



## Complaints and Appeals Regulations

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### SIDN BV

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This document regulates the composition, working methods and procedures of the Complaints and Appeals Board.

### Definitions

**Applicant:** The prospective Registrant of a .nl domain name

**General Terms and Conditions:** The General Terms and Conditions for .nl Registrants

**Appellant:** A Registrant, former Registrant or Applicant who lodges an appeal, or on whose behalf an appeal is lodged, against a decision, in accordance with the procedure referred to in article 19, clause 5 of the General Terms and Conditions; otherwise a Registrar that lodges an appeal, or on whose behalf an appeal is lodged, against a decision, in accordance with the procedure referred to in article 8.6 of the General Terms and Conditions for Registrars

**Board:** The Complaints and Appeals Board, as referred to in the General Terms and Conditions

**Registrar:** A Registrar, as referred to in the General Terms and Conditions, being the party that manages the registration of a .nl domain name to which the appeal relates

**Registrant:** The party in whose name a domain name is registered with SIDN, as recorded in the Register

**Complainant:** A party who makes a complaint, or on whose behalf a complaint is made, in accordance with the procedure referred to in article 8 of these Regulations, alleging that a domain name is inconsistent with public order or decency



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Regulations: These Regulations on the composition, working methods and procedures of the Complaints and Appeals Board

Register: The Domain Name Register

SIDN: SIDN BV, the manager of the .nl domain

## Part 1 General provisions

### Article 1 Composition of the Board

- 1.1. The Board shall consist of at least 5 people, each appointed by SIDN for a term of 3 years. A Board member may be re-appointed once for a further 3-year term.
- 1.2. If, before the end of his or her membership term, a Board member steps down or ceases to be able to perform his/her duties, SIDN shall appoint a replacement for the remainder of the term. Following his or her term as a replacement, such a Board member may twice be re-appointed for a further 3-year term.
- 1.3. The Board shall choose a chairman from amongst its own members.
- 1.4. Every Board member shall be paid an annual fee for his or her services. The size of the fee shall be set annually by SIDN. Board members shall also be reimbursed for travel expenses incurred within the Netherlands.

### Article 2 The secretary

- 2.1. The secretary to the Board shall be appointed by SIDN, following consultation with the Board's members, and shall be remunerated by SIDN.
- 2.2. The secretary shall act as the Board's contact person for outsiders.
- 2.3. The secretary shall be responsible for:
  - a. arranging accommodation for the Board's sessions;
  - b. sending prompt written confirmation of the receipt of an appeal or complaint to the Appellant or Complainant;
  - c. inviting anyone who, under the Regulations, is entitled to give evidence to do so;
  - d. sending out case documentation;
  - e. undertaking administrative tasks relating to the Board's activities, including the provision of information to Board members;
  - f. drafting statements of the Board's decisions and reasoning;
  - g. monitoring the payment of appeal fees by Appellants and Complainants;
  - h. sending statements of the Board's decisions to directly interested parties;
  - i. preparing an annual report to SIDN and the Registrant community concerning the cases considered by the Board, the Board's finances and any significant developments discernible in the nature and volume of cases referred to the Board;
  - j. electronically archiving all relevant documentation submitted to the Board.



