



**Council of European National
Top-Level Domain Registries**

Report on ICANN62

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Executive Summary

This ICANN Policy Forum addressed one of the most difficult issues that ICANN has ever faced. The impact from the General Data Protection Regulation (GDPR) on WHOIS will likely test the limits of ICANN's multistakeholder model. Finding a balance between the interests of the different stakeholders within the limits of the legal requirements already provided for fascinating and heated debates during two cross-community sessions.

Days before the meeting, ICANN published its [Framework Elements for a unified Access Model for Continued Access to Full WHOIS](#). This model will eventually set out the rules for how third parties may have access to non-public WHOIS. While this is only applicable for gTLDs, it is a highly relevant topic for ccTLDs who might be facing similar discussions on a national level. Worth noting is that the European Commission is already working with Member States to develop an accreditation mechanism for Law Enforcement Agencies.

In essence, the discussion boils down to the following question: "How can we build a model where the public WHOIS is compliant with GDPR, and the non-public WHOIS is available to those with a legitimate interest without breaching the proportionality limits?"

In other news:

The strategic outlook sessions that were run in the ccNSO and GNSO turned out to be a promising start for a new bottom-up approach to identifying the focus for ICANN's strategic plans.

Bridging the US\$60 million gap between ICANN's actual and planned reserve fund will put even more pressure on savings in its operational plans. In the light of the slowing growth in the global domain name market, this will be a difficult exercise.

The work of the accountability working group is drawing to a close. With only a few comments from the ICANN Board, it is expected that their final recommendations will see a swift approval by the stakeholder groups at the next ICANN meeting. The importance of their work and the efforts they've put into it cannot be overestimated.

The ICANN community posthumously recognized Stéphane Van Gelder for his immense contribution to the ICANN community.

The discussions on geonames as future gTLDs seem to have come to the preliminary conclusion that for two-letter ASCII strings, full and abbreviated country names and capital city names, nothing will change from the existing rules. There is however no agreement yet on letter-number combinations.

Giovanni Seppia (EURid) was elected to the ccNSO Council. Nigel Roberts (Channel Islands Networks) is leaving the ccNSO Council to take a seat at the ICANN Board. On behalf of the ccTLD community: thank you, Nigel!

ccNSO Report

The ccNSO had a shorter meeting with relevant updates from the intersessional work accomplished by the working groups. Please find highlights and references for further reading below.

Working Group Updates

TLD-Ops Standing Committee

TLD-Ops is a community-based technical incident response group for and by ccTLDs. They maintain a contact repository of individual contacts and is trust-based. All the European ccTLDs have now joined the group.

Alerts since the last ICANN meeting: security alert and advice on impact assessment of stolen passwords. The TLD-Ops community also published a playbook that gives guidance for smaller TLDs on how to prepare and mitigate DDoS attacks.

Future plans: collect data from natural disasters impact.

Further reading: [TLD-Ops website](#)

Strategic and Operational Planning Committee

Highlights from comments on ICANN operating plans and budget FY19:

- Acknowledgement of role of stakeholders in allocation and focus of ICANN's resources considering its mission
- ICANN org exists to support the community's work and ICANN's mission
- Improvement by distinction between recurring activities and projects that deliver new tools and improvements
- Plans still not very accessible
- ICANN should be more prudent when it comes to TLD growth
- SOPC recommends hiring stop and more efficient use of existing capacity

ICANN's response highlights:

- Lowering forecast does not mean preparing for collapse of the market

- Resources needed for GDPR compliance will be taken from contingency funds
- Great dashboard of accountability indicators (available now)

Hottest topic: how to replenish the reserve fund? Target level for reserve fund is 12 months of operating expenses (US\$138 million). Currently, the shortfall is of US\$68 million. Currently, there is a consultation on how the replenish that budget. There is more support for contribution from ICANN ops budget as opposed to getting money from gTLD auction fund. This will however mean that the current cost reduction plans will not be sufficient and more cuts will be needed.

Presentations can be found [here](#).

ccWG on auction proceeds

The proceeds from the gTLD program auctions are ring-fenced and cannot be used for ICANN operations. The working group is discussing the process that will allow these funds to be used for other purposes. The group is developing a proposal on the mechanism to allocate the new gTLD auction proceeds. This will be provided to the ICANN Board for consideration. It will include: the scope of fund allocation, due diligence and accountability mechanisms and policies to deal with conflict of interest. This group will not be making decisions on specific uses of the proceeds.

