

The Serbian National Internet Domain Registry Foundation – RNIDS

# *Designing National Domain Name Dispute Resolution System: the Serbian Approach*

Authors:

Prof. Dr. Dušan V. Popović  
Full Professor of Intellectual Property Law and Competition Law  
University of Belgrade Faculty of Law  
E-mail: [dusan.popovic@ius.bg.ac.rs](mailto:dusan.popovic@ius.bg.ac.rs)

Novak Vujičić, LL.M.  
Assistant Lecturer of Intellectual Property Law  
University of Belgrade Faculty of Law  
E-mail: [novak.vujicic@ius.bg.ac.rs](mailto:novak.vujicic@ius.bg.ac.rs)

Belgrade, June 2018

# TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	iii
1. INTRODUCTION.....	1
1.1. Objective and structure of the study.....	1
1.2. General remarks regarding domain name disputes resolution .....	2
2. OVERVIEW OF THE SERBIAN NATIONAL DOMAIN NAME DISPUTE RESOLUTION SYSTEM.....	4
2.1. Serbian national domain name dispute resolution system – the first phase of the development .....	4
2.2. Serbian national domain name dispute resolution system – the second (current) phase of the development.....	8
2.3. The upsides of the Serbian national domain name dispute resolution system.....	12
3. OVERVIEW OF THE NATIONAL DOMAIN NAME DISPUTE RESOLUTION SYSTEMS OF THE TARGET COUNTRIES IN EASTERN EUROPE AND ASIA.....	13
3.1. The target countries which rely predominantly on court proceedings before national courts for resolution of the national domain name disputes .....	13
3.2. The target countries which have opted for UDRP dispute resolution model.....	19
3.3. The target countries which have introduced their own national domain name dispute resolution systems .....	23
4. CONCLUDING REMARKS: WOULD THE IMPLEMENTATION OF THE SERBIAN (OR SIMILAR) DISPUTE RESOLUTION SYSTEM BE BENEFICIAL IN THE TARGET COUNTRIES?.....	25

## EXECUTIVE SUMMARY

Today, when the number of domain name disputes is steadily increasing, it is beyond doubt that countries need to ensure proper dispute resolution systems for disputes relating to second-level domain name registrations in their ccTLDs. In order to effectively cope with the issue of domain name disputes and Internet businesses' needs, an established dispute resolution system should be efficient, reasonably priced, easily accessible, and it should guarantee legal certainty.

This study aims at providing an overview of national domain name dispute resolution systems applied in Serbia, as well as in several Eastern European and Asian countries – the target countries, at comparing those dispute resolution systems, and at determining whether the implementation of the Serbian (or similar) dispute resolution system would be beneficial in the target countries.

The Republic of Serbia has adopted national domain name dispute resolution rules, which were UDRP-inspired. Serbian domain name dispute resolution rules were developed under the auspices of RNIDS which manages two Serbian ccTLDs – .RS and .CPB. The resolution of domain name disputes is governed by an independent commission – the Serbian Domain Name Dispute Resolution Body, established by RNIDS, which operates under the umbrella of the Serbian Chamber of Commerce, but it is independent from both the Chamber and RNIDS. The rules of procedure before the Dispute Resolution Body are not identical to the UDRP. However, the model was followed as closely as possible, taking into consideration the specificities of the national legal regime. The implemented national domain name dispute resolution system has proven as effective and capable to cope with the demand of Internet businesses in Serbia.

On the other hand, three different approaches to domain name dispute resolution can be determined among Eastern European and Asian target countries. The first group of the target countries relies solely or predominantly on court proceedings before national courts as a means of resolution of the national domain name disputes. This group encompasses the Russian Federation (for its ccTLDs), Ukraine (for its ccTLD .UA), Belarus, Georgia (for its IDN ccTLD .გე), Azerbaijan, Kazakhstan, Kyrgyzstan and Uzbekistan.

The second group of the target countries have opted for adopting UDRP and entrusting dispute resolution to the approved UDRP dispute-resolution service providers. The latter group is comprised by the Russian Federation (for several new gTLDs), Moldova, Georgia (for ccTLD .GE), Tajikistan and Turkmenistan.

The target countries from the third group (Ukraine (for ccTLD .YKP) and Armenia) have, similarly to Serbia, introduced their own out-of-court national domain name dispute resolution systems.

The analysis indicates that addressing the domain name disputes before ordinary national courts does not seem to give satisfactory results. On the other hand, the out-of-court domain name dispute resolution proceedings under the UDRP, as an international domain name dispute resolution platform for which certain countries opted for, meet the above-

mentioned criteria and have been giving good results in practice. Yet, it implies entrusting the resolution of disputes related to national domain name registrations to foreign entities. Thus, the third option embraced by Serbia – the establishment of the well-functioning national out-of-court domain name dispute resolution system, which will enable efficient resolution of this type of disputes before national bodies, on a national level and be adjusted to certain specific national needs, seems reasonable and should be considered by national legislators/domain name registry operators.

# 1. INTRODUCTION

## 1.1. Objective and structure of the study

This study aims at providing an overview of national domain name dispute resolution systems applied in Serbia, as well as in several Eastern European and Asian countries ('the target countries'), at comparing those dispute resolution systems, and at determining whether the implementation of the Serbian (or similar) dispute resolution system would be beneficial in the target countries.

Following the introductory section which encompasses the general remarks about domain name dispute resolution (Subsection no. 1.2), the study is divided into three separate parts. The first part (Section no. 2) contains an overview of development and main characteristics of national domain name dispute resolution system applied in Serbia for disputes relating to second-level domain name registrations in the Serbian country code top-level domains ('ccTLD') – .RS and .CPB domains.

The part that follows (Section no. 3) provides an overview of the main features of national domain name dispute resolution systems applied in the target countries in Eastern Europe and Asia in relation to second-level domain name registrations in certain national top-level domains ('TLDs'). The analysis is focused solely on dispute resolution systems in the target countries relating to second-level domain name registrations in the following TLDs:

- the Russian Federation: .RU, .PΦ, .SU, .MOSCOW, .MOCKBA, .ДЕТИ, .РУС, .TATAR;
- Ukraine: .UA, .УКР;
- Belarus: .BY, .БЕЛ;
- Moldova: .MD;
- Armenia: .AM, .ՀԱՅ;
- Georgia: .GE, .გე;
- Azerbaijan: .AZ;
- Kazakhstan: .KZ, .ҚАЗ;
- Kyrgyzstan: .KG;
- Tajikistan: .TJ;
- Turkmenistan: .TM;
- Uzbekistan: .UZ;

Dispute resolution systems in the target countries applied to second-level domain name registrations in other TLDs and other domain name registrations in general, are not taken into consideration.

In the final part of the study (Section no. 4) a comparison regarding certain aspects of the Serbian domain name dispute resolution systems and the analysed national domain name

dispute resolution systems in the target countries is made. Furthermore, several advantages of the Serbian domain name dispute resolution systems are pointed out.

## 1.2. General remarks regarding domain name disputes resolution

Domain name disputes arise between trademark owners, or more generally intellectual property ('IP') owners, on the one hand, and domain name registrants, on the other hand. That occurs when registered domain names overlap with valid trademarks, or other IP rights belonging to third parties. Typical situation which as a consequence may have domain name dispute is when a party (in good or bad faith) registers a domain name, typically second-level domain name, which is identical or similar to a trademark. The latter is possible, considering that the organisations that register domain names typically do not pre-screen the filing of potentially problematic names.

The question is in which way the domain name disputes could be resolved? In general, three main modes of resolving this type of disputes may be identified on global level, i.e.: 1) the court proceedings before national courts; 2) the out-of-court dispute resolution proceedings under the Uniform Domain Name Dispute Resolution Policy ('UDRP')<sup>1</sup> before approved dispute-resolution service providers, and 3) the out-of-court dispute resolution proceedings based on national domain name dispute resolution rules.

Primarily, the domain name disputes may be addressed before an (ordinary) national court as trademark infringement disputes (the most commonly), violation of unfair competition cases, cases for unauthorized use of someone else's trade name, etc. This mode of resolution of domain name disputes suffers from many disadvantages. The major disadvantage seems to be the fact that court proceedings (civil and criminal) normally last for several months or even years, while Internet businesses need a more efficient method of terminating the infringement. Furthermore, in a number of cases trademark law will fail to provide legal grounds for termination or/and transfer of registration of contentious domain name. That will occur especially when a registrant of contentious domain name (identical or similar to someone else's registered trademark or a sign applied for registration) does not use the website attached to that domain name in relation to goods and/or services identical or similar to the goods or services which the registration covers (or does not use domain name at all), thus their action does not constitute a trademark infringement (unless a famous trademark is used).<sup>2</sup> Under those circumstances, trademark owners may try to rely on unfair

---

<sup>1</sup> Uniform Domain Name Dispute Resolution Policy – UDRP, <https://www.icann.org/resources/pages/policy-2012-02-25-en>, 13 May 2016.

