

## Minutes of the GNSO Council Meeting 20 December 2018

### [Agenda](#) and [Documents](#)

Coordinated Universal Time: 21:00 UTC: <https://tinyurl.com/y9lwfwkq>

13:00 Los Angeles; 16:00 Washington; 21:00 London; (Friday) 02:00 Islamabad; 06:00 Tokyo; 08:00 Melbourne

#### **List of attendees:**

Nominating Committee Appointee (NCA): – **Non-Voting** – Erika Mann

#### **Contracted Parties House**

Registrars Stakeholder Group: Pam Little, Michele Neylon, Darcy Southwell

Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Rubens Kühn

Nominating Committee Appointee (NCA): Carlos Raul Gutierrez (for connectivity reasons, proxy to Michele Neylon)

#### **Non-Contracted Parties House**

Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick, Philippe Fouquart, Tony Harris (apology, proxy to Philippe Fouquart), 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

Adebisi 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 (apologies)

Steve Chan – Policy Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Manager

Ariel Liang – Policy Support Specialist

Caitlin Tubergen – Policy Senior Manager

Sara Caplis – Technical Support

Nathalie Peregrine – Manager, Operations Support

Terri Agnew - Operations Support - GNSO Lead Administrator

[MP3 Recording](#)

[Transcript](#)

## **Item 1. Administrative Matters**

1.1 - Roll Call

1.2 - Updates to Statements of Interest

There were no updates to Statements of Interest.

1.3 - Review / Amend Agenda

The agenda was accepted without edit.

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

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

[Minutes](#) of the GNSO Council meeting on the 29 November 2018 were posted on the 13 December 2018

## **Item 2. Opening Remarks / Review of Projects & Action List**

**Keith Drazek** noted the following updates to the [Action Items' list](#) (which would not be discussed under agenda items during the meeting) and directed councilors to the preparatory email he had [circulated](#) on the mailing list in anticipation of the Council meeting:

- GNSO Council liaison positions: **Flip Petillion** volunteered to join **Elsa Saade** as GNSO Council liaison to the new gTLD Subsequent Procedures Policy Development Process (PDP) Working Group (WG). **Darcy Southwell** volunteered for the role of GNSO Council liaison to the IGO-INGO Curative Rights Protection Mechanisms PDP WG.
- Cross Community Engagement Group on Internet Governance (CCEG-IG): councilors discussed the requirements for the new structure, the need for the GNSO to be involved and to what extent, in the light of the ccNSO removing itself as Chartering Organisation (CO) and the At-Large remaining in the role as co or sole CO. Support was expressed in regard to the work of the group but further discussion is needed concerning the new cross community structure. Emphasis was expressed regarding the need for a swift decision.
- IANA Functions Review (IFR) team: GNSO Council will have an action item regarding the appointment of the co-chair in January or February 2019 in collaboration with the ccNSO.

### Action Items:

- *Council leadership* to develop draft response to the Cross Community Engagement Group on Internet Governance, providing input on the GNSO Council expected engagement with the group.

## **Item 3. Consent Agenda**

There were four items on the Consent Agenda:

- [Motion](#) to adopt the GNSO Council response to the GAC Communiqué.
- [Motion](#) to approve the nomination of Andrew Mack to serve as the ICANN Fellowship Program mentor.
- Confirmation of Heather Forrest to serve as the GNSO Representative to the ICANN Fellowship Program Selection Committee for the remainder of the 2-year term.
- Confirmation of the leadership for the GNSO Standing Selection Committee (Chair: Susan Kawaguchi, Vice-Chairs: Poncelet Ileleji and Erica Varlese)

**Pam Little**, seconded by **Rafik Dammak**, submitted the motion to adopt the GNSO Council response to the GAC Communiqué:

Whereas,

1. The Governmental Advisory Committee advises the ICANN Board on issues of public policy, and especially where there may be an interaction between ICANN's activities or policies and national laws or international agreements. It usually does so as part of a Communiqué, which is published towards the end of every ICANN meeting.
2. The GNSO is responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains.
3. The GNSO has expressed a desire to provide feedback to the ICANN Board on issues in the GAC Communiqué as these relate to generic top-level domains to inform the ICANN Board as well as the broader community of past, present or future gTLD policy activities that may directly or indirectly relate to advice provided by the GAC.
4. The GNSO hopes that the input provided through its review of the GAC Communiqué will further enhance the co-ordination and promote the sharing of information on gTLD related policy activities between the GAC, Board and the GNSO.

