

Legal issues affecting ccTLDs in Africa: responses, actors and observations at the Regional and National levels.

Africa Top Level Domains Organization

Home of Africa National TLDS



Presentation Outline

- Introduction
- Similarities between AU Convention and GDPR
- Trends in African ccTLDs
- Common Legal Issues
- What have we observed?



Introduction

- In 2014, African Union (AU) members adopted the African Union Convention on Cyber Security and Personal Data Protection (“the Malabo Convention”).
- The main objective of the Malabo Convention is establishment of essential rules for a credible digital environment as well as addressing gaps affecting regulation and legal recognition of electronic communications and electronic signatures; as well as absence of legal rules that protect consumers, intellectual property rights, personal data and information systems and privacy online.



- The Convention is open to all member states of the Africa Union for ratification or accession in conformity with their respective constitutional procedures
- **Senegal , Guinea, Mauritius and Ghana** have ratified the convention
- 9 countries have signed the convention **Benin, Chad, Comoros, Congo, Guinea Bissau, Mauritania, Sierra Leone, Sao Tome and Principe and Zambia.**



- The convention was adopted by the 23rd Assembly of Heads of States and Governments held in Malabo , Equatorial Guinea in June 2014
- Main Parts of the convention are as follows:
 - Part 1 : Organization of Electronic Commerce
 - Part 2 : Protection of personal Data
 - Part 3: Promoting cyber security and combating cyber crime
 - Part 4 Common and Final provisions



EU General Data Protection Regulation

- After four years of preparation and debate, the GDPR was finally approved by the EU Parliament on 14 April 2016.
- It was enforced on 25 May 2018 – Organizations that are not compliant could now face heavy fines



Similarities between AU convention on Cyber Security and Personal Data and GDPR

- Both seek to harmonize data privacy laws across Africa and Europe
- Protect and empower Africa and EU Citizens data privacy
- Reshape the way organizations across the African and EU region approach data privacy.



Key Issues

- Many African countries have signed Economic Partnership Agreements (EPAs) with the European Union. (EPA factsheet on europa.eu)
- Significant number of registrants in African ccTLDs and other TLDs are from the European Union thus compelling African ccTLDs to be GDPR Compliant.
- Most African countries are members of the African Union and are likely to ratify the Malabo convention which will affect how data is handled at national level.



Trends in African ccTLDs

- Majority of ccTLDs have a legal resource at board level
- Few ccTLDs can afford an in house legal expert
- The greater the zone size , the higher the probability of a ccTLD having an Internal Legal Resource.
- ccTLDs with smaller zone sizes prefer subcontracting legal services since there are fewer legal issues to deal with.



Common Legal Issues

- Trademark Infringement
- Dispute resolution
- Handling requests for registrant information from Law enforcement agencies to resolve Cybercrime related challenges.



How is Africa addressing ccTLD related legal challenges?

- Workshop on domain names, trademarks and user rights protection 5th to 6th May 2014 in Cotonou Benin organized by ICANN Africa GSE team attended by 70 participants from 25 countries.
- Workshop on emerging issues in the domain name industry in Africa organized as from 9th to 10th May 2016 at Meikles Hotel Harare, Zimbabwe organized by ICANN GSE team and attended by 100 participants from 20 countries.



What have we observed?

- There is need for Lawyers in the African Region to be actively engaged in the domain name industry to enable them appreciate the challenges related to trademarks and intellectual property.
- There is need for more legal expertise that understands the intricacies of the domain name industry in Africa. Continuous capacity building is required to address this deficit.



Thank you
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