
ICANN86 Seville | PF – GDS: IGO-INGO Curative Rights IRT Work Session
Tuesday, June 09, 2026 – 11:45 to 13:15 CEST

JESSICA PUCCIO

Hello and welcome to the IGO-INGO Curative Rights IRT working session. Today is Tuesday the 9th of June and the time is 9:45 UTC. My name is Jessica Puccio and I'll be acting as the remote participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Community Participant Code of Conduct, ICANN Expected Standards of Behavior, and the ICANN Community Anti-Harassment Policy.

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PETER EAKIN

Thanks, Jessica. Indeed, big thank you to Jessica. Renata can't do this today, so she's volunteering to manage the call, Florida. So, early for her. So, hello. It feels like I'm the teacher in Greenhouse,

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but I think there will be more coming. So, I know Zach is going to be alone shortly.

So, welcome to ICANN86 and to Seville, a beautiful city, somewhat constructed on the surface of the sun. It's truly good to be here in person. We tried in Mumbai, a lot of us couldn't make it. And I want us to say hello to anyone who's new, any interested observers. There isn't many in the room, but I think online there would be. And for many years, Seville has been a center of culture and dance. And it was, of course, the home for many years of Miguel Cervantes. So, the author of Don Quixote. And while we are only here for a little while, some might say that the IRT has indeed tilted at a few windmills in the last few months. However, I hope today that we can make really substantial progress on our aims.

So, for anyone who is new or watching online, this is a working session. So, I won't be providing too much in the way of background or context. We do have lots to do. However, I'm going to try and reserve a few minutes at the end for questions from the gallery and not interrupt proceedings mid-flow. So, exactly one year ago today, the IRT met face-to-face for the first time in Prague. And I vaguely remember saying then that it may indeed be our only public meeting. So, that leads well. But today we are reviewing again the latest updated drafts of the UDRP and the rest of the documents that the IRT are working on with the view that if we agree, that we can issue them for public comment. That decision is the reason for today's meeting and its principal objective.

So, I don't want to keep you longer than is required, but we do have 90 minutes. It's a good amount of time. And I want to make sure that whatever we decide, everyone is largely comfortable with our situation and the next steps from here on in. So, housekeeping, SOI updates. I'm not sure if Jessica asked, but I doubt there is. One other thing, Damon, who's in the room, is going to provide an update on this IRT to the council tomorrow at 12:45 UTC. So, I encourage you, if you can, to join in person or online and listen in on that.

So, we're going to turn to the main business shortly, but I first want to briefly address an announcement that you will have seen last week, many of you on the GNSO list. And it's to do with the revised timeline for the release of the IGO acronyms and the overall IGO work stream.

So, as you know, implementation of the curative rights policy recommendations by this IRT is a critical dependency for the release of said acronyms and the notification system that goes along with them. So, this was scheduled officially for quarter three last year. And of course, we had our public comment deadline from the outset set at around then. So, obviously, we missed that and we don't have a time machine. And we tried as a group to pick up as quickly as possible in a way that would keep us as close as possible to the original release date. You know, but unfortunately, we didn't make it.

So, we are now at the stage where we need to give sufficient notice and security to everyone who has a stake or interest in this release. So, as you see on screen, the public comment period, which was due for quarter three and was never officially updated, has now been officially rescheduled to take place in quarter three of 2026. So, that sounds like a long time away. It's actually the end of the month. The current effective date of the whole policy is now quarter two, 2027, and the current estimated release of the IGO acronyms and notification system is for the same time. So, that is really sort of April at the earliest next year.

Now, I wanted to bring this to your attention. Of course, most of you listening or in the room would know this already. It's disappointing for everyone, not least staff, but really, I don't think it's of much use to dwell on this at this meeting. We will move staff as fast as we can to meet or even beat these deadlines, but staff believe that it's a reasonable timeline to give everyone advance notice, at least a set of baseline expectation. Our job in the IRT is to get this implementation over the line. And the first step in toppling that line of dominoes is to go to public comment.

I'm open to comments on this, but I think we should use our time together to make that progress and not ruminate over it. But does anybody want to talk or make a comment on this announcement?
Jeff?

JEFF NEUMAN

Yeah, so, Jeff Neuman, for the record. The registries are obviously not very happy with this timeline. They've been prevented from releasing the IGO acronyms. They view it since 2014, when the original GNSO policy was passed to say that there should not be protections for the acronyms. And so, obviously, what it looks like here is we've now gone from 13 years to 14 years, or sorry, from 12 to 13. And that's just, we have to do better. So, I still hold the position that even if there's one issue that we don't necessarily agree, we can note that and go out for public comment anyway, right? Because comment is going to help us on that issue specifically, if it is still an issue. So, I think we're kind of delaying ourselves by not putting it out there. Thanks.

PETER EAKIN

Thank you, Jeff. And I agree to the interests of everyone who has any sort of stake in this, that we move as quickly as possible as an IRT. And hopefully, today, we can take that first step.

