
ABU DHABI – Joint AFRALO AfrICANN Meeting
Wednesday, November 1, 2017 – 13:30 to 15:00 GST
ICANN60 | Abu Dhabi, United Arab Emirates

UNKNOWN SPEAKER: It's Wednesday, November 1st, 2017 in Hall B, Section A, for the Joint AFRALO AfrICANN Meeting, 13:30 to 15:00.

GISELLA GRUBER: Ladies and gentlemen, we're just about to start the session. If you're not familiar with it, it is in English and in French. If you're bilingual, fantastic; if you're not, please do get a headset. Thank you.

Before we start, we are going to start -- I want to speak in French because we have interrupters but I forgot we have an Arabic booth. If you're not trilingual, French, English or Arabic, take a set of headsets. Also, when you start speaking, please give your name for the transcription, and when you speak, speak slowly so the interrupters can do their job. If you want to ask any questions, leave your little name tag and we will call you by your name. Thank you.

AZIZ HILALI: Thank you, Gisella. My name is Aziz Hilali, I am the Chair of AFRALO. It's my pleasure to chair this session. This is the 18th

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addition of AFRALO Africa. This meeting gathers the whole African community within the meeting and we are here to debate during the ICANN meetings and we're here to address the concerns of Africa. The theme was chosen after a consultation with the community. We are going to speak about regulation, about the GDPR and its impact on the governance of the internet in Africa.

We discussed this theme during a web call with the RALO chairs, and Göran Marby, the Chair of ICANN, will be with us later. With him, we have underlined that the agreement of the ICANN with the internet provider cannot replace national law. ICANN elaborates world politics and we have to discuss this subject, the GDPR, and its impact on the politics of ICANN. This is what we are going to do today.

After reading the declaration that the staff gave you in both languages, in English and in French, we will give it to you and we will make sure that we have a Q&A session to debate this question. I will tell you now we have given a certain deal of time for the community to place their comments. We received comments afterwards, so let me tell you that the draft that you have in your hand is the draft that was written last week. We will keep and account all the comments during this discussion today.

We are very happy to have such a rich panel. Mr. Tarek Kamel, who is with us, he is the Special Advisor to the President and he's here for the engagement of the government towards their NGOs. We are happy that he is with us today. Mr. Dandjinou will be here as well. We have Cherine Chalaby, who is the Vice-Chair and the next Chair of the ICANN.

We might have [inaudible], who is also a specialist on the question and we hope that he will meet with us later. First of all, I will give the floor to the President, who was always present with you whatever the team, and again, here is Alan Greenberg.

ALAN GREENBERG:

It is always a pleasure to be at this meeting, and unfortunately as is often the case, I will have to leave part way through, due to other commitments. I do want to of course welcome you and I'm delighted to see you doing this, yet again, and for many years to come I hope.

I wanted to make a couple comments on the statement, at least the draft statement as it is right now. When I looked at it the first time, the first thing I was struck by was a rather interesting statement, the end of the second paragraph. It says, "We are interested in a keen understanding, the negative and positive implications of GDPR." And the sentence doesn't stop there, but

I'll go back to the end in a moment. This is one of the rare documents I have seen related to GDPR that understands that there are both positive and negatives.

Typically, if someone is talking about GDPR, they are a privacy advocate that says, "This is marvelous. Finally, people are going to have their private information protected." Or, it's cyber security person, who now will not have access to this information potentially, who says, "This is horrible. The whole internet is going to collapse because of it." And it may be true, but there are positive and negatives and we are going to have to balance these two in any final solution, and that's a really important issue that seems to be missing from much of the discussion.

The last part of this sentence is the implications of the GDPR on Africa once implemented. Now, you may be debating the implications on Africa, but the internet, for better or worse, is a worldwide phenomenon, and you are in fact talking about the implications on the internet, period, even though you may be looking at it from an African perspective. Whatever you talk about is likely applies as much in Bolivia or in Tokyo. So, interesting perspective to think about.

When I was listening to Aziz, what I heard in the English translation is this will have an impact on the politics of ICANN. I

don't know whether you meant -- whether the French said policy or politics? But the interesting thing is, it's both. Whether it was a mistranslation or whether I'm just innovative in my listening, it doesn't matter because it will impact both the policy that we right and the politics of the organization and that also I think is an important issue.

I think it's great that you're looking at this and not saying, "Ah, it's a European issue, not ours, let's forget about it." But looking at it, how it will both impact you and in fact the rest of the world as we go forward. So, I'm delighted to see it and I look forward to seeing what comes out after the final editing and discussion here. Thank you.

TIJANI BEN JEMAA: Alan, politic in French means policy.

ALAN GREENBERG: So, it was a correct and incorrect translation. Perfect, I love it.

AZIZ HILALI: [Participant speaking in different language]

Yes Alan, there's an issue because the two words are the same in French. I'm going to give the floor to Tarek now.

TAREK KAMEL:

Thank you very much Aziz for inviting me and I'm delighted to be here among many friends like Tijani, Mary Uduma, and you, and Alan, and many others that I see around the table from Africa and from the AFRALO team, and other stakeholders as well.

Let me start by looking back for the last eight to ten months, what we have been doing in Africa very specifically around different issues, and look forward as well concerning the issue of the GDPR. We have started the year back in January 2017 with a workshop that many of you have attended related to the GAC Capacity Building Workshop.

