

RIPE NCC Conflict Arbitration Procedure

RIPE NCC

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Introduction

Paragraph 12.4 of the RIPE NCC Articles of Association requires that there be “an arbitration procedure in place for the settlement of disputes between Members of the Association on the one hand and the Management Team on the other regarding decisions of the Management Team with respect to the Standard Service Agreements.”

This document explains the arbitration procedure and consists of four sections:

- A. Scope of the arbitration procedure
- B. Arbiters
- C. Settlement of disputes
- D. The allocation/assignment of Internet number resources to the RIPE NCC

A. Scope of the arbitration procedure

The arbitration procedure is available for the settlement of disputes and for the evaluation of requests for Internet number resources by the RIPE NCC.

Any issue that is not specified in the scope of the arbitration procedure as laid out in Section A cannot be brought forward to the Arbiters Panel.

1. Settlement of disputes

In principle, the arbiters rule on disputes relating to services regarding the registration of Internet number resources in the RIPE NCC service region.

The arbiters are responsible for the settlement of disputes:

- Between Members and the RIPE NCC regarding decisions of the Executive Board or the Management Team with respect to the RIPE NCC Standard Service Agreement, including RIPE NCC procedures and implementation of the RIPE Policies
- Between two or more Members regarding the registration of Internet number resources
- Between Legacy Internet Resource Holders and the RIPE NCC regarding decisions of the Executive Board or the Management Team for the implementation of the RIPE policy “RIPE NCC Services to Legacy Internet Resource Holders”.

The subject of the dispute must be an actionable and enforceable request.

The arbitration procedure is not applicable for RIPE NCC services that, in their Terms and Conditions, provide a concrete competent national court for disputes.

The arbitration procedure RIPE NCC conflict is of an informal nature and is not meant to fall within the scope of the "Arbitration" as described in the Dutch civil law (Wetboek van Burgerlijke Rechtsvordering, Vierde Boek, "Arbitrage"). Parties involved in a dispute have the option to challenge the arbiters' ruling at Dutch or other national competent courts.

2. Evaluation of requests for Internet number resources by the RIPE NCC

According to the RIPE Policy, "[Allocating/Assigning Resources to the RIPE NCC](#)", arbiters are responsible for evaluating the validity of all requests for Internet number resources made by the RIPE NCC.

B. Arbiters

1. General

The tasks described above (in section A) are assigned to the arbiters. All arbiters jointly are referred to as the Arbiters Panel. The RIPE NCC must make sure that there are at least seven (7) arbiters sitting on the Arbiters Panel at all times but it should not consist of more than fifteen (15) persons.

2. Criteria, procedure and dismissal

2.1. Criteria

Arbiters must be natural persons. They must have good knowledge of the Internet environment, working experience in the IT sector and good knowledge of RIPE NCC procedures and RIPE Policies. The entire Arbiters Panel should reflect as broad a spectrum of Internet community members as possible.

Arbiters must commit to performing the tasks corresponding to this function when requested to do so.

Arbiters must be impartial. Persons having a function that does not allow them to be impartial cannot become arbiters (for example, members of the RIPE NCC Executive Board or staff of the RIPE NCC).

2.2. Procedure

People that wish to become arbiters upon invitation by the Executive Board must fill in the application to become an arbiter (see box below) and send it to the RIPE NCC Executive Board.

Application to become an Arbiter

Name:

Profession:

Biography:

Motivation:

Declaration of interests:

[Please list all functions or past functions that may cause a conflict of interest]

with a possible party (for example, shareholder in a Member organisation)]

The RIPE NCC Executive Board will decide on the eligibility of the applicant at the Executive Board meeting that follows submission of the application. Once the Executive Board has decided on the eligibility, the applicant is nominated for the function of arbiter.

The RIPE NCC General Meeting (GM) has the final authority to approve the applicant for the arbiter's function. The resolution to approve the nomination will take place at the first GM after the nomination. After approval by the GM, the arbiter immediately becomes available for the settlement of disputes.

2.3 Dismissal

If an arbiter fails in performing their tasks appropriately or there are doubts about the arbiter's performance or impartiality, this arbiter must either resign or the Executive Board will propose their dismissal at the GM. The GM has the authority to dismiss an arbiter. Until this arbiter resigns or is dismissed, they are entitled to undertake any of the arbiters' tasks.

