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Climate change-crisis / Overtourism
Questionnaire

Introduction

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

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Part A: Climate change-crisis

I. The regulatory framework

I.A. Supranational rules

I.A.1. Rules of international law

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

Kyoto Protocol ☒

Paris Accords ☒

Aarhus Convention (procedural matters) ☒

Other (please specify) ☐

➥ 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)

Generally accepted rules of international law and ratified international treaties are an integral part of the legal system in the Republic of Serbia and are applied directly. Ratified international treaties must comply with the Constitution.
Regarding the stated international instruments which refer to the climate changes, the following laws were

adopted:

1. Law on Ratification of the Kyoto Protocol with the United Nations Framework Convention on Climate Change ("Official Gazette of the RS – International Agreements", No. 88/2007);
2. Law on Ratification of the Paris Agreement ("Official Gazette of the RS – International Agreements", No. 4/2017);
3. Law on Ratification of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ("Official Gazette of the RS – International Agreements", No. 38/2009);

National legislation:

4. Law on Climate Change ("Official Gazette of the RS", No. 26/2021).

I.A.2. EU rules

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

In order to incorporate the international rules in its legislative framework, the Republic of Serbia adopted the Law on Climate Change in March 2021 ("Official Gazette of the RS", No. 26/2021), which aims to fulfill obligations towards the international community, specifically the UN Framework Convention on Climate Change, as well as the Paris Agreement. Second aim is the national legislation alignment with the EU legislation. In addition to the aforementioned law, four new laws were adopted in the mining and energy sector that take into account the use of renewable energy sources and the effects of climate change: the Law on Mining and Geological Exploration ("Official Gazette of the RS", No. 101/2015, 65/2018 – other law and 40/2021); the Law on Energy ("Official Gazette of the RS", No. 145/2014, 95/2018 – other law and 40/2021); the Law on Energy Efficiency and Rational Use of Energy ("Official Gazette of the RS", No. 40/2021); the Law on the Use of Renewable Energy Sources ("Official Gazette of the RS", No. 40/2021).

Additional laws which are relevant for climate changes:

1. Law on Meteorological and Hydrological Activities ("Official Gazette of the RS", No. 88/10);
2. Law on Disaster Risk Reduction and Emergency Management ("Official Gazette of the RS", No. 87/18);
3. Law on Reconstruction after Natural and Other Disasters ("Official Gazette of the RS", No. 112/15).

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

So far, no cases have been reported in which the European Court of Human Rights was addressed.

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

Not applicable.

I.B. Rules of national law

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

for the protection of the environment in general ☒

for climate change ☐

for the protection of health ☒

for the protection of young people or other population groups ☒

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

Contain only substantive rules? ☒

Or do they also establish procedural guarantees? ☒

Do they make explicit reference to: solidarity between generations? ☐

the rights of future generations? ☐

vulnerable groups? ☒

The Constitution of the Republic of Serbia contains procedural and substantive rules (guarantees) which refer to the protection of the environment in general, but also the health care and the protection of the vulnerable groups. For example, among the procedural rules, the Constitution provides for the right to access the information of public importance, which also includes information related to climate and environmental protection (Article 51 and Article 74), the right of the public to participate in decision-making (Article 74), the right to a fair trial (Article 32), the right to a legal remedy (Article 36), and others. Regarding the substantive guarantees, they primarily relate to fundamental rights and freedoms and minority rights, environmental protection (the right to a healthy environment and timely information about its condition (Article 74), the right to health care (Article 68), social protection (Article 69), etc).

