

Questionnaire

*XXIInd Colloquium of the International Academy of Heraldry,
arranged by Societas Heraldica Lundensis in cooperation with
Societas Heraldica Scandinavica and The Swedish Heraldry Society*

Heraldry and the Law

We suggest that the heraldic institutions, associations and organizations in each country together appoint one or more reporter(s) to answer the questions. Please send in the answers by May 30th, 2023.

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www.heraldik.org/colloquium-lund-2023

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Part 1. Overview of the historical development

1.1. – A timeline of important changes

Provide a brief overview of the history of the legal regulation of heraldry in your country. Focus on the important shifts between periods in heraldry, for example the establishment of a heraldic office, important statutes or cases, or changes in the political organization (states established and dissolved). The information should serve as a background to the answers to the following questions.

Ancient Croatian Kingdom entered personal union with Hungary in 1102 while the littoral regions were influenced by Venice. The initial heraldry developed individually and slowly under the two. In 1527 Hungarian-Croatian Kingdom choose Habsburgs for kings, and the heraldry is ever since governed by Vienna, although separate Hungarian heraldic authority existed with jurisdiction on Croatia as well. The Military Border formed towards the Ottoman Empire was ruled from Vienna directly and thus by Austrian heraldry.

After WWI new Southern Slavic state had minor heraldic traditions inherited from dominant Serbia. Nobility titles were not granted any more, although the previous titles were recognized, so their coats of arms as well. There are few examples of new municipal heraldic grants in Croatia in the period when the old Austrian-Hungarian legislation was retained on municipal issues (eg. the city of Vinkovci was granted arms by prince regent in 1923). After WWII the new regime shunned heraldry, nobility titles were revoked, coats of arms pretty much removed from public use. Municipal arms initially was provided with symbols of new system, but mostly removed from use by 1950s. They are slowly reintroduced from the late 1960s, in the 70s and 80s, sometimes based on historical municipal symbols, otherwise with new particular "style" of socialist iconography. After the independence in 1990 a new system of municipal heraldry emerged. Beside municipal heraldry, in modern Croatia two more corpses of heraldic devices are flourishing today - ecclesiastical heraldry governed by rather loose regulations of the Catholic church and the so called Draconian heraldry, particular of a traditional civic association.

The main classical heraldic books in Croatia include Heyer von Rosenfeld, 1873, Bojničić, 1899, Laszowski, 1932, Zmajić, 1971 (2nd ed. 1996). An extensive review of heraldic bibliography is provided in Galović and Filipović, 2008.

1.2. – Heraldry as part of the law

Provide a brief overview of whether, and to what extent, heraldry historically has been considered being part of law, or has been dealt with outside law (for example has been treated as custom or a tradition, rather than as part of law). Consider whether different parts or aspects of heraldry have been treated differently.

There was no particular legislative regarding heraldry for the most part. In both Yugoslavias laws regulated coats of arms and flags of the state (and it's parts when they had symbols) and royal/presidential devices. Since 1992 municipal heraldry is regulated by the law (Zakon o lokalnoj samoupravi, 1992), and the use of local symbols is regulated by the local units themselves, mostly restricting the use of municipal coats of arms and flags to the units itself and occasional exception by individual permissions.

Part 2. International law on armorial bearings, flags, and other state emblems

2.1. – Paris Convention for the Protection of Industrial Property of 1883, art. 6^{ter}

Is your country contracting party to the Paris Convention for the Protection of Industrial Property of 1883? Has your country registered armorial bearings, flags, and other state emblems according to art. 6^{ter} of the convention? Which armorial bearings, flags, and other emblems are registered?¹

¹ Information about article 6^{ter} and a link to the database are available here: <https://www.wipo.int/article6ter/en/> or <https://www.wipo.int/article6ter/fr/>

Croatia is considered successor of the Paris Convention signed by countries it was part of prior to independence. The previous countries provided emblems for Art. 6^{ter} on their own, currently no data if emblems of Croatia as their part was filed. The post WWII Yugoslavia filed to WIPO emblems of all its republics adopted in 1946/47 including those of the People's (since 1963 Socialist) Republic of Croatia. In 1990 Croatia filed its new state symbols to WIPO.

