

Annex 4

THE INTERNAL RULES BELOW REPRESENT THE FIRST WORKING DRAFT OF INTERNAL PROCEDURES INTENDED FOR UDRP. AS SUCH, THEY ARE SUBJECT TO FURTHER REVIEW AND CONTINUED AMENDMENT DURING THE IMPLEMENTATION STAGE OF THE UDRP PROJECT AND EVEN AFTERWARDS DURING THE UDRP ADMINISTRATION. IN ADDITION TO THE INTERNAL RULES MENTIONED BELOW, THE CAC HAS DEVELOPED AN EXTENSIVE SET OF STANDARD FORMS AND TEXTS WHICH APPLY IN VARIOUS STAGES OF ADR PROCEEDINGS AND WHICH ARE NECESSARY TO ENABLE EFFECTIVE ADMINISTRATION OF ADR DISPUTES IN MULTIPLE LANGUAGES.

INTERNAL RULES OF THE CZECH ARBITRATION COURT FOR UDRP PROCEEDING

A MANAGER (ASSISTANT MANAGER)

The manager shall log in at least twice a day, once in the morning at [9 a.m.], and once in the afternoon at [3 p.m.].

Whenever the manager logs in, the manager shall:

- assign new complaints to administrators;
- place new items into dispute dockets;
- add information into dispute dockets;
- review automatically generated case reports;
- if he/she finds any discrepancies, the manager shall contact the responsible administrator(s);
- manage external relations of the ADR Center (participation at conferences, Panelist meetings, relationship with ICANN, registrars and registries and with the Advisory Board etc.).

Schedule 1: Introductory Case List

B SUPERVISOR(S) (ASSISTANT SUPERVISOR(S))

Supervisor's principal duties are the following:

- review of all decisions before their issue/publication;
- assistance with more complicated procedural issues during ADR Proceedings;
- coordination and interaction with the IT team;
- review of draft standard texts and FAQs;

C ACCOUNTANT (ASSISTANT ACCOUNTANT)

The accountant shall check the account balance twice a day, always after the bank credits newly received payments to the EUR/ \$ account. The accountant subsequently logs in onto the on-line platform.

The accountant shall first log in as the manager, and:

- check whether the manager performed the steps outlined in Section I above. If the accountant finds any discrepancies, the accountant shall notify the manager.
- with respect to all complaints where everything has been paid, the accountant shall indicate the Time of Filing in the Introductory Case List (Schedule 1) – the accountant shall add the date and time of the payment check; the accountant shall attend to cases where payments are duly received with respect to one and the same domain name at the same time or at different times PRIOR to the filing of the complaint through the platform or prior to the delivery of same in hard copy by mail (i.e., in any particular legitimate way) – the accountant shall write down an earlier Time of Filing with respect to a complaint received earlier through the platform or by mail;
- as regards complaints where payment has not been received or has not been received in full, the accountant shall indicate in the Introductory Case List (Schedule 1) the last possible payment date, or check whether the deadline for payment has elapsed without payment.

D ADMINISTRATOR(S)

1 Basic principle of complaint administration:

Whenever the authorized administrator logs in, he/she shall:

- check the developments in his/her cases;
- check payment;
- conduct the prescribed administration of the complaint using the on-line platform and other forms of communication if prescribed;
- add information into the Ongoing Case List (Schedule 2) to ensure that all the known deadlines and terms are filled in upon each log-in;
- for communication, the authorized administrator – complaint administrator - shall use an e-mail address in the following form: name.surname@adr.eu.

Bear in mind that, whenever possible, it is necessary to enable a SUBSTANTIVE resolution to disputes working within the Rules and Supplemental Rules. Terminating a Complaint due to its failure to meet formal requirements should occur only in clearly justifiable cases.

2 Payment check:

as regards all complaints where fee payment still needs to be monitored, the administrator shall check whether payment has been made using a form on the on-line platform; this activity needs to be performed step by step, with a view to the sequence of newly received complaints, starting with the complaint received first through the on-line platform. Importantly, as regards complaints where payment has not been made or has not been made in full, the check using the on-line form shall only be conducted once – notice of non-payment and the obligation to pay is only sent once. If payment in full is not effected afterwards, no further checks are performed even if other insufficient payments are received in the meantime, and the complaint then merely expires upon the elapse of the payment term – see below. On the other hand, if everything is paid after notification, the payment is checked once again using the on-line platform – this results in an automatic notice of payment; for information purposes, the form on payment checks in the on-line application needs to indicate the amount paid, or 0, if payment is still pending. If the amount needs to be rounded up, the description shall indicate the amount actually paid, without the rounding up.

