

## Call to setup an investigation committee

Adressed to

Michael Stehmann  
Thorsten Froese

The board of CAcert Inc. kindly asks you to act as an investigation committee and perform a research to find out if and to what extent our current members

Eva Stöwe and  
Philipp Dunkel

intentionally and/or deliberately violated our statutes as well as our policies and rules.

We ask you explicitly to check that the accusations must be tolerated from CAcert as an allowed expression of opinion even if the accusations are proof true. The board wants to know if the accusations are reasonable to expell these members from our association and the wider community or not.

These documents should be the base for the checks

- all policies of CAcert, especially CCA and principles
  - <https://www.cacert.org/policy/>
  - <https://www.cacert.org/policy/CAcertCommunityAgreement.html>
  - <http://svn.cacert.org/CAcert/principles.html>
- the statutes of CAcert Inc
  - [https://svn.cacert.org/CAcert/CAcert\\_Inc/By-Laws/CAcert-Rules%20of%20Association.pdf](https://svn.cacert.org/CAcert/CAcert_Inc/By-Laws/CAcert-Rules%20of%20Association.pdf)
- Associations Incorporation Act 2009 (New South Wales)
  - [http://www.austlii.edu.au/au/legis/nsw/num\\_act/aia2009n7334.pdf](http://www.austlii.edu.au/au/legis/nsw/num_act/aia2009n7334.pdf)
- Associations Incorporation Regulation 2010 under the Associations Incorporation Act 2009
  - [http://www.austlii.edu.au/au/legis/nsw/num\\_reg/aia2009air20102010238l11j2010784.pdf](http://www.austlii.edu.au/au/legis/nsw/num_reg/aia2009air20102010238l11j2010784.pdf)
- the Arbitration Act of NSW
  - [http://www.austlii.edu.au/au/legis/nsw/num\\_act/caa2010n61246.pdf](http://www.austlii.edu.au/au/legis/nsw/num_act/caa2010n61246.pdf)

To verify the facts you may attract all accessible documents especially emails as well as witnesses of those events if in doubt.

## Personal data of our members:

### Eva Stöwe

CAcert Assurer

CAcert Case Manager

CAcert Arbitrator

Email: [eva.stoewe@cacert.org](mailto:eva.stoewe@cacert.org)

Eva became a member of CAcert Inc in 2013-11.

Eva was suspended by board from all roles and got informed by email send out on Wed, 9 Dec 2015 09:44:28 +0100 by president. [es\_init.eml]

Eva was asked by email to explain her motivation why she always addresses email to a broader auditorium. Board wrote „Currently board discusses if you might have acted willingly against the interests of our association. We consider to discipline you in accordance to rule 12 of our statutes.“ [es\_disciplinary\_hearing.eml]

She gave 2 answers, eva\_deny\_underseal.eml and eva\_deny\_underseal\_final.eml.

Anyway board wants the investigation committee to find out if CAcert must see her actions as an allowed expression of opinion or not.

### Philipp Dunkel

CAcert Assurer

CAcert Case Manager

CAcert Arbitrator

Email: [p.dunkel@cacert.org](mailto:p.dunkel@cacert.org)

Philipp Dunkel is a long time member of CAcert. He was member of the board several years ago. He became a member of CAcert Inc in 2008-09.

Philipp was suspended by board from all roles and got informed by email send out on Wed, 9 Dec 2015 09:45:02 +0100 [pd\_init.eml]

Membership of CAcert was informed about the suspension by email send out on Wed, 9 Dec 2015 09:47:41 +0100 [members\_init.eml]

Philipp should have get an email for disciplinary hearing which was not send out in time due to a technical error. This email is send out now, Sun, 7 Feb 2016 10:07:44 +0100.

## History of Conflicts

With the beginning of the year 2014 both began to write arbitration rulings which are based on „common law“ because NSW belongs to the Commonwealth and has to follow the jurisdiction of common law. This binding of arbitration to common law leads to conflicts because arbitration is by intention not bound to any domestic or local law. Instead arbitration should find a solution in any case of dispute which is based on the originating will and contract of the involved parties.

( For details please see german code of civil law §§1051 Absatz 4 and arbitration act of NSW Rule 28 (5))

A good example is the so called „nik case“ (a20140518.1). Nik, member of CAcert Inc., made a public claim saying that „CAcert is dead“. The dispute was ruled by Eva who based her ruling on common law and allowed every member of CAcert Inc to publish similar claims. It is evidently that such a claim is contrary to every step to get e.g. audit ready.

At that time Eva worked on several different cases. Because the claimants did not agree to Eva's rulings they filed a dispute for appeal and linked several cases to it.

This appeal was ruled by Philipp. His ruling lead to a heated debate. Philipp did not give any reasons which may have led to his ruling. Instead he stated „you will simply have to trust me that I know what I speak of.“.

[1] pd\_ruling03.eml

Since that time both Eva and Philipp are implied working against the targets of CAcert.

A current member of today's board wrote a document „reject.pdf“ and pointed out that the ruling of Philipp cannot be accepted by anyone. His ruling violates the simplest requirements in arbitration and is a clear violation of our DRP. That ruling may be seen as a self-contracting act which is forbidden by law.

The discussion labelled by Philipp as „kerfuffle“ began to turn into an intrigue. From now on Eva and Philipp supported by a handful members attacked everybody who disagreed with their rulings.

Currently we see 2 groups in CAcert. This is a potential risk to split CAcert or to tear CAcert down and close it.

The current board was elected on an AGM held on Nov-22th 2015. The board acted immediately to take over all handouts etc.pp. From former board and discussed the current situation. By motion 20151208.1 board decided to setup an investigation committee. The members of CAcert Inc were informed by an email send out on Wed, 9 Dec 2015 09:47:41 +0100. [2] members\_init.eml

## Accusations

We will give 3 examples for each person.

### 1. Eva

#### Root-re-sign Procedure

It was agreed between several people that the procedure „Root-re-sign“ should be tested in an open environment at the FrOSCon event. Several members from our community met at FrOSCon for this purpose only. They came from Netherlands and northern Germany. This procedure was disturbed by Eva. Later she wrote an email and explained her reasons why she interrupted the procedure. [3] FrOSCon.eml

That interrupt led to an incident. Our internal auditor filed an incident. To interrupt this procedure when going live cannot be accepted and will lead to a break which means that it might be required to start this procedure from the very beginning. The matter is serious.

Due to her actions at the FrOSCon CAcert lost 2 sponsors. Some fellows of the FSFE and sponsors attended the FrOSCon and got aware her actions.

#### First board meeting

The new board was elected on AGM which was held on 2015-11-22. It is required by law that a new board has to take over all business from a former board within 4 weeks. Additionally the financial report for the period 2014/2015 must be lodged with the OFT within 4 weeks after the AGM.

The new board invited all members to attend the first board meeting on 2015-11-28 09:30 UTC in the IRC channel #board-meeting.

Eva wrote her email on Thu, 26 Nov 2015 12:17:05 +0100 and addressed it to the member list ([cacert-members@lists.cacert.org](mailto:cacert-members@lists.cacert.org)) and to the mailinglist [cacert-board@lists.cacert.org](mailto:cacert-board@lists.cacert.org) which is a public list accessible by everyone.

She began writing „Dear board, I am shocked!“ and continued telling every reader her ideas about the business which should be done immediately by board. [4] first\_meeting\_of\_new\_board01.eml

She continued her destructive work with her next email writing „I object to the correctness how the board-meeting today is performed“. [5] first\_meeting\_of\_new\_board02.eml

Later on the same day she wrote to polociy group

„Dear policy group,

the new board is pushing to get a new signature for our roots done. A new process was defined and everything.“

Her wrong statements about the root-re-sign procedure are again send out to a greater auditorium. Her words are destructive because the underlying procedure was successfully inspected by our internal auditor, by our critical team, people from software and more. She simply ignores all former statements about that matter. [6] first\_meeting\_of\_new\_board03.eml

An excerpt from her email written on Mon, 30 Nov 2015 13:46:13 +0100:

„III. Warning:

Even as it was not requested by the claimant, by examining the issue filed by the claimant, I have found the possibility that this issue could lead to the AGM form 2015-11-22 is invalid, if the decision from the GM at 2015-09-27 is applicable to the invitation for the AGM at 2015-11-22, as the situation may be comparable.

I advice board to act accordingly." [7] first\_meeting\_of\_new\_board04.eml

### **Board has no rights**

Written from Eva on the policy list on Sun, 6 Dec 2015 20:40:51 +0100:

„Dear Ian,

I agree. PoIG organises themselves independently from board. PoIG is the head that defines the PoP which is the policy that organises how policies are done. Board has no issue at all to this.

If they try to do so, they are overstepping their rights. Within the CCA CAcert Inc. and by this board accepts that policies are controlled by PoIG. They also accept with the CCA that the policy defining process is defined in the PoP and that this PoP is also covered by this process and under control by the Policy Group.

If board tries to interfere there, this maybe even is a violation of the CCA, which would lead to all the consequences that were discussed when there were AGM motions that CAcert Inc. should re-organise Arbitration.

Both is not possible to do for board or CAcert Inc. As was lengthly discussed, recently." [8] board\_has\_no\_rights.eml

## **2. Philipp**

### **Ruling which knocks out CAcert's Arbitration**

Philipp was arbitrator of case a20150420.1. [<https://wiki.cacert.org/Arbitrations/a20150420.1>] [pd\_ruling01.eml]

His ruling was the starting point of a debate. [ pd\_ruling02.eml]

Our DRP requires that every arbitrator must show the reasons and the logic why his final ruling is as it is. It is required to give clear and logical reasons. But Philipp did not.

Contrary to many of our wiki pages he claims that „However in the DRO it directly points at common law as the foundation of these policies. In this case, there simply were no precisely defined and explicit policies.

As such common law principles and precedents had to be brought in to make a decision." [9]

pd\_ruling03.eml (2. Arbitration is bound by policies)

And he is spreading wrong facts telling „You say you are waiting for and expecting a new board to overturn this ruling and reclaim the right to dismiss and arbitrator.

I am sorry to have to disappoint you. CAcert Inc. is not in a position to do this, much less its board. The only entity that could do this is Policy Group.

My ruling also did not change this motion it simply puts it context of what CAcert Inc can actually do." [9] pd\_ruling03.eml (3. m20091206.2)

The association has to lodge all do changes of the statutes with the OFT.

[https://svn.cacert.org/CAcert/CAcert\\_Inc/By-Laws/TradeOffice\\_AGM2007Reports\\_4392\\_001-Nov2007.pdf](https://svn.cacert.org/CAcert/CAcert_Inc/By-Laws/TradeOffice_AGM2007Reports_4392_001-Nov2007.pdf)

It is lodged with the OFT that board has veto rights on policy documents and sserve as last appeal on dispute resolution. Although there have been motions to change these provisions these motions have never been lodged with the OFT.

Philipp claims that all people who do not agree and confirm his rulings do breach our DRP policy and do not accept arbitration. „For now, unless you want to undertake the task of finding all the primary documents, you will simply have to trust me that I know what I speak of.“ [9] pd\_ruling03.eml

### **Counterclaim threatened critical team to postpone root-re-sign procedure**

The mailinglists have been used by several members to spread false statements about others who filed a dispute against the authors and required to withdraw.

Philipp, arbitrator in case a20150916.1, made a ruling:

„One fundamental requirement of defamation or libel is that the statements needs to be false. As the counter-claim indeed provides evidence supporting the original statement, as have recent events, it is fair to say that the statement was at least not false and therefore cannot be seen as defamatory. This holds especially since the original statement quoted above does not speak to actual denial of CCA, DRP, PoP, etc. but rather to the appearance of denial.

As such I rule the claim to have failed. Which leaves the counterclaim open for further deliberation.“

<https://wiki.CAcert.org/Arbitrations/a20150916.1>

Board suspended Philipp and Eva from any role in arbitration with the intent to stop that blaming of each other on publicly accessible mailinglists. Philipp continued his destructive work. He requested a statement from all recipients and got a clear answer from all. After this he spread a new mail on many lists and cited all answers. Then he asked Eva to spread this email on lists he has no access to. Eva sended out this emai to the list [cacert-teams@lists.cacert.org](mailto:cacert-teams@lists.cacert.org). Our critical team whose members have been personally addressed in that email decided then to postpone the root-re-sign procedure because no one of them wanted to become a party in an official hearing at some court! [10] criticals.eml

### **Threatening members**

Philipp answers to some emails always in a manner that he is the one who does authentic interpretation.

