



NASK

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Q2 2017

.PL DOMAIN NAME MARKET

NASK'S REPORT FOR THE SECOND QUARTER OF 2017

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Insight into .pl registry



Dear readers,

Behind us is the second quarter of 2017 the overview of which together with detailed data on domain name market in Poland you will find in this report.

At the end of June 2017 the number of names, active in the .pl registry, amounted to 2.64 million. Thus, it could not do without a slight fall as compared to the previous quarter. Worthy of note is the fact that the number of registrants increased by over 3.6 thousand, amounting, in the second quarter, to 1.03 million.

Since the moment of launching DNSSEC in the .pl registry the number of names, secured with that protocol, has been systematically increasing to reach 36 186 at the end of June. As compared to the previous quarter, the number of secured names increased by almost 7%. An upward trend may be observed and it denotes that registrants pay more and more attention to the security of their domain names and use available solutions to protect them.

Alongside the issuing of the report on Q2 2017, I would also like to mention that NASK was one of initiators of founding the Court of Arbitration for the Internet Domain Names at the Polish Chamber of Information Technology and Telecommunication. The Court has already examined more than one thousand cases of disputes on .pl domain names. More interesting details on this subject may be found in the interview with Mr. Ireneusz Matusiak, President of the Court of Arbitration for the Internet Domain Names. The interview *Who wins disputes on domain names?* provides information on what the Court of Arbitration is, what its functions are, what the arbitration is, how a legal proceeding is conducted and what the court fees are. The interview is continuation of a cycle "Insight into .pl registry", presenting individuals whose work, and frequently a professional passion, is related to the country code .pl registry.

I wish you pleasant reading of the report on Q2 2017.

Wojciech Kamieniecki
NASK Director



nearly **2.64** million
active .pl domain names

• **3 182**
new agreements on options

more than **1000**
cases heard before the arbitration
court for domain names

effectiveness of options
• **44.83%**

nearly
• **391** thousand
renewed names

• **66.56%**
of registrants
were entrepreneurs,
whereas

• **39 250**
IDNs

• **33.44%**
natural persons

• **212**
Partners of .pl registry

• **2.56** names fell for one registrant

• **36 186**
names secured with DNSSEC

• over **205** thousand
new names

• **596**
agreements on options
renewed for consecutive 3 years

• **31 772**
transfers

• **2 254**
names registered
daily average

.pl domain names active in DNS

Domains in .pl registry

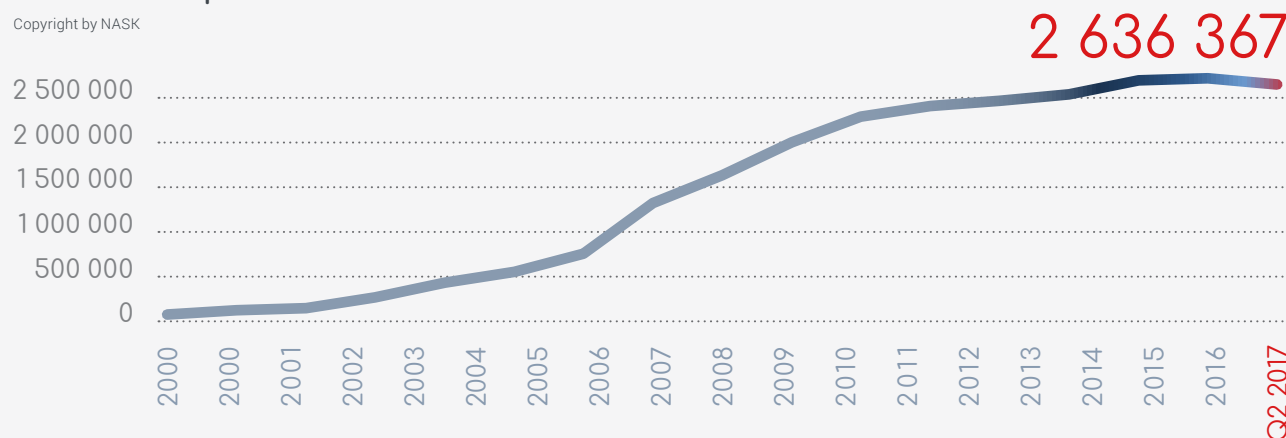
In the .pl registry, at the end of the first half of the year, there were **2 636 367** domain names active in DNS. During the second quarter of 2017 the number of domains decreased by **41 325**.

In the end of June 2017 **75.57%** of maintained names were registered directly in the .pl domain (second level domain names), **19.82%** in functional domains (e.g.: .com.pl, .net.pl) and only **4.61%** in regional domains (e.g. .waw.pl, .szczecin.pl).

Out of all .pl domain names, active in DNS, **17.40%** were registered in 2017, **25.14%** in 2016, **35.10%** of names were registered between 2011 and 2015, **16.05%** between 2006 and 2010, while remaining **6.31%** of names were entered in the registry in years 1994-2005.

Number of .pl domain names in DNS

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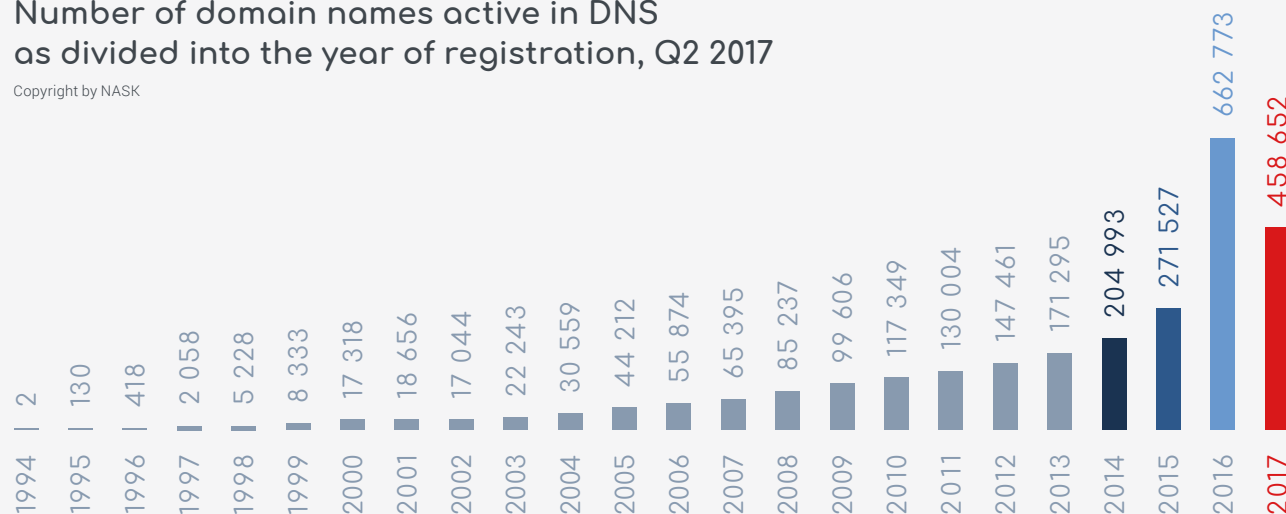
Number of domain names active in DNS as divided into the type of zone, Q2 2017

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Number of domain names active in DNS as divided into the year of registration, Q2 2017

