



geoTLD.group

**General Data Protection Regulation
[GDPR]**

**geoTLD.group Survey
April - May 2017**

Report 23 June 2017

Table of Contents

Introduction.....	3
The General Data Protection Regulation [GDPR].....	3
The geoTLD.group	3
The GDPR Survey	4
Summary Report.....	5
1. Survey Respondents	5
2. Awareness of GDPR.....	6
3. GDPR impact assessment	8
4. GDPR related measures implemented (or planned).....	9
5. Reasons for not implementing (or planning) GDPR related measures	9
6. Validation of GDPR with the local Data Protection Agency (DPA)	10
7. GDPR related measures (implemented or planned).....	11
<u>Questionnaire & detailed answers</u>	13



Introduction

The General Data Protection Regulation [GDPR]

The General Data Protection Regulation (GDPR) is a European Union (EU) law regulating the way personal data of EU citizens and residents can be gathered, used, stored and transferred.

GDPR is a EU Regulation, which is a binding legislative act that must be applied in its entirety across all EU Member states. (Compared to a Directive, which sets a goal but leaves it to the individual Member states to devise their own legislation on how to reach the goal).

The Regulation is relevant for all organisations based in the EU that collect or process data from EU residents, but also applies to organisations based outside the EU if they collect, store or process personal data of EU residents. GDPR entered into force on 25 May 2016 and will be enforceable starting 25 May 2018.

**General Data Protection Regulation:
Regulation (EU) 2016/679 of the European Parliament and of the Council
of 27 April 2016 on the protection of natural persons with regard to the
processing of personal data and on the free movement of such data, and
repealing Directive 95/46/EC**

<http://eur-lex.europa.eu/eli/reg/2016/679/oj>

The geoTLD.group

The geoTLD.group is an international non-for-profit membership association that represents the interests of geographic top-level or 'geoTLD' domains. geoTLDs identify a city, region, language or culture. The members of the geoTLD.group are governments, companies and associations. The geoTLD.group is an association member of the Registry Stakeholder Group.

More on <http://www.geotld.group> .

Contact office@geotld.group



The GDPR Survey

The geoTLD.group launched a survey to gather information on the awareness and state of preparations within the domain name industry for the General Data Protection Regulation (GDPR).

The online survey was launched on 5 April 2017. It was amongst other announced on the mailing list of different Supporting Organisations (SOs) and Stakeholder Groups in the ICANN community and on the geoTLD.group website.

This report reflects the feedback we received on the survey between its launch on 5 April and the end of May 2017.

Purpose & Disclaimer

The geoTLD.Group survey aims at getting an indication of GDPR awareness within the domain name industry and the state of preparations of industry players for the 25 May 2018 deadline for GDPR enforcement.

The survey collects information on issues Registries, Registrars and other players identified and on the measures they intend to implement on legal, policy, technical or other levels.

This survey report is not a legal analysis of GDPR nor a guide for individual companies on measures or required changes to policy or processes for the collection, processing and storage of data on EU residents and domain holders in line with the new EU legislation. It is either our intent to assess the merits of the different solutions.

We hope that this survey report contributes by raising awareness on GPDR, by showing how different players assess the impact of GDPR on their business, by listing what issues they identify and what measures they plan to take. We also hope that the information in this report is relevant and practical input for the community policy discussions at ICANN 59 in Johannesburg and beyond.



