

# To what extent are ECS Opinions reflected in doctrine ?

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# Acknowledgments

- First of all, **huge thanks** to our 23 helpers: Patricia Akester, Mikko Antikainen, Radim Charvát, Veronika Dimova, Philipp Homar, Svjetlana Ivanovic, Ivana Kunda, Alex Luik, Marko Novak, Zane Petersone, Miquel Peguera Poch, Živilė Plyčiuraitytė Plyčiūtė, Razvan Popa, Ioannis Revolidis, Daniel Rosenthal Plon, Camilla Signoretta, Kacper Szkalej, Jakub Slovak, Jorn Torenbosch, Alina Trapova, Annaëlle van Gasse, Giorgios Vrakas, Bohdan Widla and Xiao Baiyang.

# Methodology – sample (1)

- All papers co-written by at least one ECS member since they become members + our published opinions excluded
- Databases searched: Westlaw (UK and US separately), Beck + UoN library database which includes all journals they subscribe to online, which is a lot including many international ones.
- Our helpers searched the web and the following databases:
  - Apis and Lakorda (Bulgaria), Jogkódex database and Szeged library (Hungary), Stradalex, ieforum and Jura (Belgium), conferences entitled “Regulation and Enforcement in the Digital Age” (REDA) and Google scholar (Cyprus), Manz (Austria), open repositories (RCAAP), institutional repositories and the Ordem dos Advogados database (Portugal), LEX (Wolters Kluwer Polska), Legalis (C.H Beck) and Google (Poland), ASPI, Beck-online and Codexis and Masaryk university’s library (Czechia), all available Danish databases, including Karnov and Legora (Denmark), legislation and doctoral theses (Lithuania), Aranzadi Infinita, vLex España, Tirant Online, El Derecho (Francis Lefebvre), open access books by Atelier and Dialnet (Spain), Giuffre database (ie *Rivista di Diritto Industriale*, *AIDA*, *Diritto dell’Informazione e dell’Informatica*) and from Wolters Kluwer (ie *Il Diritto Industriale*, *Giurisprudenza Italiana*) and two books (Italy), Qualex and Sakkoulas databases (Greece).

# Methodology – sample (2)

- For many countries, not possible to search in all databases because often subscription-based (eg for France the search included only Dalloz and for Luxembourg only Stradalex).
- Romania, Estonia, Finland and Czechia: only the web was searched
- No information for Croatia
- Malta, Luxembourg, Bulgaria and Latvia: searches made but no literature found
- We did not check all footnotes for ibid etc which would cite again the ECS opinions
- To find out if citation is neutral, positive or negative, we only checked the sentence corresponding to the footnote.

# Methodology - data

- Year of the opinion, name of opinion, status of the opinion (published/not published ie only on the ECS website), opinion's focus (ie CJEU case, legislation, analytical or letter to the Commission), citing work (bibliographic data), type of citation (positive, negative or neutral), language of the publication citing the ECS opinion and country of author(s) of the citing work (where they work)
- Dates: from publication of Svensson on ECS website until 30 April 2026.

# Methodology – coding and limitations

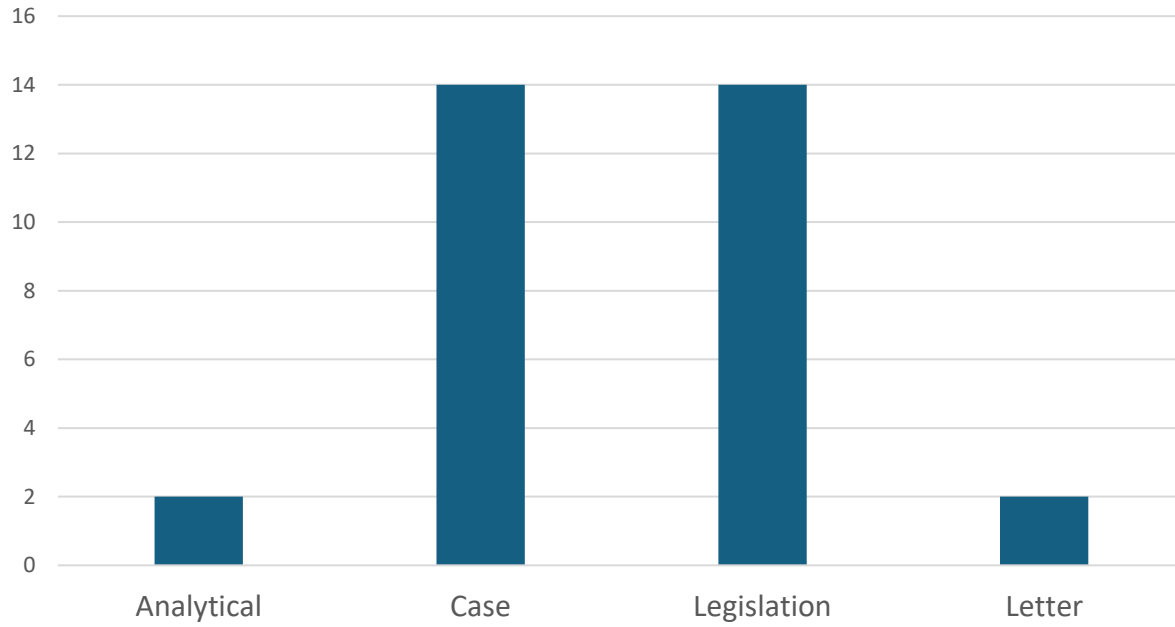
- Coding:
  - Peter, helpers and I collected the cites
  - Peter and I both did the coding - Excel
- For some Member States, the sample is incomplete as only the web could be searched (no access to subscription-based databases)
- Data skewed towards oldest opinions since they are 10+ years old compared to the new ones
- 20 quotes from close colleagues/PhD students: most of them neutral; change only the data trivially if removed from sample

