

THE REGULATION AMENDING THE INTERNET DOMAIN NAMES REGULATION IS PUBLISHED

The Regulation Amending the Internet Domain Names Regulation (“**Amendment Regulation**”) prepared by the Republic of Turkey Ministry of Transport and Infrastructure (“**Ministry**”) has entered into force after being published in the Official Gazette numbered 31460 on April 20, 2021. The Amendment Regulation is drafted to accommodate the novelties that will be brought by “.tr” Network Information System (“**NIS**”) which will be in operation soon. The novelties brought by the Amendment Regulation are briefly explained in below.

I. The Legal Landscape Before the Amendment

Along with the Internet Domain Names Regulation (“**Regulation**”) published in the Official Gazette No. 27752 dated November 7, 2010, the authority for the allocation of domain names with the extension “.tr” is transferred from Nic.TR, which is under the authority of Middle East Technical University (“**METU**”) to the Information and Communication Technologies Authority (“**ICTA**”). Upon this transfer, a protocol was signed between ICTA and METU on 21 December 2018 regarding the establishment of NIS and the transfer of authority. In accordance with the aforementioned protocol, it has been decided that NIS will be in operation as of August 2020, and NIS will commence its operation after the necessary procedures are completed in accordance with the Provisional Article 4 of the Internet Domain Names Communiqué, and upon an announcement by ICTA. While this transition process has not been completed, the Amendment Regulation entered into force by being published in the Official Gazette on April 20, 2021.

II. The Amendment

The changes brought by the Amendment Regulation can be briefly summarized as followed:

- (i) Sub-domain names have been removed from the scope of the non-allocated names list defined in the Regulation; and the list of non-allocated names is defined as “the list of domain names that are not allowed to be allocated for reasons such as violating legislation, public order and public morality”.
- (ii) Another change in the definitions is in the definition of the Dispute Resolution Service Provider (“**DRSP**”). With the Amendment Regulation, the definition of DRSP including “professional organizations, universities or international organizations qualifying as public institutions”, has been abandoned and the parties carrying out this activity have been designated as the DRSP.
- (iii) In the Amendment Regulation, it is regulated that the fee charged for the domain name shall not be refunded if the domain name is waived. In addition, before the Amendment Regulation, an application for allocation of domain names opened for reallocation could

not be made for a period of three months, but this period was reduced to two months with the Amendment Regulation.

- (iv) Arrangement of the issues regarding the reallocation of the renounced domain name is left to the discretion of the ICTA. In addition, ICTA may cancel the allocation of the relevant domain name if it is determined that the information and/or documents submitted during the application for sub-domain names allocated with certificate are out of validity.
- (v) ICTA has been authorized to apply necessary administrative sanctions, including terminating the activities of registrars and DRSP. ICTA will also be able to limit the number of DRSPs to operate, taking into account the market conditions of internet domain names and the number of disputes.
- (vi) In the absence of at least one operating DRSP, the alternative dispute resolution mechanism provided in the Regulation will be operated by the party determined by ICTA until a DRSP becomes operational.
- (vii) As stated in the Amendment Regulation, the aforementioned alternative dispute resolution mechanism shall not be applied for the domain names allocated before NIS has started its operations. However, for those domain names whose renewal process was made after NIS became operational, an application can be made to the dispute resolution mechanism.
- (viii) Registry Agencies are obliged to keep their systems and backups integrated with NIS within the borders of the Republic of Turkey and to fulfil the requirements of the court decisions and the arbitral tribunal decisions that are submitted by the DRSP, regarding domain name disputes. DRSPs shall notify the decisions together with the parties concerned with the complaint conveyed to them to the ICTA and the relevant registration institutions in accordance with the Amendment Regulation.

For more information and support, please contact us at info@lbfpartners.com.

LBF Partners

Avukatlık ve Danışmanlık