Philipp moves a harsh wording in a private email discussion forward to „Nötigung“. [11]

pd\_interpretation01.eml

Philipp neglies to step out as arbitrator

[12] pd\_interpretation02.eml

Philipp defines the term „defamatory statement“.

[13] pd\_interpretation03.eml

Philipp answers to Werner redefining the powers of the committee and gives an interpretation of our statutes.

[14] pd\_interpretation04.eml

Philipp threatens and pressures Reinhard displaying wrong facts.

[15] pd\_kerfuffle01.eml

[16] pd\_ruling04.eml

Reinhard Mutz  
President of CAcert Inc.  
In the name of board

## Appendix

The attached file emails.tar.gz contains all emails zipped. You can view each email using an email client which supports emails signed by an electronic digital certificate. The email files are attached to prove their real existence.

### Emails

- [1] pd\_ruling03.eml
- [2] members\_init.eml
- [3] FrOSCon.eml
- [4] first\_meeting\_of\_new\_board01.eml
- [5] first\_meeting\_of\_new\_board02.eml
- [6] first\_meeting\_of\_new\_board03.eml
- [7] first\_meeting\_of\_new\_board04.eml
- [8] board\_has\_no\_rights.eml
- [9] pd\_ruling03.eml
- [10] counterclaim03.eml
- [11] pd\_interpretation01.eml
- [12] pd\_interpretation02.eml
- [13] pd\_interpretation03.eml
- [14] pd\_interpretation04.eml
- [15] pd\_kerfuffle01.eml

### Links

Germany, Code of Civil Procedure

[http://www.gesetze-im-internet.de/englisch\\_zpo/index.html#gl\\_p3526](http://www.gesetze-im-internet.de/englisch_zpo/index.html#gl_p3526)

<http://www.gesetze-im-internet.de/bundesrecht/zpo/gesamt.pdf>

The textual content of each email will be displayed here for easier reading. You may refer to the original \*.eml file. You need to read the file whenever you want to know about the complete addressees. This is important because the board kept all emails closed to the membership and did not inform publicly accessible mailinglists.

### file: board\_comments.eml

Dear Subscribers of this mailing list,

we observed that during the last days several emails were sent out on this list. These emails are written in a harsh tone and may bother you.

We, the board members of CAcert Inc., want to apologize for any inconvenience.

There is no intention neither from the board nor from CAcert Inc. to confront you with internal affairs which are maybe sometimes expressed in hot fever.

These said emails were not written on demand of the board. We are the representatives of CAcert Inc. and respect privacy and personal rights.

We raise hope that the writers of said emails acted grossly negligent and without any intention to bother any subscriber.

We encourage you to stay with CAcert and to help us to reach our goal "Get Audit Ready" as soon as possible.

Any comment from your side is well appreciated.

Kind regards,

Reinhard Mutz  
President of CAcert Inc. in the name of board

**file: board\_has\_no\_rights.eml**

Dear Ian,

I agree. PoIG organises themselves independently from board. PoIG is the head that defines the PoP which is the policy that organises how policies are done. Board has no issue at all to this.

If they try to do so, they are overstepping their rights. Within the CCA CAcert Inc. and by this board accepts that policies are controlled by PoIG. They also accept with the CCA that the policy defining process is defined in the PoP and that this PoP is also covered by this process and under control by the Policy Group.

If board tries to interfere there, this maybe even is a violation of the CCA, which would lead to all the consequences that were discussed when there were AGM motions that CAcert Inc. should re-organise Arbitration.

Both is not possible to do for board or CAcert Inc. As was lengthly discussed, recently.

Further: The DocO is not one of those who is allowed to do editorial changes. It is the Editor and the PoIO.

Also what about Sebastian who is the current DocO? Since w´hen has he stopped to be DocO? Where is the according motion or did he resign?

**file: counterclaim01.eml**

Dear All,

I have received emails from all the respondents to the counter-claim in case a20150916.1 yesterday (see below) except CAcert Inc. In short the three core statements made are:

1. The respondents to the counter-claim do not accept the arbitrator and case-manager because we are supposedly suspended by CAcert Inc. However CAcert Inc has no right at all to suspend anyone from arbitration, so this is really a non-issue.
2. That the complaint was originally filed against Ian and Dirk and that I supposedly "illegally expanded" it. However the concept of a counter-claim is quite standard in law, the fact that they did not anticipate that their respondents might fight back, is no excuse.
3. There is the suggestion of bias and personal conflicts

While that's all nice and well, despite being ludicrous, that's for an appeal to decide and not for a respondent to a counter-claim.

If it were just for these three statements, I would simply address these issues in my ruling and get on with it. However Jürgen has decided to go one step further:

> I hereby announce [...] the complaint which was filed on 2015-12-10 at the office of Public Prosecutor of Vienna against Ian Grigg, Eva Stoewe, Alexander Robertson, Philipp Dunkel et al. This case is pending at the prosecutor's office, and several additional information have been filed since that. The last update was on 2015-12-17.

Besides the fact that I don't quite see why an Austrian court would ever claim jurisdiction in this case, the respondents have decided to go the criminal law route. Since arbitration can never deal with criminal matters, this case is now in the hands of the courts.

Due to this fact and the fact that the respondents to the counter-claim have expanded their behaviour from originally only Eva to then include me and in the "complaint to the public prosecutor" to also include Alex Robertson, I have to advise any CAcert Arbitrator to stop all activities. Handling a case in this environment has become enormously risky. Of course I'm not an attorney so this does not constitute proper legal advice, however the warning and advice to consult with an attorney should be given in any case.

The same advice of course goes for anyone, involved especially persons in sensitive areas such as Wytze, Mendel, ad Secure-U.

I will next publish my findings so far, as evidence. I will also consult with my own legal advisors to determine if I have any obligation to take legal action such as filing a complaint with the OFT, Dutch Data Protection Commission, or Public Prosecutors office in NSW.

Best Regards,  
Philipp

**file: counterclaim02.eml**

Dear All,

I have received emails from all the respondents to the counter-claim in case a20150916.1 yesterday (see below) except CAcert Inc. In short the three core statements made are:

1. The respondents to the counter-claim do not accept the arbitrator and case-manager because we are supposedly suspended by CAcert Inc.

However CAcert Inc has no right at all to suspend anyone from arbitration, so this is really a non-issue.

2. That the complaint was originally filed against Ian and Dirk and that I supposedly "illegally expanded" it. However the concept of a counter-claim is quite standard in law, the fact that they did not anticipate that their respondents might fight back, is no excuse.

3. There is the suggestion of bias and personal conflicts

While that's all nice and well, despite being ludicrous, that's for an appeal to decide and not for a respondent to a counter-claim.

If it were just for these three statements, I would simply address these issues in my ruling and get on with it. However Jürgen has decided to go one step further:

> I hereby announce [...] the complaint which was filed on 2015-12-10 at the office of Public Prosecutor of Vienna against Ian Grigg, Eva Stoewe, Alexander Robertson, Philipp Dunkel et al. This case is pending at the prosecutor's office, and several additional information have been filed since that. The last update was on 2015-12-17.

Besides the fact that I don't quite see why an Austrian court would ever claim jurisdiction in this case, the respondents have decided to go the criminal law route. Since arbitration can never deal with criminal matters, this case is now in the hands of the courts.

Due to this fact and the fact that the respondents to the counter-claim have expanded their behaviour from originally only Eva to then include me and in the "complaint to the public prosecutor" to also include Alex Robertson, I have to advise any CAcert Arbitrator to stop all activities. Handling a case in this environment has become enormously risky. Of course I'm not an attorney so this does not constitute proper legal advice, however the warning and advice to consult with an attorney should be given in any case.

The same advice of course goes for anyone, involved especially persons in sensitive areas such as Wytze, Mendel, ad Secure-U.

I will next publish my findings so far, as evidence. I will also consult with my own legal advisors to determine if I have any obligation to take legal action such as filing a complaint with the OFT, Dutch Data Protection Commission, or Public Prosecutors office in NSW.

Best Regards,  
Philipp

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Eva Stoewe, Philipp Dunkel,

I accept the CAcert Community Agreement (CCA), and the CAcert Dispute Resolution Policy (DRP).

I hereby

- nominate

DDr. Walter Funovics, Attorney at Law

Fanny-Elssler-Gasse 4

7000 Eisenstadt, Austria

and

Michael Cobras, Attorney at Law

Level 5, 23-25 O'Connell Street

Sydney 2000, Australia

as my legal counsel and representatives.

- announce that I reject both, the case manager Eva Stoewe and the arbitrator Philipp Dunkel in these roles.

The reason for that rejection is:

- both are suspended in all their privileged roles by the board of CAcert Inc.

- personal bias against the respondent(s) and therefore lack

of independence as case manager and arbitrator which is a fundamental requirement by the Arbitration Act and the DRP.

- the complaint which was filed on 2015-12-10 at the office of Public Prosecutor of Vienna against Ian Grigg, Eva Stoewe, Alexander Robertson, Philipp Dunkel et al.

This case is pending at the prosecutor's office, and several additional information have been filed since that. The last update was on 2015-12-17.

With the last update the Vienna public prosecutor's office has been also asked and adviced to forward the filed facts and information to the authorities which are responsible for the seat of CAcert Inc. in NSW, Australia.

- give to knowledge that I reject this arbitration case or counterclaim as a whole, because it was illegally extended by the original respondent (now claimant), and the persons who want to act as case manager and arbitrator, and therefore the powers and competences have been significantly exceeded (again).

The correct procedure - established by law and the DRP - would have been, that the new claimant has to file a new dispute on the official way.

Juergen M. Bruckner  
CARS

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Dear Eva Stöwe and Philipp Dunkel,

I accept the CAcert Community Agreement, and the CAcert Dispute Resolution Policy as laid down on the CAcert web site.

I reject Eva Stöwe as case manager and Philipp Dunkel as arbitrator due to the following facts:

1. Board suspended you both from your roles as Arbitrators and Case Managers on 2015-12-09. So you cannot act any longer as arbitrators or case managers. Rulings and other action of you have no effect as long as you are suspended. Since Board appoints Arbitrators, it can as well suspend or defrock them.

2. The complaint was original filed against Dirk A. and Ian G., but you extended the case and reversed the roles of claimants and respondents. This is not consistent with our current policies and underlying laws.

3. I doubt that you are independent in this case and therefore I cannot accept that you handle this case. As I see, both of you are neither as Case Manager nor as Arbitrator free of conflicts of interests and both of you are not impartial, as the underlying matter is your suspension which obviously affects you.

Therefore a true independent arbitrator shall take this case.

Kind Regards, Werner

\_\_\_\_\_

Dear Eva Stöwe and Philipp Dunkel,

I accept the CAcert Community Agreement, and the CAcert Dispute Resolution Policy.

I reject Eva Stoewe as case manager and Philipp Dunkel as arbitrator due to the following facts:

Board suspended you both from your role as arbitrator on 2015-12-09.

The complaint was original filed against Dirk A. and Ian G. but you extended the case and reversed the roles of claimant and respondent. This is not inline with our current policies and underlying laws.

I doubt that you are independent in this case and therefore cannot accept that you handle this case.

Best regards

Marcus Mängel, CARS

\_\_\_\_\_

Dear Eva Stöwe and Philipp Dunkel,

Firstly:

I accept the CAcert Community Agreement (CCA), and the CAcert Dispute Resolution Policy (DRP). I think that having an independent Arbitrator decide is the way to solve our Disputes.

Concerning formalities in this case I reject both the Case Manager (Eva Stöwe) and the Arbitrator (Philipp Dunkel), because:

- They have been suspended by the Board of CAcert Inc.
- I think that neither the Case Manager nor the Arbitrator are free of conflicts of interests or impartial, as the underlying matter is their suspension which obviously affects them.

Additionally:

- I think that this case has been illegally expanded/changed. The original case was against Ian Grigg who was turned to be the claimant and the initial concern, if statements from him should be considered defamatory is already decided upon. (Although it's coincidental, that this decision came exactly the same day that the case was expanded and turned).

Regards,

Felix

\_\_\_\_\_

Dear Eva Stoewe and Philipp Dunkel,

I accept the CAcert Community Agreement, and the CAcert Dispute Resolution Policy.