Actually, it was a first of its kind. It was an initiative from the underserved region of the GAC and we decided, with the support of many friends and many colleagues, to start with Africa. This did not mean that it was restricted only to the attendants of GAC members from Africa, but it had also some participation from different stakeholders and we were hosted kindly by the Kenyan government and very warmly, and Goran Marby also participated in that meeting.

It was an opportunity to open the dialog about the needs of the African communities, specifically the governments when it comes to different areas. The workshop reflected the need and

focus on thematic issues while we go forward, and therefore we, again, Africa was leading in that. It was the first law enforcement workshop with the Public Safety Working Group, with the GAC in Johannesburg at ICANN59 as such.

Again, an opportunity to widen the scope of dialog that we have with new players in the African region. Why I'm saying widening? Because we don't want to risk that we are talking to ourselves only as technical communities or technical players. For the first time, and again Africa was leading in that, we had the law enforcement agencies from the Public Safety Working Group participating for the first time and we had a dialog with them.

This dialog reflected that the issue of privacy and data protection that was triggered by the GDPR is not only restricted to Europe, but it has its implications on Africa as well. It has its implications on Africa partially as reflected in the communiqué by having an issue of European registries and registrars serving the African region for cross boarder information exchange, but it has implications also for African registries and registrars to be serving European citizens in Europe because of the cross boarder exchange of data that is considered more or less an issue for the privacy.

We have here a dialog that is happening and triggered by the GDPR, but it's actually a global dialog, about the compromise between privacy and law enforcement. The need of access for law enforcement agencies to information from the WHOIS and from the other side also, the need for the citizens and the governments to ensure and the data protection agencies that the information of their citizens is not being misused.

The good news in the whole dialog is that it is global. The bad news is that many players perceive us as ICANN and as DNS registries and registrars that we are like other OTT players selling this information of their users to other commercial entities and making use of it. They don't see that the real benefit goes to the law enforcement agency.

I urge honestly the African organization, the African governments and the African stakeholders to get heavily involved in the dialog because we will soon see this happening also in Africa as well. We will see the African Union, I expect, becoming active also in this area. Started to see first initiatives in Johannesburg and hence, we need to ready as an ICANN community to respond to the unclarity that exists and uncertainty about this question.

We don't want to be taken by surprise but we want to be ready for this dialog in order to make sure that we explain what ICANN

is doing and we educate the communities. Is it a challenge? Yes, because we are talking to new communities. We are talking to judges. We are talking to police agencies. We are talking to data protection agencies, that don't know about ICANN and WHOIS and what we are all doing within our framework, within our community.

I think one of the thematic issues that came out of the dialog that we had back in Nairobi, privacy and data protection, and this is what we are engaging in. It adds definitely to other thematic issues that I just want to mention, like jurisdiction as well as intellectual property, and cybersecurity.

Let's maybe focus while you're [inaudible] here within the AFRALO on triggering some discussions, making sure that we are observing what's happening in different parts of Africa when it comes to laws and legislations. Track the initiatives for laws and legislation, engage with parliamentarians in the right dialog and the legislative agencies, so that again, we are not being taken by surprise, at least indirectly if ICANN is not targeted, but it could be indirectly targeted by this dialog, by any misunderstanding that we are an OTT player as such and not a technical organization.

With this, I thank you for putting this subject on your priority, it is very timely as such, and we hope and look forward that this

discussion continues as such. As Africa is A) Close to Europe; B) Has been always leading when it comes to developing countries issues to be put on ICANN's agenda. Thank you very much for inviting me and I look forward if there are any questions further.

AZIZ HILALI:

Thank you for your recommendation. I wanted to let you know, because a lot of the speakers, a lot of the people who are here around the table will not stay during the whole meeting, if you have questions for Tarek and Alan, you can ask them now, while they're still with us. Are there no questions for Tarek or Alan?

FATIMATA SEYE SYLLA:

My question is towards Tarek. You recommended three actions for the African stakeholders, meaning observe, we should observe, we should track initiatives and we should engage in dialogs.

Is there any possibility from ICANN to support those activities to happen? Within AU, it might be easier but when we think about civil society organizations and all the entities should be involved; is there anything ICANN can do to promote those kinds of activities? Thank you.

TAREK KAMEL:

Thank you, Fatimata, for the question. I mean, I have to say and admit that the topic is new for all of us and nobody is an expert, nobody has done this exercise before, privacy issues in areas related to DNS. We started by a set of webinars that Theresa Swinehart and her team who are taking care of these activities within ICANN organization, and I think the attendance was quite high and the communication department also facilitated those webinars.

The board is also, in addition to Goran, very much involved in this discussion. It is clear for us that we cannot handle 150 countries in the world as ICANN org alone in terms of tracking and in terms of following up to what's happening and what is going to be affecting ICANN. It is also clear that different governments are starting to work and move into this direction, in Asia and in other parts.

I think in principle, we are ready to support a serious dialog, different engagement activity because again, the issue is not restricted to Europe, the issue is far beyond that, it's becoming a global challenge. As I said, either we do our homework and educate those people and help them, because they have good intentions at the end, or we could be then affected as ICANN within our activities and within our core mission.

Maybe Pierre, if you are around -- Pierre is around or not? Not yet, okay. As such, and the regional team Luna, we have Luna and we have Barrack Otieno as well can say about the outreach activities that we are doing on different thematic topics, not necessarily about privacy. You want to comment and say something?

