

Proposal for an ESF Research Networking Programme – Call 2008

Section I: (1 A4 single page)

Programme title:

European Proactive Law Network

Programme acronym:

EPLN

Name and full coordinates of principal applicant(s) (up to three including the contact person):

1) René Franz Henschel, Department of Business Law, Aarhus School of Business, University of Aarhus, Fuglesangs Allé 4, 8210 Aarhus V, Denmark.	2) Kaisa Sorsa, Turku University of Applied Sciences, Department of Life Sciences and Business Lemminkäisenkatu 30 20520 Turku, Finland.	3) Jan Smits, Faculty of Law, Tilburg University, Postbus 90153, 5000 LE Tilburg, Netherlands.
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Indication of which of the principal applicants is the contact person:

René Franz Henschel

Keywords relating to the topic of the proposal (up to five; one "keyword can be a string of not more than three words):

Proactive law; proactive regulation; interdisciplinary research; intercultural research; knowledge transfer

Abstract of the proposal (max. 300 words):

The traditional approach to law is often described as *reactive*, trying to solve what has actually emerged as a problem. In contrast, the aim of *proactive law* is to enable business, citizens and regulators to reach their goals and to avoid unnecessary risks, costs and disputes. Here, in addition to the law, domain-specific economic, management, political and social sciences are important, and so are the experiences of business, individuals and regulators. It is in this context that the real test of the proactive law approach is being conducted.

So far, proactive law research has been mainly conducted by North-European researchers and practitioners. The early outcomes show that the approach can bring great scientific and practical value. When proactive law is applied effectively, cost savings and other benefits follow – not only for those involved, but also for the society as a whole. To further explore this, it is important to create a multidisciplinary and cross-cultural network of researchers, practitioners and regulators, where all European legal, economic and cultural traditions are taken into account.

The EPLN will collect, systematize and analyze the current theoretical, methodological, policy-related and practice-orientated research questions regarding the proactive approach to law in Europe. It will explore and develop the theoretical underpinnings of proactive law towards a unifying theory and compare the results with those of non-European efforts, e.g. the preventive law approach in the United States of America.

The EPLN will also test the theory of proactive law in practice. It will promote knowledge transfer and support the development of tools, skills and techniques enabling business, individuals and regulators to fully implement and benefit from the approach. Finally, the aim is to train young scientists in developing their research skills using proactive law theories, methods and techniques.

Previous or concurrent applications to the ESF for any of the ESF instruments:

None

Status of the relevant research field; scientific context, objectives and envisaged achievements of the proposed Programme:

The traditional approach to law is often *reactive*, trying to solve what has emerged as a problem, a cost or a conflict. The reactive approach is often based on an analysis of the law *as it is* (dogmatic law, *de lege lata*), applying law to certain facts *ex post*, the typical approach used by litigators and judges. Traditional legal research is often focused on the past, analyzing failures and the present state of law, not focusing on how the law *should be* (*de lege ferenda*) or how the *parties should have* conducted themselves in order to avoid problems. Even legislation is often reactive, directed towards failures and shortcoming.

In comparison, proactive law focuses on the future: how the legislator could create a well functioning, citizen- and business-friendly legal environment and how the parties *should actually* conduct themselves or their business in order to reach their goals and avoid unnecessary risks, costs and disputes. In legal theory, proactive law has been defined as “*an approach which comprises a way of legal thinking combined with a set of skills, practices and procedures that help organizations and individuals to identify opportunities in time to take advantage of them, and to spot potential problems while preventive action is still possible*” (C Magnusson Sjöberg: Presentation of the Nordic School of Proactive Law, in: P Wahlgren (Ed.): A Proactive Approach, Scandinavian Studies in Law, vol. 49, Stockholm, 2006, p. 13 *et seq.*).

In public lawmaking the proactive law approach focuses on how to achieve legislative goals and ensure successful development and implementation of and compliance with rules, e.g. by using alternatives to traditional regulation (see e.g. RF Henschel and EB Cleff: Information Requirements and Consumer Protection in Future M-Commerce: Textual Information Overload or Alternative Regulation and Communication?, in: International Journal of Intercultural Information Management (IJIIM) 2007, vol. 1, nr. 1, p. 58-73). Furthermore, it focuses on how the regulator should support the proactive approach between business and citizens, e.g. by using participatory lawmaking strategies and by supporting predictability in business transactions (DW Schartum: Introduction to a Government-based Perspective on Proactive law, in: P Wahlgren (Ed.) *op.cit.*, p. 35 *et seq.* and K Sorsa: Self-Regulation in Contracting from the Proactive Law Perspective within the EU, *Oikeus* 2008 (37):1: 45 -66.2008).

