

5B. Translation

As required by ICANN Bylaws, Article 4, Section 4.3(l)¹, “All IRP proceedings shall be administered in English as the primary working language, with provision of translation services for Claimants if needed.” Translation may include both translation of submitted written statements, documents that have specific relevance to the subject matter of the dispute, transcripts and panelist decisions, as well as interpretation of oral proceedings, ensuring that no party is unable to fairly participate in the proceedings due to language.

The Claimant’s written statement of dispute must be submitted in English. No adverse inference as to the need for ICANN to provide translation services will be drawn from the fact that the written statement of dispute or request for translation services is in English.

A request for translation services:

- (i) May accompany the written statement of dispute, and must do so if the Claimant is seeking reimbursement of the costs of translating the written statement of dispute into English, or seeking translation of ICANN’s written statement in response from English into one or more languages identified by Claimant as its preferred language for the proceeding (“Claimant’s Preferred Language(s)”). Where the request for translation services is made with the written statement of dispute, it does not count towards the page limit for the written statement of dispute; or
- (ii) May be made subsequently if a new need for translation services arises during the course of the proceedings.

Any request for ICANN translation services must identify the Claimant’s Preferred Language(s) and include an explanation of why the Claimant needs such services in order to be able to fairly participate in the proceedings. Each request shall be made on the designated form and shall not exceed 5 pages of text, double-spaced using 12-point font.

Requests for translation services generally shall be determined by the IRP Panel, unless ICANN has already agreed to the request. In exceptional circumstances, if a determination is required as a matter of urgency before the IRP panel is seated, the request may include an application for emergency determination of translation services. Within ___ days after receipt of such application an emergency panelist, selected from the Standing Panel (or if no Standing Panel is in place a panelist appointed by the ICDR pursuant to ICDR Rules) shall be appointed and a determination shall be made as a preliminary issue for the proceeding within ___ days after the date of such appointment.

The IRP Panel shall have discretion to determine: (i) whether the Claimant has a need for translation services, (ii) which documents or hearing that relate to the need, and (iii) the language for which translation services will be provided.

¹ <https://www.icann.org/resources/pages/bylaws-2019-12-03-en#article4> {Staff to consider in final Rules whether it is feasible to include hyperlinks where there are references in Rules to Bylaws provisions}

In exercising its discretion, the IRP Panel should bear in mind the Purposes of the IRP, set out in ICANN Bylaws, Article 4, Section 4.3(a) and in particular Purpose (vii), and should have regard to the following non-exhaustive considerations:

- (i) the materiality of the particular document, hearing or other matter or event requested to be translated, including the need to ensure that all material portions of the record of the proceeding are available in English;
- (ii) the Claimant's ability to fairly participate in the proceedings due to the level of understanding of spoken and written English, by an officer, director, principal (or equivalent) with responsibility for the dispute, and, to the extent that the Claimant is represented in the proceedings by an attorney or other agent, that representative's level of understanding of spoken and written English; and
- (iii) level of understanding (as above) in another official language of the United Nations (i.e., Arabic, Chinese, French, Russian, or Spanish): where Claimant, or its representative has a suitable level of understanding to permit fair participation in more than one language, of which one is a UN language, then translation services will be limited to that UN language where possible.

All translation services ordered by the IRP Panel shall be coordinated through ICANN's Language Services providers and shall be considered an administrative cost of the IRP, paid for by ICANN unless the IRP Panel later orders otherwise pursuant to ICANN Bylaws, Article 4, Section 4.3(r).

A Claimant determined by the IRP Panel not to have a need for translation services must submit all materials in English.

If the Claimant arranges for its own translation, either because translation services are not requested or are denied, such translation shall be considered part of the Claimant's legal costs, and so borne by the Claimant pursuant to ICANN Bylaws, Article 4, Section 4.3(r), and not an administrative cost to be borne by ICANN, unless otherwise ordered by the IRP Panel.

Where the Claimant seeks to rely in the IRP proceedings on its own translation, this must be a certified translation from a qualified independent service provider.

The IRP Panel may order that the deadlines for submission of documents etc., and for the timing of any appeal, be amended to take into account reasonable delays generated by the translation of documents, transcripts or panelist decisions.