Public consultation

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Fight against abuse

Facilitating access to registration data for authorities having a right of communication

12 September 2022 – 12 October 2022

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1. Introduction

1.1. The fight against abuse

The .fr domain is seen by its users as a **trusted zone** and has been seen as such from its inception.*

Our approach to **dealing with abuse** has a **threefold objective**:

- to retain **the trust of .fr users** in the national TLD;
- to **quickly and effectively put an end to the abusive practices of certain holders**, while respecting the rights of each individual and maintaining the necessary neutrality of the registry, both indispensable elements of this trust;
- and to **develop our practices**, in particular by means of innovation, so that **strengthening the fight against abuse is consistent with maintaining the simplicity** and competitiveness of the .fr domain, in a context of heightened competition.

Afnic therefore offers all users of the .fr domain **a comprehensive approach to the fight against abuse**, with preventive and supervisory measures and both judicial and extra-judicial procedures.

* Our annual perception survey shows that nearly 90% of VSEs/SMEs and young people trust the .fr domain (2021 .fr perception survey conducted by MV2).

1.2. Public consultations on .fr projects

For some years now, **Afnic has regularly consulted the Internet community as a whole on any far-reaching projects concerning the .fr domain.**

For example, Afnic has held various public consultations, on the introduction of alternative dispute resolution procedures, the opening for registration in the .fr TLD to domain names with one or two characters, the reform of ICANN, and the supervision of the DNS root.

As part of the process of reflection and debate on how best to define online abuse and what tools to use to combat it, **we launched an initial consultation in June on the detection of registration data contrary to the Naming Policy from the moment of creation of the domain name.**

We now invite you to take part in a new public consultation aimed at gathering the contributions of all stakeholders interested in improving the tools for combating abuse.

2. Facilitating access to registration data for authorities having a right of communication

This consultation concerns the plan to give certain authorised public authorities **direct** access to the particulars of domain name holders under the .fr TLD (but also .re, .pm, .wf and .yt) in the registry's database through the Registration Data Access Protocol (RDAP)[1].

"Authorised public authority" means an authority or body having a right of communication based on legislative or regulatory provisions.

The authorities making these requests to Afnic to date are: the gendarmerie, the police, the CNIL (French Data Protection Agency), the DGCCRF (General Directorate for Consumer Affairs, Competition Policy and Fraud Control), the DGFiP (General Directorate of Public Finance), Customs and the DDPP (Departmental Directorates for the Protection of Populations).

This project forms part of our overall approach to combating abuse, and more specifically our aim **of facilitating the access of public authorities to registration data in the context of their investigative powers for the repression of online abuse**.

These plans were submitted to Afnic's consultative committees on 12 May 2022 and this public consultation incorporates the suggestions made on that occasion.[2]

2.1. The context

2.1.1. The .fr database

In its capacity as registry and in accordance with the provisions of the French Postal and Electronic Communications Code (CPCE), Afnic is responsible for collecting from the registrars the information required to identify the natural or legal persons registering

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[1] "Protocol" is defined in the glossary

[2]https://www.afnic.fr/en/associating-excellence/who-we-are/functioning/reports-of-meetings-of-governing-and-consultative-bodies/

domain names, and for establishing a database using these particulars for the allocation and registration of domain names.

In order to be able to discharge its responsibilities and for the duration of these responsibilities, Afnic has a right to use this database (see Article L.45-5 of the CPCE).

In the meaning of the provisions applicable to the protection of personal data, and in particular the GDPR[3], Afnic is the controller as regards the processing of these data for the purposes of administering the .fr naming zone.

The processing of holders' personal data is described in the document made available on Afnic's website "All about the processing of your personal data by Afnic for the attribution and the management of domain names under the .fr, .pm, .re, .tf, .wf and .yt TLDs."

Protected by the provisions of the law of 1 July 1998 on the legal protection of databases, the database aims to provide:

- precise administrative information on the holder of the domain name and the various contacts associated with that holder,

- technical information on the domain name itself.

This information, which is available to users, allows them to check the availability of a domain name, to contact the holder of a domain name or someone associated with the domain name, and to check their own registrations, etc.

One of the main challenges in managing this database is to preserve a balance between **protecting the personal data** of private individual holders of domain names and meeting the legitimate needs of users for **access to information** concerning the contacts referred to for these same domain names.

2.1.2. Access to registration data

As the body responsible for the database, Afnic determines the technical conditions of operation and access to the related services; the conditions of use are set forth in a reference document entitled "Policy on publication and access to information and domain names registration systems."

To perform a search for registration data of a domain name in the registry's database (for example, the particulars relating to the holder, the administrative contact or the technical contact of a domain name), the **WHOIS** service has traditionally been used.

