

PDP EXPERIENCES



**LATIN AMERICA
AND THE
CARIBBEAN
2018**

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I am Martin Silva from Argentina, and I am a councilor at ICANN's Generic Names Supporting Organization (GNSO). The GNSO Council is tasked with managing Policy Development Processes (PDPs). We make consensus-based decisions on all ongoing initiatives within working groups, which results in policies for generic top-level domain names. This means that, as a GNSO Councilor, I need to keep up with every ongoing PDP. I am currently participating in the Review of all Rights Protection Mechanisms in the Generic Top-Level Domains PDP Working Group. When speaking about rights in this context, I am referring to trademark rights and the mechanisms that ICANN facilitates for trademark holders to protect their brands.

For this working group, we are reviewing all of the existing mechanisms at ICANN through a two-stage initiative. Stage one of the process entails reviewing all mechanisms related to new gTLDs and is aimed at addressing risks associated with the new domain name ecosystem. The main mechanisms are the Trademark Clearing House (TMCH), which gives priority rights to trademark holders during the new gTLD registration process, and Uniform Rapid Suspension (URS), which provides a fast and cost-efficient tool in clear cases of trademark infringement. URS takes into account that new domain names will result in a higher number of cases to consider.

Stage two will entail a review of the Uniform Domain Name Dispute Resolution Policy (UDRP). This mechanism applies to both legacy and new gTLDs. This policy allows for the transfer of a domain name to the complainant if it is found that their trademark rights have been infringed in bad faith. Unlike UDRP, URS only suspends a domain until its registration period is over, and only applies to new domain names. It does not result in a domain name transfer. However, the benefit of URS is that it's a faster and less expensive process. It also requires a lower level of proof if you are dealing with a more obvious case of infringement.

“My first ICANN Meeting was ICANN48 in Buenos Aires in 2013”



How did you become engaged in ICANN's Policy Development Processes (PDPs)?

My first ICANN meeting was ICANN48 in Buenos Aires in November of 2013. I started as an ICANN Fellow thanks to the recommendation of one of my Internet Law professors, Celia Lerman. The following year, I was able to find my place within the community and started exploring different topics to find areas of interest. I had a human rights background, so I became interested in topics related to the civil society. I ended up joining the Non-Commercial Stakeholder Group (NCSG). I contributed to the Not-for-Profit Operational Concerns Constituency (NPOC), which focuses on the use of the Domain Name System (DNS) by civil society organizations.

What is the significance of your work in PDPs?

To start, you need to achieve a balanced multistakeholder process where everyone's voice is included and heard. Our perspective at Datas (www.dat.as) is different from other stakeholders. This kind of diversity ensures the outcome is both inclusive and sustainable. On a personal level, my goal in participating within ICANN is to help build a DNS where users can enjoy their human rights to a higher extent. I try to think about innovative alternatives that consider the legitimate interests of other sectors. If we truly value maintaining an open and interoperable Internet, we must engage in these policy processes advocating for the best interests of our civil society. As a lawyer, I naturally tend to choose legal topics, or topics with a focus on equality and social behavior, over more technical ones.

Can you tell us about your experience participating in PDPs?

To join a PDP, all you have to do is send an email. It really is as simple as that. However, to properly understand what is being discussed, taking the PDP processes and timelines into account, requires significant time and effort as well as training and mentoring. On the one hand, I would say there are no formal barriers. Anyone can just walk into ICANN, so to speak, and join a PDP. At the same time, to participate and contribute in a truly meaningful way, you need to make an extra effort to have advanced knowledge of the topics under discussion. Those topics may not be part of our studies, our overall professional practice, or our business activities.



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I am currently a participant in Work Track 5 of the Geographic Names of the New gTLD Subsequent Procedures PDP Working Group. My role is managing communications for the NPOC. We are currently working with the Executive Committee on redrafting our charter. We are also restructuring the constituency and engaging with regional stakeholders, including people from my own country, to encourage them to join ICANN. When people see that you travel abroad frequently, they tend to approach you with the purpose of learning about what you do. I use this opportunity to educate them, for example, about ICANN geographic names and their potential impact. When I find that their interest is piqued, it opens the door for me to explain that, at ICANN, we discuss issues which are relevant to the lives of Internet end users. I then encourage them to participate and contribute.

They always ask if I am an engineer or a lawyer, and I tell them that your profession does not really matter because ICANN is open to everyone. Most of the time, the hardest part is getting them to understand how the organization works. On one occasion, I met someone that had attended ICANN meetings before the new meeting format. I invited them to join the next meeting and assured them they would have a new, more positive experience. The challenge lies in having that person find their space within ICANN, so they can become active participants in current and future processes.

In what way is working on a PDP significant for the region?

I think PDPs are important because they lie at the heart of what ICANN does as a community. We are part of major league decision-making in terms of Internet development and stability. ICANN is developing global policy, so it is critical contribute a regional perspective to PDPs. Every experience, no matter how minor, can lead to a valuable contribution to the policy development process. It is not just about contributing to the process, but also about having a significant impact on policies in the region.

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How did you get involved in PDPs and how would you describe your experience?

I began participating within the At-Large Advisory Committee (ALAC) but, I felt I wasn't able to participate directly in the policy development process. I found the opportunity that was right for me at the NPOC and I was invited to join by Martin Silva, a stakeholder from the region. He helped me to really understand how the policy process works. I now feel it is my responsibility to help other stakeholders from the region, especially those from my country, be more influential just as Martin Silva helped me.