Proactive law thus has its starting point in legal science. It involves the traditional legal disciplines such as dogmatic contract law. The scientific *context* is however somewhat different. In traditional legal science, discussions on responsibility have traditionally been *ex post*-oriented. Nowadays, the *ex ante* view point has become increasingly relevant with regard to proactive responsibility for future consequences. Proactive responsibility represents the ethic of care (S Pohjonen and K Visuri: Proactive approach in project management and contracting, in: H. Haapio (Ed.). A Proactive Approach to Contracting and law, IACCM & Turku University of Applied Sciences, Turku 2008, p. 75 *et seq.*)

Proactive law is focused on how to promote and strengthen the factors that drive future success. These factors can be of an entirely legal nature, e.g. examining how to best construct legal terms in a contract in order to prevent or resolve disputes. But the proactive approach needs to focus on the components which promote what is desirable and prevent what is not, no matter what scientific nature these components might have. Therefore, domain-specific economic, political and social sciences are important for the approach. Furthermore, the experiences of business and individuals are equally an important source, as it in this context that the real test of the proactive law approach is

being conducted. “*In Proactive Law, the emphasis is on achieving the desired goals in particular circumstances where legal expertise works in collaboration with the other types of expertise involved*” (S Pohjonen and K Visuri, in P Wahlgren (Ed.), *ibid*)

A range of research demonstrates the interdisciplinary character of proactive law. To understand the key features of a successful contractual relationship it is useful to examine the research on *relational contract theory* which to a large extent is based on sociological and economic theories. Some of the best-known work has been done by US scholars (e.g. R. Macneil) and other work having been done in this area by Austen-Baker, Bernstein, Campbell, Feinman and Macaulay (D Campbell (Ed.); *The Relational Theory of Contract: Selected Works of Ian Macneil*, London, 2000).

Success requires proper planning. Yet planning has not been the subject of traditional legal research. Along with S Macaulay (*Non-contractual Relations in Business: A Preliminary Study*, *American Sociological Review*, Vol. 28, No. 1, February 1963) and IR Macneil (*A Primer of Contract Planning*, 48 *S. Cal. L. Rev.* 627, (1975)), LM Brown and EA Dauer (*Planning by Lawyers: Materials on Nonadversial Legal Process*, New York 1978) were among the first to break the lawyers' traditional way of looking at the past.

Empirical and theoretical research into planning and other proactive techniques used by legal and other practitioners is needed (HJLM van de Luytgarden: *Legal Training, Paralegals and Practising Preventive/Proactive Law in the Netherlands*, in: H Haapio (Ed.), *op.cit.*, p. 213 *et seq.*), and so is research into educational aspects (M Lampe: *A New Paradigm for the Teaching of Business law and Legal Environment Classes*, in: H Haapio (Ed.), *op.cit.*, p. 227 *et seq.*). The importance of proactive law in regard to knowledge and technology transfer also has to be analyzed (L Baines: *Managing Collaborative R&D Through Contracts*, in: H Haapio (Ed.), *op.cit.*, p. 199 *et seq.*).

In relation to economic sciences, the use of micro- and macroeconomic analysis can shed light on the proactive approach to law. In this regard, the theory of Law & Economics must be analyzed more closely (see e.g. H Lando: *Determinants of the optimal Degree of Pro-activeness in Contracting*, in: P Wahlgren (Ed.), *op.cit.*, p. 255 *et seq.*).

In relation to outsourcing and supply chain management, proactive law may minimize risk and costs (A Kavaleff: *Successful Outsourcing through Proactive Contracting – Strategy, Risk Assessment and Implementation*, in: P Wahlgren (Ed.), *op.cit.*, p. 215 *et seq.*). Organisational theory, project management and design theories are also of relevance for proactive law (K Rekola: *Service Design as a Basis for Successful Commercial Contracting*, in: H. Haapio (Ed.), *op.cit.*, p. 153 *et seq.*).

In Europe, proactive law originated in contract law and in IT-law with the aim of merging good contract, legal, project, quality and risk management practices (see e.g. T Mahler and J Bing: *Contractual Risk Management in an ICT Context – Searching for a Possible Interface between Legal Methods and Risk Analysis*, in: P Wahlgren (Ed.), *op.cit.*, p. 339 *et seq.*).