Summary Report

1. Survey Respondents

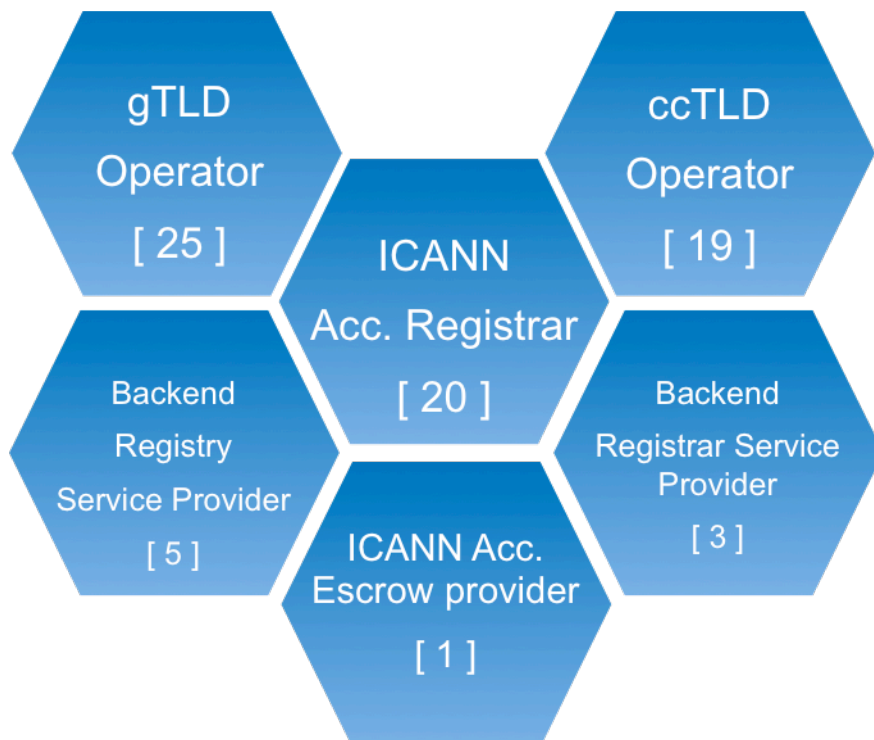
This report reflects the information from 56 different organisations that answered the survey between 5 April and the end of May 2017.¹ Of the surveyed entities, 30 operate from a EU-28² member state, 24 operate from a country outside of the EU. Two respondents did not fill in a country³.

The entities that replied to the survey perform different activities. gTLD operator (25), ICANN Accredited registrar (20) and ccTLD operator (19) are the most popular in the replies. One entity can answer multiple activities (see p.13 for more details).

Geographic breakdown of survey respondents



Respondents by activity



¹ We received 63 submissions. Three (3) were too incomplete and couldn't be used in a meaningful way. There were also four (4) doubles (two replies received from the entity). These were merged.

² 28 is the current number of EU Member States, including the UK.

³ One answered 'Europe' without further specification; another did not answer the question.



The questionnaire asked respondents to make a rough estimation of the revenue their company generates from EU-28 clients. As can be expected, a large majority (83%) of the EU-28 respondents generate more than half of their revenue from EU-28 clients.

Respondents by revenue generated from EU-28

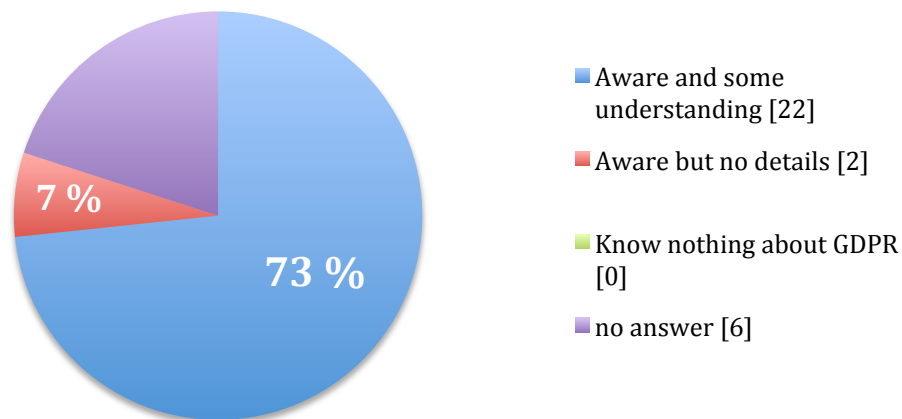
EU-28 per % revenue from EU	
None	0
Under 25%	3 10%
Between 25% and 50%	2 7%
Above 50%	25 83%

