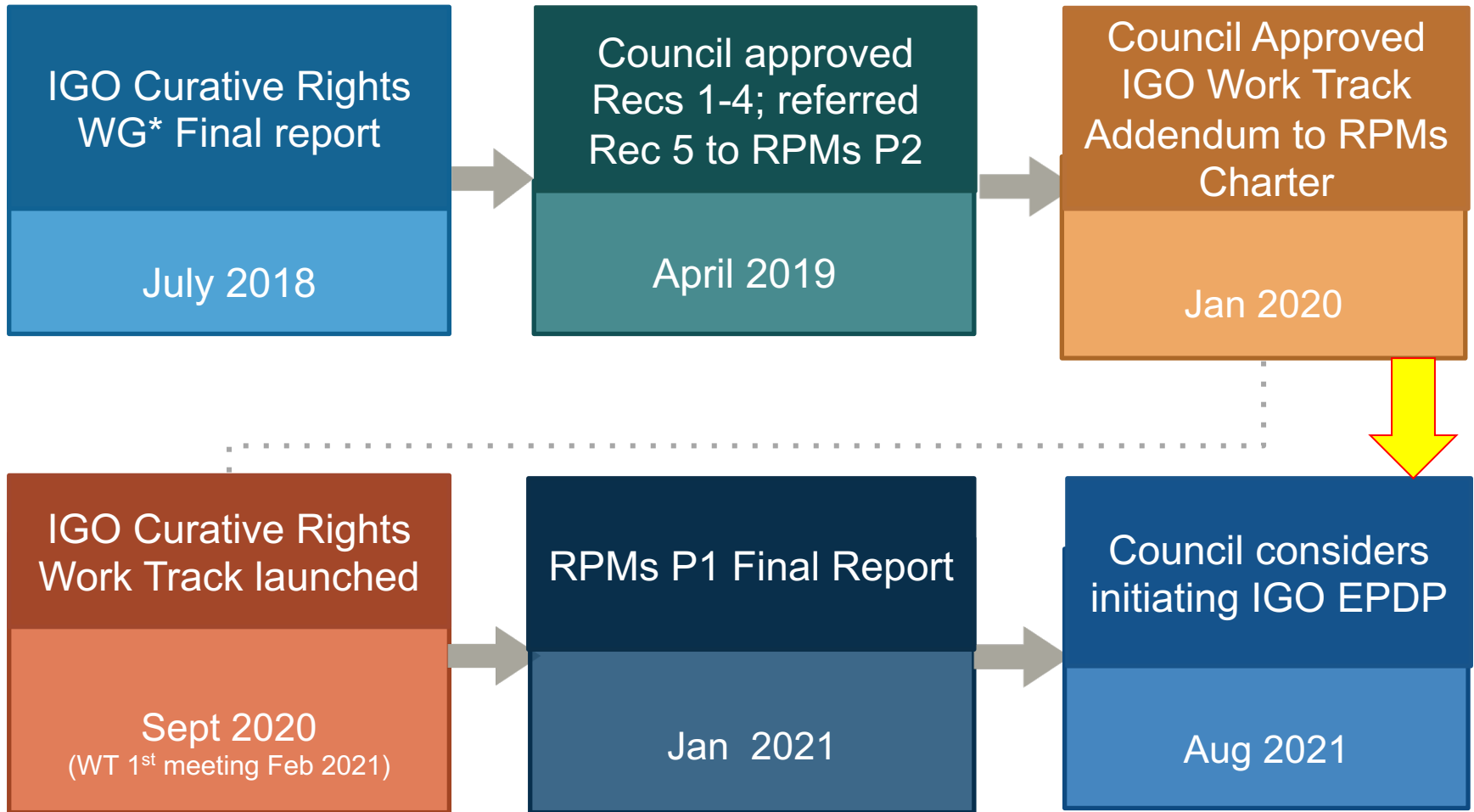


# Background / History: Work Track → EPDP



\* IGO-INGO Access to Curative Rights Protection Mechanisms PDP Working Group

# Problem Statement re Rec #5 – Jurisdictional Immunity

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Rec #5 from the IGO-INGO Access to Curative Rights Protection Mechanisms PDP Working Group was that, in the admittedly rare case where:

- i. an IGO has prevailed in a Uniform Domain Name Dispute Resolution Policy (UDRP) or Uniform Rapid Suspension (URS) proceeding; and
- ii. the losing registrant files suit in a court of competent jurisdiction; and
- i. the IGO successfully claims immunity from the jurisdiction of that court; then
- ii. the original UDRP or URS panel decision is to be set aside.

Assuming an IGO were able to avail itself of the UDRP process, the effect of this recommendation is that the parties to the dispute will be placed in the original situation as if the UDRP or URS proceeding had never been commenced.

# The Charge to the Work Track

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GNSO Council did not approve recommendation 5 related to jurisdictional immunity and has tasked the RPM PDP Working Group to “consider, as part of its Phase 2 work, **whether an appropriate policy solution can be developed, to the extent possible, that is generally consistent with Recommendations 1, 2, 3 & 4 of the PDP Final Report and:**

- a. accounts for the possibility that an IGO may enjoy jurisdictional immunity in certain circumstances;
- b. does not affect the right and ability of registrants to file judicial proceedings in a court of competent jurisdiction whether following a UDRP/URS case or otherwise; and
- c. recognizes that the existence and scope of IGO jurisdictional immunity in any particular situation is a legal issue to be determined by a court of competent jurisdiction” (see <https://gns0.icann.org/en/council/resolutions#20190418-03>).

# Deliverables under the Addendum

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- i. The IGO Work Track must publish its initial recommendations for public comment prior to delivering its draft final recommendations to the full RPM Working Group;
- ii. The full RPM Working Group shall have a reasonable opportunity to provide targeted input on the IGO Work Track's initial recommendations prior to the opening of the public comment proceedings;
- iii. The IGO Work Track must consider all public comments received in developing its draft final recommendations and, to the extent that it does not accept specific policy proposals raised in a public comment, it shall reasonably document its rationale for such non-acceptance in its draft Final Report;
- iv. The IGO Work Track shall consult with ICANN org and Contracted Parties to ensure that its draft final recommendations are operationally and technically feasible.
- v. The IGO Work Track shall deliver its draft Final Report to the RPM Working Group, which must consider adoption of the draft final recommendations from the IGO Work Track as a matter of priority;
- vi. In considering the draft final recommendations, the RPM Working Group is expected to accept them unless the Working Group raises specific objections not previously raised to and addressed by the IGO Work Track or in the public comments, and documents the rationale for such objection(s);
- vii. .....

# Deliverables under the proposed EPDP Charter

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- An Initial Report which includes preliminary recommendations that stem from the Problem Statement as noted in the “Mission and Scope” section of this Charter, as well as any other related items within its scope that were considered and deliberated upon by the EPDP team. To the extent possible, the EPDP shall consult with ICANN org and Contracted Parties to ensure that its draft final recommendations are operationally and technically feasible.
- A Final Report following review of Public Comments submitted for the Initial Report.