2.2. – Legal protection of the coats of arms of other states and of international organizations

How is art. 6^{ter} of the convention implemented in national law, in order to protect armorial bearings, flags, and other emblems of states and of intergovernmental organisations legally?

The current legislation on offences against public order and peace, being slightly amended law inherited from 1977, includes articles defining fees for offences against symbols, flags and other emblems of foreign states and international organizations. (Zakon 1977)

Part 3. National heraldry

3.1. – National coat of arms – definition

Is the national coat of arms (or various national coats of arms, if there are different ones, such as a greater and a lesser national coat of arms) defined and described in statutory law? If so, in heraldic terms (blazon) or with reference to a picture?

The national coat of arms is defined in the constitution (Ustav, 1990) in most general terms, providing for a law to determine details. The Art 11 of the Constitution states:

"The coat-of-arms of the Republic of Croatia is the historic Croatian coat-of-arms whose base consists of 25 alternating red and white (argent) fields.

...

The description of the historic Croatian coat-of-arms and flag, the text of the anthem, and the use of these and other state symbols shall be regulated by law."

The Law on the Coat of Arms, the Flag, and the National Anthem of the Republic of Croatia, and on the Flag and Sash of the President of the Republic of Croatia; of 23 December 1990 defines detailed description that supposes to be a blazon, but it is more complex and technical than proper heraldic blazon (Art. 7):

Under "Structured search"/"Recherche structurée", choose your country under "State"/"État".

"The coat of arms of the Republic of Croatia is a historicalal Croatian coat of arms in the shape of a shield. The checked pattern has twenty-five alternating red and white (silver) fields, so that the dexter chief (left upper corner) of the shield is red. Above the shield is a crown with five peaks, which touches the dexter and sinister chief (left and right upper ends) of the shield, bending in a slight arch.

The crown is divided into five small shields with the historicalal Croatian coats-of-arms, in the following order, from left to right: the oldest known Croatian coat of arms, then coats of arms of the Republic of Dubrovnik, Dalmatia, Istria, and Slavonia.

The height of the smaller fields in the crown are 2.5 times the size of the fields in the main shield, while the width of both sets of fields are the same.

The oldest known Croatian coat of arms has a yellow (golden) six-pointed star and a white (silver) new moon on a blue shield. A golden rim borders the entire coat of arms.

The coat of arms of the Dubrovnik Republic has two red beams on a Navy blue shield.

The Dalmatian coat of arms has three yellow (golden) crowned leopard heads on a blue shield.

The Istrian coat of arms has a yellow (golden) goat with red hoofs and horns facing left, on a navy blue shield.

The Slavonian coat of arms has two horizontal white (silver) beams on a blue shield. Between the beams there is a red field with a marten in motion facing left. There is a yellow (golden) six-pointed star in the chief blue field."

The original design is kept in the Parliament, the published pictures in various (official sources, including the one sent to WIPO) have some minor differences in artistic style and details. Cf. Heimer 2008.

3.2. – National flag – definition

Is the national flag (or various national flags, if there are different ones) defined and described in statutory law? If so, through a description or with reference to a picture?

As above, the constitution (Ustav, 1990, Art 11) describes only basic layout of the flag:

"... The flag of the Republic of Croatia consists of three colors: red, white and blue, with the historic Croatian coat-of-arms in the center.

...

The description of the historic Croatian coat-of-arms and flag, the text of the anthem, and the use of these and other state symbols shall be regulated by law."