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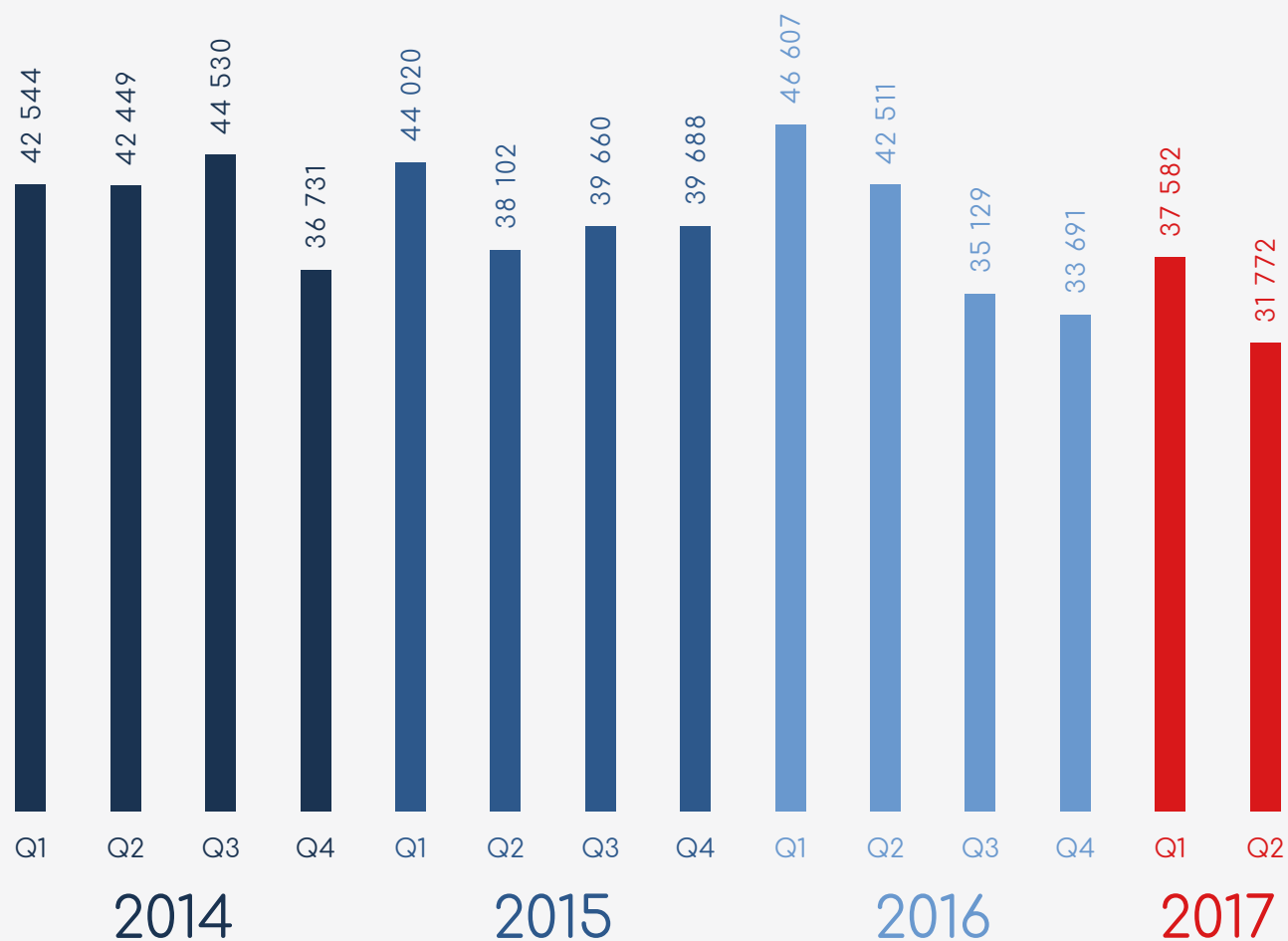


.pl domain names active in DNS

Transfers

Number of .pl domain name transfers

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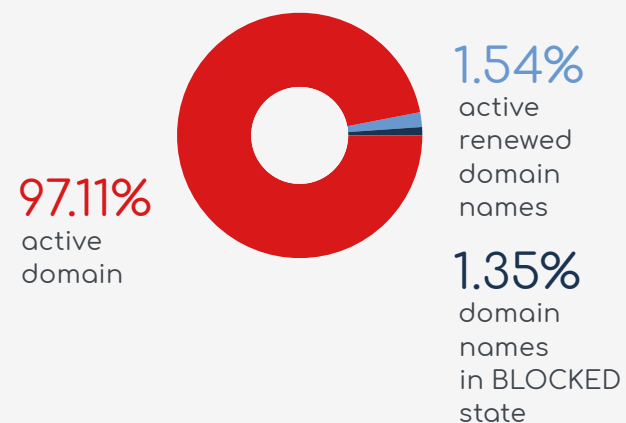


During the second quarter of 2017 .pl domain registrants **31 772** times changed a registrar servicing their .pl domain names.

In **490** cases the service was transferred with a simultaneous renewal of a domain name for a consecutive billing period with **429** of them being effected after the previous billing period had been completed.

Division of transfers, Q2 2017

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Renewal of a domain name for a consecutive billing period

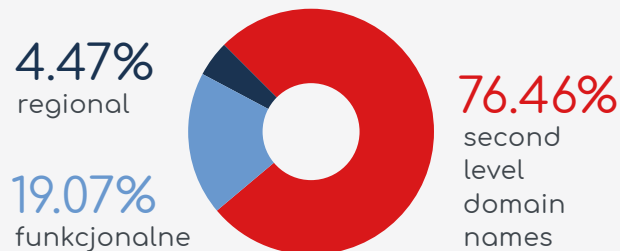
The renewal rate, at the end of June 2017, amounted to **61.68%**. In the second quarter of 2017 nearly **391 thousand** names were renewed, with second level domain names constituting **76.46%**, functional domain names **19.07%** and regional domain names **4.47%**.

81.40% of .pl domain names, renewed between 1 April and 30 June 2017, were registered before 2016, **18.52%** in 2016, while remaining **0.08%** in 2017.

In case of **1 190** names the last day of a billing period was shifted by an individually defined number of days.

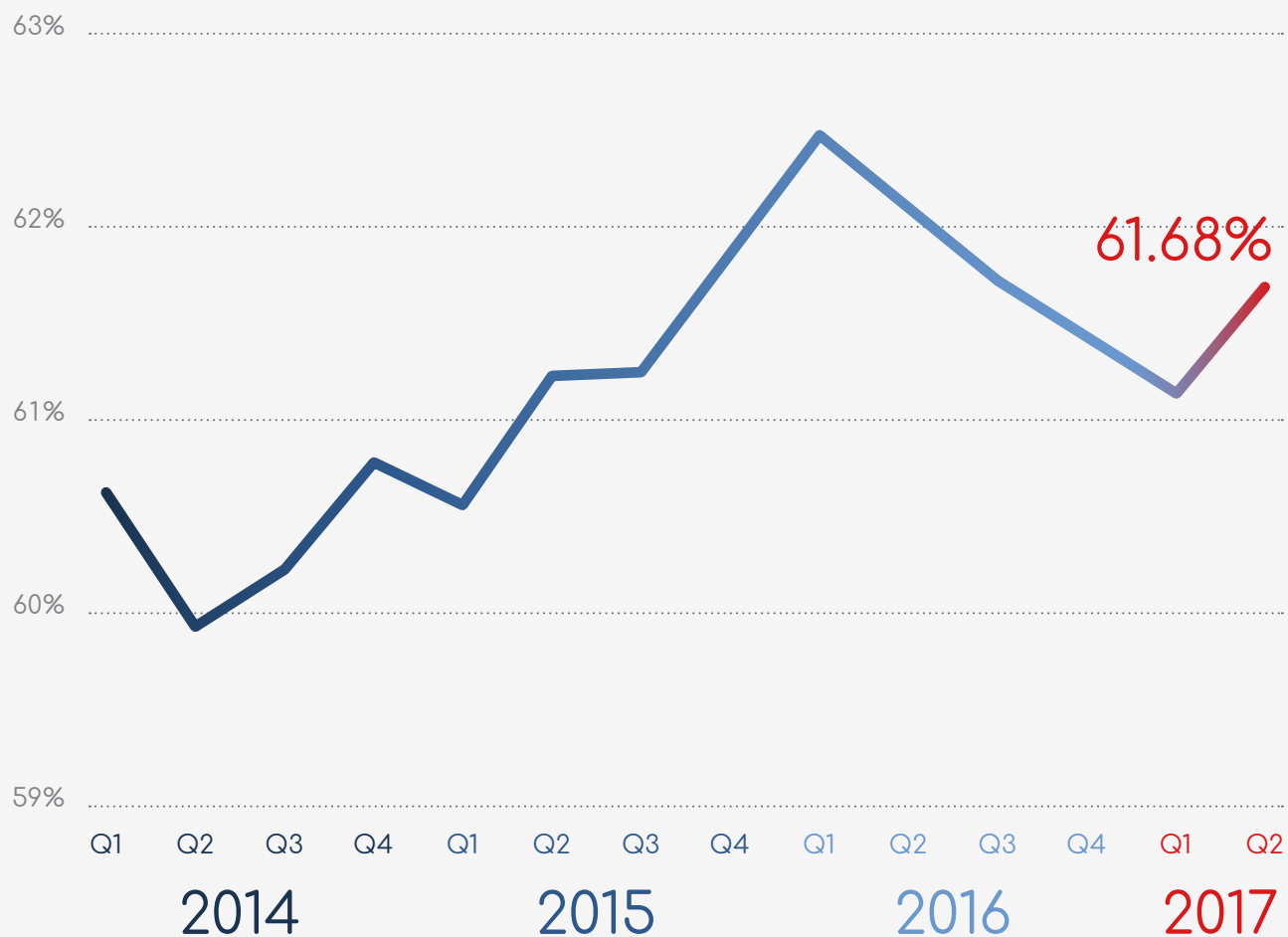
Structure of renewed .pl domain names, Q2 2017

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Renewal rate of .pl domain names

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New domain names in .pl registry

From the beginning of April to the end of June 2017 **205 072** .pl domain names were registered. The highest number of names, **71 933**, were registered in April. In May the number of registrations amounted to **67 995**. In June, instead, **65 144** new names were registered.



