**ERGA Work Programme 2024 - Subgroup 1 <u>Workstream 4</u>
Consistent implementation and enforcement of the new AVMSD framework**

Report on ERGA MoU implementation in 2024 and its 4 years of functioning

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Executive summary

This report provides a comprehensive analysis of the implementation and effectiveness of the Memorandum of Understanding (MoU) since its establishment by the ERGA in 2020. The MoU has aimed to enhance cross-border cooperation among National Regulatory Authorities (NRAs) in light of the Revised Audiovisual Media Services Directive (AVMSD). This report reflects on the MoU's achievements over the past four years, identifies areas for improvement and outlines recommendations for the transition towards the European Board for Media Services (EBMS) structured cooperation under European Media Freedom Act (EMFA) set to come into force in May 2025. **The main goal of this report is: "By reflecting on the past and 2024 results to make recommendations into the EBMS future in a format understandable also to the wider policy making public."**

Top takeaways for the period between 2020 - 2024:
- **Growth in requests:** the number of requests has been rising from 42 (2021) to its peak of 127 (2023). This trend indicates a growing reliance on the MoU framework for cross-border cooperation (according to a survey 88 % of all the cross-border cases were handled via the MoU in 2023). On average (although with great variability) 17 cross border cases per year/per NRA were recorder.
- **Types of requests:** the majority of requests (60%) were requests for assistance (RFAs), with a significant focus on the protection of minors. Requests for information (RFIs) were primarily aimed at general information gathering, leveraging the NRAs best practises.
- **Completion rates:** The average completion rate for requests has been approximately 59% over the past four years with net completion rate reaching 82% in 2024. The absence of formal mediation cases highlights the effectiveness of the MoU in preventing and resolving disputes.
- **Satisfaction levels:** A survey and semi structured interviews conducted in 2024 among the NRAs revealed an overall positive sentiment towards the MoU (e.g. 80% overall satisfaction in achieving outcomes and clarity of procedures). These inputs also highlighted many learnings addressed in this report.
- **Infrastructure improvements:** The report emphasizes as a matter of immediate priority the need for enhanced IT infrastructure to facilitate efficient data collection and exchanges among NRAs. It recommends to develop an internal centralise database and automate processes via a central cooperation dashboard in order to reduce manual errors and administrative burden.
- **Future direction:** As the MoU transitions to the EBMS framework, the report recommends to retain the successful elements of the MoU while addressing identified shortcomings. This is following the clear direction set by the co-legislators in EMFA. Therefore, the new EBMS Rules of Procedure (RoP) and further detailed guidelines will build on the lessons learned from the MoU while ensuring structured and efficient cooperation.

Preamble

The year 2024 marks the last full year of functioning of the MoU that established mechanisms of cooperation between media regulators to support the implementation of the AVMS Directive. Its adoption in 2020 was a major achievement for ERGA after its own formal establishment in 2018: "*If we in Europe do not confidently defend our constitutional freedom through the rule of law, then no one does. In 2020, we have been focussed on building up the structural foundation that lets us do our best job in protecting the freedom of speech of people in Europe.*" Dr Tobias Schmid, Chair of ERGA at the time of MoU adoption, DLM (Germany).

To make this possible an intensive work was undertaken in 2020 by the main drafters of the MoU from Arcom (France) (CSA at that time) and CNAM (Ireland) (BAI at that time).

"*Coimisiún na Meán is proud that the grounding principles and cooperation mechanisms agreed among ERGA members through the Memorandum of Understanding are now being built on with the European Media Freedom Act and we look forward to playing our part in the new European Board for Media Services*" Niamh Hodnett, ERGA board member, CNAM

"*As one of the drafters of the MoU, Arcom is extremely pleased to see how extensively this voluntary cooperation has been used among ERGA members, how much it has evolved in the past years allowing to strengthen cooperation and mutual assistance among NRAs. It is particularly rewarding to see how these cooperation principles have inspired the European Media Freedom Act, paving the way for promising opportunities for future cooperation.*" Roch-Olivier Maistre, President of Arcom

Over the last four years this voluntary commitment provided a framework under which ERGA members provided each other with information and mutual assistance for more effective enforcement of fundamental values in cross-border cases.

As of today, we are on the cusp of the start of application of the formal cooperation rules in EMFA. The co-legislators have drawn on the MoU when setting up this regime. Therefore, the upcoming winding down of the MoU marks the continuation of its legacy.

"*The Memorandum of Understanding has been instrumental in fostering a collaborative framework for European media regulators to uphold freedom of expression and fundamental values across borders. The upcoming setting up of the European Board for Media Services leads us to commit ourselves to ensuring a smooth implementation of the new structured cooperation mechanism, building on the MoU's legacy to support a robust and effective regulatory framework across Europe*" Carlos Aguilar Paredes, ERGA Vice-Chair, CNMC (Spain).

1. Background

About ERGA: The European Regulators Group for Audiovisual Media Services (ERGA) consists of the national regulatory authorities in the field of audiovisual media services. ERGA advises the European Commission and facilitates cooperation between the regulatory authorities (hereinafter "NRAs") in the EU.

1o1 on MoU: Based on a voluntary commitment by ERGA members, the objective of ERGA's Memorandum of Understanding[1] (hereinafter "MoU") is to establish effective mechanisms of cooperation to support the implementation of the AVMS Directive[2], in particular regarding cross-border cases. The MoU, adopted by ERGA in December 2020, creates a common framework under which ERGA members provide each other with information and mutual assistance for more effective enforcement of fundamental values in cross-border cases. Standardised forms are used and the cooperation which primarily takes place through single format word forms can take the form of Requests for information (hereinafter RFIs), Requests for mutual assistance (hereinafter RFAs), Requests for accelerated mutual assistance and lastly Requests for mediation. A network of Single points of contact (SPOC) for every NRA and a single coordinator is established.
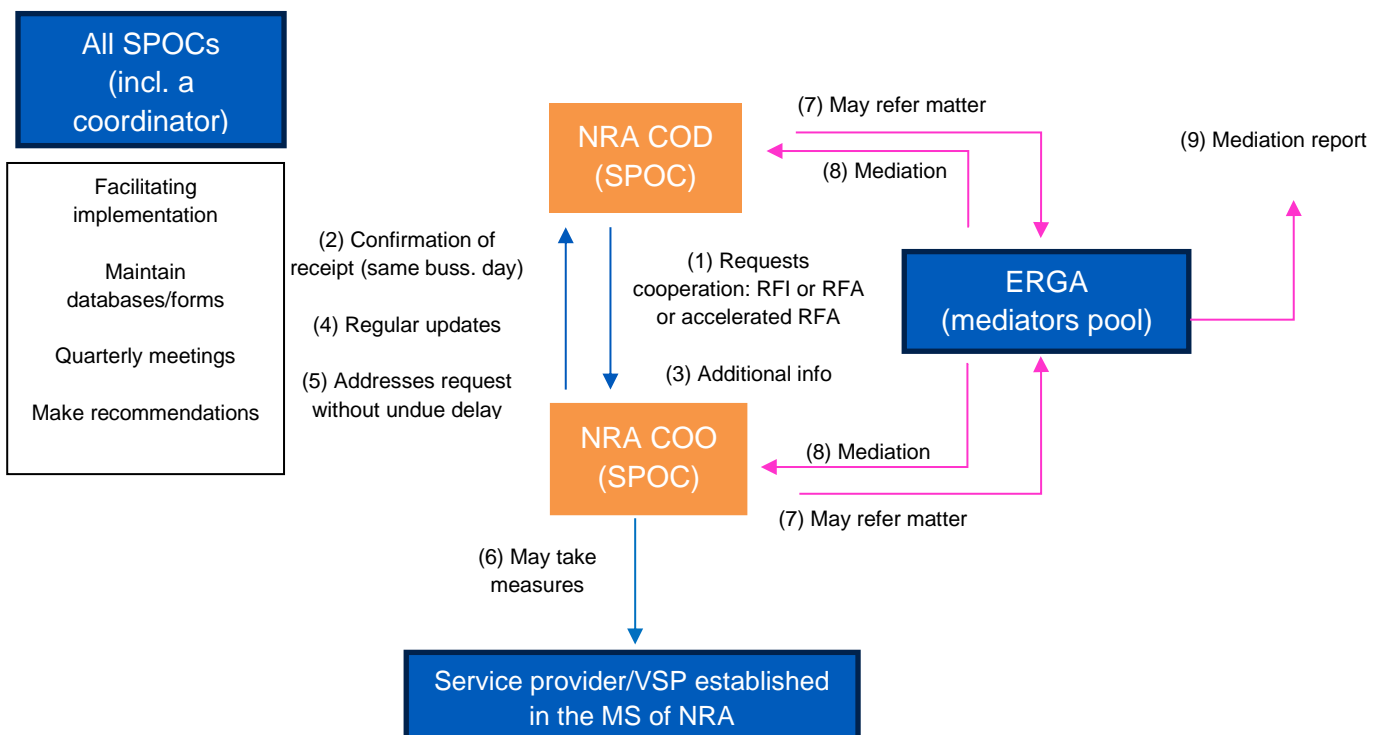

Illustration 1: MoU functioning structure

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[1] https://erga-online.eu/wp-content/uploads/2020/12/ERGA_Memorandum_of_Understanding_adopted_0312-2020_l.pdf.

[2] https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32010L0013

Mandate of workstream: As stated in the 2024 Terms of Reference for ERGA's Subgroup (hereinafter "SG") 1[3], the workstream 4 focused on the MoU implementation and was tasked to "*continue to foster its implementation, in particular to monitor and report on the effectiveness of the MoU implementation, to assess and implement potential needs for improvement of the practical implementation of the MoU... contribute to the preparation of the transition to the new regulatory instrument on regulatory cooperation, foreseen in the EMFA (in close collaboration with Subgroup 2).*"

Data sources: In doing so, the workstream first gathered the records of the cross-border cooperation for the year 2024 via a dedicated database. This data was further validated in a data health check in December 2024. Secondly, additional data was gathered from a dedicated survey and structured interviews with selected[4] NRAs amongst MoU signatories conducted in 2024. Thirdly, data published in the previous implementation reports was gathered and analysed. All of these sources were analysed to review MoU functioning in the past, implement any changes needed over 2024 and suggest possible improvements, and identify ongoing challenges for the future.