<sup>2</sup> Trademark infringement can be roughly defined as an unauthorized use of a sign identical or similar to a registered trademark or a sign applied for registration (in the scope of trademark owner's exclusive rights on trademark) on or in relation with goods and/or services which the registration covers in a manner that is likely to cause confusion about the source of the goods and/or services. An infringement of famous trademark will occur when use of a certain sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trademark. For more about trademark infringement in the European Union ('EU') law and the United States of America ('USA') law see: James Mellor *et al.*, *Kerly's Law of Trade Marks and Trade Names*, Sweet & Maxwell, London 2011<sup>15</sup>, 435–481; Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to

competition rules, rules on protection of trade names or on tort law, but often with uncertain outcome. On top of that, the enforcement of court decisions here may be quite difficult (especially considering territorial nature of trademark (and IP rights in general) and global character of the Internet). Apart from the noted, there are also other downsides of addressing the domain name disputes before national courts (e.g. possibility of transferring the domain name to the third party during long-lasting court proceedings, etc.).<sup>3</sup>

Hence, considering the mentioned shortcomings of resolving the domain name disputes in court proceedings, it was more suitable to establish out-of-court dispute resolution proceedings. World Intellectual Property Organization ('WIPO') and Internet Corporation for Assigned Names and Numbers ('ICANN') have therefore adopted the UDRP in 1999. The UDRP applies to second-level domain name registrations in numerous generic TLDs ('gTLDs') (.COM, .NET, .ASIA, .INFO...) and to second-level domain name registrations in certain ccTLDs (.FR, .NL, .ME, .AU ...). Complaints under the UDRP may be submitted to one of the approved dispute-resolution service providers (WIPO is one of them).<sup>4</sup> In this proceeding a complainant may require the cancellation of certain domain name or the transfer of that domain name registration to them. In order to succeed in the proceedings the complainant does not need to prove the occurrence of the trademark infringement, than just the abusive registration and use of an internet domain name. More precisely, the complainant needs to prove that: (1) the certain domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights, and (2) the registrant does not have rights or legitimate interests in respect of the domain name, and (3) the domain name has been registered and is being used in bad faith.<sup>5</sup> The UDRP proceedings do not prevent either the domain name registrant or the complainant from submitting the dispute to a court of competent jurisdiction for independent resolution (prior its commencement or after its conclusion). Considering the advantages of the UDRP proceedings (they present more informal, faster and cheaper way, suitable for international disputes) in comparison to going to court, they have turned out as an efficient and preferred route for domain name dispute resolution and the UDRP become a "model policy" for the national legislators.

Nevertheless, even though application of the UDRP proceedings has many upsides, it still implies entrusting the resolution of disputes related to national domain name registrations to foreign entities (the approved dispute-resolution service providers). Taking that into account, *inter alia*, certain countries, among them Serbia, opted for the adoption of their national domain name dispute resolution rules, usually UDRP inspired, for disputes relating to second-level domain name registrations in their ccTLDs, which are resolved before national bodies, on a national level and are more adjusted to certain specific national needs.

---

trade marks, *Official Journal of the European Union*, L 336/1, 23 December 2015, Art. 10; Dušan V. Popović, „Žigom zaštićene oznake, ključne reči i oglašavanje na Internetu“, *Pravo i privreda* 4-6/2011, 931.

<sup>3</sup> For additional information see: Dušan V. Popović, *Registracija naziva internet domena i pravo žiga*, Pravni fakultet Univerziteta u Beogradu, Beograd 2014, 104–111.

<sup>4</sup> The list of approved dispute-resolution service providers is available on ICANN's website: <https://www.icann.org/resources/pages/providers-6d-2012-02-25-en>

<sup>5</sup> ICANN, UDRP, Article 4, <https://www.icann.org/resources/pages/policy-2012-02-25-en>

Finally, it should be borne in mind that in order to be able to effectively cope with the issue of domain name disputes and Internet businesses' needs, an established national dispute resolution system should be efficient, reasonably priced, easily accessible, and it should guarantee legal certainty. Therefore, the fulfilment of these criteria will be considered for every national domain name dispute resolution system analysed within this study.

## 2. OVERVIEW OF THE SERBIAN NATIONAL DOMAIN NAME DISPUTE RESOLUTION SYSTEM

Serbia has two ccTLDs – .RS, Latin alphabet domain name, introduced in 2007<sup>6</sup> (start of registrations in 2008) and .CPB, Cyrillic alphabet domain name, introduced in 2011 (start of registrations in 2012), as a part of the Internationalized Domain Name ('IDN') family. Both ccTLDs are managed by Serbian National Internet Domain Registry Foundation – RNIDS, in accordance with the decisions of ICANN.

RNIDS is a private non-for-profit organization established to manage the registry of the national internet domain names .RS and .SRB ('the Serbian TLDs Registry') and the Internet infrastructure of special importance for the functioning of the Internet in Serbia. RNIDS is governed through a multi-stakeholder model, similar to ICANN. All interested parties, other than Government entities, may become co-founders of RNIDS and participate in the decision-making process. For example, the Faculty of Law of the University of Belgrade is one of the RNIDS co-founders. Further to this, all policy decisions are open to public comments and final decisions are published on the Internet. The RNIDS Founding Assembly was held on 8<sup>th</sup> July 2006. RNIDS operated as a fund until 28<sup>th</sup> May 2011 when it became a foundation in accordance with the law. The corporate structure of RNIDS comprises the Conference of Co-founders, the Board of Governors and the Director.

Serbian national domain name dispute resolution system was introduced by RNIDS, immediately starting with the registration of the ccTLD .RS domains back in 2008. Through the ten-year period of application it has faced certain changes and improvements. As a result, two phases of the development of the Serbian national domain name dispute resolution system could be indicated. The first phase of the development of the Serbian national domain name dispute resolution system (Subsection no. 2.1) was between 2008 and 2010, and the second phase (Subsection no. 2.2) started in 2010 and lasts up to date.

### 2.1. Serbian national domain name dispute resolution system – the first phase of the development

The first phase of the development of the Serbian national domain name dispute resolution system began with the start of application of the Rules on Arbitration Proceedings

---

<sup>6</sup> .RS domain name changed previously used .YU domain name. The delegation of the .YU domain was removed from the DNS root zone on 1<sup>st</sup> April 2010, see: <https://www.iana.org/reports/2010/yu-report-01apr2010.html>

for Settling Disputes Arising out of the Registration of .RS Domains ('the Rules 2007') adopted by RNIDS on 26<sup>th</sup> October 2007. The Rules 2007 became applicable upon start of the registration of .RS domains on 10<sup>th</sup> March 2008.<sup>7</sup>

The Rules 2007 envisaged an out-of-court domain name dispute resolution system in relation to second-level domain name registrations in .RS domains. The envisaged domain name dispute resolution system was organised as an alternative dispute resolution method ('ADR'), inspired by UDRP, even though it was qualified as arbitration proceedings (in the provisions of the Rules 2007), and was conducted before the Permanent Arbitration formed within RNIDS.

The main characteristics – the outline of the subject out-of-court domain name dispute resolution system regulated by the Rules 2007 are presented in the Table 1.

Table 1. – The outline of the domain name dispute resolution system envisaged in the Rules 2007	
Complainant	A domestic or foreign natural person or a legal entity disputing the registrant's right to use a registered .RS domain. <sup>8</sup>
Respondent	A registrant (a domestic or foreign natural person or a legal entity) who has registered and uses a .RS domain, in accordance with the General Conditions for the Registration of .RS Domains. <sup>9</sup>
Type of the dispute resolution method	ADR (wrongfully qualified as an arbitration in the Rules 2007)
Legal ground for application – jurisdiction of the Permanent Arbitration	A registrant – respondent agrees to arbitration as a means of settling disputes in relation to the .RS domain by the act of registering .RS domain within the Serbian TLDs Registry, more precisely by accepting the General Conditions for the Registration of .RS Domains.  A complainant accepts arbitration as a means of settling disputes arising out of .RS domains by initiating the proceedings before the Permanent Arbitration within RNIDS. <sup>10</sup>
Domain name dispute resolution body	The Permanent Arbitration formed within RNIDS.  More precisely decision are rendered by arbitration boards which consist of three arbitrators from the RNIDS's list of arbitrators (the list is determined by the Board of Governors of RNIDS). <sup>11</sup>

<sup>7</sup> Rules on Arbitration Proceedings for Settling Disputes Arising out of the Registration of .RS Domains from 26<sup>th</sup> October 2007 – the Rules 2007, <https://www.rnids.rs/lat/documents/pravilnik-o-postupku-za-resavanje-sporova-povodom-registracije-nacionalnih-internet-domena> See Article 21.

<sup>8</sup> The Rules 2007, Article 2, Paragraphs 4–6.

<sup>9</sup> The Rules 2007, Article 2, Paragraphs 4 and 7.

<sup>10</sup> The Rules 2007, Article 4.

<sup>11</sup> The Rules 2007, Article 5–6. (An arbitrator may be any natural person with business capacity, a citizen and a resident of the Republic of Serbia, who possesses relevant skills and competencies in the area of the Internet, the system of Internet domains, regulations concerning protection of intellectual property and settlement of disputes related to Internet domains).

Language	Serbian. <sup>12</sup>
Initiating Act	A claim submitted to RNIDS in electronic form and in a required number of specimens in hard copies.
Possible subject of the complainant's request	A termination or/and a transfer of registration of .RS domain name in dispute from the registrant to complainant. <sup>13</sup>
What should complainant prove to succeed in the proceedings	The following should be proven: <ul style="list-style-type: none"> <li>- that the disputed .RS domain is identical or substantively similar to the trademark, business or trade name of the complainant for the same or similar type of goods or services, or that the similarity can create confusion and mislead participants on the market, and</li> <li>- that the registrant – respondent has no right or legitimate interest to use the disputed .RS domain , and</li> <li>- that the registrant - respondent has registered and used the disputed .RS domain contrary to the principles of good faith, honesty and good business practices.<sup>14</sup></li> </ul>
Duration	Up to 60 days from the day of the submission of the claim (the set time limit may be extended under justified circumstances). <sup>15</sup>
Final act	A decision of the arbitration board (the decision allows RNIDS to transfer the registration of the disputed .RS domain from the registrant – respondent to the complainant, at a request of an interested party). <sup>16</sup>  Decisions are published on a website.
Transfer of domain name during the proceedings	Transfer of the disputed domain name is not possible after commencement of the proceedings while they are pending.
Possibility of appeal	The decision of the arbitration board is definitive and cannot be appealed. <sup>17</sup>
Possibility of commencement of court proceedings	The Rules 2007 do not clearly regulate this issue.

The introduced domain name dispute resolution system had many upsides. However, in course of application of the domain name dispute resolution system established with the Rules 2007 three significant problems have been determined, as follows:

<sup>12</sup> The Rules 2007, Article 9.

<sup>13</sup> The Rules 2007, Article 12.

<sup>14</sup> The Rules 2007, Article 16. See also, Article 17–18.

<sup>15</sup> The Rules 2007, Article 7.

<sup>16</sup> The Rules 2007, Article 19, Paragraph 1 and 8.

<sup>17</sup> The Rules 2007, Article 19, Paragraph 7.

