

Subgroup 4 – 2024 Terms of Reference (ToR)	
Name of Subgroup 4 (SG 4)	EU regulation of digital services - implementation, enforcement and the role of audiovisual regulators
SG Chair	Tobias Schmid, DLM (Germany)
Background	<p>In the past years, ERGA’s work and reports showed that the active usage of cross-border cooperation mechanisms has grown steadily over recent years. A smooth application of media law across borders have been increasingly important for ERGA and its members.</p> <p>At the same time, the persistence of cross-border issues in the online environment has become more and more apparent. The effective protection of users in the Union depends on working mechanisms to ensure a smooth, efficient, and effective collaboration of ERGA members through all channels at their disposal.</p> <p>In the light of this apparent need to find solutions to better protect citizens online, in the past years, the legislative framework for media and the ways to enforce media law under the European legal framework were adapted. First and foremost, the revised Audiovisual Media Services Directive (AVMSD) covering now also video-sharing platforms entered into force in 2018. In 2020, ERGA adopted its Memorandum of Understanding to organize a structured cooperation. This agreement also included specific mechanisms targeted to ensure a smooth regulation of video-sharing platforms across borders. Secondly, with the Digital Services Act (DSA), a new regulatory instrument for online services will become fully operational in 2024. With the future European Media Freedom Act (EMFA) and its cooperation mechanisms, another important Regulation will contribute to the environment for effective cross-border enforcement of media law in the digital realm.</p> <p>Against this background, it is important for ERGA to analyse the roles of audiovisual regulators when applying European law aimed to regulate digital services like online platforms and/or video-sharing platform services.</p> <p>Furthermore, 2024 will be a crucial year for the future development of the European legal framework. With the European elections to be held in 2024, there is a need for ERGA to discuss its views on the future EU legislative priorities in media policy and inform about media regulator’s perspectives towards the new legislative term.</p>
Subgroup scope and purpose	<p>Already in 2023, a dedicated Subgroup was analysing the interplay between the DSA and the AVMSD. The respective reports continued the valuable best practices exchange on the implementation of the AVMSD which already started in dedicated Subgroups in 2021 and 2022. Further, the 2023 group analysed experiences of NRAs when regulating media services across borders and made suggestions to further improve the effectiveness of such cross-border enforcement. Moreover, the Subgroup concluded that ERGA members are willing to cooperate with regulators and their networks around the globe more closely.</p>

The scope of this Subgroup in 2024 lies on the analysis and ensuring the smooth application of the legal framework for digital services from a media regulatory perspective. It will focus on the parallel application of the DSA and the AVMSD and deliver an outlook on the interplay with the new procedures under EMFA. Moreover, the Subgroup will carefully assess possible further legislative changes relevant to the legal framework for media and digital services.

In close collaboration with Subgroup 1 and Subgroup 2 the work of this Subgroup will follow three main areas of work:

1. Implementation and assessment of the European cross-border regulation of digital services: The Subgroup will build on the work done in 2023 and collect and describe the different steps necessary to implement cross-border cooperation procedures under the DSA. It will also assess how the DSA procedures and the existing cooperation mechanisms in the AVMSD are complementary. It will further assess possible overlaps and offer guidance to NRAs and views to the Commission on how to address certain types of cases under the respective legal frameworks. Therefore, it will, as an example case, concentrate on the mechanisms in place to protect minors online, in close coordination with Subgroup 1 (such as age-verification or parental control). It will liaise closely with Subgroup 2 to allow perspectives related to the EMFA to feed into the deliverables.

Further, the Subgroup should seek to set-up effective communication channels with the European Digital Services Board and ensure good communication with the relevant services in the European Commission, in close cooperation with the ERGA Board.

Additionally, the Subgroup will support the ERGA delegation active in the DMA High Level Group with technical expertise if asked to do so by the delegation; in close cooperation with the ERGA Board.

