

**RULES OF PROCEDURE
FOR THE RESOLUTION OF DISPUTES RELATING TO THE REGISTRATION
OF NATIONAL INTERNET DOMAIN NAMES**

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I BASIC PROVISIONS

Subject of the Rules of Procedure

Article 1

These Rules of Procedure set in order the procedure for the resolution of disputes relating to the registration of national Internet domains before the specialised standing committee established under the auspices of the Serbian Chamber of Commerce (hereinafter: the Chamber).

In the sense of these Rules of Procedure, .rs and .cpб domains shall be considered national Internet domain names.

Committee for the resolution of disputes relating to the registration of national internet domain names

Article 2

The Committee for the resolution of disputes relating to the registration of national internet domain names (hereinafter: the Committee) shall be a body which takes decisions independently and autonomously, pursuant to the law and other regulations.

The governing law shall be that of the Republic of Serbia.

The Committee shall be based at 10 Knez Mihajlova street , Belgrade.

The Committee shall have its own rubber stamp.

Organisation of the Committee

Article 3

The Committee shall discharge its duties through the Presidency, arbitration councils and the Secretariat of the Permanent Arbitration at the Chamber of Commerce and Industry of Serbia (hereinafter: Secretariat).

The Presidency of the Committee shall be comprised of the President, Vice-President and Committee Secretary. The Presidency shall provide supervision over the implementation of these Rules of Procedure, monitor and review dispute resolution practices and conduct other business delegated to it by these Rules of Procedure.

The President and Vice-President of the Committee shall be appointed and dismissed by the Managing Board of the Serbian Chamber of Commerce from the List of Arbiters for a period of four years, whereby re-election shall be possible.

The Committee Secretary shall be appointed by the President of the Serbian Chamber of Commerce from among the employees of the Chamber.

The Secretariat shall conduct professional and administrative tasks.

Arbiters

Article 4

The Committee for the resolution of disputes shall maintain a List of Arbiters to be established by the Managing Board of the Chamber at the proposal of the Serbian National Internet Domain Registry (hereinafter: the Registry), subsequent to a publicly-conducted call for candidates.

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, to the Internet domain name system and to regulations relating to the protection of intellectual property and resolution of disputes relating to Internet domains, may be an arbiter.

The List of Arbiters shall be determined every four years, whereby arbiters on the List of Arbiters may be reappointed.

The List of Arbiters, with information on their professional qualifications, shall be publicly available on the websites of the Chamber and the Registry.

II DISPUTE RESOLUTION PROCEDURE

Parties to the procedure

Article 5

Parties to the procedure shall be 1) the registrant and 2) the plaintiff.

A registrant is a person who, in accordance with the provisions of the General Terms and Conditions for the registration of national Internet domain names, registers and uses a national domain name within the rsTLD registry. A registrant may be a domestic or foreign individual or legal entity.

A plaintiff is an individual or legal entity who disputes the right of the registrant to use a registered national internet domain name.

Representation in the procedure

Article 6

A party to the procedure may authorise a proxy under power of attorney who will act for and on behalf of that party during the procedure.

The authorised proxy may be any person having legal capacity, citizenship of the Republic of Serbia and residency in Serbia.

Agreement on the jurisdiction of the Committee for the resolution of disputes

Article 7

The registrant shall, in the act of registering a national Internet domain name within the rsTLD registry and accepting the General Terms and Conditions for the registration of national Internet domain names, accept the jurisdiction of the Committee for the Resolution of Disputes Relating to the Registration of National Internet Domain Names.

The plaintiff shall, in initiating proceedings before the Committee, accept the authority of the Committee for the Resolution of Disputes Relating to the Registration of National Internet Domains.

In accepting the authority of the Committee, the parties to the procedure do not relinquish rights to recourse to the courts in the matter at hand.

Arbitration council

Article 8

Disputes relating to the registration of national Internet domain names shall be addressed by an arbitration council comprising three members.

The arbitration council shall consider and determine whether in registering and using a national Internet domain name, the registrant has violated intellectual property rights or some other subjective right of the plaintiff, in accordance with the provisions of these Rules

of Procedure.

Constitution of an arbitration council

Article 9

The first member of the arbitration council shall be named by the plaintiff, who shall supply a list with the names of three arbiters from the List of Arbiters when submitting his or her petition. The Committee Secretary shall assign the plaintiff the first available arbiter from the list supplied.

