# Untangling Natural vs Legal Persons

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The discussions regarding natural vs legal persons are a bit tangled. The motivation for making the distinction is driven by the GDPR emphasis on protecting the privacy of natural persons. This determination governs which of the registrant’s data elements are disclosed to which sets of requesters. The emphasis does not extend to legal persons. The potential penalties for inappropriately disclosing personal data suggests registrars might err on the side of caution by protecting all registrants as if they were natural persons. However, pressure from multiple constituencies and the forthcoming NIS2 push toward disclosing as much data as possible without violating the constraints on disclosing personal data. Hence, there is a strong desire to determine whether a registrant is a natural vs a legal person.

Much of the discussion has focused on the how to determine the status of the registrant. Two pragmatic considerations are the cost of making this determination and the accuracy of the determination. Registrars are reluctant to increase their cost of operation and they dislike making the registration process more complicated for the registrant. At the same time, if the determination is inaccurate, either the registrant or the requesters will be disadvantaged.

Two additional complications are how to handle existing registrations and what to do if it’s not possible to determine the registrant’s status. These are related but not identical. Existing registrations can be viewed as currently undetermined. Hence, if there is a solution to handling undetermined registrants, it may provide a way of handling existing registrations. Ideally, the classification of existing registrations will be determined over time, thereby reducing the number of undetermined registrants. However, there will likely nonetheless be difficulties determining the status of some fraction of new registrations, resulting either in misclassification or leaving the status undetermined.

Within this set of issues there has been specific discussion of the Organization data element. The address of a contact usually has several data elements, including street address, postal code, city, state or province, country or territory, and organization. “Organization” is usually understood to be the name of the business entity if the registrant is a legal person and is usually empty if the registrant is a natural person. “Usually” here does not mean always. Actual usage of the Organization data element varies considerably in practice. Nonetheless, some registrars currently use whether the Organization data element is filled in to infer whether the registrant is a natural vs a legal person. There is ongoing discussion as to whether this is an appropriate way to make the determination.

The following is an attempt to separate the issues and provide a way forward.

## The Order of Events

It’s helpful to view the registration process in three steps as depicted in Figure 1:

1. Preliminary interaction with the potential registrant to gather information.
2. Classification of the registrant as a natural person, a legal person or unknown.
3. Completion of the registration by acquisition of any additional required data.

The purpose in presenting the process in this fashion is to call specific attention to the determination of the registrant’s status and to leave room for the remainder of the registration process to depend on this determination. Plausible approaches include:

1. **Two separate paths:** The registrar requires the potential registrant to state whether the registration is for a natural vs a legal person. The remainder of the registration process is determined by the answer.
2. **Businesses only:** The registrar serves only businesses. The “preliminary interaction” need only be a declaration the registrant is expected to be a legal person and will be treated as such.
3. **Real people only:** The registrar serves only natural persons. Every registrant must be a natural person, with a registrar’s declaration similar to the previous approach.

Figure : General Registration Flow

1. **Common form; inferred status:** The registrar provides a registration form and then infers the status of registrant based on details within the form. The use of the Organization field is a common example of this approach.
2. **Common form with explicit question:** The registrar’s form includes an explicit question as to the registrant’s status.

The above list is not intended to be complete and simply illustrates determination of the registrant’s status may vary from registrar to registrar. Note that in a framework where there is a requirement for a specific declaration by the registrant of their status, as has been proposed by some, methods 2 and 3 can accommodate this by considering the question as “asked and answered” during the process.  Approach 4 may not be compatible, and approach 5 is simply a minor user interface or workflow difference from approach 1.

## Use of the Organization Data Element

As mentioned above, some registrars make use of the Organization field in the registrant’s address. This approach implicitly assumes the registrant is presented with an Organization field and is given the option of filling it in. This fits into the fourth approach, “Common form; inferred status.” We take no position on whether this is satisfactory but merely note that this approach is currently in use and that it fits into the general model outlined above.

The Organization field may also come into play in a different way. A registrar using the first approach might inquire of the prospective registrant whether the registration is of a natural or a legal person. If the answer is “natural person,” the remainder of the registration will likely not include the Organization field. On the other hand, if the answer is “legal person,” the remainder of the registration will likely include and require the Organization field.

## Consequences

What happens if the registrar makes the wrong determination?

* If a natural person is misclassified as a legal person, the registrant’s details will be available to a wider set of requesters than he might prefer. This is a violation of the registrant’s privacy, which is precisely what the GDPR and other privacy regimes intend to prevent. However, if it’s registrant who misstates his status, the registrant fairly incurs the consequences.
* If a legal person is misclassified as natural person, less information about the registrant will be available to requesters than there should be. In this case the requesters are the ones who are harmed. Requesters who think there may be an error in the classification should have a means for requesting a review of the classification. We leave the details of this for a later discussion.

What about unknown status? The registrar has three choices:

Treat the registrant as a natural person, providing the registrant maximum protection.

* Treat the registrant as a legal person. This gives the advantage to requesters.
* Refuse to complete the registration.

Of these three, the first seems to fit best both existing practice and current value judgments.