

**Proposal for a Regulation of the European Parliament and of the Council on the implementation of the Internet Top Level Domain '.EU'**

(2001/C 96 E/30)

(Text with EEA relevance)

COM(2000) 827 final — 2000/0328(COD)

*(Submitted by the Commission on 12 December 2000)*

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,

Having regard to the opinion of the Economic and Social Committee,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The creation of the .EU Top Level Domain (TLD) is included as one of the targets to accelerate electronic commerce in the eEurope 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<sup>(1)</sup> refers to the creation of the .EU TLD and the Council resolution on the communication charges the Commission to encourage the coordination of policies in relation to the management of the Internet.
- (3) Internet 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 Web-sites on the Web. TLDs are also an integral part of every Internet e-mail address.
- (4) The .EU TLD will promote easier access to Internet networks and to the virtual marketplace based on the Internet, in accordance with Article 154(2) of the Treaty, by providing an additional and alternative registration domain to existing country code Top Level Domains

(ccTLDs) or global registration in the generic Top Level Domains (gTLDs), and will in consequence increase choice and competition.

- (5) The .EU TLD will 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 will acquire higher visibility in the virtual marketplace based on the Internet. The .EU TLD will provide a clearly identified link with the European Community, the associated legal framework, and the European marketplace. It will 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 should be implemented in accordance with the relevant principles adopted by the Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN). These principles state, in particular, that the Internet naming and addressing system is a public resource that must be managed in the interests of the global Internet community, and that country code top level domains are operated in trust by Registries for the public interest, including the interest of the Internet community, on behalf of the relevant public authorities, including governments who ultimately have public policy authority over their ccTLDs, consistent with universal connectivity of the Internet
- (8) The Commission, acting on behalf of the Community, has requested the delegation of the EU code for the purpose of creating an Internet TLD. On 25 September 2000 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.

<sup>(1)</sup> COM(2000) 202.

- (9) The Community should establish the conditions of implementation of the .EU TLD to provide for the designation of a Registry and establish the public policy framework within which the Registry will function.
- (10) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of the proposed action, 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 by the Community. This Regulation confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose.
- (11) In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(1)</sup>, measures for the implementation of this Regulation should be adopted by use of the advisory procedure provided for in Article 3 of that Decision,

HAVE ADOPTED THIS REGULATION:

#### Article 1

##### Subject matter

This Regulation charges the Commission with the implementation of the .EU Top Level Domain (TLD), sets out the conditions for such implementation, including the designation of a Registry, and establishes the public policy framework within which the Registry will function.

#### Article 2

##### Characteristics of the Registry

1. For the purposes of this Regulation, 'Registry' means the entity entrusted with the organisation, administration and management of the .EU TLD including maintenance of the corresponding databases, registration of domain names, operation of the Registry TLD name-servers and dissemination of TLD zone files.
2. The Commission shall designate the Registry. The Commission and the Registry shall enter into a contract for a limited period of time, renewable. The contract shall specify the conditions according to which the Commission supervises the organisation, administration and management of the .EU TLD by the Registry.
3. The Registry shall be a not-for-profit entity 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.

4. The Registry shall enter into a contract with the Internet Corporation for Assigned Names and Numbers (ICANN), having obtained the prior consent of the Commission. Such contract shall be consistent with the relevant principles recommended by the ICANN Governmental Advisory Committee (GAC).

#### Article 3

##### Obligations of the Registry

1. The Registry shall observe the rules, policies and procedures laid down in this Regulation and adopted by the Commission pursuant thereto.
2. The Registry shall:
  - (a) organise, administer and manage the .EU TLD on the basis of principles of quality, efficiency, reliability and accessibility;
  - (b) observe applicable public procurement rules and, in any event, observe transparent and non-discriminatory procedures;
  - (c) register domain names in the .EU TLD requested by any:
    - (i) undertaking having its registered office, central administration or principal place of business within the Community, or
    - (ii) organisation established within the Community, or
    - (iii) natural person resident within the Community;
  - (d) impose affordable annual fees directly related to costs incurred.
3. Any aspects of the registration policy for the implementation of the .EU TLD other than those referred to in Article 4(1) shall be determined by the Registry in consultation with the Commission and other interested parties and in accordance with the contract between the Commission and the Registry referred to in Article 2(2).
4. Any decision taken by the Registry shall be subject to the jurisdiction of the Member State of establishment of the Registry.

#### Article 4

##### Public policy framework

1. The Commission shall adopt public policy rules concerning the implementation of the .EU TLD in accordance with the procedure referred to in Article 5(2), having consulted the Registry.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

2. With a view to preventing and resolving conflicts between domain name registrations and intellectual property rights, and taking into account Community and national laws, the Commission, after consulting the Registry and in accordance with the procedure referred to in Article 5(2), shall:

- (a) adopt a policy and procedure to prevent speculative and abusive registration of domain names, which shall conform to best practices, including the recommendations of the World Intellectual Property Organisation (WIPO);
- (b) adopt an extra-judicial settlement of conflicts policy and procedure to promptly resolve disputes between domain names and intellectual property rights, which shall conform to best practices, including the recommendations of the WIPO. This policy shall provide adequate procedural guaranties for the parties concerned and shall apply without prejudice to any court proceeding.

*Article 5*

**Committee**

1. The Commission shall be assisted by the committee established by (Draft) Directive XX/XX/EC on a common regulatory

framework for electronic communications networks and services <sup>(1)</sup>.

2. Where reference is made to this paragraph, the advisory procedure laid down in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

*Article 6*

**Reservation of rights**

The Community shall retain 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 7*

**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 Communities*.

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

---

<sup>(1)</sup> Proposal for a Directive on a common regulatory framework for electronic communications networks and services — COM(2000) 393.