

Declaration of the Committee of Ministers on ICANN, human rights and the rule of law

*(Adopted by the Committee of Ministers on 3 June 2015
at the 1229th meeting of the Ministers' Deputies)*

1. The Internet is a global resource which has public service value and should be managed in the public interest. People, communities, public authorities and private entities rely on the Internet for their activities and have a legitimate expectation that the Internet will remain one unfragmented network and that its services will be accessible, provided without discrimination, affordable, secure, reliable and continuous.

2. Member States have a primary legal and political obligation to protect human rights as enshrined in the European Convention on Human Rights (ETS No. 5). This includes the right to freedom of expression and access to information, the freedom of assembly and association, and the right to private and family life, which includes the protection of personal data as safeguarded by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

3. Cybercrime adversely affects the right to private life, the right to freedom of expression and other fundamental rights, as well as democratic principles and the public service value of the Internet. Member States have the obligation to protect society and individuals against crime and to uphold the rule of law on the Internet. In certain criminal investigations, criminal justice authorities need to secure evidence on computer systems and to identify offenders, subject to the conditions and safeguards providing for the adequate protection of human rights pursuant to Article 15 of the Convention on Cybercrime (ETS No. 185).

4. Internet users should be able to exercise their human rights and fundamental freedoms without being subjected to unlawful, unnecessary or disproportionate interference. These rights should prevail over the general terms and conditions of service of private-sector Internet companies and the technical mandates of specialised entities, such as the Internet Corporation for Assigned Names and Numbers (ICANN).

5. ICANN, with its mandate to manage the Internet's global domain name and addressing system in the public interest, plays a key role in the governance of the Internet, in particular with regard to its operational stability, security and resilience. ICANN can also contribute to Internet governance through its policy-development processes and decisions affecting the rights and freedoms of Internet users. In this context, ICANN, as a private, not-for-profit corporation, should respect international human rights law notably the Resolution 17/4 on human rights and transnational corporations and other business enterprises, adopted by the United Nations in June 2011. ICANN's commitment to operating in conformity with relevant principles of international law and applicable international conventions and local law is therefore welcomed.

6. It is recalled that, with regard to the Tunis Agenda for the Information Society, States have rights and responsibilities where Internet-related public policy is concerned and that all stakeholders should work together.

7. Measures to prohibit the use by the public of certain words or characters in domain names and name strings may raise issues under Articles 10 and 11 of the European Convention on Human Rights. Expressions contained in the names of websites, such as domain names and name strings, can be construed as forms of expression that are used to identify and describe content, to disseminate a particular point of view, or to create spaces for communication, interaction, assembly and association for various societal groups or communities. In pursuing its commitment to act in the general public interest, ICANN should ensure that, when defining access to the use of top-level domains (TLDs), an appropriate balance is struck between economic interests and other objectives of common interest, such as pluralism, cultural and linguistic diversity and respect for the special needs of vulnerable groups and communities. Moreover, the contractual policies and services made accessible to the public by ICANN involve the processing and retention of personal data that can necessitate compliance with national law and may raise issues under Article 8 of the European Convention on Human Rights with regard to the right to private and family life.

8. Member States in the Governmental Advisory Committee (GAC) of ICANN are duty-bound to respect and protect human rights and the rule of law. Taking into account the non-binding nature of GAC advice, they play an important role, along with other community stakeholders, in ensuring that ICANN's technical decisions take full account of international law and other public policy

objectives. In contributing to the efforts of ICANN to serve the public interest and to strengthen its transparency and accountability to the multistakeholder community, the Committee of Ministers thereby encourages its member States to:

a. continue to actively participate in the GAC and other ICANN work, bearing in mind the positive and negative obligations they have to protect the rights and freedoms, in particular freedom of expression and freedom of association, of their citizens, including those who are vulnerable or marginalised;

b. engage with ICANN to ensure that it assumes responsibility for respecting internationally recognised human rights laws and standards, in particular by encouraging ICANN's commitment to them by means of an explicit policy statement and by employing due diligence mechanisms and human rights impact assessments to identify, prevent, mitigate and account for any harm ICANN may cause;

c. engage also with ICANN to ensure that a more attentive approach towards human rights and corporate responsibility contributes to the development of more transparent and accountable policy-development processes, with measurable standards and in full respect of the public interest.

9. The Committee of Ministers invites the Secretary General to explore ways to assist the GAC, ICANN and its communities in making arrangements to ensure that human rights and the rule of law, as well as the Resolution on human rights and transnational corporations and other business enterprises, adopted by the United Nations in June 2011, are referred to and considered by ICANN with regard to its policies and procedures.

Related Documents

Meetings

- [1229th meeting of the Ministers' Deputies](#) / 03 June 2015