

## The Long Walk to a new Board of Directors at AFRINIC

After years of disputes, AFRINIC has been placed under receivership with the utmost objectives to organize elections to reconstitute board of Directors and appoint CEO. The attempt to organize the elections has failed and the community is wondering how best to handle the situation full of legalities and technicalities which may not be understandable for everyone.

In this publication, I present the chronology of events and suggest some avenues for the discussions on the way forward.

### A. Court orders Chronology

1- Court order Ref: SC/COM/MOT/000156/2023

12, September 2024

**Applicant: Cloud Innovation Ltd**

**Interested Party: AFRINIC**

AFRINIC placed under receivership at the request of Cloud Innovation Ltd (entitled person)

18, September 2023, the directorship of the existing four directors will come to an end.

- restraint and prohibit AFRINIC from relocating and/or subject itself to a takeover or merger, or restructuring or management control in any manner whatsoever
- hold the ring and ensuring that the status quo of the assets of AFRINIC Ltd is preserved and that the value of the business is maintained.
- hold elections to reconstitute board **in six months**.

[https://afrinic.net/ast/Court\\_Order\\_Redacted.pdf](https://afrinic.net/ast/Court_Order_Redacted.pdf)

2- Court order Ref: 2024 SCJ 473

15, October 2024

**Applicant: AFRINIC**

**Respondent: Cloud Innovation Ltd**

**Co-respondent: Official Receiver**

The court set aside the appeal but make no order as to costs having regard to the particular circumstances of the present case. We restore the Order made by the learned Judge of the Commercial Division of the Supreme Court in an oral judgment delivered on 12, September 2023. The reconstitution of the appellant's Board of directors is certainly a matter of utmost urgency. With regard to the Order directing the receiver in the person of the Official Receiver to carry out the election of the Board as per the appellant's constitution and to complete the whole process within a delay of six months as from 12, September 2023, we substitute therefor an order directing the Official Receiver to complete the whole process within a period of two (2) months as from the date of this judgment.

<https://afrinic.net/ast/2024/african-network-informtion-centre-afrinic-ltd-v-cloud-innovation-ltd-anor-2024-scj-473-1.pdf>.

3- Court order Ref: SC/COM/MOT/0000859/2024

25, November 2024

**Applicant: Cloud Innovation Ltd**

**Respondent: AFRINIC**

OR to fill report by Mid-December and organize **election by end of June 2025** because the 2-months as set by the Civil Court Appeal cannot be met.

Membership to remain status quo and any entity which became member from 19, September 2024 till now without OR's consent will not have voting rights.

<https://btw.media/internet-governance/supreme-court-ruling-on-afrinic-new-members-no-rights-elections-by-june-2025/>

4- Court order Ref: SC/COM/MOT/000082/2025

12, February 2025

**Applicant: Cloud Innovation Ltd**

**Respondent: AFRINIC (in Receivership)**

Termination of the appointment of the OR (failure to hold the ring and organise elections) and appointment of new OR to hold the ring and organize **election by 25, April 2025**

<https://afrinic.net/court-cases#cc>

5- Court granted an extension to allow the elections to be completed by 23, June 2025  
(Communique from the OR)

21, April 2025

<https://lists.afrinic.net/pipermail/announce/attachments/20250422/be8e4353/attachment-0001.pdf>

## **B. Progress status**

What were the assignments to the first OR

Restraint and prohibit AFRINIC from relocating and/or subject itself to a takeover or merger or restructuring or management control in any manner whatsoever.

- hold the ring” and ensuring that the status quo of the assets of AFRINIC Ltd is preserved and that the value of the business is maintained.
- hold elections to reconstitute board in six months.
- As to his powers, comply to paragraph 1, 2a, 2h, 2j, 2k, 2i, 2o, 2r, 2s, 2t of the eighth schedule of the Insolvency Act.

(2h) to carry on any business of the company;

(2t) to appoint an agent to do any business that the receiver is unable to do, or that it is unreasonable to expect the receiver to do, in person;

### **What has the OR achieved?**

- The OR came in with an expert/consultant to help hold on the technical asset of AFRINIC.  
13, September 2023  
The expert turned to be one of the fervent supporters of Cloud Innovation Ltd.
- The incident was promptly resolved following the unanimous condemnations.
- The OR addressed the community during the NRO's session held at AIS2023.  
28, September 2023
- The OR tried to hire an agent to provide comprehensive services in technology, communications, legal and public affairs. Invitation to bid sent out 4, November 2023
- The OR Filed the report by mid-December 2024 as directed by the court in the order SC/COM/MOT/0000859/2024 of 25, November 2024

- Termination of OR's appointment and appointment of the new OR as he failed to hold the ring and organise elections. Court order SC/COM/MOT/000082/2025 12, February 2025

What were the assignments to the Second OR?

Take over from the first OR

- expedite matters and comply to the judgment delivered on the 12, September 2023
- hold the ring and organize election **by Friday 25, April 2025**. Since at date, there have not been the holding of any election for the composition of the board, it is material and significant that there is no further delay so that the respondent is able to operate efficiently as per its constitution.