# Statistics

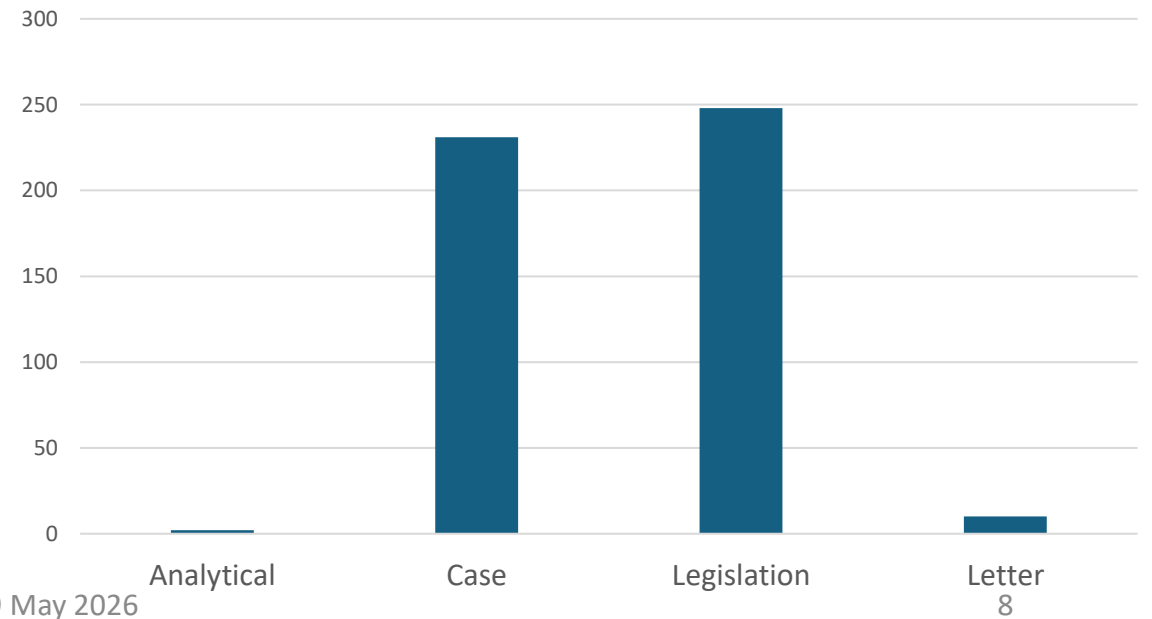
- Total quotes in the literature 2013-2026: 494 (+ 24 Greek) = 518
- Total negative quotes: 10 ie 2%
- Total positive quotes: 38 ie 7.3%
- 54 authors ie **10.4% from outside the EU**: China, USA, Australia, West Indies, Colombia, Singapore, Indonesia, Bangladesh, Turkey, Moldova, Russia, Serbia, Bosnia and Herzegovina, and Iceland. This includes publications in non-EU based journals
- Quoted by AG once in 3 opinions namely in *Kwantum* (Szpunar, neutral/positive), *Pelham II* (Emiliou, negative), *Mio/konektra* (Szpunar, neutral).
- Quoted by 3 domestic courts in the UK, Denmark and Spain (all neutral).