### **Article 3 Working methods**

- 3.1. The frequency of the Board's sessions shall be dependent on the volume of appeals and complaints submitted.
- 3.2. Sessions shall be chaired by the chairman of the Board, unless he or she is indisposed, in which case the Board members present shall appoint a session chairman from among their number.
- 3.3. At least 5 working days before the session, the secretary shall send session papers to all Board members. The session papers shall include at least the following for each case:
  - the text of the appeal or complaint;
  - either SIDN's decision statement and the supporting documentation, or the registration details of the domain name that is the subject of the complaint;
  - the names of the people who will be giving evidence on behalf of the Appellant, Complainant and/or Registrant.
- 3.4. The Board shall produce a written statement of its decision regarding each case considered and its reasoning.
- 3.5. At sessions of the Board, decisions shall be arrived at by a simple majority of votes cast. If the voting is tied, the session chairman shall have the casting vote.
- 3.6. A session of the Board shall be considered quorate for decision-making purposes if 3 or more members are present.
- 3.7. In an appeal case, the Board shall consider whether SIDN's decision was lawful and consistent with the rules laid down by SIDN (the General Terms and Conditions and the published procedures) and whether the decision was reasonable in view of all the circumstances.
- 3.8. In a complaint case, the Board shall consider whether, in the light of jurisprudence concerning the concepts 'public order' and 'decency', the registration of a domain name is, as a consequence of the name's use, inconsistent with public order and decency.
- 3.9. Board members shall arrive at their decisions without interference or consultation.
- 3.10. Following the conclusion of each session, the secretary shall produce a draft statement of the Board's decision in each case. The secretary shall submit the draft statements for review to the session chairman and the other Board members present. The chairman shall finalise the decision statements, taking account of any feedback from the other Board members present at the session.
- 3.11. All decision statements shall be signed by the session chairman and the secretary.
- 3.12. The secretary shall ensure that decision statements are published on SIDN's website. Either of the parties to a case may request that the published version of a decision statement be anonymised. Provided that such a request is made no later than the conclusion of the session at which the case is considered, the secretary shall act upon it.

## **Part II The appeals procedure**

### **Article 4 Lodging an appeal**

- 4.1. An Applicant, Registrant or former Registrant may appeal to the Board under the circumstances referred to in article 1.5, 13.3, 16.1, 16.5, 21.4 or 23.4 of the General



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- Terms and Conditions. A Registrar may appeal to the Board under the circumstances referred to in article 8.3 of the General Terms and Conditions for Registrars. By lodging an appeal, the Appellant submits to these Regulations.
- 4.2. The appeal must be lodged with the Board by the Appellant within thirty days of the date of the decision to which the appeal relates. The appeal must be delivered both in paper form (preferably by registered post) and in electronic form (by e-mail) to following addresses:
- Complaints and Appeals Board  
Attn. the Secretariat  
Reply number 1800  
6800 VR Arnhem  
The Netherlands
  - e-mail: [secretariaat@cvkb.nl](mailto:secretariaat@cvkb.nl)
- 4.3. The notice of appeal must include:
- a. a copy of the communication in which SIDN stated the decision to which the appeal relates;
  - b. a statement of the basis of the appeal;
  - c. a statement from the Appellant, as to whether he/she wishes to give evidence in person;
  - d. contact details (including a postal address) for the Appellant and – if the Appellant is a Registrant – for the registrar responsible for the registration in question;
  - e. any other documentation that the Appellant considers relevant to his/her appeal.
- 4.4. An appeal fee is payable to cover the cost of processing the appeal, as specified in the Schedule of Appeal and Complaint Fees published at [www.sidn.nl](http://www.sidn.nl).
- 4.5. The appeal fee must be paid (by transfer to SIDN's nominated account) no later than 14 days after the secretary's confirmation of receipt of the appeal.
- 4.6. If any of the conditions set out in this article, clauses 4.1 to 4.5, is not satisfied, the appeal may be deemed inadmissible.

#### **Article 5 Consideration procedure**

- 5.1. The consideration procedure shall begin once the appeal has been received in both paper and electronic form and the appeal fee has been paid.
- 5.2. If the chairman considers that the appeal is evidently inadmissible or evidently unfounded, or the Appellant is evidently unqualified, the chairman may process the appeal summarily and arrive at an immediate decision. If, under such circumstances, the Appellant believes that the chairman was wrong to process the appeal summarily, the Appellant may resubmit the appeal (amended or unamended) within 14 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.