- 1) The issue of guaranteed independence and impartiality of arbitrators – since the Permanent Arbitration was established within the organisational structure of RNIDS, as a legal entity which manages the Serbian TLDs Registry, certain doubts about independence and impartiality of arbitrators in decision-making process appeared. This was the severest issue;<sup>18</sup>
- 2) The issue of wrongful qualification of the subject out-of-court dispute resolution mechanism as an arbitration, even though there is no classical arbitration clause – the registrant accepts the jurisdiction of the Permanent Arbitration for the resolution of disputes by the act of registering .RS domain within the Serbian TLDs Registry.<sup>19</sup>
- 3) The inadequately defined first condition for determination of the abusive registration and use of an internet domain name, i.e. the disputed .RS domain should be identical or substantively similar to the trademark, business or trade name of the complainant for the same or similar type of goods or services, which implies necessity of usage of the disputed domain name in connection with certain types of goods and services (same or similar types of goods or services for which trademark, business or trade name of the complainant are protected). The first condition, defined in this way, was not in line with the principles on which internet domain name usage functions. When registering a domain name it is not important in relation to what type of goods and services that domain name will be used, or if it will be used in relation to goods and services at all. The logic of protection of the domain name differs from the logic of the trademark protection, where the type of goods or services for which a trademark is protected is of major significance.<sup>20</sup>

The first and the second problem were overcome with adoption of the new Rules on National Domain Names Dispute Resolution on 19<sup>th</sup> April 2011 ('the Rules 2011') – by right qualification of the subject out-of-court dispute resolution mechanism as an ADR and by forming independent domain name dispute resolution body. This can be considered as the start of the second phase of development of the Serbian domain name dispute resolution system. The third problem was solved by amendments of the Rules 2011 in 2012.<sup>21</sup>

---

<sup>18</sup> D. V. Popović (2014), 141.

<sup>19</sup> Dušan Popović, Marko Jovanović, "Osvrt na pravilnik o postupku za rešavanje sporova povodom registracije .rs domena", *Pravo i privreda* 1–3/2011, 11 fn. 12.

<sup>20</sup> Dušan V. Popović (2014), 143–144. This viewpoint was confirmed by arbitration board which was applying the Rules 2007 in case related to registration of domain *city24.rs*. See the Permanent Arbitration, case *city24.rs*, Decision from 12<sup>th</sup> January 2009, [https://www.rnids.rs/registar\\_dokumenata/2009\\_01\\_12-arbitraz-a-odluka-city24.pdf](https://www.rnids.rs/registar_dokumenata/2009_01_12-arbitraz-a-odluka-city24.pdf), 25 May 2018.

<sup>21</sup> Dušan V. Popović (2014), 143–144.

## 2.2. Serbian national domain name dispute resolution system – the second (current) phase of the development

The second period in the development of the Serbian national domain name resolution system starts with the adoption of the Rules 2011 which were further amended in 2012 and 2014 (primarily to enable its application to second-level domain name registrations in newly introduced .CPB domains).<sup>22</sup> Two major novelties – differences introduced by the Rules 2011 in comparison to the previous Rules 2007 were:

- 1) The proper qualification and regulation of the out-of-court dispute resolution proceedings as ADR (not an arbitration), and
- 2) Establishment of the Committee for the Resolution of Disputes Relating to the Registration of National Internet Domain Names ('the Dispute Resolution Body') (in Serbian: *Komisija za rešavanje sporova povodom registracije naziva nacionalnih internet domena*) as a domain name dispute resolution body independent from RNIDS (which guarantees independence and impartiality of panels (i.e. panellists) in decision making process).

The Dispute Resolution Body is established under Article 2 of the Rules 2011 in connection to the Cooperation Agreement signed between RNIDS and the Serbian Chamber of Commerce in late 2010.<sup>23</sup> The Dispute Resolution Body operates under the umbrella of the Serbian Chamber of Commerce, but it is independent from both the Chamber and RNIDS. The Serbian Chamber of Commerce only provides for technical assistance. The Dispute Resolution Body performs its duties through the Presidency (competent for supervision over the application of the Rules 2011 and representation), arbitration councils – panels and the Expert Service (conducts professional and administrative tasks).<sup>24</sup>

The rules of procedure before the Dispute Resolution Body are inspired but not identical to the UDRP. However, the model was followed as closely as possible, taking into consideration the specificities of the national legal regime. One of the main distinctions between the UDRP and the Serbian Rules consists in the provisions regulating the appointment of the panel. In Serbia, a national domain name dispute has always to be decided by a three-member panel. Disputes may not be resolved by a single panellist.

Reasons for following the UDRP model, especially in relation to substantive law provisions, lie primarily in possibility of relying on the rich case law of bodies which apply the UDRP, as well as the intention to try ensuring that parties will avoid using this out-of-court dispute resolution system for legally complex disputes (which, taking into account short

---

<sup>22</sup> Rules of Procedure for the Resolution of Disputes Relating to the Registration of National Internet Domain Names – the Rules 2011, *Official Journal of the Republic of Serbia*, no. 31/2011, 24/2012 and 67/2014. The consolidated version is also available at: <https://www.rnids.rs/en/node/5967>, 25 May 2018.

<sup>23</sup>The Cooperation Agreement between RNIDS and the Chamber of Commerce of the Republic of Serbia from 21<sup>st</sup> October 2010 is available at: <https://www.rnids.rs/lat/documents/sporazum-o-saradnji-rnids-a-i-privredne-komore-srbije>, 30 May 2018.

<sup>24</sup> The Rules 2011, Article 3.

deadlines for enacting the decisions, are not convenient for this method of dispute resolution).<sup>25</sup>

The outline of the out-of-court domain name dispute resolution system regulated by the Rules 2011 is presented in the Table 2.

Table 2. – The outline of the domain name dispute resolution system envisaged in the Rules 2011	
Complainant	A domestic or foreign natural person or a legal entity disputing the registrant's right to use a registered .RS or .CPB domain.
Respondent	A registrant (a domestic or foreign natural person or a legal entity) who has registered and uses a .RS domain, in accordance with the General Terms and Conditions for the Registration of National Internet Domain Names. <sup>26</sup>
Type of the dispute resolution method	ADR
Legal ground for application – jurisdiction of the Dispute Resolution Body	<p>A registrant – respondent accept the jurisdiction of the Dispute Resolution Body for settling disputes in relation to the national domains by the act of registering national domain within the Serbian TLDs Registry, more precisely by accepting the General Terms and Conditions for the Registration of National Internet Domain Names.</p> <p>A complainant accepts the jurisdiction of the Dispute Resolution Body by initiating the proceedings before this Body.<sup>27</sup></p>
Domain name dispute resolution body	<p>The Committee for the Resolution of Disputes Relating to the Registration of National Internet Domain Names (the Dispute Resolution Body).</p> <p>More precisely decisions are rendered by the panels (arbitration boards) which consist of three panellists (arbitrators) from the list of panellists<sup>28</sup> (the list is determined every four years by Managing Board of the Chamber of Commerce at the proposal of the RNIDS, following a public call for interest).<sup>29</sup></p> <p>A panel is independent from the Dispute Resolution Body, RNIDS or the parties. Each party proposes one panellist, and the two jointly appoint the third one. In case one of the parties does not select a panellist, the appointment is made by the Presidency of the</p>

<sup>25</sup> D. V. Popović (2014), 142.

<sup>26</sup> The Rules 2011, Article 5.

<sup>27</sup> The Rules 2011, Article 7, Paragraphs 1–2.

<sup>28</sup> The Rules 2011, Article 8, Paragraph 1.

<sup>29</sup> The Rules 2011, Article 4. (An arbitrator may be any natural person having legal capacity and holding citizenship of the Republic of Serbia, having his or her place of residency in the Republic of Serbia and possessing suitable knowledge and abilities relating to the Internet, the Internet domain name system and regulations relating to the protection of intellectual property and resolution of disputes relating to Internet domains).

	Dispute Resolution Body. Before accepting their appointment, selected panellists must notify the Dispute Resolution Body of any circumstances that are capable of giving rise to doubt as to their impartiality. The same applies if any new circumstance occurs during the proceedings. <sup>30</sup>
Language	Serbian. <sup>31</sup>
Initiating Act	A claim submitted to RNIDS in electronic form and in a single hard copy.  Other communication between parties and the panel is conducted electronically.
Possible subject of the complainant's request	A termination or/and a transfer of registration of .RS and .CPB domain names in dispute from the registrant to complainant. <sup>32</sup>
What should complainant prove to succeed in the proceedings	The following should be proven:  - that the disputed domain name is identical or confusingly similar to a trademark in which the complainant has rights, and  - that the registrant – respondent has no right or legitimate interest in respect of the domain name, and  - that the domain name has been registered and is being used against the principles of good faith, contrary to principles of honesty and good business practices. <sup>33</sup>
Duration	Up to 60 days from the day of the appointment of the panel (the set time limit may be extended under justified circumstances). <sup>34</sup>
Final act	A decision of the panel. A panel makes its decision on the basis of the statements and documents submitted by parties and in accordance with the Rules. In-person hearings are carried out in exceptional cases, upon decision by the panel. A panel adopts its decisions by a majority. Decisions are made in writing and must contain a reasoning.  The panel decision is implemented by RNIDS unless the court proceedings have been initiated, within the period of 10 business days following the receipt of the panel decision, in which case the implementation of the panel decision is suspended. <sup>35</sup>  Decisions are published on a website.
Possibility of appeal	The decision is final and cannot be appealed. <sup>36</sup>

<sup>30</sup> The Rules 2011, Articles 9–15.

<sup>31</sup> The Rules 2011, Article 21.

<sup>32</sup> The Rules 2011, Article 16.

<sup>33</sup> The Rules 2011, Article 22. See also, Article 23–24.

<sup>34</sup> The Rules 2011, Article 25.

<sup>35</sup> The Rules 2011, Article 27–30 and 31, Paragraph 2.

<sup>36</sup> The Rules 2011, Article 31, Paragraph 1.

