
YESIM NAZLAR:

Let's please start the recording. Good morning, good afternoon, and good evening to everyone. Welcome to the EURALO Bylaws Taskforce call taking place on the Wednesday, 14th of June 2017 at 18:00 UTC.

On our call today, we have Olivier Crépin-Leblond, Wolf Ludwig, Oksana Prykhodko, Florian Hule, and Roberto Gaetano. We have received apologies from Erich Schweighofer, and from staff we have Silvia Vivanco and myself, Yesim Nazlar.

Finally, before we start, as always, I would like to remind everyone to state their names before speaking for the transcription purposes. Back to you, Olivier. Thank you very much.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much, and good evening everybody for this call. I think we haven't missed anyone in the roll call. We're going to start immediately first with a review of our action items, and that was from our last call which was already two weeks ago. Two weeks had gone so quickly for us.

The only one that is still there is to do with the quorum, and we're going to have a bit more time today to discuss the quorum regarding the qualified simple majority rather than play with half vote, two thirds of the vote, etc. So, we'll focus on that.

On the other action items, Florian was going to prepare two versions for the different arbitration systems and things. That's what we're going to be discussing today. And Silvia was going to ask the Ombudsman to ask

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about the timelines for dispute resolution. Silvia, what was the sort of timing that the Ombudsman provided you with?

SILVIA VIVANCO:

Yes, hello, Olivier. I'm going to read out the e-mail he sent me for timeframe. The only timeframe that now exists is that the parties to a dispute have 30 days to comment on a draft report before a final Ombudsman report is issued.

There are no rules of procedure other than the self-imposed duty to respond to all complaints within 24 and 48 hours of reception. Resolving disputes is often negatively impacted by the ICANN online environment, time zones, shadow diplomacy, etc.

Complaints with cooperative parties can be resolved within a few weeks, usually. Those involving less cooperative individuals can take months. And he adds as a suggestion, there could be something like a 30- or 60-day timeframe for resolution included in the rules, and a clause that states that if the Ombudsman is unable to resolve the issue after the established timeframe, the issue may be forwarded to arbitration if a solution is not imminent, there should be a bit of wiggle room in case of the 30- or 60-days are just not enough but progress is being made.

That's the update. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Okay. Thank you very much, Silvia. So, it seems that there is some flexibility when it comes down to the Ombudsman, but the 30 days

seems to have sort of stuck in my mind on this. Let's keep this into account in our discussions that we're going to have on today's call in the next section.

Are there any comments or questions on the action items? Seeing no one putting their hands up, let us then go to Agenda Item #2, and that's the Dispute Settlement draft, and I'd like to thank Florian for having worked on this. And he has supplied it, it's now going to be on your screen. it's also linked from your agenda so you can have a look at it straight there and then. And there are already comments on the draft itself.

At any rate, let's turn over to Florian Hule. Florian, you have the floor.

FLORIAN HULE:

Thank you. I'd like to go through the group through the system. It's mainly the system from the last time with the additions regarding remediation and the option for arbitration.

The first clause regarding the law under which the options are to be interpreted and construed stayed the same. It's Swiss private law. The next law is also 12.2.1 remains the same from the last time. The comment or just in working notes is for me to include the dispute resolution in the board paragraphs.

Then we have 12.2.2. There, the main change is the limited actions of the Board and the Ombudsman to mediation exclusively. Then we go to 12.2.3. There, we included a 70-day timeframe for the Ombudsman. I'm still thinking about a more flexible system to give the Ombudsman the

wiggle room if progress has been made but the dispute has not [timely] resolved. We are still looking the right kind of words, the right formulation for that.

Then we go on to the arbitration system. Currently, the whole system is [inaudible] in a way that we can have the mediation system first, and if mediation fails but further de-escalation is required, we can go over to the arbitration system.

So therefore, we have the arbitration tribunal. It's still a working [title] to avoid confusion like last time, when we called it the arbitration board. I'm not entirely happy with the name, but unless we have a better one, we'll stick with it.

Yes. Currently, the tribunal is ad hoc, which means if any conflict of interest arises, then the tribunal wouldn't be formed. Both systems, the ad hoc and the standing arbitration board seem to have their merits. The main advantage of the standing board would be that they usually act a bit swifter, act a bit faster because they tend to build up some experience with disputes and also with the parties involved, but that's rather political decision and not a legal one.

Then we have the UNCITRAL rules of the Rules for the Arbitration process. The UNCITRAL rules are the Arbitration Rules developed by the United Nations for International Trade and Investment Law. That sounds more high [inaudible] than it actually is. They are ones we acknowledged, and therefore we have a good understanding of what we are looking at and the highest security regarding foreseeable decisions by the Board or a tribunal.

Then we have a slight enumeration here. Clause 12.2.3.2 should be actually 12.2.3.3. This considers the role of the General Assembly within the association. It's tightly connected with the [next clause] which refers to decisions of the tribunal for further review to the General Assembly.