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- 5.3. If the appeal is not processed summarily, as provided for in article 5.2, a copy of the notice of appeal shall be forwarded to SIDN without delay. As soon as practicable, the Appellant and SIDN shall be notified as to the proposed date for the session at which the appeal will be considered by the Board. The Appellant shall additionally be informed by the secretary about the subsequent procedure and its implications.
- 5.4. SIDN shall have thirty days from dispatch of the copy of the notice of appeal, as referred to in article 6.1, in which to submit to the Board a written response, incorporating full supporting documentation. If SIDN makes such a response, it must at the same time post a copy of the response, including all supporting documentation, to the Appellant.
- 5.5. The Board may subsequently give the Appellant and SIDN the opportunity to respond in writing to the various documents sent to them, providing additional explanations or supporting documentation. Under such circumstances, the Board shall specify the period within which a response may be made.
- 5.6. The Board shall not be obliged to consider any documentation or other information that neither forms part of the notice of appeal or the written response, nor has been submitted in accordance with article 5.5.
- 5.7. No later than 14 days before the session at which the case is to be considered, the Appellant and/or SIDN shall write to the Board with the names and contact details of the people who are to represent them at the session.
- 5.8. The Board may undertake any other action, investigations or checks that it considers necessary.
- 5.9. The Board may defer consideration of an appeal to a later session of the Board's choosing, if it considers this necessary to allow the responses or investigations provided for above to be made, or for other pressing reasons. Under such circumstances, the Board shall determine when the case will be heard and shall inform the Appellant and SIDN at the earliest practicable opportunity.

#### **Article 6 Consideration of the case in session**

- 6.1. Each party is entitled to third-party representation when the case is considered in session.
- 6.2. The Board shall give each party the opportunity to make an oral presentation of his/her/its case.
- 6.3. Following consideration of the case in session, the Board shall indicate when it intends to make its decision known. This shall ordinarily be within 6 weeks.
- 6.4. Board sessions shall normally be public. However, if the Appellant believes that consideration of the case in public would be seriously prejudicial to his/her interests and can present a compelling argument to that effect, the Board may choose to consider a case in closed session. Furthermore, contrary to the preceding general provisions, an appeal of the kind provided for in article 23.4 of the General Terms and Conditions shall always be considered in closed session.



#### **Article 7 The Board's decision**

- 7.1. If the Board requires more time to arrive at a decision, it may defer its decision to a date of its choosing. The secretary shall inform the parties of any such deferral as soon as practicable.
- 7.2. Having arrived at a decision, the Board shall send a decision statement by post and by e-mail to each of the parties.
- 7.3. If the Board dismisses the appeal, SIDN shall proceed as follows on receipt of the decision statement:
  - a. If the appeal was made on the basis of article 1.5 of the General Terms and Conditions: SIDN will not process the relevant registration application further.
  - b. If the appeal was made on the basis of article 13.3 of the General Terms and Conditions: SIDN will, as appropriate, release the domain name for registration (appeal by ex-Registrant), or allow the registration to stand (appeal by requester), or unfreeze the domain name's status (appeal by ex-Registrant), or allow the register amendment to stand.
  - c. If the appeal was made on the basis of article 16.1 of the General Terms and Conditions: SIDN will deny the Appellant use of the domain name in question and terminate its registration.
  - d. If the appeal was made on the basis of article 16.5 of the General Terms and Conditions: SIDN will not reverse its less consequential action.
  - e. If the appeal was made on the basis of article 21.4 of the General Terms and Conditions: SIDN will implement its decision to intervene in response to a Notice-and-Take-Down complaint.
  - f. If the appeal was made on the basis of article 23.4 of the General Terms and Conditions:
    - i. in connection with an opt-out request associated with a new registration application or change of Registrant: SIDN will not process the relevant application further, unless the Applicant informs SIDN within 14 days that he/she wishes the application to proceed without an opt-out.
    - ii. in connection with an opt-out request associated with an existing registration: SIDN will leave the registration in question unchanged.
  - g. If the appeal was made on the basis of article 8.4 of the General Terms and Conditions for Registrars: SIDN will proceed with termination of the registrarship contract.
- 7.4. If the Board upholds the appeal, SIDN shall proceed as follows on receipt of the decision statement:
  - a. If the appeal was made on the basis of article 1.5 of the General Terms and Conditions: SIDN will process the relevant registration application.
  - b. If the appeal was made on the basis of article 13.3 of the General Terms and Conditions: SIDN will reinstate the domain name's registration (appeal by ex-Registrant), or annul the registration (appeal by requester), or restore the register amendment (appeal by ex-Registrant), or annul the register amendment.
  - c. If the appeal was made on the basis of article 16.1 of the General Terms and Conditions: SIDN will leave the registration in the name of the Registrant.