A daily average number of registered .pl domain names amounted to

2 254

In particular months the amount of daily registrations equalled on average **2 398** in April, **2 193** in May and **2 171** in June.

During the discussed quarter **76.14%** of registrations were effected directly in the .pl domain (second level domain names), **19.66%** in functional domains, whereas remaining **4.20%** in regional domains.

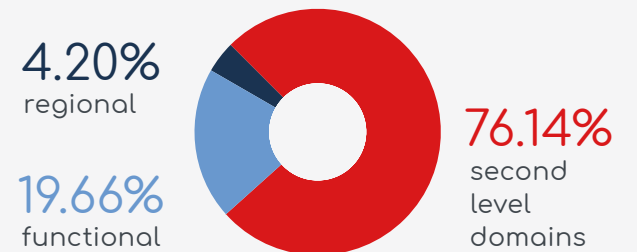
Number of .pl domain name registrations, daily average, Q2 2017

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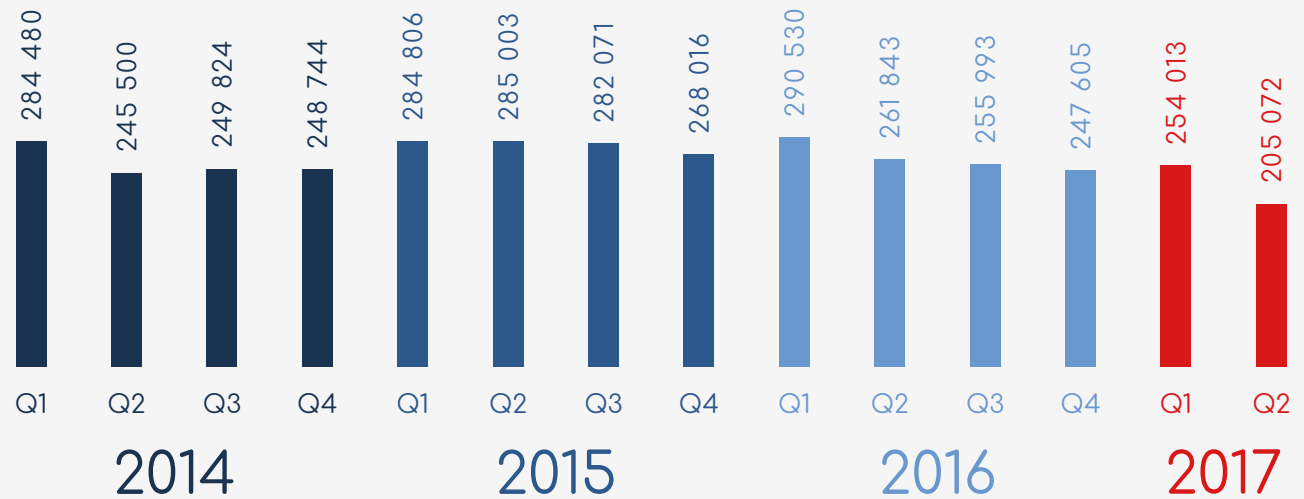
.pl domain name registrations as divided into a type of zone, Q2 2017

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Number of .pl domain name registrations

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Registrants of .pl domain names

Registrants in the .pl registry

In the .pl registry, at the end of June 2017, there were **1 030 123** unique entries of .pl domain name registrants. Their number increased by **3 616** as compared to the first quarter of 2017.

On average **2.56** .pl domain names fell for one registrant.

Entrepreneurs constituted **66.56%** and natural persons **33.44%** of all registrants.

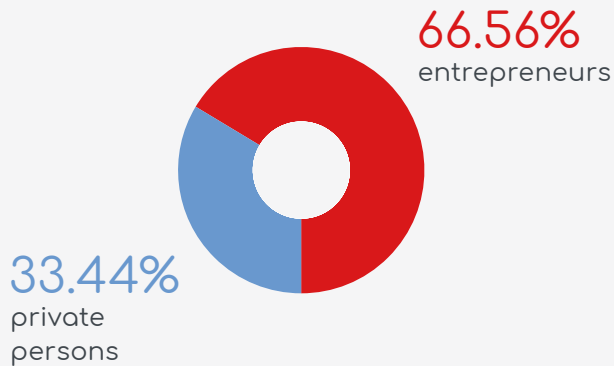
Registrants vs .pl domain names

Out of **2 636 367** names, active in DNS, **69.08%** were being maintained for entrepreneurs and organizations, while remaining **30.92%** for natural persons.

61.31% of new registrations were executed for entrepreneurs and organizations and **38.69%** for natural persons.

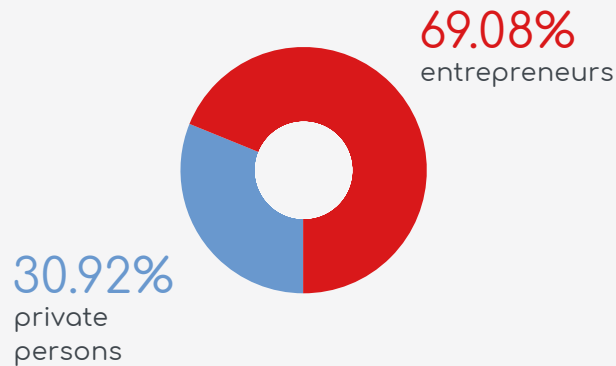
Division of Registrants of .pl domain names, Q2 2017

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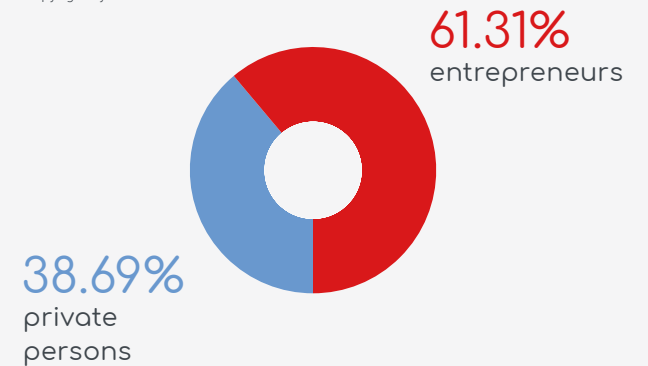
Division of .pl domain names, active in DNS, for Registrants, Q2 2017

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Division of .pl domain name registrations for the type of registrant, Q2 2017

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Registrants of .pl domain names

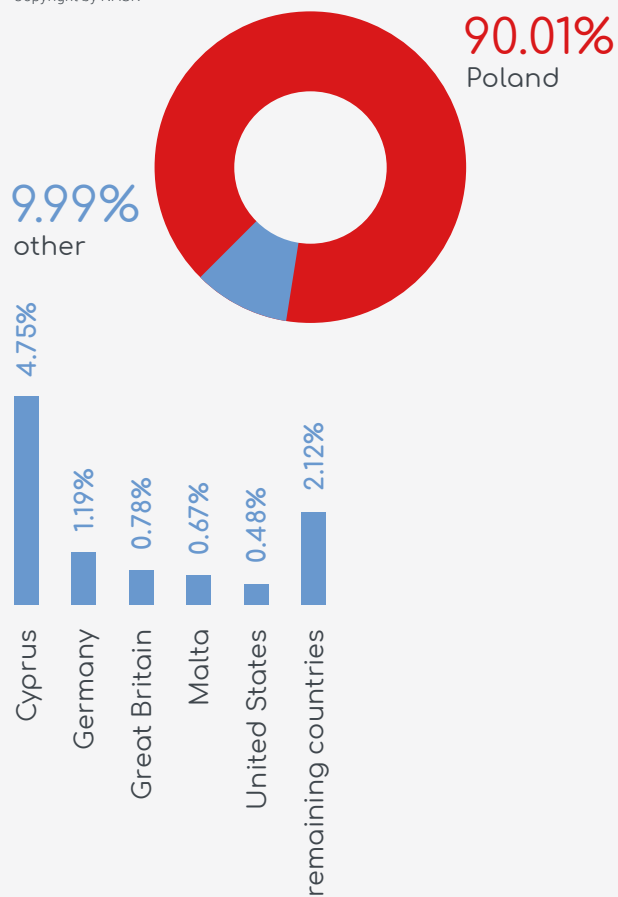
Place of residence of .pl domain name registrants

At the end of the second quarter of 2017 from amongst all the domain names, active in DNS, **91.14%** were maintained for the registrants domiciled in Poland and only **5.86%** of names for registrants from abroad: Germany (**1.43%**), Great Britain (**0.65%**) and United States (**0.58%**).

