



The Internet Corporation for Assigned Names and Numbers

12 May 2017

Re: 2017 Review of ICANN's Procedure for Handling WHOIS Conflicts with Privacy Laws

Mr. Thomas Schneider
Chair, ICANN Governmental Advisory Committee (GAC)

Dear Mr. Schneider:

ICANN organization recently published the staff paper "[Revised ICANN Procedure for Handling WHOIS Conflicts with Privacy Laws: Assessment and Next Steps](#)". The paper is aimed at informing the next review of the Revised ICANN Procedure for Handling Conflicts with Privacy Laws ("WHOIS Procedure"), which will commence no later than 1 October 2017.

This staff paper reviews an additional alternative trigger that would allow a registry operator or ICANN-accredited registrar to also invoke the WHOIS Procedure by providing ICANN with a written statement from the applicable government agency responsible for enforcing its data privacy laws and indicating that a WHOIS obligation in an ICANN contract conflicts with such applicable national law. The staff paper identifies several questions that the community, including governments, data protection agencies, law enforcement, contracted parties and other relevant parties may want to consider regarding the alternative trigger as well as the WHOIS Procedure.

In its Copenhagen Communiqué, the GAC encourages ICANN "to continue the dialogue with data protection authorities to enhance privacy and data protection," following a discussion with data protection officials. Given the GAC's interest in this subject, ICANN invites GAC representatives to provide their assessment of the Procedure.

In particular, ICANN is interested in responses on questions 1-4 in the staff paper:

1. How feasible is it for data protection agencies to provide a party with a written statement indicating that a WHOIS obligation in an ICANN contract conflicts with national law?
2. What type of evidence or documentation should a requesting party provide to the data protection agencies?



3. What challenges, if any, will data protection agencies face in terms of providing a party with a written statement indicating that a WHOIS obligation in an ICANN contract conflicts with national law?

4. What improvements or changes could be made to better engage data protection agencies in this process, i.e., Would direct contact with ICANN make the process more efficient?

As this alternative trigger and revised WHOIS Procedure is an area of interaction between ICANN's activities, policies, and contracts and national laws, ICANN hereby requests that the GAC review the staff paper and questions, and provide feedback by the close of the public comment period, 12 June 2017. Additionally, as data privacy agencies have a specific role in the additional alternative trigger, their specific input would be helpful to inform the next review of the alternative trigger and WHOIS Procedure. ICANN respectfully requests that the GAC representatives encourage their data protection agencies to review the staff paper and provide their comments via the [public comment](#) proceeding.

Thank you for your attention to and interest in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Akram Atallah", written in a cursive style.

Akram Atallah
President, Global Domains Division
ICANN