LL.M. in European and Global Law
Master's Thesis (21067/22747)
Academic course 2024-2025

THE FUTURE OF THE EUROPEAN UNION.

EXISTENTIAL & CONSTITUTIONAL CHALLENGES FROM A HUMAN RIGHTS PERSPECTIVE: THE CASE OF THE ENVIRONMENT.

Ian Barrera Sosa.

NIA 242479.

Thesis advisor:

Professor Lela Melón.

upf. Universitat Pompeu Fabra Barcelona

To all of those who have always been by my side,
that their humbleness and love for life,
have in turn inspired mine.

Thank you to the wonderful women of my life:
María, Lourdes, Aura, Carlota, Carolina, Marlyn, and Eny.

Franklin, this one goes for you, Dad.

DECLARACIÓ D'AUTORIA I ORIGINALITAT.

Jo, Ian Barrera Sosa, certifico que el present treball no ha estat presentat per a l'avaluació de cap altra assignatura, ja sigui en part o en la seva totalitat. Certifico també que el seu contingut és original i que en sóc l'únic autor, no incloent cap material anteriorment publicat o escrit per altres persones llevat d'aquells casos indicats al llarg del text.

Com a autor/a de la memòria original d'aquest Treball de Fi de Grau autoritzo la UPF a dipositar-la i publicar-la a l'e-Repositori: Repositori Digital de la UPF, http://repositori.upf.edu, o en qualsevol altra plataforma digital creada per o participada per la Universitat, d'accés obert per Internet. Aquesta autorització té caràcter indefinit, gratuït i no exclusiu, és a dir, sóc lliure de publicar-la en qualsevol altre lloc.

Ian Barrera Sosa.

Barcelona, juny de 2025.

ABSTRACT.

This thesis analyses the future of the European Union from the intersecting perspectives of Constitutional Law, Human Rights, and Environmental governance. Taking as a departure point the fact that the EU is currently facing a crisis that is existential, normative, and institutional in its nature, this work aims to expose the case for stating that the global climate emergency constitutes an illuminating case study to question the Union's current legal and political architecture, specially when it comes to its human rights and environmental stances. While the EU's foundational principles emphasize peace, prosperity, and fundamental rights, contemporary challenges—ranging from demographic shifts and geopolitical instability to ecological degradation—pose serious threats to its legitimacy and cohesion.

Based on the Treaty of Lisbon and inspired by the Charter of Fundamental Rights, the thesis charts the development of the EU's constitutional identity and an assessment of its current ability to implement environmental human rights. Key elements of the 2017 White Paper on the Future of Europe and the recent 2024 Draghi Report, which are carefully scrutinised to place debates such as sovereignty and strategic autonomy in the Union into perspective. The study also analyses the EU legislative package — having the European Green Deal as the cornerstone, and also considering other pieces such as the EU Emissions Trading System and the rest of the legislation on sustainability and due diligence — in the context of existing international legal obligations and recent case law, highlights the advancements and shortcomings evidenced in human rights terms.

Ultimately, this essay aims to offer a critical reflection on the State of the Union in front of these global challenges and its role in their world and upon its citizens: whether, amid rising internal and external fragmentation, the Union can reassert itself as a legitimate and capable actor, committed to a sustainable and rights-based future.

Keywords: European Union - Constitutional Law - Environmental Law - Human Rights - Sustainability.

RESUMEN.

Esta tesis examina el futuro de la Unión Europea a través de la intersección del derecho constitucional, los derechos humanos y la gobernanza ambiental. Partiendo de la premisa de que la UE enfrenta una crisis multifacética -existencial, normativa e institucional- el trabajo sostiene que la emergencia climática constituye un caso paradigmático para cuestionar la arquitectura jurídica y política actual de la Unión. Aunque los principios fundacionales de la UE promueven la paz, la prosperidad y los derechos fundamentales, los desafíos contemporáneos -desde el reto del cambio demográfico y una creciente inestabilidad geopolítica, hasta el deterioro ecológico- amenazan seriamente su legitimidad y cohesión.

Tomando como base el Tratado de Lisboa y la Carta de los Derechos Fundamentales de la Unión, este trabajo traza la evolución constitucional de la UE y evalúa su capacidad actual para garantizar los derechos humanos en materia medioambiental. Se analizan críticamente dos obras claves como lo son el Libro Blanco sobre el Futuro de Europa (2017) y el reciente informe Draghi (2024), con el fin de contextualizar los debates internos sobre integración, soberanía y autonomía estratégica. Asimismo, se examina el marco legislativo europeo, con el foco puesto sobre el Pacto Verde Europeo y considerando otras piezas legislativas, como el régimen de comercio de derechos de emisión y las directivas existentes en materia de sostenibilidad y protección medioambiental, a la luz de las obligaciones jurídicas internacionales y de la jurisprudencia emergente, resaltando los avances y carencias en términos de derechos humanos.

En última instancia, la tesis ofrece una reflexión crítica sobre la capacidad de la UE en medio de una creciente fragmentación interna y externa para reafirmarse como un actor legítimo y comprometido con un futuro sostenible y basado en derechos.

Palabras clave: Unión Europea - Derecho Constitucional - Derecho del Medioambiente - Derechos Humanos - Sostenibilidad.

TABLE OF CONTENTS.

I. INTRODUCTION.

Our enterprise will begin over the next pages under the tone of the following words, famously marked down by English novelist C. Dickens:

> *It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way--in short, the period was so far like the present period that some of its noisiest authorities insisted on its being received, for good or for evil, in the superlative degree of comparison only*.

This quote captures, with uncanny resonance, the historical moment in which the European Union finds itself today. Ours is a time of dramatic contrast and overlapping tensions. While we are surrounded by unprecedented technological progress, ambitious legislative frameworks, and an ever more interconnected legal order, the European project, as envisioned over the past decades, is also grappling with some of the most serious crises in its recent history—existential, constitutional, environmental, and social.

These tensions shape the very terrain upon which the EU's future must now be built, and it is within this context that this research takes place.

The thesis begins from a premise that may appear both urgent and disquieting: the European Union is at a constitutional crossroads, and the climate crisis stands at the heart of its most consequential challenges. As the Union seeks to position itself as a global leader, particularly so in terms of sustainability, it must also reconcile a complex interplay of competing demands—economic competitiveness, legal coherence, democratic legitimacy, and human rights protection. In this sense, climate change is not merely an environmental or scientific issue; it is a deeply constitutional and political one, reflecting the broader question of whether the EU can live up to its foundational values—prosperity, equity, freedom, peace, and

democracy—in an era of ecological emergency and geopolitical uncertainty, with pressing social and economic demands arising from its population.

From this starting point, the objective of the thesis is twofold. First, it aims to understand the climate crisis as a legal and institutional challenge to the EU, not just as a policy matter, but as a test of its constitutional integrity and normative direction. Second, it seeks to evaluate whether the EU's legal and political framework can be reoriented—coherently and effectively—to protect environmental human rights, promote sustainability, and foster a model of decarbonization that is inclusive, economically viable, and future-oriented.

The research is grounded in European and International Law[1], but its ambition is to go beyond a merely doctrinal analysis: it aims to reflect on the viability of the European project as such and question whether the Union is up to the challenge at hand.

The work is structured in three parts, following a temporal and analytical logic:

> ***i) Where are we coming from?*** This section focuses on the EU's legal evolution, exploring the constitutional and institutional foundations laid down by the Treaty of Lisbon, the Charter of Fundamental Rights, and key reflections over the 2017 White Paper and the more recent Draghi Report.
>
> ***ii) Where are we?*** Here, the focus shifts to the present moment, examining the EU's climate and environmental legislation—such as the European Green Deal, the EU Emissions Trading System, and the Corporate Sustainability Due Diligence Directive—and assessing its legal effectiveness and consistency with human rights standards.
>
> ***iii) Where are we going?*** The final section engages with current and future challenges, including the question of how EU law addresses the right to a clean and healthy environment, the role of vulnerable groups, and, specially, the legal obligations of Member States, corporations, and citizens in the green transition.

[1] Due to the scope and extent of our research, all relevant background on International Law regarding Environmental Law and Climate Change Law is assumed to be known to the reader. Nevertheless, it is worth noticing that one piece of international legislation will stand up above others, given its nature and transcendence over EU legislation: the 2015 Paris Agreement. All other previous international instruments and landmarks inspire our analysis anyway, in spite of those not being explicitly referred throughout the research, e.g., the Kyoto Protocols or the previous Rio Declaration.

Our research is particularly attentive to the structural tensions that underlie these developments: between regulation and innovation, sovereignty and integration, economic growth and environmental responsibility. It explores how the EU can avoid the pitfalls of overregulation while fostering green innovation and market competitiveness. At the same time, it considers the practical and legal implications of financing the transition—through tools such as common debt—within a fragmented political landscape.

In doing so, this thesis embraces a central paradox: that while the climate crisis is a threat, it also presents an opportunity—an opportunity for the EU to rethink itself, to reaffirm its commitment to rights and sustainability, and to position itself as a legitimate and visionary actor in a changing international system. Whether it succeeds in doing so may well determine the shape and meaning of European integration in the twenty-first century.

In short, that is the purpose of this investigation: to assert whether the European project is still viable in today's world scenario and ponder the question of its role in front of the constitutional and environmental challenges that are casted over its citizens all around the Old Continent.

The 'Brussels effect' is under a test, and we will embark on a journey to see if it can pass this urgent examination – if still can be spoken about it at all.

II. THEORETICAL FRAMEWORK.

A foreword.

Europe is in crisis, and the world we live in is falling apart.

At the moment of redacting these lines, the previous statement, though bizarre, is not uncommon among many political leaders, commentators, and a vast list of media outlets, whether ‘mainstream’ or disruptive, accurate or not in the news and sources they share.

However, one must concede, this bold headline is not entirely unorthodox: as of the first semester of 2025, the European continent finds itself embroiled in an intricate web of crises with worldwide implications. The far-reaching consequences of Russia's invasion of Ukraine in 2022 continued holding sway, especially in energy markets and security policies. In addition, the war unveiled long-standing vulnerabilities of the EU regarding energy dependence and geopolitical cohesion. At the same time, protectionist tendencies amid fractured supply chains, international trade ‘wars’, and heightened multipolar competition fueled persistent global trade turmoil, testing the economic endurance of individual Member States as well as the Union altogether.

Furthermore, populist movements in some countries challenged the political solidarity of the EU project. However, new green technology initiatives offered hope of reducing carbon footprints while boosting economic growth and independence.

More recently, the traditionally steady transatlantic alliance with the United States has entered an uncertain phase, driven by political divergence, strategic misalignments, and shifts in U.S. foreign policy and commercial priorities. The result has been a revival of long-dormant debates on European defense autonomy, sparking renewed interest in bolstering a common security framework—a debate that goes beyond military concerns, touching upon constitutional questions of sovereignty and collective identity.

This happens while politicians within the European Union, at all levels, hurry up to cover some of the other pressing issues for the bloc and their societies, that being AI & innovation, Europe’s new plans of industrialization, the demographic problem and a constantly older population, and a long etcetera. All of those issues, as it is logic, demand immediate political attention and a comprehensive institutional response.

That, of course, is without taking into consideration two other challenges that the organization and its Member States face: the immigration drama on the rise, the apparition of political parties with extreme ideas and beliefs, skeptical of EU integration and the very relevance or need of the Union at all, and, specially, the dire threat of climate change and global warming.

Although certainly relevant to the future -and present- of the Union, these matters by themselves are not going to be the centre for discussion along the upcoming pages, but all of them have a thing in common, transversal to all the different topics present in public agenda for politicians, policy makers, representatives, enterprises and multinationals as well for CSO's and NGO's.

A harsh truth is present, as the elephant in the room: the European region is becoming irrelevant and less influential -in political, economical, scientific, technological terms-, less productive, its total population is not only shrinking but also getting older in average, while the overall economic growth suffers an staggering decline, affecting the livelihood of millions[2].

In consequence, the issues at hand might be considered as some of the most important, complex, and delicate challenges and problems that the EU has faced since it first started, back in the twentieth century, in the form of its antecessor the ECSC and the latter European Communities, even and particularly since its reborn almost two decades ago with the Treaty of Lisbon. But these hot topics are more than just mere issues.

They might constitute a threat to European existence and the bloc's survival as we imagine it, due to its reverberance in geopolitical, social, and economical terms.

Hence, over the following pages we will treat these as such, particularly from the perspective of EU Law, adopting the optics of Constitutional Law & Human Rights to this end. As a common thread, a conversation on sustainability, environmental law, and policies against climate change and global warming will lead the way to embody the examples to the problems, scenarios, and alternatives that we desire to cover in this research.

Therefore, our proposal is simple: we deem the European common project valuable, but extremely delicate, specially so due to the current circumstances surrounding it nowadays, the

[2] An uncomfortable reality approached by different authors, such asDraghi, Naim, or Letta, to which will be reviewed further in the research..

most problematic of them being climate change, which is a common existential threat to humanity and, in consequence, to the European people.

The climate crisis, in our consideration, poses serious challenges and questions to the Union from a governance and constitutional perspective, and in turn this tension is reflected in different human rights questions which divide the European society and ignite powerful, and passionate, political conversations.

In any case, to summarize, the three pillars or tripartite of issues in which our investigation will walk around are, as it follows: i) Constitutional law, or the very existence of the Union; ii) sustainability, environmental law, and climate change oriented policies; iii) human rights of EU citizens.

To that end, we will go through a detailed balance of the past, the present, and future scenarios the EU has in front of itself until this day – and the related challenges, shortcomings, and opportunities.

1. Where are we coming from?

a. The legal basis: the Treaty of Lisbon.

As for starters, a brief overview and contextualization of the EU's recent history is well in order and very much needed for the purpose of our narrative.