The second member of the arbitration council shall be named by the registrant, who in his or her response to the petition shall supply a list with the names of three arbiters from the List of Arbiters. The Committee Secretary shall assign the registrant the first available arbiter from the list supplied.

In the event that the plaintiff and/or the registrant should not propose arbiters or if, for any reason, the proposed arbiters are not able to take part in the arbitration proceedings, the Committee Presidency shall name an arbiter for each party to the dispute from the List of Arbiters.

Notification of the appointment of the arbiters shall be given by the Secretariat by electronic means.

The named arbiters shall select a third arbiter from the List of Arbiters as president of the council within seven days of receipt of notification of their appointment. Should they fail to make a selection within this time period, the President of the council shall be appointed by the Committee Presidency.

Once all three members of the arbitration council have been appointed, the Secretariat shall notify the parties to the proceedings of the composition of the arbitration council.

If the parties submit no objections to the composition of the arbitration council within three days of the day of receipt of the notification, the arbitration council shall be considered constituted. Objections to the composition of the arbitration council shall be submitted by electronic means to the Secretariat.

If one party or both parties object to the composition of the arbitration council, the Presidency of the Committee shall take the final decision on the composition of the arbitration council.

Prohibitions for arbiters

Article 10

Arbiters may not give written or verbal opinions or advice, nor serve as proxies in a dispute before the Committee.

Employees of the parties to the proceedings, members of their official bodies and permanent or occasional associates may not be appointed as arbiters in disputes in which these parties are involved.

Independence and impartiality of the arbiters

Article 11

A person who has been nominated as an arbiter must state, within three days of the date of receipt of notification, by electronic means, whether he or she accepts this duty, and must disclose any circumstance which might call into question his or her impartiality or independence.

If, at any point during the procedure, circumstances arise which might call into question the impartiality or independence of an arbiter, the arbiter must immediately inform the Committee Presidency of this by electronic means. The Presidency shall make a decision

regarding the dismissal and replacement of such an arbiter within three days.

Withdrawal and dismissal of arbiters

Article 12

If an arbiter is unable for legal or objective reasons to conduct his or her duties, he shall inform the Committee Presidency of this by electronic means, and the Presidency shall take a decision concerning the cessation of the arbiter's duties.

Should the arbiter fail to carry out his or her duties within an appropriate time frame, the Committee Presidency shall take a decision concerning the dismissal of the arbiter and his or her replacement.

Each party may seek the dismissal of an arbiter from the Committee Presidency if he or she is unable for legal or objective reasons to conduct his or her duties, or for other reasons is failing to conduct his or her duties within an appropriate time frame.

Exclusion of an arbiter

Article 13

The parties may request the exclusion of an arbiter.

An exclusion request shall be submitted to the Committee Presidency by electronic means within three days of learning of the grounds for exclusion. An exclusion request may be submitted up to the moment when a decision is made.

The Presidency shall take a decision concerning the exclusion request upon receipt of written clarification from the arbiter whose exclusion is being requested. Justification need not be supplied for a decision on exclusion.

Replacement of arbiters

Article 14

If during his or her term of service an arbiter is prevented from conducting his or her duties, the Committee Presidency shall appoint another arbiter within three days of learning of the incapacity of the arbiter.

Duties and powers of the arbitration council

Article 15

The members of the arbitration council shall conduct their duties in a conscientious and ethical manner.

The arbitration council must provide each party with the opportunity to set forth its opinions and evidence and to state its position on the activities, evidence and proposals of the other party.

The arbitration council shall have freedom of conviction in evaluating the weight of evidence set forth.

Submission of a petition

Article 16

The dispute resolution procedure shall begin with the submission of a petition.

Before the submission of a petition, the plaintiff may file a request with the Registry to receive contact data for the disputed national Internet domain name in the manner described in the General Terms and Conditions for the registration of national Internet

domain names.

The petition must include:

- 1) the name and surname or business name of the plaintiff and the registrant;
- 2) the place of residence or registered office and email address of the plaintiff and registrant;
- 3) power-of-attorney for his or her proxy and the latter's email address, where the plaintiff has decided to appoint one;
- 4) the name of one or more national Internet domains that are the subject of the dispute;
- 5) a petition for the transfer of the registration of a national Internet domain name from the registrant to the plaintiff, or for the termination of the registration of a national Internet domain name;
- 6) relevant evidence.