Work Track 5 update

Work Track 5 (WT5) is a subgroup of the working group that is developing the policy for any future gTLDs (for if and when these might be introduced into the root zone). It seeks to review the existing policy and implementation related to the topic of geographic names at the top level, determine if changes are needed, and recommend revised or new policy or implementation guidance, as appropriate.

[Slides from this session](#)

Scope - Geographic Names **at the top-level only**

- Two-character ASCII letter-letter combinations
- Country and Territory Names (alpha-3 on 3166-1, short and long-form on 3166-1, additional

categories in section 2.2.1.4.1 of AGB)

- Capital Cities in 3166-1, city names, sub-national names (e.g., county, province, state on 3166-2)
- UNESCO regions and names appearing on the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings”
- Other geographic names such as geographic features (rivers, mountains, valleys, lakes, etc.) and culturally significant terms related to geography
- The extent to which additional languages receive protection

So far, there is possible agreement on:

- 2-character ASCII letter-letter combinations to be restricted to ccTLDs
- Country and Territory Names in all forms
 - Should not be available as gTLDs
 - Needs more consideration later on to decide policy for those
- Capital city names
 - Support or non-objection

For these areas, this would effectively mean that there are no changes from the current (2012) rules.

Be aware that this is very preliminary – the report will be sent out for public comments and will also be treated by the full group (WT 1-5). Worth noting is that on two-character letter-number combinations, the group is considering opening up the TLD space. This would for example allow for a .X1 TLD.

Accountability update

The work of the cross-community working group on accountability is the essential keystone of the whole IANA transition. Its recommendations provide the mechanisms to ensure transparency and accountability of all the new structures that have been put in place and tie up loose ends in the organisational logic. Where workstream 1 dealt with PTI specific mechanisms that needed to be in place by the time of the transition, workstream 2 (WS 2) dealt with those issues that were not urgent.

The group concluded its work and the Final Report and Implementation Guidance will now be transmitted to the CCWG-Accountability Chartering Organisations for approval. Once approved by the Chartering Organizations, the CCWG-Accountability will forward this material to the ICANN Board for approval.

If you want to find access to the full recommendations, they are available in [the March report](#).

The group’s detailed update can be found [here](#).

Other sessions of interest

Strategic outlook working session

The results of this session will be used as input into ICANN’s 5-year strategic plans. The plan is to come up with a draft concept that will be discussed at the Barcelona meeting and result in a strategic plan by June 2019. The exercise started with the top 12 trends as identified by ICANN Org. These trends were split up in three groups.

Community-wide trends:

- Internet evolution and external technology advancement increasing pressure on DNS relevance and ICANN’s legitimacy
- Scalability of the community, ability to effectively address increasing demand and capacity
- Increasing changes in the domain name industry, and emerging internet business and funding models
- Increasing discussion and debate about ICANN’s mission, and increasing pressure to broaden ICANN’s role and operational scope
- Increasing demands for transparency, openness and accountability creating additional complexity and hampering execution
- Evolving dynamics relating to power balance of the ICANN community, Board and organization

Organisational/operational trends:

- Increasing demand on ICANN organisation, staff and resources
- Increasing risk on security – both physical and cyber

Geo-political or economic trends:

- Increasing concerns about effectiveness and scalability of ICANN's multistakeholder model
- Increasing geopolitical and technical risks of fragmentation
- Increasing pressure to integrate human rights, privacy and law enforcement into government mechanisms
- Increased government interventions via legislations into the Internet Ecosystem and hence affecting ICANN

Input from all Supporting Organisations and Advisory Committees will be collected and fed into the strategic plan.

PTI session

Kim Davies provided an update of IANA priorities for the coming months. Focus areas:

- New technical check implementation: separate technical check logic into a standalone application that provides richer feedback and debugging.
- New customer API: provide a modern API to allow TLD managers to build systems to interact directly with RZMS, providing new possibilities to reduce error and in particular perform bulk operations.
- New security options: provide mechanisms for multi-factor authentication, mandatory authentication for authorizing change requests, audit logging and other improvements.
- Next generation authorization model: separates the change consent role from publication in the WHOIS databases.

Security is a structural element in PTI strategy. Continued focus on security for the foreseeable future has no budget impact.

Slides are available [here](#).

Natural disaster session

Pablo from .PR gave an impressive presentation, recounting the effects of hurricane Maria and how .PR has been responding for the series of disasters that came in the hurricane's wake. An important point he made was that victims of disasters will never think of renewing their domains, so he encourages every registry to take this into account in their policies.

