



18 January 2018

Mohamed El Bashir
Chair, African Regional At-Large Organization (AFRALO)

Dear Mr. El Bashir:

Thank you for your statement, dated 1 November 2017, from AFRALO and AfrICANN's joint meeting at ICANN60, which has been posted to the ICANN Correspondence [page](#). We appreciate your contribution to the ongoing discussions regarding the impact of the European Union's (EU) General Data Protection Regulation (GDPR) on the processing of registration data in the domain name space and its importance to ICANN stakeholders in the Africa region.

The GDPR's impact on WHOIS is of great interest to the ICANN community and organization. We note your interest in the impact for domain name registrants based in Africa, who use providers based in the European Union. To better understand this impact, ICANN org has engaged Hamilton, a European law firm, and provided it with questions from the community. The purpose of these community discussions and legal analysis that we are undertaking is to determine the scope of the impact on registration directory services for gTLDs, as well as impacts to other processing activities concerning registration data. Hamilton's [first memo](#) focused on potentially challenging areas with existing requirements for registries and registrars to provide open, publicly available WHOIS services, and concludes that the current open, publicly available WHOIS services cannot remain unchanged. In its [second legal analysis](#), Hamilton responds to [questions](#) that were raised by the community, including the territorial scope of the GDPR. A [third memorandum](#) elaborates on how the processing of data within the scope of WHOIS could possibly be changed to become compliant with the GDPR. Hamilton addresses the legality of consent with regards to personal data, acknowledges the Article 29 Working Party's [recent communication](#), and discusses the concept of a layered access model.

In parallel with the legal analysis, ICANN org published a [Statement from Contractual Compliance](#) on 2 November 2017, indicating that ICANN Contractual Compliance would defer taking action against any registry or registrar for noncompliance with contractual obligations related to the handling of registration data under certain conditions. [Guidance on submitting proposed models](#) for consideration were published on 8 December 2017.

On 12 January 2018, we [published](#) for community feedback three possible interim models. These models reflect discussions from across the community and with data protection authorities, the legal analysis and the proposed models we have received to date. The input from the community will contribute to assessing the viability of each of the models. From that input either variations or modifications to one of the models will be identified and articulated by the end of January for the path forward. To help inform this, please provide your feedback on the published models by 29 January 2018 to gdpr@icann.org.

While this legal analysis and work is currently focused on the GDPR in the EU, we are interested in staying abreast of changing data privacy and protection legislation in other jurisdictions, and thus welcome AFRALO and AfrICANN's contributions to these discussions. The Board is closely following the community discussion around this topic and appreciate your continued participation in this dialogue. In addition, we noted your suggestion to ICANN's Board that it conduct an awareness campaign about the implication of the GDPR for technical identifiers.

The ICANN org will continue to work with the community and keep it apprised of the GDPR discussions with regular updates to ICANN's [data protection/privacy webpage](#).

Sincerely,



Theresa Swinehart
Senior Vice-President, Multistakeholder Strategy and Strategic Initiatives