*European Journal of Risk Regulation* (2026), **17**, 780–787
doi:10.1017/err.2026.10116

CAMBRIDGE UNIVERSITY PRESS

EDITORIAL

# Afterword: Exploring the Intersections between the Green and Digital Transitions

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## Abstract

This afterword examines the intersections between the green and digital transitions within EU law and argues for the development of a coherent regulatory framework capable of addressing their interdependence. Drawing on the contributions to the special issue, it identifies a number of common challenges, including tensions between market structures and the protection of fundamental rights, the environment and the climate, the limits of anthropocentric approaches to regulation and the increasing relevance of interdisciplinary expertise in law-making and adjudication. The paper further distinguishes between two forms of conflict arising from the twin transitions: normative conflicts between overlapping regulatory regimes and substantive conflicts concerning the negative consequences of one transition on the other. To address these issues, the afterword proposes a "pointillist" approach grounded in the coordinated and teleological interpretation of EU law. Finally, it suggests that impact assessment regimes provide a particularly promising case study for future research on theintersections between the twin transitions.

**Keywords:** digital transition; EU law; green transition; impact assessment

## I. Introduction

The ongoing expansion of digital technologies, coupled with the urgency of fighting climate change, renders research on the intersections between the green and digital transitions a pressing cross-cutting issue. One that calls for dedicated forums and opportunities for discussion and debate. The present special issue addresses this need by fostering scholarly debate on the subject.

This afterword outlines the underlying themes that run through the articles in this special issue and aims to sketch some promising directions for future research on the joint study of the twin transitions. Section II identifies several research areas that merit further investigation, particularly through a closer examination of the intersections between the twin transitions. Section III identifies two conflicts between the green and digital transitions. Building on Sections II and III analysis, Section IV puts forward a methodology proposal for developing a coherent legal framework for the regulation of the intersections between the two transitions. Section V outlines a prospective research trajectory aimed at advancing the approach presented in the previous section, using impact assessment provisions as a case study. Section VI offers some concluding remarks.

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https://doi.org/10.1017/err.2026.10116

## II. Common issues for a critical analysis of the intersections between the digital and green transitions

Examining the twin transitions enables the identification of cross-cutting issues in both the digital and green transition, it facilitates comparison of the challenges and corresponding solutions in each field and supports greater coordination in shaping their development.

The articles in this special issue reveal three clusters of common questions across both transitions, concerning, first, the regulatory framework governing the relationship between market structures and the protection of fundamental rights, the environment and the climate; second, the extent to which EU legislation is grounded in an anthropocentric approach, together with the implications and limitations of such an approach; and third, the conditions under which dialogue between different disciplines is necessary, as well as the most effective methods and tools for fostering such dialogue.

With regard to the first aspect, EU legislation often refers to objectives relating to market development, fundamental rights, environmental and climate protection, without addressing the potential or actual conflict between them. Regarding the digital transition, this is evident in Article 1 of the GDPR,[1] which mentions both the free movement of personal data and the protection of the fundamental rights and freedoms of natural persons, without dealing with their possible conflicts. Art. 1 of the Artificial Intelligence Act (AI Act)[2] follows the same path: it expressly mentions the need to ensure a high level of environmental protection when promoting "the uptake of human-centric and trustworthy artificial intelligence" while improving the functioning of the internal market. The lack of clarity regarding the choices to be made when faced with a potential conflict between the market economy and the protection of fundamental rights lies at the heart of the ongoing debate about the legal classification of personal data and its commodification.[3] Legislation pertaining to the green transition is characterised by a similar tension, as shown by the recent amendments to the Corporate Sustainability Due Diligence Directive (CSDDD); this is particularly evident regarding the modifications to the liability regime and the deletion of Article 22, entitled "Combating climate change."[4]

Furthermore, the relationship between economic structures and the protection of fundamental rights, the environment and the climate has prompted a number of authors to reflect critically on the adequacy of the current economic system and to question the need for regulatory interventions capable of significantly reshaping both that system and

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC 2016.

[2] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828.

