

AFRINIC RECALL COMMITTEE

ANNEXURE D

DETAILED FINDINGS FOR RECALL PETITION DATED 16 NOVEMBER 2020

4 February 2021

This Annexure details the Recall Committee's findings, organised by sections of the petition.

Petition part A. Controversial elections of the co-chairs

The Recall Committee considers the election of the PDWG Chairs to be out of scope for consideration.

Petition part B. The PPM at AFRINIC-31 Luanda

B.1 – Private discussion of proceeding of the PPM with community members

The Recall Committee found no evidence that private discussions, even if they had occurred, had led to biased actions. The Recall Committee does not take the view that private discussions could not occur.

B.2 – Not capable and showed bias in Moderation, Code of Conduct (CoC) enforcement, the approach to consensus

The Recall Committee believes that combining multiple proposals into a single proposal is often a good thing, and it is within the PDWG Chairs' prerogative to suggest that. The Recall Committee is satisfied with the PDWG Chairs' explanation that they approached the authors of all three proposals (see the response from the PDWG Chairs, paragraph 7).

In the case of the policy proposal AFPUB-2019-GEN-006-DRAFT01 "RPKI ROAs for Unallocated and Unassigned AFRINIC Address Space", the PDWG Chairs declared no consensus. There was an appeal (see <https://afrinic.net/ast/requestor-email-appeal-last-call-afpub-2019-gen-006-draft01.pdf>), which the Appeal Committee rejected due to a technicality (see <https://afrinic.net/ast/pdf/policy/polaplcom-report-afpub-2019-gen-006-draft01-20200306-en.pdf>). The appeal links to several objections that were not substantiated or that appear to have resulted from misunderstanding of the proposal, but which nevertheless were used by the PDWG Chairs as a basis for finding no consensus. In the Recall Committee's opinion, allowing unsubstantiated or irrelevant objections to block consensus is a deviation from generally expected consensus based decision making norms.

B.3 – Co-chairs’ attitude during the meeting

The Recall Committee notes the use of some harsh words by the PDWG Chairs in an email message at <<https://lists.afrinic.net/pipermail/rpd/2019/010222.html>>, which it considers not to be conducive towards consensus-building. As custodians of the Code of Conduct, the Co-Chairs are expected to lead by example.

Petition part C. Virtual PPM AFRINIC-32

C.0 – Inability to lead discussion on the mailing list between AFRINIC-31 and -32

The Recall Committee considers that discussion in the rpd mailing list is as important as discussion at public policy meetings. Considering that there were three competing proposals relating to resource transfers, the Recall Committee members would have expected the PDWG Chairs to keep a summary of the points of contention, and to guide the community in resolving any differences. The Recall Committee did not see evidence in the mailing list archives of the PDWG Chairs doing this. (See the mailing list archives at <<https://lists.afrinic.net/pipermail/rpd/2020/thread.html>>.)

C.1, C.2 – Chairs did not lead discussion about means to hold PPM during pandemic and staff took the lead

The Recall Committee recognises that the COVID-19 pandemic posed a unique challenge to both the working group and the organisation. In the circumstances, the Recall Committee considers that it was reasonable for AFRINIC staff to take the lead in the discussion of logistics for holding the PPM. There was no wrongdoing on the part of the PDWG Chairs.

C.3 – Other candidates for PDWG Chair withdrew before the election

The Recall Committee notes that both of the other candidates for election as PDWG Chairs, when withdrawing from consideration, commented about the “observed controversies” or “better moderation and coordination”. (See <<https://lists.afrinic.net/pipermail/rpd/2020/011138.html>> and <<https://lists.afrinic.net/pipermail/rpd/2020/011142.html>>.) This does not impact the Recall Committee’s final determination, but shows only that some community members were concerned about the actions of the PDWG Chairs.

C.4 – Co-Chairs violated the PDP in many regards

The PDWG Chairs' report on the AFRINIC-32 meeting (see <https://lists.afrinic.net/pipermail/rpd/2020/011372.html>) shows that the Chairs declared consensus on one of the three competing resource transfer proposals. In the opinion of the Recall Committee, it was not reasonable to declare consensus when there were competing proposals, at least not without providing detailed reasons. It was also not reasonable to declare consensus while there was no confirmation of compatibility with other RIRs, as discussed under C.9 further down.

