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NOTE

From:	Presidency
To:	Permanent Representatives Committee
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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 - Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. The Commission issued the proposal on the .eu Top Level Domain name on 26 April 2018 as part of the most recent package of legislative initiatives in order to complete the framework for the Digital Single Market strategy (DSM) and as part of the regulatory fitness and performance (REFIT) program. The March 2018 European Council has set the deadline to deliver the DSM until the end of the current legislative cycle.
2. After the presentation of the Impact Assessment by the Commission on 18 June, the Telecommunication Working Party examined the proposal of the Commission at its meetings on 5 July, 6 and 13 September and 16 October 2018. The Coreper granted a negotiating mandate on 24 October.

3. In the Parliament, ITRE voted on its Report on 21 November. The mandate for the negotiations was announced in the Plenary on 28 November.
4. The first trilogue was held on 5 December 2018. During this trilogue the Council and the Parliament came to an agreement on all political issues and successfully closed the negotiations.
5. In the **Annex** of this document Delegations will find the Proposal on the .eu Regulation updated according to the political agreement reached with the Parliament.
6. Delegations will note that the changes in the text of the Annex are marked as compared to the text of the mandate given by the Coreper on 24 October 2018 (doc. 13158/18). Changes made in that text are marked with **bold underlined**, deletions with ~~strikethrough~~.

II. MAIN ELEMENTS OF THE COMPROMISE

1. Delegated / implementing acts - Articles 6(4), 8(1), (4), 17a, Recitals (8), (9), (9a)

- a.
 - i) The emergency procedure to be followed in the designation of the Registry on imperative grounds of urgency in **Article 8(4)**, and
 - ii) the lists notified by Member States on the domain names that are not to be registered in **Article 6(4)**,

will both be adopted by implementing acts.

- b. The process of the designation of the Registry has been divided.

- i) The eligibility and selection criteria for the Registry in **Article 8(1)** will be adopted by the Commission via a delegated act. Article 17a is the standard procedural provision in this context.

ii) The principles of the contract to be concluded between the Commission and the Registry in **Article 8(1a)** will be defined via an implementing act.

2. The Registry - Article 9(1), 16(1b)

The provision of the existing regulation on the non-profit nature of the Registry will be maintained in **Article 9(1)**. To enable the compromise with the Parliament on this issue, a new **Paragraph (1b)** was added in **Article 16** referring to a review by the Commission of the possibility of extending the eligibility criteria no later than two years after the date of application of this Regulation.

3. .eu Multistakeholder Advisory Group - Article 14, Recital (21), (15a-bis)

a) The tasks of the Advisory Group were broadened in **Paragraph 1(ca)** with advising the Commission on policies against abusive registration. The reference to the cooperation with the public bodies relevant to cybersecurity and information security in the course of adopting such policies, including the CERTs, has been moved to **Recital (15a-bis)**.

b) The membership in this advisory body is now limited to EU stakeholders in **Paragraph (2)**, with the possible exception of one member. The rotation system among the Member States is referred to in **Recital (21)**. All other members of the Group are appointed by the Commission on the basis of a proper selection procedure as provided in **Article 14(2)**.

4. EUIPO and other agencies - Article 16 (1a), Recital (5a)

The Parliament intended to give a role to EUIPO and possibly to other relevant agencies in fighting speculative and abusive registrations of domain names and assisting SMEs by providing simple administrative procedures. As defining the tasks of European agencies is not within the scope of this Regulation, the Commission is invited to assess the potential role of these agencies in this context.

5. Rule of law - Article 4(5), Recital (22a)

When a court of a Member State considers a domain name to be defamatory, racist or contrary to public policy or public security, the domain name shall be blocked by the Registry after a notification of a court decision and revoked on the basis of the final court decision. In cases of doubts as to the compliance of the judicial procedure with Union law, **Recital (22a)** requires the Registry to consult the Commission.

The wording "under Union law or national law that complies with Union law", in **Article 4(5)**, and **Recital (22a)** was added to the text in exchange for the Parliament dropping its "rule of law" amendment.

