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EUROPEAN INTEGRATION AND TOP LEVEL DOMAIN IN 2013

Radka MacGregor Pelikánová*

Abstract: *The current omnipresent economic crisis has heavily impacted the European Union. Thus the concept, missions and goals of the European Union are exposed to a very close and critical scrutiny influenced by practice and pragmatic considerations. Is the stronger integration of a sui generis international organization which is traditionally supporting agriculture politics capable of reflecting and addressing challenges of our post-modern global society, particularly the use of information technologies? Neither the Internet in general nor domains and domain names are governed by a unified legal framework replete with a strong enforcement. The top level domain of the European Union, TLD .eu, represents a project distant from the standardized and even closer European Union ideas and still truly supporting growth and employment, and ultimately able to tackle the economic and financial crisis.*

Keywords: *Crisis, European Union (EU), Domain, Top Level Domain (TLD), EURid*

1. INTRODUCTION

The crisis, the Internet and the operation of the EU are hot-button topics in 2013, and not only within the European continent. Their common denominator is that there was not, is not and probably never will be a complete consensus about their foundations, reasons, concepts, regimes and prospects and perspectives. We do not know exactly where we stand in the crisis and have a hard time to identify all its reasons and all necessary instruments to overcome it. Similarly, we have difficulties in taking a unified approach to the Internet and to agree upon its (de)regulation and its regime in general. Nevertheless, a cursory check of academic as well as non academic resources demonstrates that the European Union (EU) and European Integration involve many apparently accepted and supported ideas across regions and countries.

In this overwhelmingly complex situation it is instructive to select one key economic, IT and European issue and place it under a microscope. The research, analysis and resulting conclusions could be a starting point to better understand the current not so positive situation in general and perhaps to facilitate the identification of recommendations, if not solutions.

Logically, a very topical and appropriate candidate to serve as such a key issue is the Top Level Domain (TLD) of the EU, i.e. TLD .eu. In order to support clarity and to correctly frame the issue and put it in its appropriate setting, the analysis should start with a cursory review of the Internet and domain name world in general (1.) and its relationship and influence with respect to European integration (2.). Thereafter, the TLD .eu will be presented (3.) and a due focus will be oriented on its current status and issues (4.). The collected information should culminate in conclusions which will at least indirectly, if not directly, suggest whether the TLD .eu is a successful project to serve as an inspiration, if not as a model, to resolve many problems of the EU in 2013.

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1. INTERNET, DOMAINS AND DOMAIN NAMES

The phenomenon of the 21st century, the Internet, is a global, world-wide and free system built up by knots, such as personal computers for access to the Internet and server computers for hosting sites, and their networks, which communicate based upon relevant protocols, i.e. - Transmission Control Protocol (TCP) and Internet Protocol (IP), i.e. TCP/IP protocol.

The Internet has a virtual and international nature and its existence and operation are inherently linked to many economic and legal aspects, including the issues of identification and liability. Taking into consideration its nature and global importance, the Internet and its regulation seem to be highly relevant subject matters of international law. However, international law is a legal order based on two evenly strong legal sources, customs and treaties, and still remains not codified and even, at least partially, unwritten.[1] Undoubtedly, the Internet significantly influences the professional, as well the social and private life of many persons and entities, including those from the EU and, generally, the whole world's population.[2] Nevertheless, the relatively short life of the Internet and even shorter period of the existence of Internet domains, domain names, and the domain name system has not created an opportunity for the international community to establish a consensus or at least a vague agreement about the manner of its operation and regulation. As a matter of fact, with a few exceptions from Finland and the USA,[3] neither international customs nor international treaties, even national (domestic) laws seem encouraged to expressly regulate the administration and distribution of domains and domain names.

However, due to technical requirements, and regardless of legal preferences and (a lack of) regulation, the Internet presence must be and is facilitated or even allocated by the designation of a certain cyberspace and this while using numbers and letters. A word transcription, a domain name, of an IP numeric address is used for a definite reason, to allow for the communication between computers, sites and networks. Their communication with each other is based upon a system of special computers, operating according to preset rules, converting a unique numeric address into a unique word address and vice versa (Domain Name System - DNS). A domain name is, in effect, mainly a word identification of an IP resource, a name and/or address of a personal computer, a server computer or a website. In this context, it would be remiss not to underline truly instructive comments and observations about domain names and their nature. It is suggested that the domain name is a misleading term and more correctly should be instead used a designation of a domain.[4] The explanation for it is easy and convincing, the domain is a space with an internet address in a number format converted into a letter format. Therefore, the domain

[1] ŠTURMA, P. The International Law Commission and the Perspecitves of its Codification activities. *The Lawyer Quarterly*. 2011, Vol. 1, No. 3, pp. 145–156.

[2] MacGREGOR PELIKÁNOVÁ, R. New top level domains – pending success or disaster? *Journal on Legal and Economic Issues of Central Europe*. 2012, Vol. 3, No. 1, pp. 75–81.

[3] The only long lasting exception is the American Anticybersquatting Consumer Protection Act – 15 U.S.C. § 1125 (d) ACPA.

