

OUTCOMES OF ADVOCACY ACTIVITY IN 2023-2024

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DIRECTORATE FOR LEGAL STUDIES AND LEGISLATIVE ANALYSIS

OUTCOMES OF ADVOCACY ACTIVITY IN 2023-2024

I. INTRODUCTION

This document reports the results of the periodic monitoring of the outcomes of reporting and advisory interventions (advocacy) undertaken by the Authority pursuant to Law no. 287/1990 and other sectoral regulations, and refers to data for the two-year period 2023-2024.

More specifically, an analysis is firstly made of the summary data, and then of the detailed data broken down by instrument, with further specifications where relevant. The data is updated to 31 October 2025.

The outcomes for the last of the two years under consideration, in this case 2024, will be re-evaluated in the next periodic survey, which will be carried out during 2026.

The analysis focuses on the compliance rate, intended as recipients' compliance with the indications contained in the interventions by the Authority.

The interventions examined were broken down as follows:

1. reports pursuant to Art. 21;
2. opinions pursuant to Art. 22;
3. opinions pursuant to Art. 22 issued in accordance with Art. 4 of Decree-Law no. 1/2012¹ (hereinafter, 22PCM);
4. reasoned opinions pursuant to Art. 21-*bis* (including opinions pursuant to Art. 21-*bis* sent following communications pursuant to Art. 5, paragraph 3, of Legislative Decree no. 175/2016², TUSPP, or in any case relating to its application, referred to herein as "21-*bis* TUSPP");
5. opinions pursuant to other sectoral regulations.

For monitoring purposes, the outcomes of the interventions are classified as follows:

- positive: full compliance of the actions taken with the requirements;
- partially positive: partial compliance;
- negative: non-compliance;
- not assessable: inability to provide judgement due to heterogeneous reasons.

¹ Decree-Law no. 1 of 24 January 2012 (containing *Urgent provisions for competition, infrastructure development and competitiveness*, so-called "Cresci Italia") converted with amendments by Art. 1, paragraph 1 of Law no. 27 of 24 March 2012.

² Legislative Decree no. 175 of 19 August 2016 "*Consolidated law on publicly owned companies*" contemplates the reorganisation of the sector, implementing one of the central points of Law no. 124/2015, the so-called "Madia Reform". More specifically, Art. 5, paragraph 3, introduces a new assignment for the Authority, which must receive "*the deed of resolution for the incorporation of the company or the acquisition of direct or indirect investment*", for the purposes of exercising the powers referred to in Art. 21-*bis* of Law 287/1990.

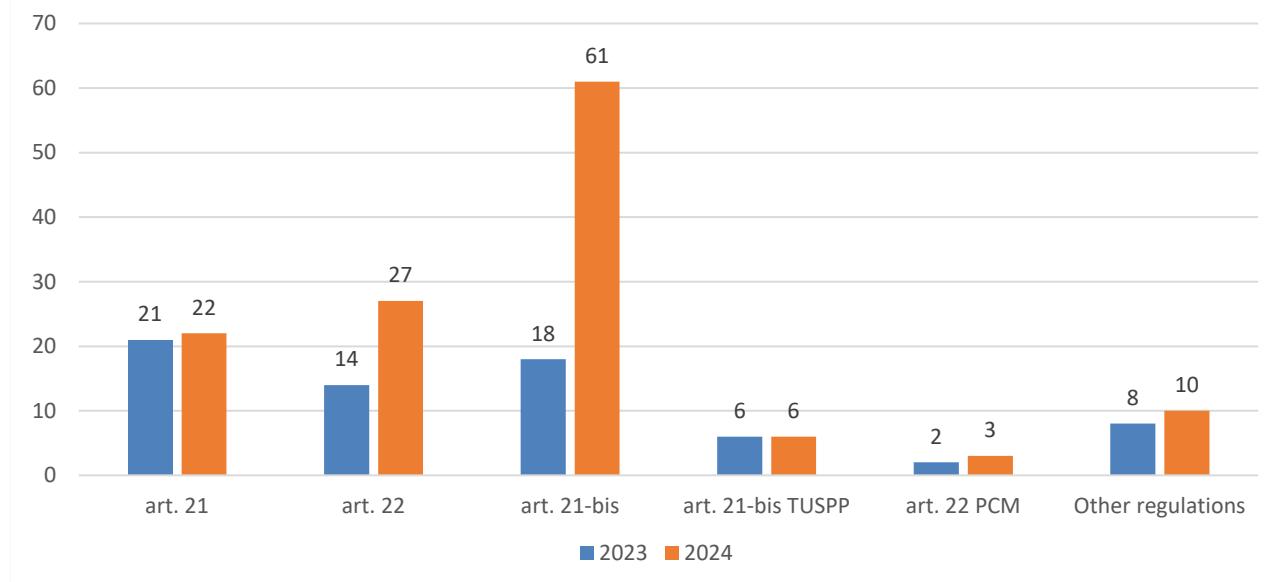
II. 2023-2024 SUMMARY AND ANALYTICAL DATA