Goals of this report:

1. **Past**: Look back at the last four years of the implementation for the MoU and review its functioning at the point of intersection when the MoU will transform into the formal cooperation procedures under EMFA (chapter 2).
2. **2024**: Evaluate the current effectiveness of the MoU and propose suggestions for practical improvements (chapter 3).
3. **Future**: Support the work of SG2,[5] focusing on the preparation for the implementation of the European Board for Media Services (particularly the parts relating to the formal cooperation procedures and when drafting the new EBMS Rules of Procedure – hereinafter RoP and the future guidelines) (chapter 4).

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[3] https://erga-online.eu/wp-content/uploads/2024/03/ERGA-SG1-ToR-2024-adopted.pdf
[4] TBA overview of NRAs involved.
[5] https://erga-online.eu/wp-content/uploads/2024/03/ERGA-SG4-ToR-2024-adopted.pdf

2. Looking back: four years of MoU in practice:

2.1. Origins of the MoU

The MoU was adopted at the end of the year 2020 with the aim of strengthening cross-border law enforcement in the audiovisual field. The MoU was, and still is, a voluntary commitment by the NRAs and implemented to function as a framework for day-to-day cooperation outside of the exceptional formal procedures of the Article 3 and 4 of AVMSD.

The mandate: As part of its role under the Revised AVMS Directive, Article 30b bestowed upon ERGA the task of exchanging experience and best practices on the application of the regulatory framework for audiovisual media services and Article 30b(3)(c) tasked ERGA with cooperating, and providing its members, with the information necessary for the application of the AVMSD. Further, the ERGA statement of purpose[6] (the "Statement of Purpose") of 2019 outlined the "*responsibility on ERGA's members to cooperate for the purpose of the application of the Revised AVMS Directive and to develop frameworks to bolster such cooperation, as well as detailing the proposed form of memorandums of understanding which NRAs would apply on a voluntary basis to enable such cooperation between NRAs*".

The drafting: In line with the ToR of Subgroup 1[7] an intensive work was undertaken in the year 2020 by the SG1 chairs and the main drafters of the MoU from Arcom (France) (CSA at that time) and CNAM (Ireland) (BAI at that time). The goal was to prepare a first draft of the MoU. It needs to be noted that all the details of the MoU were drafted based on the above-mentioned short references in the AVMSD. This meant that the group basically started from scratch. The drafts of MoU were discussed over the year with the involvement of all NRAs.

The adoption: ERGA formally adopted the MoU at its December 2020 plenary meeting. The new MoU set out common principles and rules on how to ensure the cross-border enforcement of media rules on audiovisual media services and video-sharing platforms. It was a testimony of audiovisual regulators' convergent will to take joint action and work towards a democratic climate and to level the playing field in the media sector. Its aim was to provide ERGA members with a new instrument to overcome the challenges of an increasingly borderless media environment.

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[6] https://erga-online.eu/wp-content/uploads/2019/06/ERGA-2019-02_Statement-of-Purpose-adopted.pdf

[7] https://erga-online.eu/wp-content/uploads/2020/03/ERGA_SG1_2020_ToR_Adopted_2-03-2020.pdf

MoU goals: The main goals of the MoU as laid down in its preamble are:

- "*set out a framework for collaboration and information exchange between these NRAs as Participants to this MoU in order to resolve practical issues arising from the implementation of the Revised AVMS Directive in a consistent manner;*
- *... lay down mechanisms to enable the exchange of information, experience, and best practice on the application of the regulatory framework ... ;*
- *... furtherance of their common interest in implementing the Revised AVMS Directive and considering all associated matters in this context"*;
- *expression by the participants of sharing of "mutual values, interests, and communities, and having cooperated for many years on an ad hoc basis"* ... and now wishing *"to enhance and widen their cooperation within an institutional framework and now enter into this MoU to capture the objectives of the Revised AVMS Directive"*;
- *commitment "to acting in good faith in their dealings with each other…;*
- *…wish to record the basis on which they will collaborate with each other..."*;
- and finally respecting *"the value of trust between the Participants ...while aiming to bring informal cooperation to its fullest potential..."*.

Work continued after adoption: After the adoption of the MoU ERGA has enabled its development, and served as a forum of exchange on matters related to it. A dedicated Action Group was established pursuant to the MoU and the ERGA RoP to assist in the implementation of the MoU. The work by the various SPOCs and the coordinators over the time (RRTV – Czechia, DLM – Germany, The Swedish Agency for the Media and currently CMS – Slovakia) and the willingness and resources dedicated by the SPOCs across all the MoU signatories over the last four years is documented in three reports available at the ERGA website[8].

## 2.2. Comparative summary of 2021-2024 reports

Key findings:
- Steady growth of the number of requests from 42 in 2021 to the peak of 127 in 2023,
- Rise of the share of requests for assistance as the focus of the MoU,
- Average completion rate of 59% over 2021-2024,
- But net completion rate better reflecting the focus on RFAs reached as high as 82% in 2024,
- MoU facilitating issue avoidance: no cases of formal mediation.

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[8] https://erga-online.eu/?page_id=14

Based on the previous reports we have zoned in on some of the main trends from the reports:

Increasing volume: There has been a steady growth in the number of requests from 42 in 2021 to a peak of 127 in 2023, with a decline[9] in 2024 (over the historic peak in 2023, but still recording the 2Nd highest number of requests) but the trend line continues to rise. Looking at the decreasing of the volume of RFIs in the table below, the decline in 2024 is less dramatic and is more a testament to the refocus of the instrument on the main goal - facilitating RFAs.
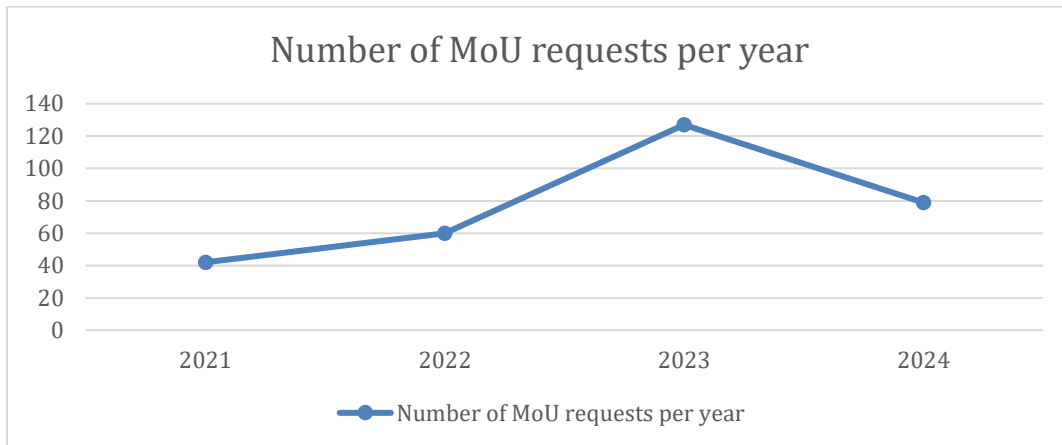

Faster growth in requests for assistance: In the first year of the MoU requests for RFIs were most common. In the second year the RFAs reached the level of RFIs with the divide widening over 2023 (record number of 71 RFAs) and further widening in 2024. This is in line with the specific goal of the MoU to assist with concrete cases of assistance in specific cases versus just gathering information. This also decreases the administrative burden as many of the RFIs were targeted at all or multiple NRAs.

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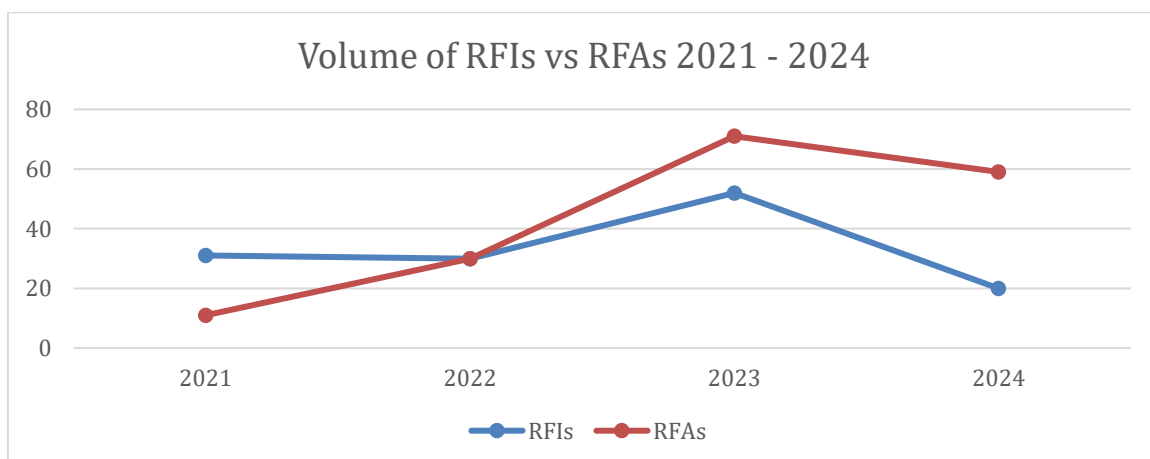
[9] Some of this decline could be attributed to extraordinary factors such as the switch to direct handling of complaints between the requesting NRA and self-regulatory body in the case of one NRA in the area of protection of minors. These are therefore not counted in the statistics.

