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Delegations will find attached document SWD(2016) 230 final.

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EUROPEAN
COMMISSION

Brussels, 15.7.2016
SWD(2016) 230 final

COMMISSION STAFF WORKING DOCUMENT

Part I: Policy areas

Accompanying the document

Report from the Commission

Monitoring the application of European Union law 2015 Annual Report

{ COM(2016) 463 final }

{ SWD(2016) 231 final }

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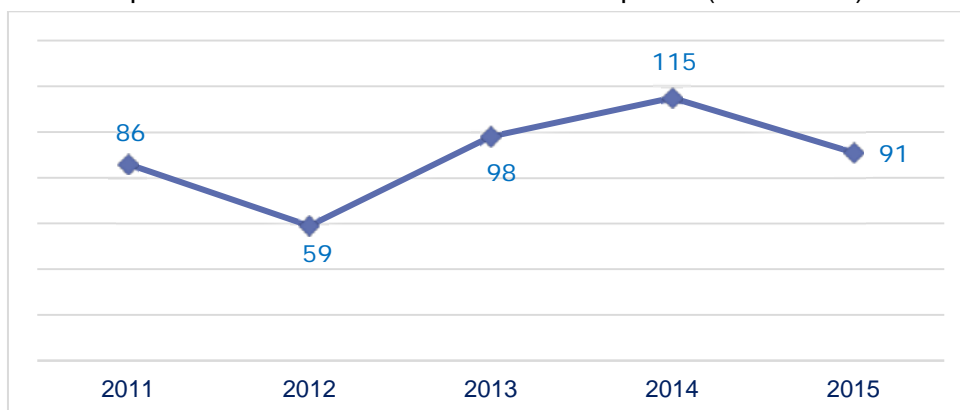
This document provides an overview of the challenges in application of EU law in policy areas where the most significant developments related to infringement took place.

Agriculture and rural development

In 2015 new complaints in the area of agriculture and rural development were lower than in 2013 and 2014 but above the levels registered in 2011 and 2012. The number of new EU Pilot files reached a five-year peak. Infringement cases open at the end of 2015 were slightly higher than a year earlier but considerably below the levels previous to that. New late transposition cases returned to the level of their 2011 peak.

I. COMPLAINTS

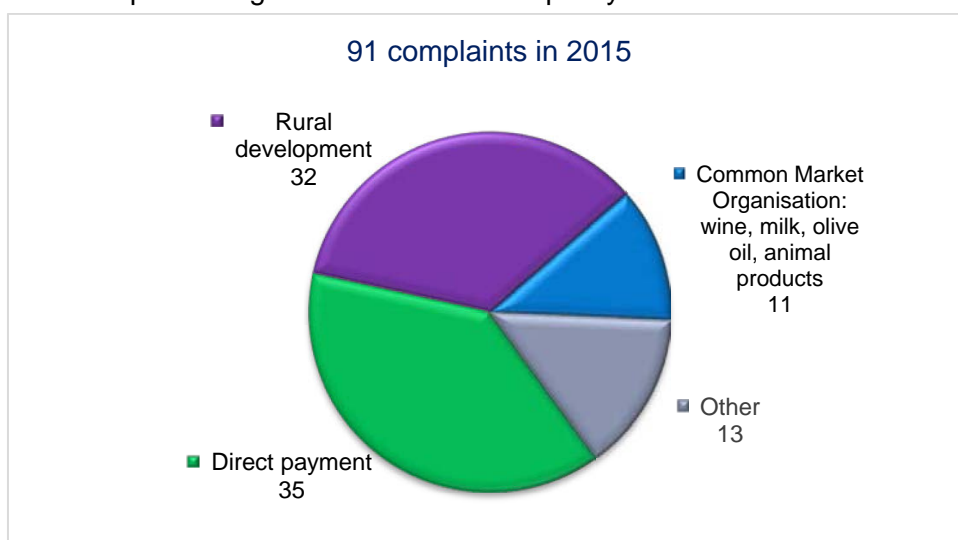
1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

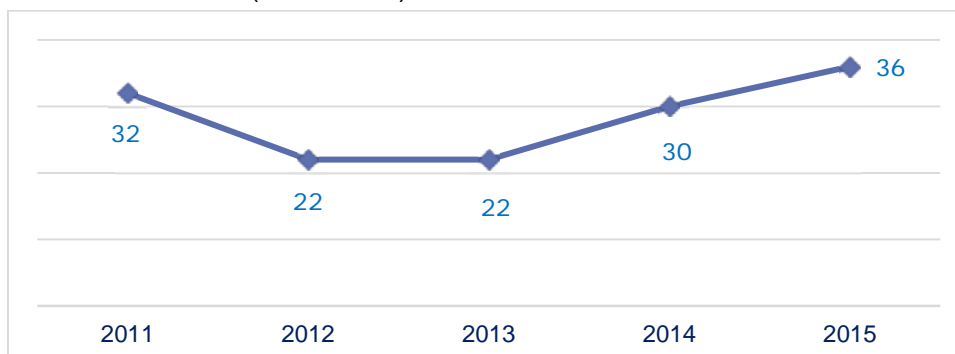
54	>	Complaints open at end-2014
91	>	New complaints registered in 2015
110	>	Complaints handled in 2015
<hr/>		
= 35	>	Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

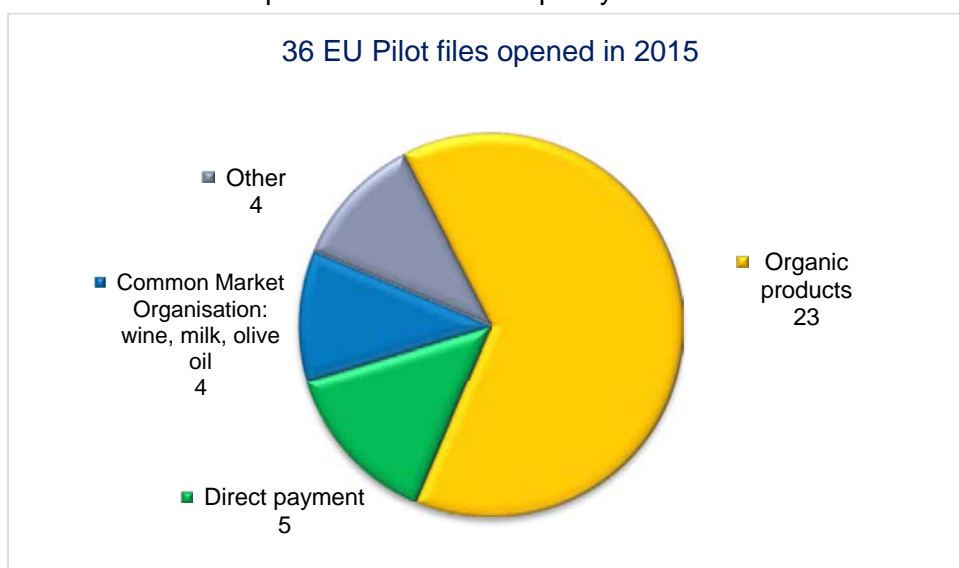
1. New EU Pilot files (2011-2015)



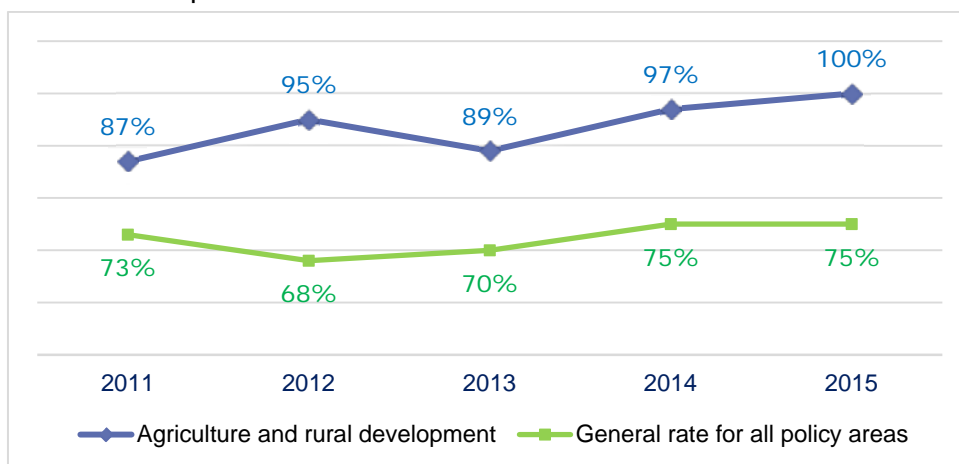
2. EU Pilot files open at year-end

16	>	EU Pilot files open at end-2014
36	>	New EU Pilot files registered in 2015
30	>	EU Pilot files handled in 2015
<hr/>		
= 22	>	EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

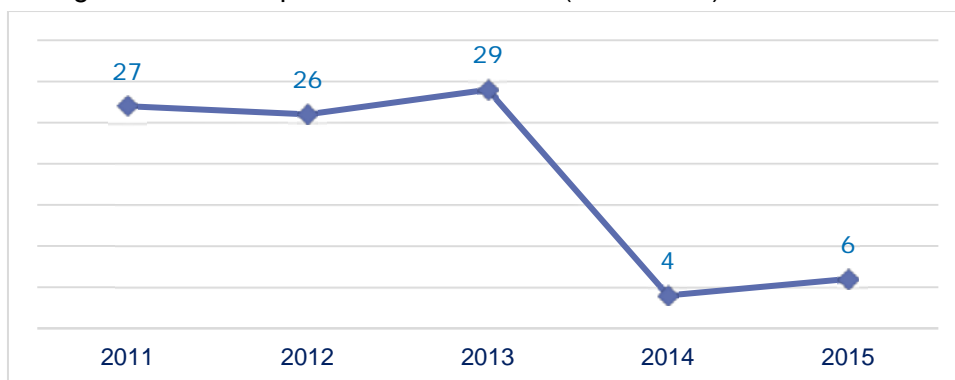
New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

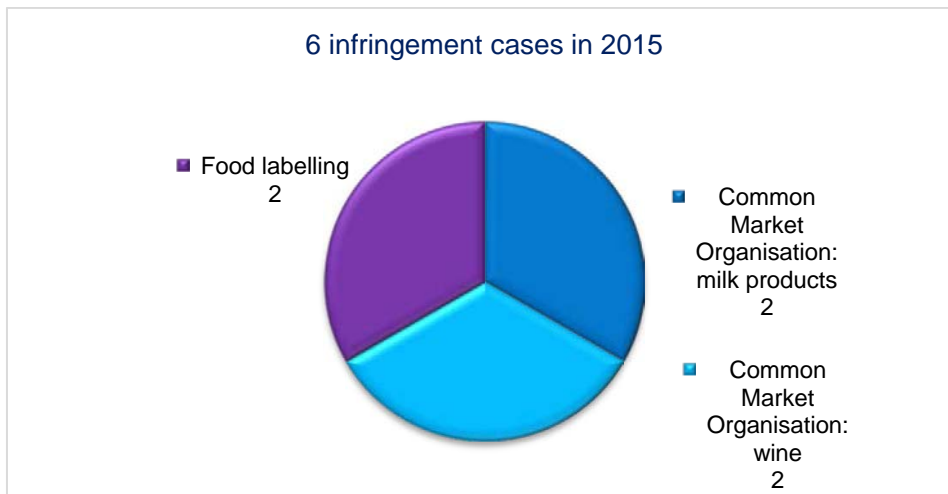
- unlawful restrictions on authorisation of vine plantings;
- non-compliance by a substantial number of Member States with the EU provisions on organic products regarding the exchange of information on irregularities or infringements of EU requirements;
- direct payments reform.

IV. INFRINGEMENT CASES

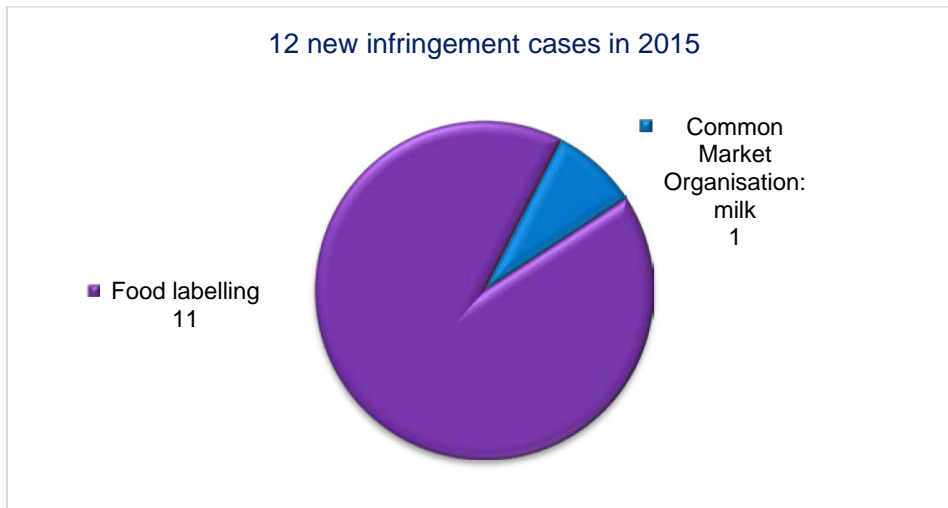
1. Infringement cases open on 31 December (2011-2015)



2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: policy sectors



4. Key infringement cases and referrals to the Court

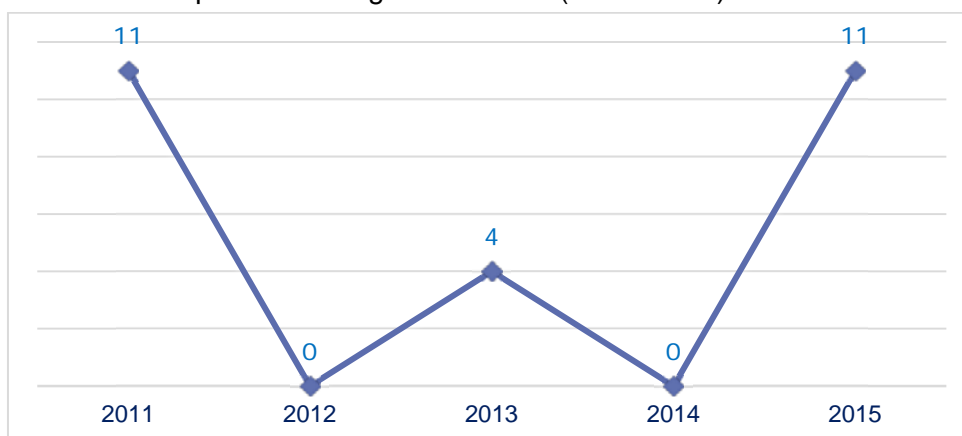
- a) The Commission opened 12 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
 - *Italy*: ban on the use of condensed and powdered milk in the manufacture of dairy products;
 - 11 Member States: non-communication of national measures transposing the Directive on honey labelling.¹
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerned:
 - *Italy*: failure to recover milk levies due from Italian producers.²
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Directive [2014/63/EU](#).

² Commission v Italy, [C-433/15](#) and [IP/15/4490](#).

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)



2. New late transposition infringement cases opened in 2015: main policy sectors

The Commission opened 11 late transposition infringement cases in the area of food labelling³ (see below)

3. Key infringement cases and referrals to the Court

- The 11 cases for late transposition opened in 2015 all concern the Directive⁴ amending the Directive on honey labelling.⁵
- The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned late transposition of the Directive on honey labelling.⁶

VII. IMPORTANT JUDGMENTS

1. Court rulings⁷

There were no major Court rulings in 2015.

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- Greece*: only people who have previously produced agricultural products could benefit under the long-term set-aside scheme for agricultural land;⁸
- Italy*: the practice of selling and re-selling bananas for the sole purpose of benefiting from the preferential rate of duty for imports, even if formally in line with the letter of the EU rules, are in the end an abuse of those rules;⁹
- Germany*: where an infringement of a provision of EU law is discovered only after the prejudice has occurred, the limitation period (after which the case is time-barred) begins

³ Directive [2014/63/EU](#).

⁴ Directive [2014/63/EU](#).

⁵ Directive [2001/110/EC](#).

⁶ Directive [2014/63/EU](#).

⁷ These rulings are almost exclusively handed down on infringement procedures.

⁸ *Agrooikosystemata*, [C-498/13](#).

⁹ *Cimmino and Others*, [C-607/13](#).

to run from the time when both the economic operator's act or omission that infringed EU law and the prejudice caused to the budget of the EU or budgets managed by it occurred;¹⁰

- *UK*: the Common Market Organisation Regulation¹¹ does not preclude a national measure imposing a minimum price per unit of alcohol for retail sales of wines, provided that this measure is appropriate to secure the objective of protecting human life and health and does not go beyond what is necessary to attain that objective. Nonetheless, such a measure constitutes an obstacle to the free movement of goods which cannot be seen as justified if it is possible to protect health equally effectively by tax measures which restrict trade and competition less;¹²

VIII. OUTLOOK

Important implementation work in 2016 includes:

- giving particular attention to cases which jeopardise the effectiveness of important common agricultural policy mechanisms, especially the provision of agricultural market and income support;
- closely monitoring Member States' application of the mechanisms set out in the Common Market Organisation Regulation, as reformed on 1 January 2014, and correct application of the reformed direct payments regime which entered into force on 1 January 2015;¹³
- giving particular attention to proper implementation of the rules on organic products;
- using the clearance of accounts procedure in the agricultural sector to persuade Member States to adapt their management and control systems where conformity audit mechanisms have detected infringements.

¹⁰ Firma Ernst Kollmer Fleischimport und –export, [C-59/14](#).

¹¹ Regulation (EU) No [1308/2013](#).

¹² The Scotch Whisky Association, [C-333/14](#).

¹³ Regulation (EU) No [1307/2013](#).

Budget

In 2015 the Commission did not receive any new complaints in the area of financial programming and budget, nor did it open any new EU Pilot files. It did, however, open one infringement case.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)

The Commission did not receive any complaints in the area of financial programming and budget.

2. Public complaints open at year-end

The Commission did not process any complaints in this area.

II. EU PILOT

1. New EU Pilot files (2011-2015)

Generally, the Commission does not launch EU Pilot files in this area as other procedures exist which function in a way equivalent to EU Pilot.

Accordingly, in 2015 the Commission made 101 new findings in the area of traditional own resources (there were 90 in 2014) and set 30 Value Added Tax (VAT) reservations¹ (28 in 2014). No Gross National Income (GNI) reservations were set (28 in 2014). Correspondingly, 677 accounting actions for traditional own resources (789 in 2014) and 305 for VAT/GNI (243 in 2014) were generated for potential corrective payments (principal amounts and belated interest) by Member States. Most of the new findings were solved at an early stage in bilateral discussions with Member States or in the Advisory Committee on Own Resources.

2. EU Pilot files: Member States' combined resolution rate in 2011-2015

The Commission did not process any EU Pilot files in this area.

III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2015

In 2015, the Commission opened one own-initiative infringement case (see below).

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- a) The one own-initiative infringement case opened by the Commission in 2015 concerned:
 - *Belgium*: national authorities' request for the Commission to waive the collection of traditional own resources. However, the Commission takes the view that the authorities did not demonstrate that the entitlements were irrecoverable for reasons not attributable to them;
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Council Regulation (EEC, Euratom) No [1553/89](#) and Council Regulation (EC, Euratom) [1150/2000](#).

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

The Commission did not close any major infringement cases in 2015 in this area.

VI. IMPORTANT JUDGMENTS

1. Court rulings²

The Court ruled that:

- *Romania, Slovakia, Slovenia and Spain*: a Commission letter inviting the Member States to pay own resources is not a measure against which an action for annulment may be brought.³ Appeals against this decision are pending before the Court of Justice.⁴

2. Preliminary rulings

There were no major preliminary rulings in 2015 in this area.

VII. OUTLOOK

Important implementation work in 2016 includes:

- monitoring the correct application of the Regulation on own resources.⁵ This requires Member States to submit the supporting documents necessary for financial follow-up to the Commission within two months after the settlement of disputes. This is expected to accelerate the follow-up of Court judgments.

² These rulings are almost exclusively handed down on infringement procedures.

³ *Slovenia v Commission*, [T-585/14](#); *Slovakia v Commission*, Cases [T-678/14](#) and [T-779/14](#); *Romania v Commission*, [T-784/14](#); *Spain v Commission*, [T-841/14](#).

⁴ *Romania v Commission*, Case [C-599/15 P](#); *Slovakia v Commission*, Cases [C-593/15 P](#) and [C-594/15 P](#).

