



OFFICE OF THE OMBUDSMAN

# Annual Report

1 JULY 2020 - 30 JUNE 2021

ONE WORLD, ONE INTERNET

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# Purpose of this Report

The purpose of this report is described in [Article 5, Section 5.5 of the ICANN Bylaws](#):

The Office of Ombudsman shall publish on an annual basis a consolidated analysis of the year's complaints and resolutions, appropriately dealing with confidentiality obligations and concerns. Such annual report should include a description of any trends or common elements of complaints received during the period in question, as well as recommendations for steps that could be taken to minimize future complaints. The annual report shall be posted on the website.



# Executive Summary

## **The ICANN Office of the Ombudsman is pleased to submit its 2021 Annual Report.**

The FY21 meetings were entirely virtual (online), owing to the COVID-19 pandemic. As ICANN completed a full year of virtual operations, the Office of the Ombudsman adapted to the new norm of online operation and distance meetings (via Zoom) as the ICANN community, ICANN organization (org), and the ICANN Board of Directors all adjusted to doing things without meeting in person.

The Ombuds team of Herb Waye (Ombuds) and Barbara Curwin (Adjunct Ombuds) maintained an active presence online at all three of the ICANN Public Meetings, including participating as observers in as many community, ICANN org, and Board meetings as possible. The Ombuds Office's primary goals are to champion diversity, inclusion, and equity, to promote a harassment-free environment, and to make the community aware of and enforce the ICANN Expected Standards of Behavior.

As organizations around the world adapt to exclusively online work, professional development opportunities for the Ombuds team have become more available. Hence, the Adjunct had the opportunity to complete an International Ombuds Association Ombuds Foundations Course and the Ombuds was able to participate in a certificate program with Osgoode Hall Law School at York University. More details on these certification programs are provided in the Professional Development section of this Report.

Considering the ongoing virtual environment, the focus of the Ombuds has remained on active participation with the community online. The Ombuds participates as an observer in community working groups and policy development teams, with occasional participation in a more official manner usually at the request of the leadership teams (under the Office's charter in Article 5 of the ICANN Bylaws).

The Office of the Ombudsman continues to support, promote, and provide education on the ICANN Expected Standards of Behavior and the Community Anti-Harassment Policy.

The Office of the Ombudsman stands with the ICANN community, Board, and the organization during this global pandemic to serve in any way it can to help ensure that fairness, respect, and professionalism continue to grow and endure for the foreseeable future. The office has adapted, yet the Ombuds team still looks forward to the day when in-person meetings can resume.

# Report on Activities

## Ombudsman Functions

Conflict management is the Ombudsman's primary function:



### Case Management

- Complaint intake
- Investigation
- Resolution



### Monitoring the Environment



### Outreach



### Promoting and Enforcing the ICANN Expected Standards of Behavior and Community Anti-Harassment Policy



### Professional Development

# Report on Activities

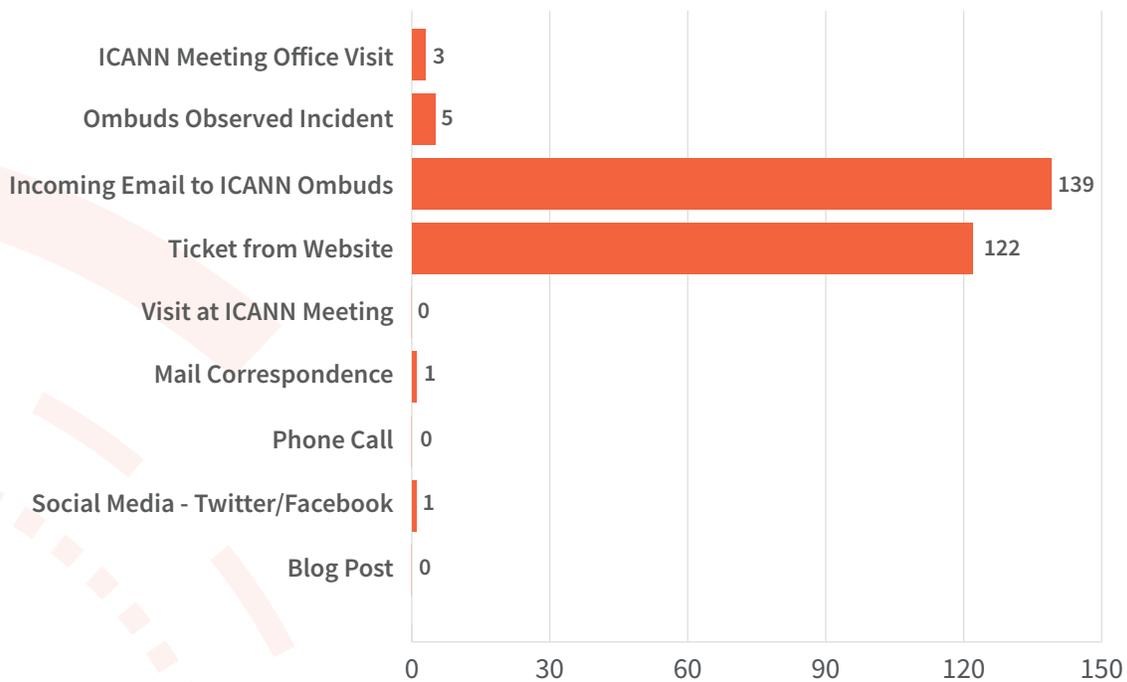
## Case Management



The Office of the Ombudsman received 271 complaints from 1 July 2020 to 30 June 2021. This is a substantial increase from the previous fiscal year. Of those complaints, 241 were nonjurisdictional, requiring a response but no action. All complaints made to the Office are responded to within 48 hours.

