

DOCUMENT FOR ccTLD WORKSHOP

Source: Spain

Title: Evolution and characteristics of the top-level domain name “.es”

I Introduction

The top-level domain name for Spain is ".es". With the expansion of the Internet in Spain and its use in the business world, ".es" has taken on enormous importance as a resource for development of the information society in Spain and a tool for the implementation of government policies in that area.

Under the effect of the rapid growth of the Internet in Spain, the ".es" domain has grown sharply in recent years, with some 45 000 domain names now registered under ".es". The ".es" domain is currently undergoing reform, with a view to sustaining its growth and exploiting its potential as a driving force for e-commerce and the information society in Spain.

The fact that it is managed by a public body and operates within the framework of a set of rules laid down by the State, confer a special quality on the ".es" domain. This paper describes its development and characteristics, under the following headings:

- Evolution and main characteristics of ".es".
- Domain name assignment system under ".es".
- Charges for domain name assignment under ".es".
- Relations with the local Internet community.
- References.

II Evolution and main characteristics of ".es"

The ".es" domain was delegated in April 1988 to the Iris Network (*Red Iris - Red de Interconexión de los Recursos InformáticoS*), the national academic and research network, which is the body responsible for maintaining the telematic network interconnecting Spain's various university and

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research centres. In 1994, management of the Iris Network was transferred to CSIC (*Centro Superior de Investigaciones Científicas*), a public body under the Ministry of Science and Technology.

Until 1996, ".es" was a resource primarily used in academic circles, the majority of requests for domain names within it being universities or research centres. Domain names were allocated free of charge and subject to a few very basic rules. Names were assigned on the basis of the principles of equality and first come first served.

In 1995, the Internet began to be used in Spain as a commercial platform, resulting in an exponential surge in the demand for domain names under ".es" from businesses and entities outside the academic world. In order to gear the management of the ".es" domain to cope with this significantly increased demand, while maintaining the quality of service provided, in 1996 the Iris Network separated management of the Register from the other services it provided to the scientific community, set tariffs for the assignment and annual maintenance of domain names and laid down some more comprehensive rules for the granting of domain names, as well as adopting new procedures and forms to automate the management process.

Despite these improvements, the relentless growth in demand ultimately outstripped the Iris Network's resources and stretched beyond its own area of activity, namely the provision of services to universities and research bodies. The transfer of the register functions (ES-NIC) which the Iris Network had been calling for since 1998, took place in 2000, when the function was entrusted to a public organization, *Retevisión* (Spanish technical television network), a public entity attached at the time to the Ministry of Development. The decision adopted by the Secretary-General for Communications of the Ministry of Development on 10 February 2000 entrusting management of the Register to the *Retevisión* public organization was founded on the said Ministry's role of designating the competent body or authority to manage the Register of names and addresses, enshrined in the implementing legislation of the General Telecommunication Act 11/1998 of 24 April in respect of numbering.

On 21 March 2000, the Ministry of Development approved the ordinance for regulating the system for the assignment of domain names under the country code for Spain (.es). This ordinance recognized the internal rules that ES-NIC had been applying since 1996, while introducing a number of new features, such as the possibility of assigning more than one domain name to the same organization and allocating domain names to physical persons holding industrial property rights. The legal basis for the ordinance of 21 March 2000 is the implementing regulations for the General Telecommunication Act in respect of numbering, which also confers on the Ministry of Development authority to regulate domain name assignment systems for ".es".

The designation of the public organization *Retevisión* as administrator of ".es" was endorsed and elevated in status by Act 14/2000 of 29 December on Fiscal, Administrative and Social Order Measures, which renamed the public organization and modified its functions, so that it became the public corporation Red.es. It remained a public organization used by the Ministry of Science and Technology to implement a series of functions related to telecommunications and the information society in Spain, including management of the domain name Register under ".es". In connection with this function, Act 14/2000 stipulated that Red.es will participate in the organs coordinating the management of domain name registers in ICANN or any organization replacing it and will advise the Ministry of Science and Technology in the ICANN Governmental Advisory Committee (GAC).

In 2001, a technical amendment was adopted to the ordinance of 21 March 2000 to clarify and correct certain concepts that were impairing the proper functioning of the Register and affecting the legal security of users.

The following year, two particularly relevant items of legislation were approved: the Statutes of the public corporation Red.es and Act 34/2002 of 11 July on information society and electronic commerce services. The first regulates the organization and internal functioning of Red.es and the second establishes, for the first time, the principles or legal framework for operation of the domain name Register under ".es". Also regulated are the principles to guide the assignment of domain names and the charges that Red.es shall levy for their allocation and annual renewal. By giving the ".es" domain its own legal text, Act 34/2002 separates its regulation from the text governing numbering. The Act provides for development of the assignment principles contained therein through a National Domain Name Plan to be proposed by Red.es.