6. Transitional provisions - Article 18, 18a, 20

The date of application of the Regulation is 13 October 2022, by which date the Commission will have adopted the implementing and delegated acts as referred in Item II.1 of this Note, carried out the selection procedure and concluded the contract with the new Registry.

However, by amending the existing .EU regulation, new **Article 18a** enables EU citizens to benefit from the broadened possibility to register a .eu domain name well before the date of application, i.e. 6 months after the entry into force of this Regulation.

III. CONCLUSION

1. The Presidency invites the Committee of the Permanent Representatives to:
 - a. endorse the annexed compromise text as agreed with the European Parliament in the trilogue, and
 - b. mandate the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise package contained in the Annex to this document (subject to revision by the lawyer linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.
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2018/0110 (COD)

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 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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C , , p. .

² OJ C , , p. .

- (1) The .eu Country Code Top Level Domain (ccTLD) was established by Regulation (EC) No 733/2002 of the European Parliament and of the Council³ and by Commission Regulation (EC) No 874/2004⁴. Since the adoption of Regulation (EC) No 733/2002 and Regulation (EC) No 874/2004, the political and legislative context in the Union, the online environment and the market have changed considerably.

(1a) The rapid evolution of the top-level-domain (TLD) market and the dynamic digital landscape requires a future-proof and flexible regulatory environment. 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 online priorities.

- (2) TLDs are an essential component in 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.

(2a) The .eu TLD is one of the largest country code Top Level Domains (ccTLDs). The .eu TLD is used by the Union institutions, agencies and bodies, including for European projects and initiatives.

- (3) The .eu TLD should promote the use of, and access to, the Internet networks in accordance with Articles 170 and 171 of the TFEU, by providing a complementary registration to existing country code Top Level Domains (ccTLDs) or global registration in the generic Top Level domains.

³ 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).

⁴ 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, **as a clear and easily recognisable label**, should provide a clearly identified 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. **Regulation (EC) No 733/2002 should 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 entry into force of this Regulation. The existence of such a domain name is important to strengthen the European identity online.**
- (5) Domain names in the .eu TLD should be allocated to the eligible parties subject to availability.
- (5 a) The Commission should promote the cooperation between the Registry and the European Union Intellectual Property Office (EUIPO) and other Union agencies with the objective to fight speculative and abusive registrations of domain names, including cybersquatting, and provide simple administrative procedures, in particular for SMEs.**
- (6) To ensure better protection of rights of the parties to contract with, respectively, the Registry and Registrars, the disputes on registrations of domain names in the .eu TLD should be solved by bodies located in the Union applying the respective laws of Member States, without prejudice to rights and obligations recognised by the Member States or by the Union arising from international instruments.
- (7) The principles and procedures on the functioning of the .eu TLD should be annexed to the contract between the Commission and the appointed Registry.

- (8) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred to the Commission to adopt the lists of reserved and blocked domain names by Member States, ~~to establish the criteria and the procedure for the designation of the Registry~~ **to establish the principles 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 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. 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.
- (9) The Commission should, on the basis of an open, transparent and non-discriminatory selection procedure, **taking into account cost-efficiency and administrative simplicity,** designate a Registry for the .eu TLD. **In order to establish the eligibility and selection criteria and the procedure for the designation of the Registry** **the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. 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-Making. 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.**

