

Introduction

The proactive approach to law focuses on preventing future problems and promoting desirable outcomes in legal practice. In the preface to this volume, Helena Haapio and Gerlinde Berger-Walliser describe the history of the proactive law movement, tracing its origins to the 1990s' Finland, where a group of corporate and academic lawyers pioneered prevention and value creation as essential elements of good legal practice.

Over the past two and a half decades, this movement has expanded internationally. However, it can be argued that proactive lawyering itself has long been practiced by skilled lawyers, who seek to prevent problems or mitigate their impact on clients. An experienced and pragmatic corporate counsel is aware of the importance of assessing risks and benefits in contracts within their business environment and the advantages of working collaboratively. Louis M. Brown, whose preventive law is considered a foundational influence on the proactive law movement, was both a practicing lawyer and an educator, who innovated in practical and hands-on learning. He introduced methods that allowed students to engage directly in client issues and promoted legal solutions that integrated input from different fields. His legacy continues to endure through initiatives such as the ABA Client Counseling Competition in the United States and the Brown Mosten International Client Consultation Competition (www.brownmosten.com).

The proactive law movement has inspired a client-centered approach in legal practice and has been groundbreaking in academic law by promoting a more dynamic and comprehensive understanding of statutes, case-law and decision-making in courts. This has been more feasible in regions with a history of realistic jurisprudence, such as the Nordic countries and the United States, where it has influenced scholarly thinking since the early 20th century. A notable example of a legal realist is Stewart Macaulay, who began empirical research on business contracts in the 1960s, laying the groundwork for strategic contracting. Today, this perspective extends to other areas of law, where proactive law is taught and studied.

The idea for this special issue of the *TalTech Journal of European Studies* emerged from collaboration between Tallinn University of Technology, the University of Lapland and some of the founding members of the proactive law movement. These connections have flourished and are evolving into

active partnership between the institutions. The contributors to this project recognize that new developments are unfolding regarding the theoretical foundations and practical applications of the movement's perspectives and they are active in developing new streams of research in response to shifting technological, economic, social and institutional landscapes. At present, their aim is to encourage renewed discussions on the relevance, adaptability, future trajectories and influence of proactive law across domains.

In this volume, scholars, researchers, lawyers and experts share their interpretations and applications in their fields of interest, focusing on how the approach, the movement or both have enriched their views.

In the first paper, 'Building proactive law competence with systems intelligence', *Nina Toivonen* is interested in the development of proactive legal theory and systemic, interdisciplinary solutions. She explains that traditional legal practices perpetuate the very problems they aim to solve and proposes the use of the systems intelligence framework to address issues more effectively. The argument thus views proactive lawyering as a competence similar to systems intelligence. Established on these premises, the article suggests that such competence could be developed through various practical methods, offering promising research directions for further developing the foundations of proactive law.

In their paper 'Data-driven proactive contracting: a mathematical framework for enhancing strategic agility, risk management and value creation', *Mohammad Naji Shah Mohammadi, Azam Pirmoradian, Foad Shokrollahi and Peiman Pirmoradian* address some limitations of traditional contracting methods. They propose a novel framework that transforms contracts into dynamic governance tools through real-time data analytics and mathematical techniques such as stochastic forecasting and multi-objective optimization. The framework is presented as an advancement in proactive contract governance, making it more responsive to the complexities of modern business environments.

Renató Vági, in his paper 'Balancing risk and social good: proactive law as a strategy in AI governance', explores how the proactive law perspective could enhance the European Union's *AI Act*. He argues that, alongside more detailed preventive rules, there is a need for promotive aspects to complement these measures that are consistent with contemporary regulatory trends. He suggests pro-innovation frameworks to pursue societal benefits through open-source collaborative models, sector-specific regulations and environmental

sustainability integration. His work positions proactive law within broader discussions on governance as a means of maximizing the societal benefits of AI technology.

The fourth paper, ‘A proactive approach to legal privilege in the light of electronic communication’, by *Zoltán Gyurász*, *Ondrej Hamulák* and *Petra Dražová* discusses the unprecedented constraints that legal professional privilege and professional secrecy are currently facing. The authors stress the importance of these principles as cornerstones of democratic legal systems, which are essential for ensuring client confidentiality and procedural fairness. The paper argues that proactive lawyering measures are necessary to strengthen these protections in an environment that is specifically influenced by digital technologies.

