

# **RULES ON THE ALTERNATIVE DOMAIN-NAME DISPUTE RESOLUTION PROCEDURE FOR .SI TOP-LEVEL DOMAINS (ADR Rules)**

**Version 2**

## **A. GENERAL**

### **1. Preamble**

1.1 These ADR Rules of Procedure are part of the General Terms and Conditions for the Registration of Domain Names Under the .si Top-Level Domain (hereinafter: General Terms and Conditions). These Rules are binding on all registrars that have concluded contracts with Register.si and on all domain-name holders.

1.2 These ADR Rules regulate disputes regarding domain names registered under the .si top-level domain.

1.3 These ADR Rules, together with the ADR Principles incorporated into in the General Terms and Conditions, have the legal character of a contractually agreed alternative dispute resolution system. This system does not exclude or restrict, and is not intended to exclude or restrict, the judicial protection to which any party is entitled under the Constitution and the law.

1.4 These ADR Rules and the ADR Principles may be amended pursuant to a decision taken by Register.si. All amendments shall enter into force on the day they are published on the Register.si website, or after an interval determined by Register.si has elapsed.

### **2. Definition of terms**

Unless otherwise indicated in the text, the terms used in these ADR Rules shall have the following meanings ascribed to them:

2.1 ADMINISTRATOR means Register.si when the latter is engaged in managing an ADR procedure or providing administrative support to the tribunal in the procedure.

2.2 DOMAIN NAME means a string of permitted characters registered directly under the .si top-level domain.

2.3 ADR PRINCIPLES means the principles of alternative domain-name dispute resolution that are part of the General Terms and Conditions and that include the terms and conditions for initiating an ADR procedure.

2.4 HOLDER is a domain-name holder against whom a complaint has been filed as part of an ADR procedure.

2.5 REVERSE DOMAIN-NAME HIJACKING means using ADR Rules in bad faith in order to deprive a domain name from a registered domain-name holder.

2.6 DECISION means a decision in which the tribunal rules on a disputed domain name.

2.7 WRITTEN NOTICE OF THE FILING OF A COMPLAINT means a letter in which the administrator informs a domain-name holder that an ADR procedure has been initiated against them.

2.8 ADR PROCEDURE means an alternative domain-name dispute resolution procedure for .si top-level domains conducted in accordance with the provisions of the ADR Rules under the administrative management of the administrator and by arbiters.

2.9 UDRP RULES means the Uniform Domain Name Resolution Policy or the Rules for Uniform Domain Name Resolution Policy.

2.10 COMPLAINT means an application made by a complainant that initiates an ADR procedure.

2.11 COMPLAINANT means a third party that claims in the course of an ADR procedure that a holder's registered domain name violates their rights.

2.12 TRIBUNAL means a separate and independent institution comprised of arbiters appointed by the administrator for the purpose of adopting a decision in an ADR procedure.

2.13 ARBITER means a person with particular specialist knowledge and experience in intellectual property law or another appropriate field of law who has been appointed by the administrator to rule on the substance of a dispute in a specific domain-name dispute within an ADR procedure.

2.14 REGISTRAR means a natural person or legal entity that, pursuant to an agreement on cooperation in the registration of domain names, registers domain names on behalf of and for the account of holders.

2.15 PANEL means a panel of three arbiters appointed by the administrator and the parties, in accordance with the ADR Rules, to rule on a specific domain-name dispute within an ADR procedure.

2.16 DISPUTED DOMAIN NAME means a domain name in relation to which an ADR procedure has been initiated or is under way.

2.17 PARTY means a domain-name holder or complainant.

2.18 APPLICATION means any written communication by a party in an ADR procedure sent to the administrator or the tribunal.