**What has the OR achieved?**

- The OR announced his appointment to the community. 17, February 2025  
<https://lists.afrinic.net/pipermail/announce/2025/002441.html>
- The OR announced the ongoing preparations of the elections. 26, February 2025  
<https://lists.afrinic.net/pipermail/announce/2025/002443.html>

In this announcement the OR informed the community about AFRINIC's operations, and the issues related to the allocation of IP resources as followed:

**“Please be assured that AFRINIC's operations continue to run smoothly. I acknowledge the concerns raised regarding the allocation of IP resources and understand the delays experienced due to factors beyond our immediate control. We are actively working to identify short-term solutions to address these challenges”**

- The OR announced through Communiqué the board election for the 23, June 2025, the formation of the NomCom, the Election committee and Civica Election Services. 21, April 2025  
[https://www.afrinic.net/ast/2025/Afrinic\\_Communique\\_Board\\_Elections.pdf](https://www.afrinic.net/ast/2025/Afrinic_Communique_Board_Elections.pdf)
- The proceeding of the elections was announced through subsequent communiques [ 2 to 10]
- The annulation of the board election process was announced. 26, June 2025  
“Our shared priority is clear: upholding the core principles of transparency, fairness, and the best interests of AfriNIC and its entire membership. To safeguard these principles and ensure the unquestionable legitimacy of our organisation , I have made the necessary decision to forthwith annul the current election process. Concurrently, to maintain stability and continuity during this critical period, I am petitioning the Supreme Court of Mauritius for a limited extension of the current mandate solely to allow for the proper organization and execution of new, fully verified elections taking on board all stakeholders within a reasonable timeframe. Your continued trust in AfriNIC is deeply appreciated. »  
<https://www.afrinic.net/communiqué-annulation-of-the-2025-board-election-process>
- The new deadlines for the board election are set to 30, September 2025. 30, June 2025  
<https://lists.afrinic.net/pipermail/announce/2025/002469.html>

In summary, for 21 Months (1 year and 9 months) under the receivership, we failed to:

- 1- To guarantee allocations of resources
- 2- To hold elections to reconstitute the board as soon as possible

## Objective one: Guarantee allocations of resources

According to the court order, the Official Receiver has the power to carry on any business of the company. Allocations to existing members continue, but not to new members.

Allocations of resources to new members were part of the grievances against the 1<sup>st</sup> Official Receiver. The court order SC/COM/MOT/0000859/2024 stated: **“Membership to remain status quo and any entity which became member from 19th September 2024 till now without OR’s consent will not have voting rights.”**

The OR never reported on his efforts in identifying short-term solutions to address the issue related to the allocations of IP resources as he stated in his communication of the 26, February 2025.

This remains an important and urgent issue to be addressed.

- *What expertise/assistance would the OR need in order to grant his consents to the new members?*
- *Could we separate the allocations from the voting rights?*

## Objective two: Hold elections to reconstitute the board as soon as possible

The first attempt to hold the elections to reconstitute the board which started on the 21, April 2025 failed and the whole process got annulled<sup>1</sup>.

This process was based on the Election Guidelines and Mechanism proposed by the OR<sup>2</sup> in accordance with AFRINIC constitution.

According to the guidelines, voting for eligible members are permitted through the following methods:

- Electronically by a Designated E-voting Representative.
- In person by an Authorised In-Person Representative; or
- In person by a Proxy.

The Guidelines further define the two types of persons who can designate a designated representative or appoint a proxy :

- a director of the Member
- someone who holds authority on behalf of the Member (e.g., someone

with power of attorney or an attorney appointed in a manner akin to the process under section 182 of the Mauritius Companies Act 2001).

According to the voter register communique<sup>3</sup>:

The designation for the e-voting among other criteria:

- must specify “an email address for the designated e-voting representative to receive the secured e-voting link (**the email address must be from the same domain as a Resource Member**)”
- must be submitted in advance, by 23:59 (Mauritius time) on Monday 2 June 2025.

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<sup>1</sup> <https://www.afrinic.net/communique-annulation-of-the-2025-board-election-process>

<sup>2</sup> [https://afrinic.net/ast/2025/Election\\_Guidelines\\_and\\_Mechanism\\_BE2025.pdf](https://afrinic.net/ast/2025/Election_Guidelines_and_Mechanism_BE2025.pdf)

<sup>3</sup> [https://www.afrinic.net/ast/2025/Afrinic\\_Voters\\_Register\\_Communique.pdf](https://www.afrinic.net/ast/2025/Afrinic_Voters_Register_Communique.pdf)

The appointment a proxy among other criteria:

- a completed Proxy Form which is available on the **MyAFRINIC portal**
- must be submitted in advance, by 23:59 (Mauritius time) on Monday 9 June 2025.

