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1. DIGITALISATION IN ESTONIA AND LUXEMBOURG
OR THE TALE OF TWO CITIES

How Estonia became digital? What “digital” lessons can be drawn for small states like Luxembourg? These are the two key questions addressed by the former Prime Minister of Estonia Juhan Parts last 22 May 2019 at the Banque International de Luxembourg (BIL). This was the opportunity to take a step back from the numerous projects relating to digitalization and blockchain.

FROM ESTONIA —

Meeting with digitalization in the 1990s.

How Estonia become digital? The Estonian Republic regained its independence from the Soviet Union in 1991. The newly “restored” government had to create from scratch a full legal system and state infrastructure to enable the development of a market economy. In this context, Juhan Parts joined the new Estonian civil service with the mission to support several reforms and notably the drafting of the land laws including the setting-up of a national real estate registry. Working on this project with German experts, he became aware as a result of reading German local newspapers of an Austrian governmental project to create an electronic registry. He pushed for the creation of a paper and digital real estate registry in Estonia. Many legal and technical questions arose and after two years, Estonia had an electronic real estate registry in place. This first achievement had a snowball effect. Digitalisation gradually diffused to all the Estonian state infrastructure. The famous “e-Governance experience” was created which enabled the establishment of rules for the digital society, personal identity in cyberspace, and the creation of a uniform architecture for state databases.

Mr Parts concluded on this first experience that the digital transformation of Estonia did not follow a precise plan but was more informal and an ad hoc process.

E-Governance. Mr Parts provided several figures on the efficiency gains resulting from the development of digital services in the public sector. Figures speak by themselves:
2% of the Estonia’s GDP is saved due to the collective use of digital signatures; 3 hours is needed to establish a commercial company (instead of 5 days); only 3 public services available (out of 2,400) actually need a physical presence: marriage, divorce and selling land.

The former Prime Minister explained to the audience that the main logic behind e-governance is based on “four building blocks”:

1. **Data bases - the backbone of e-governance** - comprising all public registers.
2. **X-road - the core platform** - an Estonian invention enabling the data bases to communicate following basic protocols. Many criteria of the X-road are similar to the blockchain.
3. **Strong cyber ID for every individual** - each citizen should have a single secured e-identity which should be compulsory and enjoy all relevant guarantees.
4. **Legal infrastructure** - all the legal solutions should be envisaged and foreseen beforehand to ensure that use of technology can be implemented.

The “digital” lessons which can be drawn from the Estonian experience are:

- **Permanent access to data** – 24/24h and 7/7 days.
- **No digital gap** – digitalisation should be made available to everybody including young people (e.g. programming courses in primary schools) and elderly (e.g., courses on how to use computers at local libraries).
- **Trust is the key element of success** – and creates huge demand from citizens once they feel confident using e-services.
- **Public Private Partnerships** – the government has outsourced everything which has enabled the development of strong IT players (e.g. Skype).
- **No centralisation** – not to have a super ministry but create a fruitful competition between ministries (with strong cooperation).
- **You can ask the same data only once** – when applying for a service, citizen should not be required to re-enter the data already held by the institution (e.g., home address).
- **Data owner?** Citizens! In practice, a special software has been set-up to enable the citizens to monitor their own data.

**Digital maturity.** Paper contracts are now “suspicious” in the country and digital contracts are the norm! This illustration by the Estonian Ambassador Toomas Tirs provides an example of the digital maturity of Estonians. He further discussed the future of e-governance by describing the two main priorities of the Estonian government:

- focusing on the service development related to life events (develop a dedicated citizen digital portal where all the relevant services, benefits and documents would be available in relation to their lives);
- and find solutions to improve digital cross-border services (the EU legal digital framework is in place but EU Member States now need to cooperate between each other).
Questions were then addressed by the audience to the speaker relating to the issue of e-identity, the impact on the audit sector and cybersecurity. Mr Juhan Parts recalled that technology can offer many solutions and e-Governance is designed primarily to make the life of citizens easier and to strengthen governance and transparency. Mr Parts then commented on cybersecurity issues: he recalled that the 2007 attacks against Estonia (strongly impacting the banking sector and the telecoms) has been well managed by the Estonian State. This crisis even had positive outcomes notably with the creation of a cyber security excellence center under the NATO umbrella and a cyber national guard which can provide an effective assistance in the event of a cyber attack or digital disruption.