3. The list of arbiters

The arbiters will be listed alphabetically by surname.

As soon as an arbiter is engaged (not just temporarily put forward) in a dispute or an evaluation of a request for Internet number resources, their name is transferred to the bottom of the list. The next arbiter moves to the top of the list and takes the next request for arbitration.

This process continues through the list of arbiters.

According to their availability, the arbiters will be able to rearrange the order of their name in the list.

View the list of arbiters:

<http://www.ripe.net/lir-services/ncc/legal/arbitration/list-of-arbiters>

4. Arbiters' compensation

The RIPE NCC will cover any costs incurred by arbiters related to the arbiter's function, including travel expenses for attending meetings with other arbiters. Arbiters will not be compensated for the time and effort they spend in their function as arbiters.

C. Settlement of disputes

1. Initiation of the procedure

In the case of a dispute, both parties should document their grievances and communicate them to the other party. They should then try to resolve the conflict between themselves. Only if such resolution has been tried and documented by at least one of the parties can either party request arbitration by submitting the Request for Arbitration form. The Request for Arbitration form is available at:

<http://www.ripe.net/lir-services/ncc/legal/arbitration/ripe-ncc-arbitration-request-form>

Either party can send the Request for Arbitration within a reasonable time period from the commencement of the dispute. This time period cannot be longer than one year.

Note:

The party initiating the procedure is free to select an arbiter from the Arbiters Panel with no regards to the list. If this arbiter is not available, or if the other party objects to this selection, or if this arbiter has a conflict of interest in the dispute, the arbiter must be chosen according to the list (see sections C.2.1. and C.2.2.).

This communication and any communication among the parties and the arbiters must take place in English.

If the RIPE NCC is one of the parties involved in the conflict, clerical support will be provided by a third party.

2. Actions from the arbiter

2.1. Provision of information and undertaking arbiter

The selected arbiter must send an email to both parties to indicate:

- Their function as the arbiter of the dispute
- Information about themselves that could be considered as a potential conflict of interest in relation to the arbiter undertaking the dispute
- The possibility for the other party to object to their function as the arbiter of the dispute
- Both parties' obligation to indemnify the arbiter by signing the indemnification statement
- An email address for the purpose of communication and exchange of information during the arbitration procedure

The other party will then have two calendar weeks to either accept arbitration by this arbiter or to object. If the other party does not react, it is assumed that arbitration by this arbiter is accepted.

If the other party objects to the selected arbiter, that party must state the reason for the objection. If there is an objection, the parties no longer have the option to select an arbiter. The first arbiter in the list (see above at section B.3.) will be put forward and will send an email to both parties to indicate:

- Their function as the arbiter of the dispute
- Information about themselves that could be considered as a potential conflict of interest in relation to the arbiter undertaking the dispute
- The possibility for the other party to object to their function as the arbiter of the dispute

- Both parties' obligation to indemnify the arbiter by signing the indemnification statement
- An email address for the purpose of communication and exchange of information during the arbitration procedure

If this arbiter is not acceptable to either party, the next arbiter in the list will be put forward and will send an email to both parties to indicate:

- Their function as the arbiter of the dispute
- Both parties' obligation to sign the indemnification statement
- An email address for the purpose of the communication and exchange of information during the arbitration procedure

The parties do not have the option to object to arbitration by this arbiter.

2.2. Conflict of interest

Arbiters having a direct conflict of interest in the dispute will exclude themselves as early as possible from the procedure. The next arbiter in the list will be put forward and will communicate with the parties.

Should a conflict of interest become apparent at a later stage in the procedure, the arbiter concerned will immediately inform the parties. If either party then requests the removal of this arbiter from the dispute, the next arbiter in the list will be put forward and will communicate with the parties instead. Both parties will have to sign an indemnification statement with regards to the new arbiter.

2.3. The indemnification agreement and deposit

Both parties must sign the arbiter's indemnification statement within two calendar weeks of the notification by the final arbiter. Once both parties sign the indemnification statement, the arbitration commences.

