

SUMMARY

The first part of this book focuses on national and international public law as the legal areas that allow the conditions for sustainable development to be established.

The first chapter (“Sustainable development and artificial intelligence: Is AI4ESG a key driver to reach the objectives of UN Agenda 2030?”) deals with the regulation of AI with specific reference to sustainability, advocating for a more reliable legal framework for AI with a view to achieving the UN Agenda 2030 SDGs. The author specifically argues that the EU plays a major role in setting proper rules, and large companies might also help in mitigating risks linked to new technologies by involving themselves and their stakeholders in sustainability initiatives.

The second chapter (“The concept of sustainability in national Constitutions: Insights from constitutional jurisprudence”) comparatively analyses many European national constitutions to consider the strong relationship between many of them and sustainability. This is intended to consider both environmental sustainability and people’s rights, assessing the long-term stability of constitutions but generally perceiving the absence of a comprehensive pattern within the topic. The author then moves to the constitutional doctrine of the Lithuanian Constitutional Court regarding sustainability, which helps to understand the constitution as a social (and therefore intergenerational) contract.

In the third chapter (“The efficiency of green public procurement regulation in Lithuania as an element of achieving objectives of sustainable development”), the author describes the requirements present in Lithuanian law regarding the qualification of a public procurement as a green public procurement in detail. They also point out that the current rules allow a more accessible possibility for correcting mistakes present in tenders if the conditions laid down in the procurement are met.

The fourth chapter (“Sustainable development and international investment law: A look at the new generation of international investment agreements”) addresses the issue of sustainability from the perspective of international investment law. After describing the chronological development of the trend in international investment agreements, the author highlights the fact that States currently include references to sustainable development in IIAs, introducing social and environmental elements in an essentially neo-liberalist framework. Nevertheless, the author also notes that only very few of the most recent IIAs include features of sustainability, and that in many cases these features exist solely within models. On this basis, the author advocates for a shift of paradigm by strengthening the idea of investor accountability beyond soft law.

The fifth chapter (“Privacy-friendly personal data processing and sustainability: Is there mutual support?”) points out how the massive processing of big data related to SDG-linked issues might be in contrast with people’s right to privacy. The author discusses the different principles involved in this trade-off – with a specific focus on the principle of purpose limitation and the possibility that its application damages the environment in the long run – and advocates for further investigation in the field in the coming years.

The sixth chapter (“Sustainable work over the course of life. A new paradigm for decent work”) considers the topic of social sustainability, with specific reference to the issue of decent work. The authors highlight the fact that the notion of decent work is extremely vague, and advocate for a more comprehensive principle of sustainable work that should serve as the foundation for the promotion, protection, and enforcement of work and working conditions – with protection offered to workers, notwithstanding their specific employment status. They propose the use of hard-law measures for the enforcement of sustainable work and to enhance employees’ participation in the workplace management, thus making the voices of workers more audible.

The second part is devoted to sustainability and private law.

The first chapter (“The legal consequences of apparent authority for sustainable agency relationships”) deals with a classic issue of private law with a view to its interaction with sustainability: apparent authority. The author argues that the application of sustainability to a transaction marked by apparent authority should lead to the right of the affected third party to freely choose the remedy between the compensation of damages and the performance of the obligation in kind. The same should also be the case for the principal and the fourth parties involved in the agency relationship.

The second chapter (“The change of commercial contractual relations influenced by sustainability clauses”) describes the impact of sustainability on commercial contractual relations, in particular with the inclusion of sustainability clauses. The author analyses the interaction between sustainability clauses and the doctrine of classic contract law, finding difficulties in applying to the former the legal instruments proper to the latter. However, sustainability-related contractual obligations are usually ancillary, and, in general, sustainability objectives are not yet considered trade custom or established business practice – even if the current trend leaves open the idea that they will become increasingly relevant in the near future.