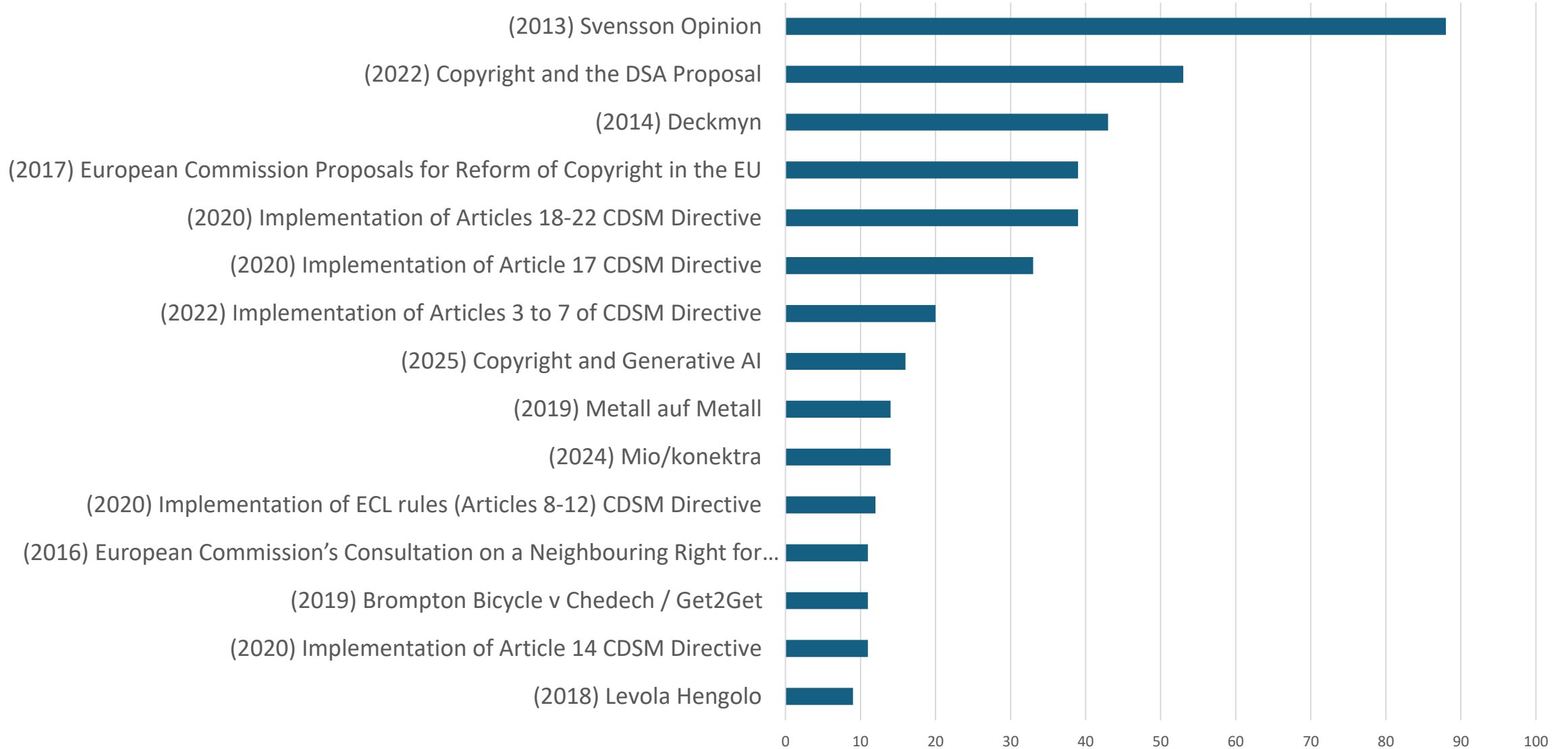
## Number of opinions per type



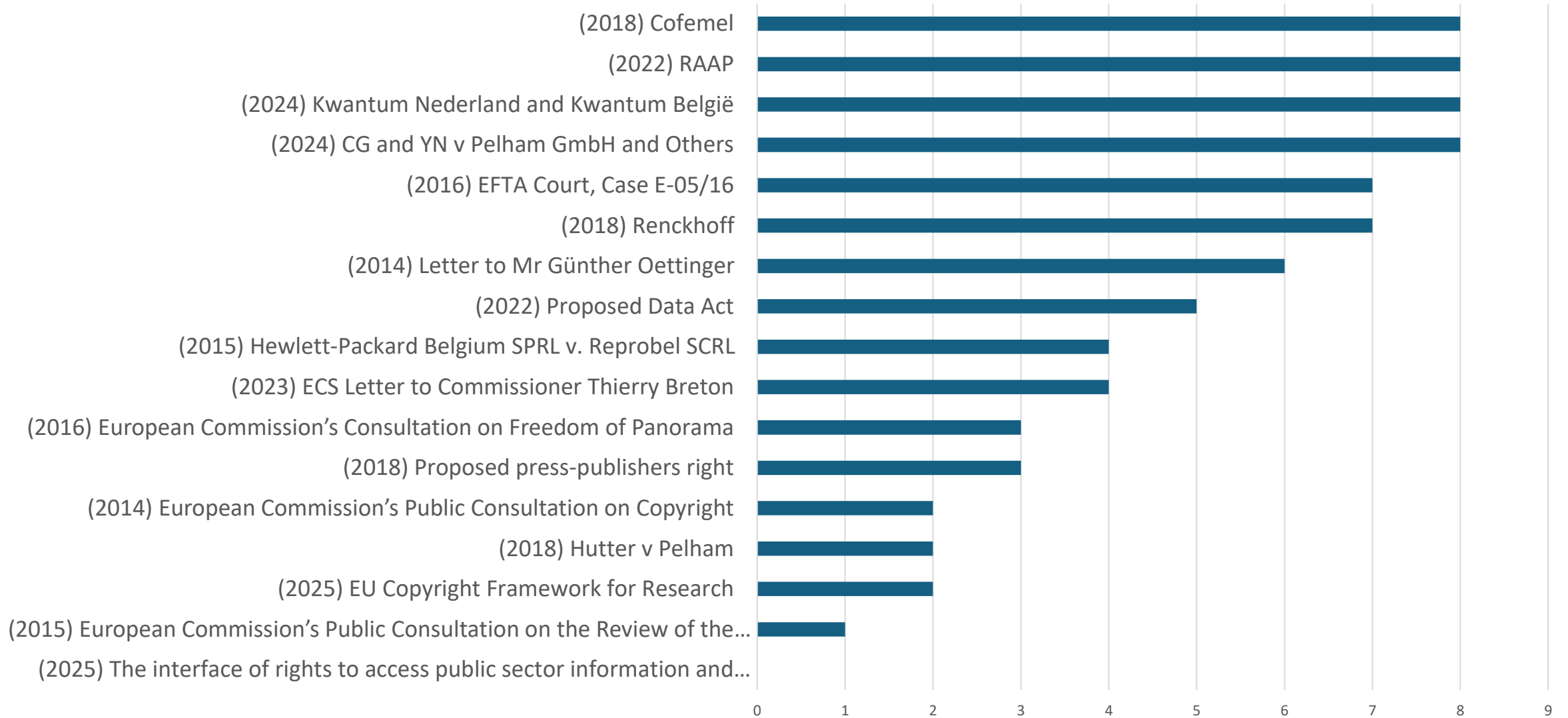