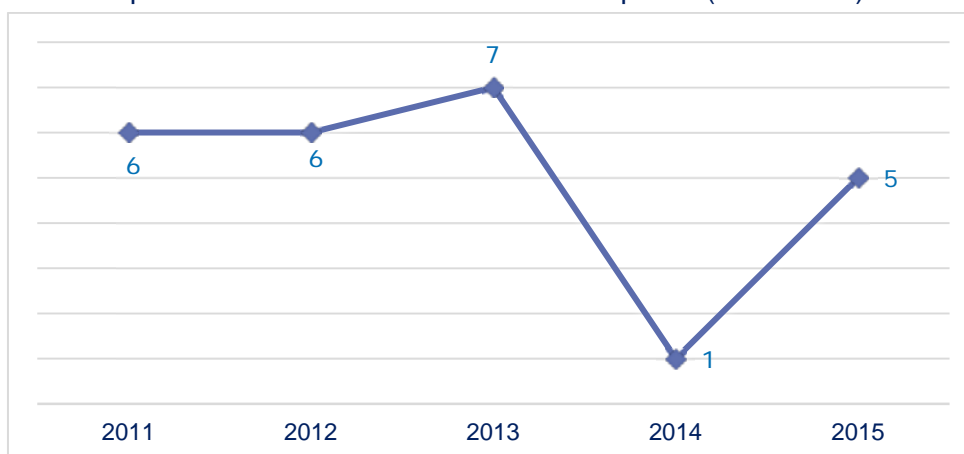
⁵ Council Regulation (EU, Euratom) No [609/2014](#).

Climate action

New complaints in the area of climate action rose slightly in 2015 but remained just below the levels seen until 2013. The number of new EU Pilot files decreased from 2014's peak. The Commission opened nine new infringement cases.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)

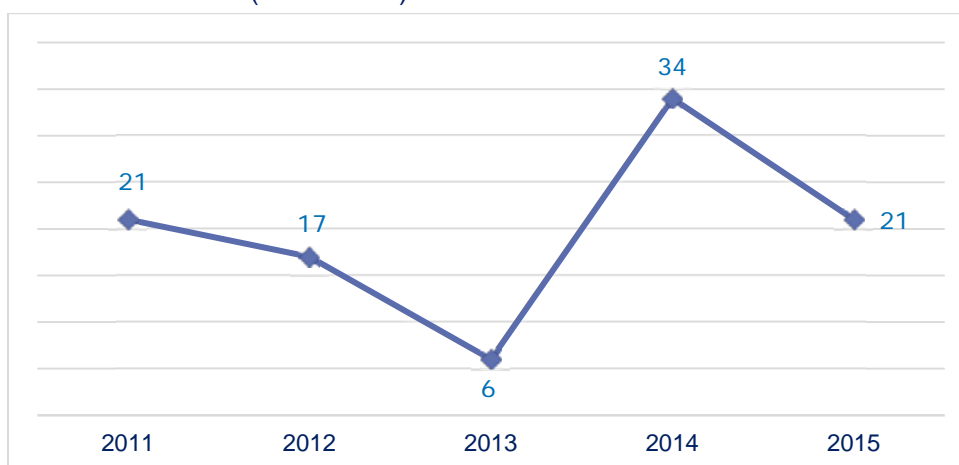


2. Public complaints open a year-end

0	>	Complaints open at end-2014
5	>	New complaints registered in 2015
1	>	Complaints handled in 2015
<hr/>		
= 4	>	Complaints open at end-2015

II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot files open at year-end

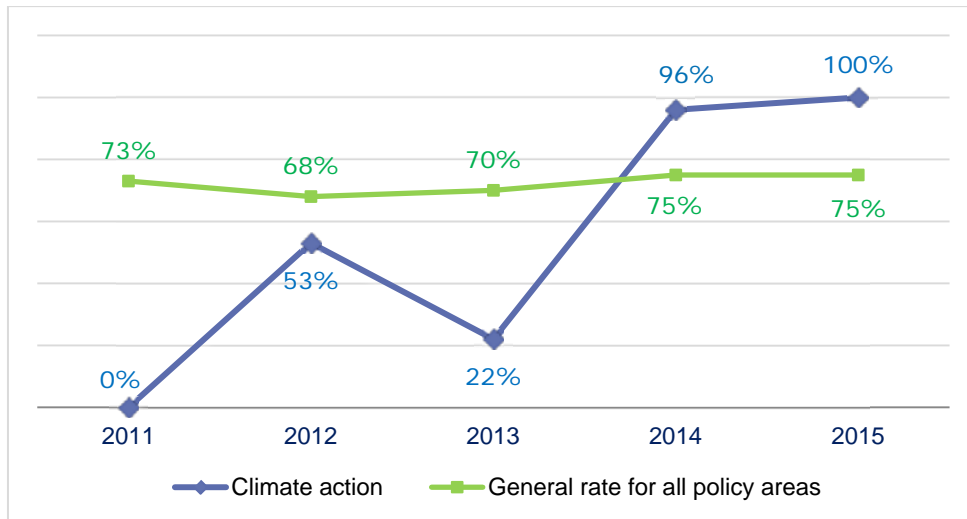
31 > EU Pilot files open at end-2014

21 > New EU Pilot files registered in 2015

36 > EU Pilot files handled in 2015

= 16 > EU Pilot files open at end-2015

3. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- failure to comply with reporting obligations prescribed by the EU climate *acquis*,
- non-conformity of national measures with the Directives on fuel quality¹ and the geological storage of carbon dioxide.²

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- The Commission opened nine new infringement cases in 2015 for non-communication of national measures transposing the Directive on the quality of petrol and diesel fuels.³
- The Commission did not refer any cases to the Court under Article 258 TFEU.
- The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Directive [2009/30/EC](#).

² Directive [2009/31/EC](#).

³ Directive [2014/77/EU](#).

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Poland*: late transposition of the Directive extending the EU emissions trading scheme;⁴
- *Sweden and Poland*: late transposition of the Directive on the geological storage of carbon dioxide.⁵

VI. IMPORTANT JUDGMENTS

1. Court rulings⁶

The Court ruled that:

- *Poland* failed to comply with the Regulation on fluorinated greenhouse gases⁷ and its implementing regulations.⁸ It has not notified to the Commission the required information on certification bodies, titles of certificates and penalties applicable to breaches of these provisions.⁹

2. Preliminary rulings

There were no major preliminary rulings in 2015 in this area.

VII. OUTLOOK

Important implementation work in 2016 includes:

Checking the conformity of national measures with the Directives on:

- the emissions trading scheme (ETS),¹⁰
- fuel quality,¹¹ and
- geological storage of carbon dioxide.¹²

⁴ Directive [2009/29/EC](#).

⁵ Directive [2009/31/EC](#).

⁶ These rulings are almost exclusively handed down on infringement procedures.

⁷ Regulation (EC) No [842/2006](#).

⁸ Regulations (EC) no [303/2008](#), [304/2008](#), [305/2008](#), [306/2008](#), [307/2008](#) and [308/2008](#).

⁹ Commission v Poland, [C-303/14](#). Poland subsequently adopted the necessary legislative measures and the Commission has closed the case.

¹⁰ Directive [2009/29/EC](#).

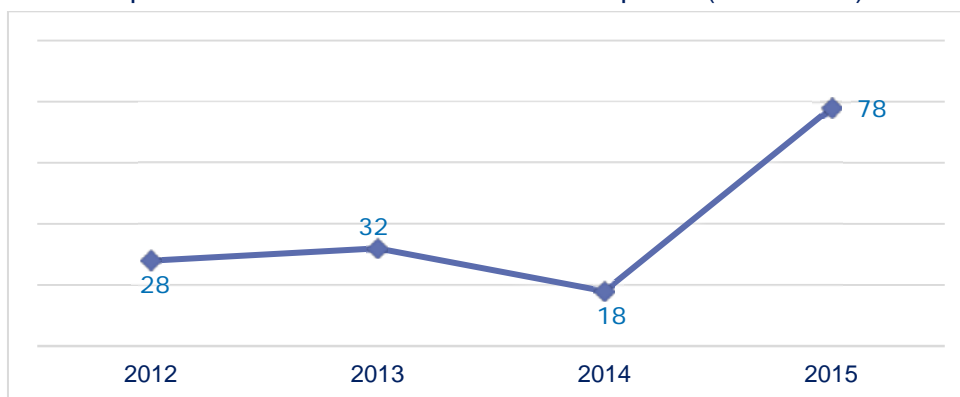
¹¹ Directive [2009/30/EC](#).

¹² Directive [2009/31/EC](#).

Communications networks, content and technology

In 2015 new complaints in the area of communications networks, content and technology jumped to their highest level in recent years. New EU Pilot files also increased after falling in the previous year to their lowest point since 2011. The number of infringement cases pending at the end of 2015 increased as well, but was half the level reached in 2011. The Commission opened 17 new late transposition cases, the first since 2011.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)¹

2. Public complaints open a year-end

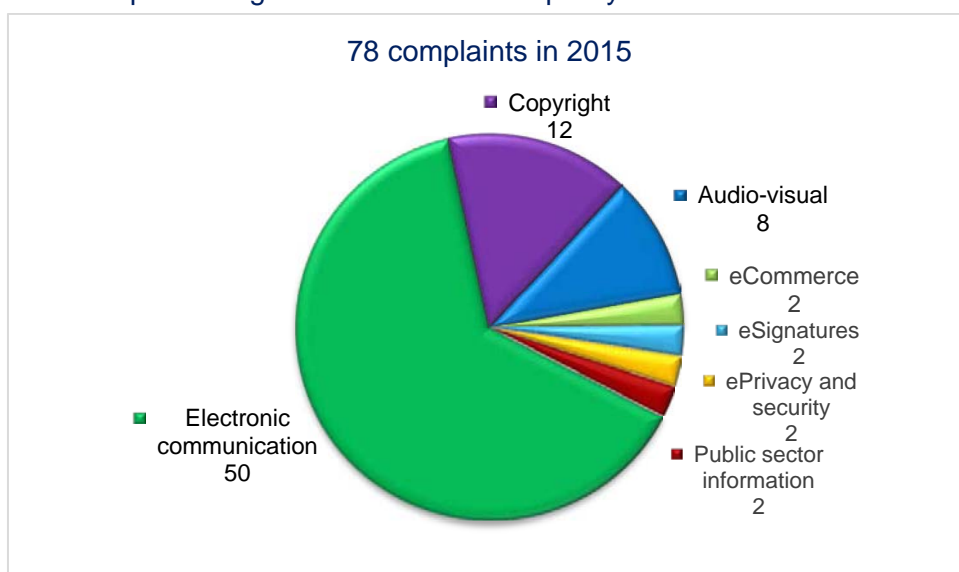
23 > Complaints open at end-2014

78 > New complaints registered in 2015

32 > Complaints handled in 2015

= 69 > Complaints open at end-2015

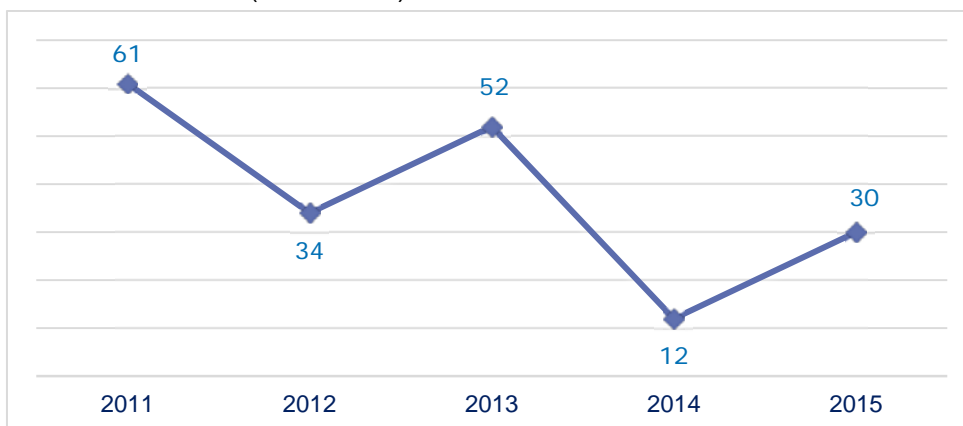
3. New complaints registered in 2015: main policy sectors



¹ No historical data are available for this area for 2011.

II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot files open at year-end

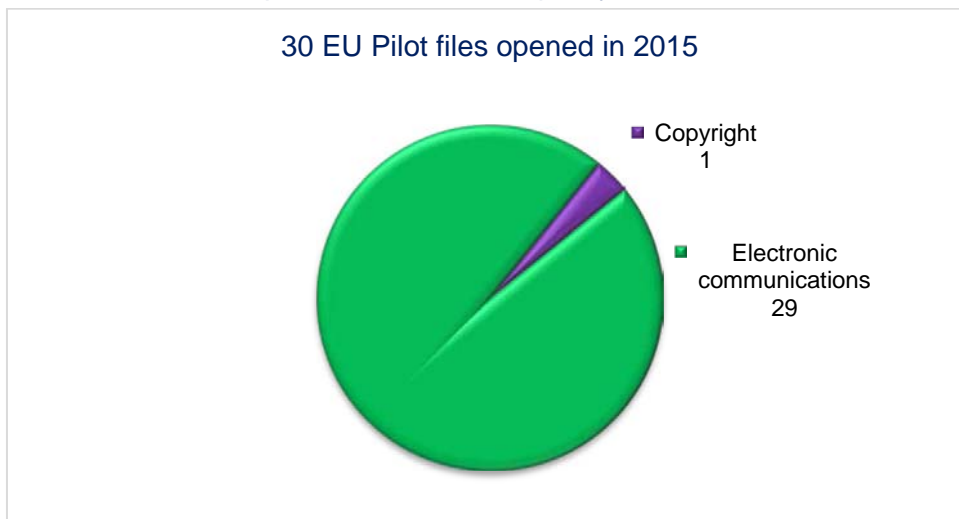
38 > EU Pilot files open at end-2014

30 > New EU Pilot files registered in 2015

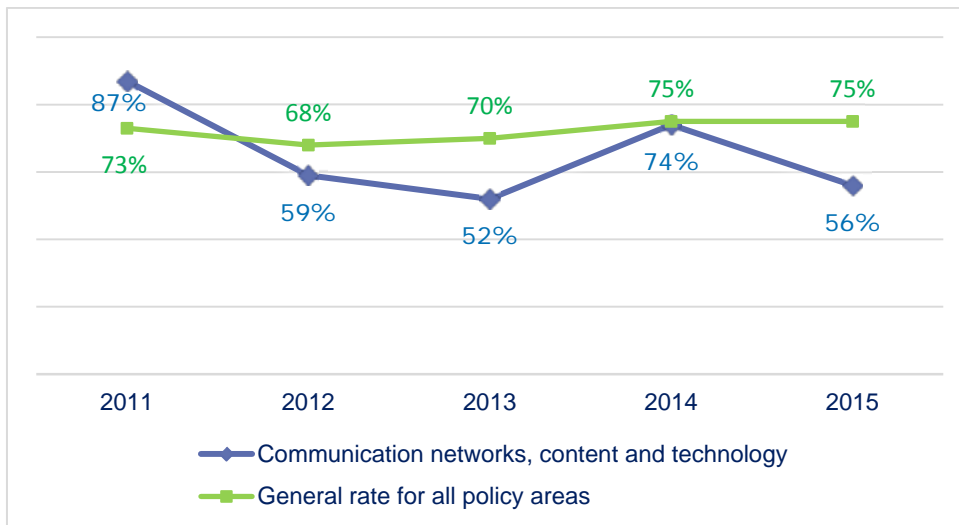
23 > EU Pilot files handled in 2015

= 45 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



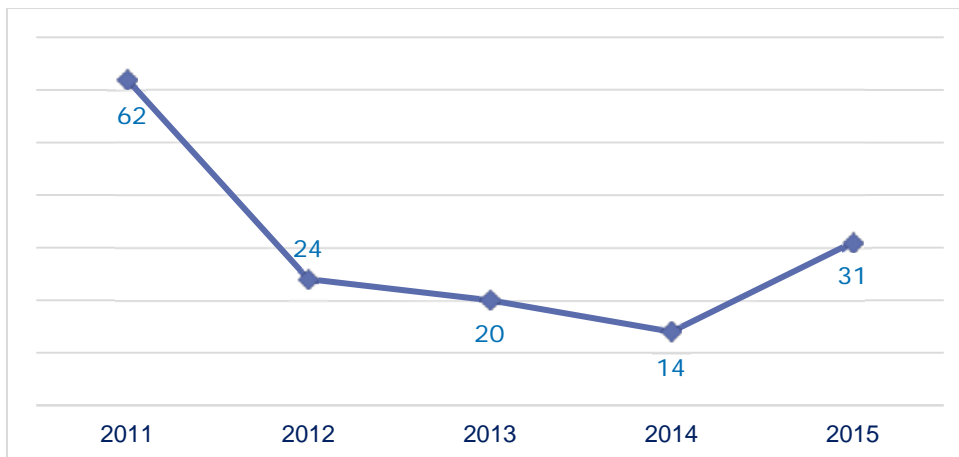
III. OWN-INITIATIVE CASES

New own-initiative infringement cases

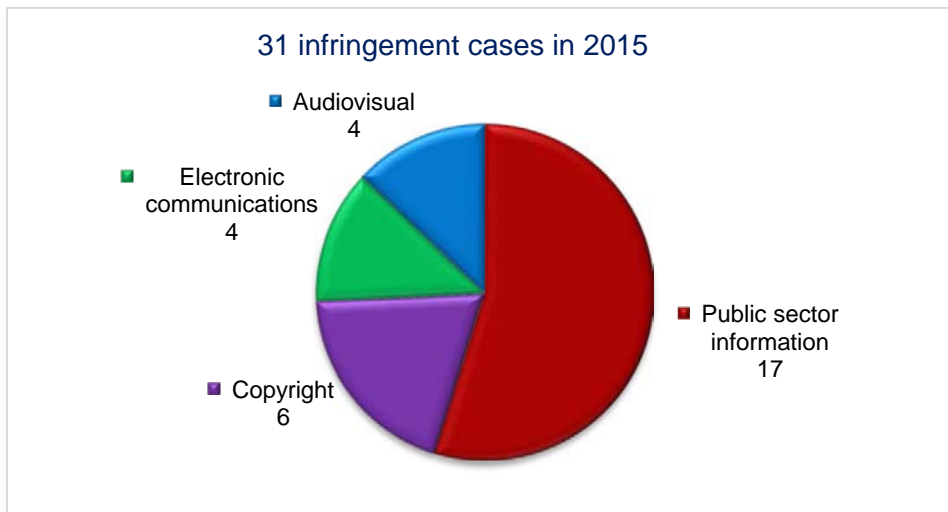
The Commission opened own-initiative infringement cases concerning electronic communications in 2015.

IV. INFRINGEMENT CASES

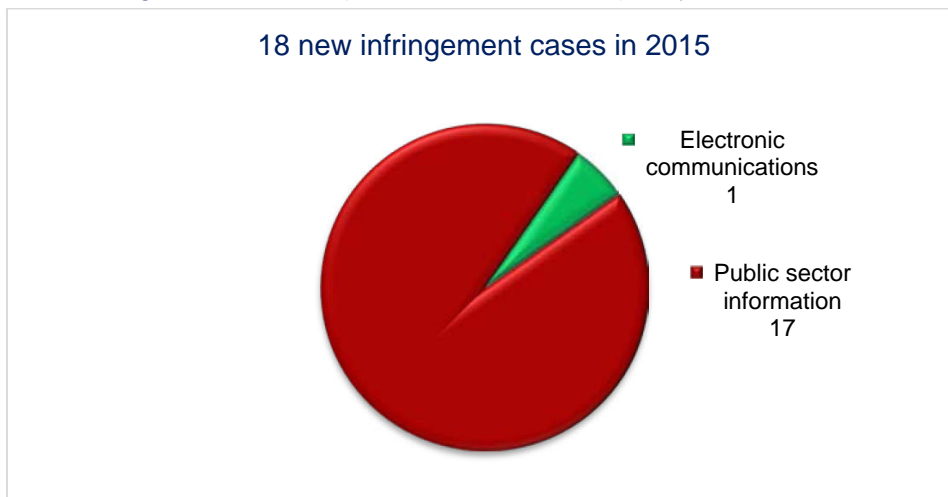
1. Infringement cases open on 31 December (2011-2015)



2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors



4. Key infringement cases and referrals to the Court

- a) The Commission opened 18 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
 - *Luxembourg, Poland*: non-communication of measures transposing the Directive on orphan works into national legislation;²
 - *Czech Republic*: non-conformity of the general authorisation regime for electronic communications with the provisions of the Authorisation Directive,³ in particular the requirement to establish legal residence;⁴
 - *Portugal*: non-conformity of national law with the general principles of transparency, least market distortion, non-discrimination and proportionality as set out in the Universal Service Directive.⁵
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

² Directive [2012/28/EC](#); [MEMO/15/5053](#).