[3] In this issue see: P De Hert and O Hinrichs, "The EU Twin Transition: Comparing Form and Substance of the Regulatory Approaches" (2026) European Journal of Risk Regulation; See also, as examples: H Zech, "Data as a Tradeable Commodity" in A de Franceschi (ed), *European Contract Law and the Digital Market*, (Intersentia 2016) pp 51ff.; N Purtova, *Property Rights in Personal Data. An European Perspective* (Wolters Kluwer 2011). In italian, see: C Angiolini, *Lo statuto dei dati personali. Uno studio a partire dalla nozione di bene* (Giappichelli, 2020).

[4] In this regard, the perspective offered by Griffin and Fornasari on the risk management approach is of particular interest; they point out that such an approach grants companies' considerable discretion and discourages the adoption of substantive rules limiting corporations' power and call for new approaches capable of challenging the current economic structure and openly addressing the conflicts between it and the green transition. See R Griffin and R Fornasari, "Risky Business? Corporate Risk Management Obligations in Sustainability Due Diligence and Digital Platform Regulation," (2025) European Journal of Risk Regulation 1–19.

https://doi.org/10.1017/err.2026.10116

the legal framework underpinning it[5]. In this regard, although the EU institutions have acknowledged the necessity for a shift in the prevailing economic model, which has been demonstrated to engender substantial adverse environmental and climatic consequences,[6] the implementation of regulations that extend beyond the confines of "property rights, market instruments, and pricing to regulate the use of environmental resources"[7] remains extremely limited. Whether this is an effective and fruitful approach to governing the intersection between the digital and green transitions, and whether it can enable the EU to achieve the climate neutrality objectives set out in the European Climate Law, remain crucial matters for future research.

A further commonality between the two transitions is the criticism directed at the anthropocentric approach to regulation and to its interpretation and application, as highlighted by De Hert and Hinrichs.[8] These perspectives may prove useful for research on legal instruments aimed at preventing and addressing the impacts of new technologies, including their environmental and climate-related implications. In this regard, both in digital contexts and in environmental and climate litigation, a key difficulty emerges, from a legal standpoint, in establishing a nexus between such impacts and the subjects concerned. This core issue manifests itself in different ways depending on the circumstances: in the difficulty of establishing specific and concrete harms in various data protection cases, as well as in identifying the parties entitled to bring proceedings in environmental and climate-related litigation[9]; and in the particularly challenging task of proving causation in liability cases relating to the digital, environmental and climate domains.[10] In this context, critiques of the anthropocentric approach may prove valuable in the development of legal instruments capable of addressing the consequences of the use of new technologies, by shifting the focus beyond exclusively human effects and thereby opening up original perspectives.

For developing the research in this direction, a fruitful approach may be to deviate from a Eurocentric perspective and instead examine the legal strategies employed by other legal systems for the protection of nature,[11] to understand how these legal strategies may foster the discussion on the forms of regulating effects of human activities.

The third common issue to the two transitions is the debate on interdisciplinary dialogue. Notably, the articles published in this special issue underscore that in order to study, regulate and implement the twin transitions, it is imperative to comprehend the impact of digital technology on the climate and the environment.[12] Such understanding is by no means straightforward, as shown by political debates, discussions within different fields of study, and court proceedings relating to climate and environmental litigation. In

[5] In this special issue see: AS Epstein,"EU Environmental Law in the Digital Age: A Critical Outlook on the Twin Transition's Legal Structure" (2025) European Journal of Risk Regulation 1, 3.

[6] See, as examples: the recitals of Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ("European Climate Law"); the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A new Circular Economy Action Plan For a cleaner and more competitive Europe, 11 March 2020.

[7] P De Hert and O Hinrichs, (n 3).

[8] Ibid.

[9] In this regard, the following decision is of interest: CJEU, *UI v Österreichische Post AG,* C-300/21, 4 May 2023.

[10] See as an example the case: ECHR, *case of Verein Klimaseniorinnen Schweiz and others v. Switzerland*, no. 53600/20, 9 April 2024.