Resolved,

1. The GNSO Council adopts the GNSO Review of the Barcelona GAC Communiqué (see
2. <https://gns0.icann.org/sites/default/files/file/field-file-attach/review-gac-communique-13dec18-en.pdf>) and requests that the GNSO Council Chair communicate the GNSO Review of the Barcelona GAC Communiqué to the ICANN Board.
3. The GNSO Council requests that the GNSO Chair also informs the GAC Chair of the communication between the GNSO Council and the ICANN Board.

**Erika Mann**, seconded by **Maxim Alzoba**, submitted the motion to approve the nomination of Andrew Mack as ICANN Fellowship Program Mentor:

Whereas,

1. On 16 October 2018, the ICANN Fellowship Program invited ICANN's Supporting Organizations and Advisory Committees to nominate one individual each (total of 7) to serve on the capacity of Fellowship Program mentor for the 2019 calendar year (see <https://www.icann.org/news/announcement-2-2018-10-16-en>).
2. On 20 November 2018, the GNSO launched an Expression of Interest (EOI) process to solicit volunteers for the GNSO-nominated mentor position (see <https://gns0.icann.org/en/announcements/announcement-20nov18-en.htm>).

3. The GNSO Council tasked the GNSO Standing Selection Committee (SSC) with reviewing applications and recommending one individual for the GNSO to nominate.
4. The SSC reviewed the applications received, taking into account the criteria outlined in the EOI announcement.
5. The SSC submitted its full consensus recommendation to the GNSO Council on 19 December 2018.
6. The GNSO Council considered the recommendations of the SSC.

Resolved,

1. The GNSO nominates Andrew Mack to serve as a ICANN Fellowship Program mentor for a period of one year.
2. The GNSO Council instructs the GNSO Secretariat to communicate resolved #1 to staff supporting the ICANN Fellowship Program.
3. The GNSO Council instructs the GNSO Secretariat to inform the nominated candidate that he or she has been selected.
4. The GNSO Council requests the GNSO Secretariat to send a response to those applicants who were not nominated, thanking them for their interest and encouraging them to apply for future opportunities as they arise.

GNSO Councilors voted in support of the Consent Agenda with 7 votes in favour for the Contracted Party House and 10 votes in favour and 3 abstentions for the Non Contracted Party House. (Abstention reason stated by Ayden Férdeline was also supported by Elsa Saade and Martin Silva Valent: <https://tinyurl.com/ycqwunas>)

#### [Vote result](#)

#### Action items:

- *GNSO Council Chair* communicate the GNSO Review of the Barcelona GAC Communiqué to the ICANN Board and inform GAC Chair.
- *GNSO Secretariat* to communicate to staff supporting the ICANN Fellowship Program that Andrew Mack has been selected as the program mentor for a period of one year.
- *GNSO Secretariat* to send a response to those who applied to be the mentor for the ICANN Fellowship Program who were not nominated, thanking them for their interest and encouraging them to apply for future opportunities as they arise
- *GNSO Secretariat* to inform Heather Forrest that she has been confirmed to serve as the GNSO representative to the ICANN Fellowship Program Selection Committee for the remainder of the 2-year term.
- *Support staff* to the Standing Selection Committee (SSC) to inform the SSC that the leadership team has been confirmed.

#### **Item 4: COUNCIL DISCUSSION – IGO-INGO Access to Curative Rights Protection Mechanisms PDP WG**

Council leadership and staff developed a summary document ([Summary Paper](#) and [Slide Deck](#)) listing issues raised by Councilors, options available, and potential considerations for the previous council meeting.

