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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council on the implementation and functioning of the .eu Top Level Domain name and repealing Regulation (EC) No 733/2002 and Commission Regulation (EC) No 874/2004
- Outcome of the European Parliament's first reading,
(Brussels, 30-31 January 2019)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Fredrick FEDERLEY (ALDE, SE), presented one compromise amendment (amendment 46) to the proposal for a Regulation on behalf of the Committee on Industry, Research and Energy. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 31 January 2019, the plenary adopted the compromise amendment (amendment 46) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Implementation and functioning of the .eu top level domain name *I**

European Parliament legislative resolution of 31 January 2019 on the proposal for a regulation of the European Parliament and of the Council on the implementation and functioning of the .eu Top Level Domain name and repealing Regulation (EC) No 733/2002 and Commission Regulation (EC) No 874/2004 (COM(2018)0231 – C8-0170/2018 – 2018/0110(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0231),
 - having regard to Article 294(2) and Article 172 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0170/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 11 July 2018³,
 - after consulting the Committee of the Regions,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 19 December 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A8-0394/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

³ OJ C 367, 10.10.2018, p 112.

Position of the European Parliament adopted at first reading on 31 January 2019 with a view to the adoption of Regulation (EU) 2019/... of the European Parliament and of the Council on the implementation and functioning of the .eu Top Level Domain name, *amending and repealing* Regulation (EC) No 733/2002 and *repealing* Commission Regulation (EC) No 874/2004

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁵,

Whereas:

⁴ OJ C 367, 10.10.2018, p 112.

⁵ Position of the European Parliament of 31 January 2019.

- (1) The .eu Top-Level Domain (TLD) was established by Regulation (EC) No 733/2002 of the European Parliament and of the Council⁶ and by Commission Regulation (EC) No 874/2004⁷. Since the adoption of those regulations, the political and legislative context in the Union, the online environment and the market have changed considerably.
- (2) ***The rapid evolution of the TLD market and the dynamic digital landscape requires a future-proof and flexible regulatory environment. The .eu TLD is one of the largest country code TLDs (ccTLDs). The .eu TLD is used by the Union institutions, agencies and bodies, including for European projects and initiatives. The purpose of the .eu TLD is, through good management, to help enhance the Union identity and promote Union values online, such as multilingualism, respect for users' privacy and security and respect for human rights, as well as specific online priorities.***
- (3) TLDs are an essential component of the hierarchical structure of the domain name system (DNS) which ensure an interoperable system of unique identifiers, available throughout the world, on any application and any network.

⁶ Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain (OJ L 113, 30.4.2002, p. 1).

⁷ Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration (OJ L 162, 30.4.2004, p. 40).

- (4) The .eu TLD should promote the use of, and access to, internet networks in accordance with Articles 170 and 171 TFEU by providing registration complementary to existing ccTLDs and to the global registration of generic TLDs.
- (5) The .eu TLD, ***which is a clear and easily recognisable label***, should provide a clearly identifiable link with the Union and the European market place. It should enable undertakings, organisations and natural persons within the Union to register a domain name under the .eu TLD. ***The existence of such a domain name is important to strengthen the Union's identity online. Regulation (EC) No 733/2002 should therefore be amended in order to allow Union citizens*** ■ ***to register a .eu TLD name, regardless of their place of residence, from ... [six months after the date of entry into force of this Regulation]*** ■ .
- (6) Domain names in the .eu TLD should be allocated to eligible parties, subject to availability.
- (7) ***The Commission should promote cooperation between the Registry, the European Union Intellectual Property Office (EUIPO) and other Union agencies, with a view to combating the speculative and abusive registrations of domain names, including cybersquatting, and providing simple administrative procedures, in particular for small and medium-sized enterprises (SMEs).***

- (8) To ensure the better protection of the right of the parties to contract with, respectively, the Registry and Registrars, disputes with regard to the registration of domain names in the .eu TLD should be solved by bodies located in the Union applying the relevant national law, without prejudice to rights and obligations recognised by the Member States or by the Union arising from international instruments.