- (9a) **The Commission should enter into a contract with the selected 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 renewable **once without organising a new selection procedure**.
- (10) This Regulation is without prejudice to the application of the rules on competition provided in Articles 101 and 102 TFEU.
- (11) The Registry should comply with the principles of non-discrimination and transparency and should implement measures to safeguard fair competition, to be authorised in advance by the Commission, in particular when it provides services to undertakings with whom it competes on downstream markets.
- (12) 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 appropriate contract with ICANN providing for the delegation of the .eu ccTLD code taking account of the relevant principles adopted by the Governmental Advisory Committee (GAC).
- (13) The Registry should enter into an appropriate escrow agreement to ensure continuity of service, and in particular to ensure that in the event of re-delegation or other unforeseen circumstances it is possible to continue to provide services to the local Internet community with minimum disruption. The Registry should submit to the escrow agent on a daily basis an electronic copy of the current content of the .eu database.
- (14) Alternative Dispute Resolution (ADR) procedures should **comply with Directive 2013/11/EU and** take into account the international best practices in this area and in particular the relevant World Intellectual Property Organization (WIPO) recommendations, to ensure that speculative and abusive registrations are avoided as far as possible. ADR should respect a minimum of uniform procedural rules, in line with the ones set out in the Uniform Dispute Resolution Policy adopted by ICANN.

- (15) The policy on abusive registration of .eu domain names should provide for verification by the Registry of data it receives, specifically 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 undertake utmost care to ensure the correctness of the data 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 revocation takes effect.**
- (15a) A domain name that is identical or confusingly similar to a name in respect of which a right is established by national or Union 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. When such a domain name has been established to have been used in bad faith, it should always be revoked.**
- (15a - bis) The Registry should also adopt clear policies aimed at ensuring the timely identification of such registrations and, where necessary, cooperate with competent authorities and other relevant public bodies relevant to cybersecurity and information security, such as national Computer Emergency Response Teams (CERTs), specifically involved in the fight against abusive domain name registrations.**
- (16) 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 prevention, detection, investigation and prosecution of crimes, as provided by Union or national law.

- (17) This Regulation should be implemented in compliance with the principles relating to privacy and the protection of personal data. The Registry should comply with relevant Union data protection rules, principles and guidelines, in particular, with relevant security requirements, 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/or maintained.
- (18) 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 that the Registry complies with the requirements laid down in this Regulation. The Registry should submit the resulting conformity assessment report to the Commission in accordance with the procedure laid down in the contract with the Registry.
- (19) The contract concluded with the Registry should provide for procedures to improve the organisation, administration and management of the .eu TLD by the Registry in line with the instructions of the Commission resulting from the supervisory activities provided by this Regulation.
- (20) The Council Conclusions on Internet Governance of 27 November 2014 reaffirmed the European Union's commitment to promote multistakeholder governance structures that are based on a coherent set of global Internet governance principles. An inclusive Internet governance refers to the development and applications by governments, the private sector, civil society, international organisations and the technical community, in their respective roles, of shared principles, norms, rules, decision-making procedures and programmes that shape the evolution and use of Internet.

- (21) A .eu Multistakeholder ~~Council~~ **Advisory Group** should be set up with an advisory role to the Commission in order to strengthen and widen input into the good governance of the Registry ~~and the matters covered by the principles and procedures on the functioning of the .eu TLD and increase the transparency of the Registry's commercial and operational practices.~~ The ~~members of the g~~**Group** should reflect Internet Governance multistakeholder model and its members, **other than those drawn from Member States' authorities and international organisations, should be** appointed by the Commission on the basis of an open, **non-discriminatory** and transparent procedure. ~~**In order to ensure continuity,**~~ The representative drawn from the Member States' **authorities should be appointed on the basis of a rotation system ensuring sufficient continuity in the participation to the Group. should be a member of the group of the three Member States holding the rotating Presidency of the Council during the corresponding 18 months period.**
- (22) The Commission should carry out an evaluation on the effectiveness and functioning of the .eu TLD. The evaluation should have regard to the designated Registry working practices and the relevance of its tasks. **The Commission should also, regularly, present a report on the functioning of the .eu TLD name.**
- (22a) This Regulation observes the freedoms and principles recognised in the Charter of Fundamental Rights of the European Union as enshrined in the Treaties, in particular the protection of personal data, the freedom of expression and information and consumer protection. Appropriate Union procedures should be observed when ensuring that provisions in national law, affecting this Regulation, complies with Union law and especially the Charter. The Registry should seek guidance from the Commission in case of doubt on the compliance with Union law.**

- (23) 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.
- (24) In order to limit any risks of disruption of services of the .eu TLD in the shifting between the old and new regulatory framework, transitional provisions are foreseen by this Regulation.
- (25) Regulation (EC) No 733/2002 of the European Parliament and of the Council and Commission Regulation (EC) No 874/2004 should therefore 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 aiming to support the digital single market, building an online European identity and encouraging online cross-border activities** and 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 shall apply without prejudice to arrangements in Member States regarding their national ccTLDs.