In her paper ‘Judicial Administration 4.0: strengths, challenges and opportunities of a proactive approach to AI regulation in Spain’, *Maria Luisa García Torres* reviews predictive and generative AI technologies and their role in judicial administration. She reflects on their potential to enhance judicial efficiency through crime prevention and investigation, using a proactive law perspective to address policy reforms, risks to citizens’ fundamental rights and ethical considerations. The paper assesses existing regulatory measures while showing that proactive strategies can guide ethical AI integration compliant with Spanish law.

Jieun Shim and *Jieun Kim* analyze the challenges and opportunities presented by Web 3.0 in transforming data ownership and privacy in their article titled ‘Explaining the unexplainable: data sharing and privacy in Web 3.0.’ They argue that resolving the complexities of user autonomy and data monetization requires a proactive legal approach that includes tailored consent mechanisms, fair data compensation models and the integration of explainable AI (XAI) to enhance transparency. Their article proposes strategies for balancing economic benefits with robust privacy protections as a viable and sustainable option for stakeholders in the data economy.

‘Access to justice in public procurement: improving judicial review through lean thinking, proactive law and legal design’ by *Piia Kaave*, *Isabell Storsjö* and *Pirkko Heikkinen* addresses the reforms of a public procurement appeal system, which have made recourses more cumbersome and unappealing. The authors propose integrating lean thinking for efficiency gains, proactive law for strategic risk management and legal design for clarity to improve efficiency, fairness and transparency. The paper calls for empirical research

to validate these methods further by assessing assumptions, customer satisfaction, decision-making and documents used in these processes.

Kaido Künnapas, Palina Maslionkina, Risto Hinno and Raivis Liberts authored ‘Current AI applications by Estonian tax authorities and use case scenarios’, in which they examine AI-based technology tools designed and implemented by the Estonian Tax and Customs Board. Their paper evaluates the contributions of large language models in assisting taxpayers, network analysis in tax fraud prevention and X-ray imaging to support border security, as well as their compatibility with proactive law principles. It discusses challenges such as financial constraints and data governance issues to suggest that proactive AI management could advance legal clarity and compliance while balancing state intervention and individual autonomy.

Suvi Hirvonen-Ere’s article ‘The impact of digital transformation and automation on proactive contracting’ focuses on the interplay between these fields, adding a sustainability dimension to the scholarly discourse. She offers theoretical contributions and practical recommendations for practitioners regarding contract lifecycle management systems.

Three papers link the proactive approach to legal education. *Laura Ratniece*’s article, ‘A proactive approach to English-medium instruction in legal education: using text mining for legal terminology acquisition’, demonstrates how proactive uses of technology can support novel educational experiences. It shows the potential of text mining for creating learning materials at law schools to help students build their legal competency in English. Text mining can allow for a more proactive approach to studying law from various perspectives, and potentially across subfields, without specific language-related barriers.

Maria Paola Velásquez Restrepo’s article proposes a shift towards proactive legal education, adjusted to the needs and preferences of younger generations. In ‘Proactivity and legal education for Generations Z and Alpha’, she discusses why and how to update teaching and learning strategies to match the tech-driven learning styles of younger students. She concludes that digital tools and customized interactive teaching methods can make courses more engaging for those who show apathy towards traditional learning and provides an initial assessment of introducing reforms in an undergraduate commercial law course.

The article ‘Legal design and access to justice: a case study on child support payments in Chile’ by *Ricardo Lillo* and *Patricia Acevedo* is another case

study and presents an interdisciplinary project conducted at the People-Centered Justice Lab of Adolfo Ibañez University. This initiative applied legal design principles to address accessibility issues in judicial processes related to child-support payments. Law, engineering and design students collaborated to develop solutions for judicial administration documents, systems and processes. This case reflects modern educational models involving experiential learning and the strategic application of legal knowledge to social change.

Completing this collection, *Marco Imperiale's* position paper, 'Proactive law in the modern legal landscape: five barriers and potential pathways to success', revisits the foundational ideas of the proactive movement and discusses how proactive law can transform business strategies by preventing disputes and mitigating risks. Identifying important barriers to its adoption, he proposes strategies to overcome them. This thoughtful analysis advocates for progress and proactive adaptation to global market complexities, promoting a legal culture that can meet the demands of the 21st century.

We extend our gratitude to the authors and peer reviewers for their invaluable contributions to this special issue. This collection as a whole offers fresh insights and forward-looking perspectives that reflect our renewed societal and professional commitments. We also appreciate the dedication of those involved in the compilation of this volume and hope that it provides insightful and inspiring new perspectives to our readers.

Soili Nystén-Haarala and Maria Claudia Solarte-Vásquez