**NB: No member shall carry more than 5 proxies.**

Voting by an authorised in-person representative

- If a Resource Member does not provide either the designated e-voting representative or the proxy details as requested by the specified deadline, a Resource Member may still vote in person at AFRINIC's polling station using a paper ballot, which will be provided on-site.
- A Resource Member may vote in person on the election day via an authorised in-person representative.

**N.B. Multiple members may select the same authorised in-person representative; however, the authorised in-person representative must bring.....**

While the e-voting imposes using the member's **domain name** and the appointment of the proxy imposes access to **myAFRINIC portal** and requested submission in advance to allow verification and authentication, the in-person authorised representative for the on-site voting shown to be more vulnerable.

It turned out that there were abuse of the proposed mechanisms to designate authorised in-person representative, including forgery which led to the suspension of the voting during in-person voting and later to the annulation of the whole process.

## C. What next ?

Now that the court has granted an extension to hold the elections to the end of September 2025, what shall we do differently?

Let review for a moment how board elections were conducted in the past by AFRINIC through the guidelines for 2020 elections ( Last time AFRINIC tried to organize board elections) <sup>4</sup>

Section 8 on voting :

### **8.1. Eligibility to vote**

Only organisations and persons fulfilling the following criteria are able to vote:

- Any AFRINIC Resource Member in good standing.
- All Registered Members.

A Resource member who is not a natural person may be represented **by a person who is a registered contact** for that organisation. This representation does not require a proxy. An eligible voter may be represented by a proxy, duly appointed by the member and duly approved by the CEO at least 24 hours prior to the Election Day and transmitted to the Chair of the Elections Committee.

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<sup>4</sup> <https://afrinic.net/board-of-directors-bod-election-process-and-guidelines-20200117>

## 8.2. Proxies

An organisation that is not able to send a representative to attend the face-to-face meeting can give its voting rights to a proxy (per Sections 12.11 and 12.12 of the AFRINIC bylaws ) **by filling the proxy form available from the member's profile within the MyAFRINIC portal.** Proxy forms will be available at the same time as electronic voting opens.

The form must be downloaded, signed and a copy must be sent by e-mail to the elections committee (ecom at afrinic dot net) not later than 24 hours before the election date. When a proxy is issued, the member loses the ability to cast an electronic vote.

## 8.3. Electronic Voting

**The electronic voting platform is integrated with MyAFriNIC portal** and will be accessible only to members in good standing.

The following will apply to e-voting:

- The e-voting ballots have the same candidates and choices as the paper ballots.
- Starts at least 7 days before AGMM date.
- Ends at the same time as the close of voting via paper ballot.
- “Trustees” that are set up to unlock and tally the e-vote system shall consist of the AFRINIC CEO, NomCom Chair, and the AFRINIC Legal Counsel.
- E-votes are tallied using the e-voting tallying system. Results are signed by the trustees.

## 8.4. Paper Ballot on Election Day

- The voting conducted during the Annual General Members' Meeting is carried out via paper ballots containing a list of candidate names.
- **Prior to the vote, all members present or participants holding a proxy will be required to register and validate their membership status. Election Committee staff will apply a stamp and signature to each ballot paper when it is issued. Ballot papers without the stamp and signature will not be valid.**

The safeguards on the old election process are:

- 1- MyAFRINIC portal and registered contacts are source of membership status for all eligible voters.
- 2- E-voting platform is integrated in MyAFRINIC portal
- 3- AFRINIC CEO, NomCom chair and AFRINIC legal Counsel serve as trustee for the e-voting.

These elections mechanisms were accepted by the membership and have been used for decade.

Few options for the way forward:

### 1- Can the precedent set by previous board election apply?

One may argue that at this time, the integrity and authenticity of the WHOIS database and the MyAFRINIC could be questionable.

*Couldn't the parties agree to an independent audit of these systems under OR's supervision?*

### 2- Can we design a better system acceptable all parties?

*This is not impossible. Transparency and auditability will be the key requirements here.*

### **3- The trust has been broken and must be rebuilt.**

This will be practically difficult with the same actors, particularly the same Official Receiver. His statement below is the admission of the failure. They either misunderstood the mandate or did not know what it could take to execute.

“.... Concurrently, to maintain stability and continuity during this critical period, I am petitioning the Supreme Court of Mauritius for a limited extension of the current seeking an extension of his current mandate solely to allow for the **proper organization** and the execution of new, fully verified elections taking on board all stakeholders within a reasonable timeframe. “

*It seems that the issues are not well understood. It is not about “verified elections”, but about a fully transparent, free, fair and verifiable elections’ process to take it to “accepted elections”*

*The transparency here, start from disclosing the petition submitted to the court requesting the extension of the mandate and the court’s response.*

### **In Conclusion,**

This paper intended to expose the facts and data, propose possible solutions to allow AFRINIC community to understand what has happened while they discuss way forward and solutions.

### **Disclaimer:**

These are my personal views. Nothing in this paper represents the views of companies or institutions I am affiliated with.

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