Out of all newly registered domain names, registered in 2017, **90.01%** were registered for registrants from Poland, while remaining **9.99%** for foreign registrants, mainly domiciled in Cyprus (**4.75%**), in Germany (**1.19%**) and Great Britain (**0.78%**).

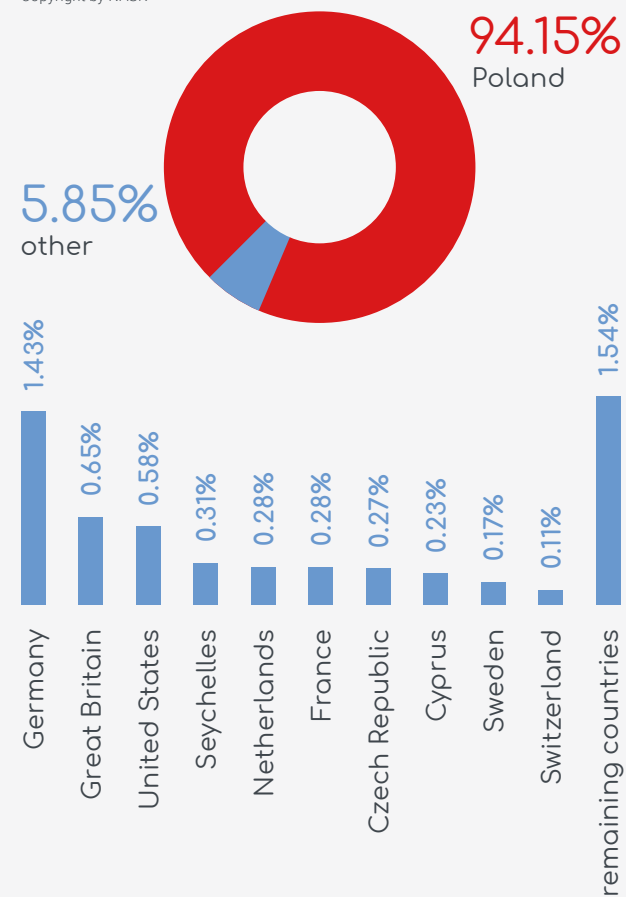
Division of .pl domain name registrations for a registrant's country, Q2 2017

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Division of .pl domain names active in DNS for registrant's country, Q2 2017

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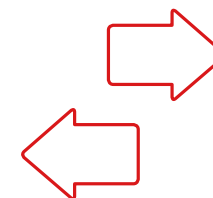


Registrants of .pl domain names

Assignments

Number of changes of .pl domain name registrants, Q2 2017

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In the second quarter of 2017 there were

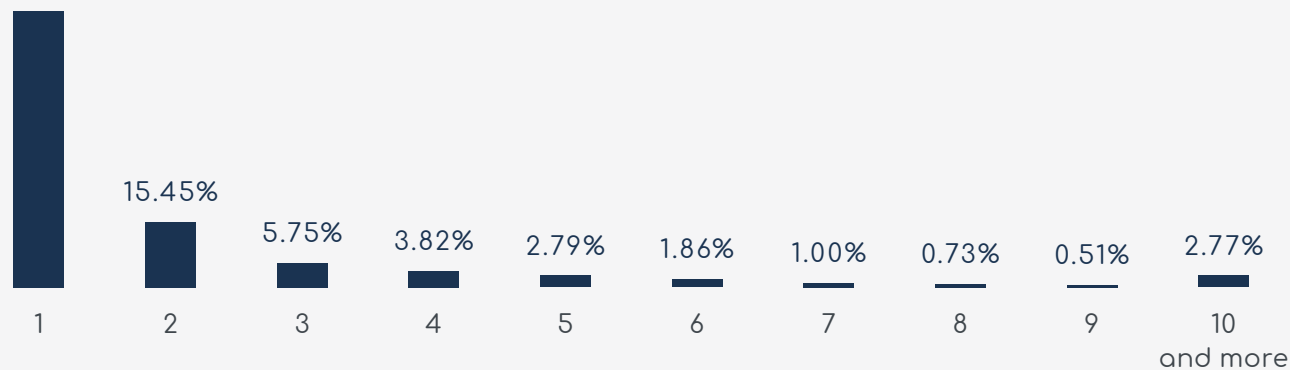
29 505

changes of .pl domain names registrants

Division of registrants by account of the number of maintained .pl domain names, Q2 2017

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65.32%



At the end of June 2017 the .pl registry was maintaining one domain name for **65.32%** of registrants, two domain names for **15.45%** and three domain names for **5.75%**, while 10 and more .pl domain names were held by **2.37%** of registrants.

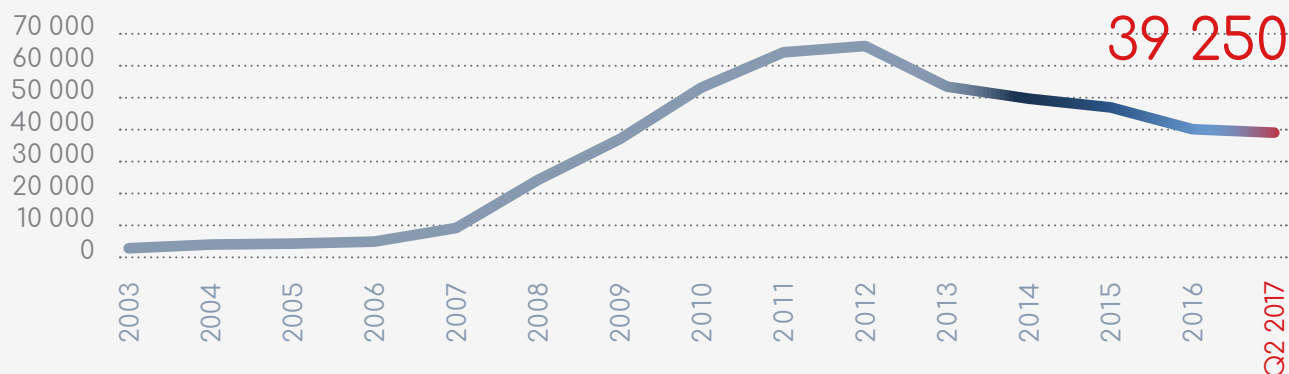
IDNs

At the end of the second quarter of 2017 the .pl registry contained **39 250** IDNs (names with national diacritic signs). IDNs constituted **1.49%** of all active .pl domain names. The number decreased by **766** names as compared to the previous quarter of 2017.

From the beginning of April to the end of June 2017 **3 096** IDNs were registered, which constituted **1.51%** of all .pl domain names registered during that period. In comparison to the previous quarter that number decreased by **1 704** names.