Even if succinctly, it is worth reminding the influence, contributions, and advances achieved by the end of the past century and early 2000's, highlighting the role played by the Treaties of Maastricht, Amsterdam, and Nice[3] -introducing the novel Charter of Fundamental Rights, a bill of rights for the Union with the legal value equivalent of that given to the main treaties-, which have deeply reformed and transformed the Union, that has seen a more than double enlargement among its members.

The seed planted by these transcendental legal benchmarks echoed greatly all around the European region and marked the beginning of a road towards more European integration, so much so that we still appreciate its impact.

Precisely because of that momentum that the European Community was going through by the commencement of the new millennia, much has been commentated around the noble ideals

[3] European Union. *Founding Agreements*. https://european-union.europa.eu/principles-countries-history/principles-and-values/founding-agreements_en

promoting a stronger, larger, more united, and more capable Europe, that at the moment led to the frustrated attempt for the Treaty establishing a Constitution for Europe[4], that was finally not ratified.

But the torch was carried on. Once the bloc saw the ship for a common Constitution sink and reflected upon it, the Treaty of Lisbon was negotiated and approved, marking the end of an era and a new day for another: the European Union, in its modern form, was born. It reshaped the European Union's existential and constitutional foundations through substantive reforms, still praised, providing the organization of increased democratic legitimacy, a stronger institutional structure, and a reinforcement of its attributions and powers and the way these are exercised and shared with Member States.

In this regard, the Treaty of Lisbon embodied an inflection point in the history of the organization from a constitutional perspective, as we pointed out, because, even though it is not formally a constitutional treaty, it keeps most of the substantial advancements previously proposed by the failed Treaty for a Constitution for Europe[5]. That is evidenced, for instance, in the clear division of competences it possesses, having some exclusive on its own, others shared with Member States, and finally some others in which the Union is allowed to support the works and efforts of its members.

Particularly, this treaty provides the Union with full legal personality, allowing the organization to participate in international treaties as a party itself and conditioning its members to sign these international agreements as long as they are in alignment with EU Law.

Last, but not least, the Treaty opened the way for a better protection of fundamental rights for European citizens in the region, with the legal acknowledgement of the Charter of Fundamental Rights as if it was a treaty and, anecdotally, clearing the way for an eventual

[4] European Parliament. *Draft treaty establishing a constitution for Europe (not ratified).* https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/draft-treaty-establishing-a-constitution-for-europe

[5] Centre Virtuel de la connaissance sur l'Europe. *The Treaty of Lisbon.* https://www.cvce.eu/en/education/unit-content/-/unit/02bb76df-d066-4c08-a58a-d4686a3e68ff/d7da2396-d047-4c4e-ae1b-f9edb47e3739

accession of the EU to the European Convention on Human Rights[6], that has been further promoted once the 14th protocol to the latter was passed in 2010[7][8].

As of early 2025, this accession has not yet occurred and there is no signs that lead us to think it will happen in the near future, as a draft agreement finalized in April 2013 was deemed incompatible with EU Law by the Court of Justice of the European Union in its Opinion 2/13[9] with, though efforts are being made in this regard[10] and it is worth noticing that judicial dialogue between both the Luxembourg and Strasbourg courts' is increasing[11].

In short, we underscore the majestic role played by this Treaty and the consequences and implications it had, and continues to have, in regards not only to the legal system, organic structure, and composition, of this reformed and updated Union but also to the values and principles of this organization, which understood its role upon its members and in front of the world, as a new, emergent and leading actor in the international community, amidst what appeared to be a novel arrangement of a multipolar international society and its order.

Back then, in 2007, the European Union dealt its hand taking advantage in front of the challenges and opportunities it was facing to its own existence as we knew it, and the outcome to that course of action was splendid, as the EU and its members acted accordingly considering the different roads they could have gone had they not decided to strengthen and further deepen the process of European integration.

In that sense, the next step of importance passes by reviewing an interesting prospective analysis exercise made by the Union years after Lisbon, in a critical context for the

---

[6] E-Justice. *Protecting fundamental rights within the European Union.* https://e-justice.europa.eu/topics/your-rights/fundamental-rights/fundamental-rights-european-union/charter-tutorial/part-i-protecting-fundamental-rights-within-european-union_en#:~:text=Following%20the%20entry%20into%20force,Human%20Rights%20and%20Fundamental%20Freedoms.

[7] Council of Europe. *European Union accession to the European Convention on Human Rights - Questions and Answers*. https://www.coe.int/en/web/portal/eu-accession-echr-questions-and-answers

[8] Council of Europe. *Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.* Consulted in: https://www.echr.coe.int/documents/d/echr/Library_Collection_P14_ETS194E_ENG

[9] Court of Justice of the European Union. *Opinion 2/13 of the Court (Full Court). 18 December 2014.* Consulted in: https://curia.europa.eu/juris/document/document.jsf?text=&docid=160882&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=649026

[10] In this regard "*In October 2019, the European Commission told the Council of Europe it was ready to restart negotiations. Formal negotiations resumed in October 2020, and the negotiators reached a provisional agreement on a revised draft accession agreement in March 2023*". For further information, see: https://www.coe.int/en/web/portal/eu-accession-echr-questions-and-answers

[11] European Court of Human Rights. *Dialogue with the Court of Justice of the European Union.* https://www.echr.coe.int/dialogue-with-the-court-of-justice-of-the-european-union

organization. We intend to do so in our previous consideration to the analysis of the current threats, challenges, and even opportunities to the Union. Let us dive into it.

b. The White Paper on the Future of Europe.

A decade later, in March 2017, the European Commission published the 'White Paper on the Future of Europe'[12], coinciding with the 60th anniversary of the signing of the Treaties of Rome. This document serves as a strategic outline, containing potential pathways and scenarios for the European Union's development, just in a post-Brexit context[13], considering the different challenges and opportunities for Europe over the next decade ahead.

Initially requested by the European Council, following the Five Presidents' Report[14], and announced by former Commission President Jean-Claude Juncker in his 2016 State of the Union speech, this document was conceived as a tool to facilitate deliberation on the topic of the EU 27's trajectory toward 2025 amid rising Euroscepticism and then geopolitical challenges.

To understand both the symbolical and political value of this White Paper, seen as the first steps onto '*the beginning of a new chapter*'[15] it is useful to consider the words of Mr. Juncker:

> (…) There are important challenges ahead of us, for our security, for the well-being of our people, for the role that Europe will need to play in an increasingly multipolar world. A united Europe at 27 needs to shape its own destiny and carve out a vision for its own future.
>
> This White Paper is the European Commission's contribution to this new chapter of the European project. We want to launch a process in which Europe determines its own path. We want to map out the challenges and opportunities ahead of us and present how we can collectively choose to respond.

To that end, the Commission delineated five distinct scenarios for the EU's evolution:

---

[12]European Commission. (2017). *White Paper on the future of Europe: Reflections and scenarios for the EU27 by 2025.* Consulted in: https://commission.europa.eu/publications/white-paper-future-europe_en

[13] The Guardian. (2017). *Brexit white paper: key points explained.* https://www.theguardian.com/politics/2017/feb/02/brexit-white-paper-key-points-explained

[14] European Commission. (2015). *The Five Presidents' Report: Completing Europe's Economic and Monetary Union.* Consulted in: https://commission.europa.eu/publications/five-presidents-report-completing-europes-economic-and-monetary-union_en

[15] Foreword to the White Paper offered by then-EC President Mr. Jean-Claude Juncker.

- **I) Carrying On:** it referred to the scenario in which the Union maintained the integration course it had back in 2017 while implementing the established reform agenda, with incremental progress but contingent upon Member States' consensus.
- **II) Nothing but the Single Market:** this second scenario betted on the idea of recentering the EU exclusively on its single market and, in consequence, retreating from other policy areas, including migration and security.
- **III) Those Who Want More Do More:** consisted in the establishing of a 'variable geometry' framework in which willing Member States pursue deeper integration in specific sectors while others maintain the status quo.
- **IV) Doing Less More Efficiently:** which thought of concentrating EU action on selected priority domains with enhanced enforcement powers, while devolving other competences to national authorities.
- **V) Doing Much More Together:** Finally, the more idealistic of them all, this scenario opted for substantively expanding EU competences across all policy spheres, including fiscal harmonization and defense integration.

Once we have arrived at the threshold benchmarked by the paper in 2017, in our view, we can theorize about various things, regarding these projections: neither the more optimistic nor the more fatalistic scenarios have been met, that is, the second and the last cases commented by the Commission, at least, not entirely[16].

We do not believe that, eight years later, the Union has arrived at a point of more cohesion, and a stronger Union, that is more capable and efficient -that being a scenario which we still deem desirable-, but the opposite would not be true either, because current public debate and notorious actions of the bloc over these time evidence the preoccupation of Member States and the Union as a whole when it comes to migration or the 'securitization'[17] of Europe, which is not to be confused with Europe's securitisation market problem[18].

---

[16] EU Enlargement and European Integration: Challenges and Perspectives (2024). *Future Scenarios for the EU 2050.* Page 194. https://www.zora.uzh.ch/id/eprint/276165/1/EU_Enlargement_and_European_Integration_Challenges_and_Perspectives_Digital_V1_03_20240826.pdf#page=187

[17] To expand on this, it is worth consulting recent EU actions on the matter (i.e. see https://www.euronews.com/my-europe/2025/05/28/eu-pitches-security-hub-to-protect-black-sea-from-russias-threats-and-shadow-fleet) but also, it is urgent to mention the recent 'White Paper for European Defence and the ReArm Europe Plan- Readiness 2030', published by the EU Commission on March 2025 (available in https://defence-industry-space.ec.europa.eu/eu-defence-industry/introducing-white-paper-european-defence-and-rearm-europe-plan-readiness-2030_en).

[18] A crucial element on the current political conversation as pointed out by several of the authors quoted later on this work, mainly, E. Letta and M. Draghi, touching on the European financial market over the issue of securities, understood as the process of "transforming a bunch of smaller loans or other cash-generating assets

In any case, there is no uniform consensus[19] around the exact scenario in which we find ourselves nowadays or in which we could categorize the performance and development of the Union over these years[20]: it could be argued that, in one way or the other, with more or less intensity, components or characteristics of the first three scenarios have been realized, as to our consideration, or at least have been intended by some Member States and EU institutions.

It is not our intention nor our duty, as it falls beyond our discipline and capacities, to tackle the reasons or evaluate why, if so, has the Union fallen short of its ambitious goals of development since 2017 to date, nor to verify the levels of compliance or adhesion of the EU to these scenarios, to a greater or lesser extent.

In despite of that fact, we bring these information to the table because, certainly, its latent implications we deem as valuable to observe the behaviour and actions of engaged parties over the last decade: though mainly guided, influenced, and expressed by political motivations, the choosing of one path or the other gives us a lead on what we can expect from the different involved parties for the years to come, specially in such key affairs, related to underlying constitutional and existential issues behind, and the trends that have been manifested on significant and relevant matters to our research.

In any case, notwithstanding the importance of the White Paper and the rigorously forged scenarios it described, it fell short taking into account an unforeseen variable that impacted global affairs and international politics, from which the EU did not escape: the pandemic caused by COVID-19.

Once that global crisis started to settle, the 2021-2022 Conference on the Future[21] took the baton and followed on the analysis and discussion proposed by the White Paper in 2017, this time the conversation being led by citizens. Among its main contributions, were proposals on

---

into larger, tradable securities". Its relevance: it might be a point of break when it comes to offering new sources of credit flow to finance the large amount of projects needed and those well in place. To expand on this, it is recommended to consult the Financial Times view and briefing on the matter, available in: https://www.ft.com/content/f01d18c6-16dd-41be-9b89-4465f01a47d6

[19] Íbid.

[20] Cambridge University Press. Crum, B. (2024). *Models of EU Constitutional Reform: What do we learn from the Conference on the Future of Europe?*. Page 394. https://www.cambridge.org/core/services/aop-cambridge-core/content/view/B851EAF3D7FDB97EE1C13D2AB88460EE/S2045381723000102a.pdf/models-of-eu-constitutional-reform-what-do-we-learn-from-the-conference-on-the-future-of-europe.pdf

[21] Conference on the Future of Europe archives. https://wayback.archive-it.org/12090/20230216155930/https://futureu.europa.eu/en/

the line of nine different yet interconnected topics[22], those being "*climate change and the environment; health; a stronger economy, social justice and jobs; EU in the world; values and rights, rule of law, security; digital transformation; European democracy; migration; education, culture, youth and sport*", deeply connected to the elements covered by the White Paper.

Notwithstanding this celebrated initiative, the public and institutional conversation about this now recurring theme of the future of Europe was far from over. To discover how, we will need to fast forward in time until we reach the year 2024, and revise the work of the illustrious ex President of the European Central Bank and former Italian Prime Minister: M. Draghi.

c. The Draghi Report.

Thus, moving forward to late 2024, just before any of the scenarios foresaw by the Commission on its White Book came into reality, as we have discussed them, the former ECB Governor and former Italian Prime Minister Mr. Mario Draghi, mandated by Commission's President Mrs. Von der Leyen, announced the publication of an exhaustive study, commonly known as 'Draghi Report'[23].

This set of publications, introduced in two separate pieces, and officially published under the title of '*The future of European competitiveness*', addressed various of the diverse systemic and existential challenges facing the Union, to its own global political position and its economic sovereignty and prosperity.

Since its announcement, it has been both largely praised and criticized by the general public, politicians, and specialized audiences, as it touches on some core aspects to the current situation of the bloc, providing of a critic, detailed diagnosis to the state of things happening in the Union, carrying some heavy considerations as to what the Union has done wrongly while also offering recommendations to the extent of what the EU should do in order to avoid an economic disbalance of the internal market and the stability of the welfare state as known by Europeans.

