



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Future Networks
Next-Generation Internet

Brussels,
CNECT/E3/

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Subject: Information on WHOIS policies implemented for the .eu TLD

Dear Jean-Jacques,

Thank you for your letter of 10 October 2017. The European Commission welcomes ICANN's initiative to look into existing practises with respect to processing personal data of domain name registrants, in order to ensure the respect of applicable law on the protection of personal data. We are happy to provide information on practices in place by the .eu registry and hope this information is useful to the community in preparation for the GDPR.

As you know, the current Directive 95/46/EC already regulates principles of data processing, rights of data subjects, obligations of data controllers and processors and powers of national supervisory authorities. These same principles are enshrined in the General Data Protection Regulation (GDPR) that will become applicable on 25 May 2018.

Given the importance of the WHOIS system, providing clarity both on the legal and the technical/operational challenges and foreseen solutions is certainly necessary for the large and varied community of registries and registrars, as well as for the broader stakeholder's community.

The WHOIS policy implemented for the .eu TLD is described alongside the answers to your questions.

[How was the current policy developed? Who participated in developing the policy? Who approved it?](#)

Regulation [\(EC\) No 733/2002](#) and Commission Regulation [\(EC\) No 874/2004](#) constitute the legal framework for the .eu TLD. The registry function is currently performed by

EURid upon appointment by the European Commission following a call for expression of interest. EURid is a non-profit organisation established and operating under Belgian law.

The WHOIS policy was originally developed in 2004-2005 by the .eu registry in close cooperation with the European Commission. It was subsequently approved by the .eu registry and the European Commission. It has been updated on three occasions. The current version of the WHOIS policy, version 4.0, was published in 2016 following the delegation of the .eю (.eu in Cyrillic). The changes aimed to extend the WHOIS policy to the .eu in other scripts. EURid's stakeholders were consulted as appropriate before any amendment. Amendments were subsequently published on the registry's site.

The policy is in compliance with the .eu Regulations, including the relevant data protection rules, principles, guidelines and best practices, in particular concerning the amount and type of data displayed in the WHOIS database as stated in article 16 of Regulation 874/2004, which is in turn in line with obligations implemented at Member State level in light of Directive 95/46/EC.

The WHOIS policy is publicly available at https://eurid.eu/d/22380/whois_policy_en.pdf

In close cooperation with the European Commission and relevant stakeholders, EURid is now updating key documents to bring them into line with the GDPR which will become applicable in May 2018. All relevant information is publicly available in the 24 official EU languages on eurid.eu. In July 2017 EURid uploaded a dedicated page on the registrar extranet (registry.eu) to inform its accredited registrars about the coming updates.

Have any DPAs (or other relevant public body such as law enforcement agencies) expressed an opinion on the .eu WHOIS policy?

There has not been any formal opinion from DPAs or other relevant public bodies on the .eu WHOIS policy.

Nevertheless, the .eu registry provides regular assistance to law enforcement and other relevant authorities. At the national level in Belgium, EURid upheld a regular dialogue with CERT-EU and collaborated actively with authorities such as the Belgian Federal Ministry of Economic Affairs ('FOD Economie'), Belgian Customs ('Cybersquad'), and the Public Prosecutor's Office, in their fight against illegal activities related to .eu domain names. The collaboration mainly focused on the selling of counterfeit products while using .eu domain names. At European level, EURid signed a MoU with EUROPOL in December 2016 to engage in joint efforts related to fighting cybercrime, to exchange statistical data and trends pertaining to cybercrime, and to commit to cooperating on projects designed to combat cybercrime.¹

¹ See <https://www.europol.europa.eu/newsroom/news/europol-enhances-cybercrime-and-internet-security-cooperation-signing-mou-eurid>

How are requests for access to additional details evaluated?

According to the WHOIS policy and implementation for the .eu TLD, there is a distinction in what information is published in the WHOIS database (Art. 2.4 of the .eu WHOIS policy):

- For a legal person or another form of organisation: full disclosure of all WHOIS information, i.e.:
 - a. name, address and telephone and fax number of the registrant;
 - b. technical contact person;
 - c. e-mail address of registrant;
 - d. language for the ADR proceedings, as referred to in paragraph 3(a) of the Dispute Resolution Rules;
 - e. technical data (such as status of the Domain Name or the name servers).
- For a natural person (private individual) the registrant contact information published is restricted to the e-mail address, unless the individual requests otherwise.

The WHOIS policy for natural persons is to disclose the bear minimum personal data *as highly relevant but not excessive*.

A specific disclosure system is available for law enforcement and others with a legitimate interest in obtaining the full WHOIS information. EURid provides the information based on a duly signed "personal data disclosure form" which contains necessary restrictions on usage.

Requests for access to additional WHOIS data for natural persons can be submitted to EURid through a duly signed "[*personal data disclosure form*](#)". Such requests are evaluated by the registry's Legal department on the basis of strict conditions laid in article 2.6 of the .eu WHOIS policy.

Disclosure and usage of personal data based on that form is restricted to the clearly purposes indicated in the form and a proper justification (e.g. initiating ADR or court case, investigation by law enforcement).

Is there a programme for accrediting/approving trusted organizations or individuals for access to full registration details?

No such programme is in place for third parties.

What criteria and procedures do they use for evaluating who gets access to additional registration data?

See previous answer.

How does EURid determine or verify which registrants are individuals vs organizations?

Registrants must declare themselves as individual or company/organisation at the time they register the domain name through one of the .eu accredited registrars.

By completing the predefined field in the registration system “Company”, holders are deemed being a legal entity/company. By leaving it blank, the holder is deemed to be a natural person, which means that his/her personal data is not shown in WHOIS by default (except for email address and language).

What have been the advantages and disadvantages of operating under the current WHOIS policy?

The .eu WHOIS policy and implementation seeks to balance the fundamental right to the protection of personal data, with the legitimate interest of law enforcement and others in accessing information through the WHOIS. This policy has been implemented for more than ten years and it has stood in time so far.

(e-Signed)
Elena Plexida

copy: P. O'Donohue, P. Fatelnig, C. Monti