

To whomever this may concern.

While attending CPDP 2018 last week Prof. Kulesza encouraged me to send in some feedback.

Since I had very little time to react I would foremost advise that any relation between the different parties involved in any way with the processing (in particular the collection) of personal data regarding WHOIS would need to be very specific. There is a pending case before the ECJ (C-210/16 „Wirtschaftsakademie“ and another younger case C-40/17 „Fashion ID“) which has not been decided yet, the opinion of the Advocate General however would (in my understanding) very much extend the definition of joint controllership where it relates to data protection law. I think it is very likely that the ECJ will follow the opinion of the AG. So to avoid a very broad regime of joint controllers responsible for data subject rights, duties arising from the GDPR and possible fines the relation between all parties involved in the processing (be it registrar, registry, escrow agent or others) should have very specific roles and relationships, possibly allowing for separate controllership or being a processor.

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=195902&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=394613>

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