---

[22] European Commission. *Conference on the Future of Europe*. https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en

[23] European Commission. (2024). *The Draghi Report on EU competitiveness. The future of European competitiveness: Report by Mario Draghi.* https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en

Bluntly said, its analysis and proposals imply delicate constitutional and existential implications for the Union's trajectory that, in Mr. Draghi's view, should be amended in order to get back on track for the sake of the future -and present- of the organization.

In the light of the words of Mr. Draghi[24]:

> *If Europe cannot become more productive, we will be forced to choose. We will not be able to become, at once, a leader in new technologies, a beacon of climate responsibility and an independent player on the world stage. We will not be able to finance our social model. We will have to scale back some, if not all, of our ambitions.*
>
> ***This is an existential challenge***[25].

Getting into the details of the report, its core focus is centered on diagnosing Europe's eroding competitiveness in some of the most important sectors of the global economy (sustainable infrastructure and tech, AI and computing, defense capabilities) relative to the U.S. and China, worsened by the fragmentation of markets, underinvestment in key areas, and regulatory inefficiencies within administrations and the public sector, commonly refer to as 'red tape' problems.

The Report calls for urgent reforms to avoid political marginalisation, advising on different areas to: i) expand fiscal integration, and to that end, creating a permanent EU-level fiscal capacity to finance cross-border infrastructure and innovation; ii) the establishment of a capital markets union which opens the way for European financial integration in front of U.S. markets; and, of utmost relevance, the report stresses the urgence of streamlining the regulatory system: easing bureaucratic friction on strategic industries and facilitating business growth without sacrificing sustainability and environmental protection; iv) in the sense of this last idea, Draghi's Report highlight what has became obvious and vital for Europe since the Russian invasion of Ukraine started: the Union needs to bet for its own energy autonomy, making renewables more accessible while expanding and strengthening the European electrical grid, making it more reliable and secure for Member States[26].

---

[24] Ibíd.Foreword to the Draghi Report..

[25] Bold and underlined is the author's.

[26] Author's note: in the weeks following the writing of this section, a massive electrical blackout took place on April 28th, 2025 all over the Iberian Peninsula. An uncommon, bizarre experience for Europeans, which reiterated the view of Mr. Draghi's and the authors on the strategic importance of EU's energetic sovereignty and a call upon a more secure grid, which showed useful in this occasion, as France solidarity demonstrated. In this regard, consult more technical details on Euronews (2025) recount of the events: https://www.euronews.com/my-europe/2025/04/29/is-france-protected-from-a-major-power-outage-as-seen-in-spain-and-portugal#:~:text=On%20Tuesday%20morning%2C%20France%20provided,press%20release%20sent%20to%20Euronews.

In terms of the constitutional debates proposed by the Draghi report, sovereignty needs to be redefined. The report challenges the current constitutional order of the EU by demanding an expansion of centralized competences in matters of fiscal policy and economic governance—cardinals for the member states.

Additionally, other major proposals made include an enhanced majority voting, leaving sensitive areas such as taxation unaffected, hinting on treaty changes to abolish the national veto. Regarding its legal basis: insofar as the proposals go beyond the NextGenerationEU plan, they would also put the flexibility clause in Article 122 TFEU under the test.

With that said, it results evident that the European Union faces critical existential challenges stemming from its internal dynamics and global positioning. Without substantial reform, the risk of a "two-speed Europe" emerges, as the White Paper started to hint, where economic disparities fuel citizen alienation and anti-EU sentiment, potentially leading to fragmentation. Furthermore, the EU's potential to become a mere legislative powerhouse, lacking commensurate political influence, threatens its geopolitical relevance. Compounding these issues is the persistent concern regarding democratic legitimacy; the expansion of centralized authority without corresponding parliamentary oversight could exacerbate the perceived democratic deficit, undermining the Union's foundational principles and long-term viability.

The Draghi Report represents a watershed moment, akin to the Delors Report (1989) in ambition. Its implementation would demand treaty reforms and a renegotiation of the EU's constitutional settlement, testing member states' commitment to an "even closer union" amid rising nationalism. While not explicitly framed as an existential threat, its warnings about stagnation and fragmentation strike at the core of the EU's purpose and survivability in a multipolar world.

The words might have not been said, but are still there: we pass through a 'run-or-die' moment, in which all of the previously described challenges might merge a stronger, closer Union or might as well just make the Brexit look as the ignition of a chain reaction, infecting other Member States.

Urgency and concreteness define the path to avoid the collapse.

To that end, the report considered 170 proposals of different kinds. Three were the pillars in which the work Mr. Draghi's team moved around:

I) Fostering innovation (and resilience) and a steady supply of common public goods (not to be damaged by State's aid, which fragments the single market).

II) Combining decarbonization with competitiveness: **we want decarbonization to be an opportunity for growth**. An opportunity to lower energy prices, as Draghi's put it. End users should see the benefits of decarbonization in their bills, by an increase in the supply of clean energy, not only through regulations, but also increasing production. But to this matter the report is not ignorant of today's world: there is the problem with China's competition. That is why Europe would need to develop its own industry in this sense (clean tech). Europe is in need of a joint action plan on decarbonization and competitiveness. An **Industrial clean deal**. In the words of EU's Commission President Mrs. Ursula Von der Layen at the presentation of the report: '*The only way to ensure our long term competitiveness is to shift away from fossil fuels and towards a clean, circular, sustainable economy*'[27].

This transition of innovation should be taken as an opportunity, as an advantage, and that should be translated in action and results both for the consolidation of european industries and private sector, to benefits reverted back in society, and particularly in a fashion that is respective with the environment and conscious of the current crisis..

III) Increasing security and reducing dependencies. **A common foreign economic policy**. In this point, the report is clear: Europe's lack of focus on key priorities is affecting its capacity to be a solid actor in the international arena. Member States do not combine effectively their resources to generate scale and they do not properly coordinate their policies to that matter.

In essence, the report touches on vital, strategic points needed to boost Europe's competitiveness, advance, and regain its global position once again.

[27] Available in: https://www.youtube.com/watch?v=dVNna0erkFM

2. Where are we?

Having revisited the foundational trajectory of the European Union—its constitutional evolution from the Treaty of Lisbon to the White Paper on the Future of Europe, and most recently the Draghi Report—we are better equipped to understand the historical and legal contours that shape the Union's current position. These documents and institutional milestones reflect not only the EU's longstanding ambition to deepen integration and increase legitimacy, but also the persistent tensions that accompany such aspirations: between national sovereignty and supranational coordination, between political vision and legal capacity. What emerges is a Union that, despite its legal maturity, remains vulnerable to external shocks and internal fragmentation, particularly when confronting transboundary challenges like the climate crisis.

We now turn to the present—to the laws, policies, and mechanisms the EU has at its disposal today as it navigates the path toward environmental sustainability and human rights protection. The second section of this work will assess the current state of business: the legislative tools already enacted, with the European Green Deal acting frontstage as the piece from which the rest of legislation flows. In that sense, the EU Emissions Trading System, and the Corporate Sustainability frameworks, as well as their practical alignment with international obligations and the EU's own values, are to be considered.

At the same time, we will examine whether these measures are sufficient enough and respond effectively to the urgency of the climate emergency, and whether they offer meaningful protection to the rights of individuals and communities across the Union. This analysis, situated firmly in the present, will serve as a basis to reflect on the limitations, gaps, and latent potential of the EU's current legal framework as it prepares for the road ahead, with our worries posed on the human rights side to it all.

a. The European Green Deal: the cornerstone of European Sustainability legislation.

In turn, when it comes to EU legislation, there is an important list of different Regulations, Directives, and policy packages that must be taken into account, as they serve as the legal framework and basis for States to further deepen their legal systems' reaction to the climate

crisis, whether it is in the form of regulatory measures or those more focused on actively protecting environmental resources.

The legal and political framework currently guiding the EU's environmental governance is not the result of spontaneous ambition, but rather the product of a layered, progressive evolution in treaty law, international commitments, and a growing awareness that the Union's future rests not just on markets and institutions, but also on its capacity to ensure a livable planet.

The Union's foundational treaties—the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU)—provide the legal grounding for EU action on environmental and climate matters. Notably, Article 3(3) TEU enshrines the objective of sustainable development as a core EU value, stating that the Union shall work for "a high level of protection and improvement of the quality of the environment." Similarly, Articles 11 and 191–193 TFEU establish environmental protection as a cross-cutting objective, requiring the integration of environmental considerations into all Union policies and affirming the precautionary principle, the polluter-pays principle, and the principle of preventive action.

These treaty provisions do more than offer symbolic support—they constitute legal mandates that empower and even require EU institutions to adopt concrete measures in response to environmental degradation and climate threats. On top of that, we are compelled to talk about the international treaty of reference in this matter, for which the Union is a Party: the 2015 Paris Agreement. Succinctly, we recover from it its importance on the international commitment to limit global warming well below 2ºC above pre-industrial levels and pursuing efforts to limit it to 1.5ºC.

In this context, following this landmark international treaty on climate change, one initiative stands out as the most emblematic and structurally significant: the European Green Deal[28].

Unveiled in December 2019 by the European Commission under the presidency of Ursula von der Leyen, the European Green Deal marks a turning point in EU environmental governance. Far from being a mere regulatory agenda, it is a political and economic strategy

[28] EU Enlargement and European Integration: Challenges and Perspectives (2024). *The European Green Deal and the Path to Climate Neutrality – Chances and Challenges for the EU as green leader.* Page 147, and particularly 157 to 160. https://www.zora.uzh.ch/id/eprint/276165/1/EU_Enlargement_and_European_Integration_Challenges_and_Perspectives_Digital_V1_03_20240826.pdf#page=187

aimed at transforming the EU into the first climate-neutral continent by 2050. Its ambitions extend beyond emission reductions to include energy transition, circular economy development, biodiversity preservation, sustainable food systems, and the promotion of just transitions across all Member States. In short, the Green Deal is not simply an environmental initiative—it is a constitutional reimagining of the Union's developmental path, a projection into the future deemed desirable, and needed.

The Green Deal emerged in alignment with the EU's obligations under the 2015 Paris Agreement, and in many ways, it represents the Union's internalization of that commitment. Yet its launch also coincided with an unexpected global disruption: the outbreak of the COVID-19 pandemic, as we all suffered. However, far from derailing the Green Deal's agenda, the pandemic paradoxically opened a policy window.

The Union's economic recovery strategy—branded NextGenerationEU—channeled significant resources into green and digital projects, enabling the Green Deal to move from rhetoric to investment-backed planning. Through the Recovery and Resilience Facility (RRF)[29] Member States were encouraged—and in some respects, mandated—to dedicate a substantial share of their recovery funds to climate-related projects, thereby anchoring climate action into the EU's broader economic recovery and structural transformation.

Not in vain, as an example for this, renewable energy production in the EU accounted for up to 24.5% of the energy consumed in 2023[30], as a constant increase in front of 2022 23% contribution to energy production. Recent projections place this number on 42% of the total EU's energy consumption by 2030[31], if investment and commitments keep on track.

At the heart of the Green Deal lies its main goal: achieving climate neutrality by 2050. But this objective is framed not only in environmental terms, but also in social and economic language. The strategy speaks of "leaving no one behind," stressing the importance of ensuring that transitions—whether energy-related, industrial, or agricultural—do not widen inequalities or exacerbate vulnerabilities. Economic growth, under this vision, is not to be

[29] European Commission. *The Recovery and Resilience Facility.* Available in https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility_en
[30] Eurostat. (2024). *Renewable energy statistics.* https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Renewable_energy_statistics
[31] European Environment Agency. (2025). *Share of energy consumption from renewable sources in Europe.* https://www.eea.europa.eu/en/analysis/indicators/share-of-energy-consumption-from#:~:text=Renewable%20energy%20sources%20represented%2024.5,growth%20in%20renewable%20electricity%20supply.

abandoned but reconfigured: decoupled from resource depletion and pollution, and instead driven by innovation, clean technologies, and social cohesion.

The EU's Green Deal positions decarbonization as an opportunity, not just a necessity, to boost competitiveness, lower energy costs, improve public health, and regenerate Europe's natural systems.

This holistic approach also brings forward a series of constitutional implications[32]. From a constitutional law perspective, the Green Deal functions as a normative and strategic vehicle to expand the reach and interpretation of existing Treaty provisions. While it does not alter the Treaties themselves, it operationalizes their environmental and sustainable development clauses in new and ambitious ways. In doing so, it has opened the door for a new generation of secondary legislation—regulations, directives, and policy instruments—designed to translate its broad objectives into enforceable norms. These legal instruments, taken collectively, reshape the boundaries of EU competences in areas such as agriculture, energy, finance, and product regulation. Moreover, they reflect a legal and political recognition that environmental protection cannot be addressed in isolation—it must be mainstreamed across all domains of policy.

What follows is a brief overview of some of the most significant legislative developments stemming from the Green Deal, on what has become to be known under the name of 'European Climate Law'[33], each of which embodies not only regulatory ambition but also deeper constitutional and human rights implications.

