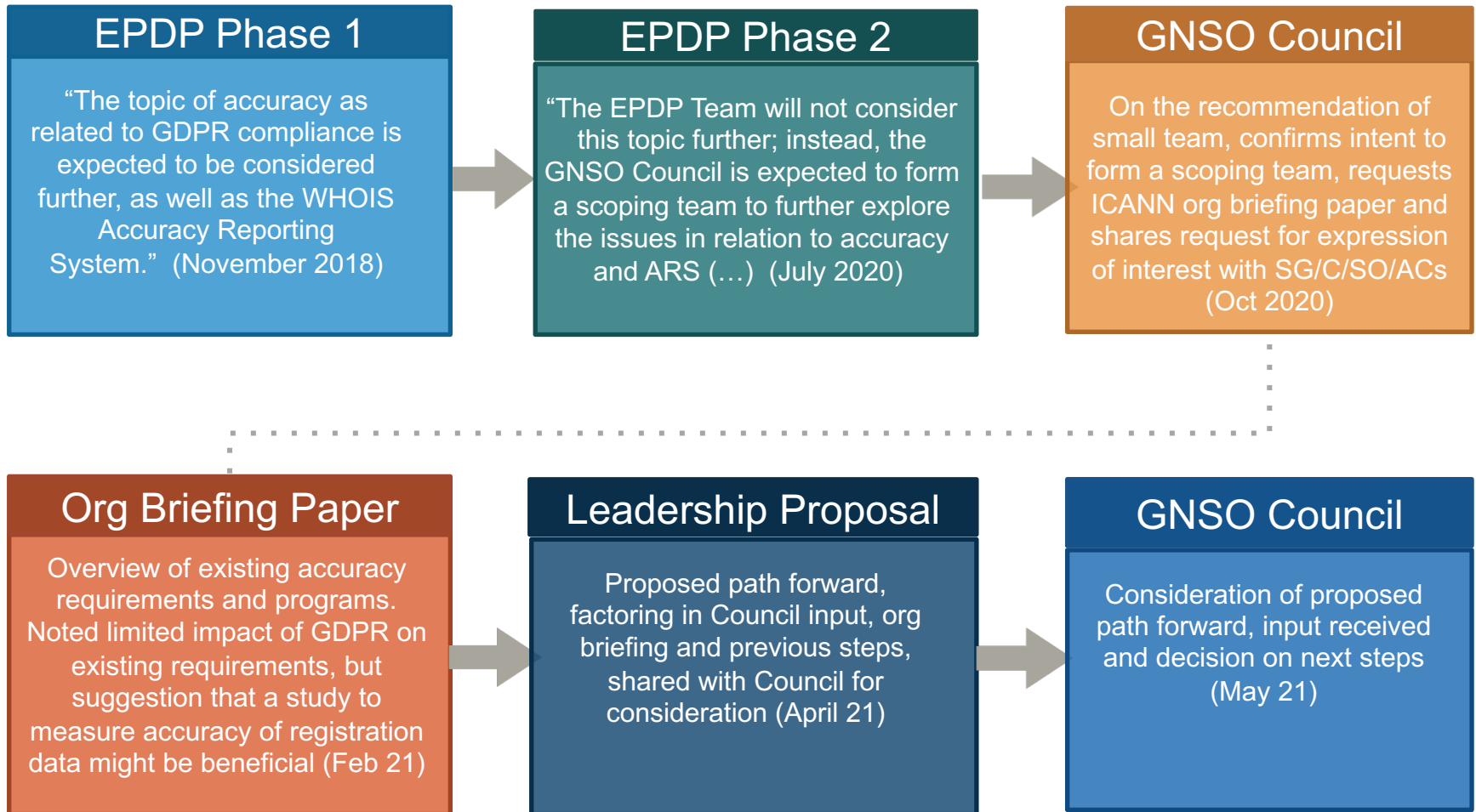


Background / History



Council Leadership Proposed Path Forward: April 2021

- Scoping Team Assignment #1: Identify what problems, if any, are expected to be addressed and how.
- Scoping Team Assignment #2: Work with ICANN org and Contracted Parties to identify if/how to gather additional data to assess accuracy and confirm that problems exist (or not)
- Scoping Team Assignment #3: Report back to Council on 1) what problems have been identified and how these are expected to be addressed, 2) how these problems can be quantified / confirmed, and 3) proposed next steps.

Summary of feedback on the proposed next steps to date:

- GAC: Proposed scope is too restrictive
- RySG: Proposed scope is too vague; Suggested a Council small team to refine the proposal
- BC: Good to go, as proposed
- Carlton Samuels - NomCom Councilor's reactions: Should be based on a "Fuzzy Model"

Board Scorecard re. GAC Advice

“The GAC noted in the Minority Statement that the accuracy of registration data is an essential requirement of GDPR, and that “[d]isclosure of inaccurate data would defeat the purpose of the SSAD and risk violating data protection rules.” The Board would like to highlight that this statement by the GAC indicates that, in the GAC’s view, inaccuracy of data disclosed via the SSAD could result in liability vis a vis data subjects and even toward third parties relying on the accuracy of the data disclosed.

The Board has a different understanding of this principle, and offers the following for additional consideration. As noted in legal guidance provided as part of the EPDP Phase 21, the accuracy principle under the GDPR should be considered in the light of the GDPR’s risk-based approach, taking into account, among other things, the purpose and impact of processing. Relevant to this analysis is the fact that registrants (data subjects) directly provide the registration data that is published in the RDDS, and ICANN, through its contracts with registrars, has in place binding and enforceable obligations for registrars to help confirm the accuracy of registration data. Failure to comply with these affirmative obligations could lead to a registrant having its domain name suspended. It could also lead to a breach of the Registrar Accreditation Agreement if a registrar is not complying with its obligations to verify and validate registration data at certain points in the lifecycle of a domain name registration. In light of the facts and circumstances, the Board is of the mind that the existing measures and mechanisms in place are sufficient to satisfy the legal requirement of the accuracy principle under the GDPR and would not violate data protection rules as noted in the GAC’s Minority Statement.”

Board Scorecard re. GAC Advice (continued)

“The Board would, however, like to highlight that it has concerns that the mechanisms ICANN has in place to confirm and enforce accuracy of registration data have been hampered because of the GDPR. Specifically, the redaction of registration data containing personal data from the RDDS has diminished ICANN Contractual Compliance’s ability to check compliance and obtain access to non-public registration data. Additionally, there has been a decrease in the number of valid WHOIS accuracy complaints handed by ICANN Contractual Compliance, which is attributed to the unavailability of public contact information in RDDS.² As well, the unavailability of some public contact information in RDDS has hampered ICANN org’s ability to continue with the original framework for the WHOIS Accuracy Reporting System (ARS) program, which was another tool to help confirm the accuracy of RDDS data. Overall, it is possible that the GDPR has diminished the accuracy of RDDS data given that ICANN and other reporters who previously contributed to improving the accuracy of the data published in the RDDS can no longer view the data. This context is important to factor in when discussing ICANN policies concerning accuracy as in practice it might be difficult to implement such policies due to the restrictions on access to registration data as a result of the GDPR.”