Non-EU-28 per % revenue from EU	
None	1 4%
Under 25%	17 65%
Between 25% and 50%	7 27%
Above 50%	1 4%

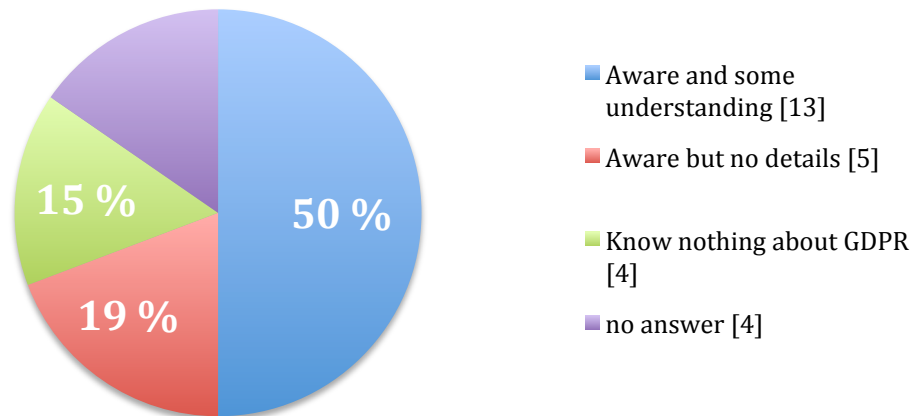
2. Awareness of GDPR

73 % of the EU-based and 50% of the non-EU-based respondents indicated that they *'heard about GDPR and have at least an understanding of what it entails.'* No respondent from a EU-28 country said not to be aware of GDPR.

Awareness of GDPR among EU-28 respondents



Awareness of GDPR among Non-EU-based respondents



Four respondents indicated that they *'know nothing about GDPR'*. All four are based outside the EU-28. One of them said to get more than 50% of its revenue from EU clients. Seven respondents answered that they *'heard of GDPR, but don't know further details'*. Two of them are based within the EU-28.

Respondents not aware of GDPR

4 answered 'No knowledge about GDPR'
4 Non-EU based:
 3 with revenue from EU <25%
 0 with revenue from EU between 25% and 50%
 1 with revenue from EU >50%

Aware of GDPR but no further details

7 answered 'Heard of GDPR, but don't know further details'
2 EU-28-based
 1 with revenue from EU <25%
 1 with revenue from EU >50%
5 Non-EU-based
 3 with revenue from EU <25%
 2 with revenue from EU between 25% and 50%



The respondents from outside the EU-28 were asked if they had to abide to local Data protection regulations. The following examples of existing Data protection regulation from non-EU countries were mentioned:

- Act on the Protection of Personal Data (Japan)
- Californian Data Protection Regulations (USA)
- Personal Data Protection Law (Ukraine)
- Local regulation is similar to old Directive 98/84/EC (Russian Federation)
- Local Data Protection Law (Serbia)

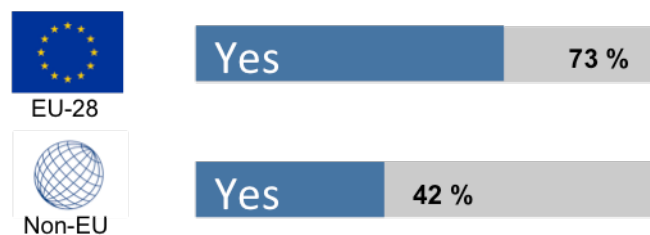
We also know that GDPR-like regulation exists in Canada, New Zealand and Australia.

One non-EU-based entity pointed out that since its servers are in Ireland, they are bound by EU legislation.

3. GDPR impact assessment

73% (22 out of 30) EU-28 based entities assessed or is in the process of assessing the potential impact of GDPR. 42% (11 out of 26) of the Non-EU-based respondents indicated that they assessed or are assessing GDPR's potential impact. Organisations are looking at the potential impact of GDPR on a legal, policy and technical level.