The said Plan will shortly be approved by ordinance of the Ministry of Science and Technology. Marking as it does the beginning of a new stage in management of the Register, with the opening up of the rules governing registration in order to satisfy the prevailing demand more effectively, the Plan will come into force in the next few months. At the same time, by virtue of the text regulating the charges applicable, new tariffs will be set for domain names under ".es".

From the above historical account, we can deduce some of the features of the management of ".es", which can be summarized as follows:

- The domain ".es" is a public resource to be administered in the public or common interest, as stipulated in the Principles for the delegation and administration of ccTLDs adopted by the GAC (Principle 5.3).
- Furthermore, the domain ".es" is a strategic resource for Spain's full integration in the information society and for harnessing the benefits derived therefrom. In this respect, promoting the use of ".es" constitutes one strand in the policies designed to promote development of the Internet and e-commerce in Spain.
- The provisions governing operation of the Register and the charges which Red.es is authorized to levy for the assignment and renewal of domain names are contained in texts approved by the Spanish Parliament and Government. Within the confines of those specific provisions and all the other applicable texts and regulations, Red.es is entitled to establish the procedures and forms required for transactions relating to the Register.
- The assignment of domain names under ".es" is carried out by the Government, through a public not-for-profit entity (Red.es), under the Ministry of Science and Technology.
- There is, however, a division of responsibilities and roles in respect of the assignment of domain names. The Parliament and Government, through the Ministry of Science and Technology, exercise the regulatory and supervisory function in respect of the Register, retaining the power to revoke designations. The Red.es public organization takes care of direct management of the Register, involving in essence acceptance or rejection of requests for assignment and maintaining the relevant databases of names registered.

III Domain name assignment system under ".es"

Act 34/2002 not only elevated the principles guiding management of the ".es" domain to a higher legal status, but effected the changeover to a new domain name assignment system, reflected in the National Internet Domain Name Plan.

Until then, the ".es" domain had been subject to strict assignment rules in order to avoid "cybercongestion" and protect the interests of consumers by ensuring proper identification of entities operating via the Internet. The National Domain Name Plan endeavours to strike a balance between the security and confidence that ".es" must provide and the necessary flexibility to meet the

growing demand for the assignment of domain names and drive the development of the Internet in Spain.

To this end, the Plan maintains the existing assignment criteria at the second level below ".es", but increases the number of recipients entitled to have a domain name assigned and lifts some of the prevailing restrictions. At the third level, it eliminates or substantially reduces the requirements for assignment under the subdomains which are being created for the first time under ".es". Of these, the suffixes ".com.es", ".nom.es" and ".org.es" are configured as "open" domains, where assignments are made without prior verification of imposed conditions. Assignment of domain names under ".gob.es" and ".edu.es", on the other hand, requires prior verification in relation to the prevailing rules.

The Plan foresees various measures to forestall the possible proliferation of disputes to which the introduction of "open" domains may give rise. For instance, it provides for the existence of an initial registration procedure or "sunrise period" for the assignment of domain names under ".com.es", ".nom.es" and ".org.es" on a preferential basis to holders of names already assigned under ".es", to holders of labels of origin or trademarks and to public bodies. Also, it stipulates grounds for revoking domain names under those suffixes, which can be effected by a simple and rapid procedure established by Red.es. In future, a system for the settlement of disputes out of court will also be introduced, in order, without precluding recourse to the judicial system, to resolve disputes involving the use of domain names, such as those concerning breaches of industrial property rights.

At the second level, the domain names assigned have to coincide with the name and surname of the applicant, the full name of the organization or a sufficiently representative acronym, or they must reproduce a trademark or duly registered trade name held by or licensed to the applicant. Certain restrictions also have to be respected, such as in relation to the use of place names and generic terms in constructing the domain name.

Nevertheless, some exceptions to the above restrictions are foreseen. For instance, the Plan allows the assignment of country names to their respective diplomatic representations in Spain. The names of Spanish territorial areas can be assigned to the public administration attaching to them, on condition that they are used to create portals open to all the various public and private institutions associated with the territory in question. Cases of competition between more than one public administration for a given name are settled, in the first instance, through a conciliation procedure followed, if no agreement is reached, by the drawing of lots between those involved for requests submitted during the initial registration period and, thereafter, once the registration of names is open to the public at large, on the basis of first come first served, such that, if the name has already been assigned, the applicant has to differentiate the name with prefixes or suffixes determined by the assigning authority.

Names composed of generic terms or abbreviations thereof can be assigned by public auction when they have special market value, or by a special procedure when their assignment is a matter of significant public interest. In this case, Red.es may subject the use of the domain name to specified conditions.

Decisions by the public enterprise Red.es denying the assignment of a domain name and, in general, any actions it takes in the performance of its responsibilities in managing the ".es" domain are subject to administrative appeal, prior to consideration by the court.