### **3. *Mutatis mutandis* application of UDRP Rules**

3.1 An ADR procedure shall be conducted in accordance with these Rules. Where these Rules do not provide sufficiently precise instructions regarding the conduct of an ADR procedure, the administrator, arbiter or panel shall, on the basis of agreement, apply the Uniform Domain Name Resolution Policy or the Rules for Uniform Domain Name Resolution Policy *mutatis mutandis*.

### **4. *Language of ARDS procedures***

4.1 The Slovenian language shall be used in ADR procedures. Applications shall be made and decisions written in the Slovenian language.

4.2 Should a party make an application in a foreign language, they shall, at the request of the administrator, arbiters or the panel, submit a certified translation of the application by the deadline specified by the administrator, the arbiters or the panel.

### **5. *Tribunal***

5.1 The tribunal is an institution specifically established and organised as a separate and independent institution within the administrator's office charged with ensuring impartial and rapid resolution and decision-making in domain-name disputes under the .si top-level domain.

5.2 The tribunal does not have legal personality.

5.3 Disputes shall be decided upon by an arbiter, who must be and remain independent and impartial in their dealings with the parties in the dispute. If a complainant in their complaint or a domain-name holder in their response to a complaint requests that a decision be taken by a panel of three arbiters, that panel shall rule on the dispute in question.

5.4 Administrative and organisational work for the tribunal shall be undertaken by the administrator. The administrator shall also undertake all required ADR-related organisational activities.

5.5 The administrator shall appoint arbiters to the list of arbiters for a period of three (3) years. An arbiter may be reappointed after the expiry of their term of office.

5.6 The list of arbiters, with their professional qualifications, shall be published on the Register.si website.

## **6. Applications**

6.1 All applications made by parties pursuant to these Rules shall be sent by e-mail to ARDS@register.si by the deadlines specified under these Rules.

6.2 An application shall be deemed to have been made on time if it arrives in the administrator's e-mail inbox before the end of the last day of the deadline. In the event of technical obstacles to the receipt of applications by e-mail, the administrator shall extend the deadline by a reasonable length of time.

6.3 If electronic forms annexed to these Rules and available on the Register.si website exist for individual types of application, these forms must be used for those applications. If they are not, the administrator and the tribunal shall not be obliged to accept the applications.

6.4 All applications from parties, with the exception of complaints, shall contain a reference number. If they do not, the administrator and the tribunal shall not be obliged to accept them.

6.5 All applications must be signed by the party concerned. Where the party is a legal entity, the application shall also contain the legal entity's stamp. If the legal entity does not operate with a stamp, it must provide mention of this.

6.6 Parties shall send all applications to the administrator, which shall forward them without delay to the opposing parties and the arbiters in accordance with these Rules.

## **7. Submission**

7.1 The administrator shall be obliged to employ all appropriate and available means of communication in order to keep a holder apprised of the status of a complaint.

7.2 A complaint shall be deemed to have been submitted to a domain-name holder if:

- the written notice of the filing of a complaint has been sent to the postal address given for the domain-name holder in the WHOIS database; and
- the complaint has been sent by e-mail to the domain-name holder's official e-mail address, or its technical and administrative contact e-mail address, as stated in the WHOIS database; and

- the complaint has been sent to the domain-name holder's e-mail address as stated in the complainant's complaint, in accordance with point 10.2 of these Rules.

7.3 All communications, with the exception of a written notice of the filing of a complaint as referred to in the first indent of point 7.2 of these Rules, shall be submitted electronically.

7.4 If any of the parties change their contact details in the course of an ADR procedure, they shall notify the administrator of this without delay.

7.5 Unless provided otherwise in these Rules or unless the administrator decides otherwise in response to exceptional circumstances, all communications to parties shall be deemed to have been submitted in accordance with these Rules:

- if sent by post, the second day after the communication was sent; or
- if sent by e-mail, on the day the communication was sent.

7.6 A party that has an authorised representative may, in their application, opt to have communications sent to that representative instead of to them, in accordance with the provisions of these Rules.

