

Independent Review

1. Scope of Authority

The role of the Independent Review Process (IRP) will be to:

- Determine whether ICANN has acted (or has failed to act) in violation of its Bylaws (including any violation of the Bylaws resulting from action taken in response to advice/input from any advisory committee or supporting organization);
- Reconciling conflicting holdings in process specific "expert panels"; and
- Hearing claims involving rights of the Sole Member under the Bylaws (subject to voting thresholds)

2. Standing

- Any person/entity materially harmed by action or inaction by ICANN in violation of its Bylaws and the community, acting through the Sole Member.
- Process will also be able to provide prospective relief based on a demonstrated likelihood of harm

3. Selection process

- Tender process for organization to provide administrative support for IRP, including to issue a call for expressions of interest; work with the community to identify and solicit applications from well-qualified candidates with the goal of securing diversity; reviewing and vetting applications; working with ICANN and community to develop operational rules for IRP
- Community selection of proposed panel members
- Board confirmation

4. Expertise

- Significant legal expertise, particularly international law, corporate governance, and judicial systems/dispute resolution/arbitration;
- Expertise (through experience and/or training) on the workings and management of the DNS and ICANN; and
- Access to skilled technical, business, diplomatic, regulatory and/or other experts upon request.

5. Diversity

- Reasonable efforts to achieve cultural, linguistic, gender, legal tradition diversity, with a goal of no more than 2 panelists from any single ICANN region

6. Panel Size

- A minimum of 7 members of standing panel
- Review panels of 3 decision-makers (appealable to full panel);
- One review panel member chosen by each party, who in turn select the 3rd review panel member, subject to revision with input of sub-group (see section 13 for details) and panel members.

7. Appeal

- Individual panels of 3 decision-makers in any case; appealable to full panel based on a clear error of judgment, or application of an incorrect legal standard, subject to revision with input of sub-group and panel members.

8. Independence

- Bylaws obligation to fund process, subject to further input of sub group and panel members regarding measures to prevent abuse of the independent review.
- Fixed term of 5 years, non-renewable
- Compensation may not be reduced
- Removal/recall only for cause (corruption, misuse of position for personal use). Removal/recall process to be specified
- Pre-existing and post-term limits on relationships with ICANN and its SOs/ACs that create an appearance of conflict such as financial relationship with ICANN, SOs/ACs, constituencies

9. Settlement efforts

CEP or, at any party's election, mediation

- **NOTE:** WS2 will include an in-depth review of the current CEP process

10. Decision

Action/inaction is/is not consistent with Bylaws
Substantive decision on Sole Member rights

11. Binding

- Bylaws to provide that 3-member decisions are binding (subject to appeal to full panel) to the extent permitted by law,
- Nothing will preclude GAC from giving Advice to ICANN regarding manner in which IRP decision is implemented.

12. Rules, procedures, etc.

- CCWG sub group, assisted by counsel and appropriate experts, will continue to work on implementation details and will work with initial panel and the IRP provider on rules of procedure, etc. as part of WS2
- IRP to be the subject of periodic community review, in a manner similar to ATRT