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COMMISSION OF THE EUROPEAN COMMUNITIES



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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the implementation, functioning and effectiveness of the '.eu' TLD

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(Text with EEA relevance)

1. BACKGROUND

The aim of introducing the '.eu' Top Level Domain (TLD) was to provide Community residents, organisations and undertakings with a specific pan-European identity on the Internet.

The purpose of this Report is to inform the European Parliament and the Council on the implementation, effectiveness and functioning of the '.eu' TLD, as provided for in Article 8 of Regulation (EC) No 733/2002¹.

The Report focuses on recent developments concerning the '.eu' TLD which took place from the adoption of the previous Report on 6 July 2007² until 31 March 2009.

2. THE '.EU' FRAMEWORK

2.1. Legal framework

The '.eu' legal framework consists of the aforementioned Regulation (EC) No 733/2002 on the implementation of the '.eu' TLD and Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules. These two instruments are supplemented by a number of Commission decisions concerning the selection and designation of the Registry. Finally, the Registry has created a number of administrative rules that regulate its daily operations in the registration of domain names.

In order to take due account of the introduction of the regulatory procedure with scrutiny, Regulation (EC) No 733/2002 was amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008.

Romania and Bulgaria acceded to the European Union on 1 January 2007 and accordingly had to have the possibility to register the domain names previously reserved for them. In order to

COM(2007) 385 final (OJ C 191, 17.8.2007, p. 17) http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0385:FIN:EN:PDF.

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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 (OJ L 113, 30.4.2002, p. 1), as amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part One (OJ L 311, 21.11.2008, p. 1).

ensure legal clarity, the Annex to Commission Regulation (EC) No 874/2004 including the list of domain names per country and the countries that can register them was amended by Commission Regulation (EC) No 1255/2007.

The Commission also identified the need to amend Commission Regulation (EC) No 874/2004 to adjust it to the requirements of IDN under '.eu'.

2.2. Basic principles

The '.eu' legal framework provides for a separation of duties between the Commission and the '.eu' Registry. The '.eu' Registry is a non-profit organisation which administers and manages the '.eu' TLD independently in accordance with the principles of non-interference, self-management and self-regulation³. The Commission has been entrusted with a general supervisory role. In particular, the Commission is not competent to take any decisions concerning particular domain names nor is it the appeal body for decisions taken by the Registry.

Furthermore, the '.eu' TLD is based on the registry-registrar model where the Registry is charged with the management of the '.eu' TLD, including maintenance of the relevant databases, while accredited registrars act as agents offering its registration services to registrants. The Registry is not allowed to act itself as a registrar⁴. This approach fosters competitiveness in the domain name market where registrars tend to diversify their offer to cover the different needs of registrants while ensuring competitive prices.

2.3. The Registry

The European Registry for Internet Domains (EURid), a non-profit organisation based in Diegem, Belgium, was designated by the Commission as the '.eu' TLD Registry following a call for expressions of interest on 21 May 2003⁵.

EURid was founded in April 2003. Its members are the organisations operating the national TLDs for Belgium, Italy, Sweden, the Czech Republic and Slovenia, as well as ISOC-ECC (the Internet Society European Chapters Coordinating Council) and Businesseurope (a confederation of European industry-related federations).

As provided for in Regulation (EC) No 733/2002⁶, on 12 October 2004 the Commission signed a Service Concession Contract with EURid (the Contract) for an initial term of five years, with the possibility of renewal⁷.

On 12 December 2008, the Commission, on behalf of the European Community, and EURid signed a supplementary contract providing for the renewal of the present Contract for a further period of five years, i.e. until 12 October 2014. The supplementary contract will come into force upon expiry of the present Contract, i.e. on 12 October 2009.

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See recital 9 of Regulation (EC) No 733/2002.

Article 3(4) of Regulation (EC) No 733/2002.

Commission Decision 2003/375/EC of 21 May 2003 on the designation of the '.eu' Top Level Domain Registry (OJ L 128, 24.5.2003, p. 29).

Article 3(1) states that 'The contract between the Commission and the Registry shall be limited in time and renewable'.