## Number of quotes per type



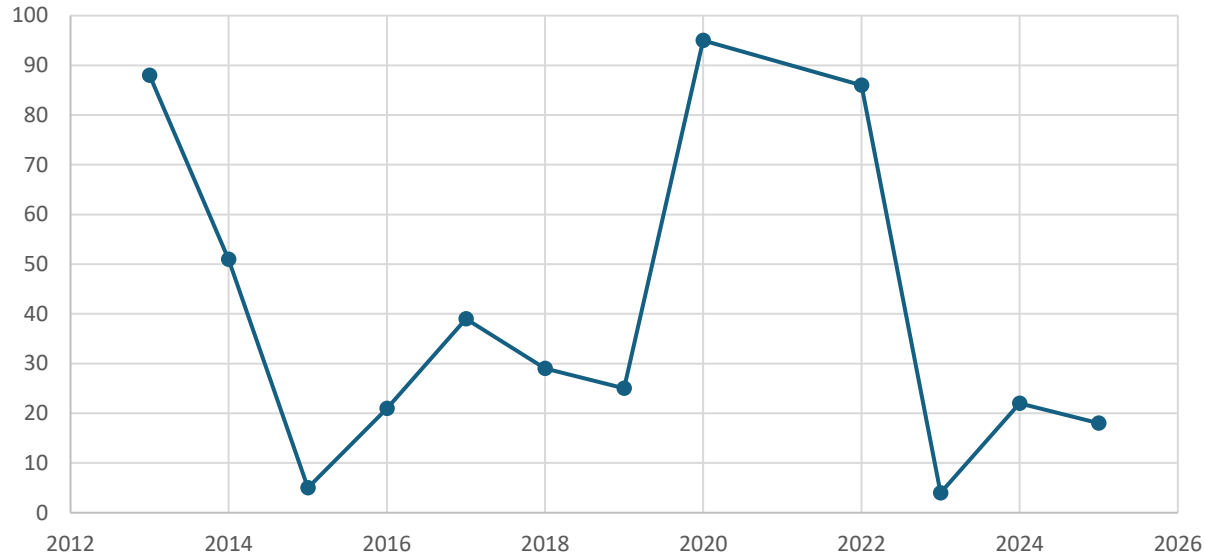
## Total number of citations (upper end)