If the dispute relates to an outstanding invoice to the RIPE NCC, the payment of the invoice must be made to the RIPE NCC, who will keep the amount in escrow for the duration of the arbitration. In this case, the arbitration commences upon:

- Receipt of payment by the RIPE NCC; and
- The signing of the indemnification statement by both parties.

If a conflict of interest becomes apparent at a later stage and a new arbiter undertakes the dispute as described in section 2.2, the arbitration re-commences upon the signing of the new indemnification statement by both parties.

3. Submission of information

The arbiter will ask both parties to submit all information that can assist in reaching a ruling in the dispute. The parties must submit the information by email within one calendar week of the arbiter's request for information.

The arbiter may request within the next four calendar weeks any further information relevant to the case. The requested party must submit the requested information within two weeks of the request being made. If the requested party

fails to submit the information, the arbiter may assume that the statement that could be supported by the requested information is not valid. If there is sufficient justification, the timeframe can be extended for two calendar weeks.

The arbiter may decide to obtain and document advice from other arbiters or relevant experts, including lawyers. This advice may refer to procedural and substantive issues. If the RIPE NCC is one of the parties involved in the conflict, legal support will be provided by a third party specified for this purpose by the RIPE NCC.

4. Timeframe

The arbiter shall communicate the arbitration ruling to the parties concerned within 12 calendar weeks from the date the arbitration commences (i.e., the date of receipt of the last indemnification agreement).

The ruling must:

- Have a clear action and be enforceable
- Resolve the dispute (accepting or rejecting the request of either party)
- Be based on:
 - Concrete provisions of RIPE Policies
 - Publicly available RIPE NCC documents
 - The information provided by the parties

The ruling may include recommendations on different aspects of the case and it may include a recommendation on how to execute or implement the ruling.

5. Execution of ruling

The parties have two calendar weeks from the date the ruling is communicated to comply with the ruling unless one or both parties submit(s) the dispute to a Dutch or other competent national court within that period.

If either party does not comply with the ruling and does not submit the dispute to a Dutch or other competent national court within two calendar weeks, the RIPE NCC Standard Service Agreement with that party will be terminated as described in the RIPE NCC procedural document, "Closure of LIR and De-registration of Internet Number Resources".

If the RIPE NCC is a party in the dispute, it will comply with the ruling. The RIPE NCC Standard Service Agreement of the other party will not be terminated because of non-compliance by the RIPE NCC.

6. Transparency of the procedure

The arbiter will publish an arbitration case report on www.ripe.net regarding the ruling and/or recommendations provided to the parties involved or to the RIPE community. The published report will not reference the names of the involved parties.

7. Procedural costs

Reasonable procedural costs incurred during the arbitration will be covered by the losing party. Reasonable costs are costs essential for the settlement of the

dispute, including costs for clerical support or external legal advice. These costs must be below €5,000.

D. The role of the Arbiters Panel for allocation or assignment of Internet number resources to the RIPE NCC

The arbiters evaluate requests from the RIPE NCC for Internet number resource allocations or assignments according to the RIPE Policy "[Allocating/Assigning Resources to the RIPE NCC](#)".

The RIPE NCC requests the Internet number resources in accordance with the procedure that Members follow for these types of requests. The RIPE NCC IP Resource Analyst (IPRA) that receives the request will inform the arbiters of the request and give a formal written opinion on whether the request is consistent with current RIPE Policies.

The arbiter whose name is at the top of the list will take responsibility for processing the request and for concluding and making a final call on the decision.

The request will be evaluated by a majority of the full Arbiters Panel. The arbiters can approve the request only if the IPRA finds the request consistent with RIPE Policies.

Both the IPRA recommendation and the reasoning of the arbiters will be announced publicly. For the purpose of evaluation, the request will be treated as if it were filed by a regular Member.

If the request is approved, the Internet number resources will then be allocated/assigned by the RIPE NCC to the RIPE NCC and registered in the RIPE Database.

Should either or both the IPRA and the arbiters reject a request, or if the request cannot be granted by applying the standard RIPE Policies, the RIPE NCC can file a request to have its case heard at a Plenary session at the next RIPE Meeting. It is then up to the RIPE Plenary to decide whether the request should be granted or not. At no point can the RIPE NCC allocate/assign Internet number resources to itself without the prior consent of either the arbiters or the RIPE Plenary.