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NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON .EU DOMAIN NAMES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). Following a request by the United Kingdom, the European Council (Article 50) agreed on 11 April 2019¹ to extend further² the period provided for in Article 50(3) TEU until 31 October 2019.³ This means that the United Kingdom will be, as of 1 November 2019 ('the withdrawal date') a 'third country'.^{4 5}

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement,⁶ the .eu Top Level Domain Registry, accredited .eu Registrars, .eu domain names registrants, applicants for .eu domains names and generally stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

¹ European Council Decision (EU) 2019/584, OJ L 101, 11.4.2019, p. 1.

² Following a request by the United Kingdom, the European Council had decided a first extension on 22 March 2019 (European Council Decision (EU) 2019/476, OJ L 80 I, 22.3.2019, p. 1).

³ On 11 April 2019, following a second request for an extension by the United Kingdom, the European Council also decided that the decision to extend until 31 October 2019 would cease to apply on 31 May 2019 if the United Kingdom had not held elections to the European Parliament and had not ratified the Withdrawal Agreement by 22 May 2019. As the United Kingdom had not ratified the Withdrawal Agreement by 22 May 2019, it held European elections on 23 May 2019.

⁴ A third country is a country not member of the EU.

⁵ In addition, if the Withdrawal Agreement is ratified by both parties before that date, the withdrawal takes place on the first day of the month following the completion of the ratification procedures.

⁶ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ C 144 I, 25.4.2019, p. 1.

Subject to the transition period provided for in the Withdrawal Agreement,⁷ as of the withdrawal date the EU regulatory framework for the .eu Top Level Domain, and in particular Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain,^{8 9} will no longer apply to the United Kingdom. This has in particular the following consequences:¹⁰

1. REGISTRATION AND RENEWAL OF DOMAIN NAMES

According to Article 4(2)(b) of Regulation (EC) No 733/2002, as amended by Regulation (EU) 2019/517, as of 19 October 2019 the following persons are eligible to register .eu domain names:

- (i) a Union citizen, independently of their place of residence;
- (ii) a natural person who is not a Union citizen and who is a resident of a Member State;
- (iii) an undertaking that is established in the Union; or
- (iv) an organisation that is established in the Union, without prejudice to the application of national law.

As of the withdrawal date, *undertakings* and *organisations* that are established in the United Kingdom but not in the EU and *third country nationals* (i.e. non-EU-27 citizens) who reside in the United Kingdom will no longer be eligible to register .eu domain names or, if they are .eu registrants, to renew .eu domain names registered before the withdrawal date.

Accredited .eu Registrars will not be entitled to process any request for the registration of or for renewing registrations of .eu domain names by those undertakings, organisations and persons.

2. REVOCATION OF REGISTERED DOMAIN NAMES

Where, as of the withdrawal date and as a result of the withdrawal of the United Kingdom, a holder of a domain name does no longer fulfil the general eligibility

⁷ It is recalled that, in order for the transition period to apply, the Withdrawal Agreement has to be ratified by the EU and the United Kingdom.

⁸ OJ L 113, 30.4.2002, p. 1.

⁹ Please note that Article 4(2) of Regulation (EC) No 733/2002 is amended, with effect of 19 October 2019, by Regulation (EU) 2019/517 of the European Parliament and of the Council of 19 March 2019 on the implementation and functioning of the .eu top-level domain name and amending and repealing Regulation (EC) No 733/2002 and repealing Commission Regulation (EC) No 874/2004, OJ L 91, 29.3.2019, p. 25.

¹⁰ Regulation (EC) No 733/2002 does not require .eu domain names registrars to be established in the EU. However, other applicable EU rules may affect them. For more information, for instance on electronic commerce and net neutrality, please refer to the relevant "Notices to stakeholders" here: https://ec.europa.eu/info/brexit/brexit-preparedness_en.

criteria pursuant to Article 4(2)(b) of Regulation (EC) 733/2002, the Registry for .eu will be entitled to revoke such domain name on its own initiative and without submitting the dispute to any extrajudicial settlement of conflicts in accordance with point (b) of the first paragraph of Article 20 of Commission Regulation (EC) No 874/2004¹¹.

3. RIGHTS THAT CAN BE INVOKED IN PROCEDURES FOR THE REVOCATION OF SPECULATIVE AND ABUSIVE REGISTRATIONS

According to Article 21(1) of Regulation (EC) 874/2004, a registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, where that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Union law and where the registered domain name was the subject of speculative and abusive registration as described in that Article.

As of the withdrawal date, rights recognised or established by the United Kingdom, but not by EU-27 Member States or by the Union, can no longer be invoked in procedures under Article 21(1). By contrast, rights recognised by the Member States or by the Union, arising from international instruments, like rights arising from Article 6bis of the Paris Convention for the Protection of Industrial Property and Article 16(2) and (3) of the Agreement on Trade-related Aspects of Intellectual Property Rights, are not affected.

4. APPLICABLE LAW IN AGREEMENTS BETWEEN ACCREDITED .EU REGISTRARS AND .EU REGISTRANTS

In accordance with the first paragraph of Article 5 of Regulation (EC) No 874/2004, agreements between the Registrar and the registrant of a .eu domain name cannot designate, as applicable law, a law other than the law of a EU Member State, nor can they designate a dispute-resolution body, unless selected by the .eu Top Level Domain Registry pursuant to Article 23 of that Regulation, nor an arbitration court or a court located outside the EU. [*alinéa en français*]

Should any such agreement designate as applicable law the law of the United Kingdom, the Registrar and registrant concerned are advised to amend the relevant agreement accordingly so that it complies with the first paragraph of Article 5 of Regulation (EC) No 874/2004 as of the withdrawal date.

The websites of the Commission on the EU rules for the digital single market (<https://ec.europa.eu/digital-single-market/en/the-top-level-domain-.eu> and http://ec.europa.eu/ipg/basics/urls/doteu_en.htm) provide general information on the rules concerning the Top Level Domain .eu. These pages will be updated with further information, where necessary.

¹¹ Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration (OJ L 162, 30.4.2004, p. 40).

European Commission
Directorate-General for Communications Networks, Content and Technology