Article 2

Definitions

For the purposes of this Regulation:

- (a) "Registry" means the entity entrusted with the organisation, administration and management of the .eu TLD including maintenance of the corresponding databases and the associated public query services, registration of domain names, operation of the Registry of domain names, operation of the Registry TLD name servers and **the distribution of the TLD zone files across name servers** ~~dissemination of TLD zone files~~;
- (b) "Registrar" means a natural or legal person that, on the basis of a contract with the Registry, provides domain name registration services to registrants;

- (c) "Internationalised Domain Names (IDNs) protocols" mean standards and protocols that support the use of domain names in characters that are not American Standard Code for Information Interchange (ASCII) characters;
- (d) "WHOIS database" means a collection of data containing information on the technical and administrative aspects of the .eu Top Level Domain registrations;
- (e) "principles and procedures on the functioning of the .eu TLD" means detailed rules concerning the functioning and management of the .eu TLD;
- (f) "registration" means a series of acts and procedural steps, from initiation to completion, taken by Registrars and/or the Registry upon the request of a natural or legal person aimed at 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:

- (i) a Union citizen, independently of their place of residence; or
- (ii) a natural person who is not a Union citizen and who is resident of a Member State; or
- (iii) an undertaking established within the Union; or
- (iv) an organisation established within 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 has been received first 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 expires without renewal, or until the domain name is revoked.
3. The Registry may revoke a domain name at its own initiative and without submitting the dispute to any **prior alternative dispute resolution ('ADR') or extrajudicial procedure settlement of conflicts**, on the following grounds:
 - (a) outstanding unpaid debts owed to the Registry;
 - (b) non-fulfilment by the domain name holder of the eligibility criteria pursuant to Article 3;
 - (c) 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, ~~subject to following~~ an alternative dispute resolution ('ADR') or judicial procedure, **, in line 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 national or Union 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 considered by a court of a Member State **under Union law or national law that complies with Union law**, to be defamatory, racist or contrary to public policy **or public security**, it shall be blocked by the Registry upon notification of a court decision and shall be revoked upon notification of a final court decision. The Registry shall block from future registration those **domain** names which have been subject to such a court order as long as such order remains valid.

5 a. 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 performed in all the ~~alphabetic~~ characters of the official languages of the Union in accordance with the available international standards as allowed by the relevant Internationalised Domain Names (IDNs) protocols.
2. Without prejudice to Regulation (EU) No 1215/2012 and rights and obligations recognised by the Member States or by the Union arising from international instruments, contracts between the Registry and Registrars as well as contracts between Registrars and registrants of domain names shall not designate, as applicable law, a law other than the law of one of the Member States, nor shall they designate as dispute-resolution body, a court, an arbitration court or another body located outside the Union.

Article 6

Reservation of domain names

1. The Registry may reserve **or register** a number of domain names considered necessary for its operational functions in accordance with the contract referred to in Article 8 (3).
2. The Commission may instruct the Registry to ~~introduce~~ **reserve or to register** domain names directly under the .eu TLD for use by the Union institutions and bodies.
3. Member States, without prejudice to domain names already reserved or registered, may notify to the Commission a list of domain names which:
 - (a) may not be registered, based on national law; or
 - (b) may be registered or reserved only ~~under at a~~ **the** second level ~~domain~~ by the Member States. These domain names must be limited to broadly-recognised geographical and/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 the accredited .eu registrars providing equivalent services, and provide them 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 17a to supplement this Regulation by** establishing the eligibility and selection criteria and the procedure for the designation of the Registry, **~~including the rules for a call for expression of interests, and a draft contract~~** ~~by means of implementing acts.~~
- 1a** The Commission shall ~~establish~~ **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).