- (9) The Commission should, on the basis of an open, transparent and non-discriminatory selection procedure, *having regard to cost-efficiency and administrative simplicity*, designate a Registry for the .eu TLD. *In order to support the digital single market, to build an online European identity and to encourage cross-border online activities, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the eligibility and selection criteria and the procedure for the designation of the Registry. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁸. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*

⁸ *OJ L 123, 12.5.2016, p. 1.*

- (10) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt the lists of reserved and blocked domain names by Member States **■**, *to establish the principles that are to be included in the contract between the Commission and the Registry* and to designate the Registry on duly justified *imperative* grounds of urgency, *in particular to ensure the continuity of the service*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁹. Such lists should be compiled subject to the domain names' availability taking into account domain names at second level already reserved or registered by the Member States.
- (11) *The Commission should enter into a contract with the designated Registry which should include the detailed principles and procedures that apply to the Registry for the organisation, administration and management of the .eu TLD. The contract should be of a fixed duration and should be renewable once without the need for a new selection procedure.*
- (12) The principles and procedures relating to the functioning of the .eu TLD should be annexed to the contract between the Commission and the designated Registry.

⁹ *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

- (13) This Regulation is without prejudice to the application of the rules on competition provided for in Articles 101 and 102 TFEU.
- (14) The Registry should comply with the principles of non-discrimination and transparency, and should implement measures to safeguard fair competition that are to be authorised in advance by the Commission, in particular when the Registry provides services to undertakings with whom it competes on downstream markets.
- (15) The Internet Corporation for Assigned Names and Numbers (ICANN) is at present responsible for coordinating the delegation of codes representing ccTLD to Registries. The Registry should enter into an appropriate contract with ICANN that provides for the delegation of the .eu ccTLD code, taking account of the relevant principles adopted by the Governmental Advisory Committee (GAC).
- (16) The Registry should enter into an appropriate escrow agreement to ensure continuity of service, and in particular to ensure that it is possible to continue to provide services to the local internet community with minimum disruption in the event of re-delegation or other unforeseen circumstances. The Registry should submit an electronic copy of the current content of the .eu TLD database to the escrow agent on a daily basis.

- (17) The Alternative Dispute Resolution (ADR) procedures to be adopted should *comply with Directive 2013/11/EU of the European Parliament and of the Council¹⁰* and take into account the international best practices in this area and in particular the relevant recommendations of the World Intellectual Property Organization, to ensure that speculative and abusive registrations are avoided as far as possible. Those ADR procedures should respect uniform procedural rules that are in line with those set out in ICANN's Uniform Domain Name Dispute-Resolution Policy.
- (18) The policy on the abusive registration of .eu domain names should provide for verification by the Registry of the data that it receives, specifically data concerning the identity of registrants, as well as revocation and blocking from future registration of domain names considered by a final decision of a Member State court to be defamatory, racist or otherwise contrary to the law of the Member State. The Registry should take the utmost care to ensure the correctness of the data that it receives and holds. *The revocation procedure should allow the domain name holder a reasonable opportunity to rectify any breach of the eligibility criteria, registration requirements or outstanding debts before the revocation is to take effect.*

¹⁰ *Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63).*

- (19) *A domain name that is identical or confusingly similar to a name in respect of which a right is established by Union or national law and which has been registered without rights or legitimate interest in the name, should, in principle, be revoked and, where necessary, transferred to the legitimate holder. Where such a domain name has been found to have been used in bad faith, it should always be revoked.*
- (20) *The Registry should adopt clear policies aiming to ensure the timely identification of abusive registrations of domain names and, where necessary, should cooperate with competent authorities and other public bodies relevant to cybersecurity and information security which are specifically involved in the fight against such registrations, such as national computer emergency response teams (CERTs).*
- (21) The Registry should support law enforcement agencies in the fight against crime, by implementing technical and organisational measures aimed at enabling competent authorities to have access to the data in the Registry for purposes of the prevention, detection, investigation and prosecution of crimes, as provided for by Union or national law.

- (22) This Regulation should be implemented in compliance with the principles relating to privacy and the protection of personal data. The Registry should comply with the relevant Union data protection rules, principles and guidelines, in particular with the relevant security requirements, with the principles of necessity, proportionality, purpose limitation and proportionate data retention period. Also, personal data protection by design and data protection by default should be embedded in all data processing systems and databases developed and maintained.
- (23) In order to ensure effective periodic supervision, the Registry should be audited at its own expense at least every two years by an independent body with the purpose of confirming, by means of a conformity assessment report, that the Registry complies with the requirements laid down in this Regulation. The Registry should submit that report to the Commission in accordance with its contract with the Commission.
- (24) The contract between the Commission and the Registry should provide for procedures to improve the organisation, administration and management of the .eu TLD by the Registry in accordance with the instructions of the Commission resulting from the Commission's supervisory activities as provided for in this Regulation.