In the United States, a parallel to the proactive approach is the preventive law movement, initiated by LM Brown in the 1950s. In 1986 The National Center for Preventive Law (“NCPL”) was founded (see www.preventivelawyer.org). The main focus of this movement is to enable lawyers to prevent disputes from arising in order to reduce risks and save costs for the client (TD Barton: *Thinking Preventively and Proactively*, in: P Wahlgren (Ed.) *op.cit.*, p. 71 *et seq.*).

The proactive law approach primarily emerged in Finland in the 1990s. With the aim to further develop legal theories and practical methods, the Nordic School of Proactive Law (see www.proactivelaw.org) was established in 2004. The approach has been gaining success also outside the fields of contract law and IT law (see e.g. SS

Jacobsen: *Entering New and Converging Media Markets: How to Take a Proactive Approach to Legal Issues in the Electronic Communications Sector*, in: P Wahlgren (Ed.): *op.cit.*, p. 393 *et seq.*

The importance of exploring the issue of proactive law further has recently been recognized in the European Union, in the Draft Opinion of the European Economic and Social Committee (EESC)(EESC INT/45 The proactive law approach). The Section for the Single Market, Production and Consumption of the EESC is responsible for preparing the Opinion, with Jorge Pegado Liz as the Rapporteur and Helena Haapio as the Expert.

The purpose of the Opinion is *“to show how the Proactive Law approach can favour better regulation by providing a new way of thinking; one which takes as its starting point the real-life needs and aspirations of individuals and businesses, rather than legal tools and how they should be used”* (sec. 5.9).

In the Draft Opinion, the EESC urges a paradigm shift, stating that *“(...) the time has come to give up the centuries-old reactive approach to law and to adopt a proactive approach. It is time to look at law in a different way: to look forward rather than back, to focus on how the law is used and operates in everyday life and how it is received in the community it seeks to regulate. While responding to and resolving problems remain important, preventing causes of problems is vital, along with serving the needs and facilitating the productive interaction of citizens and businesses.”*

According to the EESC Draft Opinion, this means that *“when drafting laws, the legislator should be concerned about producing operationally efficient rules that reflect real-life needs and are implemented in such a manner that the ultimate objectives of those rules are accomplished (...)”*. (sec. 5.10). It then continues: *“A piece of legislation is not the goal; its successful implementation is. Nor does implementation just mean enforcement by institutions, it also means adoption, acceptance and, where necessary, a change of behaviour on the part of the intended individuals and organisations”* (sec. 5.11).

The EESC Draft Opinion anticipates a series of consequences of the proactive law approach for the decision-making process relating to EU lawmaking, implementation and enforcement (sec. 5.12.1-5.12.7) which has to be investigated further: *“The way of doing this could be initiated through research projects and dialogue with stakeholders on the specific role of the Proactive Law approach throughout the life-cycle and at all levels of regulation. The first steps could include round-table discussions or seminars with academic circles, think tanks, stakeholders and institutions in order to put up a framework and an action plan for further initiatives, the purpose of which would be to implement consideration of the proactive approach in every instance, much in the same way that consideration of subsidiarity and proportionality currently always do. In view of its clear focus on better regulation issues, the SMO [EESC Single Market Observatory] might be the platform for further discussion on the Proactive Law approach”* (sec. 5.13).

In conclusion, the proactive law approach seems to have much to offer that still needs to be explored. So far, the research has been focusing on various interdisciplinary scientific and practical aspects, based on the fact that proactive law is very much an applied science with a strong focus on the practical application of law.

The method of research has primarily been empirical research together with essays, papers and peer-reviewed articles presented at conferences and in books and journals. Furthermore, dissemination of research efforts has been taking place under the auspices of industrial associations like the International Association for Contract and Commercial Management (www.iaccm.org) in the form of academic symposia as part of practice-oriented conferences (see e.g. the IACCM EMEA Conference 2008,

<http://www.iaccm.com/emea/agenda.php>). In 2007, the ProActive ThinkTank was established with the aim of raising business leaders', managers' and lawyers' awareness of the techniques and successes of a proactive approach to law (see <http://www.proactivethinktank.com>).

The research has been conducted by academics and practitioners which is only natural considering that proactive law comprises both theory and practise. However, few research publications aim to analyze closer the theoretical foundation of proactive or preventive law (see e.g. EA Dauer: Four Principles for a Theory of Preventive Law, in H Haapio (Ed.), op. cit. p. 37). The nature of proactive law as an interdisciplinary research field unavoidably results in a fragmented nature, where inconsistencies are a constant risk. However, the early outcomes already show that the approach can bring great scientific and practical value. When proactive law is applied effectively, cost savings and other benefits follow – not only for those involved, but also for the society as a whole.