Started assessing the GDPR's potential impact



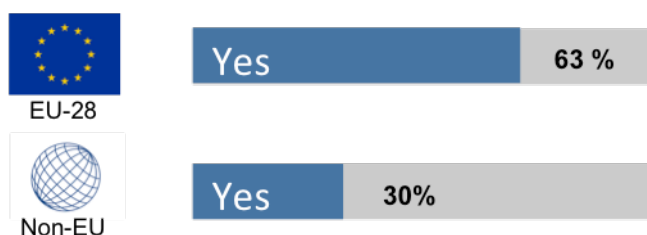
Started assessing	Legal	Policy	Technical	Other
EU-based				
Yes	22	15	15	
No/No answer	8	15	15	
Non-EU-based				
Yes	8	9	4	1
No/No answer	18	17	22	



4. GDPR related measures implemented (or planned)

63% (19 out of 30) of the EU-28 based entities have implemented or plan to implement, concrete measures to prepare for GDPR. Note that some are still in the assessment phase. 30% (8 out of 26) of non-EU-based respondents said that they are planning or have implemented concrete measures. Organisations are taking steps on a legal, policy, and technical level to prepare for the GDPR

Have you implemented (or plan to) any GDPR-related measures?



	Implementing	Legal	Policy	Technical	Other
EU-based					
Yes	16	15	17	(2)*	
No/No answer	14	15	13		
Non-EU-based					
Yes	4	7	3		
No/No answer	22	19	23		

* 'we are currently reviewing', 'unsure as to whether we will make technical changes as yet'

5. Reasons for not implementing (or planning) GDPR related measures

The respondents that at the time of the survey were not implementing or not planning any GDPR related measures were asked to provide reasons as to the lack of planned actions or the conclusion that none were needed.

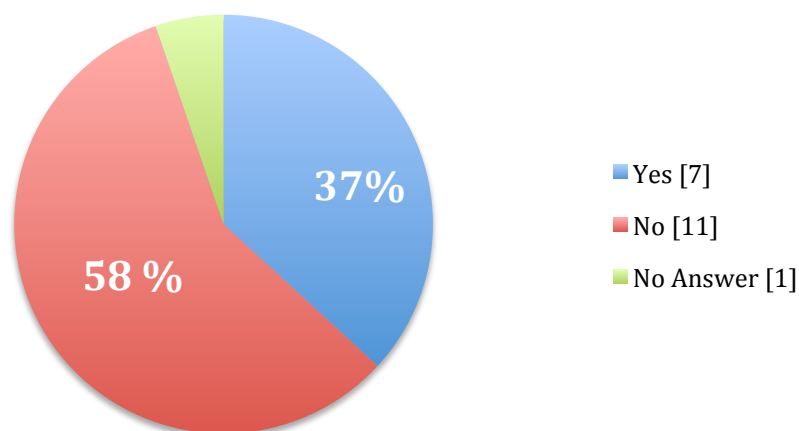
Reasons for not implementing	Not aware of GDPR	Doesn't concern me	Time until May 2018	Waiting for ICANN	Waiting for local DPA	Other
EU-based	0	0	4	1	3	1
Non-EU-based	3	2	3	4	2	1



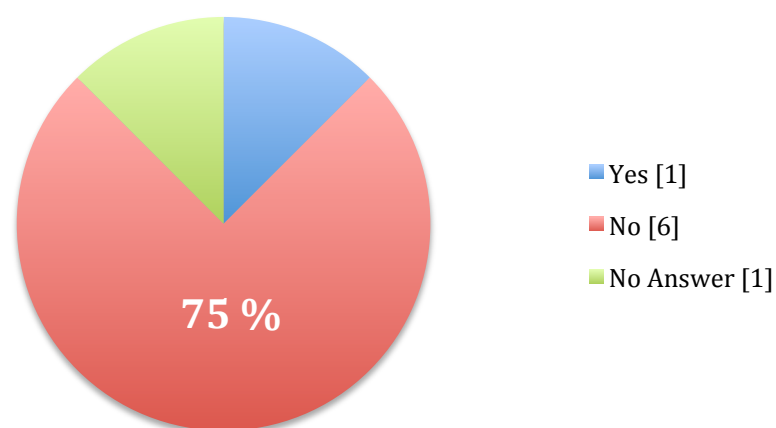
6. Validation of GDPR with the local Data Protection Agency (DPA)

