

Terri Agnew:Welcome to the IGO-INGO Access to Curative Rights Protection Mechanisms on Thursday, 14 December 2017 at 17:00 UTC for 90 minutes.

Terri Agnew:agenda wiki page: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_x\\_7xZyB&d=DwlFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc\\_ZaNcMk&s=sHkFa-CEIkAdMj-CPaRbrhxfPfc-hrAW7y7GvAhxhbk&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_7xZyB&d=DwlFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc_ZaNcMk&s=sHkFa-CEIkAdMj-CPaRbrhxfPfc-hrAW7y7GvAhxhbk&e=)

George Kirikos:Hi folks.

Petter Rindforth:Hi there - your'e first as usual :-)

George Kirikos:Terri beat us all. :-)

Zak Muscovitch:Hello :)

George Kirikos>Welcome Zak.

George Kirikos:Is anyone planning to buy the new iMac Pro??

George Kirikos:I guess most lawyers use Windows.....so perhaps not.

Zak Muscovitch:I would love to switch to Mac but my docketing software only runs on Windows...

George Kirikos:There is something called "Basecamp" to let Macs run Windows.

George Kirikos:The new iMac Pro is soooooo expensive though. \$\$\$\$\$\$\$\$\$\$\$\$\$\$

George Kirikos:Bootcamp, actually, not Basecamp. [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_support.apple.com\\_en-2Dca\\_HT201468&d=DwlFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc\\_ZaNcMk&s=mr0Szob4JE4LsKz5fOu\\_rpFBNfi\\_UTMRM1gZqda8\\_XY&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_support.apple.com_en-2Dca_HT201468&d=DwlFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc_ZaNcMk&s=mr0Szob4JE4LsKz5fOu_rpFBNfi_UTMRM1gZqda8_XY&e=)

George Kirikos:Only 4 of us were on.

Zak Muscovitch:Would have liked to but had another call. Will listen to the recording.

George Kirikos:Not the same cost

George Kirikos:3000 GBP

Mary Wong:Staff will send a note to the mailing list once all the recordings and transcripts are posted.

Jay Chapman:Couldn't make it on such short notice - but did take a quick review of the transcript

George Kirikos:[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.nominet.uk\\_domains\\_resolving-2Dduk-2Ddomain-2Ddisputes-2Dand-2Dcomplaints\\_&d=DwlFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc\\_ZaNcMk&s=f77iYfqeloPLoFhRF3Q4m1vRFchdP8-WbIVYJ1FYcuA&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.nominet.uk_domains_resolving-2Dduk-2Ddomain-2Ddisputes-2Dand-2Dcomplaints_&d=DwlFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc_ZaNcMk&s=f77iYfqeloPLoFhRF3Q4m1vRFchdP8-WbIVYJ1FYcuA&e=)

George Kirikos:I forgot to mention the mediation aspect --- that part was good.

Paul Tattersfield:2/3 determinations were for the claimants 1/3 for defendants IIRC very few appeals 3 out of 750 per annum

Paul Tattersfield:Sorry why can't we use mediation?

Terri Agnew>Welcome Osvaldo Novoa

George Kirikos:Ontario (my jurisdiction) has a mandatory mediation program, see: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_www.attorneygeneral.jus.gov.on.ca\\_english\\_courts\\_manmed\\_&d=DwlFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc\\_ZaNcMk&s=dn5320MvISPYDD9rj\\_2g4uV3XqxuISFv5jFM78yE1wc&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_www.attorneygeneral.jus.gov.on.ca_english_courts_manmed_&d=DwlFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc_ZaNcMk&s=dn5320MvISPYDD9rj_2g4uV3XqxuISFv5jFM78yE1wc&e=)

Paul Tattersfield:This is ridiculous Phil

Osvaldo Novoa:Hello all, sorry I'm late

George Kirikos:At a minimum, mediation can help narrow the scope of the dispute somewhat.

Mary Wong:That's correct, Phil - we have Zak's, George's and Paul T's proposals on screen. The agenda was sent out before receiving some of them - we will amend that.