So, hopefully, on to better news. The main course. So, staff have prepared new versions of all the documentation that we've been reviewing to date. So, as you know, and as Jeff has alluded to, one issue in particular has preoccupied us as an IRT since ICANN84 in Dublin. And that has been the availability or not of the new EPDP orbital process or proceeding to respondents once a UDRP or URS proceeding has commenced, but before a decision has been reached and under what circumstances that could occur. So, there's no one really in the room needs reminding of this, but

online at our last call, the IRT agreed to explore a staff compromise, which we offered to find a way to break this impasse regarding the availability of that process before a determination.

So, under that compromise, there would be no automatic IGO consent upon filing for predetermination of the new orbital proceeding. However, the IGO consent upon filing for post-decision use, so what's laid out explicitly in the final report would remain. So, effectively, a respondent, once a UDRP case has been notified involving it, could request to the IGO that they would like to skip the proceedings and go straight to arbitration.

The IGO would have the freedom to agree or not. However, the respondent's rights to go to arbitration, if they choose, following the determination would be unaffected. And indeed, the right to go to court, have their day, and if they're rejected to go to the proceeding at that point is unaffected. So, the IRT indicated qualified support for this and potentially going to public comment on this position.

So, just in case, just for clear, this under the compromise would be the new use cases. So, 10 days following determination and then 10 days or, right, not and or, up to 10 days following a court order, refusing to hear the case. Or, and this is the compromise, before a UDRP determination or URS appeals decision with the consent of the IGO complainant. And importantly, the rights of parties to pursue alternative forms outside of this framework is unaffected.

So, we issued the following documents for review for the meeting. So, what I would usually do, in previous meetings, I would do a judicial tour, starting with UDRP from start to finish and so on. But I think we have this, our burning, burning question. So, I'm going to break from tradition and I'm going to go right to the heart of the matter and I'm going to go straight to the UDRP rules. The links, I think, should be in the chat. We're going to work off the red lines, by the way. I issued two, a clean version and then a version showing changes that were made. I think it's better if we work off the red line. And I want to go straight to the rules. And this is section 20 of the UDRP rules.

JESSICA PUCCIO

And Peter, can I pause you for one moment? There's a hand in the room. Damon, if you are online.

DAMON ASHCRAFT

Sure, I just have a quick question on the compromise to make sure I understand it. Does the NGO, do they have to be asked by the other party if they're willing to go to arbitration earlier? Or can the NGO just say upon filing, hey, we're willing to go to arbitration at any time?

PETER EAKIN

In the compromise, it would be up to the respondent to request that. It wouldn't be automatic because it is consensual. So, if the

respondent wants to, they can request it. But in the UDRP rules, as we'll see, it remains as it would be in the final report. Jeff.

JEFF NEUMAN

Yeah, thanks. Just on the last slide or when we present it, when you say days and it's in the text, it really should be business days because that makes a huge difference. So, I know we know that internally, but if you present it to the council or whatever, it needs to be, it needs to say business days.

PETER EAKIN

I'll just check that against the final report text. But yes, we will bear that in mind.

JEFF NEUMAN

Well, that's what it is under the regular UDRP.

PETER EAKIN

Okay. Nope, no problem.

JEFF NEUMAN

Yep. I think it's in the text as business days.

PETER EAKIN

Probably is.

JEFF NEUMAN

Just that.

PETER EAKIN

So, I just want to just double check that.

JEFF NEUMAN

Like you said, with the qualified support, we support it going out for public comment. And let's just see if this is an issue people care about, right? It could be that they don't and then that's fine. But yeah, so a number of us have supported it, but it's conditional on what do we see in the comments.

PETER EAKIN

Of course. And I think that's what I wanted to emphasize and have done previously that public comment, although it does present a position in which the IRT are at least comfortable with to the community. It doesn't preclude changes afterwards. However, this year in the IRT to date is that we could not agree on that common position even to go there. So, we do hope that if that's the case today, we can go to public comment as soon as possible. And Brian's confirming it does say business days. So, that's my bad for sort of abbreviating the PowerPoint. So, we'll make that clear when we're presenting this.

Back to the rules. So, this is the language in the EDRP that relates to this compromise. And I'm not going to address other comments that have been added. I'm just going to, for now, I just want to highlight this. So, in section two, so here's this part in green. We're

saying that the respondent may request to initiate an arbitral proceeding at any time within the two use cases that were contained in the final report. So, within 10 business days, there you go in the text.

As observed in the location of the registrar's principal office of either the date of a panel decision, the communication of that panel decision in favor of an IGO complainant, or the date a court order is issued in which the court declines to hear the merits of the case on the basis of IGO complainant's privileges and immunities. So, so far, so every draft.

And then section three, this is the new part. If the respondent requests to initiate an arbitral proceeding prior to the provider's communication of an administrative panel's decision under the policy, the IGO complainant may, but is not required to, agree to resolve such dispute through a binding arbitral proceeding in accordance with the policy, these rules, and the applicable arbitral rules, and to be bound by the decision of the panel.

So, that is the language we are proposing to reflect the IRT position. And I just, before I ask myself, I would like, if possible, I know Beril and Mia from the OECD are on the call. They may be in listening mode, but if possible, do you have any concerns about that language, Beril or Mia?