The third chapter (“The role of the product quality guarantee in promoting sustainable consumption: Lithuanian experience”) considers how the product quality guarantee might serve as a driver for the promotion of more sustainable consumption. The author emphasizes the role of the legal framework in this field, as it indirectly promotes the more sustainable consumption choices of the consumer. In particular, the author focuses on recent amendments to the Lithuanian Civil Code (2022) that promote both the circulation of longer-lasting products and a longer period of use.

The fourth chapter (“Corporate sustainability and the shareholder activism problem”) analyses the issue of shareholder activism, in particular with reference to the Corporate Sustainability Reporting Directive. The obligation for directors to consider the longer-term impacts of a company’s activities is considered as a means of overcoming the short-term (often unsustainable) approach that many shareholders, being interested mainly in profit maximization, possess.

The fifth chapter (“The remote participation of shareholders in the general meetings of private companies as a tool for more inclusive shareholder engagement”) refers to a topic that was extremely relevant during the recent COVID-19 pandemic: remote shareholder participation and voting in the general meeting. The author in particular analyses the most recent (November 2022) Lithuanian legislation on this topic by highlighting its advantages, both from a substantive and a procedural point of view, in terms of the enhancement of real shareholder engagement.

The sixth chapter (“The main directions in the sustainable development of legal regulation of reorganization in Ukraine”) focuses on the concept of reorganization in Ukrainian legal experience, defining it as a multidimensional phenomenon. The key sustainability issue in the contribution lies in the observation that reorganization is likely to affect creditors’ interests. The author advocates for the reconceptualization of reorganization so as to have it considered from a socio-economic perspective, with a view toward Ukraine’s relationship with countries in Europe and around the world.

In the seventh chapter (“Access to justice in civil cases: Filling the gap in the sustainable development agenda”), which concludes Chapter II, the authors focus on access to justice as a specific topic included in Goal 16 of the UN Agenda 2030 SDGs. Such an observation puts access to justice, in particular by means of ADRs and specifically with reference to civil cases, in the field of social sustainability. Furthermore, the authors – pursuant to the UNDP – point out that access to justice is to be defined not just as a procedural, but also as a substantive right, guaranteeing just and equitable legal and judicial outcomes.

The transformation of criminal law in the context of sustainability is the topic of the third part.

In the first chapter (“Environmental crime: Lithuanian criminal policy in the context of European regulation”), trends in the interpretation of the concept of environmental damage are considered from both the European and the Lithuanian perspective by highlighting the limited acknowledgment of criminal liability. At present, despite the implementation of the European rules by Lithuania, administrative and civil remedies are preferred over criminal liability when it comes to environmental offences.

The second chapter (“The principle of subsidiarity of criminal law as a condition prerequisite for sustainable criminalization”) considers a classic criminal law topic in terms of its interaction with sustainability: the principle of subsidiarity. In particular, the author uses the concept of sustainability in order to define the room left to criminal law – and in general to criminalization – when a certain offense is considered with a view toward other legal areas. In this sense, sustainability in the law-making process would guarantee the persistence of criminal law as an *extrema ratio*.

The third chapter (“Decriminalization of the illicit possession of small quantities of drugs and the sustainable reduction of drug consumption”) is also related to the criminalization threshold, with specific reference to the possession of small quantities of narcotic drugs for non-distribution purposes. The author questions the most appropriate policy between the criminalization and non-criminalization of such a form of possession, as research carried out on the topic does not offer clear evidence that decriminalization is a sustainable solution for reducing drug consumption. At the same time, the author acknowledges that the final decision is a political and value-driven assessment that is made by the legislator.

The fourth chapter (“Accessible and sustainable criminal justice: The right of an incapacitated accused person to be present at a court hearing”) focuses on the social sustainability naturally embedded within the possibility of actual participation in criminal trials for people with disabilities. The authors present the models that are most widespread classically and more recently in dealing with this topic, advocating for the use of a modified functional approach and for a system in which actual participation in the trial – not just understanding – is guaranteed to the incapacitated defendant. They also focus on the specific duty of care that the State must have towards incapacitated people with reference to their right to have proper legal assistance, and the necessity of particular care in assessing the meaning and awareness of their testimonies.

