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Preliminary WP6 Working paper on the Methodology for conducting interviews

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Executive Summary

The Preliminary WP6 Working paper on the Methodology for conducting interviews presents the design of the HRJust WP6 interviews. According to the Grant Agreement, WP6 is tasked with conducting the first Civil Society Engagement (ODCSE) through 40 semi-structured interviews with stakeholders. These interviews are set to be analyzed through qualitative content analysis to discern the roles of Human Rights justifications, assess their impacts, identify perceived challenges and opportunities, and examine the interaction of them with other significant themes, with a special emphasis on vulnerable groups. This approach aims to facilitate the identification of new actors and roles for existing ones within WP6.

The Preliminary WP6 Working paper initially addresses the ODCSE approach, highlighting the crucial role of engaging civil society actors in the research process. It then elaborates on the methodology of the interviews. It presents the selection of interviewees which has been planned to ensure a diverse range of perspectives, taking into account geographical, thematic, and gender balances. Furthermore, the questions are strategically structured to get an understanding of how states utilize Human Rights Justifications in their approaches to climate change. The intention behind these questions is to uncover the justifications and defenses employed by public and private actors (particularly associations and human rights defenders), identify the variety of arguments presented (including legal reasoning, national interest, security concerns, and ethical considerations), and comprehend the role of law in these justifications. Lastly the working paper details the post-interview phase involving qualitative content analysis and coding to distill insights from the data collected.

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1. Introduction

Workpackage 6 Climate (WP6) explores how states use Human Rights Justifications (HRJs) in addressing climate change. Accordingly, the WP6 compares and contrasts various approaches across various legal systems at the national and international levels. It seeks to understand the real-world impacts of HRJs and identify new actors and the emerging roles of existing actors. Moreover, it aims to understand the impact of geopolitical and gender factors. Overall, the WP6 aspires to develop strategies for the management of the use of HRJs by states in the context of climate change, thereby fostering transparent, accountable, inclusive, and democratic involvement of public and private actors. This involves creating co-produced recommendations, processes, and tools.

Given these objectives, the WP6 will conduct 40 semi-structured interviews with relevant stakeholders to establish a robust empirical foundation. This way, the realities and impacts of HRJs will be explored, and their interplay with key legal themes like jurisdiction, procedural limits, and extraterritoriality will be identified.

This empirical research employs the Systematic Ongoing Direct Civil Society Engagement (ODCSE) approach and prioritizes civil society participation in knowledge creation while adopting a gender and intersectional perspective.

In this context, this working paper outlines the methodology. It briefly overviews the ODCSE approach that guides the prospective interviews and its influence on the design of qualitative research. Secondly, it will then present the interview design, including the selection of participants, question formulation and the qualitative content analysis process. Finally, the empirical work's challenges and opportunities will be discussed.

The working paper has greatly benefited from the participation of the IIR and UBERN teams in the two online workshops on Civil society engagement method that took place on 14 December 2023 and on 23 January 2024 held by Prof. Yu-Ling in the framework of the activities of WP2. The event provided an opportunity to discuss preferred methods on conducting interviews and their evaluation.

2. Systematic Ongoing Direct Civil Society Engagement (ODCSE)

One of WP6's aims is to overview and map the State HRJ practices and identify new policy and regulatory avenues for more robust, transparent, accountable, effective and democratic governance. To this end, WP6 establishes a dialogue with public actors (EU and the Governments and local authorities of the Member States) and civil society. This methodology is to be implemented also with a gender and intersectional inclusive perspective and consists of 5 elements, which are systematic planning, ongoing character, direct form, the participation of civil society actors and active engagement in data collection and knowledge production.¹ Furthermore, this civil society engagement will be pursued through a gender and intersectional inclusive perspective.

2.1. Systematic Planning

The ODSCE methodology requires all work packages under the HRJust project to follow a consistent and systematic flow. Indeed, ODCSE is the second task for each thematic WP and is divided into four main subtasks. The first meeting is to take place at the beginning of year 2, and the second meeting is at the end of year 2 – all the thematic WPs will follow this timeline throughout the full set of tasks. Therefore a temporal systematic flow is followed by the consortium.