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- d. If the appeal was made on the basis of article 16.5 of the General Terms and Conditions: SIDN will reverse its less consequential action.
  - e. If the appeal was made on the basis of article 21.4 of the General Terms and Conditions: SIDN will proceed with the action it thought appropriate, with due consideration for the Board's decision and the provisions of article 21.1 of the General Terms and Conditions.
  - f. If the appeal was made on the basis of article 23.3 of the General Terms and Conditions: SIDN will withhold or remove the Appellant's details from the publicly accessible part of the register and replace them with the relevant registrar's details.
  - g. If the appeal was made on the basis of article 8.4 of the General Terms and Conditions for Registrars: SIDN will not terminate the registrarship contract and lift the imposed limitations for the registrar.
- 7.5. If the Board partially upholds the appeal, the Board shall stipulate what the implications of its decision are in relation to each element of the complaint, in accordance with the provisions of article 7.3 and 7.4.
- 7.6. A decision of the Board is binding on SIDN. The decision is also binding on the Appellant, unless the Appellant refers the matter to a competent Dutch court of law within 6 weeks of the issue date borne by the decision statement sent to the Appellant.

## Part II B – The complaints procedure

### Article 8 Submission of a complaint

- 8.1. Anyone who considers that the registration of a domain name is, as a consequence of the name's use, inconsistent with public order and decency may submit a complaint for consideration by the Board. By submitting a complaint, the Complainant submits to these Regulations.
- 8.2. The complaint must be delivered both in paper form (preferably by registered post) and in electronic form (by e-mail) to following addresses:
- Complaints and Appeals Board  
Attn. the Secretariat  
Reply number 1800  
6800 VR Arnhem  
The Netherlands
  - e-mail: [secretariaat@cvkb.nl](mailto:secretariaat@cvkb.nl)
- 8.3. The complaint must contain the following information:
- a. the domain name to which the complaint relates and the contact details published for the domain name in the Register;
  - b. the name and contact details (including a postal address) of the Complainant;
  - c. a statement from the Complainant, as to whether he/she wishes to give evidence in person;
  - d. a statement of the basis of the complaint;
  - e. any other documentation that the Complainant considers relevant to his/her complaint.



- 8.4. A complaint fee is payable to cover the cost of processing the complaint, as specified in the Schedule of Appeal and Complaint Fees published at [www.sidn.nl](http://www.sidn.nl).
- 8.5. The complaint fee must be paid (by transfer to SIDN's nominated account) no later than 14 days after the secretary's confirmation of receipt of the complaint.
- 8.6. If any of the conditions set out in this article, clauses 8.1 to 8.5 is not satisfied, the complaint may be deemed inadmissible.
- 8.7. If several complaints are submitted regarding the same registered domain name, the Board may rule that complaints of a similar nature or purport as a previously submitted complaint will not be considered or will be considered in conjunction with a complaint that has already been admitted for consideration.

#### **Article 9 Consideration procedure**

- 9.1. The consideration procedure shall begin once the complaint has been received in both paper and electronic form and the complaint fee has been paid.
- 9.2. If the chairman considers that the complaint is evidently inadmissible or evidently unfounded, or the Complainant is evidently unqualified, the chairman may process the complaint summarily and arrive at an immediate decision. If, under such circumstances, the Complainant believes that the chairman was wrong to process the complaint summarily, the Complainant may resubmit the complaint (amended or unamended) within 14 days of the decision being made. The resubmitted complaint shall then be considered in accordance with the normal procedure. A further complaint fee shall be payable by the Complainant in respect of a resubmitted complaint. If the complaint is subsequently upheld, both the original complaint fee and the further complaint fee shall be repaid.
- 9.3. If the complaint is not processed summarily, as provided for in article 9.2, a copy of the complaint shall be forwarded to the Registrant of the domain name to which the complaint relates, without delay. As soon as practicable, the Complainant and the Registrant shall be notified as to the proposed date for the session at which the complaint will be considered by the Board. The Complainant and the Registrant shall additionally be informed by the secretary about the subsequent procedure and its implications.
- 9.4. The Registrant shall have thirty days from dispatch of the copy of the complaint, as referred to in article 6.1, in which to submit to the Board a written response, incorporating full supporting documentation. If the Registrant makes such a response, he or she must at the same time post a copy of the response, including all supporting documentation, to the Complainant.
- 9.5. The Board may subsequently give the Complainant and the Registrant the opportunity to respond in writing to the various documents sent to them, providing additional explanations or supporting documentation. Under such circumstances, the Board shall specify the period within which a response may be made.
- 9.6. The Board shall not be obliged to consider any documentation or other information that neither forms part of the complaint or the written response, nor has been submitted in accordance with article 9.5.