UNKNOWN SPEAKER: Thank you, Tarek. [Inaudible] for the record. We'll actually cover this in detail in the Africa session so I'm sure we can have a detailed discussion, immediately after this actually. Thank you.

LUNA MADI: Just to reinforce in the outreach efforts that we are working on together in Africa which is the webinars and we are engaging a lot in working on workshops in capacity building, so any of the engagements that are taking place by the team on the ground we are also trying to either whether through on one on one meetings or in group meetings to bring people abreast and up to date on what is going on in our studying of the GDPR and how it affects.

In terms of communications, we are also trying to communicate that as much as possible with the media. This is still work in progress, at least educate the media with your help when we

come to the countries to understand what GDPR is and the implications as well in the different countries. We're done a few of these in Ghana with the media in Ghana, the media in Ethiopia and in Kenya, but it's still a long effort because it's a new subject. It requires a lot of work together on how to tackle that in the media as well, but it is work and Nigeria too, we did that.

TAREK KAMEL:

Thank you, Luna. And Fatimata, if you have specific proposals and specific requests that you see in subregions that need to be considered, please send it to us, to the regional team, to Pierre and his team and they will forward it definitely to us. We can work then with Theresa Swinehart and we have a whole active internal group on management level lead by Goran himself that are working on that as such because as I'm saying, we don't want to be surprised as [inaudible] comes to this.

AZIZ HILALI:

Thank you. Mary, please.

MARY UDUMA:

Thank you very much for the opportunity given to me, and I want to talk to Tarek. As a feedback, we saw the effect of the

outreach that happened in Kenya and you can see that the attendance has increased in terms of participation of Africans. We are going to have the African IGF, and since this is a boning issue, probably we'll put it on the agenda for the African IGF that is happening between 4th to 6th of December in Egypt.

I know that if you can give us resources for that -- I know you support us in the African IGF, but any person from the ICANN team that actually would -- will create a space for that; even if it's going to run for a half a day, we won't mind. Thank you.

AZIZ HILALI:

Thank you very much to all of you who spoke up. Tijani, you wanted to speak? Okay, you wanted to speak; sorry, you have the floor.

TIJANI BE JEMAA:

I'd like to ask Tarek, you seem to say that the only role ICANN has to play now is outreach education, communication, that's all; do you mean that, really?

TAREK KAMEL:

No, let me clarify. I'm saying that in the areas that the laws have not yet been ratified. In Europe, that's different. Now the law is there, it will be enacted as such and there is a work group that is

engaging concerning the GDPR very specifically with the different organizations, the European Commission and the European Parliament, and the different players. But we are here in an African session, so I'm talking about what can we as Africans do for our region, in order to make sure that when this is being tackled and it will come on the agenda of governments very soon, then we are ready and we have already done part of our homework.

ICANN is working in its remit and that's the difficulty of the issue. Privacy and data protection is wide, it mainly affects content, which we are not part of but it happens as a side effect. If we don't pay attention, as such, then it could affect the DNS in a very small part on a side effect that is not visible on the radar of the legislative machines and the parliamentarians when they work on that.

This is what I meant and this is the difficulty, that it is not a technical issue as such, so it needs its focus. And I think the proposal that has been mentioned about the African IGF in Sharm el-Sheikh from the 4th to 6th of December, is a good proposal by Mary. If you can talk to the organizers and have a session about this issue, we can send someone definitely from ICANN to make a presentation and to help putting this on our

radar. We still have six weeks or five weeks at least until it happens. Thank you very much.

AZIZ HILALI:

Thank you. I need to stop the conversation here on this topic because we have two speakers who are about to come in. I would like to open up the discussion on a new topic. First, I want to thank Barrack Otieno, Tijani and Sarah, who wrote the document. I don't know who would like to take the floor first, Barrack or Tijani? Barrack; okay, go ahead and introduce the topic please, Barrack.

BARRACK OTIENO:

Thank you, Aziz. Hello, everyone. My name is Barrack and I'm going to speak in English because of diversity.

Okay, so I am Barrack Otieno for the record, again. First, I want to share a commonly known quote by a gentleman known as Derek Bok, who was the former president of Harvard University that, "If you think education of knowledge is expensive, then try ignorance." I think I will use that as my opening statement.

Secondly, as the chair, Aziz, has said, let me say that this was a group effort and in particular again, I just want to thank the team that we worked on this document together. Aziz, Tijani

Ben Jemaa, Sarah, we had Ali Hussein who's not with us unfortunately, and Juliet Maina who has written something on this subject who is also not with us, and of course Seun, and the many other colleagues from AFRALO that contributed to the document. As Tarek has said, this is a new subject and we are learning from each other as we are moving along.

Going to GDPR, as many of you know, the General Data Protection Regulation is a European regulation that enters into force next year on 25th May, 2018. But that said, the bigger question is why is the General Data Protection Regulation important to us in Africa? As most of you know, most of our countries are net consumers of content or goods from the European Union and there's very little local content in as much as most of our countries are working towards growing the local content within the African continent.

The fact that most of our cities are consuming content from the European Union, means that this regulation, which incidentally also has some extraterritorial implications, will affect us. We have a number of registrars, ICANN accredited registrars on the continent that have customers in the European region. Definitely, they are handling data related to the European territory or European region and as such, even as we seek means and ways of growing the number of registrars because that's the

most relevant business I can think of with regard to the ICANN environment, we realize that they are going to be affected by the General Data Protection Regulation.