The list of legislation, though not comprehensive, would go as follows:

1. ***The EU Emissions Trading System (EU ETS)***[34]: The EU ETS, launched in 2005, remains one of the cornerstones of EU climate policy and has been significantly strengthened under the Green Deal framework. It operates on a cap-and-trade principle, setting a limit on total emissions while allowing market participants to trade allowances. The system has contributed to emission reductions in sectors like power

[32] Rivista Quadrimestrale di Diritto dell'ambiente. R. De Paolis. (2021). *Constitutional Implications: the European Green Deal in the light of political constitutionalism.* https://www.rqda.eu/?dl_id=232
[33] European Commission. *Climate Law.* https://climate.ec.europa.eu/eu-action/european-climate-law_en#:~:text=The%20European%20Climate%20Law%20writes,2030%2C%20compared%20to%201990%20levels.
[34] European Commission. *EU ETS.* Available in: https://climate.ec.europa.eu/eu-action/eu-emissions-trading-system-eu-ets_en

generation and heavy industry. Its recent expansion to include shipping and, prospectively, road transport and buildings, reflects the Union's commitment to a more comprehensive carbon pricing strategy. From a constitutional perspective, the ETS exemplifies how the EU uses market-based tools to fulfill environmental mandates. Yet, from a social justice standpoint, it also exposes tensions: carbon pricing can disproportionately affect low-income households if not mitigated by redistributive mechanisms like the Social Climate Fund.

2. ***The Carbon Border Adjustment Mechanism[35]:*** a key component of EU's climate strategy, this mechanism, established as a directly applicable regulation, has been designed to prevent "carbon leakage" by imposing a carbon price of sort of tax on certain imported goods (i.e., cement, steel, aluminum) from non-EU countries with less demanding climate policies. This mechanism needs to be seen in pair with the ETS, and, in turn, it aims to level the playing field for European industries whole incentivizing greener production abroad, without contravening WTO rules on international commerce. In short, it reflects the externalization of EU environmental standards, raising questions about trade equity, global cooperation, while it tends to highlight the usefulness of having climate action meeting positive international law from a technical perspective.
3. ***The Green Claims Directive[36]***: Still in the legislative pipeline, the Green Claims Directive aims to tackle greenwashing by requiring companies to substantiate any environmental claims they make in commercial communications. This initiative has a consumer protection focus, but also a wider democratic function: it empowers citizens to make informed choices, reinforcing transparency and trust in environmental labelling. In constitutional terms, it builds upon the EU's internal market and consumer protection competences while contributing to the broader right to environmental information under the Aarhus Convention. Nevertheless, its implementation will likely raise questions about proportionality, legal certainty, and the administrative burden on small businesses.

[35] European Commission. *Carbon Border Adjustment Mechanism.* Available in: https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism_en
[36] European Commission. *Green Claims.* Available in: https://environment.ec.europa.eu/topics/circular-economy/green-claims_en

4. ***EU Nature Restoration Law***[37]: This one accounts for another regulation, passed after intense political debate, setting binding targets for the restoration of ecosystems across Member States—covering wetlands, forests, urban green areas, and pollinator habitats. It reflects a paradigm shift: moving from preservation to proactive restoration. Legally, it reinforces the Union's biodiversity strategy and expands upon Article 191 TFEU's commitment to maintaining and improving the quality of the environment. From a human rights perspective, it contributes to safeguarding the ecological basis of numerous rights, such as health and well-being. However, the law's effectiveness hinges on national implementation and long-term financing, both of which remain uncertain amid competing agricultural and economic interests.
5. ***Regulation on Deforestation-Free Products***[38]: Adopted in 2023, this regulation requires companies placing certain commodities (such as soy, palm oil, coffee, and timber) on the EU market to demonstrate that they do not contribute to deforestation or forest degradation. This is a groundbreaking measure from a sustainability standpoint, as it effectively externalizes the EU's environmental standards to global supply chains. Constitutionally, it represents an exercise of the Union's internal market competence intertwined with its environmental mandate under the referred art. 191 TFEU. From a human rights angle, the regulation contributes—indirectly—to the protection of indigenous peoples and forest communities affected by industrial deforestation practices. However, critics have noted the challenges in enforcement, particularly the burden it places on importers and the need for robust traceability systems.
6. ***Energy Performance of Buildings Directive (EPBD***[39]***)***: Finally, we must bear in mind that buildings alone account for a significant share of Europe's emissions. Hence, the role of this directive, which determines higher energy efficiency standards for new and existing buildings. It supports the goal of a "renovation wave," aiming to decarbonize the building stock and reduce energy poverty. Constitutionally, it reflects the integration of climate policy into energy and housing regulation—sectors traditionally reserved for national competencies. The directive thus pushes the

[37] European Commission. *EU Nature Restoration Regulation.* Available in: https://environment.ec.europa.eu/topics/nature-and-biodiversity/nature-restoration-regulation_en
[38] European Commission. *EU Regulation on Deforestation-free Products.* Available in: https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en
[39] European Commission. *Energy Performance of Buildings Directive.* https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en

boundaries of shared competence and challenges Member States to reconcile environmental goals with social equity. Despite its promise, progress has been slow, and disparities in national implementation threaten to undermine its full impact.

Taken together, these legislative measures embody the EU's attempt to respond to the climate emergency not through isolated fixes but via systemic transformation. They signal a shift in the role of EU law: from market-maker to a climate champion; from consumer regulator to ecological guarantor. And yet, while much has been achieved, the pace and scale of change remain insufficient in light of the accelerating climate crisis. Ambitious laws require not only adoption but also effective enforcement, democratic legitimacy, and tangible benefits for citizens.

In any case, the Green Deal, and the legislation that follows from it, then, must be seen not as a final product, but as a constitutional and political process—one that will define the shape and future of European integration itself, and is dynamic, not static, and constantly changing, due to the technical, material complexity of the matter, but also due to the political and social consensus required around.

In light of these legal and policy developments, it becomes increasingly important to place the Green Deal and its derivative legislation within the broader strategic reflections that have shaped EU discourse in recent years, considering the previous milestones we commented in section I.

The 2017 White Paper on the Future of Europe offered multiple scenarios for the Union's evolution—ranging from minimalist market coordination to deeper integration across all policy areas. In hindsight, the Green Deal embodies a deliberate choice toward greater ambition, suggesting that the EU has, at least partially, embraced the path of "doing much more together."

Similarly, the Draghi's 2024 report reinforces the idea that environmental sustainability and economic competitiveness are not mutually exclusive, but must be pursued jointly through coordinated, well-financed, and coherent strategies. His insistence on institutional agility, fiscal integration, and a redefinition of sovereignty is echoed in the Green Deal's architecture, which requires Member States to transcend traditional action and act with unity and purpose.

Furthermore, Enrico Letta's 2025 "Much More Than a Market" report[40] further amplifies this view, arguing that Europe's legitimacy in the eyes of its citizens depends not only on prosperity but on protection—of people, of the environment, and of social cohesion.

Altogether, these documents suggest that the Green Deal is not just an environmental strategy; it is the expression of a Union trying to redefine itself in response to 21st-century challenges. following its constitutional goals and the model of organization it chases. Whether the EU manages to deliver on this promise will depend less on the legislation itself and more on the political courage to implement it with speed, solidarity, and strategic clarity.

Nevertheless, as we have been hinting, this legislative framework is not exhaustive nor definitive. In the fight against climate change and the struggling path the EU follows to preserve its role of leadership in the international community, there is yet another landmark to be considered in order to understand the route that the organization is planning to take, to gain and maintain a competitive position in the world.

b. The Competitiveness Compass.

It is in that sense, that the European Commission presented in January 2025 a strategic framework conceived to guide and foster the EU's labour on competitiveness from now on until the year 2029.

The EU Competitiveness Compass[41] aims to facilitate the doing of business within the Union, making it easier and faster for enterprises to participate in the market, providing better conditions to foster innovation, while promoting policies tending to decarbonize the economy and increase the security of the internal market.

Having that in mind, and departing from the analysis done by the Draghi report, it focuses on the three main necessities identified by the latter, as explained previously, that is: i) closing the gap in innovation that the Union has; ii) decarbonizing the economy; iii) and reducing all sorts of dependencies wherever possible.

[40] Further developed on his '*Europa. Una última oportunidad'* book, to be referenced again later on with more depth.
[41] European Commission. (2025). *Competitiveness Compass*. https://commission.europa.eu/topics/eu-competitiveness/competitiveness-compass_en

Hence, we can understand that the compass looks to work as a bridge between what we have identified as needed and what we actually must do in order to achieve the required goals and standards identified in the Draghi report.

To that end, the Competitiveness Compass includes five new horizontal enablers designed to increase EU's competitiveness across all different sectors: from cutting red tape, modernising the rules of the single market or betting for more efficient financing, to filling the gaps in skills and labours, and, most importantly, guaranteeing better coordination between national and EU authorities.

In turn, this will promote a transition, towards a greener, more united, and stronger Union, which would be identified by its traits friendly with entrepreneurial initiatives, in a more sustainable and digital manner, but also with the environment, not disregarding the commitments acquired in the matter of sustainable development. Furthermore, the European people would sit center stage in this path, as they would directly or indirectly benefit from this renewed market, by having more education opportunities, more knowledge for the future work positions to come, and better, more comprehensive rights and guarantees in social and economical terms within the market.

A stronger, greener single market within the Union would translate in better and more enhanced rights for the consumers, which will benefit from pollution reduction, lower carbon intensive industrial processes, safer and non-toxic products. An example of this would be the Green Public Procurement (the GPP)[42] initiative that, considering how Europe's expenditure budget is organized and its importance over the whole of the Union's economy, would directly translate into environmental benefits and citizens rights' in a more healthy, cleaner, and sustainable environment.

The route to make the EU competitive in today's world while keeping it true to its environmental obligations is not incompatible with fostering and promoting a Europe of rights to its citizens. This is how the Competitiveness Compacts conceives this complex challenge.

That is why, in regards of its practical application, a real application and translation into reality of this Competitiveness Compass would imply a better Europe of rights to its citizens: by advancing the Union's position in the global, modern economy, procedures can become

[42] European Commission. *Green Public Procurement.* Available in: https://green-forum.ec.europa.eu/green-public-procurement_en

easier, more accessible to the average citizen, which would in turn reflect in better and simpler ways for the population to access, engage, and participate in political debate and conversations, that including of course, participating in environmental matters, supposing a great victory and compliance under the Aarhus Convention and the very own *Access to Environmental Information Directive*[43], further promoting transparency and accountability, benefitting the several decision-making processes for that matter.

However, not everything that shines is gold. While the EU seems to be advancing adequate actions in order to fulfill its promises and compromises, it has also recently shown some confusing steps that might be misleading on our way forward.

c. The Omnibus Package.

As part of the Commission's ongoing efforts to simplify and "cut red tape" in EU regulation, the so-called 2025 Omnibus Package has emerged as a highly debated initiative that touches several pillars of the Union's sustainability framework.

Formally presented as a legislative simplification and rationalization package, the Omnibus proposal bundles amendments to a range of sustainability-related legal instruments -previously commented in this second section of this work- including but not limited to the Corporate Sustainability Reporting Directive (CSRD), the Corporate Sustainability Due Diligence Directive (CSDDD), the EU Emissions Trading System (ETS), and the European Sustainability Reporting Standards (ESRS). While the stated aim of the package is to streamline obligations and improve legal clarity for companies and Member States, its actual implications raise concerns for the future of environmental protection and human rights within the Union.

At its core, the Omnibus Package reflects an institutional pivot. Under increasing pressure from industry lobbying groups and certain national governments, the Commission has framed the package as a "technical adjustment" necessary to preserve the competitiveness of EU businesses amid geopolitical uncertainty, supply chain disruptions, and inflationary pressures. However, critics argue that this language obscures a deeper deregulatory agenda[44]—one that

[43] European Commission. *The Aarhus Convention and the EU.* Available in: https://environment.ec.europa.eu/law-and-governance/aarhus_en

[44] United Nations Human Rights Regional Office Europe. (2025). *OHCHR Raises Concerns over "Omnibus" Proposal that Risks Undermining EU Corporate Sustainability Directive.* https://europe.ohchr.org/news-events/news/ohchr-raises-concerns-over-omnibus-proposal-risks .

undermines the Union's hard-won progress in integrating sustainability into corporate governance, financial reporting, and climate policy[4546].

Among its proposed changes, the Omnibus would likely delay the entry into force or reduce the scope of reporting obligations under the CSRD and weaken the enforcement capacity of national authorities in implementing the CSDDD. Early drafts suggest an elevation of thresholds for company applicability, potentially excluding thousands of firms from environmental and human rights due diligence requirements. The ESRS, which were envisioned as robust and standardized tools to align corporate reporting with the EU's Green Deal objectives and the Paris Agreement, would face a dilution of content, with certain environmental indicators becoming voluntary or subject to a "materiality assessment" by the reporting entity itself.

In practical terms, this opens the door to selective compliance, inconsistent data, and weakened comparability—all of which obstruct stakeholder oversight and public accountability.

This raises serious questions about the Union's ability to uphold the right to a clean, healthy, and sustainable environment, as recognized in international law and increasingly echoed in European jurisprudence, as we further will see in section III.

The Paris Agreement, which binds the EU and its Member States to adopt and maintain mitigation measures aligned with the goal of limiting global temperature rise to 1.5°C, requires concrete and measurable action, rather than weakened procedural commitments. The potential rollback of corporate transparency and climate disclosure obligations under the Omnibus threatens to decouple the Union's legal regime from its global climate commitments and from the legal imperative to protect environmental human rights.

From a constitutional and human rights perspective, this package exposes a fundamental tension: Is the Omnibus truly a simplifying instrument that enhances the efficiency and usability of EU law, or does it mark a step backward, as a deregulatory measure that compromises legal certainty, institutional ambition, and normative coherence?

