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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) ☒

Here are some examples. - United Nations Framework Convention on Climate Change - Convention on Environmental Impact Assessment in a Transboundary Context - Stockholm Convention on Persistent Organic Pollutants (POPs)

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- 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)

Treaties must be incorporated into Swedish law to be applied by national authorities, courts and other public bodies. Oftentimes, however, many of the obligations that stem from international treaties can be fulfilled through treaty-compliant interpretation. This means that national laws and other regulations should, as far as possible, be interpreted by national authorities in a way that is compatible with international agreements that are binding upon Sweden.

The procedure to incorporate an international treaty into the national legal system usually includes the setting up of an Inquiry of investigation, which is tasked to review national laws and regulations in respect of the treaty in question (signed subject to ratification). The Inquiry of investigation presents a proposal with amendments to national rules to fulfill the obligations the treaty sets out. As a rule, treaties are not incorporated into national law as such, i.e. by a law stating that the treaty has the validity of national law. Instead–with few exceptions–the rules of a treaty are transformed into the national legal order by implementing amendments to existing rules. For instance, the Environmental Code (1998:808) partly incorporates the obligations in the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Govt. Bill 2004/05:65).

I.A.2. EU rules

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

Sweden strives to accomplish the goals set out in the European Green Deal. In line with regulation (EU) 2021/1119 (the European Climate Law), the long-term climate goal is for net emissions to be zero by 2045, five years ahead of EU. This means that emissions within Sweden's borders must be at least 85 per cent lower by 2045 than in 1990.

In this context, the following can be mentioned.

The objectives of environmental policy are structured in accordance with the environmental objectives system: a *Generational Goal* that sets the direction for the societal transition that needs to take place within a generation to achieve the environmental quality objectives; certain *Environmental Quality Goals* that describe the state of the Swedish environment that environmental work will lead to; and different *Intermediate Targets* that describe the societal transitions that are important steps to achieve both the Generational Goal and the Environmental Quality Goals (Govt. Bill 2009/10:155 and Govt. Bill 2024/25:1, expense area 20, p. 10). The goals are closely linked to EU policies and to global climate goals set out in Agenda 2030.

The overall objective of energy policy is to create the conditions for an efficient and sustainable energy use and a cost-effective Swedish energy supply with low negative impact on health, the environment and climate, as well as facilitating the transition to an ecologically sustainable society (Govt. Bill 2017/18:228 and Govt. Bill 2024/25:1, expense area 21, p. 7). Sweden's energy policy is largely influenced by the EU's objectives and regulations in the energy area.

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

According to the European Commission's infringement decision database, Sweden has been subject to eight formal notices in the policy area of climate action between 2011 and 2024.

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

All eight climate action cases have been closed without any referral to the CJEU.

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 ☒

I.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 Instrument of Government, one of Sweden's four fundamental laws and commonly referred to as the Swedish Constitution, states, inter alia, that the public sector shall promote sustainable development that leads to a good environment for present and future generations. It is also stated in the Instrument of Government that the personal, economic and cultural well-being of individuals shall be the fundamental objective of public action. In particular, authorities shall safeguard the right to work, housing and education, and promote social care and security and good health conditions. The public institutions shall work to promote the opportunity for all to attain participation and equality in society and for the rights of the child to be safeguarded. These provisions are perceived as rules that set objectives for societal activities of the public. They are of a programmatic nature. They do not establish individual rights that may be invoked by individuals in courts of law.

The Instrument of Government also contains several rules that provide for rights and freedoms for individuals that they may invoke in a court of law. One such provision is enacted to counteract unfavorable treatment of certain vulnerable minority groups in society. It states that no act of law or other provision may imply the

unfavorable treatment of anyone because they belong to a minority group by reason of ethnic origin, color, or other similar circumstances or on account of his or her sexual orientation.

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.

