
Terms of Reference: GAC working group on Human Rights and international law (HRILWG)

These are the Terms of Reference for the Working Group on Human Rights and International law (HRILWG) which was established by the Governmental Advisory Committee (GAC) as referred to in its Communiqué at ICANN 52 held in Singapore on 8-12 February 2015.

The focus of the HRILWG will be on those aspects of ICANN's policies and procedures which relate to human rights and relevant international law.

Objectives

The GAC's HRILWG objectives include, but are not limited to, the following:

1. Considering any appropriate steps that ICANN could take to help ensure that its technical coordination of the domain name system (DNS) is managed in a manner which respects human rights and relevant international law pursuant to and consistent with, among other legal instruments, ICANN's Articles of Incorporation, in particular Article 4;
2. Cooperating with ICANN's advisory committees, supporting organisations, and communities, in particular the Cross-Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights, to encourage and facilitate multi-stakeholder support and cooperation in advancing human rights related policies, recommendations, and advice;
3. Participating in applicable ICANN work streams, policies, and studies to promote a shared understanding of human rights and relevant international law.

Working Group Membership

The GAC's HRILWG Co-Chairs will be Ms Milagros Castañón Seoane (Peru), Mr Mark Carvell (United Kingdom) and Mr Jorge Cancio (Switzerland).

All GAC representatives and observers are welcome to join the Working Group and members of the HRILWG are expected to:

1. Demonstrate knowledge or expertise about Internet governance, the DNS and the Internet as well as relevant issues of human rights and international law relevant to such topics;
2. Commit to participate in the activities of the working group on a consistent basis, either in-person or remotely by teleconference, email, etc.

GAC members are therefore asked to identify and nominate such representatives to participate actively in the work of the HRILWG.

This is permissible under GAC Operating Principle 27, which states: "The Chair may call for the creation of Committees and Working Groups to address matters that relate to concerns of

governments and where they may affect public policy issues. Accredited representatives may designate advisers to serve on such committees."

All participants will be listed in the working group's online workspace, within the members-only section of the GAC website.

The working group will be assisted and supported by the ACIG GAC Secretariat and the ICANN GAC Support team.

Working Methods

The HRILWG may hold physical meetings, in particular during ICANN/GAC meetings, as well as via electronic means. In addition, the HRILWG will:

- introduce the HRILWG and its mission to all relevant ICANN groups and constituencies;
- research, draft, and submit to the GAC, information and possible proposals for further consideration on subjects related to ICANN and human rights and relevant international law;
- consult with human rights, relevant international law and corporate social responsibility experts from industry, civil society and other sources, on subjects relating to ICANN or the domain name system (DNS) that may be related to human rights and relevant international law;
- provide information and/or proposals as appropriate to the GAC on developments, opportunities and challenges relating to human rights and relevant international law. Accordingly, the Co-Chairs of the HRILWG will update the GAC about its activities at each face-to-face GAC meeting.

Members of the HRILWG will be responsible for maintaining the work programme for, and coordinating with the Co-Chairs on, initiatives, studies and publications relating to human rights and international law relevant to the topics.

The HRILWG will aim to act by consensus. If members of the HRILWG cannot reach full consensus, the Co-Chairs will convey the full range of views of the members to the full GAC membership.

Whenever other GAC Working Groups work on the same or related issues, as identified above, the HRILWG will strive for a close coordination with them, in order to provide the GAC with a coordinated and consistent suggestion on how to proceed.

An interactive web page describing the work of the HRILWG and its progress, with a list of its members, will be included on the GAC website.

An email list will be established to aid the work of the HRILWG. Details of how to subscribe to the email list will be published on the web page

Areas of interest for the HRILWG confirmed as of January 2016, include:

- Identification of appropriate human rights and relevant international law related to ICANN's Articles of Incorporation, its Bylaws, and the new gTLD Applicant Guidebook in the light of the experience of the current new gTLD round;
- Contribution to the discussion on human rights and relevant international law, in the context of IANA stewardship transition and enhancing accountability, including possible proposals by the Cross Community Working Group (CCWG) to amend ICANN's bylaws,
- Considering whether and how the UN's Guiding Principles on Business and Human Rights could potentially serve as a framework to examine ICANN's respect for human rights and relevant international human rights law.

Deliverables

The HRILWG may:

- develop for submission to the GAC for approval a range of best practices, statements of support, and other proposals consistent with the working group's objectives.
- submit to the GAC for consideration and approval a draft interim review and analysis of the topics it considers relevant to its work, in the form of a proposed Position Paper or a draft Statement based on the consensus view of the members of the HRILWG. To this end, it may consult with human rights experts and invite non-GAC members and observers to contribute where necessary and appropriate to do so. The GAC may be asked to issue the Position Paper for comments by the wider ICANN community and stakeholders outside the community. In the event that the GAC does not decide to support or endorse the Position Paper or draft Statement, the HRILWG may, at its discretion, reconsider and/or revise these proposals.

(NOT PART OF TOR TEXT)

Proposed topics for next GAC plenary exchange
as additional "Areas of Interest" to be confirmed

- WHOIS reforms and related issues which could impact human rights and relevant international law (e.g. such issues may include, among others, accuracy, privacy and proxy services accreditation).
- Issues relating to the increase in the number of internationalized domain names, including multilingualism and the promotion of cultural diversity.
- Issues relating to intellectual property rights and their interaction with other relevant international legal frameworks, including their impact on human rights