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 (Text with EEA relevance)

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on the implementation of the .eu Top Level Domain

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 156 thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the Economic and Social Committee[(2)],

Following consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(3)],

Whereas:

(1) The creation of the .eu Top Level Domain (TLD) is included as one of the targets to accelerate electronic commerce in the e-Europe initiative as endorsed by the European Council at its meeting in Lisbon on 23 and 24 March 2000.

(2) The communication from the Commission to the Council and the European Parliament on the organisation and management of the Internet refers to the creation of the .eu TLD and the Council resolution of 3 October 2000 on the organisation and management of the Internet[(4)] charges the Commission to encourage the coordination of policies in relation to the management of the Internet.

(3) TLDs are an integral part of the Internet infrastructure. They are an essential element of the global interoperability of the World Wide Web (‘WWW’ or ‘the Web’). The connection and presence permitted by the allocation of domain names and the related addresses allow users to locate computers and websites on the Web. TLDs are also an integral part of every Internet e-mail address.

(4) The .eu TLD should promote the use of, and access to, the Internet networks and the virtual market place based on the Internet, in accordance with Article 154(2) of the Treaty, by providing a complementary registration domain to existing country code Top Level Domains (ccTLDs) or global registration in the generic Top Level Domains, and should in consequence increase choice and competition.

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(5) The .eu TLD should improve the interoperability of trans-European networks, in accordance with Articles 154 and 155 of the Treaty, by ensuring the availability of .eu name servers in the Community. This will affect the topology and technical infrastructure of the Internet in Europe which will benefit from an additional set of name servers in the Community.

(6) Through the .eu TLD, the Internal market should acquire higher visibility in the virtual market place based on the Internet. The .eu TLD should provide a clearly identified link with the Community, the associated legal framework, and the European market place. It should enable undertakings, organisations and natural persons within the Community to register in a specific domain which will make this link obvious. As such, the .eu TLD will not only be a key building block for electronic commerce in Europe but will also support the objectives of Article 14 of the Treaty.

(7) The .eu TLD can accelerate the benefits of the information society in Europe as a whole, play a role in the integration of future Member States into the European Union, and help combat the risk of digital divide with neighbouring countries. It is therefore to be expected that this Regulation will be extended to the European Economic Area and that amendments may be sought to the existing arrangements between the European Union and European third countries, with a view to accommodating the requirements of the .eu TLD so that entities in those countries may participate in it.

(8) This Regulation is without prejudice to Community law in the field of personal data protection. This Regulation should be implemented in compliance with the principles relating to privacy and the protection of personal data.

(9) Internet management has generally been based on the principles of non-interference, self-management and self-regulation. To the extent possible and without prejudice to Community law, these principles should also apply to the .eu ccTLD. The implementation of the .eu TLD may take into consideration best practices in this regard and could be supported by voluntary guidelines or codes of conduct where appropriate.

(10) The establishment of the .eu TLD should contribute to the promotion of the European Union image on the global information networks and bring an added value to the Internet naming system in addition to the national ccTLDs.

(11) The objective of this Regulation is to establish the conditions of implementation of the .eu TLD, to provide for the designation of a Registry and establish the general policy framework within which the Registry will function. National ccTLDs are not covered by this Regulation.

(12) The Registry is the entity charged with the organisation, administration and management of the .eu TLD, including maintenance of the corresponding databases and the associated public query services, the accreditation of Registrars, the registration of domain names applied for by accredited Registrars, the operation of the TLD name servers and the dissemination of TLD zone files. Public query services associated with the TLD are referred to as ‘Who is’ queries. ‘Who is’-type databases should be in conformity with Community law on data protection and privacy. Access to these

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databases provides information on a domain name holder and is an essential tool in boosting user confidence.

(13) After publishing a call for expressions of interest in the *Official Journal of the European Communities*, the Commission should, on the basis of an open, transparent and non-discriminatory selection procedure, designate a Registry. The Commission should enter into a contract with the selected Registry which should specify the conditions applying to the Registry for the organisation, administration and management of the .eu TLD and which should be limited in time and renewable.