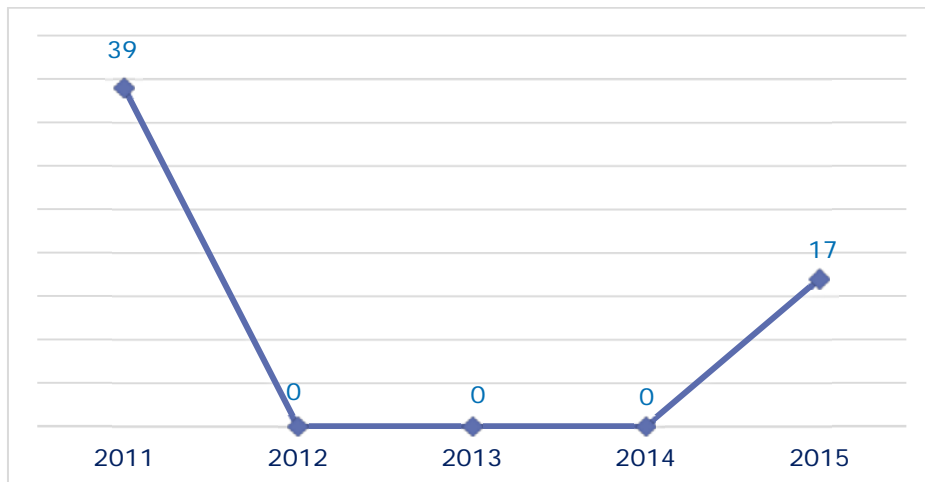
³ Directive [2002/20/EC](#).

⁴ [MEMO/15/4871](#).

⁵ Directive [2002/22/EC](#).

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)



2. New late transposition infringement cases opened in 2015: main policy sectors

The Commission opened 17 new late transposition infringement cases in the area of public sector information⁶ (see below).

3. Key infringement cases and referrals to the Court

- a) Most of the 17 cases for late transposition opened in 2015 concern:
 - late transposition of the Directive on the re-use of public sector information.⁷
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Belgium*: breach of the independence requirements for national regulatory authorities under the Framework Directive for electronic communications networks and services;⁸
- *Bulgaria*: the powers of the national regulatory authorities to impose penalties. These raised questions of conformity with the Framework Directive for electronic communications networks and services and the Authorisation Directive.⁹

VII. IMPORTANT JUDGMENTS

1. Court rulings¹⁰

There were no major Court rulings in 2015.

2. Preliminary rulings

In preliminary rulings, the Court:

⁶ Directive [2013/37/EU](#).

⁷ Directive [2013/37/EU](#).

⁸ Directive [2002/21/EC](#).

⁹ Directives [2002/21/EC](#) and [2002/20/EC](#).

¹⁰ These rulings are almost exclusively handed down on infringement procedures.

- *Austria*: provided clarification on 'programme' and 'principal purpose' as defined in the Audiovisual Media Services Directive.¹¹ The Court also stated that the Authorisation Directive¹² should be interpreted as meaning that an undertaking is 'affected' by a national regulatory authority decision and has the right of appeal against that decision under certain circumstances.¹³ Changes in charges following a price adjustment clause contained in an undertaking's standard terms and conditions and operating by reference to a consumer price index compiled by a public institution does not constitute a 'modification to the contractual conditions' under the Universal Service Directive¹⁴ that would give the subscriber the right to withdraw from the contract without penalty;¹⁵
- *Belgium*: ruled that a tax imposed on owners of pylons or masts intended for a mobile telecoms network is not covered by the Authorisation Directive¹⁶. This is because the tax is not a fee imposed on undertakings providing electronic communications networks and services in return for the right to install facilities.¹⁷ The Directive must be interpreted as not precluding:
 1. a charge on mobile telephony antennae installed being imposed on any natural or legal persons who are proprietors of a 'right in rem' over, or of a right to operate, a mobile telephony antenna;¹⁸ and
 2. a charge being imposed on any natural or legal person operating mobile telephony network transmission and reception pylons and units;¹⁹
- *Belgium*: ruled that, regarding the term 'fair compensation' to be paid to right holders under the Copyright Directive,²⁰ the system has to ensure that the compensation paid corresponds to the actual harm caused;²¹
- *Belgium*: ruled that the Universal Service Directive does not lay down a social pricing obligation for mobile communications and mobile internet subscriptions.²² By contrast, social tariffs must be offered to certain categories of consumers for fixed telephone and internet subscriptions;²³
- *Czech Republic*: ruled that Articles 12 and 13 of the Universal Service Directive²⁴ are unconditional and sufficiently precise to be recognised as having direct effect;²⁵
- *Denmark*: ruled that the Copyright Directive²⁶ does not preclude national legislation which provides for fair compensation under the exception to the reproduction right for copies made for private use for multi-functional media such as mobile phone memory cards;²⁷
- *Netherlands*: ruled that national regulatory authorities are allowed to impose a tariff obligation under the Universal Service Directive²⁸ to remove an obstacle to calling non-geographic numbers within the EU where this is necessary for end-users to access such numbers;²⁹
- *Poland*: ruled that a national regulatory authority must follow the EU consolidation procedure if, in resolving a dispute, it intends to impose obligations for access to non-geographic numbers under Article 28 of the Universal Service Directive³⁰ and those obligations may affect trade between Member States. A regulatory authority's measure ensuring end-users' access to non-geographic numbers under Article 28 of the Directive

¹¹ Directive [2010/13/EU](#); *Walcher Messtechnik v OHIM*, [C-374/14](#).

¹² Directive [2002/20/EC](#).

¹³ *T-Mobile Austria*, [C-282/13](#).

¹⁴ Directive [2002/22/EC](#).

¹⁵ *Verein für Konsumenteninformation v A1 Telekom Austria AG*, [C-326/14](#) and Court press release [No 142/15](#).

¹⁶ Directive [2002/20/EC](#).

¹⁷ *Base*, [C-346/13](#).

¹⁸ *Proximus*, [C-454/13](#).

¹⁹ *Proximus*, [C-517/13](#).

²⁰ Directive [2001/29/EC](#).

²¹ *Hewlett-Packard Belgium*, [C-572/13](#).

²² Directive [2002/22/EC](#).

²³ *Base Company and Mobistar*, [C-1/14](#) and Court press release [No 68/15](#).

²⁴ Directive [2002/22/EC](#).

²⁵ *T-Mobile Czech Republic and Vodafone Czech Republic*, [C- 508/14](#).

²⁶ Directive [2001/29/EC](#).

²⁷ *Copydan Båndkopi*, [C-463/12](#).

²⁸ Directive [2002/22/EC](#).

²⁹ *KPN*, [C-85/14](#).

³⁰ Directive [2002/22/EC](#).

affects trade between Member States if it may have, other than in an insignificant manner, an influence, direct or indirect, actual or potential, on that trade;³¹

VIII. OUTLOOK

Important implementation work in 2016 includes:

- continuing to monitor the correct implementation of structural elements of legislation in the electronic communication sector. These include :
- structural elements of legislation in the electronic communication sector: the independence of national regulatory authorities, compliance with consultation procedures and deadlines in the market review process, spectrum management, and freedom of establishment;
- provisions crucial for the internal market in audiovisual services, such as the country of origin principle and the freedom of reception;
- further monitoring Member States' transposition of new EU law instruments, including the Directive on the re-use of public sector information;³²
- monitoring application of the Directive on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market, as well as of the Directive on measures to reduce the cost of deploying high-speed electronic communications networks;³³
- further checking the compliance of national measures implementing the Directive on the re-use of public sector information, in particular on the following issues:
 - reusability of all accessible public data not covered by one of the exceptions;
 - inclusion of libraries, museums and archives in the scope;
 - limitation of any charges for the re-use of documents to marginal costs; and
 - the transparency of the charging rules and conditions applying to re-use of public sector data.³⁴
- monitoring Member States' compliance with the Regulation on open internet access, whose general entry into force is in April 2016;³⁵
- follow-up on developments which may have a significant effect on enforcement policy, including any legislative proposals for reforms in the context of REFIT exercises on electronic communications and audio-visual media services.

³¹ Prezes Urzędu Komunikacji Elektronicznej and Telefonii Dialog, [C-3/14](#).

³² Directive [2013/37/EU](#).

³³ Directive [2014/26/EU](#) and Directive [2014/61/EU](#).

³⁴ Directive [2003/98/EC](#).

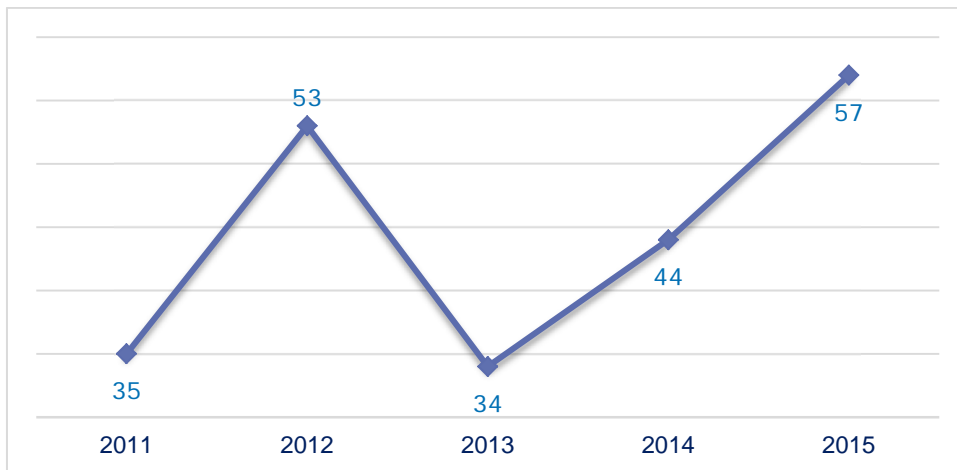
³⁵ Regulation [2015/2120](#).

Competition

In 2015 the Commission received the highest number of new complaints in the area of competition since 2011. By contrast, few EU Pilot files and new infringement procedures were opened, and no late transposition cases.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)



2. Public complaints open at year-end

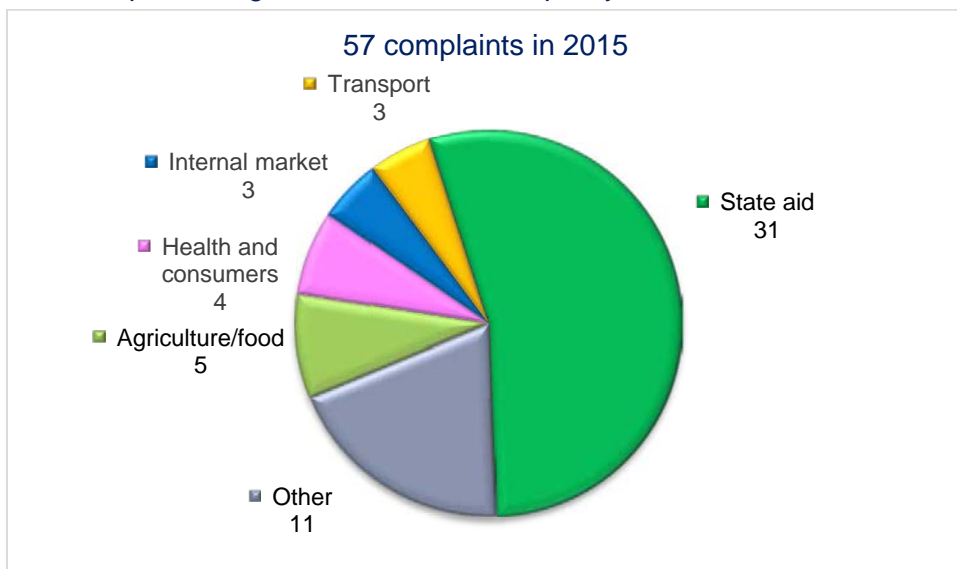
20 > Complaints open at end-2014

57 > New complaints registered in 2015

52 > Complaints handled in 2015

= 25 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors

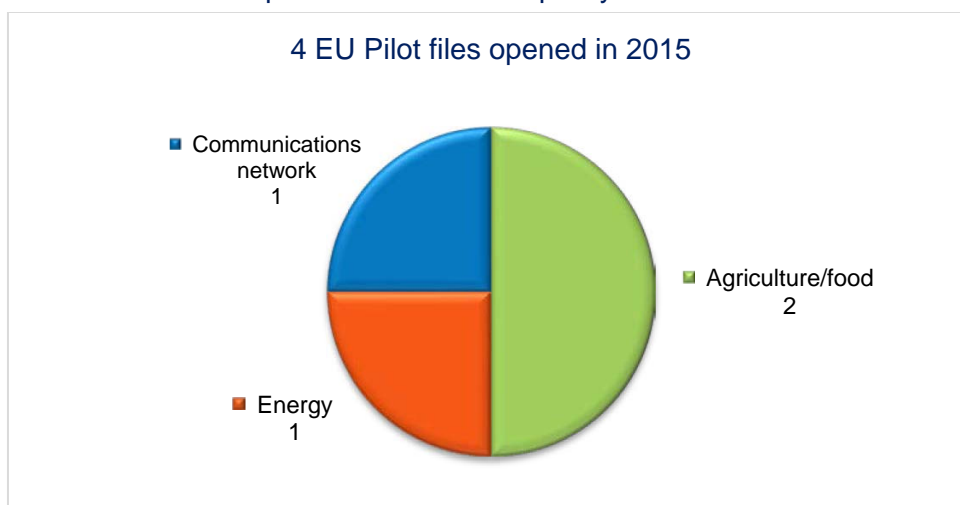


II. EU PILOT

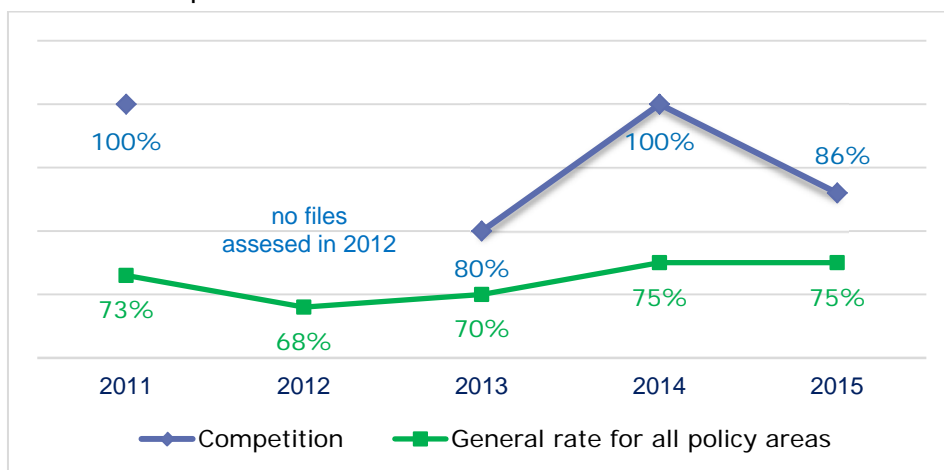
1. EU Pilot files open at year-end

6	>	EU Pilot files open at end-2014
4	>	New EU Pilot files registered in 2015
7	>	EU Pilot files handled in 2015
<hr/>		
= 3	>	EU Pilot files open at end-2015

2. New EU Pilot files opened in 2015: main policy sectors



3. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

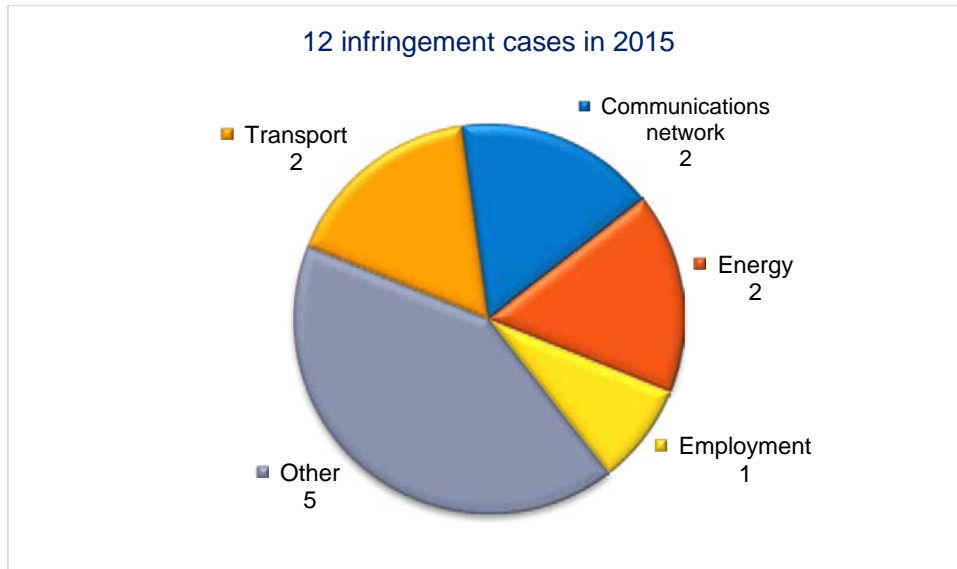
New own-initiative infringement cases in 2015

In 2015, the Commission opened own-initiative infringement cases concerning:

- breach of antitrust rules and recovery of illegal State aids.

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December 2015: main policy sectors



2. Key infringement cases and referrals to the Court

- a) The Commission opened two new infringement cases in 2015. These concern:
 - *France*: privileged rights granted to a publicly owned company to operate the vast majority of the country's hydropower concessions;
 - *Italy*: failure to fully recover State aid illegally granted to the Sardinian shipping sector in the form of loans and leases.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

The sole case concerned:

- *Hungary*: legislative provisions limiting the powers of the Hungarian National Competition Authority to impose sanctions for anti-competitive agreements on agricultural products.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹

The Court ruled that:

- *Bulgaria*: the procedure followed by Bulgaria in assigning rights of use for digital terrestrial ('DTT') frequencies was based on disproportionately restrictive award conditions. These led to the exclusion of potential candidates and hampered competition;²
- *Italy*: despite a first judgment that Italy had failed to fulfil its obligations, delivered by the Court of Justice in 2011, Italy has still not recovered aid granted between 1995 and 1997

¹ These rulings are almost exclusively handed down on infringement procedures.

² Commission v Bulgaria, [C-376/13](#).

to certain firms in Venice and Chioggia. The Court of Justice ordered Italy to pay a lump sum of EUR 30 million and a penalty of EUR 12 million per half-year of delay in recovering the aid.³

2. Preliminary rulings

There were no major preliminary rulings in 2015 in this area.

VII. OUTLOOK

Important implementation work in 2016 includes:

- monitoring the timely transposition into national law of the provisions of the Antitrust Damages Directive.⁴

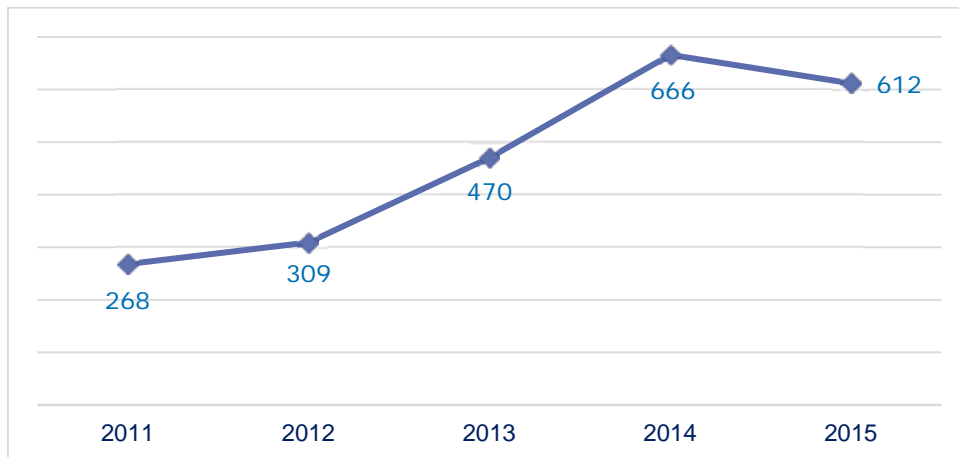
³ Commission v Italy, [C-367/14](#) and Court press release No [103/15](#).
⁴ Directive [2014/104/EU](#).