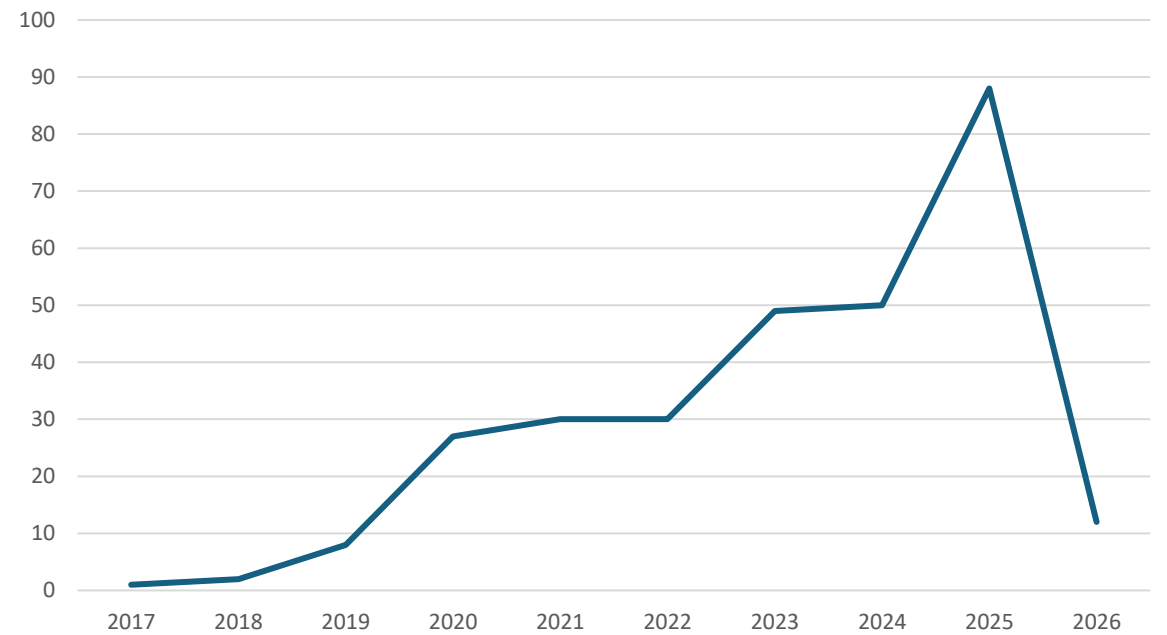
## Total number of citations (lower end)



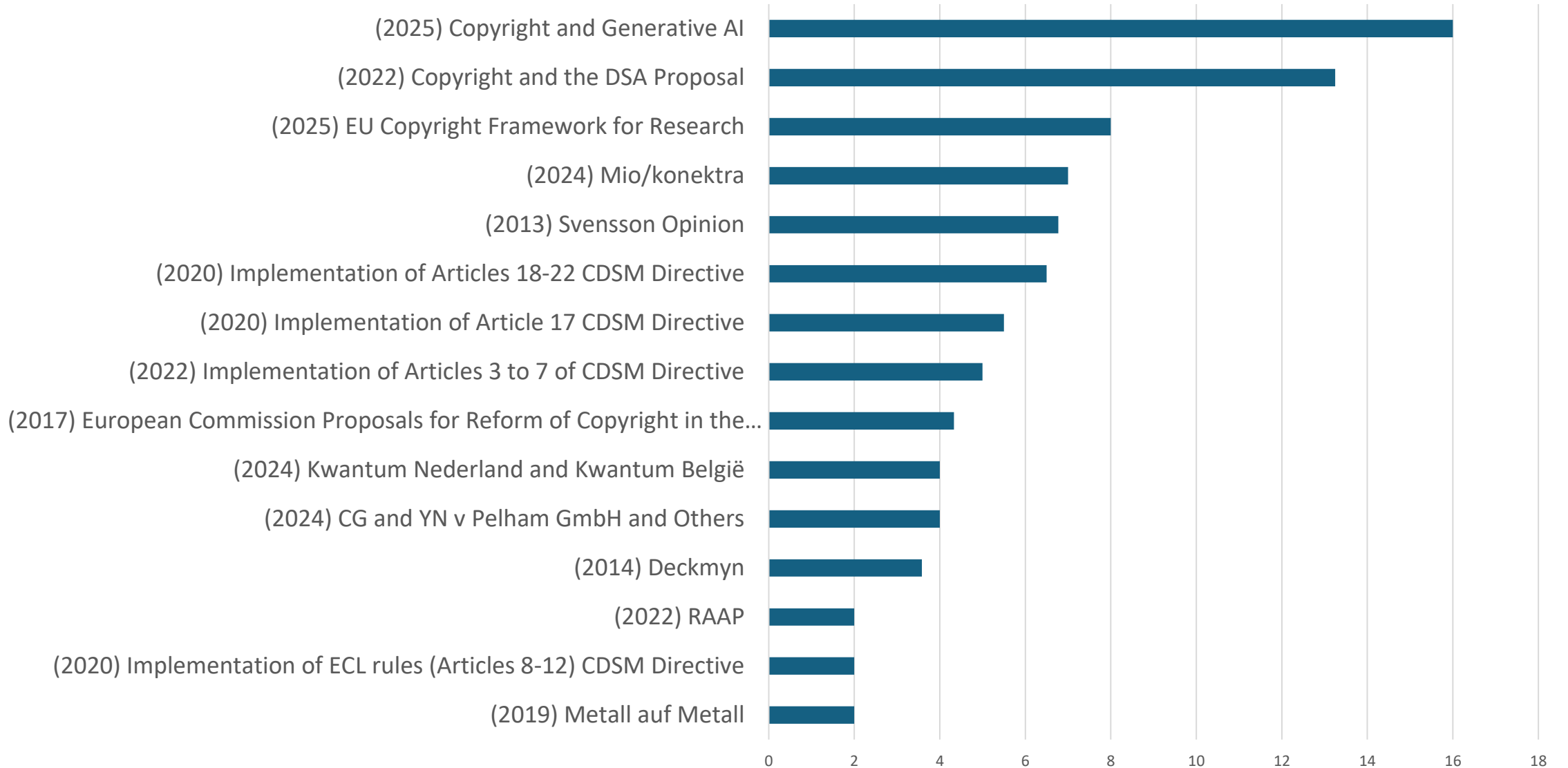
## Number of quotes on opinions that were published per year