The National Domain Name Plan allows as valid characters for the formulation of domain names under ".es" only the letters of Spanish-language alphabets, digits and the dash. However, "ñ" and "ç" cannot be used until such time as means of recognizing multilingual characters are available in the Internet domain name system. In this respect, the Plan provides in advance that persons who

have been obliged to modify their domain name in order to obtain an assignment will enjoy preference in applying for the assignment of names including such letters.

It has to be emphasized what a paradigm shift the new regulation entails in the consideration and functions of registrars. The introduction of open subdomains enhances their participation in registration work, bringing it up to the level of other territorial and generic domains. Similarly, it will give them a greater role in the verification of compliance with second-level domain name assignment conditions and strengthen their market position as distributors of ".es". Nevertheless, users who so wish may request Red.es directly for the assignment of domain names without going through registrars.

The ".es" domain is conceived as a country code for Spain, since the requirement that there be some linkage with Spain enhances people's confidence in e-commerce, by determining that the service provider is subject to Spanish law. However, the linkage required with Spain is much more stringent for second-level domain names. For these, the applicant must be established in, have its legal residence in or have a branch office in Spain, whereas for the assignment of third-level domain names any kind of interest or linkage (commercial, cultural, social, etc.) with Spain suffices.

IV Charges for domain name assignment under ".es"

Administration of ".es" having been entrusted to a public entity and the assignment of domain names under that country code having been made subject to public law, the consideration due for the assignment of domain names becomes a tax, the amount and other basic characteristics of which have to be laid down in national law.

As stipulated in the legislation governing charges (the tax applicable in this case), the amount of the charge payable for the assignment and maintenance of domain names is orientated on the cost of performing the registration activity. In this connection, provision has been made for various rates according to the number and complexity of prior verification tasks which have to be performed before assigning a domain name.

Furthermore, account is taken of the prices charged by other registers for assignment conditions comparable to those foreseen in the Plan. Thus, very competitive rates are set for open third-level domain names (".com.es", ".nom.es" and ".org.es"), and the submission of requests through registrars is encouraged, by means of a substantial discount on the normal prevailing rates. This discount reflects the saving in the Register's management costs owing to the fact that some of the work is done by registrars.

The fact that the prices charged for assignment and renewal are a tax does not constitute an obstacle to the billing and recovery to be carried out by telematic means, thus avoiding the delays and drawbacks of paper.

V Relations with the local Internet community

Relations between the Government, as regulator and supervisor, and the Red.es public enterprise, as manager of the ".es" domain, with the local Internet community (except the Government itself), are established through various channels.

First, the regulatory texts governing ".es" have been either approved by the Parliament, the supreme representative of the Spanish people, or developed with the participation of the entities and associations involved. In the case of the National Domain Name Plan, a working group was set up with various experts and representatives of the sector to discuss its design, and the resulting text was put out for public consultation to give every citizen an opportunity to comment.

The Plan provides for the establishment of an open and dynamic dialogue with the local Internet community to debate issues affecting the management of ".es", draw up proposals to update the Plan, and exchange points of view on matters relating to international coordination of the Internet domain name system that have an impact on ".es". The Government Advisory Council on Telecommunications and the Information Society will serve as a forum for maintaining such dialogue.

As pointed out above, the National Domain Name Plan and the texts governing charges for the assignment and renewal of domain names foster the participation of the private sector, personified by the registrars, in tasks related to the registration and promotion of ".es".

VI References

a) Public organs and bodies:

- Iris Network: <http://www.rediris.es/>
- Red.es public enterprise: <http://www.red.es/>
- delegated Internet Register for Spain (ES-NIC): <http://www.nic.es/>
- Ministry of Science and Technology: <http://www.mcyt.es/>

b) Texts:

- Resolution by the Secretary-General for Communications of the Ministry of Development, 10 February 2000, designating the *Red Técnica Española de Televisión* public entity as the competent authority for management of the Internet Domain Name Register under the country code for Spain.
 - Article 27.13 of the implementing regulations for Chapter II of the General Telecommunication Act 11/1998 of 24 April, relating to interconnection and access to public networks and numbering, approved by Royal Decree 1651/1998 of 24 July.
 - Ordinance of 21 March 2000 regulating the system for domain name assignment under the country code for Spain (.es), as amended by the Ordinance of 12 July 2001.
 - Article 55 of Act 14/2000 of 29 December on fiscal, administrative and social order measures: modification of the sixth supplementary provision of the General Telecommunication Act 11/1998 of 24 April.
 - Royal Decree 164/2002 of 8 February approving the statutes of the Red.es public enterprise.
 - Sixth and final additional provisions of Act 34/2002 of 11 July on information society and electronic commerce services.
 - Draft Ordinance of approving the National Internet Domain Numbering Plan under the country code for Spain (.es).
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