[4] TELEC, I., TŮMA, P. Licenční smlouva v pojetí nového občanského zákoníku. In: Ladislav Jakl (ed.). *Nový Občanský zákoník a duševní vlastnictví*. Prague: Metropolitan University Prague, 2012, p. 82.

is not a person and thus should not be labeled by names but rather by denominations or designations.[5]

Further, the domain name (or domain designation or domain denomination) is no mere grouping together of random letters. A precise and pre-determined tree structure, with several letters formations separated by dots and positioned via the level of generality and specialty, constitutes it. Basically, the first letters in the formation, placed leftmost, are appurtenant to a concrete computer and the rightmost last letters formation relate to a large group of computers, networks and websites – a TLD.

In general, TLDs are gathered into and categorized via two types – generic (international) TLDs (gTLDs) and country code, national, TLDs (ccTLD). To procure a verbal transcription of one's relevant numeric address (a domain of a certain level within a gTLD) for any natural person or legal entity, irregardless of origin, nationality or location of business incorporation, is the opportunity afforded by registration within a gTLD. Such a TLD's end abbreviation is used to point out the orientation and specialization of lower level domains appertaining to this gTLD, such as ".com", ".org", ".net", ".edu". If, however, the party (natural person or legal entity) is more desirous of a classification according to the country of origin instead of a classification according to specialization, then one should go for an identification at a national basis, within the TLD of a particular state – ccTLD. This means a domain name ending with a two letter country code, according to tj ISO 3166, e.g. ".cz", ".de" či ".uk". Beginning in 2006, the parallel offer of conventional gTLDs and ccTLDs has been enlarged by a new TLD *sui generis* and having a mixed character (rather more towards ccTLDs than gTLDs) – with the TLD of the EU bearing the end identification abbreviation ".eu" - "TLD .eu".[6]

Currently, 22 gTLDs, 250 ccTLDs and 30 international ccTLDs make up the namespace, bringing the total number of TLDs to about 300.[7] These TLDs operate on various models with similar basic features. A designated Registry operator (usually just called "registry") and a Registry Agreement between the registry operator and ICANN are standard for a TLD. Responsibility for the technical operation of the TLD and all names registered in it is placed in the hands of the registry operator. Over 900 registrars service the current gTLDs, the registrars interact with registrants, i.e. applicants and holders, performing domain name registration and other related services.[8]

The administration of domains is clearly and strongly hierarchic, but it does not belong under the competency of a state and it uses a decentralized and multi-stakeholder model operated by a private law entity entering into contractual instruments with various subjects from both public law and private law.

Since the Internet evolved from a network infrastructure created by the Department of Defense, the U.S. government originally owned and operated it, primarily through private

[5] TELEC, I. Nový občanský zákoník ve společnosti sítí. *Právní rozhledy.* 2012, Vol. 20, No. 23/24, pp. 853-855.

[6] MacGREGOR PELIKÁNOVÁ, R. New top level domains – pending success or disaster? *Journal on Legal and Economic Issues of Central Europe.* 2012, Vol. 3, No. 1, pp. 75–81.

[7] BECKSTROM, R. Speech – Opening Remarks. *Seminar on New Generic Top-Level Domains,* 8th December 2011, Beijing, China, p.4. http://www.icann.org/en/presentations/beckstrom-speech-new-gtlds-beijing-08dec11-en.pdf.

[8] ICANN. gTLD Applicant Guidebook - Preamble, version 2012-01-11, 11th January 2012 http://newgtlds.icann.org/en/applicants/agb.

contractors, such as the Internet Assigned Numbers Authority (IANA). The current DNS is managed by a not-for-profit public benefit corporation, the Internet Corporation for Assigned Names and Numbers (ICANN) based on a set of contractual documents entered into with the U.S. government, namely with the Department of Commerce. Local private law entities are registrars and administer the distribution and registration of TLDs at a lower level. ICANN presents itself as "a critical global body that works to assure that the Internet remains open, unified and global." Principal tasks of ICANN are coordination of the Domain Name System (DNS), IP, root system functions and the assigning of gTLD as well as ccTLD. Currently, ICANN supports 242 countries and territories in the daily Internet operation.[9]

With states exercising little or no influence with respect to DNS,[10] there has arisen the development of various instruments by private registry and registrars to mitigate it. Particularly prominent is the global use of contractual schemes (a triangle composed by the registry, registrar and registrant)[11] and standardized rules, especially the wide-encompassing and vigorously upheld requirement to make holders of the domain and domain name uphold various rules and policies. Thusly, all registrars must conform to the Uniform Domain Name Dispute Resolution Policy (UDRP), meaning that not only the domain coordinator ICANN but additionally all domain registrars entrusted by ICANN ensure that applicants and resultant holders of domain names recognize and obey a particular legal regime and a set way of dispute settlement. In effect, conflicts and discrepancies under UDRP are submitted to one of the four listed providers, i.e. to the WIPO Arbitration and Mediation Center, the Arbitration Center for Internet Disputes at the Czech Arbitration Court, National Arbitration Forum, and Asian Domain Name Dispute Resolution Centre.