I announce that I reject the case manager Eva Stoewe and the arbitrator Philipp Dunkel in these roles.

My reasons for the rejection are:

1. You both are suspended in the function of an arbitrator of CAcert. Rulings have no effect while suspended. Your delegated rights of arbitration are removed by board.
2. Arbitrators have to be neutral. Rulings to gain a personal advantage are illegal.
3. Extending and turning arbitration cases exceeds the power of arbitration.

4. The case a20151125.1 is useless.

I nominate  
Ulrich Mark  
Breslauer Straße 1  
23683 Scharbeutz  
Germany  
and  
Michael Cobras, Attorney at Law  
Level 5, 23-25 O'Connell Street  
Sydney 2000, Australia  
as my legal counsel and representatives.

Regards  
Stefan Thode, CARS

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Eva Stoewe, Philipp Dunkel,

I accept the CAcert Community Agreement (CCA), and the CAcert Dispute Resolution Policy (DRP).

I hereby

- nominate

Michael Cobras, Attorney at Law

Level 5, 23-25 O'Connell Street

Sydney 2000, Australia

as my legal counsel and representative.

- announce that I reject both, the Case Manager and the Arbitrator in these functions.

- announce that I follow all arguments as written by Jürgen Bruckner.

kind regards

Reinhard

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**file: counterclaim03.eml**

Dear all,

as this mail was not received with board-ml and some of the addressed people (see the highlighted parts about some team members, and possibly the "et al") are not members of CAcert Inc., Philipp asked me to forward this mail to anybody whom I think who needs to be aware about this.

----- Forwarded Message -----

Subject: Arbitration Case a20150916.1  
Date: Sun, 20 Dec 2015 21:12:49 +0000  
From: Philipp Dunkel <p.dunkel@CAcert.org>  
Reply-To: Philipp Dunkel <p.dunkel@CAcert.org>  
To: Juergen M. Bruckner <jbruckner@CAcert.org>, Reinhard Mutz <rmutz@CAcert.org>, Werner Dworak <werner.dworak@CAcert.org>, Stefan Thode <stefan.thode@CAcert.org>, Felix Dörre <felix@CAcert.org>, Marcus Mängel <inopiae@CAcert.org>, CAcert Board <CAcert-board@lists.CAcert.org>  
CC: Ian G <iang@CAcert.org>, dirk astrath <dirk@CAcert.org>, CAcert-arbitration@lists.CAcert.org, CAcert-members@lists.CAcert.org

Dear All,

I have received emails from all the respondents to the counter-claim in case a20150916.1 yesterday (see below) except CAcert Inc. In short the three core statements made are:

1. The respondents to the counter-claim do not accept the arbitrator and case-manager because we are supposedly suspended by CAcert Inc. However CAcert Inc has no right at all to suspend anyone from arbitration, so this is really a non-issue.
2. That the complaint was originally filed against Ian and Dirk and that I supposedly "illegally expanded" it  
However the concept of a counter-claim is quite standard in law, the fact that they did not anticipate that their respondents might fight back, is no excuse.
3. There is the suggestion of bias and personal conflicts  
While that's all nice and well, despite being ludicrous, that's for an appeal to decide and not for a respondent to a counter-claim.

If it were just for these three statements, I would simply address these issues in my ruling and get on with it. However Jürgen has decided to go one step further:

> I hereby announce [...] the complaint which was filed on 2015-12-10 at the office of Public Prosecutor of Vienna against Ian Grigg, Eva Stoewe, Alexander Robertson, Philipp Dunkel et al. This case is pending at the prosecutor's office, and several additional information have been filed since that. The last update was on 2015-12-17.

Besides the fact that I don't quite see why an Austrian court would ever claim jurisdiction in this case, the respondents have decided to go the criminal law route. Since arbitration can never deal with criminal matters, this case is now in the hands of the courts.

Due to this fact and the fact that the respondents to the counter-claim have expanded their behaviour from originally only Eva to then include me and in the "complaint to the public prosecutor" to also include Alex Robertson, \*I have to advise any CAcert Arbitrator to stop all activities. \*Handling a case in this environment has become enormously risky. Of course I'm not an attorney so this does not constitute proper legal advice, however the warning and advice to consult with an attorney should be given in any case.

\*The same advice of course goes for anyone, involved especially persons in sensitive areas such as Wytze, Mendel, ad Secure-U.\*

I will next publish my findings so far, as evidence. I will also consult with my own legal advisors to determine if I have any obligation to take legal action such as filing a complaint with the OFT, Dutch Data Protection Commission, or Public Prosecutors office in NSW.

Best Regards,  
Philipp

---

Eva Stoewe, Philipp Dunkel,

I accept the CAcert Community Agreement (CCA), and the CAcert Dispute Resolution Policy (DRP).

I hereby

- nominate

DDr. Walter Funovics, Attorney at Law  
Fanny-Elssler-Gasse 4  
7000 Eisenstadt, Austria

and

Michael Cobras, Attorney at Law  
Level 5, 23-25 O'Connell Street  
Sydney 2000, Australia

as my legal counsel and representatives.

- announce that I reject both, the case manager Eva Stoewe and the arbitrator Philipp Dunkel in these roles.

The reason for that rejection is:

- both are suspended in all their privileged roles by the board of CAcert Inc.
- personal bias against the respondent(s) and therefore lack of independence as case manager and arbitrator which is

a fundamental requirement by the Arbitration Act and the DRP.

- the complaint which was filed on 2015-12-10 at the office of Public Prosecutor of Vienna against Ian Grigg, Eva Stoewe, Alexander Robertson, Philipp Dunkel et al.

This case is pending at the prosecutor's office, and several additional information have been filed since that. The last update was on 2015-12-17.

With the last update the Vienna public prosecutor's office has been also asked and adviced to forward the filed facts and information to the authorities which are responsible for the seat of CAcert Inc. in NSW, Australia.

- give to knowledge that I reject this arbitration case or counterclaim as a whole, because it was illegally extended by the original respondent (now claimant), and the persons who want to act as case manager and arbitrator, and therefore the powers and competences have been significantly exceeded (again). The correct procedure - established by law and the DRP - would have been, that the new claimant has to file a new dispute on the official way.

Juergen M. Bruckner  
CARS

---

Dear Eva Stöwe and Philipp Dunkel,

I accept the CAcert Community Agreement, and the CAcert Dispute Resolution Policy as laid down on the CAcert web site.

I reject Eva Stöwe as case manager and Philipp Dunkel as arbitrator due to the following facts:

1. Board suspended you both from your roles as Arbitrators and Case Managers on 2015-12-09. So you cannot act any longer as arbitrators or case managers. Rulings and other action of you have no effect as long as you are suspended. Since Board appoints Arbitrators, it can as well suspend or defrock them.
2. The complaint was original filed against Dirk A. and Ian G., but you extended the case and reversed the roles of claimants and respondents. This is not consistent with our current policies and underlying laws.
3. I doubt that you are independent in this case and therefore I cannot accept that you handle this case. As I see, both of you are neither as Case Manager nor as Arbitrator free of conflicts of interests and both of you are not impartial, as the underlying matter is your suspension which obviously affects you.

Therefore a true independent arbitrator shall take this case.

Kind Regards, Werner

Dear Eva Stöwe and Philipp Dunkel,

I accept the CAcert Community Agreement, and the CAcert Dispute Resolution Policy.

I reject Eva Stoewe as case manager and Philipp Dunkel as arbitrator due to the following facts:

1.  
Board suspended you both from your role as arbitrator on 2015-12-09.
2.  
The complaint was original filed against Dirk A. and Ian G. but you extended the case and reversed the roles of claimant and respondent. This is not inline with our current policies and underlying laws.
3.  
I doubt that you are independent in this case and therefore cannot accept that you handle this case.

Best regards  
Marcus Mängel, CARS

Dear Eva Stöwe and Philipp Dunkel,

Firstly:

I accept the CAcert Community Agreement (CCA), and the CAcert Dispute Resolution Policy (DRP). I think that having an independent Arbitrator decide is the way to solve our Disputes.

Concerning formalities in this case I reject both the Case Manager (Eva Stöwe) and the Arbitrator (Philipp Dunkel), because:

- They have been suspended by the Board of CAcert Inc.
- I think that neither the Case Manager nor the Arbitrator are free of conflicts of interests or impartial, as the underlying matter is their suspension which obviously affects them.

Additionally:

- I think that this case has been illegally expanded/changed. The original case was against Ian Grigg who was turned to be the claimant and the initial concern, if statements from him should be considered defamatory is already decided upon. (Although it's coincidental, that this decision came exactly the same day that the case was expanded and turned).

Regards,  
Felix

Dear Eva Stoewe and Philipp Dunkel,

I accept the CAcert Community Agreement, and the CAcert Dispute Resolution Policy.

I announce that I reject the case manager Eva Stoewe and the arbitrator Philipp Dunkel in these roles.

My reasons for the rejection are:

1. You both are suspended in the function of an arbitrator of CAcert. Rulings have no effect while suspended. Your delegated rights of arbitration are removed by board.
2. Arbitrators have to be neutral. Rulings to gain a personal advantage are illegal.
3. Extending and turning arbitration cases exceeds the power of arbitration.
4. The case a20151125.1 is useless.

I nominate

Ulrich Mark  
Breslauer Straße 1  
23683 Scharbeutz  
Germany

and

Michael Cobras, Attorney at Law  
Level 5, 23-25 O'Connell Street  
Sydney 2000, Australia

as my legal counsel and representatives.

Regards

Stefan Thode, CARS

—  
Eva Stoewe, Philipp Dunkel,

I accept the CAcert Community Agreement (CCA), and the CAcert Dispute Resolution Policy (DRP).

I hereby

- nominate

Michael Cobras, Attorney at Law

Level 5, 23-25 O'Connell Street

Sydney 2000, Australia

as my legal counsel and representative.

- announce that I reject both, the Case Manager and the Arbitrator in these functions.

- announce that I follow all arguments as written by Jürgen Bruckner.

kind regards

Reinhard

---

**file: es\_crit\_teams.eml**

Dear members,

I am the Arbitrator of the CAcert arbitration case a20151125.1, as the Case Manager (Alex Robertson) of that case can, has and will confirm for the time being. The case file can be found at [1].

Within the last few days the access at least to the following resources which are necessary for the work as an Arbitrator were removed for me and a fellow Arbitrator (Philipp Dunkel):

- \* Wiki-access to the Arbitrator group, including the ability to read or write the private part of arbitration cases, including our own cases
- \* Other Wiki special wiki access
- \* membership of the arbitration mailing list
- \* OTRS access

There may be other sources for which the access was removed as well.

Neither me nor the other affected arbitrator nor at least two of my Case Managers, including the Case Manager of this case, were either heard nor informed about those actions, before they were done.

Both arbitrators are active arbitrators and handling multiple running cases. Both arbitrators are handling cases where dire claims were raised either against CAcert Inc which is represented by board or against at least three board members.

The evidence at this stage points to this actions having been initiated by board, probably in a board motion "under seal". There is no precedent for board motions under seal and our Security Policy requires to have everything handled in public, if something is not handled in public it has to be done under arbitration oversight. Wherever sealing is mentioned within CAcert policies, there is also a requirement to state the reason for sealing. Board did not answer a public question from a member about the nature of that seal or an arbitration case.

The access was removed shortly after the Arbitrator of this present case (a20151125.1) informed board via a ruling that it may be possible that the Annual General Meeting which installed board may be invalid based on something raised within that case.

The current actions directly interfere with this case. (And other cases

- some of them of critical security relevance).