Transfer of domain name during the proceedings	Transfer is not possible after commencement of the proceedings while they are pending. <sup>37</sup>
Possibility of commencement of court proceedings	<p>Both complainant and respondent may conduct litigation before ordinary courts simultaneously with ADR proceedings or following conclusion of ADR proceedings.</p> <p>If legal proceedings before ordinary courts have been initiated prior to or during ADR proceedings in respect of an identical domain name, the administrative panel shall have the discretion to decide whether to suspend or terminate the administrative proceedings or to proceed to a decision.</p> <p>As already mentioned, in case the registrant initiates court proceedings after the panel decision has been reached, the registrar concerned shall not implement the decision if it, within the period of 10 business days following the receipt of the panel decision, receives any official documentation proving that the registrant has commenced a lawsuit against the complainant.<sup>38</sup></p>
Expenses	<p>The fees are to be paid by the complainant in total and are to be paid to the Dispute Resolution Body when the complaint is filed. A natural person pays a fee of approximately EUR 670 (RSD 80.000) in case the number of disputed domains does not exceed 2. A legal person pays a fee of approximately EUR 1500 (RSD 180.000) in case the number of disputed domains does not exceed 5, or if the number of disputed domains is between 6 and 10 – a fee of approximately EUR 1.800 (RSD 215.000) is to be paid.<sup>39</sup></p> <p>The complainant shall not be entitled to reimbursement of the fees regardless of the outcome of the dispute.</p> <p>Expenses relating to the conduct of an individual procedural activity shall be paid in advance by the party making the proposal.<sup>40</sup></p>

Since 2009, the panels established within the Serbian Domain Name Dispute Resolution Body (and previously within the Permanent Arbitration) resolved 28 disputes in total, while 1 proceeding is pending (as of 18<sup>th</sup> June 2018).<sup>41</sup> Although the statistics may seem modest, it should be taken into consideration that very frequently disputes are settled by

<sup>37</sup> RNIDS, General Terms and Conditions for National Domain Name Registrations, last amended on 19<sup>th</sup> May 2018, Article 22, <https://www.rnids.rs/>, 19 May 2018.

<sup>38</sup> The Rules 2011, Article 7, Paragraph 3, Article 26, Paragraph 3 and 31, Paragraph 2.

<sup>39</sup> Decision on Fees in the Proceedings for the Resolution of Disputes Relating to the Registration of .RS Internet Domain Names enacted by the Chamber of Commerce of the Republic of Serbia on 18<sup>th</sup> May 2011, <http://www.pks.rs/SADRZAJ/Files/Stalni%20izabrani%20sud/Komisija%20za%20domene/Odluka%20-%20registraciona%20taksa%20za%20domene.pdf>, 3 June 2018.

<sup>40</sup> The Rules 2011, Article 32.

<sup>41</sup> RNIDS, Decisions of the Serbian Domain Name Dispute Resolution Body, <https://www.rnids.rs/>, 18 June 2018.

the parties directly. Therefore, certain cases are never brought before the Dispute Resolution Body. Throughout the years, this alternative dispute resolution method has acquired certain recognition, so it is expected that the number of cases brought before the Serbian Domain Name Dispute Resolution Body continues to increase.

### 2.3. The upsides of the Serbian national domain name dispute resolution system

The implemented Serbian national domain name dispute resolution system has proven as effective and capable to cope with the demand of Internet businesses in Serbia. The upsides of this system are, as follows:

- Efficiency: The ADR before the Dispute Resolution Body is quick, less formal, the panellists are experts in trademark and domain name issues and the decisions of the panels are easily enforced.

The typical timeline for the panel to enact a decision is 60 days, from the day of its appointment, which is relatively short compared to the uncertain timelines with litigation (usually several months or even years).

Furthermore, decisions are automatically implemented by RNIDS, unless the court proceedings have been initiated within the period of 10 business days following the receipt of the panel decision. On the other hand the enforcement of court decisions could be problematic and time-consuming.

- Reasonable price: The ADR before the Dispute Resolution Body is relatively inexpensive. In most cases it costs less than court proceedings in Serbia (the costs of court proceedings in Serbia are not high in general as in other countries). Also it is less expensive than the UDRP proceedings (for example the UDRP cases administered by WIPO where cases involving 1-5 domain names and heard by a panel of 3 costs USD 4.000, while the Serbian ADR before a panel of 3 costs EUR 1.500).<sup>42</sup>
- Easy access: The ADR proceedings are easily initiated and are conducted in the Serbian language. The parties to the proceedings need not be represented by an attorney.
- Legal certainty: The Serbian national domain name dispute resolution system guarantees legal certainty. The decisions of the panels are enacted in accordance with the Rules 2011 and the relevant Serbian laws. Considering the standardised interpretation of the Rules 2011 and the Serbian law, the parties should be able in most cases to predict the final results of the proceedings accurately.

Apart from the mentioned upsides, there is still room for certain minor (mostly technical) improvements. For example, the possibility of reimbursement of the fees for

---

<sup>42</sup> WIPO, Schedule of Fees under the UDRP, <http://www.wipo.int/amc/en/domains/fees/index.html>, 10 June 2018.

complainant, who succeeded in dispute, should be reconsidered. Also, the possibility of submitting a claim in electronic form only should be reassessed, etc.

In conclusion, the Serbian national domain name dispute resolution system represents an effective way of dealing with the issue of domain name disputes, which has embraced all advantages of the UDRP model, adjusted them to needs of Internet businesses in Serbia and enabled the resolution of the domain name disputes before independent national Dispute Resolution Body.

### 3. OVERVIEW OF THE NATIONAL DOMAIN NAME DISPUTE RESOLUTION SYSTEMS OF THE TARGET COUNTRIES IN EASTERN EUROPE AND ASIA

Within this section the overview of the national domain name dispute resolution systems of the target Eastern European and Asian countries will be presented. Depending on a type of the national domain name dispute resolution they have chosen, the target countries may be divided into three groups. The first group of the target countries relies solely or predominantly on court proceedings before national courts as a means of resolution of the national domain name disputes (Subsection 3.1). The second one has opted for UDRP dispute resolution model before the approved UDRP dispute-resolution service providers (Subsection 3.2). And the third group of the target countries has introduced their own out-of-court national domain name dispute resolution systems (Subsection 3.3).

#### 3.1. The target countries which rely predominantly on court proceedings before national courts for resolution of the national domain name disputes

The target countries, that rely solely or predominantly on court proceedings as a means of resolution of disputes arising in relation to second-level domain name registrations in their TLDs, as well as the relevant data about their TLDs and their domain name dispute resolution systems are pointed out below.

Nevertheless, here it should be noted that the court proceedings before the national courts are usually alternative mode of the domain name dispute resolution in the target countries from the second and the third group which have opted for UDRP dispute resolution model or have implemented their own national domain name dispute resolution systems.

This first group of the target countries comprises the Russian Federation – for its ccTLDs, Ukraine – for its ccTLD .UA, Belarus, Georgia – for its IDN ccTLD .გე, Azerbaijan, Kazakhstan, Kyrgyzstan and Uzbekistan. The domain name dispute resolution system in the Russian Federation will be presented separately, considering the leading number of registrations in the Russian ccTLDs (Subsection 3.1.1), and dispute resolution systems in the other target countries will be analysed together taking into account their similarities (Subsection 3.1.2).

### 3.1.1. The Russian Federation - ccTLDs

Two ccTLDs have been assigned to the Russian Federation – .RU (Latin alphabet ccTLD) and .PΦ (Cyrillic alphabet IDN ccTLD). In addition, the ccTLD .SU is still active, even though the Soviet Union was dissolved in 1991. Apart from these ccTLDs, several new gTLDs are typically used in the Russian Federation (see below in the Subsection 3.2).<sup>43</sup>

The key data about the Russian Federation’s ccTLDs and domain name dispute resolution modes related to second-level domain name registration in those ccTLDs are presented in Table 3 below.

Table 3. – Key data regarding the Russian Federation’s ccTLDs	
ccTLD	ccTLD Manager
.RU	Coordination Center for TLD RU/PΦ <sup>44</sup> – non-for-profit organization, <a href="https://cctld.ru/en/">https://cctld.ru/en/</a>
.PΦ	
.SU	Russian Institute for Development of Public Networks (ROSNIROS), <a href="http://www.ripn.net/">http://www.ripn.net/</a> ; administrative contact: the Foundation for Internet Development, <sup>45</sup> <a href="http://www.fid.su/main">http://www.fid.su/main</a>
Domain name dispute resolution	
Main mode	<p><b>Court proceedings.</b></p> <p>Domain name cancellations or transfers - in the case of disputes - are usually achieved based on an established IP infringement or unfair competition court decision. In this regard, the forum will be either a commercial court (if the registrant is an entrepreneur or a legal entity) or a court of general jurisdiction (if the registrant is a natural person).<sup>46</sup></p> <p>If the court determines an IP infringement or violation of unfair competition</p>

<sup>43</sup> Furthermore second-level domains such as .COM.RU, .ORG.RU and NET.RU have been designated for special purposes and fields of use. Additionally, some geographical domains – including MSK.RU, SPB.RU and SOCHI.SU (covering the most developed and famous Russian regions) are available. Administration of those second-level domain names (e.g. PP.RU, NET.RU, ORG.RU, etc.) is handled by other administrators [https://cctld.ru/en/domains/domens\\_ru/reserved/](https://cctld.ru/en/domains/domens_ru/reserved/); [https://www.nic.ru/dns/reglaments/en/regl\\_15.html](https://www.nic.ru/dns/reglaments/en/regl_15.html), 19 June 2018.

<sup>44</sup> IANA, Delegation Record for .RU, <https://www.iana.org/domains/root/db/ru.html>, 19 June 2018; IANA, Delegation Record for .PΦ, <https://www.iana.org/domains/root/db/xn--p1ai.html>, 19 June 2018.

<sup>45</sup> IANA, Delegation Record for .SU, <https://www.iana.org/domains/root/db/su.html>, 19 June 2018.