Average completion rate of 59 %: Over the time the completion rates of the total number of requests sent through the MoU have varied from 52 % to 70 %. This metric measures the share of requests that were completed (e.g. resolved by sending in the information from all the requested NRAs or informing the requesting NRA of the results of the activities by the requested NRA). The average completion rate across the four years is 59%.

Requests completion rate 2021-2024
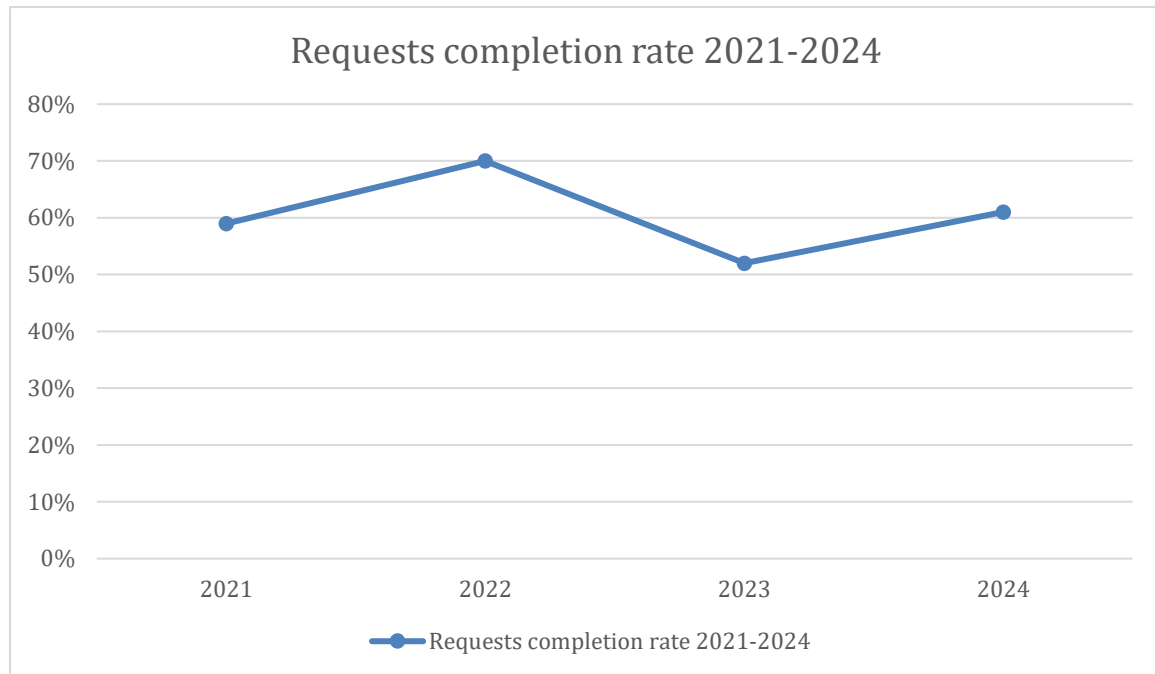
Towards a net completion rate: But the completion rates should be taken as a floor rather than ceiling because firstly almost none of the RFIs sent to all NRAs are usually "completed" by all NRAs (hence marked incomplete despite the high number of replies usually generated), secondly some of the requests over the years could have been completed after the time of the publication of the reports in the respective years or thirdly the information about the resolution might not have been shared with the monitoring NRA (we tried to decrease this risk by running a data health check in December 2024). We would like to illustrate this point by slightly modifying here the methodology for the completion rate for 2024 by firstly considering the requests to all NRAs as completed (for a successful information exchange it's not necessary to receive all the NRAs replies), secondly deducting the cases that had outstanding deadlines by the 7th January and thirdly counting cases that were partially completed as completed (as there was significant progress on these cases). Accordingly, the completion rate rises to 82% vs the official 61%. This metric could reflect the completion rates more precisely in the future.

No cases of mediation: No cases between the NRAs required the use of the mediators under the MoU. Therefore, it's not possible to draw any conclusions on the usefulness of the tool. Although, over time there have been a small number of cases of informal mediation by meetings between NRAs and the ERGA leadership. These

have been conducted successfully without the need for a more formal procedure as outlined in the MoU.

2.3. Main findings of a 2024 feedback survey

Key findings:
- Altogether 500+ individual instances of cooperation in 2023 alone,
- On average 17 cases per year/per NRA (but great variability from 2 to 58 cases per year),
- NRAs receive on average more RFIs but send out more RFAs,
- Amount of work per request greatly differs from case to case from 2 to 40+ man-hours,
- Overall effectiveness, achieving outcomes and clarity of the procedures on average 80 % satisfaction levels,
- Positive sentiment to the overall effectiveness of the SPOCs system,
- Areas of improvement identified: digital infrastructure and use of surveys.

Context: An in-depth survey was conducted via a questionnaire in 2024 as a follow-up to a similar but smaller April 2022 survey. The goal of the survey was to gather feedback on the MoU functioning and particularly regarding its effectiveness in facilitating cross-border cooperation since its adoption. The questionnaire was divided into three sections:

- case study (e.g. how a typical selected case would be handled by the NRA);
- cross-border cooperation overview (including outside of the MoU);
- suggestions for improvements.

The answers and their analysis contributed to three different deliverables:

- incremental improvements of the MoU functioning (see the overview of WS4 work in Section 3.3),
- suggestions to the new EBMS RoP and guidelines (by contributing to the work of the SG2, for details see Chapter 4),
- and this MoU implementation report.

From all the 30 replies from NRAs representing the vast majority of ERGA members we highlight below the main findings.

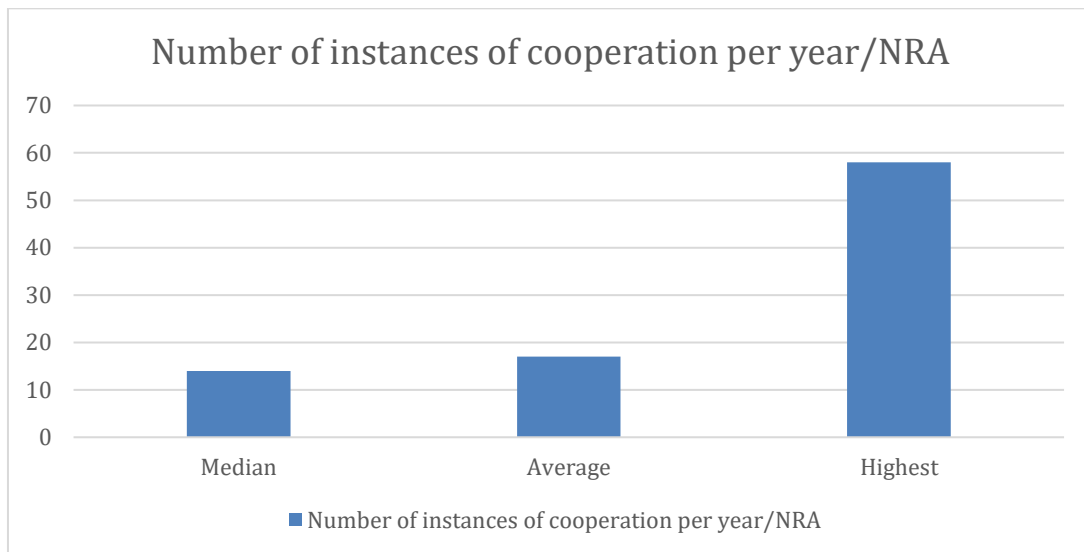### 2.3.1. Volume of cooperation

Overall volume of cooperation: One of the goals of the survey was to identify the possible blind spots of the MoU reporting by looking at the overall volume of the cross-border cooperation amongst the NRAs signatories to the MoU. This

500+
instances of
cooperation in 2023

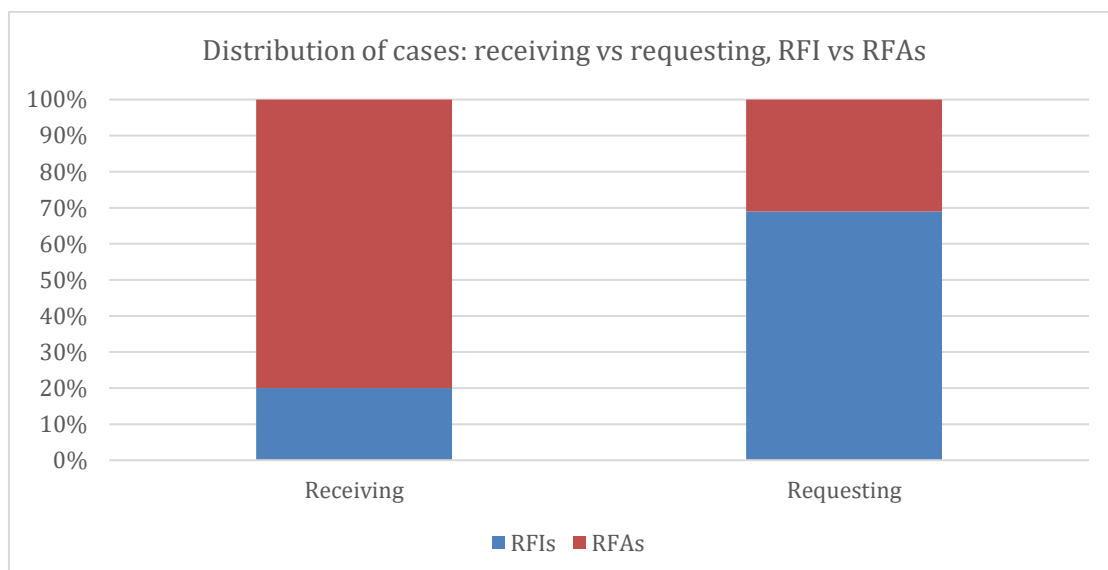therefore included even those cases where MoU was not used. The result of the survey showed that there were over 500 individual instances of cooperation in 2023[10]

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[10] Keep in mind, instance is not equal to number of individual cases under MoU. Additionally, it's important to underline that some of the data are best guesses by the NRAs. Whenever ranges were given the higher end of spectrum was considered.

alone. This amounts to 17 cases per year/per NRA on average (even a Median amounts still to 14 cases per NRA). However, this volume does not impact all NRAs equally, as significant variation was found among the NRAs, with the busiest NRAs handling up to 58 cases per year.