Payment checks need to be conducted without delay upon receipt of the complaint, preferable on the same day when the complaint is filed, or the following day. If the complaint is accompanied by evidence of payment, the payment check using the form can wait for several days but not longer than 5 days. If the complaint does not include evidence of payment, the payment form needs to be completed without delay.

as regards complaints where payment has not been made, a last warning is sent out 2-3 days before the expiry of the deadline as a standard communication – see standard sample texts;

as regards complaints where the payment term expired without payment, the complaint is withdrawn on the 6th day after the expiry of the payment term by clicking on the “Expire” button that will appear next to the complaint in the complaint table; this rule needs to be complied with;

Binding deadlines regarding payment checks:

- Additional term for payment of fees shall be 5 days from notification date in the case of a complaint;
- In case of a 3-member panel requested by the respondent, payment of an additional fee should be effected concurrently with the filing of the response to the complaint; a period of 5 days from the delivery of the response to the complaint needs to be kept, and if payment is not received even within such additional term, the complaint shall continue with a 1-member panel.

If the respondent requests a 3-member panel, he must pay an additional ADR Fee. If the respondent does not pay prior to the filing of the response, it is necessary to wait for 3 days and then write a standard text to the respondent (see the standard texts) to the effect that the respondent must pay within 5 days, otherwise the complaint would be decided by a single arbitrator. If the respondent fails to pay in a timely manner, the complaint continues to be handled by a single arbitrator.

3 Adding FAQs and standard sample texts or e-mails:

If the authorized administrator comes across a question not covered by the FAQ, he/she shall send such question, together with the answer, if any, for language review to SUPERVISOR (FOR THE TIME BEING). SUPERVISOR shall conduct a language review, prepare an answer, if need be, and then include the question in the FAQ.

If any communication (standard text on the on-line platform, e-mail or otherwise) is repetitive, it needs to be sent for language review to SUPERVISOR (FOR THE TIME BEING), and included in the standard communications list.

Each assigned translation ought to appear in standard texts in the respective language(s).

Questions cannot be answered by a general reference to the FAQ but always by reference to a specific FAQ No.

4 Distribution of information on re-activation of suspended complaints:

a summary overview of suspended complaints needs to be maintained (for the time being, compiled manually).

5 Advising registrar and ICANN of termination of an ADR dispute:

It is very important to advise relevant registrar without delay of termination of any ADR dispute so as not to have extended blocking of domains.

6 What may be deemed to constitute a duly filed complaint?

A duly filed complaint may be deemed to be any filing delivered by mail or through the on-line platform, and indicating the identity of the complainant and the disputed domain. If in doubt, a disputable filing shall always be deemed to constitute a complaint.

7 Information on long-term disputes:

The authorized administrator shall advise manager of any dispute that takes longer than 3 months from the filing of the complaint until the issuance of the decision.

8 Treatment of complaints filed first by registered mail and not via the on-line platform:

As regards complaints filed first by registered mail, preventive measures need to be taken not to delay the case until the complaint is filed electronically. Therefore, all complaints received in this manner need to be registered on the very day of receipt. This will occur regardless of whether the fee has or has not been paid. Standard procedure in accordance with these Internal Rules shall then be followed.

9 Deadlines binding on the administrator:

Upon receipt of the complaint through the on-line platform, the authorized administrator shall wait for the complaint in a hard copy for 5 days; upon receiving the complaint in a hard copy or upon futile elapse of the aforesaid term, the authorized administrator shall check whether the complaint meets formal requirements (this must be completed no later than 3 days after the Time of Filing), using the on-line platform form;

General rule for the counting of all terms: If the end of the term falls on a weekend or national holiday, the term may be complied with if the act in question is effected on the first day following after such holiday or weekend.

If the complaint is filed – delivered only by mail and in a hard copy, an e-mail has to be sent to the complainant straight away – see standard text. If the complaint is not filed within 4 Czech business days, or forthwith upon the delivery of the complaint using the platform, the administrator shall check whether formal requirements have been complied with (this must be completed no later than 3 days after the Time of Filing); the administrator must send notification of defects in the complaint to the complainant by registered mail, careful where the deadline for submission of an amended complaint is concerned –terms for communication by post need to be applied.

The request for registrar's verification may in such case be sent by e-mail – see standard e-mail.