Beside other possible violations, this is a direct violation of

\* CAcert Community Agreement 2.3 which is binding for any CAcert community member as well as CAcert Inc and requires to submit all disputes to Arbitration instead and to assist the Arbitrator of a running case with any reasonable request. To have access to the resources necessary for arbitration work clearly is a reasonable request. [2]

\* Dispute Resolution Policy 2.1 "The Board of CAcert Inc. and the Members of the Community vest in Arbitrators full authority to hear disputes and deliver rulings which are binding on CAcert Inc. and the Members." [3]

\* Dispute Resolution Policy 3.3, 3.4, 3.5 which declare decisions of an Arbitrator to be binding for all members and CAcert Inc and defines the appeal process to be the (only) way to address issues with the rulings. [3]

\* Security Policy 9.5 which defines that confidentiality or secrecy may only be done under Arbitration oversight. [4]

\* CAcert Inc. statutes 11 which defines "Disputes between members (in their capacity of members) of the association and disputes between members and the association, are to be dealt with in accordance with the association's Dispute Resolution Policy." [5]

\* The ruling in the arbitration case a20150420.1, which defines how an arbitrator may be removed from the list of arbitrators which includes an arbitration ruling as well as a Policy Group decision. [6]

~~~~~

Because of the above reasons I hereby rule:

1. The actions against both arbitrators to remove their access and to declare that they have removed as arbitrators is invalid. It was given without the necessary authority and against the approved processes of CAcert Inc.
2. These acts are an intervention with a running case and an attempt to violate arbitration processes.
3. Any access to the arbitration area for the affected arbitrators is to be restored as soon as possible, by any member who is able to do so.
4. Arbitration is defined to be the oversight and control authority for the critical areas under Security Policy. The same is true for assurances. An interference with an arbitration case or even more an attempt to arbitrarily remove arbitrators from a running case is an attempt to remove the control authority for those areas. If any arbitrator can have access removed just because board / CAcert Inc. is not happy with the decisions of that arbitrator, a control over the security area and by this the private data of our members and the assurance area and by this the validity of assurances cannot be ensured.

5. To prevent further damage the following steps should be taken against any involved person who acted without due protest (for example filing a dispute/notifying the relevant authorities):

- a. It has to be assumed that the person does not accept the CAcert Community Agreement and the Dispute Resolution Policy anymore. This leads to this person possibly being out of control of arbitration. This disqualifies the person to provide acceptable assurances or to act under the security policy.
- b. All access to infrastructure under the security policy should be removed for those persons.
- c. The assurer status for those persons should be removed.

6. This affects all sub-committee members (Reinhard Muntz, Jürgen Bruckner, Marcus Mängel, Stefan Thode, Peter Yuill, Ben Ball, Robert Cruikshank, Felix Doerre) and also at least Martin Gummi who is proven to have removed the access rights in the wiki. All of those affected members are joined to this case directly as respondents.

7. The named members have 24 hours to prove that they are not party to the board's actions. If this proof is not received, the decision becomes into effect, their access is to be terminated. The confirmation and/or evidence has to be presented before the arbitrator of an accordingly filed case, or the ruling arbitrator of this case.

8. The above security provisions may only be removed by a ruling from an arbitrator of an accordingly filed case, that includes due reasoning.

9. Board, CAcert Inc. and any other member affected by this ruling has to take care that since now no documentation or communication about anything related to the above activities is destroyed.

Further the members of CAcert Inc. are strongly advised to organise a Special General Meeting to replace the board with a board that accepts CAcert Inc. rules and the policies of CAcert and also to review any actions done by the current board.

Vienna, 2015-12-09

Eva Stöwe

[1] <http://wiki.CAcert.org/Arbitrations/a20151125.1>

[2] <http://www.CAcert.org/policy/CAcertCommunityAgreement.html> CAcert Community Agreement

[3] <http://www.CAcert.org/policy/DisputeResolutionPolicy.html> Dispute Resolution Policy

[4] <http://www.CAcert.org/policy/SecurityPolicy.html>

[5]

[https://svn.CAcert.org/CAcert/CAcert\\_Inc/By-Laws/CAcert-Rules%20of%20Association.pdf](https://svn.CAcert.org/CAcert/CAcert_Inc/By-Laws/CAcert-Rules%20of%20Association.pdf)  
(or old version <http://wiki.CAcert.org/Brain/CAcertInc/AssociationRules>)

[6] <http://wiki.CAcert.org/Arbitrations/a20150420.1>

**file: es\_disciplinary hearing.eml**

Dear Eva Stöwe,

we are very unhappy that you discusses our internal affairs on several publicly accessible mailing lists.

You do not keep confidence which is a preliminary requirement for a collaborative solution.

Our board has to take care of the good international reputation of CAcert Incorporated. We see that you started this discussion towards „yellow press“ and may have the intention to set out our board to some vilification in the public perception.

Currently board discusses if you might have acted willingly against the interests of our association. We consider to discipline you in accordance to rule 12 of our statutes.

In the name of the board I hereby request a written explanatory statement from you pointing out the reasons why you send your comments to

CAcert-teams@lists.CAcert.org  
arbitration-archives@CAcert.org  
joost.steijlen@CAcert.org (not a member of CAcert Incorporated)  
CAcert-arbitration@lists.CAcert.org  
support@CAcert.org  
CAcert-policy@lists.CAcert.org (291 subscribers)  
CAcert-board@lists.CAcert.org (185 subscribers)  
CAcert@lists.CAcert.org (800 subscribers)

Please give a detailed comment about all your reasons.

Your actions are controversial to the intent of an investigation which helps all involved parties to safely secure privacy and personal rights. An investigation is performed in a way that all involved parties may collaborative work together afterwards.

We remind you that you are suspended of your roles as given in the mail "CAcert: personal information" dated 2015-12-09 8:44 UTC.

We have serious doubts that you agree to work with CAcert Inc in trusted manner.

Your answer is expected to send to Board Private <CAcert-board-private@lists.CAcert.org> within 20 days after receivment.

technical hint: If you prefer to answer using encrytion please send an encrypted email only to the persons addressed by this email.

Kind regards,

Reinhard Mutz

President of CAcert Inc. in the name of board

**file: es\_init.eml**

Hello Eva,

It is my duty to inform you about a board decision from the last board meeting on Sunday, Dec 6th 2015.

The board voted unanimously and accepted this resolution:

Text of resolution:

Eva Stöwe violates as arbitrator several provisions of our statutes, of the Associations Act 2009, of the Association Regulation 2010 (NSW), the arbitration act of NSW and provisions of our DRP. Her rulings also violates any good manner described as „"contra bonos mores".

To address these violations in more details and to secure CAcert Incorporated operations board makes a decision and concludes to keep CAcert Incorporated free from any suffers resulting from the ruling

- to implement an investigation execution committee, to find out the violated provisions
  - suspend Eva Stöwe from all of his roles which are
  - arbitrator, Case Manager, Policy Officer (if applicable)
- for the time the investigation is running.

Any rights a former board may have delegated to Eva Stöwe, are hereby revoked.

Based on the result board has to decide on a final resolution.

Actions to take immediately effect:

- revoke access to ticket system of arbitration
- revoke the right to access the restricted areas of the wiki

Eva Stöwe has the same rights as any other ordinary member.

End of resolution text

We all expect that you will help to clarify the complete story and accept the investigation.

We will let you know about the next steps as soon as we have more information.

Kind regards,

Reinhard Mutz

President of CAcert Inc. in the name of board

**file: eva\_deny\_underseal.eml**

Dear members,

I am quite sure that most of you are enraged about the ruling I gave yesterday, as this probably came out of the blue sky.

Here some information about what I can verify (all in UTC):

2015-12-06 board handled 3 topics "under seal" which has no precedents, they were asked about the nature of this seal prior and afterwards but did not answer.

2015-12-07 4:18 the Arbitration access to the wiki for me and the fellow arbitrator were removed by the wiki-admin Martin Gummi (proof: <https://wiki.CAcert.org/RecentChanges>)

2015-12-07 10:07 after I saw the wiki-change I asked the second wiki admin why I was removed, late at the same day, he confirmed the changes and asked board and Martin about details

2015-12-07 10:11 I tried to write to the arbitrators mailing list for internal communication between arbitrators, but the mail bounced

2015-12-07 10:19 I contacted the Case Manager (CM) of a20151125.1 about the issue as it was the case with the highest concrete urgency

2015-12-07 the CM informed me that he had asked the internal auditor for investigations, incident i20151207.1 was created.  
(<https://wiki.CAcert.org/Audit/Incidents/i20151207.1>)

2015-12-09 8:44 I got a "personal information" mail from the president

2015-12-09 8:47 a mail "important information" was sent to the members of CAcert Inc.

2015-12-09 8:51 I forwarded the "personal information" mail to the CM of a20151125.1 and asked him if that mail changed that I am the Arbitrator of that case

2015-12-09 9:18 the CM (who is also an arbitrator) confirmed that I am the Arbitrator of that case, that he had "received no credible or acceptable instruction to the contrary" and that board does not hold the authority to remove an arbitrator on their own, further: "On this basis, Board's instruction to suspend any arbitrator's access rights or to otherwise impede a running arbitration is in my opinion "ultra vires" and therefore has to be considered null and void." and based on the mail to the members he believes "that, individually and collectively, they have breached CCA."

2015-12-09 13:10 the former internal auditor (Ian Grigg) replied to the president's mail to the members with a warning to anybody "who have followed instructions of the board in recent days" that they are "sub judice" and "although we do not normally advise this in CAcert, you may

find it wise to consult your own legal counsel. Individually, and at your own cost."

2015-12-09 14:37 my ruling was sent

2015-12-09 I asked the CM to inform the other arbitrators that I have the intention to merge that part of my case to any other running case about the according activities by board. At 17:52, the CM confirmed that he had send this to the other arbitrators

I got no further question, answer or information from board.

I hereby give a CARS that I do not have more information than the two mails mentioned from board about why and on what basis board acted.

Following are the two named mails from board.

1. public mail "important information"

> Subject: CAcert: important information  
> Date: Wed, 9 Dec 2015 09:47:41 +0100  
> From: reinhard <reinhard@CAcert.org>  
> Reply-To: Board Private <CAcert-board-private@lists.CAcert.org>  
> To: Members <CAcert-members@lists.CAcert.org>  
>  
> Dear members of CAcert Incorporated,  
>  
> We inform you about an extraordinary action resolved unanimously by  
> board during the last board meeting on Sunday, Dec 6th2015.  
>  
> In the past several months we saw many emails and entries in our wiki  
> that might lead to serious damage to our operations, teams, association  
> and community in total.  
>  
> We believe that we have to act decidedly to  
> preventespecialyourcommunity as well as all teams and CAcert Inc.from  
> any danger and damage.  
>  
> Thereforewe agreed to setup an investigation committee to find out the  
> facts, the involved persons and real or possible threats.  
> We suspended the persons in question from all priviligedroles they  
> currently hold.  
> We willnot publish the names of the suspended persons in order to  
> respect their privacy. We ask you to respect thisas well.  
> The persons in question have been informed in separate mails.  
>  
> Currently we are searching forlawyers to takeonthe task  
> ofthisinvestigation. No boardmemberisand will beinvolved in the  
> investigation itself.  
>  
> There has never been such an investigation in the history of CAcert before.  
> We allknow well that we are in uncharted waters,but we require facts in  
> order to make a well-founded decision.  
> We cannot follow any rumors.

- >
- > We are certain that following this path is the only reasonable way to
- > solvethis situationand we will do that.
- > As it is written in our wiki: Say what you do and do what you say.
- >
- > Kind regards,
- > Reinhard Mutz
- > President of CAcert Inc. in the name of board

2. personal mail "personal information"

- > Subject: CAcert: personal information
- > Date: Wed, 9 Dec 2015 09:44:28 +0100
- > From: reinhard <reinhard@CAcert.org>
- > Reply-To: reinhard@CAcert.org
- > To: Eva Stöwe <eva.stoewe@CAcert.org>
- > CC: Juergen Bruckner <jbruckner@CAcert.org>, INOPIAE (Marcus) <inopiae@CAcert.org>

> Hello Eva,

- >
- > It is my duty toinform you about a board decision from the last board
- > meeting on Sunday, Dec 6th2015.
- > The board voted unanimously and accepted this resolution:

> Text of resolution:

- >
- > Eva Stöwe violates as arbitrator several provisions of our statutes, of
- > the Associations Act 2009, of the Association Regulation 2010 (NSW), the
- > arbitration act of NSW and provisions of our DRP. Her rulings also
- > violates any good manner described as „"contra bonos mores".

- >
- > To adress these violations in more details and to secure CAcert
- > Incorporated operations board makes a decision and concludes to keep
- > CAcert Incorporated free from any suffers resulting from the ruling

- >
- > - to implement an investigation execution committee, to find out the
- > violated provisions
- > - suspend Eva Stöwe from all of his roles which are
- > - arbitrator, Case Manager, Policy Officer (if applicable)
- > for the time the investigation is running.

- >
- > Any rights a former board may have delegated to Eva Stöwe, are hereby
- > revoked.

- >
- > Based on the result board has to decide on a final resolution.

> Actions to take immediately effect:

- > - revoke access to ticket system of arbitration
- > - revoke the right to access the restricted areas of the wiki

- >
- > Eva Stöwe has the same rights as any other ordinary member.

>  
> End of resolution text  
>  
> We all expect that you will help to clarify the complete story and  
> accept the investigation.  
>  
> We will let you know about the next steps as soon as we have more  
> information.  
>  
> Kind regards,  
> Reinhard Mutz  
> President of CAcert Inc. in the name of board

regards,  
Eva Stöwe, CARS

**file: eva\_deny\_underseal\_final.eml**

Dear board,

to begin with: I wish you a happy and good new year. Regrettably the rest of this mail will not be happy. I am sorry for this, but it is not me who requested an answer.

At 2015-12-12 I got a peculiar mail, send from three board members. I do not know if the rest of board was informed about this mail, so I add the complete mail below.

Within that mail I am ordered to give a complete set of reasons why I send two mails (a ruling and its explanation). I am ordered to do this within 20 days. Probably because board "is discussing if they want to remove me from the members list".

I was wondering, how to respond to that mail, as it left me nearly speechless for so many reasons.

But I decided to focus on a direct answer:

As one of the acting board members later stated that he had filed criminal charges against me two days prior to your request, without informing me about the nature of that charges and as my mails may or may not be part of those charges and as a complete set of all my reasons for writing them may or may not be relevant in that context, I do not see any reason, why I should answer according requests from the direction of board, for the time being.

What I can do is to point to the nature of my mails and to our policies and related documents.

Just for completion, three points:

a)

While the membership can order board to do something, board cannot order members to do something, at least as long as those members are not part of the executive chain. Which I am not.

b)

I have issues to read the mail as "notice of a complaint" and giving "the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint". For this at least a complaint would have to be mentioned. Which is not the case. This would be required for rule 12 of our statutes. But even then there would be no requirement for me to answer board, in the way that board requests.

c)

If the mail was meant to be a statement or question of a party (respondent) of the mentioned case, please mark it as such. In that case I would answer as the arbitrator of that case, as soon as possible.

Happy New 2016,  
Eva