For further information about EURid see http://www.eurid.eu/content/view/12/26/lang,en/.

3. REGISTRATION AND USE OF '.EU' DOMAINS

The effectiveness of the '.eu' TLD system can be gauged on the basis of two criteria: the number of registered domain names and the performance of the Registry.

3.1. Number of registered domain names

'.eu' in the global context

The '.eu' TLD opened for public registration on 7 April 2006. Three years later, over three million '.eu' domains have been registered, making '.eu' Europe's fourth most popular country code TLD, and the ninth most popular TLD worldwide. These figures highlight the success of '.eu' in gaining public favour.

Among the European ccTLDs, '.eu' is only surpassed by the country code Top Level Domains (ccTLDs) for Germany ('.de'), the UK ('.uk') and the Netherlands ('.nl'). Globally, only the generic TLDs '.com', '.net', '.org' and '.info' as well as China's ccTLD ('.cn') and the aforementioned three European ccTLDs can claim more registrations (see Annex 1).

Breakdown by country of registrant

The majority of '.eu' domains have been registered in the most populated countries and in countries with a strong tradition of registering and using domains. The strongest demand for '.eu' domain names has come from Germany (30% of '.eu' domains), the Netherlands (14%), the United Kingdom (12%), France (8%) and Poland (6%)⁸ (see Annex 2).

Growth

After the impressive increase in domain name registrations experienced during the start-up phase in 2006, the '.eu' TLD has consolidated and its growth rates are now similar to those of the other European ccTLDs (+11% in 2007 and +11% in 2008). The reasons for this evolution are two-fold: (i) on the one hand, registration of new domains is progressively slowing down to a normal level after the end of the sunrise phase and (ii) on the other hand, the initial exceptionally high renewal rates of over 80% are coming closer to the industry average (currently 72%).

Whereas the overall registration growth of 22% over the period 2006-2008 can be judged satisfactory, it has been particularly impressive in Poland (+149%), Lithuania (+142%), Luxembourg (+95%) and Ireland (+94%) (see Annex 3).

'.eu' has grown side by side with other European TLDs

It is noteworthy that the growth of '.eu' has coincided with an increase in the number of national domain names in most Member States. For instance, in 2008, the growth in registrations under Germany's Top Level Domain ('.de') was 7%, whereas '.uk' (United Kingdom) and '.nl' (the Netherlands) grew by around 11% and 18% respectively. This is in line with the aim of the '.eu' TLD to provide EU residents with the option of a truly European

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The latest figures with a breakdown per country are available at: http://www.eurid.eu/en/press-room/facts-figures.

Internet identity to supplement rather than replace the existing country code TLDs (ccTLDs) in the EU.

3.2. Use of '.eu' domains

Registration and use

There is a growing trend towards using '.eu' domains immediately when they are registered as opposed to simply registering them as a precautionary measure.

'.eu' domain names are becoming a regular feature of Europe's cyberspace and electronic marketplace. '.eu' is particularly popular among small and medium-sized enterprises. In addition, large and well-known organisations, but also non-governmental organisations and EU residents, are increasingly using '.eu' domain names they have registered.

The EU institutions' entire website, and all their email addresses, were switched over to '.eu' on 9 May 2006. From that day on, the EU institutions have offered a single gateway for all European residents, organisations and undertakings within the '.eu' TLD: http://europa.eu.

In addition to European bodies, institutions and agencies, programmes and projects funded by the European Union are increasingly using '.eu' domain names. The official website of the Swedish EU Presidency can be found under a '.eu' domain name: www.se2009.eu.

Furthermore, a survey carried out by the Registry showed that approximately 80% of all '.eu' domain names lead to a functioning website or email server¹⁰. Out of the functioning websites, only one fifth automatically redirected the visitor to another site or URL; these figures show that '.eu' domain names are being actively used in the vast majority of cases.