One example is the Climate Policy Framework. The framework consists of a Climate Act, certain Climate Goals and a Climate Policy Council. The overall climate target is net-zero greenhouse gas emissions to the atmosphere by 2045, followed by negative emissions. The Climate Act (2017:720) came into force in 2018. The act requires the Government to produce a climate policy action plan every four years. The action plan should include a description of Sweden's commitments within the EU and internationally. The act also places an obligation on the Government to pursue climate policies based on the climate goals that are adopted by the Parliament, and to report regularly how the work to achieve the goals is progressing. The Climate Policy Council is tasked with evaluating how well the Government's overall policy is aligned with the climate goals established by the Parliament and the Government. The most recent climate action plan was introduced in December 2023 (Govt. Bill 2023/24:59). It focuses widely on all aspects of societal activities. In October 2024, the Government decided terms of reference to a Policy Instrument Inquiry. The inquiry is tasked to analyze which policy instruments can be designed to phase out fossil fuels in a cost- and socio-economically efficient manner and to achieve the long-term national climate target by 2045 as well as the EU commitments that Sweden has in the climate area. In March 2025, the Government has proposed a new law on state aid for companies that want to invest in new nuclear power reactors. In this context it should also be noted that the expansion of offshore wind power recently suffered a serious drawback in Sweden. Many applications to establish new offshore wind power parks have been rejected by the Government due to the assessment that wind power plants potentially make it more difficult to detect submarines and possible attacks from the air, thereby making it more difficult to defend Sweden in the event of war.

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.)?

National: Sweden's Climate Policy Framework. Regional and local: The County Administrative Boards and municipalities often have their own climate strategies and action plans.

- 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?

Sweden's climate planning contains both policy guidelines and binding rules (e.g. the requirements on the Government under the Climate Act).

I.B.4. In your legal system [in the Constitution and/or in the laws] is there an explicit obligation for the State and/or other public-sector bodies to adopt positive measures or avoid certain actions in relation to climate change?

The Instrument of Government states that the public sector shall promote sustainable development that leads to a good environment for present and future generations. The provision is politically binding. (See I.B.1.2 above.) The climate policy is governed by the Climate Act, which obliges the Government to conduct climate work.

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

(a) preventive measures

(b) repressive measures

(c) restitution measures

a: the Government is actively working on climate targets and emission limits, among other things. b: there are sanctions against those who breach environmental legislation, including fines, prohibitions and in some cases imprisonment. (See for example Chapters 26 and 29 of the Environmental Code.) c: the Environmental Code contains requirements for the restoration of damaged nature.

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

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) was ratified by Sweden in 2005. The Swedish Environmental Protection Agency is the Swedish information node, tasked to convey both legal and practical information on matters linked to the convention and its implementation at the national level. For instance, the Agency provides information on the right for individuals to be involved in the handling of environmental

matters before national authorities and courts. Individuals can rely inter alia on provisions in the Environmental Code on the right to appeal against judgments and decisions in many environmental matters before national authorities.

➥ Is the legal pursuit of this right regulated?

Please, see answer to previous question.

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

In Sweden, individuals have certain rights to influence or require private actors to comply with environmental and climate obligations. For example, it is possible, but rare, to sue private actors in a court of law for environmental damage, inter alia through claims for damages under the Environmental Code.

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

Sweden has no law that specifically and exclusively regulates ecological damage resulting from 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 ☐

Climate responsibility is shared and regulated. The Government has the overall responsibility and there are also several public bodies to which different areas of responsibility are allocated.

➥ 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 ☐

In Sweden, there are authorities responsible for collecting and reporting different types of scientific data and for implementing various measures. The following can be mentioned as examples.

- The Swedish Environmental Protection Agency is responsible for environmental issues. The Agency carries out assignments on behalf of the Swedish Government relating to the environment in Sweden, the EU and other places abroad.
- Swedish Meteorological and Hydrological Institute, SMHI, is a Swedish expert authority with a global perspective and a vital task of predicting changes in weather, water and climate.
- The Swedish Agency for Marine and Water Management is the administrative authority in the environmental area for issues relating to the conservation, restoration and sustainable use of lakes, watercourses and seas.
- The mission of the Swedish Climate Policy Council is to evaluate the Government's overall policies, including the bases and methods on which they are built.