<sup>46</sup> Sergey Medvedev, Ilya Goryachev, Domains & Domain Names 2018 (Chapter Russia), Lexology, 6 June 2018, <https://www.lexology.com/library/detail.aspx?g=bbceb017-edfa-4aae-96f2-e54de5db219e>, 19 June 2018. See additionally: Terms and Conditions of Domain Name Registration in .RU and .PΦ from 28 July 2018, Articles 2.9–2.10, [https://cctld.ru/files/pdf/docs/en/rules\\_ru-rf.pdf?v=5](https://cctld.ru/files/pdf/docs/en/rules_ru-rf.pdf?v=5), 19 June 2018; Guidelines “On the procedures applicable under domain name disputes” from 20 September 2012 (in Russian), <https://cctld.ru/files/pdf/docs/litigations.pdf>, 19 June 2018; Rules for Registration of Domain Names in .SU domain from 27 July 2011 (in Russian), Articles 9.1–9.4., [http://www.fid.su/files/SU\\_rules.pdf](http://www.fid.su/files/SU_rules.pdf), 19 June 2018.

	<p>rules, the domain name is subject to cancellation based on the court decision, and the complainant has priority to register the disputed domain name in its own name within 30 days for .RU and .PФ domains<sup>47</sup> or 60 days for .SU domains<sup>48</sup> from the moment the court decision has become effective.</p> <p>It is possible to file a motion (prior and in course of the court proceedings) asking the competent court to issue an injunction for blocking the potential transfer or cancellation of the disputed domain name until the court proceedings are pending (complainant needs to prove that non-grant of the injunction may harden or make it impossible to enforce the court decision or that they would suffer substantial damages).</p> <p>In certain cases prior to the commencement of the court proceedings or after, but prior to obtaining the court decision (e.g. on interim injunction), it is possible to request from the register of .RU and .PФ domains to temporary limit usage/transfer/cancellation of the disputable domain name (complainant usually needs to provide warranty for possible indemnification).<sup>49</sup></p>
Additional mode(s)	<p>Cease and desist letters, amicable (non-judicial) settlements, domain name transfer negotiations, etc. are frequently used.</p> <p>ADR, such as UDRP or UDRP-based, are not available for disputes related to domain name registration in the subject ccTLDs.<sup>50</sup></p>
Note	<p>The development of ADR mechanisms for resolving national domain name disputes in the Russian Federation has been reconsidered in the professional circles. However, the relatively low costs of the litigation before the Russian courts are seen as the main reason why the ADR mechanisms have never been developed.<sup>51</sup></p> <p>Even though the Russian Federation does not adhere to the UDRP, the national courts support and apply the three-factor UDRP test (see the Subsection 1.2) through the implementation of Article 10-bis of the Paris Convention for the Protection of Industrial Property. The latter makes the court proceedings more effective as a mechanism against cybersquatting.<sup>52</sup></p>

<sup>47</sup> Guidelines “On the procedures applicable under domain name disputes”, Article 6.3.

<sup>48</sup> Rules for Registration of Domain Names in .SU domain, Article 9.2.

<sup>49</sup> Guidelines “On the procedures applicable under domain name disputes”, Articles 2.1–5.6; for similar see also the Rules for Registration of Domain Names in .SU domain (in Russian), Article 9.1–9.2.

<sup>50</sup> Sergey Vasiliev, Sergey Medvedev, Russia: Resolving domain name disputes and doing business online in Russia, World Trademark Review, 1 March 2017, <http://www.worldtrademarkreview.com/Magazine/Issue/66/Country-Correspondents/Resolving-domain-name-disputes-and-doing-business-online-in-Russia>, 19 June 2018.

<sup>51</sup> Coordination Center for TLD RU/PФ, The prospects for developing alternative mechanisms to resolve domain name disputes in Russia are still unclear, 22 February 2018, [https://cctld.ru/en/news/news\\_detail.php?ID=11378](https://cctld.ru/en/news/news_detail.php?ID=11378), 19 June 2018; Coordination Center for TLD RU/PФ, Domain name disputes, [https://cctld.ru/en/domains/domens\\_ru/registration.php?sphrase\\_id=167527](https://cctld.ru/en/domains/domens_ru/registration.php?sphrase_id=167527), 7 March 2018, 19 June 2018;

<sup>52</sup> Sergey Medvedev, Resolving Domain Name and Website Disputes in Russia, Lexology, 21 May 2018, <https://www.lexology.com/library/detail.aspx?g=cdf1217d-b922-4628-83da-2b658ade1393>, 19 June 2018; Denis Khabarov, Alisa Fomina, On the right track: Russian courts clarify domain rules, Trademarks and Brands

### 3.1.2 The other target countries which rely predominantly on court proceedings before national courts for resolution of the national domain name disputes

The key data about the other target countries which rely solely or predominantly on court proceedings as a way of resolving disputes related to second-level domain name registrations in their TLDs are indicated in Table 4.

Table 4. – Key data regarding the domain name dispute resolution in the target countries from the first group

Ukraine	
ccTLD	ccTLD Manager
.UA	Hostmaster Ltd, <sup>53</sup> <a href="https://hostmaster.ua/">https://hostmaster.ua/</a>
Domain name dispute resolution	
Main mode	<p><b>Court proceedings</b> (usually trademark and unfair competition litigation).<sup>54</sup></p> <p>The currently effective Domain Name Registration Policy does not regulate the issue of domain name dispute resolution. Thus, the practice should try to establish an effective mechanism for domain name dispute resolution.<sup>55</sup> Strangely, the previous version of the Policy has regulated the subject issue in details and has even envisaged an arbitration procedure as a mechanism for the domain name dispute resolution. However, those provisions dealing with the domain name dispute resolution have been erased.<sup>56</sup></p> <p>Achieving protection for IP holders in the court proceedings in certain cases could be complicated especially when there is not a “typical” trademark infringement or a violation of the unfair competition rules, e.g. cases of cybersquatting.<sup>57</sup></p>
Additional mode(s)	Amicable (non-judicial) settlements, domain name transfer negotiations, mediation, etc.

Online, 1 May 2012, <https://www.trademarksandbrandsonline.com/article/on-the-right-track-russian-courts-clarify-domain-rules>, 19 June 2018.

<sup>53</sup> IANA, Delegation Record for .UA, <https://www.iana.org/domains/root/db/ua.html>, 19 June 2018.

<sup>54</sup> Olena A. Vardamatska, Prospects of Domain Name Dispute Resolution under the UDRP in Ukraine, *The Ukrainian Journal of Business Law* 01-02 January-February 2015, <http://www.ujbl.info/article.php?id=560>, 19 June 2018.

<sup>55</sup> The Domain Name Registration Policy, version 3.2 from 1<sup>st</sup> November 2013, <https://hostmaster.ua/policy/2ld.ua/>, 19 June 2018.

<sup>56</sup> The policy of the .UA domain, Section 9, <http://www.domenua.com.ua/uapolicy-eng.php>, 19 June 2018; Olga Stoliarchuk, Trademark Protection on the Internet: Domain Disputes in Ukraine, Schoenherr, <http://roadmap2015.schoenherr.eu/trademark-protection-internet-domain-disputes-ukraine/>, 19 June 2018.

<sup>57</sup> Vitalii Savchuk, Khrystyna Demchenko, Domain Dispute and Blast Furnace ("Domain" Furnace). Culture of Domain Disputes in Ukraine and Europe, Legal Alliance, 31 January 2017, <https://www.legalalliance.com.ua/eng/publications/domain-dispute-and-blast-furnace-domain-furnace-culture-of-domain-disputes-in-ukraine-and-europe/>, 19 June 2018.

Note	Representatives of the Hostmaster Ltd have already raised the questions concerning introduction of an ADR mechanism for domain name dispute resolution. However, that initiative remained at the level of statements. <sup>58</sup>
<b>Belarus</b>	
ccTLD	ccTLD Manager
.BY	Reliable Software, Ltd.; administrative contact: The Operative-analytical Center of the Republic of Belarus, <sup>59</sup> <a href="http://cctld.by/en/">http://cctld.by/en/</a>
.БЕЛ	
Domain name dispute resolution	
Main mode	<b>Court proceedings.</b> The rules regarding procedure for registering domains .BY и .БЕЛ do not directly deal with the domain name dispute resolution. <sup>60</sup>
Additional mode(s)	No available information.
<b>Georgia</b>	
ccTLD	ccTLD Manager
.გე	Information Technologies Development Center (ITDC), <sup>61</sup> <a href="http://www.xn--lodaehvb5cdik4g.xn--node/">http://www.xn--lodaehvb5cdik4g.xn--node/</a>
Domain name dispute resolution	
Main mode	<b>Court proceedings</b> – assumed, considering that all relevant documents are available just in Georgian Mkhedruli script and there is not any document on the official web-site of the register that indicates possible opting for the UDRP model or for the national domain name dispute resolution system.
Additional mode(s)	No available information.
<b>Azerbaijan</b>	
ccTLD	ccTLD Manager
.AZ	IntraNS, <sup>62</sup> <a href="http://www.nic.az/">http://www.nic.az/</a>
Domain name dispute resolution	
Main mode	<b>Court proceedings.</b> The Rules of Registration of Domain Names in .AZ Zone prescribes that all

<sup>58</sup> Yuriy Karlash, The Challenges Of Resolving Ukrainian Third-Level Domain Name Disputes, Petošević Ukraine, 28 February 2017, <https://www.petošević.com/resources/news/2017/03/3621>, 19 June 2018.

<sup>59</sup> IANA, Delegation Record for .BY, <https://www.iana.org/domains/root/db/by.html>, 19 June 2018; IANA, Delegation Record for .БЕЛ, <https://www.iana.org/domains/root/db/xn--90ais.html>, 19 June 2018;

<sup>60</sup> Instructions on the Order of Domain Name Registration in the Space of the Hierarchical Names of the National Segment of the Internet Network, last amendment on 28<sup>th</sup> November 2018, Chapters 4, 6–7, <http://cctld.by/en/documents/instruction-on-the-procedure-of-registration-of-domain-names-in-the-space-of-hierarchical-names-of-t/>, 19 June 2018.

<sup>61</sup> IANA, Delegation Record for .გე, <https://www.iana.org/domains/root/db/xn--node.html>, 19 June 2018.