There was once again a slight drop in jurisdictional complaints from 33 (FY20) down to 30 (FY21). A jurisdictional complaint requires intervention, investigation, or some form of informal involvement by the Office of the Ombudsman. At the conclusion of June 2021, all complaints were closed, with only one case remaining from a previous year that remains open due to an unwillingness of the subject to participate in the Office’s investigation. This case is subject to ongoing interim sanctions imposed on the individual, who still has the choice to participate in the investigation.

### Complaint Referral Source



There were two complaints of discrimination scored under the Community Anti-Harassment Policy for this reporting period. One within a Supporting Organization (SO) or Advisory Committee (AC), which was resolved with collaboration from the SO and AC leadership, and a second from the general public, which was unfounded. The Office received eight complaints about abusive discourse, similar to last year’s numbers. This might be a result of ongoing initiatives by the Office of the Ombudsman, ICANN org, and the ICANN Board aimed at heightening community awareness of the ICANN Expected Standards of Behavior and the Community Anti-Harassment Policy. The Ombuds believes that the move from a face-to-face to a virtual environment has had a positive effect on behavior, though disruptions in the online chat of many of the meetings are a distraction and can at times get heated. The Ombuds team believes their active participation online helps maintain a certain degree of decorum in the meetings.

There were 12 complaints directed at Contractual Compliance, primarily regarding delays in service response times, which were all resolved with collaboration from the Contractual Compliance function.

Consumer issues with domain names (52) and registrar or registry issues (95) again constituted the majority of the nonjurisdictional complaints. A more comprehensive and informative response to nonjurisdictional complaints has resulted in very positive feedback from complainants. Initially implemented in 2018, responses from the Office of the Ombudsman now include both a referral to the appropriate ICANN org function (usually Contractual Compliance or Global Support), and contains an invitation to participate in the ICANN multistakeholder model, if appropriate, with links to the various stakeholder groups, SOs, or ACs (depending on the nature and context of the complaint). Complainants are also invited to contact the Office of the Ombudsman with feedback on their experiences.

Example email response text:

*There are several constituency groups that are actively discussing issues like yours in the ICANN community. I invite you to reach out to one you may find appropriate for your situation (commercial or noncommercial) to inquire with more knowledgeable individuals about (description of complaint) or when there is abuse. Participation at ICANN is free, and all are invited to participate in policy development or review. All community members are also encouraged to raise issues of abuse.*

*Please look through these links to ICANN constituencies. If you have further questions, please do not hesitate to reach out.*

<https://gnso.icann.org/en/about/stakeholders-constituencies>

<https://atlarge.icann.org>

*I welcome all feedback. Please let me know if this has been of assistance to you, or if you have further questions, by contacting [ombudsman@icann.org](mailto:ombudsman@icann.org).*

Below are some of the examples of feedback from people who contacted the Office of the Ombudsman. It is worth noting that all such feedback has been positive.

---

*Thank you, Mr. Wayne. I greatly appreciate your help.*

*Hope you have a good week and a great 2021.*

---

*Respected Sir,*

*We convey our thanks for the prompt response and action initiated by you*

*Sir, resultantly the “Domain Transfer Authorization Code” has been provided by the representative of Net4India and we have shared the same with “Go daddy” the Registrar with whom we wish to get our Domain transferred from Net4India.*

*It is informed by new Registrar that the process of Domain Transfer is initiated by them and it will take 4-5 days for completion of process of transfer of Domain.*

*We once again convey our gratitude for your action in the matter.*

*Thanks & Regards*

---

*Good afternoon*

*this was very helpful*

*I realize spam and phishing are huge problems for everyone. You have pointed me in some very useful directions.*

*Thanks again*

---

*Hi Herb*

*Thank you very much, this information is very helpful and I will be sure to follow your advice*

*Thank you for directing me to the right area*

*Kind Regards*

---

*Thank you very much for your reply, and the direction offered. I shall bury my nose in those links and try to find resolution.*

*Many thanks*

---

*Thank you for your assistance Herb and this information. Very helpful.*

*Kind regards,*

---

*Hello Herb*

*Thank you for your quick response and the right pointers. I will follow up on them asap.*

*Best wishes*

---

*Hello Herb,*

*thanks a lot for the quick reply and the useful links - I will study the resources and will try to raise the issue at the appropriate authorities.*

---

*Dear Sir,*

*Thank you, I have faith in why the conversation is continuing just because of your last reply,*