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

The Swedish Climate Policy Council consists of eight members, including a chair and a vice-chair. According to the Council's instructions (the terms of reference set out in a regulation), its members must have a high level of scientific expertise in areas that are important for society's climate transition, such as climate, economics, climate policy, social sciences and behavioral sciences. To strengthen its independence, the Council submits proposals for new members to the Government, which then decides on the matter of appointment.

The Swedish Environmental Protection Agency is led by a head of the agency appointed by the Government. The authority has an advisory council consisting of a maximum of ten members, all of whom are appointed by the Government. Although the Agency is organized as an administrative authority under the Government, and hence is primarily responsible before the Government, the Agency is independent in its the exercise of public authority. According to the Instrument of Government, no public authority, including the Riksdag, or decision-making body of any local authority, may determine how an administrative authority shall decide in a particular case relating to the exercise of public authority vis-à-vis an individual or a local authority, or relating to the application of law (Chapter 12, Section 2).

The same rules apply to SMHI and the Swedish Agency for Marine and Water Management.

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

The nature of power differs between the authorities. They all have different degrees of advisory powers. To various degrees, many of them also have decision-making powers. To some extent, they are tasked to monitor and secure general environmental interests in cases and matters where the Environmental Code is applied in national courts.

For instance, the Swedish Environmental Protection Agency shall, amongst other things, work to ensure that the generational goals for environmental work and the environmental quality objectives established by the Parliament are achieved and, if necessary, shall propose measures for the development of environmental work. It shall also promote sustainable development based on the Generation Goal and the Environmental Quality Objectives and thus contribute to the implementation of the 2030 Agenda adopted by the United Nations. Furthermore, the Agency shall, within its area of responsibility, monitor general environmental interests in cases and matters where the Environmental Code is applied and which are dealt with by authorities and courts, and submit the Agency's views early in the process. It shall participate in environmental

assessments concerning issues that are important in principle or of great importance to the environment. It shall guide government agencies in their environmental management work.

SMHI shall, amongst other things, produce a basis for decision-making that contributes to good community planning, to reducing vulnerability in society and achieving the environmental quality objectives. It shall also conduct applied research and development within its area of activity. It shall run a national knowledge centre for climate change adaptation.

The Agency for Marine and Water Management shall, within its area of responsibility, be a driving force, supporter and unifyer in the implementation of environmental policy and work for the sustainable management of fishery resources. The Agency shall work to ensure that the Generational Goals for environmental work and the Environmental Quality Objectives established by the Parliament are achieved and, if necessary, shall propose measures for the development of environmental work. It shall monitor general environmental protection interests in cases and matters where the Environmental Code is applied, and which are handled by authorities and courts and provide the authority's views early in the process; and participate in environmental assessments concerning issues that are important in principle or of great importance to the marine and aquatic environment or fisheries. The Agency also has overall responsibility for fisheries control and be responsible for the implementation of landing control.

The Climate Policy Council has primarily an evaluative role.

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

Rules on preparation requirements in government cases are contained in the Instrument of Government (Chapter 7, Section 2). In the preparation of government cases, the necessary information and opinions shall be obtained from the authorities concerned. Information and opinions shall also be obtained from municipalities to the extent necessary. Associations and individuals shall also be given the opportunity to express their views to the extent necessary.

In addition, the Council on Legislation scrutinizes and gives its opinion on draft legislation at the request of the Government or a parliamentary committee. The Council is normally consulted on proposed amendments to laws that affect the rights and freedoms of individuals, their personal and financial circumstances or their obligations to the public.

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

There are certain rules on participation. For example, the Environmental Code allows the public to participate in decision-making processes concerning the environment in certain cases (for example Chapter 22, Section 10, under which comments may be submitted on applications). Also, Climate strategies are often sent out for consultation with relevant stakeholders.

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

Yes, the principle of public access to official documents (as expressed in the Freedom of the Press Act) gives everyone the right to access official documents, i.e. the right to access information in whatever form, be it on paper or digital, held by public bodies, in case no rule on secrecy is applicable to the information at hand.