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

yes ☒

no ☐

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

In 2021, the Republic of Serbia adopted the Law on Climate Change ("Official Gazette of the RS", No. 26/2021) which, in accordance with the Article 1, regulates "the system for limiting greenhouse gas emissions (hereinafter: GHG) and for adapting to changed climate conditions, monitoring and reporting on the low-carbon development strategy and its improvement, the climate adaptation program, adoption of the low-carbon development strategy and the climate adaptation program, issuing permits for GHG emissions to the operator of the facility, issuing approvals for the monitoring plan of aircraft operators, monitoring, reporting, verification and accreditation of verifiers, administrative fees, supervision and other issues of

importance for limiting GHG emissions and adapting to changed climate conditions. The procedure of an issuance, a withdrawal, an amendment and a supplement of a GHG emission permit, the procedure for granting approval and approval for amendments to the GHG emission monitoring plan, the procedure for granting approval for reports on improvements to the GHG emission methodology and the procedure for keeping records and registers prescribed by this Law shall be subject to the provisions of the law governing general administrative procedure, unless otherwise prescribed by this Law".
Based on the Law on Climate Change, the National Council for Climate Change was established.
A number of documents have also been adopted, including regulations, rulebooks and in particular **the Low-Carbon Development Strategy of the Republic of Serbia for the period 2023–2030 with projections until 2050**.
Additional regulations adopted include the aforementioned **Law on Ratification of the Paris Agreement, the Law on Ratification of the Kyoto Protocol, the UN Framework Convention on Climate Change, the Law on Ratification of the Doha Amendment to the Kyoto Protocol and the Nationally Determined Contribution to Reducing Greenhouse Gas Emissions**. **The Climate Change Adaptation Program for the period 2023-2030** was also adopted.

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

yes ☒
no ☐

If so:

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

At the session held on December 25, 2023, the Government of the Republic of Serbia adopted the **Climate Change Adaptation Program for the period from 2023 to 2030**. **An integral part of the Program is the Action Plan for its implementation for the period from 2024 to 2026**, which contains 25 measures, as well as the financial, institutional and time frame for their implementation and monitoring.

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

The aforementioned Program with the Action Plan defines the policy guidelines and takes into account the construction of a "green infrastructure"; care for vulnerable population groups, including the elderly, the poor, the rural population, outdoor workers, as well as particularly vulnerable groups (children, pregnant women, people with chronic diseases and people with disabilities); reduction of greenhouse gas emissions; adaptation to changing climate conditions, etc. In short, this program assesses the effects of climate change on human health and safety, agriculture and forestry, transport (road) infrastructure, energy, urban planning and development, and biodiversity.

Regarding the crisis management, the Program refers to the Law on Disaster Risk Reduction and Emergency Management Situations ("Official Gazette of the RS", No. 87/18), which directly addresses this

problem.

The Action Plan contains 25 measures, which refer particularly to: amendments to legislation in order to adapt laws and adopt new regulations related to climate change; development of guidelines and methodologies for including green aspects in public policies and plans; training in the public sector and media in the field of climate change; monitoring climate change through improving the climate change monitoring system and assessing its impact on various sectors; support for local governments; strengthening green infrastructure in terms of maintaining and developing green areas and ecosystems in order to reduce climate risks; financial support for climate activities, and more.

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?

In accordance with the Article 74 para. 2 of the Constitution of the Republic of Serbia, "Everyone, especially the Republic of Serbia and autonomous provinces, shall be accountable for the protection of the environment", which includes the climate changes.

In accordance with the Article 4 of the Law on Climate Change ("Official Gazette of the RS", No. 26/21) "state bodies and organization should adopt appropriate sector policies and measures within the scope of their competencies" in order to achieve the goals of this Law. Also, the Low Carbon Development Strategy of the Republic of Serbia foresees a series of obligations arising from the ratified Paris Agreement, the United Nations Framework Convention on Climate Change, and the Kyoto Protocol.

In addition to the above, three laws have been adopted in the field of energy that are aligned with EU regulations, namely the Law on Energy ("Official Gazette of the RS", No. 145/14, 95/18 – other law, 40/21 and 35/23 – other law), the Law on Energy Efficiency and Rational Use of Energy ("Official Gazette of the RS", No. 40/21) and the Law on the Use of Renewable Energy Sources ("Official Gazette of the RS", No. 45/21 and 35/23) which provide for specific policies and measures for the achievement of long-term goals of the energy policy and climate plan.

