

Item 10

Virtual assets and the relevance of the Convention on Cybercrime and its Second Protocol

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

The questionnaire (adopted by the T-CY in Dec 2024)

- 4 parts:

A. Definitions / concepts

B. Use of criminal procedure powers to obtain evidence from VASPs

C. International co-operation

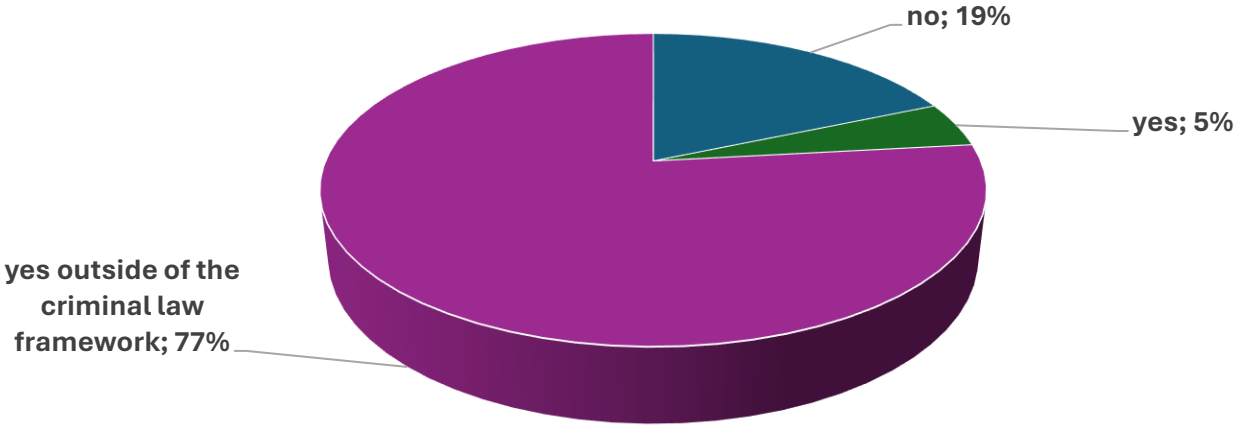
D. Legal challenges

- 43 replies received so far.
- Triggered an inter-institutional discussions at the domestic level.

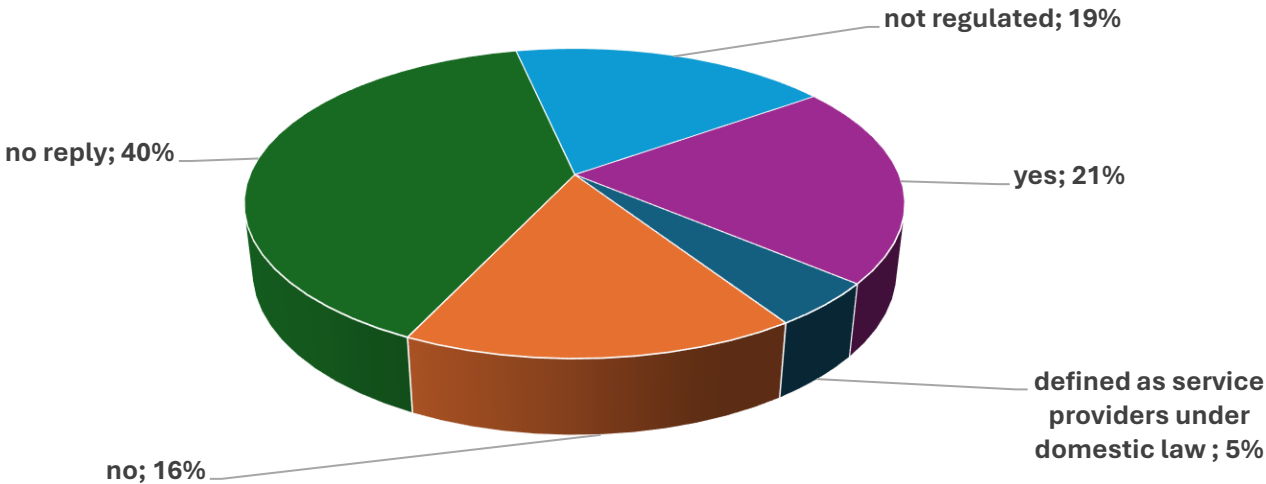
Are virtual assets (e.g. cryptocurrencies, non-fungible tokens, gaming tokens, governance tokens, etc.) defined in your domestic criminal law?



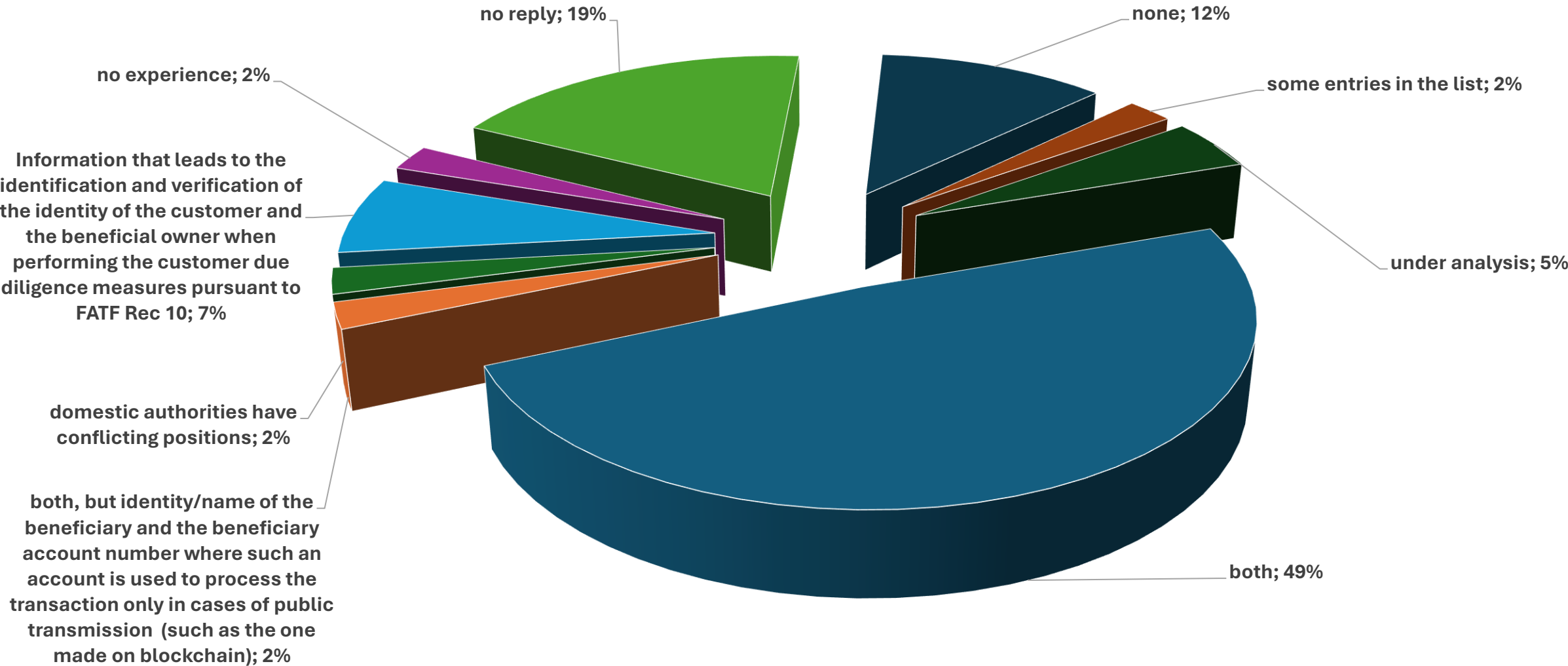
Are VASPs defined in your domestic law?



Are VASPs also considered service providers (on the basis of Article 1.c of the BC)?

