

Anna-Michelle Asimakopoulou,  
Member of the European Parliament

Brussels, 25 January 2021

By e-mail only

Ref: OUT2021-0002

Dear Ms Asimakopoulou,

Thank you for your letter of 19 October 2020 regarding the developments in relation to ICANN/WHOIS. The EDPB is aware of the importance of this matter and has considered the issues related to the development of a GDPR-compliant WHOIS model on previous occasions, including in its letter of 5 July 2018<sup>1</sup>.

In this context, the EDPB recalls that the GDPR provides for the so-called ‘One-Stop-Shop’ mechanism, which stipulates that for any cross-border processing of personal data the data protection authority of the main or of the single establishment of the data controller in the EEA acts as the competent authority, which supervises the processing activities of that controller.

Therefore, the EDPB underlines that the Belgian data protection authority is the competent authority to supervise ICANN’s processing activities in relation to their compliance with the GDPR<sup>2</sup>.

The EDPB is confident that the Belgian data protection authority is fulfilling its tasks and exercising its powers in accordance with the GDPR. The EDPB recalls that the cooperation and consistency mechanism as provided in the GDPR enables the national supervisory authorities to work together in order to contribute to the consistent application of the GDPR.

The role of the EDPB is to ensure the consistent application of the GDPR, whereas the competence to monitor processing activities of data controllers and to advise them regarding their obligations under the GDPR lies with national supervisory authorities. In accordance with Article 64 (2) GDPR, the EDPB may be requested to examine any matter of general application or producing effects in more than one Member State, however only supervisory authorities, the Chair of the Board or the European Commission can submit such a request to the EDPB on the basis of Article 64 (2) GDPR.

Please note that the general guidance by the EDPB on allocation of the processing roles in accordance with the GDPR has been provided in the EDPB Guidelines 07/2020 on the concepts of controller and

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<sup>1</sup> EDPB letter to the President and CEO of the Board of Directors of ICANN of 5 July 2018, available at [https://edpb.europa.eu/sites/edpb/files/files/file1/icann\\_letter\\_en.pdf](https://edpb.europa.eu/sites/edpb/files/files/file1/icann_letter_en.pdf); See also the EDPB endorsed the statement of the WP29 on ICANN/WHOIS: [https://edpb.europa.eu/news/news/2018/european-data-protection-board-endorsed-statement-wp29-icannwhois\\_en](https://edpb.europa.eu/news/news/2018/european-data-protection-board-endorsed-statement-wp29-icannwhois_en)

<sup>2</sup> In this respect we refer to the letter of the Belgian supervisory authority to the President and CEO of the Board of Directors of ICANN of 9 August 2018, available at: <https://www.icann.org/en/system/files/correspondence/debeuckelaere-to-marby-26sep18-en.pdf>

processor in the GDPR<sup>3</sup>. Various stakeholders, including ICANN, submitted their views and questions during the public consultation that ended on 19 October 2020<sup>4</sup>. The EDPB will now continue its work in finalising these guidelines taking into account the feedback received during the public consultation.

Yours sincerely,



Andrea Jelinek

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<sup>3</sup> EDPB Guidelines 07/2020 on the concepts of controller and processor in the GDPR, available at: [https://edpb.europa.eu/our-work-tools/general-guidance/gdpr-guidelines-recommendations-best-practices\\_en](https://edpb.europa.eu/our-work-tools/general-guidance/gdpr-guidelines-recommendations-best-practices_en)

<sup>4</sup> The public comments of ICANN are available at: [https://edpb.europa.eu/sites/edpb/files/webform/public\\_consultation\\_reply/controllerprocessorcomments.pdf](https://edpb.europa.eu/sites/edpb/files/webform/public_consultation_reply/controllerprocessorcomments.pdf)