Awareness and image

Compared to most other European ccTLDs that were established in the 1990s, '.eu' can be regarded as a newcomer. Therefore, it is not surprising that, in terms of perception, '.eu' lags behind other TLDs. A survey carried out by the Registry¹¹ showed that 79% of Internet users in Europe were familiar with the concept of TLDs and domain names and that 63% knew about the existence of '.eu'. 45% of Internet users knew that as EU residents they can register a '.eu' and 11% were considering the possibility of registering a domain name within this TLD.

It should be noted that '.eu' domains enjoy a good reputation: according to another survey carried out on behalf of EURid, users not only perceive '.eu' as the genuine European Internet identity, but also believe that '.eu' domains are innovative and modern.

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For examples of active use of '.eu' domain names: http://www.eurid.eu/en/press-room/why-eu.

http://www.eurid.eu/files/2007 q1 report.pdf.

http://www.eurid.eu/en/content/two-thirds-online-europeans-are-aware-eu.

https://www.centr.org/main/4607-CTR/version/default/part/AttachmentData/data/Admin14%20-%20Linden-%20.eu%20branding%20study.pdf.

4. PERFORMANCE OF THE REGISTRY

4.1. Service and fees

During the last two years, the Registry has worked to further improve its service to registrars. The Registry provides service to registrars in all official languages of the European Union. In addition to its headquarters in Diegem (Belgium), EURid has opened branches in Stockholm, Prague and Pisa, in order to increase its proximity to registrars.

Since '.eu' domains are marketed by some 1000 accredited '.eu' registrars, regular exchange between the Registry and registrars is vital, providing the Registry with insights into the market's needs and evolution. To that end, two consultative bodies consisting of registrar representatives, the Registrar Advisory Board (RAB) and the Registrar Requirements Panel (RRP), have been created. The RAB provides EURid's Management Board with advice on business issues, whereas the RRP has a technical focus. In addition, the Registry launched in September 2008 a 24/7 support service for its registrar community, thus ensuring round-the-clock support.

The service provided by the Registry to the registrars seems to be satisfactory: according to a survey carried out on behalf of the Registry, more than 90% of registrars who responded were satisfied or more than satisfied with the support they receive from EURid and 86% saw no need for improvement of the registration system¹³. However, registrars would also like to see improvements in certain areas, such as the procedures for trades and transfers of domain names and the tracking of changes implemented via the system releases.

In April 2007, EURid adopted a Code of Conduct, to which registrars can subscribe on a voluntary basis. Subscribers agree to adhere to the conditions laid out in the Code's Charter and in return they are granted the right to use the official Code of Conduct subscriber's logo, allowing them to distinguish themselves as offering a best in class service.

Fees and prices

The Commission has been monitoring the '.eu' wholesale registration fees, taking into account the Registry's financial situation, as well as the overall TLD context. Thanks to the huge interest in '.eu' and the high number of registrations, the wholesale registration fees have been successively reduced by the Registry: on 1 January 2007, the registration fee and annual renewal fee was lowered from $\in 10$ to $\in 5$; another reduction to $\in 4$ came into force on 1 February 2008. The Commission will continue to monitor the situation and propose for the consideration of the Registry further decreases if and when they become feasible e^{14} .

It should be noted that the wholesale fee is charged by the Registry to accredited '.eu' registrars that, in turn, set their own retail prices for registrants. Many registrars bundle their services to include web hosting and email packages, for instance. Nowadays, the effective

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http://www.eurid.eu/en/content/eu-registrars-are-generally-satisfied-eurid-give-some-suggestions-improvements.

Article 4(2)(c) of Regulation (EC) No 733/2002 stipulates that 'The Registry shall impose fees directly related to costs incurred.' Furthermore, Article I(I)(6) of the Service Concession Contract states that 'if a surplus is recorded which is not invested for enhanced quality of service purposes, such surplus will be transferred to the Community budget in any year such surplus occurs. Consideration shall be given to the need to ensure appropriate operating reserve.'

retail price for a domain name under '.eu' starts at around €5, which is definitely not higher than the lowest market prices available for '.com', '.net', '.uk', '.de' and other major Top Level Domains

4.2. Financial sustainability

The Commission has been monitoring the financial situation of the Registry, which is a key component of the sustainability of '.eu'. The bigger than expected registration success has generated revenues that have exceeded costs so far. The Commission has responded to this development in line with the pertinent provisions of the legal framework and the Contract.