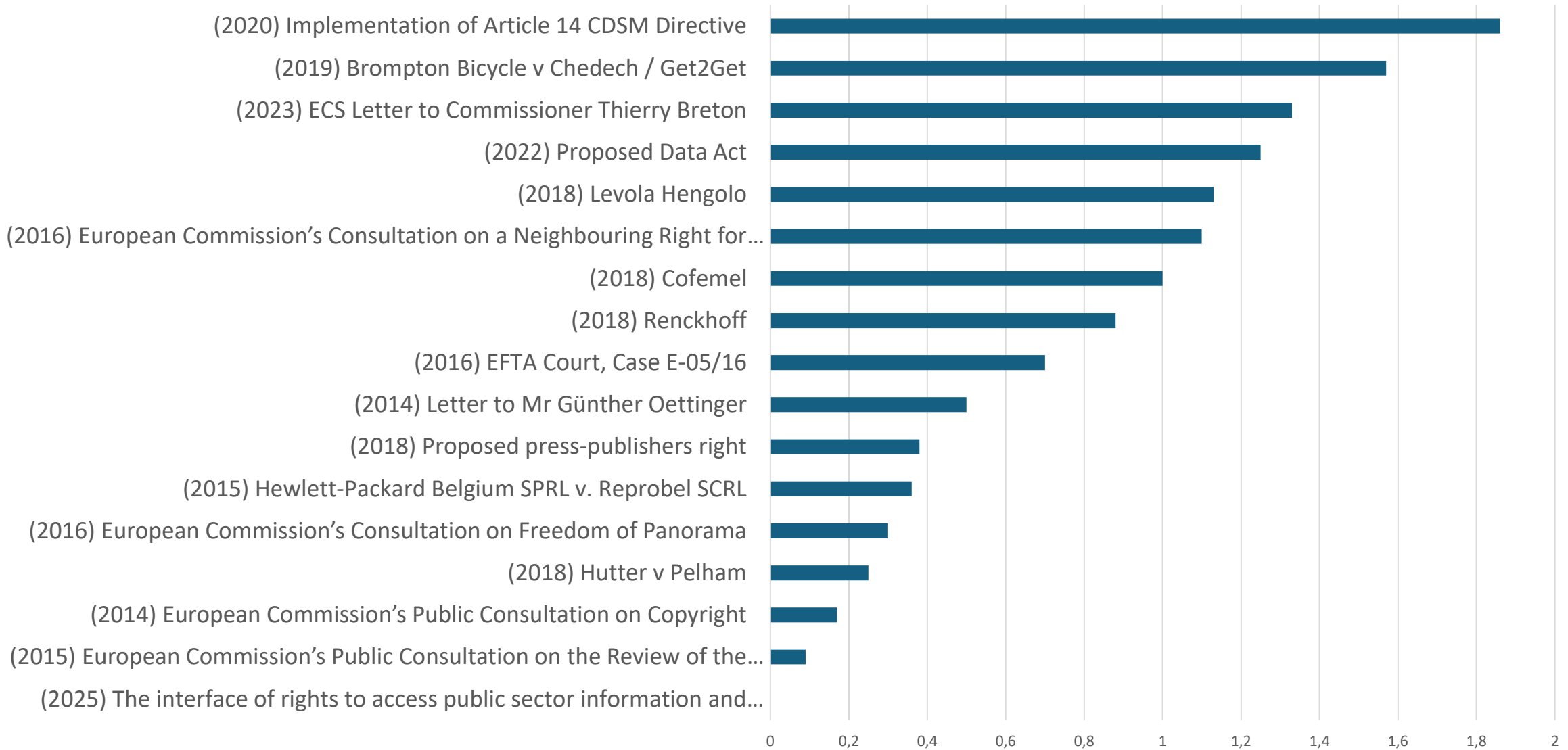
## Number of quotes / year of publication of quoting works