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

(a) preventive measures

(b) repressive measures

(c) restitution measures

The Preventive measures are strictly stated in the Climate Change Adaptation Program for period from 2023 until 2030 and the accompanying Action Plan, including the development of the legislative framework, development of the green infrastructure, training and education in the public sector and media, introduction of the sustainable agricultural practices and other.

The Repressive measures are explicitly defined in the Law on Climate Change ("Official Gazette of the RS", No. 26/21) – specifically Articles 70, 71, 72, 73 and 74 of the Law define economic offenses and misdemeanors, as well as fines for legal entities, and, for example, for relevant responsible persons in the Transport Safety Agency, the Civil Aviation Directorate of the Republic of Serbia and the Accreditation Body of Serbia.

The Restitution measures are provided for by the Law on Climate Change ("Official Gazette of the RS"; No. 26/21) in the context of measures aimed at ecosystem restoration.

The Restitution measures are more precisely defined in the Climate Change Adaptation Program for period from 2023 until 2030, including the afforestation and reforestation, infrastructure restoration, groundwater recharge, use of renewable energy sources, etc. The accompanying Action Plan defines these measures in more detail. Specifically, preventive measures, including e.g. the introduction of adaptive agricultural practices that save water, protection of water resources, public education on climate change, development of early warning systems for climate extremes; restitution measures, e.g. measures aimed at ecosystem restoration, restoration of sustainability and recovery.

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

The Individuals are also mentioned in the above-mentioned documents in terms of personal responsibility, which is reflected in raising awareness among citizens and their participation in activities to reduce the impact of climate change. With regard to ensuring the state's obligation to fulfill the obligations set out in the Law on Climate Change, individuals can initiate proceedings before the courts and sue the state and competent authorities. In addition to individuals, these can be citizens' associations and non-governmental organizations.

➥ Is the legal pursuit of this right regulated?

Yes, through numerous different proceedings, depending on the defined jurisdiction.

With regard to the administrative dispute, the plaintiff can be individual natural person, legal entity or other person, if he or she believes that an administrative act has violated a right or a legally established interest. A state body, an autonomous province body and local government unit, an organization, a part of a company with powers in legal transactions, a settlement, a group of persons and others who do not have the status of a legal entity, may initiate an administrative dispute if they can be the holders of the rights and obligations that were decided in the administrative procedure.

If an administrative act has violated the law to the detriment of the public interest, an administrative dispute may be initiated by the competent public prosecutor.

➥ 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?

There are no specific regulations for the ecological damage caused by climate change.

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

yes ☒

no ☐

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

Special Ministry ☒

Legal entity under public law ☒

Other organisational unit ☐

- The Ministry of Environmental Protection is responsible for climate change at the national level and it prepares the Climate Change Adaptation Program, identifies the climate change impacts on specific sectors and systems; identifies climate change adaptation measures and other; - The Republic Hydrometeorological Service of Serbia is in charge of the professional tasks related to: meteorological, climatological, agrometeorological and hydrological measurements and observations; observation, analysis and forecast of the weather conditions and changes in weather, climate and waters and other; - The Environmental Protection Agency (EPA), as an administrative authority within the Ministry of Environmental Protection, carries out the national air and water quality monitoring; it is responsible for the collection and monitoring of the environmental indicators; - The National Climate Change Council is responsible for observing the status, development and implementation of the national climate change policy, sectoral policies and other planning documents, and it also examines the fulfilment of the Republic of Serbia's international obligations in the field of climate change, etc.

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

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

The **Ministry of Environmental Protection** is responsible for climate change at the national level. Pursuant to the Law on Climate Change, the Ministry is responsible to prepare the Climate Change Adaptation Programme, to identify the climate change impacts on specific sectors and systems, and to identify climate change adaptation measures in the sectors and systems where there is a need to reduce the adverse impacts. The Law further stipulates that the public policy documents in the sectors most affected by climate change, as well as the planning documents of the Autonomous Provinces and local self-government units, shall take into account the Adaptation Programme objectives. The authorities and organizations responsible for implementing the adaptation measures specified in the Adaptation Programme are obliged to submit to this Ministry, by March 15 of each year, a report on the implemented adaptation measures, as well as weather events such as floods, extreme temperatures, droughts, etc., and their effects. The **Republic Hydrometeorological Service of Serbia** is a separate organization within the Serbian public administration system, in charge of the professional tasks and public administration activities related to: meteorological, meteorological-radar, agro-meteorological and hydrological observation and analytical-prognostic systems; systematic meteorological, climatological, agrometeorological and hydrological