- (25) In its conclusions of 27 November 2014, entitled ‘Internet Governance’, the Council reaffirmed, the Union's commitment to promote multistakeholder governance structures that are based on a coherent set of global internet governance principles. Inclusive internet governance refers to the development and applications of shared principles, norms, rules, decision-making procedures and programmes that shape the evolution and use of the internet by governments, the private sector, civil society, international organisations and the technical community, all acting in their respective roles.
- (26) A .eu Multistakeholder **Advisory Group** should be set up with the role of advising the Commission in order to strengthen and widen input into the good governance of the Registry. ■ The Group should reflect Internet Governance multistakeholder model, and *its members, apart from those drawn from Member State authorities and international organisations, should* be appointed by the Commission on the basis of an open, *non-discriminatory* and transparent procedure. *The representative drawn from the Member State authorities should be appointed on the basis of a rotation system ensuring sufficient continuity in the participation to the Group.*

- (27) The Commission should carry out an evaluation of the effectiveness and functioning of the .eu TLD. That evaluation should have regard to the designated Registry working practices and the relevance of the Registry's tasks. *The Commission should also submit regular reports on the functioning of the .eu TLD name to the European Parliament and to the Council.*
- (28) *This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union (the “Charter”), as enshrined in the Treaties, in particular the protection of personal data, the freedom of expression and information, and the protection of consumers. Appropriate Union procedures should be observed when ensuring that provisions in national law that affect this Regulation comply with Union law and, in particular, the Charter. The Registry should seek guidance from the Commission in cases of doubt with regard to compliance with Union law.*

- (29) Since the objective of this Regulation, namely the implementation of a pan-European TLD in addition to the national ccTLDs, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (30) In order to limit any risk of disruption to the services of the .eu TLD during the implementation of the new regulatory framework, transitional provisions are laid down in this Regulation.
- (31) Regulation (EC) No 733/2002 should therefore be amended and repealed, and Regulation (EC) No 874/2004 should be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I
General Provisions

Article 1

Subject-matter and objectives

1. This Regulation implements the .eu country code top level domain ('ccTLD') and *its available variants in other scripts, in order to support the digital single market, to build an online Union identity and to encourage cross-border online activities. It also* lays down the conditions for its implementation, including the designation and characteristics of the Registry. This Regulation also establishes the legal and general policy framework within which the designated Registry will function.
2. This Regulation applies without prejudice to arrangements in Member States regarding their national ccTLDs.

Article 2 Definitions

For the purposes of this Regulation:

- (1) 'Registry' means the entity entrusted with the organisation, administration and management of the .eu TLD, including the maintenance of the corresponding databases and the associated public query services, the registration of domain names, the operation of the Registry of domain names, the operation of the Registry's top-level domain ('TLD') name servers, and *the distribution* of TLD zone files *across name servers*;
- (2) 'Registrar' means a natural or legal person that, on the basis of a contract with the Registry, provides domain name registration services to registrants;
- (3) 'Internationalised Domain Name protocols' means standards and protocols that support the use of domain names in characters that are not American Standard Code for Information Interchange (ASCII) characters;
- (4) 'WHOIS database' means the collection of data containing information on the technical and administrative aspects of the .eu TLD registrations;
- (5) 'principles and procedures on the functioning of the .eu TLD' means detailed rules concerning the functioning and management of the .eu TLD;
- (6) 'registration' means the series of acts and procedural steps, from initiation to completion, taken by Registrars and the Registry upon the request of a natural or legal person for the purpose of implementing the registration of a domain name for a specified duration.

CHAPTER II
Implementation of the .eu TLD

Section 1
GENERAL PRINCIPLES

Article 3
Eligibility criteria

Registration of one or more domain names under the .eu TLD can be requested by any of the following:

- (a) a Union citizen, independently of their place of residence;
- (b) a natural person who is not a Union citizen and who is a resident of a Member State;
- (c) an undertaking that is established in the Union; and
- (d) an organisation that is established in the Union without prejudice to the application of national law.

Article 4

Registration and revocation of domain names

1. A domain name shall be allocated to the eligible party whose request was first received by the Registry in the technically correct manner as laid down by the procedures for registration requests on the basis of point (b) of Article 11.
2. A registered domain name shall be unavailable for further registration until the registration has expired without renewal, or until the domain name has been revoked.
3. The Registry may revoke a domain name at its own initiative, without submitting the dispute to an *ADR or judicial procedure*, on the following grounds:
 - (a) there are outstanding unpaid debts owed to the Registry;
 - (b) the non-fulfilment by the domain name holder of the eligibility criteria pursuant to Article 3;
 - (c) the breach by the domain name holder of the requirements for registration requests laid down on the basis of points (b) *and* (c) of Article 11.