Employment, social affairs and inclusion

In 2015 new complaints in the area of employment, social affairs and inclusion fell after increasing steadily since 2011. New EU Pilot files followed the same pattern. The number of pending infringement cases peaked at the end of 2015, while late transposition cases fell slightly.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

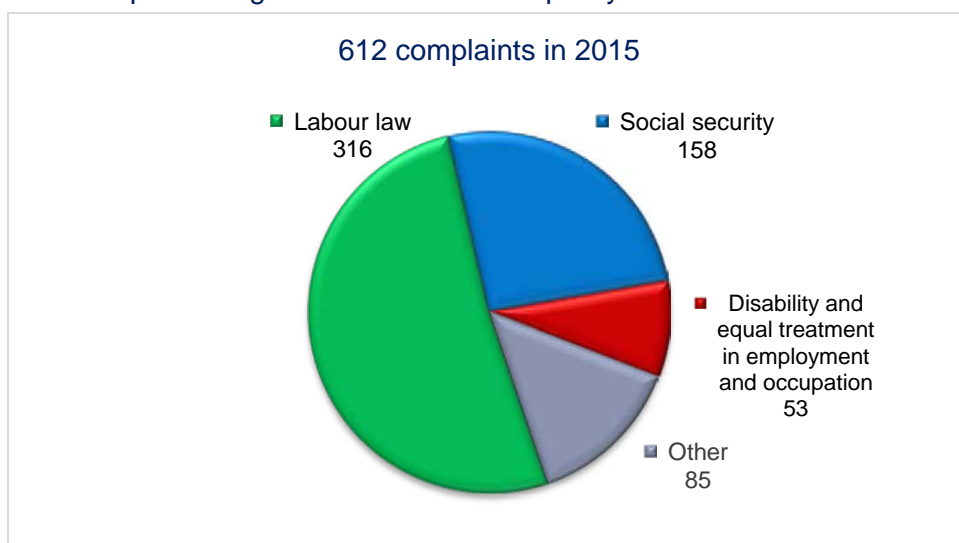
467 > Complaints open at end-2014

612 > New complaints registered in 2015

663 > Complaints handled in 2015

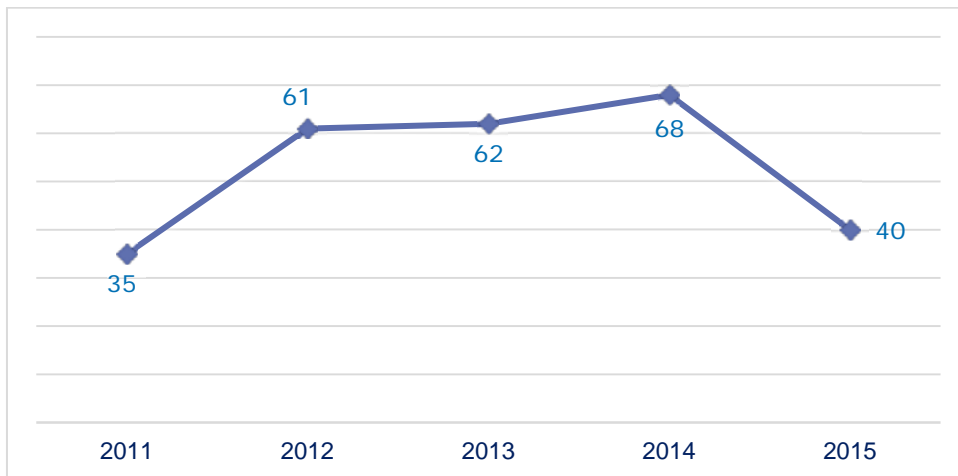
= 416 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot files open at year-end

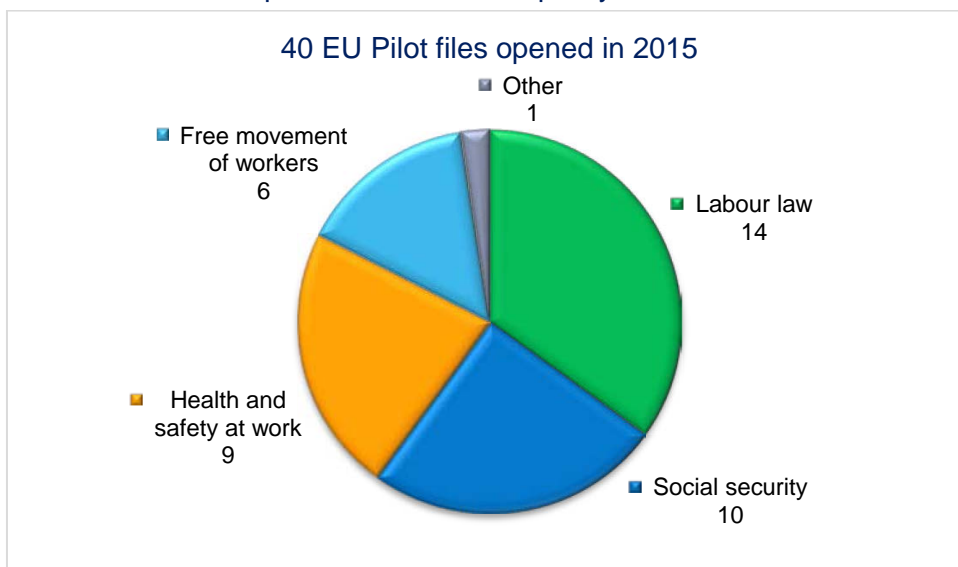
32 > EU Pilot files open at end-2014

40 > New EU Pilot files registered in 2015

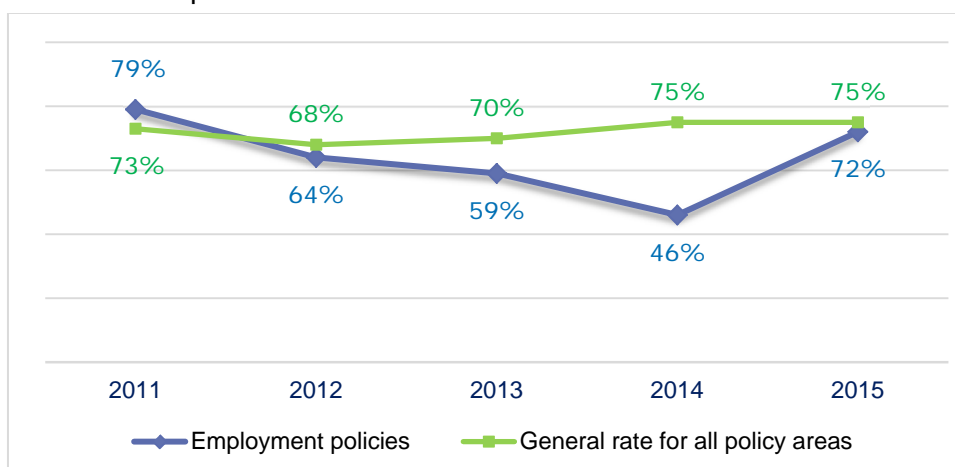
39 > EU Pilot files handled in 2015

= 33 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



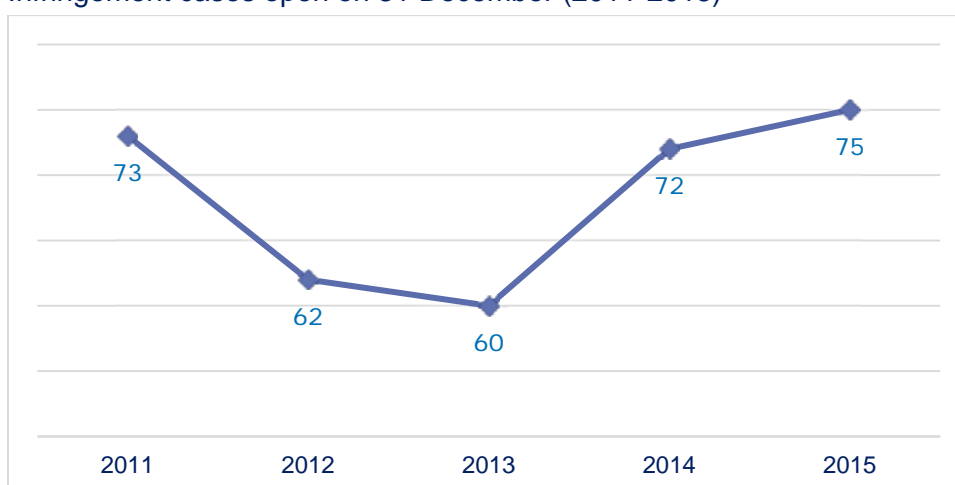
III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2015

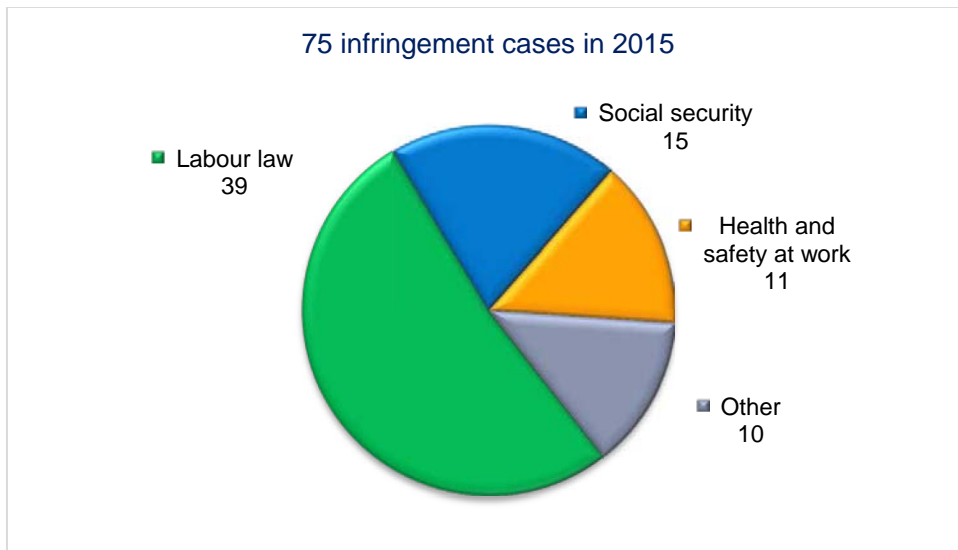
In 2015, the Commission did not open own-initiative infringement in the area of employment, social affairs and inclusion.

IV. INFRINGEMENT CASES

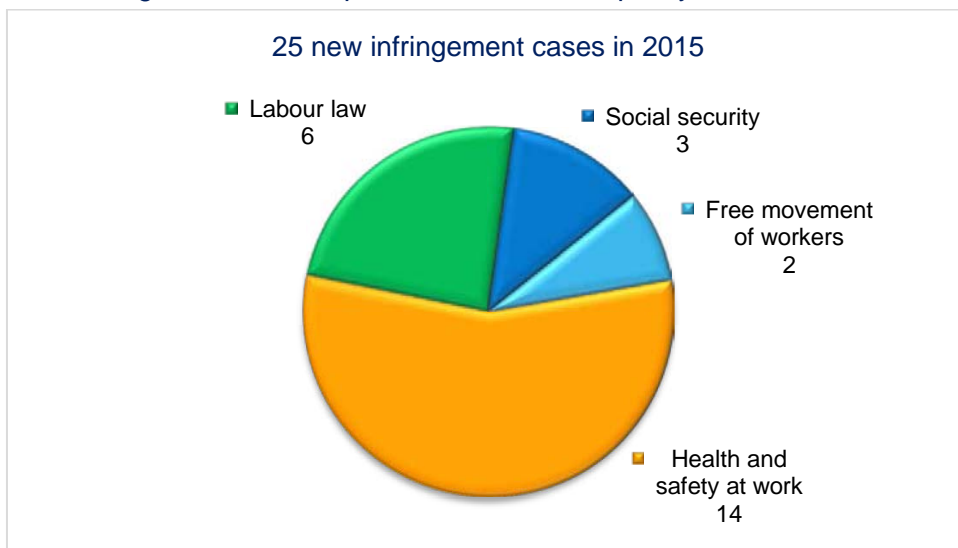
1. Infringement cases open on 31 December (2011-2015)



2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors



4. Key infringement cases and referrals to the Court

- a) The Commission opened 25 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *France*: excluding workers with assisted contracts ('contrats aidés') from the calculation of the headcount of companies. This was considered contrary to the Directive on information and consultation of employees¹, as it makes it less likely that staff representation bodies can be set up;
 - *France*: ensuring the principle of unity in applying the social security contribution on income from real estate of EU-officials outside the French social security system;
 - *Germany*: non-conformity with the Working Time Directive² by applying a 12-month reference period for limiting average weekly working time to 48 hours for civil servants. The Directive provides for a 4-month reference period;
 - *Belgium, Croatia, Cyprus, the Czech Republic, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Luxembourg, Netherlands and Slovenia*: failure to

¹ Directive [2002/14/EC](#).

² Directive [2003/88/EC](#).

notify the national measures transposing the Directive³ on the alignment of several EU health and safety at work directives to the Regulation on classification, labelling and packaging of substances and mixtures;⁴

- *Spain*: incorrect implementation of the Working Time Directive's provisions on minimum paid annual leave for public sector workers;⁵
- *Spain*: non-transposition of the time limit for night work (eight hours maximum) orks involving special hazards or heavy strain for workers and the police. In addition, no sufficiently effective procedure seems to be in place for police employees to request daytime work for health-related reasons;⁶
- *Spain*: non-compliance with the Fixed-Term Work Directive, as in the Commission's view, fixed-term officials are treated less favourably than permanent officials.⁷

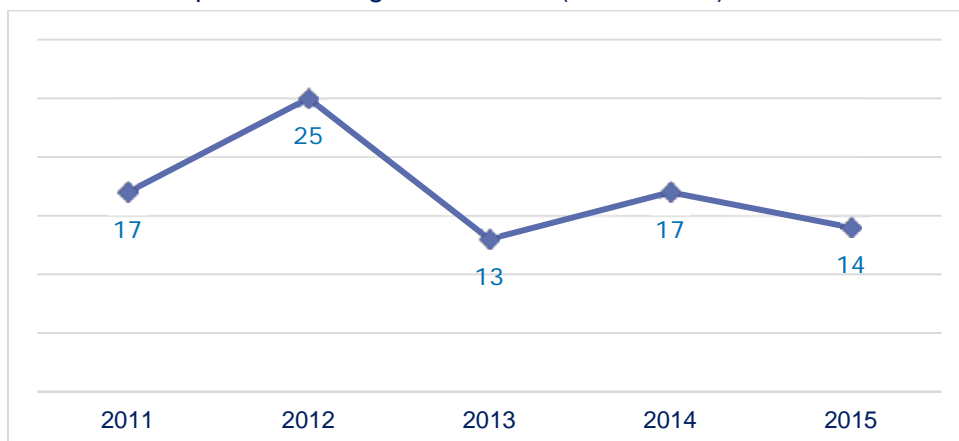
c) The Commission referred one case to the Court under Article 258 TFEU. It concerned:

- *Belgium*: national rules may subject a posted worker to Belgian social security legislation under certain circumstances. Such rules are considered contrary to the Regulation on the coordination of social security systems.⁸

d) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)



2. New late transposition infringement cases opened in 2015: main policy sectors

The Commission's action in opening infringement procedures for late transposition of directives applied only to health and safety at work.⁹

3. Key infringement cases and referrals to the Court

a) All 14 of the cases for late transposition the Commission opened in 2015 concerned:

- the Directive¹⁰ on the alignment of several EU health and safety at work directives to the Regulation on classification, labelling and packaging of substances and mixtures;¹¹

³ Directive [2014/27/EU](#).

⁴ Regulation (EC) No [1272/2008](#).

⁵ Directive [2003/88/EC](#); [MEMO/15/5053](#).

⁶ [MEMO/15/5053](#).

⁷ Directive [1999/70/EC](#).

⁸ Regulation [\(EC\) No 883/2004](#); Commission v Belgium, [C-356/15](#).

⁹ Directive [2014/27/EU](#).

¹⁰ Directive [2014/27/EU](#).

¹¹ Regulation (EC) No [1272/2008](#).

- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Austria*: incorrect transposition of the Health and Safety at Work Framework Directive at the level of the provinces of Salzburg and Lower Austria. Several acts correcting the errors identified were adopted at that level and have entered into force;¹²
- *Austria*: incomplete transposition of the Council Directive implementing the social partners Framework Agreement on the prevention from sharp injuries in the hospital and healthcare sector;¹³
- *Ireland*: national rules that were incompatible with the Working Time Directive in that annual leave was not accrued when employees were on sick leave and this annual leave was lost if not taken due to illness. The rules have since been changed;¹⁴
- *Italy*: incorrect transposition of the Health and Safety at Work Framework Directive. Legislative amendments have been adopted to resolve this;¹⁵
- *Italy*: incorrect transposition of the Construction Sites Directive¹⁶ as regards the scope of application of the national implementing measures. Legislative amendments have been adopted to resolve the issue;
- *Italy*: exclusion of health care staff from the right to maximum weekly working hours and minimum daily rest periods. This exclusion has now been removed in order to comply with the Working Time Directive;¹⁷
- *Italy*: discriminatory treatment of fixed-term school staff and abuse of fixed-term employment. National authorities adopted the 'Buona Scuola' schools reform to eliminate such treatment;
- *Poland*: discriminatory treatment of fixed-term employees and a lack of effective measures to prevent abusive successions of fixed-term employment contracts. The concerns identified were remedied following a reform of the Labour Code;
- *Spain*: incorrect application of the Health and Safety at Work Framework Directive.¹⁸ The regional authorities in Andalusia adopted measures to remedy this.

VII. IMPORTANT JUDGMENTS

1. Court rulings¹⁹

The Court ruled that:

- *Belgium*: requiring proof of language knowledge from candidates for local services posts by means of one particular type of certificate, issued only by one particular Belgian body following an examination conducted by that body, infringes workers' right of free movement;²⁰
- *Greece* failed to comply with the Working Time Directive by making it possible for the working week of doctors to exceed the 48-hour limit, without properly taking into account their on-call hours. The possibility of postponing doctors' 24-hour rest period until a week after their on-call period also failed to comply with the Directive;²¹
- *Ireland*: the Commission did not provide sufficient evidence that Ireland had failed to respect the Working Time Directive over non-consultant hospital doctors' minimum rest

¹² Directive [89/391/EEC](#).

¹³ Directive [2010/32/EU](#).

¹⁴ Directive [2003/88/EC](#).

¹⁵ Directive [89/391/EEC](#).

¹⁶ Directive [92/57/EEC](#).

¹⁷ Directive [2003/88/EC](#).

¹⁸ Directive [89/391/EEC](#).

¹⁹ These rulings are almost exclusively handed down on infringement procedures.

²⁰ Commission v Belgium, [C-317/14](#).

²¹ Commission v Greece, [C-180/14](#) and Court press release No [152/15](#).

periods and weekly working time. The case concerned their collective agreement and the standard contract of employment;²²

- *Luxembourg*: the absence of measures preventing the abuse of successive fixed-term employment contracts in the case of occasional workers in the entertainment arts infringes the Fixed-Term Work Directive;²³
- *Slovakia*: entitling only Slovak residents to the Christmas bonus does not infringe the Social Security Regulation as the bonus is not paid exclusively to recipients of old-age pensions;²⁴
- *Slovakia*: entitling only Slovak residents to the disabled persons' benefit does not infringe the Social Security Regulation as the competent authority is able to take into consideration the claimant's personal circumstances, in addition to objective criteria, when granting the benefit.²⁵

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *France*: people admitted to a work rehabilitation centre and carrying out activities there must be considered as workers. They are therefore entitled to minimum paid annual leave under the Working Time Directive and the EU's Charter of Fundamental Rights;²⁶
- *France*: the income of migrant workers, from professional activity or from assets in the Member State of employment, cannot be made subject to social contributions in the Member State of residence if social contributions were paid in the former Member State;²⁷
- *Germany*: under the Directive on collective redundancies, a person who performs services for and under the direction of another person and receives remuneration in return must be considered as a 'worker'. Consequently, certain managing directors and certain trainees may also count as 'workers';²⁸
- *Germany*: Member States can exclude jobseekers from social assistance benefits who are either first-time jobseekers or who, after having worked for less than one year in the host Member State, no longer retain the status of a worker;²⁹
- *Spain*: for workers without a fixed or habitual workplace, the journeys made from their homes to the first customer and from the last customer to their homes constitute working time;³⁰
- *Spain*: the rule that takes the undertaking (and not the establishment) as the only criterion to determine whether dismissals constitute a collective redundancy is contrary to the Directive on collective redundancies where this deprives workers of their right to information and consultation;³¹
- *Spain*: any termination of an employment contract not sought by the worker is a 'redundancy' within the meaning of the Directive on collective redundancies. This includes cases where the worker agrees to the termination following a substantial worsening of his working conditions imposed by the employer;³²
- *United Kingdom*: in calculating the leave entitlement of a part-time worker who has increased his or her working hours, Member States may decide whether the leave

²² Commission v Ireland, [C-87/14](#) and Court press release No [80/15](#).

²³ Commission v Luxembourg, [C-238/14](#).

²⁴ Commission v Slovakia, [C-361/13](#).

²⁵ Commission v Slovakia, [C-433/13](#).

²⁶ Fenoll, [C-316/13](#).

²⁷ de Ruyter, [C-623/13](#) and Court press release No [22/15](#).

²⁸ Balkaya, [C-229/14](#).

²⁹ Alimanovic, [C-67/14](#).

³⁰ Federación de Servicios Privados del sindicato Comisiones obreras, [C-266/14](#) and Court press release No [99/15](#).

³¹ Rabal Cañas, [C-392/13](#) and Court press release No [55/15](#).

³² Pujante Rivera, [C-422/14](#).

already accumulated by that worker should be adjusted proportionally to the increased working hours;³³

- *United Kingdom*: the Directive on collective redundancies obliges employers to inform and consult staff ahead of collective redundancies only if at least 20 workers are dismissed in a single establishment, and not in the whole company.³⁴

VIII. OUTLOOK

Important implementation work in 2016 includes:

- giving priority to checking that Member States transpose the following Directives on time and correctly:
 - *Health and safety at work*: the Directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from electromagnetic fields.³⁵ The transposition deadline is 1 July 2016.
 - *Free movement of workers and posting of workers*: the Directives on measures facilitating the exercise of the right to freedom of movement for workers and on the enforcement of the Posting of Workers Directive. The transposition deadlines are 21 May and 18 June 2016, respectively.
- as regards *social security*, the Commission intends to pay close attention to the judgments in cases C-12/14 (Commission vs Malta) and the expected judgement C-308/14 (Commission vs UK). The first relates to statutory pensions. The second concerns the requirement to have a 'right to reside' in the UK in order to access some social security benefits.