After **Keith Drazek** provided the councilors with background information and recent updates, the GNSO Council discussed four potential actions: GNSO Council communication to the GAC welcoming further deliberations, GNSO Council communication to the PDP WG about the 5 recommendations, approval of recommendations 1-4, Council accepts (not approves) recommendation 5 and refers it to the Rights Protection Mechanisms (RPM) PDP WG.

**Pam Little** supported the spirit of compromise as well as the respect for the policy development process these actions carried.

**Rafik Dammak** reinforced the fact that these actions will allow the GNSO Council to maintain control of the process as PDP manager and highlighted that attention has been paid to this issue.

**Paul McGrady** while appreciating the four actions, noted that they didn't address GAC concerns, could even give too much importance to recommendation 5 and moreover, ignored the issues the PDP suffered from.

**Keith Drazek** acknowledged the issues tied to this topic, and reminded councilors that PDP3.0 is a strong effort dedicated to ensuring solutions are available in these situations.

**Marie Pattullo** expressed strong doubts about the quality of the delivery of the Curative Rights PDP WG and the validity of handing over recommendation 5 to the RPM PDP WG whilst praising Curative Rights WG members for their involvement in the effort.

Action item:

- *Council leadership and Council* to continue developing proposed path forward for the Working Group's Final Report.

**Item 5: COUNCIL UPDATE – Temporary Specification for Registration Data Expedited Policy Development Process (EPDP)- Recurring Update**

**Rafik Dammak**, GNSO Council liaison to the EPDP, reminded councilors that the deadline for the Public Comment on the EPDP Initial Report was closing on Friday 21st December. In the meantime, the team has advanced whilst acknowledging it needs further guidance with the public comment from the community. The letter to the European Data Protection Board (EDPB) has been put on hold until such point as pending questions can be answered and the Final Report is ready as was recommended during the November Council meeting (an explanatory letter to be sent to GNSO council). Progress has been made regarding legal counsel support, cost is a concern as is best use and a small team has been created and will meet weekly in order to draft questions for the legal counsel.

The EPDP team will meet for a face-to-face in Toronto in January 2019.

**Keith Drazek** reminded GNSO councilors that they had received a letter from Cherine Chalaby, Chair of the ICANN Board, requesting the GNSO Council to provide a backup solution if the EPDP team were not to meet the May 2019 deadline. Council leadership is working with staff on a draft response.

Action item:

- *ICANN staff* to send reminder of public comment close date.
- *Council leadership* to prepare draft response to Board letter that inquired about deadlines and back-ups plans.

- *GNSO Secretariat* to send final response to Cherine Chalaby and the ICANN Board.

#### **Item 6: COUNCIL DISCUSSION – ICANN Reserve Fund**

**Keith Drazek** reminded councilors that during ICANN63, the Board passed a resolution to replenish the ICANN Reserve Fund from the auction proceeds amongst others. During the GNSO Wrap Up session in ICANN63, it was agreed that Stakeholder Groups and Constituencies take the lead on an action to take, if there was one.

**Erika Mann** updated the GNSO Council on the CCWG Auction Proceeds discussion on the matter:

- ICANN Board is the guardian of fiduciary duties of the organization, and will not make any decision which would lead to a negative impact on that role.
- It would be helpful for the GNSO to send guidance or principles to the Board which reflect upon the GNSO opinion concerning the replenishing of the Reserve Fund, stating the non conflictual points: any kind of replenishment outside of the Operational Budget, should not be used for operational purposes. This would tighten control on the operational budget.

**Paul McGrady** discussed what the Intellectual Property Constituency has exchanged on the topic:

- There were insurances in the Guide Book and Steve Crocker that the money was not to be used for operational purposes.
- The CCWG Auction Proceeds was not consulted on the matter
- It proves that all the efforts to develop accountability mechanisms to hold the Board in check are ineffective
- Recommends the GNSO Council write to the Board asking them to reverse the action

**Keith Drazek** reminded councilors that the Board did go through a process of seeking public interest and comment on the reserve fund issue, and was the subject of community outreach for feedback.

**Michele Neylon** supported the IPC concerns stating that it was a given for many involved that auction proceeds would not replenish ICANN's reserve funds and that the precedent set was worrying.

