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# ICANN org Update as of 9 April 2021

## Supplemental Information Regarding Legal and Natural Person Study

### Background and Question

In its 3 March 2021 response<sup>1</sup> to the EPDP Phase 2A Team, ICANN org provided additional information in response to questions asked by the Phase 2A Team during the 26 January 2021 webinar<sup>2</sup> on the Legal and Natural Person Study. In presenting<sup>3</sup> the additional information on 18 March 2021, ICANN org received questions regarding the ccTLDs' policies pertaining to the public interest basis for processing registration data as well as the registry operators' policies on a natural person's option to consent to have their registration data publicly available. ICANN org has conducted some additional research to answer these questions and has updated the Appendix A document with its findings (updated version provided with this briefing). Specifically, the results were added to columns I and K of Appendix A, which includes quotes from the corresponding policy, if any. Below, ICANN org has provided a high-level overview and summary of the findings in Columns I and K of Appendix A.

### Legal Basis for the Processing of Legal and Natural Person Data in European ccTLDs

Similar to the research done<sup>4</sup> in response to the EPDP Phase 2A team's 26 January 2021 inquiries, ICANN org searched and reviewed the websites of individual ccTLD registry operators of EU countries (non-EU countries were not expanded on) to gather information regarding their legal basis for data processing as well as policies regarding a natural person's option to consent to data publication. For this summary, ICANN org reviewed, for example, privacy statements and policies, general terms and conditions, and frequently asked questions (FAQs).

### Examples for Legal Basis for Data Processing

Many EU countries have stated their legal framework for data processing. As expected, the language was provided to comply with the General Data Protection Regulation (GDPR). For example, according to the dot-EU registry operator, personal data may be processed for a number of necessary reasons, including:

- "To comply with legal obligations as a registry or as a data controller",
- "For the execution of your contract with us", and;

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<sup>1</sup> See: <https://community.icann.org/download/attachments/159482147/ICANN%20Org%20Response%20-%20EPDP%20Phase%20A%20-%20LNP%20-%203%20March%202021.pdf?version=1&modificationDate=1615471417000&api=v2>.

<sup>2</sup> See: <https://community.icann.org/pages/viewpage.action?pageId=155191075>.

<sup>3</sup> See: <https://community.icann.org/pages/viewpage.action?pageId=158140502>.

<sup>4</sup> See: <https://community.icann.org/pages/viewpage.action?pageId=159482147>.

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- “For the protection of our legitimate interests such as: economic, commercial and financial interests, business continuity, the security and confidentiality of customer information and products, and the security of digital and physical infrastructure.”<sup>5</sup>

Several registry operators directly mentioned GDPR as part of their legal framework. For instance, Germany’s dot-DE states in their policy that “the legal basis for processing the data is Article 6(1) (b) of the GDPR in conjunction with our Domain Guidelines and/or our Domain Terms and Conditions.”<sup>6</sup> Luxembourg’s dot-LU similarly states that they “process your data if it is necessary to comply with legal obligations and/or within the framework of legal proceedings... pursuant to point (c) of the Article 6(1) of the General Data Protection Regulation.”<sup>7</sup>

## Policies Regarding Consent to Publish Natural Persons’ Data

Some registry operators allow for natural persons to consent to have their data published on WHOIS searches. Lithuania’s dot-LT, for instance, states that

Personal data of the data subjects are not published in WHOIS, except for the cases when data subject expressed his / her will to publish his / her personal data. Such expression of will, amongst other things, is accreditation as individual registrar, settings in the domain holder’s DAS account regarding accessibility of his / her personal data for WHOIS review, specification of the person’s name in the name of .lt second level domain or in the name of the legal entity, which are public by nature.<sup>8</sup>

There are other registry operators, such as Latvia’s dot-LV, that do not publish data, nor appear to allow for natural persons to consent to publishing data. Specifically, dot-LV states that “if the domain name holder is a natural person, their name, surname, personal identity number and postal address is not publicly shown. In the future, to ensure GDPR compliance, the holders’ telephone number and e-mail will not be published also.”<sup>9</sup> Additionally, there are several registry operators, such as dot-EU, dot-DE, and dot-GR, that do not appear to provide information regarding a consent policy for natural persons.

## Conclusion

Policies regarding the legal basis for data processing vary slightly in language but are consistent across registry operators as they seek to comply with the provisions set forth by the GDPR. Conversely, policies regarding a natural person’s ability to consent to data publication vary from registry to registry. Beyond GDPR, some registry operators do not allow for the publication of data, whereas others allow for natural persons to consent to data publication; some registry operators do not appear to mention an opt-in policy at all.

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<sup>5</sup> See: [https://eurid.eu/d/7552959/Privacy\\_Policy\\_en.pdf](https://eurid.eu/d/7552959/Privacy_Policy_en.pdf).

<sup>6</sup> See: <https://www.denic.de/en/about-denic/data-privacy-statement/>.

<sup>7</sup> See: [https://www.dns.lu/media/content/pdf/EN\\_Privacy\\_notice.pdf](https://www.dns.lu/media/content/pdf/EN_Privacy_notice.pdf).

<sup>8</sup> See: <https://www.domreg.lt/informacija/dokumentai/privacy-policy.pdf>.

<sup>9</sup> See: <https://www.nic.lv/en/amendments-to-lv-policy-and-rra>.