³³ Greenfield, [C-219/14](#).

³⁴ USDAW and Wilson, [C-80/14](#) and Lyttle and Others, [C-182/13](#).

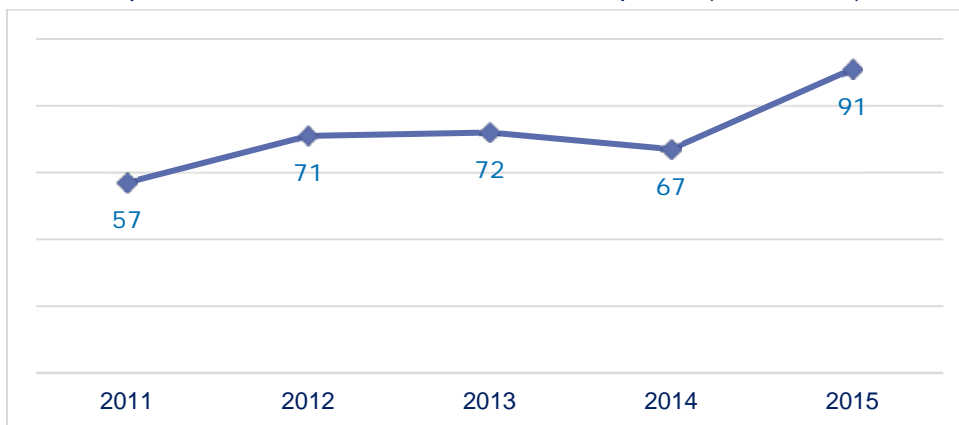
³⁵ Directive [2013/35/EU](#).

Energy

In 2015 new complaints in the area of energy reached their highest level since 2011, while new EU Pilot files fell for the first time in five years. The number of infringement cases pending at the end of 2015 was steady but new late transposition cases eased back to their lowest since 2011.

I. COMPLAINTS

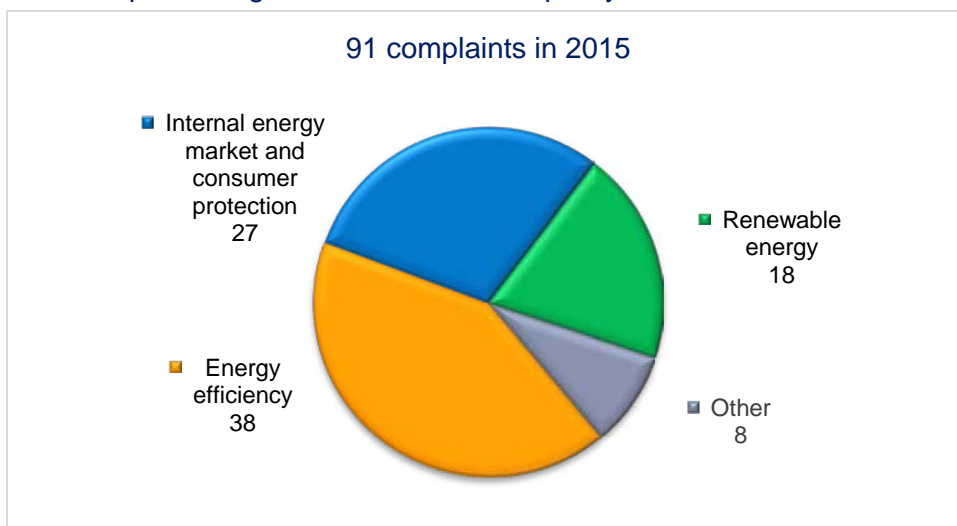
1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

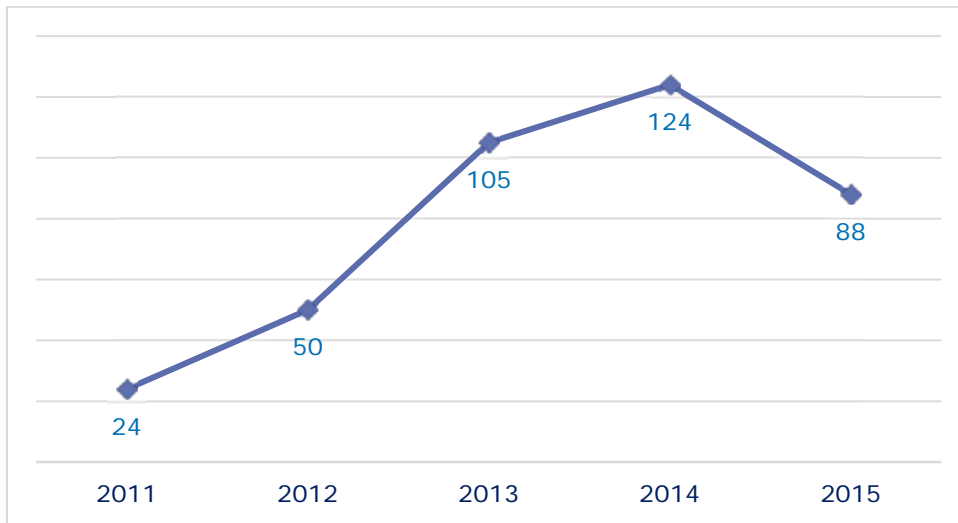
83	>	Complaints open at end-2014
91	>	New complaints registered in 2015
84	>	Complaints handled in 2015
<hr/>		
= 90	>	Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot files open at year-end

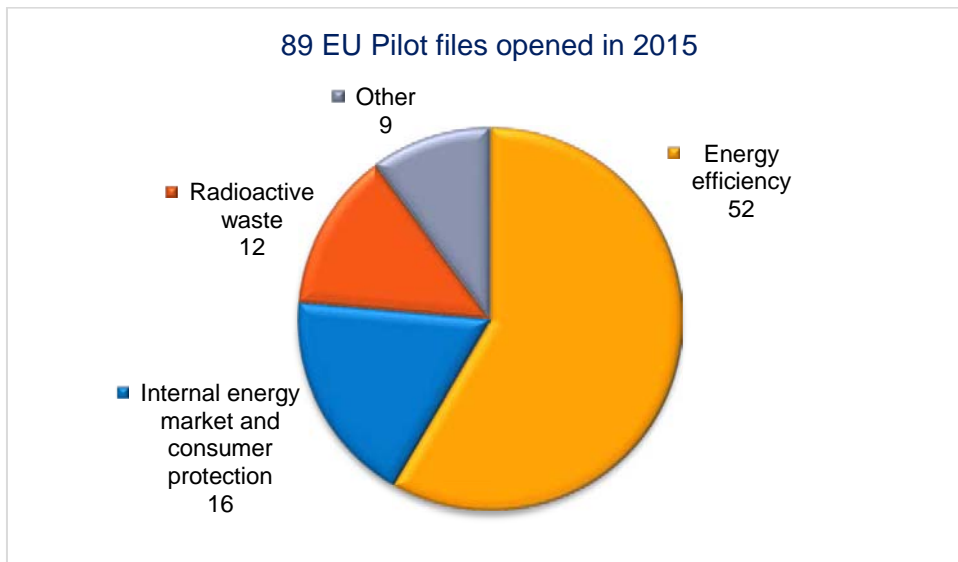
69 > EU Pilot files open at end-2014

88 > New EU Pilot files registered in 2015

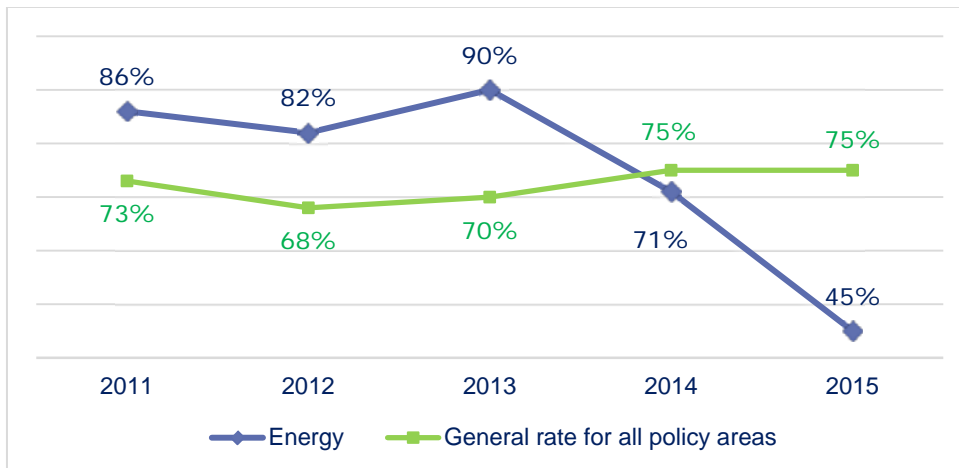
62 > EU Pilot files handled in 2015

= 95 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

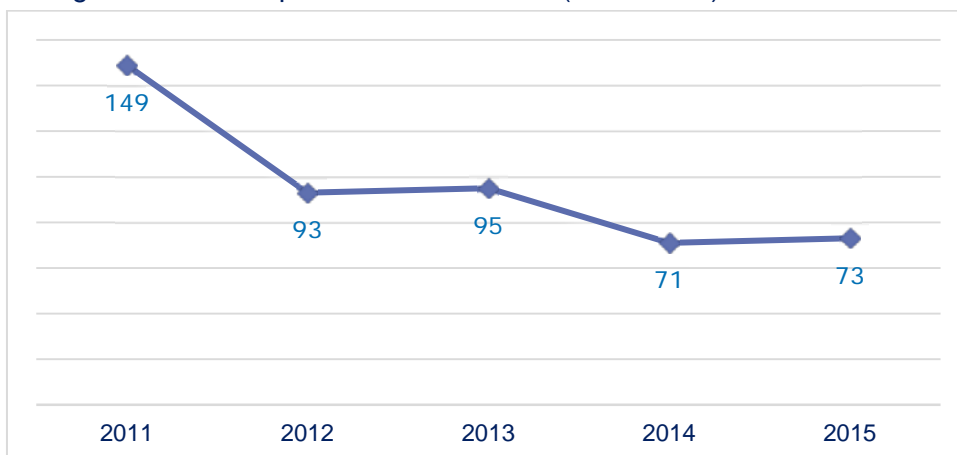
New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- non-conformity of national legislation transposing the Third Energy Package directives and the Energy Performance of Buildings Directive;¹
- major reporting obligations under the Energy Efficiency Directive, the Security of Gas Supply Regulation and the Radioactive Waste Directive.²

IV. INFRINGEMENT CASES

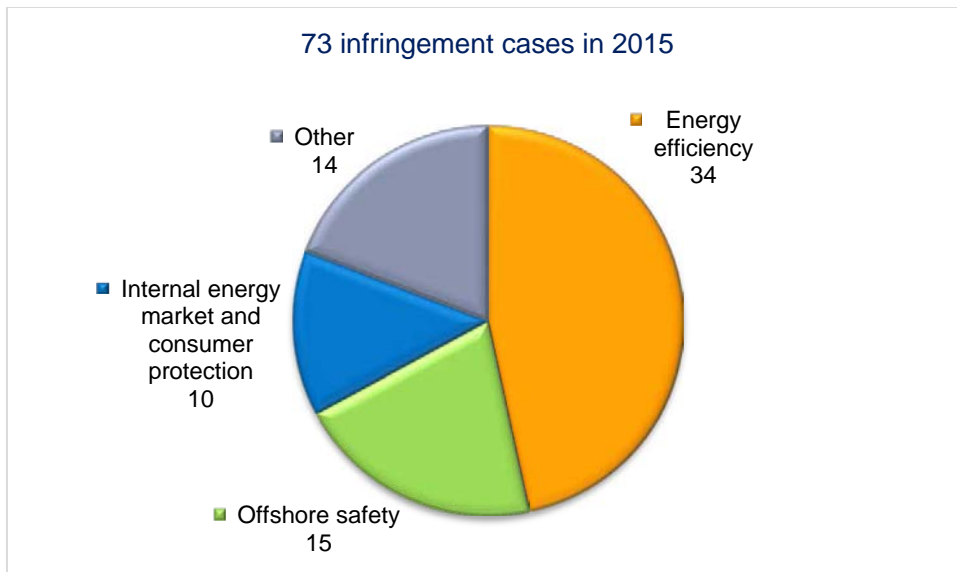
1. Infringement cases open on 31 December (2011-2015)



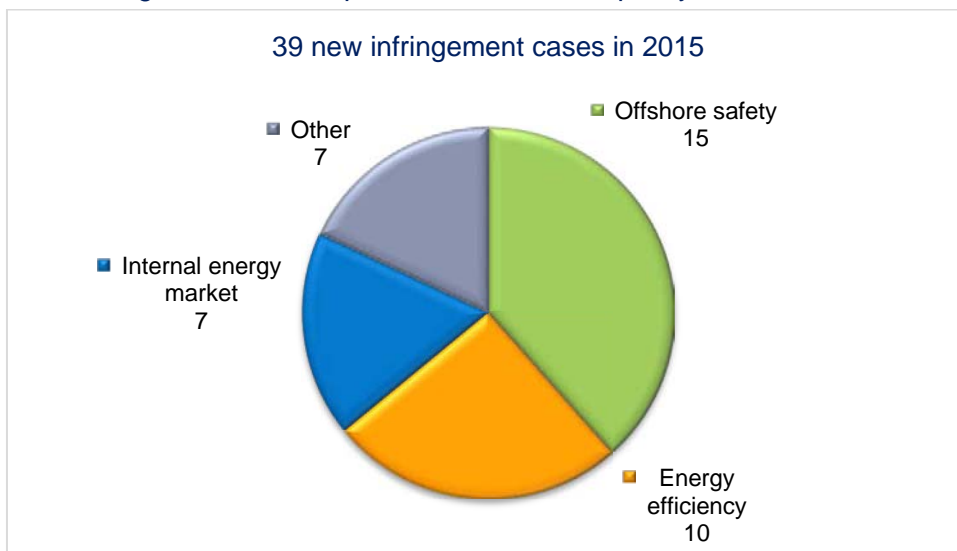
¹ Directive [2009/72/EC](#), Directive [2009/73/EC](#), Directive [2010/31/EU](#).

² Directive [2012/27/EU](#), Regulation (EU) No [994/2010](#), Directive [2011/70/Euratom](#).

2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors



4. Key infringement cases and referrals to the Court

- a) The Commission opened 39 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovenia, Spain*: late transposition of the Energy Efficiency Directive;³
 - *Austria, Italy, Netherlands, Poland*: late transposition of the Energy Performance of Buildings Directive;⁴
 - *France*: late transposition of the Radioactive Waste Directive;⁵
 - *Hungary, Slovenia*: failure to submit a national energy efficiency action plan and building renovation strategy under the Energy Efficiency Directive;⁶

³ Directive [2012/27/EU](#), [MEMO/15/4489](#), [MEMO/15/4871](#), [MEMO/15/5162](#), [MEMO/15/5657](#), [MEMO/15/5826](#), [MEMO/15/6006](#) and [IP/15/5196](#).

⁴ Directive [2010/31/EU](#), [MEMO/15/5162](#) and [MEMO/15/4871](#).

⁵ Directive [2011/70/Euratom](#) and [MEMO/15/6006](#).

Energy

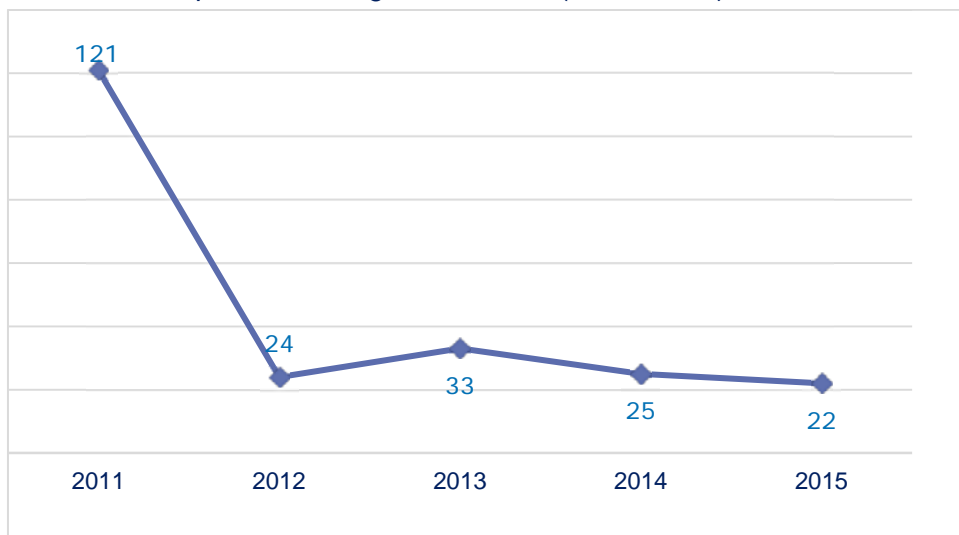
- *Poland*: discriminatory treatment of second-generation biofuels, counter to the requirements of the Renewable Energy Directive;⁷
- *Portugal*: failure to correctly transpose the Energy Performance of Buildings Directive;⁸
- *Spain, United Kingdom*: late transposition of the Oil Stocks Directive.⁹
- *Spain*: incorrect transposition of the biofuels sustainability requirements of the Renewable Energy Directive;¹⁰
- *United Kingdom*: failure to ensure energy performance certificates are displayed in buildings frequently visited by the public as required by the Energy Performance of Buildings Directive.¹¹

b) The Commission did not refer any cases to the Court under Article 258 TFEU.

c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)



2. New late transposition infringement cases opened in 2015: main policy sectors

⁶ [MEMO/15/4666](#), [MEMO/15/4489](#) and Directive [2012/27/EU](#).

⁷ [MEMO/15/4871](#) and Directive [2009/28/EC](#).

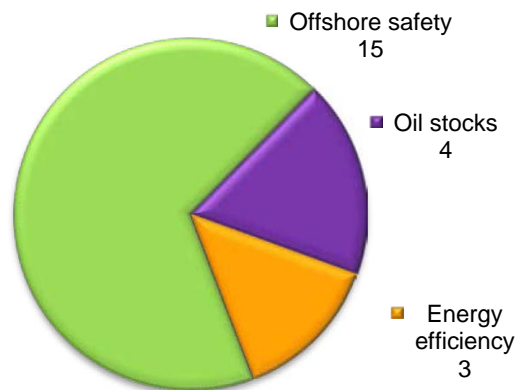
⁸ [MEMO/15/6223](#) and Directive [2010/31/EU](#).

⁹ Directive [2009/119/EC](#) and [MEMO/15/5162](#).

¹⁰ [MEMO/15/4666](#) and Directive [2009/28/EC](#).

¹¹ [MEMO/15/5162](#) and Directive [2010/31/EU](#).

22 new late transposition infringement cases in 2015



3. Key infringement cases and referrals to the Court

- a) The Commission opened 22 cases for late transposition in 2015. Most concern:
 - late transposition of the Offshore Safety Directive.¹²
- b) The Commission referred one case to the Court under Articles 258 and 260(3) TFEU. It concerns:
 - *Greece*: non-communication of national measures transposing the Energy Efficiency Directive.¹³

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Austria, Poland*: failure to fully transpose the Renewable Energy Directive;¹⁴
- *Belgium, Finland*: incomplete transposition of the Energy Performance of Buildings Directive;¹⁵
- *Ireland*: incomplete transposition of the Electricity Directive.¹⁶

VII. IMPORTANT JUDGMENTS

1. Court rulings¹⁷

The Court ruled that:

- *Poland*: Poland's regulated prices for gas for non-household customers did not comply with the requirements of the Gas Directive (Third Energy Package).¹⁸

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *Germany*: the German nuclear fuel tax is compatible with EU law (Energy Taxation Directive, Euratom Treaty, State aid rules);¹⁹

¹² Directive [2013/30/EU](#).

¹³ Directive [2012/27/EU](#), Commission v Greece, [C-540/15](#); [IP/15/5196](#).

¹⁴ Directive [2009/28/EC](#) and [IP/15/4499](#).

¹⁵ Directive [2010/31/EU](#).

¹⁶ Directive [2009/72/EC](#).

¹⁷ These rulings are almost exclusively handed down on infringement procedures.

¹⁸ Commission v Poland, [C-36/14](#).

¹⁹ Kernkraftwerke Lippe-Ems, [C-5/14](#) and Court press release No [62/15](#).

- *Hungary*: the Second Energy Package, interpreted in the light of Article 47 of the Charter of Fundamental Rights, requires national authorities to allow certain market operators to challenge decisions by the national regulatory authorities;²⁰
- *Sweden*: the Swedish tax on the thermal power of nuclear reactors is compatible with EU law as it falls outside the scope of the Energy Taxation Directive.²¹

VIII. OUTLOOK

Important implementation work in 2016 includes:

- continuing checks that Member States fully implement the requirements of Article 7 of the Energy Efficiency Directive.²² Infringement procedures will be systematically opened in cases of non-compliance;
- checking that the Radioactive Waste Directive is transposed by Member States on time and correctly.²³

²⁰ E.ON Földgáz Trade, [C-510/13](#).

