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

Athens, 10-11 November 2025

Climate change-crisis / Overtourism
Questionnaire

Introduction

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

.....

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) X

The United Nations Framework Convention on Climate Change

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

According to article 96 of the Constitution, international treaties, once published, become part of domestic law and are considered national standards. The incorporation process requires the treaty's signature,

authorization by Parliament, ratification, and publication in the Official State Gazette, after which it enters into force.

I.A.2. EU rules

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

The 'European Climate Law', Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999

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

Not directly in the area of climate change. Non-compliance proceedings have been initiated, culminating in a ruling by the CJEU condemning Spain for failing to comply with air quality limits in the cities of Madrid and Barcelona.

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

Case C-125/20. Judgment - 22/12/2022 - Commission v Spain (Valeurs limites - NO2)

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?	☐
Or do they also establish procedural guarantees?	**X**

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

the rights of future generations? ☐

vulnerable groups? ☐

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

yes **X**
no ☐

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

The law 7/2021, of May 20, on climate change and energy transition. This standard establishes emission reduction objectives, through provisions that tend towards decarbonization, climate change adaptation standards, as well as sustainable mobility, and defines what it considers to be a fair transition.

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.)?

National planning, the Integrated National Energy and Climate Plan 2023-2030

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

X or whether it also contains binding rules?

Contains both binding rules and policy guidelines

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?

It contains rules that prohibit new concessions for the exploitation of hydrocarbons, radioactive minerals, or authorizations for fracking projects.

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

(a) preventive measures

(b) repressive measures

(c) restitution measures

Preventive measures

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

Not directly. Only to the extent that administrative decisions that must comply with climate change regulations can be subject to judicial review.

↳ Is the legal pursuit of this right regulated?

Not directly

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

Not recorded

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

Not recorded

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 ☐
Other organisational unit ☐

Ministry for the Ecological Transition and the Demographic Challenge

↳ Is there a body responsible for: the collection and processing of scientific data? yes **X** / no ☐

↳ conducting comparative studies and surveys? yes **X** / no ☐

↳ monitoring the implementation of measures and the achievement of objectives? yes **X** / no ☐

↳ evaluating research carried out on climate change? yes **X** / no ☐

The Spanish Office for Climate Change, is in charge of formulating the national climate change policy.
The National Climate Council is an advisory body in which all public administrations participate, as well as organizations and entities representing social and environmental interests in the development and monitoring of climate change policies promoted by the State.
The Climate Change Policy Coordination Commission is the coordinating body between the State and regional governments.

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

Only the National Climate Council has independent, non-governmental experts, but on a minority basis. The other bodies are composed solely of government representatives.

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

The Spanish Office for Climate Change, is in charge of formulating the national climate change policy, have decision-making power

The National Climate Council is an advisory body.

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

Consultation with various State agencies and public consultation with citizens is planned.

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

Public consultation is planned, as well as individual consultation with the most significant environmental organizations.

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

By Law 27/2006, of July 18, 2006, regulating the rights of access to information, public participation and access to justice in environmental matters.

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.

Climate change issues arise in almost all judicial proceedings in which administrative decisions authorizing energy generation projects, public works projects, and in environmental assessment procedures for both plans and projects are analyzed. Recently, in matter of winds parks [STS (supreme court decision) March 21, 2025 (appeal 3716/2024)], water planning [(SSTS December 20, 2024 (appeal 324/2023) and December 18, 2024 (appeal 457/2023), among others], urban planning [(SSTS October 9, 2024 (appeal 7563/2022)], in planning of shopping centers, and January 17, 2024 (appeal 2859/2022)], among others, about environmental impact assessment of urban development plans], and maritime spatial planning [(STS July 11, 2024 (appeal 556/2023)]. STS July 18, 2023 (appeal 265/2020) dismissed the contentious-administrative appeal filed by several environmental associations against "climate inactivity of the Government of the Nation in the obligation to approve a National Energy and Climate Plan as well as a long-term strategy, establishing greenhouse gas reduction targets" in line with the commitments made with the ratification of the Paris Agreement and the scientific recommendations of the Intergovernmental Panel on Climate Change (IPCC).

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

yes **X**

no ☐

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

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

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

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

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

II.B.1. In your country, does the legislation provide for a specific remedy for cases relating to the climate crisis? **There is no specific remedy.** 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	**X**
full jurisdiction remedies for the recognition of a right	**X**
actions for damages	☐
remedies for the protection of the applicant's personality	☐
procedures for requesting interim measures	**X**

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 **X**

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

Administrative appeal for state inaction to combat climate change

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

Yes, courses and seminars on climate change, the consequences and their effects on the persecution of environmental crimes are carried out

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

➥ is exclusively an ultra vires review (review of legality)?