---

[45] International Federation for Human Rights. (2025). *Disastrous Omnibus proposal erodes EU's corporate accountability commitments and slashes human rights and environmental protection*s. https://www.fidh.org/en/issues/business-human-rights-environment/business-and-human-rights/disastrous-omnibus-proposal-erodes-eu-corporate-accountability

[46] Business & Human Rights Resource Centre. (2025). *EU Omnibus Simplification Package should align with UN Guiding Principles on business and human rights, say experts*. https://www.business-humanrights.org/en/latest-news/eu-un-experts-warn-omnibus-simplification-package-undermines-un-guiding-principles-on-business-and-human-rights/

Unfortunately, the answer seems to lean towards the latter. While simplification in itself is not inherently problematic, the effect of the Omnibus—if adopted in its current form—would be to lower regulatory standards at a time when both science and the existing case law demand for stronger, not weaker, protection. In that sense, the package risks undermining not only specific pieces of legislation but the broader constitutional trajectory of the EU as a leader in sustainability and human rights integration, as we have been arguing for throughout our research.

Should the Omnibus Package be passed by the end of 2025, its implications would reverberate beyond the legislative arena. It would weaken the enforceability of environmental standards, frustrate civil society efforts to hold corporations accountable, and erode public trust in the EU's capacity to act meaningfully on climate. More fundamentally, it would signal a retreat from the Union's ambition to build a sustainable future based on rights, participation, and accountability—at precisely the moment when that ambition is most needed.

3. Where are we going? What is it that we are facing?

As we have seen throughout the previous section, the European Union has developed an increasingly sophisticated legal and policy framework to respond to the escalating challenges posed by environmental degradation and climate change.

The Green Deal and its derivative legislation represent an ambitious and multilayered effort to place sustainability at the heart of EU policy making. Yet, ambition and legal architecture alone do not guarantee transformative outcomes, not to say the necessary ones.

What remains less certain—and, indeed, more contentious—is whether these laws and strategies are sufficient to meet the scope, urgency, and human cost of the climate crisis. At the intersection of constitutional law, human rights, and environmental governance, a new set of questions arises: not only what the Union has done so far, but what it must now become the standard of doing for the Union as a whole – public institutions, private enterprises, third-party actors, and citizens.

Hence, the path forward demands more than technical refinement; it requires legal imagination, political will, and a deeper normative realignment of the EU's identity. The Green Deal, robust as it is, represents a beginning—not a conclusion.

Now we can wonder, if the EU is to remain credible, legitimate, and capable of leading on climate action, it must continue to evolve, not only in terms of policies but also in terms of governance and rights protection. This is where our third and final section begins: with a forward-looking reflection on the Union's legal and institutional capacity to uphold environmental human rights, to ensure a clean, healthy, and sustainable environment for people to live in, as well as building the bridges to ensure intergenerational equity, and to adapt its constitutional framework in a way that fosters long-term resilience.

In this section, we turn our attention to the near and not-so-distant future. We will consider the legal and structural challenges that remain unresolved, the gaps that persist between principles and implementation, and the opportunities for deeper integration and rights-based approaches to environmental governance. Most importantly, we will explore how constitutional principles and human rights frameworks—when properly aligned with sustainability goals—can empower the EU not only to survive the climate crisis, but to redefine its purpose through it, while following on the previously commented efforts to

incentivize a competitive position of the EU in the world, without sacrificing neither environmental protection nor social and economic livelihood conditions.

On this regard, we will adventure and navigate through the reality of four different, very distinctive, and relevant rights' situations: i) the right to a clean, healthy, and sustainable environment; ii) States' obligations in front of the climate crisis, as well as those assigned to private companies; iii) the state of the Aarhus Convention -and its European homologue- compliance and relevance; iv) and, finally, the proper performance and compliance within the EU to regulations related to projects and activities with environmental impacts.

a. The right to a clean, healthy, and sustainable environment.

One of the most urgent concerns as a consequence of the climate crisis is the protection of human health.

Climate change, pollution, and ecosystem collapse are directly linked to respiratory illnesses, cardiovascular problems, food insecurity, and the spreading of infectious diseases[47]. Against this backdrop, a growing body of legal thought—and recent case law—has advanced the recognition of a right to a clean, healthy, and sustainable environment.

This right, while not yet explicitly enshrined in EU primary law, is increasingly invoked by courts, civil society, and international institutions. It forms the basis of a normative shift in which environmental harm is no longer seen as a trade-off for economic development but as a violation of fundamental rights.

As an example of such a recognition, the reading of the resolutions emitted by the United Nations Human Rights Council[48] and, subsequently, by its General Assembly[49] is a must for understanding the advancement and acknowledgement of this right in international law through its different sources, linking the achievements of sustainable development and

[47] European Environment Agency. (2024). *Exposures aggravated by climate change.* https://www.eea.europa.eu/en/analysis/publications/beating-chronic-respiratory-disease/climate-change-and-respiratory-disease

[48] United Nations Human Rights Council. (2021). *A/HRC/RES/48/13 The human right to a clean, healthy and sustainable environment.* Consulted in:https://docs.un.org/en/A/HRC/RES/48/13

[49] United Nations General Assembly. (2022). *A/RES/76/300 The Right to a clean, healthy and sustainable environment.* Consulted in: https://docs.un.org/en/A/RES/76/300

climate action to this positive entitlement for people to have and benefit from, considering the hazardous impacts of climate change and climate-related scenarios affecting public health.

Moreover, recent judgments, famous for their mediatic impact and crucial in climate litigation, such as the Urgenda v. The Netherlands case, the Shell v. The Milieudefensie case[50], the Neubauer decision by the German Federal Constitutional Court[51], and the KlimaSeniorinnen ruling by the European Court of Human Rights have collectively expanded the legal understanding of State obligations' in the face of climate change. In different ways, these rulings affirm that governments not only have a duty to mitigate environmental damage but must do so in a way that protects present and future generations rights, specially their lives and livelihood conditions.

They also recognize that insufficient action may constitute a breach of rights protected under human rights frameworks, whether it is in the form of national laws, EU Law or the European Convention of Human Rights[52]—with specific entitlements being protected in all of the above such as the right to life, dignity, and private and family life, through an easy yet effective connection of environmental rights to traditional human rights theory and protection.

These legal developments are not merely symbolic; they establish important precedents that the EU must take into account if it desires to align its environmental strategy with its commitment to human rights.

In connection to this, on a brief note, we must point out biodiversity loss as another critical frontier. The collapse of ecosystems poses existential threats not only to non-human life but to the integrity of human life itself. The previously commented right to a healthy environment implicitly includes the preservation of biodiversity as a condition for long-term health, cultural identity, and food security.

While the EU Nature Restoration Law that we mentioned earlier in section II and the EU's biodiversity strategy aim to address this, delays on national implementation and political

[50] Kermabon Avocat. (2024). *Strategic Climate Litigation. Insights from the Shell v. Milieudefensie case.* https://www.linkedin.com/posts/sephora-kermabon_strategic-climate-litigation-shell-v-milieudefensie-activity-7272168610184183808-adB_?utm_medium=ios_app&rcm=ACoAAC6IaYEBXk7LZAVG69fAU5Vn-78G8Gy3PeI&utm_source=social_share_send&utm_campaign=copy_link

[51] Palombino, G. (2024). La dimensión constitucional del cambio climático en la sentencia del Tribunal Constitucional alemán de 24 de marzo de 2021. Revista Española de Derecho Constitucional, 131, 333-362. https://doi.org/10.18042/cepc/redc.131.10

[52] Keller, H., & Heri, C. (2022). *The Future is Now: Climate Cases Before the ECtHR*. Nordic Journal of Human Rights, 40(1), 153–174. https://doi.org/10.1080/18918131.2022.2064074

resistance—especially from agricultural and extractive sectors, among others—continue to undermine progress. Particularly so when it comes to respecting zoning regulations, urban planning prohibitions, and protection over protected natural areas and reservoirs (under the EU's very own, Natura 2000 protected areas network[53]) and other forms of live, as protected in both the EU's Birds and the Habitats Directives[54].

As a whole, this tension illustrates a broader challenge: the need to reconcile sectoral interests with the imperative of planetary boundaries, intergenerational responsibility, and respect for decent, healthy living conditions.

b. States' -and companies- obligations in front of the climate crisis.

On this point, something similar to what we just witnessed in the previous right happens in respect of the sources that give form to this possible right or, in other words, this kind of obligations that might be expected from States in the international community. That is, it has been constructed many times by domestic courts and international ones, as a fruit of an ever-evolving case law, iconic in what has become known as 'climate litigation'.

To this extend, the mentioned Urgenda, KlimaSenniorinen, and Neubauer represent the visible, mediatic image of case law commenting on the duty and obligation that States and public administration hold in front of the citizenship as to take proper, organized actions against climate change, holding up to their international commitments and positive domestic laws to contain the advancement of global warming, reducing greenhouse gasses emissions, and foster more, better environmental protection while granting better conditions to the people.

At this point, international courts with scope beyond Europe have also stepped up and have taken advantage of the historical, crucial moment we live in, in order to advance and keep international law up to date to face this transboundary, planetary crisis.

We now refer to the International Tribunal for the Law of the Sea (ITLOS) 2024 advisory opinion on climate change and the yet-to-resolve International Court of Justice advisory opinion on the obligation of States in respect of Climate Change[55].

---

[53] European Environment Agency. (2023). *The Natura 2000 protected Areas Network*. https://www.eea.europa.eu/themes/biodiversity/natura-2000/the-natura-2000-protected-areas-network

[54] WWF Europe. *EU BIRDS AND HABITATS DIRECTIVE.* *https://www.wwf.eu/what_we_do/biodiversity/eu_birds_and_habitats_directives/*

[55] International Court of Justice. *Obligations of States in respect of climate change.*

The first, ITLOS' advisory opinion was mainly focused on the marine protection side to climate action and States' responsibilities, as a core aspect of Earth's climate system, responsible for most of CO2 absorption from the atmosphere. In particular, among its takeaways, the Tribunal has stressed the fact that States have specific obligations under the UNCLOS (art. 192) to take all needed measures "to prevent, reduce, and control marine pollution from anthropogenic GHG emissions[56].

The Tribunal argues that these obligations under UNCLOS cannot be merely achieved by the just compliance to the commitments found in the Paris Agreement[57].

Meanwhile, the latter was originally requested by the UN General Assembly, aiming to clarify the legal obligations of States in regards to climate protection and the consequences arising from the causation of climate harm.

Though not yet concluded, this future advisory opinion issued by The Hague court generates high expectation not only for States, but to the vast group of entities and third-party actors that have gotten engage in this proceedings[58], by the relevance and influence it might have, impacting public conversation and the language used by policy-makers to ask for a more frontal approach and action from administrations internationally to confront the climate crisis, helping stakeholders to hold them accountable for their actions — or lack of it.

As a whole, these two non-binding rulings play a pivotal role for International Law: in spite of their lack of coerciveness, they add on the building of a set of rules, considerations, and legal thought available for lawmakers, domestic judges, and litigators around the world.

The tone, essence, and impact deriving from these judicial opinions have a great influence for the international community and inform the evolving strategies and help setting the necessary discourse to align commitments to real, achievable action. Both of them -the ICJ and ITLOS'

---

https://www.icj-cij.org/case/187

[56] British Institute of International and Comparative Law. (2024). *A commentary on ITLOS' Advisory Opinion on Climate Change.* https://www.biicl.org/blog/77/a-commentary-on-itlos-advisory-opinion-on-climate-change?cookiesset=1&ts=1749751756

[57] IISD SDG Knowledge Hub. (2024). *What are the Legally Binding Obligations of States in respect of climate change?* https://sdg.iisd.org/commentary/guest-articles/what-are-the-legally-binding-obligations-of-states-in-respect-of-climate-change/#:~:text=States%20have%20specific%20obligations%20under,in%20cases%20of%20transboundary%20pollution.

[58] American Society of International Law. Burri, T. (2024). *The ICJ's Advisory Opinion on Climate Change: A Data Analysis of Participants' Submissions.* https://www.asil.org/insights/volume/28/issue/10#:~:text=In%20March%202023%2C%20the%20UN,any%20previous%20international%20court%20procedure.

advisory opinions- stand up because of the moral, political, and even legal authority their institutions and rulings have.

This is what we could expect and be demanding from European judges around the Union in a constantly increasing trend to hold States accountable for their strategies and responsibility to confront climate change and reduce emissions. Europe needs to regain and retake its role as a global beacon for hope and a moral leader in human rights language, sparking action within and outside its borders.

Nonetheless, States are not the only actors from which we expect accountability for their part on the state of climate change, but business might be rendered liable to this end.

Coming back to the exemplary Shell v. Milieudefensie case, once and again, we recall one of its main takeaways: the Dutch government's inadequate action on climate change, violating a duty of care to its citizens, as well as private companies' duty of care to take action and reduce its GHG emissions (considering all three scopes, but mainly 1 and 2).

Truth be said, the Dutch judiciary -through The Hague Court of Appeal- did not deliver as fully as optimistic commentators were expecting them to do. But they just did more than enough to ignite an uncomfortable truth, from the entrails of the judicial power as another set of legal operators: businesses and private enterprises also hold an active responsibility for their part in the fight against climate change and the reduction of global GHG emissions and could be liable for their wrongdoings in this degree[59].

This case is considered to be the first to impose specific GHG reduction targets over a private company, holding them liable for their actions and shared responsibility to confront the climate crisis, it went a step further than *Urgenda* did and considered this obligation beyond State entities only.

As previously noticed, it shows the crescent tendency of judges in climate litigation related cases to acknowledge the duties and liabilities of not only States but for companies too. The ruling also plays with the idea of a more exhaustive responsibility of companies, under the legal concept of a 'social duty of care' -even in private legal relationships-, that have an independent duty to address climate change even if that implies adopting measures beyond existing EU legislation.