Retirement of ccTLDs PDP Working Group

The group discussed terminology and different retirement scenarios and did comparative analysis.

They mentioned that stress testing could happen with North Macedonia. In a working session on Thursday afternoon, members of the WG discussed the potential scope of policy recommendations. The goal of the session was to kick-off the policy development process with two questions: (1) What elements or steps must be included in the retirement policy?; and (2) Why do you think any of those elements or steps are important to be included?. Attendees were split into four groups and came up with an initial list of elements that should and that shouldn't be included. Contentious elements still up for debate included the process oversight (approval/accountability) and whether the policy should apply to ccNSO members only or to all ccTLDs.

Further reading: [PDP Retirement working group web site](#)

GAC Report

Link to [GAC ICANN62 Communiqué](#)

General Data Protection Regulation (GDPR)

The GDPR, in force for one month, and its effect on ICANN policy making was the main focus of the overall ICANN62 agenda, including the GAC. The following report will highlight the most relevant points for ccTLDs in the context of several sessions dedicated to this highly contentious topic within ICANN.

The questions of its impact on WHOIS, the need for an appropriate accreditation system and the role of the GAC and ICANN have been challenging the ICANN organisation and its community throughout all four days of ICANN62, resulting in heated debates in numerous cross-community sessions.

In a nutshell:

On 17 May, ICANN Board has adopted a Temporary Specification for gTLD Registration Data (hereinafter [Temp Spec](#)) designed to achieve WHOIS compliance with the GDPR. Temp Spec is intended to be in place for one year after its adoption, and to be replaced by the final model that is intended to be developed in an unprecedented Expedited Policy Development Process (EPDP) led by the GNSO Council.

Due to a very strict deadline of one year mandated by the ICANN Bylaws, the GNSO has four months to complete the process and come up with the initial report.

Main areas of concern for the GAC:

- how to ensure access to WHOIS to the greatest extent possible while at the same time complying with GDPR;
- how to balance data protection with access to non-public WHOIS for law enforcement and other interested parties.

In addition to the Temp Spec and the EPDP, on 18 June ICANN Org has also published a draft High-Level Framework for a Unified Access Model for Continued Access to full WHOIS Data (hereinafter [Unified Access](#)

[Model](#)) for law enforcement and other governmental agencies, and for defined categories of private third parties, bound by Code of Conduct.

On this proposal, the role of the GAC is to define the eligible user groups, and to assist ICANN in determining global authentication requirements for law enforcement in accordance with applicable legal frameworks.

In more detail:

Temp Spec

The Temp Spec includes several crucial points that change WHOIS and the contractual relations with all gTLD registries. Temp Spec reduces publicly available data, however retains the requirement for registries to collect information. It also introduces RDAP layered access for the data availability, a new protocol that is intended to unify the data availability across registries. However, the Temp Spec also lacks clarity on how registries would need to ensure “reasonable access”, and on appropriate access and accreditation system.

Temp Spec also requires redacting data collected by the registries for privacy reasons, however, there is little guidance that this data can be, in fact, accessed. This situation has created an information vacuum, especially for law enforcement agencies who simply do not know where and how to obtain access to non-public WHOIS data.

GAC issued ten recommendations for Temp Spec after ICANN61 in San Juan (see [GAC Communiqué from San Juan](#)). Six of those were accepted, and four deferred due to the time limits. The four deferred issues were added in the Annex to the Temp Spec as points of further discussions with the community. Implementation of these four deferred points are high priority for the GAC. These points include: access and accreditation model for accessing non-public WHOIS data for users with “legitimate purpose”; distinguishing between natural and legal persons to allow for public access to the registration data of legal persons, which are not in the remit of the GDPR; confidentiality and limitations of queries to ensure the needs of law enforcement when accessing the registration data.

Unified Access Model

Several GAC members have underlined the importance of developing a Unified Access Model. The issue of access and accreditation and the possibility to develop this within the EPDP process has also been raised. However, some GAC representatives are concerned with developing policies within the GNSO-led PDPs that are of most importance for governments, as these processes might result in marginalising governmental concerns within GNSO and its stakeholder discussions.

The development of a Unified Access Model foresees inter alia seeking legal guidance from the European Data Protection Board (EDPB), in particular in regard to two possible approaches in defining the scope of eligibility for the full access to WHOIS: 1) identified “legitimate purposes”, or 2) query-based access to full WHOIS.

