

DECISION

Date of ruling	: 15 November 2019
Case number	: 2019/02
Appellant	: Missie1 BV
Respondent	: Foundation for Internet Domain Registration in the Netherlands
Appeal against	: Decision by the Foundation for Internet Domain Registration in the Netherlands
Subject	: Appeal against a decision to terminate the appellant's registrar contract -- summary consideration, as provided for in Article 5.2 of the Complaints and Appeals Regulations

Introduction

- 1.1 In an e-mail dated 26 September 2019, the Appellant appealed to the Complaints and Appeals Board for .nl Domain Names (referred to below as the 'C&AB') against a decision made by the Foundation for Internet Domain Registration in the Netherlands (referred to below as 'SIDN') to terminate the registrar contract between SIDN and the Appellant (referred to below as the 'Decision'). Article 4, clause 2, of the Complaints and Appeals Regulations allows for appeal against a registrar contract termination decision to be made to the C&AB within thirty days of the date of the decision.
- 1.2 The C&AB wrote to the Appellant on 30 September 2019, acknowledging receipt of the appeal document; that communication is referred to below as the 'Confirmation of Receipt'. The Confirmation of Receipt drew the Appellant's attention to the fact that the appeal document did not immediately satisfy the admissibility criteria set out in Article 4.3 of the Complaints and Appeals Regulations, insofar as it was not accompanied by a copy of the Decision. The Appellant was explicitly asked to supplement the appeal document accordingly within a week. However, the C&AB did not receive any supplement to the appeal document from the Appellant.

2 Summary consideration

- 2.1 Before considering the substance of the appeal against SIDN's decision to strike off the Appellant as a .nl registrar, the C&AB needed to establish that the appeal document satisfied the applicable requirements, as set out in the Complaints and Appeals Regulations.
- 2.2 The Complaints and Appeals Regulations define certain requirement concerning the contents of an appeal document. The appeal document submitted by the Appellant did not meet the requirement set out in Article 4.3 of the Complaints and Appeals Regulations, namely that the appeal document should be accompanied by a copy of the Decision. The absence of a copy of the Decision meant, for example, that the C&AB could not ascertain whether the appeal had been submitted within the time period allowed by Article 4, clause 2, of the Complaints and Appeals Regulations (i.e. within thirty days of the date of the decision to which the appeal related). That is a pertinent matter, because the C&AB is independent of SIDN and does not have access to information regarding SIDN's decisions.
- 2.3 In the Confirmation of Receipt, the C&AB explicitly drew the Appellant's attention to the shortcoming of the appeal document, and gave the Appellant a week to provide the necessary supporting documentation. The Confirmation of Receipt also drew the Appellant's attention to the fact that consideration of the appeal was conditional upon an appeal fee, as referred to in Article 4.4 of the Complaints and Appeals Regulations, being paid within fourteen days. The C&AB did not receive either a copy of the Decision or an appeal fee within the stated periods.

- 2.4 In view of the circumstances described above, the appeal is inadmissible. The C&AB has not therefore made a substantive appraisal of the Decision. The Chair of the C&AB accordingly determined that summary consideration of the appeal followed by an immediate ruling was in order, as provided for in Article 5.2 of the Complaints and Appeals Regulations.

3 **Decision**

The Chair of the Complaints and Appeals Board of the Foundation for Internet Domain Registration in the Netherlands declares that the Appellant's appeal is inadmissible.

This ruling has been made by the Chair of the Complaints and Appeals Board.

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Meester H Struik
Chair

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Meester HJM Gardeniers
Secretary

The C&AB would draw the Appellant's attention to the following provision of Article 5.2 of the Complaints and Appeals Regulations:

"If [...] the Appellant believes that the Chair was wrong to process the appeal summarily, the Appellant may resubmit the appeal (amended or unamended) within fourteen days of the decision being made. The resubmitted appeal shall then be considered in accordance with the normal procedure. A further appeal fee shall be payable by the Appellant in respect of a resubmitted appeal. If the appeal is subsequently upheld, both the original appeal fee and the further appeal fee shall be repaid."