The respondents that took or plan to take concrete actions were asked if they had been able to validate their measures with their local DPA or a 3rd party legal expert. A minority of them, 7 of the 19 (37%) EU-28 based and 1 of the 8 Non-EU-based, indicated that they had been able to validate their plans or actions with their DPA.

Validation of measures with local DPA or 3rd party expert
EU-28



Validation of measures with local DPA or 3rd party expert
Non-EU-based



7. GDPR related measures (implemented or planned)

The respondents were given a number of potential GDPR related measures and asked to indicate for each of them whether they were considering implementing the measure (or have done so). The answers are split per EU-28 based and non-EU-based respondents in the table below. The most frequently cited measures are 'Differentiate between legal entities and individuals' and 'Offer individuals opt-in/out on displaying personal data'.

Implemented or planned GDPR related measures

Differentiate between legal entities and individuals?		
EU-based	YES	15
Non-EU-based	YES	8
Differentiate between EU and non-EU individuals?		
EU-based	YES	5
Non-EU-based	YES	3
Offer individuals opt-in/out on <u>storing</u> personal data?		
EU-based	YES	4
Non-EU-based	YES	1
Offer individuals opt-in/out on <u>displaying</u> personal data?		
EU-based	YES	13
Non-EU-based	YES	5
Offer Tiered access to individual data?		
EU-based	YES	5
Non-EU-based	YES	1
Allow direct communication between individuals and you?		
EU-based	YES	8
Non-EU-based	YES	3

Other/comments:

- at this moment we just plan to start assessing the GDPR's impact.
- Planned, not yet clear.
- Don't know yet.
- N/A for a gTLD registry
- Planning is not yet concrete enough to answer this with certainty.

A slightly different question asked respondents to identify what existing policy and processes need to be changed to abide to the GDPR requirements. Changes to the WHOIS service is most cited by both the EU-28 based and non-EU-based entities, closely followed by changed that are needed to the data retention.



Changes to policies and processes to abide to GDPR requirement

	EU-28-based YES	Non-EU-based YES
The nature of stored data	7	4
Data retention	11	6
Data exchanges (sending/receiving)	10	3
WHOIS services	14	8
Data escrow	9	2
Security	7	3

Other / comments:

- at this moment, we just plan to start assessing the GDPR's impact.
- Planned, not clear yet.
- See above.
- See above about deleting data automatically.
- Requiring EU clients to abide by our policies.



Questionnaire & detailed answers

Question 1 – Your Name (optional)

[not disclosed]

Question 2 – Email (optional)

[not disclosed]

Question 3 – Name of the Entity Represented (optional)

[not disclosed]

Question 4 – What type of entity do you represent?

19 – ccTLD Operator

25 – gTLD Operator

20 – ICANN 2013 Accredited Registrar

1 – ICANN Accredited Escrow provider⁴

5 – Technical Backend (Registry Service Provider, RSP)

4 – Technical Backend (Registrar Integrator/Service Provider)

Respondents by organisation :

	total	EU-28	Non-EU
ccTLD only	11	5	6
gTLD only	18	9	9
Registrar only	15	9	6
ccTLD + gTLD	1	1	0
ccTLD + Registrar	1	1	0
gTLD + Registrar	2	0	2
ccTLD + ICANN Accredited Escrow provider	1	1	0
Backend Registrar Services	1	0	1
ccTLD + Backend Registry Services	1	0	1
ccTLD + gTLD + Backend Registry Services	2	2	0
ccTLD + gTLD + Registrar + Backend Registry	1	0	1
ccTLD + gTLD + Backend Registrar Services	1	1	0
Registrar + Backend Registry + Backend Registrar	1	1	0
	56	30	26

⁴ Survey response updated based on additional input from the entity.