Firstly, the Commission has required EURid to determine and plan in advance its investments and the appropriate level of reserves on an annual rolling basis. A contribution to these is then withheld from the surplus each year by the Registry, while the rest is transferred to the Community budget.

At the same time, the Commission has requested the Registry to continuously analyse the possibility of reducing the wholesale registration fee (see above). Such a reduction is necessary to recognise the declining cost incurred per domain name due to the increasing volume of registrations. Furthermore, lowering the fee is the best way to limit the transferable surplus with the intention to leave the money with domain name holders instead.

It must be noted that to ensure the financial sustainability of the Registry, annual revenues must always cover annual expenditure and the funds necessary for investments and reserves, even if registrations — or the growth in registrations — should be falling. The principle of prudence therefore dictates that the lowering of fees has to follow — and not precede — the decrease in costs.

As a result of this approach, the Registry has gradually lowered the wholesale fee in line with the rising volume of registrations but with a time lag. Consequently, its surplus has also been decreasing without endangering financial sustainability. In 2006, the surplus was $\in 11.3$ million, of which $\in 8.9$ million was transferred to the Community budget. In 2007 the surplus was $\in 10.9$ million, of which $\in 6.9$ million was transferred. Preliminary figures for the year 2008 suggest that the surplus will be approximately $\in 5$ million, of which the Registry will transfer to the Community budget approximately $\in 4$ million. The amounts not transferred to the Community budget are either invested for enhanced quality of service purposes or used to build up appropriate reserves.

The Registry's operations have thus been on a sound financial footing in the reporting period. Operating income has exceeded operating costs and surpluses have been sufficient to cover investment needs and liabilities.

4.3. Business continuity and resilience

Over the past two years, the Registry has been further upgrading its technical systems. One of the key challenges has been to improve resilience by ensuring redundancy of all key operations. In this context, the Registry is upgrading its Prague-based mirror site, allowing full replication of the functions of the main site.

In addition, the Registry has implemented the anycast technology, which allows duplicates of '.eu' name servers to be spread all over the world. Avoiding a single point of failure in the

Registry's infrastructure is intended to increase stability in the event that one of these servers goes down or becomes unreachable. The two anycast networks being used by EURid are operated by two different anycast providers. This heterogeneity further bolsters the stability and robustness of the '.eu' domain.

As required by the Contract, the Registry has prepared a Business Continuity Plan (BCP), including an analysis of the Registry core functions as well as related risks and countermeasures. It also includes a crisis management plan, as well as business continuity scenarios and procedures concerning particular types of threats.

The BCP was audited by an independent auditor. The purpose of this assessment was to verify EURid business continuity planning against industry best practice. The report confirms that EURid is working on implementation of continuity measures, indicating that the process has not been finalised yet.

In addition, EURid has informed the Commission about its measures to enhance the reliability of its operational systems by increasing resilience and performance of both the database and the registration services.

4.4. Domain name disputes

Given the potentially considerable commercial value of some domain names, legal disputes in this area are not infrequent.

Alternative Dispute Resolution procedure

The '.eu' legal framework comprises an **Alternative Dispute Resolution** procedure (ADR) to solve disputes concerning domain names under the '.eu' TLD. This system provides procedural guarantees for the parties concerned and applies without prejudice to any court proceeding that any interested party may initiate against the holder of the domain name or a decision of the Registry.

EURid appointed the Prague-based Arbitration Court at the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (Czech Arbitration Court or CAC) to provide ADR for '.eu' domain name disputes. Under the '.eu' legal framework, disputes within the ADR system for '.eu' may be initiated: (i) against bad faith or abusive registrations from third parties or (ii) against decisions taken by the Registry. Disputes can be filed in any of the official languages of the EU.

