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# LEGISLATIVE DEVELOPMENTS AND THE EUROPEAN GREEN DEAL: LESSONS LEARNED

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**ABSTRACT**

*"Ensuring our industrial renewal and decarbonisation, and allowing the EU to remain an industrial and technological powerhouse" was defined by the Leaders of the European Union in the Budapest Declaration as a top priority for the EU in the future. In order to find the optimal legal solutions to support the reconciliation of climate protection with the striving for a prosperous economy, the results of the European Green Deal (EGD) shall be evaluated. The current paper aims to identify certain legislative developments connected to the EGD and analyze their relationship to the general characteristics of EU law and policy. Thus, the findings might support the development of regulatory solutions tailored to ensure the efficient enforcement of climate policy initiatives, while promoting the implementation of European legal standards, cutting red tape, and respecting the Member States' competences.*

**KEYWORDS**

*European Green Deal, policy initiatives, simplification, implementation, smart regulation*

## INTRODUCTION

The European Green Deal (hereinafter: EGD), "a growth strategy that protects the climate" (European Commission, 2024a) has defined the legislative and policy developments in the last institutional cycle at EU level. According to the priorities of the President of the European Commission, "the European Green Deal in action" will define the EU's policies in the future as well (European Commission, 2024b). At the same time, the competitiveness of the EU entered into center of attention, underlining the need for reconciliation of climate protection with the striving for a prosperous economy.

The interconnection of these goals was demonstrated by several reports and policy documents that offered a complex analysis about the competitiveness of the EU. One of the first of these, the Letta report, stated that by "structurally supporting the transition, the EU enhances its commitment to both long-term economic prosperity and achieving its sustainability goals" (Letta, 2024, 12. p.). Similar conclusions were derived by Mario Draghi in his report about the competitiveness of the EU: "Europe must confront some fundamental choices about how to pursue its decarbonisation path while preserving the competitive position of its industry. (…) Most importantly, the "European Green Deal" was premised on the creation of new green jobs, so its

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political sustainability could be endangered if decarbonisation leads instead to de-industrialisation in Europe – including of industries that can support the green transition" (Draghi, 2024, 41. p.).

The Budapest Declaration on the New European Competitiveness Deal adopted by the Leaders of the European Union also stresses the need for "ensuring our industrial renewal and decarbonisation, and allowing the EU to remain an industrial and technological powerhouse" (European Council, 2024, 1. p.).

All these documents seem to promote a change of approach as regards the EU-level regulatory framework. Ensuring a clear, simple and smart regulatory framework, drastically reducing administrative, regulatory and reporting burdens, eliminating redundant, obsolete, and inconsistent regulations, accelerating the digitalization of authorization and reporting procedures, replacing other overlapping coordination instruments appear as possible methods to achieve these goals. In case of initiatives aimed at promoting sustainability and climate protection, the challenge is to find regulatory solutions, which can harmonize green policy initiatives with economic goals and European legal standards, and can ensure efficiency while cutting red tape. The current paper aims to contribute to these efforts by identifying certain trends connected to the EGD and analyzing their relationship to the general characteristics of EU law and policy.

## LITERATURE REVIEW AND RESEARCH METHODOLOGY

"The European Green Deal (…) aims to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use" (European Commission, 2019a, 2. p.). The Communication of the European Commission from December 2019 defines this way the main goals of an overarching policy initiative known as EGD, which includes key elements, like the "Fit for 55" package, the Farm to Fork Strategy, the Biodiversity Strategy or the Circular Economy Action Plan. (For a detailed overview of all initiatives see: Vela Almeida et al., 2023).

The approach provided in this paper intends to harmonize legal and policy aspects. The relevant literature examines the new initiatives at EU level from a social, economic and policy point of view, with special regard to their relationship to overarching principles and international instruments (e.g. Buzogány, Parks, & Torney, 2025; Koundouri et al, 2024; Arabadjieva & Bogojević, 2024; Bogojević, 2023; Čavoški, 2022; Chiti, 2022; Dubský, Votoupalová & Vítková, 2025; Sikora, 2021; Stauffer, 2020; Stockmann, 2024; de Sadeleer, 2024; Di Fabio, Felbermayr, Fuest & Windthorst, 2021).