~~~~~

Rule 12.2. of our statutes state:

"On receiving such a complaint, the committee:

- (a) must cause notice of the complaint to be served on the member concerned; and
- (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
- (c) must take into consideration any submissions made by the member in connection with the complaint."

~~~~~

Complete Mail:

[As there was no motion and only "we discuss" is mentioned and as it was not send to all board-members, I do not know if the complete board is informed, so I am not sure if the rest of board is informed about this activity.]

Subject: disciplinary hearing

Date: Sat, 12 Dec 2015 12:28:29 +0100  
From: reinhard <reinhard@CAcert.org>  
Reply-To: Board Private <CAcert-board-private@lists.CAcert.org>  
To: Eva Stöwe <eva.stoewe@CAcert.org>  
CC: INOPIAE (Marcus) <inopiae@CAcert.org>, Juergen Bruckner <jbruckner@CAcert.org>

Dear Eva Stöwe,

we are very unhappy that you discusses our internal affairs on several publicly accessible mailing lists.

You do not keep confidence which is a preliminary requirement for a collaborative solution.

Our board has to take care of the good international reputation of CAcert Incorporated. We see that you started this discussion towards „yellow press“ and may have the intention to set out our board to some vilification in the public perception.

Currently board discusses if you might have acted willingly against the interests of our association. We consider to discipline you in accordance to rule 12 of our statutes.

In the name of the board I hereby request a written explanatory statement from you pointing out the reasons why you send your comments to

CAcert-teams@lists.CAcert.org  
arbitration-archives@CAcert.org  
joost.steijlen@CAcert.org (not a member of CAcert Incorporated)  
CAcert-arbitration@lists.CAcert.org  
support@CAcert.org  
CAcert-policy@lists.CAcert.org (291 subscribers)  
CAcert-board@lists.CAcert.org (185 subscribers)  
CAcert@lists.CAcert.org (800 subscribers)

Please give a detailed comment about all your reasons.

Your actions are controversial to the intent of an investigation which helps all involved parties to safely secure privacy and personal rights. An investigation is performed in a way that all involved parties may collaborative work together afterwards.

We remind you that you are suspended of your roles as given in the mail "CAcert: personal information" dated 2015-12-09 8:44 UTC.

We have serious doubts that you agree to work with CAcert Inc in trusted manner.

Your answer is expected to send to Board Private <CAcert-board-private@lists.CAcert.org> within 20 days after receivment.

technical hint: If you prefer to answer using encreyption please send an encrypted email only to the persons addressed by this email.

Kind regards,

Reinhard Mutz

President of CAcert Inc. in the name of board

**file: first\_meeting\_of\_new\_board01.eml**

Dear board,

I am shocked!

There is a huge amount of board items waiting for quite a while to be handled. Some of them are quite relevant and waiting to be handled for a long time.

Also(!) There were more than one issues entered via the private board mailing list which also should take precedents to the topics that you have added.

Especially as some of them are relevant for the elections you want to do. I doubt that it is sensible to give officer roles to members where Arbitration has informed board about grave failures to the SP, DRP and CCA and were consequences against those members were stayed to enable board to react. This affects two of your candidates.

If you want to pass an audit you should aim to handle things correctly and especially not ignore inputs from members or Arbitration.

Also: If there is currently only one Australian resident a member of board. We are required to have 3 of them. Also you are short of a board member. Why are you not trying to fix those issues? There were some suggestions for this given in the AGM. And there were two candidates presented who did neither acknowledge nor refuse.

Why is this not handled but minor stuff like blog posts that you aim to pass an audit?

On 26.11.2015 11:51, reinhard wrote:

> Dear members of CAcert Inc.,  
> hello all,  
>  
> I hereby want to inform you that the new board will have its first  
> constitutive meeting on  
> Saturday, 2015-11-28 09:30 UTC.  
>  
> Please read the agenda at

> <https://wiki.CAcert.org/Brain/CAcertInc/Committee/MeetingAgendasAndMinutes/2015-11-28>  
>  
>  
>  
> --  
> mit freundlichen Grüßen/kind regards  
>  
> Reinhard Mutz  
>  
> --  
> <http://wiki.CAcert.org/ReinhardMutz>  
>

--  
mit freundlichen Grüßen / best regards  
Eva Stöwe  
CAcert Assurer  
CAcert Case Manager & Arbitrator  
CAcert.org - Free Certificates  
E-Mail: [eva.stoewe@CAcert.org](mailto:eva.stoewe@CAcert.org)

**file: first\_meeting\_of\_new\_board02.eml**

Dear all.

I object to the correctness how the board-meeting today is performed

A member is technically not allowed to speak in the board-meeting - while others were!

That member has priviously entered objetctions and told board publicly that there are relevant issues on the board-private list.

The log so far is:

10:30 <ReinhardM> good morning all together  
10:30 <StefanT> good morning  
10:30 <INOPIAE> good morning  
10:30 <BenBE> good morning  
10:31 <magu> good morning board  
10:31 <ReinhardM> we have to wait about 5 minutes because Jürgen want to join this meeting and is under way.  
10:31 <ReinhardM> Petr Yuill wrote by email and apologizes that he cannot tke part today.  
10:32 -!- INOPIAE changed the topic of #board-meeting to: Board Meeting 2015-11-28 9:30 UTC |  
<https://wiki.CAcert.org/Brain/CAcertInc/Committee/MeetingAgendasAndMinutes/2015-11-28>  
10:33 -!- jmbruckner [jmbruckner@089144207180.atnat0016.highway.bob.at] has joined #board-meeting  
10:34 -!- mode/#board-meeting [+o jmbruckner] by StefanT  
10:35 <ReinhardM> Let's start the meeting  
10:35 -!- INOPIAE changed the topic of #board-meeting to: Board Meeting

2015-11-28 9:30 UTC | the channel is moderated |  
<https://wiki.CAcert.org/Brain/CAcertInc/Committee/MeetingAgendasAndMinutes/2015-11-28>  
10:35 <ReinhardM> Marcus will you please open the meeting and take the temporary chair?  
10:35 -!- mode/#board-meeting [+m ] by INOPIAE  
10:35 <INOPIAE> Yes I will  
10:36 <INOPIAE> I open the first meeting of the new board  
10:36 <INOPIAE> The agenda is available under  
<https://wiki.CAcert.org/Brain/CAcertInc/Committee/MeetingAgendasAndMinutes/2015-11-28>  
10:36 <INOPIAE> 1.2.  
10:36 <INOPIAE> Who is taking the minutes?  
10:37 <ReinhardM> I will take the minutes  
10:37 <ReinhardM> We have a quorum. 5 members are present. 3 members are required.  
10:38 <INOPIAE> Thanks Reinhard  
10:38 <INOPIAE> 1.3. Chair asks whether CAcert-board-private maillist includes any items that need to be disclosed to Members.  
10:38 <katzazi> yes there were  
10:38 -!- #board-meeting Cannot send to channel  
10:38 <katzazi> a lot  
10:38 -!- #board-meeting Cannot send to channel  
10:38 <INOPIAE> As the new board is currently working through the mailing lists we yet do not have any thoroughly overview about the CAcert-board-private mailing list. This topic will be part of the next board meeting.  
10:38 <ReinhardM> OK  
10:39 <jmbruckner> okay  
10:39 <StefanT> ok  
10:39 <INOPIAE> 1.4 Chair asks whether CAcert-board maillist includes any business items that aren't on the agenda yet.  
10:39 <INOPIAE> As the new board is currently working through the mailing lists we yet do not have any thoroughly overview about the CAcert-board mailing list. This topic will be part of the next board meeting.

On 26.11.2015 11:51, reinhard wrote:

> Dear members of CAcert Inc.,  
> hello all,  
>  
> I hereby want to inform you that the new board will have its first  
> constitutive meeting on  
> Saturday, 2015-11-28 09:30 UTC.  
>  
> Please read the agenda at  
> <https://wiki.CAcert.org/Brain/CAcertInc/Committee/MeetingAgendasAndMinutes/2015-11-28>  
>  
>  
>  
> --  
> mit freundlichen Grüßen/kind regards

>  
> Reinhard Mutz  
>  
> --  
> <http://wiki.CAcert.org/ReinhardMutz>  
>

--  
mit freundlichen Grüßen / best regards  
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**file: first\_meeting\_of\_new\_board03.eml**

Dear policy group,

the new board is pushing to get a new signature for our roots done. A new process was defined and everything.

However early in the process an issue regarding the CPS and the new signature was found.

Later I stumbled again over this and tried to inform the last board about this to address the issue, but that board never had a relevant board-meeting afterwards.

Today the new board posted the mission to get audit ready and they also decided to get the new root signing done at Fosdem which is in about two months.

As only board was allowed to speak, I was not able to bring up that topic in the meeting, however I addressed the chair and new president and the vice-president in a private chat about this issue and was ignored. The former board was aware of this issue.

So I now will go directly to you, so that we get this issue solved, hopefully in time.

My issue is that I do not know enough about the new process that should be used to know if there are other points to be updated in the CPS than those that was addressed right at the beginning. Regardless if there are actual differences to what is planned to be done, or not. If there is a new process it would probably be a good idea to also include it into the CPS or another policy that is referred by the CPS.

However, if we want to have the new signing be done in a way that will pass the audit, we should take care that there is no violation of our polices.

As a lot thought was put into the new process it is probably sensible to update the CPS to match the new process, instead of the other way round.

Time is quite short, so we should probably start as soon as possible to compare the new process with the CPS to identify any possible issue, if this was not already done. (There was an audit done for the process, but as the CPS was never mentioned in the according report at all, I do not know if any checks in that direction were done. At least the point that were found to be an issue when the process was discussed first, probably should have been mentioned in one way or the other.)

The possibly conflicting part of the CPS is the following:

"6.1.5. Key sizes

No limitation is placed on Subscriber key sizes.

CAcert X.509 root and intermediate keys are currently 4096 bits. X.509 roots use RSA and sign with the SHA-1 message digest algorithm. See §4.3.1.

OpenPGP Signing uses both RSA and DSA (1024 bits).

CAcert adds larger keys and hashes in line with general cryptographic trends, and as supported by major software suppliers. "

The first sentence is the one that may have to be updated.

It is possible that the last sentence can be understood that it covers the current activity, but I do not think so.

The reason for my assumption is the CPS is meant to tell any possible user about what can be expected to be done by us at any given time. If the CPS states that a specific thing is done "currently", the user should be able to expect that this is the case at the time where the CPS is checked.

This is not a minor thing as this is exactly where anyone who checks a certificate should be expected to possibly do a check for the validity of a signature/certificate. Our roots and signatures should match what we state in the CPS. For non-members (or possible members) this is probably the most important policy and probably we have and one of the most important parts within that policy.

The third line does state that there may be changes in the future. But it does not state that there have been changes to in the past. So if someone checks the CPS he can expect that there are exactly those roots and signatures that is specified in the CPS or maybe older ones.

So if we want to do the update - what I deeply believe - that part of the policy has to be adjusted in a way that fits the new situation.

I am not really sure how this could be done best, so I do not add a proposal for a change. I just hope that someone else comes up with something that fits also within the transition time.

Greetings,  
Eva

**file: first\_meeting\_of\_new\_board04.eml**

Dear Ian, dear board,

this is about Arbitration case "Strike down AGM resolutions" - a20151125.1.

I am the Arbitrator (eva.stoewe@CAcert.org) of this case, the Case Manager is Alex Robertson (alex-uk@CAcert.org>).

The status of the case is recorded at [1]. If you notice any missing or wrong information, feel free to provide us your point of view.

I. Like every case this also is opened by some formalities:

1. As CAcert Inc. is bound to accept the CAcert Community Agreement [2] and the Dispute Resolution Policy [3] and I am aware about the acceptance of both by the claimant based on another arbitration case, I assume that both parties accept the CCA and DRP. If you do not agree to this assumption, please explain so. If you have any reason to believe that you are not bound by them you have to state this, as well.

2. The governing law will be that of NSW, Australia. It is not possible to request a change of law, in this case.

3. You need to notify me if you are seeking legal counsel (a lawyer). This is not recommended.

4. If you feel the case is moving slowly please ask the Dispute Resolution Officer for advice via an email to dro@CAcert.org.