*it is your focus that helped me, otherwise a closed ticket did not respond to me, I think.*

---

*Hi Herb*

*Thank you for the reply. I have since moved out of that troubling situation and feel that I have done all that I can on my end.*

*It is my opinion that more framework should be implemented to protect product end users from bad operators and ensure quality standards.*

---

*Dear Herb*

*Thank you very much.*

*Your explanation has helped me a lot.*

*And you answered very quickly - thank you God bless you*

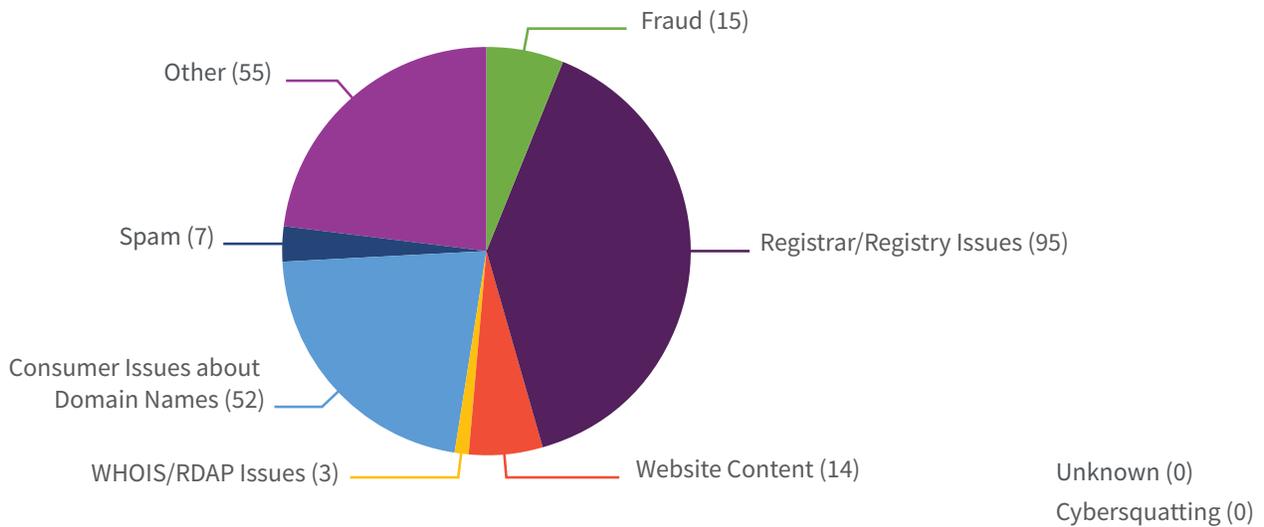
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When complaints are co-addressed to both the Office of the Ombudsman and the ICANN Complaints Officer (and frequently Global Support or Contractual Compliance), an evaluation of the complaint is done jointly to determine who will first address the issue.

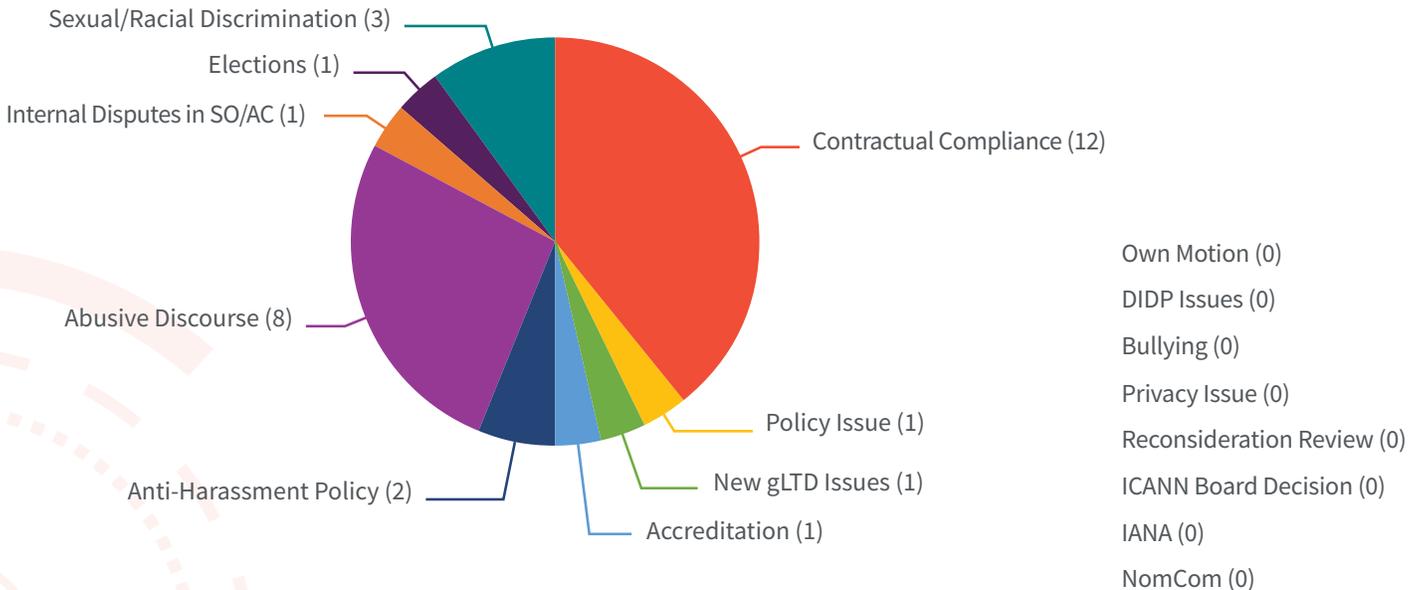
## How the Ombudsman Handles Nonjurisdictional Complaints:

- Response sent within two days.
- Self-help information or referral.
- Provides links to ICANN community groups.
- Invitation to participate in the community policy development process, particularly if the complaint is about issues such as WHOIS or privacy, registrar or registry contractual issues, public safety, or matters concerning the At-Large Advisory Committee (ALAC) or Generic Names Supporting Organization (GNSO) working groups.

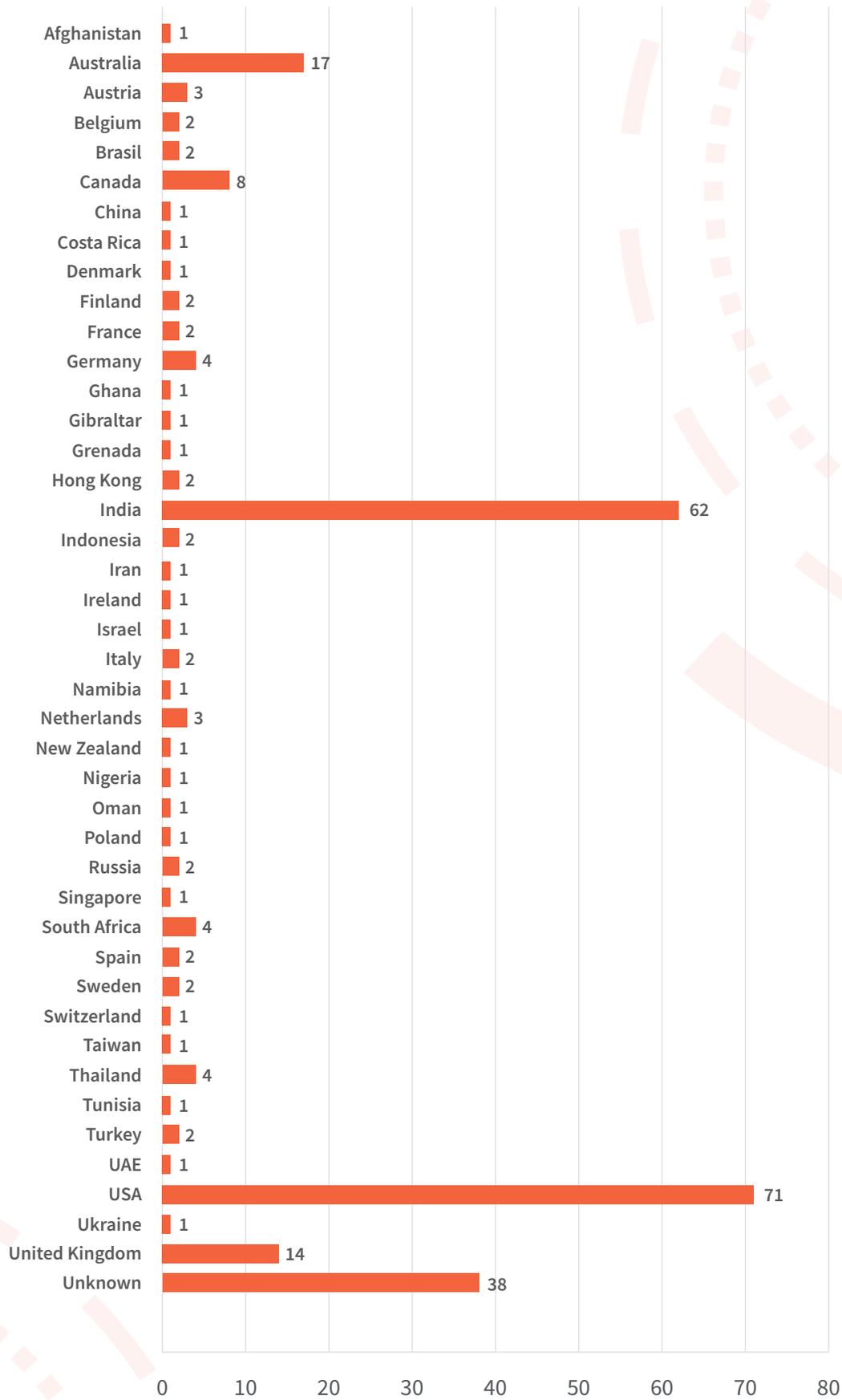
### Non-Jurisdictional



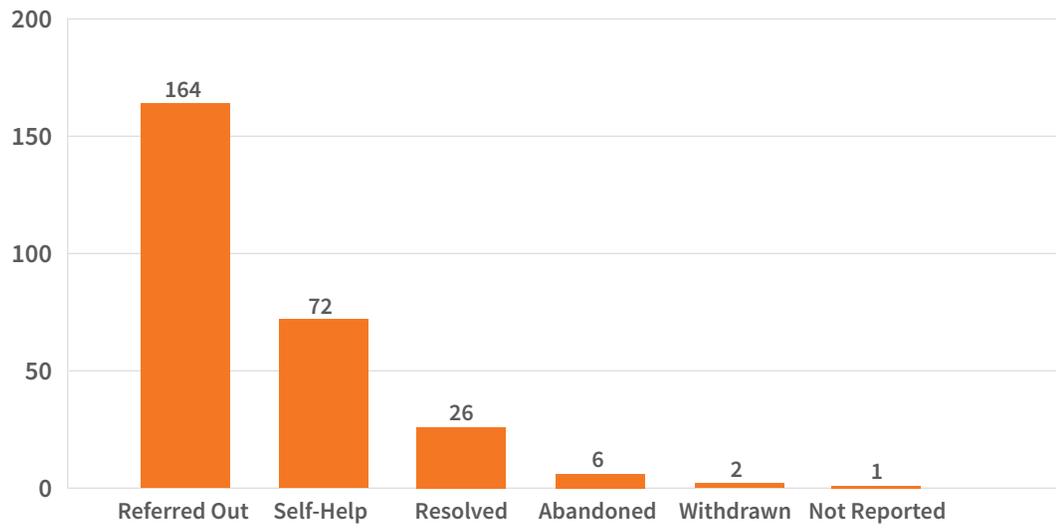
### Jurisdictional



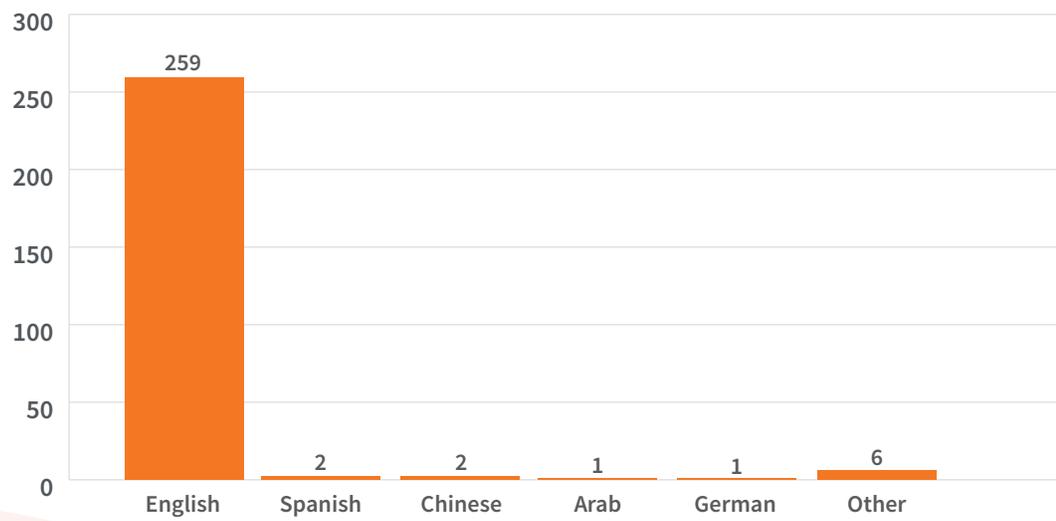
### Country of Origin



### Resolution



### Language



# Report on Activities

## Monitoring the Environment



Monitoring the environment, and active engagement with the Community, has taken on an entirely new importance for the Office of the Ombudsman, as the impact of a pandemic eliminated opportunities for face-to-face meetings to date. The move from in-person meetings to virtual meetings increased the need for a greater presence in the online environment.

The Office of the Ombudsman staffed a virtual office for the three ICANN Public Meetings in FY21 during the meetings' scheduled time zones, in Hamburg, Germany; Cancun, Mexico; and The Hague, Netherlands. Working on the Zoom platform, the Ombuds team could ensure confidentiality by controlling participation in the room; drop-in visitors were placed into waiting rooms, ensuring confidentiality for those who might be meeting with the Ombuds at the same time. The Zoom room office hours and link were posted daily in the community chat on the meeting schedule page and on social media.

In the past, the team's online presence has primarily focused on working groups, stakeholder groups, and constituencies where problems existed and intervention or monitoring had been requested. Without face-to-face meetings, which offered an opportunity to observe working groups, stakeholder group meetings, or constituency meetings in person, there is now an ongoing extra effort to participate and actively observe as many online meeting and working group calls as possible. This includes the GNSO, ALAC, the ICANN Board, ICANN org, and other public events. Observation usually does not involve participation, unless such is requested.

The Office of the Ombudsman has an ongoing initiative to monitor multiple ICANN community email lists to understand current events and the tone of any controversial issues being discussed.