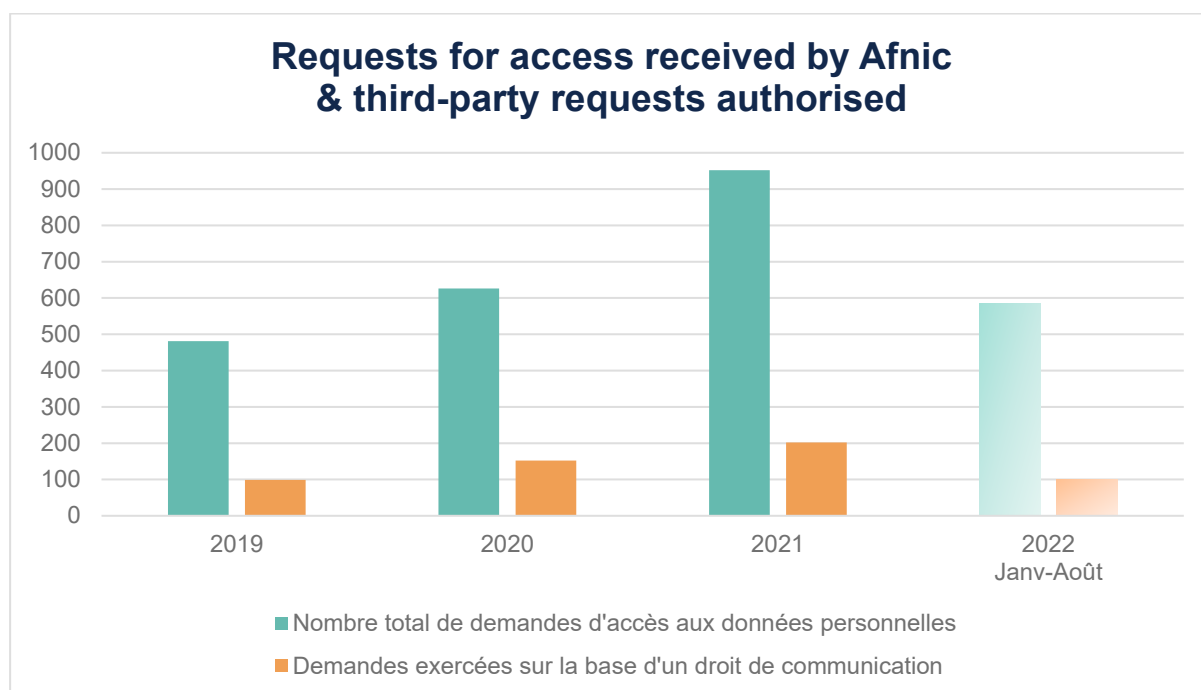---

[3] GDPR, defined in the glossary

Since 2006, access to particulars of private individual **holders has been under restricted publication by default**. This means that the personal data of these holders are not published and consequently are not directly accessible via WHOIS.

However, third parties may have legitimate reasons for requesting the disclosure of the identity of natural persons holding domain names who appear under restricted publication in this database and are therefore not publicly accessible.

In accordance with the provisions of the .fr Naming Policy, Afnic provides this information in the following cases:

- when judicially ordered or required to do so,

- at the request of an authority having a right of communication (DGCCRF, Customs, the Treasury, etc.),

- in response to a request for the lifting of anonymity by means of a form accessible on its website. When completing this form, the applicant must give reasons for the request and undertake not to use the information disclosed for any purpose other than those indicated in the request.

The disclosure of personal data is not automatic, however, since Afnic may decide not to grant a request in view of the applicant's status or the purpose of the request.

Requests for access received by Afnic & third-party requests authorised

Legend:
- Nombre total de demandes d'accès aux données personnelles
- Demandes exercées sur la base d'un droit de communication

2.1.3. The specific case of public authorities

In the aforementioned cases defined by the Naming Policy, Afnic provides the registration data of natural person holders *"at the request of an authority having a right of communication (DGCCRF, Customs, the Treasury, etc.)."*

To obtain access to the particulars of restricted publication holders, the authorities currently send their requests to Afnic on the basis of their **right of communication**. This right of communication is exercised by virtue of legislative and regulatory provisions granting and **circumscribing their right to demand the provision of documents or information**; in practice, these requests imply the **communication of personal data** of private individual holders shown in the registry database for which Afnic is the controller.

Upon receipt of a request, Afnic's legal department verifies the legal basis of the right of communication being relied on, the standing of the applicant seeking to exercise this right and the scope of the particulars being requested.

Once these checks have been carried out, Afnic honours the authorised third party's right of communication by sending it the personal data of the holder of the domain name to which the request refers.