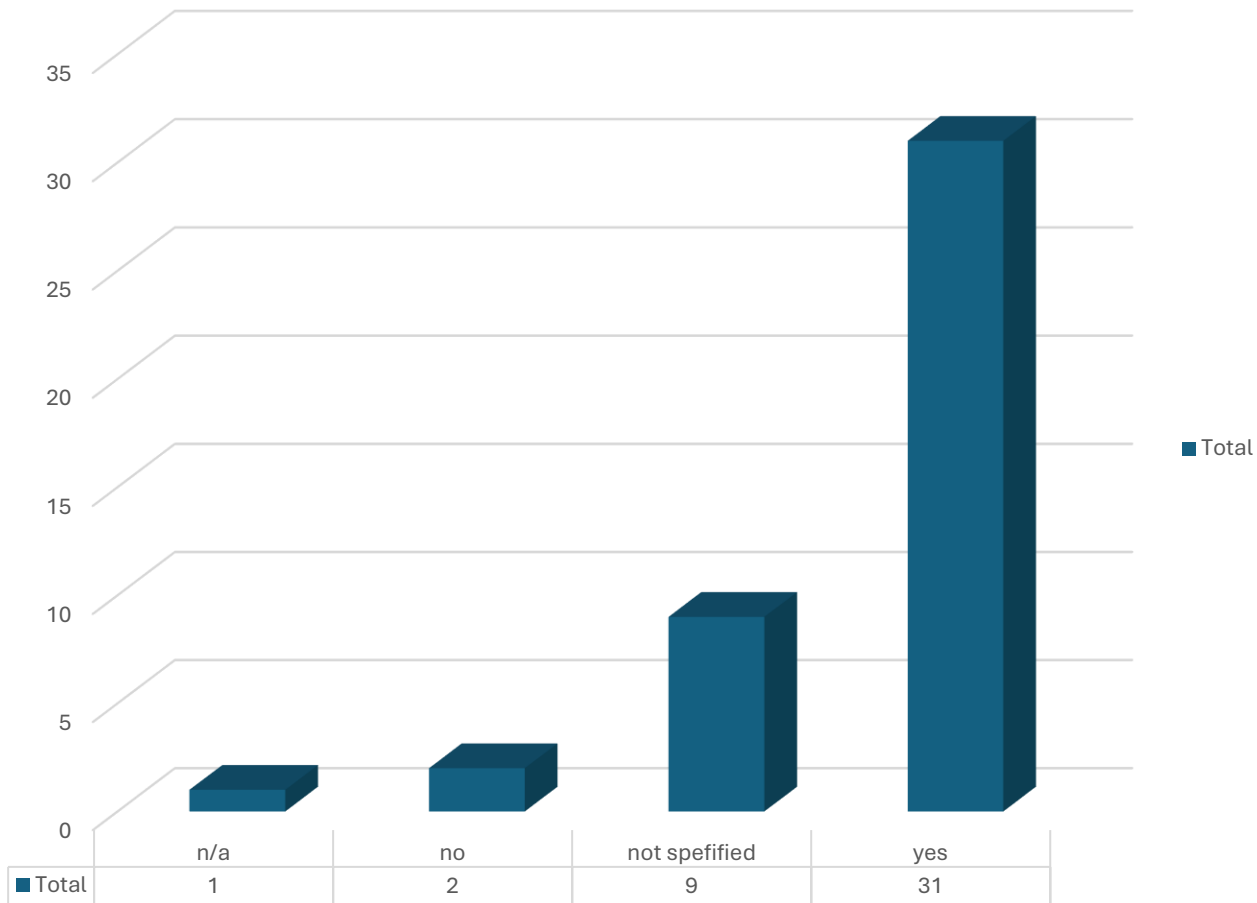


What could constitute subscriber information in the meaning of the Convention on Cybercrime with respect to users of VASP services?

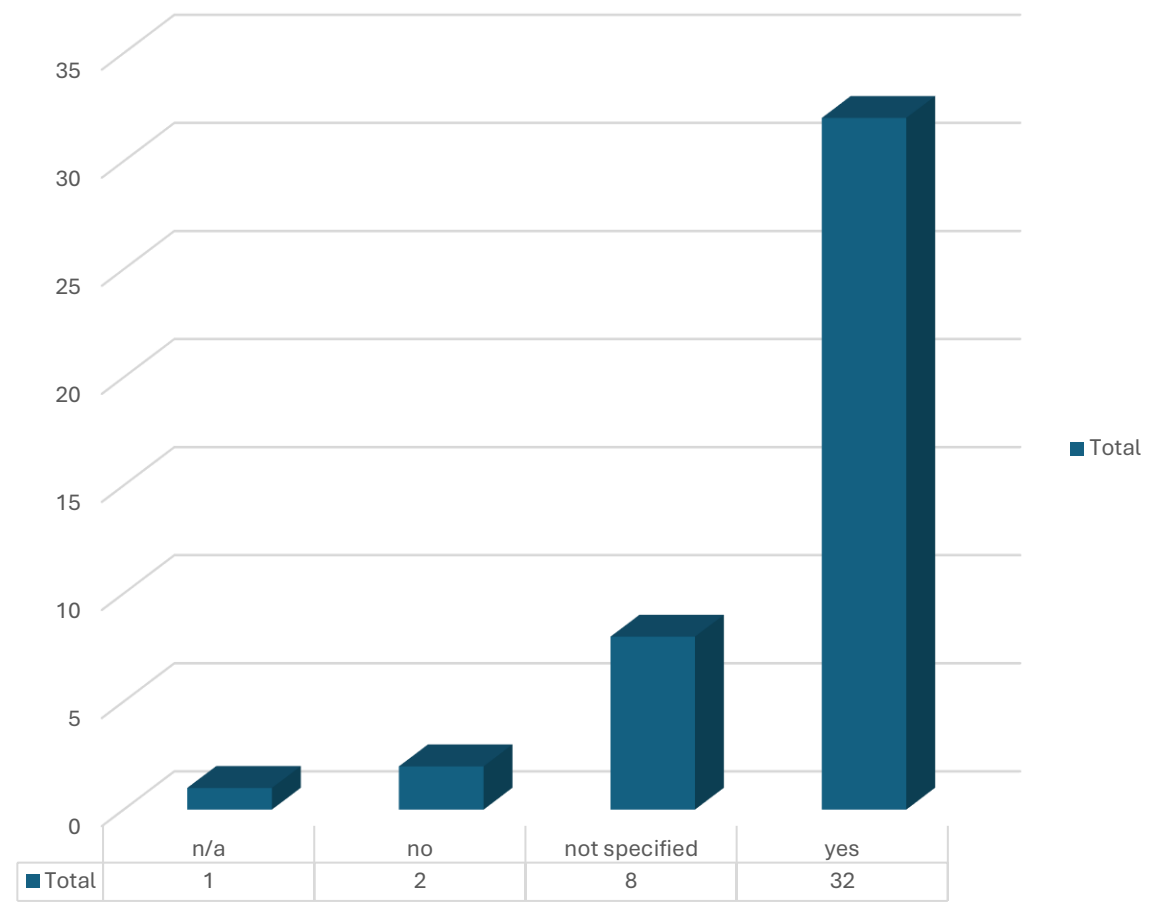


Application of procedural powers of the Convention on Cybercrime: Art. 16-18

Data preservation (Articles 16-17)

