

EUROPEAN PARLIAMENT

2004



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Committee on Petitions

10.11.2006

NOTICE TO MEMBERS

Petition 0089/2006 by Markus Boldt (German), concerning the registration of .eu domain names.

1. Summary of petition

The petitioner objects to the ‘sunrise’ period arrangements regarding the registration of .eu domain names, during which the principle of ‘first come, first served’ applies and only accredited registrars may apply to EURid. The client, the subsequent owner of the domain name, therefore has no direct influence on the timing and/or the order in which the applications are taken. The petitioner wishes to know whether this is legal, arguing that the date on which a trade name is registered would be a better criterion. He has also observed an atypical concentration of registration licences with the same owner, clearly in a bid to be first in line as frequently as possible to register a domain name. Furthermore, potential customers are being targeted by registrars. While such ‘pooling’ practices are officially frowned upon by EURid, it informed the petitioner in reply to his complaints that there was nothing it could do. The petitioner also refers to difficulties in filling in the form and to a number of technical and legal problems effectively excluding a number of registrars through no fault of their own. He takes the view that the European Union needs to ensure more satisfactory arrangements regarding the introduction of European .eu domain designations.

2. Admissibility

Declared admissible on 31 May 2006. Information requested from the Commission under Rule 192(4).

3. Commission reply, received on 10 November 2006.

As relates to the "**first come, first served**" principle whose appropriateness is contested by the petitioner, the European Commission adopted this approach for the .eu TLD in Article 2 of Regulation 874/2004¹ upon the recommendation from the European Parliament and the Council,

¹ Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration. Official Journal L 162 , 30/04/2004 P. 0040 - 0050

as referred to in recital 20 of Regulation (EC) No 733/2002¹. Apart from the uncontested legality of this principle, it should be underlined that it constitutes the basic rule for the registration of domain names within all Top Level Domains and is a common feature for the registration of trade marks and other prior rights.

As concerns the **registry/registrar model**, it also constitutes a common approach adopted by most Top Level Domain managers. This approach which is contained in Article 3(4) of Regulation 733/2002 of the European Parliament and the Council was already announced in section 2.2 of the *Communication from the Commission to the European Parliament and the Council of 05.07.2000*², and was not contested by any party during the consultations³ and discussions that lead to the adoption of the .eu Regulations. The main advantage of this model is that by avoiding any commercial relation between registrants and the Registry, the independence of the latter as relates to the allocation of domain names is guaranteed.

Furthermore, it is not correct that the registry/registrar model results in that **applicants do not have any influence in the timing/order** in which the applications are registered. According to the system or registration created for the .eu all applications are processed by the Registry in real time. Furthermore, registrars are obliged to forward applications "*to the Registry in the chronological order in which they were received*" (Article 5 of Regulation 874/2004). This rule applies even for applications filed during the phased registration period.

As concerns the **proposed criterion for the registration of domain names**, i.e. the date on which a trade name is registered, this criterion would not be valid for domain names based on prior rights other than trade names. Even if this criterion were extended to cover applications based on other registered prior rights (national and community trade marks and geographical indications), it would not be suitable to deal with applications based on non-registered domain names or for the domain names registered after the termination of the phased registration (which account for 95,5% of the total number of registered domain names).

As concerns the "*atypical concentration of registration licences with the same owner*" mentioned by the petitioner, it is to be mentioned that, as indicated in the answers from the Commission to the written questions n° P-1776/06 and P-1925/06 by, respectively, Norbert Glante (PSE) and Gay Mitchell (PPE-DE), the legal framework established for the .eu TLD does not allow the Commission to impose any quotas as to the number of domain names that a registrant can register. The Commission has however requested the Registry to review again whether all registrars fulfil all the criteria and to take the necessary measures (i.e. terminate the agreements) in the contrary. This has been the case with the 400 registrars whose contracts were cancelled by the Registry on 24 July 2006 for alleged practices of warehousing. The measures being taken by the Registry send a clear signal that any abuse within the .eu TLD will be

¹ Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain. Official Journal L 113 , 30/04/2002 P. 0001 - 0005

² COM (2000) 421 final

³ Consultations held in the run up to .eu included public consultations initiated by the Commission in February 2000 on the basis of a Commission Working Paper to which the entities listed on the following website responded <http://europa.eu.int/ISPO/eif/InternetPoliciesSite/DotEU/responses.html>. In addition the EC Panel of Participants in Internet Management and Organisation (EC-POP) grouping representatives of the European Internet industry interests set up an Interim Steering Group (ISG) to report on options for the Dot EU Registry. (While the original www.ec-pop.org page does not exist anymore, a description of the ISG can be found on <http://europa.eu.int/ISPO/eif/InternetPoliciesSite/EC-POP/Report19-Oct-2000.html>).

remedied without hesitation. Further information on this can be found in the web site of the Registry (<http://www.eurid.eu/en/general/news/eurid-suspends-74-000-eu-domain-names-due-to-breach-of-contract>)

Finally, as regards the **difficulties in filing the form and other technical and legal problems** with registrars, it is difficult to assess the extent of this alleged problem without any further details. At any rate, pursuant to Article 12 of Regulation 874/2004, the Registry has to carry out an audit of its activities during the phased registration period. The Commission looks forward to receiving the conclusions from the auditor as concerns any potential technical or legal problems with registrars.