

Editorial

In memory of Ole Lando

As this issue was already finalized when we learned that professor Ole Lando died on April 5 in the age of ninety-six, I would like to dedicate this short Editorial to him, while he will be commemorated more fully in the next issue by Professor Hugh Beale. Indeed, Ole Lando was at the origin of our Review. Even if he did probably not launch himself the idea for the Journal, it was clearly made possible by the work of the Commission on European Contract Law, his Lando Commission. Ewoud Hondius was a member of the Commission since 1992 and I had the honour to serve as its Secretary since then. The Journal was co-founded by my father, whom the Commission inspired to start a similar project in Civil procedure. And Ole Lando was from the start of our Journal an enthusiastic member of the Advisory Board and contributed immediately an article in the first issue ('Is codification needed in Europe?'). He regularly published in our Journal, and his last scholarly publication seems to be equally in our Journal: 'Unification of Patrimonial Laws Governing International Trade', in *ERPL* 2016 (and also, in the same year, the Restatement of Nordic contract law). In his typical style he presented the arguments in favour and the arguments against the idea of a uniform patrimonial law for cross-border transactions. That the first and last article in the *ERPL* basically deal with the same question, the reasons for uniform contract law, could give the false impression that Lando was occupied mainly with the related theoretical-political questions. But his main interest and activity was not theory, but looking for solutions. Part of this pragmatic perspective was the awareness of the importance of on the one hand rules that are well formulated and of good quality, and on the other hand wise lawyers to interpret and develop the law. Not only were his thinking and method functional, he was also an excellent coach in functionalism – showing the questions to colleagues and disciples, listening to arguments, summarizing them and making a synthesis that more often than not was convincing to nearly all. As a true internationalist, he was a master in cooperating and making people cooperate and bring together their diverse experiences and expressions to formulate common solutions. He took all participants seriously and encouraged them to speak. Then he 'digested' everything into conclusions. In the work of the Lando Commission, rules had to be operative; this meant e.g. that definitions had to be avoided as far as possible: a legislator or quasi-legislator should not define words, but formulate rules capable of being applied. Although the work of the Lando Commission was published as 'Principles (of European Contract Law)', the word Principle does not refer to general statements that are not operative; it was rather chosen to stress that a code should not regulate everything in detail, but leave room for development of such detail by judges and practising lawyers and businessmen. The operative style did not exclude

taking into account ‘pedagogical’ arguments: rules that could be judged superfluous under Ockham’s razor were nevertheless kept to avoid misunderstanding and let lawyers from different traditions find their way. We will miss his sense of cooperation, clarity and humour.

Matthias E. Storme
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