The Aarhus Convention is also an element for public participation.

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.

The Supreme Administrative Court has reviewed several decisions by the Government related to climate issues. The cases have concerned, among other things, authorizations to set up wind turbine operations (category a), issues of detailed planning of properties in relation to potential flooding problems and energy consumption, authorizations to establish airports and the conversion of forestry into nature reserves (category b). Cases where climate change issues are likely to arise are also handled by the Land and Environment Courts in accordance with the Environmental Code, for instance applications to conduct environmentally hazardous activities and compensation for environmental damage. Cases with claims for damages may also arise in the general courts.

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)?

There is no statistical basis for any solid conclusions on the question. However, it can be noted that claims for compensation against the State are handled in general courts dealing with civil cases. The State then acts as defendant in the case.

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?

No. There is no such specific remedy.

➥ What is the composition of these courts?

Ordinary composition.

➥ What are the main features of the relevant remedies?

It differs.

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?

Lacking full statistical basis, it is difficult to answer the question. However, the following can be noted. Individuals may challenge Government decisions to allow applications for e.g. exploration permit and mining concession according to the Mineral Act [1991:45], and decisions by the Government to approve railway or public road plans in accordance with the Environmental Code. Environmental issues like those arising in government cases may also arise in cases regarding applications for permits in the Land and Environmental Corts. Those courts also handle cases regarding compensation for damages, for instance damage by pollution of water bodies, contamination of groundwater, air pollution, and soil pollution.

Climate issues may also arise in proceedings regarding civil actions for damages in the general courts.

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

According to the course catalogue for Swedish courts, a handful of courses are offered in environmental law and related areas of law, but none explicitly address climate change.

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

- exclusively an ultra vires review (review of legality)?
- or can it also be the subject of a full jurisdiction control?
- If so, under what conditions?

The courts review the legality of decisions taken, and–occasionally– the constitutional conformity of laws and other regulations applied in a specific case.

The Council on the Legislation scrutinizes certain laws during the law-making process, before a law is adopted. The Council shall examine 1) the manner in which the draft law relates to the fundamental laws and the legal system in general, 2) the manner in which the various provisions of the draft law relate to one another, 3) the manner in which the draft law relates to the requirements of the rule of law, 4) whether the draft law is so framed that the resulting act of law may be expected to satisfy the stated purposes of the proposed law, 5) any problems that may arise in applying the act of law. Council on the Legislation does not review the legality of decisions in specific cases by the Government or the Parliament.

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.

There are no specific procedural provisions directly related to climate change, but the Swedish Environmental Code contains specific procedural rules for non-profit organizations or other legal entities whose main purpose is to protect nature conservation or environmental protection interests and which meet certain other conditions (Chapter 16, Section 13).

Section 2 of the Judicial Review Act (2006:304) states that such an environmental organisation referred to in the Environmental Code may apply for judicial review of such permit decisions by the Government as are covered by Article 9(2) of the Aarhus Convention.
The provisions have been drafted taking into account that both Sweden and the EU are parties to the Aarhus Convention.

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

No specific rules of procedure are developed.

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.

Not applicable.

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)?

The general principle in the Swedish legal system is that it neither recognizes actio popularis, i.e. actions by individuals to safeguard public interest, nor any right for individuals to take actions with regard to a norm of general application, for instance a law enacted by the Parliament, or a regulation decided by the Government. Normally only "individuals concerned" may challenge a decision by an authority that directly and specifically concern the interest of that individual. Normally, only decisions in a specific case, that concerns only a limited and foreseeable number of persons, may be the object of a review. Nonetheless, the Swedish legal order does recognize the right to appeal for non-profit organizations or other legal entities whose main purpose is to protect nature conservation or environmental protection interests, and which meet certain other conditions (see answer under question II.D above).

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 case-law a requirement has been established to the effect that, if the effects of a decision are not limited to the person or persons against whom the decision is directly directed but also affect other individuals, companies or associations, those entities are oftentimes afforded the right to appeal as "persons concerned" even if they were not parties to the case before the decision-making authority in the first place. It has been required, though, that the person represents an interest in the case that is in some way recognised by the legal system and can be taken into account in the consideration of the case. Public authorities and other public law legal entities, does not, as a rule, have the right to appeal a decision taken by any other authority, unless such a right to appeal has been specifically stipulated in law.