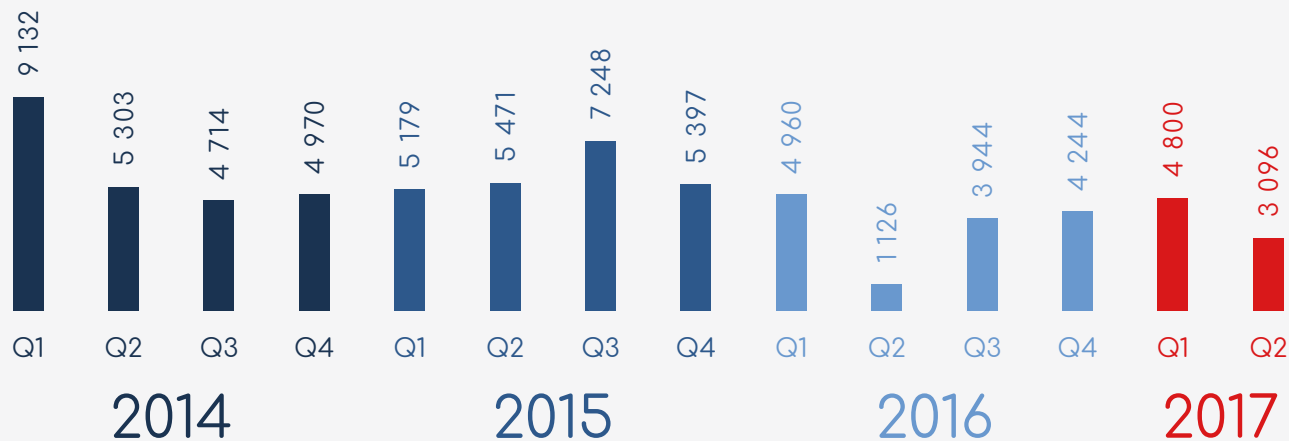
Number of .pl IDNs active in DNS

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Number of .pl IDNs registrations

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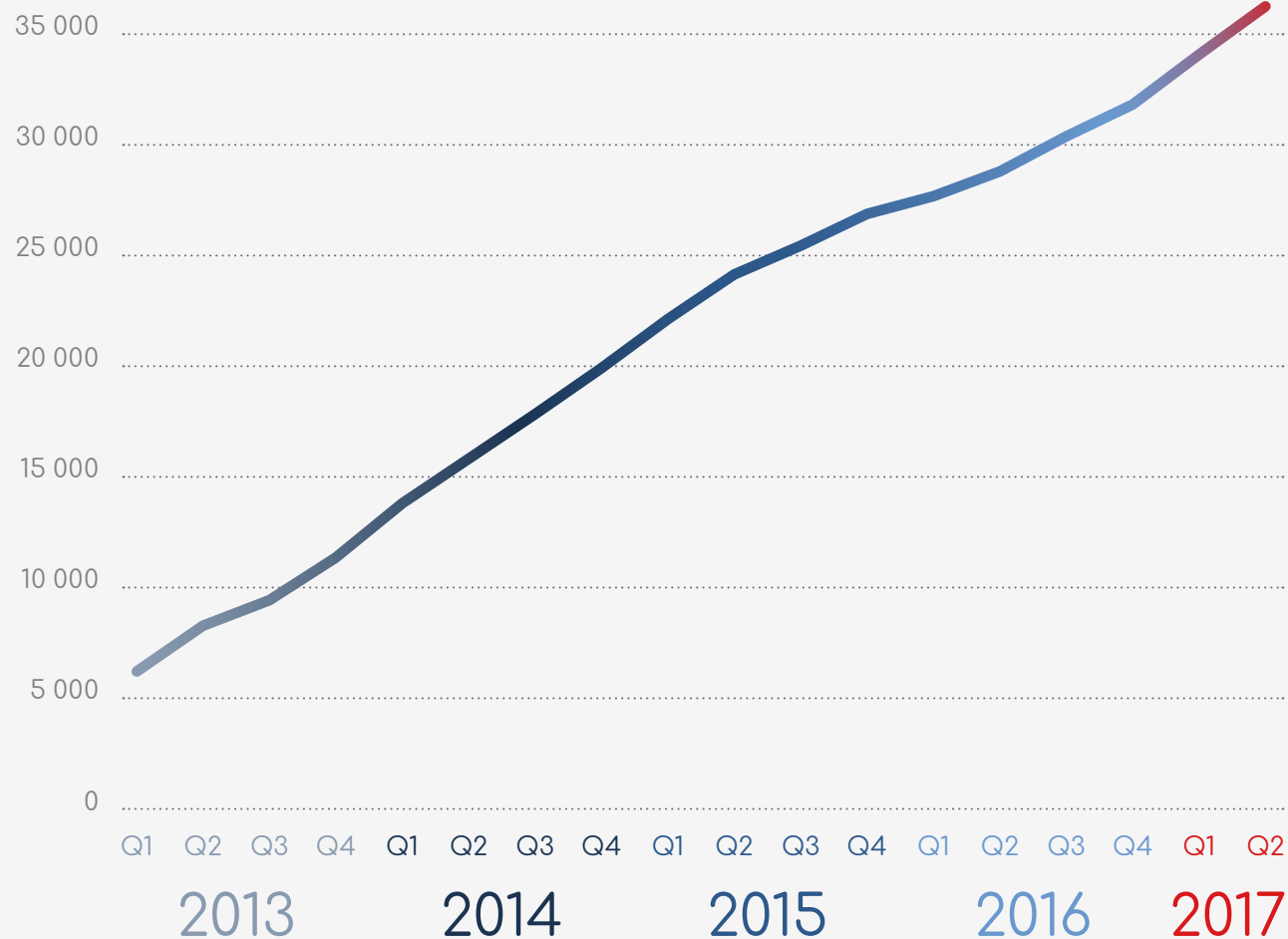


Additional services of .pl registry

DNSSEC

Number of the .pl domain names secured with DNSSEC

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At the end of the first half of 2017 there were **36 186** names secured with DNSSEC protocol. Within the period from 1 April to 30 June the number of secured .pl domain names increased by **2 132**.



Daily average **23** secured domain names, were added to the .pl registry

In the second quarter of 2017 only **1.04%** of newly registered names were signed with DNSSEC protocol.

86.87% of secured names were registered directly in the .pl domain, **9.98%** in the functional domains and **3.15%** in the regional domains.

Options

During the second quarter of 2017 **3 182** agreements on options for registration of .pl domain names were concluded, whereas **596** existing agreements were renewed for consecutive three years.



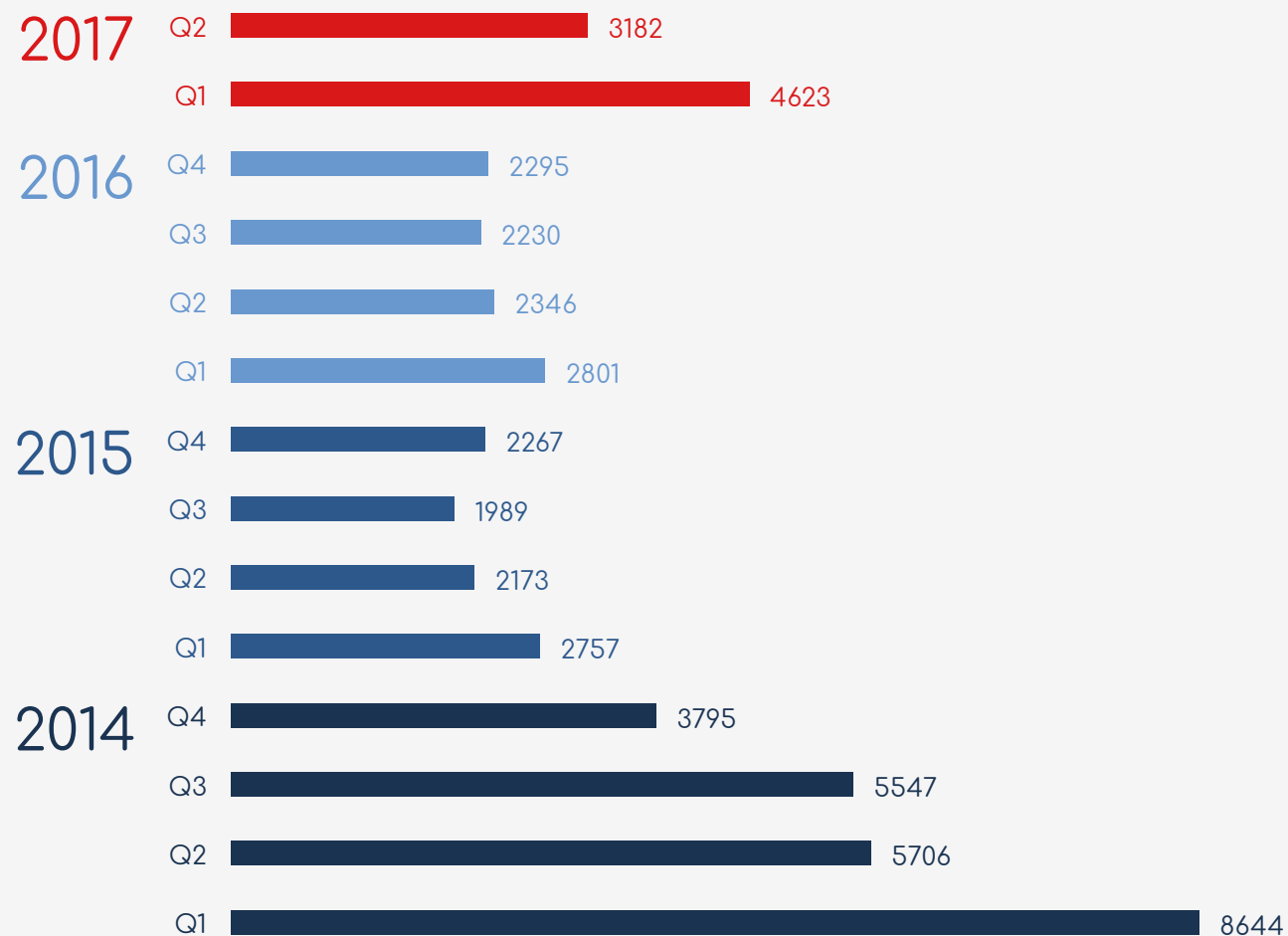
596
existing agreements
were renewed
for consecutive
three years

1 182 active agreements on options ended with providing a domain name for registration, whereas in **85** cases the registration procedure was not completed due to reasons attributable to an option holder, which resulted in the domain names being released to the group of names available for registration.