Number of instances of cooperation per year/NRA

A bar chart titled "Number of instances of cooperation per year/NRA" with a y-axis ranging from 0 to 70. The three bars are: Median (14), Average (17), and Highest (58). Legend: Number of instances of cooperation per year/NRA.

Distribution of requests receiving vs requesting and RFAs vs RFIs: The analysis of the data of all the cross-border requests processed by the NRAs in 2023 showed that NRAs receive on average more RFIs but send out more RFAs in absolute terms. Almost 80 % of the cases received by NRAs were RFIs and 70 % of request instances (cases where NRA was in a requesting position) were RFAs. This means in practice that volume of individual instances of requests is created by RFIs but for individual cases RFAs are more numerous due to high weighting of RFIs send out to all NRAs.

Distribution of cases: receiving vs requesting, RFI vs RFAs

A stacked bar chart titled "Distribution of cases: receiving vs requesting, RFI vs RFAs" with a y-axis from 0% to 100%. Receiving: RFIs 20%, RFAs 80%. Requesting: RFIs 69%, RFAs 31%. Legend: RFIs (blue), RFAs (red).

Workload of individual cases: The survey showed that the amount of work per request greatly differs from case to case from 2 to 40+ man-hours per authority. Although these are only indicative as NRAs could select a case for the survey but it's a good indication of the workload involved in processing all those individual instances

of requests mentioned above. Some factors that contribute to the intensity of the work identified in the survey were the extent of the request (particularly for bigger surveys), complexity (e.g. number of departments involved) and formality (if any formal administrative decisions/analysis needed) of the case.
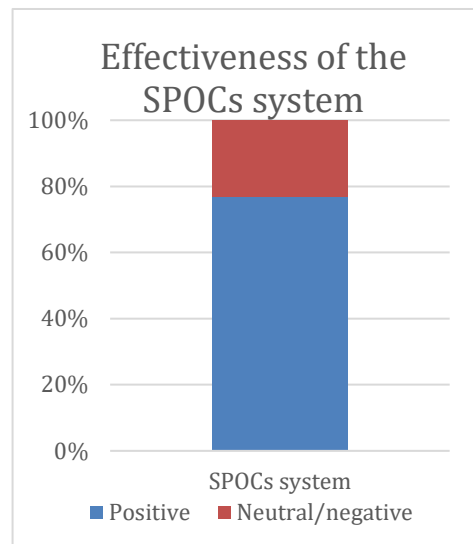
2.3.2 Satisfaction survey

The good news: In the main categories of the satisfaction survey focusing on the overall effectiveness, achieving outcomes and clarity of the procedures on average 80 % satisfaction levels[11] were recorded in the survey with the best results in the category – achieving outcomes with 84 %. One category with less clear-cut results and more room for improvements is the timeliness of the replies to the requests where 32 % of the NRAs had a neutral satisfaction sentiment while 68 % still had positive satisfaction sentiment. This was also confirmed in the specific issues identified below. Given the lack of binding deadlines (there are indications of deadlines that are included in the individual requests) in the MoU due to its voluntary nature these issues could be partially addressed in the upcoming EMFA formal cooperation regime.


Overall sentiment of NRAs towards MoU

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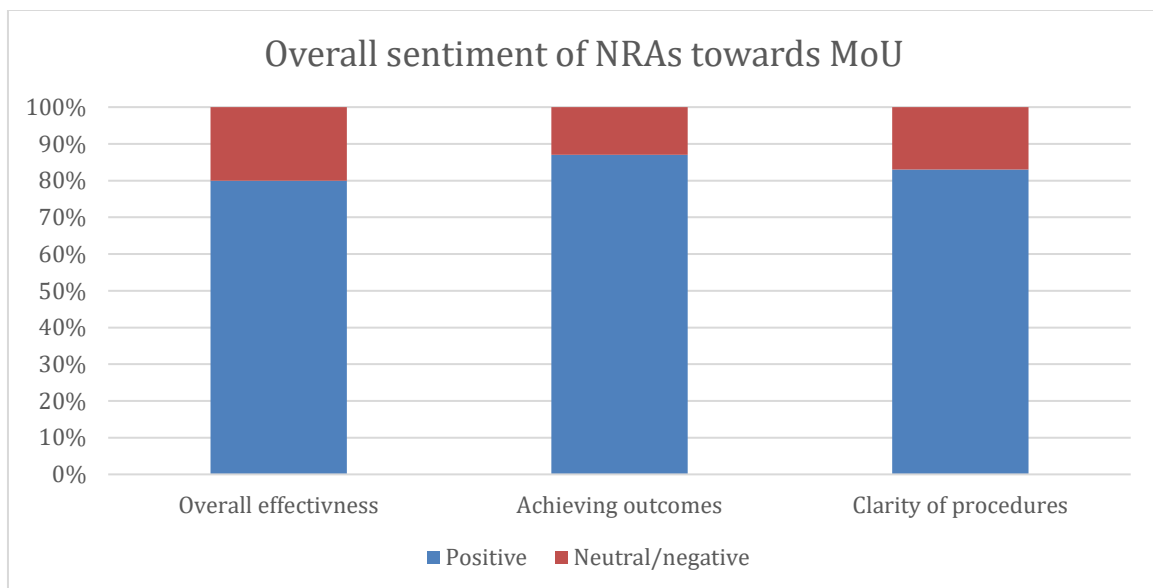
[11] Methodological note: positive sentiment includes NRAs finding the category as "satisfied" or "Very satisfied" and on the other hand neutral/negative sentiment covers NRAs that were "neutral" (included here to give a more conservative reading of the figures), "dissatisfied" and "very dissatisfied".

Effectiveness of the SPOCs system: The MoU relies on the infrastructure and communication lines maintained and updated by the SPOCs coordinator and the SPOCs appointed by all the MoU signatories (see for more detail in Section 1 for background). Therefore, the positive sentiment to the overall effectiveness of the system by the NRAs is important. But with the 23 % of NRAs with a neutral sentiment and one NRA dissatisfied with the system there are things to improve in this area under the new EMFA formal cooperation regime.
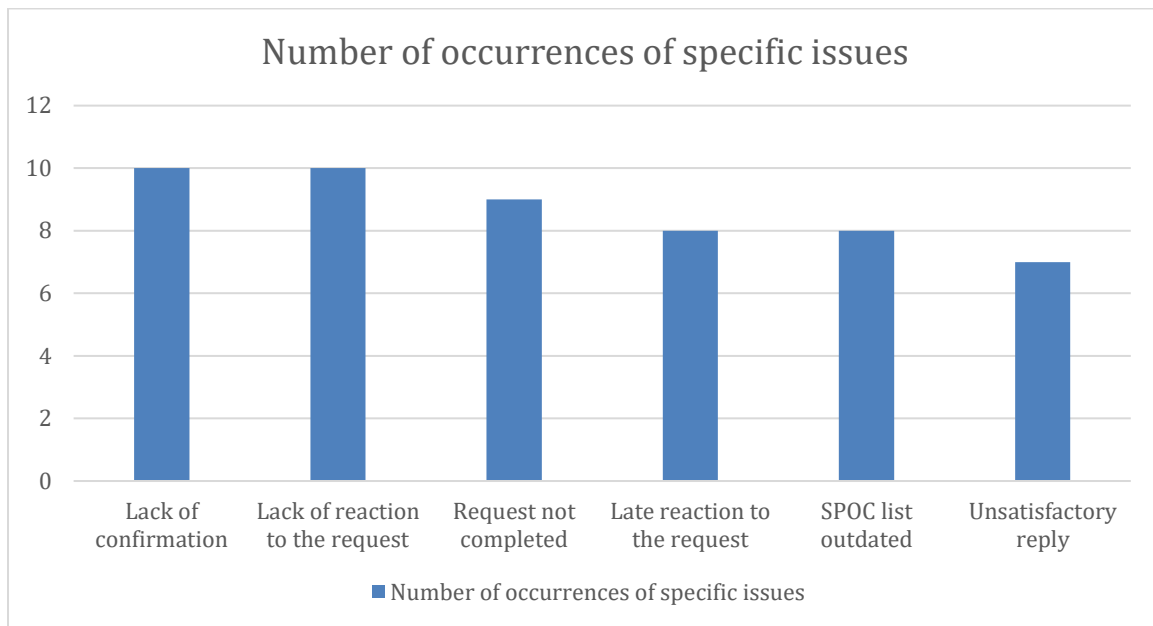

Effectiveness of the SPOCs system

Areas of improvement: The satisfaction survey also found some areas of clear underperformance. The Digital Electronic Toolkit (based on the system of CRICABC) is clearly underutilised with only 23 % NRAs satisfied. There a discussion is necessary how to solve the infrastructure needs of the new formal EMFA cooperation regime as the cooperation system can only be as good as its infrastructure. A second issue identified was a duplication of work between EPRA/ERGA with the RFIs under the MoU and the EPRA survey addressing similar needs, although from different angles and with different target groups.


