



Some comments about the Bothorel mission in France

Stefane Fermigier, 2 Mar. 2021

Etalab & DINUM

Etalab, established in Feb 2011, is a French public administration that notably acts as the National Data Director and coordinates the design and implementation of its data strategy (open data sharing, data exploitation and artificial intelligence...).

In 2019, Etalab becomes a department of the Interministerial Directorate of Digital (**DINUM**). Etalab coordinates and promotes the actions of the State and the organisations under its supervision in terms of inventory, governance, production, circulation, exploitation and opening of data, particularly source codes.

“Digital Republic” Act (Oct. 2016)

“Subject to the provisions of articles L. 311-5 and L. 311-6, **the administrations [...] are required to publish online or to communicate the administrative documents they hold to persons who request them [...]**”

“**Are considered as administrative documents [...]** documents produced or received, within the framework of their public service mission, by the State, the local authorities as well as by other persons of public law or persons of private law charged with such a mission. Such documents include, in particular [...] **source codes [...]**.”

(It was added later that when source code is published in this context, it must be under an open source license).

Source: Loi “pour une République numérique”, aka “Loi Lemaire” (translation mine, as everywhere else in these slides).

“Digital Republic” Act (Oct. 2016)

*Article 16: The administrations [...] ensure that they **preserve the control, durability and independence** of their information systems.*

They encourage the use of free software and open formats when developing, purchasing or using all or part of these information systems.

Source: Loi “pour une République numérique”, aka “Loi Lemaire”

Context for the Bothorel mission

In June 2020, Eric Bothorel, a MP, was asked by the Prime Minister to: *"analyze the strategic and financial opportunities - strategic autonomy in the digital world, strategy of influence, contribution to critical infrastructures and digital commons, reversibility - and the obstacles that need to be removed **to encourage the default opening of data and public codes**, in accordance with the law of October 2016 [and] to determine the conditions for accelerating the policy of opening up or sharing data of general interest produced or collected in the private sector"*.

The Bothorel Mission

The mission lasted for 6 months. 358 persons (!) have been auditioned (including CNLL).

Public consultation on <https://www.mission-open-data.fr/>

CNLL's contributions to the mission:

- <https://cnll.fr/news/audition-mission-bothorel-ouverture-codes-donnees-etat/>
- <https://cnll.fr/news/mission-bothorel-et-consultation-mission-open-data/>

The Bothorel Report

Published in December 2020.

216 pages, 95% about open data and 5% about open source (at a glance).

CNLL's comments: <https://cnll.fr/news/cnll-soutient-mission-bothorel-ouverture-codes-sources-etat/>



Main findings on F/OSS

“With regard to the openness of codes and the use of open source software, **there is a need to structure the public sector community and strengthen the support provided to it.** Free software is not an ideology disconnected from the needs of administrations and its stakes are not limited to the question of the use of LibreOffice.”

“**The use of open source software is also a growth factor,** and should be the main principle of an internal innovation policy for public action.”

Some additional findings on F/OSS

Regarding Digital Sovereignty

“Open source software [are] a strategic component of our information systems [...] There is a strong issue of strategic autonomy in the ability to participate in the governance of these critical open source projects, as these services are mainly developed abroad.”

Regarding security

“Many public actors put forward the IT security argument for not publishing data. [...] In reality, those who argue for the security of information systems seem to be unaware of the possibility of strengthening their resilience offered by the process of opening up source codes.”

Main recommendations on F/OSS

Only one recommendation specific to F/OSS (out of 37):

Create an Open Source Program Office (OSPO) or “Mission logiciels libres” within TECH.GOUV, responsible for helping the administration to open up and reuse public source codes, identifying the challenges of pooling and creating links with existing open source communities, and supporting French talent in this area.

+ Additional recommendations on: public debate, impact studies, governance, contributions to digital commons, human resources...

Consequences of the report

In January, the Prime Minister Jean Castex, said, during a press conference, that most of the recommendations of the Bothorel report would be implemented.

However, it was still unclear whether the most F/OSS-specific recommendation, the creation of an OSPO or “mission logiciels libres”, would be implemented.

This led our ecosystem (professional and academic organisations) to show large support to this particular measure. Cf. our op.ed. in Le Monde: <https://cnll.fr/news/tribune-le-monde-logiciel-libre-enjeux-majeur-du-numerique-moderne/>

=> **On Feb 5th, the PM announced that a “free software and digital commons mission” will be created inside DINUM.** We’re waiting for the administrative details (where the devil lives) before we can comment further.

Limits of the Bothorel report

The notion of *encouraging the use of free software*, provided for in article 16 the Lemaire Act, was not developed in the report, nor were the considerations relating to the purchase of free software by the administration. (The report acknowledges that "*the use of public procurement tools makes it sometimes complex to take into account the needs of open source software*" but doesn't make any recommendation)

Overall, as noted before, F/OSS is still considered a special case of Open Data, which leads to miss or glance over some of its fundamental aspects, particularly the economic and strategic ones.

Additional references

- 20 years for FLOSS public policies in France (Jan. 2020)
- « Le logiciel libre et l'ouverture des données sont deux enjeux majeurs du numérique moderne qui méritent une stratégie publique » (Le Monde, 17 Jan. 2021)