Although the interconnection between environmental policy, legislative developments and jurisprudence is getting more and more attention (e.g. Campins Eritja & Fernández-Pons, 2024; Kulovesi, Oberthür, van Asselt & Savaresi, 2024; Rodríguez-Arana, 2023, Ochner, 2022), it is a relatively new question how legislative solutions support the political ambitions, concepts and goals of an overarching policy initiative, like the EGD, and whether there are systemic failures or deficiencies in the implementation.

The current paper examines these factors based on the evaluation of selected pieces of EU law within the framework of EGD. Furthermore, the first factual results of implementation or enforcement as well as the reactions from Member States, stakeholders and relevant secondary literature are included in the analysis. The synthetizing description intends to deepen the understanding about the role of choosing the proper regulatory solutions in order to achieve tangible results in a field, where the achievement of environmental policy initiatives is not only related to sustainability, but also to the elaboration of effective regulatory models and to fostering the competitiveness of the EU in a global context.

## DISCUSSION

### Flexibility vs. common standards: the question of implementation deadlines

The EGD foresees several types of measures, including a.) legislative initiatives (new directives and regulations as well as the amendment of already existing ones); b.) strategic documents paving the path for further initiatives as well as c.) policy measures (e.g. assessment of national plans, further development of the European Semester exercise and measures in the field of diplomatic relations and international cooperation) (European Commission, 2019b).

While generally we are witnessing a trend to use regulations as primary tools of legislation at EU level, the role of the directives is still considerable. Directives leave certain room for manoeuvre for the Member States thus facilitating the integration of EU level tools in national legal systems and policy framework. However, the advantages on the one side are also disadvantages on the other side: there is a clear risk of delay in the implementation and of divergent understanding about certain provisions appearing either in the transposition phase or during the application (Further insights into the progress of implementation of the EGD, see: Ottomano Palmisano, 2025).

This problem appeared quite quickly in connection with some crucial elements of the EGD (more precisely of the Fit for 55 package aiming to reduce EU's emissions of greenhouse gases by at least 55% by 2030). In case of both the ETS2 (European Parliament & Council, 2023a) and RED III Directives (European Parliament & Council, 2023b), the Commission launched infringement proceedings against 26-26 Member States for failure to meet the transposition deadline last year (European Commission, 2024c, 2024d). [Both directives touch upon very sensitive issues: the EU ETS2 establishes a new emissions trading system for the $CO_2$ emissions from fuel combustion in buildings, road transport and additional sectors (mainly small industry not covered by the existing EU ETS); the RED III Directive raises the EU's binding renewable energy target for 2030 to a minimum of 42.5%.] In case of transposition of directives, delays seem to be normal phenomenon, especially because of the time needed to address such crucial elements as timeliness, policy instrument choice, correctness of transposition, interplay of the different institutions and the degree of national adjustments to the directive's requirements (Nabitz & Hirzel, 2019, 551. p.).

However, if almost all Member States fail to comply with the implementation deadline, it might be supposed that, for one reason or another, the transposition deadline might not be appropriate to take the necessary actions. Another possible interpretation of this phenomenon is that the short implementation deadlines intend to promote the compliance as early as possible. Nevertheless, in cases, where there is such a considerable number of non-complying Member States, the question arises, what criteria the Commission will use in such cases to decide whether to open infringement proceedings and, more importantly, to take the proceedings to the next stage. The relevance of this phenomenon cannot be questioned even in light of the fact that according to settled case-law of the Court of Justice of the European Union (hereinafter: CJEU), "a Member State may not rely on the fact that other Member States have also failed to perform their obligations in order to justify its own failure to fulfil its obligations under the Treaty" (CJEU, Case C-155/23, paragraph 92). If, namely, the Commission goes forward with such proceedings in a rigorous and consistent way, it might ignore real difficulties of Member States; if, however, it uses a certain leniency, the compliance with general principles of EU law (the obligation to implement directives by the implantation deadline) might be questioned.