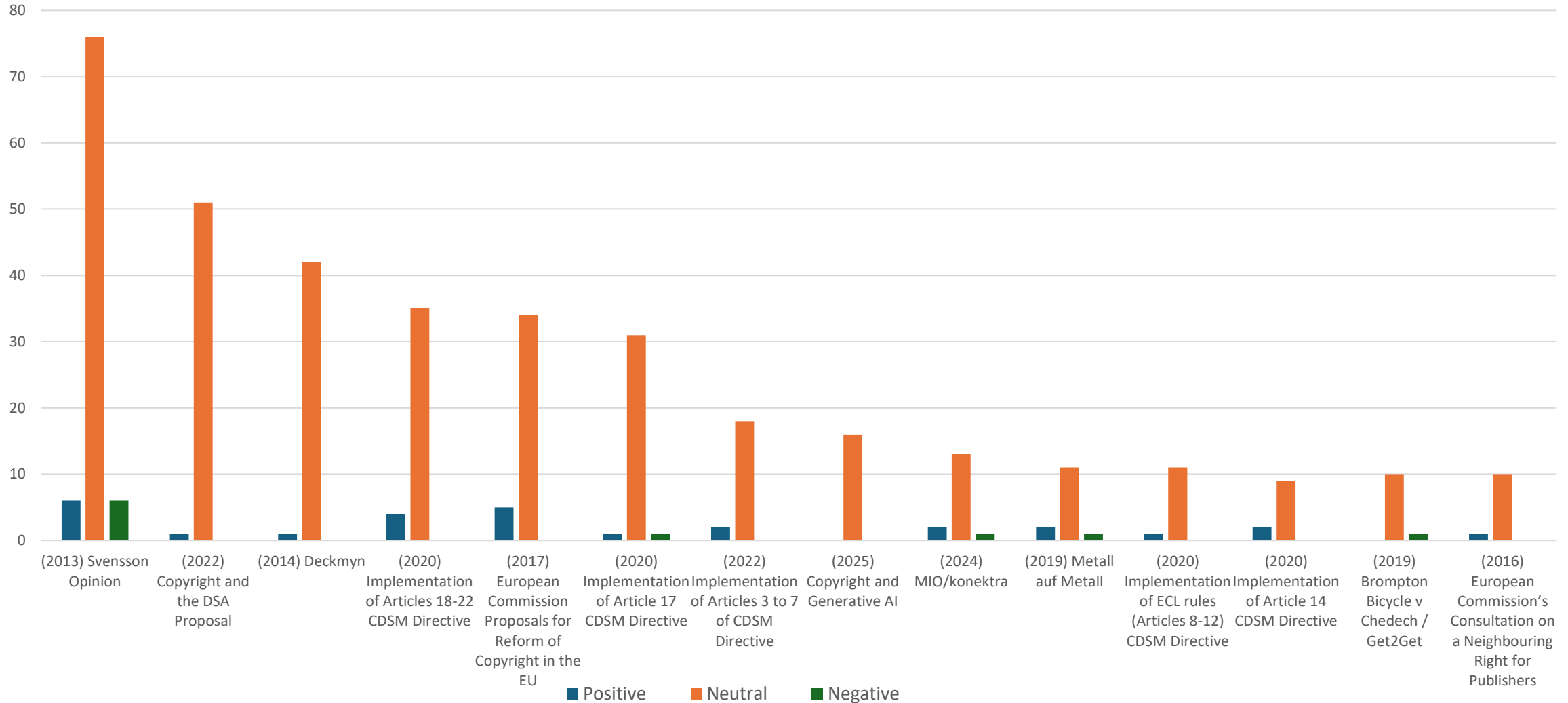
## Average quote of opinions per annum (higher end)



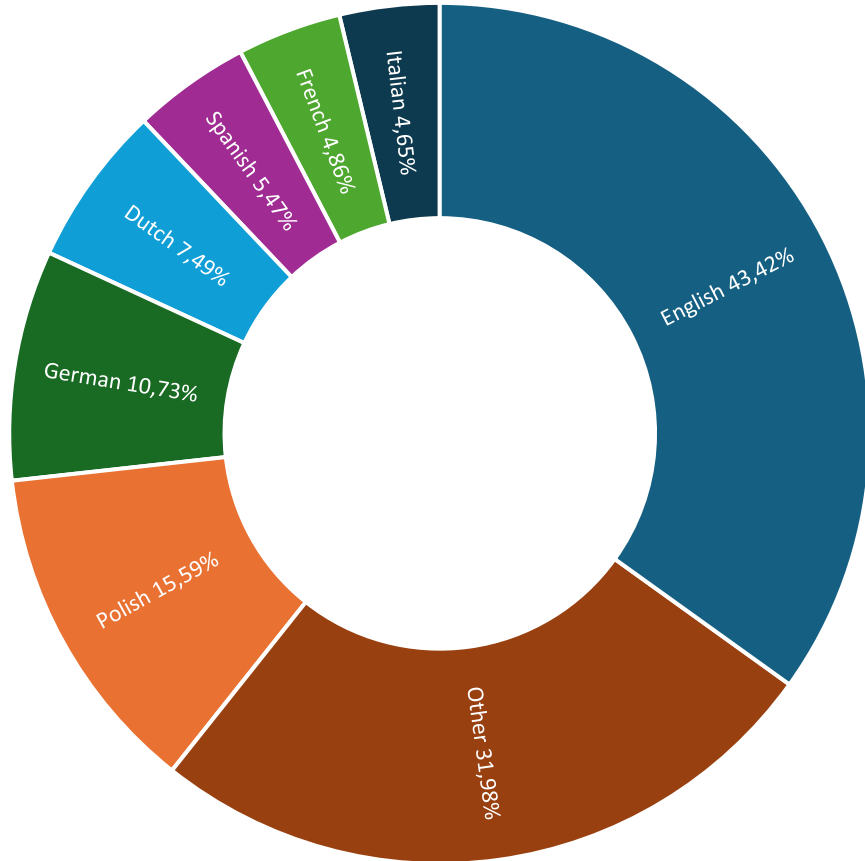
### Average quote of opinions per annum (lower end)



