
LEGAL INFORMATION NEWSLETTER

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We are pleased to provide you with the new issue of our legal information newsletter.

Topical legal questions are discussed and those related to issues that you might encounter.

We hope that you will find it of interest. We would welcome any comment you might have.

EURid – IMPLEMENTATION AND FUNCTIONS OF THE .EU TOP LEVEL DOMAIN AND THE PRINCIPLES GOVERNING REGISTRATION

EU Regulation No 733/2002 of the European Parliament & of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain

EC Commission No 2002/C 208/08 - Call for Expression of interest for the Selection of the .EU Top Level Domain Registry

EC Commission Decision No 2003/375/EC of 21 May 2003 on the designation of the .eu Top Level Domain Registry

EC Commission Regulation No 874/2004 laying down Public Policy Rules concerning the implementation and functions of the .eu Top Level Domain and the Principles governing registration

INTRODUCTION

As of December 7 2005 public bodies, companies and later individuals from the different Member States of the European Union will be able to register their own domain name with .eu extension.

That is the result of a decision by the Board of .eu registry EURid.

All parties concerned should turn to an accredited registrar in order to apply for their own domain.

In order to ensure a fair and correct treatment of all applications, EURid and the European Commission have implemented a procedure for phased registration, also known as "Sunrise".

During the Sunrise period, domain names will be available only to the holders of prior rights, who will be asked to back up their claim with documentary evidence.

EURid LEGAL STRUCTURE

EURid is a European non-profit organization with headquarters in Bruxelles that was incorporated under Belgian law on 8 April 2003.

The organization was founded by the national registries of Belgium, Italy and Sweden, with the support of the registries of Czech republic and Slovenia.

EURid has been selected by the European Commission to operate the new .eu top level domain.

The three Founder members, along with Associate members representing several sectors of the European Internet Community, will constitute the General Assembly.

.EU TOP LEVEL DOMAIN REGISTRATION: THE REQUIREMENTS AND LENGTH OF REGISTRATION

The following entities are allowed to register a .eu domain name:

- Undertakings having their registered office, central administration or principal place of business within the European Community
- Organisations established within the European Community without prejudice to the application of national law
- Individuals/natural persons resident within the European Community.

The .eu domain names are registered for a period of time of one year.

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On the expiration of the one year term, the domain name will be renewed, unless EURid has been otherwise advised by the local registrar.

Registrations will be made on a “first come first served” basis.

Nevertheless, as herein below discussed, at the launch of .eu TLD, there will be a sunrise period of four months during which only public bodies and those with recognised right to a name, like trademark right holders, are entitled to register.

THE APPLICATION PROCESS

As it happens with other TLDs, a domain name must be unique in order to be registered.

Domain names have to meet with the following technical requirements:

- Minimum 2 characters among the letters A to Z, the numbers 0 to 9 and the hyphen symbol
- Maximum 63 characters
- Must not begin or end with a Hyphen
- Must not contain a Hyphen on the 3rd and 4th position

In accordance with EU Regulation 733/2002 and EC Regulation 874/2004, certain names, yet to be officially published, are blocked from ever being registered and the institutions of the EU or the governments of Member States, EEA Countries and candidate Countries reserve some others for their own use.

The applicant shall contact an accredited .eu registrar (agent), that is an Internet Service Provider or other organisation or individual, having an agreement with EURid and capable to register .eu domain names on behalf of clients using the automated systems.

Direct registrations with EURid are not allowed. The list of accredited registrars are published on the EURid web site.

Upon registration of a .eu domain name, the applicant must be aware and accept the general terms and conditions for end users.

These terms and conditions include an undertaking to submit to Alternative Dispute Resolution if another party with a recognised right to the domain name claims that the

registration was made on a speculative or abusive basis.

Formal signature of explicit acceptance during the on line registration process are required to the above extent.

Failure to comply could result in loss of the domain name.

The applicant must fill in an electronic form, providing the registrar with the following details:

- Trading name (where appropriate)
- Contact person particulars (name, phone number, address and e-mail address)

The overall registration process is completely automatic, by an online transaction.

Only when the EURid name server has been updated the domain name will become active.

This occurs five times a day, provided that the local registrar has made the necessary update as well.

The domain name holder can only be subsequently modified by using the Trade-domain transaction, which requires a fee equivalent to a new registration and the explicit consent of both parties.

WHOIS

When registered, a domain name is stored in the WHOIS database.

Some of the registration details become available in the public WHOIS look-up facility to enable interested parties to know who is behind a registered domain name or its associated web site.

Anyone who accesses information using the WHOIS database will be subject to a disclaimer, which provides that the information cannot be used for commercial purposes.

SUNRISE PERIOD

Prior to commencing .eu registration on a first-come-first-served basis and in accordance with EU Regulation 733/2002 and EC Regulation 874/2004, there will be a sunrise period (phased registration) to allow public bodies and holders of prior rights to apply for the corresponding .eu domain name.

The need to hold phased registration is to allow organisations and companies to protect their

domain names against abusive registration by cyber squatters.