The monitoring covered all advocacy interventions carried out from 1 January 2023 to 31 December 2024, for a total of 198 decisions, adopted pursuant to Articles 21, 22 and 21-bis of Law no. 287/1990, or pursuant to other sectoral regulations. Two lists are attached to this document relating to all the interventions considered for 2023 and 2024, with a summary of the results.

1. Some general data relating to the interventions (2023-2024)

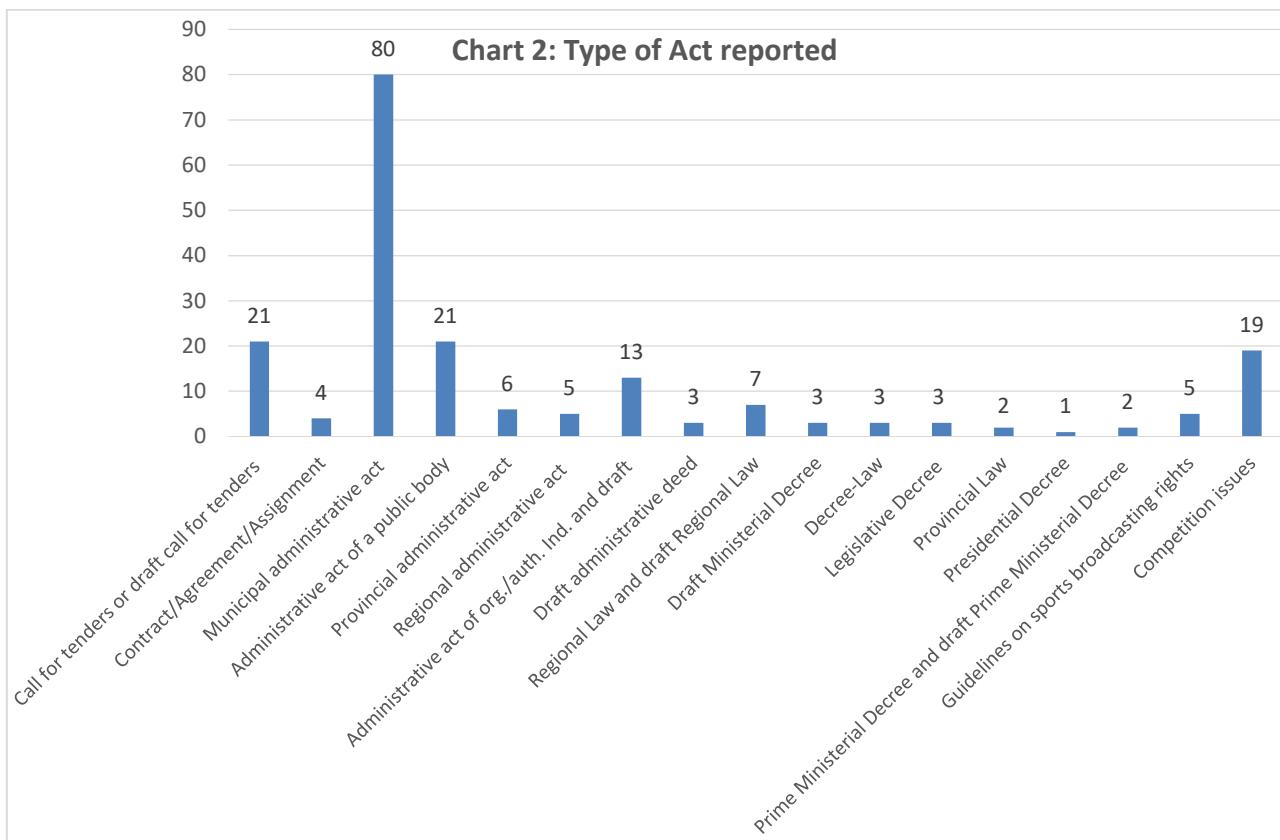
In the comparison between 2023 and 2024, there is a significant increase in the total number of advocacy interventions (**69** in 2023 and **129** in 2024), of which **43** under Article 21, **41** under Article 22, **5** under Article 22PMC, **79** under Article 21-bis, **12** under Article 21-bis of the TUSPP, and **18** under other regulatory frameworks (see Chart 1).