ICANN has currently launched a brand new project permitting an unlimited increase in gTLD's. This should lead to a dramatic growth of gTLDs in the very near future, and persons or entities from the EU shall continue to face the dilemma – to use the ccTLD, TLD .eu, classic gTLD or perhaps a newly created and tailored special gTLD?[12]

2. EUROPEAN INTEGRATION AND EUROPE

European integration represents a concept predominantly understood as a procedure for unification on an economic level, including the field of information technology. More precisely, European integration should be perceived as a complex phenomenon entailing an abundance of complicated processes in various fields.[13] Therefore, it should be seen as a very broad and partially loosely defined category of inter-related industrial,

[9] BECKSTROM, R. Speech. The London Conference on Cyberspace, 2nd November 2011, London, UK, p.1. http://www.icann.org/en/presentations/beckstrom-speech-cybersecurity-london-02nov11-en.pdf.

[10] As a matter of fact, traditionally the only state directly involved in this type of issues, USA, has been criticized for the inherence and requested to withdraw. Even the recent involvement of the EU has a rather moderate extent.

[11] *Note: the terminology using "registration" is misleading, as correctly stated e.g. by Prof.Petr Hajn in his notes and manuscripts, it is rather putting in and maintaining in a database.*

[12] MacGREGOR PELIKÁNOVÁ, R. New top level domains – pending success or disaster? *Journal on Legal and Economic Issues of Central Europe.* 2012, Vol. 3, No. 1, pp. 75–81.

[13] VEČEŘA, M. The Process of Europenization of law in the context of Czech law. *Acta universitatis agriculturae et silviculturae Mendelianae Brunensis.* 2012, LX, 60, 2, pp. 459–464.

political, legal, economic, social and cultural processes oriented toward the ultimate unification.

Already in the decade before the Treaty of Lisbon amending the Treaty on the EU and the Treaty establishing the European Community - 2007/C 306/01 (Treaty of Lisbon),[14] there was a legal basis and a strong support for the trans-European networks. The aim of the EU was to promote them in order to achieve the creation of the Internal Market and the reinforcement of economic and social cohesion. A set of projects have been launched pursuant to European Commission guidelines to develop the Trans-European transport networks (TEN-T), Trans-European Energy network (TEN-E) and Trans-European telecommunication network (eTEN). The last mentioned, eTEN was partially covered as well by the Sixth Framework Program (2002–2006): Information Society Technology. The importance of information technologies, of the Internet, for the European integration was clearly stated by the eEurope 2002 initiative, in the key Council Decision 2002/835/EC,[15] and in the eEurope 2005. The Information society technologies program cost EUR 3.6 billion and its priorities were the technological research integration, the development of communication and computing infrastructures (including the update to the next Internet generation), the development of components and micro systems, and the development of information management interfaces.[16] In this context emerged the idea of a TLD for the EU, which, from its beginning, offered a number of differences in comparison to conventional gTLDs and ccTLDs, and this in regard to openness and requirements as well as the institutional framework.[17]

The Treaty of Lisbon reformed two fundamental treaties for the EU, Treaty on the EU (TEU)[18] and the Treaty on the Functioning of the EU (TFEU)[19] and made the European Community to be replaced by the EU. In addition, the Treaty of Lisbon, especially Art.4 and 5 TEU and Art.2-6 TFEU changed the underlying model and substituted the famous antic template model that had three pillars with a new model consisting of three sets of competencies – the exclusive competence, the shared competence, and the supporting competence. According to Art.4 TFEU within the second group (the shared competence) is located the area of Internal Market, economic cohesion, trans-European networks, etc. However, it needs to be kept in mind that this is not the final and conclusive answer, and as some authors correctly observe, TEU and TFEU are far from being the proclaimed clear constitutional documents close to the hearts of EU citizens and enjoying a solid and clear understanding and interpretation and this concerns even the actually rather obscure dis-

[14] Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Communiy signed at Lisbon, 13 December 2007, Official Journal C 306 of 17 December 2007 (2007/C 306/01).

[15] Council Decision 2002/835/EC of 30 September 2002 adopting a specific programme for research, technologicl development and demonstration:"Integrating and strengthening the European Research Area" (2002–2006) [Official Journal L 294 of 29.10.2002].

[16] Information provided by the European Commission available at http://ec.europa.eu/research/fp6/index_en.cfm?p=2.

[17] MacGREGOR PELIKÁNOVÁ, R. The best TLD for European Enterprises is ... *International and Comparative Law Review.* 2012, Vol. 12, No. 2, pp. 41–58.

[18] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Official Journal C 83 of 30. 3. 2010 (2010/C 83/01).

[19] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Official Journal C 83 of 30. 3. 2010 (2010/C 83/01).

tribution of powers, competencies and authorities to act in the name, for and on the behalf, of the EU.[20]

Recently, the economic integration and the Eurozone are the most discussed European integration issue. The dramatic financial impact for each member state and even every citizen of the EU fully justifies such a strong focus. Nevertheless, especially the economic and social integration is strongly influenced, even marked and shaped, by the above mentioned phenomenon of the 21st century, the Internet. The integration requirements contributed to the fact that European law, as the EU law (or law of the EU) and the law of EURATOM,[21] and European institutions have been heavily endorsing the Europeanization of the Internet and the domain portfolio of people and entities from the EU.