The Law Art 10 describes the flag:

"The flag of the Republic of Croatia consists of three colors - red, white and blue - with the Croatian coat of arms in the center. The length is twice the width. Its colors, in the order red, white, and blue, are laid horizontally, each one third the width of the flag. The Croatian coat of arms is placed in the center of the flag so that the upper part of the coat of arms (the crown) overlaps the red field of the flag, and the bottom part of the coat of arms overlaps the flag's blue field. The center of the coat of arms is placed at the point where the diagonals of the flag meet."

Cf. Heimer 2008.

Other legislation regulate the merchant ensign (differing only in the ratio 2:3) (Pravilnik, 1992) and yet other the naval ensign (adding yellow anchors in saltire behind the coat of arms) (Odluka 1999, Pravilnik 1999).

3.3. – Legal protection?

Is it forbidden to use the national coat of arms or flag without a permission, in some contexts or situations? Which authority grants permissions? Are there sanctions within criminal law or other types of law such as administrative regulations etc. for someone who uses the national coat of arms or flag without permission or in a wrongful manner?

The mentioned law (Zakon, 1990) provides situations in which the use of national symbols is required and those when they may be used, including "other occasions". It also defined that they should be used "in such a way that they uphold the reputation and dignity of the Republic of Croatia." (Art. 3), "cannot be altered" except when so regulated by a law or other regulation (Art. 4) and that "It is forbidden to publicly display shabby, untidy, torn, or in any other way damaged coat of arms or flags of the Republic of Croatia" (Art. 5). They "may appear in works of art, music, and education, providing that such a display does not offend the reputation and dignity of the Republic of Croatia." (Art. 6) It prescribes some penalties for offences against these.

The mentioned public order legislation (Zakon, 1977) provides protection against certain use that would be considered "against reputation and dignity" and forbids public display of foreign flags unless permitted.

However, generally the use of the national symbols is free and unhindered.

Part 4. Heraldry of the head of state and other central office holders

4.1. – The head of state

Are there specific rules about the armorial bearings or flags for the head of state? Do such rules extend to other persons close to the head of state, for example a royal family?

The mentioned Law on national symbols (Zakon, 1990) also defined the presidential flag and sash, and their use.

4.2. – The prime minister and other central office holders

Are there specific rules about the armorial bearings or flags for the prime minister or other central office holders like ministers, the supreme commander, etc?

In general there are no such devices; however, rank flags for the highest state, government and ministry of defence office holders are defined in the Navy as part of the ship flagging (Odluka, 1999, Pravilnik, 1999).

Part 5. Heraldry and seals of courts and state authorities

(Below are separate sections for military, regional, municipal, ecclesiastical, and academic authorities and institutions.)

5.1. – Adoption, grant or registration?

Are these arms and seals adopted by the court or authority itself, or granted or registered by some other authority? How do these procedures work?

In general, the bodies of state administration, including courts, ministries, military, municipalities etc. use seals to authenticate documents - all being of the same general model - circular with the national coat of arms in the center and the full name of the institution inscribed around it, if necessary in several rows. These are not used as "heraldic" devices if these institutions. Separate regulations deal with issuing and registering if these seals, registered through the system of Ministry of Administration.

However, there is no preventing of various institutions to adopt other symbols, emblems, logos etc.

5.2. – Heraldic competence involved?

When a court or state authority wants to develop new symbols of any sort, is heraldic competence normally involved? Is advice or permission from heraldically competent persons, such as a state heraldic office, compulsory or not?

No such competence exists formally nor it is required.

5.3. – Legal protection?

Are coats of arms of courts or state authorities legally protected? How?

While state protects forgeries and misuse of official seals with state coat of arms, the other mentioned emblems have no specific regulations on legal protection, being mostly considered legally as a merchant brands, trademarks and copyrights.

Part 6. Heraldry and seals of military authorities

(If military authorities follow the same rules and procedures as civil authorities, the answers can be merged with the answers in part 5.)

6.1. – Adoption, grant or registration?

Are these arms and seals adopted by the authority itself, or granted or registered by some other authority? How do these procedures work?