[59] Climate Change Litigation Databases. *Milieudefensie et al. v. Royal Dutch Shell plc.* https://climatecasechart.com/non-us-case/milieudefensie-et-al-v-royal-dutch-shell-plc/

However, as we were arguing, this ruling does not impose nor does it interpret that EU law establishes an obligation to absolute emission reductions[60]. While the Court might have adopted a more severe position on this, the door is now open to further considerations on specific obligations of companies in order to act against climate change and be responsible for adopting the necessary measures to reduce their own emissions.

i. Secondary legal derivements: EU Law nature & the rights of the future generations.

Furthermore, seizing the opportunity, we would like to kick the conversation off and ponder other related questions within the future EU legal challenges related to the previous considerations.

On one hand, how, if so, can the EU overcome the struggles imposed by the rules and dynamics of its own legal system in front of the restrictions imposed by a currently null, non-existing[61] direct effect[62] of their directives in horizontal relations between particulars. Just the given fact of opening debate in this issue sparks controversy, not to say the revolution in EU Law that would entail a change of paradigm in this level, while some authors like the aforementioned E. Letta and M. Draghi hint and bet directly -explicitly[63] or implicitly- to the end of directives as we know them, in favor of more solid, comprehensive regulations, within a more committed Union.

Without a single cast of doubt, this would imply the biggest constitutional and existential challenge of them all among those proposed and commented throughout this thesis, as it either roots for a stronger, solid Union -in competences and the application of its legal system- or might as well hit the cracks of an already tense legal and political situation[64].

---

[60] Uría Menéndez. (2024). *Landmark climate change decision in Milieudefensie et al v Royal Dutch Shell PLC and its aftermath.* https://www.uria.com/en/publicaciones/8984-landmark-climate-change-decision-in-milieudefensie-et-al-v-royal-dutch-shell-plc

[61] LexisNexis. (2025). *Horizontal direct effect definition.* https://www.lexisnexis.co.uk/legal/glossary/horizontal-direct-effect#:~:text=Horizontal%20direct%20effect%20is%20an,decisions%2C%20but%20not%20of%20directives.

[62] EUR-Lex. (2022). *The direct effect of European Union Law*. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legissum:l14547

[63] Letta, E. (2025). *Europa. Una última oportunidad.* Espasa.

[64] Centre for European Reform. (2024). *The EU and the rule of law: much movement, little change*. https://www.cer.eu/sites/default/files/insight_ZC_RofL_7.10.24.pdf

On the other hand, the topic of States and even companies' responsibilities in front of climate change implies another interesting human rights topic: intergenerational fairness and the rights of future generations.

As it happens in other cases, this proposed entitlement touches on other rights too, namely: the right to life, health, education, equality and non-discrimination, privacy, minimal life standards, and many others.

Interestingly enough, evading the common critique and going beyond the argument based on the impossibility of rights of yet not-existing people, it also affects a particular group of protected people: the rights of the children.

Albeit this right might not be explicit in the Convention on the Rights of the Child, a holistic view on the matter, taking into account the Committee on the Rights of the Child's General Comment No. 26[65], the Special Rapporteur on Human Rights and the Environment 2018 annual thematic report[66], and, of course, in the former Human Rights Council A/HRC/RES/48/13 resolution, help us to realize that there has been both a theoretical and pragmatic argument construction to elaborate in favor of these environmental rights of the children.

The previous sources of positive and soft law, particularly the General Comment and the Report, highlight the obligations held by States and companies in this regard:

> *The human rights obligations of States in relation to the environment apply with particular force to the rights of children, who are especially at risk from environmental harm and often unable to protect their own rights*[67].

On top of that:

> *Businesses have direct responsibilities to respect children's rights. To meet these responsibilities, it is necessary, but not sufficient, that businesses comply with domestic laws. Certainly businesses should never seek to evade applicable laws*

---

[65] United Nations Human Rights. (2023). *CRC/C/GC/26: General comment No. 26 (2023) on children's rights and the environment with a special focus on climate change*. Available in: https://www.ohchr.org/en/documents/general-comments-and-recommendations/crccgc26-general-comment-no-26-2023-childrens-rights

[66] United Nations General Assembly. (2018). *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable.* Available in: https://documents.un.org/doc/undoc/gen/g18/017/29/pdf/g1801729.pdfenvironment

[67] Ibíd. Section 38 of the Report. The Report suggests in this point a useful recount of such obligations, that is, the framework principles on human rights and the environment, enshrined in the Annex to Resolution 37/59 of the Human Rights Council.

through corruption or other practices, or abuse those laws by, for example, bringing criminal defamation suits against those who oppose their activities. But that is a low bar. To respect the rights of children to be free from environmental harm, businesses should comply with the Guiding Principles on Business and Human Rights; the Children's Rights and Business Principles; 84 and the recommendations of the Committee on the Rights of the Child in its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights[68].

For all, these substantive rights, and others of procedural nature, need to become positive and translated into EU Law, in regards to its dimension as citizens' entitlements as well as positive obligations for States and companies.

c. Access to information, Public Participation in decision-making and Access to Justice in Environmental Matters: the state, compliance and relevance of The Aarhus Convention and EU Directive 2003/04.

Another key issue lies in accessing environmental information, guaranteeing public participation and facilitating access to justice—three essential pillars of environmental democracy, all of these issues covered by the UNECE Aarhus Convention.

The EU is a party to the Aarhus Convention, which guarantees the right of citizens to access environmental information, participate in decision-making, and seek redress when those rights are denied. In this sense, several Regulations and Directives have been adopted[69] to cover and adopt within the EU's internal legal system the mandates established by the treaty, having EC Directive 2003/04 as the centerpiece of the Union's action in the matter.

Anecdotally, the Council of Europe 2009 Tromsø Convention[70], though not yet ratified by all EU Member States, promotes transparency and access to official documents in environmental matters. Together, these frameworks are intended to empower civil society and improve the quality and legitimacy of environmental governance.

---

[68] Ibíd. Section 62 of the Report.
[69] Spada Jiménez, A. (2024). *El sesgado desarrollo del convenio de Aarhus en la Unión Europea. ¿Justicia para el medioambiente?*. Cuadernos Europeos De Deusto, (71), pages 98-99. https://doi.org/10.18543/ced.3132
[70] Council of Europe Portal. *The Council of Europe Convention on Access to Official Documents (CETS No. 205)*. https://www.coe.int/en/web/access-to-official-documents

Yet, in practice, the effectiveness of these rights is still compromised by procedural barriers, legal complexity, and limited outreach to vulnerable populations, in many cases due to defective measures adopted by national authorities[71]. A truly inclusive transition must address these shortcomings and ensure that environmental justice is accessible, timely, and affordable for all.

Let us consider the Spanish case in this regard, to observe a national context still having margin to correct mistakes.

The transposing of both the Aarhus Convention and the EU's 2003/04 Directive to the Spanish legal system has been deficient and defective[72]. Considering the lack of special and enforced recognition of the environment in the 1978 Spanish Constitution -that excludes environmental protection and a clean, healthy environment from the *numerus clausus* of specially protected fundamental rights-, the translation into the Spanish legal framework of these instruments signified a great advance in terms of environmental accountability and human rights protection.

However, for all three pillars of the Aarhus Convention, Spanish lawmakers have fallen short. Whether it is accessing environmental information, with slow administrative procedures that have not been adopted specifically to environmental requests, passing to effectively ensuring and promoting participation of the public in environmental decisions, to the vital last pillar of access to justice and protection of the two previously mentioned entitlements, Spanish laws have become ineffective in ensuring these rights, due to an inadequate view of their meaning and implications.

For instance, maintaining the discussion on that very last pillar, Spanish laws have circumscribed the use of the judicial action established on art. 9 of the Convention to the regular and ordinary complain in front of the judges of the administrative jurisdiction ("*la jurisdicción contencioso administrativa*"), with very dubious requirements to its exercise[73]. As a consequence of this, on several occasions the Compliance Committee[74] has warned

[71] Ethic. (2024). *El desconocido Convenio de Aarhus: ¿realmente se cumple?* *https://ethic.es/2024/05/el-desconocido-convenio-de-aarhus-realmente-se-cumple/*

[72] Consejo General de la Abogacía Española. (2016). *El Convenio de Aarhus. ¿Una oportunidad perdida?* Salazar Ortuño, E. Blog de Derecho Ambiental. https://www.abogacia.es/publicaciones/blogs/blog-derecho-ambiental/el-convenio-de-aarhus-una-oportunidad-perdida/

[73] Ibíd.

[74] Ibíd. Additionally: UNECE. *Communications from the public.*

Spain about the need for concrete legal reforms to be made in order to comply with the dispositions of the Convention.

To summarize it, both at the European level and in domestic settings, action needs to be taken to ensure that real conditions to ensure these 'procedural' or adjective rights are guaranteed.

d. Environmental impact assessments and strategic environmental impact assessments in the European Union.

Considering all of the above, it becomes obvious and of a straightforward nature the relevance that taking into account and analyzing the impacts of projects and activities over the environment has. These assessment actions benefit the achievement and respect of the right to a clean, healthy, and sustainable environment, closing the loop of States' obligations to foster and guarantee their citizens' environmental rights.

For that, over the last decades two instruments have acquired increasing presence in environmental regulations around the world, without the Union being an exception. We now refer to the environmental impact assessments (EIA) and the strategic environmental assessments (SEA)

Within current EU Law, we come across several Directives (EU/2014/52, EU/2011/92, and EC 2001/42) defining the bloc's regulation on the matter. However, we briefly intend to introduce discussion on this topic as it calls for further renewal and adaptation of its dispositions due to the legal, technical, and practical complexities and challenges posed by the climate crisis.

Reading the existing legal framework under the light of the benchmark documents discussed in previous chapters -i.e. the Draghi Report, the Competitiveness Compass, and the Omnibus package-, we must touch on the difficulties we can find on applying and modernizing the rules governing EIA's and SEA's: while enacting legislation on these instruments as to control the analysis and assessment of projects -and their environmental implications- has turned into more stringent control over enterprises', translating in a more controlled scenario, ideal for better, more strategic environmental policy planning, we should be careful when moving forward in order to avoid deepening previous mistakes or opening new abysses that undermine environmental protection and human rights advancement.

---

https://unece.org/env/pp/cc/communications-from-the-public

To illustrate mistakes of the past, it is only but necessary to recover the visual wrongdoing of the Spanish Algarrobico[75] hotel and the Valdecañas urban project[76]. In both cases, urban planning rules had been placed beforehand, nonetheless, formally nor materially they did not stop such grotesque urbanistic mistakes to turn into flesh[77] and a famously known failure of regulations to prevent real estate projects in protected areas, disregarding also urban planning and environmental procedures.

Looking forward, preventing these mistakes from happening cannot fall into the commented trap of camouflaging a deregulation process out of the excuse of simplifying administrative procedures, nor cannot make environmental evaluations less stringent nor inconsiderate of nature preservation and environmental rights.

The Europe to come needs to keep and improve their rules on EIA and SEA. This will have a direct impact on the protection of human rights with an environmental dimension, as considered above.

[75] La Moncloa. (2025). *Demolición del hotel ilegal de El Algarrobico*. https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/hacienda/paginas/2025/100225-derribo-algarrobico.aspx

[76] El Periódico Extremadura. (2025). *Ecologistas en Acción denuncia la desclasificación de la ZEPA de Valdecañas para salvar el complejo.* https://www.elperiodicoextremadura.com/extremadura/2025/05/26/ecologistas-accion-denuncia-desclasificacion-zepa-117836329.html

[77] Greenpeace Spain. *Algarrobico, símbolo de la destrucción de la costa.* https://es.greenpeace.org/es/trabajamos-en/oceanos/costas/algarrobico-simbolo-de-la-destruccion-de-la-costa/

4. Epilogue. Envisioning an action plan for the Union.

Despite the progress made through the Green Deal and its corresponding legislative framework, the EU faces a series of enduring and complex challenges that call for renewed attention—both in legal terms and in relation to its core values. These challenges include structural and regulatory shortcomings, but they also expose deeper normative tensions about who the EU is looking to serve, how it protects its citizens, and what kind of future it envisions for its people. At the heart of these questions lies the issue of environmental human rights: recognizing that climate and ecological degradation are not abstract risks, but immediate and tangible threats to individual and collective well-being.

In this context, the EU's current legislation on corporate transparency and sustainability represent crucial steps toward institutionalizing accountability and aligning business practices with environmental and human rights standards.

As we have discussed, these instruments aim to ensure that large companies disclose information on their environmental and social impacts, undertake risk assessments, and adopt measures to prevent adverse effects on people and the planet. Constitutionally, these directives reflect the EU's capacity to legislate within its internal market competence while pursuing broader societal goals. However, their implementation remains uneven, and critics point to weak enforcement mechanisms, loopholes, and the risk of fragmented national interpretations, with the grim risk of deregulating and going back on great advancements as to 'simplify' procedures.

For this framework to be truly effective, it must be paired with strong oversight and judicial recourse, allowing affected communities to seek remedy and ensuring that companies are held to meaningful standards. This EU Environmental and Sustainability Legislation needs to go hand-by-hand with the rest of EU Laws in a coordinated, harmonized fashion, particularly in its adaptation to better, stronger human rights standards.

From a constitutional perspective, all of these challenges point toward a legal system under pressure. The current treaties offer the tools for ambitious action, but their interpretation and application require political consensus, judicial evolutive innovation, and institutional courage. Moreover, the Union must grapple with the limitations of its competences and the principle of subsidiarity, which often creates grey zones in which environmental and human

rights obligations fall through the cracks. The opportunity now lies in clarifying and strengthening these obligations—whether through treaty reform, enhanced coordination, or judicial interpretation, acknowledging that going backwards is not a moral option, nor a legal allowance.

What emerges from this landscape is a dual imperative: to close the gaps in current legal protections and to deepen the integration between environmental sustainability and human rights frameworks, recognizing the right to be protected from the effects of climate change not just as a moral aspiration, but as a legal necessity. It also means designing future policies and regulations—whether in finance, energy, agriculture, or public health—with an explicit commitment to rights-based, inclusive, and ecologically coherent governance.