Number of third-party requests for access authorised
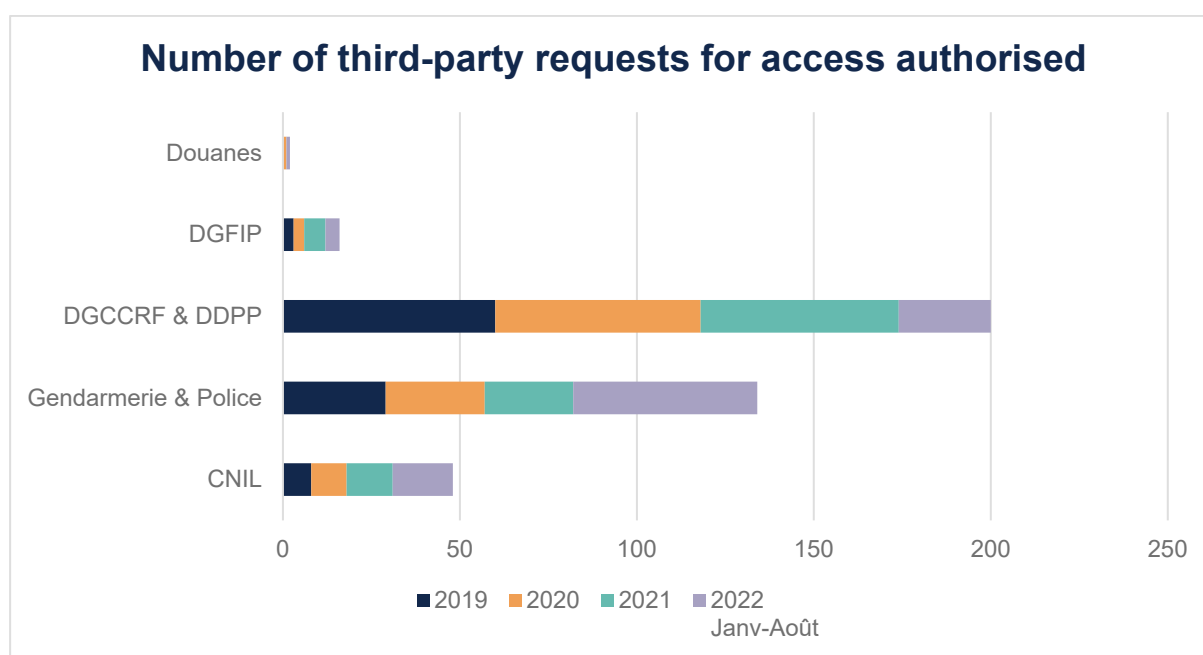
In the agreement with the State dated 1 July 2022 ("9. Fight against abuse"), Afnic has undertaken to provide the administrations having a right of communication with direct and secure access to the particulars of private individual holders of domain names. This access will allow them to consult the registry's database directly and in real time to obtain the data sought, without having to go through Afnic.

2.2. Description of the project

2.2.1. Direct access via RDAP

The Registration Data Access Protocol (RDAP), as its name suggests, is the protocol providing access to the registry's domain name database (domain name holders directory service) implemented for the .fr TLD.

Complementary to WHOIS, RDAP is the result of work on structuring requests and responses and on secure access (e.g. HTTPS). In particular it allows differentiated access to contact details.

It is therefore by means of this protocol that Afnic provides authorised third parties with access by direct, secure visualisation, to the registration data of the registry database that are not publicly accessible.

Access to the data of natural person holders will be provided on the basis of a search for either the domain name or the NIC handle[4].

Only information on the contact holder associated with the domain name or NIC handle requested will be disclosed. It will not be possible for the authorised third party to gain access to a holder's complete portfolio.

2.2.2. Control of direct access: protection of personal registration data

In opening up this direct access, Afnic's main responsibility is to continue to ensure the confidentiality of holders' personal data by making sure to confine access and disclosures strictly to the duly authorised actors.

Direct, secure access by authorised third parties to the registration data of private individual holders will be controlled as follows:

- Only entities having a **right of communication** supported by French law may request this direct access.

- Direct access to the registry database is defined by reference to the legal basis of the right of communication relied on by the authorised third party

- Direct access is conditional upon the **signing of a licensing agreement** between Afnic and the authorised third party. This licensing agreement will enable Afnic to verify the following three cumulative criteria:

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[4] NIC handle, defined in the glossary

- The existence of the legal basis authorising the request for the communication of data;
- The standing of the body and of its representatives to make the request;
- The scope of the information targeted as it relates to the legal basis.

- The licensing agreement will be entered into on an annual basis. For its explicit renewal, Afnic will once again verify with the third parties the three criteria, all of which must be met in order for direct access to the registration data to be granted.

