Subject: Appeal against the declaration of consensus on proposal Resource Transfer Policy

a) Brief description of the topic under appeal.
Dear Appeal Committee,

I'm appealing against the declaration of consensus made by the PDWG co-chairs on the 07th of October 2020 (https://lists.afrinic.net/pipermail/rpd/2020/011630.html).

PDWG co-chairs declared consensus during the open mic session of the AFRINIC32 on-line meeting, on 17th September 2020 (https://www.youtube.com/watch?v=F7EJploR38c&t=3h29m48s), confirmed in the mailing list on 21st September 2020 (https://lists.afrinic.net/pipermail/rpd/2020/011372.html), and re-confirmed after the last call on 07th October 2020.

I consider that the valid formal announcement of the decision is the one on the RPD mailing list, as it is the one that contains in a complete, clear and readable format, the chairs reasoning for their decision. Furthermore this is their final decision they are going to report to the Board and would not make sense Appeal from it earlier while there was still chance of reconsideration of their decision following section 3.5.1 of the CPM. In this summary, the co-chairs indicated:

> "10. Resource Transfer Policy
>
> This proposal aims to introduce Inter RIR transfer. However, it has the following opposition
>
> a. Issues with Legacy holder transfer is potentially considered none-reciprocal by ARIN
>
> b. Potential abuse of AFRINIC free pool without the time limit of receiving an allocation from AFRINIC.
>
> Chairs Decision: The proposal is the least contested of all the 3 competing proposals. However because of the community's desire and clear expression for the need for an Inter RIR transfer, we, the Co-chairs, believe that in the interest of the community we should focus on a proposal rather than several similar ones. This desire was clearly expressed at the AFRINIC 31 meeting in Angola. Therefore, We suggest that the authors of this proposal make the following amendments:
>
> · 5.7.3.2 Source entities are not eligible to receive further IPv4

allocations or assignments from AFRINIC for 12 months period after the transfer.

· 5.7.4.3. Transferred legacy resources will still be regarded as legacy resources.

Chairs Decision: Provided that the above are amended, the decisions is Rough Consensus is achieved"

b) Date of the appeal.
15th October 2020

c) Name and email address of complainant.
Gregoire Ehoumi – gregoire.ehoumi@yahoo.fr

d) Names and email addresses of three (3) persons, other than the complainant, who support the appeal and who participated in the discussions.

Mukhangu Noah Maina - noah@neo.co.tz
Fernando Frediani – fhfrediani@gmail.com
Darwin Costa - dc@darwincosta.com
Arnaud Amelina - amelnaud@gmail.com

All them will be copied in the appeal submission, in order to seek their support for the appeal.

e) Date of the decision made by the Chair(s).
07th October 2020 (23:30:54 UTC)

f) Link to an announcement of the decision which is being appealed.

(https://www.youtube.com/watch?v=F7EJploR38c&t=3h29m48s), confirmed in the mailing list on 21st September (https://lists.afrinic.net/pipermail/rpd/2020/011372.html) and re-confirmed after the end of the last call on 07th October 2020 (https://lists.afrinic.net/pipermail/rpd/2020/011630.html).

g) Evidence of a failed attempt to resolve the disagreement through discussion.

The following links to emails in the RPD list archive, show how several community members, including myself, have clarified the aspects that the chairs considered as invalid-objections for declaring consensus in this proposal, both before and after the decision. Note that for brevity, only the first key email (in chronological order) of the relevant thread of each contributor is being listed, as several of them continued the discussion afterwards:

Gregoire EHOUMI *gregoire.ehoumi at yahoo.fr*
Mon Sep 21 16:30:38 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011396.html

Fernando Frediani fhfrediani at gmail.com
Mon Sep 21 01:14:21 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011373.html
Mon Sep 21 15:23:30 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011393.html
Tue Sep 22 01:16:23 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011397.html

Noah noah at neo.co.tz
Fri Sep 25 09:27:48 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011456.html
Thu Oct 8 20:24:21 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011673.html

Darwin Costa dc at darwincosta.com
Fri Sep 25 11:53:43 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011460.html

Arnaud Amelina amelnaud at gmail.com
Tue Sep 22 06:26:41 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011400.html
Tue Oct 6 17:33:47 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011616.html

Marcus K. G. Adomey - madomey at hotmail.com
Wed Sep 23 13:21:02 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011431.html
Tue Sep 29 08:33:15 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011526.html