According to the following phased registration period, domain names will be made available only to holders of prior rights, who will be asked to back up their claims with documentary evidence:

- In phase 1, starting Wednesday December 7 until Monday February 6, 2006, only
 - public bodies and holders of registered trademarks can apply for registration
- In phase 2, February 7 until April 6, 2006, claims may also come from holders of other prior rights. In this phase company names and artistic names may claim registration of a corresponding .eu domain
- In phase, starting from April 7, 2006, registration is open to all, and claims to a .eu domain name no longer require back up by a legal right.

Applicants, during the sunrise period must comply with the above mentioned geographical requirements applicable to all .eu domain name holders, as EU Regulation No. 733/2002 provides for.

As above said, the Sunrise period consists of two phases each lasting two months.

Right after the Sunrise period is over, registrations will be taken on a first-come-first-served basis.

During phase 1 only domains that correspond to:

- The full name of a public body
- The acronym by which a public body is commonly known
- The territory that is governed by a public body
- Registered national and EU community trademarks

may be applied for by the public body or the holder/licensee of the trademark.

During phase 2 domain names that correspond to:

- Those names listed in phase 1
- Other rights that are protected under national law of the Member State, like company names, business identifiers, distinctive titles of protected library, as well as artistic works, unregistered trademarks and trade names

may be applied for name domain registrations.

Applicants will be requested to provide the legal basis that founds the right under either community or national law and to provide documentary evidence about it.

Those who qualify to register during the Sunrise period will be required to apply through an accredited .eu registrar.

Besides the usual information required to register a .eu domain name, sunrise applications shall report the right claimed to the domain name and include evidence of it.

Whenever the registry receives more than one valid application for the same name, applications will be assessed on a first-come-first-served basis, as the EC public policy rules require.

First-come-first-served basis will be determined by the time/date at which the application is received into the EURid database during the Sunrise period.

When additional documentation is required to prove the right and access, an EURid form must be completed and returned within 40 days.

EURid Validation Agents shall review the applications to authenticate the proof and inform about the outcome of the application itself.

Until an application for a domain name is accepted or rejected, the domain name will be blocked from being registered by any other party.

All Sunrise applicants must accept the special sunrise terms and conditions.

If the documentation proves the right claimed, the application will be approved.

It will become usable only after a 40-days period to allow for any errors or appeal.

If the first applicant for a name fails to provide required documentation within the 40-days period, then the application will be rejected and

the Validation Agent will assess the documentation from the applicant whose application for the name was received second and so on until a valid application is found and the name is registered.

If none of the applicants delivers adequate proof of their right to the name, the name will be unblocked and available for general registration on a first-come-first-served basis.

CLAIMS AGAINST DOMAIN NAME REGISTRATIONS

Any applicant claiming that her application was improperly or incorrectly assessed, may challenge the decision using an Alternative Dispute Resolution service, which is available for those who claims that the registry acted in contradiction with the Public Policy Rules.

It has to be mentioned that even when a decision by the registry to allocate a name has been successfully challenged, the registration may be revoked, but the name is not allocated to the complainant.

If there are further sunrise applicants in the queue for that name, their applications will be assessed next.

If there is no other applicant, then that name will become available for registration on a first-come-first-served basis, when general registration begins.

Any party may initiate an ADR procedure against the party to whom a .eu domain name is registered, if the claim is against speculative and abusive registrations, as Article 21 of the Public Policy Rules sets forth.

If the ADR procedure is successful, the name can be transferred to the complainant provided that his application meets the requirements for registration. The Czech Arbitration Court will have jurisdiction over the Alternative Dispute resolutions for .eu domain name disputes.

The Court will entertain dispute in the 20 official languages of the European Union.

RESERVED AND BLOCKED NAMES

The following are names which are blocked and cannot be registered:

- Geographical & Geopolitical concepts under the terms of EU regulation 733/2002, as listed in a special List

published by the European Commission, on indication of the Member States

- Under EC Regulation 874/2004, the Public Policy Rules for .eu, it is stated that Alpha-2 codes representing Countries shall not be used to register domain names directly under the .eu TLD. The two-letter codes for Countries are defined by the International Organization for Standardization through the Maintenance Agency of the ISO 3166 country codes. Those codes which appear in the ISO 3166/1 list and the ISO 3166 reserve list are blocked and may not be registered as .eu domain names.

Other names are reserved for registration only by the European Commission or the government of a Member State.

They are the following:

- Under EC Regulation 874/2004, the Public Policy Rules for .eu Member States and acceding Countries can request that their official name and the name under which they are commonly known in one or more of the official languages of the EU are prevented from direct registration under the .eu TLD by any person other than their national government
- Candidate Countries that are not due to join the European Union in May 2004 and Member Countries of the European Economic Area may request that their official name and the name under which they are commonly known in their own language and in any of the official languages of the EU cannot be registered directly under the .eu TLD
- Pursuant to EC Regulation 874/2004, the European Commission may notify the registry a list of names to be reserved by the Commission for use by the Community Institutions and the bodies that will represent those Institutions and bodies in registering those names.

Finally, the following are names reserved for the operational function of the .eu registry:

- eurid.eu, registry.eu, nic.eu, dns.eu, internic.eu, whois.eu, das.eu.