BERIL ARI

Hi, Peter. Hi, everyone. This is Beril from the OECD. No, as per the latest exchanges, we had said we would compromise on this proposal.

PETER EAKIN

Thank you. And does anyone in the room or online have any concerns? I'm seeing Jeff in the comments. You're putting this out, and I'm not seeing anyone in the room or online leaving any comments on that. So, okay. I'll take that as for now, I guess.

So, I just want then to quickly jump to a document we've not looked at for very long, which is the URS. So, this is the URS procedure, and this is the relevant section in the URS, which effectively corresponds to the VRP rule section on this area.

So, if you look at 3.21 applicable disputes, now the language is slightly different because it was written to blend with the way the URS has been written, but it effectively says the same thing. The regimen has the right to review, and they have 10 business days, as observed in the location, stated to agree to resolve the claims and the complaint through an arbitral proceeding. And again, the one difference in the URS is that unlike in the DRP, there is an appeals process.

So, the recommendations accounted for that. So, it is 10 days or 10 business days. From an appeal panel's transmission of its findings in which the URS termination in favor of an IGO complainant is upheld, or 10 days from the same court rejection as detailed in the

DRP. And we are saying here, I think, if not identical, almost. So, if the registrant requests to initiate the proceeding prior to the appeal panel's transmission in favor of the IGO complainant, the IGO complainant may, but it's not required to agree to resolve this proceeding through the binding arbitral proceeding in accordance with the rules in this document. And I'm assuming that the IGOs have no issue with that. So, Jeff.

JEFF NEUMAN

Yeah, on the URS. So, are we saying that if the registrant loses, it must file an appeal before it uses the arbitration process? I just want to make sure that, because that's what the language says.

PETER EAKIN

That's what's in the final report after an appeal's termination. We had a discussion in Dublin. The question was raised about what happens in the event of a default. And we looked at that, and there is a default determination. But then, in that particular process, there's a whole chain of waiting periods for potential appeals. So, the URS is meant to be quicker. In the event of some scenarios, it could take quite a long time before the arbitral process is available. However, the registrant would have the ability, once the appeal's determination is through, to request going to the arbitral proceeding. Fortunately, that is how the recommendations were drafted.

So, again, it's one of those things. I think it would be interesting to hear some community input on this and see what everyone thinks. We have, as an IRT, perhaps understandably, given its importance, pretty much exclusively focused on the EDRP. And that, in a way, reflects that most of the recommendations could be translated almost directly onto the URS. However, perhaps when we go to the public comments, URS providers or community users might have some other suggestions for us.

So, now that we have addressed that issue, I want to go back just to the start of the rules. And I'm just going to walk through the three documents that we need to review and the public policy guidance, which I'll talk about separately. So, I just want to note the following when we run through comments. So, staff have taken a long time to get these right.

So, the latest versions of these documents, principally the EDRP, because we've obviously commented the most on that, they incorporate additions that have considered all the comments and input that have been left on these documents or raised in the IRT since ICANN84 back in October. And that includes the comments that were left in Mumbai. So, we have provided clean and red line versions. And as I said earlier, I think we should look at the red line.

So, because we have spent so long looking at this, and we have pretty much addressed every comment that's been left in the last eight months, we are confident that most of the concerns that were raised previously have been addressed. So, for example, around

what provisions should belong to the orbital provider or should be codified in this document. And we ask that if you had a chance to look at them, that we reviewed for critical issues or deal breakers. So, to use the term we like, GNSO sometimes use, I can't live with attitude. So, anything that would stop this going to public comment in the knowledge that further changes are possible and can be considered by the IRT following a review of any comments received.

So, the IGO reps, Beril and Mia, they just sent through just before the call a Word document, some comments. So, I have tried my best to sort of translate them into the Google Drive version. So, apologies in advance, Beril, if I've missed one. But if you'd notice that, feel free to jump in and state the issue. You may also notice some formatting inconsistencies. These are byproducts of the endless documentation creation and conversion process. And we will, of course, fix these before issuing for public comment.

So, I'm going to go to the UDRP rules, but from the start this time. So, right back to the beginning. So, we're noting here, obviously, headers, etc., and the dates will need to be updated when finally published. And so, a lot of this will be cleaned up. We have added something here proceedings. It's been in the previous drafts too. We then added definitions, which the IRT have reviewed and given feedback. So, these reflect this. Of course, if you think slight tweaks are needed, happy to consider, but we think that they kind of represent some total of the IRT's input on this. And then a

definition of an IGO complainant, and that's taken directly from the final report.

And then we've updated the definition for party to reference the fact that you can also refer to participants in this orbital proceeding. I'm just going to whiz down these. So, if I'm going too fast, let me know, but I just want to make sure we cover all the meaningful additions. Again, this is from, I think, EPDP recommendation one. So, this is a direct lift from the text. This essentially outlines the rights of an IGO complainant, how they can evidence that they are an IGO complainant.