7.7 All communications from an arbiter or the panel shall be submitted to parties via the administrator, in accordance with the provisions of this section of the Rules.

## **8. Deadlines**

8.1 The deadlines binding on arbiters and the tribunal shall have the legal character of instructions regarding their conduct in a particular procedure. Any reasonable failure to comply with a deadline shall not affect the outcome or validity of the procedure.

8.2 Parties shall comply with the deadlines by which they are bound. Failure to do so may harm their case.

## **9. Fees**

9.1 A complainant shall be obliged to pay a fee to the Arnes sub-account at the UJP, no 01100-6030345406, when they submit a complaint.

9.2 The amount of the fee shall depend on the number of disputed domain names to which the complaint relates, and shall be set as follows:

	1–5 domain names	6–10 domain names	More than 10 domain names
Dispute to be decided by a single arbiter	EUR 700	EUR 1,200	To be determined by the administrator
Supplement for panel decision on a dispute	EUR 700	EUR 1,200	To be determined by the administrator

9.3 If a complainant specifies in their complaint that they wish the complaint to be decided by a panel of three arbiters, they shall pay a supplement. If this is not requested by the complainant but is requested by the holder in their response to the complaint, the holder shall pay the supplement for the panel when they submit their response to the complaint. The supplement shall be paid into the sub-account referred to in point 9.1 of these Rules.

9.4 Any fee paid shall, as a rule, not be refunded. In exceptional cases, fees paid shall be refunded to the payer, reduced as follows:

- if the complainant's complaint is upheld, 50% of the fee paid shall be refunded;
- if the parties reach a settlement before an arbiter or panel have been appointed, 75% of the fee paid by each party shall be refunded;
- if the complainant withdraws their complaint before an arbiter or panel have been appointed, 75% of the fee paid by the complainant shall be refunded;
- if the complainant withdraws their complaint, the entire amount of the fee paid by the holder shall be refunded, unless a panel has already been appointed;
- if the administrator dismisses the complaint, the entire amount of the fee paid by the complainant shall be refunded.

9.5 Fees shall be used to cover the costs of the administrator's services and for remuneration of the arbiters.

## **B. ADR PROCEDURES**

### **10. Complaints**

10.1 An ADR procedure may be initiated by any natural person or legal entity that claims that a registered domain name violates any of their rights under ADR Principles. They shall initiate this procedure by filing a complaint with the administrator in accordance with these Rules.

10.2 A complaint shall be filed electronically on a form compiled in advance, and shall contain:

- the name and surname or company name, postal address, e-mail address and telephone number of the complainant or their legal representative or person authorised to represent them in the procedure, along with the authorisation given to the authorised representative if the complainant has engaged one;
- a request that the case in question be ruled on in accordance with the ADR Rules;
- the contact person and the e-mail address to which all communications under the ADR Rules are to be sent;
- details of the domain-name holder, in particular their name and surname, company name or other name, the contact person, their postal and e-mail addresses and telephone number, including such information as can be derived from the WHOIS database, as well as any other details the complainant may have at their disposal;
- a reference to the disputed domain name or names;
- a statement to the effect that the complainant meets all the conditions for initiating a procedure under the ADR Principles, along with a reasoned explanation that may not exceed 5,000 words;
- an indication of whether the complainant is requesting the deletion or transfer of the disputed domain name or names;
- if the complainant is requesting that the dispute be ruled upon by a panel of three arbiters, a statement to that effect;
- an indication of whether any judicial, arbitration or other procedures are under way in relation to the disputed domain name or names, and proof that these procedures are under way;
- proof of payment of the fee;
- a print-out from the relevant companies register, if the complainant is a legal entity;
- any evidence on which the complaint rests;
- a declaration of the veracity of the statements, consent to the application of the ADR Rules and the General Terms and Conditions, and a declaration of responsibility, good faith and entitlement to take part in this procedure under the law of the Republic of Slovenia, as stated substantively on the form.