On the eligibility criteria, governments within EEA area (who are also members of the GAC) are sought to identify or facilitate the identification of broad categories of eligible user groups. Other governments in the GAC will participate in identifying specific eligible user groups, e.g. IP rights holders, law enforcement authorities, operational security researchers, and individual registrants.

Registry operators and registrars would be required to provide access to non-public data under this model, as permitted by the local laws and the demonstration of legitimate interests.

Further concerns and comments about GDPR-related initiatives (Temp Spec, EPDP, and Unified Access Model)

- US highlighted their concern in the Temp Spec with anonymisation of the e-mail address, and the lack of uniform way to request access to non-public WHOIS.
- For law enforcement, there is a need to ensure the possibility of making multiple WHOIS requests for different investigations. There is also no uniform way for law enforcement to request all data they need, and to receive a swift response.
- Lack of clarity on the requirement of data accuracy: including the time of requests, and when the data becomes available.
- Germany highlighted the problem of access for private cybersecurity researchers, who are

not considered to be part of law enforcement agencies but who often play an important role for assisting law enforcement. This point was also echoed by SSAC who stressed that GDPR allows data processing for security reasons, and that domain name information is of vital importance for private security professionals.

- The European Commission stressed that EPDP needs to include an appropriate accreditation model, otherwise it will not be consistent with the GDPR. According to the EC, access to data is considered to be “data processing”, and therefore should be included in the final model.
- Switzerland stressed the need to closely cooperate with European Data Protection Authorities (DPAs) on these topics in order to avoid delays.
- Facebook intervened to give an overview of their experience with post-GDPR WHOIS review requests on the basis of “legitimate purpose”. According to Facebook, 3 out of 1,700 requests received response from their respective RARs, including the counter-request to prove the existence of a trademark; to seek subpoena; or refusing to provide requested information based on the clauses from GDPR.
- Concern over Temp Spec resulting in “over-blocked” WHOIS: not all data needs to be restricted in order to comply with the GDPR.
- Taiwan stressed the importance of finalising the Unified Access Model as soon as possible. Regarding the eligible user groups for full access to WHOIS, the Taiwanese representative suggested to add two more groups: lawyers who assist the IP holder, and RAR who passes the form of authorisation.
- Göran Marby specified during the joint meeting with the ICANN Board that currently the Board does not intend to adjust Temp Spec in relation to on-going GDPR discussions. On the role of ICANN in relation to registrars and registries and the GDPR compliance, he specified that ICANN can be considered as a joint controller when it comes to WHOIS compliance with the GDPR. According to Marby, the real mandate lies within independent registries and registrars to make sure that WHOIS is compliant with the GDPR. Regarding the timeline for the implementation of the Unified Access Model, Marby concluded that it depends on whether ICANN will receive any further

guidance from DPAs.

- John Jeffrey (ICANN Legal Counsel) pointed out that data protection advice from the EU is different from what ICANN receives from the GAC. It is unclear whether the Unified Access Model can include the requirement to publish the registrant e-mail, or whether the WHOIS queries can be anonymised. These points will not be implemented if registrars receive contradictory legal advice.
- Elliot Noss (Tucows) expressed his concern over the fact that none of the contracted parties to whom the Unified Access Model is aimed at, are represented in the development process. He stressed that registrars will not implement any policy from ICANN that is inconsistent with the GDPR.

In conclusion

The GAC seeks further clarity on GDPR implementation, and how different policy processes within ICANN interrelate. Concerns include the strict time frame and possible inability to achieve the final implementation model by the end of the EPDP. As compliance with GDPR is a matter of public policy, the GAC is concerned whether the GNSO-led EPDP will ensure sufficient representation of governmental concerns. As a result, the GAC has appointed a smaller task-force to work on these processes.

In addition, it is unclear whether the access and accreditation model will be developed as part of EPDP, a new Temp Spec (due to the urgency of the matter), or as a completely new instrument. No further guidance was issued from the ICANN Board on these questions during the joint meeting.

GAC Communiqué: The GAC expressed its commitment to working together with ICANN Organisation and the Community in this process and – in a first step – intends to provide detailed comments on the Unified Access Model as soon as possible after ICANN62. The GAC was of the opinion that solutions should be implemented as soon as they become available.