<sup>62</sup> IANA, Delegation Record for .AZ, <https://www.iana.org/domains/root/db/az.html>, 19 June 2018.

	<p>issues in relation with the domain registration and administration are settled according to the legislation of the Azerbaijan Republic.</p> <p>The disputes arising between the parties should be resolved by negotiating, and if it is not possible, they could be brought before the courts of the Azerbaijan Republic for the protection of legal and legitimate interests.<sup>63</sup></p>
Additional mode(s)	Amicable (non-judicial) settlements, negotiations, etc.
<b>Kazakhstan</b>	
ccTLD	ccTLD Manager
.KZ	Association of IT Companies of Kazakhstan (KazNIC), <sup>64</sup> <a href="http://www.nic.kz/">http://www.nic.kz/</a>
.ҚА3	
Domain name dispute resolution	
Main mode	<p><b>Court proceedings.</b></p> <p>In the Dispute Resolution Policy it is explicitly stated that KazNIC neither acts as arbiter nor provides resolution of disputes between registrants and third party complainants arising out of the registration or use of a domain name.</p> <p>On the other hand, the Dispute Resolution Policy encompasses the detail rules on blocking usage of disputed name (in the wording of the Policy: “<i>placing a domain name on “Hold” status</i>”) prior initiating and during court proceeding related to second-level domain name registration in .KZ and .ҚА3 TLDs.<sup>65</sup></p>
Additional mode(s)	Arbitration, amicable (non-judicial) settlements, negotiations, etc.
<b>Kyrgyzstan</b>	
ccTLD	ccTLD Manager
.KG	AsiaInfo Telecommunication Enterprise, <sup>66</sup> <a href="https://www.cctld.kg/">https://www.cctld.kg/</a>
Domain name dispute resolution	
Main mode	<p><b>Court proceedings.</b></p> <p>Regulation for Registration of a .KG Domain Name stipulates that “<i>in case the domain name registrant infringes trademark, name rights, copyright, the law of the Kyrgyz Republic, etc. the administrator (AsiaInfo</i></p>

<sup>63</sup> The Rules of Registration of Domain Names in .AZ zone, Articles 8.1–8.2, [http://www.whois.az/rules\\_en.html](http://www.whois.az/rules_en.html), 19 June 2018. Also see Article 3.3. of the Rules which envisage that the applicant is recommended to check trademarks, firm names, other mental property objects, being of none-commercial and state authorities before submitting application in order to prevent possible infringement.

<sup>64</sup> IANA, Delegation Record for .KZ, <https://www.iana.org/domains/root/db/kz.html>, 19 June 2018; IANA, Delegation Record for .ҚА3, <https://www.iana.org/domains/root/db/xn--80ao21a.html>, 19 June 2018.

<sup>65</sup> Dispute Resolution Policy from 1 January 2000, <http://www.nic.kz/rules/policy.jsp>, 19 June 2018; Rules for Registration, Use and Allocation of Domain Space in the Kazakhstan Segment of the Internet from 13<sup>th</sup> March 2018, [https://www.nic.kz/rules/index.jsp#current\\_rule\\_en](https://www.nic.kz/rules/index.jsp#current_rule_en), 19 June 2018.

<sup>66</sup> IANA, Delegation Record for .KG, <https://www.iana.org/domains/root/db/kg.html>, 19 June 2018.

	<i>Telecommunication Enterprise) has the right to stop delegating the domain until the information has been specified or to cancel it in pursuance of the court decision or other circumstances.” It seems that the formulation “other circumstances” could be interpreted broadly.<sup>67</sup></i>
Additional mode(s)	No information.
Note	In 2011 with approximately one .KG ccTLD per thousand inhabitants, Kyrgyzstan ranks near the bottom of the world’s countries in terms of its per capita ccTLD name registrations. <sup>68</sup>
<b>Uzbekistan</b>	
ccTLD	ccTLD Manager
.UZ	Computerization and Information Technologies Developing Center UZINFOCOM, <sup>69</sup> <a href="https://cctld.uz/?lang=eng">https://cctld.uz/?lang=eng</a>
Domain name dispute resolution	
Main mode	<b>Court proceedings.</b> The Regulation on Procedure for Registering and Using .UZ Domain Names prescribes that interested parties whose rights have been infringed by the registration and/or use of .UZ domain names can initiate court proceedings in order to protect their rights. <sup>70</sup>
Additional mode(s)	Amicable (non-judicial) settlements, negotiations, etc.

### 3.2. The target countries which have opted for UDRP dispute resolution model

The UDRP disputed resolution model is applied in relation to disputes regarding the second-level domain name registration in several new gTLDs typically used in the Russian Federation and for ccTLDs of Moldova, Georgia (for ccTLD .GE), Tajikistan and Turkmenistan. The UDRP disputed resolution model is generally applied under same terms concerning these TLDs, with the certain variation as indicated in the Table 5.

<sup>67</sup> Regulation for Registration of a .KG Domain Name, Section 3, <https://www.cctld.kg/regulation.htm>, 19 June 2018.

<sup>68</sup> Neil Melvin, Tolkun Umaraliev, New Social Media and Conflict in Kyrgyzstan, SIPRI Insights on Peace and Security 1/2011, <https://www.sipri.org/sites/default/files/files/insight/SIPRIInsight1101.pdf>, 19 June 2018; It should be mentioned that the Internet Governance Forum of the UN and Civil Initiative on Internet Policy (CIIP) has expressed concerns regarding the applied mode of domain name dispute resolution in Kyrgyzstan– “Domain name disputes are resolved simply by determining who registered the name first with the Intellectual Property Office, regardless of other merits of the case” (this data should be considered with caution since the date of publishing of the source is unknown – probably the mid 2000’s). See, Kyrgyzstan, <http://intgovforum.org/BPP2.php?went=12>, 19 June 2016.

<sup>69</sup> IANA, Delegation Record for .UZ, <https://www.iana.org/domains/root/db/uz.html>, 19 June 2018.

<sup>70</sup> Regulation on Procedure for Registering and Using .UZ Domain Names, last amended on 5<sup>th</sup> February 2015 (in Russian), § 16, <https://cctld.uz/info/polru/>, 19 June 2018.

Table 5. – Key data regarding the domain name dispute resolution in the target countries from the second group

<b>The Russian Federation – new gTLDs<sup>71</sup></b>	
ccTLD	ccTLD Manager
.MOSCOW	Foundation for Assistance for Internet Technologies and Infrastructure Development <sup>72</sup> – non-for-profit organization, <a href="http://faitid.org/en/">http://faitid.org/en/</a>
.МОСКВА	
.ДЕТИ	The Foundation for Network Initiatives “The Smart Internet”, <sup>73</sup> <a href="http://en.dotdeti.ru/about/fond/">http://en.dotdeti.ru/about/fond/</a>
.РУС	Rusnames Limited – ООО «Русские Имена», <sup>74</sup> <a href="http://rusnames.ru/">http://rusnames.ru/</a>
.TATAR	LLC "The Coordination Center of Regional Domain of Tatarstan Republic", <sup>75</sup> <a href="http://domain.tatar/en/about/">http://domain.tatar/en/about/</a>
Domain name dispute resolution	
Main mode	ADR performed in accordance with the UDRP or the Uniform Rapid Suspension System (‘URS’) before one of the ICANN-approved dispute-resolution service providers. <sup>76</sup>
Additional mode(s)	Court proceedings.  The registry operators of gTLDs may put a ban on operations with a disputed domain name (e.g. on cancelation, transfer, etc.) on the basis of an application from a trademark owner or from any other party (for .ДЕТИ, .РУС and .TATAR domains only from trademark/service mark owner) which has applied to the judicial authorities for the protection of violated rights. The ban on operations with a domain name shall be set until the registry operator receives evidence that a court decision on this case came into force (including a court decision on injunctive relief), or the legal proceedings are discontinued; nevertheless, such ban may not be effective

<sup>71</sup> Also, Cyrillic TLDs such as .САЙТ, .ОНЛАЙН, .ОРГ are regularly used in the Russian Federation, but their administrators are located in other countries.

<sup>72</sup> IANA, Delegation Record for .MOSCOW, <https://www.iana.org/domains/root/db/moscow.html>, 19 June 2018; IANA, Delegation Record for .МОСКВА, <https://www.iana.org/domains/root/db/xn--80adxhks.html>, 19 June 2018.

<sup>73</sup> IANA, Delegation Record for .ДЕТИ, <https://www.iana.org/domains/root/db/xn--d1acj3b.html>, 19 June 2018.

<sup>74</sup> IANA, Delegation Record for .РУС, <https://www.iana.org/domains/root/db/xn--p1acf.html>, 19 June 2018.

<sup>75</sup> IANA, Delegation Record for .TATAR, <https://www.iana.org/domains/root/db/tatar.html>, 19 June 2018.

<sup>76</sup> .Москва (.xn--80adxhks) General Registration Policy from 5<sup>th</sup> January 2015, Section 10, [http://faitid.org/sites/default/files/General\\_Registration\\_Policy\\_MOCKBA\\_ENG\\_20180105.pdf](http://faitid.org/sites/default/files/General_Registration_Policy_MOCKBA_ENG_20180105.pdf), 19 June 2018; .Moscow General Registration Policy from 5<sup>th</sup> January 2015, Section 10, [http://faitid.org/sites/default/files/General\\_Registration\\_Policy\\_MOSCOW\\_ENG\\_20180105.pdf](http://faitid.org/sites/default/files/General_Registration_Policy_MOSCOW_ENG_20180105.pdf), 19 June 2018; See also .MOSCOW and .МОСКВА Domain Name Registration Policies, <http://faitid.org/en/projects/moscow/documents>, 19 June 2018; Extrajudicial dispute resolution policy for .ДЕТИ domains from 7<sup>th</sup> April 2014 (in Russian), <http://en.dotdeti.ru/foruser/docs/dispute-resolution-policy.php>, 19 June 2018; .TATAR Dispute Resolution Policy from 28<sup>th</sup> August 2014, <http://www.dottatar.ru/en/users/docs/DisputeResolutionPolicy.php>, 19 June 2018.