So, we come here to the first comment, and this is the mutual jurisdiction section. This is something that is one of the key reasons for this group and our work. So, we had refined this with input from the IRT. I noticed the IGOs have a comment. They have suggested a revision issuance of a decision in the administrative proceeding to align with the language in the first part of this paragraph. So, we're going to, staff, I think we'll have a brief look at that. I think it is just more of a cosmetic thing, but we'll bear that in mind. We're going down. This is the evidential requirements. So, proceedings filed by an IGO complainant, they basically have to provide that evidence that they are an IGO complainant. I just want to apologize. This is a very echoey room.

In section four, we have the notice requirement. So, once a UDRP complainant is filed by an IGO complainant, the notice has to inform the panel about the following. So, the right to challenge the

decision in court, and the possibility that it may be rejected, and that the IGO can do that, and that the respondent has the option to initiate an arbitral proceeding to resolve the dispute.

So, the IGOs here have highlighted here the resolve of the dispute. They've suggested a slight tweak to this. They have administered by an arbitral institution to challenge the UDRP decision cancelling the transfer into the new mediums, including the loop initiating court proceedings. Yes, and they're saying this is, I think the IGOs are trying to say this section purely refers to post determination. So, it should align with that. So, I think we can look at that stuff and see what we think.

But then going down, as you see, we have, and this is a general comment throughout, we notice when we're looking at these documents, obviously adding new sections can change numbers. So, we updated those. We did notice typographical errors, duplications, and we spoke about this last year, and the IRT were comfortable with us cleaning stuff up, fixing obvious mistakes. We haven't gone further than that in terms of changing any terminology, really, in existing language. So you're aware, I think it's more obvious in the URS than here.

So, so far, everything aligns with what existed previously. And this is communication of a decision where this has been updated to essentially state that in cases with an IGO complainant, when a decision is notified, information about the arbitral proceeding would be transmitted alongside that. Obviously, the link is to a

webpage, which doesn't yet exist, but will do when this policy launches.

So, this was a change that the IGO suggested in Mumbai, and when we looked at it, we thought it was sensible, because previously it was an effective court proceeding, because that was the only non-UDRP legal proceeding available. But obviously, now we have this arbitral proceeding. So, essentially, we just updated it to legal proceedings, and to state that the complaints could be either before a court or via arbitration in terms of a resolution.

And then we get on to section 20, and this was the new section. This really the meat of what we were doing. So, the IGOs have a suggestion about deleting the first paragraph, beginning directly with paragraph 2, as they say, that effectively, I think, they're implying it's duplicative, and that the de novo nature is carried. So, we'll consider that. If you have an urgent comment, by the way, I'm trying to monitor the chat too. So, if I've missed anything and you're online, just feel free to interrupt. Hi, Jeff.

JEFF NEUMAN

Yeah, thanks. I would just ask the IGOs if they're fine with leaving it in there for now when it goes out to public comment. It's going to take a little bit to go through and see if deleting it changes anything. I would just ask the IGOs to let this go out for public comment, and we can look at that issue later. But this seems like a bigger change to me than the others. So, if the IGOs would just

consent to this going out, we would appreciate that, because, again, this is a bigger change, potentially.

PETER EAKIN

I'm going to ask Beril if you're still able to speak. And, in general, obviously, staff, when we prepare for public comments, we will go through, we'll take one last go, and we can make minor changes.

But I just want to put on the record, maybe, Beril, Mia, do you, any of the comments that you have left on this document, or that you've seen in any issues you've read in the other drafts, are you comfortable going to public comment on this basis, with the understanding that some of the suggestions could be addressed afterwards with the hindsight and knowledge of community input? Do you think there's anything that absolutely must be changed before we do this?

BERIL ARI

Thank you, Peter. Thank you, Jeff. This is Beril from the OECD. Well, I think if we want to move fast, we can live with this first paragraph as well. But noting that we think it's a bit, it brings a little bit ambiguity, because we already talked about the de novo review under paragraph G.I, which is where we describe how the arbitration, arbitral proceeding will be handled. So, we thought it's just, it's a better order if we start with the applicable disputes.

And there are just two of them, and we thought it might be confusing to say the general fact that this is resolution of the claims

raised in a complaint file by an IGA complaint. And so, that's why we prefer to delete it and just start with the second one. But I understand it's just to set out the principle, so we can live with it. I don't think that it's not ideal, and we would probably address it in the comments on our site.

PETER EAKIN

Okay, thank you. I know we all want to get to public comment as quickly as possible. But what I want to do now is I just want to walk everyone through what we've got, so we can then, in full knowledge, agree on that process or take that decision. So, this section, arbitral proceedings involving the IGOs, we've been through this a lot, and we incorporated a lot of suggestions from the IOT, particularly on the division of what should be in the realm of the arbitral provider and what should live in this document. So, obviously, we've addressed this, arbitral communications, commencement of a proceeding.

We had a note here that there had been decisions or a suggestion, rather, to change initiate to commence. We've kept initiate because of how we've written this, just to differentiate it from the other process. And another IGO comment. This actually is one, and Beril, apologies, it was a little echoey in the room, in case you had addressed this. I just want to address this, really.