Then with 12.2.3.4, the members and three substitutes of the arbitration tribunal are elected by the General Assembly for a year [inaudible] as possible. That's the standing board clause. Below, you will find the version for ad hoc board tribunal.

We left that one open to discussion because the last time there was still some dispute and some input regarding if it should be ad hoc or if it should be standing.

The last one, if the General Assembly is not able to reach an agreement with the parties of the dispute, the dispute is exclusively referred to the [court] appropriate under Swiss civil law. The amendment that I would have to say is if the Board would be a party to dispute, then we would need a special rule, so not that the Board chooses the arbitration tribunal but some other body or some other procedure. And that's my update.

OLIVIER CRÉPIN-LEBLOND: That's great. Thank you very much, Florian, and I therefore now open the floor for discussion on this proposed procedure. So, I don't see anyone commenting for the time being. So, it's one of these situations where obviously, we probably might never have to go through this system, which seems to be catering for the case when things really go wrong and there really is a major dispute and so on.

I'm looking at the escalation process, and I think that because it first starts with the dispute or the disagreement or whatever, first there is the Board that's going to look at it. Then if the Board doesn't get to find a solution, then it goes to the Ombudsman. Then if the Ombudsman doesn't find a solution, then it goes through this arbitration tribunal.

And by the way, I'm not sure if tribunal is a loaded word or whether we would have to call this an arbitration panel. Perhaps I don't know, but that's just nomenclature and perhaps when this will be completed, we'll have to get it crosschecked by ICANN Legal to see what the meaning is under U.S. law as well and under international law. I don't know.

So, we've got these three members. I think that we agreed in the last call that his was a good way forward, but then we have a choice to select these three members either through – and in fact, we've got members and three substitutes that we could either elect them for one year by the General Assembly or we could select them by the Board on request for – within a period of one month on demand if it's needed. So, that's one choice that we have here.

And finally, if all of that fails, then the dispute will be exclusively referred to the court appropriate. And I notice here, "Under Swiss civil law," and I don't know whether we want to add this, "Under Swiss civil law," or not. Because this at the end of the day is a U.S. organization as well. So, I'm not quite sure where that would go, but quite a number of questions here.

So, the floor is open. I was going to ask Wolf perhaps, turn to Wolf for his feedback on this first, and see if we've got the right combination here. Wolf Ludwig.

WOLF LUDWIG:

Thanks, Olivier. Well, I'm in complete agreement. It's a very solid proposal and procedure by Florian. It looks on the first glance rather complicated, but it has a consistence.

The only two reservations I would have had, the first one you mentioned already Olivier is I prefer also the term panel, which is more appropriate. This cannot be a tribunal. A tribunal has a completely different meaning in my opinion.

The second remark I would have is that it needs – it's the hope that this is – it's kind of an emergency step. If really solid of grief, problems, conflicts turn up, then it needs this sort of resolution. But basically, I would hope that this does not become common practice. Therefore, I would not go for a standing board or panel, I would put it on demand. When such a conflict pops up, then I think we have time and we will see that the Board itself cannot solve it. And at the moment it goes to Ombudsman, then I think at the moment will be appropriate to have a call and to look for candidates for this arbitration panel. That's all.

OLIVIER CRÉPIN-LEBLOND:

Okay. Thank you very much, Wolf. So, I note also support from Oksana regarding the use of the term arbitration panel, so I think that's now – we've got agreement on this, and on whether this should be a standing

panel or whether this should be a convened on a case by case basis, Wolf has expressed that case by case basis might be preferable.

I'd like to hear from others on the call. Roberto, Oksana, and Florian as well. What would you recommend? Roberto Gaetano, you have the floor.

OKSANA PRYKHODHO: [inaudible]

ROBERTO GAETANO: Yes.

OLIVIER CRÉPIN-LEBLOND: Yes, Oksana, you'll be in the queue, and I'll put Roberto first. So –

ROBERTO GAETANO: I assume you can hear me.

OLIVIER CRÉPIN-LEBLOND: Yes, we can hear you. Go ahead, Roberto.

ROBERTO GAETANO: I'm not –

OLIVIER CRÉPIN-LEBLOND: Go ahead, Roberto, we can hear you.

ROBERTO GAETANO: Yes. I'm not a fan of standing committees and standing panels and so on, these things. As I said, I'm not a fan of standing panels, standing committees and formal structures. I would much prefer a panel that is convened when the need arises.

That's all I wanted to say. Okay, thank you.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks very much for this, Roberto. Oksana, I've heard your voice, so you can also have the floor now.

OKSANA PRYKHODKO: Hello, do you hear me?

OLIVIER CRÉPIN-LEBLOND: Yes, we can hear you. Please go ahead.

OKSANA PRYKHODKO: Thank you very much, Olivier. I fully support the whole idea. I like the role of Ombudsman, and of course, the highest authority is our General Assembly, so I like the idea of this panel. But actually, I can't imagine myself applying to a Swiss court. That is why I would like to see more explanations and more technical details to how to do it. Because without judicial support, without financial support, I think that it's impossible, for example, for me to do it.