The level of the fees for ADR proceedings is based on the cost recovery principle. The ADR fees have been lowered several times since 2006 and start at $\in 1300^{15}$, thus comparing favourably with the fees charged by similar arbitration bodies¹⁶.

The number of ADR cases initiated before the CAC has declined significantly from approximately 200 cases per quarter in 2006 to approximately 25 cases per quarter currently. During the start-up phase, most of the disputes were initiated against the Registry

Source: Czech Arbitration Court: http://adr.eu/arbitration_platform/fees.php.

Fees charged by the WIPO (World Intellectual Property Organisation) start at USD 1500 (http://www.wipo.int/amc/en/domains/fees/index.html).

(approximately 73%), while the remainder of the cases was initiated against '.eu' domain name holders. The situation has in the meantime reversed: now most complaints are initiated against '.eu' domain name holders. This confirms that the initial high number of domain name disputes concerned sunrise period registrations where the complainants were challenging the Registry's decisions with reference to the validation of prior rights of '.eu' domain name holders¹⁷.

Court cases regarding alleged abusive registrations of domain names

EURid is a party to court cases before national courts in Belgium and Greece. Those cases concern alleged warehousing of domain names¹⁸.

In one case, a Belgian court required EURid via a preliminary injunction to unblock approximately 74000 domain names subject to a penalty of $\[mathebox{\ensuremath{\mathfrak{e}}}25000$ per domain name per hour of delay. EURid obeyed the injunction with the exception of 20 domain names, on the ground that they were subject to pending ADR cases. This led, subsequently, to the blocking of EURid's bank accounts up to the amount of $\[mathebox{\ensuremath{\mathfrak{e}}}4190000$ (constituting 1% of the claimed penalty). The case is pending and no court hearing in the main case has taken place to date.

4.5. Cases before the European Court of Justice

As regards '.eu'-related cases before the European Court of Justice to which the Commission is a party, in the 'Galileo' case, where the legitimacy of reserving the name 'galileo.eu' for use by Community institutions and bodies was contested, the Court of First Instance dismissed the application as inadmissible in 2007 (T-46/06). In an appeal brought against the CFI's order in this case, the European Court of Justice upheld the CFI's ruling (C-483/07).

In the second case, 'Inet Hellas', still pending before the Court of First Instance, the complainant is challenging the interpretation of Commission Regulation (EC) 874/2004 as regards the ban on registering two-letter domain names representing non-EU countries (T-107/06).

Additionally, the *Oberster Gerichtshof* in Austria has referred to the European Court of Justice questions for a preliminary ruling concerning the interpretation of Regulation (EC) No 874/2004 (C-569/08). The case is pending.

4.6. Internationalised Domain Names (IDN)

Registration of domain names under the '.eu' TLD is currently only possible using characters in standard Latin script: 'a' to 'z', digits '0' to '9' and '-'19.

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As provided for in Commission Regulation (EC) No 874/2004, holders of prior rights recognised or established by national and/or Community law and public bodies benefited from a specific period of time ('sunrise period') during which the registration of their domain names was exclusively reserved to such holders of recognised prior rights and public bodies.

Domain name warehousing is a practice whereby some registrars obtain control of domain names with the intent to hold or 'warehouse' them for their use and/or profit. The warehouser usually tries to resell the domain name at an inflated price.

See also EURid's Terms and Conditions, Section 2.2: http://www.eurid.eu/files/trm con EN.pdf.

The legal framework for '.eu' stipulates that Internationalised Domain Names (IDN) are to be introduced as soon as technically possible²⁰. As registration of such domain names under a TLD is now possible, EURid has been preparing the introduction of IDN under the '.eu' TLD, which will allow the use of characters with diacritics such as 'é', 'ö', 'ç' or 'č' and non-Latin scripts.

Following the adaptation of the legal framework to take into consideration the requirements of IDN²¹, it is expected that IDN under the '.eu' TLD will be launched in the course of 2009.