We've said here in the intake that upon receipt of a request, the arbitral institution shall review the submission for compliance. And you've said that you're uncertain whether ICANN's invalid, you

require the rules to be binding on arbitral institutions. As you say, it's just a, as you say, it's more of a comment whether it should be more passive. I think this is one, maybe, I think public comment would be good. We could decide to see what providers, etc., make of this. It's something that we will flag potentially internally as something to look at when comments come back.

BERIL ARI

Yeah, thanks, Peter. I just put it out as a question, actually, because I'm not a specialist on arbitration either, so I don't know for sure. But when I read the clauses, I thought whether ICANN rules would have the authority over the arbitral institution, like whether ICANN rules can impose obligations on an arbitral institution. So I just put it as a question to consider. I don't have the answer.

PETER EAKIN

Thank you. So we can, again, we'll see what maybe comes out of comments on this one. However, I think we would potentially likely require it as a conditional approval provider for them. Okay. But it's something I think we will think about. Last, I think it's the last IGO comment. Just here, we're just, this section, indeed, just how a proceeding begins, how it's taken in. We've said here, if applicable, I think what we're getting at there that obviously if the IGO consents to do this before a UDRP determination has been reached, then there wouldn't be a decision to implement.

And then arbitral panel, again, we're leaving pretty much everything to the arbitral rules and the provider. And then we talk about the proceeding and the substantive governing law. And this is taken from the final report. And here, the communication of a decision is three days.

Now, the one change we did make, and this was in relation to a comment from the IGOs, and I think, Zach, you had confusion about this too. Originally, we had different timelines for implementation. It was three days and, let's say, 10 days. We have standardized this across the UDRP and the URS to five days to implement. And this is in reference to the fact that I think it's section 8A of the UDRP itself. There is a 10-day response window.

And of course, that matches up with the 10 days for a respondent to elect the arbitral proceeding. And then, so it's 10 plus 5, so it matches up with 15 days. So we thought 5 days to implement across. I think there might be slightly more work at times. But again, I think this is something the community might have some comments on. But this is just a proposal on our end. And then we updated the exclusion of liability section at the end here.

So that's the UDRP rules. So I'm just going to check the chat. Yes, I agree, Jeff. We have something I think comments could be useful. So we'll go on to the UDRP itself. This was always slightly larger in terms of content. And then the inverse was true with the URS. So again, I'm not going to go through everything again. Obviously, take it as read. Any dates of issue update, they'll all be changed

when we publish. And again, just pointing out that we've updated non-substantive typos throughout. So as you say, I'm going quite quickly.

So again, this is the corresponding section. We have 10 business days unless we have received, and we'll implement within 10, unless we've received a copy of a request to initiate an arbitral proceeding submitted to an arbitral institution in accordance with the paragraph 10 of the UDRP and 20 of the rules. So if we receive a notice that arbitration is requested, we won't implement the decision until we have evidence that it's been dismissed or withdrawn or a copy of the decision itself from the arbitral panel.

And again, section 10 in the UDRP, and this is the corresponding new section, the section 20 of the UDRP rules. Essentially, you may elect initiate an outcome to challenge the outcome of the proceeding. And it'll be conducted according to paragraph 20 of the rules. So effectively, it's a slightly reduced version of that, saying it's de novo. You can initiate a proceeding in accordance with the rules, and that'll be governed by the rules of the arbitral provider. And again, we just have a more fulsome note as to why we're proposing the change to the implementation day period.

So that's the UDRP documents. Does anybody have anything else they want to say on this? Because if not, then I'll just go straight to the URS. So I'll go back to the URS, jumping around a bit. I'll go back to the start. Again, just reminding, we didn't do a lot of work on the URS, but other than the sort of technical differences

between the UDRP, the recommendations, the substantive detail largely correspond between the two. So yes, take it as said, everything will be updated to reflect the facts on dates of publication.

Here, this is a recommendation 1.2 from the EBP. One day, I will actually know how to pronounce this correctly. EPDP is effectively the rights of an IGO complainant, show marks and use of a trademark. And we're proposing this language to implement REC 4.1, which is how can they identify themselves? So they will attach documentation to attest that they are in fact a complainant. And again, the notice of complaints when it's a URS case involving an IGO complainant will inform the registrant of its rights under this policy and the availability arbitration and the fact that the IGO is exempt from mutual jurisdiction clause.

As you see, we've updated numbers throughout. Again here, showing the need for an IGO complainant to show those rights that it's claiming. And again, a determination is reached, information about the arbitral processes, by the way, an appeals determination, information about the arbitral proceeding will be provided to the registrant.

So again, so 13.2, we've looked at this briefly at the start of it. This details arbitral proceedings involving IGO complainants. So the kind of counterpart to the EDRP sections on this. So effectively, much the same, the registrant has the right to review of this claim within 10 days. They can agree to resolve the claims. We've looked

at this already. I just want to, for complete and utter confirmation, outside of that, they can request the initiative proceeding should the IGO consent to that.

So then we have just the corresponding initiations, how they can do that electronically, etc., fees. But that really is a matter for the parties and the arbitral rules. And what the arbitral institution has to do, noting the IGO comment on this, but yes, they will have to do certain things. And that the panel and the proceeding governing law here, 13.2.62, as in the final report, applies to the ERS, too.