Since launching the service of option for registration of a domain name in 2004, the .pl registry has concluded more than **201 thousand** agreements, with **44.83%** thereof providing .pl domain names for registration.

Number of WLS registrations

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.pl Registry Partner Programme

The .pl registry, at the end of the second quarter of 2017, was cooperating with **212** registrars from **24** countries.

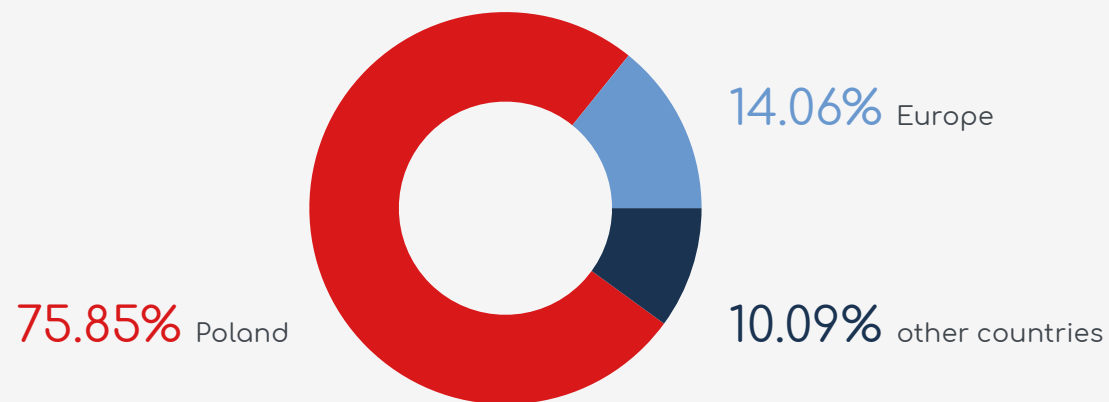


132 registrars had their registered offices in Poland and were servicing in total **75.85%** of .pl domain names

55 registrars, seated in other European countries, were servicing **14.06%** of .pl domain names, while **25** registrars, domiciled beyond Europe, were servicing **10.09%** of .pl domain names.

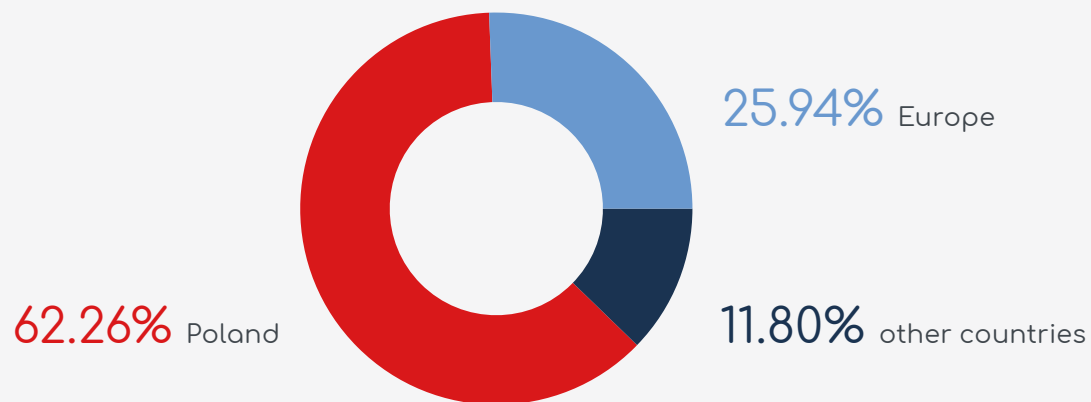
Division of .pl domain names for Partner's registered office, Q2 2017

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Division of Partners for their place of residence, Q2 2017

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Division of .pl domain name market

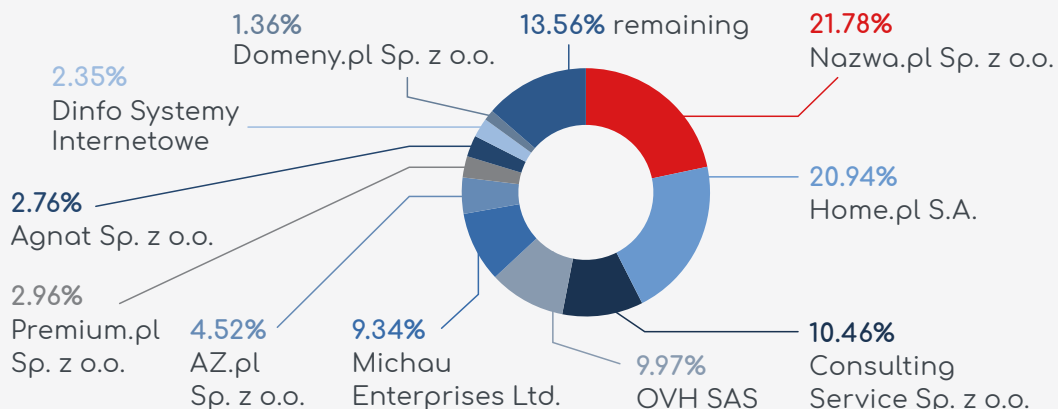
At the end of the first half of 2017, the leader of the market of serviced domain names and registrants was Nazwa.pl Sp. z o.o., attaining the results of **21.78%** and **23.25%** respectively. This registrar, assisting in registration of **31.77%** of names, was also most frequently chosen by registrants registering new .pl domain names.

From the beginning of April to the end of June 2017 options were most frequently set through Michau Enterprises Ltd., assisting in conclusion of **45.44%** of agreements on options.

The highest share in the service of domain names, secured with DNSSEC protocol, was recorded by OVH SAS. During the period under discussion that registrar was servicing the majority of secured names, as much as **94.13%**.

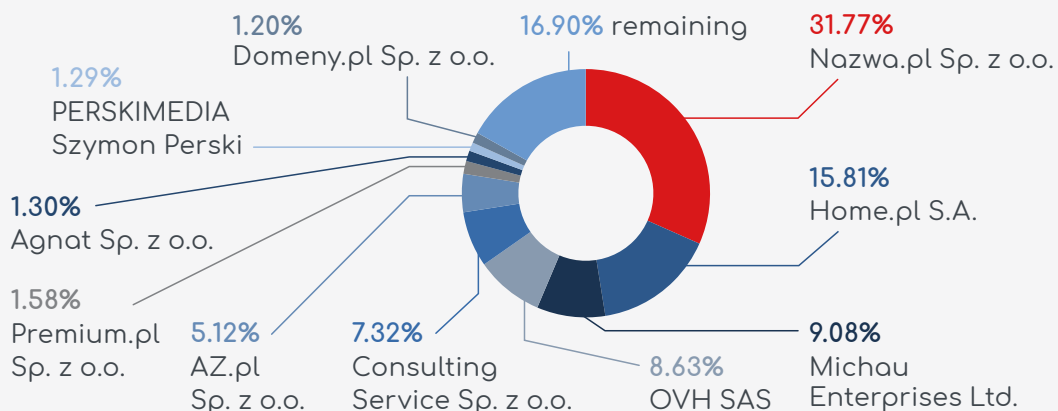
Partner's market share in the service of .pl domain names, Q2 2017

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Partner's market share in registration of new .pl domain names, Q2 2017