Question 5 – Where does the entity you represent operate from? From which country or territory?

Austria (2)	Europe (not specified)	Namibia
Belgium (3)	Iceland	South Africa
Denmark	Russian Federation	
France (5)	Serbia	Middle East
Germany (7)	Ukraine	China (2)
Ireland		Japan (2)
Italy (2)	USA (9)	
Luxemburg	Canada	(not answered)
Slovenia	North America (not specified)	
Spain (Catalonia)	Latin America (not specified)	
Sweden	Chile	
The Netherlands (2)		
United Kingdom (3)		

Question 6 – What Proportion of your business comes from the European Union?

	EU-28	Non-EU-based
None	-	1
Under 25%	3	17
Between 25% and 50%	2	7
Above 50%	25	1

Question 7 – Are you aware of the General Data Protection Regulation [GDPR]?

	EU-28	Non-EU
Yes, I have heard of it but I don't have any details	2	5
Yes, I have heard of it and I have at least an understanding	22	13
No, I know nothing about it.	-	4
No answer	6	4

If yes, please specify how you were made aware.

- Counsel, and ICANN Copenhagen meeting.
- Someone mentioned it a few months ago and I started to investigate it
- ICANN 58
- I am a Legal Counsel for the company and need to know about new legislation and how it will affect us.
- By lawyers.
- European legislations apply to us.
- ICANN 58 Copenhagen.
- By Afnic (.fr), I am a member of the board and Afnic is my back-end.
- Our company has a DPO (Data Protection Officer) ensuring compliance with data protection regulations.
- Through the Registries Stakeholder Group.
- Through the legal department.
- ICANN meetings
- That's part of my job.
- DPO training course, CENTR, ...
- General discussions, media and newsletters.



- Don't remember.
- IAPP.
- Several meetings.
- Our internal lawyers, activities of the geoTLD.group (.fr), etc.).
- Registrars' constituency discussions.
- Fully aware since 2015.
- Information via several contacts (IT-specialists, lawyers).
- We have a certified DPO in house.

Question 8 – Are you locally bound by General Data Protection Regulation [GDPR]?

	EU-28	Non-EU-based
Yes	24	7
No	-	15
No answer	6	4

Question 9 – If you are NOT bound by GDPR, are you locally bound by other Data Protection regulations?

	EU-28	Non-EU-based
Yes	-	10
No	-	5

If yes, please specify.

- Local regulation is similar to old Directive 98/94/EC about personal data (Russian Federation ratified it)
- Serbian Data Protection Law
- Act on the Protection of Personal Data (Japan)
- Californian Data Protection Regulations (USA)
- Personal Data Protection Law (Ukraine)

Question 10 – Have you or your providers started assessing the GDPR's potential impact on your business?

	EU-28	Non-EU-based
Yes	22	11
No	2	11
No answer	6	4



Question 11 – If you answered YES in Q10; you or your providers started assessing the GDPR’s potential impact on a Legal level, Policy Level, Technical level, or other level (please specify)?

Started assessing	Legal	Policy	Technical	Other
EU-based				
Yes	22	15	15	
No/No answer	8	15	15	
Not EU Based				
Yes	8	9	4	1
No/No answer	18	17	22	

Other, comments?

- ISNIC automatically deletes personal data that is not being used to maintain domains.

Question 12 – Have you or your providers implemented (or plan to) any GDPR-related measures?

	EU-28	Non-EU-based
Yes	19	8
No	5	13
No answer	6	5

Question 13 – If you answered YES in Q12; you or your providers implemented (or plan to) GDPR related measures on a Legal level, Policy Level, Technical level, or other level (please specify)?

