# CONTENTS

			page
	tributo reviatio		xv xvii
Fore	eword		xxiii
Edo	ardo Ch	iti and Andrea Giorgi	
Intro	oductio	n: Sustainability in Transition	1
Edo	ardo Ch	iti and Andrea Giorgi	
1.		nability and the Green Deal	1
2.	object		3
3.		ining the balancing exercise: ecological sustainability and nable development	8
4.		tructure and findings of the inquiry	11
	4.1.	The agri-food transition	12
	4.2.	The energy transition	13
	4.3.	The ecological transition	15
	4.4.	The digital transition	17
	4.5.	The economic transition	18
5.	Sustai	nability in transition: four interpretative keys	21
	5.1.	Regulatory entanglement	21
	5.2.	Resistance: the enduring relevance of sustainable devel-	
		opment	22
	5.3.	Innovation: the penetration capacity of ecological sus-	
		tainability	23
	5.4.	The significance of ecological sustainability for the	
		Green Deal	24

**viii** Contents

## Part 1: The Agri-Food Transition

1.	Sustainability in the Agri-Food Sector: The Tortuous Path of Common Agriculture Policy towards a Food System Approach	29
Enri	ico Mezzacapo and Antonio Manzoni	
1.	Introduction	29
2.	«Mountains of milk and butter»: the overproduction of the first two decades of the CAP	30
3.	Reforming the CAP in the light of sustainable development (1980-1999)	32
4.	The need for a fairer and environmentally-sound CAP: multi- functionality, rural development and eco-conditionality	34
5. 6.	A further attempt for a "greener" CAP: the 2014-2020 reform Assembling the pieces: channelling sustainability into the agri-	36
7.	food sector through a food system approach The bumpy road of the EU agri-food sustainability: the new	39
8.	"Green" CAP The tortuous path for the reform of the CAP 2021-2027	42 44
8. 9.	Enhanced subsidiarity at the service of sustainability targets: the new CAP delivery model	45
10.	Policy strategies and sustainability objectives	47
11.	The sustainable food system transition in the hands of Member States	48
12.	The interrupted evolution of the CAP and the unfulfilled promises of a food system approach	52
2.	The New Common Agricultural Policy Approach Towards the Livestock Sector and Food Waste. Lying at Which Point of the Sustainability <i>Continuum</i> ?	55
Rob	erto Talenti and Giulia Corsini	
1.	The new CAP: understanding its relationship with the multi- faceted sustainability concept	55
2.	Addressing the livestock sector	60
	<ul><li>2.1. Animal farming and its environmental impact</li><li>2.2. Livestock regulation at the EU level – the Farm to Fork</li></ul>	60
	<ul><li>Strategy</li><li>2.3. Which sustainability approach from the new CAP?</li></ul>	62 65
3.	Addressing food waste	0) 72

3.1.	Food waste and its environmental impact	

72

Contents	ix
----------	----

		page
4.	<ul> <li>3.2. Food waste regulation at the EU level: the role of the Green Deal</li> <li>3.3. Which sustainability approach from the new CAP? Conclusions: ecosystem sustainability is still <i>so far away, so far I just can't see</i></li> </ul>	76 81 85
Dat		
Par	rt 2: The Energy Transition	
3.	The Quest for a Sustainable Energy Transition: The Case of Bioenergy	89
Mat	teo Greco	
1.	Integrating ecological sustainability in the energy regulatory framework	89
2.	Bioenergy: on the edge of two environmental crises	91
3.	Sustainability criteria: a gradual juridification of ecological sus- tainability?	94
4.	Conclusions: avoiding conflicts between transitions	98
4.	Reshaping Administrative Proceedings and Discretion for a Fast-Forwarded Energy Transition	101
Emr	malucia Virardi	
1.	Energy transition and the issue of streamlined administrative proceedings	101
2.	How to address administrative barriers?	105
3.	The impacts of a fast-forwarded energy transition	108
	3.1. False friends? Reconciling renewable energy with envi-	108
	<ul><li>ronmental protection</li><li>3.2. The components of the energy transition through the</li></ul>	108
	lens of the ongoing process of (re)definition of sustaina-	
	bility	110
4.	3.3. Reshaping administrative discretion Towards a re-articulation of public power for the achievement	112
	of climate neutrality?	114

#### **x** Contents

3.

5.	Energy Transition and Sustainability before Courts: The Evo- lution of the Case-Law of Italian Administrative Courts	117
Mici	bele Di Vita	
1. 2.	Energy transition and sustainability before Italian courts The principle of "widest distribution" of renewable energy and	117
	the other interests at stake	119
	<ul><li>2.1. A traditional concept of sustainability</li><li>2.2. A new concept of sustainability? The prioritization of</li></ul>	122
	green energy production	123
3.	2.3. Step back? The rescue of balancing Conclusions	126 127
2.		127
6.	Powering the Smart City: Sustainable Energy in the New Smart City	129
Geo	rgious Christou	
1.	Cities and climate change	129
2.	Introducing the European Smart City	130
3.	Energizing the European city: four illustrations	133
4.	Energy Efficiency Directive: a tale of two goals	134
5.	Covenant of mayors: the three pillars of Smart Cities	137
6. 7.	Horizon project: an urban sustainability blueprint	138 142
7. 8.	The general framework: REPowerEU Sustainability in the Smart City	142
8. 9.	Conclusion	149
D		
Par	t 3: The Ecological Transition	
7.	From Natura to Nature Restoration. The Ecological Objective of the Green Deal at the Legal Litmus Test	149
Mici	bela Biscosi	
1.	Which sustainability in the European Green Deal?	149
2.	Ecological sustainability in Natura 2000	152
	2.1. Tracing Natura's perimeter	153
	2.2. Which room for development activities?	156
	2.3. Old limits and unexplored potential	161