So, thank you very much, and [inaudible] thank you very much Florian.
It's really great.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks for this, Oksana, and we'll work out the financing. This really is not a big thing. It's just a panel of three people, so the cost would be negligible. But I see on the call here that there is support for this, so to me, it looks like we've got an ad hoc panel to be convened when needed, and it would be an arbitration panel.

Wolf Ludwig, you have the floor.

WOLF LUDWIG: Yes. Thanks, Olivier. On the last question of Oksana, I think this should be as easy as possible for any members concerned, and it can only count for EURALO members, and in my opinion for nobody else. So, you must be a member of this association.

When a conflict turns up, a conflict is very easy perceivable in my opinion, and then the person concerned who feels, "I'm not treated in an appropriate way," etc. can make a very simple appeal to the Board first, and then the Board has to deal with the issue as a first step, and then that's more or less the entry or the application criteria.

The first instance is the EURALO Board, and the EURALO Board has to verify and discuss the issue, and the EURALO Board has to come up with a decision. And I think the procedure of the Board would be he would talk and discuss with the people concerned, and then after these

discussions with the people concerned, then he can make up its mind and can come up to the decision.

If the applicant is not satisfied with the decision of the Board, then the procedure is then clearly prescribed, and there is sort of automatism when the applicant is satisfied with the Board solution, then there is no need to go further. But when the person is not satisfied, then there's a possibility, and this must be a formal notification or complaint to the Ombudsman.

I think the complaint to the Ombudsman is probably the most formal I can imagine in this whole procedure. Thanks.

OLIVIER CRÉPIN-LEBLOND:

Okay. Thank you very much for this, Wolf. So my next question then comes, if we are saying we want an ad hoc arbitration panel that is selected on request within a period of one month, taking into account the proposals by the parties of the dispute, who should select this arbitration panel?

Should the EURALO Board select the arbitration panel, or should the arbitration panel be selected by the General Assembly? The reason why I'm asking this question is if the Board itself has not managed to resolve the dispute – and it might be a dispute that involves the Board – is it a conflict that the Board would select the panel? Here is my question. Wolf Ludwig.

WOLF LUDWIG:

Thanks, Olivier. Yes, I would suggest if the Board who is by definition the first instance is not in a position to resolve the problem of the dispute, then I think it makes no sense that the same people then more or less decide on the candidates of the dispute resolution panel.

I think this should be broader, and I think there should be an open call amongst the members, who is willing to step in for such a task. There may be people who have some mediation experiences already or who have a particular background who may be especially suitable. There are others who are less.

But I would then address this to the members to make that suggestion, who should be on this panel, etc., and then I think we will come up with a panel easily, I hope. If this may be very work intensive, then we must be aware that we may not have too many candidates applying for it. But I think the procedure should be an open call, and it should be more or less consent by the members. "Yes, okay, we agree that these people out of the call should be on this panel," and there we have it. Then it's on demand, and it's more or less elected by the membership.

OLIVIER CRÉPIN-LEBLOND:

Should there be a vote?

WOLF LUDWIG:

On the dispute resolution panel?

OLIVIER CRÉPIN-LEBLOND: A vote of the General Assembly, because if there are – let’s say – five people who want to go on there, should there just be a vote of the General Assembly to [inaudible]?

WOLF LUDWIG: Olivier, I would be hesitant with always calling for general assemblies. In such a single particular case, we do not need a whole General Assembly. We can make an open call for candidates. If we get more candidates –

OLIVIER CRÉPIN-LEBLOND: But I’m saying a vote of the members, basically, sorry. Not of the General Assembly, but a vote of the members.

WOLF LUDWIG: Yes. A vote of the members if nobody has any reservations against a particular member, then I think they should be approved in the easiest way possible.

OLIVIER CRÉPIN-LEBLOND: Okay, so what I suggest then is the composition of the – so there would be an open call for these panel participants, and if there are three – because there needs to be three minimum, so if there are only three candidates then they can be agreed by consensus call, which is what we usually do.

If there are more than three candidates, then we can just send a vote out to our members, and so then the choice is really made by the members of this. I think that's probably the fairest way possible.

Thanks for this, Wolf. Let's turn to Florian Hule. Florian.

FLORIAN HULE:

Hi. I laid an alternative system out in the chat. A very easy and widely used approach would be that each of the parties of the dispute would nominate or recommend one panel member, and these two panel members together look for a third one and agree on the third one. And then we have essentially a three-member panel. And yes. Of course, we would modify the process or enhance the process with special prohibition from being a panel member if you're affiliated or interested in this dispute as a [inaudible]

OLIVIER CRÉPIN-LEBLOND:

Thanks very much for this, Florian. And I've also heard this system that is actually used in other dispute resolution processes in ICANN already, so thanks for also suggesting this other method. We now have again two methods on the table. The one being the vote of the members, or consensus call, or vote of the members to select those people, or we have each party in the dispute select a member of the panel and they look for a third one.

Roberto Gaetano, you have the floor.