Accompanying the petition, the plaintiff shall also supply a list with the names of three arbiters from the List of Arbiters, from which the Committee Secretary shall assign to the plaintiff the first available from the list, as well as proof of payment of registration fees.

The petition shall be submitted to the Committee in electronic form and in the form of a single printed copy.

The date of submission of the petition shall be the day on which the Committee receives a properly submitted petition in printed form.

The procedure may not be initiated in the event that the disputed national Internet domain name is already the subject of dispute resolution proceedings.

Response to petition

Article 17

The Secretariat shall notify the Registry of the initiation of the procedure without delay and the latter shall flag the disputed national Internet domain names such as to prevent their transfer and changes to their registration data until the completion of the procedure in accordance with Article 31.

The Secretariat shall deliver the petition in electronic form with attachments to the registrant for his or her response, indicating the manner in which the response should be submitted.

The time period allowed for the submission of a response shall be within 15 days of the date of delivery of the petition to the registrant.

Accompanying his or her response to the petition, the registrant shall supply power-of-attorney for his or her proxy where the registrant has decided to appoint one, and a list with the names of three arbiters from the List of Arbiters from which the Committee Secretary shall assign to the plaintiff the first available from the list supplied.

The Secretariat shall deliver the response to the petition to the members of the arbitration council and the plaintiff in electronic form.

Delivery

Article 18

Delivery of summons and other written notifications in the proceedings shall be carried out by electronic means. A printed copy of a sent email, from which it can be seen that the message has been printed from the list of sent messages, shall be considered proof of delivery.

Where the parties to the procedure have appointed authorised proxies, all summons and written notifications shall be sent to the email address of the proxy.

Oral hearing

Article 19

An oral hearing shall be scheduled where the arbitration council has decided that conditions for this have been met and that it is appropriate.

The Secretariat shall notify the parties to the procedure of the date on which and the place where the oral hearing will be held.

Should the arbitration council determine that the written filings and evidence are sufficient for a decision to be made, it may propose to the parties to the procedure that the decision be taken without an oral hearing being held. The deadline for the parties to state their position regarding the proposal is five days from the date of receipt of the proposal.

The parties to the procedure may mutually agree to submit a proposal to the arbitration council that the decision be taken without an oral hearing being held.

Should one of the parties reject the proposal for a decision to be taken without an oral hearing, the arbitration council shall decide whether an oral hearing is to be held.

Holding an oral hearing

Article 20

Oral hearings shall, as a rule, be held at the registered office of the Committee.

The arbitration council may decide that the oral hearing is to be held at some other location, on the justified request of one of the parties to the procedure

An oral hearing shall not be public, unless the parties to the dispute agree otherwise.

The parties to the procedure shall attend the oral hearing in person or via their authorised proxy.

If one or both parties, despite a valid summons, fails to attend the oral hearing, the arbiters, upon establishing that the parties were properly summoned and have no valid grounds for their absence, may commence the dispute hearing as though the parties were present.

The parties to the dispute shall not be heard outside of the oral hearing (e.g. via teleconferencing, videoconferencing, web conference etc.) unless the arbitration council should deem it necessary in order for a decision to be taken.

Minutes

Article 20a

The President of the arbitration council shall chair the debate, question the parties, call evidence and give the floor to the parties and their legal representatives and proxies.

Minutes shall be kept at the hearing, where the council President shall give verbal instructions to the minute taker as to what should be entered into the minutes.

At the proposal and with the agreement of the parties, an audio recording of an oral hearing may be made, in which case minutes need not be kept pursuant to paragraph 2 of this Article. The audio recording comprising the entire course of the oral hearing shall be supplied to the parties and arbiters.

The proposal from the preceding paragraph shall be submitted to the Secretariat at least 15 days before the date of the scheduled oral hearing.

Where an audio recording of the oral hearing has been made, the President of the arbitration council shall, within 15 days of the oral hearing, compose a summary report in which basic information is given on the oral hearing, its subject and its conclusions. This report shall be signed by the President of the arbitration council. The signed report shall be supplied to the parties or their representatives and proxies and the arbiters, and one copy shall be retained for the case file.