He recalled that the best tools to prevent the negative impacts of cyber attack are the X-Road, the digital decentralization and personal cyber awareness.

_ TO LUXEMBOURG_

The chairman of the BIL, Mr Luc Frieden, recalled that Estonia can teach Luxembourg a great deal in terms of digitalization. To illustrate his comment, the Luxembourg Minister Delegate for digitalization recognised that Estonia is a model of inspiration for Luxembourg. In this respect, he stressed in terms of public policy that digitalization is a priority for the Grand Duchy:

- with the creation of a dedicated ministry of digitalization,
- the strengthening of a single contact point between the administration and the citizens/companies (called guichet.lu),
- and the development of digital embassies (with Estonia and Monaco)\(^1\).

As regards data embassies, the world’s first data embassy was created in 2017 in Luxembourg hosting Estonian data. A unique bilateral agreement was signed between the two governments enabling Estonian data to be stored in Luxembourg’s government-owned data centre.

*Please note that the Conférence Saint-Yves is organizing an event at the end of the year on Public International Law developments in Luxembourg (which will include an analysis of digital embassies from a legal perspective).*

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2. AN INTRODUCTION TO LUXEMBOURG HERALDIC LAWS AND CUSTOMS

Early April 2019, Dr. René KLEIN, head of the Luxembourg heraldic commission\(^2\), gave a one-hour presentation on heraldic law at the invitation of the Conférence Saint Yves, the oldest law society in Luxembourg. Modest in his attitude but firm in his statements, the speaker was successful in convincing an audience mainly composed of lawyers and persons interested by the subject.

When introducing the speaker and the subject, the President of the Conférence Saint-Yves questioned the existence of heraldic law as an autonomous set of norms, and if specific rules applied to heraldry in the Grand-Duchy of Luxembourg?

The first book on heraldic law attempted to base this discipline on roman law\(^3\). Since mediaeval times, Sovereign States have developed an independent set of rules in relation to the registration and the use of coats of arms by individuals, groups and larger communities. Heraldic authorities are still active in various countries. In this respect, the Scottish heraldic authority, the Court of the Lord Lyon, was mentioned as a proactive enforcer of heraldic rules. Mention was also made of the Roman Catholic Church which has its own set of rules applicable to ecclesiastic heraldry encompassing heraldic, dogmatic, liturgy and canon law. The creation of a heraldic bureau by the Vatican was even considered by Pope John XXIII to monitor the creation of ecclesiastic arms.

The presentation then moved to Intellectual Property law and legal cases before the EU courts in relation to the registration of EU trademarks and notably signs sharing similarities with State emblems. In a case before the Court of Justice of the EU relating to the use of a red maple leaf as a trademark, the EU Advocate General issued an opinion stating that he needed “to plumb the depths of heraldry” and to use “heraldic art to define the limits of the protection of a national emblem” (of Canada in this case)\(^4\).

\(^2\) Mr. René Klein is Member of the Grand Ducal Institute (which is the National academy of Luxembourg) and is member of the International Academy of Heraldry. The conference was organised at the Luxembourg Youth Hostel in the evening of the 2\(^{\text{nd}}\) April 2019.

\(^3\) In HEIM, Bruno Bernard, Coutumes et droit héraldiques de l’Église, Beauchesne (Paris), 2012, p. 21.