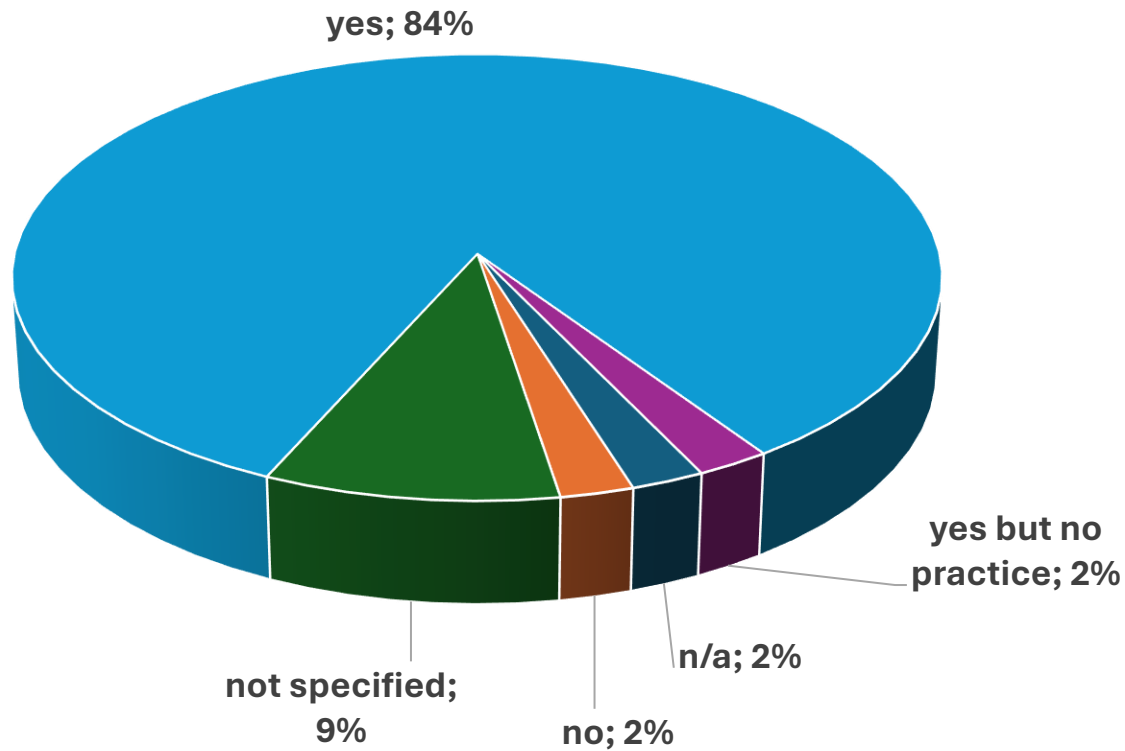


Production orders (Article 18)

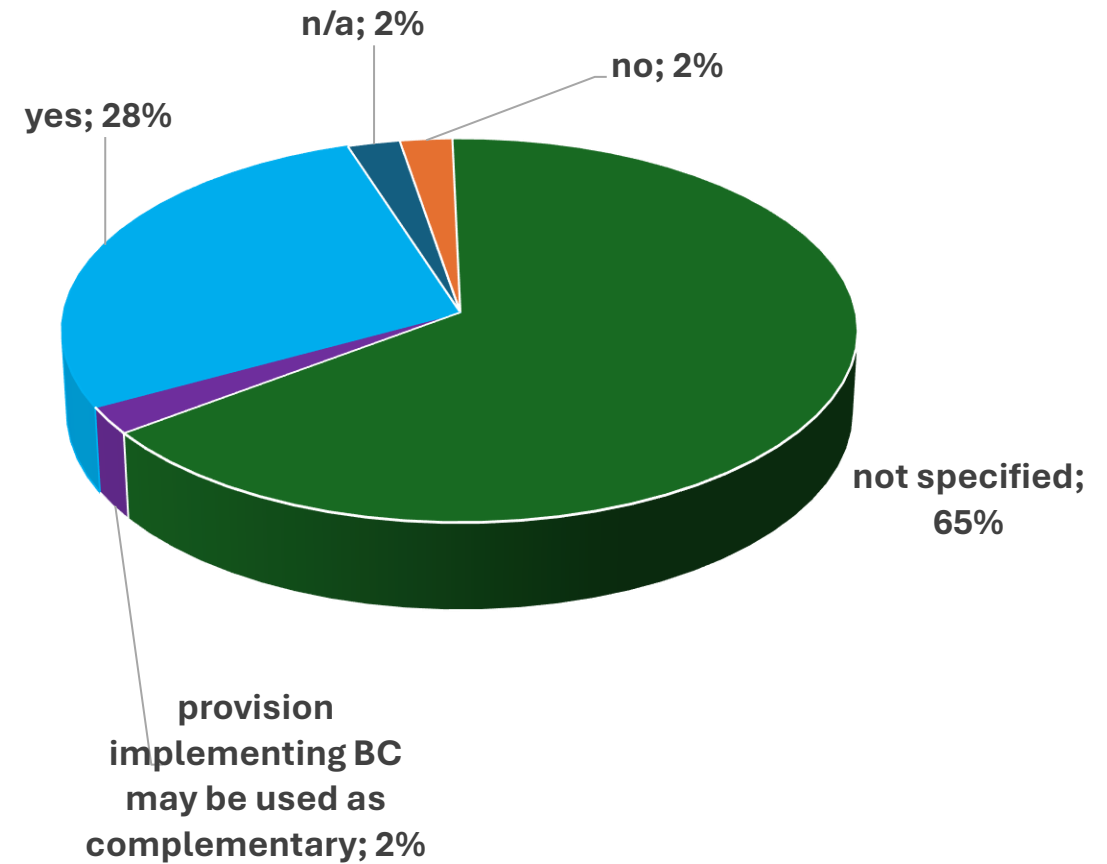


Application of procedural powers of the Convention on Cybercrime: Art. 19

Search and seizure (Article 19)
Seizure of computer data related to virtual assets