So far, proactive law research has been mainly conducted by North-European researchers and practitioners. To further explore proactive law, it is important to create an open multidisciplinary and cross-cultural network of researchers, practitioners and regulators, where all European legal, economic and cultural traditions are taken into account. The EPLN will focus on developing collaboration with researchers in the new EU Member States presently not represented in the proactive law research.

The EPLN will collect, systematize and analyze the current theoretical, methodological, policy-related and practice-oriented research questions regarding the topic in Europe. EPLN will explore and develop the theoretical underpinnings of proactive law towards a unifying theory and compare the results with those of non-European efforts.

The EPLN will also test the theory of proactive law in practice. It will promote knowledge transfer and support the development of tools, skills and techniques enabling business, individuals and regulators to fully implement and benefit from the approach. Finally, the aim is to train young scientists in developing their research skills using proactive law theories, methods and techniques.

Facilities and expertise which would be accessible by the Programme:

The principal applicants along with the programme collaborators and experts represent the current leading interdisciplinary and cross-cultural expertise and facilities on proactive law: the Nordic School of Proactive Law, the Proactive ThinkTank, experts to the European Economic and Social Committee on the Proactive Approach to law, the Preventive Law movement, and leading individual researchers in proactive law. The EPLN will collaborate with other relevant research centres, e.g. the Centre of Excellence in Foundations of European Law and Polity Research, based at the University of Helsinki.

The EPLN will also have ongoing access to the expertise and experience of the Science and Technology Facility Council, UK, which is collaborating with Lancaster University Management School and Manchester Business School. This will promote and develop detailed understanding of effective knowledge exchange processes between hi-tech SMEs, large corporations, Higher Educational Institutions and government science and technology laboratories.

Expected benefit from European collaboration in this area:

The network aims at bringing together European researchers, practitioners and regulators from different sciences and from different cultures and to facilitate the mobility of both young and experienced scholars within the field. The aim is to collect, systematize

and analyze the theoretical, methodological, policy-related and practice-orientated research questions on a European level, and to compare them with research efforts in e.g. the US.

The EPLN will be able to explore and develop the theoretical underpinnings of proactive law towards a unifying theory, test the theory of proactive law in practice, and to voice the European research in the field. The EPLN will promote knowledge transfer and support the development of tools, skills and techniques enabling business, individuals and regulators in Europe and elsewhere to fully implement and benefit from the approach.

European context

The EPLN will actively work together with the existing research networks on proactive law: the Nordic School of Proactive Law, established in 2004, and the ProActive Think-Tank, established in 2007. Furthermore, other relevant organisations will be consulted, e.g. the Section for the Single Market, Production and Consumption of the European Economic and Social Committee (EESC), which was responsible for preparing the Committee's work on the Draft Opinion on the proactive law approach (EESC INT/145 The proactive law approach), and so will the business associations involved in areas relevant for proactive law research, such as the IACCM.

Proposed activities, key targets and milestones:

Following the constitutive Steering Committee meeting, the brochure will be published and the network website will be set up. The webpage will contain information aimed at researchers, practitioners and regulators, enabling knowledge transfer and dissemination of the research results. A news service would provide users with updated information regarding the activities.

The EPLN will arrange three major European conferences and plans to organize at least 7 research workshops. The network will publish its results in scientific books and workshop proceedings and disseminate the results to a broader community through its website. In order to foster enhanced research and collaboration, the network will also offer grants for short visits.

The function of the three conferences will be to collect, systematize, analyze and discuss the key theoretical, methodological, policy-related and practice-orientated research questions regarding the proactive law in Europe. The working title for the first conference is: "The state of proactive law research". The aim of the conference is to identify, describe and analyze the fundamental principles and practices of proactive law research in Europe. The conference establishes the theoretical fundament for the remainder of the project and enables more researchers to join the network, following a call for papers throughout Europe. The results from the first conference will be used to shape the second conference, which will focus on interdisciplinary and comparative aspects of proactive law. The closing plenary conference in year 5 will address future role of proactive law in science, practice and regulation.

The workshops (at least one in conference years and two in non-conference years) will be held in order to explore proactive law in more detail from different scientific perspectives, including but not limited to: Proactive Law and Law & Economics; Proactive law and Relational Theory and Sociology of Law; Proactive Law and Tools and Techniques; Proactive Law and Preventive Law; Proactive Regulation; Proactive Law and

Knowledge Transfer and Education. The workshops will be based on open calls for papers.