The Ombuds team firmly believes that their online presence serves not only as a reminder for community members to adhere to the ICANN Expected Standards of Behavior and the Community Anti-Harassment Policy, but that it also offers them the opportunity to stay current with contentious issues or ongoing conflict. It also allows them to stay current on many policy development processes that drive the ICANN community, and to be aware of areas of friction earlier and hence to be able to defuse testy interactions before they rise to the level of a complaint.

### Ombudsman activities at ICANN69 (Hamburg), ICANN70 (Cancun), and ICANN71 (The Hague):

- Office staffed by a team: Ombudsman Herb Waye and Adjunct Ombuds Barbara Curwin
  - Benefit: Better availability for drop-in community members
  - Gender diversity for complainants who might wish to discuss sensitive issues
- Office hours at Ombudsman meeting office throughout meeting periods
  - Benefit: Informal drop-in policy allowed easy access in a confidential and discreet setting (both virtual and in person)
- Participation in community sessions
  - Benefit: Informal interaction with the groups that most frequently raise or generate issues or that have been or been the focus of frequent complaints

# Report on Activities

## Outreach



Outreach during FY21 has been limited to a virtual online presence. Despite the limitations imposed by this virtual environment, the Ombuds team would take the opportunity at every meeting to greet participants and observers in the chat and conclude the meeting with a positive salutation.

### FY21 Outreach Activities:

- Participation as observer in regional online events, including APAC Space, EURALO events, NARALO events, Middle East events, LACRALO events, and AFRALO events. ICANN org webinars, and Board meetings with SOs and ACs
- Virtual attendance at IGF 2020
- Participation in networking and professional development with the Forum of Canadian Ombuds (FCO), the International Ombuds Association (IOA), and the International Ombuds Institute (IOI)
- Participation on the IOA Diversity Equity Inclusion and Belonging (DEIB) Committee and representing it on the IOA International Outreach Committee

The Ombuds team continues to engage throughout the year on a proactive basis with the ICANN community and other communities through blog posts, Facebook, and Twitter. The Ombuds also promotes ICANN events, the Expected Standards of Behavior, and the Community Anti-Harassment Policy.

 [www.facebook.com/ICANNOmbudsman](https://www.facebook.com/ICANNOmbudsman)

 [@IcannOmbudsman](https://twitter.com/IcannOmbudsman)

 [icann.org/news/blog](https://icann.org/news/blog)

# Report on Activities

## ICANN Expected Standards of Behavior



The ICANN Board of Directors adopted the current version of the ICANN Expected Standards of Behavior in June 2016, although the standards that form the basis for the Expected Standards have been in effect at ICANN since 2008. The Ombuds team continues to promote and reinforce the Expected Standards of Behavior and the Community Anti-Harassment Policy, and to reiterate everyone’s right to a safe, respectful, and harassment-free environment when attending an ICANN meeting or sponsored event, including when they

virtually attend any ICANN-related event. The move from face-to-face meetings to an entirely online environment has resulted in most incidents reported to the Ombuds Office involving instances of abusive discourse primarily in the chat of virtual meetings or in the email lists of the various constituencies rather than orally or in person. The Ombuds team believes their active presence in most online working groups helps mitigate conflict and promote good behavior.

### ICANN EXPECTED STANDARDS OF BEHAVIOR Adopted 26 June 2016

Those who take part in ICANN’s multistakeholder process, including Board, staff and all those involved in Supporting Organization and Advisory Committee councils, undertake to:

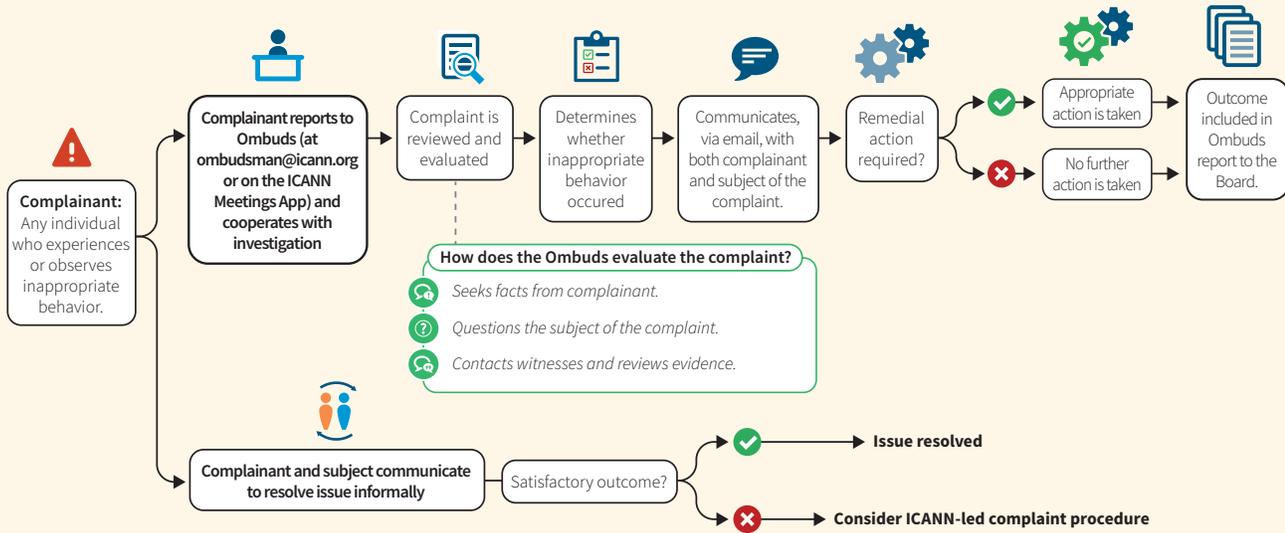
<p><b>Act</b> in accordance with ICANN’s Bylaws. In particular, participants undertake to act within the mission of ICANN and in the spirit of the values contained in the Bylaws.</p>	<p><b>Adhere</b> to ICANN’s conflict of interest policies.</p>	<p><b>Treat</b> all members of the ICANN community equally, irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation; members of the ICANN community should treat each other with civility both face-to-face and online.</p>	<p><b>Respect</b> all members of the ICANN community equally and behave according to professional standards and demonstrate appropriate behavior. ICANN strives to create and maintain an environment in which people of many different backgrounds and cultures are treated with dignity, decency and respect. Specifically, participants in the ICANN process must not engage in any type of harassment. Generally, harassment is considered unwelcome hostile or intimidating behavior—in particular, speech or behavior that is sexually aggressive or intimidates based on attributes such as race, gender, ethnicity, religion, age, color, national origin, ancestry, disability or medical condition, sexual orientation or gender identity.</p>	
<p><b>Protect</b> the organization’s assets and ensure their efficient and effective use.</p>	<p><b>Act</b> fairly and in good faith with other participants in the ICANN process.</p>	<p><b>Conduct</b> themselves in accordance with ICANN policies.</p>	<p><b>Support</b> the maintenance of robust mechanisms for public input, accountability, and transparency so as to ensure that policy development and decision-making processes will reflect the public interest and be accountable to all stakeholders.</p>	<p><b>Listen</b> to the views of all stakeholders when considering policy issues. ICANN is a unique multistakeholder environment. Those who take part in the ICANN process must acknowledge the importance of all stakeholders and seek to understand their points of view.</p>
<p><b>Work</b> to build consensus with other stakeholders in order to find solutions to the issues that fall within the areas of ICANN’s responsibility. The ICANN model is based on a bottom-up, consensus-driven approach to policy development. Those who take part in the ICANN process must take responsibility for ensuring the success of the model by trying to build consensus with other participants.</p>	<p><b>Promote</b> ethical and responsible behavior. Ethics and integrity are essential, and ICANN expects all stakeholders to behave in a responsible and principled way.</p>	<p><b>Facilitate</b> transparency and openness when participating in policy development and decision-making processes.</p>	<p><b>Act</b> in a reasonable, objective and informed manner when participating in policy development and decision-making processes. This includes regularly attending all scheduled meetings and exercising independent judgment based solely on what is in the overall best interest of Internet users and the stability and security of the Internet’s system of unique identifiers, irrespective of personal interests and the interests of the entity to which individuals might owe their appointment.</p>	

This has been translated into multiple languages for information only. The original and authoritative text (in English) may be found at: <https://www.icann.org/resources/pages/expected-standards-2016-06-28-en>.

## ICANN Community Anti-Harassment Policy

Harassment, in any form, is never tolerated in the ICANN community. As such, the Office of the Ombudsman, ICANN org, and the ICANN Board continue to work hand in hand to promote a safe and harassment-free environment. By actively participating as an observer in as many online meetings and working groups as possible, the Ombuds teams acts as a (gentle) reminder to all to keep ICANN safe and harassment free for all.

### ICANN Community Anti-harassment Reporting and Complaint Procedure



Frequently, people may be unaware that their behavior is offensive or inappropriate, possibly due to differences in cultural or social norms. It is important to consider that the behavior may not be intentional or malicious. For that reason, the Community Anti-Harassment Policy complaint procedure begins with the option of communicating with the person responsible to resolve the issue informally. If the behavior is unintentional yet unwelcome, merely identifying the behavior as offensive or inappropriate often results in a change in behavior and an apology.

Adjunct Ombuds Barbara Curwin is now a recognized and acknowledged member of the Ombuds Office and a valuable resource for the community regarding harassment and diversity.

Anyone who has been subjected to harassment can and should report the incident(s) to the Office of the Ombudsman. They can also report the incident(s) to any senior person in the ICANN organization, or to any community leader with whom they feel comfortable – those receiving reports may then act as intermediaries with the Office of the Ombudsman. There is no place for harassment, bullying, or any other type of inappropriate behavior anywhere in today’s world. Such behavior will not be tolerated in the ICANN community.