²¹ OKG, [C-606/13](#).

²² Directive [2012/27/EU](#).

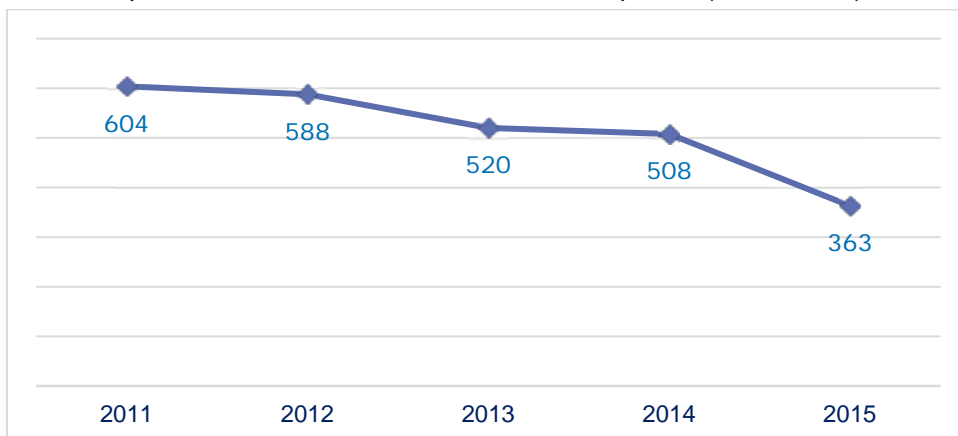
²³ Directive [2011/70](#).

Environment

The number of new complaints in this area fell considerably, continuing the decline seen since 2011. New EU Pilot files also dropped substantially, reaching their lowest level for five years. Infringement cases open at the end of the year decreased for the second consecutive year, to a level almost equalling the low recorded in 2012. Late transposition cases also fell for the second straight year, but remained above their 2011 and 2012 levels.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

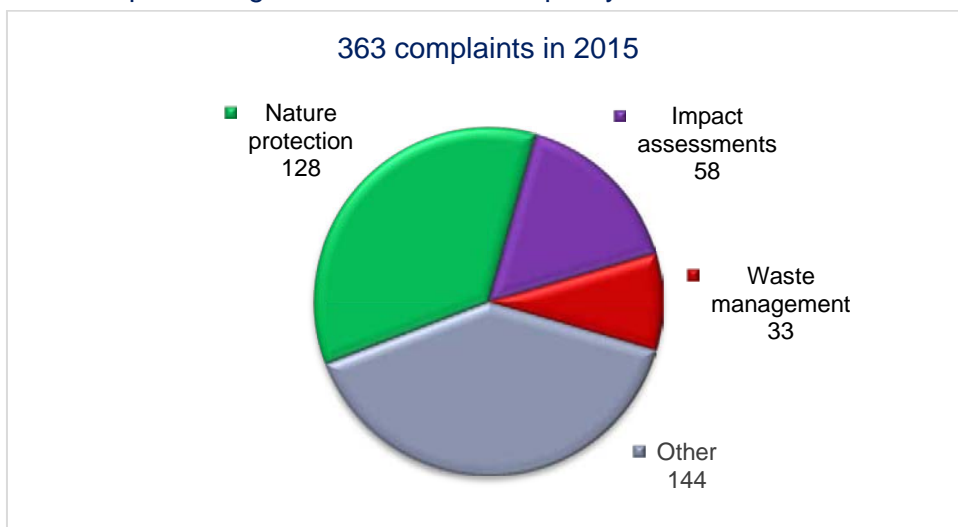
557 > Complaints open at end-2014

363 > New complaints registered in 2015

486 > Complaints handled in 2015

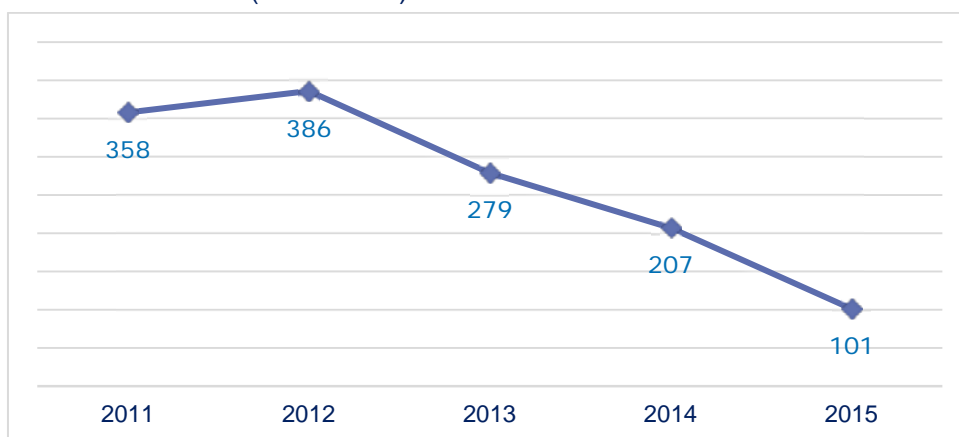
434 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot files open at year-end

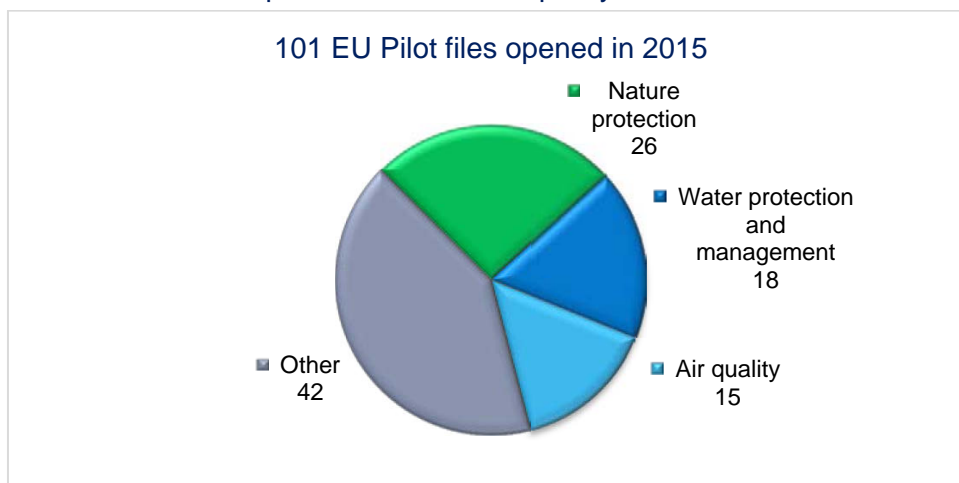
390 > EU Pilot files open at end-2014

101 > New EU Pilot files registered in 2015

193 > EU Pilot files handled in 2015

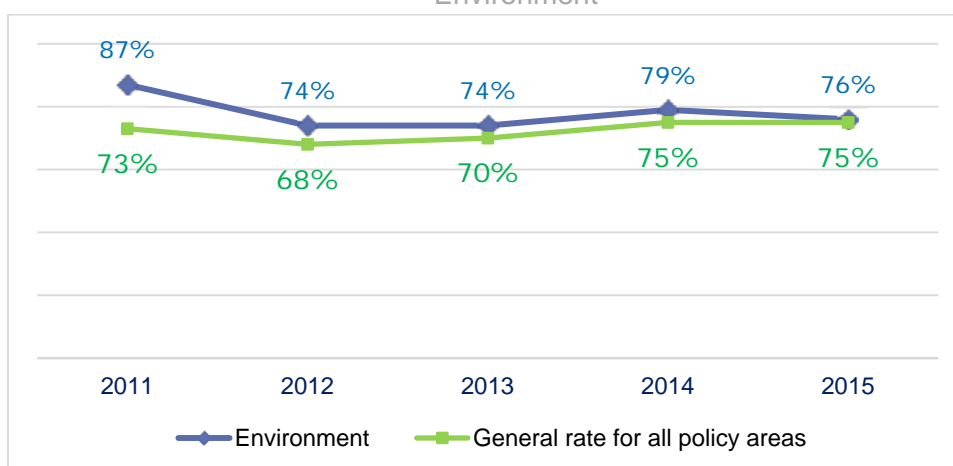
= 298 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015

Environment



III. OWN-INITIATIVE CASES

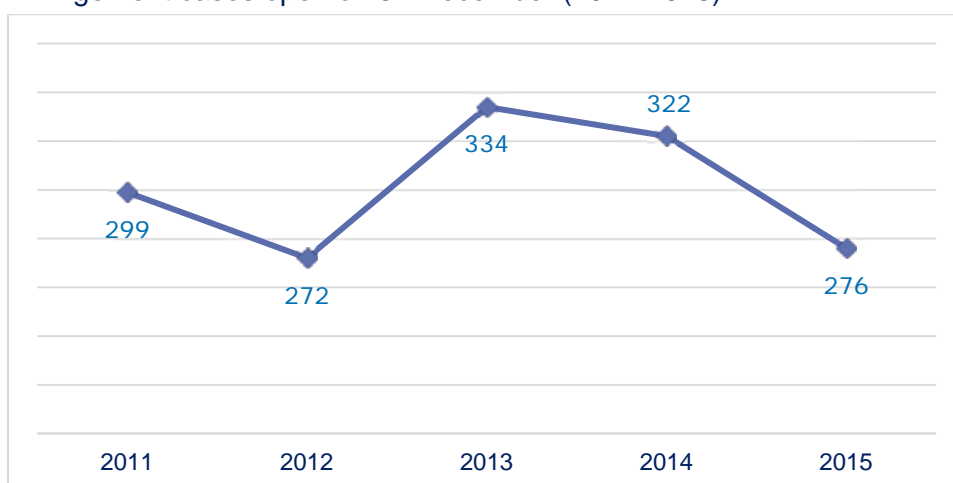
New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- non-compliance with key obligations under the Waste Framework Directive and the Landfill Directive;¹
- shortcomings in completion of the Natura 2000 network of nature protection areas;
- non-compliance with the Water Framework Directive;²
- incorrect transposition and application of the Marine Strategy Framework Directive;³
- non-compliance with the Urban Waste Water Treatment Directive;⁴
- incorrect transposition and application of the Air Quality Directive;⁵
- incorrect application of the Environmental Noise Directive;⁶
- non-compliance with EU rules to counter the trade in illegally harvested timber.

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2011-2015)



2. Infringement cases open on 31 December 2015: main policy sectors

¹ Directives No [2008/98/EC](#) and [1999/31/EC](#).

² Directive [2000/60/EC](#).

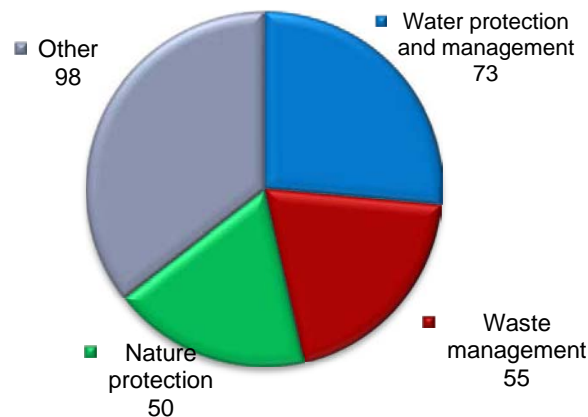
³ Directive [2008/56/EC](#).

⁴ Directive [91/271/EEC](#).

⁵ Directive [2008/50/EC](#).

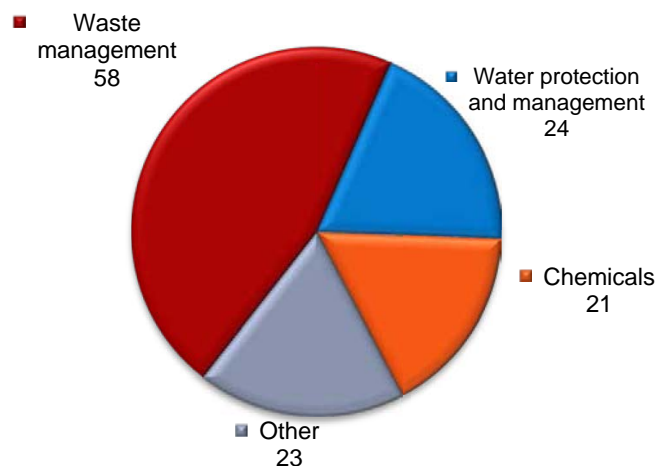
⁶ Directive [2002/49/EC](#).

276 infringement cases in 2015



3. New infringement cases opened in 2015: main policy sectors

126 new infringement cases in 2015



4. Key infringement cases and referrals to the Court

- a) The Commission opened 126 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *Croatia, Cyprus, France, Italy, Romania and Slovenia*: lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;⁷
 - *Italy and Romania*: failure to ensure that waste landfills operate in line with EU standards;⁸
 - *Belgium, Germany, Greece, Ireland, Italy, Portugal, Spain and United Kingdom*: bad application of the Habitats Directive as regards designating special areas of conservation and establishing the necessary conservation measures;⁹
 - *United Kingdom*: non-compliant transposition of the Water Framework Directive;¹⁰
 - *Czech Republic,¹¹ France¹² and Sweden:¹³* non-respect of the PM₁₀¹⁴ limit values in the Air Quality Directive;¹⁵

⁷ Directive No [2008/98/EC](#).
⁸ [MEMO/15/5162](#) and [MEMO/15/5657](#).
⁹ Directive No [92/43/EEC](#).
¹⁰ Directive [2000/60/EC](#), [MEMO/15/5826](#).
¹¹ [MEMO/15/4666](#).
¹² [MEMO/15/4871](#).

- *France, Germany, Italy, Portugal and Spain*: non-respect of the NO₂ limit values in the Air Quality Directive;¹⁶
 - *Greece,¹⁷ Hungary,¹⁸ Romania and Spain:¹⁹* failure to implement the EU Timber Regulation and the Forest Law Enforcement, Governance and Trade Regulation.²⁰
- b) The Commission referred 11 cases to the Court under Article 258 TFEU. They concern:
- *Bulgaria*: non-respect of the PM₁₀ limit values in the Air Quality Directive;²¹
 - *France*: inadequate urban waste water treatment in smaller agglomerations;²²
 - *Greece*: inadequate urban waste water treatment in smaller agglomerations;²³
 - *Malta*: trapping of seven species of finch in breach of the Wild Birds Directive;²⁴
 - *Romania*: failure to comply with the Directive on the management of waste from extractive industries in relation to a tailings pond in Moldova Noua;²⁵
 - *Romania*: failure to ensure timely transposition of the Directive on end-of-life vehicles;²⁶
 - *Romania*: failure to enact the revised EU legislation on packaging waste into domestic law;²⁷
 - *Spain*: inadequate urban waste water treatment in sensitive areas;²⁸
 - *Spain*: continued existence of illegal and uncontrolled landfill sites, in breach of the Waste Framework Directive;²⁹
 - *United Kingdom*: exceedance of the emission limit value for nitrogen oxides at the Aberthaw coal-fired power station in Wales, in breach of the Large Combustion Plants Directive;³⁰
 - *United Kingdom*: poor urban waste water collection and treatment in a number of agglomerations.³¹
- c) The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
- *Greece*: failure to implement a judgment of the Court of Justice finding that Greece was failing to ensure adequate management of hazardous waste. The Commission proposed the Court should impose a lump sum payment of EUR 14 904 736 and a daily penalty payment of EUR 72 864 until the obligations are fulfilled.³²

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)

¹³ [IP/15/5197](#).

¹⁴ PM₁₀ is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometres. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: [European Environment Agency](#)).

¹⁵ Directive No [2008/50/EC](#).

¹⁶ Directive No [2008/50/EC](#).

¹⁷ [MEMO/15/5826](#).

¹⁸ [MEMO/15/5826](#).

¹⁹ [MEMO/15/6223](#).

²⁰ Regulation (EU) No [995/2010](#) and Regulation (EC) No [2173/2005](#).

²¹ Directive No [2008/50/EC](#), Commission v Bulgaria, [C-488/15](#).

²² Commission v France, [C-314/15](#); [IP/15/4873](#).

²³ Commission v Greece, [C-320/15](#); [IP/15/4491](#).

²⁴ Directive No [2009/147/EC](#), Commission v Malta, [C-557/15](#); [IP/15/5658](#).

²⁵ Directive No [2006/21/EC](#), Commission v Romania, [C-104/15](#); [IP/14/1149](#).

²⁶ Directive No [2013/28/EU](#), Commission v Romania, [C-366/15](#); [IP/15/5055](#). Romania subsequently adopted the necessary legislative amendments and the Commission withdrew the case from the Court.

²⁷ Directive No [2013/2/EU](#), Commission v Romania, [C-306/15](#); [IP/15/4874](#). Romania subsequently adopted the necessary legislative amendments and the Commission withdrew the case from the Court.

²⁸ Commission v Spain, [C-38/15](#); [IP/14/2129](#).

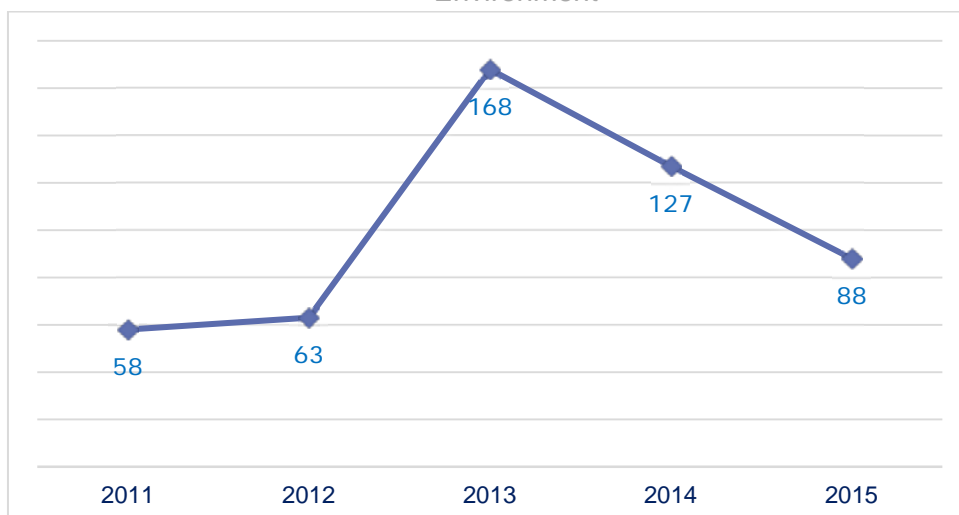
²⁹ Directive No [2008/98/EC](#), Commission v Spain, [C-563/15](#); [IP/15/5354](#).

³⁰ Directive No [2001/80/EC](#), Commission v United Kingdom, [C-304/15](#); [IP/15/4670](#).

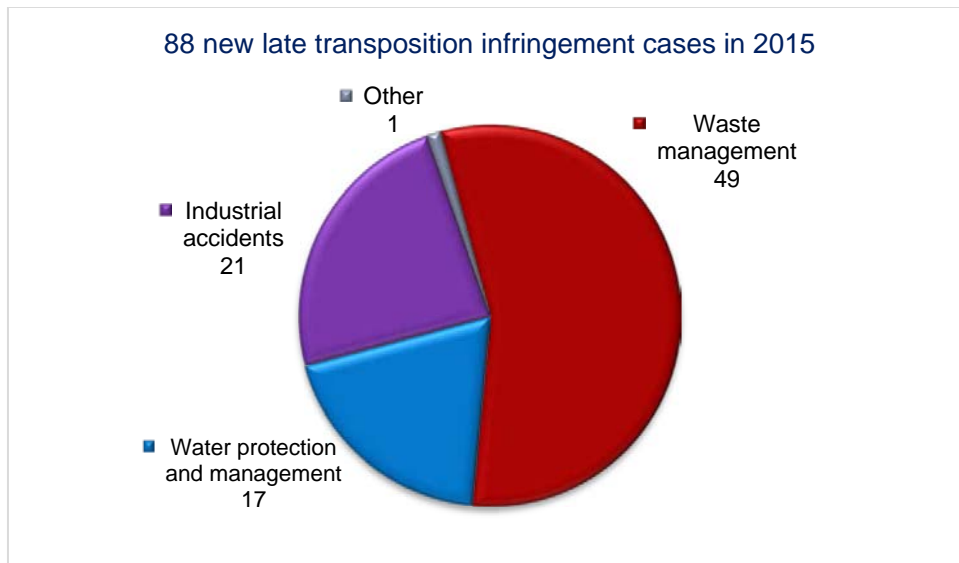
³¹ Commission v United Kingdom, [C-502/15](#); [IP/15/4672](#).

³² Commission v Greece, [C-584/14](#); [IP/14/1037](#).