GAC advice to the ICANN Board regarding the Unified Access Model was also issued on the basis of consensus as defined by the ICANN Bylaws, meaning

that this advice becomes mandatory for the Board to consider. Specifically, the GAC advises ICANN Board to take all steps necessary to ensure the development and implementation of a Unified Access Model that addresses accreditation, authentication, access and accountability, and applies to all contracted parties, as quickly as possible; and to publish a status report, four weeks prior to ICANN63. The GAC considers access to WHOIS information to be critical for the furtherance of legitimate purposes associated with protecting the public interest including law enforcement; cybersecurity; consumer protection and the protection of intellectual property, and therefore further development of Unified Access Model is of utmost importance.

Cross-Community Sessions on WHOIS and Accreditation

Full recordings of both sessions can be found [here](#) (Part 1) and [here](#) (Part 2).

In conclusion: The different communities have expressed their appreciation to ICANN Organisation to reflect GDPR compliance in the attempt to safeguard access to WHOIS. Only the non-commercial users expressed serious doubts. While there are some details to iron out on the way, cross-community dialogue that encompass internet community in its widest sense, is needed. Policies reflecting these issues cannot be developed in silos. External experts, such as European data protection authorities, EDPB, and contracted parties (registries and registrars) need to be involved in the policy development processes in order to ensure their usefulness and implementation. Only in this way it can be avoided that contracted parties would be required to implement a model that goes against their local laws or is contradictory with the GDPR by their legal services or data protection authorities.

While ICANN has set itself strict and hasty deadlines in trying to achieve compliance with the GDPR, there still remains an important lack of legal clarity on the appropriate way forward. One thing is clear: ICANN cannot maintain the pre-GDPR situation when it comes to managing WHOIS. Some parts of the ICANN community have a sense of entitlement that is not fit any longer under the new rules. Balancing

these interests will be one of ICANN's most difficult challenges as of yet.

Relevance to ccTLDs

The final model and its implementation will have a direct impact on ccTLDs that manage or provide the backend to gTLDs (e.g. geo-TLDs). For other ccTLDs, the discussions on accreditation models can be relevant as governments and Law Enforcement Agencies might be pushing for consistency across all TLDs.

Other sessions of interest

.amazon update

During the GAC meeting with the ICANN Board, Brazil presented a short update on the .amazon case. Amazon put forward the proposal that is aimed at achieving a mutually acceptable solution for delegation of .amazon. Ministers in the Amazon Cooperation Treaty Organisation (ACTO) established a working group to look closer into the proposal, and to prepare an assessment report. This report was concluded on 15 June, and is currently being forwarded to ministers/political authorities of the ACTO member states for the final decision to be announced. ACTO is seeking to finalise this process and to come up with the final decision in the shortest timeframe possible. ICANN Board congratulated the countries involved, and noted the productive cooperation with Amazon (company), and offered a continuous support and facilitation to come up with an effective decision.

Update from RDS-WHOIS2 Review Team

The main goal of this Review Team was to assess the implementation of the WHOIS1 recommendations. A comprehensive review of the GDPR impact on the WHOIS landscape, and review of the GDPR implementation impact, are explicitly excluded from the scope of this review. The first draft report for public comment, which will include the Team's recommendations, is to be published in August 2018.

Country codes at the top level – ISO-3166

During the Joint meeting with ccNSO, Bart Boswinkel gave an overview of standardisation in ISO, and in particular ISO-3166 which standardizes two-letter country codes. In addition to giving a good overview of ISO standardisation processes and its interrelation with ccTLDs, Bart reminded that two- and three-character country codes are standardised based on the terminology within the UN database.

The ISO Maintenance Agency that assigns two- and three-character codes to the countries has no decision-making power in determining the country list. As such, the ISO-3166 country code list is dynamic and follows geopolitical interests.

He also highlighted that the ISO-3166 standard is also used in other areas in addition to the DNS, such as in finance and trade services (such as in BIC/SWIFT and credit card information), as well as being used in the electronically-readable travel documents. Changes in the ISO-3166 list can impact ccTLDs, with the most recent example of .an that was discontinued in 2010, and replaced by the successor .sx (full recording of the session is available [here](#)).

ICANN63 will be held on 20-25 October 2018 in Barcelona, Spain.



CENTR is the association of European country code top-level domain (ccTLD) registries, such as .de for Germany or .si for Slovenia. CENTR currently counts 54 full and 9 associate members – together, they are responsible for over 80% of all registered domain names worldwide. The objectives of CENTR are to promote and participate in the development of high standards and best practices among ccTLD registries.

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