2. Monitoring of legislative developments and the agenda for the next EU legislative term: In 2024, legislative files with relevance for media regulators will continue to be debated amongst the legislators. The Subgroup will keep on monitoring developments regarding relevant legislative acts (e.g. the Artificial Intelligence Act and the Regulation to prevent and combat child sexual abuse) and propose a positioning for ERGA, if necessary. Moreover, 2024 will mark the end of the current legislative mandate and, after the European Parliament elections mid-year, the beginning of a new one. The Subgroup might propose a positioning of ERGA on its future priorities regarding media policy with a view on the new mandate. Moreover, the Subgroup will follow the political priorities of the EU for the next 5-year period and the political priorities of the new Commission where they concern media regulation.

3. Cross-border cooperation: SG1's work in 2023 clearly showed that there is a demand by ERGA members to intensify contacts with regulators around the globe, also beyond Europe. The most pressing demand, in relation to digital services, is of course to pursue cooperation with regulators from the countries of origin of such services. Especially as the DSA as a landmark legislation holds the potential to serve as a model with global impact on digital services, closer cooperation is needed with relevant partners.

Subgroup 4 Deliverables

Deliverable 1	Deliverable type	Report
	Deliverable title	The implementation and enforcement of the European legal framework for digital services.
	Due date	End of working year – 2 nd plenary
	Publication	Yes
Deliverable 2	Deliverable type	Position Paper
	Deliverable title	ERGA's views on the future priorities for media policy
	Due date	May
	Publication	Yes
Deliverable 3	Deliverable type	Legislative Monitoring
	Deliverable title	Overview of EU legislative initiatives relevant for media regulators
	Due date	June and December (ERGA plenaries)
	Publication	No
Deliverable 4	Deliverable type	Workshop
	Deliverable title	ERGAs priorities for the next legislative term (title tbc)
	Due date	After EP elections
	Publication	/
Deliverable 5	Deliverable type	Cooperation with global partners
	Deliverable title	tbc; based on needs of ERGA Members
	Due date	End of working year
	Publication	No

Allocated Resources SG4

Drafters Members Observers	<u>Chair:</u> Tobias Schmid, DLM (Germany)
KommAustria (Austria) CSA (Belgium) Arcom (France) NCRTV (Greece) NMHH (Hungary) AGCOM (Italy) ALIA (Luxembourg) KRRiT (Poland) CNMC (Spain) CMS (Slovakia)	
Medienrat/VRM (Belgium) CEM (Bulgaria) AEM (Croatia) CRTA (Cyprus) RRTV (Czechia) TTJA (Estonia) TRAFICOM (Finland) Coimisiún na Meán (Ireland) NEPLP (Latvia) RTK (Lithuania) BA (Malta) CvdM (Netherlands) ERC (Portugal) CNA (Romania) AKOS (Slovenia) SAM (Sweden) IMC (Iceland)* NMA (Norway)*	
AMA (Albania) CRA (Bosnia & Herzegovina) OFCOM (Switzerland) CA (Moldova) AVMU (North Macedonia) RTUK (Türkiye)	

* Without voting rights (Article 1 of the ERGA Rules of Procedure)

Workflow for Subgroup 4 (internal and external milestones)

Date	Action/deliverable	Internal Subgroup only, drafters	External CN, Plenary, Publication
2024			
29th February	1 st SG4 meeting <ul style="list-style-type: none"> • Setting priorities for the work of SG4. • Organising the division of tasks and responsibilities for the planned activities and deliverables of SG4. 	All members	
April	2 nd SG4 meeting <ul style="list-style-type: none"> • Discussion on implications of the European Parliament elections. • Discussion on the draft views of ERGA on the future priorities for media policy • First discussion of concrete contents of deliverables, including eventual conclusions/recommendations 	All members	
After EP elections (exact timing tbc)	Workshop (title tbc)	All members	
June	1 st Contact Network <ul style="list-style-type: none"> • Report by SG Chair on the work done/ahead. 		CN
June	ERGA Plenary meeting <ul style="list-style-type: none"> • Report by SG Chair on the work done/ahead. 		CN/Plenary
September/October	3 rd SG4 meeting <ul style="list-style-type: none"> • Discussion of draft deliverables. 	All members	
November	ERGA Plenary meeting <ul style="list-style-type: none"> • Adoption of SG4 deliverables 		CN/Plenary/Publication