2. The Commission shall designate the Registry following the completion of the procedure referred to in paragraph 1.
3. 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 supervises the organisation, administration and management of the .eu TLD by the Registry. The contract shall be limited in time and renewable **once without organising a new selection procedure** and shall **reflect the obligations of the Registry and** include the principles and procedures on the functioning of the .eu TLD laid down on the basis of Article **10 and 11 of this Regulation**.
4. By way of derogation from the procedures referred to in paragraphs 1 and 2, on imperative grounds of urgency, the Commission may 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 non-profit organisation** ~~haveing~~ its registered office, central administration and principal place of business within the territory of the Union.
2. The Registry may impose fees ~~directly related to costs incurred, in so far as authorised by the contract concluded pursuant to Article 8 (3).~~ **Those fees shall be directly related to the costs incurred.**

Article 10

Obligations of the Registry

The Registry shall:

(-a) promote the .eu TLD across the Union and in third countries;

(a) observe the rules, policies and procedures laid down in this Regulation and the contract referred to in Article 8 (3) **and in particular Union data protection law;**

(b) 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 on the basis of principles of high** quality, transparency, **security, stability, predictability,** reliability, accessibility, efficiency, **and** non-discrimination and by ensuring fair conditions of competition **and the application of consumer protection measures for a .eu TLD name;**

(c) enter into an appropriate contract providing for the delegation of the .eu TLD code, subject to prior consent of the Commission;

(d) perform the registration of domain names in the .eu TLD where requested by any eligible party referred to in Article 3;

(e) ensure, without prejudice to any court proceedings and subject to adequate procedural guarantees for the parties concerned, the possibility for Registrars and registrants to bring any contractual dispute with the Registry to an Alternative Dispute Resolution (ADR) body;

(f) ensure the availability and **integrity** ~~authenticity~~ of the databases of domain names;

(g) enter into an agreement, at its own expenses and with the consent of the Commission, 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 to the respective trustee or escrow agent, on a daily basis, an **up-to-date** electronic copy of the content of the .eu TLD database;

- (h) implement the lists referred to in Article 6 (3);
- (i) promote the objectives of the Union in the field of internet governance **inter alia by participating in international fora**;
- (j) publish the principles and procedures on the functioning of the .eu TLD laid down on the basis of Article 11 in all official languages of the Union;
- (k) undertake an audit by an independent body at its own expense and at least every two years to certify compliance with ~~the present~~ **this** Regulation and send the outcome to the Commission;
- (l) participate, at the request of the Commission, in the work of the .eu Multistakeholder ~~Council~~ **Advisory Group** and cooperate with the Commission for improving 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 (3), 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, **policy on verification of registration criteria**, policy on verification of registrants data and speculative registration of domain names;
- (c) policy on abusive registration of domain names **and policy on timely identification of domains registered and used in bad faith referred to in Article 4**;
- (d) policy on revocation of domain names;
- (e) treatment of intellectual property rights;

- (f) measures aimed at enabling competent authorities to have access to the 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 the appropriate checks and balances**;
- (g) detailed procedures to amend the contract.

Article 12

WHOIS database

1. The Registry shall set up and **with due diligence** manage a WHOIS database facility for the purpose of **ensuring ~~transparency~~ the security, stability and resilience of the .eu Top Level Domain** 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, which is not excessive in relation to the purpose of the database, about the points of contact administering the domain names under the .eu TLD and the holders of the domain names, **in full compliance with** ~~Where the domain name holder is a natural person such information relates to an identified or~~ **identifiable natural person**, ~~the information that is to be made publicly available shall be subject to the domain name holder's data subject's consent within the meaning of~~ Regulation 2016/679.

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, the compliance with the Regulation and with the principles and procedures on the functioning of the .eu TLD referred to in Article 11 by the Registry and may request information for that purpose.
3. In accordance with its supervisory activities, the Commission may convey specific instructions to the Registry for correcting and/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 seek expert advice on the results of the supervisory activities provided in this Article and on ways to improve the organisation, administration and management of the .eu TLD by the Registry.

