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A moonshot in retreat

Once heralded as Europe's man on the moon moment, the Green Deal now wavers under political compromise and legal uncertainty

Europe's Green Deal is losing its teeth. The EU's recent decision to backtrack on key components of the Green Deal for businesses – including the Corporate Sustainability Due Diligence Directive, which requires large companies to address environmental and human-rights harm across their supply chains, and the Carbon Border Adjustment Mechanism – signals a worrying retreat from environmental enforcement.

The latest omnibus 'simplification' package exempts around 80 per cent of companies from mandatory sustainability reporting. Rather than reducing red tape, this move creates legal uncertainty and undermines the 'cohesiveness, credibility and enforceability of the EU climate framework'.

Yet the challenges facing the Green Deal are not only political; they also raise questions of law, governance and the future of the European project itself. Deregulation and uneven national enforcement of the Green Deal risk failing climate policy and eroding legal certainty, with concrete harms for enforcement, public health and citizens' rights.

Rule of law and the Green Deal

The Green Deal, a legally binding programme requiring all 27 EU member states to achieve net-zero emissions by 2050, was built to permeate every corner of the Union: business regulation, human rights, agriculture, energy, infrastructure. Its credibility depends on something deeper than policy; it requires the integrity of the rule of law and the consistent cooperation of national governments, courts and agencies.

Europe's legal foundations, however, contain their own internal frictions. The EU's strong protections for property rights, economic freedoms and 'legitimate expectations' were developed to shield market stability and

private investment. Today, those same protections often act as built-in brakes on environmental ambition. Scholars warn that the very principles designed to guarantee legal certainty can slow or dilute the urgent measures needed to cut emissions in the face of a rapidly changing climate.

Yet environmental rules – whether on air quality, industrial emissions, forests, chemicals or biodiversity – remain chronically under-enforced. And when governments fail to uphold them, the entire system begins to falter.

These rollbacks are not merely political concessions; they are legal ruptures.

When Ursula von der Leyen launched the Green Deal in 2019, it was presented as Europe's 'man on the moon moment' — a transformative leap meant to anchor her first term. But by the time she entered her second term in 2024, the political landscape had shifted dramatically. The pandemic and the war in Ukraine refocused attention onto inflation, energy security and economic competitiveness. The centre-right European People's Party moved sharply against key environmental measures, and the far right made significant parliamentary gains.

Agribusiness groups mobilised against the Nature Restoration Law, industrial lobbies attacked energy-efficiency requirements, and several member states, including France and the Netherlands, publicly called for 'pauses' or 'reassessments' of environmental obligations. Von der Leyen's Commission seems to have responded not by defending the core of the Green Deal, but by offering deregulation packages presented as 'simplification'.

These rollbacks are not merely political concessions; they are legal ruptures. Laws that were enacted through democratic processes and intended to shape Europe's long-term climate trajectory are being undone through opaque negotiations, weakening legal certainty and undermining the legitimacy of the EU's climate framework.

Where member states break the chain

Although the EU has the power to set and reverse environmental laws, we mustn't forget that implementation ultimately rests with national and regional governments. This is where a more structural threat to the EU's green agenda becomes apparent, as willingness to comply is waning across

the bloc.

Italy illustrates the problem starkly. The industrial Po Valley, home to 16 million people, has breached EU air-quality limits for more than a decade, with only two out of 29 cities projected to comply with pollutant targets by 2030. Rather than enforcing reductions, regional authorities have repeatedly sought derogations to shield industry or delayed targets far beyond legal deadlines. Italy has been condemned three times by the European Court of Justice for these violations.

But Italy is far from alone.

Ireland has the second-highest greenhouse gas emissions per person in the EU from farming and forestry industries; Poland and Hungary continue to resist coal phaseouts and energy transition measures, although the situation has seen some reversals. Across member states, weak monitoring and lax enforcement threaten the zero-pollution goals altogether.

The weakening of executive and legislative climate ambition has triggered a surge in climate litigation.

This reflects a deeper structural problem: Brussels pushes climate obligations downward without addressing the rule-of-law conflicts that shape how they function on the ground. When governments choose political convenience, compliance becomes fragmented — and the Green Deal weakens.

As the Green Deal's implementation progresses, industry groups have increasingly relied on legal tools meant to ensure fairness, like legal certainty and legitimate expectations, to challenge environmental measures. In effect, principles originally designed to protect fairness in the internal market are now being repurposed to resist climate obligations.

BusinessEurope and other corporate lobbies argue that environmental reporting, due diligence and supply-chain transparency are 'burdensome', urging the EU to loosen or delay requirements. With political allies in parliament, these arguments have gained traction. The omnibus package showed this clearly: legislation drafted to provide clarity and stability for investors is now being weakened in the name of competitiveness.

The risk is that deregulation creates more legal uncertainty, not less. Without clear obligations – such as under Article 22 of the Corporate Sustainability Due Diligence Directive, which places an obligation on in-scope companies to adopt a transition plan – companies face a patchwork of national requirements and greater exposure to lawsuits as courts fill the

regulatory vacuum.

When states don't act, courts and citizens step in

The weakening of executive and legislative climate ambition has triggered a surge in climate litigation. The European Court of Human Rights ruled in *KlimaSeniorinnen v. Switzerland* that insufficient climate action violates human rights. The ICJ clarified that states may be responsible for failing to regulate private emissions, and national courts, from the Netherlands to Germany to Italy, are increasingly asked to enforce EU law when governments don't.

'Climate governance has shifted to judicial arenas, where courts are asked to settle disputes that political institutions have failed to address', a paper by the Maastricht Faculty of Law notes regarding the use of the judicial system in place of legislature.

In Italy, groups like Torino Respira and Cittadini per l'Aria are suing regional governments over dangerous pollution levels. In many cases, strategic litigation has become the only available enforcement tool.

This judicialisation of climate governance is a warning sign. Courts can clarify obligations, but they cannot replace political will. A Green Deal enforceable only through litigation is a Green Deal already weakened.

Weakening environmental legislation for short-term political expediency undermines legal certainty, erodes democratic accountability and risks violating fundamental rights, including the emerging right to a healthy environment.

What is at stake is not only the Green Deal, but the credibility of the rule of law in Europe.



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