Language

Article 21

The dispute resolution procedure shall be conducted in the Serbian language. The governing language shall be applicable to all written statements by the parties, the oral hearing and decisions and other enactments of the arbitration Council.

Decision-making criteria for termination or transfer of registration of a national Internet domain name

Article 22

The arbitration council may take a decision on the termination or transfer of the registration of a disputed domain name from the registrant to the plaintiff if it is proven that the following conditions have been met:

- 1) that the national domain name is identical to the plaintiff's trademark or is similar to it to the extent that it might create confusion and deceive participants in the market;
- 2) that the registrant has no right to use or legitimate interest in using the disputed national Internet domain name;
- 3) that the registrant has registered the national Internet domain name and used it in bad faith and contrary to good business practice.

Use of a national Internet domain name contrary to good business practice

Article 23

A national Internet domain name shall be deemed to have been registered or used contrary to good business practice and in bad faith in the following particular cases:

- 1) if it is proven that the registrant registered a national Internet domain name primarily with the aim of selling or leasing it to the plaintiff, who is the owner of the trademark that is identical or to a significant degree similar to the registered national Internet domain name, or for the purposes of the sale or lease of the national Internet domain name to the plaintiff's market competitor, as evidenced by a proven disproportion between the registration price of the national Internet domain name and the price at which it has been offered for sale to the aforementioned;
- 2) if it is proven that the registrant registered a national Internet domain name in order to prevent the trademark owner from registering their trademark as a national Internet domain name;
- 3) if it is proven that the registrant registered a national Internet domain name in order to damage his or her market competitor;
- 4) if it is proven that the registrant used the national Internet domain name that is identical or to a significant degree similar to the plaintiff's trademark primarily in order to attract Internet users to his or her website or other Internet service for commercial purposes, in doing so creating confusion regarding the origins of the goods for sale on this site or via this Internet service, or regarding the services being offered;

Legitimate interest in using a national Internet domain name

Article 24

The registrant shall be deemed to have a legitimate interest in using a national Internet domain name if it can be proven:

- 1) that he or she used the national Internet domain name for commercial purposes, in accordance with good business practice and in good faith, prior to any knowledge of a petition being brought; or
- 2) that prior to a petition being brought he or she was already publicly known as the owner of that national Internet domain name, regardless of the fact that he or she did

- not register the disputed trademark; or
- 3) that he or she is using the national Internet domain name purely for non-commercial purposes, with no intention of deceiving consumers and other participants in the market with regard to the origins of goods or services offered in the context of a significant degree of similarity or identity with the plaintiff's trademark.

Duration of procedure and deadlines

Article 25

The dispute resolution procedure shall be single-instance and as a rule shall have a duration of 60 days, counting from the day of the constitution of the council.

The deadlines established in these Rules of Procedure may be prolonged in particular extenuating circumstances, where the arbitration council shall be responsible for ensuring that the procedure is not unnecessarily prolonged.

Conclusion of the procedure

Article 26

The procedure may be concluded by the issue of a final decision or by decision of the arbitration council to conclude the procedure.

The arbitration council shall decide to conclude the procedure:

- 1) if the plaintiff withdraws his or her petition;
- 2) if the parties to the procedure agree to conclude the procedure;
- 3) if during the course of the procedure the regular courts issue a final ruling regarding the matter which is the subject of the procedure;
- 4) if the arbitration council decides that continuation of the procedure has become unnecessary or impossible for any other reason.

If during the course of the procedure court proceedings are initiated in regard to the domain name that is the subject of the petition before the Committee, the arbitration council shall decide whether to end, interrupt or continue the procedure before the Committee.

If the procedure is concluded without a decision being taken on any of the grounds stated in paragraphs 2 and 3 of this Article, the plaintiff shall not have the right to reimbursement of fees paid against the costs of the procedure, nor can he or she submit another petition to the Committee concerning the same matter.

III DECISION

Issuing a decision

Article 27

The arbitration council shall take a final decision whereby it shall decide on the petition of the plaintiff.

The arbitration council shall issue the decision in written form, after consultations in which all arbiters must take part.

Content of the decision

Article 28

The decision must comprise an introduction, a ruling on the subject of the dispute and a rationale.

