

Dear CCWG Plenary,

We hope this e-mail finds you all very well. As you all know we shared with you the Framework of Interpretation of the Human Rights bylaw. After this the Human Rights Subgroup worked on next steps, which led us to have a close look at our mandate and found out that there are different ways of interpreting this.

That is why we come to you for guidance to see where we are, and where we should go next.

In a bit more detail:

Paragraph 14 of Annex 6 of the CCWG reads:

The Human Rights-related activities to be addressed in Work Stream 2 are:

- Developing a Framework of Interpretation for the Bylaw.
- Considering which specific Human Rights conventions or other instruments should be used by ICANN in interpreting and implementing the Bylaw.
- Considering the policies and frameworks, if any, that ICANN needs to develop or enhance in order to fulfill its commitment to Human Rights.
- Considering how these new frameworks should be discussed and drafted to ensure broad multistakeholder involvement in the process, consistent with ICANN's existing processes and protocols.
- Considering what effect, if any, this Bylaw will have on ICANN's consideration of advice given by the GAC.
- Considering how, if at all, this Bylaw will affect how ICANN's operations are carried out

Whereas Paragraph 18 of Annex 12 of the CCWG report reads:

18 To ensure that adding a draft Human Rights Bylaw into the ICANN Bylaws does not lead to an expansion of ICANN's Mission or scope, the CCWG-Accountability will develop a designated Framework of Interpretation as part of Work Stream 2 and will consider the following as it elaborates on the language to be used:

- Consider which specific Human Rights conventions or other instruments should be used by ICANN in interpreting and implementing the Draft Human Rights Bylaw.
- Consider the policies and frameworks, if any, that ICANN needs to develop or enhance in order to fulfill its commitment to Human Rights.
- Consistent with ICANN's existing processes and protocols, consider how these new frameworks should be discussed and drafted to ensure broad multistakeholder involvement in the process.
- Consider what effect, if any, this proposed Bylaw would have on ICANN's consideration of advice given by the Governmental Advisory Committee (GAC).
- Consider how, if at all, this Bylaw will affect how ICANN's operations are carried out.
- Consider how the interpretation and implementation of this Bylaw will interact with existing and future ICANN policies and procedures.

In our initial work we focused on providing a Framework of Interpretation of the Bylaw, clearly stating how it should be interpreted, and we did not focus on implementation, even though of course we considered the potential consequences this might have.

The question is now, what are the next steps? We see different options:

1. We're done. The Fol is developed, and under consideration of the plenary.
2. We need to have a second look at the Fol and make potential amendments to give more guidance to the considerations mentioned above.
3. We will need to produce a new document with examples and recommendations on what potential next steps could be
4. We need to do a test on specific cases to see whether the Fol suffices.

We've have made first steps into the direction of step 3, but this lead us into quite detailed discussions on how and where Human Rights Impact Assessments could be integrated in PDPs and ICANN operations. In these discussions it felt that we we're going in too much detail, and stepping outside of the mandate of our Subgroup.

Another option could be (and this might be a mix between option 1 and 3) to issue a high-level recommendation for the chartering of a new CCWG on Human Rights to specifically work on the steps of implementation, and advise different SO's and AC's on how they could implement this in their process, as well as discussing measures for ICANN the corporation.

These are all options that we would like to bring in front of the plenary, and we would greatly appreciate your thoughts on these and potential other options.

The Human Rights Subgroup wishes you a vitalizing festive season and we're greatly looking forward to complete our work in Workstream 2 with you all in 2017.

All the best,

The CCWG Human Rights Subgroup