

# Introduction: Greening the EU and the rule of law – opportunities and limits of the EU’s legal powers

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An unprecedented wave of environmental legislation has swept across the European Union (EU) as a result of the launch of the so-called European Green Deal (‘Green Deal’). Enshrined in a 24-page Commission Communication dated 11 December 2019, the Green Deal set forth ambitious objectives for the first von der Leyen Commission.<sup>1</sup> These include climate neutrality, zero pollution and more rigorous law enforcement, with the aim to strengthen environmental protection. By the end of the von der Leyen Commission’s first term, no fewer than 91 legislative initiatives had been adopted.<sup>2</sup> Meanwhile, legislative efforts to turn the ideals of the Green Deal into hard law have sparked heated debates, not only within the European Parliament but also across society, amid growing polarisation and the spread of misinformation. The proliferation of rules from Brussels occurred amidst concerns over judicial independence in some EU Member States, as well as long-standing challenges over the uniform and effective implementation and enforcement of the EU’s environmental *acquis*.

This book analyses the European Green Deal, taking the perspective of the rule of law. Law – particularly through the conferral of regulatory and enforcement competences – can grant significant powers to steer the EU’s transformation ‘into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in

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<sup>1</sup> Communication from the Commission, ‘The European Green Deal’ COM (2019) 640 final.

<sup>2</sup> See European Parliament, ‘Legislative train schedule’ <<https://www.euro-parl.europa.eu/legislative-train/theme-a-european-green-deal>> accessed 23 May 2025.

2050 and where economic growth is decoupled from resource use'.<sup>3</sup> Yet, law also sets limits to EU and governmental intervention in economic activity and individual freedoms. EU institutions have had to navigate the tensions between the law's enabling function – which constrains polluting behaviour – and its limiting function – which restricts governmental intervention. The contributions collected in this book provide insights into both the potential and the limits of the EU's legal powers in achieving the objectives of the Green Deal.

The book is the result of collaboration within the Jean Monnet Network project GreenDeal-NET 'The European Green Deal: Governing the EU's Transition towards Climate Neutrality and Sustainability', co-funded through the EU's Erasmus+ programme.<sup>4</sup> The open-access publication of the book was supported by the GreenDeal-NET project and Maastricht University's Open Access Book Fund.

To solicit contributions, we issued a call for papers in spring 2024. The call invited the European academic community to identify the most significant research questions concerning the rule of law dimension of the Green Deal. The call yielded 58 abstracts from senior, mid- and early career researchers across a wide range of EU Member States. As the editorial committee, we selected abstracts from both established scholars – including EU institutional and internal market specialists – and early career researchers – including PhD candidates. A workshop held at Maastricht University in July 2024<sup>5</sup> provided an opportunity for the selected authors to present their drafts and exchange views. The workshop was followed by non-blind editorial review and revision of the chapters. While each author remains responsible for their chapter, the editorial committee has encouraged them to provide the most accurate analysis possible, and to reflect on how the rule of law, including its opportunities and limits, relates to their specific topic.

The book is divided into four parts:

1. **Constitutional Challenges for Environmental Transformative Decision-making.** In Part I, Niko Soininen, Kaisa Huhta and Seita Vesa discuss how rule of law values constrain ambitious EU environmental legislation (Chapter 1). Then An Cliquet, Sonja Gantiole and Federica Cittadino analyse the difficult gestation of the Nature Restoration Law and how this Law aligns with other relevant environmental legislation

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<sup>3</sup> Communication from the Commission, 'The European Green Deal' COM (2019) 640 final, p.2.

<sup>4</sup> See 'About GreenDeal-NET | GreenDeal-NET' <<https://www.greendealnet.eu/about>> accessed 23 May 2025.

<sup>5</sup> 'Navigating the Environmental Transition: The European Green Deal and the Rule of Law', 1–2 July 2024, held in Maastricht.

(Chapter 2). Merijn Chamon and Thomas Verellen delve into the constitutional limits and opportunities for the delegation of rule-making powers to the European Commission (Chapter 3). Maurizia de Bellis concludes this part of the volume, providing reflections on the legal nature of the ‘Do no significant harm’ approach in the EU *acquis* (Chapter 4).

2. **The Steering Force of Finance and the Market.** In Part II, Paul Dermine and Norman Vander Putten discuss the steering by funding as established by the Recovery and Resilience Facility in light of rule of law values (Chapter 5). Alessandro Cuomo critically analyses the powers of the European Central Bank to steer the green transition (Chapter 6). Lastly, Sybren de Vries and Ulla Neergaard consider the potential for transforming the EU internal market and public economic law principles in order to realise the ambitions of the Green Deal (Chapter 7).
3. **Access to Justice, Enforcement and Liability.** In Part III, Stefano Porfido and Federica Montanaro analyse the provisions on access to justice in environmental matters introduced under the Green Deal, as well as remaining gaps (Chapter 8). Hendrik Schoukens examines recent case law on the role of Environmental Impact Assessments to address climate change (Chapter 9). Maxime Tecqmenne discusses the protection of individual rights in EU air quality legislation, with a focus on compensation of health damage (Chapter 10). Giulia Giardi, Kim Geurtjens and Michael Faure conclude with an analysis of EU environmental criminal liability, exploring what it entails and the challenges associated with translating rules into effective enforcement in practice (Chapter 11).
4. **Exerting influence beyond the EU’s territory.** In Part IV, Marta Paricio Montesinos critically discusses the Corporate Sustainability Due Diligence Directive and the EU’s efforts to influence economic actors in third countries (Chapter 12). Giovanni Dall’Agnola concludes this Part, focusing on the EU’s efforts to combat deforestation, particularly on the coherence between its internal and external action (Chapter 13).

The book concludes with reflections on the key insights emerging from the chapters. Given the complexity of EU environmental law – a complexity deepened by the Green Deal – this book represents only a first step in the ongoing effort to understand how the legislative reforms introduced with the Green Deal may improve environmental protection within the EU borders and beyond.

Because of the novelty of the subject matter covered and the turbulent political climate in which this book is written, it is important to close this

Introduction with a note of caution: despite the authors' and editors' best efforts to clearly explain and assess the legislative instruments introduced with the Green Deal, errors may remain. Readers who encounter any such error or omission can send any comments or suggestions to the coordinator of this book project, Marjan Peeters ([marjan.peeters@maastrichtuniversity.nl](mailto:marjan.peeters@maastrichtuniversity.nl)).

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