10.3 A single complaint may relate to more than one domain name only if these domain names are operated by the same holder.

10.4 Where a complainant files a complaint regarding a domain name for which a decision on a dispute between the complainant and the domain-name holder has already been taken in an ADR procedure, the administrator shall dismiss the complaint.

## **11. Notice of complaint**

11.1 The administrator shall examine whether a complaint meets the formal requirements within five (5) days of receiving the complaint and the payment of the fee.

11.2 If the administrator finds that the complaint has formal deficiencies, it shall notify the complainant of this and invite them to amend or supplement their complaint accordingly within five (5) days of the day the notice of complaint was submitted. If the complainant fails to amend or supplement their complaint accordingly by this deadline, the administrator shall dismiss the complaint.

11.3 If the administrator finds that the complaint is complete and the fee has been paid in full, it shall, without delay (i.e. on the same day), block the disputed domain name or names, thereby prohibiting the deletion of the disputed domain name or names or the transfer of the domain name or names to a third party until the procedure is completed by way of a decision issued by an arbiter or a panel and enforced, or the procedure is suspended, and shall notify the complainant that the disputed domain name or names has/have been blocked.

11.4 The administrator shall, at the same time, send the complete complaint to the domain-name holder, together with a notice to the effect that the disputed domain name or names has/have been blocked, and an explanation that the holder has, in accordance with the ADR Rules, the right to respond to the complaint within twenty-one (21) days of the day the domain name or names was/were blocked.

11.5 The registrar that registered the disputed domain name or the registrars that registered the disputed domain names shall be notified of the complaint and of the blocking of the domain name or names by the administrator.

## **12. Response to a complaint**

12.1 A domain-name holder may send their response to a complaint to the administrator within twenty-one (21) days of the day the disputed domain name or names was/were blocked.

12.2 In exceptional cases, the administrator may, at the request of the domain-name holder, extend the deadline for the submission of a response to a complaint. The administrator shall notify the complainant of any extension to the deadline.

12.3 A response to a complaint shall be filed electronically on a form compiled in advance, and shall contain:

- the name and surname, postal address, e-mail address and telephone number of the holder and their legal representative or person authorised to represent them in the procedure, along with the authorisation given to the authorised representative if the complainant has engaged one;
- the contact person and the e-mail address to which all communications under the ADR Rules are to be sent;
- the holder's position on the complainant's proposals to delete or transfer the disputed domain name or names which, together with the reasoned explanation, may not exceed 5,000 words;
- if the domain-name holder is requesting that the decision in the procedure be made by three arbiters, a statement to that effect;

- an indication of whether any judicial, arbitration or other procedures are under way in relation to the disputed domain name or names, and proof that these procedures are under way;
- if the domain-name holder is requesting that a decision in the procedure be made by three arbiters and the complainant has not requested the same, proof of payment of the fee shall be enclosed with the complaint;
- any evidence on which the response to the complaint rests.

12.4 If the administrator finds that the response to the complaint has formal deficiencies, it shall notify the domain-name holder of this and invite them to amend or supplement their response to the complaint accordingly within five (5) days of the day the notice of response to the complaint was submitted. If the domain-name holder fails to amend or supplement their response to the complaint accordingly by this deadline, the response to the complaint shall be deemed not to have been filed.

12.5 The administrator shall send the response to the complaint to the complainant within three (3) days of receiving it.

12.6 If the domain-name holder fails to file a response to the complaint by the deadline specified in these Rules, the arbiter or panel shall rule on the disputed domain name or names on the basis of the complaint only.

12.7 If proof of payment of the fee under the conditions referred to in the sixth indent of point 11.3 of these Rules is not submitted, or if it is found that the domain-name holder has not paid the fee, the requirement referred to in the fourth indent of point 11.3 of these Rules shall not be taken into consideration.

### **13. Possibility of settlement**

13.1 If the parties reach a settlement before an arbiter or panel have been appointed by the administrator or at the proposal of one of the parties, the administrator shall suspend the ADR procedure.