Article 14

.eu Multistakeholder ~~Council~~ Advisory Group

1. **The Commission shall establish a** ~~.eu Multistakeholder Council~~ **Advisory Group** ~~shall be established to advise the Commission on the implementation of the present Regulation.~~
which shall have the following tasks:
 - (a) ~~assist and~~ advise the Commission in the implementation of the present Regulation;
 - (b) issue opinions **to the Commission** on **strategic** matters of management, organisation and administration of the .eu TLD, **including issues related to cybersecurity and data protection**;
 - (c) advise the Commission on matters of monitoring and supervision of the Registry **in particular with regard to the audit referred to in point (k) of Article 10.**

(c a) 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 being used in bad faith.
- 1a. **The Commission shall take account of any advice provided by the .eu Multistakeholder Advisory Group in implementing this Regulation.**
2. **Without prejudice to the second paragraph, The** ~~.eu Multistakeholder Council~~ **Advisory** **Group** shall be composed of representatives **from stakeholders established in the European Union** drawn from the private sector, the technical community, civil society and academia, **as well as from** 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 utmost account of the principle of gender equality.**

The .eu Multistakeholder Advisory Group may ~~invite~~ **include no more than one representative of stakeholders established outside the Union to its meetings, on a case-by-case basis.**

3. ~~The .eu Multistakeholder Council shall have the following tasks:~~

- ~~(a) assist and advise the Commission in the implementation of the present Regulation;~~
- ~~(b) issue opinions on matters of management, organisation and administration of the .eu TLD;~~
- ~~(c) advise the Commission on matters of monitoring and supervision of the Registry.~~

4. **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 Group.**

CHAPTER III

Final provisions

Article 15

Reservation of rights

The Union retains all rights relating to the .eu TLD including, in particular, intellectual property rights and other rights to the Registry databases required to ensure the implementation of this Regulation and the right to re-designate the Registry.

Article 16

Evaluation and review

1. No later than five years after the date of application of this Regulation, and each 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 (k) of Article 10.**
- 1.a The Commission shall assess by [June 2020], also taking into account current practice, whether and how the Registry may cooperate with the European Union Intellectual Property Office (EUIPO) and/or other Union agencies with a view to fight against speculative and abusive registrations of domain names and provide simple administrative procedures, in particular for SMEs and, propose, if necessary, further measures in this regard.**
- 1b. No later than 13 October 2024, the Commission shall assess the possibility of extending the eligibility criteria set out in Article 9 and, if it deems necessary, the Commission may present a legislative proposal.**
2. The Commission shall submit a report to the European Parliament and the Council on the findings of the assessment referred to in in paragraphs 1 **and 1a.**

Article 17

Committee procedure

1. The Commission shall be assisted by ~~at~~**the Communications committee (COCOM) established by [../..]**. That committee ~~shall be~~ **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.

Article 17a

Exercise of the delegation

1. **The power to adopt a delegated act referred to in Article 8(1) 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 Inter-institutional 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 18

Transitional provisions

1. Domain name holders that have domain names registered pursuant to point (b) of Article 4 (2) of Regulation (EC) No 733/2002 shall retain the rights on the existing registered domain names under the .eu TLD.
2. By **[12 October 2021]** the Commission shall take the necessary measures to designate and to enter into a contract with the Registry pursuant the present Regulation. The contract shall produce effects as 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 produce effects until **[12 October 2022]**.

Article 18a

Amendment of Regulation (EC) No 733/2002

Article 4 (2), point (b) of Regulation (EC) No 733/2002 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; or

(ii) a natural person who is not a Union citizen and who is resident of a Member State; or

(iii) an undertaking established within the Union; or

(iv) an organisation established within the Union without prejudice to the application of national law.’.

Article 19

Repeal

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

Article 20

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]**, **except for Article 18a which shall apply from [six months] after the entry into force of this Regulation.**

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President