measurements and observations; bank of observed and measured hydrological and meteorological data; weather, climate and water status, and changes monitoring, analysis and forecasting conditions and changes in weather, climate and waters, development of methods, operational observation and warnings of atmosphere and hydrosphere phenomena; aviation meteorology; research of processes in the atmosphere and hydrosphere and development of methods and models for forecasting weather, climate and water, and weather modification; hail protection; development of proposals for the use of solar and wind energy potentials; hydrometeorological support to river navigation; creation and storage of etalons and calibration of meteorological and hydrological instruments; cooperation in the field of international hydrological and meteorological information systems; fulfilment of international obligations in the field of meteorology and hydrology. Within the international meteorological and hydrological organizations, the Republic Hydrometeorological Service of Serbia performs the functions of the National Hydrometeorological Service of the Republic of Serbia, and, in accordance with the ratified international agreements, fulfils the Republic of Serbia's obligations in the World Meteorological Organization (WMO), the European Centre for Medium-Range Weather Forecasts (ECMWF), the European Association of National Hydrometeorological Services of EU Member States (EUMETNET), and is the focal point for the Intergovernmental Panel on Climate Change (IPCC).

The Environmental Protection Agency, as an administrative authority within the Ministry of Environmental Protection, carries out the national air and water quality monitoring, it is responsible to collect and monitor the environmental indicators, including those that relate to climate change adaptation, and cooperates with the European Environment Agency (EEA) and the European Environmental Information and Observation Network (EIONET).

Considering the multi-sectoral nature of climate change issues, **the National Climate Change Council** is one of the important institutes for achieving social consensus on climate change. In accordance with the Law on Climate Change, the Council consists of representatives of the Ministry and other government institutions, as well as representatives from the scientific and professional community, civil society and others whose field of activity is important for identifying and implementing activities in the field of climate change, and one representative from the Office of the Commissioner for the Protection of Equality of the Government of the Republic of Serbia. The Council members are appointed by the Government for a five-year term with the possibility of re-election. The Council is chaired by the minister responsible for environmental affairs. The task of the Council, inter alia, is to consider the status, development and implementation of the national climate change policy, sectoral policies and other planning documents, as well as to examine the fulfilment of the Republic of Serbia's international obligations in the field of climate change, etc.

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

Please see the response to the previous question which refers to the composition and rules of procedure of the competent bodies.

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

According to the Law on State Administration and in accordance with the Government Rules of Procedure, in the procedure for preparing a law that significantly changes the legal regime in a particular area or that regulates issues of particular public interest, the conduct of a public hearing

is regulated.

The Administrative Court may, upon invitation, appoint a judge to participate in the work of the Working Group for the preparation of a draft law or amendment of regulations.

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

yes ☒
no ☐

Law on Climate Change defines the term "interested public" which refers to "the public that is affected or may be affected by the decision-making of the competent authority or that has an interest in it. Also, Article 16 of the Law defines participation of public within the context: "The Ministry will inform the public about the draft Strategy, Action Plan and Adaptation Program and enable them to provide opinions and comments, in accordance with the law regulating the preparation and adoption of public policy documents."
The National Climate Change Council, as one of the competent bodies for the climate change issues, is consisted of representatives of the Ministry and other government institutions, as well as representatives from the scientific and professional community, and civil society.

➥ Is access to relevant information guaranteed?

yes ☒
no ☐

In accordance with the Article 56 of the Law on climate Change (Access to Information): "The Ministry makes gas emission reports available to the public in accordance with the regulation governing access to information of public importance. Data relating to emissions, the state of the environment and possible negative impacts and consequences, monitoring results and inspection supervision cannot be classified as a trade secret."
Also, according to the Constitution of the Republic of Serbia, the citizens have granted access to the information, in the context of the right to healthy environment (article 74: "Everyone shall have the right to healthy environment and the right to timely and full information about the state of environment").