Environment



2. New late transposition infringement cases opened in 2015: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 88 cases for late transposition in 2015. Most concern:
 - the Seveso III Directive³³ (21 Member States);
 - the Directive on priority substances in the field of water policy³⁴ (16 Member States);
 - the most recent amendments to the Batteries Directive³⁵ (nine Member States).
- b) The Commission referred three cases to the Court under Article 260(3) TFEU. They concern:
 - *Germany, Poland and Slovenia*: failure to transpose the Directive on waste electrical and electronic equipment;³⁶

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Italy*: non-conformity of the national legislation with the Environmental Impact Assessment Directive;³⁷
- *Slovenia*: insufficient designation of special protection areas under the Wild Birds Directive;³⁸
- *Poland and Slovakia*: incorrect transposition of the Batteries Directive;³⁹
- *Cyprus, Finland, France, Latvia, Romania and Spain*: failure to transpose the Directive on waste electrical and electronic equipment;⁴⁰
- *France*: incorrect application of the Water Framework Directive in relation to the Sivers dam project;⁴¹

³³ Directive [2012/18/EU](#).

³⁴ Directive [2013/39/EU](#).

³⁵ Directive [2013/56/EU](#).

³⁶ Directive No [2012/19/EU](#), Commission v Germany, [C-546/15](#), [IP/15/5054](#), Commission v Poland, [C-545/15](#), [IP/15/4875](#), Commission v Slovenia, [C-357/15](#), [IP/15/4875](#). Germany, Poland and Slovenia subsequently adopted the necessary legislative measures and the Commission has therefore withdrawn these cases from the Court.

³⁷ Directive No [2011/92/EU](#).

³⁸ Directive No [2009/147/EC](#).

³⁹ Directive No [2006/66/EC](#).

⁴⁰ Directive No [2012/19/EU](#).

- *Austria*: non-respect of the PM₁₀⁴² limit values in the Air Quality Directive;⁴³
- *Finland, Hungary, Lithuania, Poland and Sweden*: non-communication of national measures transposing the Industrial Emissions Directive;⁴⁴
- *Malta*: breach of the Large Combustion Plants Directive through operation of the Marsa Power Station beyond the limited lifetime derogation period;⁴⁵
- *Croatia and Portugal*: non-communication of national measures transposing the Seveso III Directive.⁴⁶

VII. IMPORTANT JUDGMENTS

1. Court rulings⁴⁷

The Court ruled that:

- *Bulgaria* has failed to comply with the Landfill Directive. It has not adopted the necessary measures to ensure that its landfills for non-hazardous waste do not continue to function unless they satisfy the requirements of the Directive.⁴⁸
- *Germany* has incorrectly transposed the requirements of the Environmental Impact Assessment Directive and of the Industrial Emissions Directive with regard to access to justice;⁴⁹
- *Greece* has failed to ensure full compliance with the 2007 judgment of the Court of Justice finding that Greece was not ensuring adequate collection and treatment of urban waste water in a number of agglomerations. The Court ordered Greece to pay a lump sum of EUR 10 million and a sliding-scale penalty payment of EUR 20 000 per day, corresponding to EUR 3.64 million per half-year of delay;⁵⁰
- *Greece* has failed to fulfil its obligations under the Nitrates Directive by not designating enough zones vulnerable to nitrate pollution and not establishing action programmes to address them.⁵¹
- *Italy* has failed to correctly execute the 2010 judgment of the Court of Justice finding that Italy had failed to adopt, for the region of Campania, all the measures necessary to ensure that waste is recycled and disposed of without endangering human health and without harming the environment. In particular, it has not established a suitable and integrated network of disposal installations. The Court ordered Italy to pay a lump sum of EUR 20 million and a daily penalty payment of EUR 120 000;⁵²
- *Slovenia* has infringed the Waste Framework Directive and the Landfill Directive in relation to the operation of two illegal landfills in Celje.⁵³

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *Austria*: exploratory drilling for natural gas, including trial production of natural gas to determine the commercial feasibility of the deposit, does not automatically require an environmental impact assessment. The competent national authorities must nevertheless carry out an evaluation to determine whether an environmental impact assessment is

⁴¹ Directive No [2000/60/EC](#).

⁴² PM₁₀ is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometres. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: [European Environment Agency](#)).

⁴³ Directive No [2008/50/EC](#).

⁴⁴ Directive No [2010/75/EU](#).

⁴⁵ Directive No [2001/80/EC](#).

⁴⁶ Directive No [2012/18/EU](#).

⁴⁷ These rulings are almost exclusively handed down on infringement procedures.

⁴⁸ Directive No [1999/31/EC](#), Commission v Bulgaria, [C-145/14](#).

⁴⁹ Directives No [2011/92/EU](#) and [2010/75/EU](#), Commission v Germany, [C-137/14](#).

⁵⁰ Directive No [91/271/EEC](#), Commission v Greece, [C-167/14](#) and Court press release No [126/15](#).

⁵¹ Directive No [91/676/EEC](#), Commission v Greece, [C-149/14](#).

⁵² Commission v Italy, [C-653/13](#) and Court press release No [86/15](#).

⁵³ Directives No [2008/98/EC](#) and [1999/31/EC](#), Commission v Slovenia, [C-140/14](#).

necessary. The cumulative impact of other projects must be considered and assessment must not be confined to municipal boundaries;⁵⁴

- *Austria*: an administrative decision not to carry out an environmental impact assessment for a particular project cannot be binding on persons who were precluded from bringing an action against that decision, if they are members of the 'public concerned' who satisfy the criteria laid down by national law concerning 'sufficient interest' or 'impairment of a right';⁵⁵
- *Germany*: garage-door operating devices depending on electric current of approximately 220 to 240 volts to work properly, designed to be incorporated into the building structure and apt at any time to be dismantled, re-installed or added to that structure, fall within the scope of the Directive on waste electrical and electronic equipment;⁵⁶
- *Germany*: the requirements imposed by the Water Framework Directive on the Member States to avoid deterioration in and achieve good status of their water bodies are binding objectives. Individual projects must therefore be assessed against these obligations. A fall by one class in the status of at least one quality element for a body of surface water is enough to determine the conclusion that there is a deterioration in the body's status;⁵⁷
- *Greece*: a measure containing a plan or programme which falls within the scope of the Strategic Environmental Assessment Directive and modifies an existing plan or programme may not be exempted from the obligation to carry out an environmental assessment on the ground that it is intended to give more specific expression to and implement a master plan established by a hierarchically superior measure which has not itself been the subject of such an environmental assessment;⁵⁸
- *Hungary*: the shipment of waste in the country of transit at a different border crossing point than the one provided for in the notification document and consented to by the competent authorities represents an essential change to the shipment conditions. If not notified to the competent authorities, the change results in the shipment of waste being illegal. A fine imposed for such an illegal shipment, the basic amount of which is the same as the fine imposed for a breach of the requirement to obtain consent and to give prior notification in writing, can be seen as proportionate only if equally serious infringements are involved;⁵⁹
- *Italy*: national legislation is compatible with EU law if it provides that, where it is impossible to identify the polluter of a plot of land, the owner of the land who is not responsible for the pollution cannot be required to adopt preventive and remedial measures;⁶⁰
- *Netherlands*: the operator of an installation may be given a time extension to implement a scheme to reduce emissions of volatile organic compounds when substitutes which may reduce these emissions are under development. This applies even though for that installation a constant solid content of product can be used to define the reference point for emission reductions;⁶¹
- *United Kingdom*: a charge for supplying environmental information may not include the cost of maintaining a database, but may include the overheads attributable to the time spent by the staff of the public authority on answering individual requests for information. It is possible to limit the extent of administrative and judicial review on a charge for supplying environmental information, but only in limited circumstances.⁶²

⁵⁴ Marktgemeinde Straßwalchen and Others, [C-531/13](#).

⁵⁵ Gruber, [C-570/13](#).

⁵⁶ Directives No [2002/96/EC](#) and [2012/19/EU](#), Sommer Antriebs- und Funktechnik, [C-369/14](#).

⁵⁷ Directive No [2000/60/EC](#), Bund für Umwelt und Naturschutz Deutschland, [C-461/13](#).

⁵⁸ Directive No [2001/42/EC](#), Dimos Kropias Attikis, [C-473/14](#).

⁵⁹ Regulation [\(EC\) No 1013/2006](#), Total Waste Recycling, [C-487/14](#).

⁶⁰ Fipa Group and Others, [C-534/13](#) and Court press release No [28/15](#).

⁶¹ Nannoka Vulcanus Industries, [C-81/14](#).

⁶² East Sussex County Council, [C-71/14](#).

VIII. OUTLOOK

Important implementation work in 2016 includes:

- concluding checks on Member States' compliance with the Directive on waste electrical and electronic equipment;⁶³
- assessing the content of the waste management plans and waste prevention programmes adopted by the Member States in the light of the Waste Framework Directive;⁶⁴
- assessing the completeness of Member States' measures transposing the Directive⁶⁵ on reducing the consumption of lightweight plastic carrier bags, after the transposition period expires on 27 November 2016;⁶⁶
- pursuing legal action against Member States that have failed to fulfil their obligations under the Habitats Directive regarding completing the Natura 2000 network and designating and conserving special areas of conservation;⁶⁷
- following up Court judgments expected on the conditions for derogating from the strict protection of certain species of wild birds,⁶⁸ on urban waste water treatment requirements,⁶⁹ and on air quality standards.⁷⁰
- issuing guidance on the setting up of coordinated or joint procedures for projects that are simultaneously subject to environmental assessment requirements under several directives (Article 2(3) EIA Directive, as amended by Directive 2014/52/EU);
- issuing the second report on the application and effectiveness of the Strategic Environmental Assessment (SEA) Directive;⁷¹
- following up on Member States' implementation of the Environmental Impact Assessment (EIA) and SEA Directives;⁷²
- paying close attention to the notifications submitted by Member States on exemptions from the assessment procedure under the EIA Directive;⁷³
- assessing the second river basin management plans adopted by the Member States under the Water Framework Directive, covering the period 2015-2021;⁷⁴
- assessing Member States' reports on their programmes of measures under the Marine Strategy Framework Directive, to be provided by 31 March 2016;⁷⁵
- pursuing legal action against Member States over widespread non-compliance with the NO₂ limit values in the Air Quality Directive;⁷⁶
- further checking the conformity of national provisions with the Air Quality Directive and the Industrial Emissions Directive;⁷⁷
- monitoring the correct application of the Environmental Noise Directive, in particular obligations to establish noise maps and action plans;⁷⁸
- pursuing legal action against Member States that have still failed to transpose the Seveso III Directive.⁷⁹

⁶³ Directive No [2012/19/EU](#).

⁶⁴ Directive No [2008/98/EC](#).

⁶⁵ Directive (EU) [2015/720](#) amending Directive [94/62/EC](#).

⁶⁶ Directive No [\(EU\) 2015/720](#).

⁶⁷ Directive No [92/43/EEC](#).

⁶⁸ Commission v Malta, [C-557/15](#).

⁶⁹ Commission v Portugal, [C-557/14](#) and Commission v Portugal, [C-398/14](#).

⁷⁰ Commission v Bulgaria, [C-488/15](#).

⁷¹ Directive No [2001/42/EC](#).

⁷² Directives No [2011/92/EU](#) and [2001/42/EC](#).

⁷³ Directive No [2011/92/EU](#). In 2015, Spain submitted two notifications concerning exemptions of certain projects consisting of works aimed at responding to droughts, as well as emergency works aimed at remedying damage caused by severe storms and Greece submitted one notification for exemption of a project for rehabilitation of anti-flooding works. The conditions on exemptions under the EIA Directive were met for the three notifications.

⁷⁴ Directive No [2000/60/EC](#).

⁷⁵ Directive No [2008/56/EC](#).

⁷⁶ Directive No [2008/50/EC](#).

⁷⁷ Directives No [2008/50/EC](#) and [2010/75/EU](#).

⁷⁸ Directive No [2002/49/EC](#).

⁷⁹ Directive No [2012/18/EU](#).

Financial stability, financial services and capital markets union

In 2015 the Commission received 139 complaints in the area of financial stability, financial services and capital markets union. It opened 42 EU Pilot files. The number of infringement cases pending at the end of 2015 totalled 172, and 125 new infringement procedures for late transposition of directives were opened during the year.¹

I. COMPLAINTS

1. New complaints received from members of the public in 2015

The Commission received 139 complaints from members of the public in 2015 in this area.

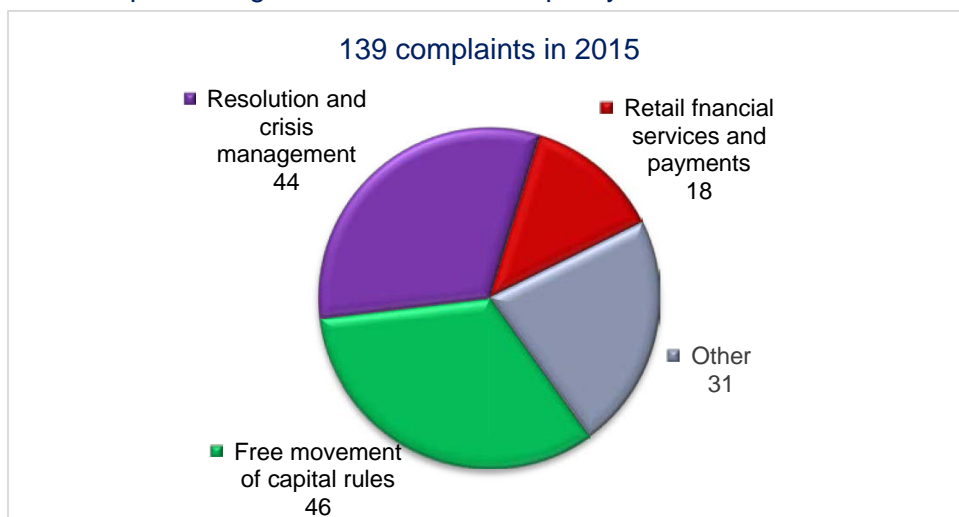
2. Public complaints open at year-end

139 > New complaints registered in 2015

68 > Complaints handled in 2015

158 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)

The Commission opened 42 new EU Pilot files in this area.

EU Pilot files open at year-end

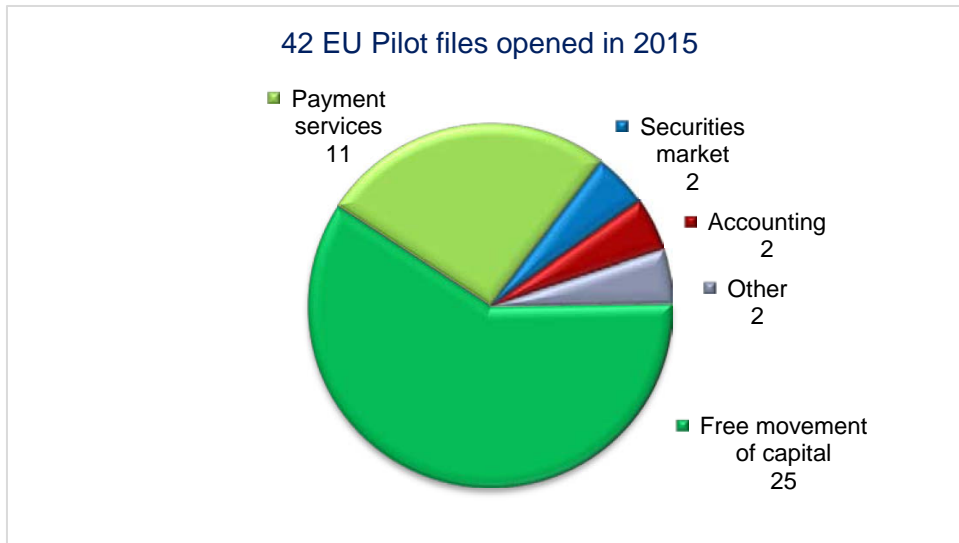
42 > New EU Pilot files registered in 2015

11 > EU Pilot files handled in 2015

61 > EU Pilot files open at end-2015

¹ The Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) was created on 1 January 2015 as part of a reorganisation of the Commission. Consequently historical data for this area are not available.

2. New EU Pilot files opened in 2015: main policy sectors



3. EU Pilot files: policies' combined resolution rate in 2011-2015

The combined resolution rate for financial stability, financial services and capital markets union in 2015 was 45 %. The general rate for all policy areas was 75 %.

III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2015

In 2015, the Commission opened own-initiative infringement cases concerning:

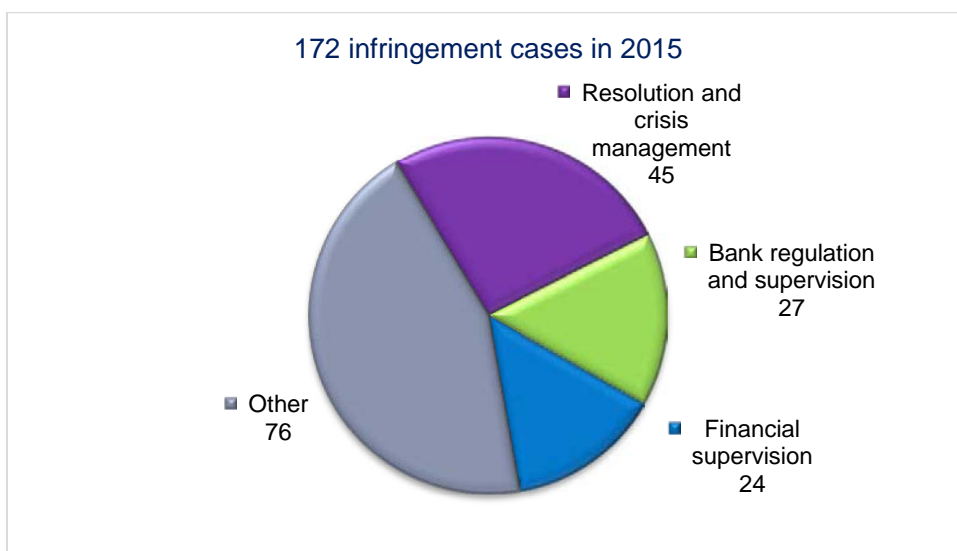
- free movement of capital;
- accounting and credit rating;
- supplementary supervision of financial conglomerates;
- insurance;
- financial supervision;
- banking resolution and crisis management.

IV. INFRINGEMENT CASES

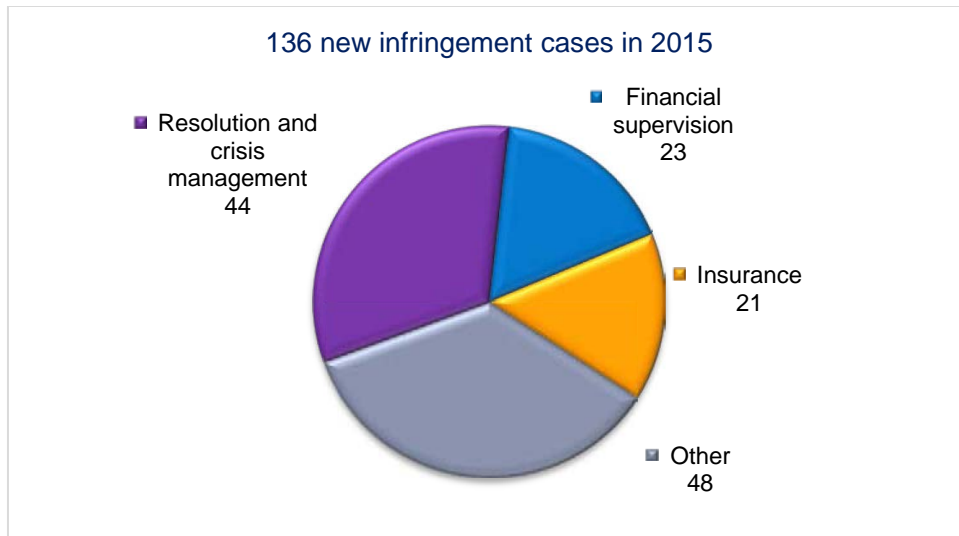
1. Infringement cases open on 31 December (2011-2015)

There were 172 infringement cases open on 31 December 2015 in this area.

Infringement cases open on 31 December 2015: main policy sectors



2. New infringement cases opened in 2015: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 136 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *Austria, Netherlands, Romania, Slovakia and Sweden*: bilateral investment treaties, signed before all state parties became members of the EU, which overlap and conflict with the EU single market on cross-border investments;²
 - *Belgium, Cyprus, Estonia, Greece, Italy, Luxembourg, Poland, Romania, Slovenia, and Sweden*: failure to communicate all national measures transposing the Deposit Guarantee Schemes Directive. This is a pre-condition for the future use of the European Deposit Insurance Scheme proposed by the Commission;³
 - *Bulgaria, Cyprus, Greece, Luxembourg, Slovenia and Sweden*: failure to communicate all national transposition measures implementing the Solvency II Directive and (except for Cyprus) the Omnibus II Directive. These create a harmonised prudential framework for insurance firms in the EU to facilitate development of a single market in insurance services;⁴
 - *Bulgaria, Czech Republic, France, Italy, Lithuania, Luxembourg, Netherlands, Malta, Poland, Romania and Sweden*: failure to communicate all national measures transposing the Bank Recovery and Resolution Directive, a centrepiece of the EU banking union. The Directive equips national authorities with the tools and powers to mitigate and manage the distress or failure of banks or large investment firms without taxpayers having to pay for such failures;⁵
 - *Bulgaria, Hungary, Latvia, Lithuania and Slovakia*: national restrictions on the acquisition of agricultural land which limit the free movement of capital and freedom of establishment by being discriminatory and/or disproportionate.⁶
 - *Croatia, Czech Republic, Hungary, Luxembourg, Poland and United Kingdom*: failure to communicate all national measures transposing the first amendment of the Financial Conglomerates Directive. This aims to remedy gaps in supplementary supervision revealed during the financial crisis;⁷
 - *Estonia and Italy*: failure to communicate all national transposition measures implementing the Alternative Investment Fund Managers Directive. This lays down

² [IP/15/5198](#).