Areas of significant need for improvement
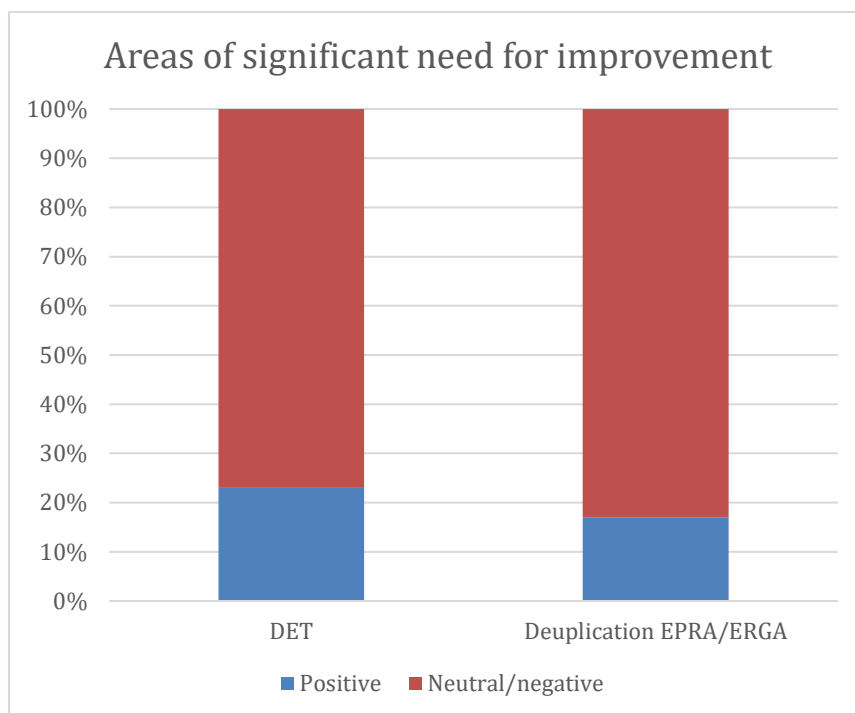
Specific things to improve: The survey also aimed to identify and ask whether specific issues are occurring to identify areas of improvements in the future. Keep in mind that these results do not reflect the prevalence of the issues. Lack of confirmation (NB: the same business day confirmation of receipt by the receiving NRA is proving

difficult to implement) and reaction to the request (consequently as well non-completion of the case) occurred most often. Late reaction to the requests (NB: partially explainable due to the increasing numbers of the cases see data above) and unsatisfactory reply to the requests were other substantive issues identified. Some administrative issues as not fully updated list of SPOCs was identified as well.

Number of occurrences of specific issues

Issue	Number of occurrences
Lack of confirmation	10
Lack of reaction to the request	10
Request not completed	9
Late reaction to the request	8
SPOC list outdated	8
Unsatisfactory reply	7

■ Number of occurrences of specific issues

2.4. MoU Achievements

MoU became the preferred channel for cooperation: The survey data showed that 88 % of the cross-border cases were handled via the MoU in 2023[12]. As a note this includes only cases between the signatories of the MoU[13]. This is a shift from the previously bilateral only cooperation before the creation of the MoU. Interestingly over a half of the NRAs had no cases which were handled outside of this framework. Although, there are still things to be improved as the survey and the results mentioned above showed. Some of the reasons mentioned specifically for still leveraging bilateral cooperation in the 12 % of the cases ranged from preference for informal cooperation to the existence of good bilateral cooperation. Another interesting fact coming out of the survey is the limited extent of cooperation with non-signatories of the MoU that is only close to 4 % of the cases.

Proportion of cases by instrument

■ MoU ■ Non-MoU
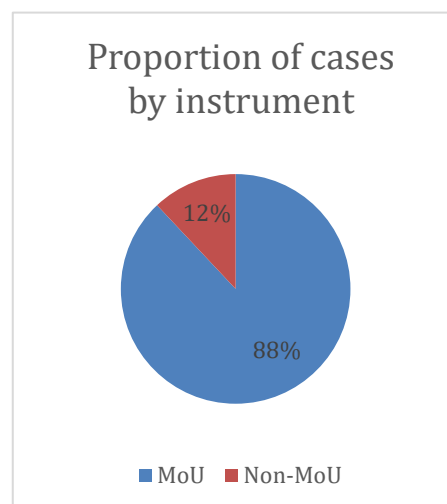
Increase of use of the MoU over the four years: The MoU implementation reports over the last four years have shown increasing use of the MoU. Key stats worth highlighting:

- so far 308 cases processed under the framework;
- best practice exchange strengthened with 133 RFIs – many as surveys to all NRAs;
- increasing proportion of RFAs (in 2024 already 75 % of the MoU cases) under the MoU reflecting the aim of the MoU to enable cooperation connected to real cases;
- average completion rates of 59%, that if partially completed cases were counted as resolved would go much higher (82 % for 2024) (see the "net completion rate" in section 2.2)

For more details see the comparative results in Section 2.2.

Steady improvements: Steady incremental improvements of the MoU have followed over the years as recorded in the implementation reports. The daily dedication of the SPOCs to achieve mutually satisfactory results has been very important. All of this created a framework and habit of cooperating across the borders and thereby contributing in the end to the final aim of contributing to consistent application of the AVMSD. This provided the needed framework for the country-of-origin and by extension contributed to the functioning of the internal market.

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[12] Important to note that structured cooperation is not the only avenue of cooperation between the NRAs. There are other forms of more informal cooperation not covered by this report or the survey. There are for example missions/bilateral visits, EPRA survey requests, twinning projects or bilateral cooperation agreements between NRAs.

[13] Therefore, for example cases of direct cross border cooperation between an NRA and a self-regulatory body in a different country (such set up is in place in some of the territories for some of the areas like protection of minors) are not reflected in this statistic, although these cases were handled initially or facilitated by the MoU.

Results of the satisfaction survey: Overall positive sentiment was found in the satisfaction survey results outlined above in Section 2.3.2. Given the record high volume of work that was recorded in 2023, and the intensive year of 2024, we consider this a success of the MoU that retains the trust of the NRAs despite the system being voluntary in nature compared to the upcoming EMFA cooperation regime.

And one more thing: As of today, we are on the cusp of the start of application of the formal cooperation rules in EMFA articles 14 and 15 as of 8th of May 2025. The co-legislators have clearly drawn on the MoU and learnings from its use as advised also by ERGA over the legislative process[14]. This is also reflected in the survey results where many of the NRAs suggested for the new formal cooperation regime to retain most of the important features of the MoU and focus on improving only some of the problematic areas. Therefore, although the new EMFA regime replaces the MoU as the formal cooperation framework, it does not mark the end to the MoU: instead, it provides a stronger successor that retains the essence of the MoU. Had the MoU not existed the last four years would probably have been marked by defaulting the cooperation to a bilateral informal level. On the contrary over this period the MoU provided a framework creating common understandings and rules for the handling of increasing numbers of cross-border cases.

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[14] https://erga-online.eu/wp-content/uploads/2023/02/ERGA-proposals-for-EMFA-amendments-art.7-16-2023.02.28.pdf

3. Developments in 2024

## 3.1. Cooperation overview: volumes of requests

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Key stats:
- 79 requests in total;
- majority were RFAs (75%);
- completion rate 61% and net completion rate was 82%;
- volume of surveys decreasing substantially to the lowest figure (20) ever;
- close to half of NRAs requested information/assistance;
- no formal mediations.

For a high-level quick overview, we include some of the key statistics from 2024[15]:

- **Overall volume of requests stable compared to 2023**: 79 requests for either information or assistance were exchanged (see graph below). The number of requests has thus stabilised and the more than doubling of the requests in 2023 did not repeat.

- **Majority of requests for assistance:** The trend of larger number of requests for assistance 75 % vs requests for information (25 %) continued in 2024. Decrease in RFIs largely contributed to the overall decrease of Nr. of requests as there have been only 12 less RFAs year on year.

- **Volume of surveys stabilising**: Compared to 2023 there was stabilisation[16] in the total number of survey type MoU requests. These contribute to high administrative burden due to the sheer volume of the individual requests but at the same time can have a high informational value to NRAs. A best practice was used for some of these requests in 2024 where there was a possible opt out of the distribution of the results to all NRAs for the NRAs supplying the information and afterwards distributing that information across ERGA. None of the 12 requests sent to all members have been completed by all members and are therefore still considered only as incomplete or partially completed in the net completion rate indicator.

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[15] **Monitoring period for this report**: 1st December 2023 (NB: day after the last 2023 report period) – 7th of January 2025 (NB: date of the last database update before lock in of the text – all the data points below are actual to that date).

[16] As a caveat it needs to be considered that further "surveys" are distributed to all NRAs from the different ERGA subgroups. For example, only SG1 alone had 5 surveys in 2024.

Distribution of cases in 2024 by type
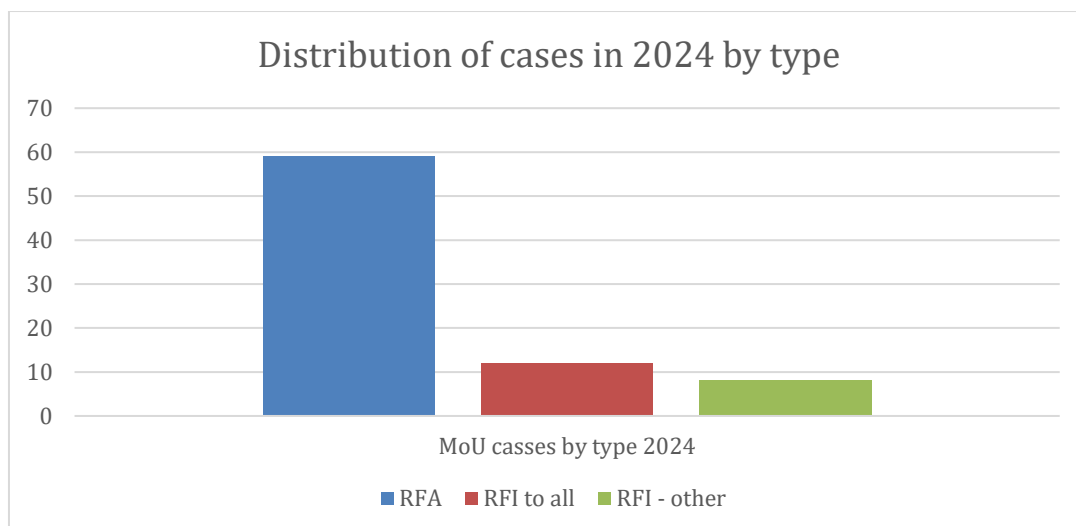
- **Completion rate**: Out of all 79 requests, 48 requests were considered completed. This makes for a completion rate of 61 %. The completion rates therefore remain stable around the 60% threshold. See as well for reference the calculation of the net completion rate in section 2.2.
- **Who uses the MoU**: 16 out of all ERGA members used the standard form, more or less frequently during 2024. The total number of recipients of requests when counted as all individual instances of an NRA receiving a request (including counting the "to all NRAs" requests as 32) was in the same period over 400. For some NRAs especially from the jurisdictions with the most important cross-border services the number of instances could be as high as close to 25 requests per year.
- **No mediations**: There were no disagreements between the NRAs requiring mediators. However, there was a single premediation launched with informal discussions between the NRAs and the representative of ERGA chair.