5. CONCLUSIONS

Three years after its launch, the '.eu' Top Level Domain has succeeded in becoming a valued option for Europeans when choosing an Internet identity. With over three million domains, '.eu' has exceeded expectations and is well established among the world's top ten TLDs. After the initial surge in registrations, there is a growing trend towards using '.eu' domains immediately when they are registered as opposed to simply registering them as a precautionary measure pending a later decision on their use. Nowadays, '.eu' domain names are increasingly adopted by undertakings, organisations and individuals for the unique benefit they offer. The number of disputed domain names has been constantly decreasing and the ADR system has been seen as effective in protecting the rights of registrants. In addition, the Registry operates smoothly and in line with industry best practices.

Nevertheless, the Registry will face a series of challenges in the coming years. The most immediate milestone will be the introduction of IDN.

Further down the road, the coming introduction of new generic TLDs as well as the uncertain economic environment could limit the growth of '.eu'. A proactive strategic approach is therefore required. In particular, the Registry should work to further raise awareness of the existence of the '.eu' TLD and to strengthen its perception. By doing so, it will attract more registrations, as well as boosting the adoption of '.eu' websites, if possible, by renowned undertakings and organisations.

Given the dynamic nature of the TLD environment, the Registry should continue to maintain and expand its dialogue and exchanges with the Internet community. This will allow the Registry to identify relevant market developments and to continue to adopt best practices. The Commission will continue to closely monitor the development of the '.eu' TLD, ensuring that it meets the needs of EU residents, organisations and undertakings.

Article 6 of Commission Regulation (EC) No 874/2004 provides that 'the Registry shall perform the registration of domain names in all the alphabetic characters of the official languages when adequate international standards become available'.

OJ L xxx, xx.xx.2009 (not yet published).

ANNEXES

ANNEX 1: TEN LARGEST TOP LEVEL DOMAINS BY NUMBER OF REGISTERED DOMAIN NAMES (AS OF MARCH 2009)

TLD	Number of registered domains
.com	79439607
.cn	13 854 687
.de	12652025
.net	12 099 536
.org	7 472 142
.uk	7 3 8 2 1 2 3
.info	5 137 681
.nl	3 285 095
.eu (*)	3 049 034
.biz	2025 576

Source: http://domainsinfo.fr/.

(*) The number of registrations for .eu is updated daily on:

http://www.eurid.eu/en/about/facts-figures/statistics.

ANNEX 2: NUMBER OF .EU DOMAINS BY COUNTRY OF RESIDENCE OF REGISTRANTS (AS OF MARCH 2009)

Country	Number of .eu domains March 2009
Austria	74767
Belgium	92 404
Bulgaria	9578
Cyprus	53 051
Czech Republic	82 020
Denmark	45 167
Estonia	8179
Finland	14876
France	251 744
Germany	930467
Greece	25 169
Hungary	29 148
Ireland	59612
Italy	166454
Latvia	7 166
Lithuania	9416
Luxembourg	27256
Malta	2916
Netherlands	415 474
Poland	176328
Portugal	11 789
Romania	20204
Slovakia	18609
Slovenia	6385
Spain	70390
Sweden	81 979
United Kingdom	377 820

Source: EURid.

ANNEX 3: GROWTH OF .EU DOMAINS 2006-2008 BY COUNTRY OF RESIDENCE OF REGISTRANTS

Country	Growth of .eu domains 2006-2008*
Austria	+27%
Belgium	+23 %
Bulgaria**	+58%
Cyprus	-41%
Czech Republic	+65%
Denmark	+18%
Estonia	+43 %
Finland	+57%
France	+56%
Germany	+19%
Greece	+44%
Hungary	+32%
Ireland	+94%
Italy	+14%
Latvia	0%
Lithuania	+142%
Luxembourg	+95%
Malta	-85%
Netherlands	+36%
Poland	+149%
Portugal	-2%
Romania**	+40%
Slovakia	+74%
Slovenia	+71 %
Spain	+33%
Sweden	-10%
United Kingdom	-14%
EU	+22%

^{*}from 31.12.2006 to 31.12.2008.

Source: EURid.

^{**} Figures for Bulgaria and Romania refer to 2007-2008, since registration of '.eu' domains started after their accession to the EU on 1 January 2007.