In the event that the complainant has to file an amended complaint, the administrator waits for 5+4 days from the date of notification for the delivery of the amended complaint; if the complaint does not arrive within the said term or continues to contain deficiencies, the administrator shall terminate the dispute using the applicable on-line platform form;

If the respondent does not send a response to the complaint within 20 days from receipt of the complaint, a notification of non-compliance with terms and conditions shall be sent using an on-line platform form – Delayed Response. In the form, the field "Really skips response" shall be marked.

If the response to the complaint is formally compliant - NOTE: including any additional fees, if any, in case that the respondent requests a 3-member panel, the response to the complaint is sent to the complainant within 2 Czech business days using the on-line platform.

Following the dispatch of the response to the complaint, the administrator shall appoint the panel. The internal deadline are 2 business days from the date of dispatch of the response to the complaint to the complainant for the dispatch of appointment forms to arbitrators, or the dispatch of a request for nomination of 3 candidates to the complainant, provided that the respondent requests a 3-member panel, and the complainant wished to have a 1-member panel. The deadline for arbitrator responses shall be 3 days, the deadline for the complainant with respect to the candidates shall be 4 days from the dispatch of the response to the complaint to the complainant.

NOTE: All of the above deadlines and terms apply solely to electronic communication. If communication is effected by mail or fax, the above procedure needs to be complied with, with the following differences:

- the entire process needs to be conducted through the on-line platform as if the binding form of communication was electronic communication;
- the respective documents prepared using the on-line platform need to be printed out and sent by mail or telefax;
- if fax communication is used, the binding terms remain as outlined above;
- if communication is effected by mail, 12 days need to be added to all the binding deadlines;
- if communication is effected by mail, registered mail with prepaid postage and confirmation of delivery needs to be used, or a reputable international courier service.

10 General rules applicable for administrator:

For the on-line platform to deem a filed complaint (or response) defect-free, it is NECESSARY to mark all fields in the respective form.

A general rule for a dispute: in principle, any e-mail sent with respect to a dispute needs to be copied into the on-line file of the dispute on the platform. This principle does not have to be complied with only in case of purely technical questions concerning the on-line platform.

Any and all e-mails sent to the parties need to be copied into the dispute file on the on-line platform. Therefore, e-mail communication with the parties needs to be restricted as far as possible.

A general rule pertaining to the extension of terms – it is necessary to proceed in accordance with the Rules – Article 5d of the UDRP Rules. That means that if the request for extension arrives after the term has lapsed, the extension cannot be granted. Further, the request must be substantiated. The request for extension and the decision thereon must be included in the case file on the on-line platform.

The above rule means that it is good, provided that there is sufficient time available, to warn the party to the dispute shortly before the elapse of terms, using a standard text, that the term is about to expire, and that the party may request an extension.

General rules applicable to checking of complaints:

- Do not check factual and legal grounds, provided that the complaint contains at least some factual and legal grounds; Information may also be attached to the complaint as an enclosure, with reference thereto in the complaint;
- Even when the complainant sends the complaint as a hardcopy only, the complainant still needs to be notified through the on-line platform – see the standard text;

Note on the checking of the complaint: check whether the complainant indicated a Mutual Jurisdiction: the mutual jurisdiction of the respondent or the respondent's registrar must be indicated. If so indicated, fine, if not, an objection has to be raised.

Note on the checking of complaints where the written form is not identical with the electronic filing: in such case, the administrator will not mark in the Complaint Checklist the field ad a) (Has the original of the Complaint been submitted), and will attach a standard commentary.

If the complainant opts for postal or fax communication as the form of communications, a standard e-mail is sent to the complainant to advise him that he could shift to electronic communication – please do continue to send such e-mails, it is important.

If the complainant withdraws its complaint, a standard text needs to be posted to inquire whether the respondent wishes to continue the dispute, and if the respondent agrees with the termination of the dispute, it should send a standard text to that effect. Otherwise, the dispute shall continue. Only when and if the respondent gives consent to the termination can the dispute be terminated, and the IT team advised to that effect.

If one of the parties notified termination of the dispute by settlement, a standard text also needs to be posted (see above), and the dispute subsequently terminated and the IT team advised. If the parties state that they wish for the arbitrator to state the terms and conditions of the settlement in the decision, the dispute shall continue until the arbitration panel renders decision.

