Minutes of the GNSO Council Meeting 29 November 2018
[Agenda](#) **and** [Documents](#)

Coordinated Universal Time: 12:00 UTC: https://tinyurl.com/yaojzutp

04:00 Los Angeles; 07:00 Washington; 12:00 London; 17:00 Islamabad; 21:00 Tokyo; 23:00 Melbourne

List of attendees:
Nominating Committee Appointee (NCA): **– Non-Voting** – Erika Mann (apologies)
Contracted Parties House
Registrars Stakeholder Group: Pam Little, Michele Neylon, Darcy Southwell
Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Rubens Kühl
Nominating Committee Appointee (NCA): Carlos Raul Gutierrez
Non-Contracted Parties House
Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick (apologies, proxy to Marie Pattullo), Philippe Fouquart (apologies, proxy to Tony Harris), Tony Harris, Paul McGrady, Flip Petillion
Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent, Elsa Saade, Tatiana Tropina, Rafik Dammak, Ayden Férdeline), Arsène Tungali
Nominating Committee Appointee (NCA): Syed Ismail Shah
GNSO Council Liaisons/Observers:
Cheryl Langdon-Orr– ALAC Liaison
Julf (Johan) Helsingius– GNSO liaison to the GAC
Adebiyi Oladipo – ccNSO observer

ICANN Staff
David Olive -Senior Vice President, Policy Development Support and Managing Manager
Marika Konings – Vice President, Policy Development Support – GNSO
Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement
Julie Hedlund – Policy Director
Steve Chan – Policy Director
Berry Cobb – Policy Consultant
Emily Barabas – Policy Manager
Ariel Liang – Policy Support Specialist (apologies)
Caitlin Tubergen – Policy Senior Manager
Sara Caplis – Technical Support
Nathalie Peregrine – Manager, Operations Support
Terri Agnew - Operations Support - GNSO Lead Administrator

[MP3 Recording](#)
[Transcript](#)

<u>Item 1. Administrative Matters</u>

1.1 - Roll Call

1.2 - Updates to Statements of Interest

Elsa Saade has updated her SOI to reflect her current position as councilor. **Maxim Alzoba** adjusted his SOI to reflect he is no longer part of the Standing Selection Committee (SSC).

1.3 - Review / Amend Agenda

After **Keith Drazek** reviewed the agenda, no amendments were suggested at that time.

1.4 - Note the status of minutes for the previous Council meetings per the GNSO Operating Procedures:

[Minutes](#) of the GNSO Council meeting on the 27 September 2018 were posted on the 13 October 2018

Minutes [part I](#) and [part II](#) of the GNSO Council meetings on the 24 October 2018 were posted on the 12 November 2018

<u>Item 2. Opening Remarks / Review of Projects & Action List</u>

 Keith Drazek raised the following point from the [Projects List](#) (which would not be discussed under agenda items during the meeting):
- The Whois Procedure Implementation Advisory Group is currently on hold pending the outcome of the Expedited Policy Development Process (EPDP). Given the EPDP has published its Initial Report, staff reminded councilors that a decision needs to be made regarding a call for volunteers.
- There are four Working Groups (WGs) currently active at the moment: the EPDP team (to be discussed as agenda item), the Cross Community Working Group on New gTLD Auction Proceeds whose Public Comment has been extended until the 11 December 2018, the Review of All Rights Protection Mechanisms in all gTLDs (RPM PDP) and the New gTLD Subsequent Procedures Policy Development Process (SubPro PDP).

Paul McGrady provided an update to the Council on the RPM PDP regarding the survey data the group had received and the suggestion considered by the group to revive subteams who had been working on this initially. **Paul McGrady** shared the concern raised by staff about a possible impact on the group's timeline.

Keith Drazek noted the following updates to the [Action Items' list](#) (which would not be discussed under agenda items during the meeting):
- ATRT3 and scheduling of the 2019 GNSO Council meetings are completed Action Items
- The 2019 Strategic Planning Session item is ongoing as Council leadership work on the agenda and James Bladel has been confirmed as session facilitator. Becky Burr and Matthew Shears as GNSO appointed Board members have also expressed interest in participating.
- The Fellowship Selection program action item is ongoing, with **Heather Forrest** as interim GNSO representative until the GNSO Standing Selection Committee selects an appointment.
- The call for volunteers for the drafting team to work on GNSO Empowered Community Roles and Responsibilities will go out shortly. The aim will be to develop guidelines or procedures relating to the Council's role in the Empowered Community.