ROBERTO GAETANO: Just stressing what you have already said, that the method that Florian has proposed is in line with the ICANN generally accepted methodologies, and so should be regarded as the first option. I think that we should refrain from inventing different [inaudible] and try to stick with what is already successfully used in the ICANN world. And so therefore, I fully endorse Florian's approach. Thank you.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks very much for this, Roberto. So, that is getting traction as well. Are there any other thoughts? Wolf, what's your thought on this?

WOLF LUDWIG: I could also easily agree to this proposal. It's even easier and quicker [inaudible] than a call among all members. Okay, this would be the most democratic approach, but as we are a volunteers community, there is always time involved, and if well accepted procedures, one proposed by Florian and confirmed by Roberto in the ICANN community, then I see no reason why we shouldn't adopt best practices.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks very much for this, Wolf. So then let's turn over to – I see Florian you've put your hand up. I was going to go through all of the people on the call, and I first ask Oksana what she thinks of that proposal and then come back to you, Florian.

Oksana Prykhodko, if you are able to speak.

OKSANA PRYKHODKO: Thank you, Olivier. Yes, I also would like to support the last Florian proposition to have nomination from each party for one member of panel, and to have a third independent. And of course, if anybody would like to volunteer to participate in it, maybe we have to provide a negotiation process.

For example, any volunteer can contact affected parties, and to propose his or her services. Maybe a [inaudible]

OLIVIER CRÉPIN-LEBLOND: [inaudible] Yes, that's great. Thank you very much for this, Oksana. So, that's cool. I think we have an answer.

Florian, it looks like your idea was accepted, and so rather than having a selection among members and a vote and all of this, we will have each party choose someone, and then the two selected panelists will choose a third [coming] panelist for themselves. Is that all clear?

WOLF LUDWIG: Just for the action items, the last point, Silvia, the third person, not party. The conflict shouldn't be extended to a third party, so it's just selection of the panel, and the search of a third person.

Okay. Thanks a lot.

OLIVIER CRÉPIN-LEBLOND: Perfect. Thank you. Florian, is there anything else that we need to look at? I think we've made some good progress here.

FLORIAN HULE: No, from the drafting point of view, there's nothing.

OLIVIER CRÉPIN-LEBLOND: Fantastic. Well, thank you very much for this, and thanks to this great work we can now –

UNIDENTIFIED FEMALE: 367676 is not a valid extension. Reconnecting caller.

OLIVIER CRÉPIN-LEBLOND: That's interesting. Am I still on the call?

WOLF LUDWIG: Yes, you are.

OLIVIER CRÉPIN-LEBLOND: Yes? Okay. Someone else is on 3676. But there you go.

WOLF LUDWIG: It's a third person, [inaudible].

OLIVIER CRÉPIN-LEBLOND: Oh, I see.

WOLF LUDWIG: It was a joke.

OLIVIER CRÉPIN-LEBLOND: It's a number.

UNIDENTIFIED MALE: In Vienna, we know the third man.

UNIDENTIFIED MALE: Yes.

WOLF LUDWIG: Famous film.

OLIVIER CRÉPIN-LEBLOND: Okay. Order. Let's go back now. Let's move to draft 3105, and that's again another draft, and I would like to then have Florian talk us through this. I'm not quite sure what that was about, actually, draft 3105, so if you could please let us know.

FLORIAN HULE: I'm actually also not really sure what it is about, because it's the draft from the last time, from the last [EURALO] meeting which we discussed.

OLIVIER CRÉPIN-LEBLOND: It is the last one.

FLORIAN HULE: [inaudible]

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks for this. So, Florian, that's fine. We're not going to go through that again once more, so let's then go to the table of proposed quorum, which is the next discussion that we had. And just for those people who weren't on the last call, the last couple of calls have put us pretty much in a stalemate situation where everybody came up with a different quorum level for a funded face-to-face meeting, funded face-to-face meeting vote, a non-funded face-to-face meeting quorum, a non-funded face-to-face meeting vote, and then an online meeting quorum and an online meeting vote.

There are several views regarding the level of quorum. In general, quorum in many places in the world is usually when you have more than half of the members that are present, whether it's a call, whether it's a face-to-face meeting.

So, the default is usually a half. In some cases, one might wish to lower the quorum if you think that it's going to be very hard to get as many people as a half of the membership present, and that's one of the ideas why the idea was, well, we can lower the meeting quorum in a non-funded face-to-face meeting, for example.

In some cases though, for some votes such as votes of the Bylaws, then you would need not just a simple majority but you would need a supermajority, which is effectively having at least two thirds majority on

the voting, but also looking at having at least two thirds of the members voting.

The concern, of course, is that if there is an issue that is effectively splitting the vote quite a lot and nearly half the people agree on something and half the people don't agree on something, if we have a quorum for the vote of just half of the membership and then half of these people plus one were to vote for something, then you would effectively end up with 26% of our members being able to pass through something. And that's a concern for people.

Wolf and I have spent some time thinking about this, and thought clearly, moving the numbers up and down and so on, we can see various very valid points being made. But the concern I get is that when we have a vote that takes place, we really would like to have a majority of the membership itself. So, counting the number of votes compared to the total number of members.