Chart 1: Interventions by year and by type of instrument



Source: AGCM calculations on 2023 and 2024 data

As regards the **type of acts reported** during the two-year period under review, the advocacy interventions mainly concerned municipal administrative acts (80 cases), calls for tenders or draft calls for tenders (21 cases), as well as administrative acts issued by public bodies (21 cases)³. Furthermore, 19 interventions were aimed at reporting competition-related issues observed in various market sectors (for other types of acts, see Chart 2)⁴.

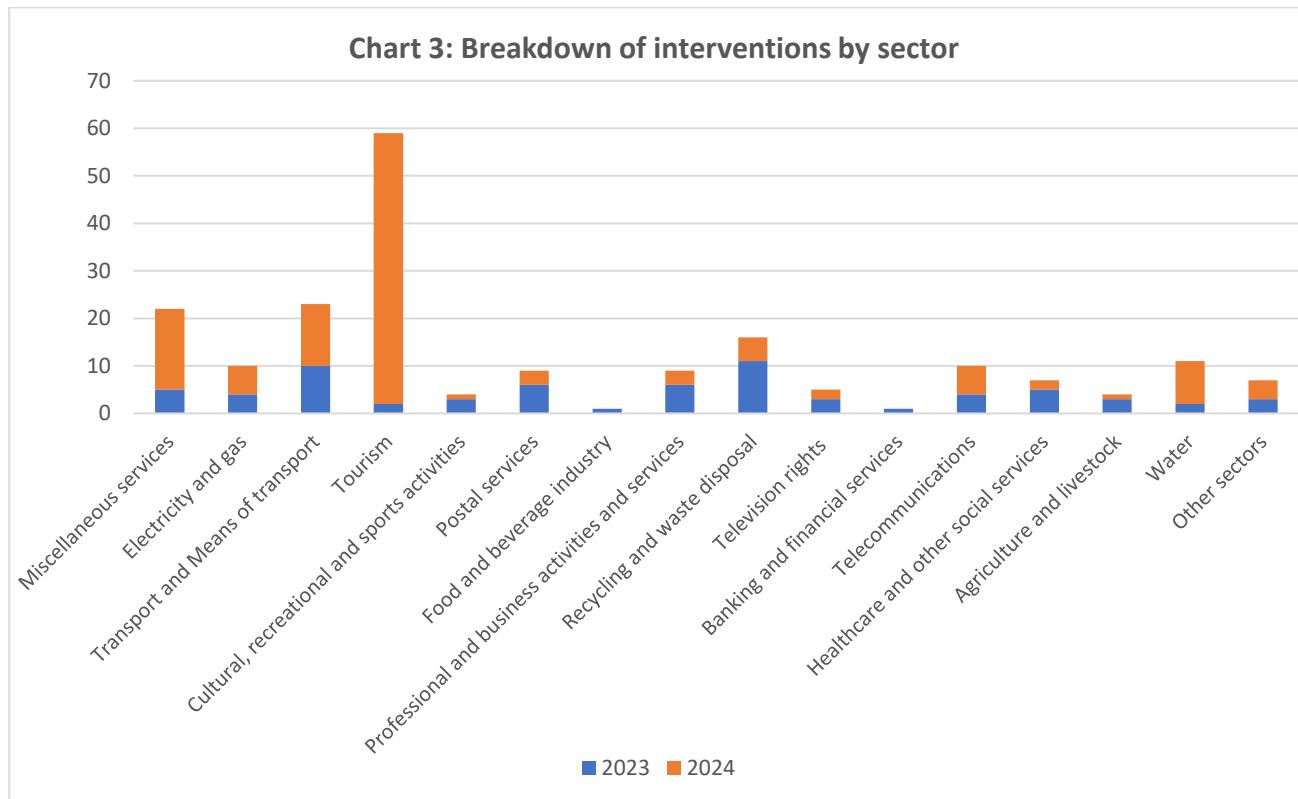


Source: AGCM calculations on 2023 and 2024 data

³ For example, resolutions adopted by the Councils of the Optimal Territorial Areas, or by the Port System Authorities or by the Water Authorities.

⁴ It should be noted that the same report/opinion may also encompass multiple acts of a different nature.

Chart 3 illustrates the breakdown of interventions according to the **sectors involved**:



Source: AGCM calculations on 2023 and 2024 data

With regard to the **recipients**, out of 198 cases, in 46 cases (23%) the advocacy intervention was addressed to the Parliament, the Government or to a central administration or body, in 147 cases (74%) to a local administration, and in the remaining 5 cases (3%), the recipients were mixed (both local and central).

Finally, with regard to the **most recurring profiles**, across the 198 interventions overall, the most frequently identified competition concerns relate to restrictions on "*awards without tender*" (86 cases), "*tenders and contracts*" (43 cases), and "*limitations on the exercise of business activities*" (30 cases).

Overall outcome of advocacy activities (2023-2024)

In order to consolidate its reliability, the processing of data in this monitoring section referred only to cases where it was possible to assess the outcome, whereas cases considered as "not assessable" were excluded, according to the criterion already introduced for the monitoring relating to the two-year period 2017-2018.

The 21 not-assessable cases were therefore subtracted from the total 198 cases, and the processing of the outcomes referred to 177 interventions, of which 64 in 2023 and 113 in 2024. The success rate for the two-year period is **60%**.