The other vivid example that I want to share with this group, I think some of you that have been following the Kenyan election, you realize that the election was over turned on account of data related issues because some of the data was actually hosted outside the country and when it was needed, it was not available, and so it lead to overturning of our presidential election. Which, of course, other than the political aspects has cost a lot in terms of economical impact or implication.

I think it's important that at this time we pay attention to the General Data Protection Regulation. From the research that I read, published by Juliet Wangui, we notice that only three countries, that is Burundi -- sorry, four countries; Burundi, Rwanda, Cameroon and South Africa have some form of Data Protection Regulations.

Most of the other countries are -- and Morocco? Okay. And Mauritius? Okay, we'll hear them here on the floor, but of course, the point is, most of these regulations may not be compliant with the General Data Protection Regulation. This is why we must have this conversation, as the African community, and it will take all of us to be able to resolve this issue or this

challenge. With that, I will hand over back to Aziz for the next part.

AZIZ HILALI: Thank you very much. I would like to mention that Aziz started the discussion on this topic. Tijani, you have the floor.

TIJANI BEN JAMAA: Thank you very much, Aziz. It is a new regulation that was adopted in Europe and it will be applicable in May, 2018. Barrack was mentioning that we needed to do a lot of education and outreach, but there are many other things that need to be done in other areas. He mentioned content, but we are not necessarily addressing content within ICANN, but there is an issue with WHOIS however. Personal data of the registrants are in the WHOIS and this is where the issue will be on the day that this legislation will be applicable. Everybody is concerned, not just African people, but of course the African countries being so close to Europe, it means that we are particularly concerned.

We also use a lot of European businesses and once this regulation applies, European businesses or businesses that reside in Europe, even though they are not European, will need to apply the regulations. Many transactions, many business deals will not be able to occur anymore. This is something of

particular concern to us, to Africans, to the entire world and to ICANN. It is a very important topic for ICANN. This topic is being discussed at several levels within ICANN and I think that we need to find solutions. I don't believe that there will be a single, miraculous solution, but the goal is to get as close as possible to the ideal solution.

As far as the WHOIS, the eternal issue, ever since ICANN was created, was the conflict of interest, the opposed interests; on the one side you have transparency and privacy. I don't know what the term is in French, but anyway -- the personal or data protection. It's either transparency or protection of data and we need to find the balance, but that balance is very hard to find.

The issue is that the WHOIS has been a topic of discussion ever since ICANN was created, now we are moving on to the RDS system, but really, it is the same issue that we are debating. This topic was chosen by AFRALO and the ICANN community, the African community because we believe that it is a topic of primary importance and we only have a few months to act so that we are not faced with major issues on the day that the law is applicable. I will now give the floor back to Aziz.

AZIZ HILALI:

Thank you very much, Tijani. I agree, it is a very complicated issue and as Africans, we do need to get to work right away. We have the great pleasure to have with us our CEO and President, Goran Marby. I would like to stress how important his presence is during our meeting, and I know that this topic is of great interest to him as well. It is a topic that we discussed with a meeting with Goran and the RALO chairs and I am very glad that he is here to give his opinion on what ICANN can do as far as this topic is related. Thank you very much for being with us, Goran, you have the floor.

GORAN MARBY:

So you're talking about GDPR? Strangely enough, no one has talked to me about that this week. First of all, I would like to congratulate [inaudible]. I'm reading my speaking notes and I'm sorry that I'm sort of running into it, but there are many understandings and misunderstandings about GDPR, and if you want to, I can sort of talk a little bit about it because I think it has a greater internet governance effect as well. Which I think is important to recognize.

When we speak of GDPR, that's a specific piece of legislation in Europe, which is not very different from -- it's sort of different but not that much different from the current data protection legislation in Europe. We often speak about this GDPR as

something that's just happening and it's going to happen in May and it's a big scary thing. In reality it is, to some extent, a law that already exists.

The foundation of that law, is a belief my understanding and I don't take sides in the discussion, is that the internet has changed how we can deal with information about people. They wanted to create an opportunity for people to have greater control about their data. This law particularly is very interesting; I used to be a regulator, so I think this is a very interesting law because technically, many laws are made of -- if you drive too fast, you pay a speeding ticket and we call that sort of punitive law in that sense that you know exactly where the borders are.

There's another type of law which is sort of a normative law where it says that, the typical one is that you should wear a seatbelt in your car. They're trying to change your behavior by a law. The interesting thing with this one is it's both. It's trying to change really the foundation on how you control data, and I'm making this very simplified and I'm not a lawyer, I've always had to put in those caveats. But it's really trying to tell us that we need to think about how we deal with this type of data.

If you deal with that data, you have to be able to tell why. What are you doing with the data? How are you going to respect the integrity of the data? It's a lot about that. We have an internal

conversation as well because we often talk about it from a WHOIS perspective, but we also talk about it from internal systems. We have a lot of internal systems in support of the community. For instance, travel support and other ones.

When had a discussion about this a couple of months ago, we said that to use the law as a benchmark of what we do is to set the stage in a fairly wrong place; we should understand by ourselves why we contain some sort of information.

