Middle East Space
ICANN61
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Statement

We, the Middle East community members participating in the Internet Corporation for Assigned Names and Numbers' (ICANN) 61 public meeting in San Juan, Puerto Rico, and attending the Middle East Space session on Monday 12 March 2018, discussed WHOIS compliance with the GDPR.[1]

The privacy of domain name registrants in WHOIS, especially in the Middle East, has been an understudied topic at ICANN. We are glad that the General Data Protection Regulation (GDPR) brings attention to this very important issue. We believe that WHOIS purpose should be in line with ICANN's mission and remain as such. This means that while access to WHOIS data should be considered, the collection of data in WHOIS should be minimized to accomplish limited and well-defined purposes that are consistent with ICANN's mission.[2]

GDPR has global implications and does not only affect Europe. It has opened the door for better data protection and can help the ICANN community to come up with better ways to protect domain name registrants' data and also provide access to this data in accordance with ICANN's mission. Hence, our community is carefully following the discussions around GDPR within the ICANN community, and supports a compliance model that has a global angle and not only restricted to Europe.

ICANN provided three interim models for WHOIS compliance with the GDPR and at the time of issuance of this statement is offering another interim model for community input.[3] Concerns about all the provided models so far lie in how access to non-public WHOIS data is going to be granted and about the possible impracticality of its application. All the suggested models still allow for the collection of data to its maximum extent, and Thick WHOIS is preserved. This raises concerns because the models might not be compliant with the GDPR, they seem not to abide by the principle of data minimization and they might be in violation of domain name registrants' privacy. Whilst the document describing the model provides its own interpretation of WHOIS service purposes the legitimate existing purposes are still under discussion and need to be set by the community and the definition of the purposes should be justified.[4]

We would like the ICANN organization and ICANN community to take into account the following issues when trying to develop policies or implement models for WHOIS Compliance with the GDPR:

1) The current tiered models suggested by ICANN that allow access to registrants' data do not go into details on how certification will take place. We are deeply concerned as one of the suggested

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[1] The Middle East-SWG's regional focus includes the 22 Arab States (as defined at:
https://en.wikipedia.org/wiki/Arab_states), Iran, Afghanistan, Pakistan and Turkey.
[2] ICANN Bylaws: https://www.icann.org/resources/pages/governance/bylaws-en/#article1
[3]https://www.icann.org/en/system/files/files/proposed-interim-model-gdpr-compliance-summary-description-28feb18-en.pdf
[4]https://www.icann.org/en/system/files/files/proposed-interim-model-gdpr-compliance-summary-description-28feb18-en.pdf

models might later on evolve from the "interim" to "permanent" and concerns raised by the community may not be fully addressed.

2) Therefore, we strongly disagree with the self-accreditation and are of the opinion that any other accreditation model should be shaped in consultation with the whole community.

3) In any case, we consider that the access to non-public data by accredited parties should be possible only when there is legitimate interest within the framework of the law (documented suspicion of unlawful or harmful action or behavior)

4) Publicly available WHOIS data of registrants from the Middle East can create different challenges and devastating consequences for the registrants, this necessitates a special attention on better mechanisms of data protection. Awareness about Privacy and Proxy Registration services is not high either as only 20% of the domain name registrants use privacy proxy services on the whole in the Middle East, and in some countries, it is lower than 10% in total.[5] This illustrates that domain name registrants either do not know about such services or sometimes are not even aware that their information will be published publicly. Hence, we ask the ICANN organization and the ICANN community to take into consideration these concerns when discussing the tiered access.

5) The Thick WHOIS data in the most recently provided model is shared among three parties with no clear justification. This increases the risk of data being used for purposes other than those for which they were collected.

6) As the Internationalized Domain Name (IDN) registrants and those who do not use primarily Latin alphabet, we believe that it is very important to consider the impact of the implementation of the Translation and Transliteration of the Contact Information on the registrants' privacy. The implementation is on hold at the moment, but any future revision action regarding translation and transliteration of personal information into other scripts should respect the registrants' privacy. This is important in the context of the Middle East because this region is home to a number of languages using Arabic script and hence a variety of IDNs. These languages, for example, include but are not limited to Arabic, Farsi, Urdu, Sindhi, and Pashto among others.[6] Translation and transliteration of personal data has to take place with the consent of domain name registrants and their personal information should be protected in accordance to GDPR.

We would like to stress that our concerns about data protection go beyond ICANN's compliance with the GDPR regarding the WHOIS data. We look forward to seeing the new generation registration data services finalized with the spirit of preserving the registrant's data while reducing the collected data to the minimum required by the purpose, storing the data in a single place (the registrar) and restricting public access to it. We thank you in advance for giving due consideration to the issues we have raised regarding the privacy protection of domain name registrants.

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[5] According to Middle East DNS Study https://www.icann.org/en/system/files/files/meac-dns-study-26feb16-en.pdf, p.91
[6] https://gnso.icann.org/en/issues/gtlds/translation-transliteration-contact-final-12jun15-en.pdf