In order to train young scientists in the theory and practice of proactive law, schools will be held in connection to the proposed conferences and workshops. This will include grants for short exchange visits awarded following an open call for applications.

An external Programme Coordinator will have to assist the Programme Chair in managing and coordinating the Programme activities.

Duration (48 or 60 months):

60 Months

Budget estimate (in €) by type of activities and per year of the Programme

(Please use the headings listed in the section "*Level and use of a Programme budget*" of the call, as appropriate. Do **not** include the ESF administration fee in the annual budget. This is calculated and included by the ESF office before submission for funding to MOs):

<u>Budget (1000 €)</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Steering Committee Meetings	20	20	20	20	20
Science Meetings	80	45	80	45	80
Grants for Short and Exchange Visits	20	20	20	20	20
Publicity, Websites and Publications	15	15	15	15	15
External Programme Coordinator	10	5	10	5	10
<u>Total/Year</u>	<u>145</u>	<u>105</u>	<u>145</u>	<u>105</u>	<u>145</u>

Section III: (not more than 3 A4 single pages+ 1 single page for global dimension if applicable)

List of names and full coordinates of the envisaged Steering Committee members listed by country in alphabetical order (One member per collaborating country; this can be a provisional list and names can be added to it later):

Denmark: Dr. René Franz Henschel, Department of Business Law, Aarhus School of Business, University of Aarhus, Aarhus (Proposed Chair).

Finland: Dr. Kaisa Sorsa, Department of Life Sciences and Business, Turku University of Applied Sciences, Turku.

France: Dr. Gerlinde Berger-Walliser, Business Environment Department, ICN Business School, Nancy.

Germany: Dr. Stefan Huber, LL.M., Institut für ausländisches und internationales Privat- und Wirtschaftsrecht, Ruprecht-Karls-Universität Heidelberg, Heidelberg.

Italy: Professor Massimiliano Granieri, Dipartimento delle Scienze Giuridiche Privative, Università degli Studi di Foggia, Facoltà di Giurisprudenza, Foggia.

Netherlands: Professor Jan Smits, Faculty of Law, Tilburg University, Tilburg.

Norway: LL.M. Research Fellow Tobias Mahler, Institute for Private Law, Faculty of Law, University of Oslo, Oslo.

Spain: Dr. Javier Lete, Senior Lecturer in Civil Law, Faculty of Law, University of Santiago de Compostela, Santiago de Compostela.

Sweden: Professor Cecilia Magnusson Sjöberg, Faculty of law, Stockholm University, Stockholm.

United Kingdom: Dr. Richard Austen-Baker, Centre for Law and Society, Lancaster University Law School, Lancaster University, Lancaster.

Programme Collaborations: names and affiliations (including department, institute, university) of the **researchers/research groups** that are foreseen to participate in the Programme's activities **listed by country:**

Denmark: Professor Hans Henrik Edlund, Department of Business law, Aarhus School of Business, University of Aarhus, Aarhus.
Dr. René Franz Henschel, Department of Business Law, Aarhus School of Business, University of Aarhus, Aarhus (Proposed Chair).

Finland: Dr. Soile Pohjonen, Faculty of Law, University of Helsinki, Helsinki. Research Coordinator, Center of Excellence in Foundations of European Law and Polity, University of Helsinki, Helsinki.

Dr. Tarja Salmi-Tolonen, Faculty of Law. University of Turku, Turku.

Dr. Kaisa Sorsa, Department of Life Sciences and Business, Turku University of Applied Sciences, Turku.

Professor Juha Tolonen, Law Faculty, Faculty of Business Science, Department of Business Law; University of Vaasa, Vaasa.

France: Dr. Gerlinde Berger-Walliser, Business Environment Department, ICN Business School, Nancy.

Germany: Dr. Stefan Huber, LL.M., Institut für ausländisches und internationales Privat- und Wirtschaftsrecht, der Ruprecht-Karls-Universität Heidelberg, Heidelberg.

Italy: Professor Massimiliano Granieri, Dipartimento delle Scienze Giuridiche Privative, Università degli Studi di Foggia, Facoltà di Giurisprudenza, Foggia.

Netherlands: Professor Jan Smits, Faculty of Law, Tilburg University, Tilburg.

Norway: LL.M. Research Fellow Tobias Mahler, Institute for Private Law, Faculty of Law, University of Oslo, Oslo.