II. As the next step I give you time for additional statements, if you want to add some.

It is likely that I will ask additional questions.

Please try to answer quickly as there may be some urgency (see below at III) and not after 2015-12-06. If you do not plan to provide a statement, please stay so, as well, so that I can proceed earlier, if possible.

III. Warning:

Even as it was not requested by the claimant, by examining the issue filed by the claimant, I have found the possibility that this issue could lead to the AGM from 2015-11-22 is invalid, if the decision from the GM at 2015-09-27 is applicable to the invitation for the AGM at 2015-11-22, as the situation may be comparable.

I advice board to act accordingly.

IV. Further, I hereby issue a preliminary ruling:

1. Based on the request of the claimant, any of the resolutions done at the AGM from 2015-11-22 that were not voted on like they were invited are hereby stalled. This affects all resolutions that were handled at that meeting, especially the resolutions about Officers and Team Leads.

2. Any delay for the execution of a resolution that is caused by this preliminary ruling may not be counted against board or any other person, required to act based on the resolutions.

3. Additionally, no resolution where there are indications that it may be empty or lead to a violation of CAcert Inc. rules, CCA, DRP or any other policy of CAcert may be added to the invitation of a GM by the secretary, until this case is decided. The secretary is allowed to accept them on his own responsibility, for the case that they may be allowed to be added to the invitation of further GMs.

Cologne, 2015-11-30

The first part of the ruling affects all resolutions that were handled at that date.

Meaning that any steps that were done based on those resolutions have to be halted or reverted and no further steps are allowed based on those resolutions. As only one resolution was accepted, by the GM, this only affects this resolution.

On the other hand, as the according decisions of the AGM are only stalled for the moment, it may not be assumed that the decisions were never given so any steps that would be against those decisions should not be done, as well.

Eva Stöwe,  
Arbitrator of a20151125.1

[1] <http://wiki.CAcert.org/Arbitrations/a20151125.1>

[2] <http://www.CAcert.org/policy/CAcertCommunityAgreement.html> CAcert Community Agreement

[3] <http://www.CAcert.org/policy/DisputeResolutionPolicy.html> Dispute Resolution Policy

**file: members\_init.eml**

Dear members of CAcert Incorporated,

We inform you about an extraordinary action resolved unanimously by board during the last board meeting on Sunday, Dec 6th 2015.

In the past several months we saw many emails and entries in our wiki that might lead to serious damage to our operations, teams, association and community in total.

We believe that we have to act decidedly to prevent especially your community as well as all teams and CAcert Inc. from any danger and damage.

Therefore we agreed to setup an investigation committee to find out the facts, the involved persons and real or possible threats.

We suspended the persons in question from all privileged roles they currently hold.

We will not publish the names of the suspended persons in order to respect their privacy. We ask you to respect this as well.

The persons in question have been informed in separate mails.

Currently we are searching for lawyers to take on the task of this investigation. No board member is and will be involved in the investigation itself.

There has never been such an investigation in the history of CAcert before.

We all know well that we are in uncharted waters, but we require facts in order to make a well-founded decision.

We cannot follow any rumors.

We are certain that following this path is the only reasonable way to solve this situation and we will do that.

As it is written in our wiki: Say what you do and do what you say.

Kind regards,

Reinhard Mutz

President of CAcert Inc. in the name of board

**file: pd\_interpretation01.eml**

Dear all,

From what I have read in this e-mail the term attack or threat is certainly justified. I would venture to even claim that this e-mail statement fulfils the requirements under German law for Nötigung in criminal law.

I do not think that such things should be handled with quite so cavalier an attitude.

Cheers, Philipp

> On 28 Oct 2015, at 07:08, Reinhard Mutz <rmutz@CAcert.org> wrote:

>

> Sorry to say:

>

> No attack, no incident!

>

> You just cite from a private discussion per email and disclose some

> details, not the story.

>

> Please stop it immediately. Thanks

>

> I am not interested to get the name of your addressee.

>

> kind regards

>

> Reinhard

>

>> Am 28.10.2015 um 07:39 schrieb Eva Stöwe:

>> Dear board,

>>

>> I have thought about this some while. First I just decided, to ignore

>> it. But then the requirement to be transparent to report attacks, which

>> is installed in our principles and the SP came to mind - and did not leave.

>>

>> Normally I would just note this down in the according case file, but

>> there are multiple affected. So I have decided, to report this here.

>>

>> Some days ago, a member (of a team that is governed by our security

>> policy) wrote to me:

>>

>> "Tritt bitte freiwillig aus Arbitration zurück oder

>> leg alle Cases in denen [someone else] oder ich beteiligt sind binnen 14

>> Tagen nieder, oder es wird nicht nur auf der internen Liste SEHR

>> hässlich werden."

>>

>> Translation: "Please resign from Arbitration voluntary or at least lay

>> down all cases where [someone else] or I are involved within the next 14

>> days, else it will be VERY ugly not only on the internal list."

>>

>> It was not part of a real discussion or anything, where it may have been

>> understood as an advice after one has presented a lot of arguments or

>> whatever, there was not much more context to that sentence.

>>

>> I cannot read it otherwise than as a threat.

>>

>> To resign to be the Arbitrator of a case requires an explicit decision

>> of the Arbitrator. So someone tries to coerce me as the Arbitrator of a

>> case to do a specific arbitration decision in that case. (Or more

>> precisely multiple cases.)

>>  
>> I fear I have to interpret this as an intentioned attack against the  
>> independence and impartiality of me as an Arbitrator.  
>>  
>> By writing this I fulfil the requirement to document/report attacks. I  
>> will not (and may not) let this affect me. So maybe you should prepare  
>> yourself that it could get "very ugly", somewhere.  
>>  
>> For the moment, I do not think that it matters, who the member is, so I  
>> do not reveal that person, here.  
>>  
>> (I have not come to a conclusion if it will affect the course of any of  
>> my cases, or anything else. This is just a report about the incident.)  
>>  
>> For completeness:  
>> This was about a week ago.  
>>  
>> CARS,  
>> Eva Stöwe  
>

**file: pd\_interpretation02.eml**

Dear Reinhard,

I am saddened to inform you that neither the claimant nor the respondent get's to pick either the arbitrator nor the case-manager. To claim a lack of impartiality could be considered contempt arbitration. However I will assume that such was not your intent. I have to inform you that the case will go on as scheduled.

Since you decided to not put forth any further information beside your quote of the original email that formed part of your claim, that will be the base upon which the merits of this case will be decided.

Kind regards,  
Philipp Dunkel  
Arbitrator

On 21 Sep 2015, at 19:54, reinhard <reinhard@CAcert.org> wrote:

> Hello Philipp,  
> hello all,  
>  
> I do accept CCA and DRP but I neither accept Philipp as Arbitrator nor Eva as Case Manager for this case.  
>  
> Philipp has lost his impartiality long before I filed that dispute.  
> For details please see the mails from Philipp regarding the case a20150420.1., "The current Kerfuffle" and so on.  
>  
> Reinhard CARS  
>  
> NB: I am out of office til the end of this week and will be back late on Saturday evening.  
>

> mit freundlichen Grüßen/kind regards

>

> Reinhard Mutz

>

> --

> <http://wiki.CAcert.org/ReinhardMutz>

> Am 20.09.2015 um 18:14 schrieb Philipp Dunkel:

>> Dear Reinhard, dear Ian,

>>

>> I have been appointed as the arbitrator for the named case. As the case has been indicated as urgent, I would like to begin this quickly.

>>

>> For this reason, I would ask you to confirm the following items via CARS.

>>

>> 1. That you accept the CCA, DRP and all other policies by CAcert.

>> 2. That you accept arbitration as the relevant forum for this dispute.

>>

>> Ian has already proactively stated these two items, so I only need Reinhard's acknowledgements.

Usually I'd take these for granted in a claimant considering the fact that he was using arbitration indicating such an acceptance. However due to the nature of the complaint, I'd like this explicit.

>>

>> Also, I'd like to note that CAcert policies make no mention of defamation. It will therefore be necessary to look at general law related to defamation for this case.

>>

>> As such the following needs to be true for a case of defamation is warranted:

>>

>> 1. The statement made needs to be a statement of fact that is false. (It is assumed to be a false statement and has to be proven to be true to be a valid defence)

>> 2. The statement must be suited to impugn the good name of the claimant.

>> 3. The statement must have been made in a form that addresses more than the person named.

>>

>> If either of you can provide further arguments or evidence in those regards, I'd ask you to provide them together with your relevant CARS. I would hope that this is possible by Monday evening the latest due to the claimed urgency. However should this be impossible, please advise me as I do not want to place an undue burden on anyone.

>>

>> Best regards,

>> Philipp Dunkel

>> Arbitrator

>

**file: pd\_interpretation03.eml**

Dear Reinhard,

a defamatory statement is defined as being at least untrue. As such you have not provided any evidence.

I have asked you for a reference to an appeal you have filed, since I have not seen one come in.

I have also asked you for a CARS that says you do in fact accept CCA, DRP and all other policies as issued by Policy Group.

Since I have seen neither, I don't think Ian's statement comes anywhere near being defamatory. If you were to in fact provide them to this list, I am sure Ian and certainly I would accept that. So please by all means provide some **\*\*water\*\***. You have the power to help put this fire out.

Cheers,  
Philipp

> On 16 Sep 2015, at 07:36, reinhard <reinhard@CAcert.org> wrote:

>

>> Am 16.09.2015 um 01:27 schrieb Ian G:

>>> On 15/09/2015 19:57 pm, Stefan Thode wrote:

>>> Dear Board Members, dear Members of CAcert Inc.,

>>>

>>> we are 3 Weeks without Support.

>>> In the Queue of Support-Engineers are some new Tickets.

>>> The oldest of this Tickets are dusting for 3 Weeks, now.

>>> Typical the most are Password-Resets, TTP Requests and Account-Remove

>>> requests.

>>> Some of the Members are upset about no answers.

>>> This Tickets must be handled by experienced Support-Engineers,

>>> immediately!

>>> I repeat my proposition to call Marcus M. to resume his Work. And

>>> reinsert Werner D. into Support.

>>>

>>> I am frustrated by frustrated Members.

>>

>>

>> Certainly a big issue. I'm not familiar with the details of the case(s).

>>

>> But if the discussion on members' list is anything to go by - I'm not

>> surprised at concern over Marcus and Werner. Both of them and 2

>> others have posted proposals and other statements that appear to deny

>> CCA, DRP, PoP. They've been asked to confirm or deny, but haven't

>> really addressed concerns.

>>

>> iang

>

> Hello Ian,

>

> it does not help if anyone will repeat false statements. You simply

> continue to repeat a defamatory statement.

> You add fuel to the flames! **\*\*We need water!\*\***

> Hopefully there will be a dispute against YOU!

>

> You are always requesting that we should file an appeal. **\*\*WE DID!\*\***

> How often should we go for an appeal? 10 x? 100 x? More than 1000 x????

>

> Our members are loosing the line.

>

- > As Gero Treuner wrote he wants to check the arguments.
- >
- > He and all others should write an email to secretary and request, that
- > secretary should provide them with my document "reject.pdf".
- > If he can read this document, he will be able to check all arguments
- > because all links to documents, including our wiki and arbitration as
- > laid out by UNICRAL are given.
- >
- > So please ask board to provide you with this document. Thanks!
- > Every interested member should do so.
- >
- > Kind regards
- >
- > Reinhard
- >
- > mit freundlichen Grüßen/kind regards
- >
- > Reinhard Mutz
- >
- > --
- > <http://wiki.CAcert.org/ReinhardMutz>
- >
- >
- >

**file: pd\_interpretation04.eml**

- >
- > ... An AGM is the highest sovereign of CAcert. There is nothing it
- > cannot do.
- >
- Just to be perfectly clear: THIS STATEMENT IS ENTIRELY INCORRECT.

Policy Group is the only body entitled to make rules/policies for and regarding the community. Something the AGM - CAN NOT DO

Arbitration is the only body entitled to resolve disputes and interpret policy in a binding way. Something AGM - CAN NOT DO