4. A domain name may also be revoked, and where necessary subsequently transferred to another party, *following* an appropriate ADR or judicial procedure, *in accordance with the principles and procedures on the functioning of the .eu TLD laid down pursuant to Article 11*, where that name is identical or confusingly similar to a name in respect of which a right is established by Union or national law, and where it:
 - (a) has been registered by its holder without rights or legitimate interest in the name; or
 - (b) has been registered or is being used in bad faith.
5. Where a domain name is found by a decision of a court of a Member State to be defamatory, racist or contrary to public policy *or public security under Union law, or national law that complies with Union law*, that domain name shall be blocked by the Registry upon notification of the court's decision and shall be revoked upon notification of the final court decision. The Registry shall block from future registration those *domain* names which have been subject to such a court order for as long as that order remains valid.
6. *Domain names registered under the .eu TLD shall be transferable only to parties eligible for registration of .eu TLD names.*

Article 5

Languages, applicable law and jurisdiction

1. The registration of domain names shall be carried out in all the ■ characters of the official languages of the Union institutions, in accordance with the available international standards as allowed by the relevant Internationalised Domain Name protocols.
2. Without prejudice to Regulation (EU) No 1215/2012 *of the European Parliament and of the Council*¹¹ or to the rights and obligations recognised by the Member States or by the Union that arise from international instruments, neither contracts between the Registry and Registrars nor contracts between Registrars and registrants of domain names shall designate a law other than that of one of the Member States as the applicable law, nor shall they designate a court, arbitration court or other body located outside the Union as the relevant dispute resolution body.

¹¹ *Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).*

Article 6

Reservation of domain names

1. The Registry may reserve *or register* a number of domain names considered necessary for its operational functions under the contract referred to in Article 8(4).
2. The Commission may instruct the Registry to *reserve or to register* a domain name directly under the .eu TLD for use by the Union institutions and bodies.
3. Member States may, without prejudice to domain names that have already been reserved or registered, notify to the Commission a list of domain names which:
 - (a) are not to be registered pursuant to their national law; or
 - (b) may be registered or reserved only *at the* second-level **■** by the Member States.

With respect to point b) of the first subparagraph, such domain names shall be limited to broadly-recognised geographical or geopolitical terms which affect the Member States' political or territorial organisation.

4. The Commission shall adopt the lists notified by the Member States by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).

Article 7
Registrars

1. The Registry shall accredit registrars in accordance with reasonable, transparent and non-discriminatory accreditation procedures which have been approved in advance by the Commission. The Registry shall make the accreditation procedures publicly available in readily accessible form.
2. The Registry shall apply equivalent conditions in equivalent circumstances in relation to accredited .eu registrars that provide equivalent services. The registry shall provide those registrars with services and information under the same conditions, and of the same quality, as provided for its own equivalent services.

Section 2
REGISTRY

Article 8
Designation of the Registry

1. The Commission shall *adopt delegated acts in accordance with Article 18 to supplement this Regulation by establishing the eligibility and selection* criteria and the procedure for the designation of the Registry.
2. *The Commission shall set out the principles to be included in the contract between the Commission and the Registry*, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).

3. The Commission shall designate an entity as the Registry following the completion of the procedure referred to in paragraphs 1 and 2.
4. The Commission shall enter into a contract with the designated Registry. The contract shall specify the rules, policies and procedures for the provision of services by the Registry and the conditions according to which the Commission is to supervise the organisation, administration and management of the.eu TLD by the Registry. The contract shall be limited in time and shall be renewable ***once without the need to organise a new selection procedure. The contract shall reflect the obligations of the Registry*** and █ shall include the principles and procedures on the functioning of the .eu TLD laid down on the basis of ***Articles 10 and 11***.
5. By way of derogation from paragraphs 1, 2 and 3, the Commission may, where imperative grounds of urgency exist, designate the Registry by means of immediately applicable implementing acts in accordance with the procedure referred to in Article 17(3).