- 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?

No specific requirements are laid down. It is for the court to decide if the arguments are strong enough.

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

The standard of proof requirements vary between types of courts (general court and general administrative court), but also with regard to different circumstances in each type of case. It would be fair to say, that the standard of proof requirement with regard to factual assertions in cases before the general administrative courts normally is that the claim must be made probable.

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?

Climate change issues could arise in a very large number of different types of cases.

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

A case from the Supreme Court could be mentioned in this context. In February 2025, the Supreme Court delivered a decision regarding the right of action in a climate case which was brought before a district court concerning an individual class action against the State. In summary, the plaintiff and his class action members moved for a declaratory judgement stating that the State's failure to take certain enumerated procedural and substantive measures related to climate change constituted a violation of their rights under the European Convention on Human Rights (ECHR). Alternatively, the plaintiffs moved for a judgement on performance, claiming that the Court should order the State to take certain measures with a view to limiting the increase in the global average temperature to 1.5 degrees above pre-industrial levels. The Supreme Court found that it is not possible–in the context of a climate change action of the general nature at issue–to bring an action for performance seeking an order that the State adopt targets or take measures to limit the effects of climate change. Such an action may require new or amended legislation to be adopted, and thus does not relate to the administration of justice. In this context, the Court also noted that a claim that the State should take certain measures to mitigate climate change would not be enforceable. Regarding the claim for a declaratory judgement, the plaintiff and the class action members had not shown reasonable grounds for their action or that the State's failure to act had caused sufficiently imminent and certain effects on their individual rights. In conclusion, the Court held that the applicant's action was inadmissible.

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

No. There is no record of such a case so far.

II.E. Nature, extent and intensity of judicial review:

- In matters of climate change, how does the judge consider the delimitation of jurisdictional control in relation to:

  -the political choices made by the legislator or the administration?

  -the balancing of contradictory interests?

-assessments of an essentially technical nature?

There are no specific regulations for judicial review relating specifically to issues that can be related to climate change. It can be noted, though, that judicial review in Sweden is generally considerably more limited than the review of the merits normally carried out in an administrative court. The review is in principle bound to the reasons given by the applicant. The judicial review also focuses on questions of legality, i.e. whether the decision is contrary to any specific rule or general legal principle. Although the review focuses on questions of legality, it includes, in addition to pure interpretation of the law, the assessment of facts and evidence and whether the decision violates the requirements of objectivity, impartiality and equality before the law. The review also covers procedural errors that may have affected the outcome of the case. If the legal rules applied are such that there is a degree of discretion in decision-making, judicial review covers the question of whether the decision falls within the scope of that discretion. Although judicial review will in principle apply to the administrative decision in its entirety, it is inherent in the nature of the review that courts cannot be expected to make judgements of a purely discretionary or political nature (HFD 2024 not. 36 and Govt. Bill 1987/88:69 pp. 23–25 and 234).

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 the case HFD 2024 not. 36 the Supreme Administrative Court reviewed the Government's decision to grant a mining company an exploitation licence and found that the decision was not contrary to any rule of law and should therefore be upheld. The facts of the case could be summarized as follows. The Government had decided to grant a company the exclusive right to mine a certain mineral in an area in Norrbotten County. The Government had made made the assessment that the area was of national interest for both reindeer husbandry and deposits of valuable substances, and that it was not possible to conduct reindeer husbandry and mineral extraction in parallel in the area. In weighing the interests the Government concluded that the national interest for valuable substances should be given priority. Given certain conditions that was stipulated in the decision to leave grant, the Government assessed that the licence would not lead to the Sami villages' opportunities to engage in reindeer husbandry was destroyed. Two Sami villages and several interest groups applied by the Supreme Administrative Court for judicial review of that decision. In the application they requested that the decision be annulled. The Supreme Administrative Court made the assessment that the company's environmental impact assessment did not mean that the Government's position to approve the documentation could be considered contrary to any specific rule of law, that the Government's position that the area was of national interest for deposits of valuable substances was within the scope of discretion provided by applicable rules and that the Government had not made a deficient factual assessment. With regard to the balancing of interests, the Court found that the balancing provision generally provides a relatively wide margin of maneuver, but the survival of the Sami culture should not be allowed to be jeopardized. The Court concluded that it was not possible to establish that the Sami villages concerned would be forced to cease reindeer husbandry because of the establishment of a mine. The Government's decision was therefore not contrary to any rule of law. The application was rejected.