[11] See in that respect: C. Rodgers, "A new approach to protecting ecosystems: The Te Awa Tupua (Whanganui River Claims Settlement) Act 2017" (2017) 4 Environmental Law Review 266–79; the case law is particularly relevant in this respect; see, as examples: Colombian Constitutional Court, T622/2016, 10th November 2016; Colombian Supreme Court, STC 4360 2018, 5 April 2018; Inter-American Court of Human Rights, Advisory Opinion No. 32/2025.

[12] See in this respect AS Epstein (n 5).

https://doi.org/10.1017/err.2026.10116

this context, the assessments of experts from various disciplines are becoming increasingly significant, as exemplified by the importance accorded to IPCC reports in legal debates.[13]

Against this backdrop, dialogue between different disciplines should be considered in relation to legislation, litigation and legal research. Regarding legislation, the rules concerning the legal relevance of contributions from non-legal disciplines play a significant role in the selection of the factual elements that are visible within the law. In this regard, Griffin and Fornasari argue that the growing importance of the role of experts contributes to the emergence of a technocratic approach to environmental and climate issues within risk management procedures.[14] It may, therefore, be beneficial to investigate forms of dialogue between disciplines that eliminate or mitigate this risk. However, a key issue for future research concerns the selection of scientific knowledge that attains legal relevance. In this regard, several questions arise: which criteria should govern the selection of the legally relevant position among competing ones within a given discipline? To whom should such determinations be entrusted? And what forms of judicial review and oversight should be envisaged? In the context of litigation, issues concerning the legal relevance of contributions from other disciplines emerge in relation to the burden of proof, for instance in liability proceedings.[15] In this context, the court is responsible for determining which scientific findings are to be regarded as legally relevant, given that the parties' arguments may differ significantly, even though both are based on scientific studies.

In terms of research approaches, an important question is whether to adopt an interdisciplinary or a transdisciplinary methodology, with a view to align with the needs and objectives of each research programme. In any event, the involvement of researchers from other disciplines has the potential to facilitate the identification of aspects of the intersection between the two transitions that remain invisible to the law and to foster a critical examination of existing legislation.

## III. Two types of conflicts between the two transitions

The articles collected in this special issue demonstrate that there are at least two types of conflict between the green and digital transitions: those created by legislation, and those concerning the negative consequences of one transition on the other.

Regarding the former point, some articles collected in the present special issue show that there is a need for a more coordinated approach to the intersections between legislative instruments pertaining to the digital, environmental and climate sectors.[16] In this regard, Cordova's exploration of the existing tension between energy law and data protection and privacy rights shows the possible consequences of the lack of coordination between pieces of legislation pertaining to the two transitions. Indeed, the author calls for legislation to adopt an integrated approach, with the aim of safeguarding data protection and privacy rights in the regulation of digital tools concerning the energy system.[17]

Moreover, the synergy between the twin transitions must be assessed by considering other areas of law, as demonstrated by van de Sanden and Jansen with regard to the role of competition law in the generation and management of large amounts of environmental

[13] All the reports are available at <https://www.ipcc.ch/reports/> (last accessed 28 march 2026).

[14] R Griffin and R Fornasari (n 4) 7–9.

[15] See n 12.

[16] A Quintavalla, E Celeste and A Perez Victorio "Operationalising the Twin Transition: From EU Constitutional Principles to National AI Strategies" (2026) European Journal of Risk Regulation 3.

[17] JGL Cordova "The Right to Energy and the Data Protection and Privacy Rights: Towards a Coherent Enforcement under EU Law within the Energy Transition", (2025) European Journal of Risk Regulation.

https://doi.org/10.1017/err.2026.10116

data.[18] The authors demonstrate how it is possible to develop, through interpretation, solutions consistent with current competition law. However, they also conclude that greater clarity is needed regarding permissible data-sharing practices and "safe harbours" for sustainability collaborations.

The second type of conflict between the two transitions is substantive in nature and concerns the regulation of the negative effects of the digitalisation on the green transition. It has been observed by numerous authors, including in this special issue, that EU law pays insufficient attention to the environmental and climate-related consequences of the digital transition.[19]

This lacuna gives rise to a number of research questions. Firstly, the question arises as to whether it is possible to interpret existing legislation in such a way as to make the effects of the digital transition on the environment and climate visible. If this is not the case, it is necessary to consider whether the law should take such effects into account and, if so, in what manner. With regard to the effects that have been deemed relevant by the law, a question for future research is the identification of the most appropriate regulatory framework for addressing them.