- The licensing agreement will prohibit the authorised third parties from using the registration data thus obtained for any purpose other than those authorised by the legal basis of their right of communication.

- Once the agreement has been signed, each authorised third party will have a **user account** (dual authentication log-on) created by Afnic for directly accessing the data via a system of requests. These will be **individual, named accounts** allocated to the designated users duly empowered by the authorised third party in the licensing agreement.

- This arrangement will allow us to ensure:

  o the traceability of the users' requests

  o the limitation of the number of requests per user

  o the possibility of rapid suspension of access

- Requests made may not refer to anything other than a **domain name** or a **NIC handle**.

- Only **information on the contact holder** attached to the **domain name** or the **NIC handle** will be accessible. It will not be possible to gain access to the list of all the domain names in a holder's portfolio.

  Example of information:

Contact:	Name
Address:	Street name and number
	Post code / Municipality
Country:	ISO Code
Telephone:	Telephone number
Email:	xxx@xxx.fr

- Other requests (such as for the history of a domain name, details of the administrative contact, etc.) will not be dealt with via this direct access system. For these specific cases, authorised third parties will have to continue to make their requests directly to Afnic in the same way as hitherto.

3. Arrangements for the public consultation

3.1. Your contributions

You can forward your contributions and comments on these plans up until **12 October 2022** by connecting to the following address: https://www.afnic.fr/observatoire-ressources/consultations-publiques/consultation-publique-lutte-contre-les-abus-ouvrir-aux-autorites-publiques-un-acces-direct-aux-donnees-denregistrement/

In this form, you will be asked to provide certain elements of identification that will enable us to take better account of your contribution, which will be anonymised in the summary report that we will publish following this public consultation.

Lastly, if you would like to discuss the projects of the .fr domain in the fight against abuse in greater depth and to become a stakeholder in the search for and implementation of the solutions discussed in the consultative committees, we invite you to become an Afnic member: **https://www.afnic.fr/en/become-an-afnic-member/**

3.2. Additional resources

- Naming Policy
- Policy on publication and access to information and domain names registration systems
- Articles 45-1 ff. of the French Postal and Electronic Communications Code
- Guide to procedures for registrars
- All about the processing of your personal data by Afnic for the attribution and the management of domain names under the .fr, .pm, .re, .tf, .wf and .yt TLDs
- CNIL (French Data Protection Agency): Practical Guide to Authorised Third Parties
- CNIL: Compendium of procedures for authorised third parties

3.3. Glossary

Registrar

A registrar is an organisation (ISP, website host, Internet service provider, etc.) which registers and hosts domain names as a fee-paying service for the resource managers (referred to as registries) by which the registrar has been accredited.

CPCE
French Postal and Electronic Communications Code. Article L45 of this Code provides the legislative frame of reference for the DNS in France.

NIC handle
The NIC (Network Information Centre) handle is a unique contact identifier composed of numbers and letters (examples being: XXX00-FRNIC or ANO00-FRNIC) which is allocated by Afnic (NIC of the .fr domain) to each entity (legal person or organisation) present in the registry database: holders and contacts (technical and administrative) of domain names. A natural person's NIC handle contains the first name, surname, postal address, telephone/fax number and email address, the registrar initiating the creation of the contact in the WHOIS database and the portfolio of domain names associated with this contact for this registrar.

RDAP
The Registration Data Access Protocol (RDAP) was designed and standardised by a working group of the IETF (Internet Engineering Task Force). Following a project phase of nearly four years, the first version of the profile of the protocol (1.0) was published on 26 July 2016. As its name suggests, it is a protocol providing access to the registry's domain name database (domain name holders directory service).
Complementary to WHOIS, RDAP is the result of work on structuring requests and responses and on secure access (e.g. HTTPS). In particular it allows differentiated access to contact details.

GDPR
The General Data Protection Regulation or GDPR is Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, applicable from 25 May 2018, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

Authorised third party
"Authorised third party" means an authority or body having the power to request communication of personal data by virtue of the public interest associated with the accomplishment of its mission. This right of communication is granted on the basis of legislative or regulatory provisions.

Holder
The natural or legal person at whose behest the domain name was registered and is maintained. Pursuant to the French Postal and Electronic Communications Code, domain

names are registered and renewed on the basis of declarations made by the applicant and under said applicant's responsibility. The same applies to the use and exploitation of a domain name, which is the sole responsibility of its holder.

WHOIS

WHOIS is a search engine specific to domain name databases. Also known as the WHOIS Directory, it is made available by the registry (the TLD manager) and publishes the contacts associated with domain names, in compliance with the rules on the protection of personal data.