## 3.2. Cooperation overview: topics covered

Key stats:
- Core topic remains protection of minors (44 % of the cases);
- VOD and VSPs services make up 40 % of the cases;
- RFIs mostly focus on general information gathering;
- RFAs focus on protection of minors (67 %).

We further analysed the types of requests according to the categories specified by the MoU but also other interesting angles.
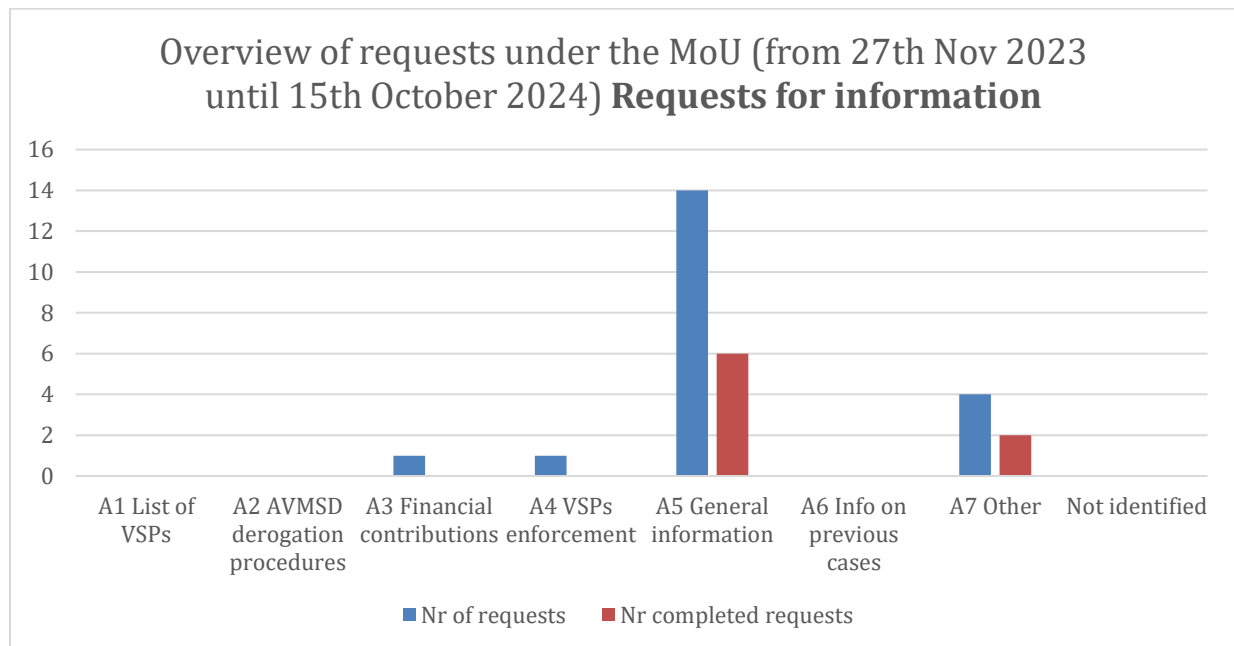
NRAs are still focusing on core topics: Overall the topics of the cases across RFIs and RFAs are distributed mainly in the traditional areas of NRAs focus: protection of minors (42), accessibility (7), advertising (5) and definitions of different services (4). VSPs (7) and other topics (14) have become more prevalent as well.
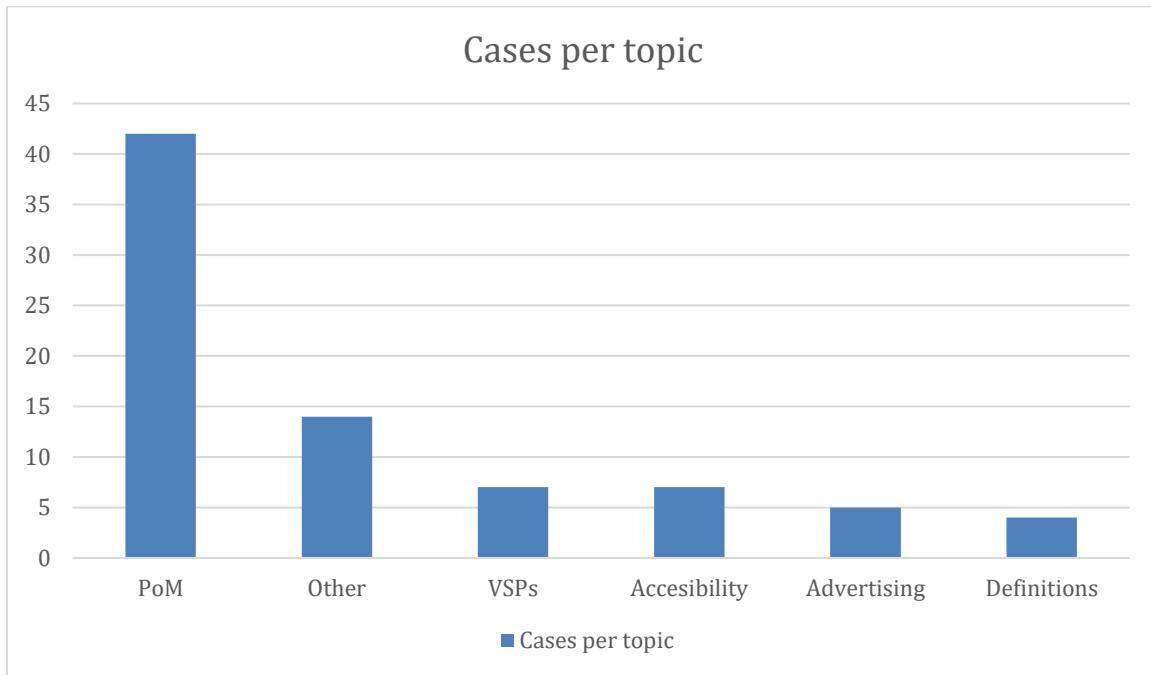

Shift to VOD/VSP services despite majority TV focus: Although broadcasting (TV) services still make up more than half (56%) of the cases video on demand (VOD) and video sharing platforms (VSP) services are already the focus of more than 35 % of the cases.
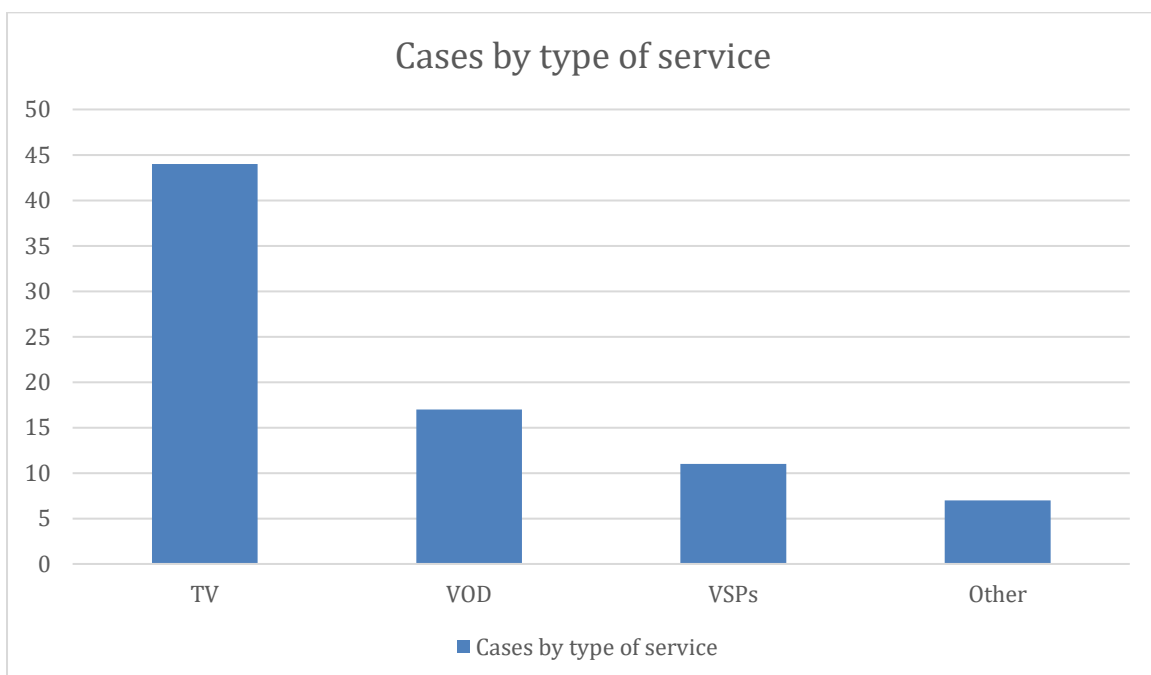
RFIs – general information gathering prevails: As the statistics below show most of the RFIs focus on general information gathering in various areas of AVMSD (e.g. accessibility or definitions of audiovisual media services) with the aim to gather best practices or gather insights how a particular enforcement topic is handled across the EU or in specific NRAs.

