Policy, legislation and governance issues surrounding blockchain

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1. Recognition of e-signatures/e-documents
2. Confidentiality, privacy and data protection
3. Jurisdiction, dispute resolution and enforcement
4. Interoperability issues
5. Implications for blockchain governance
1. Recognition of e-signatures / e-documents

- Huge potential to digitalize transactions

... but only if the legal framework provides for the recognition of e-documents & e-signatures

→ Still along way to go!
2. Confidentiality, privacy and data protection

Will GDPR compliance kill Blockchain?

Is GDPR an immovable block to blockchain?

Will GDPR block Blockchain?
GDPR

→ Applies to all personal data
→ Unless data has been anonymised
→ Data defined as “any info relating to an identified or identifiable natural person”

→ NOT company data
→ Extraterritoriality in certain circumstances
Three issues:

1. Identification and obligations of data controllers and processors

2. Anonymisation of personal data

3. Rights of data subjects
   ➔ Right of rectification
   ➔ Right to be forgotten
   ➔ Right of access
Issues to bear in mind to safeguard privacy and confidentiality when designing a blockchain:

- Avoid storing personal data on a blockchain
- Make sure that:
  - Transacting data cannot be identified by an unauthorized 3rd party from the info stored on the blockchain
  - Transaction details are not visible to unauthorized 3rd parties – unless one of the transaction parties has decided otherwise
  - Transaction details cannot be analysed, collated, matched with off-chain meta data to reveal info on the transaction.
3. Jurisdiction, dispute resolution and enforcement

- Jurisdiction and applicable law

→ Blockchains can span several jurisdictions

→ Which law applies?
• Accountability/liability issues
  → Who should be held accountable for breaches of law and regulation?

  → Private vs public blockchains / DAO
  → Sectoral specific liability issues
  → Quid if a smart contract malfunctions?
• Automated transactions and the challenge of enforcement

• Admissibility of blockchain-based evidence
4. **Interoperability issues**

→ The digital island problem

→ Important to address interoperability issues at a technical, but also at a regulatory/policy level
5. Implications for blockchain governance

a. At the platform level
   → Code is only half the story
   → The other half is governance of the platform
      (applicable law, dispute resolution, etc.)

b. Need for common intergovernmental frameworks
   → Need for all stakeholders to work together
Thank you for your attention!