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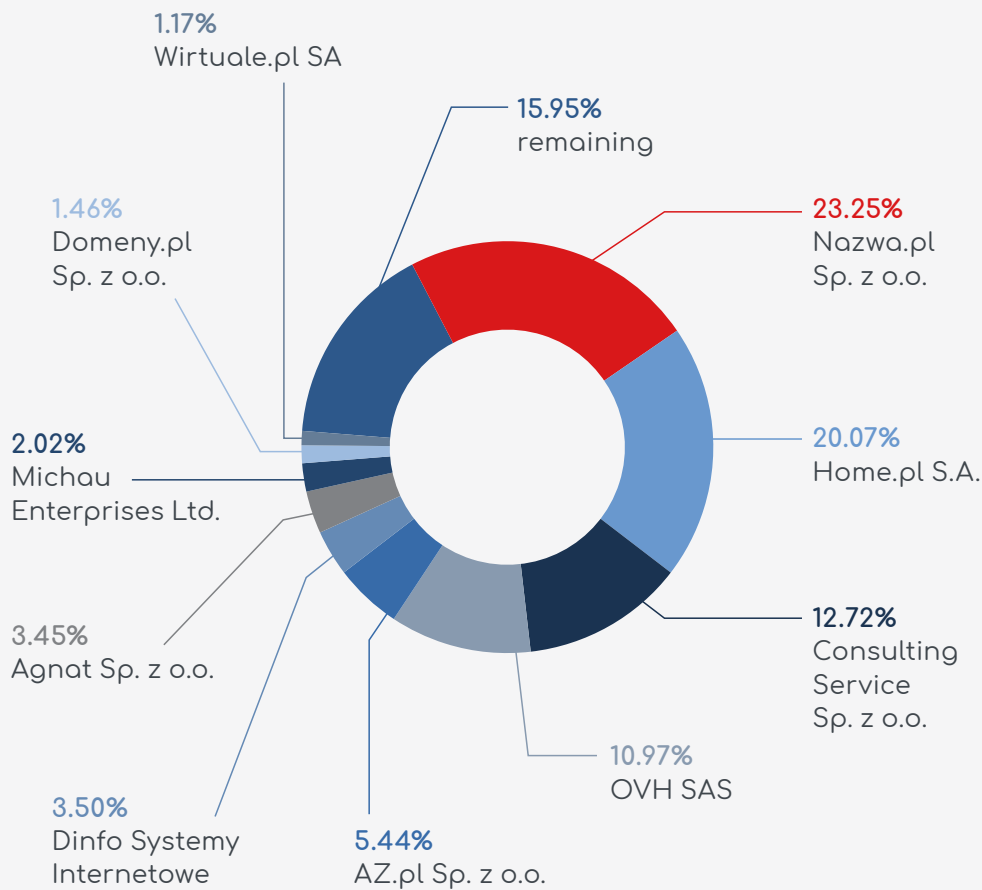


Registrars of .pl domain names

Division of .pl domain name market

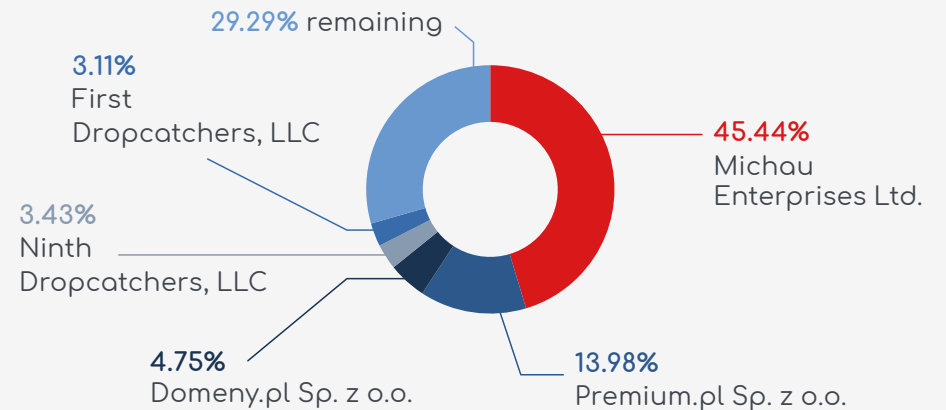
Partner's market share in the service of registrants of .pl domain names, Q2 2017

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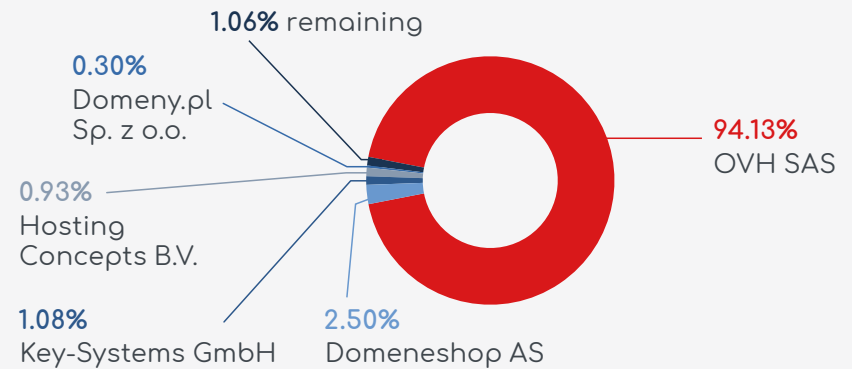
Partner's share in the WLS market, Q2 2017

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Partner's market share in the service of .pl domain names secured with DNSSEC, Q2 2017

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Who wins disputes on domain names?



Interview with **Ireneusz Matusiak**, Ph.D., President of the Court of Arbitration for the Internet Domain Names at the Polish Chamber of Information Technology and Telecommunication since 2003, Doctor of Laws, legal counsel and the author of many publications including the IT sector.

It is a long-standing practice that European registries do not investigate rights to domain names and their application, instead, infringements of such rights are investigated by courts. Disputes on domain names are a part of our reality, what is the best method to solve them? In Poland we may turn not only to a common court but also to a court of arbitration?

Courts of arbitration are part of the arbitration judicial system, competitive with the system of common courts which, in opinion of many entrepreneurs, are burdened with onerous procedures requiring the assistance of professional representatives. It is an expensive and long proceeding, and it is precisely time and money that play a significant role in business. The duty of the courts of arbitration is not only to resolve conflicts but also find a solution that is acceptable for the parties of a dispute. The parties should be convinced that their case has been heard comprehensively and competently. Therefore, courts of arbitration frequently appeal in their justifications of verdicts to settled rules of conducting business activity, good faith and fair competition. In principle, proceeding of courts of arbitration should be less complicated and fast.

What is a task of the Court of Arbitration presided by you? How long has it been operating and what cases does it hear?

Our court (Court of Arbitration for the Internet Domain Names at the Polish Chamber of Information Technology and Telecommunication in Warsaw) was established in 2003 as a result of the agreement concluded between NASK the Polish Chamber of Information Technology and Telecommunication. In this way institutional co-founders of the court responded to the needs of the broadly defined IT sector. Both the entrepreneurs and natural persons, not conducting business activity, expected that disputes on domains will be resolved quickly by professional arbitrators and entitled entities will be able to fully enjoy a business solution which is a .pl domain name. Therefore, our court resolves disputes on the infringement of rights arising out of the conclusion of agreement on maintenance of a .pl domain name. How does it impact an entrepreneur or a natural person not conducting business activity? Anyone, who considers that other entity, using a .pl domain name, has infringed their rights, among others, intellectual property rights (e.g. trademark protection rights) and civil rights (e.g. personal interest, company name), may obtain a decision of the Court of Arbitration confirming the infringement of those rights.

The Court is an institution independent of other market participants while the basis for dispute resolution is competence and independency of arbitrators?

The Court of Arbitration for the Internet Domain Names at the Polish Chamber of Information Technology and Telecommunication is independent in a sense that no other entity, including the Polish Chamber of Information Technology and Telecommunication (PIIT) and NASK cannot influence the decision delivered by the Court. In a situation where anyone would try to influence directly or indirectly (e.g. exposure of the proceeding in media) the impartiality and independency of the Arbitrator – Court Regulations provide for particular procedures allowing to determine whether the Arbitrator, hearing the case, is subject to be excluded from conducting the proceeding. Confidence in an Arbitrator is one of most important principles in proceedings before our Court. After all, it is parties of a dispute that choose on their own and amicably the Arbitrator to hear the case¹.

Who are the arbitrators? How can I get acquainted with arbitrators' profiles so as I can decide who I should choose?