Overview of requests under the MoU (from 27th Nov 2023 until 15th October 2024) **Requests for information**

RFAs – focus on protection of minors and accessibility: Request for assistance cases relate mostly to specific cases in various areas of enforcement. Protection of minors as the core topic for NRAs represents the clear majority of the RFAs (51 %). Although these cases are spread around different categories of requests (see the table below) and with increasingly focus on other than TV services such as VOD and VSPs services.

Overview of requests under the MoU (from 27 Nov 2023 until 15th October 2024) **Requests for assistance**
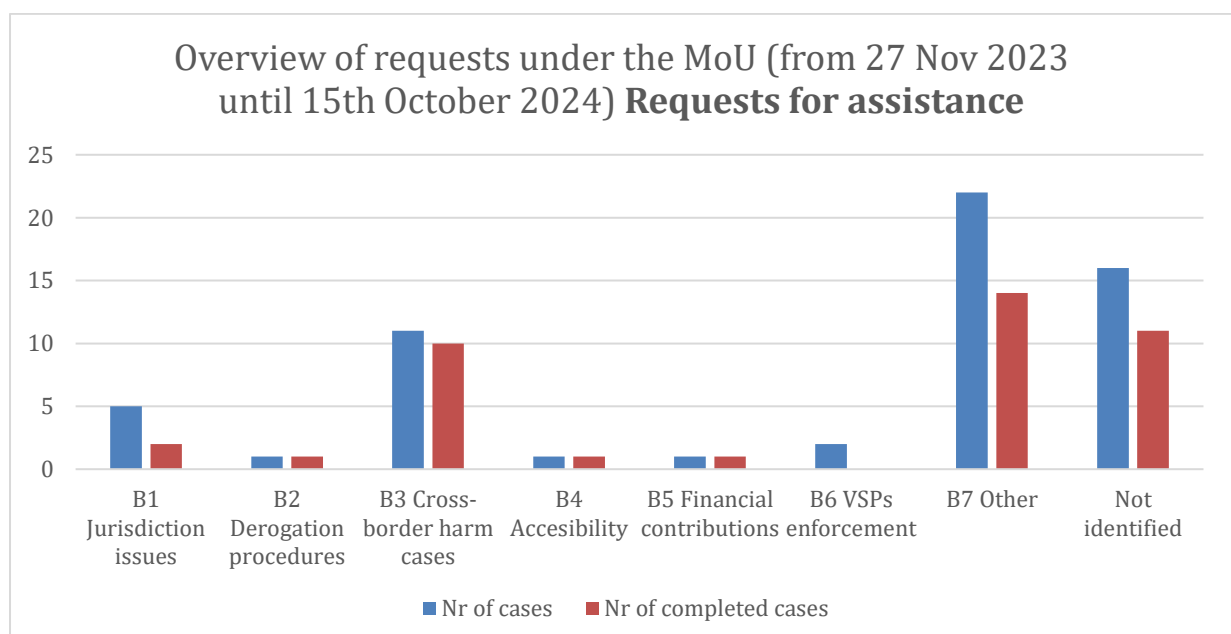
What's not covered: In addition to the above-mentioned MoU requests, there are some requests sent via a more informal bilateral cooperation between ERGA members outside of the MoU framework and cases that are not handled between the MoU signatories (e.g. with a self-regulatory body). Data from the WS4 2024 survey suggest that the MoU covered 88 % of the cross-border cases in 2023.

3.3. Work of the WS4

Overview of main achievements of the WS:
- **Reflection on last four years of MoU**:
  - extensive survey conducted – replies from 30 NRAs;
  - structured interviews with 10+ selected NRAs.
- **Practical improvements of the MoU functioning:**
  - updating of the resources/forms used;
  - analysis of possible improvements + testing automations/new forms mock-ups;
  - discussions at SPOCs meetings (dedicated and part of SG1).
- **Preparing for EBMS**:
  - contributing to SG2s work on structured cooperation under EMFA;
  - drafting EBMS RoP (parts related to structured cooperation).
- **The MoU implementation:**
  - data gathering/analysis;
  - implementation report draft.

Role of the SPOCs coordinator: The work of the WS4 was coordinated by a SPOC coordinator. As of 1st February 2024, this role was overtaken by Council for Media Services (Slovakia) from the Swedish Agency for the Media (Sweden). The work included leading the work on progressing with all the deliverables that are summarised below. The most fundamental role remained monitoring the implementation of the MoU by maintaining and updating a centralised database and archive.

Work in 2024: The year 2024 was special as a preparatory period for the transition from MoU to structured cooperation under EMFA. The EMFA regime will apply as of 8th May 2025. Therefore, the focus of the workstream was equally focused on preparing for the future by reflecting on the MoU implementation (more substantive improvements) and supporting SG2 in preparing for EBMS. Meetings were held as part of the SG1 meetings but also separately in July and December for in depth discussions. The results of the work were presented at various ERGA fora (e.g. Contact Network and Plenary). A further data health check was conducted together with all of the SPOCs in December 2024 in preparation for this report.

Standard forms, list of SPOCs/mediators: Pursuant to Section 3.3.2. of the MoU, a standard form was developed in 2021 to create more efficient cooperation between the NRAs. Additionally, a list of Single Point of Contact (SPOC) in each member NRA pursuant to Section 2.1. of the MoU was made and the list of mediators is in place as stated in Section 3.2 of the MoU. The form and the lists are continually tweaked and updated. Several connected issues were discussed as well (e.g. confidentiality of the requests and possibility to share the outcomes of the requests to other NRAs). All

these resources are available to all members in the Digital European Toolkit (hereinafter DET – an online forum/space for ERGA members).

The survey: As a follow-up to a previous survey from April 2022 a follow up and more extensive survey was conducted between all the SPOCs. The goal was to firstly re-check the progress from the results two years ago and secondly to gather feedback on functioning of the MoU particularly regarding its effectiveness in facilitating cross-border cooperation towards the end of its implementation. The survey was divided into three sections: 1. case study (how cooperation worked on a level of concrete case), 2. cross-border cooperation overview (including outside of the MoU), and 3. suggestions for improvements. The results from more than 30 NRAs were collected and analysed. The results of the survey are analysed in Section 2.3 of this report.

Semi-structured interviews: The above mentioned survey results were further elaborated in more in-depth interviews with selected SPOCs. Altogether 11 NRAs were interviewed over October 2024 in the form of one hour long semi-structured interviews along the lines of pre-established questions. This allowed in a comparable and open way to: 1. gather additional qualitative feedback on the draft report, 2. to have in depth qualitative discussions on the functioning of the MoU and its perception in the NRAs and 3. discuss the learnings and possible improvements in the future under EMFA structured cooperation regime.

Data coming together: All of these inputs contributed to three different deliverables: 1. incremental improvements of the MoU functioning over 2024 and list of forward-looking suggestions, 2. draft text of the new RoP of the EBMS (by contributing to the work of the SG2), and 3. this MoU implementation report.

Exploration of possible MoU infrastructure improvements: Several issues were identified by WS4 as it especially pertains to data collection and administrative burden. Word document forms in combination with e-mail as a backbone of the cross-border cooperation are difficult for data extraction. This results in record keeping that is highly manual (hence prone to potential mistakes) and time-consuming not only for the SPOC coordinator, but also for SPOCs. Additionally, the absence of a central database/repository creates certain risks. This risk was mitigated in 2024 by an additional manual data health check as mentioned above. Therefore, the development of the IT infrastructure/cross border dashboard and possible automations were explored by the WS4 as a basis for further recommendations for the EBMS (see in more detail ch. 4).

Cooperation with SG2: At this crucial stage of preparation for the implementation of the EBMS it is important that the learnings from the MoU functioning were feeding into the work of SG2. The results of the different deliverables (survey, MoU implementation monitoring in 2024) were highlighted in SG2 work. Most importantly a smaller group of drafters, based on the feedback from the SPOCs, together with SPOCs coordinator submitted a first draft of parts of the RoP as relevant to cross border cooperation under EMFA.

4. Looking into the future: learnings for EMFA structured cooperation

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Main learnings and suggestions:
- **Need for IT infrastructure** (central repository, IT system/cross border dashboard, data transition) to enable efficient cross border cooperation.
- **Decreasing the administrative burden** should be an overarching goal (this could be done for example by moving to web forms vs current word/email, automatization of the monitoring, avoiding confirmation of receipt if not needed and streamlining the yearly reporting).
- **Making the SPOCs system more efficient** could contribute to the overall functioning for example by creation of further EBMS guidelines, standardisation, system of prioritisation and leveraging the SPOCs meeting for further progress that could enable more innovative cooperation formats.
- **General information gathering surveys** should be rebalanced between the value and administrative burden they create (e.g. by focusing RFIs as case specific, creating joint surveys and giving back information to EBMS community by creating a confidentiality opt out).