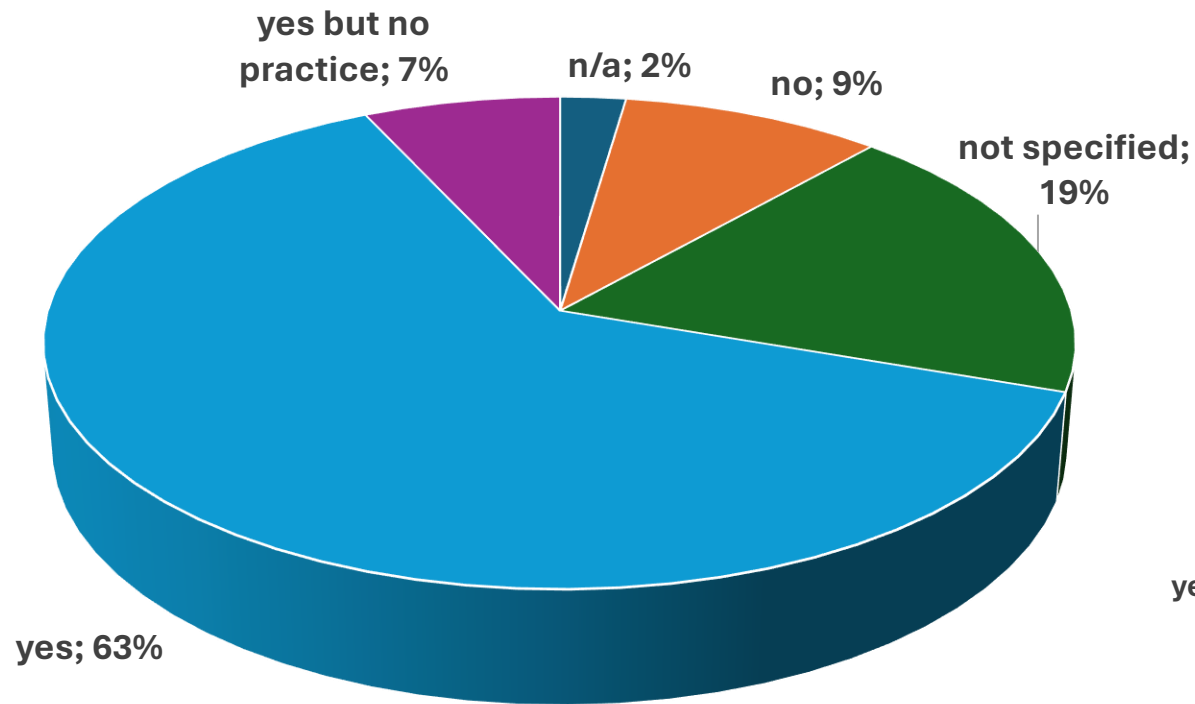


Search and seizure (Article 19)
Seizure of virtual assets

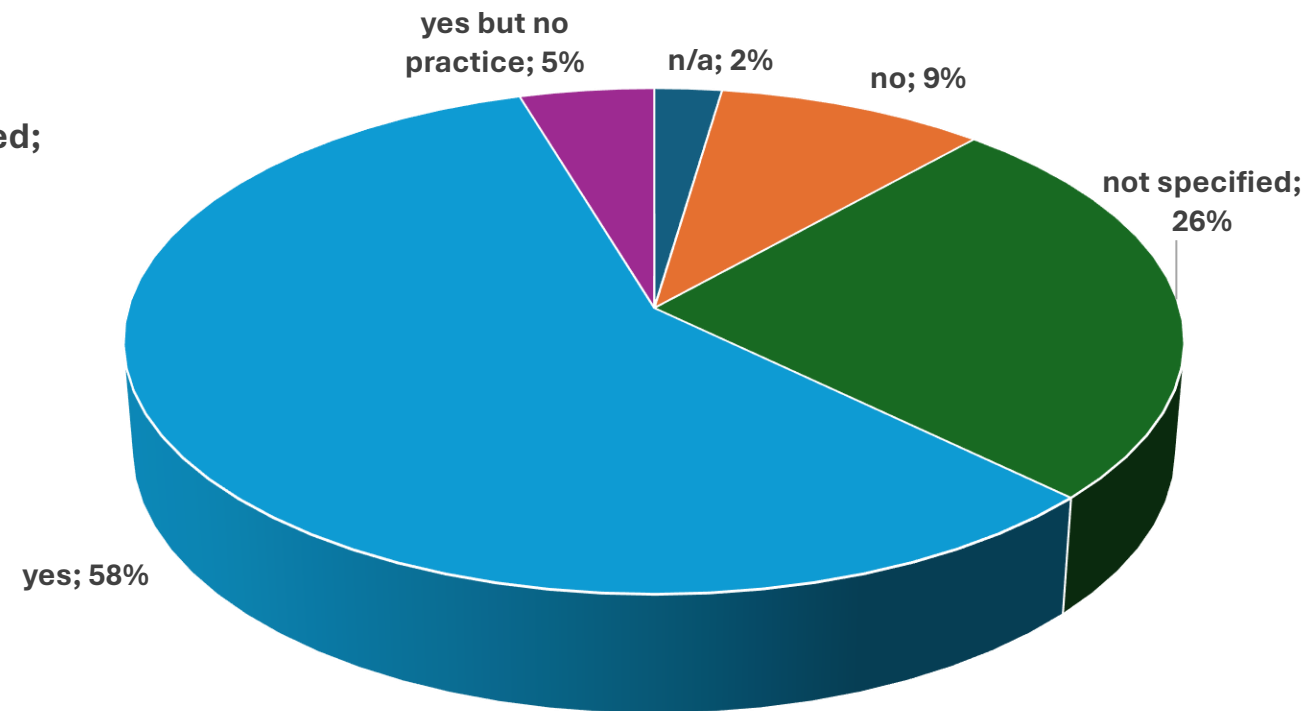


Application of procedural powers of the Convention on Cybercrime: Art. 20-21

Real-time collection of traffic data (Article 20)

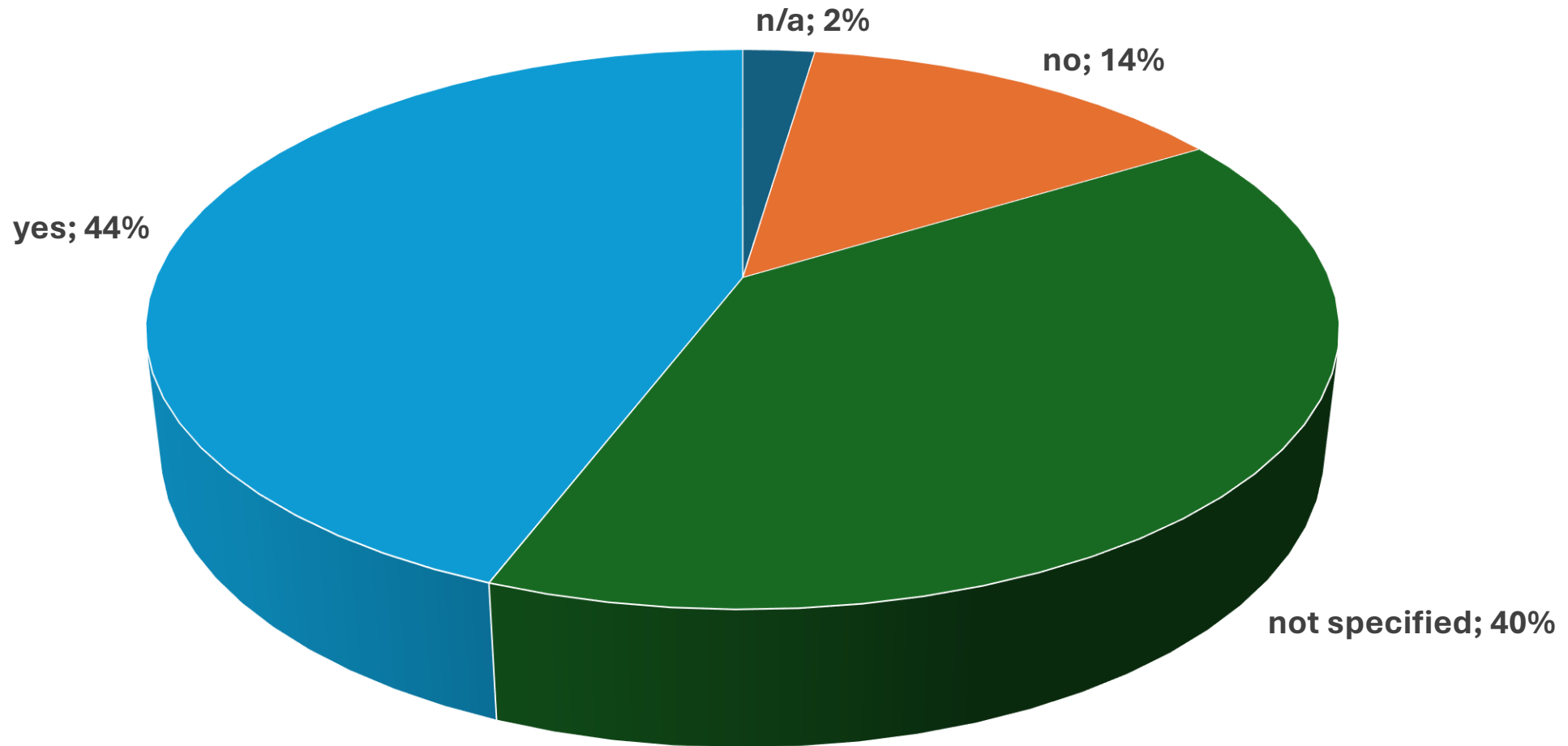


Interception of content data (Article 21)