NOTE: The arbitration panel always needs to be appointed in accordance with CAC's internal rules for the appointment of panelists! For instance, a complaint in German where the complainant is from Germany,

cannot be resolved by any arbitrator other than an arbitrator from Germany, even if such other arbitrator were able to decide in German!

Before arbitrator(s) are put in, a standard e-mail is sent to them.

The file is not sent to the arbitrators by mail. It shall only be sent by mail if the arbitrators so request.

Expiry of designated arbitrators who failed to file their Statement of Independence in case of the 3-member panel needs to be completed only after the deadlines have lapsed with respect to all three arbitrators. Arbitrators who filed the Statement in a timely manner will be preserved on the platform following the expiration, while those who failed to file the Statement will disappear from the platform after expiry. Expiry is thus performed for all three arbitrators, rather than for each of them separately.

A timely dispatch of the decision needs to be watched – within 14 days from Panel appointment.

Prior to publication of each decision, the same needs to be sent for review to the Supervisor.

If a Summary is not attached to the decision, a standard text is used for that purpose. It is then necessary to ask the IT team before publication if they could consolidate the decision by hand into a single document to be marked by the court for publication.

Importantly, upon the termination of any ADR Proceeding, i.e., in the event that the decision is published, ICANN and the relevant registrar need to be advised.

After the decision is rendered, the administrator no longer communicates with the parties.

Important note: Tasks performed in connection with specific Class Complaint processes are effected as described above, the only difference being that you have to follow individual steps and use the forms within the on-line platform related to the Class Complaint procedures.

E THIRD PARTY COMMUNICATION

1 Special phone numbers

Any and all communication conducted by telephone must be directed to the CAC's exchange: +420-222-333-340. The operator must be capable of basic communication in English.

Who communicates with third parties:

- Questions from parties to the dispute or arbitrators: communication only in electronic form using the on-line platform (Non-Standard Communication) or in addition to that by fax/mail, using the prescribed communication form; the person communicating shall be the authorized administrator; explanation of the necessity to send the communication by electronic means or by mail/fax is set out in the Basic Communication Texts (Schedule 4).
- Questions from persons other than parties to the dispute or arbitrators: the person communicating shall be the manager or assistant manager, communication by e-mail in English is preferred; explanation of the necessity to send the communication by electronic means or by mail/fax is set out in the Basic Communication Texts (Schedule 4).

F SCHEDULES

Schedule 1: Introductory Case List

Schedule 2: Ongoing Case List

Schedule 3: Internal Rules for the Appointment of Panelists

Schedule 4: Standard texts

SCHEDULE 1: INTRODUCTORY CASE LIST

Case No.	Domain Name	Date of Dispute Initiation (Prague Time)	Time of filing	Latest Payment Date	Date of Termination Due to Non-Payment	Administrator

SCHEDULE 2: ONGOING CASE LIST

Dispute No.				
Administrator				
Time of Filing				
Communication form				
Deadline for Complaint Check				
Deadline for Amended Complaint				
Deadline for Amended Complaint Check				
Deadline for Termination of Dispute due to Complaint Deficiencies				
Deadline for Response				
Deadline for Non-compliance Notification to Respondent				

Deadline for Response Check, including Payment Check				
Deadline for Dispatch of Response to the Complainant				
Deadline for Dispatch of Panel Appointment				
Deadline for Panel Confirmation				
Deadline for Notice to Complainant– 3-member panel				
Deadline for Nomination of Candidates by Complainant				
Deadline for Decision				
Deadline for Publication of the Decision				

SCHEDULE 3:

Internal Rules for the Appointment of Panelists

1. Principles of appointment

The following internal rules for allocating panelists to ADR proceedings follow these principles:

- a) Assuring an effective collaboration between the panelists in three-member panels,
- b) Assuring a competent panelist for the ADR proceedings by choosing a panelist who is familiar with the rights claimed—something which in single-member panels is often more important on the Complainant's side, since the Complainant has to claim rights whereas the Respondent's defense does not necessarily contain national rights, but often only factual behavior,
- c) Creating trust and confidence of the public and the parties in a fair allocation of panelists by limiting the discretion of the provider to influence the allocation of a panel and avoiding panelists who were recently involved in cases with one of the parties and
- d) Balancing the interests of the parties regarding the composition of three-member panels by choosing two panelists from the countries of the parties, where suggested and appointing the third panelist from another country.