This example shows that in case of initiatives having significant effect on citizens, households and enterprises, the implementation deadlines shall be carefully analyzed during the negotiations of the legislative proposal both from the part of the Commission and the Member States. This is the most efficient way to avoid infringement procedures, to safeguard the Member States' rights and obligations as well as to promote the consistency of EU law.

**Appropriate impact assessment**

In the Interinstitutional Agreement between the European Parliament, the Council and the Commission on Better Law-Making, the three Institutions agreed on the positive contribution of impact assessments in improving the quality of Union legislation, and stated "impact assessments should cover the existence, scale and consequences of a problem and the question whether or not Union action is needed. They should map out alternative solutions and, where possible, potential short and long-term costs and benefits, assessing the economic, environmental and social impacts in an integrated and balanced way and using both qualitative and quantitative analyses" (European Parliament, Council & European Commission, 2016, para 12.). The appropriate impact assessment is particularly important in case of a legislative proposal that will most probably result in financial burden for a wide range of citizens.

As regards the EU ETS2 Directive, which – as mentioned above – has significant effect on households, the impact assessment of the legislative proposal analyzed three types of problems. "First, those associated with the need to strengthen the existing EU ETS in a commensurate way with the increased net greenhouse gas emissions reduction target by 2030, compared to 1990, of at least -55 %, while avoiding supply/demand imbalances. Second, the need to ensure certain sectors contribute sufficiently to the achievement the increased target. Finally, the need for increased investment and greater capacity to address the distribution of impacts of emission reduction measures, while funds remain limited" (European Commission, 2021, 13. p.).

The proposal of the Commission acknowledges that support measures are needed to promote energy efficiency in vulnerable or low-income households and to prevent excessive distributional effects. "To that end, within the 'Fit for 55' legislative package the Commission makes a proposal for establishing a Social Climate Fund to finance the relevant Member Sates' plans to address social aspects of the emission trading for buildings and road transport with a specific emphasis on vulnerable households, micro-enterprises and transport users. Part of the auction revenues of the new system are to be used to finance the plans of the Member States" (European Commission, 2021, 6. p.).

The relevant literature also acknowledged that distributional concerns, within and across countries, are key to policy design in the field of emissions trading and that specific measures are needed to ensure prices in ETS2 remain limited (Haywood & Jakob, 2023; Roca Reina et al., 2024; Eden et al., 2023).

However, the potential effects of the EU ETS2 regime have only started to get into center of attention once the Directive was adopted. The number of sources calculating the exact effects in different Member States is expanding (Buk & Izdebski, 2024; Altaghlibi, 2025; Pahle, 2024). At the same time, the concerns about the financial and social effects of the ETS 2 are rising: the Parliament of Estonia announced in March 2025 that they want the repeal or at least the postponement of the ETS2 (Riigikogu, 2025); Slovakia took a similar approach already in September 2024 (Euractiv, 2024a), Czechia in December 2024 (Euractiv, 2024b).

It is questionable, how these efforts can influence the already adopted obligations. Nevertheless, this example shows that the EU-level impact assessment should not only include the cost-benefit analysis for the EU and European citizens in general, but it should also extend to the effects on individual Member States. This should be of particular significance in case of directives, where Member States carry the primary responsibility for the implementation of EU rules into national legal orders.

**Adjusting policy concepts**

Another special trend of the EGD-policy initiatives is related to the adjustment of priorities to global phenomena. As indicated in the introduction, in the current institutional cycle the Commission seems to put more emphasis on competitiveness, especially on "cutting the red tape", reducing administrative burden. The Budapest Declaration mandated the Commission to launch a simplification revolution, ensuring a clear, simple and smart regulatory framework for businesses and drastically reducing administrative, regulatory and reporting burdens. In this spirit, some changes to the adopted regulatory framework have already been announced. Interestingly, the so-called Omnibus Simplification Package targets such pieces of EU legislation, which were adopted in the previous cycle as part of the EGD-package. This demonstrates that in the field of sustainability and climate protection, the optimal balance between economic, social and environmental aspects is of particular importance. Nevertheless, the swift change of laws (in certain cases during the phase of implementation), raises several questions.