13.2 The parties shall be deemed to have reached a settlement when the administrator receives a statement from each of the parties to the effect that they have reached a settlement.

13.3 If the parties wish to enter negotiations before an arbiter or panel have been appointed, the complainant may request that the administrator suspend the ADR procedure for a specified period of time. The administrator shall resume the ADR procedure at the request of any of the parties or after the expiry of period of suspension referred to in the complainant's request for suspension of the procedure on account of negotiations with the opposing party.

### **14. Appointment of arbiters**

14.1 The administrator shall appoint an arbiter from the list of arbiters as soon as possible and without delay. If there are no other obstacles, the appointment shall be made under the rotation principle so that the arbiter appointed is always that arbiter on the list who is immediately behind the arbiter who adjudicated on the previous case. If the appointed arbiter is unable to rule on the dispute in question for any reason, the administrator shall appoint the next arbiter on the list.

14.2 Where a complainant in their complaint or a domain-name holder in their response to a complaint requests that a decision be taken by a panel of three arbiters, the administrator shall invite both parties to each propose one arbiter from the list of arbiters by a deadline specified by the administrator. The administrator shall appoint a third arbiter from the list of arbiters to act as the chair of the panel.

14.3 The administrator shall ensure that the conditions are in place for ensuring that any arbiter appointed to any case is always fully independent and impartial. An arbiter who has misgivings regarding their independence and impartiality shall notify the administrator of this immediately. The administrator may then appoint another arbiter. An arbiter may do this at any time during the ADR procedure up to the time the decision is issued. An ADR procedure shall be recommenced before another arbiter or a panel comprising different arbiters.

14.4 If the administrator finds at any time during an ADR procedure that a specific arbiter is for any reason unable to discharge their duties, or unable to do so on time, or if doubts arise as to their independence and impartiality, it shall appoint another arbiter without delay. An ADR procedure shall be recommenced before another arbiter or a panel comprising different arbiters.

14.5 An arbiter who has been appointed shall complete the form immediately, along with a declaration of independence and impartiality, and shall send it to the administrator. The parties shall have the right to inspect this declaration.

14.6 The administrator shall notify the parties of every appointment of arbiters, and provide a deadline for the issuing of a decision.

## **15. ARDS procedures before arbiters**

15.1 Every arbiter shall be obliged to treat the parties equally in the dispute.

15.2 The arbiter or the panel may, through the administrator, request additional information and clarifications from the parties at any time. If they do not receive the additional information or clarifications by the deadline they have specified, they shall use their discretion to decide what action to take. Parties may not communicate with arbiters at their own initiative.

15.3 Where a panel is appointed, the chair of the panel shall be exclusively responsible for communicating with the administrator and performing all other activities required to implement the procedure. Should any of the members of the panel not agree with the decision of the chair of the panel regarding the conduct of the procedure, they may request that the final decision on the case be made by the panel.

15.4 The panel shall adopt a decision following consultation between all three arbiters, with a majority of votes of all members. The panel may also consult using electronic media. The three members of the panel shall have one vote each.

## **16. Suspension of ARDS procedures**

16.1 The administrator or the arbiter or panel (if a procedure is already under way before an arbiter or panel) may suspend an ADR procedure in part or in full at any time, when:

- the complainant partly or fully withdraws their complaint;
- the parties reach an agreement at any time during the ADR procedure;
- the complainant has failed to pay the fee as required under the ADR Rules;
- a decision has already been issued in an ADR procedure regarding a dispute on the same domain name between the same parties, or a ruling has already been issued in a judicial or arbitration procedure regarding a dispute on the same domain name between the same parties and that judicial or arbitration decision is enforceable in the Republic of Slovenia;
- the arbiter or panel find that the complaint was clearly filed in bad faith;
- in other cases as defined by the ADR Rules, or where deemed necessary by the arbiter or panel.