Dr. Emily Weitzenböck, Institute for Private Law, Faculty of Law, University of Oslo, Oslo.

Spain: Dr. Javier Lete, Senior Lecturer in Civil Law, Faculty of Law, University of Santiago de Compostela, Santiago de Compostela.

Sweden: Professor Cecilia Magnusson Sjöberg, Faculty of Law, Stockholm University
Peter Wahlgren, Faculty of Law, Stockholm University, Stockholm.

United Kingdom: Dr. Richard Austen-Baker, Faculty of Arts & Social Sciences, Lancaster University, Lancaster.

Programme Experts

The proposed experts, who are not affiliated as researchers with a university in a member organisation, are all leading industry experts in fields highly relevant for proactive law and have also conducted research published in peer-reviewed books and journals. The experts will act as advisors to the Steering Committee (one or two experts per meeting).

Finland:

Helena Haapio, Master of Laws, Master of Quality, International Contract Counsel, Lexpert Ltd, Helsinki. Member of the Core Team of the Proactive ThinkTank.
Claude Mayer, MBA, École des Ponts-et-Chaussées, L.L.M, Master of International Private Law, Helsinki, Contract Manager for a large IT corporation, Helsinki. Member of the Core Team of the ProActive ThinkTank.
Katri Rekola, MSc (Eng.), Ph.D (Econ.), Management Consultant, Rekola Design Oy, Espoo.

Netherlands: Professor H.J.L.M. Eric van de Luytgarden, Lecturer in Law, Hoogeschool Utrecht, Utrecht, Member of the Core Team of the Proactive ThinkTank.

United Kingdom:

Linda Baines, member of the Chartered Institute of Purchasing and Supply (MCIPS) and qualified knowledge transfer professional (MIKT), Head of Commercial Development, Science and Technology Facilities Council (STFC), Oxford, body of the Department for Innovation, Universities and Skills (DIUS). Member of the Core Team of the Proactive ThinkTank.

Tiffany Kemp, LL.M. in Business Law, B.Eng., Engineering, Owner, Devant Limited, Consulting Company in Contractual and Commercial Management Services.

Global dimension

Proposals with a global dimension should include one additional page outlining the key persons in the global network(s), the scientific benefits expected from the collaboration and the status of the non-ESF request for funds.

Key persons:

Edward A Dauer, Professor and Dean Emeritus
University of Denver School of Law
Denver, Colorado

Tom Barton, Professor
California Western School of Law
Director of the Louis M. Brown Program in Preventive Law and Coordinator of the National Center for Preventive Law
San Diego, California

As mentioned above, the proactive approach to law is known in other parts of the world as well. In the United States, a parallel to the approach is preventive law. The National Center for Preventive Law ("NCPL") was founded in 1986 (see www.preventivelawyer.org). The NCPL acts as a clearinghouse for information and as a network for those interested in the theory of Preventive Law or how it applies to particular areas of practice or the courts. This approach also puts emphasis on the development of practical skills, practices and procedures that enable lawyers to act preventively, and in this way it resembles the proactive law approach in Europe. The relation between proactive and preventive law is thus of great importance for the European Proactive Law Network both as regards the theoretical foundation and in relation to skills, tools and procedures developed in practice.

Furthermore, some of the best-known work on relational contracting has been done by US scholars. Similarly, in the field of Law and Economics, US research is also of great relevance for the European research on proactive law. Therefore, there is a need to engage in a dialogue with US researchers within the European Proactive Law Network, as well as with US practitioners and regulators.

There is no current non-ESF request for funds in the US network. The US researchers are funded by their own institutions.

CVs

René Franz Henschel, Associate Professor, Ph.D., Master of Law, LL.M. Aarhus School of Business, University of Aarhus Department of Law, Fuglesangs Allé 4, 8210 Århus V, Denmark.
Personal Data: Born 22 March 1969, married, two sons, citizen of Denmark
Languages: Danish (native), English (fluent), German, Swedish, Norwegian, French.

Work experience

Associate Professor, Aarhus School of Business, 2006-, Assistant Professor, Aarhus School of Business, 2003-2006, Research Assistant, Centre for Comparative and Foreign Law Studies in Rome, 2001, Ph.D. student, Aarhus School of Business, 2000-2003, Head of Section, National Consumer Agency of Denmark, Ministry of Economic and Business Affairs, 1997-1999.

Titles, prizes etc.