3. TOP LEVEL DOMAIN OF THE EU AND ITS FRAMEWORK

An important step towards a new TLDs' horizon took place on 25th September, 2000, when the global domain coordinator ICANN OK'd the granting of the numeric code alfa-2 "eu" and made possible the issuing of the Regulation (EC) No 733/2002 of the European Parliament and of the Council on the implementation of the .eu Top Level Domain (Regulation 733/2002). Taking into account the initiative 'eEurope', approved by the Lisbon strategy[22] and the Council resolution 2000/C 293/02 on the organization and management of the Internet,[23] the Commission, in 2002, moved to the realization of this project by extending call 2002/C 208/08 to potential candidates for the performing of registry functions for TLD .eu. The Commission selected the European Registry for Internet Domain (EURid) and through Commission Regulation (EC) No 874/2004 the laying down of public policy rules about the implementation and functions of the .eu Top Level Domain and the governing registration principles (Regulation 874/2004) formulated general rules for the introduction and functions of TLD .eu and those principles to govern the registration.[24]

With these two most important regulations for TLD .eu, Regulation 733/2002 and Regulation 874/2004 in place, the Commission entered into, with EURid, an agreement on TLD .eu and the registration of its domain names on 12th October, 2004. The validity of this agreement has been extended until 12th October, 2014. In compliance with ICANN, EURid managed to arrange for the inclusion of the domain „.eu" into root DNS in March 2005,[25] i.e. for the technical creation of TLD .eu. On 7th December, 2005 there occurred the

[20] SVOBODA, P. The Lisbon Treaty – From a Legal and Therefore Politically Incorrect Perspective. *The Lawyer Quarterly*. 2011, Vol. 1, No. 2, pp. 138–141.

[21] POREMSKÁ, M., VÍTEK, B. European Law as terminological issue. *Acta universitatis agriculturae et silviculturae Mendelianae Brunensis*. 2011, LX, 68, 2, pp. 517–522.

[22] *The inciative eEurope approved by the European council in Lisabon on 23rd and 24th 2000.*

[23] *"6. RESOLVES TO INSTRUCT THE COMMISSION:. .... to set up a European network bringing together the scientific, technical and legal skills that currently exist in the Member States with regard to domain name,address and Internet protocol management."*

[24] MacGREGOR PELIKÁNOVÁ, R. Právní a ekonomický úspěch domény nejvyšší úrovně .eu – pravda či mýtus roku 2011? *Právo, ekonomika, management*, 2011, Vol. 2, No. 4, pp. 2–10.

[25] Point 3. Communication from the Commission to the European Parliament and the Council COM (2007) 385 – Report on the implementation, functioning and effectiveness of the ".eu" TLD from 6th July 2007.

launching of TLD .eu, and after the Sunrise Period for priority registrations, in a four-month time frame, the general registration took place. Thus, since 7th April, 2006, any legal entity or natural person from a member state of the EU may apply for, and become a holder of, a domain from the TLD .eu.

Domain names appertaining to TLD .eu are under the regulation and registration not only by EU law provisions but as well by EURid documents – Domain Name Registration General Conditions (General Conditions) and Registration Rules. According to Regulation 874/2004[26] and General Conditions, a provider selected for TLD .eu settles disputes – the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (Arbitration Court in Prague). Governing the dispute proceedings are Alternative Dispute Resolution Rules (ADR Rules) and Supplemental ADR Rules of the Arbitration Court in Prague.[27] Additionally, complementary soft-law regulation is represented by the EURid code of conduct from 2007. Several institutions and organs apply the legal framework – the Commission as the creator, EURid as an entrusted registry, private businesses as accredited registrars processing the registration and administration of domain names, and the Arbitration court in Prague as an ADR provider. Relations among them are formulated and determined by legislative documents as well as various contracts and agreements. As a result, various features typical for private law find an application and concerned parties as well as holders, or potential holders, of domain names from TLD .eu have a set of choices, e.g. which accredited registrars will process their application. It is clear, then, that the regime of domain names from TLD .eu, particularly relations between the quasi government of the EU, the Commission, and that private party which is entrusted with the registration supervision and delegation to registrars, registry EURid, show strong similarities and parallel with the above mentioned status of ICANN and the now rather weak, but still not to be ignored, influence of the U.S. Department of Commerce.

4. TOP LEVEL DOMAIN OF THE EU – AN ONGOING SUCCESS ...

The above mentioned Regulation 733/2002 mandates that the Commission regularly prepares and presents a Report about the use and operation of TLD. eu to the European Parliament and Council which is officially called the "Report from the Commission to the European Parliament and Council on the implementation, functioning and effectiveness of the .eu Top Level Domain" (Report about TLD .eu).[28] To date, a total of three Reports about TLD .eu have been published, COM(2007) 385 from 2007,[29] COM(2009)

[26] Article 22 Alternative dispute resolution (ADR) procedure *"1. An ADR procedure may be initiated by any party where: (a) the registration is speculative or abusive within the meaning of Article 21; or(b) a decision taken by the Registry conflicts with this Regulation or with Regulation (EC) No 733/2002. 2. Participation in the ADR procedure shall be compulsory for the holder of a domain name and the Registry. 3. A fee for the ADR shall be paid by the complainant."*

[27] http://eu.adr.eu/adr/adr_rules/index.php.