That's where the introduction came of what Wolf suggested, which was a qualified majority. And I'm going to ask Wolf Ludwig to explain to us. I don't know how well I've explained it, but maybe you can add a few more things to this. Would be a qualified majority. Wolf Ludwig.

WOLF LUDWIG:

Thanks, Olivier. Well, actually, as this is prescribed also by Swiss Association Law to avoid easy manipulation or kind of captures, votings in the first round always need a qualified majority, which is something between a simple majority and a two third majority. Qualified majority for then you usually need to avoid abstentions, because if you have two

candidates and an abstain option, then you can always quite easily get into a situation that you in the first round won't get a qualified majority.

Therefore, my recommendation under such circumstances is always just if you have two options, you can go for one of them, and I would only in the emergency case – if somebody stands up just before the vote and says, "I would like for this vote that we go with an abstain vote, abstain option," then as a point of order, the General Assembly can make a decision whether this motion is carried or the majority of the members say we don't feel this is necessary.

Then we could continue without an abstain option, and without an abstain option, usually you quickly come up with a qualified majority. The problem is always in situations when you have to deal with abstain options. So, it's much simpler than this. It must simply be a clear majority and cannot be just a thing which doesn't constitute a qualified majority.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks for this, Wolf. Are there any comments from anyone else?
Oksana Prykhodko.

OKSANA PRYKHODKO: Thank you, Olivier. Olivier, could you please confirm that the decision of Tijani committee was to avoid the vote without abstention possibility for 15th seat of Board selection process?

OLIVIER CRÉPIN-LEBLOND: That's a completely different process, Oksana. Did you say Tijani was... I didn't quite understand the question.

OKSANA PRYKHODKO: It was a conclusion. It was complaint that it was no option for abstention during the election of the ICANN Board representative for ALAC.

OLIVIER CRÉPIN-LEBLOND: Correct, yes.

OKSANA PRYKHODKO: So, maybe we'll have to think about this conclusion.

OLIVIER CRÉPIN-LEBLOND: Yes. Thanks for this, Oksana. So, that's a specific case. That's a vote of the ALAC-selected Board director. The rules of operations for that are actually not our own rules. They're not rules from EURALO. The rules come from the ALAC, the ALAC rules.

And so the ALAC did not provide a "none of the above" option, and therefore when we conducted our own poll of our members for me as the EURALO Chair to cast his vote, there was no option for me to go and abstain. So, if there had been a majority of people abstaining in Europe, the [inaudible] region and EURALO region, I wouldn't have been able to cast a vote.

But that's not something that we can mandate in our own rules of procedure. This is something that the ALAC should be mandating. Oksana, you have the floor.

OKSANA PRYKHODKO: Yes. Thank you very much for your explanation, but I would like to prepare the situation with minimal contradiction between EURALO rules, ALAC rules, ICANN rules and all other legal frameworks. Thank you.

OLIVIER CRÉPIN-LEBLOND: Yes. Thanks for this, Oksana. Obviously, we're going to have to ask then – because I know that there's always a review of the ALAC voting procedures. I think that we should make that an action item to ask that this point of none of the above should be explored by the ALAC so that they go in line, and then when they will then offer the “none of the above,” then we will be able to offer none of the above.

But the votes that we're looking at at present for our own rules of procedures are not votes for selecting the Board candidate. They are rules which are for our own vote if we have to select our EURALO Board members, if we have to select people to go on the ALAC, if we have to select our RALO Secretariat and our RALO Chair.

Wolf Ludwig, you have the floor.

WOLF LUDWIG:

Thanks, Olivier. Well, voting procedures are usually known to be quite delicate. Therefore, the General Assembly itself, the total of the members have quite a lot of power how they would like to conduct voting procedures.

Just as an example, somebody before voting can make a suggestion, “I don’t think this voting is controversial,” etc., especially in the case when you only have one candidate, this could be an open vote by acclamation.

Somebody else can stand up, “No, I don’t think that this is a good idea. I would much more prefer a secret vote.” So, it’s a majority of the members who can always decide or influence ways and means how this vote will be conducted.

I think we have to respect that the upper authority is the majority of the members. So, they can decide on an open or on a secret vote, etc. They cannot decide to change the quorums for a vote, because this is by association law more or less prescribed that it must be a qualified majority for a valid outcome. But there is flexibility in the way and means also to decide whether there should be an abstain option or not.

So, I would be very careful to make any stricter rules than are necessary which may be contested by the members again.

OLIVIER CRÉPIN-LEBLOND:

Thanks for this, Wolf. I’d like to flesh out the two things that we have. We have the quorum of people being present in a meeting, and we have the quorums which are there for the votes.

Let's start with a quorum of people who are there in a meeting. Whether it's – we've got three types of meetings. We've got the funded face-to-face meeting, the non-funded face-to-face meetings, and we've got the online meetings.