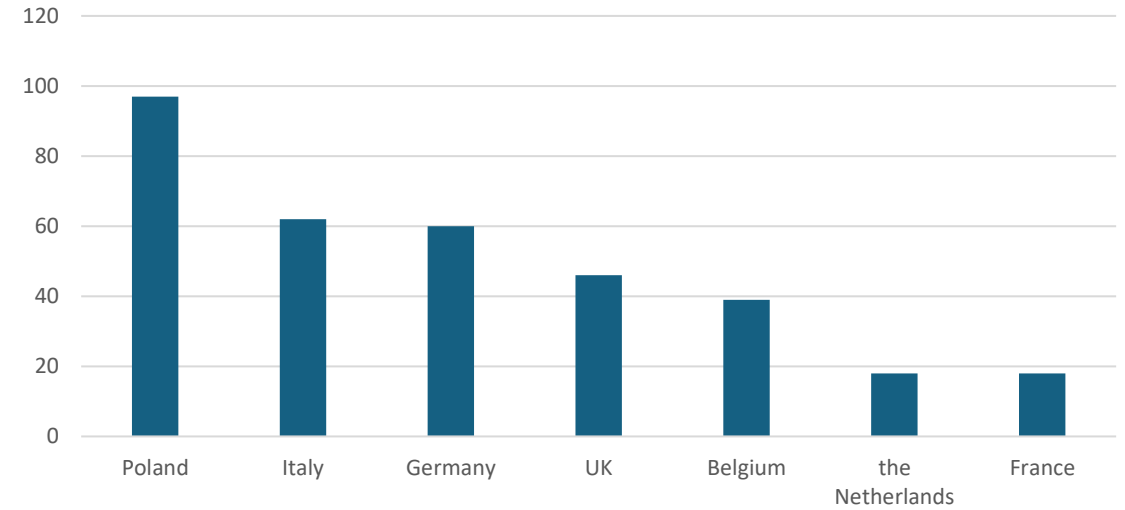
## Split of positive / neutral / negative quotes (of opinions with at least 10 quotes)



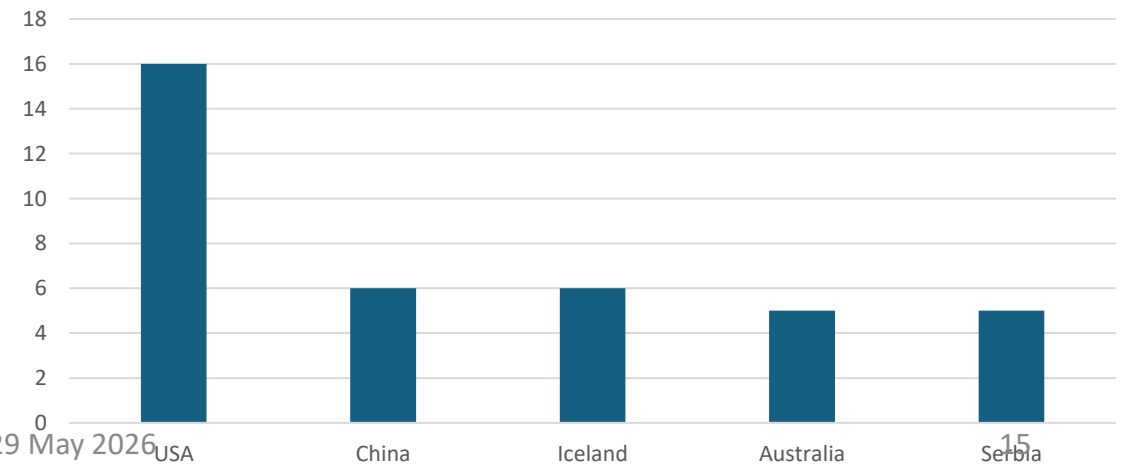
### Main languages of quotes



### Top 7 countries of origin of quoting authors



### Top 5 non-EU countries of origin of quoting authors



### Most quotes:

**R. Markiewicz (POL): 15 instances**

**J. Kępiński (POL): 6 instances**

**Joachim von Ungern-Sternberg (GER): 6 instances**

**Eleonora Rosati (ITA): 6 instances**

**Gernot Schulze (GER): 5 instances**

### Most positive quotes:

**Carla Bragado Herrero de Egaña (ESP);  
Simon Geiregat (BEL); Matthias Leistner (GER) –  
*all three with 2 quotes.***

### Most negative quotes:

**Péter Mezei (HUN) – 2 quotes (shame on me, I  
criticized the Svensson opinion twice...)**

Thank you - Questions?