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# Policy Development Process: International Governmental Organization-International Non-Governmental Organization Access to Curative Rights Protection Mechanisms

## **WHAT CAN I EXPECT AT ICANN64 IN RELATION TO THIS TOPIC?**

The Policy Development Process (PDP) Working Group (WG) has completed its work, delivered its Final Report to the Generic Names Supporting Organization (GNSO) Council, and will not be holding any meetings at ICANN64. However, the GNSO Council may have the opportunity to continue its consideration of the WG's Final Report at ICANN64.

## **WHAT IS THIS ABOUT?**

This PDP was initiated in June 2014 by the GNSO Council to consider whether existing curative rights mechanisms at the second level of the Domain Name System (DNS), namely the Uniform Dispute Resolution Policy (UDRP) and the Uniform Rapid Suspension (URS) dispute resolution procedure, should be modified to address the needs of International Governmental Organizations (IGOs) and International Non-Governmental Organizations (INGOs). IGOs and INGOs have highlighted certain difficulties they face in using these mechanisms to protect their names and acronyms.

## **WHY IS THIS IMPORTANT?**

Protecting the names and acronyms of IGOs and INGOs at the top-level and second-level of the DNS has been a long-standing issue over the course of the New gTLD Program. The GNSO had previously recommended certain protective measures to the ICANN Board. However, those recommendations did not address whether existing domain name dispute resolution procedures provided adequate protection for IGO and INGO names and acronyms. The GNSO Council subsequently tasked this WG to consider: whether the UDRP and URS should be amended to resolve the problems faced by IGOs and INGOs, and if so, in what way; or if a separate, narrowly tailored dispute resolution procedure should be developed to apply only to IGOs and INGOs.

## **WHAT IS THE CURRENT STATUS OF THIS PROJECT?**

Community feedback was received during the Public Comment period on all of the WG's preliminary recommendations. The WG reviewed all public comments, including input from the Governmental Advisory Committee (GAC), a number of IGOs, and

the broader ICANN community. As a result, the WG modified some of its preliminary recommendations, which are reflected in the WG's final recommendations. The WG's final recommendations are that limited non-substantive changes can be made to both the UDRP and URS and no specific new process be developed for IGOs. The WG has also clarified the basis upon which an IGO may demonstrate standing to file a complaint under the UDRP and URS, and the availability of procedural options for IGOs to utilize the UDRP or URS without affecting any jurisdictional immunity that they may be able to claim. With regards to the situation where a losing registrant files a judicial proceeding against an IGO, and in which the IGO successfully claims and asserts jurisdictional immunity in that court, the WG recommends that the decision in the UDRP or URS in favor of the IGO be invalidated.

The WG submitted its Final Report to the GNSO Council on 9 July 2018. The GNSO Council resolved to accept the Final Report on 19 July 2018, though it has not yet taken final action on the report.

#### **WHAT ARE THE EXPECTED NEXT STEPS?**

The next step is for the GNSO Council to consider the WG's Final Report.

#### **HOW CAN I GET INVOLVED?**

The WG has concluded its Final Report and submitted it to the GNSO Council for consideration. At this stage, the WG is no longer meeting.

#### **MORE INFORMATION**

- WG Initial Report containing the preliminary recommendations: <https://go.icann.org/2o1UbEZ>
- Public comment of the WG Initial Report: <https://go.icann.org/2C0tY2u>
- WG Final Report: <https://gns0.icann.org/en/issues/igo-ingo-crp-access-final-17jul18-en.pdf>
- PDP Webpage: <http://gns0.icann.org/en/group-activities/active/igo-ingo-crp-access>
- WG Workspace: <https://community.icann.org/x/37rhAg>
- WG Charter: <https://gns0.icann.org/en/drafts/igo-ingo-crp-access-charter-24jun14-en.pdf>

### **BACKGROUND**

IGOs and INGOs face certain challenges in fully using the UDRP and URS for a number of reasons. IGOs see the Mutual Jurisdiction requirement for both processes as jeopardizing their jurisdictional immunity status. For both IGOs and INGOs, the fact that the UDRP and URS were designed as protective mechanisms for trademark owners means that they cannot use these procedures unless they also own trademarks in their names or acronyms. Both types of organizations are also concerned about the cost involved in using these procedures, which means diverting resources and funds from their primary missions. The GAC has issued advice on the topic which the WG continues to take into account in its deliberations.

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