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DIRECTIVE ISSUED BY THE DIRECTOR GENERAL OF THE PUBLIC CORPORATE ENTITY RED.ES ESTABLISHING THE PROCEDURE FOR REASSIGNING DOMAIN NAMES OF EXCEPTIONAL GENERAL INTEREST

INTRODUCTION

Additional provision no. 6 of Law 34/2002, of 11 July, the Information Society and Electronic Commerce Act, pursuant to additional provision no. 6 of Law 11/1998, of 24 April, the General Telecommunication Act, expressly enforced by letter b) of the Single Repealing Provision of Law 32/2003, the General Telecommunications Act, assigns the public corporate entity Red.es the management of the Internet Domain Names Register under the country code corresponding to Spain (.es).

On 1 June 2005, the current National Plan for Internet Domain Names under the country code for Spain ".es" came into force, approved by ORDER ITC/154/2005, of May, a regulation that marked a turning point by simplifying and adding flexibility to the requirements for assigning ".es" domain names. Under this regulation, a series of procedural rules to be dictated by 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, the Tax, Administrative and Social Order Measures Act, amended by article 70 of Law 24.2001, of 27 December, the Tax, Administrative and Social Measures Act.

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 corresponding to Spain (".es") in accordance with Provision 18 of Law 14/2000, of 29 December, the Tax, Administrative and Social Order Measures Act, as amended by article 70 of Law 24/2001, of 27 December 2001, the Tax, Administrative and Social Order Measures Act, in Additional Provision 6 of Law 34/2002, of 11 July, the Information Society and Electronic Commerce Act, and Order ITC/1542/2005, of 19 May, which approves the National Plan for Internet Domain Names Under the Country Code Corresponding to Spain (".es").

Specifically, section 7, paragraph 2, of additional provision 6 of Law 34/2002, of 11 July, the Information Society and Electronic Commerce Act, stipulates that *"Procedures for assignment and other operations associated with registering domain names and internet addresses established by the Chairman of the public corporate entity Red.es will be added to the Plan, pursuant to additional*

provision 18 of Law 14/2000, of 29 December, the Tax, Administrative and Social Order Measures Act."

In accordance with section 2, article 7 of Royal Decree 164/2002, of 8 February, which approves the Articles of Association of the Public Corporate Entity Red.es, the Chairman of Red.es, delegated the authority to establish the procedures for assignment and other operations associated with registering domain names and internet addresses under the country code corresponding to Spain (".es") to the General Director of Red.es in the Resolution dated 21 October 2005.

Therefore, in order to complete the Plan implementing specific procedural rules, the Public Corporate Entity Red.es has, in recent years, approved and issued various directives to implement the procedures for assignment and other operations associated with registering domain names under the country code corresponding to Spain (".es"). The procedure currently valid is that approved by the director general of the entity on 2 January 2010.

Under section 5 of the National Plan for Domain Names, second level ".es" domain names shall be assigned on the basis of the earliest date of application with no prior checks save those relating to rules of syntax and the list of reserved or prohibited terms set forth in section 7.

Section 5 of additional provision 6 of Law 34/2002, of 11 July, the Information Society and Electronic Commerce Act, meanwhile, provides that *"the National Plan for Internet Domain Names shall establish appropriate mechanisms for preventing the abusive or speculative registration of domain names, the unlawful use of generic terms or place names, and in general, for preventing conflicts that may arise from the assignment of domain names"*.

For this reason, section 7 of the National Plan for Domain Names protects domain names related to the names of constitutional bodies or other state controlled institutions and names that coincide with the official names of territorial public administrations by classifying all the latter as reserved names. Furthermore, the rules governing the out-of-court dispute resolution procedure for ".es" domain names also protects official or generally recognisable names of public administrations and Spanish public entities by giving the latter bodies pre-emptive rights over such names.

Pursuant to the above, the experience gained by the ".es" domain name register has shown that there are, as an exception, certain domain names that are particularly important to general public interest but have hitherto not been protected due to their not being directly associated with the names of constitutional bodies or other state institutions, the names of territorial public administrations or official or generally recognisable names of Spanish public administrations and public entities. Under the provisions of section 5 of the aforementioned National Plan for Domain Names, these domain names of

general interest might have been assigned to individuals or private entities that do not represent the general interest inherent to the domain name in question, and so should be reassigned to the entity that does in fact represent the aforementioned general interest, particularly considering that these are public resources and could be subject to abusive or speculative registration and unlawful use.

Consequently, the General Director of Red.es, by virtue of the powers delegated to him and pursuant to section 5 of additional provision 6 of Law 34/2002, dated 11 July, the Information Society and Electronic Commerce Act, hereby issues this directive enabling any names or domains declared to be of exceptional general interest to be reassigned by means of a cancellation procedure. To this effect, the directive establishing the procedures for assignment and other operations associated with registering domain names and internet addresses under the country code corresponding to Spain (".es") dated 2 January 2010 is hereby amended to adapt existing reasons for cancellation set forth in article 21 to the provisions of the reassignment procedure and to experience gained by the Entity since the date of approval of the foregoing directive.

Madrid, 29 October 2012

Borja Adsuara Varela
General Director
Public Corporate Company Red.es

PROVISIONS

One.-Object

The object of this directive is to establish the procedure for reassigning ".es" domain names that have been declared to be of general interest.

Two.- Declaration of general interest

The Chairman of Red.es may, by means of a reasoned decision, declare that an ".es" domain name is of general interest.

Three.- Procedure for cancelling domain names declared to be of general interest.

All ".es" domain names that have been declared to be of general interest will be automatically cancelled by the Assignment Authority by the procedure duly provided for in the directive issued by the Director General of Red.es establishing the procedures for assignment and other operations associated with registering ".es" domain names". Once cancelled, the domain name shall be assigned to the entity representing the general interest that prompted the reassignment.

Four.- Compensation for the holder

The former holder of the reassigned domain name will only be entitled to reimbursement of the fees paid for the latest assignment or renewal.

Additional provision.- Amendment of article 21 of the directive establishing the procedures for assignment and other operations associated with registering domain names under the country code corresponding to Spain (".es")

Article 21 of the directive for establishing the procedures for assignment and other operations associated with registering domain names under the country code corresponding to Spain (".es") is hereby amended to read as follows

Twenty-one. Reasons for cancellation

The Assignment Authority may cancel the ".es" domain names on its own initiative or at the request of an interested party, in the following cases:

a) *When ".es" domain names are requested by individuals or incorporated or non-incorporated entities without interests in or ties to Spain, in accordance with section ten of this directive.*

b) *When the beneficiaries of ".es" domain names consisting solely of surnames or a combination of given names and surnames are not directly related to those names.*

c) *When the holder of the domain, following a request from the Assignment Authority, cannot reliably show within the period provided for this purpose that the data in the Register are true and correct.*

d) *When the rules and technical conditions established by the Assignment Authority for the proper operation of the ".es" domain names system are not complied with.*

e) *When the ".es" domain names assigned are in breach of the syntax rules set out in section one of provision eleven of the Domain Names Plan or any of the other assignment conditions provided for this purpose in the aforementioned Plan.*

f) *When an ".es" domain name has been declared to be of general interest in a decision issued by the Chairman of Red.es pursuant to the provisions of the directive establishing the procedure for reassigning domain names declared to be of general interest.*

Final Provision.- Entry into effect.

This directive shall come into effect on the day following publication on the Assignment Authority website.