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 the case U 12266/19, which was adjudicated on February 9, 2023, the plaintiff was a civil

association which disputed the individual administrative act issued by the Ministry of Environmental Protection, by which the Public Electric Utility Power Company was given consent on the Environmental Impact Assessment Study. Within the claim, the plaintiff pointed to the deficiencies in the technical report on harmful emissions and the quantity of released harmful matters and water, in relation to the permitted concentration concerning the climate changes.

In its judgement, the Court accepted the claim, annulling the challenged act, thus giving the consent to the project holder on the Environmental Impact Assessment Study and returned the case to the defendant Ministry of Environmental Protection for re-decision, on the grounds that the technical commission, the report of which served as basis to issue the consent was not in full capacity for consideration of all the aspects important for the report composition, upon which the consent to the Environmental Impact Assessment Study was given.

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

yes ☒

no ☐

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

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

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

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

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

↳ Which courts have jurisdiction to hear such cases?

/

↳ What is the composition of these courts?

/

↳ What are the main features of the relevant remedies?

/

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

↳ Among the remedies generally provided for, which remedies deal mainly with disputes involving

issues related to the climate crisis?

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

full jurisdiction remedies for the recognition of a right ☒

actions for damages ☒

remedies for the protection of the applicant's personality ☐

procedures for requesting interim measures ☒

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

- by specialised divisions of the courts and/or according to a special procedure yes ☐

no ☒

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

The main legal remedy for climate change disputes is a lawsuit.

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

The Judicial Academy of the Republic of Serbia organizes training courses for judges as part of the continuous training program, which also includes the topics of environmental protection in general, as well as the issue of climate change and others.

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

- is exclusively an ultra vires review (review of legality)? yes ☒

no ☐

- or can it also be the subject of a full jurisdiction control?
- If so, under what conditions?

The assessment of constitutionality and legality in the legal system of the Republic of Serbia is within the jurisdiction of the Constitutional Court.

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

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

yes ☐

no ☒

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.

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- 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?

There are no special rules.

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.

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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)?

Article 156, para. 1 of the Law on Obligations stipulates that "anyone may require another to remove a source of danger that threatens significant harm to him or an unspecified number of persons, as well as to refrain from an activity that results in harassment or a threat of harm, if the occurrence of harassment or harm cannot be prevented by appropriate measures."

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]?

Article 3, point 28 of the Law on Environmental Protection ("The Official Gazette of the RS", 135/04...94/24), stipulates that "the public concerned is the public that is affected or may be affected by the

decision-making of the competent authority or that has an interest in it, including citizens' associations and social organizations that deal with environmental protection and that are registered with the competent authority".

Article 2, point 7 of the Law on Environmental Impact Assessment ("The Official Gazette of the RS", 94/24) stipulates that "the public concerned shall include the public affected or likely to be affected by the project, or whose right or interest based on law may be affected by a decision in the impact assessment procedure or approval for the implementation of the project. For environmental associations of citizens that represent environmental protection interests (prepare and implement their protection programs, protect their rights and interests in the field of environmental protection, propose activities and protection measures, participate in the decision-making process in accordance with the law, contribute or directly work on environmental information) and are registered with the competent authority, it is considered that there is an interest based on law that may be affected by a decision in the impact assessment procedure or approval for the implementation of the project."

Article 5, point 7 of the Law on Climate Change ("The Official Gazette of the RS", no. 26/21) stipulates that "the public concerned is the public that is affected or may be affected by the decision-making of the competent authority or that has an interest in it, including citizens' associations and social organizations that deal with environmental protection and that are registered with the competent authority".

- 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?

Please see the response to the previous question.

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

Please see the response to the previous question.

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?

In the administrative dispute, the Court decides upon legality of final individual acts which affect a right, obligation or legally based interest, in cases with the following types of dispute: environment, environmental impact assessment, issuance/revocation of an integrated permit for environmental impact assessment, protection against noise in environment, waste management, and others.

