

## **DECISION**

Date of ruling : 5 June 2019

Case number : 2019/01

Appellant : [Company name]

Respondent : Foundation for Internet Domain Registration in the Netherlands

Appeal against : Decision by the Foundation for Internet Domain Registration in the Netherlands

Subject : Abbreviated consideration, as provided for in Article 5.2 of the Complaints and Appeals Regulations, of an appeal against a decision to cancel the appellant's registrar contract

## **Introduction**

- 1.1 In an e-mail dated 5 May 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 strike off the Appellant as a .nl registrar (referred to below as the 'Decision').
- 1.2 In the appeal document submitted to the C&AB by e-mail, the Appellant stated that [Company name] was struck off as a .nl registrar by SIDN as a result of failure to fulfil its financial obligations. According to the Appellant, that failure was a consequence of the Appellant being difficult to contact by phone for a period. In the sixteen years that the Appellant had been a .nl registrar, SIDN's invoices had previously always been paid on time. The Appellant accordingly asked the C&AB to instruct SIDN to reactivate the registrar account in the name of [Company name].
- 1.3 The C&AB wrote to the Appellant on 9 May 2019, acknowledging receipt of the appeal document. The acknowledgement stated that the C&AB was treating the appeal as an appeal against a decision made by SIDN on the basis of Article 8.3(b) of the General Terms and Conditions for Registrars (referred to below as the 'General Terms and Conditions'). The relevant passage of the General Terms and Conditions provides for the immediate cancellation of the registrar contract between SIDN and the Appellant. Article 4, clause 2, of the Complaints and Appeals Regulations allows for appeal against such a decision to be made to the C&AB within thirty days of the date of the decision. Article 4.3 of the Complaints and Appeals Regulations sets out certain requirements regarding the contents of an appeal document, which must be satisfied for the appeal to be considered. The C&AB drew the Appellant's attention to the fact that, as submitted, the appeal document did not satisfy the requirements set out in the Complaints and Appeals Regulations. 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 **Abbreviated 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 Article 4.3 of the Complaints and Appeals Regulations sets out certain criteria regarding the contents of an appeal document. The appeal document submitted by the Appellant did not satisfy the criteria set out in the Complaints and Appeals Regulations. For example, the appeal document was not accompanied by a copy of the notice of the decision to which the appeal related. Nor did it include the Appellant's contact details or a statement as to whether the Appellant wished to be heard in person. The absence of a copy of the notice of the decision to which the appeal related 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). In that context, the C&AB stresses that it is independent of SIDN and does not have access to information regarding SIDN's internal decisions.
- 2.3 The C&AB explicitly drew the Appellant's attention to the shortcomings of the appeal document, and gave the Appellant the opportunity to provide the necessary supporting information and documentation. However, the Appellant did not do so.
- 2.4 In view of the circumstances described above, the appeal is inadmissible. The C&AB has not therefore considered the substance of the appeal, i.e. the legitimacy of SIDN's decision. The Chair of the C&AB accordingly determined that abbreviated 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 of 5 May 2019 is inadmissible.

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

[Chair's signature]

[Secretary's signature]

Meester JI de Vreese-Rood

Meester HJM Gardeniers

