Editorial Introduction to Special Issue: Transformation in the Third Decade of the 21st Century – Challenges and Pressing Issues in the Realms of Company Law, Financial Markets Law and Beyond

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This Special Issue of the European Business Law Review has been inspired by the overall theme of challenges and pressing issues in the realms of company law, financial markets law and beyond in context with the transformation in the third decade of the 21st century. While transformation might well be considered a natural course of action and thereby an integral element of life, contemplating transformation at this point in time instantly evokes associations with concrete manifestations of it such as the digital transformation including the realm of (generative) artificial intelligence (also in context with other emerging technologies), climate change, democratic backsliding, and profound geopolitical shifts including related turning and tipping points. The latter also mark the complex relationship between transformation and crises. Intense research, communication, information and political discourse on the various (rapidly progressing) transitional scenarios have increased the awareness of the (also partly accelerating) pace as well as the width and depth of ongoing transformational processes. The current pressing (rapidly progressing) transformative scenarios mentioned before are diverse. They affect inter alia the nature and the environment, states, economies, societies and individuals. Designing, adopting, implementing and enforcing the laws and regulations responding to these transformational scenarios are tasks requiring utmost responsible and trustworthy actors committed to the common good and employing the best of all legal expertise and experience. The core of any transformation is an inherent dynamics. The prefix "trans" of transformation illustrates its focus on the developing line from the starting point to the end. Integral to this dynamics is pace. Transformation is about process rather than status quo. It is about becoming rather than being, predicting rather than establishing. It includes foreseeable und unforeseeable developments with different levels of intensity and pervasion. Rapidly progressing transformation poses thereby a profound challenge to the law. For designing law, focus is regularly on the relevant established facts of the case (status quo) at the time of the legislative procedure. For applying law, focus is equally regularly on the established facts of the case and the then applicable law at a specific point in time. However, future-oriented concepts such as that of probability and foreseeability are not unfamiliar to the law, particularly where the latter aims at addressing specified

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Deipenbrock, Gudula, 'Editorial Introduction to Special Issue: Transformation in the Third Decade of the 21st Century – Challenges and Pressing Issues in the Realms of Company Law, Financial Markets Law and Beyond'. *European Business Law Review* 36, no. 2 (2025): 197-200.

risks including taking a risk-based approach. Law shall convey legal security. Facilitating the latter implies prioritizing methodologically and substantively steadiness and stability rather than flexibility and agility. But where law has to respond to rapidly progressing transformative scenarios its methods, designs and contents have to equally transform towards more flexibility, agility and anticipation of future developments. Both aspects – transformation as the scenario requiring legal responses and transformation of the law itself – might be intertwined and dependent on each other. While scholarly analyses of transformational scenarios regularly aim at taking a balanced approach to describing both, (potential) benefits and risks, legal analyses focus on the risks as the law targets regularly at preventing or mitigating the latter. Against this backdrop this Special Issue comprises of papers reflecting in rather distinct ways directly or more impliedly selected various aspects and scenarios of transformation in the third decade of the 21st century. This might also facilitate a more general understanding of parallel or intertwined developments, here. The papers (or preliminary ideas and versions of them) compiled in this Special Issue have been presented at the seminar on the "Transformation in the Third Decade of the 21st Century – Challenges and Pressing Issues in the Realms of Company Law and Financial Markets Law" at HTW Berlin, University of Applied Sciences, Berlin, Germany, on 10 May 2024, academically convened by the guest-editor of this Special Issue.

The authors of the papers compiled, here, are particularly senior and experienced scholars as well as researchers at an earlier career stage. Hence, long-standing research experience meets fresh intriguing views in the legal analyses presented, here. The authors also represent different jurisdictions and legal traditions informed by different legal taxonomies and languages. They strived to keep their (partly highly technical) analyses as accessible as possible, particularly by introducing only strictly necessary (technical) acronyms. This might also attract readers not familiar with the legal and technical details of the various topics.

Transformation in form of the digital transition in the era of generative artificial intelligence is addressed in the first contribution on (generative) artificial intelligence in the third decade of the 21st century and beyond with a focus on selected European legal, regulatory and supervisory aspects with a particular view on companies in financial markets (Gudula Deipenbrock). The revolutionary, disruptive and Janus-faced role artificial intelligence plays and will play in this current decade and beyond might not be overstated. Adopting and enforcing legal, regulatory and supervisory instruments aiming at addressing particularly the risks of artificial intelligence epitomize in an outstanding way the challenges that rapidly progressing transformation poses to the law.

The second contribution addresses suitability assessments, here assessments of the knowledge, skills and experience of directors in European Union (EU) banks (Blanaid Clarke). Transformative aspects might not only be observed in the analysis of the evolution of the suitability assessments. They might equally be perceived particularly in the reflections on "new" categories of knowledge needed with a focus on environmental, social, governance (ESG) risk and technology risk.

The third contribution focuses on the (r)evolution of the EU financial supervisory framework asking whether the architecture, here, is in search of an architect (Paola Chirulli). This contribution is dedicated to exploring selected pivotal institutional challenges resulting from the recent developments of the EU financial supervisory framework. Focus is here on the more recent institutional transformation or evolution of the EU financial supervisory framework.

The fourth contribution of this Special Issue addresses an urgent practical issue in context with the digital transformation. It is of utmost importance for individual users of digital technologies: Misuse of electronic signatures and electronic identity (eID) owner liability (Maria Astrup Hjort, Piia Kalamees and Laura Kask). The authors focus on situations where a third party has misused an owner's eID and explore Estonian and Norwegian legislation and case law as to related liability issues under civil law.

The fifth contribution analyses the scope of protection offered by sovereign immunity rules for two important economic crisis prevention and resolution measures (Astrid Iversen). The latter comprise central banks' efforts to stabilize the economy, in particular through foreign exchange reserves, and sovereign debt crisis resolution through debt-restructuring. Transformative aspects, here, might particularly be observed in the evolution of the protection of the two economic crisis prevention and resolution measures in different directions. In addition, the contribution ends inter alia with a call for a change when stressing the need for a broader debate around alternative protective mechanisms for sovereign debt restructuring.

The guest-editor of this Special Issue would like to express her gratitude to the (other) authors of contributions compiled, here, as well as to the European Business Law Review for the invaluable support in this matter.