Jordi Palet Martinez jordi.palet at consulintel.es
Thu Oct 8 07:42:51 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011634.html

Darwin Costa dc at darwincosta.com
Thu Oct 8 14:51:14 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011657.html

Gregoire EHOUMI gregoire.ehoumi at yahoo.fr
Thu Oct 8 17:10:48 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011664.html

Sami Ait Ali Oulahcen sami at marwan.ma
Thu Oct 8 12:08:24 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011641.html

Caleb Olumuyiwa Ogundele muyiwacaleb at gmail.com
Thu Oct 8 13:12:59 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011645.html

Noah noah at neo.co.tz
Thu Oct 8 19:52:45 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011670.html

Fernando Frediani fhfrediani at gmail.com
Thu Oct 8 21:14:52 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011676.html

Arnaud AMELINA amelnaud at gmail.com
Fri Oct 9 02:19:51 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011686.html

ALAIN AINA aalain at trstech.net
Fri Oct 9 04:44:30 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011689.html

Frank Habicht geier at geier.ne.tz
Fri Oct 9 05:11:02 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011691.html

Gregoire EHOUMI gregoire.ehoumi at yahoo.fr
Fri Oct 9 05:18:00 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011692.html

URL to Co-Chairs responses:
ABDULKARIM OLOYEDE oloyede.aa at unilorin.edu.ng
Mon Sep 21 11:42:52 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011387.html
Tue Sep 22 21:38:17 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011415.html
Thu Oct 8 19:50:12 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011669.html

Moses Serugo moses.serugo at gmail.com
Wed Oct 7 23:30:54 UTC 2020
https://lists.afrinic.net/pipermail/rpd/2020/011630.html

h) Detailed description of the grounds for appeal.

My grievances against the decision are on two different aspects:

- compliance to the PDP and in the overall consensus determination done

by the co-chairs,

- specific issues regarding this proposal.

All the aspects cited in the following lines have been extensively discussed in the list after the chair(s) decision. Many of them were already clarified and identified by me and other community members as invalid objections during the previous discussion and during the meeting.

1. Compliance to the PDP and consensus determination.

Despite the good faith of the co-chairs, they haven't properly followed the PDP, and indeed it has been violated in several aspects. Good intentions can never be accepted as an excuse if that means not strictly following the PDP, as there is no way to have a clear border line of what is acceptable and what not.

1.1. PDP section 3.3. states "The Policy Development Working Group has two Chairs to perform its administrative functions". This means the management of the PDWG, the PPM, the RPD list and determine consensus.

1.2. The determination of the rough consensus is made explicit by section 3.4.2., which states "The Chair(s) determine(s) whether rough consensus has been achieved during the Public Policy Meeting".

1.3. The PDP **doesn't provide any authorization to allow the co-chairs to determine consensus by making it conditional** or even suggesting the authors **to change the proposal text in order to be able to confirm** consensus and move it to the "Last Call". The section 3.4.3. states only "A final review of the draft policy is initiated by the Working Group Chair(s) by sending an announcement to the Resource Policy Discussion mailing list. The Last Call period shall be at least two weeks. The Working Group Chair(s) shall evaluate the feedback received during the Public Policy Meeting and during this period and decide whether consensus has been achieved".

1.4. There is no mention in the PDP of any possible change. It is understandable that editorial suggestions may be arranged, and this has been the practice for several years.**The changes being suggested have not been simple editorial changes but rather complex policy text changes** that are yet to be discussed by the Working Group.

1.5. It is even less understandable that the opportunity to change text "in order to be able to declare consensus" is not provided in an indiscriminate and fair way to all the proposals. Could it be possible that all the proposals by just changing some points, could reach consensus in each PPM? Why then is it needed, following PDP section 3.4.1., that "The author(s) shall make the necessary changes to the draft policy according to the feedback received", so having **new versions** to

accommodate the community inputs? Section 3.4.1 provides that *"draft policy shall be available for review for at least four weeks before the next Public Policy Meeting"* As the changes made during the last-call turned the proposal into 2 new draft versions and **are not simple editorial changes** as they change 2 main points of the proposal that is a violation of the CPM.

