and citizens warn of the need to limit access to more sensitive sites and to promote more sustainable tourism.

Loss of identity and authenticity:

Problem: Excessive 'touristification' leads to the replacement of traditional trade with souvenir shops, standardised restaurants and services aimed exclusively at tourists, resulting in the loss of character and identity of neighbourhoods.

Contestation: Residents' associations and cultural movements deplore de-characterisation and defend the protection of local commerce and traditions.

Examples of neighbourhoods with strong resistance:

Lisbon: Alfama, Mouraria, Graça, Bairro Alto, Cais do Sodré, Baixa (mainly because of AL, noise, crowds, cruises, tuk-tuks).

Porto: Historic Centre, Ribeira (AL, crowds).

Sintra: Historic area of the Serra (traffic congestion and visitors).

Algarve: Some coastal areas during high season (pressure on beaches and resources).

These protests are not limited to overtourism, but are often combined with protests against the so-called "gold visa" (Residence Permit for Investment Activity - ARI), a Portuguese programme that allows foreigners to obtain a residence permit in Portugal through investment, the easiest way being the purchase of houses worth more than 500,000 euros in Portugal, which is also a new movement in the housing crisis.

On the other hand, the issue is also intertwined with the issue of immigrants, not only because they are overcrowding housing in city centers, with risks to public health and even safety, but also because their

cultural and food traditions are asserting themselves in terms of socio-cultural transformations.

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? Yes

We have no specific national legislative measures to combat overtourism, apart from the **municipal tourist tax**, which started in Lisbon and now exists in many municipalities. But this is a measure that penalises nationals rather than discouraging tourism, since it is also paid by nationals who have to stay in hotels in these cities, even when travelling on business, as is often the case with trips to the capital, Lisbon. And the absence of these measures is particularly strange given that Portugal (Lisbon) is included in the European Parliament's Research for the TRAN Committee - Overtourism: impact and possible policy responses (IV.18).

I.C. Are there any relevant principles and guidelines at international level? **No**

- 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]?

Yes, there are many examples we can draw from the TRAN Committee - Overtourism: impact and possible policy responses, such as: spreading visitors with better transportation options, and tours, time-based rerouting or time-limiting visits; zoning systems…

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 the environment and quality of life, provided for in Article 66 of the CRP The right to housing and urban planning, provided for in Article 65 of the CRP

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)

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

yes ☐

noX

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

There is no mention of overtourism in the Tourism Strategy 2027 (ET2027), the national plan for tourism. The Tourism Strategy 2035 is currently being drafted, but it is not yet known whether it will address this issue.

This is probably because tourism in Portugal accounted for around 13% of GDP in 2023, during the post-pandemic recovery, and is expected to exceed 20% of national GDP in 2025.

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

National.

According to the basic law on tourism (Decree-Law No. 191/2009 of 17 August), the National Strategic Plan for Tourism is the basic instrument (Article 8).

The law emphasises the principles of environmental, social and economic sustainability in tourism.

According to Article 4, the principle of sustainability translates into the adoption of policies that promote

a) The enjoyment and use of environmental resources with respect for ecological processes, contributing to the conservation of nature and biodiversity;

b) Respect for the socio-cultural authenticity of local communities in order to preserve and promote their traditions and values;

c) The economic viability of enterprises as a basis for job creation, improved facilities and entrepreneurial opportunities for local communities.

But it makes no reference to overtourism

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

-the allocation of responsibilities for the management of 'hypertourism'? No

-other provisions concerning the organisation of the competent authorities?

No

The situation in Portugal is not very encouraging. In its publication of the European study, Turismo de Portugal (the body responsible for managing tourism policy in Portugal) simply concludes: *'The study concludes that a common set of indicators cannot be defined due to the complexity of the causes and effects of overtourism. The need to avoid excessive tourism requires the development of tailor-made policies resulting from cooperation between stakeholders and policy-makers'.*

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

No division of responsibilities between state and municipalities

➥ 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 ☐

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

No litigation yet

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? ☐

No litigation yet

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?

No litigation yet

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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