Finally, the applicable laws and regulations to heraldry in Luxembourg were identified: beside several secondary legislations ("heraldry" defined as a subject for State exams or the protection of heraldic devises on antique furniture), the crux of Luxembourg heraldic legislation is the 23 June 1972 law on national emblems. This law is twofold: it first defines criminal sanctions in the event of the unauthorized or misuse of State emblems (with an extended scope including the Luxembourg flag, arms of the State and of the Grand-Ducal House, arms of local entities, logo of administrations). Secondly, it creates a Luxembourg heraldic Commission - Commission héraldique de l'Etat - which advises the Prime Minister on any issue relating to “heraldry”. This Commission can also issue opinions on its own initiative.

**A general presentation of heraldic rules and specific customs in Luxembourg was then provided by Dr. René KLEIN.**

The speaker first introduced the basic rules of heraldry (colours and blazonery) with illustrations relating to Luxembourg. He stressed that non-noble coats of arms are relatively rare in the Grand-Duchy (unlike in Austria or Switzerland where these are common in the peasantry for instance).

His conference followed the fascinating but complicated history of Luxembourg as a nation which became an independent State in the mid XIXth century. Accordingly, the use of heraldry in Luxembourg mirrors the successive change of rulers: from the development of heraldry during the late Medieval times (and the Burgundian influence), to its "dégénérescence" as from the reign of Louis XIV, the ban of heraldry under the French Revolution and its re-establishment by the Dutch sovereigns in the XIXth century.

The speaker took the opportunity to retrace the Luxembourg emblem from its origins - the rampant red lion of the Count of Luxembourg - to today. It is noteworthy that the lion is different from other rampant lions to the extent it has a distinct tail (a forked tail crossed in saltire). He then provided interesting comments on how the arms of the Grand-Duke Jean, the current Grand Duke Henri and his heir were successively designed, complicated to the extent the Grand Duke Jean is a Prince of the “Lys” from his paternal side (Bourbon-Parme) and Duke of Nassau from his maternal side.

This same figure of the red lion is currently used by the Luxembourg government for all its official documents/letters issued by its different ministries and State administrations. The speaker stressed however that this representation of the lion was not reviewed by the heraldic Commission when designed and is not compliant with the Luxembourg heraldic lion (in particular some parts of the animal are prominent). On this issue, a judge in the audience clarified that for the judicial authority, this logo of the lion was not endorsed
and that the Luxembourg courts and tribunal still use the traditional arms of the State. Beyond the symbol, the judge stressed that this illustrates the principle of the separation of powers in a democratic country (notably the independence of the judiciary from the executive).

The speaker noted several issues of concern: the use of logo instead of arms by local boroughs and even by State entities like the police (logos are more expensive and considered less emblematic), the lack of interest of the Government in relation to the role of the Luxembourg heraldic Commission, and the absence of registration for individual arms. More generally, he highlighted the contradiction of living in a country which is a Monarchy but where the Luxembourgers have no interest in heraldry (contrary to the neighboring German and French “Republics”).

The auditors certainly retained from Dr. KLEIN’s presentation that Luxembourg heraldic law touches the very core issue of the symbols of the State and that heraldic laws and customs in Luxembourg mirror its unique history⁵.

⁵ This text is to be published in The Heraldry Gazette (www.theheraldrysociety.com) in June 2019. Please also refer to the article of Le Jeudi « Sous le signe du lion / Petite initiation au monde de l’héraldique » of 11 April 2019: http://jeudi.lu/signes-lion-petite-initiation-monde-de-l-heraldique/
La conférence est disponible en français sur le lien suivant :

https://www.youtube.com/watch?v=J7KLmPlk_xo
4. PICTURES OF THE VISIT OF THE POLISH SAINT-YVES (ARS LEGIS) IN LUXEMBOURG IN MAY 2019

We are gradually building links with the neighbouring Saint-Yves. In 2018, we have received the visit of the Belgian Saint-Yves (Confrérie Saint-Yves) and this year we have received the Polish Saint-Yves (Ars Legis).

It was a great pleasure meeting, exchanging on our daily work and providing context on our mission as Catholic law societies.