- Can the judge limit the temporal effects of an annulment decision [example: limitation of the retroactive effects of an annulment decision] based on the balancing of conflicting interests?
- If so, under what conditions?

No.

II.E.2. Technical and scientific judgments:

- Please give examples from case-law concerning the criteria and methods used by judges to rule on disputes involving technical and scientific judgments.

No examples from case-law on criteria and methods could be elaborated on.

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

The Court may obtain an expert opinion on a question requiring specialised knowledge. Such an opinion may be obtained from an authority, official or other person authorised to give an opinion on the subject, or from another expert on the subject.

In the Land and Environment Courts, the court is composed with both legally trained judges and technical judges, the latter being experts in certain relevant technical fields such as water operations or other areas of science.

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

[pass]

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 specific rules that apply in these types of cases. There is no relevant case-law to report concerning climate change litigation specifically. See below, however, regarding general principles on the standard of proof with regard to difficult-to-understand and complicated sequence of events, where full proof is not possible be produce.

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

No specific rules apply.

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

Regarding the question of the existence of a causal link between a given measure and the damage suffered, generally, the injured party must fully prove causality in order to be awarded compensation.

When it comes to difficult-to-understand and complicated sequence of events, the standard of proof has in some cases been relaxed, where the court has had to take a position on issues where full proof cannot be produced. The Supreme Court has formulated the standard of proof so that the injured party has fulfilled the requirement regarding a certain alleged causal sequence, if: 1) it is probable in itself in view of the

circumstances of the case, and 2) it appears to be clearly more probable than any other explanation for the damage provided by the opposite side (NJA 1982 p. 421).

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

yes ☐

no ☒

This area is not specifically regulated. There is no relevant case-law on ecological damage in tort law.

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

When issues are examined by public authorities or courts regarding admissibility, permits, approvals and exemptions, and when conditions not relating to compensation are examined, or when supervision is carried out in accordance with the Environmental Code, anyone who pursues or intends to pursue an activity or take a measure is obliged to demonstrate that the obligations arising from Chapter 2 of the Environmental Code are complied with. The same applies to anyone who previously has carried out activities that can be assumed to have caused damage or inconvenience to the environment. Those obligations include, inter alia, the following.

Anyone carrying out or intending to carry out an activity or measure shall *acquire the knowledge necessary*, having regard to the nature and extent of the activity or measure, to protect human health and the environment from harm or detriment. They shall *carry out the protective measures*, observe the restrictions and take the other precautions necessary to prevent, or counteract damage or detriment to human health or the environment caused by the activity or measure. Anyone who carries out or has carried out an activity or taken a measure that has caused damage or inconvenience to the environment is *liable* until the damage or inconvenience has ceased for it to be remedied to the extent that it can be considered reasonable.

In case-law from the Land and Environment Court of Appeal, it is indicated that the mere risk of a nuisance arising from an activity triggers the need to take precautionary measures. (Judgment of 28 February 2019, Case M 3790-18.)

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?

There are no specific rules applicable when it comes to provisional measures in regard of climate change actions.

General rules in the Environmental Code may be applied by the Land and Environment Courts when questions about allowing environmentally hazardous activities are examined. As a rule, decisions in such cases may be enforced once they have become final. Exceptionally, certain decisions apply immediately. Where there are grounds for doing so, the Land and Environment Court or the Land and Environment Court of Appeal may order that the permit for an activity may be used even if the judgment has not acquired the force of res judicata. As a condition, it then shall be stipulated that the applicant lodges a *security* with the county administrative board for the compensation that may be paid for an operation if the court's judgment is changed. A supervisory authority may also decide, in any specific case, that its decision shall apply

immediately even if an appeal is lodged against it. On appeal, the courts may order that appealed decision in such cases shall not apply until further notice.

