



Greg Shatan &lt;gregshatanipc@gmail.com&gt;

---

**Re: [Ws2-jurisdiction] Jurisdiction questionnaire - comments - Just Net Coalition**

---

**CW Mail** <mail@christopherwilkinson.eu>  
To: ws2-jurisdiction@icann.org

Sun, May 21, 2017 at 2:48 PM

Good evening:

**Response to the questionnaire - Just Net Coalition****Just Net Coalition has responded to questions 4a and 4b, only. My comments are as follows:**

4a: For two decades the Rest of the World had tolerated if not acquiesced in the prevalence of US and California jurisdiction over ICANN. Most other governments and DNS operators have not suffered from this arrangement. There have been some exceptions.

However, during the past six months the situation in the US and internationally has radically changed. The actions of the US administration and US Courts are no longer perceived as normally predictable and benign.

Accordingly, I consider that it would be quite reasonable to give serious consideration to alternative arrangements that would alleviate in due course, present risks and uncertainties.

The fact that Work Stream 1 reached a conclusion to the effect that ICANN's location of incorporation would not be changed, is – I would submit – no longer relevant. The US political context in which the initial Transition was achieved has been radically altered.

**Question 4b:** Just Net Coalition have brought forward three alternatives:

1. **Incorporation under international law.** I see no substantive objection to using the existing model of the Red Cross/Red Crescent organisation, as described, with appropriate safeguards for multi-stakeholder governance.
2. **Legal immunity under US law:** I would not support such an arrangement. I suppose that such immunity could readily be revoked by the US. Also It would have to be compatible with the degree of oversight and control by the Empowered Community under the Transition.
3. **A standing Backup Option:** I assume that this would have to go well beyond existing normal duplication and escrow of ICANN's technical services. In which case creating and maintaining such an option would be expensive in the long term and a permanent drain on the management. I would not support it.

**Interim arrangements:**

Any alternative arrangements for incorporation or jurisdiction would take significant time to agree and implement. Meanwhile, the most sensitive aspects of the present situation could be addressed:

- All court cases involving a TLD, particularly a ccTLD, should be brought in the country of incorporation of the TLD entity concerned,

- all ICANN operations, should be off-limits for any OFAC sanctions.

Furthermore, the necessary movement of ICANN away from US law, will impose on the Board and Organization a much more proactive approach to the operation of Registries and Registrars under its jurisdiction, including competition policy and consumer protection in regulated sectors. That however was explicit in the original model for ICANN. It would be a return to the sources.

Regards

CW

---

Ws2-jurisdiction mailing list

[Ws2-jurisdiction@icann.org](mailto:Ws2-jurisdiction@icann.org)

<https://mm.icann.org/mailman/listinfo/ws2-jurisdiction>