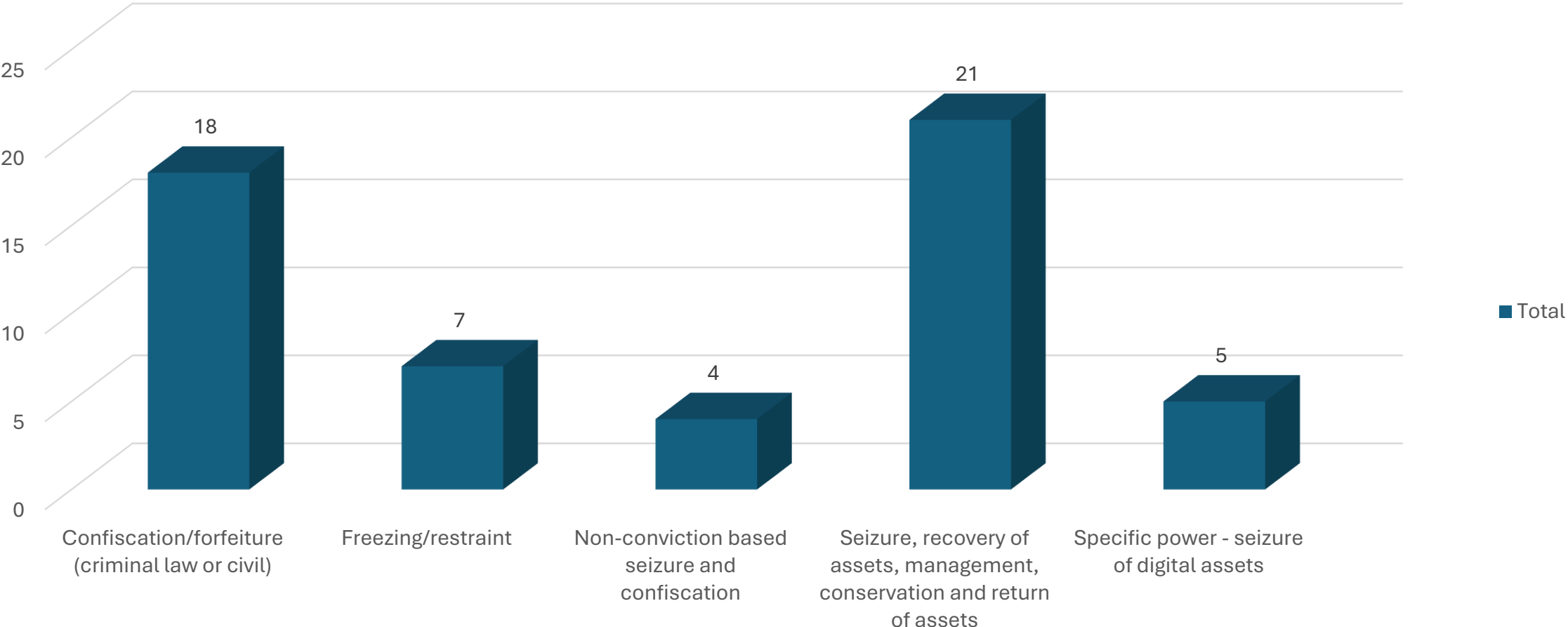


Application of procedural powers : Art. 7 of the Second Protocol

Disclosure of subscriber information (measures similar to Article 7 of the Second Protocol)?



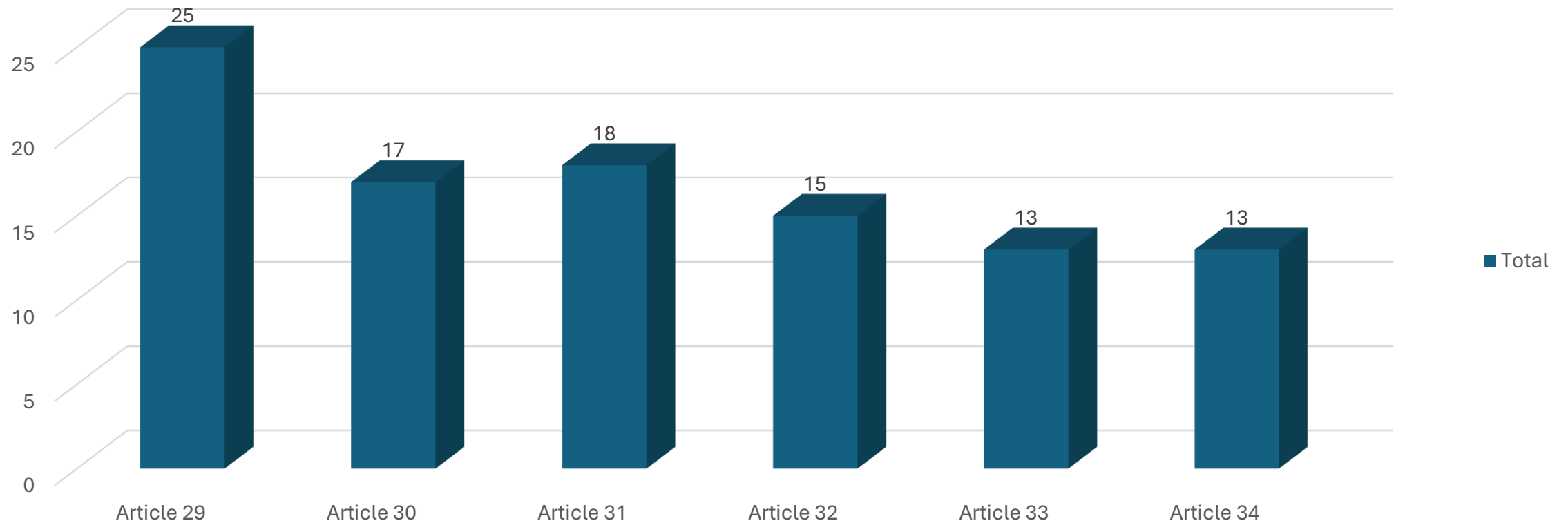
What other legal provisions and procedures do you apply for the search, seizure and confiscation of virtual assets at domestic level?



NB: name of countries in the five categories might overlap

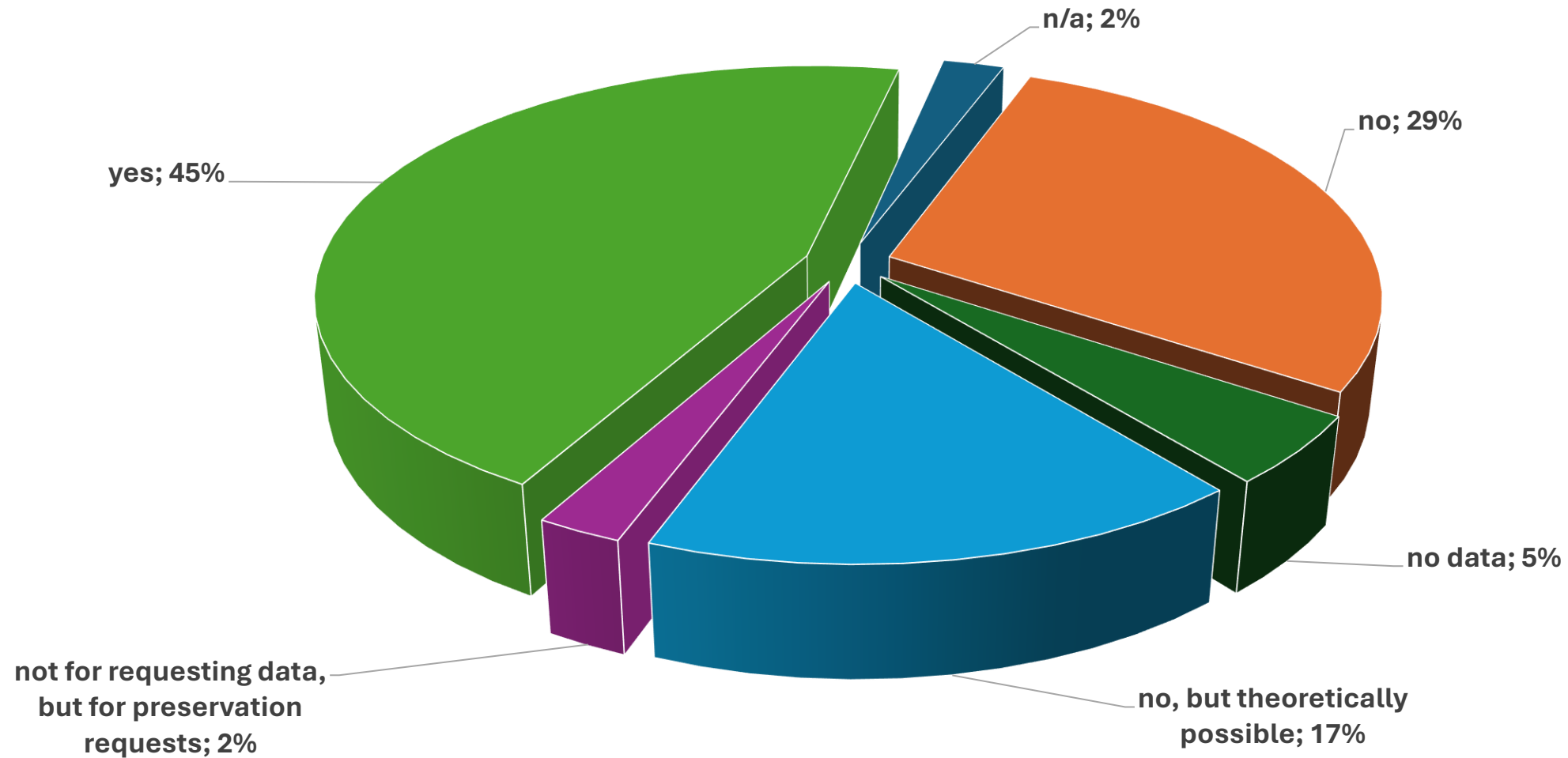
Use of international cooperation tools provided by the Budapest Convention