- **Keith Drazek** noted that the Expedited Policy Development Process (EPDP) item was marked as completed, as the update has now become an internalized procedure. The corresponding agenda item will serve as Council discussion in lieu of the update call which had been mentioned during the October Council meeting.
- The PDP 3.0 Implementation plan will be circulated to the GNSO Council list shortly. Councilors will be invited to provide feedback.
- GNSO Council has received a response from Global Domains Division (GDD) in regards to the impact of General Data Protection Regulation (GDPR) on Review Team (RT) work, more specifically on the Privacy and Proxy Services Accreditation Implementation (PPSAI) RT.
- The GNSO Review action item to disband the Working Group (WG) will be completed only once the implementation final report has been approved by the ICANN Board of Directors.
- The IANA Function Review (IFR) item is in progress, the GNSO Council will receive notification as to when it is expected to determine a selection process for its representative as GNSO co-chair.
- The ccNSO withdrew as Chartering Organization of the Cross Community Working Group on Internet Governance (CCWG IG).The GNSO needs to determine whether it will remain as a Chartering Organization.
- WHOIS conflicts with privacy laws remains open and as the EPDP team has published its Initial Report, Council action is expected.

Action Items:
- *Council Leadership* to consider when to launch call for volunteers for the WHOIS Procedure Implementation Advisory Group (e.g., with publication of EPDP Final Report)
- *Staff* to follow up on Council liaisons, remind Council of the open appointments
- *Council leadership* to propose (to Council) approach to select permanent GNSO member to Fellowship Program Selection Committee and communicate intentions to Heather Forrest, the current interim member to that committee.
- *Council leadership* to propose Council position and next steps for GNSO relationship with the Cross Community Engagement Group on Internet Governance.

Item 3. Consent Agenda
 There were two items on the Consent Agenda:

- [Motion to adopt the GNSO Council response to the GAC Communique.](#)
- [Motion for the confirmation of GNSO representative to the Empowered Community Administration](#)

Councilors discussed the selection procedure (recommended by the Standing Committee on Improvements, approved by the GNSO Council) of the GNSO representative to the Empowered Community (EC) Administration.

Maxim Alzoba requested that the motion to adopt the GNSO Council response to the GAC Communique be removed from the Consent Agenda. As per procedure, the motion was removed and replaced in the main agenda.

The remaining motion, submitted by **Pam Little** and seconded by **Rafik Dammak**, was the confirmation of the GNSO representative to the Empowered Community Administration.

Whereas,

1. The GNSO Council confirmed in October 2018 that the GNSO Chair (currently Keith Drazek) will represent the GNSO as the Decisional Participant on the Empowered Community (EC) Administration on an interim basis.

2. The GNSO Council leadership team subsequently met to agree who from the Council leadership should perform the role of GNSO representative to the Empowered Community Administration and communicated this decision to the Council mailing list on 19 November 2018.

Resolved,

1. The GNSO Council hereby confirms that Keith Drazek, GNSO Chair will represent the GNSO as the Decisional Participant on the Empowered Community Administration until the end of his term at ICANN66.

2. The GNSO representative shall act solely as directed by the GNSO Council in accordance with the ICANN Bylaws and other related GNSO Operating Procedures.

3. The GNSO Council requests the GNSO Secretariat to communicate this decision to the ICANN Secretary which will serve as the required written certification from the GNSO Chair designating the individual who shall represent the Decisional Participant on the EC Administration.

Councilors voted unanimously in favour of the Consent Agenda.

[Vote results](#)

Action items:

- *GNSO Secretariat* to communicate to the ICANN Secretary that Keith Drazek, GNSO Chair, will represent the GNSO as the Decisional Participant on the Empowered Community Administration

Item 4: COUNCIL VOTE –Adoption of the GNSO Council response to the GAC Communique

The motion to adopt the GNSO Council response to the GAC Communique was removed from the Consent agenda and placed in the main agenda.

After discussion amongst councilors regarding the process proper and substantive content of the GNSO Council response and after staff communicated that the draft GNSO Council response had in fact not been sent to the Board ahead of its 28th November 2018 meeting with the GAC, the decision was made to defer the motion to the December 2018 Council meeting.

Action item:
- *Small Drafting Team* to seek to finalize GNSO response to the GAC Communique, to seek to take into RySG concerns. *Council leadership* to subsequently determine best way to approve (e.g., intersessional vote or during December meeting), taking into account the end of January date for the next ICANN Board meeting, during which the Board is expected to consider adoption of its scorecard on the GAC Advice.

Item 5: COUNCIL DISCUSSION – IGO-INGO Access to Curative Rights Protection Mechanisms

Councilors discussed next steps regarding the IGO INGO Curative Rights Protection Mechanisms PDP WG recommendations, in particular recommendation 5, in the light of documents prepared by staff and circulated on the GNSO Council mailing list.

Keith Drazek summarised the suggestions:
1. Board facilitated discussion between the GAC and the GNSO
2. Rejection of all five recommendations, none of them would be sent to the Board and the PDP would be terminated.
3. Accept all five recommendations, all five would be sent to the Board in conflict with GAC advice
4. Accept recommendations 1-4 and reject recommendation 5 (potentially problematic as it relates to the scope and charter of the group).. Four recommendations would be therefore sent to the Board in conflict with GAC advice.
5. Send back all or only recommendation 5 to the WG, consistent with the PDP manuel, however issues with the WG dynamics may mean this triggers further delays.
6. Consult the WG on its deliberations and on the rationale for Recommendation Number 5, including the charter scope interplay with the RPMs.