In consistency with the other thematic WPs, WP-6 climate is tasked with ensuring civil society engagement by conducting 40 semi-structured interviews, which is the main subject of the working paper at hand. In this way, the WP6 is enabled to collect relevant data from both public and private actors. WP6 is also tasked with sharing the output of its work with policymakers and relevant stakeholders to receive feedback, as the other WPs under the project. In this way, the project aims to ensure a continuous and consistent dialogue with the civil society actors and that they are included in the data collection and knowledge production systematically.

2.2. Ongoing Feature

The ongoing feature of the ODSCE stands for the inclusion of civil society engagement from the beginning to the end of the project. Indeed, the project aims to facilitate this engagement in every step. Therefore, the inclusion is not limited to only the data collection process, but it also covers the knowledge production and dissemination phases. Throughout the whole project, the reflections of the civil society are collected in different ways, feedback is received from the relevant stakeholders, and this co-produced knowledge is aimed to be disseminated as recommendations to the EU

¹ See GA Proposal Part B p. 10

Commission of new law, regulatory and policy actions and the democratic participation of civil society in governance mechanisms is fostered.

2.3. Direct Form of Engagement

The project seeks to ensure the inclusion of civil society actors in every phase through direct means such as face-to-face meetings, workshops, web-interviews etc. In this way, the private actors can voice their reflections concerning States' use of HRJs directly. All feedback and reactions will be considered in the research to be conducted, and follow-up feedback will be gathered from the same stakeholders about the final synthesis of the output.

2.4. Participation of Civil Society

The project aims to ensure the participation of various actors from civil society actors such as NGOs, community-based organizations, individual activists including human rights defenders and recipients of activist services. During the progress of the project collected data and research will be shared with these non-state actors. Their reflections and feedback on these matters will be received and they will be analyzed by each thematic WP. These reflections and feedback will be incorporated into the data and research. Following the analysis of these reactions, the revised research will be presented to the same civil society actors and their feedback will be guiding the finalization of research results.

One aim of the HRJust project is to contribute to the protection of human right defenders. Therefore, their inclusion in the project is important as this will ensure receiving direct data from them and producing empirically informed recommendations to support their human rights work.

Given these features of ODCSE, the next chapter addresses in detail to one of WP6-Climate's civil society engagement that is the semi structured interviews with forty stakeholders.

3. The Design of the Interviews

3.1. Selection of the Interviewees

3.1.1. Group of Interviewees

The analysis of the interviews aims to identify role of HRJs its impacts, perceived challenges and opportunities and interaction of HRJs with other key themes. The research seeks to identify new actors and new roles for existing actors in the context of HRJs. Therefore, the selection of the interviewees will be made according to the categories below:²

- 10 government policy officers
- 10 European / national judges
- 20 international/national associations engaged in the promotion and protection of the rights and citizens and vulnerable groups.

3.1.2. Domestic & International Qualifications Balance

The research will be taking into consideration the balance of the background of the interviewees. Accordingly, both national policy officers as well as EU level officers are planned to be included in the groups. Parallely, the group of judges will consist of domestic and European level judges as well. In order to ensure a balanced representation of civil society, the same consideration will be given to the selection of the related associations.

3.1.3. Geographical Balance

Interviewees will be chosen from diverse geographical regions to ensure representation from various continents. Within the European context, a broad range of Member States, encompassing both smaller and larger states, will be included. This approach aims to observe and understand the differing perceptions that emerge from these distinct geopolitical entities. Another aim of the research is to understand whether the EU membership makes a difference in terms of the use of HR Justifications. Therefore the geographical balance of the interviewees is an important factor that will be taken into account.

² See GA, p.12.

3.1.4. Thematic Balance

The interview design aims to ensure a thematic balance encompassing diverse stakeholders from different interest areas. Policy officers will be selected from different ministries including MFAs, industry and environment. Judges will be selected from various professional backgrounds. The diversity of associations will be also taken into account and associations covering a spectrum of areas will be included in the research. Accordingly, Associations focusing on s civil, political, economic, social, and cultural rights, as well as specific issues related to women, children, disabled people, racial discrimination, migration, and the environment will be included in the interview design.

3.1.5. Gender Balance

A gender balance is also aimed to be ensured throughout the interviews. Not more than 60% of interviewees in one group will be of one gender, if possible.

3.2. Potential Interviewees

The WP6 Team plans to have the initial contact with the following names and associations taking into account the balance considerations mentioned above. All the following lists are to be considered as a starting draft (the identity of interviewees will be clearer once we have the confirmation of the availability for interviews).