Do you use the tools offered by the Convention on Cybercrime as legal basis for requesting data from VASPs in other Parties to this Convention?



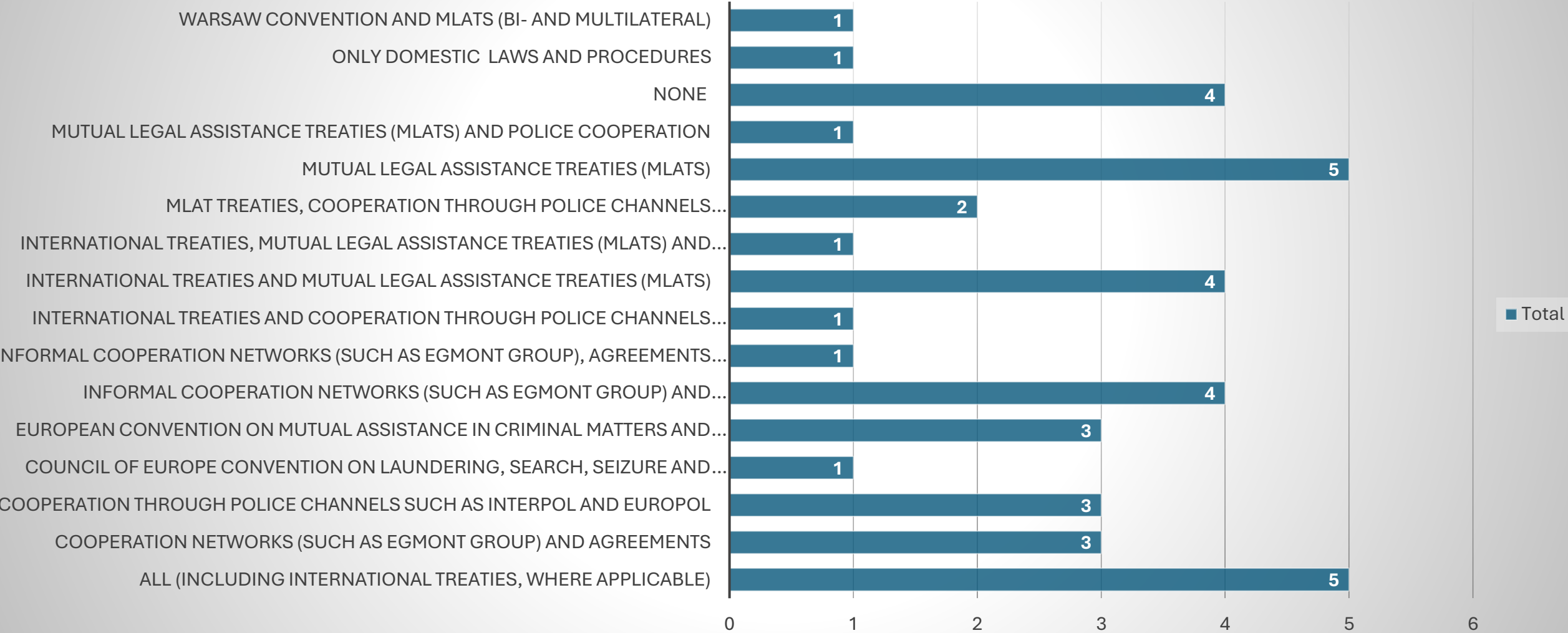
Use of international cooperation tools provided by the Budapest Convention

Do you use the 24/7 Network when requesting data from VASPs located in other Parties to the Convention on Cybercrime?



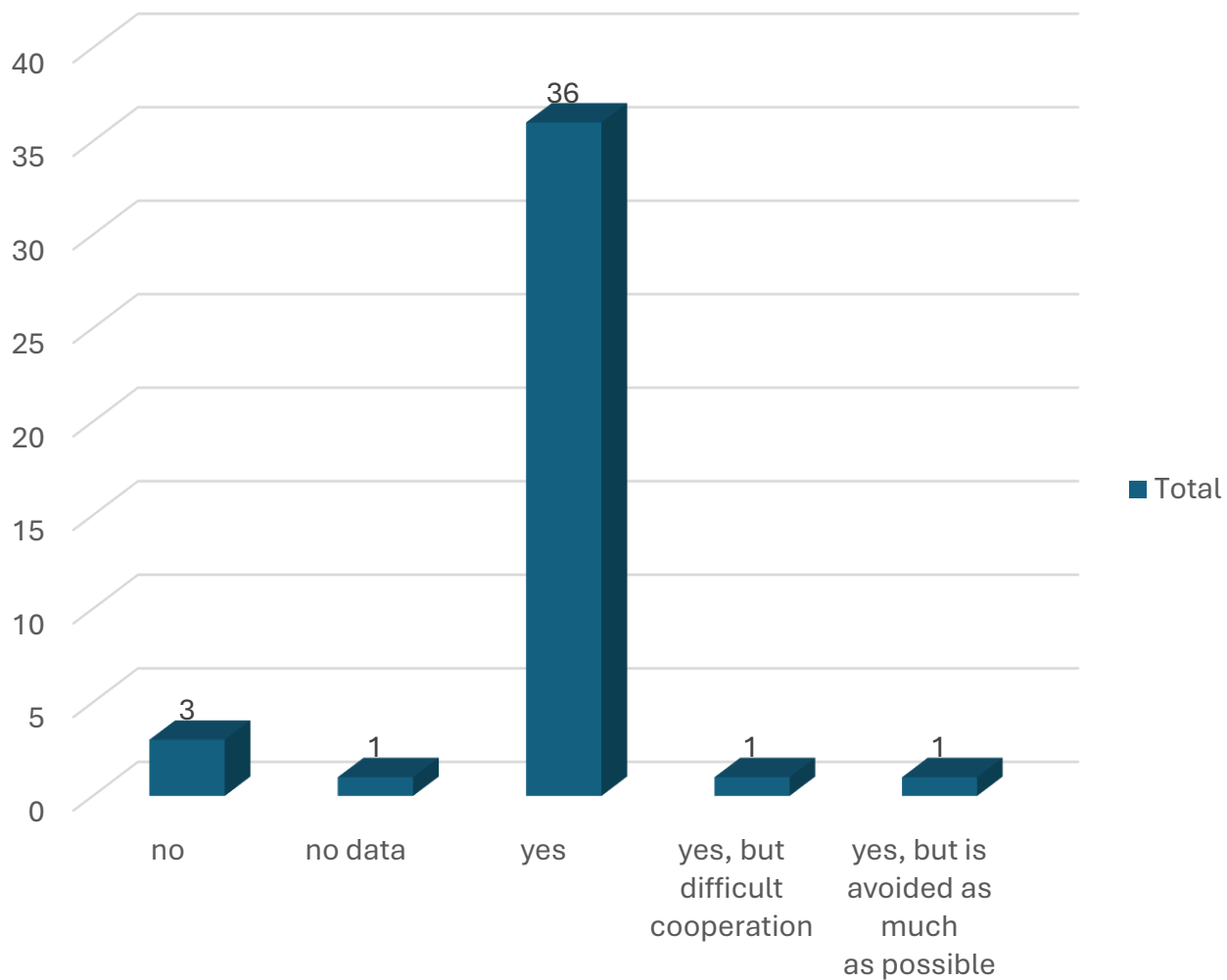
Use of other international cooperation tools