Military uses no particular coats of arms. Individual units use emblems (shoulder patches) that are sometimes referred to being coats of arms (using the Croatian word 'grb'), but they are not heraldic and follow no heraldic rules or traditions. These are approved through military hierarchy. There is no public (or for what is known internal systematic military) record of approved symbols. Similarly with unit flags (colors), except the regulations for various flags used on naval ships, as mentioned above.

6.2. – Heraldic competence involved?

When a military authority wants to develop new symbols of any sort, is heraldic competence normally involved? Is advice or permission from heraldically competent persons, such as a state heraldic office, compulsory or not?

There is no such requirement. Units usually consult some graphical designers and rarely heraldic expert for advice. No formal heraldic expert body for the purpose exists.

6.3. – Legal protection?

Are coats of arms of military authorities legally protected? How?

No.

Part 7. Regional and municipal heraldry

(If regional and municipal authorities follow the same rules and procedures as civil authorities, the answers can be merged with the answers in part 5.)

7.1. - Adoption, grant or registration?

Are arms adopted by regions, cities, towns, communities etc. themselves, or granted or registered by some authority? How do these procedures work?

Municipal heraldry is well developed in modern Croatia. It is regulated by the 1992 Law on local self-government (Zakon 1992, Zakon 1993), allowing the units - municipalities: counties (1st level subdivision), cities and communities (2nd level subdivision, urban and rural) - to have a coat of arms and a flag. It is required that these symbols obtain permission from the state authorities (Ministry of Administration, exact name of the competent authority changed a few times in the last 30 years, today Ministry of Justice and Administration). The ministry also leads register of issued grants (but it's not publicly accessible!) Public "register" of granted arms is available by author of these answers as a private effort. (Heimer, 1996, Heimer, 2012, Heimer 2019)

Separately, it should be noted that in 2002 a new constitutional law on national minorities (Ustavni zakon, 2002) was adopted, including provision for them to adopt and use their coats of arms and flag to be freely used by the members displayed together with the national coat of arms and flag. The symbols adopted by each minority through their organizations need to be approved by a central government body competent for minority issues (the Council for National Minorities). (Heimer, 1996.)

7.2. – Heraldic competence involved?

When a region, city, town, community etc. wants to develop new symbols of any sort, is heraldic competence involved? Is advice or permission from heraldically competent persons, such as a state heraldic office, compulsory or not?

Ministry of Administration formed a "Heraldic Commission" to provide expert evaluation of coats of arms and flags submitted to approval, and to help and guide municipal units in preparing those submission or correct them (Pravilnik, 1994, Pravilnik 1995, Pravilnik, 1998, Pravilnik, 2004). The commission is named by the minister with indefinite mandate (until 2010 a 4-years mandate) and consists of a lawyer, a heraldist, an archivist, an artist, and a historian. (Bejdić, 1994, Kolanović, 2008) Current members since 2010 are not publicly known. Beside a dozen of grants issued by the Ministry initially in 1993-95 prior to formation of the Commission, the Ministry will not grant approval without positive evaluation of the Commission. (Heimer, 2016) Even if there are several municipalities that still use symbols adopted in the early 1990s that were not approved, in general unapproved coats of arms are moderately used and flags only in rare exceptions, with the tendency to "heraldize" the

symbols and obtain approvals as time goes by. By today, vast majority of municipalities obtained and use approved symbols.

The ministry approvals include proper blazon and description of flag, as created by the Commission, and not the "layman's" description found in local municipal decisions adopting the symbols. These blazons are of particular heraldic interest being the first large corps of official heraldic blazons in Croatia. (Heimer, Role, 2020, updated and enlarged in Heimer, 2023)

The Council for National Minorities does approve coats of arms and flags for minorities after their request, but no expert competence is involved (Ustavni zakon, 2002). Among some two dozen of recognized minorities living in Croatia, only three of them adopted and got approved a coat of arms and a flag (Bosniaks, Czechs, Ruthenians), while one adopted and got approved a flag only (Serbs). Some other minority groups (notably Italians) are using their flags by long established tradition, but they have not gone through the official process.