Petter Rindforth:Mediation: depends on the type of dispute. I personally don't think it would work in these kinds of international domain disputes. Works more efficient in ccTLD cases.

Zak Muscovitch:Thanks Mary for including the rationale/context. However the rationale/context is likely no longer entirely reflective of the proposal since I revised the proposal. I may have to revise it to better reflect the updated proposal.

George Kirikos:My proposal isn't new....it's from July.

Mary Wong:@Zak, understood - we just put it into this draft for discussion but completely understand the need to update.

Mary Wong:@Phil, we can send out the rationale/context in a separate document to be referred to by WG members (as needed) when they respond for the Consensus Call.

Terri Agnew:Welcome Mike Rodenbaugh

Mike Rodenbaugh:YAY I made it.

Paul Tattersfield:Phew Mike :) lol

George Kirikos:A lot of time was spent calling the "survey" a vote....so let's discuss this further.

George Kirikos:Welcome Mike.

Zak Muscovitch:Well said, George.

Jay Chapman:+1 George

Terri Agnew:Welcome Gary Campbell

George Kirikos:Welcome Gary.

Gary Campbell:Hi Terri

Gary Campbell:George

George Kirikos:Your SOI was missing on the PDP members list, Gary:

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_pages\\_viewpage.action-3FpageId-3D48347895&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc\\_ZaNcMk&s=OgxJpRyRtHAXHiEUwHmempig0MW5Pjq8Okq5zeK4IWE&e](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_pages_viewpage.action-3FpageId-3D48347895&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=iOdZVPE1KkAEOHJo2rwwV7JumSN64iX7CPXc_ZaNcMk&s=OgxJpRyRtHAXHiEUwHmempig0MW5Pjq8Okq5zeK4IWE&e) So you might want to have ICANN staff fix that.

Gary Campbell:ok will do

George Kirikos:It's described as a "free choice" for the registrant, i.e. option for the registrant, but not mandatory.

Mary Wong:@Paul T, for clarity, when you say "refuses to take part in a judicial proceeding" did you intend to consider a claim of immunity as a refusal to participate?

Paul Tattersfield:@Mary yes

Paul Tattersfield:@Mary yes

Zak Muscovitch:With regards to Option A, I wonder if there is a better word than "vitate".

George Kirikos:"set aside" "disregarded", etc.

Zak Muscovitch:Would we be able to finesse the word after the consensus call but before the report so that it is not migrated into the report verbatim necessarily?

Paul Tattersfield:In option 'A' if an IGO refuses to participate in court proceedings 'the decision rendered against the registrant in the predecessor UDRP or URS shall be vitiated'

Paul Tattersfield:In option 'C' if an IGO refuses to participate in arbitral proceedings 'the enforcement of the underlying UDRP/URS decision will be permanently stayed'

George Kirikos:This document appears to be: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_gnso.icann.org\\_en\\_council\\_annex-2D1-2Dgnso-2Dwg-2Dguidelines-2D01sep16-](https://urldefense.proofpoint.com/v2/url?u=https-3A_gnso.icann.org_en_council_annex-2D1-2Dgnso-2Dwg-2Dguidelines-2D01sep16-)

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George Kirikos:I oppose the subsidized fees for IGOs on Rec #4.

George Kirikos:So, no full consensus on Rec #4.

Mike Rodenbaugh:+1 George

George Kirikos:I think there will be Consensus for Zak's proposal, actually.

George Kirikos:I've only seen Phil and Petter voice opposition to it.

George Kirikos:2 = "small minority"

George Kirikos:Just queueing up.

Paul Tattersfield:@ Mary can I get my Why the IGOs are never entitled to an immunity defence into the rationale?

Mary Wong:@Paul T, yes, thank you. We only excerpted your email but will include your entire text in the rationale document.

Paul Tattersfield:thanks Mary

Zak Muscovitch:Which "rare case" was the last poll fitted into?

Mary Wong:@Zak, I don't recall when there was a recent one. Let me check.

