

INSTRUCTION FROM THE GENERAL DIRECTOR OF THE PUBLIC CORPORATE ENTITY RED.ES TO SET FORTH THE SPECIAL CANCELLATION PROCEDURE UNDER THE DATA CLEANSING PROCESS

PREAMBLE

Additional Provision 16 of Law 9/2014 of 9 May, the General Telecommunications Act, grants the public corporate entity Red.es the right to manage the registration of domain names with the country code for Spain (.es).

The current Domain Names National Plan under the country code corresponding to Spain, ".es", approved by Order ITC/1542/2005 of 19 May, (hereinafter, the "Domain Names National Plan") entered into force on 1 June 2005. This regulation marked a turning point by simplifying and adding flexibility to the requirements for assigning ".es" domain names, establishing that a series of procedural rules to be set out by the Chairman of the Public Corporate Entity Red.es will be added to the Plan by virtue of Additional Provision 18 of Law 14/2000, of 29 December, on Tax, Administrative and Social Order Measures, amended by Article 70 of Law 24/2001, of 27 December, on Tax, Administrative and Social Measures.

The Chairman of Red.es has the authority to establish the procedures for assignment and other operations associated with registering domain names and Internet addresses under the country code for Spain, ".es", in accordance with Additional Provision 18 of Law 14/2000, of 29 December, on Tax, Administrative and Social Order Measures, as amended by Article 70 of Law 24/2001, of 27 December 2001, on Tax, Administrative and Social Order Measures, in Additional Provision 6 of Law 34/2002, of 11 July, on Information Society and Electronic Commerce Services, and Order ITC/1542/2005, of 19 May, which approves the Internet Domain Names National Plan under the country code corresponding to Spain (".es").

In a Resolution dated 21 October 2005, the Chairman of Red.es, in accordance with Article 7, section two of Royal Decree 164/2002, of 8 February, which approves the Articles of Association of the Public Corporate Entity Red.es, delegated the authority to establish the procedures for assignment and other operations associated with the registration of domain names and Internet addresses under the country code corresponding to Spain, ".es", to the General Director of Red.es.

On 2 January 2010, the General Director of Red.es issued the Instruction to develop the procedures applicable to assignment and operations associated with the Registration of Domain Names under ".es" (hereinafter, the "2010 Instruction"), Articles 2, 20 et seq. of which provide for the amendment of data associated with an ".es" domain name included in the Register in addition to the cancellation procedure.

Provision 5 of the Domain Names National Plan provides that second-level ".es" domain names shall be assigned according to temporary priority criteria without prior verification, except regarding rules of syntax, the list of banned terms, and the list of banned or reserved second-level domain names.

Section one of Provision 13 of the Domain Names National Plan establishes that *"domain name applicants shall provide identification data and are responsible for their accuracy"*. Furthermore, Section 5 of the same Provision states that *"the right to use the domain name shall be conditioned by the fulfilment of contractual obligations provided for under Section 13, the regulations set out under Section 11 and the fulfilment of any other applicable conditions. Non-fulfilment of the foregoing will lead to the cancellation of the domain name by the Assignment Authority, pursuant to the procedure and within the deadlines to be established by the Assignment Authority under the terms set out in the Additional Provision 18 of Law 14/2000, of 29 December, on Tax, Administrative and Social Order Measures. The domain name holder must always be heard as part of this procedure. The Assignment Authority may verify, at any time and ex-officio or at the request of an interested party, fulfilment of the conditions for assigning a domain name."*

This institution's accumulated experience managing domain names, in addition to international practice, have proven the need to reinforce policies for verifying the accuracy of data in the database corresponding to the Register of ".es" domain names. In order to establish a balance between the flexibility of the current registration system (as part of which there is no *ex ante* verification of the correctness and accuracy of the data associated with domain names) and the inevitable legal certainty of a public register, Red.es reinforces the mechanisms for verifying the accuracy and correctness of the data in the Register *ex-officio* by launching the data cleansing and correction process (hereinafter, the "Cleansing process". This process shall locate, verify and correct any incorrect data detected in the Register. Domain names subject to the cleansing process shall be selected according to objective criteria.

The special cancellation procedure arose specifically from the need to complete this verification and correction task regarding domain names for which the associated data is revealed to be inaccurate or false by means of a procedure that is more flexible than the one currently in place. As a result, an *ad hoc* procedure has been created that adapts to the needs of the data cleansing process, including a temporary suspension period for the domain before its final cancellation for instances in which the Assignment Authority does not receive any observations prior to the deadline set for their submission. This special procedure only applies to cancellations arising from the cleansing process; the procedure set forth in the 2010 Instruction remains in force for other cases.

Therefore, the General Director of Red.es, by virtue of the powers delegated to him, hereby issues this Instruction.

Pursuant to Additional Provision 16 of Law 9/2014, the drafting of this Instruction has taken into account the practices generally applied and the recommendations of the international institutions and organisations that conduct activities related to the management of the Internet domain names system.

Daniel Noguera Tejedor
General Director of the Public Corporate Entity Red.es

One - Database cleansing procedure

Cleansing the database corresponding to the Register of ".es" domain names is a process designed to verify the accuracy of the data included therein pursuant to Provision 13 of the Domain Names National Plan.

The process shall be embarked upon *ex-officio* by Red.es after applying objective controls on the data associated with domain names that determine that said data may be inaccurate or false. Once the process has begun, both the owner of the domain name and the accredited registrar responsible for its management, shall be contacted by Red.es to correct the deficiencies found in the data. The details of this process shall be published on the entity's web page.

Unless these deficiencies are properly corrected, Red.es shall implement the special cancellation procedures. The order for starting special cancellation procedures for domains for which data has not been properly corrected shall be selected at random.

In any case, accredited registrars are obliged to collaborate as required by Red.es within the scope of the database cleansing process.

Two - Special cancellation procedure

As part of the special cancellation procedure, the deadline for submitting observations shall be THIRTY CALENDAR DAYS. After the first TEN calendar days of said period, the domain name shall no longer be visible on the Internet and all services associated therewith shall also be suspended.

Any aspect not provided for in this Instruction shall fall under the cancellation procedure provisions set out in the Instruction issued by the General Director of Red.es on 2 January 2010.

Final provision - Entry into force

This Instruction shall enter into force after a period of one month, effective the day after its publication on the Assignment Authority's web page.