7.3. – Legal protection?

Are coats of arms of regions, cities, towns, communities etc. legally protected? How?

The use of municipal coats of arms and flags are heavily restricted to municipalities themselves by the law on local self-government. The law provides for possibility for municipality to allow use of it's symbols to others if it is of municipal interest. Previously this could be allowed to individuals and "legal bodies" (organizations), but later restricted to organizations only. These who want to use the symbols must submit request that may be approved by (initially) local assembly or (subsequently, after regulations slightly relaxed on 2004) head of the municipality (mayor). Details are regulated usually in the same decision of municipal assembly by which the symbols were adopted. (Vitez, 2017)

In principle, use of these symbols in art and education is allowed free.

Part 8. Ecclesiastical and academic heraldry

(If ecclesiastical and academic institutions follow the same rules and procedures as civil authorities, the answers can be merged with the answers in part 5.)

8.1. – Adoption, grant or registration?

Are arms adopted by ecclesiastical and academic entities themselves, or granted or registered by some authority? How do these procedures work?

The prelates of Roman Catholic Church in Croatia, if they choose so, self-adopt their heraldic devices in accordance with tradition and (lack of) regulations from Vatican. Some organizations (dioceses, religious orders and such) do the same. There is no state or internal ecclesiastic regulations of the process. There is no internal nor public register of these devices (the one provided by the author as a private effort is far from encompassing, Heimer 1996). Other religious organizations in Croatia do similar to lesser extent, within their own traditions.

Academic institutions adopt their "coats of arms" (using the Croatian word 'grb' even if the devices are as a rule far from heraldic) on their own, prescribed in their statutes. These emblems usually have form of a circular seal, designed as a logo, often without colours specified (i.e. monocolored). Each of dozen universities in Croatia has such symbol, but also each of their member units (faculty, academia, schools, whatever they are named) have an individual one. (Dodig, 2013) There are no common regulations or processes involved.

8.2. – Heraldic competence involved?

When an ecclesiastical and academic entity wants to develop new symbols of any sort, is heraldic competence involved? Is advice or permission from heraldically competent persons, such as a state heraldic office, compulsory or not?

Some of the individuals (and organizations) within the RC Church adopting arms choose to consult a heraldic expert within the ecclesiastic organization (several names emerged in the last 30 years) or consult designers (often with no heraldic background). Sometimes HGZD or the author are called to provide opinion.

8.3. – Legal protection?

Are coats of arms of ecclesiastical and academic entities legally protected? How?

No.

Part 9. Family and personal heraldry

9.1. - Adoption, grant or registration?

Are these arms adopted by the families or individuals themselves, or granted or registered by some authority? How do these procedures work?

After 1918 no more nobility arms were granted. In modern period individuals may self-adopt or consult few heraldic designers/studios in Croatia or abroad to obtain new coat of arms. There is no common or public register or those.

Particularity of Croatian heraldry is the so called Draconian heraldry - personal individual coats of arms granted within the Society of the Brotherhood of Croatian Dragon. (Heimer, Uvod, 2020) These are for internal use within the Society, they are not hereditary and they follow specific regulations. The society established in 1905 is a cultural and heritage fraternal association of significant influence in Croatia, and it is vaguely and romantically successor or the Sigismund of Luxemburg Chivalry Order of Dragon. The society is not chivalric organization. It maintains a heraldic office that regulates and prepares the coats of arms for the ordinary members of the Society. A rough total of a thousand coats of arms was granted since (for ca. 1500 ordinary members). The arms are granted to the members by issuing an armorial patent by the College of Masters (governing body) of the Society.

9.2. – Legal protection?

Are coats of arms of families and individuals legally protected? How? Is there a difference between granted and adopted coats of arms?

No.