What other international agreements and legal frameworks do you use for cooperation with VASPs outside your jurisdictions?

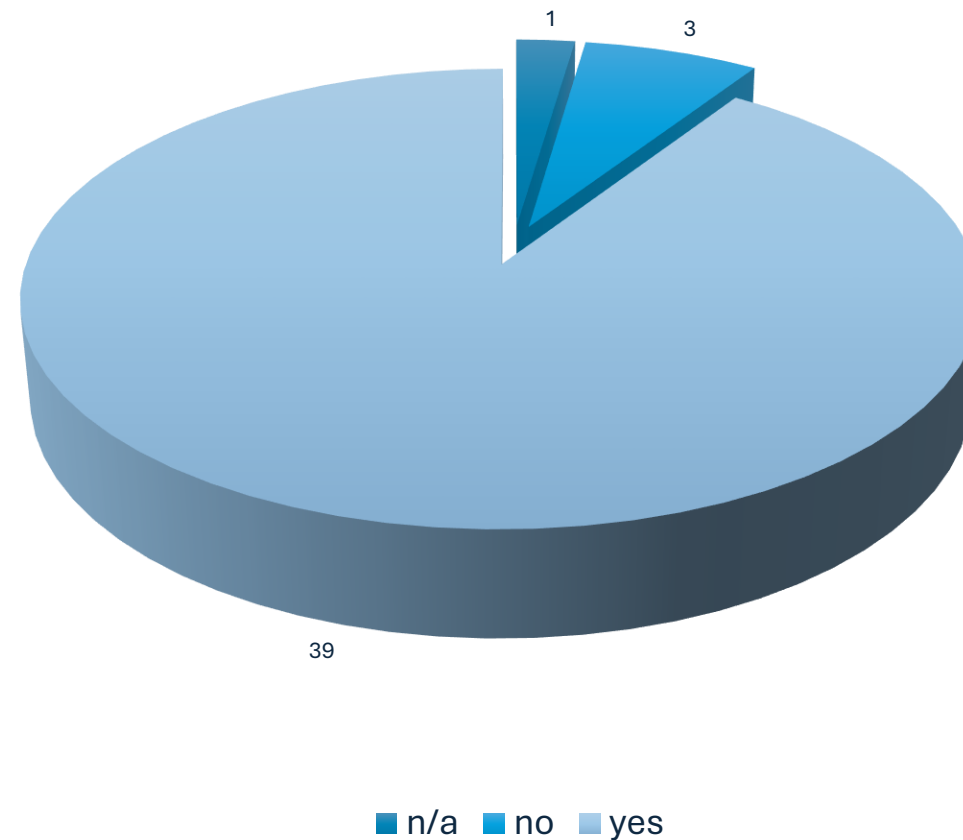


Use of voluntary cooperation and other mechanisms, channels and platforms

Do you use voluntary cooperation mechanisms when requesting data from VASPs outside your jurisdiction?

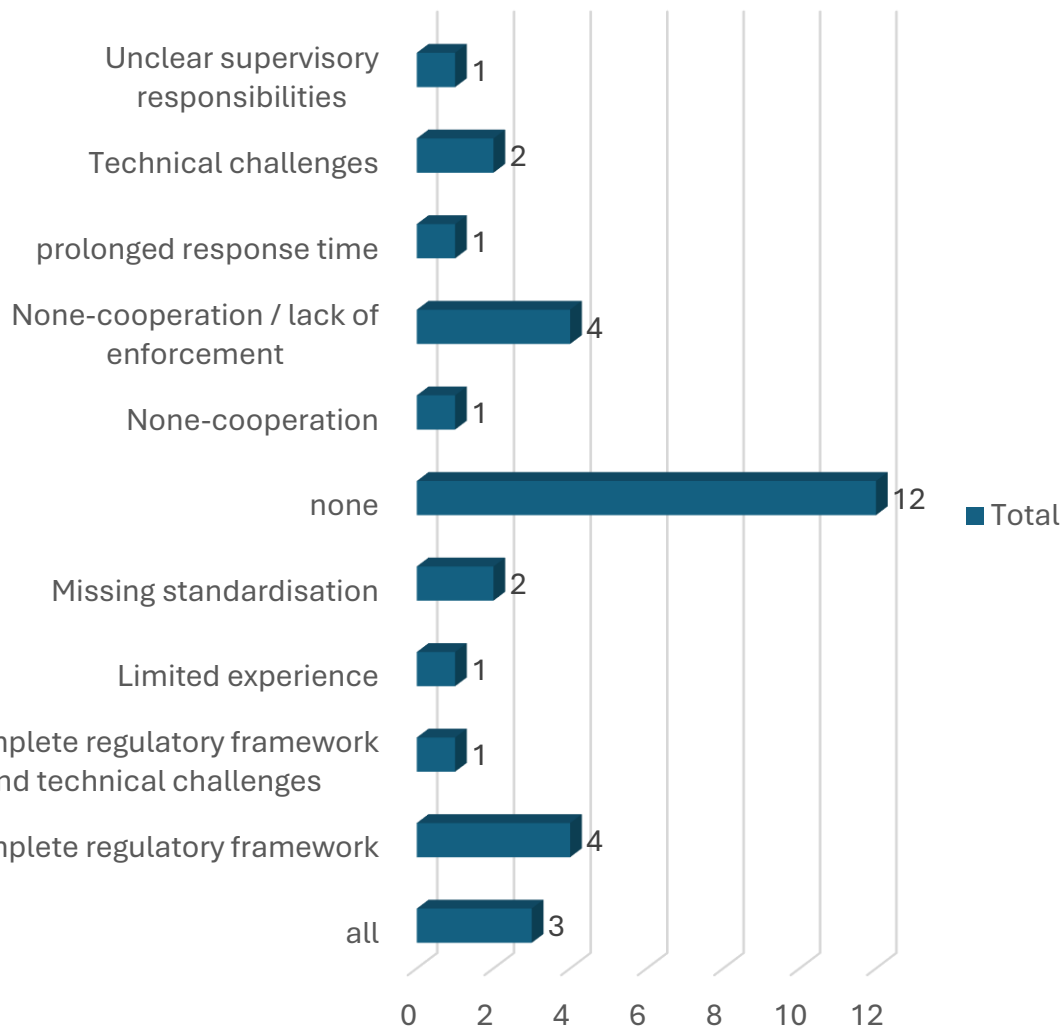


Are you aware of specific channels, portals or platforms provided by VASPs to facilitate their cooperation with law enforcement authorities?