Keith Drazek reminded councilors that whilst it was the GNSO Council prerogative to send recommendations which were in conflict with GAC advice to the Board, it would only make sense with absolute confidence in the recommendations themselves. He also mentioned that Manal Ismail, GAC Chair, had reached out to the Council by letter during ICANN63 and that a response was expected.

Paul McGrady argued against a discussion with the GAC as the GAC position had been clearly expressed, proposing that the Council re-work the charter and send it back to the PDP WG. **Keith Drazek** agreed that this could be added to suggestion 5. **Carlos Gutierrez** was in support of a discussion with the GAC, and also that option 5 should also consider the minority reports which weren't included in the recommendations. **Keith Drazek** supported reaching out to the GAC and to the PDP WG with questions which might further help the GNSO Council advance in its deliberations. He also reminded councilors he had circulated on the Council mailing list a communication from George Kirikos, member of the PDP WG and that all input would be taken into consideration. **Keith Drazek** urged councilors to familiarise themselves with the relevant materials in order to come up to speed and make the best decision possible.

Action item:

- *Council leadership* to again present options for the IGO-INGO Access to Curative Rights Protection Final Report for councilors to consider and discuss with their respective SG/Cs.

Item 6: COUNCIL UPDATE – Temporary Specification for Registration Data Expedited Policy Development Process - Recurring Update

After congratulating the EPDP team on the publication of its Initial Report, **Keith Drazek** handed the call over to **Kurt Pritz** and **Rafik Dammak,** chair and GNSO Council liaison, to provide the GNSO Council with an update on EPDP activities and on the content of the Initial Report.

The first policy recommendation contains a list of GDPR compliant purposes for processing registration data.
The second policy recommendation contains a set of workbooks with work done on the data elements collected from the purpose for which they were collected, how they were processed and for how long they were retained with legal bases for each data purpose and equally the processing of each element of data.

In addition to the two policy recommendations, the Initial Report contains a list of eleven questions for community input on topics which lack EPDP team consensus.

Kurt Pritz emphasized the fact that the Public Comment was not only seeking to enlist support or non-support, but equally to gather fresh input and rationale. He then mentioned that the EPDP team was working on a letter to be sent to the European Data Protection Board (EDPB) for clarification, that the EPDP team was meeting twice weekly for conference calls and will hold a face-to-face meeting in Toronto in January 2019.

Councilors then briefly discussed the topics of gating question and of access model issues, with the precision by **Keith Drazek** that the EPDP charter laid out that once the gating questions in the charter are answered, it is then possible for the EPDP Working Group to pivot its work and start discussing access model issues.

Darcy Southwell asked for further clarification regarding the letter to the EDPB. **Kurt Pritz** added that the EPDP is also seeking external legal counsel given that EDPB input may not be received in a timely manner. **Keith Drazek** reminded councilors that the charter outlines as a requirement is to send a letter to the Data Protection Board but it is not entirely clear whether the Charter language is intended as mandatory.

Action Item: none

Item 7: COUNCIL DISCUSSION – ICANN Reserve Fund

In the absence of Erika Mann and in the interest of time, this agenda item was postponed till the December 2018 Council meeting.

Action Item: none
- *Council leadership* to initiate discussion on list

Item 8: COUNCIL DISCUSSION − Discussion of the Inter-Registrar Transfer Policy (IRTP) Policy Status Report

Brian Atchison, ICANN's Operations and Policy Research Department, presented the GNSO Council with an update of the IRTP Policy Status Report which was mandated by the IRTP-D Working Group and the Consensus Policy Implementation Framework. The report was structured in terms of the three overarching goals of the IRTP, which are the domain name portability, transfer related abuse prevention and transfer related information provision. The [Public Comment](#) on the Policy Status Report is open until the 24 December 2018.
Further details from Brian's presentation can be found here:
https://gnso.icann.org/sites/default/files/file/field-file-attach/irtp-status-14nov18-en.pdf

Action Item:
- *Council leadership* to send note to Councilors to encourage their respective groups to provide input to the public comment forum, if applicable

Item 9: ANY OTHER BUSINESS

In the interest of time, items 8.1 and 8.2 on the GNSO Strategic Planning session and the Fellowship program were postponed. **Keith Drazek** provided an update on the situation with the complaint that was filed in the Rights Protection Mechanisms PDP Working Group. There is no action at this time expected from the GNSO Council until further notification from ICANN Legal.

Action Items: none

Keith Drazek, GNSO Council Chair, adjourned the GNSO Council meeting at 14:02 UTC Thursday 29 November 2018.