3.2.1. Policy Officers

- Emil Ruffer, head of the International Law Department, Czech MFA
- Pavel Caban, senior lawyer, International Law Departments, Czech MFA
- Petr Konůpka, Government Agent for the representation of the Czech Republic before the ECtHR
- Other names to be determined from the EU Commission responsible for environmental policies

3.2.2. Members of Judiciary

- Kateřina Šimáčková, ECtHR judge, Czech Rep.
- Mattias Guyomar, ECtHR judge, France
- Andreas Zünd , ECtHR judge, Switzerland
- Frédéric Krenc, ECtHR judge, Belgium
- Tim Eicke, ECtHR judge, United Kingdom
- Pere Pastor Vilanova, ECtHR judge, Andorra
- Ana Maria Guerra Martins, ECtHR judge, Portugal
- Jan M. Passer, CJEU judge, Czech Rep.
- Pavel Molek, judge, Supreme Administrative Court of the Czech Rep.
- Tomáš Langášek, judge of the Czech Supreme Administrative Court

3.2.3. Associations & Human Rights Defenders

- ENNHRI (European Network of National Human Rights Institutions)
- Urgenda
- CIEL (Center for International Environmental Law)
- ClientEarth
- Amnesty International or Human Rights Watch
- International Federation of Human Rights (FIDH)
- Association of Human Rights Institutes (AHRI)
- KlimaSeniorinnen Schweiz
- Klimatická žaloba ČR (Martin Abel, lawyer)
- People in Need
- Ozlem Altiparmak, Attorney at Law, UN Women National Consultant
- Global Legal Action Network (GLAN)
- World's Youth for Climate Justice (WYCJ)
- EarthJustice
- Center for Water Security and Cooperation
- Global Climate & Health Alliance
- Sabin Center for Climate Change Law on Climate Science and Human Rights Obligations
- NYU Law's Climate Litigation Accelerator (CLX)
- Greenpeace International (GPI)
- Union of Concerned Scientists (UCS)

3.2.4. Time of the Interview & Numbers of Questions

Each interview is planned to be conducted in about one/two hour(s). The numbers of the overall questions may vary depending on the interviews as they are designed in semi-structured format. Yet, the interviewers will be using the pre-determined questions to facilitate the elaboration of the topic.

3.3. Content of the Questions

3.3.1. General Overview

As mentioned earlier, the interviews will be semi-structured. This means they will include pre-determined open questions, which are drafted based on the theory developed by the work of WP-2 and WP-3. As informed by the theoretical framework established by the WP2, the aim of the interviews will be to understand how states use Human Rights to justify and defend their actions and decisions. Accordingly, the questions will be formulated to enable the researcher to identify firstly the non-private actors that justify their actions or decisions by way of using a human rights justification. In this context, researchers will endeavor to identify the type of arguments. Accordingly, researchers will try to understand what kind of arguments non-private actors embrace, i.e. based on legal reasoning, national interest, security concerns or whether they are ethical, moral. value based etc. The questions will also be formulated to understand the function of law in terms of HR justifications and in what context HR Justifications are used.

The questions, especially the ones listed below (which guide in the preliminary construction of the theory as developed by WP2), will primarily shape the formulation of the questions to be asked throughout the interview, allowing interviewers to delve deeper into the subject:

- How is your national legal system able to hold the State accountable for its use of human rights in justifying its actions and decisions?
- If the State is not using human rights justifications – meaning drawing on the legality of human rights to create legitimacy for its arguments and decision – what forms of justifications are being used, moral, security, development for example?
- What are the distinctions between Human Rights Justifications and moral, security, development arguments?

Accordingly the design of the questions aim to understand the following issues:

- How states use human rights justifications
- What States gain by using Human Rights Justifications
- What States lose by using Human Rights Justifications.