1.6. Suggestions from the chairs are always welcome, however, they should state that those are "suggestions", and clearly mark them as inputs from community members (chair-hat-off). And in that case, will be considered by the authors, which will be free to address them. Chairs should also summarize the community discussion (chair-hat-on), in an objective and non-intrusive manner, as part of the rationale for the decision about the rough consensus, and more specifically stating what are the valid-objections that haven't been addressed neither by the authors nor the community.

1.7. Further to that, the chairs indicated on 22nd September (https://lists.afrinic.net/pipermail/rpd/2020/011415.html), that they acted in order to come with the "best solution" based on CPM section 3.2.3. (Fairness), however, the complete section 3.1 (Scope of the PDP), is towards the community, as re-stated in section 3.2. (Policy Development Principles), not in order to attribute special prerogatives to the co-chairs, and this can be observed because the co-chairs are only named after that section.

2. Specific issues regarding the proposal being appealed

Note that the DRAFT02 which was the "stable version of the draft policy can be considered at the meeting" valid according to the CPM section 3.4.2.

Note that authors sent to the list two updated versions DRAFT03(https://lists.afrinic.net/pipermail/rpd/2020/011422.html), and DRAFT04(https://lists.afrinic.net/pipermail/rpd/2020/011610.html), but they have not been formally adopted neither announced by co-chairs neither the staff before the end of last call.

2.1. As indicated by the AFRINIC Impact Assessment, there is no provision for cases of resources "in dispute" on DRAFT02. There is no AFRINIC Impact Assessment for DRAFT03 and DRAFT04.

2.2. **Only three days** between the last DRAFT04 published on the RPD list by the authors and the end of the last call by co-chairs.

Authors email to announce the draft
Sun Oct 4 20:57:03 *UTC 2020*
https://lists.afrinic.net/pipermail/rpd/2020/011610.html

I noticed that sections 5.7.3.1, 5.7.3.2, 5.7.4.1 have been updated and the full section 5.7.5 below, **has been removed from DRAFT-04.**

" 5.7.5 Procedure of the resource transfer

5.7.5.1 The transferring party who holds the resources can initiate a transfer request between itself and an external party. If the two parties agree, the transferring party will send a request to the receiving RIR, using a standard template and submit an official agreement of resource transfer to the involved RIR(s). The transfer shall be in compliance with the policies of the receiving RIR.

5.7.5.2 After the receiving RIR approves the transfer, it will notify the transferring RIR, the transferring party and the recipient. The resources will be transferred to the recipient.

5.7.5.3 When the receiving RIR approves the transfer, the resources will be transferred to the recipient."

That change cannot be considered as editorial change. **Significant changes cannot be done on the last call**, it does not give enough time for the community to discuss it and for the staff to do another staff analysis. Furthermore Co-chairs did not response to my email after the end of last call (https://lists.afrinic.net/pipermail/rpd/2020/011692.html)

2.3. The proposal is removing an actual feature of the existing Intra-RIR policy (5.7.4.3), which turns legacy resources into non-legacy ones, which is in support of the fairness goals of AFRINIC, as legacy holders get services from AFRINIC at no cost, while they are being supported by members. In addition to that, the removal of that feature creates a discrimination against previous Intra-RIR transfers. Will those be converted back to legacy? Also this was changed at the last minute between the PPM and the Last-call giving no chance to the Working Group to discuss such important matter that has never been mentioned in months of discussion.

There are clear evidences of this proposal not being reciprocal with other RIRs (at least in the case of ARIN), which fully defeats its intended purpose. The staff indicated during the meeting that they will verify it, so it can be taken in consideration in due time, however, at the end of the last call, there is not yet a staff confirmation on that for all the RIRs.

After the end of last call, staff has confirmed that the proposal is not compatible with ARIN and APNIC (https://lists.afrinic.net/pipermail/rpd/2020/011712.html)

In addition to all that, during the last-call, many community members have raised their concerns on both, the process followed by the co-chairs to determine the achievement of the rough consensus and specific valid-objections against this proposal, so we can't understand that the consensus determination is still valid at the time of the end of the last call.

i) A list of additional material that the complainant will rely on, if any.

All material and references to support this appeal has been added in the above points specially in the evidences section g) .

Please confirm the reception of this appeal and that all the requirements are met.

I remain at your disposal for further clarifications which may help to resolve this appeal as soon as possible.

Thanks in advance for your work!

Gregoire Ehoumi <gregoire.ehoumi@yahoo.fr>