The challenges are great, but so are the possibilities. If the Union is able to seize this moment—to transform its legal foundations into a springboard for environmental justice—it can move from reactive policy-making to constitutional leadership in the global fight against climate change.

Three might be the outcomes from now on:

A. **A good scenario**: The Union keeps pushing on their sustainability and competitiveness agenda, but is not enough. Meaning that their actions are not sufficient and they are not adapted quickly enough. Reticence and friction can be found and might be hard to combat and Europe's role and international legitimacy keeps stagnate. This would not be the worst of scenarios, as the Union would keep pushing forward and advancing its strategies, even achieving what would have been unreachable otherwise, but they simply do not suffice. The steps forward might be good but the proved ambition would not meet the required action. Substantial constitutional and organizational changes to the essence of the Union would not take place under this line of action.
B. **A bad scenario:** here, the political and economic crises would take precedence over the environmental and human rights concerns held. This is a context of decay. This is not to say that the EU would be over or it would dismantle, that would not be the case. The EU would still be active and around, yet, division and fragmentation, the rise of populist governments, skepticals of European integration, would erode consensus on climate action and human rights enforcement. To illustrate one way to this: the

Omnibus package is passed in a fully deregulatory form, undermining key obligations under CSRD and CSDDD, while weakening sustainability standards and duties. This would reflect in an erratic, incoherent EU's climate policy that is not up to the challenges and promises it faces (under the risk of accepted greenwashing policies, national divergences, and economic internal protectionism). Given these conditions, courts would be more careful and wary to act to maintain their positions and civil society engagement would lose influence. While competitiveness might be regained in a short period of time, this is done for the sake of political and environmental action. The EU becomes irrelevant in major global decisions, still a huge economic international bloc, but falls in a loop of contraction, with citizens too losing faith in the common project.

C. **The transformative scenario**: this is the game changer path, the deal maker, the ideal context towards the European Union should strive for if we intend it to deliver on its goals, compromises, and common ambitions. But this is not a single-choice dream. This is a path of 20 to 25 years down the road, yet starting with changes and commitments from day one. The characteristic EU's ambition drives this way, just taking advantage of the climate crisis as a constitutional, economical, and political catalyst. Conversations about treaty reforms over delicate issues start to become normalized, including explicit and enhanced references to human rights protection within the EU system, which precisely would suffer from a change in dynamics, powers, and nature, moving to a more efficient, united, and coordinated Union, that guarantees optimal environmental action while granting the expected economic and social conditions to its citizens. In this case, pieces like the Omnibus package should not be seen as a weak spot, but as an opportunity to advance sustainability regulations while keeping it easy for companies and foreign investors to land in Europe and do business in our borders. The Union would regain its force aprofitting the momentum, conquering once again the voice of authority it had in the international arena, backed by a strong democratic legitimacy given by its citizens. This common European project would be leading in terms of the renewed constitutionalism demanded nowadays, uniting rights, rule of law, planetary well-being, and outstanding social and economic living conditions.

Going one way or the other, would depend on the actions, discussions, and decisions that we, the citizens, legal operators, policy-makers, companies, academia, NGO's, and other actors follow, not in a distant, hypothetical future of Europe, but in the living present of our region.

III. CONCLUSION.

Europe's panorama seems certainly grim. But there's still room for hope, if that is something we lawyers can allow for in our profession.

As laid out in the introduction to this work, the purpose of this thesis has not been to offer a definitive or absolute diagnosis of the European Union's environmental or constitutional reality, but to engage with a critical moment in the Union's trajectory—one shaped by overlapping existential challenges and mounting demands for change. What we have attempted is to consider whether the EU, amidst a climate emergency, political fragmentation, and socio-economic uncertainty, remains capable of upholding its foundational values and of adapting its legal and institutional framework to a radically altered and unstable global landscape.

We posed several interrelated questions: Can the EU's current constitutional and legal structure support an effective and just response to the climate crisis? Is the Union equipped to ensure that climate action advances rather than undermines human rights, democratic participation, and social equity, without worsening economical living conditions? How does the tension between regulation, economic growth, and environmental sustainability manifest in the EU's environmental governance—and can it be reconciled? And ultimately, what does all of this tell us about the future of European integration itself?

In answering these questions, the thesis has identified both significant challenges and promising avenues for reform.

On one hand, the EU faces considerable constitutional and political constraints: fragmented competences, divergent national interests, and an excessively complex regulatory burden that risks slowing down the very innovation needed for a successful green transition, not to talk on the divergence Member States also seem to face when adapting their laws to EU legislation.

On the other hand, the EU possesses unique tools and legal foundations that, if used creatively and coherently, could make it a global leader in sustainable governance—provided that the Union is willing to adapt and deepen its integration in meaningful ways.

Looking first at the constitutional dimension, we have seen that the Treaty of Lisbon, alongside the Charter of Fundamental Rights, has endowed the Union with a robust legal personality and a framework of shared and exclusive competences that enables action on environmental protection and common constitutional goals. Yet, the challenges presented by climate change—transboundary, urgent, and scientifically complex—demand a level of coordinated governance and legal clarity that the current treaty framework still struggles to fully deliver, in addition with that difficulty faced by many when translating European legislation into their own. Similarly, the Draghi Report makes this tension explicit: without enhanced regulatory and expenditure coordination, the EU risks being both overregulated and underperforming—caught between good intentions and institutional inertia, with the chance for being a champion for innovation and vanguardist regulations being left behind.

Moving on, from a legal and policy standpoint, the EU has made notable moves. The European Green Deal, the updated version of the EU Emissions Trading System (ETS), the CSRD and CSDDD directives, and its overarching climate neutrality goal for 2050 all point toward a comprehensive vision of sustainable development, representing not only regulatory progress but also a recognition that the climate crisis requires a rethinking of the relationship between environmental integrity, market efficiency, and fundamental rights.

However, the effectiveness of this legislative architecture remains uneven. While the ETS has contributed to emission reductions, its market-based mechanisms can fall short in delivering long-term environmental justice or protecting vulnerable populations (children, the elderly, migrants, and marginalized communities). Likewise, although the CSRD and CSDDD frameworks mark a shift toward greater corporate accountability, they still face resistance and uncertainty in their national implementation, and questions remain about their enforceability and their true impact on human rights and environmental protection.

What emerges from this analysis is the need for better alignment—between climate objectives and economic governance, between supranational ambitions and national realities, and crucially, between environmental regulation and economical, business feasibility as to protect social justice, considering all three pillars of sustainability altogether.

Thus, overregulation can hinder innovation and competitiveness, particularly in strategic sectors like renewable energy and digital technology, a problem that can be also detected in some other more fragile and relevant economic markets, of key importance to the internal

market but also in more global terms, i.e., transportation, commodities, microchips, and digital services, among others with great impact equally in the global economy and in GHG emissions in total.

But underregulation, or incoherent regulation, risks undermining the legitimacy of climate action and deepening inequality within and between Member States. Generally speaking, as we have seen and witnessed from what derives out of the current EU sustainability framework, this does not seem to be the case. But it is the completeness of these norms that opens up discussions.

Precisely that last idea, brings us to the human rights dimension of the thesis. The work has argued that climate change is not just a technical or economic challenge, but a human rights issue of the first order, of a constitutional dimension for the Union.

The right to a clean, healthy, and sustainable environment is increasingly being recognized in jurisprudence and public discourse, as seen in cases like Neubauer, Urgenda, Shell, and KlimaSeniorinnen v. Switzerland. These cases illuminate a critical legal development: the growing willingness of courts to interpret existing rights (such as the right to life, health, and dignity) in light of ecological realities and current events, confirmed by the ongoing opinions offered by other international courts.

Yet, EU law still stops short of explicitly recognizing this right, and enforcement mechanisms remain fragmented. While instruments like the Aarhus Convention and the Environmental Impact Assessment Directive aim to ensure public participation and transparency, they often fall short in ensuring meaningful access to justice or effective remedy—particularly for marginalized or affected communities, noticing as some regions still struggle to effectively integrate these rules, setting our Spanish case as an example. As such, the EU's legal system must evolve not only in ambition but also in accessibility and inclusiveness.

In this regard, the thesis has underscored that a climate solutions-based transition must be both top-down and bottom-up. The responsibility cannot fall solely on governments or EU institutions, but also on companies, as key economic actors, bearing due diligence obligations to prevent harm and mitigate their environmental impact. Citizens, too, are not just passive beneficiaries of environmental rights but active participants in shaping the climate agenda.

Empowering civil society, strengthening access to environmental information, and promoting legal literacy are essential steps toward a more democratic and just climate governance.

Yet, the tone might benefit from a change in the trending narrative: setting apart this work from the efforts done by some to try and legitimize small and more than needed environmental advancements as huge social and political breakthroughs, under the trend that has gained the name of 'greenwashing', we do not want to position ourselves in that path. Just quite the opposite.

However, if we want for Europe to retain its place as both a human rights champion and as a competitive leader of economical growth and technological innovation widely understood, the private sector needs to step up and assume a bigger role within and outside of our borders. European companies, start-ups, banks, hubs, universities, associations, need to be seen as an example of economic viability and feasibility which is compatible and fosters sustainable business models and illustrious human rights standards, as the European nations have been doing for decades, setting an example and influencing the globe.

The private actors doing their life in the EU need to be put and included at the center of this conversation. Not as enemies, but as key internal and external allies to reach these proposed goals and further project Europe's goals and agenda beyond our borders. They are key in this process and their contributions -economical, political, and technological- are essential, due to the capabilities and nature of their work.

Coming back to the final axis of this thesis, we looked toward the future: the road ahead is as uncertain as it is urgent, though one thing we can take for granted: the climate crisis will continue to intensify for the worse, before we get to claim victory, that is, climate neutrality and the level of emissions science is telling us to achieve in order to contain a catastrophic point of no return of global warming -if we get to do so, at all.

Political instability may persist. The temptation to revert to nationalist or short-term approaches is real. Yet, the EU has an opportunity—perhaps even a responsibility—to act as a laboratory, a "sandbox" in EU jargon, for integrated, sustainable governance in the 21st century.

Naturally, this will not be easy. The pitfalls are numerous: institutional rigidity, policy incoherence, and the risk of public disillusionment. But the breakthroughs, when they come,

have the potential to reshape the very nature of European integration. If the EU can navigate the tension between economic competitiveness and ecological responsibility, if it can protect fundamental rights while fostering innovation, and if it can reinvigorate the legitimacy and illusion of the European project through effective climate action, then the Union may yet become the kind of global actor its founders once envisioned—capable not only of managing crises but of offering hope to its citizens.

Nonetheless, let us be clear about this: we are no fools nor do we intend to be perceived as naive by the brightness of our ideas. What we propose (es difícil que mejoremos, pero hablamos sobre sólido terreno para afirmar que así sería, no queremos pecar por idealistas pero tampoco queremos caer en un realismo cínico que nos impida crecer más. Europa, hoy más que nunca, ha mostrado una unidad sin precedentes -a raíz de la pandemia, la crisis climática y, particularmente, la guerra en Ucrania- y esto puede ser, aunque insuficiente, un gran rayo de esperanza sobre el cual continuar construyendo la senda que requerimos para implementar los cambios que queremos para llegar a los objetivos que queremos -y necesitamos-.

In closing, this thesis does not claim to provide all the answers, nor to predict the precise contours of the EU's future. Rather, it hopes to have opened a space for legal reflection and critical imagination—at a time when both are urgently needed. The European Union stands at a crossroads. Whether it moves forward in coherence and solidarity, or falls into further fragmentation and irrelevance, will depend on the choices it makes now. Those choices must be guided not only by economic metrics or institutional logic, but by a renewed commitment to rights, sustainability, and the collective future of its people.

Our next steps forward can perfectly follow the guide offered by one of the founding fathers of the Union, that is, considering that this organization was not created in a single act or under a single view, but it calls for the joint commitment, effort, and achievement of all of its Members, that will enable us to walk into the future of a European Union characterized by its solidarity.

Where this work has fallen short, in trying to approach a vast list of EU legislation in sustainability matters, is precisely where the Union is shortcoming on its communication strategy in front of European citizens and companies: while constantly trying to look in the future, the EU has created nowadays a complicated networks of laws, policies, and strategies

that, in trying to read and reach those foreseeable futures, might put things in an ever-increasing scenario of complexity, lack of coordination, and redundancies that will result in a hard-to-break dynamic in the present.

Time will only tell, but actions will relate. Let us hope for the best. And act accordingly for that.

IV. BIBLIOGRAPHY.

ESSAYS AND PUBLICATIONS.

Applebaum, A. (2021). *Autocracy Inc*. The Atlantic. Accessed March 2025.

Amat‐i‐Puigsech, D. (2024). *Common concern of humankind and its legal consequences for climate stability.* Climate Law, 14(2), 135–164. https://doi.org/10.1163/18786561-bja10052 Accessed June 2025.

Burri, T. (2024). *The ICJ's Advisory Opinion on Climate Change: A Data Analysis of Participants' Submissions*. American Society of International Law – Insights, 28(10). https://www.asil.org/insights/volume/28/issue/10 Accessed June 2025.

British Institute of International and Comparative Law. (2024). *A commentary on ITLOS' Advisory Opinion on Climate Change.* https://www.biicl.org/blog/77/a-commentary-on-itlos-advisory-opinion-on-climate-change?cookiesset=1&ts=1749751756

Centre Virtuel de la Connaissance sur l'Europe. (n.d.). *The Treaty of Lisbon.* https://www.cvce.eu/en/education/unit-content/-/unit/02bb76df-d066-4c08-a58a-d4686a3e68ff/d7da2396-d047-4c4e-ae1b-f9edb47e3739 Accessed February 2025.