## IV. Towards a pointillistic approach for interpreting existing legislation

The analysis carried out in the preceding sections raises the question of how the law should regulate the intersection of the two transitions. This is primarily a technical issue that must be faced when different rules relating to the two transitions apply and require coordination. As is often the case in law, however, the issues are not purely technical, and the search for solutions gives rise to considerable theoretical debate.

One possible approach is to use a method akin to pointillism, where the precision of each dot and the application of colour theory combine to create an overall image in the viewer's mind. To elaborate on the metaphor, the "points" represent instances in which regulatory frameworks from the digital and the environmental and climate domains apply, and in which these norms must be interpreted in conjunction. The identification of a "colour theory" capable of guiding the composition of a broader picture implies the construction of a coherent legal framework, involving reflections on methodological approaches and on the need for a system, or at least for shared principles or rules, to be applied at the intersections between the green and the digital transitions. The development of this framework faces at least two problems: first, there is a multitude of rules in various pieces of legislation that have not been fully coordinated by the legislator; and second, a great challenge is to identify the legal instruments needed to construct a coherent framework.

To address the first issue, a detailed study of the tensions between the specific regulations relating to the two transitions is required. A taxonomy of potential conflicts between norms concerning the two transitions, along with possible solutions to these conflicts, including interpretative ones, may provide a general overview of existing issues. For building such a taxonomy, the studies focusing on specific areas could serve as a starting point. Moreover, a case-based approach, including hypothetical cases, could be used to reflect on concrete examples in which rules concerning one transition and the

[18] M van de Sanden and P Jansen "Centralised ESG Data Sharing and EU Competition Law: Safeguards for the Twin Transition", (2025) European Journal of Risk Regulation.

[19] AS Epstein (n 11); Quintavalla et al. (n. 19). Beyond this special issue, see: P Hacker, "Sustainable AI Regulation" (2024) Common Market Law Review 34; U Pagallo, Ja Ciani Sciolla and M Durante, "The Environmental Challenges of AI in EU Law: Lessons Learned from the Artificial Intelligence Act (AIA) with Its Drawbacks" (2022) 16 Transforming Government.

https://doi.org/10.1017/err.2026.10116

other apply. Furthermore, collaboration between different legal disciplines could be established, including experts in at least digital law, environmental law and climate law.

The need for coordination between different areas of law leads to the second challenge for the construction of a coherent legal framework: to return to the metaphor of pointillism, what is the equivalent in colour theory that allows us to connect the dots to form a coherent image?

Teleological interpretation may be helpful here. In this regard, an analysis of primary EU law would be useful to understand and discuss the possible coordination of the applicable rules where the two transitions intersect.[20] Furthermore, secondary EU law may be useful as it explicitly sets out its objectives in the text of the legislation.[21] While this is not unusual in EU law, it is nevertheless significant for analysing the relationship between legislative acts relating to the two transitions, as it renders policy objectives legally binding through narrative provisions, which can be used to interpret the other provisions of the same act. Moreover, there are no obstacles to using general objectives, such as that set out in European Climate Law, to interpret other legislative acts in the same field in a teleological manner. Thus, the interpretation of a provision that intersects both transitions must be conducted in the light of the objectives of both transitions, thereby fostering mutual complementarity between the two regulatory frameworks.

The proposed interpretative approach is not merely technical; a joint analysis of the legislation which considers its objectives could bring substantive legal tensions to the fore in a tangible way, prompting a response from the courts and legislators. Notably, a teleological interpretation could draw the attention of the courts – and, by extension, the legislature – to the ambiguities in the relationship between the current economic model and the implementation of the two transitions mentioned in section II.

## V. A promising case study for further research: impact assessment provisions

To foster research on the regulation of the intersections between the twin transitions, the rules governing impact assessments seem to be a good case study: such rules exist in legislation concerning both transitions,[22] there is almost no coordination between them and they raise a multitude of theoretical and technical questions of significant practical importance.