Certificate of Merit, awarded for excellent Mentor scholarship, Pace University School of Law & Queen Mary, University of London, The Centre of Commercial Law Studies, 2007 and 2008. Ph.D. for the thesis "Conformity of Goods in International Sales governed by CISG Article 35", Aarhus School of Business, 2003.

Research Areas:

Private law, Comparative Law, legal Theory, E-Commerce law, Contract Management.

Research Grants:

Research Grant for "Legal aspects of Mobile Commerce and Pervasive Computing", Danish Agency for Science, Technology and Innovation, Danish Ministry of Science, Technology and Innovation, 2006-2009; DDK 2,0 Mill. Research grant for "CISG Denmark – Online database on the United Nations Convention on Contracts for the International Sale of Goods, www.cisg.dk, Denmark's Electronic Research Library, Danish Ministry of Science, Technology and Innovation and Danish Education Ministry, period 2001-2002, DDK 150.000.

Other professional activities:

Member of the Core Group of the Pro-Active ThinkTank. Member, editorial Board, The Nordic Journal of Commercial Law, www.njcl.fi; Senior editor, UNILEX Database on the CISG, www.unilex.info; Founding director, Danish Database on the CISG, www.cisg.dk, attached to the Pace University Law School, N.Y., USA.

Peer-reviewed book chapters and peer-reviewed journals:

- 1) Creation of rules in National and International Business Law: A Non-National, Analytical-Synthetic Comparative Method, in: Sharing International Commercial Law across National Boundaries. Festschrift for Albert H. Kritzer on the Occasion of his Eightieth Birthday (Wildy, Simmons & Hill Publishing, 2008). 25 p.
- 2) Limitation of Liability, in: A Kritzer & J Varnto (Ed.): The International Contract Manual: New York: Thomson West, 2008. 13 p.
- 3) Liquidated Damages and Penalty Provisions. in: A Kritzer & J Varnto: The International Contract Manual: Thomson West, 2008. 8 p.
- 4) Information Requirements and Consumer Protection in Future M-Commerce: Textual Information Overload or Alternative Regulation and Communication? With EB Cleff, in: International Journal of Intercultural Information Management (IJIM). 2007; vol. 1, nr. 1, p. 58-73
- 5) Conformity of the goods: Interpreting or supplementing Article 35 of the CISG by using the UNIDROIT Principles of International Commercial Contracts and the Principles of European Contract Law. In: J Felemegas: An international approach to the interpretation of the United Nations Convention on Contracts for the International Sale of Goods (1980) as uniform sales law. New York: Cambridge University Press, 2007. p. 166-174

Kaisa Sorsa, Adjunct Professor, Ph.d. (Econ. & Business Adm.), Master of Law, LL.M., Principal lecturer, Department of Life Sciences and Business, Turku University of Applied Sciences, Lemminkäisenkatu 30, 20520 Turku, Finland;

Personal data: Born 16 June 1960, married, 3 children, citizen of Finland.

Languages

Finnish, (native); English (fluent), Spanish (fluent).

Work experience:

Adjunct Professor, University of Joensuu, Faculty of Law, 2007-, Principal Lecturer, Turku University of Applied Sciences, Turku, 1998-, Degree Programme Manager, 2000 - 2001; 2006 – 2007, Turku University of Applied Sciences, Turku.

Research Areas: Legislative Studies, Proactive Law, Contracting Capabilities, Contract management.

Titles, prizes etc.

Ph.D. for the thesis "The Legal Framework for the Productizing of Time-share. The comparative law research concerning Spanish, British and Finnish timeshare legislation. University of Vaasa, 2003.

Research grants:

Researcher, University of Applied Sciences, Turku, 2003-2004.

Post-doc researcher and project leader of the sub-project in the consortium "Corporate Contracting Capabilities", funded by the Finnish Funding Agency for Technology and Innovation, from the "Liito – Innovative Business Competence and Management" program and Academy of Finland, Liike2 program, 2006-2009.

Other professional activities (selected):

ProActive ThinkTank founding member and core group member; Ministry of Justice, Time-sharing committee secretary, 1995 -1996.

Articles in refereed books and peer-reviewed articles:

1) Lainsäädännön proaktiivisuus. Uusia eväitä EU:n sopimusoikeuden yhtenäistämiskeskusteluun? in "Ex ante – Ennakoiva oikeus" (Proactive Approach to Law. New aspects for the dialogue on the harmonisation of EU contract law, in "Ex ante - Proactive Law" Ed. S Pohjonen) Gummerus Kirjapaino Oy, 2005, 204-225.).