The introduction to the decision shall comprise the name of the Committee, the first names and surnames of the members of the arbitration council, the business name or name and surname, occupation and registered office/place of residence of the parties, their representatives or proxies, a brief indication of the subject of the dispute and the date and place at which the decision was taken.

The ruling shall comprise the decision of the arbitration council regarding the plaintiff's petition.

The rationale shall comprise a chronology of the dispute, the positions and relevant claims of the parties regarding factual and legal matters, evidence submitted and brought to light and the reasons for the decision as per the ruling.

The decision shall be delivered by electronic means to the parties to the dispute and to the Serbian National Internet Domain Registry, and shall be published on the site of the latter.

Signature of the decision

Article 29

The original copy of the decision shall be signed by all members of the arbitration council.

The decision shall also be valid if one arbiter omits or declines to sign the decision, provided the decision has been signed by a majority of members of the arbitration council, who have by their signatures attested to the withholding of the signature.

Corrections to the decision

Article 30

The parties to the procedure may request that the arbitration council correct typographical and other similar errors in the decision.

The arbitration council may also make corrections as per paragraph 1 of this Article on its own initiative.

The errata shall comprise an integral part of the decision to which they relate.

Effect and enforcement of the decision

Article 31

The arbitration decision is final and no appeal can be lodged against it.

The decision of the arbitration council shall be enacted upon the expiry of ten days from the date of receipt of the decision by the Registry, except in the event that a party to the proceedings has submitted proof of initiation of proceedings before the competent court, in which case enactment of the decision is postponed until the decision of the court enters into force.

The Registry is tasked with executing the decision of the arbitration council.

IV FEES

Costs of the procedure

Article 32

The plaintiff must pay registration fees at the time of filing the petition. The Committee shall undertake no activities relating to the procedure prior to the payment of registration fees. The amount of the registration fees shall be laid down by the relevant authority within the Serbian Chamber of Commerce, with the prior approval of the Registry.

The plaintiff shall not be entitled to reimbursement of the registration fees regardless of the outcome of the dispute.

An appropriate sum shall be advanced in lieu of expenses relating to the conduct of individual procedural activities by the party making the proposal.

Remuneration for arbiters

Article 33

Arbiters are entitled to remuneration in respect to work performed. Remuneration for arbiters in respect to work performed shall be laid down by decision of the relevant authority of the Chamber, with the prior approval of the Registry.

V TRANSITIONAL AND FINAL PROVISIONS

Organisation of the Committee during the transitional period

Article 34

Until the List of Arbiters is established in accordance with Article 4 of the Rules of Procedure, the List of Arbiters established by the Registry in accordance with the Rules of Procedure for Arbitration Proceedings for the Resolution of Disputes Relating to the Registration of National Internet Domains, approved by the Assembly of the Registry of the Serbian national Internet domain on 26th October 2007, shall remain in force.

The List of Arbiters shall be established in accordance with Article 4 of these Rules of Procedure, at the latest by the time of expiry of the List of Arbiters established by the Registry in accordance with the previously applicable Rules of Procedure.

The first President and Vice-President of the Committee shall be appointed by the President of the Chamber from the List of Arbiters established by the Registry in accordance with the previously applicable Rules of Procedure. The term of office of the President and Vice-President shall be until the election of a President and Vice-President in accordance with Article 3, item 3 of these Rules of Procedure, and by the day of expiry of the List of Arbiters established by the Registry in accordance with the previously applicable Rules of Procedure, at the latest.

Application of the previous Rules of Procedure

Article 35

All disputes relating to the registration of national Internet domains which have not been concluded before these Rules of Procedure come into force shall be continued according to the provisions of these Rules of Procedure, unless the parties have agreed otherwise.

Expiry of previous Rules of Procedure

Article 36

Upon these Rules of Procedure entering into force, the Rules of Procedure for Arbitration Proceedings for the Resolution of Disputes Relating to the Registration of National Internet Domains, approved by the Assembly of the Registry of the Serbian national Internet domain on 26th October 2007, shall cease to have effect.

Entry into force of new Rules of Procedure

Article 37

These Rules of Procedure shall come into force on the eighth day after the date of their publication in the Official Gazette of the Republic of Serbia.