3.3.2. Prospective Questions

Considering the general question structure mentioned above and keeping the guiding themes in mind, a list has been created below for researchers conducting the interviews to determine the questions they can ask the selected interviewees:

- **Human rights violations caused by climate change**
 - Which human rights are most affected by the consequences of climate change? (all: meaning judges, policy, associations)
 - What is the scope of states' positive obligations to implement human rights in relation to climate change? (all)
 - What is the scope of states' obligations to implement the right to a healthy environment? (all)
- **Impacts of climate change on vulnerable groups**
 - What is the scope of states' obligations to adopt effective measures to protect rights of children and future generations, as defined in the Convention on the Rights of the Child and in other international instruments? (judges, associations)
 - What is the scope of states' obligations to protect rights of other vulnerable groups, such as women or indigenous peoples? (judges, associations)
- **Implementation of international legal instruments**
 - Is it in your opinion more helpful to argue with national or international instruments in a climate litigation case? (judges, associations)
 - To what extent do you consider arguing with the Paris Agreement in a climate case helpful? (judges, associations)
 - Which international instruments do you consider most helpful to be used in climate litigation? (judges, associations)
- **Role of States**
 - What (mitigation and adaptation) measures should States take to minimize the negative consequences of climate change, in light of their international human rights obligations? (policy, associations)

- What measures should States take to specifically protect vulnerable groups such as children and others from the negative effects of climate change? (policy, associations)
- What are the main arguments of States (justifications of their actions or inaction) when they face a climate lawsuit? (all)
- What human rights-related arguments do States use in climate litigation? (policy, associations)
- What other arguments (e.g. moral, security, development) are being used by States in climate litigation cases? (policy, associations)
- What considerations should international organizations take into account when developing policies in relation to climate change? (policy, associations)
- **Civil Society Engagement**
 - Which kinds of human rights arguments have you encountered so far in your experience? Are these arguments used only by civil society or individuals in their pleadings, or do States/State organs use them as well? (judges)
 - Does the dynamics of the proceedings change when a civil society organization intervenes, or becomes a party in a case? (judges, associations)
 - How would you describe civil society's engagement in climate policymaking? Which part of civil society is more active in this regard? Is there a need for more engagement? What is the best way to achieve efficient cooperation between policymaking and civil society? (policy, associations)
- **Barriers & Obstacles**
 - Are there legal or practical barriers that you experience in policymaking concerning climate change? What are the challenges faced in implementing these obligations? (policy)
 - What are the most significant obstacles that you experience in practice with climate activism and legal actions before courts? (associations)

3.4. Language

The interviews are expected to be held mainly in English as it is the language of presentation throughout the project. When other languages will be used (e.g. Czech, Italian or Turkish) and English translation of the transcript will be arranged.

4. Post-Interview Process: The Qualitative Content Analysis

During the analysis of the interviews the researchers will take into consideration the theoretical assumptions informed by the work of the WP-2.

The content analysis will be used to identify role of HRJs, impacts, perceived challenges and opportunities; interaction of HRJs with other key themes (e.g. jurisdiction, extraterritoriality, procedural limits). There will be particular focus on vulnerable groups – enabling identification of new actors, and new roles for existing actors.

In this phase of the research, the researchers will keep the records of all the identified human rights justifications.

4.1. Transcription and Anonymization of the Interviews

As the substantive content of each interview is important for the data analysis, the interviews will be transcribed for a better understanding of each stakeholders' expressions. Transcripts will include the complete conversation, including the questions asked by the interviewer. The transcribed excerpts will be edited only for clarification purposes to remove word repetition if needed or stressing certain words etc. Transcripts will include the date and other details of the interview as well as the pseudonyms representing the participants.

Each participants' identity protection will expected to be maximized through anonymization and the value and integrity of the data will be maintained.

4.2. Coding Process

4.2.1. Establishing the Coding Frame

The coding frame will be built following the completion of the interviews and it will be informed by the theoretical background on HRJs developed by the WP2 and WP3

As the data at hand will consist of interviews with different stakeholder groups as mentioned above, at least one interview from each group will be taken into account during establishing the coding frame. Accordingly the main categories and sub-categories will be generated. It is expected to use a combination of concept driven and data driven categories.

4.2.2. Use of DDI-Codebook 2.5 & Colectica

The data generated through interviews will be coded using DDI-Codebook 2.5 (or any updated versions if available) and kept in xml Schema format. To ensure accurate versioning and meta data documentation, software as Colectica will be used throughout the research.

5. Challenges and Opportunities

Use of interview data is a complex process. The researchers have to delve deeply into the words of the interviewee which are not transparent all the time and get the relevant data from complex statements.

Management of the data, sorting and locating them, keeping the hard copies, electronic copies and audio file might create certain challenges. To overcome these all processes will be pursued according to the Data Management Plan.

DRAFT

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