The acronym GDPR is a very typical European legislation. It's very interesting for us because this is the first time ever, really, that we now see a law that has direct implication of the ICANN's possibility to make policy. Because even if we don't have a WHOIS policy, we have in our contracts with our contracted parties certain elements that comes out of the existence of WHOIS.

Whatever is going to be the end side of all the underlies is done by a lot of legal people right now. We seen now, the [inaudible] so therefore will not stay with the same WHOIS system for a fairly large part of the world. That's a contractual and legal opportunity or problem, depending on which side you sit on. We are very unused to having that discussion within the ICANN community because we had the pleasure of making policies by ourselves.

This legislation is also interesting from -- that's the sort of legal and [inaudible]. The community at some point in time have to start working on a policy that maybe takes into account a legislation by GDPR. Limiting or destroying, whatever you want to use, that the policy has to be adopted according -- so we don't break -- our contracts that we have with the contracted parties, is always supersede by local law.

What happens is, it has an effect on our policy making process. Interesting enough also, as you know, there are other countries around the world who look at the same type of legislation, even if they don't call it GDPR. Of course, they don't call it GDPR because that would be silly because this is a European legislation.

By the way, for your information, the European Commission, who is the only one on the European framework who can write the proposal to law, no country can do that, it's only the European Commission; they are now thinking of the next generation, which is called the ePrivacy Directive, which sort of goes even more about this.

When I meet governments around the world, I see that many countries are talking about this type of legislation, some of them maybe not and some of them maybe should, some of them maybe should really do it, depending on what you think, but there are a lot of discussions and this type of legislation can be

used for good and bad. I got a small input about your discussions here and one of the questions I ask myself, how does ICANN as an ecosystem, the board, the community and the organization, actually handle those going forward?

Well, we are not a political body, we are a technical body. In what we do, we have the IANA functions and when we update that, the user interface, the domain name system changes for internet users around the world, so we're not political at all and we shouldn't be political.

How do we know about potential legislations, not only in data privacy but maybe other ones that got an effect on the domain name system? At least to be there in the room, to say, "This is very interesting but you maybe be know how internet actually works."

Because many of the legislation proposals for me, seem to be coming out of a non-understanding how internet actually technically works, and I'm not referring that that's the case with GDPR but there are many instances where we need to figure out a way of being in the room and just explaining that internet works according to a specific technical model, because otherwise it could have an impact on the networks of the globality of it. Internet is really only existing because it's global, otherwise it would be something completely different, and if we

break these global interfaces, we won't have what we call the internet today.

I think what you're talking about, is really about -- and I'm happy that you're having this discussion, but I frame it under really about how will this legislative proposal have an effect on the governance model of internet and ICANN's part of that. How will we internally have those discussions, not only in this setting but also in a broader session, where we have so many different opinions, we have so many different values and we should have because ICANN is a large tent.

If you can help me with that answer, which I don't have, I will be very grateful. I'm very happy that you're having this discussion from a slightly different legal compliance perspective and I'm really searching for your input about how we can have those discussions within ICANN community, because if we don't, it could be so that we are facing again something that's already happened.

My aim well being at ICANN, is because I happen to believe that internet makes the world a little bit better place to be, and ICANN is not the internet, but if we sort of lose that ability for this interconnected network, because we're not in the room of telling legislators that for good reasons want to do something -- and again, I'm not saying that GDPR is one of those legislations,

it's just an example of it. If we can't be in that room and tell how it works, then we can have a problem with the internet as we define it today.

And for my team, no, this was not my speaking point. I think I'll end there, if there's any questions.

AZIZ HILALI:

Thank you, Goran. Usually we are allowed two question. We're going to ask Tijani and then someone else, because we only have 30 minutes left for this session.

TIJANI BEN JAMAA:

I'd like to thank you, Goran, because you said that this issue of GDPR is an opportunity and I do think that it is an opportunity? Why? Because since the inception of ICANN, we have been discussing the WHOIS issue and we never found the right way to deal with it. Because there is a big problem between transparency and privacy, so we have to consider this and right now, till today, we didn't find the right way.

Now that we are obliged to deal with something legal as you said, which is not in our hands, it didn't depend on us, we have a few months to think about this issue and to find the right way to

deal with it, and this is the opportunity side that I want to highlight and I do think it is an opportunity for ICANN.

AZIZ HILALI: Thank you. Another question and then we have to follow, okay?
Heidi.

HEIDI ULLRICH: ... reach a conclusion on this item and be able to present it to the community.

GORAN MARBY: Thank you for allowing me to have the same speech which I had seven times, I can just start up the tape recorder. First of all, I have to say some settings because we are dealing with a low and low has implications, and therefore I have to tread carefully until we made all the decisions.

We are working under a couple of assumptions that are maybe true or not true. The first thing we did was to ask the community for input for what we call user cases. The reason why we did that, because in the law it said, as I think I mentioned before, that depending on how you use the data, you can have this different kind of information and the best way of doing that is by

the user cases, so we used that as the initial starting point when we took in an external law firm to help us.

We received the first draft from them a couple of weeks ago, where under that assumption, for instance ICANN could be a data controller. We have not reached a conclusion about that yet, but it is an assumption. What we're doing now is, we're hoping for the community to come in with legal questions about that. We were actually planning to do it a little bit earlier, but community members have reached out to us, they wanted some time to formulate those questions, but it's not going to take that far.