Firstly, one research area concerns the selection of methods for identifying and assessing the negative environmental and climate consequences of digital technologies. In that respect, the selection of methods is crucial, as it affects the impact assessments'

[20] In this respect, the provisions relating to the internal market are undoubtedly relevant; as an example, the adoption of the AI Act is based on Art. 114 TFEU. Moreover, the analysis should consider environmental and climate-related norms must be considered (e.g., Art. 37 CFREU, Art. 3 TEU, Art. 11 and Title XX TFEU) as well as fundamental rights, which, as is well known, include the provisions of the Charter of Fundamental Rights safeguarding privacy and the right to data protection (Art. 7 and 8 CFREU).

[21] On the digital side, some pieces of legislation have as objective fostering and regulate some aspects of the digital transition, including economic ones, while respecting fundamental rights; See Art. 1 of Reg. 2022/2065 (hereinafter: Digital Service Act) and Art. 1 of Reg. 2016/679 (hereinafter: GDPR). As to legislative act concerning the green transition, a key act is Reg. EU 2021/1119, as its Art. 1 sets the climate-neutrality objective for the EU.

[22] See, with regard to the green transition, the directives on the assessment of the effects of certain public and private projects on the environment (Directive 2011/92/EU of 13 December 2011; Directive 2014/52/EU of 16 April 2014); moreover Regulation 2021/1119 on climate change, and Directive 2024/1760 on corporate sustainability due diligence, are of particular importance. As to legislation on the digital transition, Regulation 2016/679 addresses the issue of the risks of personal data processing on data subjects, including the need for an impact assessment in certain cases (Art. 35). Moreover, Regulation 2024/1689 on artificial intelligence provides specific rules on AI systems' impact, notably with regard to fundamental rights impact assessment for high-risk AI systems (Art. 27).

https://doi.org/10.1017/err.2026.10116

results. Therefore, the choices concerning impact assessment methods influence the possibility of making the environmental and climatic consequences of digital technologies legally visible, as well as the criteria on which this visibility is based. Notably, there are often no precise legislative guidelines on the methods to be used for conducting impact assessments, in either digital-related law[23] or environmental and climate legislation.[24] This uncertainty regarding the methodologies to be followed gives scholars and legal professionals a significant role in providing critical analysis, constructing coherent interpretations and discussing how to engage in dialogue with other disciplines.

A second major issue concerns the legal standing for challenging impact assessment decisions; this inquiry will address a long-standing issue in environmental and climate law,[25] which has also been studied recently in the field of digital law, namely the protection of interests that are not exclusively individual, and which scholars, legislators and case law define as either collective, diffuse interests or trans-subjective rights.[26] Nowadays, the legislator has only partially addressed the issue, even though it clearly appears to be problematic in case law. For instance, the General Data Protection Regulation (GDPR) does not allocate a specific role to data subjects in relation to impact assessments, which, as a general rule, may remain confidential. In the context of the green transition, Articles 13 and 14 CSDDD, which deal, respectively, with "meaningful engagement with stakeholders" and the "notification mechanism and complaints procedure," are of particular interest.

Moreover, in an uncertain legal framework, principles guiding the application of digital and environmental law, respectively, such as the precautionary principle, particularly important in the latter, may play a significant role. In this regard, a key issue for future research is the role of such principles in building a coherent framework for governing the intersection between the two transitions.

Lastly, existing normative texts offer very different rules in cases where the risk assessment reveals potential or actual negative impacts.[27] Another research area for the future has been revealed: the comparison of legal norms on that matter and the

[23] In the context of digital law, Art. 35 of the GDPR defines certain elements that are necessary in the impact assessment, including an assessment of the risks to the rights and freedoms of data subjects and the measures envisaged to address the risks. The normative text does not provide guidance on the methodology to be followed in conducting the risk assessment. Furthermore, Art. 9 of the Regulation on artificial intelligence provides that a risk management system shall be established, implemented, documented and kept up to date with regard to high-risk AI systems, defined as such on the basis of the rules laid down in Arts. 6 and 7 of Regulation 2024/1689 on artificial intelligence.

