

ADR Center for .eu attached to the Czech Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (Czech Arbitration Court)

**PANEL DECISION RELATED TO THE REQUEST TO CHANGE THE
LANGUAGE OF ADR PROCEEDING (DECISION)**
§ A3 (b)(6) of the .eu Dispute Resolution Rules (ADR Rules)

Case No.: 7200

Administrative Contact: Lada Válkova

Complainant: AGENCE DE L'ENVIRONNEMENT ET DE LA MAITRISE DE L'ENERGIE
Postal address: 20 avenue du Grésillé, ANGERS, France 49000

Authorized representative: Mr. Nicolas DEMILLY, Cabinet REGIMBEAU
Postal address: 20 rue de Chazelles 75017 Paris, France
E-mail: demilly@regimbeau.eu
Telephone: + 33 1 44 29 35 00
Fax: + 33 1 44 29 35 99

Respondent: Mr. Franck ACIEN
Postal address: 83 impasse Lou Baguier 83000 Toulon France
E-mail: fbiron.comptabilite@financier.com
Telephone: +33 9 80 09 04 46

Domain Name(s): *quali-rge-europe.eu*

English summary of the decision: English summary of this Decision is hereby attached as Annex 1

Factual Background:

With a view to filing an ADR Procedure Complaint against the Respondent, Mr. Franck ACIEN who registered the domain name quali-rge-europe.eu, the Complainant, AGENCE DE L'ENVIRONNEMENT ET DE LA MAITRISE DE L'ENERGIE has filed with the CAC a request to change the language of the proceedings from English to French.

The said request was filed with the CAC on April 20, 2016, in English language, considering that English is the language of the registration agreement for the disputed domain name.

The CAC acknowledged receipt thereof on April 25, 2016 and notified the same to the Respondent on May 03, 2016, allowing a term for responding ending on June 06, 2016.

No observations were ever filed in response by the Respondent.

On June 09, 2016 the CAC invited Mr. William LOBELSON to serve as a Panellist in the present case.

The Panellist accepted the case and submitted a Statement of Acceptance and Declaration of Impartiality and Independence on June 09, 2016

Parties' Contentions:**Complainant:**

The Complainant is a French entity named AGENCE DE L'ENVIRONNEMENT ET DE LA MAITRISE DE L'ENERGIE, based in Angers (France). It is represented by a French firm of Intellectual Property Attorneys.

The Respondent is an individual by the name of Frank ACIEN, with a declared address in Toulon, France.

The Complainant contends that, notwithstanding the fact that language of the Registration Agreement of the disputed domain name is English, the proceedings should be conducted in French language, as French is the common language of both parties.

The Complainant develops arguments and files evidence in support of its claim.

Respondent:

The Respondent did not file any observation in response to the Complainant's assertions.

Discussion and Findings:

Under article 3 (a)(1) of the ADR Rules, "in the absence of an agreement between the parties, the Panel may, in its sole discretion, having regard to the circumstances of the ADR Proceeding, decide on the written request of a Complainant, filed before initiating a Complaint, that the language of the ADR Proceeding will be different than the language of the Registration Agreement for the disputed domain name".

The Panellist has not been made aware of any agreement between the parties pertaining to the language of the proceedings.

The Complainant has submitted facts and evidence, that were not contested by the Respondent, namely:

- That the Complainant is a public corporation organized under the laws of France, which headquarter is based in France.
- That it is represented by a French firm of attorneys

- That the Respondent had declared a domicile address in the French City of Toulon, as well as a phone number that corresponds to the French numbering system and an e-mail address formed with French terms.

- That the Respondent is recorded in the French Companies Register as the manager of a corporation organized under the Laws of France, based also in the French city of Toulon. The French Companies Register does indicate that the citizenship of the Respondent is French.

- That the disputed domain name routes to a web page that is entirely drafted in French language.

In the light of the above facts and evidence, the Panel is able to come to the reasonable conclusion that French is spoken, understood and commonly used not only by the Complainant and his representative, but also by the Respondent.

The factual elements of this case appear therefore far more related to French language rather than English language, which only happens to be the language of the Registration Agreement of the Domain name and as such, was not deliberately chosen by the Respondent.

The prosecution of the case in English language does not appear justified.

The Panel finds on the contrary that a fair trial implies that the parties are able to use and communicate in their native language, which in the present case is French.

Decision:

For all the foregoing reasons, in accordance with Paragraphs A3 (b)(6) of the Rules, the Panel orders that the language of future ADR Proceeding shall be **FRENCH** if the Complaint with respect to the disputed domain name mentioned above shall be filed within thirty (30) working days from receiving this decision.

William LOBELSON

Date: June 13, 2016

Annex 1: The Complainant has filed a request to change the language of the proceedings from English (language of the Registration Agreement of the disputed domain name) into French, on the ground that both parties are French, reside in France and obviously understand French language, and that the disputed domain points to a web page in French language. All those assertions are supported with material evidence, and have not been contested by the Respondent. The Panel finds that the request for change of language is justified and orders that the future ADR Proceeding is conducted in French.