Based on those questions and the answer we get back, our plan is to present, if the assumption still stands, two or maybe three models which we think will be compliant with the law. This is important because, and I'm going to make that decision, because it happens to be ICANN Org, our compliance with the European law; no one else than me can be responsible for that decision because if we're wrong in that, I'm going to break the law and I'm trying to say the law with a bass voice. I don't like breaking laws.

Then, of course, that will have an impact on our compliance with the contracted parties, because we cannot have different ask for them than we think are the right things to do. When we come

out to the community with these models, that becomes the third time in a compliance issue where we ever asked a community about input.

It's a very unique thing that we've done and the reason for it is -- I went to another session where a gentleman said, "We are dealing with some sort of unknown, there is always people who know, but the hands, this is in the hands of the data protection authorities in Europe and finally the European court; they are the ones who make this balance that we have not been able to do for the last 18 years." Because ICANN is a large tent with many different views on this, I thought it was important that even to bring this into this work stream as well.

On the timing, I deliberately not say when this should be done because I have so many ways of making this wrong and hopefully only one to make it right. I'm the first to acknowledge that we, together with the community, the contracted parties and everybody else, should have started much earlier. But we didn't and that's a collective burden that we didn't. We're doing the best we can because we know at the end of May next year, that's when the last part of the law actually get's enacted. It can't be that far.

Sorry for this lengthy explanation, it's just that there are so many moving parts in it and I'm always thinking -- I've been a

regulator, I know how this system works, so I find myself in an educational mode, to avoid people who come up to me and say, “This is simple, we already know the answer.” Because if we take the wrong answer right now, we can actually jeopardize people and organizations and companies with legalities because we could end up breaking a law and I don’t want that, I feel to warm for this one. A long answer and it was only half of the speech, I can continue for the rest of the day if you want to.

AZIZ HILALI:

Thank you, Goran. Thank you for coming and now we will have a presentation of the draft statement. Thank you very much.

We will now hear Sarah’s presentation. [AUDIO BREAK]

I will give the floor to Pierre first, I am sorry, I did not see him, he came in so quickly in the room. Pierre takes the floor.

PIERRE DANDJINOU:

Pierre Dandjinou takes the floor, vice-chair for Africa. I did come in discreetly in this room. Quickly, what I would like to say here is that when I was entering this room, Barrack was actually making a few remarks, which I really like, because he was insisting on of course the importance of Africa kind of thinking, considering this GDPR thing and especially the registrar, 11 to 12

that we do have, that will certainly directly impacted by whatever resolution or whatever decision is being taken. So I think that's quite good and that's the kind of message I would like to passing over.

Also, to thank AFRALO for actually taking this forward. It's always good to have this kind of statements. Maybe one of the things I would like to repeat, which I said last time was, how far are we expanding the word outside this room? Because I am in the field. Goran just actually said what ICANN has to say about this thing and I only to repeat, we are following suit. We are always following whatever is going to be decided.

As far as I'm concerned, it's about Africa, and as you know, we are implementing the Africa Strategy, quite happy with AFRALO and the partnership that is there. I would like us to be able to expand this within the different ALSes that we do have on the continent. My impression is that the message is too much enclosed here when we are here at ICANN meetings.

What happens when we are outside this place? That's what matters for me. Meaning exactly how we're making sure that any specific country self-organizes and then it has its lawyers, it has registries and whoever is in charge of data handling, meet together and understand the issues at stake. For me, that's

what matters. Of course, there are ways we should do this, the multistakeholder model in your country.

Those are the few words I would like to share and of course, we will be reporting on the Africa Strategy at 3 o'clock, Hall A I think, and there will be reporting on the Africa Strategy and hearing more from Goran what we could be doing. Thank you again for having me here and all the best. I went through the document, quite interesting. I was also with the Middle East this morning and I also have statements on different other things. Thanks for the good work you've been doing.

AZIZ HILALI:

Thank you, Pierre. Thank you for your support for the AFRALO and the ALS. Earlier there was a question related to Africa, how can we provide ALS to do some outreach and to outreach the government, all the players in this field? Now I'm going to give the floor to Sarah because we do not have too much time, she will read the draft.

SARAH KIDEN:

Good afternoon, everyone. I'm going to read in English. Took a small challenge to try to learn French with Barrack and Seun is joining soon. I'll go straight to the statement.

“We, the African ICANN Community Members, who are participating in the ICANN 60 International Public Meeting in Abu Dhabi and attending the joint AFRALO / AfrICANN Meeting on Wednesday 1st November 2017, discussed the General Data Protection Regulation (GDPR), Regulation from European Union 2016/679.

We acknowledge the fact that the regulations have elicited a lot of interest from many stakeholders within the ICANN community and the ICANN organization, due to their possible implications, especially on Whois. We also note the fact that the regulations are of big interest to Africa because significant content and domain name registrations in the region are hosted outside the continent, with a high number of them within the European Union.

We are interested in and keen on understanding the negative and positive implications of the GDPR on Africa once implemented. Many African countries lack data protection or requisite privacy legislation. The few that do, use a diverse set of standards that are not harmonized, despite the cross-border nature of data exchange brought about by increased use of the internet.

While some countries have sufficient data protection laws, a majority lack GDPR compliant data protection. The GDPR comes

into force on 25th May 2018. We encourage African countries that are major trading partners of the European Union, to consider adopting relevant measures to need to ensure compliance with the GDPR in a way that does not have negative impact on the African community.