Table 1 – Total and single-year outcomes (2023-2024)

OUTCOMES	Total		Cases in 2023		Cases in 2024	
	no. of cases	%	no. of cases	%	no. of cases	%
NEG	70	40%	16	25%	54	48%
P.POS.	22	12%	8	13%	14	12%
POS	85	48%	40	63%	45	40%
Overall total	177	100%	64	100%	113	100%
Success rate (POS + P.POS.)	107	60%	48	75%	59	52%

Source: AGCM calculations on 2023 and 2024 data

Analysing the effectiveness rate of interventions based on the **type of recipient** they were directed to (Table 2), there is greater adherence from central administrations and the legislator (“central recipients”) compared to “local recipients”: the former achieved a success rate of 83%, while the latter recorded a rate of 54%.

Table 2 – Total outcomes, broken down by type of recipient

Recipient	NEG	P.POS.	POS	POS + P.POS	Overall total
Central (41 cases)	17%	15%	68%	83%	100%
Mixed (1 case)	100%	-	-	-	100%
Local (135 cases)	46%	12%	42%	54%	100%
... including, in particular*:					
Municipalities (89 cases)	59%	8%	33%	41%	100%
Provinces (6 cases)	33%	17%	50%	67%	100%
Regions (7 cases)	14%	-	86%	86%	100%
Overall rate	40%	12%	48%	60%	100%

* only the most recurrent local levels are reported in detail (excluding, for example, Optimal Territorial Areas - ATOs, Chamber of Commerce, even though they are included in the “local” level).

Source: AGCM calculations on 2023 and 2024 data

As for the **level of finality** of the reported act (Table 3), the data clearly shows that the success rate is much higher (86%) when the Authority intervenes on **non-definitive acts** (e.g. draft calls for tenders, draft decrees, bills) compared to definitive acts (54%).

Table 3 – Outcome of the interventions, broken down by level of finality of the reported acts

	NEG	P.POS.	POS	POS + P.POS	Overall total
Final acts (142 cases)	46%	10%	44%	54%	100%
Non-final acts (35 cases)	14%	20%	66%	86%	100%
Overall rate	40%	12%	48%	60%	100%

Source: AGCM calculations on 2023 and 2024 data

2. Results broken down by legal basis of intervention instrument

Table 4 illustrates the breakdown of the 177 interventions considered assessable over the two-year period 2023-2024, depending on the legal instrument used.