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

Article 15 of the Law on Administrative Disputes ("The Official Gazette of the RS", No. 111/09) defines that the administrative dispute may be initiated also when the competent authority fails to issue an administrative act upon the request or appeal filed by a party, in line with the conditions stipulated by this law.

- Have the courts in your country been asked to examine questions of cross-border interest [parties to the dispute resident or headquartered in another country, acts or omissions with environmental impacts in another country]?

yes ☐

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]?

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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?

The Court examines the legality of the final individual administrative acts on the grounds of Constitution, international ratified agreements and laws.

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.

In case U 21430/20, which was adjudicated on April 21, 2023, the plaintiffs contested the decision by which the Joint Stock Company was given consent on the Environmental Impact Assessment Study to the Dock Station Project of the Mobile Telephony. Moreover, it is a zone of increased sensitivity (school, church, residential building, kindergarten), which requires a detailed Environmental Impact Assessment Study, to collect all sources of radiation, all mobile phone antenna masts, as well as a transformer station located in the immediate vicinity.

In its judgement, the Court accepted the claim, annulling the consent given to the Environmental Impact Assessment Study and ordered that the competent body, in repeated proceeding, should determine whether and to what extent the harmful effect of the electric field intensity originating from the dock station is manifested in a percentage of 10% higher than the reference limit value and how it will be controlled whether the operator will work with maximum load or not and what consequences this has for the life and health of citizens.

➥ 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?

yes ☒

no ☐

- If so, under what conditions?

At the request of the plaintiff in the administrative dispute, the Court may postpone the enforcement of the contested individual act until the end of the administrative dispute, under the conditions that the enforcement of the act would cause damage to the plaintiff which would be difficult to rectify, and if the postponement is not contrary to the public interest nor would it cause greater or irreparable damage to the opposing party.

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.

The Court may examine proofs through expert testimony when the determination of a fact or clarification of a certain circumstance requires an expert knowledge that the Court does not have.

- 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]?

Please see the response to the previous question.

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

Please see the response to the previous question.

II.F. Civil liability of the State

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

There are no special 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?

Article 35 para. 2 of the Constitution of the Republic of Serbia stipulates that "Everyone shall have the right to compensation of material or non-material damage inflicted on him by unlawful or irregular work of a state body, entities exercising public powers, bodies of the autonomous province or local self-government." Article 103 of the Law of the Environment Protection ("The Official Gazette of the RS" Nos. 135/04…94/24) stipulates that "the polluter who causes environmental pollution is liable for the resulting

damage according to the principle of objective liability. Both legal and natural persons who, through illegal or improper actions, enabled or permitted environmental pollution are liable for environmental pollution."

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

yes ☒

no ☐

Article 107 of the Law of the Environment Protection ("The Official Gazette of the RS" Nos. 135/04…94/24) stipulates that anyone who suffers damage has the right to compensation for damage. A claim for compensation for damage may be submitted directly to the polluter or the insurer, or financial guarantor of the polluter where the accident occurred, if such an insurer or financial guarantor exists. If several polluters are responsible for the damage caused to the environment, and the share of individual polluters cannot be determined, they shall bear the costs jointly and severally. The initiation of proceedings for compensation for damage shall be time-barred three years from the date on which the injured party learned of the damage and the perpetrator of the damage. In any case, this claim shall be time-barred 20 years from the date on which the damage occurred. The proceedings before the court for compensation for damage shall be urgent. The Republic of Serbia reserves the right to compensation for damage if there are no other persons who have that right.

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

Article 105 of the Law of the Environment Protection ("The Official Gazette of the RS" Nos. 135/04…94/24) stipulates that polluter is responsible for damage caused to the environment and the area and bears the costs of assessing the damage and its removal, and in particular:

1) the costs of emergency interventions undertaken at the time of the damage, and necessary to limit and prevent the effects of damage to the environment, the area and the health of the population;

2) the direct and indirect costs of remediation, establishing a new state or restoring the previous state of the environment and the area, as well as monitoring the effects of remediation and the effects of damage to the environment;

3) the costs of preventing the occurrence of the same or similar damage to the environment and the area;

4) the costs of compensation to persons directly affected by the damage to the environment and the area.