[28] Regulation 733/2002 – Article 8: *"Implementation report. The Commission shall submit a report to the European Parliament and the Council on the implementation, effectiveness and functioning of the.eu TLD one year after the adoption of this Regulation and thereafter every two years."*

[29] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0385:FIN:EN:PDF.

303 from 2009[30] and COM(2011) 616 from 2011,[31] each approximately 10-15 pages long and rejoicing in an allegedly complete success of TLD .eu. *Scire tuum nihil est, nisi te scire hoc sciat alter.*[32]

Since the next Report about TLD .eu can be expected in a few months, for the time being the most updated source of information, although even more subjective, is the EURid's Quarterly Progress Report Second Quarter 2012 (Progress Report 2/2012),[33] Quarterly Progress Report Third Quarter 2012 (Progress Report 3/2012),[34] Quarterly Progress Report Fourth Quarter 2012 (Progress Report 4/2012),[35] Annual Report 2012,[36] Quarterly Progress Report First Quarter 2013 (Progress Report 1/2013)[37] and postings on the EURid internet page, such as the news section.[38]

In the Progress Report of 2/2012, EURid proudly announced that registrants (applicants) can use the services of 900 accredited and highly responsive registrars[39] and TLD .eu passed 3,6 million registrations and saw a growth of almost 8%. This along with an 85% renewal rate is presented as evidence of an expert setting and operation of TLD. eu in 2012.[40] However, the significant increase in registrations within TLD .eu is not exclusively due to the great legal regime, organic structure, IDN introduction, various incentives or a strong desire to share the EU integration and to share the EU identity. Considering strategic and marketing consequences, it becomes extremely likely that a large number of persons and entities, especially those conducting businesses, do not have a real choice and the need for the protection of their intellectual property portfolio makes "preventive" domain names registration within TLD .eu necessary for them, regardless of the conditions of such a registration.[41]

Nevertheless, in sum a plethora of data and evidence demonstrates that TLD .eu has basically met pre-set goals. In 2012, the TLD .eu was available to 500 million Europeans and to European corporations and companies offering even International Domain Names (IDN) registration. Profitable performance permitted piling-up of reserves and their subsequent transfer into the budget of the EU, to the general satisfaction of the people of the EU, while a mechanism for dispute settlements, addressing and solving conflicts in re domain names and intellectual property rights within a matter of weeks or a few months, strongly advocate in this respect. The generally favorable impact and the thumbs up regarding TLD .eu and the related registration and administration of domain names with the abbreviation ".eu" can be supported by statistics. Five to ten percent is the annual growth in the amount of domain name registrations there, and the TLD .eu is now the 4th

[30] http://ec.europa.eu/information_society/policy/doteu/doc/report2009/com_2009_303_en.pdf.
[31] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0616:FIN:EN:PDF.
[32] *Your knowledge is worthless when no one else knows about it.* Persius, Satires.
[33] http://www.eurid.eu/files/quarterly_2012_Q2.pdf.
[34] http://www.eurid.eu/files/publ/quarterly_2012_Q3.pdf.
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[38] http://www.eurid.eu/en/press-room/news-archive-0.
[39] http://www.eurid.eu/en/press-room/facts-figures.
[40] http://www.eurid.eu/files/quarterly_2012_Q2.pdf.
[41] MacGREGOR PELIKÁNOVÁ, R. New top level domains – pending success or disaster? *Journal on Legal and Economic Issues of Central Europe.* 2012, Vol. 3, No. 1, pp. 75–81.

most popular ccTLD in the territory of the EU[42] and has become one of the ten most popular TLDs extant.

In the Progress Report of 1/2013, EURid decided to face the new reality caused predominantly by the crisis effects and the emergence of *new gTLDs* and admitted that the domain name industry entered into a transition phase with a definitely lower growth rate. EURid considers these circumstances as a challenge with a stimulus potential. In other words, EURid attempts to be proactive and find reasons and grounds for attracting clients and customers. Naturally, EURid can not offer (sub)domains at the lowest price or with the most flexible and individually tailored regime. Therefore, EURid took the „quality" venue and came up with a motto "The fees you pay for your .eu domain name will be used completely to improve the service and quality of .eu." marked by the idea that the quality of the .eu brand and excellency of the customer automated care are absolutely critical. An impressive number of 94% of customers stated their satisfaction with EURid and TLD .eu.[43] In addition, EURid took the courage to pass the *Rubicon* of responsibility and made the move towards forcing registrars to control and update information and making registrants accountable. In this context, it is interesting and instructive to observe how various Registries, e.g. EURid for TLD .eu or CZ.NIC for TLD.cz, address their status and closeness to the Internet Service Provider.[44]

Not to be ignored, additionally, are EU and EURid politics and instruments for improving security, battling cybersquatting, IPR parasitism, and other malpractices. Other success stories would include measures to support readiness to address disaster scenarios,[45] the phasing of initial registration periods, the cooperation regarding technical updates such as the transition from IPv4 addresses to IPv6 addresses, and financial politics of the registry.