We now have the ability – if I understand correctly – to have proxies as well that will be held by members. So, if they come in and, let's say, Wolf is not present but I hold the proxy for Wolf, then that counts towards the quorum of presence, doesn't it? At that point, it counts that Wolf is present through me.

So, in that case, I would definitely say that when you have a funded face-to-face meeting, the standard quorum would be of course half of the members being present or being represented through the proxies. There is a wish by many – in fact, I was tallying up the totals – that there were – how many? One, two, three, four funded face-to-face – oh, no, so the majority of people thought half would be perfect for that.

So, at least half the members being represented. So, majority of people said half. I see Wolf said half, Mathieu half, Olivier half, Oksana half, Erich half, Roberto half, Andrei, Sandra half. So, I think we can cast it in stone now that for a quorum in a funded face-to-face meeting, we have a half of the members being present.

Now for non-funded face-to-face meeting quorum. Some thought that there should be a third of the members present so as to lower the quorum and put less pressure on the meeting organizers to have the full quorum. Some said that sticking to a half would be a good thing.

So, it was a split number of things. Four people thought third would be better. Four people thought a half would be better. Looking at it, and bearing in mind I actually opted for a third to start with, but bearing in mind that we will have proxies [if] possible, we can probably – and I can see some people saying, “Well, let’s not lower it, let’s keep it at that level – then leave that quorum at a half as well. So, have the same for a funded face-to-face meeting or a non-funded face-to-face meeting, because at the end of the day, people and ALSes have to send in their proxies if they can’t be there themselves.

So, that’s what I would suggest for this. I’m going to stop here and collect your feedback. Are you okay with that? Roberto Gaetano.

ROBERTO GAETANO:

Yes. First of all, about the 50%, I would suggest it’s 50% plus one or whatever the formulation is so that we have a little bit more than half in the sense. And that’s what is normally considered by a majority.

If we have, I don’t know, 20 members, 10 is not the majority. 11 is the majority. If we have 25 members, 13 is the majority. So, that is my proposal.

For the other part of the discussion, you know my opinion. I think that we should make use of the proxies, and that in all cases, we should use the same type of majority whether this is an online face to face, in person, funded, non-funded, whatever. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Roberto Gaetano. The four people who had suggested to lower that level of quorum were Wolf, Mathieu, Sandra and myself. We don't have Mathieu or Sandra on the call, but we have Wolf on the call. What do say about if we use proxies, sticking to half for a non-funded face-to-face General Assembly?

WOLF LUDWIG: Half plus one.

OLIVIER CRÉPIN-LEBLOND: Half plus one. Okay.

WOLF LUDWIG: 50% for me wouldn't be enough, because you can easily bump into the dilemma that it afterwards can be easily contested by the other half. So, if you go for half, then let's be on the safe side and say 50% plus one.

OLIVIER CRÉPIN-LEBLOND: Okay. Thank you for this. I think that's recorded. Thank you both. So, that's two of us who have now changed our position, and because of that, we can now look at the online meeting quorum. And the online meeting quorum, the tally in total was also split.

Four people decided that it would be good to have it as a third, and four people decided that they would want to have it as a half. And again, it's the same people who decided that lowering the quorum for an online meeting would be desirable, otherwise we would never reach quorum.

So, Wolf, Mathieu, myself and Sandra. And Oksana, Erich, Roberto and Andrei all stuck to a half.

Is there a similar shift that we should – if we have proxies possible, also stick to a half? And I'm going to turn to Wolf again, please. Yes, I'm afraid, because you're the only person who's there with us. Wolf Ludwig.

WOLF LUDWIG:

Well, to me, on this point, I have no dogma on it. So, I could be rather flexible. My main concern is practicality. So, if you have rules for such and rules on the one hand and experiences on the other hand, and if our experience over many years say for an online meeting it's more or less an illusion to count on minimum 50 plus one, then we can conduct the meeting but we cannot take any decision. Therefore, my motion is simply for reasons of practicality.

OLIVIER CRÉPIN-LEBLOND:

Thanks for this, Wolf. But with proxies, now that we are introducing proxies – because we did not have proxies before – would that be more easily achievable?

WOLF LUDWIG:

Yes, we had.

OLIVIER CRÉPIN-LEBLOND:

We had? I think we –

WOLF LUDWIG: We had proxies.

OLIVIER CRÉPIN-LEBLOND: We've never really pushed for that.

WOLF LUDWIG: [No,] Olivier, we had proxies in the past already.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks. Then we never really pushed for these.

WOLF LUDWIG: It was not used, or only – perhaps not too many members were aware in case of their absence that they had the opportunity to transfer a proxy to somebody else. But we did it in the past. Perhaps the problem was it wasn't fairly well known, and it should be better communicated and we should encourage members who may apologize or may not attend, we should at least contact them beforehand and encourage them to put their proxy to somebody else. Under such considerations, I can imagine then we can easily get 50% plus one.

OLIVIER CRÉPIN-LEBLOND: Thanks for this, Wolf. Next is Roberto Gaetano.

