



Via email to:

The ICANN CEO
Internet Corporation for Assigned Names and Numbers
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ceo@icann.org

CC:

Chair of the ICANN Board of Directors
maarten.botterman@board.icann.org

Brussels, 7 June 2022

Subject: ICANN outreach regarding ccTLD regulation

Dear Göran,

We have been informed that ICANN reached out to governments of CENTR Members' European ccTLDs with a request to intervene in the negotiations on the Proposal for a Directive on measures for a high common level of cybersecurity across the Union (the 'NIS 2 Directive').

In the course of that exchange, ICANN proposed an amendment to the European legislation, explicitly asking that governments should impose data accuracy rules as developed by the international multistakeholder community on the ccTLD.

This development is of significant concern to the ccTLD community.

ccTLDs are governed by local rules and abide by policy set by their local internet community.

This principle of subsidiarity is also recognised by the international multistakeholder community, and enshrined in the 2005 GAC principles.¹ *"1.2. The main principle is the principle of subsidiarity. ccTLD policy should be set locally, unless it can be shown that the issue has global impact and needs to be resolved in an international framework. Most of the ccTLD policy issues are local in nature and should therefore be addressed by the local Internet Community, according to national law".*

ccTLD data accuracy and retention obligations are clearly a matter of national jurisdiction and local policy.

To suggest that rules and procedures developed within ICANN should be imposed on ccTLDs defies a long established understanding of the remit and role of ICANN, and challenges the equilibrium where ccTLDs as part of the ICANN community feel assured that ICANN Org would not act against their interests.

¹ 2005 GAC Principles: <https://gac.icann.org/contentMigrated/gac-principles-and-guidelines-for-the-delegation-and-administration-of-country-code-top-level-domains-role-of-government-or-public-authority>

We would therefore kindly ask you to clarify the extent of this outreach effort by ICANN.

- How many European governments were approached in the context of this outreach?
- On what grounds did ICANN suggest that governments should consider imposing regulation on ccTLDs?
- How was this particular suggested amendment developed and what consultation process was followed?
- On what basis does ICANN believe this specific message and related proactive outreach to governments is within its mandate?
- Why did ICANN decide to advise governments on how to govern their national ccTLDs without consulting the ccTLD community?

In addition to these clarifications, we would appreciate a follow-up meeting with you to discuss how we can synchronise our outreach to national governments and other public awareness efforts in the future.

Not only will it avoid such an incident from happening again, but more importantly, by combining our efforts, we will both be able to better serve our respective and overlapping communities in the upcoming implementation phase of the NIS2 Directive at national level.

In addition CENTR would be happy to explore opportunities for renewed collaboration at regional level.

Sincerely,



Barbara Povše

Chair of the CENTR Board