A striking example of this is the so-called CSDDD directive (European Parliament & Council, 2024), Article 37 of which requires Member States to adopt and publish, by 26 July 2026 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. Although the transposition period has not yet expired, the Commission has already proposed a number of amendments to this Directive in the Omnibus Simplification Package. "This proposal therefore contains provisions to simplify and streamline the regulatory framework with a view to reduce the burden on undertakings resulting from the CSRD and the CSDDD without undermining the policy objectives of either piece of legislation and to ensure more cost-effective delivery of the overall ambition of the European Green Deal related to the green and just transition." (European Commission, 2025, 2. p.). Both stakeholders and academia recognized the need for these amendments in order to "cut the red tape", reduce administrative burden (Frank, 2025; Mares, 2024; Accountancy Europe, 2025; Mieszkowska, 2024). Despite the potential positive effects on the administrative burden, the approach enshrined in the Omnibus Package could in fact create difficulties for Member States and further uncertainty for the legal entities concerned, depending on the fact, how they react to the changing situation.

Although in case of the CSDDD, the Commission proposed the postponement of the transposition deadline – and the Council has already given green light to this proposal (Council, 2025) –, similar steps might complicate the implementation, enforcement and compliance in the future, especially, if changes are proposed during the transposition period. The problem might arise – under certain circumstances – in case of regulations, like the Carbon Border Adjustment Mechanism (CBAM), as well. While the CBAM is defined in a regulation (European Parliament & Council, 2023c), its application may require additional national legislative measures (Blom-

Hansen et al., 2022), in particular concerning the administration (many of the CBAM rules will apply from 1 January 2026).

The amendment announced by the Commission in the context of the above-mentioned omnibus simplification package, before the CBAM is applied, can cause difficulties for national legislators, administrative authorities and legal entities subject to the regulation.

Some authors argue, "the EGD should be understood more as a "living instrument", evolving through ongoing adaptation and refinement. At the same time, the EGD remains indispensable as a political protection framework due to its integration with scientific findings on planetary boundaries and legal obligations" (Calliess, 2024, 5. p.). However, the amendment of already adopted legislative measures during the implementation period or during the period needed for preparation might cause significant legal uncertainty. The phenomenon might have more far-reaching consequences as well. If Member States might have reasonable doubt, whether the already adopted EU-level legislation would be changed before the end of the transposition deadline, the discipline to comply with the transposition obligation might loosen in general. Due to the wide-ranging applicability of these rules (defining obligation not only for Member States but also for private individuals and companies throughout the EU), such situations should be avoided. At this point, again, the need for more in-depth impact assessment might be the key, extending to the cross-cutting effects of certain initiatives in different policy fields.

## CONCLUSION

The current paper raised questions about the implementation and enforcement of legislative initiatives adopted under the EGD, like: What regulatory consequences follow from the fact that in case of certain directives 26 Member States failed to comply with the implementation deadline? Does the need for a different approach to regulatory impact assessments arise from the example of the EU ETS2 Directive? What does the need for an Omnibus Simplification Package say about the Commission's approach to regulation and red tape? All these issues show that in case of initiatives having significant effects on citizens, households and enterprises, potential effects of the planned measures shall be carefully analyzed during the negotiations of the legislative proposal both from the part of the Commission and the Member States. If implementation deadlines are adjusted more precisely to the legislative tasks and processes of Member States, if the impact assessments extend to the societies, citizens and enterprises of individual Member States, if sectoral policy initiatives are much more deeply integrated in the general context of economic and social policies, the Member States' rights and obligations as well as the consistency of EU law can be safeguarded in a much more efficient manner. Thus, the legal considerations underline the need for a multi-level governance framework, which integrates local interests, Member-State-level implementation and EU-level planning, being particularly crucial in case of initiatives aimed at protecting such general interests, like sustainability, climate protection, economic growth and wellbeing.

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