C.5 – Co-Chairs appear to be deciding and injecting new issues to Policy discussions

The petition does not explain the petitioners' concerns in sufficient detail for the Recall Committee to make a determination. It is generally acceptable for the PDWG Chairs to state their own views on policy proposals, separate from their role as Chairs, provided that the distinction between the two roles is clear.

C.6 – Not responding to criticism, appeals against decisions

The Appeal Committee web page (<https://afrinic.net/policy/appeal-committee>) shows that six appeals were filed in the year 2020, compared with none in the year 2019 and one in the year 2018. Four of the appeals were filed by the same appellant, and two of those were against different drafts of the same proposal. The remaining two appeals were filed by different appellants, both against the same proposal. It is a matter of concern to the Recall Committee that so many appeals were filed in a single year.

In the PDWG Chairs' summary of objections to proposals (see <https://lists.afrinic.net/pipermail/rpd/2020/011372.html>), objections were not classified according to whether they are major or minor, supported by many or few community members with factually valid argument or not, or any other classification criteria. Some of the appeals allege that the PDWG Chairs treated invalid objections as blockers to rough consensus. The Recall Committee considers that the PDWG Chairs did not adequately explain their reasons for declaring consensus or non-consensus on proposals discussed at AFRINIC-32, including their reasons for accepting or dismissing objections.

C.7 – Starting the Last Call while amendments were pending

The Last Call on a policy proposal should be based on a stable version of the text. In the Recall Committee's opinion, it is a violation of expected norms for the Last Call to begin before the amended text is available. In this case, the Last Call on the Resource Transfer and Board Prerogatives proposals began on 21 September 2020 (see <https://lists.afrinic.net/pipermail/rpd/2020/011372.html>), and an update to the Resource

Transfer proposal was posted on 23 September 2020 (see <https://lists.afrinic.net/pipermail/rpd/2020/011422.html>).

C.8 – Usurped WG powers by making suggested amendments conditions for consensus

This part of the petition deals with the PDWG Chairs' handling of the Resource Transfer Policy AFPUB-2019-V4-003.

- In a message available at <https://lists.afrinic.net/pipermail/rpd/2020/011372.html>, the PDWG Chairs suggested a substantive change, from “Transferred IPv4 legacy resources will no longer be regarded as legacy resources” to “Transferred legacy resources will still be regarded as legacy resources”. They declared consensus conditional on that change being made.
- The Recall Committee is not aware of any discussion of this change in the rpd list before the AFRINIC-32 meeting. The issue was mentioned by one participant at the meeting but was not discussed in any detail (see transcript at https://2020.internetsummit.africa/media/com_afmeeting/1600929870_tmpphp8EhtAC.pdf). The Recall Committee considers that the addition of amendments by the PDWG Chairs without adequate discussion is a departure from expected norms.
- When the addition of that condition was questioned in the rpd list (see <https://lists.afrinic.net/pipermail/rpd/2020/011373.html>), the PDWG Chairs dismissed the issue with “It was mentioned during the PPM. Please watch the recordings” (see <https://lists.afrinic.net/pipermail/rpd/2020/011387.html>). In the Recall Committee’s opinion, such a summary dismissal of objections is not conducive to consensus building within a healthy PDP framework.

The Board Prerogatives proposal AFPUB-2020-GEN-004 is also relevant to this part of the petition.

- In a message available at <https://lists.afrinic.net/pipermail/rpd/2020/011372.html>, the PDWG Chairs suggested a substantive change, and declared consensus subject to that change being made. Based on a review of the meeting’s transcript (see https://2020.internetsummit.africa/media/com_afmeeting/1600929870_tmpphp8EhtAC.pdf), the Review Committee did not see evidence that the PDWG Chairs confirmed with the working group that there was rough consensus for this change.