CAcert Inc. board is the only body entitle to make executive decisions. Something AGM - CAN NOT DO

The things AGM can do are make statutes to rule CAcert Inc. and elect, dismiss and instruct a board. That's it.

Cheers

**file: pd\_ruling01.eml**

Dear Respondent, dear Claimants,

As the arbitrator for case a20150420.1 I have just issued a final ruling. You can find this ruling below. I have also updated the case file accordingly and closed the case.

Best regards,  
Philipp Dunkel  
(Arbitrator)

Final Ruling

## 1. Preamble

This case presented a conundrum as its content was initially unclear. The case makes the claim that Eva Stöwe has acted contrary to policy and the interests of the CAcert Community in either her capacity as arbitrator or in her capacity as policy officer or in her capacity as community member. She has allegedly done so by exceeding her authority as well as using her distinct roles and their authority in inappropriate contexts.

The explicit request was made that she be curbed in. This could mean removing her as an arbitrator, removing her as policy officer, both or neither. As this case has to ask how can officers be removed as well as how can arbitrators be removed.

Eva also holds positions in each part of CAcert governance. She is policy officer and therefore an office holder in the executive branch. She is also an arbitrator and as such a member of the judicial branch. CAcert's legislative consists of the policy group, which is an open forum admitting anyone. She has been actively engaged in this group as well and is therefore also part of the legislative. This raises the question of how these branches relate to each other as well as whether there are conflicts of interest that arise therefrom.

Of course this case has also to be concerned with Eva's actual actions. Were her actions against policy or otherwise objectionable in a way suitable to cause this arbitration to consider actions against her. Noting that arbitration could also be abused to harass or embarrass an individual it is also prudent to examine whether this has been the case and potentially sanction the claimants for such behaviour.

## 2. The relationship of the branches of CAcert governance

CAcert has three branches of governance: the executive in the form of CAcert Inc., the legislative in the form of the policy group and the judicial in the form of arbitration. These branches have been designed to be entirely independent of each other. Interference of one in the business of the other is against the very basic intention of creating these structures in policy. However there is a system of checks and balances in place to give each a measure of influence over the other two.

Legislative / Policy Group influence – The policy group is charged with creating policies. As such it can control the actions of the other branches by creating policies that they have to adhere to.

Executive / CAcert Inc. influence – To influence policy group CAcert Inc. has a veto on policies where they concern the running of the community. To influence arbitration CAcert Inc. is empowered to appoint arbitrators.

Judicial / Arbitration influence – Arbitration can interpret policies and can through interpretation adjust and fine-tune policies. It also has the judicial power to pass rulings, injunctions and subpoenas which in turn CAcert Inc. is obliged to follow.

### 2a) Removal of CAcert Inc. officers

The removal of CAcert officers is an exclusive privilege of the CAcert Inc. board. That board in turn is responsible to the community by dint of being elected by CAcert Inc. members that are a subset of CAcert

community members.

Arbitration may be able to rule that an action by an officer is contrary to policy and countermand or amend it, but arbitration does not have the power to remove an officer.

> Ruling: CAcert Inc. officers can only be removed by the board of CAcert Inc.

## 2b) Removal of an arbitrator

The independence of arbitrators / judges has a long history in common law. In the "Act of Settlement" parliament determined that the crown's justices held their posts for life "on good behaviour": it would take a vote of the House of Commons, the House of Lords, and the concurrence of the Crown itself to impeach a justice.

In the case of CAcert the crown is CAcert Inc. since its role is executive in nature. The house of commons is most closely replicated by the policy group. And the house of lord is most closely like arbitration since it is the only body aside from individual justices that holds some judicial powers.

This aligns very well with the intent behind creating the different branches of CAcert governance and is based on ample precedent.

In this light the board motion claiming the right to remove arbitrators can only be interpreted to mean that rather than any CAcert officer such as the president alone having the power to initiate impeachment actions against a sitting arbitrator, the board reserved this prerogative to the entirety of its members.

> Ruling: An arbitrator can only be removed if all three branches of CAcert governance agree that the bar of acting contrary to "good behaviour" has been met, which means that a wilful act contrary to policy is required.

## 3. Positions in multiple branches of governance

Through the examination of this case it has become clear that while there might not have been an actual conflict of interest for Eva, the perception has been that her duties as arbitrator and policy officer interfere with each other.

Whether this was in fact the case becomes less important in light of the fact that there is no other supervision than an arbitration to check, supervise and affirm that this was not the case. That is the route the claimants have rightly chosen.

Underlying this issue is whether there can be such a thing as a "conflict of interests in principle", meaning an inherent conflict between agencies. As a matter of fact, such has been described above in the description of the relationship between the branches of CAcert governance.

The three branches of CAcert governance are by design in constant conflict in order to provide a measure of control over each other.

> Ruling: A single individual may not hold active roles or offices in more than one branch of CAcert governance at the same time. > This means that should an arbitrator accept appointment to a CAcert Inc. role, his/her status as an arbitrator is put on sabbatical and he/she may not adjudicate cases or otherwise act as arbitrator for the duration of his/her tenure. > In consequence Eva Stöwe is asked to either be on sabbatical as an arbitrator or resign as policy officer. > Participation in policy group does not cause the

same conflict of interest in principle, since it is a democratic egalitarian forum without any special roles. It even allows participation by non CAcert community members and works by rough consensus so that there can be no undue influence by an individual. > This does also not prohibit an arbitrator from taking part in the activities and of CAcert Inc. it solely prohibits taking on actual responsibility within the executive branch.

As a note this arbitrator wishes to express his sincere wish that Eva remain an active member of arbitration, since she has shown an aptitude as an arbitrator. I truly believe Eva can be on invaluable service to CAcert in the role of an arbitrator.

#### 4. Actual acts against policy

Much evidence has been viewed in regards to the specific allegations made by the claimants as well as additional material sought out by arbitration itself. While there is ample evidence for conflict, there is no evidence whatever to suggest that Eva has ever acted against policy.

To the contrary, there are several incidents where she suggests and pushes for an adherence to policy. In fact one of the claims made against her was that she had "threatened with arbitration".

In fact she acted precisely correct. She was threatening to file a complaint, knowing that an arbitrator cannot become active otherwise. To consider this a threat, shows an uncommon lack of understanding of how arbitration works and fits into CAcert governance on behalf of her opponents.

> Ruling: This arbitrator holds that none of the reviewed material has given any indication of an abuse of power or authority nor any violations of policy by the respondent Eva Stöwe. In fact her work as an arbitrator has been exemplary. She has not acted in any evident way contrary to the best interests of CAcert in either her role as arbitrator or policy officer.

#### 5. Abuse by the claimants

While there well may be cases that qualify as harassment, this case is not amongst them. This case can be considered a legitimate attempt to ascertain whether an arbitrator or a CAcert officer have abused or exceeded their authority.

Such cases have an important function in the CAcert governance scheme and should not be discouraged. As such the bar for adjudging abuse needs to be set exceedingly high.

> Ruling: The claimants acted entirely proper in bringing this case as a tool for investigating and adjudging a possible abuse/excess of powers.

**file: pd\_ruling02.eml**

Hi Reinhard,

We spoke on the phone on Sunday in order for me to understand from what mindset or understanding you came to make these statements. I believe I know have a clearer understanding of your points and hope to address them here:

#### 1. Arbitration is not part of CAcert Inc.

You came at your statements from the perspective that Arbitration is simply a part of CAcert Inc. in the Germano-Austria Vereinsgesetz there is a requirement for every association to have its own primary means

to solve disagreements.

That is NOT what Arbitration is.

On the contrary Arbitration is a part of the CAcert community, just like CAcert Inc. or the PolicyGroup. As such they are equal elements in the same governance construct. Arbitration was set up to be an independent body that would provide Arbitration based on the UN Arbitration Convention to the CAcert community.

Based on that fundamental misunderstanding, many of your point, while making sense in your argument, are invalid once applied to the structure as it is.

## 2. Arbitration is bound by policies

Of course you are correct that Arbitration is bound to policies as the basis for its decisions. However in the DRO it directly points at common law as the foundation of these policies. In this case, there simply were no precisely defined and explicit policies. As such common law principles and precedents had to be brought in to make a decision.

## 3. m20091206.2

You say you are waiting for and expecting a new board to overturn this ruling and reclaim the right to dismiss and arbitrator.

I am sorry to have to disappoint you. CAcert Inc. is not in a position to do this, much less its board. The only entity that could do this is Policy Group.

My ruling also did not change this motion it simply puts it context of what CAcert Inc can actually do.

I'll stop for now, since I'm unsure how much value would be added, considering that you were basing your statements on an incorrect premise.

Cheers,  
Philipp

Sent from my iPhone

On 11 Jul 2015, at 11:08, reinhard <reinhard@CAcert.org> wrote:

>

>

> Hello Philipp,

> hi all,

>

> I am really astonished about this ruling.

>

> I have to say that the following writing is my personal opinion. Maybe that some  
> words are not chosen best and may be misunderstood but I do not want to disturb  
> anybody. Ian has asked the question if we all suffer from a storm in a teacup or  
> from a constitutional crisis. It's good that he opens a discussion we really  
> need to find our way and determine our next tasks. Many of us are not pleased  
> with several rulings from arbitration, are not pleased with the current  
> constitution of some teams.

> We have to find a way out of this struggles.

>

> The actual ruling of Case a20150420.1 makes me unhappy. The main reason is that  
> this ruling leads to more struggles than before. Of course independency of  
> several branches is a necessary basement for good teamwork but does not mean to

- > be independent or better to say uncoupled from statutes of our association,
- > uncoupled from policies and spirit. We all members of CAcert are bound to the
- > statutes and to our policies and spirit. Arbitrators SHOULD be educated and
- > trained in this stuff because arbitration should be seen as help for others. But
- > this is IMHO NOT the case.
- >
- >
- > \*\*I will leave it as a task for the new board which will be elected in
- > September, to pickup this ruling, cancel this ruling and set the referenced
- > motion <<https://community.CAcert.org/board/motions.php?motion=m20091206.2>> in
- > working order again. \*\*
- >
- > My reasons:
- > It is nice and may make some people happy to talk about common law, the
- > parliament in New South-Wales, maybe the pope in Rome or something else. But how
- > is this stuff connected to CAcert? We are not a political party. We do not
- > discuss and struggle about questions like „GREXIT?“ or „The situation of
- > refugees from Africa in Europe?“ or alike!. NO, we don't!
- > I believe that it is a good thing to fight for Human Charta all over in the
- > world, but this is an action about which every man or woman has to decide on his
- > or her own.
- > Our statutes bind us to operate a Certificate Authority. As such we have to rule
- > e.g. how to proof somebodys identity, how to transscript names in official