X or can it also be the subject of a full jurisdiction control?

➥ If so, under what conditions?

Administrative courts may review the legality of the Regulations and declare them null and void. However, laws can only be annulled by 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 **X**

If so:

- which special rules of procedure apply?

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

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

Jurisprudence has not developed special rules of procedure

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)?

Actio Popularis is recognized in certain sector standards. Law 7/2021, of May 20, on Climate Change and Energy Transition does not recognize such action. However, the Supreme Court has admitted the legitimation of environmental associations in climate matters under art. 22 of Law 27/2006 by which the rights of access to information, public participation and access to justice in environmental matters are regulated.

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];
- **X** in relation to legal persons [public law legal entities, private law entities: associations, etc]?

Regarding associations whose purpose is the defense of the environment and human rights

- 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?

Simply dealing with entities that have among their purposes the defense of the environment

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

The same standard of proof is required as for the rest of the processes

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

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

The two most important cases classified as climate change disputes before the Supreme Court, were against the inaction of the Government of Spain to approve the National Energy and Climate Plan, and against the National Energy and Climate Plan (2021-2030) arguing that the mitigation objectives set by said plan should be reviewed.

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

Legislation for being an environmental defense entity

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

Not recorded

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 Supreme Court has stated that it cannot supplant the government's power to establish measures in application of the international conventions signed

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.

As a precautionary measure, the greater interest in relation to protection against the effects of climate change may be weighed.

- 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?

He can't do it

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 general rules of evidence for the rest of the procedures apply. Judges may use expert evidence.

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

The judge only has access to the technical reports and expert witnesses submitted by the parties in the proceedings. He may appoint experts, but the system does not allow the judge to choose the most specialized expert. Amicus curiae briefs are not permitted under the regulations governing the proceedings.

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

Based on the expert reports that have been provided to the process.

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?

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

yes ☐
no X

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

It is not known at the moment

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?

Particular consideration is given to the existence of irreparable risks that make it appropriate to adopt a provisional judicial protection

➥ Please mention the measures that the judge may order.

The suspension of the resolution and the suspension of a work or an action that may generate risks.

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

The judge assesses the risk according to expert reports under his free appreciation.

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?

Yes, the judge has the power to investigate and evaluate compliance with a court ruling.

➥ 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?

There are no examples specifically related to processes related to climate change.

III.A. In your country:

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

There are decisions by regional courts that have required regional governments to take measures in relation to plans for reducing emissions and not exceeding limit values for ozone concentrations.

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

The court decisions require regional or local governments to adopt prevention and control measures.

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

There is no specific case-law rule

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]?

Not recorded

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?

The Supreme Court's case-law recognizes the link with international agreements, such as the Paris Agreement, but considers that it cannot replace the government in defining the appropriate measures to achieve the objectives of said agreement.

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

The case-law recognizes the effectiveness of international treaties and european law as if it were national law

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

As indicated in the previous question.

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]

Neither the Supreme Court nor the Constitutional Court of Spain have so far recognized the right to effective protection against the adverse effects of climate change as a fundamental right.

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?

Indirectly related to environmental matters, but there are no issues directly related to climate change.

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 **X**

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	X
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.)	X
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)	X
other problems	☐

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

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

Not recorded

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]?

There are only European non-binding provisions in the text regarding sustainable tourism and the limitation of short-term rentals.

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?

There are no provisions

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 ☐
no X

➥ 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.] ?

The Spanish Government is developing the Sustainable Tourism Strategy for Spain 2030, a national tourism agenda to address the sector's medium- and long-term challenges, promoting the three pillars of sustainability: socioeconomic, environmental, and territorial. Planning is carried out at the regional level, especially in relation to urban planning and land use planning.

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?

X

There are local plans and regulations that limit the establishment of hotels and tourist accommodations.

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

They are the responsibility of regional and local governments

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

yes X
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 X

no ☐

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

no ☐

Local provisions relating to the limitation of housing for tourist use were appealed.

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

The Supreme Court has declared that local councils can limit such housing to protect the right to housing and the environment.

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? X

-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? ☐

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

There are local court decisions requiring local governments to adopt measures to prevent the harmful effects of tourism, such as noise and disturbances, and limiting tourist accommodation. STS November 19, 2020 (appeal 5959/2019) ruled on the scope of the planning authority of the municipalities in order to regulate the use of tourist accommodations -singularly tourist housing- in the general urban development plans. In the same direction, STS January 21, 2023 (appeal 8318/2021).

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 X

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.