In particular, with regard to opinions pursuant to art. 21-*bis*, including 21-*bis* TUSPP, it should be noted that the success rate found, equal to 44%, increases to 63% when excluding the sector of State-owned maritime concessions for tourism and recreational purposes, which significantly affected the overall figure in 2024.

Table 4 – Total outcomes, broken down by type of intervention instrument

Intervention instrument	NEG	P.POS.	POS	POS + P.POS	no. of cases assessed*	no. of total cases	Overall total
21	42%	24%	34%	58%	38	43	100%
22	13%	37%	50%	87%	30	41	100%
21-bis + 21-bis TUSPP	56%	-	44%	44%	87	91	100%
21-bis + 21-bis TUSPP (excluding maritime concessions)	37%	-	63%	63%	35	39	100%
22 PCM	25%	25%	50%	75%	4	5	100%
Other regulations*	-	6%	94%	100%	18	18	100%
Overall rate	40%	12%	48%	60%	177	198	100%

* Interventions pursuant to the Electronic Communications Code; Legislative Decree no. 9/2008, the so-called "Melandri Decree"; Legislative Decree no. 142/2020 on the regulation of professions.

** Number of cases, less interventions classified as "not assessable".

The analyses of data and considerations relating to advocacy interventions broken down by legal instrument used by the Authority are set out below.

2.1. Outcome of reports adopted pursuant to Art. 21

The overall success rate was **58%** (Table 5) with regard to the 38 reports pursuant to **Art. 21** (19 in 2023 and 19 in 2024), considered assessable.

The success rate of reports varies significantly depending on the type of recipient, depending on whether it is a central administration/institution or a local administration/institution.

Table 5 – Overall outcomes of reports pursuant to Art. 21, broken down by type of driver and type of recipient

	NEG	P.POS.	POS	Overall total	POS + P.POS
2024 (19 cases)	31,5%	37%	31,5%	100%	68,5%
2023 (19 cases)	53%	10,5%	36,5%	100%	47%
<i>- Central recipient (5)</i>	100%	-	-	100%	-
<i>- Local recipient / mixed(33)</i>	33%	27%	40%	100%	67%
Overall rate	42%	24%	34%	100%	58%

Source: AGCM calculations on 2023 and 2024 data

2.2. Outcome of opinions pursuant to Art. 22

The 30 opinions considered assessable, issued pursuant to **Art. 22** - of which 13 in 2023 and 17 in 2024 - showed the best results with an **overall success rate of 87%**.

Table 6 illustrates the outcomes also based on the driver and the administrative level of the recipient.

Contrary to previous monitoring exercises, the data show a higher success rate when the intervention was initiated *ex officio* (89%), compared to when it was requested by the recipient (86%). In both cases, the level of compliance rises to 100% when considering only those interventions addressed to a central administration or institution.

The opinions relating to Consip calls for tenders recorded a 100% success rate.

Table 6 – Outcomes of opinions pursuant to Art. 22, total and broken down by type of driver and type of recipient

	NEG	P.POS.	POS	Overall total	POS + P.POS
2024 (17 cases)	24%	29%	47%	100%	76%
2023 (13 cases)	-	46%	54%	100%	100%
Overall rate	13%	37%	50%	100%	87%
Data broken down by driver/administrative level of the recipient					
Requested (21 cases)	14%	33%	53%	100%	86%
By central administrations/institutions (9)	-	44%	56%	100%	100%
By local administrations/institutions (8)	37,5%	37,5%	25%	100%	62,5%
MEF/CONSIP (4 cases)	-	-	100%	100%	100%
Ex officio (9 cases)	11%	44,5%	44,5%	100%	89%
To central administrations/institutions (1)	-	-	100%	100%	100%
To local administrations/institutions (8)	12,5%	50%	37,5%	100%	87,5%