The polluter is obliged to provide financial or other types of guarantees to ensure payment of the compensation for the costs referred to in paragraph 1 of this Article, during and after the performance of the activity. The Government shall prescribe the type of guarantees referred to in paragraph 2 of this Article, the amount of funds and the duration of the guarantee provided by the polluter.

The principle "polluter pays" applies to all environment protection disputes in accordance with the Decision on determining the National Environment Protection Programme ("The Official Gazette of the RS", No. 12 of March 10, 2010).

The principle "polluter pays" is one of the key principles which directed the development of the Programme. A polluter pays a fee for environmental pollution when its activities cause or may cause environmental pollution, i.e. if it produces, uses or places on the market a raw material, semi-finished product or product containing environmentally harmful substances. The polluter, in accordance with the regulations, bears the total costs incurred by endangering the environment, which include the costs of

environmental risks and the costs of eliminating the damage caused to the environment. Internalization of damage caused by pollution provides a strong incentive, especially for industry, to reduce and prevent pollution.

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?

The court may order a preliminary measure, which is implemented by the enforcement agent, during, as well as upon the termination of the judicial or administrative procedure, until the enforcement is carried out.

- Please mention the measures that the judge may order.

The Court may order any measure by which the purpose of such security is achieved.

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

Article 449 para.1 of the Law on Enforcement and Security Interest ("The Official Gazette of the RS", Nos. 106/15…10/23) stipulates that: "An interim measure secures a monetary or non-monetary claim, whose existence is made probable by the enforcement creditor."

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?

No.

- 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?

In accordance with the Article 71 of the Law on Administrative Disputes, if the competent body, following the annulment of the administrative act does not pass a new administrative act immediately or within no more than 30 days, or an act on the enforcement of the judgement pursuant to Article 43 of this law, the party may by means of a separate filing request such an act to be passed.

III.A. In your country:

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

No.

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

No.

- 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]?

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

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

The Ratified international treaties are an integral part of the legal system in the Republic of Serbia and applied directly.

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

In case U 6063/19 from February 12, 2021, the Administrative Court assessed as ungrounded the complaint on missing standing of the Association which was founded with aim to improvement of rights to healthy and preserved environment, sustainable management of natural and renewable energy resources.

In its review, the Court referred to: The Recommendation Rec (2004)20 of the Committee of Ministers to member states on judicial review of administrative acts from December 15, 2004 and The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters – Aarhus Convention ("Official Gazette of the RS – International Agreements", No. 38/2009) and national legislation which are harmonized with the international rules.

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

No.

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]

The Administrative Court has no case-law in this area.

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?

The Republic of Serbia has the status of a candidate country for the accession to the European Union. Given its status as a candidate country for the accession to the EU, the Republic of Serbia does not have the possibility of submitting a request for a preliminary ruling to the Court of Justice of the EU on issues related to climate change.

The courts are obliged to follow the legal opinions and case-law of the ECHR in the formation of their case law.

Part II: Overtourism

I. The regulatory framework [the rules of law]

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

yes ☐

no ☒

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

saturation capacity of urban and non-urban space ☐

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

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

other problems ☐

The Republic of Serbia is not facing the issue of the "overtourism".

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?

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

➥ If so, have they been recorded:

-in binding texts?

-in non-binding texts?

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

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?

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

yes ☐

no ☒

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

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

yes ☐

no ☒

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

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

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

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

-other provisions concerning the organisation of the competent authorities?

☒

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

↳ Are there any provisions for public participation in the adoption of action plans or laws?

yes ☐

no ☐

II. The application of the regulatory framework by the judge

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

yes ☐

no ☒

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

yes ☐

no ☐

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

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

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

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

-other categories of litigations? ☐

II.C. Please cite any court decisions:

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

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

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

II.D. Do issues linked to overtourism:

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

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

administrative courts ☐

civil courts ☐

both ☐

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

yes ☐

no ☒

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