

AFRINIC RECALL COMMITTEE

FINAL DETERMINATION
FOR RECALL PETITION DATED 16 NOVEMBER 2020

4 February 2021

1. By email dated 16 November 2020, the AFRINIC Board of Directors (hereinafter referred to as “the Board”) received a petition to recall both Chairs of the Policy Development Working Group (hereinafter referred to as “PDWG”). A copy of the said petition is herewith enclosed as **Annexure A**.

Appointment of the Recall Committee

2. On 11 December 2020, the Board pursuant to section 3.5(3) of the Consolidated Policy Manual (hereinafter referred to as “CPM”) appointed a Recall Committee (hereinafter referred to as “the Committee”) constituted of three members, namely:
 - (i) Mr. Adiel Akplogan
 - (ii) Mr. Alan Barrett
 - (iii) Dr. Christian Domilongo Bope
3. The assistance of Mr. Craig Ng, General Counsel, APNIC, was also solicited by the Board. The latter acted as an observer to the Committee.

The role of the Recall Committee

4. The role of the Committee is to investigate the circumstances of the justification for the recall request and determine the outcome. To put simply, the Committee is required to determine whether, having regard to the facts enunciated in the recall petition, there is sufficient basis to recall the Chairs.
5. In so doing, the Committee was responsible for establishing its own rules of procedure (**Annexure B** refers) and it was also authorised by the Board to communicate its findings to the PDWG.
6. The Committee also bears in mind that the burden of proving any allegation against the PDWG Chairs lies on the petitioner, on the balance of probabilities.
7. Consistent with the above and in order to enable the Committee to deliver on its function, the latter deemed it appropriate to verify, with the assistance of AFRINIC’s staff based on information publicly available, both the allegations made against the PDWG Chairs and the response submitted by the PDWGs Chairs. In particular, reference was made to AFRINIC rpd mailing list as well as recordings of the last Public Policy Meetings held in Luanda, Angola in December 2019, and online in September 2020.

8. In referring to the information obtained from AFRINIC's staff and/or those already available publicly, the Committee is mindful of its role to act independently, impartially and with integrity; and as such, it has at all times limited itself to the contents of the recall petition and it has not taken into consideration, any fact not forming part of the recall petition.

PDWG Chairs' opportunity to provide a response

9. As a matter of procedural fairness, the Committee had by email dated 8 January 2021 invited the PDWG Chairs to submit their response to the aforesaid petition.
10. The PDWG Chairs submitted their response by email dated 17 January 2021. A copy thereof is herewith enclosed as **Annexure C**.

Acceptable grounds for recall

11. The Committee has taken note of the fact that other than its appointment by the Board and the general directive to investigate the circumstances of the justification for the recall request, there are no existing AFRINIC adopted rules pertaining to acceptable grounds for a recall. The Committee has also noted that both the AFRINIC bylaws and the CPM are silent on this. In this respect, the Committee agreed that it shall evaluate the petition and the circumstances leading thereto, taking into consideration the following information:
 - a) The claims made in the petition for recall that was submitted to the Board.
 - b) The facts of the matter, including any evidence in support of the claims.
 - c) The response of the PDWG Chairs, if any.
 - d) The duties of the PDWG Chairs, as set out in the PDP or other documents.
 - e) Perception of the facts in the eyes of the public or the PDWG members and its impact on public trust in the Policy Development Process.
12. Considering all the above information, the Committee agreed to evaluate whether the alleged conduct of the PDWG Chairs amount to:
 - a) Irrational or unreasonable actions, noting that reasonable actions about which there is disagreement will not constitute sufficient grounds for recall;
 - b) Procedural impropriety, or serious procedural error;
 - c) Bias, or actions that give the perception of bias or failure to act impartially;
 - d) Dishonesty;
 - e) Deviation from the PDP and/or from general norms in the context of an open, bottom up, consensus based process;
 - f) Negligence or incompetence in carrying out their duties.
13. The Committee also agreed that whilst a single minor incident of negligence or incompetence or deviation from procedure may not sufficiently constitute a ground for recall, yet a pattern of repeated incidents that fit the above criteria nevertheless will. Likewise, a single incident of a severe nature may be sufficient grounds for recall.



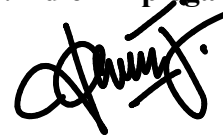
Analysis

14. The Committee has given detailed and due consideration to the petitioners' claims as well as the response provided by the Co-Chairs. The Committee's detailed findings are set out in **Annexure D**. Those findings lead the Committee to reach the conclusions and final determination set out below.
15. At the outset, the Committee finds that the allegations made in respect of the elections of the Co-Chairs at the AFRINIC-31 meeting in Kampala, Uganda fall outside the scope of the present determination.
16. The Committee recognises that the burden of proof lies on the petitioner and it is for the petitioner to establish that the Co-Chairs have failed in their duties. In this respect, the Committee found no evidence of malice or dishonesty on the part of the Co-Chairs.
17. However, the Committee observed several incidents which it considers demonstrate poor judgement by the Co-Chairs and, further, there were repeated violations of the PDP process or deviations from the generally acceptable norms.
18. Considering the above and whilst each of the reasons stated in the recall petition may not, taken individually, justify a recall, yet the Committee is of the view that these reasons taken together nevertheless show a pattern of poor decision making and repeated violations of the PDP process or deviations from the generally acceptable norms. Viewed together, the Committee is of the opinion that these aberrations lead to a loss of trust in the PDP framework.

Findings/Outcome of the Recall Committee

19. The Committee therefore determines that a recall of both the co-Chairs is justifiable in the circumstances, and that both the co-Chairs be recalled with immediate effect.
20. The Committee notes that article 3.3 of the CPM states that "If the Working Group Chair is unable to serve his or her full term, the Working Group may select a replacement to serve the remainder of the term." The Committee suggests that the Board coordinate with the PDWG to find an adequate transition mechanism until the next election.

Dated: 4 February 2021

MEMBER (CHAIRPERSON)	MEMBER	MEMBER
Mr. Alan Barrett  2021-02-04	Dr. Christian Domilongo Bope  2021-02-04	Mr. Adiel Akplogan 

ANNEXURES

- Annexure A: Petitioner's Petition
- Annexure B: Recall Committee Working Procedure
- Annexure C: Co-Chairs' Response
- Annexure D: Recall Committee's Detailed Findings