

Examples to help inform the WG's deliberations on what makes any purpose legitimate for processing registration data (WG members are encouraged to add to this list with other examples):

#### **From the GDPR:**

"In particular, the specific purposes for which personal data are processed should be explicit and legitimate and determined at the time of the collection of the personal data. The personal data should be adequate, relevant and limited to what is necessary for the purposes for which they are processed. This requires, in particular, ensuring that the period for which the personal data are stored is limited to a strict minimum. Personal data should be processed only if the purpose of the processing could not reasonably be fulfilled by other means".

"The processing of personal data should also be regarded to be lawful where it is necessary to protect an interest which is essential for the life of the data subject or that of another natural person. Processing of personal data based on the vital interest of another natural person should in principle take place only where the processing cannot be manifestly based on another legal basis. Some types of processing may serve both important grounds of public interest and the vital interests of the data subject as for instance when processing is necessary for **humanitarian purposes**, including for **monitoring epidemics** and their spread or in situations of **humanitarian emergencies**, in particular in situations of **natural and man-made disasters**".

"The processing of personal data for purposes other than those for which the personal data were initially collected should be allowed only where the processing is compatible with the purposes for which the personal data were initially collected. In such a case, no legal basis separate from that which allowed the collection of the personal data is required. If the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, Union or Member State law may determine and specify the tasks and purposes for which the further processing should be regarded as compatible and lawful. Further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes should be considered to be compatible lawful processing operations."

#### Specific examples:

- "For **scientific or historical research purposes or statistical purposes**, the legitimate expectations of society for an increase of knowledge should be taken into consideration. The controller should inform the supervisory authority and the data subject about the transfer".
- "At any rate the existence of a legitimate interest would need careful assessment including whether a data subject can reasonably expect at the time and in the context of the collection of the personal data that processing for that purpose may take place. The interests and fundamental rights of the data subject could in particular override the interest of the data controller where personal data are processed in circumstances where data subjects do not reasonably expect further processing. Given that it is for the legislator to provide by law for the legal basis for public authorities to process personal data, that legal basis should not apply to the processing by public authorities in the performance of their tasks. The processing of personal data strictly necessary for the purposes of **preventing fraud** also constitutes a legitimate interest of the data controller concerned. The processing of personal data for **direct marketing** purposes may be regarded as carried out for a legitimate interest."
- "The processing of personal data to the extent strictly necessary and proportionate for the purposes of ensuring **network and information security**, i.e. the ability of a network or an

information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted personal data, and the security of the related services offered by, or accessible via, those networks and systems, by public authorities, by computer emergency response teams (CERTs), computer security incident response teams (CSIRTs), by providers of electronic communications networks and services and by providers of security technologies and services, constitutes a legitimate interest of the data controller concerned. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping 'denial of service' attacks and damage to computer and electronic communication systems”.

**From Hamilton Memo Part 1:**

- “Looking at the current Whois services, there are several fields of use that could potentially qualify as legitimate interest. For instance, recital 47 GDPR specifically mentions processing necessary for **preventing fraud** as a legitimate interest and the Article 29 Working Party has indicated that the “**combatting of file sharing**” could constitute a legitimate interest. In line herewith, it can be argued that the following purposes of processing could constitute legitimate interest under Article 6.1(f) GDPR:
  - (i) The use of Whois data, for instance by registrars and network operators, for **invoicing, support and other administration actions** in relation to registered domain names.
  - (ii) The use of Whois data to **investigate fraud, consumer deception, intellectual property violations, or other violations of law**.
  - (iii) The use of Whois data to **verify the identity of a provider of goods or services on the internet, including for consumer protection purposes**.
  - (iv) The use of Whois data to **identify the owner of a domain for business purposes**, for instance in relation to a purchase of the domain name or other transactions”.
- “Although it can be argued that each of the usages listed above could qualify as a legitimate interest, it must, in relation to the weighing against fundamental rights and freedoms of the data subjects, be taken into account that the Whois data is currently being made available to the general public, in large quantities and that the data can be used for other purpose than the ones listed above or otherwise intended, with very limited means of control for the controller”.