2. Procedure

- a) The Provider shall establish and continue an internal list ("List") of all panelists in the order they were appointed and shall assign numbers to the panelists starting with No.1 for the first panelist. Whereas the general order shall remain in the future, the numbers shall be changed every two years randomly.
- b) The appointment shall follow the order of the List as far as not otherwise mentioned in the following. If a panelist does not fulfill the requirements in one of the steps in I. or II. below, the Provider shall take the next one in the List and start again at the beginning. The same applies, if a chosen panelist cannot be appointed at the end due to conflict of Interest.

3. Definition

- a) In the following, a panelist who has an university degree allowing him to be admitted with a local bar in the country in which the Complainant claims his rights is deemed to be a panelist from the country of the Complainant.
- b) In the following, a panelist who has an university degree allowing him to be admitted with a local bar in the country of the Respondent is deemed to be a panelist from the country of the Respondent.

I. Single-member panel

The Provider shall observe the following rules for appointing a single panelist.

1. The provider shall choose the first panelist following the order of the List who has not been appointed as a panelist so far. If all panelists were already appointed, the next panelist in the List with the lowest number of appointments shall be chosen.
2. The provider shall check whether this panelist
 - a) can speak the language of the proceedings and
 - b) is from the country the Complainant claims rights and
 - c) was not involved, within the last three years, in a case with one of the parties.
3. In case of a Class Complaint, the provider will appoint only Panelists who have rendered decisions on more than 15 UDRP cases.

II. Three-member panel

The Provider shall observe the following rules for appointing a three member panel.

1. Both the Complainant and the Respondent provide a list with three panelists
 - *list of Complainant*
 - i. From the list of Complainant, the provider shall first choose a panelist from the country of the Complainant. If there is more than one panelist from the country of the Complainant, it shall choose the first one from the list provided by the Complainant.
 - ii. If there is no panelist from the country of the Complainant in the list of the Complainant, the Provider shall choose a panelist which is neither from the country of the Complainant nor from the Respondent. In case that there is more than one panelist who is not from the country of the Complainant and the Respondent, it shall choose the first in the list provided by the Complainant. If all panelists are from the country of the Respondent, it shall take the one with the lowest number of appointments.
 - iii. The Provider shall check whether this panelist was already involved in an arbitration case with one of the parties within the last three years. If this is the case, the provider shall delete his name from the list of the Complainant and start again with step i.
 - iv. If a panelist cannot be chosen by this procedure from the list of the Complainant or all chosen panelists have a conflict of interest, the provider shall start again with the procedure for a single member panel.
 - *list of Respondent*

- i. From the list of Respondent, the provider shall first choose a panelist from the country of the Respondent who has at least one common language with the panelist chosen from the list of the Complainant. If there is more than one panelist from the country of the Respondent who has at least one common language with the panelist chosen from the list of the Complainant, it shall choose the first one in the list provided by the Respondent.
- ii. If there is no panelist from the country of the Respondent in the list, the Provider shall choose a panelist which is neither from the country of the Complainant nor from the Respondent. In case that there is more than one panelist not from the country of the Complainant and the Respondent, it shall choose the first in the list provided by the Respondent, with all aforementioned provided that the panelist has at least one common language with the panelist chosen from the list of the Complainant.
- iii. The Provider shall check whether this panelist was already involved in an arbitration case with one of the parties within the last three years. If this is the case, the provider shall delete his name from the list of the Respondent and start again with step i.
- iv. If a panelist cannot be chosen by this procedure from the list of the Respondent, the provider shall continue with the appointing procedure for a single member panel, but shall choose in step I. 2 b) a panelist from the country of the Respondent.

▪ Appointment of third panelist

The provider shall appoint the third (presiding) panelist in accordance with UDRP Rules, § 6 (e) above.

2. When only the Complainant provided a list

The provider shall choose a panelist from provider's List applying the procedure of II.1. b) for the appointment of a panelist instead of choosing from the list of the Respondent.

3. When only the Respondent provided a list

The provider shall choose a panelist from provider's List applying the procedure of II.1. a) for the appointment of a panelist instead of choosing from the list of the Complainant.

4. When one or both of the lists, that of the Complainant and/or the Respondent, do not contain three panelists.

The provider shall apply the procedure of I. for completing the list(s) of the Complainant and of the Respondent, whereas it shall choose, in case of completing Respondent's list in step I. 2 b), a panelist from the country of the Respondent. After completion of the list(s), the procedure of II.1 applies.

SCHEDULE 4:

Standard texts

TO BE FINALIZED DURING THE IMPLEMENTATION PERIOD