Article 9

Characteristics of the Registry

1. The Registry shall ***be a not-for-profit organisation. It shall have*** its registered office, central administration and principal place of business within the territory of the Union.
2. The Registry may impose fees █ . ***Those fees shall be directly related to the costs incurred.***

Article 10
Obligations of the Registry

The Registry shall be required to:

- (a) ***promote the .eu TLD across the Union and in third countries;***
- (b) comply with the rules, policies and procedures laid down in this Regulation, with the contract referred to in Article 8(4), ***and, in particular, with Union data protection law;***
- (c) organise, administer and manage the .eu TLD in the general ***public*** interest and ***ensure in all aspects of the administration and management of the .eu TLD, high quality,*** transparency, ***security, stability, predictability, reliability,*** accessibility, ***efficiency,*** non-discrimination, ***■*** fair conditions of competition ***and consumer protection;***
- (d) enter into an appropriate contract providing for the delegation of the .eu TLD code, subject to the prior consent of the Commission;
- (e) perform the registration of domain names in the .eu TLD where requested by any eligible party referred to in Article 3;
- (f) ensure, without prejudice to any court proceedings, and subject to adequate procedural guarantees for the parties concerned, the possibility for Registrars and registrants to resolve any contractual dispute with the Registry by means of ADR;

- (g) ensure the availability and *integrity* of the databases of domain names;
- (h) at its own expense and with the consent of the Commission, enter into an agreement with a reputable trustee or other escrow agent established within the territory of the Union designating the Commission as the beneficiary of the escrow agreement, and submit an *up-to-date* electronic copy of the content of the .eu TLD database to the respective trustee or escrow agent on a daily basis;
- (i) implement the lists referred to in Article 6(3);
- (j) promote the objectives of the Union in the field of internet governance, *inter alia by participating in international forums*;
- (k) publish the principles and procedures on the functioning of the .eu TLD laid down on the basis of Article 11 in all of the official languages of the Union institutions;
- (l) at its own expense, undertake an audit by an independent body at least every two years to certify its compliance with *this* Regulation and send the outcome of such audits to the Commission;
- (m) participate, where requested by the Commission, in the work of the .eu Multistakeholder *Advisory Group* and cooperate with the Commission to improve the functioning and management of the .eu TLD.

Article 11

Principles and procedures on the functioning of the .eu TLD

The contract, concluded between the Commission and the designated Registry in accordance with Article 8(4) shall contain the principles and procedures concerning the functioning of the .eu TLD, in compliance with this Regulation, including the following:

- (a) an ADR policy;
- (b) requirements and procedures for registration requests, a policy on the verification of **registration criteria, a policy on the verification of** registrants' data, and a policy on the speculative registration of domain names;
- (c) a policy on abusive registration of domain names **and a policy on the timely identification of domain names that have been registered and used in bad faith, referred to in Article 4;**
- (d) a policy on the revocation of domain names;
- (e) the treatment of intellectual property rights;
- (f) measures to enable competent authorities to have access to data in the Registry for the purposes of prevention, detection, investigation and prosecution of crime, as provided by Union **law** or national law **that complies with Union law, subject to appropriate checks and balances;**
- (g) detailed procedures by means of which to amend the contract.

Article 12
WHOIS database

1. The Registry shall set up and manage, with due diligence, a WHOIS database facility for the purpose of ***ensuring the security, stability and resilience of the .eu TLD*** by providing accurate and up to date registration information about the domain names under the .eu TLD.

2. The WHOIS database shall contain relevant information about the points of contact administering the domain names under the .eu TLD and the holders of the domain names. The information on the WHOIS database shall not be excessive in relation to the purpose of the database. The Registry shall comply ***with Regulation (EU) 2016/679 of the European Parliament and of the Council***¹².

¹² ***Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).***

Section 3
OVERSIGHT OF THE REGISTRY

Article 13
Supervision

1. The Commission shall monitor and supervise the organisation, administration and management of the .eu TLD by the Registry.
2. The Commission shall ascertain the soundness of financial management of the Registry and its compliance with this Regulation and with the principles and procedures on the functioning of the .eu TLD as referred to in Article 11. The Commission may request information from the Registry to that end.
3. In accordance with its supervisory activities, the Commission may convey specific instructions to the Registry for correcting or improving the organisation, administration and management of the .eu TLD.
4. The Commission may, as appropriate, consult *the .eu Multistakeholder Advisory Group and other relevant* stakeholders and may seek expert advice on the results of the supervisory activities provided for in this Article and on ways to improve the organisation, administration and management of the .eu TLD by the Registry.