page

Nature Restoration Law, Europe's "best hope"1643.1. The contents: mending and strengthening164

	C	Contents	xi
			page
	3.2. The NRL's governance		166
4.	Conclusion		168
8.	Nature Restoration Law: Reshaping Sustainable Developme	nt?	171
Lici	nia Pascucci		
1.	Introduction		171
2.	Situating the Nature Restoration Law		172
3.	The legal construction of sustainability in the Nature Rest	ora-	470
4	tion Law		178
4.	Conclusions		181
9.	Serving Sustainability through Criminal Law: The Italian C	ase	183
Ant	onio Taurelli		
1.	Introduction		183
2.	Penetrating Criminal Law		184
3.	Environment and sustainability: two different approaches		187
4.	Legislative choices		188
5.	The EU criminal framework: a paradigm shift?		191
6.	Structural tensions		193
Par	rt 4: The Digital Transition		
10	Data Driver Econotomy Competition Law on a Way to L	inte	
10.	Data-Driven Ecosystems: Competition Law as a Way to I Sustainability and Digitalisation	лик	199
Ema	nnuele Fazio		
1.	The liaison between sustainability and digitalisation in d	ata-	
	driven ecosystems		199
2.	Facing the challenges of sustainable data-driven ecosystem	is: a	
	shift towards polycentric competition law		203
	2.1. Revised relevant market definition		208
	2.2 The concepts of sustainability evolving from data-dri	ven	

2.2. The concepts of sustainability evolving from data-driven ecosystemsThe direction of digital analytical shortcutsFinal considerations

3.

4.

211

214

217

#### **xii** Contents

11.	Sustainable Smart Cities	219

page

Beatrice Baldini

1.	Smart City and sustainability	219
2.	A gradual move away from the technology-driven approach	220
3.	Orienting Smart Cities towards climate neutrality	223
4.	Green areas and infrastructures for the restoration of urban	
	ecosystems	226
5.	Urban sustainability after the Green Deal	229

### Part 5: The Economic Transition

12.	Towards a Green Deal-Oriented Intellectual Property Law?	
	Tackling Remedies against Abuses	233

Camilla Signoretta

1.	Introduction	233
2.	A Green Deal-oriented IP policy	234
3.	IP delimiting clauses within the TRIPS Agreement	236
4.	Implementing Article 8(2)	238
	4.1 US: misuse and inequitable Conduct	238
	4.2 EU: stretching boundaries of good faith	241
5.	Implementing Article 31(k)	244
	5.1 US: the evolution of the essential facilities doctrine	245
	5.2 EU: the pathway of the essential facilities doctrine from	
	a procompetitive to a regulatory tool	248
6.	How to apply IP delimiting rules within a Green Deal-oriented	
	framework: three examples	251
	6.1 Clean hydrogen	252
	6.2 Lithium-ion batteries	253
	6.3 Carbon capture, utilization and storage	254
7.	Conclusion	256
13.	Sustainable Finance and Biodiversity Protection	257
Luis	a Nenci	
1.	Introduction	257
2.	Sustainable finance as a policy objective	258
3.	Climate finance: reshaping the field?	260
4.	Regulatory tools: the EU taxonomy	262
5.	Strategic goals: the sustainable finance agenda	265
6.	An evolving approach?	266
	O II	

		page
14.	Corporate Governance and Sustainability: Something New under the Sun?	271
Fede	rica Montanaro	
1. 2.	The European Green Deal and the economic transition The Finance Package and the role of corporations	271 273
3.	The Corporate Sustainability Reporting Directive as an infor- mation tool	275
	3.1. An already existing mechanism: the Non-financial Reporting Directive	276
4.	<ul><li>3.2. Reporting now: the key role of the CSRD</li><li>3.3. Sustainability reporting: indicators and standardization</li><li>The connection with the Corporate Sustainability Due Dili-</li></ul>	277 280
5.	gence Directive (CS3D) Sustainability and corporate governance	282 283
15.	'Sustainable Profit'? The Green Deal Economic Transition between Criminal Law and Corporate Social Responsibility	285
Stefa	no Porfido	
1. 2.	Introduction The complementary system of environmental protection: un-	285
3.	lawful and lawful 'systemic' corporate harm A paradigmatic example of 'sustainability law': the criminalisa-	286
	tion duties of the ECD	292
4. 5.	The CSDDD and corporate governance Conclusions: supporting the transition globally?	297 307
Inde	x	309

Contents

xiii