More importantly, we encourage registries and registrars who are serving non-EU regions, like Africa, to ensure implementation does not have damaging implication on their non-EU customers. This will ensure that cross-border transactions with the EU are not affected. Therefore, there are both financial and nonfinancial implications of insuring compliance under this comprehensive regulation.

We urge all stakeholders to examine how the regulations will affect the organizations, implement policies that comply with the GDPR, raise awareness on the purpose of GDPR, to mitigate any risks that may result from noncompliance and use GDPR to their advantage.

Furthermore, we believe that ICANN should investigate the possibility of compliance issues under the registry agreement and registrar accreditation agreement because of the GDPR work with contracted parties, to understand these issues and take necessary actions to solve them. We also encourage the ICANN board to conduct an awareness campaign, to educate the

community on implications of the GDPR, as it concerns the technical identifiers.” Thank you.

AZIZ HILALI:

We’re going to have a discussion of less than 15 minutes on this discussion. Cherine is arriving at the right moment. Cherine Chalaby who we will introduce you. He’s the Vice President of the ICANN board and he’s out next Chair of the ICANN board. We want to congratulate him, we are very honored. He’s an African and he will be a head of ICANN and Africa. I will give you the floor, you only have five minutes.

CHERINE CHALABY:

Thank you, Tijani. I was looking at you, Tijani, these two are two brothers. I already said thank you, Tijani, earlier, so thank you, Aziz. Thank you for inviting me and I’m so proud to be back. As you know, I was born in Egypt, in Africa, and I’m delighted to be amongst you. I go back to ICANN59 when we met in Johannesburg and I remember we had a good conversation about the need for the African Civil Society to engage in ICANN and that is quite important for that to take place.

I must reiterate that I really encourage you to expand that engagement with governments, with other stakeholders, with

academia and businesses and also the At-Large structure above all, that's quite critical.

Why is that important? I think my personal view, and I'm sure you share this with me, is that because your voices have to be heard. There are issues that are taking place that are important, that's going to affect you, like GDPR, and I know that this is a subject you're talking about. It is important that -- and we need you. You are as important as any other community, we need your voice, we need to hear from you and we need to hear how this impacts you, that is absolutely important and essential.

There are other issues for example and I know you're interest in the discussion about auction proceeds, so there are working groups currently taking place, I think tomorrow there is a meeting of the Auction Proceeds Working Group; you should be there, you should voice your views. They are currently working on the objectives for the auction proceeds, as well as the mechanism for using it. If you have your own objectives, your own requirements, you should feed it into the group, this is very important, so please, I couldn't say more stronger than your participation is very important in ICANN.

I think anything that can be done to assist you, to help you, I know Aziz will be the first one to take that on board and to make sure we do our best to do so. GDPR is a major priority for ICANN,

there is no doubt about that, I know it's a priority for you and please participate in that.

So, what other priorities? Some of you may have seen a blog that I sent out before coming here, listing all the priorities, but I just want to pick a couple of those just to highlight also our duty as a board. Our duty as a board in two areas, one is oversight over policy development and I want you to know that the board is doing everything possible to make sure that it hears, understands and is ready to approve and to make decisions on policies when those policies are submitted to the board for consideration; so that's an important key role and responsibility for us.

The other one is oversight over ICANN Org, because we have this organization today that has grown, that has 400 people, 150 million of costs, representation in 13 countries, and one of our fiduciary responsibility is to do an oversight over that on your behalf, on behalf of the community. One of the things we do when we do this oversight is also ensure that those policies that have been adopted, are implemented in a manner that is consistent with the policy itself and not deviate from that.

I think in my view ICANN is no longer a startup. ICANN has come a long, long way and it has evolved over time, and the board has to evolve over time as well. I have to say that maybe talk a little

about the transition from Steve to me, I think you might be interested that this is not something that happened overnight, it's been in the making for quite a while. Over the last couple of years Steve has gradually been handing over responsibilities to me, and I think pretty much the transition as far as all of you are concerned will be smooth and you will not feel anything.

The board, I'm very encouraged by the future, we really have a lot of talent on the board and my job as the chair is to harness this talent to service the community, that is the key. I'm very encouraged by what I see, I'm very confident in the future, very inspired by the new responsibilities.

The other thing which I really aspire and the board aspires too, is to be the reliable partner of the community, so that looking ahead with all these big issues in front of us, we are all together in the same direction. We don't want to waste energy in finding what is the relationship between us, I think that should be established, a real true partnership between the board and the community; that means that the board's priorities have to be consistent with the community priorities. That means that the board makes decisions in the interest of all of the stakeholders, not one stakeholder, but that also means that the community has to play its role.

Therefore, you have to play your role by participating, by making your voice heard, and that's what we need from you, and if you do that, we will do our side of the bargain as well. With that, I'm so grateful to have been invited and to come back to this meeting, and I wish you a very successful ICANN60. Thank you very much.

AZIZ HILALI:

Thank you very much, Cherine. Thank you for being with us and for supporting us. I will now give the floor to all of you. We have about 10 minutes for a debate or a discussion, to ask questions of Cherine or to give some criticism to the statement that was read by Sarah, so you have the floor. Who would like to speak? Seun?

SEUN OJEDEJI:

Thank you very much. Thank you, Cherine, for the interaction with us. We will be missing you as chair very soon as well, but because I'm looking at your theme and I'm wondering whether after a few years we will actually have to transfer to somewhere else.