And we're just noting here, here, although we've referred to a registrant in this section, we're using respondent here intentionally as the respondent who used a proxy service would be a different party than the registrant itself. And then the determinations, and we have here the five business days. So that's the ERS.

And then the ERS rules, again, the later of the two, however, this is where the definitions live. So arbitral institution, panel, panelist, proceeding, as in the EDRP, the IGO complainant definition, again, straight from the final report. It's a good Bible verse, footnote on the registered and data. There's updated at the time, some links here and there.

Again, as before, IGO complainant needs to write in a mark, how they do this. Again, this is the part where it's binding. So it should, following the issues of an appeal determination in favor, the IGO complainant agrees to resolve the dispute through a binding

arbitral proceeding if requested. And again, much shorter than an EDRP, but this is the out for mutual jurisdiction.

So again, lots of typos and updating the sections. What we're saying here, just once the decision is referenced, the arbitral proceeding concludes, there's a decision, the ERS determination notice will be updated online just to say there was a proceeding and this is what happened. And again, just we updated the exclusion of liability clause here to reflect the fact that there's now sort of new roles and new parties involved. So they are the four, I say, legal documents. This has been the bulk of our work. So I'm just looking at the chat. Anyone has any major issues that with these documents that haven't been addressed or is so to date? I'm not seeing any hands. Okay.

So this is really the bulk of our work. However, there is one more document. I just wanted to give a preamble to this. So this is policy guidance and this has been something when we discussed, we have looked at it on I think two separate occasions and it's based on the PDP recommendations, right? So pretty much the bulk of our work focused on the EPDP. However, PDP recommendations two and three asked ICANN to produce policy guidance on the ability of IGOs to use and evidence rights in the trademark.

When we looked at this way back at the start, it was quite clear that obviously haven't been drafted before the PDP that the provisions were kind of somewhat obsolete and that we would update them to reference the facts as they are now. So we have produced this

document. We issued it again in December. So what you're looking at is a red line of changes that we've made in response to comments since then. And I think Damon, do you want to say something? No? No.

What I do want to say, right, so we have added certain sections because since we are going beyond when we agreed to go beyond what was in the PDP because it no longer was applicable, we have updated what we have now. We've changed it to be more objective and tone-based in comments. So we're trying to be quite, present a neutral statement and we've just added a section on the availability of the arbitral process. So this is just to acknowledge what we've been discussing in the IOT at this point.

So we discussed back in Dublin, whether this needed to go for public comment. And at the time, I think Jeff, you spoke to say that it did and staff support that purely in the interests of transparency and openness. However, I wish to remind you all, and we will be reminding the community of this when this goes out, that this is non-binding. So it's guidance only. So when we asked you to review, we were off the mind that in the event of disagreement with the IOT about certain sections or whether you know, what is this for? Should we be going here? We would prefer to issue the document for comment from the community to get help and to get feedback on those issues to guide further revisions.

So I just want to walk you through what we have. I'm not going to read every line. So much remains just background what we've

been doing and we've referenced here the resolution. So just to say that following that resolution, which is a public fact, the guidance also now includes information and arbitration in the context of proceedings involving IGO complainants. So the purpose of this document, really the eligibility of IGOs to file complaints, how they can demonstrate standing, and then we have said the availability of arbitration.

So we have sections here. If you haven't read it, I would encourage you to do so, but essentially it states the facts, how an IGO can receive the European URS. And originally in the PDP, it also, this guidance was targeted at INGOs too. However, following IRT feedback that pointed out that really the INGOs, there was no really any change to their rights or abilities as a result of these recommendations. Whereas we had originally sort of referenced that, it was felt to be a little confusing. So we are proposing just to target this document at IGOs.

So again, a lot of this just sets out what's in the DRP, new definition, how they need to demonstrate that. We have, as I said, struck out section on INGOs and then we get to complaint filing options. This was a more controversial area, but this was I think recommendation three. So we're just stating here that the rules do not include specific instructions, but we're just trying to keep things very objective. And matter of fact, EDRP and URS plans have interpreted rules to accommodate IGOs submitting complaints in a number of ways.

And there are also ways to do this outside of this. They can try and resolve the dispute informally. And we're saying they can initiate a complaint directly with a registrar. This was actually part of the policy recommendation and we acknowledge this fact and that if this isn't successful, they can choose if they wish to file a complaint using EDRP or URS. So they can do this directly. If they meet the requirements, again, linking back into the EDRP, they have to be recognized as an IGO complainant and be eligible. They do this.

Again, this was a section, again, derived from the PDP recommendation about an IGO's ability to use a representative or an agent or a licensee to submit the complaint. And I know Brian had sort of made some tweaks to this section. Essentially, we're just stating that it's been suggested that this is possible. IGOs have questioned this and it does not constitute legal advice. So we're just reminding IGOs that if they want to do this, they should seek legal counsel. And there is nothing in our rules, nothing in the EDRP and the URS about this, about evidence for a third party to show that they're applying on behalf, but panels may want. So effectively, it's a disclaimer to qualify the existence of this route.

