EUROPEAN
COMMISSION

Brussels, 11.8.2023
COM(2023) 485 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the exercise of the power to adopt delegated acts conferred on the Commission by Regulation (EU) 2019/517 of the European Parliament and of the Council on the implementation and functioning of the .eu top-level domain name

1. INTRODUCTION

On 19 March 2019, the European Parliament and the Council adopted Regulation (EU) 2019/517 on the implementation and functioning of the .eu top-level domain name[1] (TLD). The Regulation has been applying from 13 October 2022 with the exception of Article 20 which applies since 19 October 2019.

Regulation (EU) 2019/517 was designed to improve the potential of the .eu top-level domain by increasing the flexibility and adaptability of the rules to the fast-changing domain name market (so called 'principle-based' regulation). The Regulation empowers the Commission to adopt delegated and implementing acts that are instrumental for the selection of the .eu top-level domain name Registry and to its operation. More specifically, the Regulation empowers the Commission to adopt delegated acts to establish the eligibility and selection criteria and the procedure for the designation of the Registry for the .eu TLD.

2. LEGAL BASIS

Pursuant to Article 18(2) of Regulation (EU) 2019/517, the power to adopt delegated acts was conferred upon the Commission for a period of five years from 18 April 2019.

That empowerment is tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such an extension no later than three months before the end of each period.

Article 18(2) of Regulation (EU) 2019/517 further provides that the Commission is required to draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period (i.e., 18 July 2023). The present Report fulfils that requirement.

3. EXERCISE OF THE DELEGATION IN THE CURRENT PERIOD

In the reporting period (18 April 2018 – 18 July 2023), the Commission exercised its power to adopt the following delegated act pursuant to Article 8(1) of the Regulation:

- Commission Delegated Regulation (EU) 2020/1083 of 14 May 2020 supplementing Regulation (EU) 2019/517 of the European Parliament and of the Council by establishing the eligibility and selection criteria and the procedure for the designation of the Registry of the.eu top-level domain name

Article 8(1) of Regulation (EU) 2019/517 obliges the Commission to adopt a delegated act in accordance with Article 18 of the Regulation to supplement that Regulation by establishing the eligibility and selection criteria and the procedure for the designation of the Registry. Commission Delegated Regulation (EU) 2020/1083 was adopted in accordance with the requirements and within the deadline set by Regulation (EU) 2019/517.

[1] Regulation (EU) 2019/517 of the European Parliament and of the Council of 19 March 2019 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 (OJ L 91, 29.3.2019, p. 25–35).

As required by Article 18(4) of Regulation (EU) 2019/517, the Commission consulted experts designated by the Member States before the adoption of the Commission Delegated Regulation (EU) 2020/1083. More specifically, the Commission consulted with experts from the Member States in the field of Internet governance in the context of the High Level Group on Internet Governance (HLIG). The HLIG acts as a platform through which the Commission and the Member States exchange information and align their positions on a wide range of issues related to Internet governance. Representatives of the European Parliament and of the Council were also invited to take part to the meetings of the HLIG when the proposal for Commission Delegated Regulation (EU) 2020/1083 was discussed.

Commission Delegated Regulation (EU) 2020/1083 sets the eligibility and selection criteria for, as well as the procedure for designating, the Registry entrusted with the organisation, administration and management of the .eu TLD in accordance with the principles of openness, transparency and non-discrimination.

Commission Delegated Regulation (EU) 2020/1083 sets eligibility criteria that ensure that the Registry is a not-for-profit organisation, formed in accordance with the law of a Member State. The criteria further ensure that the Registry has its registered office, central administration and principal place of business within the Union, and that the infrastructure needed to perform the core registry functions is also located within the Union.

Commission Delegated Regulation (EU) 2020/1083 also sets the selection criteria and their respective weight in the total evaluation score (TEC) of the applicants. The criterion ‘quality of service’ (amounting for 40% of the TEC) requires applicants to pursue operational excellence and to ensure a high quality of service at competitive prices. The criterion ‘human and technical resources’ (amounting for 30% of the TEC) requires applicants to ensure that their resources are sufficient to perform the functions necessary for the organisation, administration and management of the .eu TLD and that the services provided ensure high quality, transparency, security, stability, predictability, reliability, accessibility, efficiency, non-discrimination, fair conditions of competition and consumer protection. The criterion ‘financial standing and compliance’ (amounting for 30% of the TEC) requires applicants to demontrate financial security and stability that is adequate to fulfil the tasks of the Registry.

The criteria established in Commission Delegated Regulation (EU) 2020/1083 were relied upon design and conduct the procedure to select the new Registy. Based on the results of the selection procedure, the Commission adopted Implementing Decision (EU) 2021/1878 of 25 October 2021[2] on the designation of the .eu top-level domain Registry and subequently signed the service concession contract for the administration and management of the .eu TLD with the European Registry for Internet Domains, EURid vzw. The contract entered into force on 12 October 2022 for a duration of five years.

4. CONCLUSIONS

[2] OJ L 378/22

The Commission has exercised its delegated powers appropriately under Regulation (EU) 2019/517. It invites the European Parliament and the Council to take note of this Report.

The Commission considers that it should continue to have the delegated powers conferred upon it pursuant to Regulation (EU) 2019/517, since it is obliged to review the implementation, effectiveness and functioning of the .eu TLD, pursuant to Article 16(1) of the Regulation. The deadline for the first review of Regulation (EU) 2019/517 is 13 October 2027.

Moreover, the Commission may need to adopt delegated acts in the future to start a new procedure for selecting and designating the next .eu Registry.