I just wanted to note on the statement that we got some comments after we closed the call for comments and some of the comments seem quite significant in terms of the content. So

there will be a need for us to probably extend the comments period. We normally submit immediately after the end of the meeting, but I would like to suggest to the chair, that would consider an extension in this particular instance. Thank you.

[AUDIO BREAK]

I hope I've not created some confusion. One point was just a point to Cherine in terms of the fact that he's becoming chair and he may be leaving the board soon, I'm wondering whether that level of transition that is happening between Steve and Cherine will also happen between him and the next person as well so that we ensure continuity. For Aziz, my comment to you was, can we have the comment period for the statement extended?

AZIZ HILALI:

As far as the second question, yes, it is possible. We can extend it because there were different comments that were made just a few days ago, so that is not a problem.

HEIDI ULLRICH:

I'm just wondering until when is that extension being made?

TIJANI BEN JEMAA:

Heidi, let's take at least one week.

AZIZ HILALI: Sébastien Bachollet.

SEBASTIEN BACHOLLET: Thank you very much. I am not very African, however, I am a member of ISOC Cameron, so it gives me the authorization to say something here. I apologize but nobody actually raised that issue. Two things, I hope that Cherine will stay longer at the board. I hope he is not leaving right away, so as far as the transition, the next steps is not an immediate issue. At any rate, I am very satisfied that he is there.

I would like to tell you a very short story. We had three candidates in 2011 for the board, one became chair, the second candidate will become chair and the third one will never be a chair, but anyway, that doesn't matter.

Last thing I wanted to mention is that in the statement that we proposed, I am not a 100% sure that the last sentence asking the board to have a campaign, it might be the way that it is written; I know that the board is not going to go throughout the world to say GDPR is coming and so to have a campaign to educate the community, to ask the board to tell the staff to do this or that, I think that this sentence is not really adequate. It is not the role of the board and even though you have an African chair, he will

not travel around the African continent to explain GDPR, even though it would be lovely to have him. Thank you very much.

CHERINE CHALABY:

Thank you, Sebastien. Sebastien was a true friend over the past seven years and we were always very honest with each other. He always gave me excellent advice and I would like to truly thank him for his friendship. I would like to thank of all of you, I am amongst friends here. I see a lot of friendship, a lot of love, a lot of support from all of you. I feel very well when I am here and I'm very happy to be amongst friends.

MARY UDUMA:

I want to first congratulate you and we know that we had a good rapport with Steve and going forward and we know that we'll continue to have such rapport and you'll move our relationship and interaction to a higher level so that our voice is not only heard but we'll become effective participants.

Aziz and Tijani and some of them here, they've been able to bring us to that level but we want to get to another level, and that you will understand our region. Our region is a government lead region. Interaction would be -- well, with the civil society is quite alright, but the government need to understand what ICANN is all about. Whatever we are doing, any outreach that is

going to be done, should also get to our government. Thank you.

CHERINE CHALABY:

I think that's an important point. Outreach, the government is essential, as well as I would say to law enforcement agencies, businesses and special relationships, absolutely. That is key to success, is outreaches, absolutely paramount. I do agree with you. Thank you.

AZIZ HILALI:

Any other questions? Tijani?

TIJANI BEN JEMAA:

It is just a humorous comment really. Sebastien, you are a white person, you come for Europe, even though you are not a member of the Cameron ISOC, you are always welcome because you are a speaker for diversity and we are very happy to have you with us.

Our statement does not say that ICANN should do outreach in Africa, if you read it carefully, it is not the intention anyway, the intent of the message. If you read the French, I'm not sure which version you are reading, but the intent is not exactly how you

described it. I can give the floor to Barrack if necessary to articulate that better, but that was not the intent.

AZIZ HILALI: I believe he read the French version.

SEBASTIEN BACHOLLET: “We also encourage the ICANN board to conduct an awareness campaign to educate the community on the application of the GDPR as it concerns the technical identifiers.” The ICANN board can direct the staff to conduct an awareness campaign. The board can lead or suggest that the community make something, but the board itself -- but maybe Cherine will change the board, how it’s workings -- I am wrong. Okay, I stop here.

CHERINE CHALABY: No, no, you were doing very well, Sebastien. I think on that point Sebastien is right. Thank you.

TIJANI BEN JEMAA: I don’t know if you remember what Tarek said, he stressed outreach. He said that we needed to really make efforts to communicate to the community and what we wrote there was

written for the ICANN community not to go into the villages to outreach and so forth.

AZIZ HILALI: Thank you. Bram.

BRAM FUDZULANI: I just wanted to also comment on what he said, to say that maybe because we have extended the commenting period, this is not the final document, so maybe most of the comments will come after the final document. Thank you.

AZIZ HILALI: I would like to thank our interrupters who do an outstanding job whether it is in Arabic, English or French. Thank you very much because you really help us as a community.

Thank you again, Cherine, for being there, for being with us. Thank you so much.

Last thing, we all agree that we will have one extra week for comments, do we agree on that point, yes? Okay.

GISELLA GRUBER: Ladies and gentlemen, the next session in this room will start at 15:15, it is the ALAC and Regional Leaders Wrap-up.. Part 1. If I could kindly ask for the ALAC and Regional Leaders to sit at the main table, thank you very much.

[END OF TRANSCRIPTION]