The opinion on courts of arbitration depends to a great extent on arbitrators/mediators conducting the proceeding. I can proudly admit that the arbitrators and mediators of our Court of Arbitration are individuals combining theoretical knowledge as well as business experience. Those are not only persons with academic degrees but also legal practitioners who on daily basis help different entities running their business. They

know the subject matter, therefore are able to suggest solutions of conflicts and are very well oriented in the reality of domain names' application in the Internet. A complete list of Arbitrators and Mediators with a short description is available at <https://www.piiit.org.pl/sad-polubowny/arbitraz/lista-arbitrazow>

What are the fees of bringing a case before the court? Does a value of a domain name influence the fee?

Costs of adversarial proceedings include: a) processing fee for a pre-trial motion in the amount of PLN 200, b) court fee for filing a claim amounting to PLN 3000. In case of hearing a case by 3 arbitrators the court fee is PLN 6000. Mediation proceeding fees include: a) initial fee for instituting mediation proceeding in the amount of PLN 500, b) a final fee for conducting a mediation proceeding – PLN 1000. In accordance with binding provisions all fees are enlarged by VAT. In comparison to potential costs of proceeding before a common court, the costs of adversarial proceeding are not very high. Fees are equal in each case and any valuation of a domain name does not affect the cost.

How a domain name should be treated? Does a registrant of a domain name has a property and exclusivity right to use a domain name? May a domain name be used and disposed of in an unlimited way? How to demonstrate before a court the infringement of my rights by registrant's actions?

A .pl domain name is not a thing, therefore a property right does not apply in the meaning of regulations pertaining to e.g. houses or cars. We may only refer to a group of entitlements and obligations resulting out of the agreement on .pl domain name maintenance concluded in respect to services provided by the Registry and a Registrar. An entity, seeking protection before the Court of Arbitration, specifies the rights which, in their opinion, were infringed by a registrant and provides explanations on the method of infringement. Thus, a filed claim should specify the opposing party, a domain name in dispute, infringed rights, explanation of the method of infringement and a demand to release by a court a decision stating the infringement of rights. As evidence in the case there may be admitted e.g. documents confirming the obtaining of a protection right to a trademark applied in a domain name, documents confirming the action violating the rules of fair competition, whereas the Regulations of the Court of Arbitration does not constrain the inventions of the Parties as to the evidence. In order to demonstrate your rights you may also file requests to admit evidence of examining the parties to the proceedings or witnesses.

Is it difficult to win a case? Are big corporations favoured, or natural persons and small business also have managed to win a case?

I cannot give one explicit answer whether it is diffi-

¹ If the parties have not chosen amicably an Arbitrator, he/she will be selected by the President of the Court of Arbitration from a shortened list approved by those parties.

cult to win a case before our Court of Arbitration since cases are different – distinct and sometimes very complex factual and legal circumstances. Each case requires an individual approach. As we may observe, certain jurisprudence, pertaining e.g. to trade marks, has been already adopted. In majority of cases Arbitrators have not any infringement of a protection law of a trade mark in a situation when a domain name with a website is not active. If we deemed big companies predominant, then the principle of equality would be illusory. In the case heard before our Court of Arbitration it occurs frequently that big companies take legal actions against small business entities and even natural persons not conducting any economic activity. It is frequently so that those small entities, which does not employ a staff of lawyers and with definitely worse market position, win a lawsuit. A case in point may be, among others, a dispute, presented in media, on the charge of infringement of commercial property rights, between one of the biggest entities in IT sector and a natural person. In other proceedings – also between a big business entity and a natural person – in a decision dismissing the action, a citizen's right to free speech has been referred to in accordance with the provisions of the Constitution of the Republic of Poland. Those circumstances cause that our Court of Arbitration has received a great deal of concrete attention. We have already heard more than 1000 cases despite a relatively narrow range of cognition of our Court.

In case a request for arbitration has not been filed, NASK terminates the agreement, however this rule does not apply to consumers. Is it true that a failure to sign the arbitration clause by a consumer may result in filing a lawsuit to a common court and more acute consequences of losing a lawsuit?

Certainly. Lack of arbitration clause in practice leads to referring the case to the common court. Worthy of note is the fact that the knowledge on .pl domain names has not been spread amongst judges examining disputes and it occurs that common courts of different cities sometimes differently evaluate factual circumstances of the dispute. What is more, the proceeding conducted before our Court of Arbitration should be completed within one month. The parties to the proceeding may provide evidence on-line, direct examination of the parties or a witness is not required. In case of long-term proceedings before a common court (in the first and second instance) higher costs of legal representation are borne. State of uncertainty as to the domain name in dispute lasts too long.

A result of losing a lawsuit by a Registrant in the Court of Arbitration is only losing a domain name and there are no damages, destruction of goods, publication of expensive adverts, etc.?

Court of Arbitration for the Internet Domain Names at PIIT, when taking into account the statements

of claim, declares only that the rights of the claimant have been infringed and specifies those rights. The Court of Arbitration is not entitled to decide as to the matter of possible damages or to apply other measures, e.g. publication of a decision or an order to issue the apology in writing. The Court of Arbitration cannot also order to cease using a trademark applied in a domain name in dispute or a domain name itself. Therefore, a party, which has agreed to join the dispute, may estimate the consequences of a verdict pronounced in favour of that party or not.

Can it then be assumed that a case in the Court of Arbitration is the quickest method, e.g. to reclaim a domain name, and at the same time, it does not generate neither significant risk nor costs for both of the parties of the dispute?

Taking into account all aspects of proceeding before our Court of Arbitration, this statement seems to be justified. It should be emphasised that not only court fees, borne by a losing party in the end, are taken into account but also the time of hearing a case, a simplified procedure, hearing a case online without parties participating in person in the court proceedings. It should also be outlined that in the proceedings before our Court of Arbitration (contrary to the proceeding before common courts) the function of a legal representative is not dedicated only for legal counsels, attorneys-at law or patent attorneys.

How may it then be explained that arbitral jurisdiction in Poland is still in a “start-up” phase? It’s been a long time since appropriate provisions of law have been implemented.

Society may not be informed enough in the matter of arbitral proceedings. Our society is rather conservative and while filing a case to the common court it expects that it is the court that will find a solution for matters that may arise in the case. Proceedings before courts of arbitration require greater engagement of the parties because a method of settling a dispute amicably should be sought in the first place and that, in turn, requires a more active approach e.g. to present a request for a settlement, limit own demands and listen intently to arguments of the opposing party.

Is the Court of Arbitration involved only in settling disputes or it conducts also other activities, e.g. didactic?

Deciding on disputes does not exhaust the competences of our Court. It is worthwhile to mention about settling a dispute even before filing a lawsuit. Entities, willing to settle a dispute in its early phase through amicable agreement, may join mediations voluntarily. I would like to put emphasis on the role of the Court of Arbitration in the legal education of information society of the 21st century. Therefore, we publish selected verdicts at our website and promote public appearances of both the Arbitrators and the Presi-

dent of the Court of Arbitration at different conferences and seminars. As an example of such an event I will invoke a seminar, open for all entities, interested in the subject matter of Internet domain names, which was held on 17 May 2017 at the University of Silesia in Katowice², and tackled the issue of registering regional domain names. Participants of the seminar, while addressing the needs of different entities, were analysing the issue contained in the question – does the registration of a .pl domain name, containing a name of a city, region or an administrative unit, infringe the law or a natural person may register a domain name, e.g. olsztyn.pl?

The Court of Arbitration is therefore a positive exception with significant experience and profiling as for Polish reality. What is a convenient method to contact you?

I invite you to visit our website <https://www.piit.org.pl/sad-polubowny>

Anybody interested in the subject matter of .pl domain names will find there not only the regulations of proceeding before the Court of Arbitration but also the information on the costs of that proceeding, list of Arbitrators and Mediators, examples of lawsuit forms or pre-trial motions and selected decisions from years 2003-2016. Getting acquainted with those decisions may be helpful while evaluating own factual and le-

gal situation before engaging in a potential dispute. In order to obtain additional information on our Court of Arbitration you may also contact the Court’s Clerk: phone 22 6257323, e-mail: arbitraz@piit.org.pl

Thank you for conversation.

The interview was conducted by Anna Gniadek and Alina Wiśniewska-Skura

English translation: Piotr Studziński-Raczyński

² The seminar was organized by Naukowa i Akademicka Sieć Komputerowa, the Council of the Court of Arbitration for the Internet Domain Names at the Polish Chamber of Information Technology and Telecommunication and the Faculty of Law and Administration of the University of Silesia in Katowice.