

WHOIS and Data Protection Policy

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ICANN64 GAC Plenary Meeting - Agenda Item 6.1

ICANN | GAC
Governmental Advisory Committee



- **WHOIS and Data Protection Policy** - Agenda Item 6.1 (this session)
- **GAC Meeting with the GNSO** - Agenda Item 7.2
(Today 15:15-16:15)
- **Preparation for meeting with the ICANN Board** - Agenda Item 9.1
(Monday 13:30-14:30)
- **Cross Community Session on Next Steps in ICANN's response to the GDPR** (Monday 15:15-16:45)
- **WHOIS and Data Protection Policy** - Agenda Item 10.2
(Tuesday 9:00-10:15)
- **Briefing to the GAC from the Technical Study Group on Access to gTLD Registration Data** - Agenda Item 12.3
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- **Discuss concerns and consider the need for further Advice** to the ICANN Board or, other forms of input, **regarding the adequacy of current outcomes or future work needed, in the EPDP, and other ongoing processes**, towards achieving:
 - “the development and implementation of a unified access model that addresses accreditation, authentication, access and accountability, and applies to all contracted parties, as quickly as possible” (GAC Panama Communiqué Advice).*
- **Prepare engagement with ICANN Board** on the GAC Leadership request for the Board to share
 - “its overall assessment of outcomes to date in the Expedited Policy Development Process on gTLD Registration Data (EPDP), in the Technical Study Group on Access to Non-Public Registration Data and in the engagement of ICANN org with Data Protection Authorities, and what plans it currently has to ensure these efforts meet the needs of the global public interest.”*
- **Potential decisions needed in Kobe on:**
 - Response to ICANN Board letter (8 March 2019)
 - Possible GAC-ALAC Statements on EPDP
 - GAC Participation in Phase 1 Implementation Review Team
 - GAC Participation in Phase 2 of EPDP

- On 17 May 2018, the ICANN Board adopted the **Temporary Specification** as a temporary policy (1 year) to preserve the security and stability of registry services, registrar services and the DNS in the context of the EU General Data Protection Legislation taking full effect on 25 May 2019.
- As a consequence, on 19 July 2018, a **GNSO Expedited Policy Development Process (EPDP)** was initiated to replace the Temporary Specification before its expiration on 25 May 2019
- **GAC representatives from the European Commission, India, Iran, UK, US** participated in the substantial deliberations of the EPDP Team (44 conference calls, 3 multi-day face-to-face meetings and 1600+ emails)
- On 4 March 2019, the GNSO Council adopted the **EPDP Final Report** after conclusion of Phase 1 of the work, which set in motion:
 - An eventual **vote by the ICANN Board before 25 May 2019**
 - The confirmation of an **effective date** for the New Policy by **29 February 2020**
 - The immediate formation of an implementation review team
 - The immediate initiation of Phase 2 of the EPDP's work

- The GAC noted in the **GAC Barcelona Communiqué** (25 October 2018) that the Temporary Specification:
 - created a fragmented system for providing access to non-public gTLD Registration Data
 - is “*failing to meet the needs of the law enforcement and cyber-security investigators*” and those involved in protecting intellectual property
- The GAC provided **Input on on EPDP Initial Report** (21 December 2018)
- GAC Members of the EPDP provided **Input on EPDP Final Report** based on previous input of the GAC, noting that the GAC could not be consulted in the time allowed for submission (20 February 2019)

Input on Final Report of EPDP

- General Concern that Draft Final Report does not Sufficiently Recognize the Benefits of the Whois database
- Recommendation 1 (Purposes for processing gTLD Registration Data)
- Recommendation 2 (Additional purpose of ICANN CTO's mission)
- Recommendation 4 (Accuracy of Registration Data)
- Recommendation 5 and 7 (Collection of Tech contact and Org field)
- Recommendation 10 and 11 (Redaction of Org and City field)
- Recommendation 12 (Publication of Organization Field)
- Recommendation 13 (Email address and web form)
- Recommendation 17 (Differentiation of Legal and Natural Persons)
- Recommendation 18 (reasonable requests for Lawful Disclosure of Nonpublic Data)

Issues flagged

- Request a legal review to ensure that the purposes take into account previous guidance provided by the EDPB and WP29
- Importance of Quickly Starting Phase 2 Deliberations
- Improvements for Future Work

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