And then we get on to the use of the New Orbital Proceeding. So this is the more recent edition. So effectively, we're saying here that the PDP recommended that we set up the New Orbital Mechanism and why. This is the mutual jurisdiction issue here, which has been referenced. Again, we repeat in the use cases, which we are now agreed to go to public comment on. And we're saying here that in the above, the IGO complainant must agree.

However, should a respondent attempt to initiate the arbitration before the IGO complainant may, but is not required to agree.

So we have added one further thing just to reference discussions that took place in the IT. And again, this really just affirms the status quo, which is the current case in EDRP, that this new proceeding does not restrict parties from agreeing to pursue other forms of arbitration or dispute resolution at any time. But if we do this, it does not automatically, effectively, supersede or interfere with any ongoing proceeding. So we do not reference in the rules, any other forms of arbitration other than the fact that it's possible.

And we just finish with a general disclaimer that obviously arbitration should be undertaken in good faith with a genuine attempt to resolve the dispute. And we top and tail this with a reminder, this is just an advisory, right? It's not legal advice and it does not modify or affect the operation of the rules.

So does anyone have anything they want to say about this in the knowledge that it is a somewhat problematic document and that it is non-binding, but it has information that potentially could be useful in helping the community interpret the new updates? And Jeff.

JEFF NEUMAN

Yeah, I want to go back to the registrar comments in there that an IGO could also initiate a complaint directly with the registrar. That seems to imply that the registrar has to do something about that.

And I know it's non-binding, but even as an advisory, it just sets the expectations. Sorry, is that section two?

PETER EAKIN

I think section two. Okay. This section.

JEFF NEUMAN

Yeah, right there. I don't understand the meaning of that. And also when you say complaint here, you want to be careful not to associate that with a UDRP or URS type complaint. You should probably use a different word than complaint to differentiate the request to a registrar to consider. I mean, they could always request a registrar consider this, but --

PETER EAKIN

I think that was the intent of the recommendation. It was essentially, they were asking ICANN to implore IGOs to potentially resolve the issue before using either UDRP or URS. That also involves approaching the parties involved directly.

JEFF NEUMAN

Sorry, that was in the final report?

PETER EAKIN

PDP, yes. So I agree. We could maybe look at tweaking how that's worded to make it sound slightly less obligatory, if that is how it's -

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JEFF NEUMAN

Because I don't think it necessarily violates a registrar's agreement. If an IGO or registrant claims that it registered the -- In other words, this implies if I were an IGO reading this and didn't know anything about ICANN, I would think this means a filing a UDRP complaint directly with a registrar, and it also creates the implication that the registrar has to do something about it, and they don't.

PETER EAKIN

Okay. Well, look, we'll take that back and have a very quick look at that and then confirm with the IRT. Is there any other comments on the guidance? In that case I'm going to flip back to the slide. So all the way down here. So hopefully I know the answer to this, but I just want to state it for the record. Is that an old hand, Jeff, by the way?

For the record, so in the knowledge of the caveats and that this is we're doing this to keep things moving, we want to get community input on what our work to date, does the IRT agree that we should, in acknowledging one or two minor issues that have raised just for clarification, prepare the current draft issue for public comment following this meeting? Brian, I see your hand.

BRIAN BECKHAM

Yeah. Hi, everyone. Can you hear me, Peter?

PETER EAKIN

Yeah, I can hear you.

BRIAN BECKHAM

Okay, great. Brian Beckham, for the record. I just wanted to say, I think in terms of the comment from Jeff on the prior language about submitting a complaint, generally speaking, I think that was meant to kind of invoke registration agreement terms, which would prohibit violation of rights of third parties. But I agree that the language file a complaint or submit a complaint, whatever it was, because we talk of a UDRP complaint. If we could maybe find a slightly different wording that might alleviate a potential confusion there.

PETER EAKIN

No problem, Brian. Thank you. We'll take a look at that. So, on this decision, I'm taking this as a yes. I'm not hearing anyone disagreeing. Yeah. We okay? Yeah. So, good news. So, I just want to thank everyone in the IRT at this point. It's been a long road, longer than we thought. But to get to this decision, it's not the end, it's maybe the end of the beginning, but to get here required everyone to listen to each other, even when they didn't agree, consider everyone's perspectives, and it requires all parties to make a compromise. Everyone give a bit. And I do think that shows strengths of the IRT and what we do as a community in general. And the best of us. So, I want to thank everyone that we got to the stage at this meeting. So, I just want to briefly --

JESSICA PUCCIO

Peter? Sorry to interrupt. You have a hand from Jeff.

PETER EAKIN

Jeff.

JEFF NEUMAN

Yeah, thanks. So, two things. One is how long is it going to take you to get this out for comment? And number two is maybe more to Damon. I think we would want a comment from the Council to look at the compromise language and to make an assessment as to whether that is consistent or inconsistent with the motion it passed in whenever that was. And then also to say, even if it's inconsistent, whether it could live with it. So, it doesn't have to do this, but it would be good to hear from the Council during the comment period.

PETER EAKIN

Do you have anything to say, Damon, on that?

