

Is Alternative Dispute Resolution Effective Enough for ".tr" Domain Names?

This article discusses the alternative dispute resolution mechanism for ".tr" domain names in Türkiye. It highlights the efficiency of the alternative dispute resolution mechanism and addresses some concerns over the transparency of proceedings.

TRABIS (".tr" Network Information System), established by the Turkish Information and Communication Technologies Authority ("BTK"), became operational on September 14, 2022 and undertook the management of ".tr" domain names. Upon the introduction of TRABIS, the "first come, first served" principle entered use for allocation of domain names such as 'com.tr', 'org.tr', 'net.tr', 'gen.tr', 'biz.tr', 'tv.tr', 'web.tr', 'info.tr', 'bbs.tr', 'tel.tr', or 'name.tr'. The obligation for submitting any documents to prove the rights of the applicant was abolished. Introduction of the "first come, first served" principle necessitates an effective dispute resolution mechanism for domain name disputes.

Dispute Resolution Service Providers, which are accredited by TRABIS, have started to handle the alternative dispute resolution process regarding ".tr" domain names. It can be said that the regulatory rules and proceeding are quite similar to the Uniform Domain-Name Dispute-Resolution Policy ("UDRP") system. Yet, there are subtle differences compared to the UDRP rules in terms of criteria for the examination of the complaints.

The Dispute Resolution Service Providers shall decide to cancel the disputed domain name or to transfer it to the complainant if the following conditions are cumulatively met:

- i) *The subject domain name is similar or identical to the trademark, trade name, business name or other identifying signs owned or used by the Complainant in trade,*
- ii) *The registrant of the domain name has no legitimate interests in respect of the domain name, and*
- iii) *The domain name is registered or used in bad faith by the registrant.*

Unlike UDRP rules, not only is the trademark right taken into account when examining the priority rights of the complainant, but the complainant's tradename, business name or any other identifying marks used in the commercial life are also taken into account. Another important point is related to the bad faith examination. According to UDRP rules, the contested domain name must be both registered and used in bad faith. However, in the Turkish Regulation, the presence of one of either of these conditions is considered

