

## **EURALO By-laws Review**

Some contradictions between bylaw and real lives of the EURALO pointed out by Mikhail Medrish  
(email Thu 1/14/2016 5:14 AM)

### **A. Euro Individuals Association established in 2012 still not institutionalized in the EURALO Bylaw.**

- The Statute of Euro Individuals Association says that «By the creation of its Association, individuals from all over Europe can gather and assume a voting right at EURALO's annual General Assembly (GA), as stipulated in EURALO's amended Bylaws from May 2011 in Belgrade.» Although the question of changing EURALO Bylaw was discussed in Belgrade no changes were made.

- The paragraph 3 of the Statutes Euro Individuals Association says that «Financial resources In order to fulfill its role in the frame of EURALO, the Euro Individuals Association can count on resources and capacities of EURALO such as its Secretariat and does not need own financial resources and administrative facilities.» There are no corresponding obligations in the EURALO's Bylaw. This raises the problem of the resources' use.

### **B. Governing bodies, EURALO officers and their functions do not correspond to the real life**

- In reality the General Assembly of EURALO elects the Chairman of the EURALO. The Articles of Association does not provide for such position

- The Articles of Association says that in its Board has a Chairman and a Deputy Chairman. In reality there are no such officers and their functions are performed by the EURALO's Chair and the Secretary. In particular, according to the Articles of Association the Chair of the Board is EURALO's representative everywhere .

- The Statute does not provide for a Secretary as one of the EURALO officers.

- The Statute provides for a position of a Treasurer that was never elected in practice because of absence of necessity.

- The Statute provides for Advisory Council, which has never existed.

### **C. Procedures set forth in the Articles of Association do not always correspond to the practice (paragraphs 9.3, 9.7). There is still no Rules of Procedure which should be adopted by the Board (paragraph 9.1. of the Articles of Association).**

**D. The section 7 of the Articles of Association defines the possibility of periodical and extraordinary membership fees the amount of which determines the General Assembly. These regulations are still not put into action. I know from my experience that even the existence of such possibilities in Bylaw can be a deterrent for potential ALSes on joining EURALO.**

**E. Formal relations between “ICANN European Internet Users Forum” and ICANN are unclear.**

Articles of Association contains such statement:

“3.2 The Association intends to be the RALO for Europe ("EURALO") according to the ICANN Bylaws and as defined in the MoU that creates the EURALO.

3.2.1 The **Association and ICANN shall negotiate and sign a Memorandum of Understanding (MOU) concerning their mutual rights and obligations in connection with operationalizing the relationship provided in Article 4.1.”**

We have no such new MoU.

**F. Statement for membership are not corresponds to the real life**

Articles of Association contains such statement:

“4.3 The Board shall determine the criteria for membership, subject to review of the same by the General Assembly, and the mechanism by which applications for Membership are approved, which may also be reviewed by the General Assembly.”

The criteria for membership are the ALAC prerogative. ALAC makes the decision.

**Mikhail Medrish via Euralo-tf-bylaws email sent Fri, 4 Mar 2016 13:49:**

Dear colleagues

I would like to start our discussion. In order to do it I am sending you the results of my brief analysis of the statute of our organization in order to identify contradictions with other documents, as well as with real life.

Beyond that I put together and send you for reference the documents regulating the lives of other regional organizations.

I'm not ready to propose concrete solutions, but I would like to share some >important, in my opinion, the interim conclusions.

1. The basic directions of activities of our organization are defined in a Memorandum of Understanding with ICANN. Directions are relevant, and the text of the memorandum is not needed to revise.

2. The text of our Articles of Association (AoA) comes into substantial contradictions with real life and external documents. The main contradictions are:

our organization is not EURALO de jure. Supplementary Memorandum of Understanding with ICANN, prescribed in the AoA, has not yet been signed. Thus, a definite in the Charter the "intent" to be EURALO has not yet been legitimized. This, of course, a formality, but the problem is unpleasant.

management processes in our organization are different from how it is written on paper;

the existence of created in 2012 individual users association has not yet been legitimized

3. We still do not have a document that defines the rules and procedures, though the AoA defines the need to have such document.

4. The AoA looks like the Bylaw of a legal entity, But our organization is in its essence not a legal entity. New members of the association appear on the basis of procedures and decisions of ALAC which is also not a legal entity

I would like to draw your attention to the fact that in all other regional organizations, the main document is called "Operating Principles".

Moreover, our colleagues from the region of North America have recently adopted a new version of such document.

I am very sorry that will not see you in Marrakech.  
Wish you all success and good luck.

Mikhail Medrish

**On 18/03/2016 22:49, Mikhail Medrish via Euralo-tf-bylaws wrote:**

Dear Plamena, dear all,

I would like to support the Plamena's proposals.

I also think that the best solution is to write a new document – **EURALO's Operating Principles (OP)** – from scratch. All other regional organizations have OP as a Bylaw. We can use their experience to accelerate the writing of our OP. There is no need to follow the laws of any country. We do not intend to register this document as a Bylaw of EURALO as a legal entity.

I think that this would be welcome. But when drafting these, I implore you to be careful to not make things too narrow. When Alan Greenberg led a Team in At-Large to re-write the ALAC Rules of Procedure, he was very careful to make sure that in some cases, there would be the ability for the Chair, or a Committee to have a wide array of options in taking decisions. If you try to dictate too many options and cases, you'll miss out on a particular situation and could end up causing harm in not allowing the Chair or a Committee to take a decision in reasonable time.

Besides OP, we have to write one more document - the Rules of Procedures (RoP). RoP is needed to ensure the transparency of the EURALO.

What is the difference between the Rules of Procedure and the Operating Principles?

Would these Rules of Procedure need to be passed as Bylaws? How would they be formalised?

If you agree with such approach, I suggest the following:

- to inform EURALO's members about our findings
- to offer the idea of writing a new OP & RoP to replace the existing Bylaw

\*replace\* --- and this is where I think there might be a problem because as Wolf has mentioned in the past, it has taken a very long time to agree on the current bylaws. So if you want to replace them, then you are likely to face a long argument with some ALSes and perhaps you'll never manage to replace the existing Bylaws due to lack of support.

- in case of approval of the idea to ask staff to write a drafts on the basis of documents of other regional organizations

Please clarify: "ask stuff" -- do you mean, asking staff to write drafts? I'm afraid to have to tell you that we do not have staff to write these. ICANN At-Large Staff do not have the competence nor the time to write bylaws - plus it might be in contravention of the fact that ICANN staff might not be allowed to write bylaws of ICANN's SO, AC, and RALOs in particular. As EURALO is a counterpart to signing MoU with ICANN, all of the text is going to need to come from volunteers.

- to finalize drafts by our working group
- to adopt new documents on the General Assembly.

In order to accelerate the process, we can use the mechanism of absentee voting.

Please be so kind to explain this. Until new operating procedures/bylaws/rules of procedure are agreed by vote, any vote is directed by the current procedures and policies and I have not seen a mention of "absentee voting".

Kindest regards,

Olivier