2) Ennakoivan oikeuden näkökulmia sopimustoiminnan itsesääntelyyn EU:ssa. (Self-Regulation in Contracting from the Proactive Law Perspective within the EU) *Oikeus* 2008 (37):1: 45 - 66.

3) K Sorsa: (2008a): Responsible Business – How to Commit the Supply Chain to it?, 139-149. and (2008b) Responsible Business; Integrating the Legal Environment to Company Strategy by Proactive Approach, 151-162, Proceedings of the IACCM International Academic Symposia on Contract & Commercial Management held at The Savoy Hotel, London, UK on November 9th, 2007 and at the Radisson Fort McDowell, Arizona, USA on April 7th, 2008. Ed. David Lowe, The Centre for Research in the Management of Projects, Manchester Business School, The University of Manchester, 2008.

4) K Sorsa: Kansainvälinen kauppa ja EU:n sopimusoikeuden yhtenäistäminen, *Defensor legis* 1/2006, 16-42. (International Trade and harmonisation of EU contract law).

5) Kaisa Sorsa & Tarja Salmi-Tolonen, Contracting capabilities in construction-related businesses, *Construction in the XXI Century: Local and global challenges*, ed. By R. Pietroforte, E. de Angelis & F. Polverino, Joint 2006 CIB W065/W055/W086 Symposium Proceedings. Edizioni Scientifiche Italiane S.p.A. Roma 2006; abstract p. 312-313 and the whole presentation on CD-ROM 12 p.

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Full professor of European Private Law, Maastricht

University, 1999-2007; Associate professor of private law, Faculty of Law, Maastricht University; 1996-1999; Lecturer in private law and commercial law, Faculty of Law,

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Research areas: European private Law, Comparative Law, Legal Theory.

Research grants:

Grant HILL (260.000 euro) National resistance against the Europeanisation of private law: a multidisciplinary investigation (with M.W. Hesselink), 2006;

Grant NWO-SARO (euro 25.000) for writing a book on the place of legal science among other

disciplines, 2006; Grant NWO-SARO 014-24-392 (euro 10.000) project 'Empirical perspectives on the need for a European private law', 2003;

Other professional activities (selected)

Founding Director Tilburg Institute of Comparative and Transnational Law TICOM), 2008-; Vice-Dean (Research) Faculty of Law, Maastricht University, 2005-2007; Member Trento Common Core Group; Member Society for European Contract Law (SECOLA); Member Society for Evolutionary Analysis of Law (SEAL); Reviewer Dutch country reports, Marie Curie Research Training

Network Fundamental Rights and Private Law in the European Union, 2005; Programme leader 'programmes 'Foundations of Private Law' and 'Contract Law', Ius Commune Research School (collaboration of the universities of Maastricht, Utrecht, Leuven and Amsterdam), 1999-2008; Organisation (with A.W. Heringa) conference European Integration and Law, Maastricht 8 June 2006; Organisation workshop on Foundations and Contract Law, Xth Ius Commune conference, Edinburgh 1-2 December 2005; Organisation (with S. Stijns) workshop Contract Law, IXth Ius Commune conference, Leuven, 26 November 2004, Organisation seminar Empirical Perspectives on European Private Law, Maastricht 4 June 2004 (also see N. Kornet, ZEuP 2005, p. 677-679);

Peer-reviewed books and peer-reviewed articles (selected):

1) Jan M. Smits. "Legal Culture as Mental Software, or: How to Overcome National Legal Culture?" in: Thomas Wilhelmsson, Elina Paunio, Annika Pohjola. Alphen aan den Rijn (Ed.): Private Law and the Many Cultures of Europe, Kluwer Law International, 2007. 141- 151.

2) Jan M. Smits: Applied Evolutionary Theory: Explaining Legal Change in Transnational and European Private Law, German Law Journal 9 (2008) issue 4 (1 April 2008), pp. 475-488 (with Daniel Haas & Geerte Hesen).

3) Jan M. Smits, Convergence of private law in Europe: towards a new ius commune?, in: Esin Örüçü & David Nelken (eds.), Comparative Law: A Handbook, Oxford 2007 [Hart Publishing], pp. 219-240.

4) Jan M. Smits, Comparative Law and its Influence on National Legal Systems, in: M. Reimann & R.

Zimmermann (eds.), The Oxford Handbook of Comparative Law, Oxford 2006 [Oxford University Press], pp. 513-538

5) Jan M. Smits (Ed.), Elgar Encyclopedia of Comparative Law, Cheltenham-Northampton 2006 [Edward Elgar Publishing], 821 pp.