(14) The Commission, acting on behalf of the Community, has requested the delegation of the EU code for the purpose of creating an Internet ccTLD. On 25 September 2000, the Internet Corporation for Assigned Names and Numbers (ICANN) issued a resolution providing that 'alpha-2 codes are delegable as ccTLDs only in cases where the ISO 3166 Maintenance Agency, on its exceptional reservation list, has issued a reservation of the code that covers any application of ISO 3166-1 that needs a coded representation in the name of the country, territory or area involved'. Such conditions are met by the EU code which is therefore 'delegable' to the Community.

(15) ICANN is at present responsible for coordinating the delegation of codes representing ccTLD to Registries. The Council resolution of 3 October 2000 encourages the implementation of the principles applied to ccTLD Registries adopted by the Governmental Advisory Committee (GAC). The Registry should enter into a contract with ICANN respecting the GAC principles.

(16) The adoption of a public policy addressing speculative and abusive registration of domain names should provide that holders of prior rights recognised or established by national and/or Community law and public bodies will benefit from a specific period of time (a 'sunrise period') during which the registration of their domain names is exclusively reserved to such holders of prior rights recognised or established by national and/or Community law and public bodies.

(17) Domain names should not be revoked arbitrarily. A revocation may, however, be obtained in particular should a domain name be manifestly contrary to public order. The revocation policy should nevertheless provide for a timely and efficient mechanism.

(18) Rules should be adopted on the question of *bona vacantia* to address the status of domain names the registration of which is not renewed or which, for example because of succession law, are left without holder.

(19) The new .eu TLD registry should not be empowered to create second-level domains using alpha-2 codes representing countries.

(20) Within the framework established by this Regulation, the public policy rules concerning the implementation and functions of the .eu TLD and the public policy principles on registration, various options including the 'first come, first served' method should be considered when registration policy is formulated.

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(21) When reference is made to interested parties, provision should be made for consultation encompassing, in particular, public authorities, undertakings, organisations and natural persons. The Registry could establish an advisory body to organise such consultation.

(22) The measures necessary for the implementation of this Regulation, including criteria for the selection procedure of the Registry, the designation of the Registry, as well as the adoption of public policy rules, should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(5)].

(23) Since the objective of the proposed action, namely to implement the .eu TLD, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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,

HAVE ADOPTED THIS REGULATION:

Article 1

Objective and scope

1 The objective of this Regulation is to implement the .eu country code Top Level Domain (ccTLD) within the Community. The Regulation sets out the conditions for such implementation, including the designation of a Registry, and establishes the general policy framework within which the Registry will function.

2 This Regulation shall apply without prejudice to arrangements in Member States regarding 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 dissemination of TLD zone files;

(b) ‘Registrar’ means a person or entity that, via contract with the Registry, provides domain name registration services to registrants.

Article 3

Characteristics of the Registry

1 The Commission shall:

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[[F1]a adopt delegated acts in accordance with Article 5a in order to supplement this Regulation by establishing the criteria and the procedure for the designation of the Registry.

Where, in the case of establishing the criteria and the procedure for the designation of the Registry, imperative grounds of urgency so require, the procedure provided for in Article 5b shall apply to delegated acts adopted pursuant to this Article;**]**

b designate, in accordance with the procedure referred to in Article 6(2), the Registry after publishing a call for expressions of interest in the *Official Journal of the European Communities* and after the procedure for such call has been completed;

c enter into, in accordance with the procedure referred to in Article 6(2), a contract which shall specify the conditions according to which the Commission supervises the organisation, administration and management of the .eu TLD by the Registry. The contract between the Commission and the Registry shall be limited in time and renewable.

The Registry may not accept registrations until the registration policy is in place.

2 The Registry shall be a non-profit organisation, formed in accordance with the law of a Member State and having its registered office, central administration and principal place of business within the Community.

3 Having obtained the prior consent of the Commission, the Registry shall enter into the appropriate contract providing for the delegation of the .eu ccTLD code. To this effect the relevant principles adopted by the Governmental Advisory Committee shall be taken into account.

4 The .eu TLD Registry shall not act itself as Registrar.

Textual Amendments

F1 Substituted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

Article 4

Obligations of the Registry

1 The Registry shall observe the rules, policies and procedures laid down in this Regulation and the contracts referred to in Article 3. The Registry shall observe transparent and non-discriminatory procedures.

2 The Registry shall:

a organise, administer and manage the .eu TLD in the general interest and on the basis of principles of quality, efficiency, reliability and accessibility;

[[F2]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;