NIS 2

Why we should be concerned and what we can do about it

Suzanne Taylor | 23 November 2021 | RIPE 83

Let's recap…

- ## NIS (2018)

  - Aim was to boost cybersecurity across the EU

  - Applies to "digital service providers" and "operators of essential services"

  - Member states defined their own "operators of essential services"

  - RIPE NCC not included by Dutch government

- ## NIS 2 (2020)

  - Aim to harmonise across member states

  - ~~Operators of essential services~~ > essential entities

  - ~~Digital service providers~~ > important entities

Who's who?

- **Essential** entities

  - Root name servers

  - Authoritative name servers

  - Recursive resolvers

  - IXPs

  - TLD registries

  - TLD name servers

  - Cloud computing services

  - Data centres

  - CDNs

  - Trust providers

- **Important** entities

  - Online marketplaces

  - Search engines

  - Social networking platforms

Main points

- Essential entities:

  - Security requirements

  - Compliance checks

  - Incident reporting

  - EU representative

- Larger role for ENISA

- Management/boards held personally liable for non-compliance

  - And fines of up to 2% annual turnover/€10M

What's the problem?

- Unintended consequences and overreach

  - Regulating non-EU root name server operators

  - Encourages other governments to reciprocate

- Reducing resiliency

  - Root name server operators in the EU might be dissuaded

  - Opposite effect from the goal

- Goes against multistakeholder approach
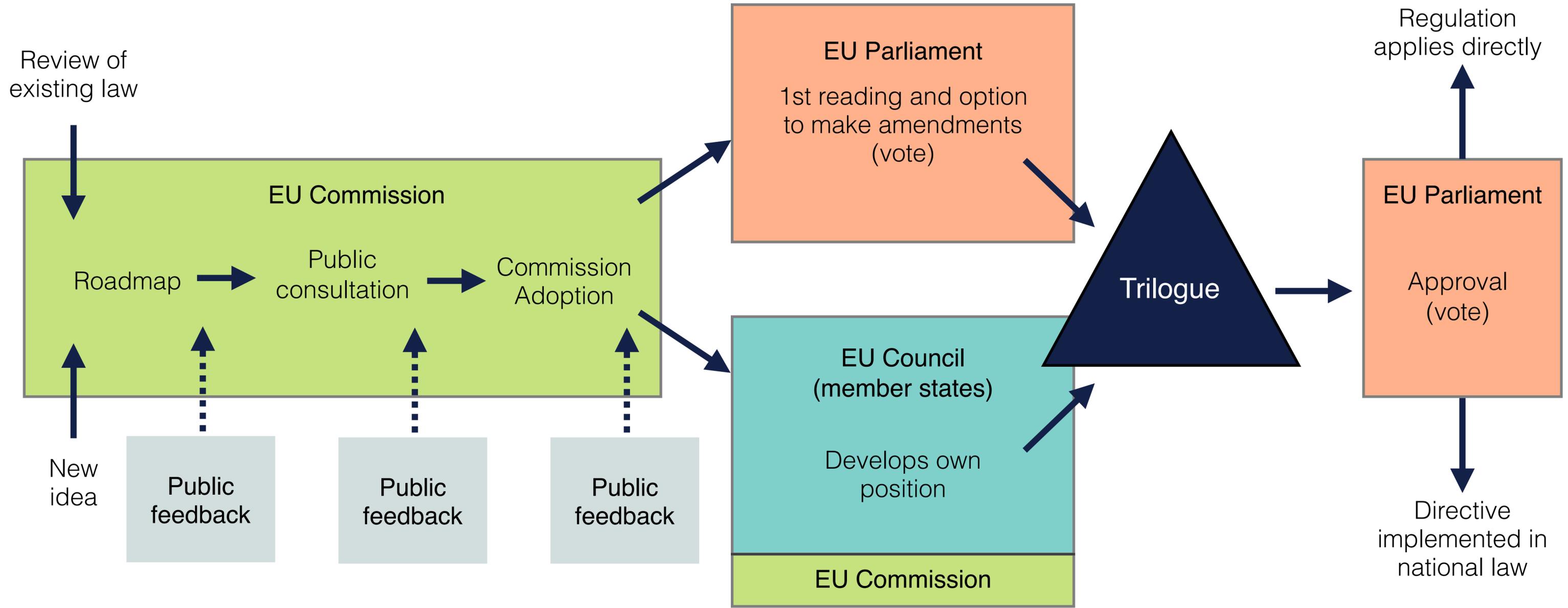
  - Counters IANA stewardship transition

Other concerns

- Contained in the proposal:

    - Mandatory identification checks when registering domain names

    - All top-level domain registries serving EU citizens

- Why this is bad:

    - Unreasonable burden on registries > higher costs

    - Limits ability to compete in a global market

    - How to enforce compliance?

EU legislative process

Review of existing law

EU Commission

Roadmap → Public consultation → Commission Adoption

New idea

Public feedback

Public feedback

Public feedback

EU Parliament

1st reading and option to make amendments (vote)

EU Council (member states)

Develops own position

EU Commission

Trilogue

Regulation applies directly

EU Parliament

Approval (vote)

Directive implemented in national law

What we've done

- Responded to consultation

  - Asked to exclude root name servers

- Engaged with relevant MEPs

- Success (with the Parliament)!

  - Committee in charge excluded root name servers

Parliament's reasoning

Root name servers should be out of scope; regulating them is contrary to the EU's vision of a "single, open, neutral, free, secure and un-fragmented network" and could encourage and empower states advocating for a top-down, state-controlled Internet governance approach, instead of the multi-stakeholder approach.

What's happening now

- Now we turn to the Council

  - Council may propose including only root name server operators with more than 10 sites in the EU

  - We're engaging with Dutch government and several others

  - Council expected to vote soon

What you can do

- Learn more

  - Article 2 / Annex I (scope and providers)

  - Article 4 (definitions of providers)

  - Article 23 (TLD registries)

  - Article 24 (member state jurisdiction)

  - Recital 65 (extraterritorial scope)

- Talk to your government contacts

  - Need as much support from 27 EU member states as possible

  - Explain problems and make sure implications are understood

- Let's keep sharing information

Questions

s.taylor@ripe.net