ROBERTO GAETANO:

Thanks. Although I'm Mediterranean and Latin and flexible, I believe that participation to a vote is a key duty of the people. Is not just a power, but a duty. And I think that at some point in time, we have to think about some sort of sanctions for people who are not participating, and that will reduce the lack of participation.

I'm volunteering to put on public fora a list of members who have not participated to a EURALO vote name by name and organization by organization so that the public can – that they feel ashamed, and that the public will know. Because it's absolutely not acceptable that we have an organization where people do not participate.

People who do not participate should be kicked out of the organization, full stop. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much for this, Roberto. You're speaking about the votes, and I agree with you that it's a separate process. The online meeting quorum, are you okay with having a half? Bearing in mind that now we can also have proxies and we would actively publicize the use of proxies? So people sending an apology would be able to cast their proxy towards somebody who is attending.

ROBERTO GAETANO:

Absolutely. I'm fine with half. Proxy is a legitimate way to participate. People who in spite of the fact that they can send a proxy, they don't even send a proxy, I will – just publish the list, and send it to some

public website where – it’s like in the middle ages, you put people in the square.

WOLF LUDWIG: [inaudible]

ROBERTO GAETANO: Genau. Thank you.

WOLF LUDWIG: Sorry, Roberto. On this point, you provoke a war in EURALO. I promise you really perfectly, you would immediately have three people I know fairly enough to step up and accusing you, “You are violating my privacy and my personal rights. You cannot publicly list something for failures in a volunteers community.” Roberto, I’m sorry, but this is an absolute no-go.

OLIVIER CRÉPIN-LEBLOND: Okay. What I’ll do, I’m going to step in because I think this goes further than our Bylaws. This is actually part of the ALS engagement discussions, and I understand that there is an At-Large working group that is working on this, by the way, and metrics for attendance and for involvement are worked out. And if I understand correctly from the At-Large review, it might well be that this will be imposed on RALOs whether our ALSes like it or not.

But that's not part of the remit of today's discussion, and I take it from the answers that I've seen and some of the green ticks that Oksana put on there that 50% for an online meeting is also – for attendance is also – or 50% plus one of course is also seen as being absolutely fine for that quorum.

Oksana Prykhodko, you have the floor.

OKSANA PRYKHODKO:

Thank you, Olivier. Actually, I'm extremely concerned there was this overwhelming of privacy. I know in the example of Ukraine how these privacy concerns are used against any progress in democracy, unfortunately. We have very dangerous experience in this day, and I can't understand how we can apply privacy law regarding organizations.

We are not [personal] members of EURALO. We are representatives of our organizations, and we have rights to access to information regarding organizations. It's Ukrainian legislation, and Ukrainian legislation was built in accordance with the Council of Europe standard. Am I right? Thank you very much.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much for this, Oksana. Yes, that's absolutely fine. And as I said, it's another discussion, but it's a very fair point that you are making with regards to privacy, and I'm sure we will have plenty of discussion around that when we will need to cross that bridge and when the results of attendance figures will be not only discussed, but they will

be published I guess or something. I think it goes beyond our discussion here. I'm trying to push through our own things.

We are at the top of the hour. In recap, we have now managed to reach a solution on all of the meeting quorums which are all now the same, 50% plus one, and we are looking at when it comes down to the voting levels, for a vote I would say that we would keep again 50% plus one, but the votes would need to be a qualified majority.

So, the total number of people voting in favor of something would need to reach at least the level of the quorum, so it's 50% of the total membership plus one. Is that correct, Wolf? Is that the right way to interpret the qualified majority?

WOLF LUDWIG:

Yes, basically. But as I said before, if we have a vote without abstention, then it's clear. Then it's in most cases not a problem. The problem turns up when you conduct a vote with abstention. Then you always give a backdoor to some voters etc. to go for the abstain option, and then you suddenly may turn up that the person who has less votes plus the abstain vote more vote than the first one.

OLIVIER CRÉPIN-LEBLOND:

Okay. What do you suggest we do then?

WOLF LUDWIG:

Then you have to repeat the voting. If you cannot come up with a qualified majority, then you have to go for a run-off vote.

OLIVIER CRÉPIN-LEBLOND: Okay.

WOLF LUDWIG: Therefore, in a run-off vote per se, you don't have the option of abstaining anymore.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks for this, Wolf. Any thoughts from anyone else on this call? And I'd like to thank Oksana. She just had to leave the meeting, but thank you for joining us. Roberto mentions in the chat that Wolf has a point, we need to think more about the impact of abstention.

Okay. Let's think until our next call about this voting and the impact of abstention. I think that having a quorum of a vote as 50% plus one so the vote becomes valid when 50% plus one of the people are voting, [that it] also a decision gets taken using a qualified majority, then we are quite safe at that point. We don't risk having somebody being selected for a position with a minority number of the votes as when compared to the total number of members.

Now, "next steps" is the big question. I think that – Florian, what was your next step on this, on the overall document? What would you suggest? Florian Hule.

FLORIAN HULE: I'd suggest that I incorporate the decisions on voting into the document so that we can review them together. And actually then I think I can design a rather final draft.