[24] In the field of environmental protection and the "green transition," examples include Directive 2004/35 on environmental damage and the recent Directive 2024/1760 on corporate sustainability due diligence.

[25] As to case law, see in the field of digital law: Court of Justice of the European Union, C-319/20, *Meta Platforms Ireland Limited v Bundesverband der Verbraucherzentralen und Verbraucherverbände,* 28 April 2022. For an overview of collective redress in the context of "digital rights," see, for example: Digital Freedom Fund, *Collective Redress: Country reports,* 2024: <https://digitalfreedomfund.org/wp-content/uploads/2024/11/CRB_V4.pdf>. On the green transition side, a number of court cases have been at the centre of debate in recent years, concerning the identification of entities that can take legal action; see as examples: European Court of Human Rights, *Verein Klimaseniorinnen Schweiz and others v. Switzerland*, 9 April 2024 (on such a case, see: Sefkow-Werner V. *Consistent Inconsistencies in the ECtHR's Approach to Victim Status and Locus Standi*. European Journal of Risk Regulation. 2025;16(2)); Paris Court of Appeal, 18 June 2024, *Notre Affaire à Tous and others v. Total*; Court of Appeal of The Hague, 12 November 2024, *Shell v. Foundation for Environment and People*, Italian Court of Cassation, 18 February 2025, Greenpeace Italy et al. v. ENI S.p.A. et al.

[26] C Angiolini, "Intérêt diffuse (Italie)" in J Rochfeld, M Cornu and F Orsi (eds), *Dictionnaire des biens communs* (PUF, 2026); P Femia, "'Discourses Survive, Humans Die': Trans-subjective Rights", in HW Micklitz and G Vettori (eds), *The Future of the Person* (Hart, 2025); M Spanò, "Making the Multiple : Toward a Trans-Subjective Private Law", (2019) South Atlantic Quarterly 4; E D'Alessandro and D Castagno (eds.), *Reports and Essays on Climate Change Litigation* (Turin University 2024).

[27] In digital law, for example, see Art. 36 GDPR; as to environmental and climate law, for instance see Arts. 9–12 of Directive 2024/1760.

https://doi.org/10.1017/err.2026.10116

development of interpretative paths that encourage their complementarity. Moreover, the joint interpretation of impact assessment rules may be conducted in an attempt to make visible the environmental and climate impact of digital technologies. Furthermore, the study of impact assessment suggests investigating rights and remedies from an *ex ante* perspective, as opposed to the more traditional *ex post* perspective, which is the conventional point of view of (civil) liability. Therefore, a promising direction for future research is the development of a set of remedies to prevent and manage the environmental and climate impact of the digital transition before it results in damage.

## VI. Conclusions

This paper highlights the importance of exploring the intersections between disciplines related to the twin transitions. Drawing on the articles included in the present special issue, the paper detects a few questions worthy of critical reflection, considering the two transitions jointly, and identifies two types of conflict between the twin transitions that could be the subject of further study and research. These analyses highlight the need to further reflect on how the law regulates and should regulate these two transitions. In this regard, the paper proposes to develop a pointillist approach for interpreting existing legislation. The provisions relating to impact assessments are identified as a potential case study.

However, there are many questions that need to be studied and discussed, through collaborative efforts and looking beyond the issues raised by specific sets of rules. Some salient issues, partially addressed in this afterword, are the following: how can bridges be built between the two regulatory frameworks, and how can coherent coordination between them be fostered? How can issues common to the regulation concerning the two transitions be examined and addressed in a coordinated and effective manner? Can common remedies be identified, and/or should they be introduced by law? The answers to these questions are not straightforward or self-evident, which highlights the need for further scholarly research in this field.

**Cite this article:** C Angiolini (2026). "Afterword: Exploring the Intersections between the Green and Digital Transitions". *European Journal of Risk Regulation* **17**, 780–787. https://doi.org/10.1017/err.2026.10116

https://doi.org/10.1017/err.2026.10116