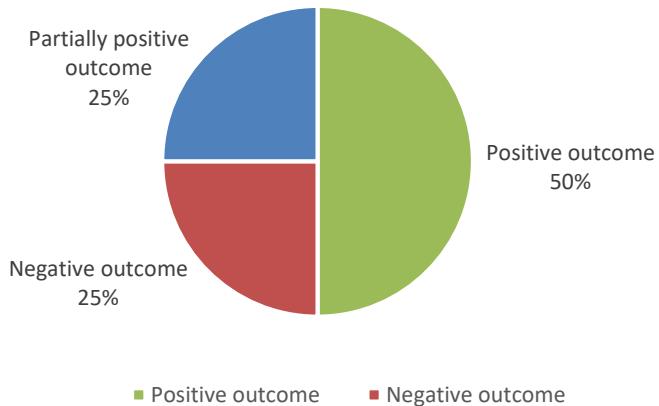
Source: AGCM calculations on 2023 and 2024 data

2.3. Outcome of opinions pursuant to Art. 22 to the PCM

With regard to the opinions submitted to the Presidency of the Council of Ministers (**22PCM**) over the period under consideration, the Authority expressed 5 opinions, of which 2 in 2023 and 3 in 2024. Of 5 opinions, 4 were considered "assessable". With regard to the opinions issued, the success rate is measured based on the number of times when the PCM, having received the opinion of the Authority, decided to challenge the regional law before the Constitutional Court, for the profiles covered by the opinion, or the regional law was amended.

In the two-year period under consideration, the PCM challenged 3 out of 4 regional laws, which were the subject of the opinions before the Constitutional Court, achieving a success rate of 75%.

Chart 4: Outcomes of assessable opinions under Article 22 PCM in the 2023-2024 two-year period



Source: AGCM calculations on 2023 and 2024 data

2.4. Outcomes of opinions pursuant to Art. 21-bis

There were 87 interventions, carried out pursuant to Art. 21-bis, that received an assessment over the two-year period examined (of which, 9 classified pursuant to Art. 21-bis TUSPP). It should be noted that the success rate for this instrument is determined by the number of cases where the administration followed up on the Authority's requests out of the total number of interventions carried out pursuant to Art. 21-bis. More specifically, the following cases are positively assessed: *i.* the act was amended following the opinion or in any case the observations expressed by the administrations were deemed suitable to clarify the competitive concerns identified by the Authority which, therefore, did not challenge the reported act before the competent Regional Administrative Court; *ii.* those where the administration complied in the course of the proceedings and the Authority consequently waived the appeal; *iii.* those where the Administrative Court upheld the appeal by the Authority, with a final and binding judgment. Conversely, cases are classified as negative when the Authority, having noted the entity's failure to comply with the opinion, challenged the reported act before the competent Regional Administrative Court (TAR), up to the conclusion of the proceedings, or where a final judgment was unfavourable to the Authority.

Specifically, in 2024, the number of appeals filed by the Authority in the area of State-owned maritime concessions for tourism and recreational purposes (with proceedings still pending) was particularly high, significantly lowering the overall success rate of opinions issued under Art. 21-bis. Accordingly, it was deemed appropriate to report both the data on the outcomes of such interventions excluding beach concession cases, and the 'overall' success rate including that sector (see Charts 5 and 5-bis) In the first case, the success rate stands at 63%⁵

⁵ More specifically, the success rate is 73% for interventions under the 'ordinary' Article 21-bis, while it stands at 33% for those under Article 21-bis TUSPP.

– a figure in line with that recorded in the previous monitoring – while in the second case the rate drops to **44%**⁶.

Chart 5: Outcomes of opinions pursuant to Articles 21-bis and 21-bis TUSPP in the two-year period 2024-2023 (excluding State-owned maritime concessions)