OLIVIER CRÉPIN-LEBLOND: Okay. Florian, there's something and the chat which is putting some huge pressure on you. Roberto Gaetano says, "I hope that Florian comes up with a good idea about abstention." No pressure, sir. No pressure.

FLORIAN HULE: Okay. No. I will look what corporations and companies and associations are doing around the world.

OLIVIER CRÉPIN-LEBLOND: I tell you what. I'd like to share the load here. I hope we all come up with a good idea about abstention.

FLORIAN HULE: Yes, that would be very welcome.

OLIVIER CRÉPIN-LEBLOND: We could all think about this one. Wolf Ludwig, I saw you briefly put your hand up.

WOLF LUDWIG: I only wanted to remind you again that if before a voting procedure a member in the room turns up and says, "Well, okay, we have the two

candidates. I insist on an abstain option,” if the person finds a majority in the room, then we have to deal with it, even if it brings us obviously and foreseeably in a dilemma without getting qualified majority, but then you have to deal with it.

You cannot – in my opinion, but perhaps Florian will find out anything that we can say, “Okay, if there are two candidates, you can make up your mind for one,” therefore, we don’t need an abstain. It would be the easiest way to avoid abstentions.

At the moment, you have to consider them. You are always tentatively in trouble.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks very much for this, Wolf. It’s eight minutes past the top of the hour. I think we need to just think about when do we have our next call. Looking at the calendar, it’s a very busy week, month, year, but okay. Let’s say a busy number of weeks. I think it’s too close to try and do another meeting before the meeting in Johannesburg.

WOLF LUDWIG: Johannesburg, [inaudible]

OLIVIER CRÉPIN-LEBLOND: Because next week, people are starting to get ready and move and travel and so on. As Wolf mentioned, early July might be a good timing. The end of the ICANN meeting – which is a short meeting – is on Friday

the 30th I think it is. Well, people would be traveling back. The week of the 3rd of July, how does that look for everyone?

WOLF LUDWIG: Looks good.

ROBERTO GAETANO: Fine with me.

OLIVIER CRÉPIN-LEBLOND: Excellent. Roberto asks, "Who will be at Johannesburg?" Florian, will you be traveling to Johannesburg?

FLORIAN HULE: No, I have exams.

OLIVIER CRÉPIN-LEBLOND: Oh.

WOLF LUDWIG: Oh, poor guy. Good luck.

FLORIAN HULE: Thank you.

OLIVIER CRÉPIN-LEBLOND: Okay, so I gather Wolf will be there. I'll be there, obviously, and you'll be there, Roberto, I gather. I know you will. So, maybe [either of us] –

ROBERTO GAETANO: Yes, and –

OLIVIER CRÉPIN-LEBLOND: Yes, go ahead. Roberto Gaetano.

ROBERTO GAETANO: Yes. It's fine. A conference call in the week after Johannesburg as long as it's not on Monday. It's fine for me, and I think that we can use the Johannesburg time even if not all of us are there, but some will be there, we can exchange things and go forward.

One recommendation to Florian will be about the issue about abstention is to think what Maria Theresia would have done about it. I think he knows what I mean. That's all. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this, Roberto. And so I turn to Silvia and ask a question, do staff usually take a week off after the ICANN meeting, or would it be possible to have a call in that week after the ICANN meeting? The week starting the 3rd, and probably we'd be looking at either Tuesday, Wednesday or a Thursday call. So, 4th, 5th or 6th of July.

SILVIA VIVANCO: Yes. Usually, Olivier, as you know, staff takes vacation time, time off after the ICANN meeting. So, if possible, it would be better to do it in the following week.

OLIVIER CRÉPIN-LEBLOND: The week after that. Okay. That certainly can happen too, it just takes us one level further. So, let's then do the call on the week of the 10th, because otherwise we'll have no staff support for our call on the week of the 3rd.

WOLF LUDWIG: Okay.

OLIVIER CRÉPIN-LEBLOND: Okay? Perfect for this. Thank you very much, everyone. Thank you so much, Florian. It's really great to see progress with this. And I think that, yes, we look forward to the next call. We've got a few weeks until then. And good luck for your exams, Florian.

FLORIAN HULE: Thank you.

OLIVIER CRÉPIN-LEBLOND: For everyone else, if you're traveling to Johannesburg, have safe travels to Johannesburg. And for anyone who's not traveling to Johannesburg, please think about those questions that we're asking ourselves when it comes down to the votes and the abstention in all this, and we'll follow

on the mailing lists. And with this, I'd like to wish you a very good evening, everybody, and this call is adjourned. Thank you.

WOLF LUDWIG: Okay. Thanks a lot. Goodbye, everybody. Bye.

ROBERTO GAETANO: Thank you. Bye.

SILVIA VIVANCO: Thank you everyone. Bye.

YESIM NAZLAR: Thank you, all. This meeting is now adjourned. Have a lovely rest of the day. Bye.

[END OF TRANSCRIPTION]