	<p>continuously for more than ninety (90) calendar days from the date the registry operator receives the above mentioned application.<sup>77</sup> For .ДЕТИ, .РУС and .TATAR domains it is also possible to request pre-judicial ban effective for 15 (fifteen) calendar days.<sup>78</sup></p> <p>ICANNs Trademark Post-Delegation Dispute Resolution Procedure (‘Trademark PDDRP’) is available in relation to .ДЕТИ, .РУС, .TATAR domains.</p> <p>Also, other types of ADR mechanisms are not excluded, e.g. amicable (non-judicial) settlements, negotiations, mediation etc.</p> <p>Finally, considering that these are newly introduced gTLDs, different dispute resolution policies apply for disputes regarding priority registrations conducted in course of introduction of these gTLDs.</p> <p>Terms and Conditions of Domain Name Registrations in .РУС gTLD do not explicitly prescribe application of the UDRP or the URS or Trademark PDDRP, but stipulate that registrant accepts all ICANN Policies by submitting application for .РУС domain name.<sup>79</sup></p>
Note	It should be noted that dispute resolution of second-level registration in gTLDs on global level is generally handled through the UDRP (and now also the URS) before one of the ICANN-approved dispute-resolution service providers.
<b>Moldova</b>	
ccTLD	ccTLD Manager
.MD	MoldData S.E, <sup>80</sup> <a href="https://nic.md/en/">https://nic.md/en/</a>
Domain name dispute resolution	
Main mode	ADR performed in accordance with the UDRP before one of the ICANN-approved dispute-resolution service providers.
Additional mode(s)	Court proceedings, arbitration or other ADRs. The domain name can be blocked for a period of time until proceedings are pending. <sup>81</sup>

<sup>77</sup> .Москва (.xn--80adxhks) General Registration Policy, Article 10.2; .Moscow General Registration Policy, Article 10.2.

<sup>78</sup> Terms and Conditions of Domain Name Registrations in .ДЕТИ gTLD from 7<sup>th</sup> April 2014, Section 7, <http://en.dotdeti.ru/foruser/docs/regrules.php>, 19 June 2018; Terms and Conditions of Domain Name Registrations in .РУС gTLD, Section 7, <http://rusnames.ru/en/rules.pl>, 19 June 2018; .TATAR Terms and Conditions of Domain Name Registrations from 28 August 2014, Section 7, <http://www.dottatar.ru/en/users/docs/RegistrationUseRules.php>, 19 June 2018.

<sup>79</sup> Terms and Conditions of Domain Name Registrations in .РУС gTLD, Article 3.1.

<sup>80</sup> IANA, Delegation Record for .MD, <https://www.iana.org/domains/root/db/md.html>, 19 June 2018.

<sup>81</sup> Terms and Conditions for the registration and administration of domain names under the Top Level Domain .MD, Section 14, [https://nic.md/img/terms\\_and\\_conditions\\_en.pdf](https://nic.md/img/terms_and_conditions_en.pdf), 19 June 2018. See also WIPO Domain Name Dispute Resolution Service for .MD, <http://www.wipo.int/amc/en/domains/cctld/md/index.html>, 19 June 2018.

<b>Georgia</b>	
ccTLD	ccTLD Manager
.GE	Caucasus Online LLC, <sup>82</sup> <a href="http://www.nic.net.ge/">http://www.nic.net.ge/</a>
Domain name dispute resolution	
Main mode	ADR proceedings performed in accordance with the modified UDRP before the WIPO Arbitration and Mediation Center (“the WIPO Center”). There are a few modifications of the UDRP. One is concerning the bad faith requirement (it is sufficient for the complainant to prove that either registration or use of the domain name is in bad faith, whereas the UDRP requires the complainant to prove both). <sup>83</sup>
Additional mode(s)	Court proceedings, arbitration or other ADRs.
Note	The presented ADR domain name dispute resolution system for second-level domain name registrations in .GE ccTLD became effective in April 2018.
<b>Tajikistan</b>	
ccTLD	ccTLD Manager
.TJ	Information Technology Center, <sup>84</sup> <a href="http://www.nic.tj/indexen.html">http://www.nic.tj/indexen.html</a>
Domain name dispute resolution	
Main mode	ADR performed in accordance with the UDRP before one of the ICANN-approved dispute-resolution service providers. <sup>85</sup>
Additional mode(s)	Court proceedings or other ADRs.
<b>Turkmenistan</b>	
ccTLD	ccTLD Manager
.TM	NIC.TM - .TM Domain Registry Ltd (based in the UK), <sup>86</sup> <a href="http://www.nic.tm/">http://www.nic.tm/</a>
Domain name dispute resolution	

<sup>82</sup> IANA, Delegation Record for .GE, <https://www.iana.org/domains/root/db/ge.html>, 19 June 2018.

<sup>83</sup> .GE Domain Name Dispute Resolution Policy from 16<sup>th</sup> April 2018, <https://registration.ge/Content/Docs/WIPOPOLICYENG.pdf>, 19 June 2018; Rules for .GE Domain Name Dispute Resolution Policy from 16<sup>th</sup> April 2018, [http://www.wipo.int/amc/en/domains/cctld/ge/index.html#accordion\\_collapse\\_03](http://www.wipo.int/amc/en/domains/cctld/ge/index.html#accordion_collapse_03), 19 June 2018; WIPO Supplemental Rules for .GE Domain Name Dispute Resolution Policy from 16<sup>th</sup> April 2018, <https://nic.ge/Content/Docs/WIPOSUPPLEMENTALENG.pdf>, 19 June 2018; .GE Domain Registration and Administration Rules from 15<sup>th</sup> March 2018, Section 11, <https://nic.ge/Content/Docs/RegulationENG.pdf>, 19 June 2018. See also WIPO Domain Name Dispute Resolution Service for .GE, [http://www.wipo.int/amc/en/domains/cctld/ge/index.html#accordion\\_collapse\\_03](http://www.wipo.int/amc/en/domains/cctld/ge/index.html#accordion_collapse_03), 19 June 2018.

<sup>84</sup> IANA, Delegation Record for .TJ, <https://www.iana.org/domains/root/db/tj.html>, 19 June 2018.

<sup>85</sup> .TJ Domain Registration Policy from 1 January 2004, Sections 7 and 9, <http://www.nic.tj/policy5.html>, 19 June 2018. See also WIPO Domain Name Dispute Resolution Service for .TJ, <http://www.wipo.int/amc/en/domains/cctld/tj/index.html>, 19 June 2018.

<sup>86</sup> IANA, Delegation Record for .TM, <https://www.iana.org/domains/root/db/tm.html>, 19 June 2018.

Main mode	ADR proceedings performed in accordance with the modified UDRP before the WIPO Center.  There are a few modifications of the UDRP. Same as with Georgia's modifications, one is concerning the bad faith requirement (it is sufficient for the complainant to prove that either registration or use of the domain name is in bad faith, whereas the UDRP requires the complainant to prove both). <sup>87</sup>
Additional mode(s)	Court proceedings or other ADRs.

### 3.3. The target countries which have introduced their own national domain name dispute resolution systems

Among the target countries Ukraine (for ccTLD .YKP) and Armenia have developed their own out-of-court domain name dispute resolution mechanisms for disputes related to second-level domain name registration in their ccTLDs. Outlines of those mechanisms are indicated in the following Table 6.

Table 6. – Key data regarding the domain name dispute resolution in the target countries from the third group

Ukraine	
ccTLD	ccTLD Manager
.YKP	Ukrainian Network Information Centre (UANIC) Inc., <sup>88</sup> <a href="http://uanic.net/?lang=RU">http://uanic.net/?lang=RU</a>
Domain name dispute resolution	
Main mode	Out-of-court domain name resolution before the Commission on Domain Dispute Resolution ('the Commission'). The Commission comprises from seven members (only four required for a quorum), which are appointed by the UANIC Coordination Council <sup>89</sup> (comprised of the representatives of business and state authorities in the sphere of intellectual property and information technologies).  Dispute Resolution Policy for .YKP Domains ('DRP .YKP') is UDRP-inspired. The complainant may seek from the Commission to order transfer or/and cancellation of the disputed domain name. To succeed in the

<sup>87</sup> Dispute Resolution Policy for Domain Names registered with NIC.TM, <http://www.nic.tm/dres.html>, 19 June 2018; Rules for Domain Name Dispute Resolution for .TM Names, <http://www.nic.tm/dresRules-print.html>, 19 June 2018; WIPO Arbitration and Mediation Center Supplemental Rules for Domain Name Dispute Resolution Policy for .TM Names, <http://www.nic.tm/dresSupRules-print.html>, 19 June 2018. See also WIPO Domain Name Dispute Resolution Service for .TM, <http://www.wipo.int/amc/en/domains/cctld/tm/index.html>, 19 June 2018.

<sup>88</sup> IANA, Delegation Record for .YKP, <https://www.iana.org/domains/root/db/xn--j1amh.html>, 19 June 2018.

<sup>89</sup> Положення про Комісію по досудовому вирішенню доменних спорів, last amended on 28<sup>th</sup> February 2014 (available in Ukrainian and Russian), <http://uanic.net/plozhennya-pro-komisiyu-z-dosudovogo-virishennya-domennix-sporiv/?lang=RU>, 19 June 2018.