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- 9.7. No later than 14 days before the session at which the case is to be considered, the Complainant and the Registrant shall write to the Board with the names and contact details of the people who are to represent them at the session.
- 9.8. The Board may undertake any other action, investigations or checks that it considers necessary.
- 9.9. The Board may defer consideration of a complaint to a later session of the Board's choosing, if it considers this necessary to allow the investigations provided for above to be made, or for other pressing reasons. Under such circumstances, the Board shall determine when the case will be heard and shall inform the Complainant and SIDN at the earliest practicable opportunity.

#### **Article 10 Consideration of the case in session**

- 10.1. Each party is entitled to third-party representation when the case is considered in session.
- 10.2. The Board shall give each party the opportunity to make an oral presentation of his/her case.
- 10.3. Following consideration of the case in session, the Board shall indicate when it intends to make its decision known. This shall ordinarily be within 6 weeks.
- 10.4. Board sessions shall normally be public. However, if either party believes that consideration of the case in public would be seriously prejudicial to his/her interests and can present a compelling argument to that effect, the Board may choose to consider a case in closed session.

#### **Article 11 The Board's decision**

- 11.1. If the Board requires more time to arrive at a decision, it may defer its decision to a date of its choosing. The secretary shall inform the parties of any such deferral as soon as practicable.
- 11.2. Having arrived at a decision, the Board shall send a decision statement by post and by e-mail to each of the parties.
- 11.3. If the Board upholds the complaint, SIDN shall, on receipt of the decision statement, terminate the registration of the domain name to which the complaint related and temporarily exclude it from registration as provided for in article 16.4(a)(ii) of the General Terms and Conditions.
- 11.4. If the Board dismisses the complaint, the domain name to which the complaint related is allowed to remain registered to the Registrant.
- 11.5. A decision of the Board is binding on SIDN. The decision is also binding on the Complainant and the Registrant, unless either of them refers the matter to a competent Dutch court of law within 6 weeks of the issue date borne by the decision statement sent to the Complainant or, as the case may be, the Registrant.



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## Part III Concluding provisions

### **Article 12 Availability of the Board's decisions to third parties**

Any decision of the Board may be made available to third parties in its entirety or in summary form. At the request of one of the parties, a decision may be anonymised prior to being made available.

### **Article 13 Confidentiality**

Board members and the secretary to the Board are obliged, both while serving (on) the Board and thereafter, to respect the confidentiality of all information to which they are party in the context of their service on/to the Board.

### **Article 14 Representation by a Board member**

No member of the Board may act as an adviser to or representative of a party to a case considered by the Board.

### **Article 15 Liability**

Neither the Board (including its individual members and the secretary) nor SIDN shall have any liability towards any Appellant, Complainant or other party directly or indirectly involved in a procedure provided for in these Regulations, for damages arising out of any act or omission associated with the application of these Regulations.

### **Article 16 Effective date**

These Regulations shall come into effect on 17 March 2010, thus superseding the Regulations in effect prior to that date. This version of the Regulations and any amended version, as referred to in article 18.1, shall bear a version identifier containing the date on which the Regulations came into effect.

### **Article 17 Revision and/or supplementation**

- 17.1. These Regulations may be revised by SIDN at any time, following appropriate consultation with the Board. A revision shall take immediate effect, unless provision to the contrary is made.
- 17.2. In any circumstance not foreseen by these Regulations and any circumstance concerning which these Regulations are unclear, the Board shall decide how to proceed, following consultation with SIDN.