C.9 – Staff final assessment shows that policy moved to Last Call is not compatible with other RIRs

This part of the petition also deals with the PDWG Chairs' handling of the Resource Transfer Policy AFPUB-2019-V4-003.

- After the Last Call, the PDWG Chairs declared consensus on 7 September 2020 (see <<https://lists.afrinic.net/pipermail/rpd/2020/011630.html>>), even though a report from staff on compatibility with other RIRs was still outstanding. The report was sent on 9 September 2020, after the end of the Last Call (see <<https://lists.afrinic.net/pipermail/rpd/2020/011712.html>>). The Recall Committee considers that the Last Call should not have started before the compatibility report was available.
- The report from staff indicates that the proposal is not compatible with other RIRs. Compatibility was a key element for an effective implementation of the policy. The archives of the rpd mailing list for the year 2020 <<https://lists.afrinic.net/pipermail/rpd/2020/thread.html>> indicate that the PDWG Chairs did not respond to the compatibility report.
- The Recall Committee considers that the PDWG Chairs should have referred the proposal back to the rpd list for further discussion when it became clear that it was not compatible with other RIRs.

C.10 – Concerns raised during Last Call

This part of the petition also deals with the PDWG Chairs' handling of the Resource Transfer Policy AFPUB-2019-V4-003.

- Two appeals were filed, by different appellants, on 15 October 2020 (see <<https://lists.afrinic.net/pipermail/rpd/2020/011753.html>>) and on 20 October 2020 (see <<https://lists.afrinic.net/pipermail/rpd/2020/011887.html>>). The appeals link to multiple objections that were raised during the Last Call, but which appear to have been ignored by the PDWG Chairs, neither being considered as valid objections nor being explicitly dismissed as invalid. Failure to consider objections during the Last Call is a departure from the PDWG Chairs' role in building and evaluating consensus.
- The appeals also make complaints about substantive changes proposed by the PDWG Chairs as conditions for consensus. The Recall Committee has considered this under C.8 above.

C.11 – Last minute changes accepted during Last Call

This part of the petition deals with the PDWG Chairs' handling of both the Resource Transfer Policy AFPUB-2019-V4-003 and the Board Prerogatives proposal AFPUB-2020-GEN-004

- The version of the Resource Transfer Policy AFPUB-2019-V4-003 proposal discussed at the PPM was draft02. Draft03 was posted during the Last Call, on 23 September 2020, as previously noted (see <<https://lists.afrinic.net/pipermail/rpd/2020/011422.html>>). Another draft, draft04, was posted during Last Call, on 4 October 2020 (see <<https://lists.afrinic.net/pipermail/rpd/2020/011610.html>>). The Recall Committee believes that it is accepted practice for editorial changes to be accepted during Last

Call, such as correcting typographical errors or re-wording text for clarity without changing the intent. However, the changes in draft04 are substantive. The Recall Committee considers that the CPM article 3.4.2 read in conjunction with 3.4.3 requires a stable version of the text to be considered during both the PPM and the Last Call. It is certainly an accepted norm that the Last Call should consider a stable version of the text. Substantive changes to the proposal during the Last Call are, in the Recall Committee's opinion, a violation of the process.

C.12 – Reversal of consensus decision and extension of Last Call

This part of the petition also deals with the PDWG Chairs' handling of the Resource Transfer Policy AFPUB-2019-V4-003.

- The Last Call ended on 7 October 2020, and an appeal was filed on 15 October 2020. After that, on 17 October 2020, the PDWG Chairs announced a “reversal of consensus” and a continuation of the Last Call (see <https://lists.afrinic.net/pipermail/rpd/2020/011774.html>). This was a departure from the policy development process.
- On 16 November 2020, the PDWG Chairs again declared consensus in favour of the proposal (see <https://lists.afrinic.net/pipermail/rpd/2020/011989.html>). At that time, the appeals filed on 15 and 20 October 2020 were still in progress. Although it is true, as the PDWG Chairs stated, that “nothing in the CPM prohibits us from moving on” (see the response from the PDWG Chairs, paragraph 20), nevertheless the Recall Committee considers that declaration of consensus while an appeal is in progress is a departure from expected norms.