DAMON ASHCRAFT

I mean, I'm hesitant about slowing things down more and affirmably asking Council to comment on it. I think what we'll do is, I mean, what I would propose is I'll certainly present the compromise, present sort of how we got here to the Council, and if the Council has an objection, they can raise it. But I think kind of in

the absence of that, I think we'd kind of assume you'd have Council's support or non-objection to it. What do you think?

JEFF NEUMAN

So, just if I can respond. I don't think it should delay anything since there's a public comment period. I just think it's good for the record, right, to reflect there is a little bit of an inconsistency, and if it's fine with the Council, just a letter, just something that doesn't have to be passed through a resolution. I mean, the Council sends letters all the time, but I do think it's good for the record to have that on there just in case someone down the road decides to file an accountability mechanism or something based on the fact that it's different than the GNSO Council motion. I think it's good to always close the loops, and whether we need it during the comment period or it can be done afterwards, it doesn't matter, but I just think it should close the loop.

DAMON ASHCRAFT

I mean, I can't promise whether Council will or will not comment on it. I'll take it back to Council, and I'll let them know, Jeff, that we thought it might be good for the record to go ahead and submit a comment, and then if Council wants to submit a comment, I think they will. I mean, I can't promise they're going to necessarily submit a comment on it, but I can certainly take that on back to them for you. Is that okay? All right.

PETER EAKIN

Okay, so to the first point, Jeffrey, is right, so we're going to start preparations. Well, I will start them now, okay. We're obviously in the middle of a public meeting, and there's internal processes to go through, but I think we've answered your question as quickly as we can, certainly before the end of June, right, which corresponds with the timeline. So, the one issue, and I just, I want to call on -- Damon, do you want to say something?

DAMON ASHCRAFT

Just one quick question, I know you've gone over this, when is a public comment going to be now?

PETER EAKIN

Well, we have to obviously prepare an announcement, and then.

DAMON ASHCRAFT

Well, sure, I mean, estimate it for me.

PETER EAKIN

Well, certainly by the end of June, as quickly as we can.

DAMON ASHCRAFT

The end of what?

PETER EAKIN

June. The end of June.

DAMON ASHCRAFT

Okay, so something will go out by the end of June. All right, that's fine.

PETER EAKIN

And I just want to say, I note, if you note the third comment, I know Brian had asked that the IRT could take a look at the announcement. Is that something, Brian, you still want, if you're there?

BRIAN BECKHAM

Yeah, hi, Peter. Hi, everyone. I don't want to get in the way here, but I, just in light of some of the things that were brought up in terms of this potential confusion between the Council resolution and the PDP recommendation language, and by the way, for what it's worth, I've done my best to go over the GNSO operating procedures and the relevant annexes in the bylaws that refer to that, and I couldn't find anything that spoke to this, but I've kind of understood that the Council resolution language is kind of akin to a whereas clause, and it would be the PDP recommendations that would control, that doesn't mean we can't clarify this for the Council, because there was this issue about the timing of the invoking of the arbitration process.

Look, I think you and the IRT understand those kind of issues, and I certainly don't want to get in the way, so maybe I would say if ever you want a second pair of eyes, don't hesitate to reach out, but it

was really with a view towards kind of getting ahead of potential questions that might come up if the language doesn't address those proactively, was the thinking behind the request to see the public comment call. But again, don't want to hold things up, so leave that to you. I think you've done a great job shepherding us through here, so leave that to you, thanks.

PETER EAKIN

Thanks, Brian. Well, I think, yeah, we don't want to hold things up, but I think if you do want to look at it, it would be a quick process, obviously. But again, I think because of the issues that have been raised, I understand the motivation behind that, so I just want to -- I mean, you're all seasoned, been through this before, but for anyone who does not know, a public comment period lasts for 40 days. It's a standard. So I'm noting your comment there, Jeff, just to keep it general, so we'll start working on that now, certainly from my perspective. So, a 40-day period.

Because we're not issuing it during a meeting, if we had issued it just before, then it would have taken 47, but 40 days. So, just as a rough, this is just a finger in the air, and I'll come back to you with more definite timelines whenever they're known, so assuming the end of June, 40 days, that puts us in early August. Once the comment period closes, staff look at the comments and prepare a brief summary report, and then the IRT, we meet to discuss the comments and consider what's been received, any potential changes that need to be made as a result of that.

However, in the meantime, of course, staff analyze these as they come in, and we also must begin and restart the process of operationalizing this policy. So the work that had been ongoing, but obviously had to pause, now that we're approaching public comment, when it's launched, we can start that again.

So we've got 20 minutes left, enough is as good as a feast, Mary Poppins said, but I'm keeping my promise. Does anyone have any other questions, any comments they want to make, including anyone who normally doesn't on this IRT? Chat, I'm not seeing any hands, in which case, thank you very much, and glad we got there in the end. I will keep you updated on next steps, and I hope you enjoy the rest of your day, and it'll be a slight weight off your shoulders.

JESSICA PUCCIO

So this will conclude our session, the recording will be posted on the ICANN86 schedule page, and thank you all again for your participation. Thank you, Kevin, if I can seal the chat, please.

[END OF TRANSCRIPTION]