The independent position and private law status of the registry EURid, the reduction of political manipulation, and the separation of powers between EU institutions as well as within EURid, i.e. the lack of orders from certain EU member states, of the resistance of other member states, of an excessive inherence by the European Commission in the function of registry and registrars are generally approved and prove to be satisfactory and worthy as consideration to serve as a model. *Verba docent, exempla trahunt.*[46]

Due to the Eurocrisis and the failing discussion about the EU budget and redistribution of resources while maintaining black numbers of accounting, it should be pointed out that the financial analysis of TLD .eu sounds *prima facie* good. Although registry EURid charges local registrars merely 4 EUR per domain name from TLD.eu, it is still able to show a profit on its financial statements. Of course, the holders acquire their domain names from their registrars with a surcharge built in, i.e. registrars charge them more

[42] The largest number of national domain name registrations within EU is in German TLD (".de"), in Great Britain TLD (".uk") and in Dutch TLD (".nl").[43] http://www.eurid.eu/files/publ/quarterly_2013_Q1.pdf.

[43] TELEC, I. Nový občanský zákoník ve společnosti sítí. *Právní rozhledy.* 2012, Vol. 20, No. 23/24, pp. 853–855.

[44] *"The highlight of Q3 2011 was the business continuity exercise EURid conducted to test its capacity to cope with disaster."*

[45] *Words instruct, illustrations lead.*

[46] BECKSTROM, R. Speech. *The London Conference on Cyberspace*, 2nd November 2011, London, UK, p.3. http://www.icann.org/en/presentations/beckstrom-speech-cybersecurity-london-02nov11-en.pdf - the addition of 30 IDNs from 20 countries and territories in the DNS root zone has forced down the average annual registration fee from 35 USD to 7 USD.

than the 4 EUR to cover their expenses as well as any possible added services offered as a package, such as a domain name plus a website design and setting. The final prices vary, but generally are affordable and not dissimilar to those for domain names from ccTLDs.[47] The dispute resolution fee for the use of the ADR mechanism had fallen to 1 300 EUR and remained an object of criticism as rather high for a SME.[48] Recently, it was temporarily reduced by 50%.[49]

The management of TLD .eu, namely EURid and its people, are determined to keep doing a good job and maintain the smooth operation of TLD .eu while decreasing the costs. In addition, EURid works hard to get genuinely close to individuals as well as small and medium size entities. Therefore, EURid is truly engaging in this field and does not hesitate to go to its targets. In November 2012, EURid had an information booth at the London Business Start-up Show and, as well, actively participated during workshops at Internet Week in London.[50] In March 2013, EURid completely revamped and relaunched its website www.eurid.eu in 23 EU official languages.[51] The recent accession of Croatia to the EU will definitely soon enlarge this number to 24.

Conversely, we would have a hard time to report positively about other EU activities for citizens and smaller businesses and/or EU activities enjoying positive feedback in such countries as the UK. As a matter fact, going to London to speak about the greatness and majesty of the EU integration and of the Eurozone would be rather a test of British self-control, possibly of the legal regulations regarding disturbing the peace. Margaret Thatcher said clearly three times NO[52] to the transfer of powers ultimately leading to an excessive, consequently uncontrollable and irresponsible financial swapping of EU resources in the name of integration[53] and managed to obtain the famous, and already now for more than a quarter century enforced, rebate.[54] Currently, David Cameron has given a very firm NO to an increase in the EU operating budget, it indicates the UK is getting fed- up with a bigger EU in the sense of more bureaucrats, more money for bureaucrats and more of everything for the ones already wasting resources. As a matter of fact, Herman Van Rompuy wanted an increase in spending by Brussels of between 5 and 6.8 %, at a time when the EU member states have been enduring cuts in public expenditure.[55] Over 6,000 EU offi-

[47] MacGREGOR PELIKÁNOVÁ, R. New top level domains – pending success or disaster? *Journal on Legal and Economic Issues of Central Europe.* 2012, Vol. 3, No. 1, pp.75–81.

[48] http://www.eurid.eu/files/quarterly_2012_Q2.pdf.

[49] http://www.eurid.eu/en/press-room/news-archive-0.

[50] http://www.eurid.eu/files/publ/quarterly_2013_Q1.pdf.

[51] THATCHER, M. Statement of 30th October 1990 to the House of Commons. Available on http://www.youtube.com/watch?v=Tetk_ayO1x4.

[52] RICHARDS, S. Don't praise Angela Merkel, but credit the German people for standing up against the Euro. *DailyMail.* 31st July, 2012. Available on http://www.dailymail.co.uk/debate/article-2181486/Eurozone-Germany-poll-Dont-praise-Angela-Merkel-credit-German-people-standing-Euro.html.