Implementing	Legal	Policy	Technical	Other
EU-based				
Yes	16	15	17	1
No/No answer	14	15	13	
Non-EU-based				
Yes	4	7	3	
No/No answer	22	19	23	

Other, comments?

- We are currently reviewing, unsure as to whether we will make technical changes as yet.



Question 14 – If you answered NO in Q12; you or your providers have not implemented because

You are not aware of GDPR.

You have no plan to change anything / GDPR does not concern you.

You have time until 25 May 2018.

You are waiting for ICANN to tell you what to do.

You are waiting for your local Data Privacy Agency (DPA) to tell you what to do.

Other (please specify).

Reasons for not implementing	Not aware of GDPR	Doesn't concern me	Time until May 2018	Waiting for ICANN	Waiting for local DPA	Other
EU-based	0	0	4	1	3	1
Non-EU-based	3	2	3	4	2	1

Questions 15-17 if you answered YES in Q12:

Question 15 – Have you been able to validate your measures with your local Data Privacy Agency or with a 3rd party legal expert?

	EU-28	Non-EU-based
Yes	7	1
No	11	6
No answer	1	1

If yes, please share non-confidential outcomes.

- We started but have not finished yet.
- Regarding .fr, for anonymity (.fr) with national DPA (CNIL).
- I conducted several reviews of ICANN-related WHOIS projects with EU-lawyers. Talks with data commissioners. Discussions with legal folks.
- Need for amendments regarding WHOIS, privacy policies, appointment of Data Protection Officer and contracts with backend operator and escrow provider.



**Question 16 – In your measures (implemented or planned) do you:
Differentiate between legal entities and individuals?**

EU-based YES 15
Non-EU-based YES 8

Differentiate between EU and non-EU individuals?

EU-based YES 5
Non-EU-based YES 3

Offer individuals opt-in/out on storing personal data?

EU-based YES 4
Non-EU-based YES 1

Offer individuals opt-in/out on displaying personal data?

EU-based YES 13
Non-EU-based YES 5

Offer Tiered Access to individual data?

EU-based YES 5
Non-EU-based YES 1

Allow direct communication between individuals and you?

EU-based YES 8
Non-EU-based YES 3

Other (please specify)?

- at this moment we just plan to start assessing the GDPR's impact.
- Planned, not yet clear.
- Don't know yet.
- N/A for a gTLD registry
- Planning is not yet concrete enough to answer this with certainty.

Question 17 – Your measures include changes to?

	EU-28 YES	Non-EU-based YES
The nature of stored data	7	4
Data retention	11	6
Data exchanges (sending/receiving)	10	3
WHOIS services	14	8
Data escrow	9	2
Security	7	3

Other, comments?

- at this moment, we just plan to start assessing the GDPR's impact.
- Planned, not clear yet.
- See above.
- See above about deleting data automatically.
- Requiring EU clients to abide by our policies.



Question 18 - Would you be willing to participate in a private discussion to further review your GDPR measures?

[not disclosed]

Question 19 – Any other comments?

- The GDPR is extremely broad and difficult to interpret and address relevant to WHOIS. It would be beneficial if ICANN would facilitate its interpretation via communication with the EU regulatory authority who issued this in order to facilitate compliance, otherwise community members are left to spend inordinate amounts of time trying to create solutions and/or pass-through liability rather than having a clear process or mechanism to ensure compliance. In short, we will be reviewing our consent disclosures and those of our suppliers, as well as storage and processing of any EU individual's data. Difficult for a small business to truly ensure they are complying especially given the complexity of and necessity of public WHOIS in particular for a verified gTLD, like ours, where the WHOIS represents to the public the appropriate authority has registered the domain name. (a gTLD operator)
 - I think it is bit early for this survey and bit late for the community to come with ideas (we should have done it one year ago) (a gTLD operator)
 - We find it important that the full scope of the GDPR is considered and that the impact is not limited to WHOIS. (a ccTLD & gTLD operator)
 - The colors in this questionnaire while looking cool, perhaps, are difficult to read. (a ccTLD operator)
-

