

Legal Framework of Digitalisation in Ports and Terminals

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The legal framework

- Many possibilities, many different technologies ...
- Also (many) legal questions
- Privacy (GDPR - Regulation (EU) 2016/679)
 - Very broad scope
 - *any* information relating to an identified or *identifiable* natural person
 - Rights for the 'data subject', obligations for the 'data controller'

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The legal framework

- Data 'Ownership' - Rights to Data
 - Can a terminal disclose (expected) arrival times of barges to third parties?
 - Can a carrier disclose cargo information to third parties?
- Solutions:
 - Contract
 - EU initiatives
 - European Strategy for Data (COM(2020) 66 final) - create a 'European Data Space'
 - Open Data Directive (EU) 2019/1024
 - Data Governance Act (Regulation (EU) 2022/868)
 - Proposal for a 'Data Act' (COM(2022) 68 final), access to and re-use of data generated by IoT products

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The legal framework

- User liability
 - Port digitalisation is often about *sharing* data
 - What if the shared data turns out to be incorrect and causes damage?

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The legal framework

- Liability for defective software
 - Software in general
 - Well-known issue, legal rules more or less established
 - AI applications
 - Recent developments
 - Legal implications not clearly understood yet
 - EU initiatives

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The legal framework

- Liability for defective software
 - Blockchain
 - Lada, Volvo and Ferrari are all cars ... but it does make a difference which one you're driving ...
 - Many different blockchains ... which one are you dealing with?
 - Who (and how) verifies the identity of the users?
 - Who verifies and guarantees the security? Proof of Work, Proof of Stake, ...
 - Digital Twins
 - Who verifies and guarantees that your digital twin is a **perfect** twin?
- Technical issues, but if you get them wrong and there is loss or damage, someone will be held liable ...

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WRAP-UP OF THE GREEN INLAND PORTS STUDY

Summary of key outcomes & Concluding remarks

Geert Smit, Director Transport Department, Ecorys Netherlands