

At-Large Consolidated Policy Working Group

Discussion on the NIS2 Directive

Elena Plexida
Vice President for Government and IGO Engagement

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Important EU initiatives relevant to the DNS

In December 2020 the European Commission published important initiatives relevant to the DNS including domain name registration data and DNS services providers:

- The [Digital Services Act package](#), comprising of:
 - ➔ ■ the [Digital Services Act](#) (DSA) and
 - the [Digital Markets Act](#) (DMA)

- The [new EU Cybersecurity policy package](#) that includes:
 - ➔ ■ A "[Communication on the EU's Cybersecurity Strategy for the Digital Decade](#)"
 - ➔ ■ A proposal for a [revised Directive on Security of Network and Information Systems](#) (NIS2 Directive)
 - A Directive on the resilience of critical entities

The DNS is the context of the 2016 NIS Directive

- NIS2 is a proposal to reform the 2016 NIS Directive.
- The NIS Directive sets out cybersecurity requirements for services deemed “essential”, such as hospitals, public transport systems and telecom networks.
- DNS providers are included in the existing NIS as operators of essential services, but it is up to the EU Member States to identify operators of essential services within the DNS.

The DNS in the context of the NIS2 Directive

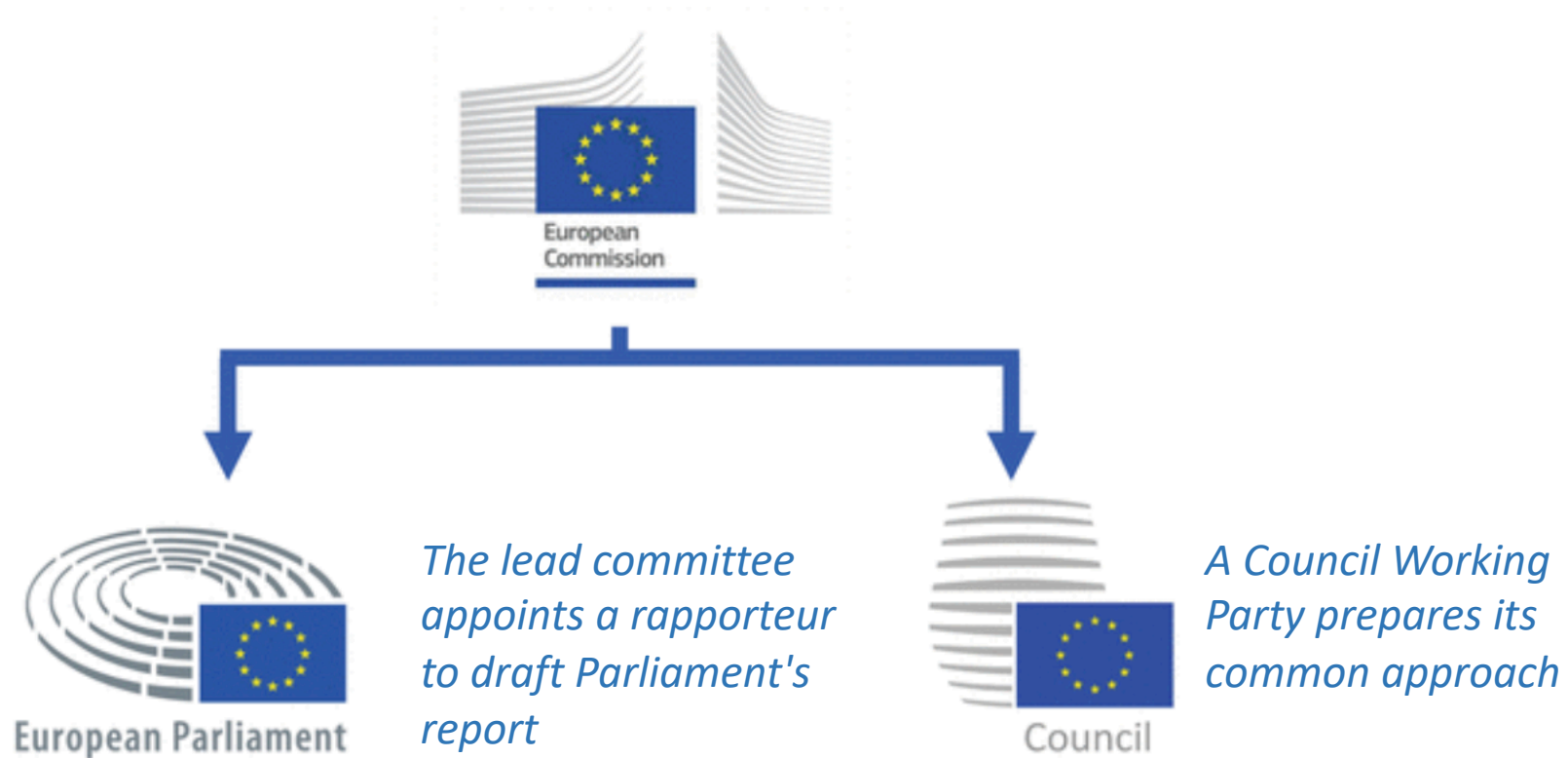
- NIS2 will impose updated requirements on "essential" and "important" service providers in critical sectors. Companies are defined as either “essential” or “important”, with different sets of obligations.
- NIS2 applies to all providers of DNS services along the DNS resolution chain, including operators of root name servers, TLD name servers, authoritative name servers for domain names and recursive resolvers.
- They qualify as essential services, while there is no identification system by the EU Member States.
- Territorial scope similar to the GDPR: A DNS service provider must designate a representative under NIS2, in cases in which a DNS service provider not established in the EU offers services within the EU (cf. Art. 24 (3) NIS2)
- Moreover, the small and micro business exemptions do not apply to TLD name registries and DNS service providers (cf. Art 2 (2) NIS2)

The DNS in the context of the NIS2 Directive

- Main responsibilities for essential services under the NIS2 Directive are:
 - Implementation of appropriate and proportionate technical and organisational measures (Art. 18 NIS2)
 - Reporting obligations (Art. 20 NIS2)
 - Provide contact details for the registry of essential entities to ENISA (Art. 25 NIS2)

- In addition, we have the registration data related provisions.

NIS2 in the context of the EU Decision-making



The Proposal will be subject to negotiations between the co-legislators, notably the Council of the EU and the European Parliament.

Once the proposal is agreed and consequently adopted, Member States will have to transpose the NIS2 Directive within 18 months.

NIS2 open consultation

- The proposed NIS2 Directive is [posted for public comment through 18 March 2021](#).
- All feedback received will be summarized by the European Commission and presented to the European Parliament and Council with the aim of feeding into the legislative debate.

Webinar with the EC on its recent initiatives, including NIS2

- ⦿ ICANN Stakeholder Assembly: A Briefing by the European Commission on the Recent EU Initiatives on Digital Services and Cybersecurity, Feb 26
 - Details and registration is available [here](#)

- ⦿ ICANN's Europe team set up a Stakeholder Assembly offering ICANN Perspectives on EU Digital Initiatives on Jan 27
 - A recording and materials from that assembly can be found [here](#)