Article 14

.eu Multistakeholder Advisory Group

1. ***The Commission shall establish a .eu Multistakeholder Advisory Group. The .eu Multistakeholder Advisory Group shall have the following tasks:***
 - (a) **█** to advise the Commission on the implementation of this Regulation;
 - (b) to issue opinions ***to the Commission on strategic*** matters relating to the management, organisation and administration of the .eu TLD, ***including issues relating to cybersecurity and data protection;***
 - (c) to advise the Commission on matters relating to the monitoring and supervision of the Registry, ***in particular with regard to the audit referred to in point (l) of Article 10;***
 - (d) ***to advise the Commission on best practices as regards policies and measures against abusive registrations of domain names, in particular registrations without rights or legitimate interests and registrations used in bad faith.***

2. *The Commission shall take account of any advice provided by the .eu Multistakeholder Advisory Group in implementing this Regulation.*
3. *The .eu Multistakeholder Advisory Group shall be composed of representatives of stakeholders that are established in the Union. Those representatives shall be drawn from the private sector, the technical community, civil society and academia, as well as Member States' authorities and international organisations. Representatives other than those drawn from Member States' authorities and international organisations shall be appointed by the Commission on the basis of an open, non-discriminatory and transparent procedure, taking the utmost account the principle of gender equality.*
4. *Notwithstanding paragraph 3, the .eu Multistakeholder Advisory Group may include one representative of stakeholders established outside the Union.*
5. *The .eu Multistakeholder Advisory Group shall be chaired by a representative of the Commission or by a person appointed by the Commission. The Commission shall provide secretarial services to the .eu Multistakeholder Advisory Group.*

CHAPTER III

Final provisions

Article 15

Reservation of rights

The Union shall retain all rights relating to the .eu TLD including, in particular, any intellectual property rights or other rights to the Registry databases that are required to ensure the implementation of this Regulation, as well as the right to re-designate the Registry.

Article 16

Evaluation and review

1. By 13 October 2027 and every three years thereafter, the Commission shall assess the implementation, effectiveness and functioning of the .eu TLD, ***based in particular on the information submitted by the Registry pursuant to point (l) of Article 10.***
2. ***By ... June 2020, the Commission shall assess, taking into account current practice, whether and how the Registry is to cooperate with the EUIPO and other Union agencies with a view to combating speculative and abusive registrations of domain names, and whether and how simple administrative procedures are to be provided for, in particular with regard to SMEs. The Commission may propose further measures in that regard, if necessary.***

3. ***By 13 October 2024, the Commission shall assess the possibility of extending the criteria set out in Article 9 and may, if appropriate, submit a legislative proposal.***
4. The Commission shall submit a report to the European Parliament and the Council on the findings of the assessment referred to in ***paragraphs 1 and 2.***

Article 17

Committee procedure

1. The Commission shall be assisted by ***the Communications committee (COCOM) established by Directive (EU) 2018/1972 of the European Parliament and of the Council¹³***. That committee ***is*** a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

¹³ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

Article 18

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 8(1) shall be conferred on the Commission for a period of five years from ... [the date of entry in to force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
- 3. The delegation of power referred to in Article 8(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*

4. *Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*
5. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
6. *A delegated act adopted pursuant to Article 8(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.*

Article 19
Transitional provisions

1. Domain name holders that have domain names that were registered pursuant to point (b) of Article 4(2) of Regulation (EC) No 733/2002 shall retain their rights in relation to the existing registered domain names.
2. By **12 October 2021**, the Commission shall take the necessary measures to designate an entity as the Registry and to enter into a contract with the Registry pursuant this Regulation. The contract shall be effective from **13 October 2022**.
3. The contract concluded between the Commission and the Registry pursuant to point (c) of Article 3(1) of Regulation (EC) No 733/2002 shall continue to be effective until **12 October 2022**.

Article 20

Amendment of Regulation (EC) No 733/2002

In Article 4(2) of Regulation (EC) No 733/2002, point (b) is replaced by the following:

- "(b) register domain names in the .eu TLD through any accredited .eu Registrar requested by:*
- (i) a Union citizen, independently of their place of residence;*
 - (ii) a natural person who is not a Union citizen and who is a resident of a Member State;*
 - (iii) an undertaking that is established in the Union; or*
 - (iv) an organisation that is established in the Union, without prejudice to the application of national law."*

Article 21

Repeal

Regulation (EC) No 733/2002 and Regulation (EC) No 874/2004 are repealed with effect from **13 October 2022**.

Article 22

Entry into force

This Regulation shall enter into force on the *twentieth* day following that of its publication in the *Official Journal of the European Union*.

It shall apply from **13 October 2022**.

However, Article 20 shall apply from ... [six months after the date of the entry into force of this Regulation].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President