

General Assembly and voting Process

9.2. The General Assembly

9.2.1. Composition

- (1) The General Assembly the senior body of the “Association” and may review, without limitation, any of the activities of the other “Bodies of the Association”.
- (2) The General Assembly consist of all “Members”. Every “Member” has an equal vote.
- (3) Proxies may only validly be appointed by a notice in writing (a “proxy notice”) which:
 - (a) states the name and address of the “Member” appointing the proxy;
 - (b) identifies the person appointed to be that “Member’s” proxy and the “General Assembly” in relation to which that person is appointed;
 - (c) is signed by or on behalf of the “Member” appointing the proxy, or is authenticated in such manner as the “Board” may determine; and
 - (d) is delivered to the “General Assembly” in accordance with the articles and any instructions contained in the notice of the “General Assembly” to which they relate.
- (4) “Proxy notices” may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

Commented [F1]: Standard, but not mandatory.

9.2.2. Forms of the General Assembly

A “General Assembly” may either take place in form of a funded meeting with personal attendance of the “Members” (“Funded Face to Face Meeting”), an unfunded meeting with personal attendance of the “Members” (“Nonfunded Face to Face Meeting”) or through an online forum (“Online-Meeting”). The provisions regarding the “General Assembly” are applicable to all of these meeting forms.

Commented [F2]: Do we want proxies to have the right to appoint a proxy?

Commented [F3]: In what manner and by whom (ICANN I presume) are those meetings funded?

Commented [F4]: Is there a specific form or forum? Are votes through E-Mail an issue?

9.2.3. The ordinary General Assembly

- (1) An ordinary “General Assembly” has to be hold at least once a year.
- (2) The notice of the ordinary “General Assembly” occurs in written form, by the “Board” with the final agenda at least [Number] days prior.
- (3) All proposals for an ordinary “General Assembly” have to be forwarded to the “President of the Board”, in written form at least [Number] weeks prior.

9.2.4. The extraordinary General Assembly

An extraordinary “General Assembly” may be convoked on decision of the “Board” or on request of at least a [Number] of “Members”. The notice of the extraordinary “General Assembly” occurs in written form, by the “Board” with the final agenda at least [Number] days prior.

9.2.5. Decisions and Resolutions of the General Assembly

- (1) Decisions and resolutions of the General Assembly, ordinary or extraordinary, require a “Simple Majority” of the delivered votes, if not stated otherwise in the Articles of Association. All votes are open, secret votes have to be requested by a “Simple Majority” of all delivered votes.
- (2) A “Simple Majority” is reached by fifty percent plus one vote of the delivered votes.

Commented [F5]: How is voting done currently? Show of hands? Polling? By device? In written form?

Commented [F6]: This, in accordance with the last sentence of 9.2.2., allows for a majority of 50%+1 vote for all meetings, regardless of form (as agreed upon in the last call see: <https://community.icann.org/display/EURALO/Action+Items%3A+2017.06.14+EURALO+Bylaws+Taskforce+Call>). The limitation of delivered votes leads in effect to the situation, that abstention votes may or may not be counted. This will not be addressed, as soon as there is an agreement on abstentions.

- (3) In case of a resolution regarding any transaction, legal act or litigation between the “Association” and a “Member”, that “Member” is excluded from voting on that matter.

12. Applicable Law and Dispute Resolution

12.1 The Articles and all its exhibits are to be governed by and construed in accordance with Swiss law, to the exclusion of the conflict of law rules of Swiss international private law.

12.2.1. All disputes, disagreements or any claim arising from the Articles or its exhibits or relating to the Articles or its exhibits, its violation, dissolution or invalidity are to be first exclusively referred to the “Board”.

12.2.2. If the “Board” is not able to resolve the dispute between the parties within three weeks, or if one of its members is part of the dispute, the dispute is exclusively referred to the “ICANN Ombudsman”.

12.2.3. If the “ICANN Ombudsman” is not able to resolve the dispute within seventy days, the dispute is exclusively referred to an “Arbitration Panel”.

12.2.3.1. The “Arbitration Board” is formed by three “Members”. Each of the parties of the dispute, may nominate one member and these appoint the third. Any conflict of interest regarding the or part in the dispute, prohibits a “Member” from being part of the “Arbitration Panel”, in this event another “Member” has to be chosen by the respective party.

12.2.3.2. The rules for the arbitral proceedings are the UNCITRAL Arbitration Rules as of 2013.

12.2.3.3. The “Arbitration Panel” decides disputes with a single majority vote. The decision is final and enforceable but can be reviewed by the “General Assembly” and the Swiss court appropriate.

12.2.3.4. Decisions of the “Arbitration Panel” can be referred for review to the “General Assembly” by the parties of the dispute.

12.2.4. If the “General Assembly” is not able to reach an agreement with the parties of the dispute, the dispute is exclusively referred to the court appropriate under Swiss civil law.

Alternative:

12.2.4. If the dispute is not resolved by the resolution process outlined in 12.2.1-12.2.3.4. of the “Articles of Association” within three months at most or a party of the dispute wishes to appeal, the dispute is exclusively referred to the court appropriate under Swiss civil law.