In the administrative courts, if an appealed decision applies immediately, the courts may decide that the appealed decision shall not apply until further notice. The provision does not set out the substantive conditions under which the court may order various interim measures.

➥ Please mention the measures that the judge may order.

Please, see answer to previous question.

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

It is not possible to elaborate a specific answer to the question.

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?

There is nothing to report.

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. Please, see the answer under II.D.2 above.

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

No. Please, see the answer under II.D.2 above.

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

Referring to the judgement by the ECtHR in case no. 53600/20, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], the Supreme Court has concluded that when an individual brings an action alleging that he or she have suffered damage or a risk of damage resulting from alleged omissions on the part of the State, the requirements are strikingly high. The risk of adverse effects of climate change must be particularly serious for the individual concerned and his or her need for individual protection must be acute for Article 8 ECHR to apply. The high threshold will apply to all individuals in a class action suit. If the action, on the other hand, is brought by an association, the high threshold does not apply to the association. However, in order for an association to be able to take legal action for the protection of human rights in this area, it must meet requirements such as representativeness and suitability. (The Supreme Court case referred to under II.D.2.)

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]?

Courts have referred to the practice of ECtHR (see previous answer).

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?

It is probably accurate to say that it is primarily viewed as an obligation under EU law and national law. The Swedish Constitution–the Instrument of Government–describes the tasks of the courts as *the administration of justice*. A line of development in the application of the law in recent decades has concerned the right to judicial review of what constitutes 'civil rights and obligations' in accordance with ECHR. According to the Supreme Court, further development of the tasks of the courts through the application of the law must take place with consideration and discernment, where account is had to the nature of the field of law and the constitutional and other legal repercussions, and where regard is had to practical consequences. According to the Supreme Court, there is a limit to how far judicial review may stretch before issues cover questions that need to be addressed in the political sphere. Since a climate action raises the constitutional boundary between the functions of the courts and the decision-making of the political bodies, the Supreme Court has found that it is not possible to allow the Swedish system of remedies to meet the requirements of the ECHR 'by a certain margin', in the way that normally is pursued in other areas of the law.

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

Swedish courts generally strive to interpret national law in line with Sweden's international commitments. (See I.A.1.) No case of harmonization through interpretation can be found in a climate case at national level so far.

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

There are no decisions from Sweden's highest courts that refer to the Paris Agreement.

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]

Please, see the case referred to under III.A above.

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 Supreme Administrative court has not referred any such questions to the CJEU for a preliminary ruling or to the or the ECtHR for an advisory opinion.

Part B: 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 ☐

For the moment, neither the public debate in Sweden nor legislation or case-law is focusing on the issue.

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

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

No.

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

➥ If so, have they been recorded:

-in binding texts?

-in non-binding texts?

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

The Swedish Environmental Protection Agency has, for example, been tasked with developing proposals on how Sweden, if possible, can report forms of protection according to the International Union for Conservation of Nature (IUCN) criteria in a way that is more comparable with other countries.

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?

Please, see the answer to the question under Part A I.B.1.2 above. The Instrument of Government states that the public sector shall promote sustainable development that leads to a good environment for present and future generations. Although it is a provision of a programmatic nature,

which is relevant mainly for policymaking, it may serve as a basis for dealing with all issues relating to the environment in the public sector.

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)

Not applicable.

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?

Not applicable.

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

No plans are decided.

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? ☐

No.

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

Not applicable.

↳ 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 ☐

Not applicable.

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

Not applicable.

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? ☐

There is no case-law from the Supreme Administrative Court where hypertourism has been explicitly considered. However, there may be disputes and appeals in other courts related to a high level of tourist activity, e.g. disturbances.

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?

Not applicable.

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.

Not applicable.