Council of Europe. (n.d.). *European Union accession to the European Convention on Human Rights – Questions and Answers.* https://www.coe.int/en/web/portal/eu-accession-echr-questions-and-answers Accessed May 2025.

Council of Europe. (n.d.). *Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.* https://www.echr.coe.int/documents/d/echr/Library_Collection_P14_ETS194E_ENG Accessed April 2025.

Crum, B. (2024). *Models of EU Constitutional Reform: What do we learn from the Conference on the Future of Europe?* European Constitutional Law Review, 20(2), 392–410. Cambridge University Press. https://doi.org/10.1017/S2045381723000102 Accessed April 2025.

Czerska-Shaw, K., & Warat, M. (2023). Imagining the future of Europe: Social and political actors' proposals for European integration (EU3D Report No. 13). Centre for European Studies, University of Oslo. Retrieved from https://www.eu3d.uio.no/publications/eu3d-reports/eu3d-report-13-czeskashaw-warat.pdf Accessed June 2025

European Court of Human Rights. (n.d.). *Dialogue with the Court of Justice of the European Union.* https://www.echr.coe.int/dialogue-with-the-court-of-justice-of-the-european-union Accessed March 2025.

European Institute (Zurich). (2024). EU enlargement and European integration: Challenges and perspectives (Network Europe Conference Vol. 14). Europa Institut, University of Zurich. https://www.zora.uzh.ch/id/eprint/276165/1/EU_Enlargement_and_European_Integration_Challenges_and_Perspectives_Digital_V1_03_20240826.pdf Accessed June 2025

European Policy Centre. (2023, May). In-Depth Analysis: Alternative futures of European integration after the Covid-19 pandemic. CEPS. https://cdn.ceps.eu/wp-content/uploads/2023/02/CEPS-In-Depth-Analysis-2023-05_Futures-of-EU-Integration.pdf Accessed June 2025.

Gates, B. (2021). *How to avoid a climate disaster: The solutions we have and the breakthroughs we need*. Alfred A. Knopf. Accessed January 2025.

Heri, C. (2024). *The ECtHR's KlimaSeniorinnen judgment: A cautious model for climate litigation.* Verfassungsblog. https://verfassungsblog.de Accessed February 2025.

Heri, C., & Keller, H. (2022). *The future is now: Climate cases before the ECtHR. Nordic Journal of Human Rights,* 40(1), 153–174. https://doi.org/10.1080/18918131.2022.2064074 Accessed February 2025.

Keller, H., & Heri, C. (2022). *The future is now: Climate cases before the ECtHR. European Convention on Human Rights Law Review,* 3(1), 1–35. https://doi.org/10.1163/26663236-bja10034 Accessed January 2025.

Kermabon Avocat. (2024). *Strategic Climate Litigation: Insights from the Shell v. Milieudefensie case*. LinkedIn. https://www.linkedin.com/posts/sephora-kermabon_strategic-climate-litigation-shell-v-milieudefensie-activity-7272168610184183808 Accessed February 2025.

Letta, E. (2024, April 18). *Much more than a market: Speed, security, solidarity. Empowering the Single Market to deliver a sustainable future and prosperity for all EU citizens* (Report). Council of the European Union. https://www.consilium.europa.eu/media/65759/lettafinalreport.pdf Accessed April 2025.

Letta, E. (2025). *Europa. Una última oportunidad.* Espasa. Accessed April 2025.

Naím, M. (2022). *The revenge of power: How autocrats are reinventing politics for the 21st century.* St. Martin's Press. Accessed January 2025.

Palombino, G. (2024). *The constitutional dimension of climate change in the judgment of the German Constitutional Court of March 24, 2021*. Revista Española de Derecho Constitucional, (131), 333–362. https://doi.org/10.18042/cepc/redc.131.10 Accessed June 2025.

Pallarés, L. S. (2024). *What we talk about when we talk about… Corporate Sustainability Due Diligence (CSDD) and Climate Change Litigation*. Spanish Yearbook of International Law, 28, 375–384. Accessed February 2025.

Pelizzon, A. (2015). *Transitional justice and ecological jurisprudence in the midst of an ever-changing climate. In Current Issues in Transitional Justice: Towards a More Holistic Approach* (pp. 317–338). Accessed April 2025.

Petit de Gabriel, E. W. P. (2024). *He Who Laughs Last Laughs Best? A contemporary crusade on public interest, climate change and the request of the advisory opinion of the ICJ.* Spanish Yearbook of International Law, 28, 257–274. Accessed May 2025.

Recuerda Girela, M.A. (dir). (2024). *Anuario de Derecho Administrativo 2024*. Editorial Aranzadi. Chapters 2, 20, 23, 39.

Spada Jiménez, A. (2024). *El sesgado desarrollo del convenio de Aarhus en la Unión Europea. ¿Justicia para el medioambiente?* Cuadernos Europeos De Deusto, (71), 98–99. https://doi.org/10.18543/ced.3132 Accessed March 2025.

Wight, A. (2024). *European futures: Scenarios to 2050*. In B. W. Dijkstra (Ed.), *Challenges and crossroads for the European Union of 2050* (pp. 169–189). Routledge. https://books.google.es/books?hl=ca&lr=&id=JG4ZEAAAQBAJ&oi=fnd&pg=PT169 Accessed June 2025.

LEGISLATION & CASE LAW.

Aarhus Convention (1998). Convention on access to information, public participation in decision-making and access to justice in environmental matters. Adopted June 25, 1998; entered into force October 30, 2001.

Court of Justice of the European Union. (2014, December 18). *Opinion 2/13 of the Court (Full Court)*. https://curia.europa.eu/juris/document/document.jsf?docid=160882 Accessed February 2025.

E-Justice. (n.d.). *Protecting fundamental rights within the European Union.* https://e-justice.europa.eu/topics/your-rights/fundamental-rights/fundamental-rights-european-union/charter-tutorial/part-i-protecting-fundamental-rights-within-european-union_en Accessed March 2025.

European Court of Human Rights (ECtHR). (2020–2024). *Climate change cases before the Court (e.g. Duarte Agostinho and Others v. Portugal and 32 Others, Verein KlimaSeniorinnen Schweiz and Others v. Switzerland)*. https://www.echr.coe.int/ Accessed March 2025.

European Commission. (2015). *The Five Presidents' Report: Completing Europe's Economic and Monetary Union.* https://commission.europa.eu/publications/five-presidents-report-completing-europes-economic-and-monetary-union_en Accessed January 2025.

European Commission. (2017). *White Paper on the future of Europe: Reflections and scenarios for the EU27 by 2025.* https://commission.europa.eu/publications/white-paper-future-europe_en Accessed January 2025.

European Commission. (2024). *The Draghi Report on EU competitiveness: The future of European competitiveness.* https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en Accessed June 2025.

European Commission. (n.d.). *Climate Law.* https://climate.ec.europa.eu/eu-action/european-climate-law_en Accessed June 2025.

European Commission. (n.d.). *EU ETS.* https://climate.ec.europa.eu/eu-action/eu-emissions-trading-system-eu-ets_en Accessed February 2025.

European Commission. (n.d.). *Carbon Border Adjustment Mechanism.* https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism_en Accessed February 2025.

European Commission. (n.d.). *Green Claims*. https://environment.ec.europa.eu/topics/circular-economy/green-claims_en Accessed May 2025.

European Commission. (n.d.). *EU Nature Restoration Regulation.* https://environment.ec.europa.eu/topics/nature-and-biodiversity/nature-restoration-regulation_en Accessed March 2025.

European Commission. (n.d.). *EU Regulation on Deforestation-free Products*. https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en Accessed March 2025.

European Commission. (n.d.). *Energy Performance of Buildings Directive*. https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en Accessed May 2025.

European Commission. (n.d.). *Green Public Procurement.* https://green-forum.ec.europa.eu/green-public-procurement_en Accessed June 2025.

European Commission. (n.d.). *The Aarhus Convention and the EU.* https://environment.ec.europa.eu/law-and-governance/aarhus_en Accessed February 2025.

European Environment Agency. (2023). *The Natura 2000 protected Areas Network*. https://www.eea.europa.eu/themes/biodiversity/natura-2000/the-natura-2000-protected-areas-network

European Parliament. (n.d.). *Draft treaty establishing a constitution for Europe (not ratified)*. https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/draft-treaty-establishing-a-constitution-for-europe Accessed February 2025.

European Union. (n.d.). *Founding Agreements*. https://european-union.europa.eu/principles-countries-history/principles-and-values/founding-agreements_en Accessed February 2025.

International Court of Justice (ICJ). (2024). *Obligations of States in respect of climate change (Request for Advisory Opinion)*. General List No. 187. https://www.icj-cij.org/case/187 Accessed May 2025.

International Tribunal for the Law of the Sea (ITLOS). (2024). *Advisory Opinion on climate change and the obligations of States under international law*. https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_orig.pdf (Consulted June 2025)

Neubauer et al. v. Germany, Case No. BvR 2656/18 et seq. (German Constitutional Court, 24 March 2021). Decision declaring that the Federal Climate Protection Act must be amended to better secure future freedom through stronger climate measures. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/03/rs20210324_1bvr265618en.html

Paris Agreement (2015, adopted December 12; signed April 22, 2016; entered into force November 4, 2016). Paris Agreement under the United Nations Framework Convention on Climate Change. United Nations Framework Convention on Climate Change. https://unfccc.int/process-and-meetings/the-paris-agreement

Shell v. Milieudefensie (District Court of The Hague, 26 May 2021), ECLI:NL:RBDHA:2021:5337. Court ordered Shell to reduce CO_2 emissions by 45 % by 2030 from 2019 levels. *Note on appeal*: The Hague Court of Appeal overturned this decision on 12 November 2024. *Hof Den Haag 12 november 2024, ECLI:NL:GHDHA:2024:2099. Milieu & Recht*.

Treaty of the European Union (1992, amended most recently by Lisbon Treaty 2007). Consolidated version of the Treaty on European Union. Official Journal C 326, 26 October 2012.

Treaty on the Functioning of the European Union (1957, amended most recently by Lisbon Treaty 2007). Consolidated version of the Treaty on the Functioning of the European Union. Official Journal C 326, 26 October 2012.

UNECE. (n.d.). *Communications from the public.* https://unece.org/env/pp/cc/communications-from-the-public Accessed March 2025.

United Nations Framework Convention on Climate Change (1992, entered into force March 21, 1994). United Nations. https://unfccc.int/resource/docs/convkp/conveng.pdf

United Nations General Assembly. (2018). *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.*https://www.ohchr.org/sites/default/files/Documents/Issues/Environment/SREnvironment/A-HRC-37-59.pdf Accessed April 2025.

United Nations General Assembly. (2022). *A/RES/76/300 The right to a clean, healthy and sustainable environment.* https://documents.un.org/en/A/RES/76/300 Accessed May 2025.

United Nations Human Rights Council. (2021). *A/HRC/RES/48/13 The human right to a clean, healthy and sustainable environment*. https://documents.un.org/en/A/HRC/RES/48/13 Accessed May 2025.

Urgenda Foundation v. State of the Netherlands. Supreme Court of the Netherlands. 20 December 2019. https://climatecasechart.com/non-us-case/urgenda-foundation-v-kingdom-of-the-netherlands/ Accessed April 2025.

WWF Europe. (n.d.). *EU Birds and Habitats Directive.* https://www.wwf.eu/what_we_do/biodiversity/eu_birds_and_habitats_directives/ Accessed June 2025.

NEWSPAPERS & JOURNALISTIC ARTICLES.

El Periódico Extremadura. (2025, May 26). *Ecologistas en Acción denuncia la desclasificación de la ZEPA de Valdecañas para salvar el complejo.* https://www.elperiodicoextremadura.com/extremadura/2025/05/26/ecologistas-accion-denuncia-desclasificacion-zepa-117836329.html Accessed May 2025.

Ethic. (2024, May). El desconocido Convenio de Aarhus: ¿realmente se cumple? https://ethic.es/2024/05/el-desconocido-convenio-de-aarhus-realmente-se-cumple/ Accessed April 2025.

Euronews. (2025, April 29). *Is France protected from a major power outage as seen in Spain and Portugal?* https://www.euronews.com/my-europe/2025/04/29/is-france-protected-from-a-major-power-outage-as-seen-in-spain-and-portugal Accessed March 2025.

Euronews. (2025, May 28). *EU pitches security hub to protect Black Sea from Russia's threats and shadow fleet*. https://www.euronews.com/my-europe/2025/05/28/eu-pitches-security-hub-to-protect-black-sea-from-russias-threats-and-shadow-fleet Accessed May 2025.

Financial Times. (2025). *How to fix Europe's securitisation market*. https://www.ft.com/content/f01d18c6-16dd-41be-9b89-4465f01a47d6 Accessed February 2025.

Greenpeace Spain. (n.d.). *Algarrobico, símbolo de la destrucción de la costa.* https://es.greenpeace.org/es/trabajamos-en/oceanos/costas/algarrobico-simbolo-de-la-destruccion-de-la-costa/ Accessed March 2025.

IISD SDG Knowledge Hub. (2024). What are the Legally Binding Obligations of States in respect of climate change? https://sdg.iisd.org/commentary/guest-articles/what-are-the-legally-binding-obligations-of-states-in-respect-of-climate-change/#:~:text=States%20have%20specific%20obligations%20under,in%20cases%20of%20transboundary%20pollution.

La Moncloa. (2025, February 10). *Demolición del hotel ilegal de El Algarrobico.* https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/hacienda/paginas/2025/100225-derribo-algarrobico.aspx Accessed May 2025.