- > documents to our databases and so on. This is more or less a technical stuff. Of
- > course we do it voluntarily and to the benefit of all. We don't sell our work.
- >
- > As we all know „shit happens“! And it happens that working teams just lose their
- > connection and motivation. The ruling just mirros this condition.
- >
- > What do we need?
- > From my opnion we need simple rules to follow. Rules which can be understood by
- > everybody. Rules which are simple and clear and not complicated. As an example
- > please see the document „Practice on Names“. Although there are complicated
- > names out in the world we have and use rules to transscript those names to the
- > schemas of our databases. These rules are understandable by everybody.
- > Similar rules should be in place in all branches of our association. I know
- > there are.
- >
- > But sometimes there is a feeling of violating something and an arbitrator is
- > appointed to regulate such a case. It is allowed to raise the question if the
- > appointed arbitrator has enough qualifications to rule that case. Such cases
- > pertains areas like support or statutes or policies or other technical issues. I
- > see that some arbitrator write rulings because they are appointed to do so.
- > There are no meetings with teams, no questionings about possible consequences
- > and side effects. And the arbitrator really believes to do best.
- > I know that if you always make decisions by your own will soon be left alone. If
- > this behaviour will be continued our teams will stop working. This is not my
- > interest.
- >
- > IMHO it is an error in thinking that if arbitration is made to act stronger
- > teams will work better. The correct way is to strengthen teams and individuals.

- > Only people who do their work with heartfelt voluntariness will be able to solve
- > problems in short time and under stress.
- >
- > The ruling is going the contrary way. „Arbitration is dead! Long live Arbitration!“
- > The ruling says that „CAcert Inc. Officers can only be removed by the board of
- > CAcert Inc.“ What do you do, if board does not undertake any actions? If they
- > always draw the NULL option? There are too many questions left. But the removal
- > of an arbitrator is much more trickier! I have to read some prosa about the
- > english parliament and then the arbitrator claims a new interpretation of
- > \*motion m20091206.2\*?
- > To make sure that we all know this motion
- > \*„Provision to remove arbitrators on advice of DRO.\*\*
- > \*\*The committee considers it has the authority to remove arbitrators, but\*\*
- > \*\*resolves to only do so on advice of the Dispute Resolution Officer and\*\*
- > \*\*after considering any written or oral submissions made by the arbitrator in\*\*
- > \*\*question.\*\*“
- > This is a clear, short and understandable rule.
- >
- > This rule is now interpreted by the arbitrator to the new ruling:
- > „An arbitrator can only be removed if all three branches of CAcert governance
- > agree that the bar of acting contrary to „good behaviour“ has been met, which
- > means that a wilful act contrary to policy is required.“
- > Wow! What a trick!
- >
- > It reminds me to the time when I was a very young child because I had to
- > listen to the words of the pope. Whenever the pope of Rome has something
- > important to tell he uses the dictate of „ex cathedra“ which means that he is
- > telling the words from his Lord. In practice he does not allow any protest from
- > his roman catholic community.
- >
- > \*A single person acting as an arbitrator writes a ruling which in fact makes it
- > impossible to remove an arbitrator. Are we changing our spirit? Are we moving
- > towards a religion? Are we moving to a sect like „scientology“? Do we need some
- > kind of dictatorship?\*
- >
- > Whenever the official politics is running out of control people are asked to
- > show „civil disobedience“. Some do it voluntarily like Edward Snowden. But is
- > it the right time to discuss this inside CAcert?
- >
- > Well, I see that an action like the removal of an arbitrator may not help
- > because the follower may act in worse behaviour. And I see also a need to stand
- > up and refuse a ruling if single individuals or teams are restricted in their
- > work. It may be a necessary duty of everybody to request in such cases e.g. a
- > SGM to discuss and vote those new rulings.
- >
- > \*The more people share such discussions the better it will work for CAcert.\*
- >
- > Kind regards
- > Reinhard

file: pd\_ruling03.eml

Dear Reinhard,

I am sorry to say that these are the fundamentals of CAcert. I know for a fact that you have been made of them in the past. I am nit in the business to give history, ethics and law classes.

Assuming you are an intelligent individual you should be able to find the evidence you seek in the wiki and old meeting minutes. Though nothing here should really come as a surprise.

For now, unless you want to undertake the task of finding all the primary documents, you will simply have to trust me that I know what I speak of.

Besides that, this isn't really up for debate! I have made you aware of the facts. You may of course like/dislike them; you may agree/disagree with them; but there is no way, I will have to prove them to you after a ruling.

Sorry if this comes across as rude, but I am actually rather flabbergasted that you would seriously try to claim you knew none of this and make an attempt to argue these basic points with me. As a co-auditor/assurer you have to have been aware of this. If not, you have no business either auditing an assurance.

Cheers,  
Philipp

Sent from my iPhone

> On 13 Jul 2015, at 11:57, reinhard <reinhard@CAcert.org> wrote:

>

> Dear Philipp,

>

> our statutes are a binding document to CAcert Inc. and its members.

> It is laid out in our statutes that all of our business \*MUST\* be

> documented on our websites, please see §23 B of our statutes.

>

> Please be so kind and show to all of us the documents which can testify

> your opinion as proof true. I would be glad to read those links,

> documents, votings, protocols and so forth on late evening coming sunday.

>

> Greetings

> Reinhard

>

>> Am 13.07.2015 um 11:30 schrieb Philipp Dunkel:

>> Hi Reinhard,

>>

>> We spoke on the phone on Sunday in order for me to understand from what mindset or understanding you came to make these statements. I believe I know have a clearer understanding of your points and hope to address them here:

file: pd\_ruling04.eml

Dear Reinhard,

Thank you for your response.

1. You seem to have no inkling how arbitration work. Disputes become public record unless an arbitrator decides otherwise.
2. Your accusations are without any foundation.
3. I take notice that you have not given the CARS I have requested if you.

In fact rather than make the plain and simple statement that you accept the basic rules of CAcert you have in this email reiterated that you do not.

I'll let the members make up their own mind regarding this situation. For my part I just have to say that I am stunned by the disregard for CAcert's rules as well as common courtesy you have displayed.

I hope you realise that unless you affirm your acceptance of CAcert policies via a CARS there have to be consequences.

Cheers,  
Philipp

> On 11 Sep 2015, at 08:49, Reinhard Mutz <rmutz@CAcert.org> wrote:  
>  
> Hello Philipp,  
>  
> dear all,  
>  
> your email demonstrates one time more that you breach our policies and  
> rules especially the rules for arbitration. You are talking about a  
> dispute which I filed against Dirk.  
>  
> 1. You are NOT the initial Case Manager.  
> As a member of our arbitration team you have access to the dispute  
> queue. The fact that you may read this queue is NOT an allowance to  
> discuss a dispute in the public.  
> Just to remember:  
> I wrote my email, subject: Misrepresentation during last Board Meeting,  
> on Tue, 8 Sep 2015 09:48:44 +0200 UTC.  
> Your email, subject: The current Kerfuffle, was sent on Tue, 8 Sep 2015  
> 23:18:13 +0100.  
> The initial Case Manager opened the case document on 2015-09-09 19:40:06.  
>  
> Your doing is unbelievable! You kicked yourself out of our arbitration  
> team. You are not longer acceptable as Arbitrator. You are not longer  
> acceptable as Case Manager.  
> IMHO there should be no step back in for you.  
>  
> Furthermore your writing makes a dent as if I am at fault.

>  
> I could label Dirk's statement at the board meeting as a defamatory  
> statement. I did not. But I request that he has to withdraw this statement.  
> In a civil society, at least out of the world of CAcert, every single  
> individuum has the right to request a revocation of such a wrong  
> statement. I hope that the CAcert community respects my rights.  
>  
> Let's focus on the positive element in your writng.  
> 2. Your proposal „I would very much like to work with you on a  
> constructive solution“ is a narrow perspective. I want to discuss the  
> existing problems with as many members of our community as possible.  
>  
> There are many reasons why such a discussion is necessary and will lead  
> to a better situation as we see now. Of course if such a discussion  
> should happen your ruling must be revoked before. I do not want to read  
> nasty comments in forums and blogs like „heise.de“, „golem.de“ or alike.  
>  
> BTW you could have started this discussion long time before now. I wrote  
> my email „Business proposal for coming AGM“ on Sun, 23 Aug 2015 20:18:47  
> +0200.  
> Alex Robertson answered on Sun, 23 Aug 2015 20:18:47 +0200:  
> „The only way Philipp's ruling can be changed is either that Philipp  
> himself does it or that a formal appeal process is followed and an  
> appeal panel rules to overturn or amend part or all of the ruling.“  
>  
> Why didn't you pick up this proposal and revoke that ruling by yourself?  
> It is so easy!  
>  
> Everyone knows that saying „errare humanum est“. But when an error  
> really happened most people are looking for someone to delegate their  
> responsibility. I know that it is sometimes hard to correct an error.  
> This is not a technical issue. It requires a good backbone.  
>  
> Berthold Brecht hat einmal gesagt:  
> „Der schwerste Schritt auf dem Weg nach vorn ist der erste Schritt  
> zurück zur Vernunft.“  
>  
> For our english speaking community:  
> Berthold Brecht, a famous and worldwide known poet and theatre activist,  
> once said:  
> „It's a trudge step on your move forward to make the first step back to  
> rationality“.  
> (all errors in translation are mine!)  
>  
> Try to see Ada's comment „adulterating arbitration“ in the spirit of  
> Brecht's words. I assume that Ian's request for respect is of the same  
> spirit.  
>  
> Kind regards  
>  
> Reinhard

>  
>  
>  
>> Am 09.09.2015 um 00:18 schrieb Philipp Dunkel:  
>> Dear Benny, Marcus, Reinhard & Werner,  
>>  
>> Dear All,  
>>  
>>  
>> Accusations are flying high. I think another effort to get to grips with  
>> this kerfuffle might be worth while.  
>>  
>>  
>> Dirk has questioned your acceptance of Arbitration. I have to admit,  
>> that your recent actions and statements have raised the same doubt not  
>> only in myself, but also in other members. I was ready to file a dispute  
>> to have you expelled for breach of the following:  
>>  
>>  
>> CAcert Inc. by-laws section 12/1  
>>  
>> CAcert CCA section 2.3.3 and 3.2  
>>  
>> CAcert DRP section 3.3.  
>>  
>>  
>> however your filing a dispute against Dirk, claiming that you do in fact  
>> accept arbitration has made me rethink that.  
>>  
>>  
>> However your filing is not enough. I would very much like to work with  
>> you on a constructive solution, however this does require a CARS from  
>> you with the following statements:  
>>  
>>  
>> \*I accept the CAcert CCA, DRP and all other policies. As such I  
>> accept that Arbitration is the ultimate judicial forum and  
>> Policy-Group is the ultimate legislative forum for CAcert. While  
>> CAcert Inc. is a careful steward of the community it is not CAcert  
>> and does not ultimately control the community.\*  
>>  
>>  
>>  
>> Now I don't think the statement I have asked of you is something that  
>> should be hard to give. In fact you have declared so before, every time  
>> you have been assured, any time you made an assurance, etc. These are  
>> the basics of CAcert after all.  
>>  
>>  
>> After that statement it would follow logically that you modify your  
>> motion to the AGM. Of course you are welcome to disagree with my

>> decision, but as a consequence of the above statement, the correct  
>> procedure would be to ask the AGM to instruct the board to file an  
>> appeal against my decision as well as request Policy-Group to review  
>> what policy changes should be made.  
>>  
>>  
>> I also advise you to drop your frivolous dispute against Dirk and Eva as  
>> well as dropping your motion in their regard to the AGM. These are petty  
>> personal grievances and have no place in civil intercourse.  
>>  
>>  
>> Should you of course refuse to give such a CARS, Dirk's question would  
>> have gained merit. I don't think you are acting out of any kind of  
>> malice, but I do think that the way you are acting reflects badly on you  
>> and by extension on CAcert as a whole.  
>>  
>>  
>> Best regards,  
>>  
>> Philipp  
>

**no more amendment**

**end of document**