In the chapter’s final subchapter (“Encouraging coordinated vulnerability disclosure: The protection of vulnerability reporters”), the authors comparatively discuss the situation of vulnerability reporters in the EU in the general framework of cybersecurity and the recent European NIS 2 Directive (2022). The contribution discusses the ways in which legal protection takes place and the specific obligations that enable vulnerability reporters to avoid criminal liability, observing that only four Member States have adequate guarantees to protect these researchers. The authors therefore advocate for the revision of the Cybercrime Directive to guarantee the more harmonized and effective protection of vulnerability reporters.

Part Four is devoted to providing several examples and experiences of sustainable activity and conduct, with the subsequent legal fallout discussed.

The first chapter (“The implementation of the sustainable development principle in zoning and planning regulations: The Lithuanian case”) considers the impact of sustainability in spatial planning in terms of the so-called sustainable development principle. The author points out that the Lithuanian Spatial Planning Law has not encompassed mandatory rules for a long time, while more concrete actions are taken by local planners. The author specifically refers to the master plan of the city of Vilnius, where specific environmentally friendly measures are outlined. They also argue that Vilnius’ example and its establishment of specific soft laws might eventually be followed by other cities, and might even become a regulatory framework in the future.

The second chapter (“The problem of sustainable legal regulation of electric vehicle infrastructure”) considers one of the most-discussed topics regarding mobility: the use of electric vehicles. The author points out that while electric mobility is far less polluting per se than traditional vehicles, many problems arise when it comes to the cost of electric vehicles, and in particular when we consider the manufacture and disposal of exhausted batteries. They support the efforts of the EU in its policy regarding the circular economy in the field of batteries, not least in order to reduce dependence on China, and advocate for the increased attention of legal scholars in assisting in the development of a more effective legal environment for promoting sustainable technological solutions.

The third chapter (“The links between sustainability and electrification in the regulatory framework of EU and Lithuania”) again considers electric vehicles, showcasing research that demonstrates that the environmental benefits derived from the increased number of electric vehicles in Lithuania are substantially offset by the increased emissions required for the recycling, disposal, and reuse of their batteries. The author argues that the correct way to pursue sustainability should perhaps involve

a model that does not presuppose the maintenance of the current level of production, and that might also include a shift of paradigm in education.

The fourth chapter (“Contribution to the sustainable development agenda by calculating and reducing greenhouse gas emissions from the waste management sector”) focuses on climate change mitigation in waste management sector, the intersection between the waste management and energy sectors, with specific reference to greenhouse gas emissions reporting to IPCC. The author argues that GHG emissions from the waste management sector, as it is understood under the Waste Framework Directive, at large are attributed to other sectors (mainly energy sector). This creates the appearance that the waste management sector is low-polluting and is among the lowest contributors to climate change, affecting the public debate and potentially leading to a lack of policy changes within the legal framework of the sector. The author advocates for measures that should be in the waste management sector towards climate neutrality.

In the fifth chapter (“Sustainability: Bridging the gaps between law, finance, and technology”), the author considers the legal, financial, and technological frameworks of sustainability together in order to create a consistent approach by providing several examples of bottlenecks. In addition, they point out that academia has a key role to play – both in terms of sustainability education and by means of retraining services.

The final chapter (“The sustainability of the legal profession: Lawyers’ role in the future regulation of pandemic and war responses”) highlights the role of legal professions in the promotion of sustainability, with a particular focus on human dignity. The author considers the fight against impunity for war crimes in Russia’s invasion of Ukraine (with reference to SDG 16); the no-poverty goal stated in SDG 1 and how it is dealt with in current legal practice; and the promotion of decolonial and anti-discriminatory thinking by legal professionals in their activity (SDG 10). They also refer to environmental sustainability, and in particular climate actions (SDG 13), as a way to promote equality among human beings.

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