

Reconsideration Request

Response to Determination by the BAMC

Dr Eberhard W Lisse

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1 Introduction

We were apprised of the [DETERMINATION OF THE BOARD ACCOUNTABILITY MECHANISMS COMMITTEE \(BAMC\)](#) (“determination”) to our Reconsideration Request (“Request”) by an email from the Internet Corporation for Assigned Names and Numbers (“the Corporation”), dated 2022-04-14, which, unfortunately, was unsigned and reached us on same Thursday after close of business.

We have read the determination, which was, unfortunately, also unsigned and shall refer to the authors as “BAMC”. As Friday and Monday are public holidays we can only respond today (2022-04-19)

The determination rejects urgency on the grounds that urgency can only be claimed against Board action or inaction (“(in)action”) not against staff (in)action, and states

[...] the BAMC concludes that Request 22-2 does not meet the requirements for urgent reconsideration because the challenged action is that of ICANN staff.

The Requestors have not identified any Board action that was taken related to the ICANN74 In-Person Travel Waiver. Nor can the Requestors do so because the Board has not taken any actions related to the Waiver.

[...]

The determination further advises that urgent requests against Board (in)actions have a deadline of 2 business days which, incidentally, we feel, puts smaller entities without the benefit of large Legal departments and/or large Law Firms on retainer at an unfair disadvantage.

2 Response

We believe rejecting our urgent Request on formal grounds, is not only unhelpful but also wrong.

We clearly marked **both** Staff (in)action **as well as** Board (in)action in our Request¹ and most certainly alleged Board inaction by being

[...] unaware of any ICANN Policy that makes the current or future participation in ICANN's multistakeholder model subject to the sole discretion of ICANN's employees, agents and representatives.

The BAMC bases most of its determination on the fact that the Board did not act, and thus, perhaps inadvertently, has admitted the Board inaction we challenged in our Request.

While we appreciate that the Corporation is willing consider the matter in the regular course we would propose that the matter is being dealt with on the merits as a matter of urgency, in other words to allow for sufficient travel planning for those who are unable to agree to the *Waiver*.

We also believe that if indeed no urgent reconsideration can be requested against staff (in)action that this is an oversight in need of rectification.

Finally we would appreciate if correspondence with us be signed by a named officer of the Corporation.

¹item 2 on page 1 of the Request



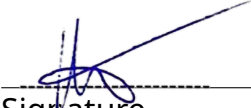
Signature

2022-04-19

Date

Eberhard W Lisse

Print Name



Signature

2022-04-19

Date

Michele Neylon

Print Name