**Keith Drazek** agreed that the GNSO Council putting forward guidelines or principles would be the best path forward.

#### **Action Item:**

- *Keith Drazek* to send note to Council list, soliciting additional comments on guidance / principles for how the reserve fund should be replenished.
- Depending upon feedback received, *Council leadership* to prepare draft letter to communicate Council concerns.
- *GNSO Secretariat* to send final response to Cherine Chalaby and the ICANN Board.

#### **Item 7: COUNCIL DISCUSSION – GNSO Policy Development Process 3.0 Implementation Plan**

**Keith Drazek** presented the [GNSO PDP3.0 Implementation Plan](#) and asked that councilors review the document and provide feedback before the GNSO Strategic Planning Session in January 2019.

Staff encouraged councilors to specifically review the next steps proposals and confirm that they are aligned with the PDP 3.0 discussion so far.

Action Item:

- *Councilors* to review PDP 3.0 Implementation Plan and provide input to Council list, preferably in advance of the Strategic Planning Session.

**Item 8: COUNCIL DISCUSSION - 2019 Strategic Planning Session**

**Keith Drazek** reminded councilors to finalise their travel bookings to Los Angeles for January 2019 as soon as possible. He mentioned that the 2018 session was extremely valuable and thus the structure of the 2019 [agenda](#) was fairly similar. James Bladel will join the GNSO Council as a past GNSO Council Chair. GNSO appointed Board members will also join the session for the duration.

Staff mentioned that in addition to the [agenda](#), reading materials would be sent to the GNSO Council to better prepare the discussion.

**Pam Little** echoed Keith Drazek, in that the Strategic Planning Session is key to the success of the 2019 GNSO Council and encouraged councilors to volunteer to present items, or propose topics of discussion.

Action Item:

- *Councilors* to review draft Strategic Planning Session agenda and determine if they want to volunteer to help lead / contribute to any portions of the agenda.

**Item 9: ANY OTHER BUSINESS**

9.1 - Existing ICANN Procedure for Handling WHOIS Conflicts with Privacy Law Implementation Advisory Group - Next steps for Call for Volunteers

This will be triggered by the posting of the EPDP team Final Report and the GNSO Council will have to evaluate the impact of consensus policy recommendations and if a drafting team formation is necessary.

9.2 - FY20 Draft ICANN Operating Plan and Budget - Next steps for the Standing Committee on ICANN's Budget and Operations.

The [FY20 Draft ICANN Operating Plan and Budget](#) has been posted. **Ayden Férdeline**, chair of the Standing Committee on Budget Operations (SCBO), informed Council that the SCBO will be working on a draft comment to put forward to the GNSO Council to review by January 23 2019 at the latest. **Rafik Dammak** raised to the Council that the [ICANN Strategic Plan for Fiscal Years 2021-2025 Public Comment](#) could also be relevant to the SCBO to cover.

9.3 - ICANN64 Planning

Staff reviewed the draft GNSO ICANN64 schedule so far. **Rafik Dammak** has kindly offered to sponsor the informal GNSO Council dinner in Kobe, during ICANN64.

Staff added as additional AOB that the [Updated Operating Standards for Specific Reviews Public Comment](#) is open, and the Council may want to comment on these updated standards as it had commented on the initial Public Comment. **Rafik Dammak** and **Elsa Saade** both volunteered to be part of the effort.

Action Items:

- *Council* to consider commenting on ICANN Strategic Plan for Fiscal Years 2021-2025 here (11 February 2019 close date): <https://www.icann.org/public-comments/strategic-plan-2018-12-20-en> [volunteers: ]
- *Council* to consider commenting on the Updated Operating Standards for Specific Reviews here by the January 2019 Council meeting (11 February 2019 close date): <https://www.icann.org/public-comments/reviews-standards-2018-12-17-en> [volunteers: Rafik Dammak, Elsa Saade]

**Keith Drazek**, GNSO Council Chair, thanked councilors for their 2018 efforts and adjourned the GNSO Council meeting at 22:38 UTC Thursday 20 December 2018.