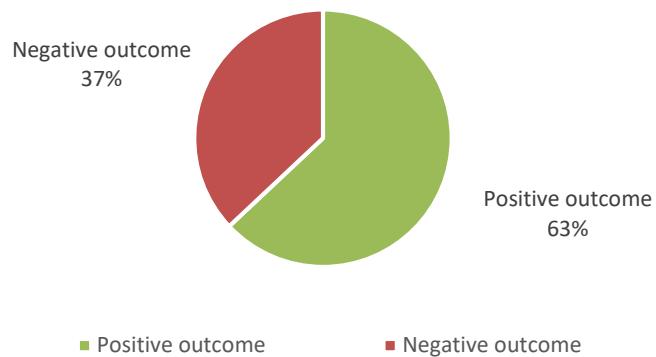
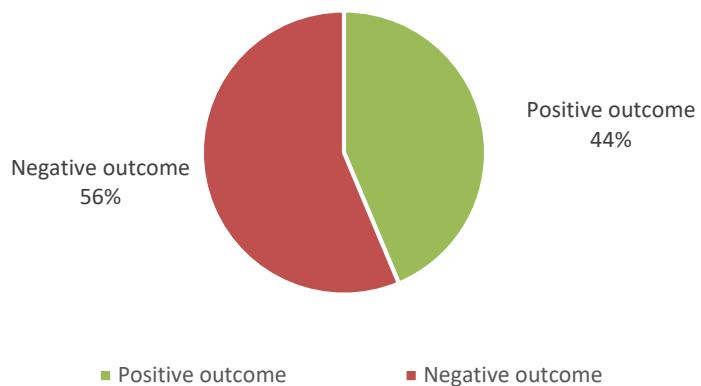


Chart 5-bis: Outcomes of opinions pursuant to Articles 21-bis and 21-bis TUSPP in the two-year period 2024-2023 (with State-owned maritime concessions)



Source: AGCM calculations on 2023 and 2024 data

2.5. Outcome of opinions pursuant to sectoral regulations

Under this item fall a total of 18 interventions, specifically: 7 pursuant to Article 64 of Legislative Decree no. 259/2003⁷; 4 pursuant to Article 3(3) of Legislative Decree no.

⁶ The success rate is 45% for interventions under the ‘ordinary’ Article 21-bis, while it remains at 33% for those under Article 21-bis TUSPP.

⁷ Legislative Decree no. 259 of 1 August 2003 (*Electronic Communications Code*). It should be noted that the legal basis in question was incorporated into the ‘Advocacy Interventions’ database during the year and has been taken into account in the monitoring of interventions carried out as of 1 January 2023. For consistency reasons, the figures exclude opinions issued in previous years up to and including 2022, as these had already been approved by the Board.

142/2020⁸; 5 pursuant to Article 6 of Legislative Decree no. 9/2008⁹; and 2 pursuant to Article 78 of Legislative Decree no. 259/2003. The overall success rate was 100%.

III. FINAL CONSIDERATIONS

The data for this monitoring records an **overall success rate of advocacy interventions of 60%**, slightly lower than that recorded in the previous monitoring period. This figure appears to be largely influenced by the outcomes of the interventions adopted in 2024 in the sector of State-owned maritime concessions.

Regarding instruments, there was confirmation that opinions pursuant to Art. 22 were more effective compared to the reports pursuant to Art. 21 and opinions pursuant to Art. 21-bis.

From a systematic perspective, the following aspects deserve consideration regarding the reference two-year period.

The total number of reports and opinions have increased significantly: from 137 interventions carried out in the 2022-2023 period to 198, with a marked difference between 2023 (69) and 2024 (129). This gap is attributable to the numerous interventions undertaken in 2024 in the area of State-owned maritime concessions for tourism and recreational purposes.

As in the previous monitoring, regarding the most frequently identified types of restrictions, cases relating to awards, both with and without tenders, predominated. Considering the administrative level of the recipients, the cases mainly involved local administrations (particularly municipalities).

Furthermore, the submission in 2023 and 2024 of the report "*Proposals for competitive reform for the purposes of the annual law for the market and competition*" (respectively, AS1893 and AS2045) to the Government, may have had a "deflationary" effect on the number of interventions that were addressed to the legislature or the central administration (21 in 2023 and 25 in 2024) over the two-year period. The submission of a framework report to the legislature, as a rule, absorbs individual interventions that, otherwise, would have been undertaken separately on specific issues.

The monitoring of advocacy interventions provides an assessment on the level of efficiency and effectiveness achieved by the work done, in line with the best practices found among the national Authorities of the *European Competition Network*.

Annex A – List of 2023 interventions considered, with the related outcomes

Annex B – List of 2024 interventions considered, with the related outcomes

⁸ Legislative Decree no. 142 of 16 October 2020 (*Transposing Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions*).

⁹ Legislative Decree no. 9 of 9 January 2008 (*Regulation on the ownership and marketing of audio-visual sports rights and relative distribution of resources* - so-called Melandri Decree).