[53] Poll – Comment is free. Is Britain's EU rebate outadated? *The Guardian.* 22nd November, 2012. Available on http://www.guardian.co.uk/commentisfree/poll/2012/nov/22/britain-eu-rebate-outdated - *David Cameron has reiterated that the UK rebate negotiated by Margaret Thatcher in 1984 and worth €3.6bn a year 'is an incredibly important part of Britain's position in Europe and making sure that we get a fair deal'. But some EU officials and the heads of some member states believe that because farming subsidies have shrunk and UK income has increased over the years, the British rebate has lost its original justification. Do you agree that it is time for a rethink?*

[54] JOHNSON, B. Not a single penny more for the EU's Bering bowl. *The Telegraph.* 19th November, 2012. Available on http://www.telegraph.co.uk/news/worldnews/europe/eu/9687187/Not-a-single-penny-more-for-the-EUs-begging-bowl.html.

cials earn six-figure salaries, even though governments across the EU spectrum have had to slash salaries and benefits for their own workers, so Cameron felt that what is 'good for the goose is good for the gander'.[56] Germany keeps playing a double role, keeping up appearances as of a victim, but in actuality a beneficiary. "Germany is determined to make the single currency work...but only on its own terms and in its own image. Europe may fracture in the endeavor".[57] France indulges in a self-delusion, which Germany wishes would end, as Germany's finance minister has drawn up a set of reform proposals for France to undertake.[58] What is the French term for *schnell*? Spain appears recalcitrant about any more EU oversight of their banking sector, while in Portugal, a minority party in the governing coalition is tired of austerity and threatens to bring down the government. Italy is, relatively, quiet at the moment, and infamous Greece promises whatever it can to get more rescue funds. Croatia publicly rejoices over the recent accession to the EU, but dissenting voices about the meaninglessness of joining *"the failed experiment called the EU"* and about the dubious approach of Germany are not spoken loudly.[59] At the same time, East European countries are surpassing South European countries in digitization, i.e. in implementation of the latest new technologies to ensure efficiency.[60] EURid Progress Reports provide data regarding each EU member about the growth of the registration and use of domains, which tends to support this digitization trend.

Far too many politicians, diplomats and lawyers brought too many (self)interests and unsustainable expectations into the brewing up of the Euro. On the other hand, the low profile project of TLD .eu, a small by-product of the Sixth Framework Program, which is financially independent and self-sufficient stays apart from all that, decreases overhead, charges, and does its best to be truly (not only reportedly) competitive within the global market.

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[55] JOHNSON, B. Not a single penny more for the EU's Bering bowl. *The Telegraph.* 19th November, 2012. Available on http://www.telegraph.co.uk/news/worldnews/europe/eu/9687187/Not-a-single-penny-more-for-the-EUs-begging-bowl.html.

[56] KIRKUP, J., WATERFIELD, B. David Cameron to Angela Merkel: I'll stick to my guns on EU budget. David Cameron has insisted that Britain will "stick to our guns" in a growing row over his promise to freeze the European Union's budget. *The Telegraph.* 22nd October, 2012. Available on http://www.telegraph.co.uk/finance/financialcrisis/9626049/David-Cameron-to-Angela-Merkel-Ill-stick-to-my-guns-on-EU-budget.html - *David Cameron threatens to veto the EU budget unless it sacks staff and cuts the pay of 6,000 officials on six-figure salaries.*

[57] WARNER, J. The euro has become Gemany's new Deutschmark. *The Telegraph.* 17th November, 2012. Available on http://www.telegraph.co.uk/finance/comment/jeremy-warner/9684528/The-euro-has-become-Germanys-new-Deutschemark.html - *Anyone who thinks Berlin is itself about to buckle under the pressure and bring monetary union to a rapid conclusion is sadly misinformed. The euro is Germany's currency now, but in the possessive rather than the collective sense. To all intents and purposes, the single currency has become Germany's new Deutschemark, and despite some concessions to fellow members, Berlin its undisputed capital. Nothing, least of all British obstructionism, will be allowed to stand in the way of saving the euro.*

[58] Telegraph staff and agencies. German risks rift with France over economic healthcheck demands. *The Telegraph.* 9th November, 2012. Available on http://www.telegraph.co.uk/finance/financialcrisis/9667687/German-risks-rift-with-France-over-economic-healthcheck-demands.html - *France has the second biggest eurozone economy, after Germany, but tension between the two countries has increased since French President Francois Hollande's election in May ... Mr Schaeuble's request denotes growing concern in Berlin and among private economists over the health of the French economy, which is set to miss a European Union goal for reducing its public deficit next year.*

[59] http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/blogreview/2012/12/01/blog-03

[60] O'MAHONY, J. Southern Europe slides back to „analogue dark age". *The Telegraph,* 24th May, 2013. Available at http://www.telegraph.co.uk/technology/news/10078804/Southern-Europe-slides-back-to-analogue-dark-age.html.

5. CONCLUSION

Private life, as well as business life becoming remarkably increasingly 'virtualized' and dematerialized, including the conduct of business, are noticeable features of the 21st century. One cannot ignore the fact that e-commerce is the biggest and the fastest growing market in the world.[61] Thusly, it is imperative to consider the domain as a space on the Internet and the domain name as a Internet code address of a computer knot (IP numeric address) converted through the DNS database placed on special name computer servers[62] into a valuable verbal (literal) form. Such a unique and symbolic denomination[63] performs far more functions than merely to serve as an address.[64]

The EU is aware of this trend and understands the intellectual property rights, including the denomination rights,[65] as an important instrument for (de)regulation and support of all four cornerstone freedoms – movement of persons, goods, services, and capital.[66] The Commission, European registry EURid, and accredited registrars have demonstrated over the last six years a strong commitment to support TLD .eu and, despite several errors, the overall evaluation of their work should be rather positive. Thus the project TLD .eu prospers as well because it is free from undue influences and is not a subject of long and self-interested discussions disguised and masked by false proclamations about the need of more Europe and a stronger integration meaning manipulating more economy and other areas ... However, is this feasible?