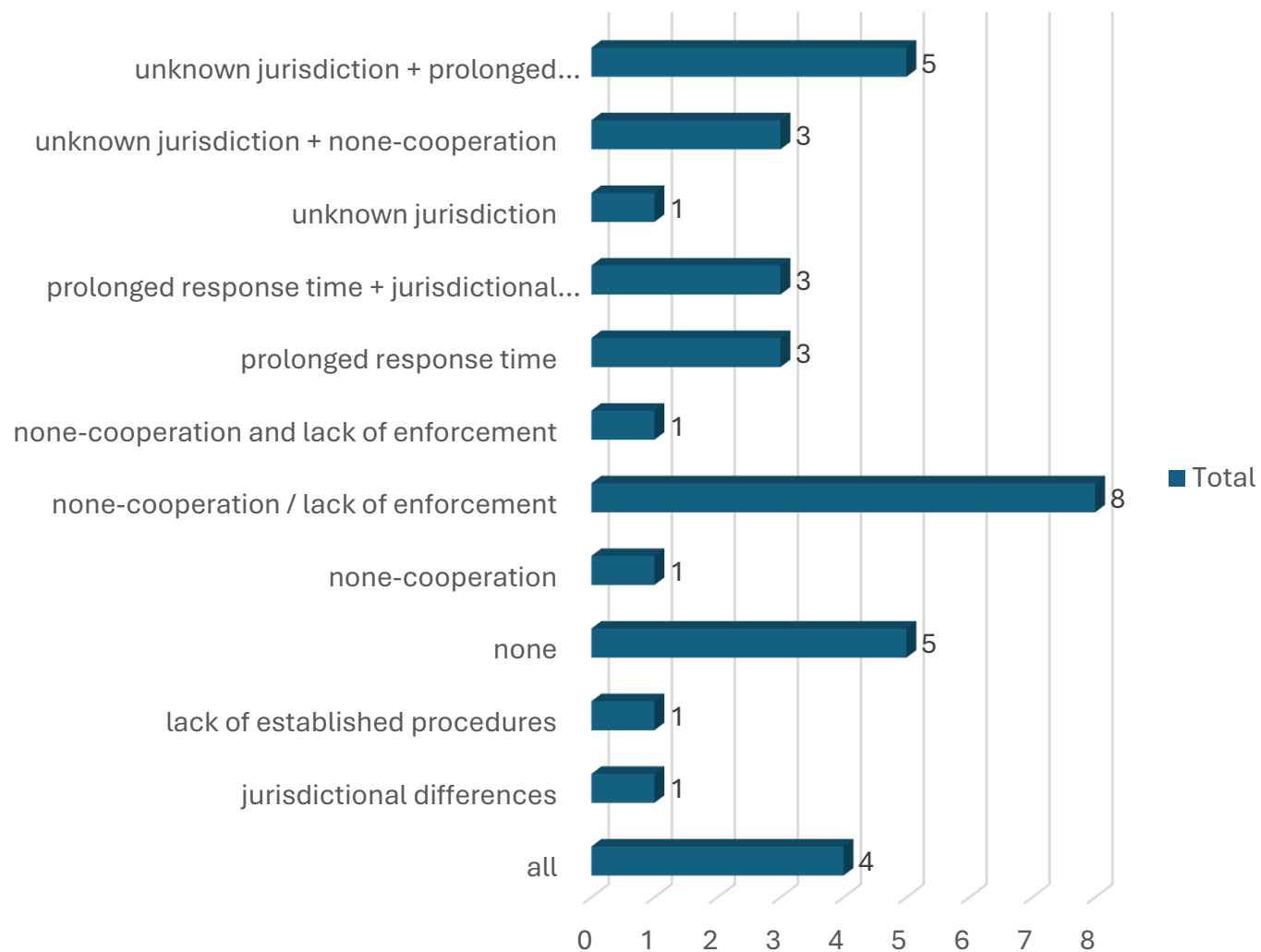


Main legal challenges encountered when seeking to obtain information or evidence from VASPs

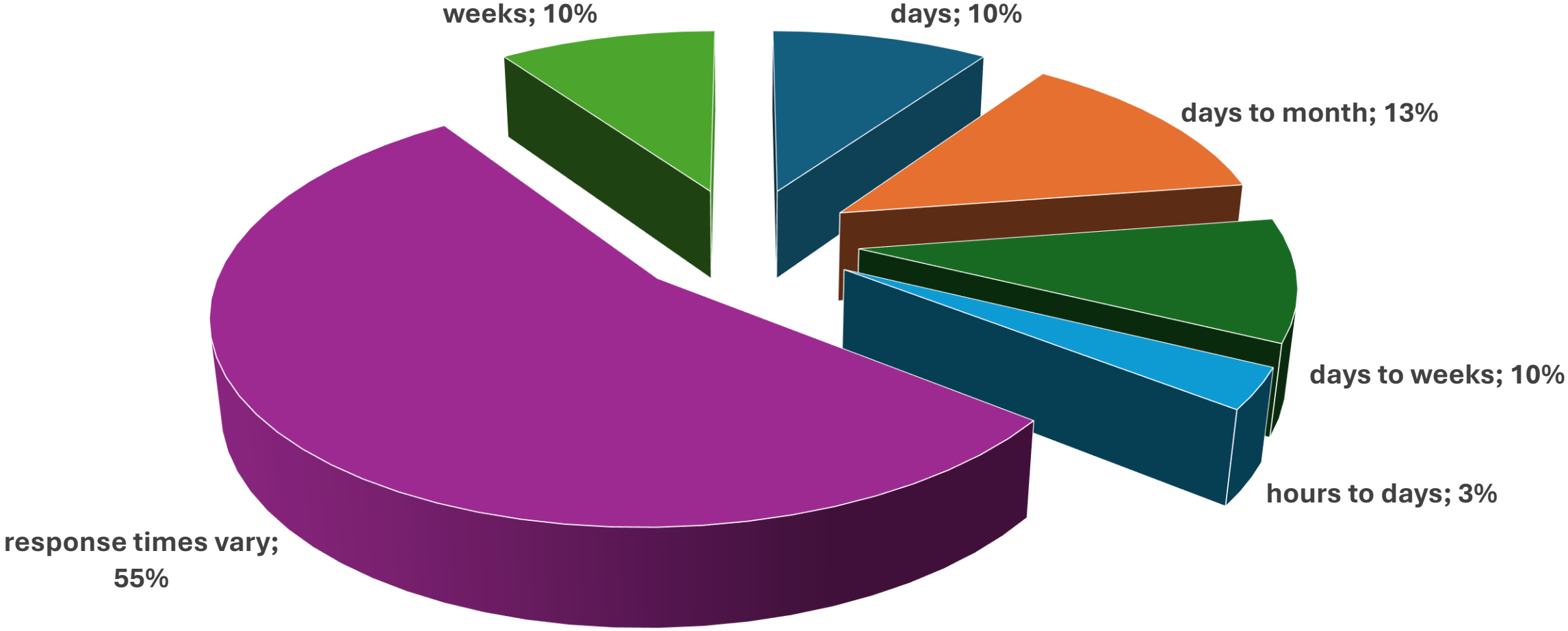
From VASPs within the territory



From VASPs located in another territory



Approximately how long does it take VASPs to comply with requests/orders?



Virtual assets and the relevance of the BC and its 2AP: next steps

- Plenary to consider: sharing the compilation of replies between Parties and observers (restricted, not public)?
- Additional Parties and observers are invited to submit their replies to the questionnaire by 31 January 2026, should they wish to do so.
- The BU and SECR in cooperation with C-PROC to continue working on the draft mapping study.
- The T-CY Bureau and Secretariat may reach out to Parties with request to provide supplementary information.
- Draft mapping study for consideration by T-CY 34 (June 2026).