	<p>proceedings a complainant needs to prove the abusive registration and use of a disputed internet domain name (the requirements are similar to the requirements from the UDRP). Decisions are rendered by panellist or panels (up to three panellists).</p> <p>Major difference in comparison to the UDRP model, is the fact that the decision the panellist(s) rendered under UDRP .YKP is not final. The decision along with other materials of the case is submitted to the Commission, which is the ultimate body with the authority to render a final binding decision. There is no right to appeal the Commission's decision, even if it is different from that of the panellist(s).<sup>90</sup></p>
Additional mode(s)	Court proceedings or other ADRs, e.g. negotiations. <sup>91</sup>
<b>Armenia</b>	
ccTLD	ccTLD Manager
.AM	"Internet Society" Non-governmental Organization, <sup>92</sup> <a href="https://www.amnic.net/">https://www.amnic.net/</a>
ՀԱՅ	
Domain name dispute resolution	
Main mode	<p><i>"Any dispute related to Policy of Domain Names Registration in .AM and ՀԱՅ Domain Zone.....must be finally resolved through arbitration, by the "Arbitration Centre of Settlement of Domain Name Disputes" foundation, in accordance with "Domain name disputes resolution arbitration rules" ('the Rules'). Registry, Registrars, Domain name holders and other entities related to this policy undertake the duty to subject to the Rules. The composition of the arbitration and the number of arbitrators shall be determined in accordance with the Rules. The location of the arbitration shall be Yerevan city, Republic of Armenia, the language of arbitration shall be Armenian. The resolution of the arbitration as set out in the Rules is final, mandatory and applicable to Registry, Registrars, Domain name holder and other entities related to this policy and if not done on a voluntary basis, may be handed over to any competent court for compulsory enforcement."</i><sup>93</sup></p> <p>(note: Domain name disputes resolution arbitration rules are not available in English)</p>
Additional mode(s)	No information.

<sup>90</sup> Andrii Zharikov, Dispute Resolution Procedure for .YKP Domain, *The Ukrainian Journal of Business Law* 2015, 24, [https://www.asterslaw.com/press\\_center/publications/dispute\\_resolution\\_procedure\\_for\\_ukr\\_domain](https://www.asterslaw.com/press_center/publications/dispute_resolution_procedure_for_ukr_domain), 19 June 2018; Порядок решения доменных споров, last amended on 28<sup>th</sup> February 2014 (available in Ukrainian and Russian), <http://uanic.net/poryadok-rozvyazannya-domennix-sporiv/?lang=RU>, 19 June 2018.

<sup>91</sup> Правила регистрации и пользования доменными именами в домене .YKP, last amended on 31<sup>st</sup> January 2014 (available in Ukrainian and Russian), Section 6, <http://uanic.net/pravila-registracii-i-polzovaniya-domennymi-imenami-v-domene-ukr/?lang=RU#6>, 19 June 2018.

<sup>92</sup> IANA, Delegation Record for .AM, <https://www.iana.org/domains/root/db/am.html>, 19 June 2018; IANA, Delegation Record for ՀԱՅ, <https://www.iana.org/domains/root/db/xn--y9a3aq.html>, 19 June 2018;

<sup>93</sup> Policy of Domain Names Registration in .AM and ՀԱՅ Domain Zones from 23 October 2017, Section 13, [https://www.amnic.net/policy/en/Policy\\_EN.pdf](https://www.amnic.net/policy/en/Policy_EN.pdf), 20 June 2018.

Note

Previously - dispute resolution proceedings were conducted under the UDRP before one of the ICANN-approved dispute-resolution service providers. Currently, Armenia is not listed on web-sites of dispute-resolution service providers as a country which accepts the UDRP.<sup>94</sup>

#### 4. CONCLUDING REMARKS: WOULD THE IMPLEMENTATION OF THE SERBIAN (OR SIMILAR) DISPUTE RESOLUTION SYSTEM BE BENEFICIAL IN THE TARGET COUNTRIES?

Serbia has developed its own out-of-court national domain name dispute resolution system for second-level domain name registration in its ccTLDs – .RS and .CPB. The introduced system represents an ADR closely inspired by the ICANN’s UDRP, but tailored to be able to cope with demands of Serbian Internet businesses, as well as to be compliant with the specificities of the national legal regime. The resolution of domain name disputes is governed by the Serbian Domain Name Dispute Resolution Body, established by RNIDS, which operates under the auspices of the Serbian Chamber of Commerce, but it is independent from both the Chamber and RNIDS. The decisions are rendered by panels (independent from the Dispute Resolution Body, RNIDS or the parties) comprising from three panellists selected among trademark law attorneys, professors of Intellectual Property Law or Internet Law experts. The panels may order transfer or termination of the disputed domain name registration. Proceedings last usually up to 60 days from the appointment of the panel and are relatively inexpensive. For parties who do not want to resolve their domain name dispute in these ADR proceedings or are not satisfied with the panel’s decision, there is always an option to initiate court proceedings. In general, the Serbian approach to domain name dispute resolution has shown as efficient, reasonably priced, easily accessible, and the one that guarantees legal certainty.

On the other hand, three different approaches to domain name dispute resolution can be seen among Eastern European and Asian target countries. The first group of the target countries relies solely or predominantly on court proceedings before national courts as a means of resolution of the national domain name disputes. This group encompasses the Russian Federation (for its ccTLDs), Ukraine (for its ccTLD .UA), Belarus, Georgia (for its IDN ccTLD .გე), Azerbaijan, Kazakhstan, Kyrgyzstan and Uzbekistan. The second group of the target countries has opted for the UDRP dispute resolution model before the approved UDRP dispute-resolution service providers. The latter group is comprised by the Russian Federation (for several new gTLDs), Moldova, Georgia (for ccTLD .GE), Tajikistan and Turkmenistan. The target countries from the third group (Ukraine (for ccTLD .YKP) and Armenia) have, similarly to Serbia, introduced their own out-of-court national domain name dispute resolution systems.

Prospects for the target countries to look up to the Serbian domain name dispute resolution model differ depending on circumstances in each analysed target country.

<sup>94</sup> WIPO, Dispute Policies and Procedural Rules for ccTLDs (for .AM domain), <http://www.wipo.int/amc/en/domains/rules/ccTLD/index.html#.AM>, 19 June 2018.

Nevertheless, it seems that prospects still can be indicated (generally) at the level of the above determined groups of the target countries.

Therefore, if we compare the approach of the target countries within the first group (which rely solely or predominantly on court proceedings before national courts as a means of resolution of the national domain name disputes) with the Serbian approach, several advantages of the latter may be pointed out. The Serbian domain name dispute resolution model, as an ADR mechanism, among others, is: 1) quick; 2) less formal; 3) the panellists are experts in trademark and domain name issues; 4) it is enough to prove the abusive registration and use of a disputed internet domain name (proving trademark infringement is not needed); 5) the decisions of the panels are easily enforced; 6) relatively inexpensive; 7) easily accessible; and 8) it guarantees legal certainty.

To the contrary, the court proceedings (in the target countries and in general) are: 1) usually time-consuming; 2) formal; 3) the judges are often not familiar with the Internet industry and its specific characteristics; 4) it could be difficult to prove the liability of registrants on the basis of trademark law, unfair competition rules, etc. (for example, this problem is overpassed in the Russian Federation with applying the three-step UDRP test by courts); 5) enforcement of court decisions may face certain obstacles (e.g. if transfer of a domain name occurs in the course of proceedings); 6) sometimes it is difficult to initiate court proceedings if the data of the registrant of the disputed domain name are unknown; and 7) typically are expensive<sup>95</sup>.

However, there are also certain downsides of the Serbian ADR system (and similar systems) as compared to the court resolution of disputes. Firstly, a complainant cannot reimburse its expenses related to ADR proceedings. Secondly, only transfer or cancellation of the domain name may be required by the complainant, meaning that the compensation of damages must be sought within the court proceedings. Thirdly, the panel's decision on the cancellation/transfer of the domain name does not have final legal force (a party is entitled to apply to the court). Still, it seems that these "downsides" do not diminish the significance of the Serbian ADR system, or any other similar ADR, and more importantly do not jeopardise the main objective of the subject legal remedy – to effectively stop the abusive registration and use of a disputed internet domain name on Internet within a short period of time and ensure legal certainty.

The target countries from the second group, which opted for the UDRP dispute resolution model before the approved UDRP dispute-resolution service providers, already have an effective domain name dispute resolution mechanism. Nevertheless, even though application of the UDRP proceedings has many upsides, it still implies entrusting the resolution of disputes related to national domain name registrations to foreign entities (the approved dispute-resolution service providers). Taking that into account, *inter alia*, reconsidering the Serbian approach (i.e. adopting a national UDRP-modeled domain name dispute resolution rules) still seems as a reasonable option. Herewith, it should be mentioned that the introduction of the national domain name dispute resolution system in relation to the analysed new gTLD applied typically in the Russian Federation would not be reasonable,

---

<sup>95</sup> In Serbia the costs of court proceedings are relatively low. Similar case is with the Russian Federation. Interestingly, the low costs of court proceedings are one of the main arguments against introduction of ADR for domain name disputes in the Russian Federation.

considering the global trend, which implies solving the disputes in relation to gTLD on the basis of the UDRP before the approved UDRP dispute-resolution service providers.

Concerning the third group of the target countries which have chosen the same path as Serbia and created their own out-of-court national domain name dispute resolution systems, the Serbian approach may be interesting to them (and vice versa) for the sake of comparison and determining possibilities for further improvements.

It should be noted that in respect of the target countries which have two or more ccTLDs and have adopted different dispute resolution methods in relation to some/each of them (or just have different ccTLD managers for theirs ccTLDs), the Serbian approach which implies having one independent dispute resolution body competent for domain name dispute resolution in relation to all ccTLDs, seems beneficial. Having one independent domain name dispute resolution body competent for domain name dispute resolution regarding all ccTLDs of one country should contribute to efficiency, as well as to legal certainty.

In conclusion, establishing Serbian alike out-of-court national domain name dispute resolution system for disputes relating to second-level domain name registrations in the ccTLDs has its advantages (indicated hereby) especially in comparison to court dispute resolution, as well as in comparison to adopting the UDPR directly.

\*\*\*

*This study is provided to RNIDS solely for the stated purpose.*

*The facts cited and relied upon in the course of performing this review have been obtained from sources indicated herein, the reliability, completeness or accuracy of which we neither guarantee nor represent. We do not accept any liability for the accuracy, completeness and correctness of the documents or information discussed in this study.*

*Some of the facts cited and relied upon may cease to exist, change or evolve in the course of time, as the scope of material facts may also be altered, all of which could cause the findings of a comparable review performed at any future point in time to be different than the findings of the present review.*

*Authors hold no responsibility as to the results of any action undertaken on the basis of this study.*

- END OF DOCUMENT-