16.2 The administrator shall notify the parties that the ADR procedure has been suspended. The parties may issue an objection to the suspension by submitting an application within five (5) days of the day notice of suspension was submitted.

16.3 The administrator or the arbiter or panel (if a procedure is already under way before an arbiter or panel) shall study the statements made in the objection and, where required, continue the procedure if they assess that the complainant's objection is merited.

## **17. Decisions**

17.1 An arbiter or panel shall adopt a decision on the basis of the statements made by the parties in their applications and of the proof submitted in accordance with the ADR Rules of Procedure, with due regard to the ADR Principles.

17.2 A decision may reject a complaint as unfounded in its entirety, or may partly or fully uphold a complaint.

17.3 If a complaint is partly or fully upheld, the decision shall order the deletion of the domain name or its transfer to the complainant in line with the content of the complaint. If the complainant has requested in their complaint that a specific domain name be transferred to them and the arbiter or panel finds that there is no basis for doing so, at the same time finding that there is a basis for deleting the domain name, the decision shall order the domain name to be deleted.

17.4 The arbiter or panel shall send the decision to the administrator within fourteen (14) days of their appointment. In exceptional cases, particularly where additional clarifications or proof have to be obtained from the parties, the administrator may extend the deadline for the adoption of a decision and notify the parties thereof.

17.5 The arbiter or panel shall adopt and compile a reasoned decision in writing in which they state the reasons for their decision. Every decision shall contain the date of issue and the name or names of the arbiter or arbiters who ruled on the dispute.

17.6 If the arbiter or panel find, in the course of assessing the parties' statements and the evidence submitted under the ADR Rules, that the complaint indicates the hijacking of a domain name, it shall refer to this finding in the decision. If it is demonstrated that the same domain-name hijacker has, on more than one occasion over a period of two (2) years, attempted to abuse the ADR Rules for the purpose of reverse domain-name hijacking, the administrator may dismiss any complaint filed by them in the next two (2) years.

17.7 There shall be no appeal against a decision issued in an ADR procedure.

## **18. Enforcement and publication of decisions**

18.1 The administrator shall send the decision to the parties within three (3) days of receiving it, and notify the registrar that registered the disputed domain name or the registrars that registered the disputed domain names that it has done so.

18.2 Where a decision orders a domain name to be deleted or transferred, the administrator shall enforce the decision within twenty-one (21) days of the day the decision was issued, unless it receives, prior to the expiry of this deadline, a document from the complainant or domain-name holder that proves that a judicial or arbitration procedure has been initiated in relation to the disputed domain name.

18.3 From the day the decision is issued, the general prohibition on the transfer of the domain name to a third party shall cease for those domains for which deletion or transfer were not ordered in the decision in question.

18.4 A decision shall be published on the Register.si website after it has been enforced. If the decision involves a natural person, they shall be identified by their initials only. Other personal data pertaining to them shall not be published.

### ***19. Effect of a judicial or arbitration procedure***

19.1 The enforcement of a judicial or arbitration procedure enforceable in the Republic of Slovenia shall have priority over the enforcement of a tribunal decision and an ADR procedure. Without prejudice to the ADR Rules, a tribunal and the administrator shall comply with binding judicial and arbitration decisions.

19.2 Parties shall be obliged to notify the tribunal of any judicial or arbitration procedure under way concurrently in relation to the disputed domain name or names. An arbiter or panel shall assess what this procedure means, and may partly or fully suspend an ADR procedure.

## **C. FINAL PROVISIONS**

### ***20. Entry into force and application of ARDS Rules***

20.1 These Rules shall enter into force on the day they are published on the Register.si website.

20.2 These Rules shall apply to all ADR procedures initiated by the filing of a complaint with Register.si on or after 1 February 2017. The previous ADR Rules (Version 1.1) shall apply to all ADR procedures initiated prior to 1 February 2017.