4.1. Context

At the time of writing this report ERGA is preparing for a full transition to the EBMS. For the MoU this means its transition to the EBMS framework as specified in Article 14 and 15 of EMFA (see illustrations 2 and 3 below). In this framework set by the co-legislators it is clear that it was based on the MoU. Therefore, the new EBMS RoP and the planned guidelines will also be a continuation from the MoU. It will build on the lessons learned from the MoU while ensuring structured and efficient cooperation.
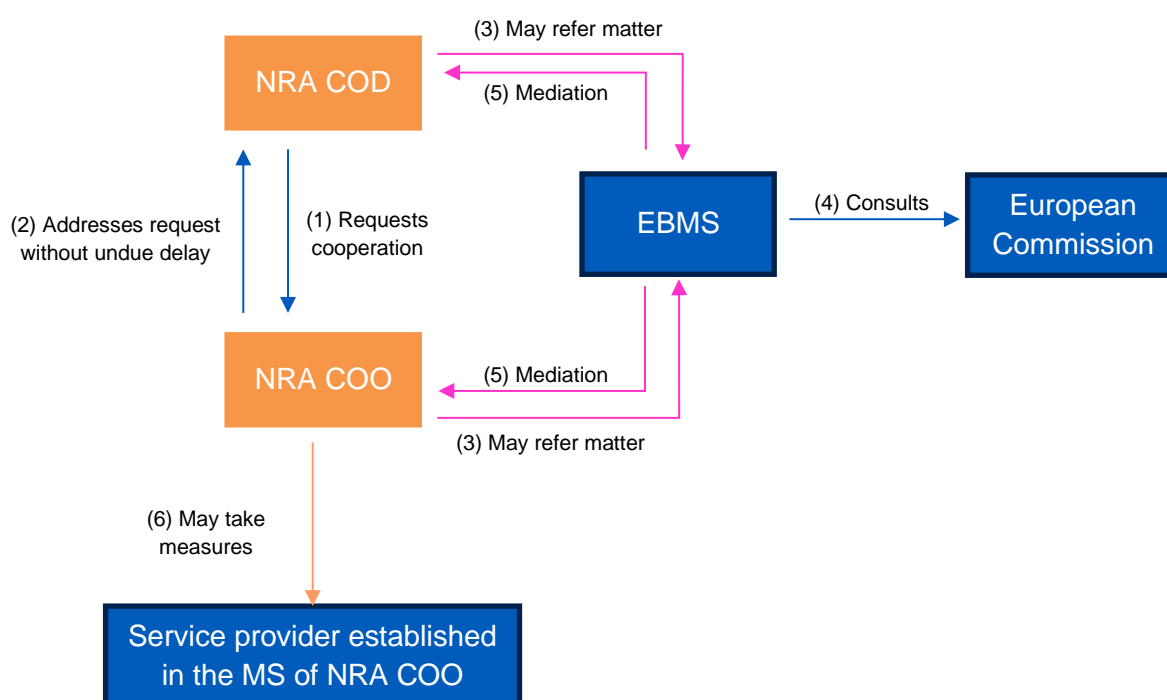

Illustration 2: Article 14 EMFA procedure (structured cooperation) – Source SG4 2024 ERGA report
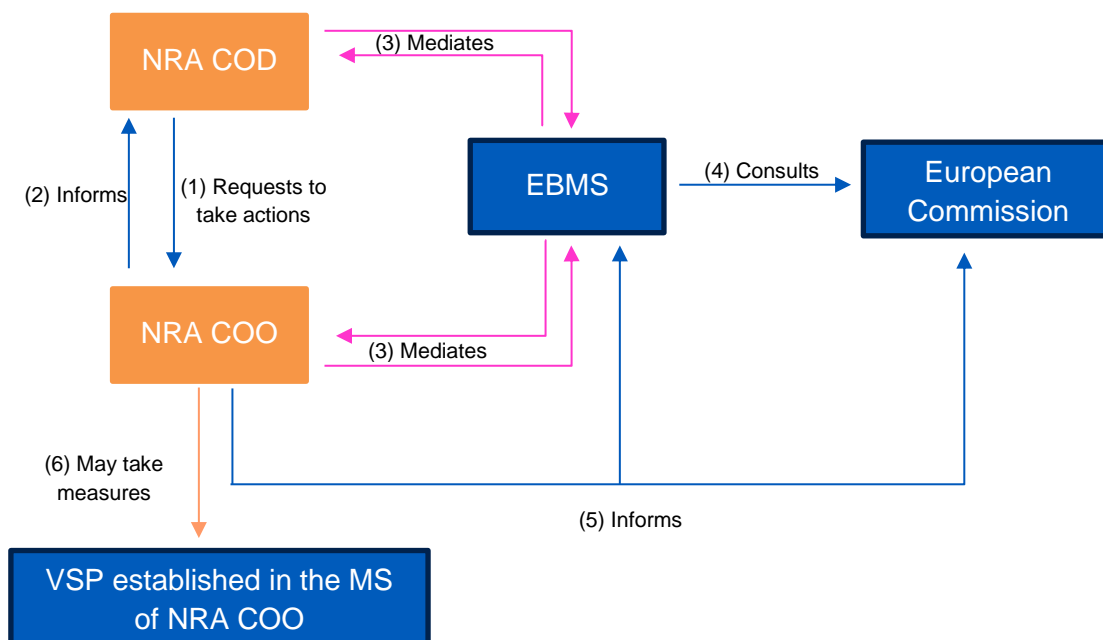
Illustration 3: Article 15 EMFA procedure (VSPs enforcement requests) - Source SG4 2024 ERGA report

Below there are recommends to retain the successful elements of the MoU while addressing identified shortcomings in this report.

4.2. Main learnings and suggestions

Need for IT infrastructure: Cross border cooperation works only as efficiently as its infrastructure. See the learnings from the survey in Section 2.3.2 that clearly showed gaps here (e.g. the under usage of the DET). The importance of this point was further underlined in the structured survey. This should therefore be a priority for the first year of the structured cooperation.

- **Central repository**: Setting up a central repository for all SPOCs resources (e.g. the database/archive of request, different lists) should be one of the first priorities for the secretariat together with the SPOCs. This could preferably be done using the existing DET system or similar with additional features needed (e.g. user documentation rights management).
- **IT system**: As a second step an IT system should be foreseen for SPOCs communication (e.g. web forms, communication threads and discussions forums etc.). This should act as a single cross border cooperation dashboard creating a system accessible to all SPOCs under which cross border cooperation would be implemented and tracked.
- **Transitionary provisions**: Upon the termination of the MoU and the start of the application of the relevant EMFA provisions all the remaining open cases, records and the archive of request gathered during the MoU functioning should be transferred to the EBMS new systems.

Decreasing administrative burden: Steps should be taken to increase efficiency of the formal cooperation process. Similar to the IT infrastructure point above this was highlighted during the SPOCs meetings and the structured interviews and therefore should be tackled in mind when providing for IT infrastructure solutions mentioned above.

- **Automations – move to web forms**: Less reliance on email and word documents by switching to web forms (possibly by using the official EU Survey platform, where additional access rights and adjustments would need to be explored).
- **Automations – monitoring**: Facilitate monitoring and implementation reporting by automating the monitoring. This would be greatly facilitated by the move to web forms.
- **The confirmations of receipt:** These confirmations need to be set with realistic timelines and be required only when they provide added value (e.g. for RFAs and not in the case of RFIs to all NRAs) and ideally be tracked automatically via the single cooperation dashboard.
- **Include shorter overview in yearly EBMS reports**: The public part of the report should be more concrete and focus on trends compared to the current reporting that could be maintained for internal purposes.

Making the SPOCs system more efficient: The SPOCs system is proposed to be retained under the EMFA regime. Several suggestions drawing on learnings from MoU implementation are included below.

- **Guidelines creation**: Clarify details beyond the provisions in EMFA and RoP in EBMS guidelines to make the use of the new system flexible by allowing faster take-up of learnings (e.g. definitions of practical concepts beyond what's desirable in the RoP).
- **Dedicated meetings of SPOCs**: From experience with the MoU these should be organised on a regular and standalone basis to secure the well-functioning of the system.
- **Standardize where necessary**: With so many parties involved, standardization should be strived for as much as possible to decrease friction. For example, this could be done by offering further guidance via handbooks like the current cases matrix, the use of a single format for email DLs for all SPOCs to avoid the need to update the contacts or increasing the consistency of the procedure in the future RoP or other more detailed guiding texts
- **Explore edge cases/other reporting solutions**: Address at SPOCs meeting or in further guidance edge scenarios as for example the missing remit for collection of data in some of the cases.
- **Multi-country reporting**: By creating and using a unified platform for data sharing across multiple EU territories there is potential to enhance the cross-border cooperation.
- **Prioritization**: Define specific circumstance under which a case could be of exceptional importance to qualify for accelerated procedure and explore

possible prioritization of important cases under standard procedures without the need to use the expedited procedures.

Surveys should not clog the system: Although the surveys have great value in information and best practices exchange, they should not overburden the system.

- **Separate out the RFI surveys**: Surveys not connected to concrete enforcement cases should be handled outside of the formal cooperation regimes.
- **Case specific RFIs**: For RFIs the request should specify why the gathering of specific information is needed to exercise the concrete powers as an NRA.
- **Give back**: Create an overview of replies and share summaries of surveys to all NRAs if possible.
- **Clarify confidentiality of the request replies**: Create an opt out system for internal confidentiality to facilitate information sharing.
- **Joint surveys**: Enable joint surveys that allow pooling of questions on similar topics, while providing heads up notification of upcoming surveys and thereby avoiding duplications. The SPOC coordinator could offer guidance to avoid inefficiencies.

4.3. The future – proposed structure for cooperation under the EBMS ToR

Taking all the learnings of section 4.2 and the previous MoU implementation reports the WS4 set out to infuse these to the details of the new formal cooperation regime under EMFA. For this purpose, a proposal of a draft text of the EBMS RoP was prepared (taking the EMFA article 14 and 15 complementing it with further details) for the work of the SG2 on the RoP. The RoP proposal to be adopted by the Plenary in November 2024 as a proposal for EBMS RoP will eventually replace the existing MoU in setting out the main framework of cooperation under EMBS. This new framework should be as soon as possible be complemented by the EBMS guidelines setting out further details to make the system operational before the first cases are started.

Concrete proposals: As proposed the system might have the following additional features (on top of elements from EMFA) compared to the diagrams 2 and 3 mentioned in 4.1 (for further details see the EBMS RoP to be adopted by ERGA):

- All cooperation communication should be handled by the central cooperation dashboard (see the recommendations above on IT system and admin. burden)
- Creation of informal surveys for cases not connected to concrete cases.
- Retaining of the mediation procedure for all of the structured cooperation.
- Decrease administrative burden by making the "confirmation of receipt" more flexible.
- Setting confidentiality rules for the requests to allow for information sharing on the results between NRAs.
- Creation of possibilities for joint surveys or data collection.
- Creation of guidelines going in more detail beyond the EBMS RoP.