17 September 2022

Re: Human Rights Impact Assessment for ICANN's System for Standardized Access/Disclosure and Operational Design Assessment Recommendations

Bruna Martins dos Santos, Chair Non-Commercial Stakeholder Group

Dear Bruna,

On behalf of the ICANN Board of Directors, I would like to thank the Non-Commercial Stakeholder Group (NCSG) for your 18 July 2022 correspondence. We note the submission of a Human Rights Impact Assessment (HRIA), which considers 1) the policy recommendations for the System for Standardized Access/Disclosure (SSAD), which was recommended by the Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data Phase 2 Team and adopted by the Generic Name Supporting Organization (GNSO), and 2) ICANN org's Operational Design Assessment (ODA) of the policy recommendations, which was prepared for the Board's consideration. We would like to take this opportunity to acknowledge receipt of the HRIA exercise and to offer initial observations.

There is an obligation across ICANN to consider human rights. Ongoing discussions and research on this topic, an example of which is the HRIA you have shared, are central to broader community efforts to understand how to best adhere to and further ICANN's core value of respecting internationally recognized human rights as required by applicable law.

To date, the community has not yet established specific tools or mechanisms that validate how and whether human rights considerations are taken into account when developing policy recommendations, advice, or other community-related recommendations. The community has the responsibility to factor human rights considerations into its work and to capture whether and how these considerations are taken into account as a part of that work.

The Board recognizes the importance of considering this assessment. While this research did not complete in time for the Policy Development Process (PDP) itself nor the associated Public Comment - which would have been the most appropriate venues for submission - the Board will consider the HRIA once current work on the GNSO's SSAD policy recommendations has progressed further. Please note that the SSAD policy recommendations are currently on hold.

The Board encourages the NCSG and others interested in issues related to human rights to work with the GNSO to improve the timeliness and use of these human rights considerations as part of existing processes within the multistakeholder model. In our experience thus far with implementing the Global Public Interest (GPI) Framework pilot, we have found that public interest considerations are best captured during community deliberations, rather than retroactively following the delivery of the recommendations, and as pointed out within the HRIA, human rights issues are similarly positioned. The community, particularly through Work Stream 2 (WS2) of the Cross-Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) implementation efforts, is in a position to identify the tools and mechanisms that work best as it considers human rights.

We look forward to continuing the dialogue with the community on this important topic.

Best regards,

Maarten Botterman
Chair, ICANN Board of Directors