9.3. – Inheritance

How are coats of arms of families inherited and how may they be used by an armiger's spouse? Is there a difference between granted and adopted coats of arms? Have changes occurred because of changed family and gender structures?

N/A

Part 10. General assessment of the status of heraldry in a legal context

10.1. – Institutions and knowledge

Is the level of knowledge about heraldry on a reasonable level within state authorities and regional or municipal authorities? Are there enough institutions that deal with heraldry professionally? Are there many different institutions having similar responsibilities, and how does the coordination and cooperation work?

In general knowledge on heraldry within state and municipal authorities is minimal and barely enough to recognize lack thereof. Beside the state established heraldic commission to

deal with regional and local municipal heraldry, no institution whatsoever exists. Several universities have established courses on heraldry as elective courses in history and humanistic studies either as individual subject or part of wider auxiliary history sciences course. The Dragon Society has a heraldic office for its internal needs. Some museums countrywide have individual curators with interest in heraldry. HGZD is the only expert body to do systematic effort to raise awareness of the issues, but the reach it manages to make is limited. The number of scientific papers and books with heraldic topics increased significantly since 1990 - after the period since WWI and especially after WWII when the issue was "unpopular", mostly through effort and research published by HGZD members.

10.2. – Legal uncertainties

Are there legal uncertainties relating to heraldry? For example, is there a lack of legal protection of state symbols, or difficulties in adapting heraldic rules to new family and gender structures?

The legal protection of state symbols is sufficient, while other heraldry is in principle protected only by general copyright regulations that are hardly sufficient in case of misuse, misinterpretation or purposely imitating or copying others symbols. However, cases of such misuse are rarely reported.

10.3. – Recent disputes or proposals

Have there been recent disputes or law proposals highlighting the interest in heraldry and the law? If so, what was the case or proposal about, and what was the outcome? Was the issue reported in the media, and was there a public involvement?

The issue of state coat of arms and flag appear in public from time to time, particularly in seasons with less other news. No significant effort was made to propose changes to the state coat of arms, while some graphical designer occasionally reiterate "effort" to change the flag, to make it more "brandable" and recognizable and less complex. These efforts are usually soon forgotten and make part of "urban folklore" that is not considered an issue among politically relevant parties.

An ever existing issue that raises whenever heraldry is mentioned is the order of the chequy field in the national arms. Namely, while the legislation prescribed "red square first" there are those often linked with right wing movements and ideals who prefer it "white square first" - as it was legally prescribed during the WWII regime. The other side of political spectrum find these tendencies revisionistic and the two sides are not willing to listen to the other side's arguments. Heraldic experts are hardly heard explaining that the issue is heraldically moot, and that during the history both versions were more or less equally often

used, while the prescribed versions since the early 20th century were all "red first" with the exception of WWII, however, "white first" was also attested in these periods and vice-versa.

10.4. – Strengths and weaknesses

If you would make an over all assessment of the status of heraldry in your country, what are the main strengths and weaknesses related to the legal status of heraldry and the legal regulation of coats of arms? What could be used as a model for other countries and what could be improved?

Although the author often criticise various decisions of the Heraldic commission that has jurisdiction over municipal heraldry, it should be emphasized that its influence was barely less than a miracle to revive public heraldry after 70 years of decay. In comparison with municipal heraldry in post-communist countries that have not such central authority to govern the development, the difference is noticeable. The commission developed a particular and consistent heraldic style and contributed greatly to heraldic practice and theory. On the other hand, the commission's working showed to be hermetic and "mysterious", and it failed to provide clear public guidelines, manuals, information and available records. The other fields of heraldic realm, with the exception of particular draconian heraldry, have virtually no regulations and expertise.

Part 11. Bibliography

Please provide full references to the most relevant statutes, cases and literature referred to in the answers.

Legislation and regulations (in chronological order)

(The official gazettes including these legislation and regulations may be searched by title or issue number at <https://narodne-novine.nn.hr/>)

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