It is regrettable that such a successful, and inherently EU, project does not get more recognition and does not present a model for other, much bigger EU actions and policies. It seems that the fact that the TLD regimes and the DNS settings and applications are on the edge between International law and National (domestic) law, as well as between Public law and Private law is actually a blessing for TLD .eu. The domain integration of the EU goes ahead without decisions and planning from the European Council, Council of ministers, Commission, EU member states, etc. The pragmatism, technical predetermination, and common sense celebrates success and the neo-functionalist gets a second chance. As a matter of fact, the European integration back in the 1950's corresponded to the original neo-functionalist model developed by Ernst Haas and the law should function as a mask for economics, but over time the law started to function rather as a mask for politics and an instrument for alteration of political conflicts.[67] The growth and employment, financial stability and a better governance system do not really need more of the politicians-lawyers masquerade and of the Philipian

[61] CORTÉS, P. Developing Online Dispute REsolution for Consumers in the EU: A Proposal for the Regulation of Accredited Providers. *International Journal of Law and IT*.2011, Vol. 19, Issue 1, p. 1.

[62] KOŠČÍK, M. *Doménové spory* – Diplomová práce. Brno, ČR: Právnická fakulta Masarykovy univerzity – Katedra právní teorie, 2006/2007, p. 8.

[63] AUGUSTIN, A. *Doménová jména a jejich užití při podnikání* – Diplomová práce č. 5. Praha, ČR: Metropolitní univerzita Praha, 2009, pp. 2–4.

[64] MacGREGOR PELIKÁNOVÁ, R. New top level domains – pending success or disaster? *Journal on Legal and Economic Issues of Central Europe*. 2012, Vol. 3, No. 1, pp. 75–81.

[65] MacGREGOR PELIKÁNOVÁ, R. Intellectual property rights and their enforcement in the Czech Republic. *Journal on Legal and Economic Issues of Central Europe*. 2010, Vol. 1, No. 1, p. 15.

[66] VOJČÍK, P. Priemyselné práva na označenie a podnikanie. In: Ladislav Jakl (ed.). *Právní ochrana duševního vlastnictví při podnikání – Soubor vědeckých prací*. Praha, ČR: Metropolitní univerzita Praha, 2011, pp. 30–31.

[67] BURLEY, A., MATTLI, W. (1993). Europe Before the Court: A Political Theory of Legal Integration. *International Organization*. 1993, Vol. 47, Issue 01, pp. 41–76.

rethorics about the supranational approach overcoming the intergovernmental approach. A lean, logical and globally accepted approach might be a much better option. Why not to consider the decentralized starfish model of Beckstrom, i.e. to move away from the big crippled spider.[68] *Qui totum vult, totum perdit.*[69]

The above presented analysis of the TLD .eu shows that EU politics and law are capable of balancing consistency and flexibility. The collected information and its scrutiny suggest that the EU is able to take an appropriate approach and avoid unnecessary regulations and inherence, while providing a solid framework supporting growth and stability. The TLD .eu project *per se* is an excellent example that less is more and that the desire to create a Europe for citizens does not mean an increase in the number and expenses of European institutions and their employees. If the EU and its representatives, along with internal institutions, want to truly serve the EU and EU citizens, then they need to undergo a serious self-reflection and move from the over redistributing and not correctly integrating model to a leaner and more modern model. The engine of the various European communities fifty years ago was the desire to avoid war and the willingness to integrate and to support certain agriculture regions and branches. These still deserve a due respect, but if western civilization, including the EU, does not want to definitely pass its zenith, then the recognition and support of modern technologies, including the Internet and domain names, is an absolute must. This includes also the adoption of a similarly more technical than political approach to many issues brought by the economic crisis.

In today's rapidly changing, tension-filled world, we are confronted with an increasing number of various concepts of knowledge, methods, etc., and it is extremely challenging to go ahead with communication, unification and/or integration.[70] Although there are many issues, challenges, and questions, there is, as well, a healthy potential for (at least some) positive answers.[71] *Quo vadis?* We do not know. What do you get? What you deserve. *Faber est suae quisque fortunae.*[72]

[68] BRAFMAN, O., BECKSTROM, R. *The Starfish and the Spider: The Unstoppable Power of Leaderless Organizations.* New York, USA: Penguin Group, 2006, pp. 244.

[69] *He who wants everything loses everything.*

[70] URBANOVÁ, M., DUNDELOVÁ, J., ROZBOŘIL, B. Knowledge society in 21st centruy. *Acta universitatis agriculturae et silviculturae Mendelianae Brunensis.* 2012, LX, 70, 2, pp. 533–537.

[71] MacGREGOR PELIKÁNOVÁ, R. The best TLD for European Enterprises is … *International and Comparative Law Review.* 2012, Vol.12, No.2, pp. 41–58.

[72] *Each man is the smith of his own fortune. Sallustius, Caesar.*