If we continue to be active in the community, we can contribute to the overall Internet policy development in Latin America. There are very few of us from our region who are participating in these processes. There is Martin, Olga, and Javier, but the reality is that only a small group of people are involved. If you do not know how to participate, you can reach out to someone who has already been there and ask for their guidance. It is certainly possible to do it by yourself, but it is much harder without guidance from someone already participating in the community. While you may have training material available to teach you how the process works, you have to put those lessons into practice to really understand.

It is really great to be able to count on someone who can help you – someone who says, “Look, we have these PDPs. Which one are you interested in?” Once someone shows interest in participating, we encourage them to attend meetings even if they are just observing in the very beginning. Newcomers can learn about what is being discussed and how the different groups work. If they are really interested in another PDP, they will have the chance to shift to a new PDP where they can participate more actively.

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I am from Costa Rica and my first ICANN meeting was ICANN43, which was held in San Jose in March of 2012. At the time, I was working for the government of Costa Rica, and I had the opportunity to serve as the Costa Rican representative to the Governmental Advisory Committee (GAC). In 2014, I stopped working for the government of Costa Rica and joined both the NPOC and the Latin American and Caribbean Islands Regional At-Large Organization (LACRALO). I have always wanted to participate in policy development processes, especially within the NPOC.

I believe the NPOC has made significant progress now that we have refocused the constituency. Several members have ended up joining the Generic Names Supporting Organization (GNSO) Council and now engage in policy development. Since then, I have participated in several policy development processes, with a special focus on the Cross-Community Working Group on the Use of Country and Territory Names as TLDs. This working group was a bit more complex than others, as it required the ALAC, GAC, GNSO, and ccNSO to work together.

I am currently participating in Work Track 5 of the New gTLD Subsequent Procedures PDP Working Group, where we continue addressing the issue of geographic names.

The GNSO recently launched the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data. This was done in response to the new privacy and data protection conditions established in Europe. This PDP will keep us busy in the coming months, as it is on a very tight deadline due to the legal requirements ICANN is currently facing. We need to complete the full PDP cycle in a year's time after the effective date (25 May 2018) of the European Union's General Data Protection Regulation (GDPR). In theory, this PDP needs to go through its full cycle and be ready for implementation by 25 May 2019 at the latest.

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Why do you think it is important to have wide and diverse representation in PDPs?

PDPs are very intense and time-consuming. There is a lot to learn and plenty of calls to attend. The system works better if all regions of the world are well-represented. Latin America accounts for more than 10% of the domain name space in the DNS root zone, including top-level and country code domain names, so it would be a shame to see that our region's needs, ideas, and issues are not reflected in the results of these policies. Governments or groups like LACRALO can always submit comments at a later stage. However, I believe you can have a greater influence on policy outcomes by engaging in the early stages of policy formulation and discussion.

Tell us about your experience in PDPs. What is your message to stakeholders who are interested in engaging in a PDP?

Most of the participants in PDPs are either lawyers or engineers. I am an economist with a background in telecommunications regulation, so I bring a fresh perspective to my group. I think that the best way to participate is to think long and hard about whether our actions are really in the best interests of the Internet, end users, and domain name managers. We need to ask ourselves whether we are imposing burdens and costs instead of solving problems.

From an economist's perspective, we can judge our effectiveness by the cost efficiency of the policies we are developing. There is a lot to learn and plenty of documents to read, but it is amazing to work with professionals that have such a high level of expertise in these topics. We work in a truly collegial environment where everyone's ideas are respected. Participating in PDPs is great for your professional development.



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When I joined ICANN, I noticed that the community only had a few Caribbean stakeholders participating in ICANN processes. Some of the Caribbean representatives who are now participating actively in the PDPs came to ICANN through the outreach programs we have been hosting in the Caribbean throughout the years. We recruit new community members, show them what ICANN is about, and then they choose a niche depending on their interests. A lot of them have an interest in policy and contribute to the Policy Development Processes (PDPs). This is positive for our region, and good that the PDPs have a strong representation from so many different cultures. The more people participate, the more they can invite others and share their experience.

Can you describe your experience doing outreach and engagement in the Caribbean?

One of the first things that I tell people when I am inviting them to participate in ICANN is that the policies being developed, with or without their participation, will affect them. Shouldn't we have a say into what it is going to affect us? Or at least, shouldn't we be able to evaluate the impact that policy implementation will have in our region? I believe we deserve that chance.

We bring a diversity of information and culture into the policy development process. Our region has very specific needs, interests, problems, and solutions different from other regions like Asia Pacific, Europe, or North America. These regions have some countries which are more developed and can dominate the discussions. They might not see issues with the policy in development. For example, they might not recognize how a policy might be an issue for a developing country or someone who speaks a different language. Our mission is to be there and remind everyone that we need to be mindful of all languages, cultures, and developing states, not just Organization for Economic Co-operation and Development (OECD) countries.

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How would you rate the growth of the Caribbean participation in ICANN processes? What are the challenges that the region still faces in terms of participation at ICANN?

The participation from the Caribbean region at ICANN grew tremendously over the last few years, not just in the number of people participating, but also in the amount of work that they do. People from the Caribbean are very active, and their contributions to the process are very visible.

One of the challenges that we are experiencing is many of the Caribbean members who are active in the PDPs are burned-out or overworked. This is why we need to keep expanding and bringing new people in. Sadly, there are only a few volunteers from our region who are also qualified to participate in some of the PDPs that require certain expertise or knowledge. We continue work on growing our numbers by spreading awareness in the region. The continued outreach efforts are a challenge, but it is vital for more people to join and balance the work of other community members who are already participating.

As we increase our participation in the various PDPs, we continue to communicate back to our countries. Information is key to increase awareness and knowledge in our region. In the Caribbean, we are consistently inviting new community members to join PDPs, and leading by example.



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