**There is no place for harassment, bullying, or any other type of inappropriate behavior in today’s world.**

The Community Anti-Harassment Policy PDF is available in Arabic, Chinese, English, French, Russian, and Spanish:  
<https://www.icann.org/en/system/files/files/community-anti-harassment-policy-24mar17-en.pdf>

# Report on Activities

## Professional Development



The Ombuds team continues to maintain membership in three Ombuds organizations: the International Ombudsman Association (IOA); the Forum of Canadian Ombudsman (FCO); and the International Ombudsman Institute (IOI). As most organizations continue to adapt to online learning, professional development opportunities have become more readily available.

Adjunct Ombuds Barbara Curwin has successfully completed the IOA Ombuds Foundations course. The IOA and FCO annual meetings in FY21 were online, and both members of the Ombuds team participated and benefited from various sessions on complaint management, client behavior, strategies for dealing with harassment, and various other Ombuds-related issues.

The FCO offered a professional development opportunity through the Osgoode Hall Law School at York University. The Ombuds pursued the Osgoode/FCO Certificate in Advanced Issues in Ombuds Practice, receiving appropriate credit upon completion of an academic paper analyzing the International Ombuds Institute's "Venice Principals" in Ombudsmanship.

# Requests for Reconsideration

**In the October 2016 version of the ICANN Bylaws, the Office of the Ombudsman’s role in ICANN expanded to include reviewing reconsideration requests and, in situations where the Ombudsman does not recuse himself, in providing a substantive written evaluation to the Board Accountability Mechanisms Committee (BAMC) for its review and consideration.**

During this reporting period, three requests for reconsideration were filed with the BAMC for consideration. None of the three requests for reconsideration were referred to the Ombuds Office for evaluation as they were dismissed by the BAMC.

<https://www.icann.org/resources/pages/reconsideration-20-3-silver-marketing-request-2020-11-18-en>

<https://www.icann.org/resources/pages/reconsideration-21-1-dot-hotel-et-al-request-2021-02-09-en>

<https://www.icann.org/resources/pages/reconsideration-21-2-gupta-request-2021-06-10-en>

The Ombudsman will recuse himself when he or a former Ombuds has previously taken a position or been involved in some meaningful way in the action or inaction of which the requestor seeks reconsideration.

The role of the Ombudsman is to evaluate reconsideration requests in a formal way under Article 4 of the Bylaws; the Ombudsman’s main charter under Article 5 remains playing an informal role. These two roles are not always compatible.

The Ombudsman is required to recuse himself when the Office of the Ombudsman has already taken a position, and when there exists a meaningful question as to how to balance the situation when a member of the community seeks advice about something that might lead to a reconsideration request. If the Ombudsman takes a position in the matter under such circumstances, he will then recuse himself if and when a related reconsideration request is submitted to the Office for substantive evaluation.

The Ombudsman’s additional duty to provide substantive evaluations of reconsideration requests adds a new dimension and extends the role. It does not diminish the primary role of the Ombudsman to resolve disputes informally under Article 5. The community is encouraged to reach out to the Ombudsman about such matters, but to be aware that, if they are likely to result in a request for reconsideration, engaging the Ombudsman informally could prevent his providing a substantive evaluation of such a request under his more formal Article 4 duties.

# Going Forward

## **In FY22, the primary goal of the Office of the Ombudsman continues to be adapting its service to offer the community the same standard of professionalism and service as the global pandemic continues to evolve**

With ICANN Public Meetings continuing to be held fully or in part as virtual events, the Office of the Ombudsman will host virtual drop-in office hours during ICANN72, ICANN73, and ICANN74. Nevertheless, active engagement remains the mission of the Office of the Ombudsman.

As the pandemic has required an adjustment in all service provisions by the Office of the Ombudsman, outreach, training, and service delivery were adjusted to a virtual environment. The Office of the Ombudsman will continue to be a valuable asset to the people it serves. All elements of the Office of the Ombudsman continue to function as before, including in a complete virtual manner.

As the Office of the Ombudsman moves forward as an established and coordinated team, which for now operates in a virtual environment, it will continue to collaborate in a myriad of ways with the Community, the ICANN Board, and the ICANN organization. Together they will endeavor to keep ICANN a safe, diverse, and harassment-free environment where everyone can enjoy participation – virtual or in-person – to the utmost.

Stay safe and be kind.

# ICANN Office Locations

## Headquarters

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Fax: +1 310 823 8649

## Regional Offices

### Brussels, Belgium

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B-1040 Brussels, Belgium  
Phone: +32 2 894 7414

### Istanbul, Turkey

Hakki Yeten Cad. Selenium  
Plaza No:10/C K:10  
34349 Istanbul, Turkey  
Phone: +90 212 999 6222

### Montevideo, Uruguay

La Casa de Internet de  
Latinoamérica y el Caribe  
Rambla República de México 6125  
11400 Montevideo, Uruguay  
Phone: +598 2604 2222 ext 5701  
Fax: +598 2604 2222 ext 4112

### Singapore

South Beach Tower  
38 Beach Road, Unit 04-11  
Singapore 189767  
Phone: +65 6816 1288

## Engagement Centers

### Beijing, China

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