Zak Muscovitch:Sorry Mary; I had meant the poll that this WG took a couple weeks ago... :)

Mary Wong:If it helps, recent Working Groups have used polls to determine preliminary consensus on specific ideas, not necessarily for final recommendations as the WG was in an early stage of work, but to move progress forward. For example, the ongoing Next Generation RDS Working Group.

Mary Wong:@Zak, that poll was used for the same reason as what is currently being discussed - after weeks of discussion, the poll was proposed as a way to enable the co-chairs to see what, if any, consensus there was on any of the then-current options

George Kirikos:Option #6 was only finalized today.

George Kirikos:So, how can one say that the opposition to Zak's recommendation not be a "consensus" if only 2 (at best) people have spoken against it?

George Kirikos:I've seen no one speak against Option #6 or Paul T's proposal either.

Paul Tattersfield:We haven't really looked at immunity after initiating a UDRP

George Kirikos:i.e. how are the co-chairs formulating the level of consensus?

George Kirikos:Why is it a POLL, and not on the MAILING LIST?

George Kirikos:See page 10: "Consensus calls should always involve the entire Working Group and, for this reason, should take place on the designated mailing list to ensure that all Working Group members have the opportunity to fully participate in the consensus process."

George Kirikos:\*SHOULD TAKE PLACE ON THE DESIGNATED MAILING LIST"

George Kirikos:I disagree with that interpretation. Let's see how others feel.

George Kirikos:Announcing it on the mailing list is different from "take place on the" mailing list.

Mary Wong:@George, the proposed poll does not preclude a member from sending his/her support or objection to any proposal to the mailing list. The poll is a tool for the co-chairs, to facilitate their task of assigning consensus levels.

Mary Wong:As Phil noted, the poll results will be published, just without specific attribution of names.

George Kirikos:A poll that is supposedly a "rare case", Mary.

George Kirikos:It's only supposed to happen AFTER the first 3 steps fail.

George Kirikos:But, look at steps 1 to 3 ---- we've not HAD the interaction, yet.

George Kirikos:+1 Zak

Jay Chapman:fair question

George Kirikos:No we haven't ---- Option #6 was never voted on.

George Kirikos:Never.

Jay Chapman:if there is disagreement, shouldn't that be put out into the open as opposed to hidden by anonymous polls?

George Kirikos:+1 Jay

Paul Tattersfield:I would have liked a discussion on whether Prof. Swaines report and the Working Group's own report is even relevant when an IGO has chosen to initiate a UDRP - I don't believe it is hence my proposal

Paul Tattersfield:initiate

Zak Muscovitch:Mary, would you say that we are in a "rare case" situation?

Mary Wong:@Zak, as mentioned, the Guidelines apply to all Working Groups - so the admonition is against assuming that polls become the norm.

Jay Chapman:so the poll and the consensus call are two separate things?

Mary Wong:@Jay, yes - the poll is something the co-chairs thought would be helpful in assisting them to make the required consensus designations.

Zak Muscovitch:I guess the Guidelines should be revised to state instead that; iv) Polls may be used by the co-chairs to determine the level of consensus, and further, that such polls may be anonymous and can inform the co-chairs in determining the level of consensus.

Mary Wong:@George, not all members are on this call.

Zak Muscovitch:And so far in any event, all I have heard in the last several calls, is as George pointed out, Petter and Phil, expressing their personal views in support of Option C. I imagine that many people would be in support of my new proposal. So it is confounding that it has been "impossible" to determine the level of support.

Mike Rodenbaugh:if poll allows anonymity then it is impossible to use it to gauge consensus

Zak Muscovitch:Good point, Mike.

Jay Chapman:+1 Mike

Paul Tattersfield:George +1

George Kirikos:Without the benefit of the polls?

George Kirikos:"non-binding poll", you heard it.

Zak Muscovitch:Thanks for the call. Thanks Phil and Petter and Mary.

George Kirikos:Bye folks.

Jay Chapman:Thanks, All

Paul Tattersfield:Thanks all bye.