³ Directive [2014/49/EU](#); [IP/15/6253](#) and [MEMO/15/6223](#).

⁴ Directives [2009/138/EC](#) and [2014/51/EU](#).

⁵ Directive [2014/59/EU](#); [IP/15/5057](#).

⁶ [IP/15/4673](#).

⁷ Directive [2011/89/EU](#).

the regulatory and supervisory framework for managers of alternative investment schemes that are addressed to professional investors;⁸

- *France*: possible discrimination against insurance providers from other Member States by requiring construction companies to buy insurance against potential damage from insurers established in France;⁹
- *Hungary*: national restrictions on the rights of cross-border investors to use agricultural land (usufruct rights). These may violate EU laws on free movement of capital, freedom of establishment and the right to property as enshrined in the EU Charter of Fundamental Rights;¹⁰
- *Luxembourg*: failure to communicate all national measures transposing the Directive on reducing over-reliance on credit ratings.¹¹

b) The Commission did not refer any cases to the Court under Article 258 TFEU.

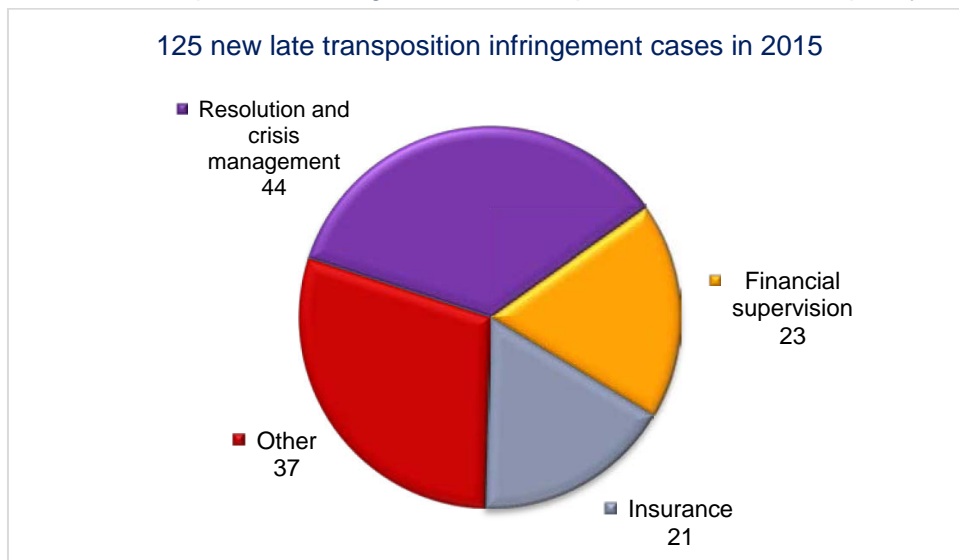
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)

There were 125 new late transposition infringement cases opened in 2015.

2. New late transposition infringement cases opened in 2015: main policy sectors



3. Key infringement cases and referrals to the Court

a) Most of the 125 new late transposition infringement cases opened in 2015 concern:

- the Bank Recovery and Resolution Directive (26 Member States);¹²
- the Omnibus II Directive (23 Member States);¹³
- the Financial Conglomerates Directive (20 Member States);¹⁴
- the Directive on deposit guarantee schemes (18 Member States);¹⁵
- the Accounting Directive (18 Member States);¹⁶
- the Directive on reducing over-reliance on credit ratings (16 Member States).¹⁷

⁸ Directive 2011/61/EU; [MEMO/15/4666](#).

⁹ [MEMO/15/5162](#).

¹⁰ [MEMO/15/5162](#).

¹¹ Directive [2013/14/EU](#).

¹² Directive [2014/59/EU](#).

¹³ Directive [2014/51/EU](#).

¹⁴ Directive [2011/89/EU](#).

¹⁵ Directive [2014/49/EU](#).

¹⁶ Directive [2013/34/EU](#).

- b) The Commission referred two cases to the Court under Article 260(3) TFEU. They concern:
- *Luxembourg and Poland*: failure to transpose the Directive establishing a framework for the recovery and resolution of credit institutions and investment firms;¹⁸

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Austria, Cyprus, Czech Republic, Greece, Hungary and Romania*: incomplete transposition of the Capital Requirements Directive.¹⁹
- *Bulgaria*: incorrect transposition of the former Directive on deposit-guarantee schemes in parallel with a disproportionate restriction on free movement of capital relating to the conservatorship and moratorium over Corporate Commercial Bank. Both issues have now been resolved;²⁰
- *Ireland*: the requirement that the Voluntary Health Insurance (VHI) Board meet the same regulatory requirements which apply to all companies under the Non-Life Insurance Directives as the conditions for exempting VHI were no longer met;²¹

VII. IMPORTANT JUDGMENTS

1. Court rulings²²

There were no major Court rulings in 2015.

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *Lithuania*: a national law that makes entitlement to compensation under the Investor Compensation Schemes Directive conditional on the credit institution concerned having transferred or used the funds or securities in question without the investor's consent is not compatible with Directive.²³

VIII. OUTLOOK

Important implementation work in 2016 includes:

- focusing on important directives whose transposition period expires in 2016, such as:
 - the Non-Financial Reporting Directive,²⁴
 - the Audit Directive,²⁵
 - the UCITS V Directive,²⁶
 - the Mortgage Credit Directive,²⁷
 - the Payment Services Directive,²⁸
 - The Market Abuse Directive²⁹ and
 - some provisions of the Deposit Guarantee Schemes Directive,³⁰

¹⁷ Directive [2013/14/EU](#).

¹⁸ Directive [2014/59/UE](#), Commission v Luxembourg, [C-684/15](#).

¹⁹ Directive [2013/36/EU](#).

²⁰ Directive [1994/19/EC](#).

²¹ Directives [73/239/EEC](#) and [92/49/EEC](#).

²² These rulings are almost exclusively handed down on infringement procedures.

²³ Directive [97/9/EC](#); *Indėlių ir investicijų draudimas and Nemaniūnas*, [C-671/13](#).

²⁴ Directive [2014/95/EU](#).

²⁵ Directive [2014/56/EU](#).

²⁶ Directive [2014/91/EU](#).

²⁷ Directive [2014/17/EU](#).

²⁸ Directive [2014/92/EU](#).

²⁹ Directive [2014/57/EU](#).

- following up the judgment expected from the Court in case C-156/15 on the Directive on financial collateral arrangements,³¹ in particular regarding insolvency of credit institutions' customers;
- checking that Member States have correctly transposed the Directives on company reporting, audit, asset management, retail financial services and in the banking sector.

³⁰ Directive [2014/49/EU](#).

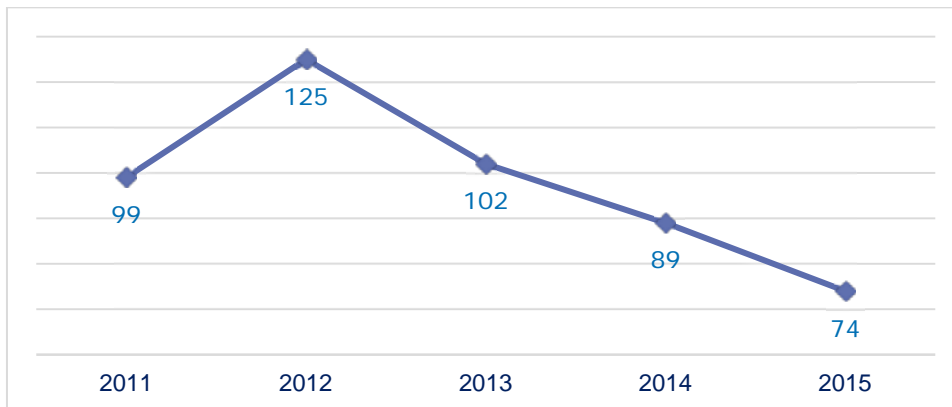
³¹ Directive [2002/47/EC](#).

Health and food safety

Compliance with health and food safety legislation improved across the board in 2015. New complaints and new EU Pilot files decreased further to their lowest levels since 2011. After increasing in 2014, infringement cases pending at the end of the year and new late transposition cases also fell, with both hitting their lowest for five years.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

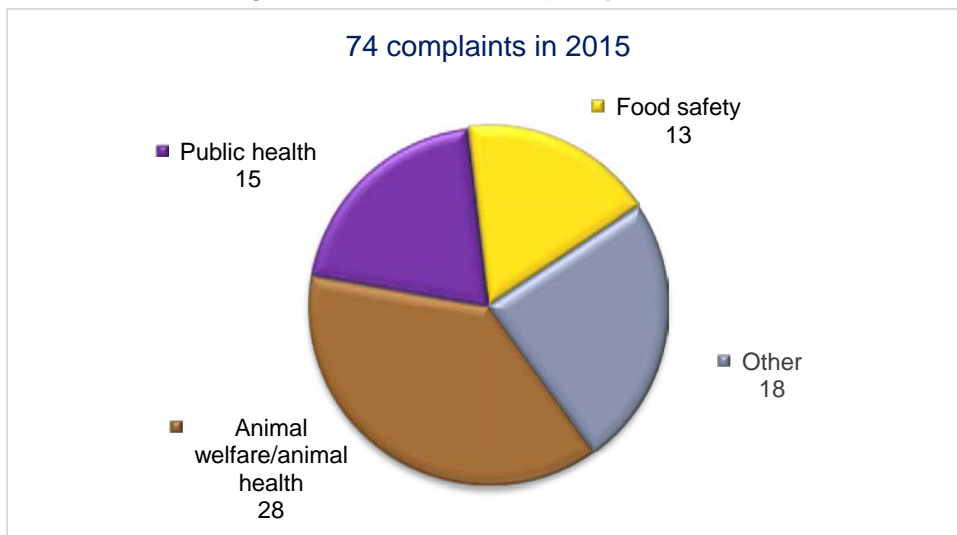
62 > Complaints open at end-2014

74 > New complaints registered in 2015

70 > Complaints handled in 2015

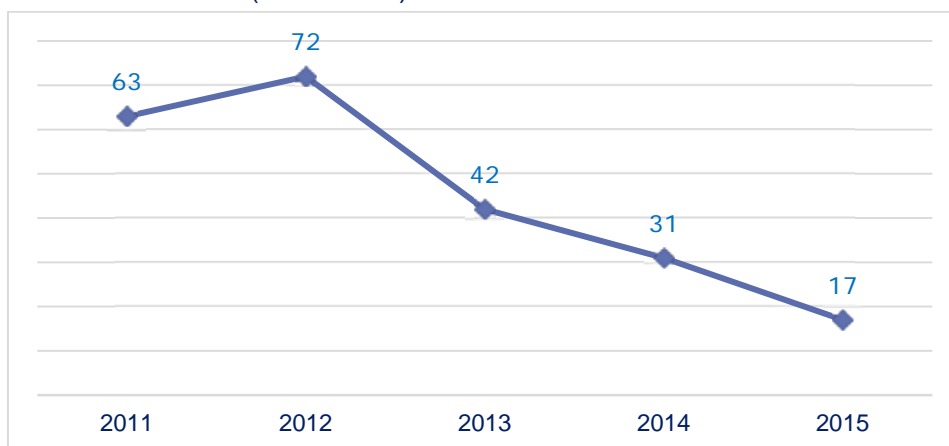
= 66 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot open at year-end

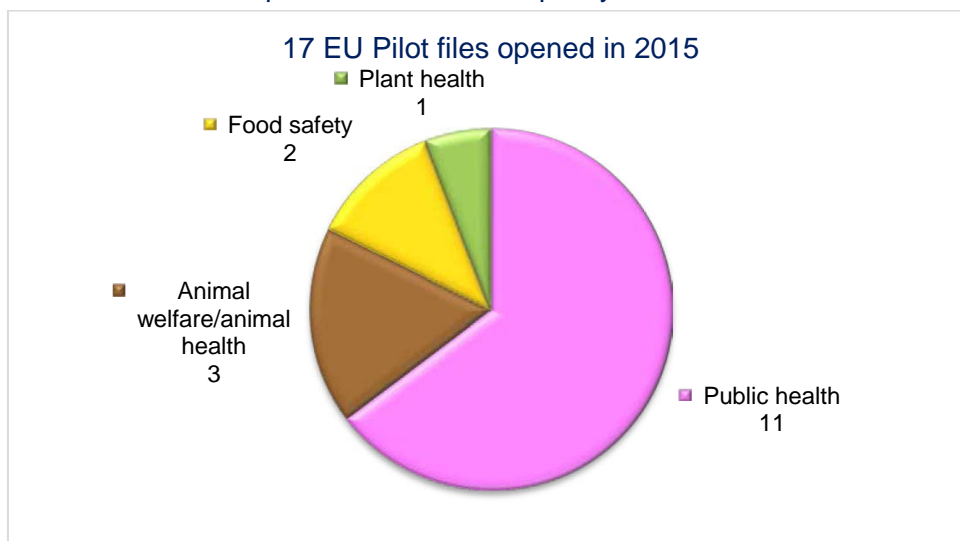
40 > EU Pilot files open at end-2014

17 > New EU Pilot files registered in 2015

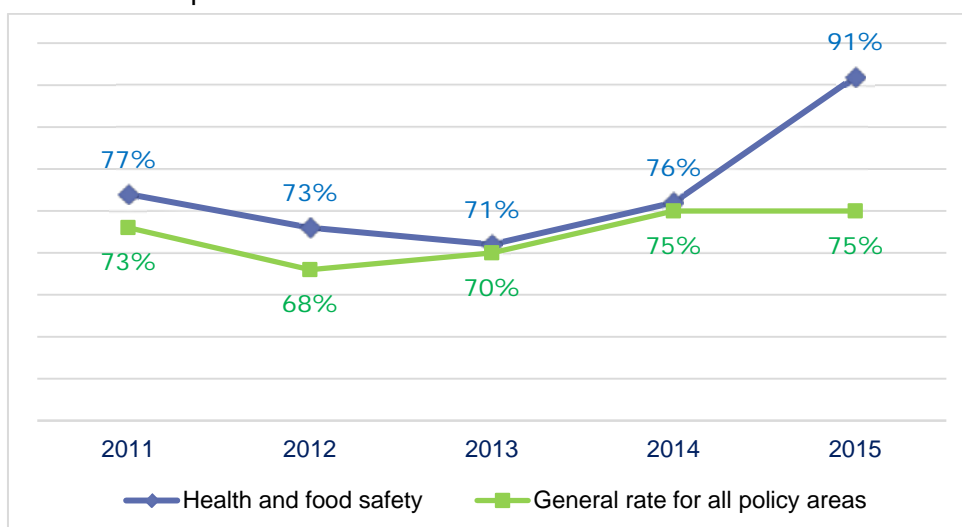
23 > EU Pilot files handled in 2015

= 34 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

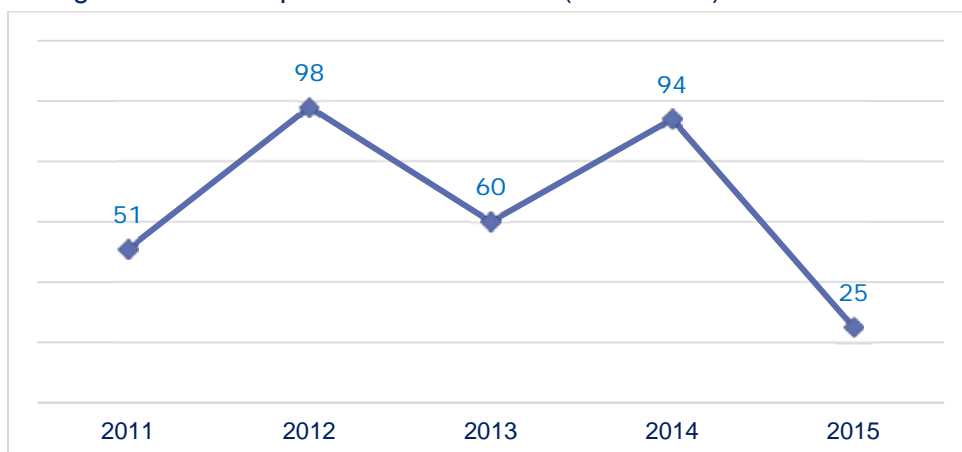
New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- incorrect application of the Directives on patients' rights in cross-border healthcare and on plant health.¹

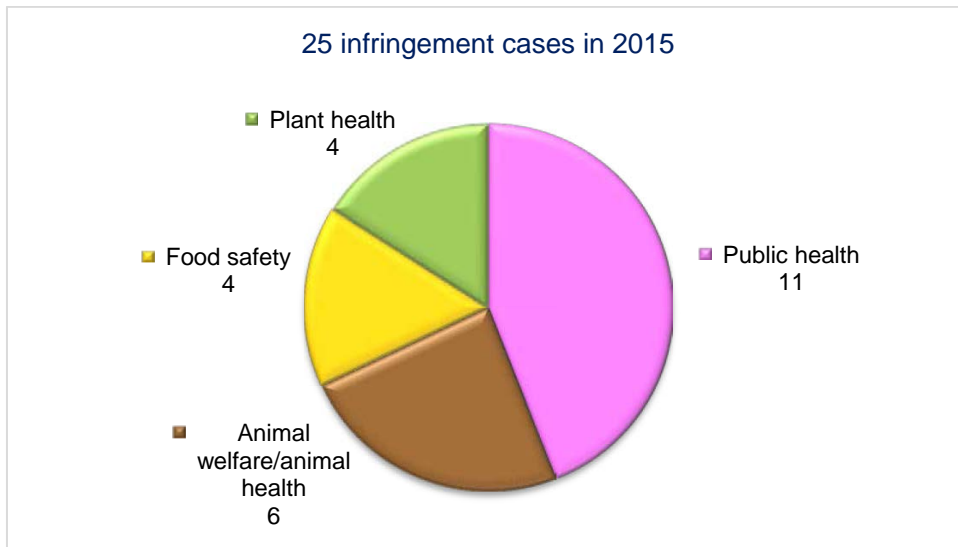
IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2011-2015)

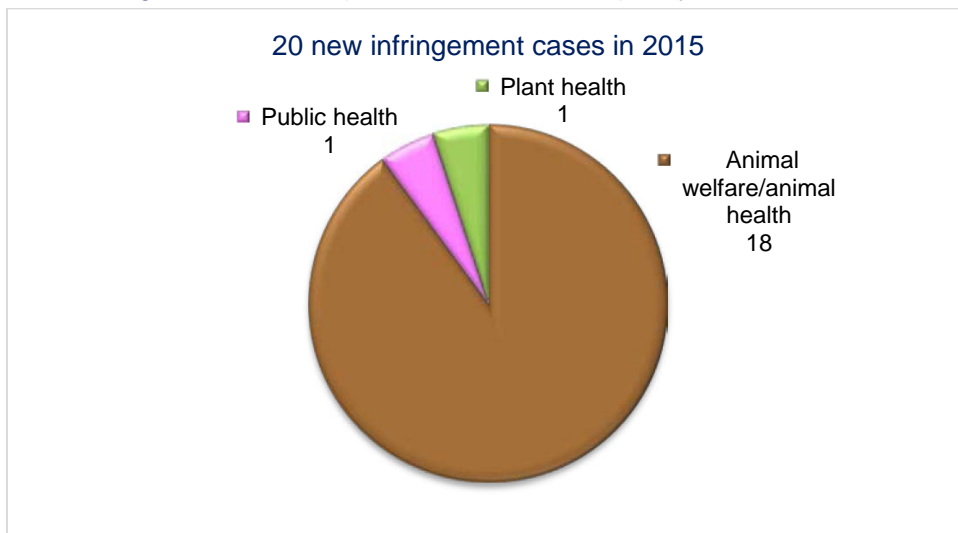


¹ Directive [2011/24/EU](#) and Council Directive [2000/29/EC](#).

2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors



4. Key infringement cases and referrals to the Court

- a) The Commission opened 20 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
 - *Italy*: non-compliance with the Commission's Decision on measures to prevent the introduction into and the spread within the EU of *Xylella fastidiosa*.² The case specifically relates to the removal of plants, survey activities and the ongoing rapid spread of the disease;³
 - *Finland*: non-conformity of national legislation with the Directive on patients' rights in cross-border healthcare. The cases relates to the level of costs reimbursed by the Member State of affiliation to an insured person who receives cross-border healthcare.⁴
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.

² *Xylella fastidiosa* is one of the most dangerous plant bacteria worldwide, causing a variety of diseases, with huge economic impact for agriculture.

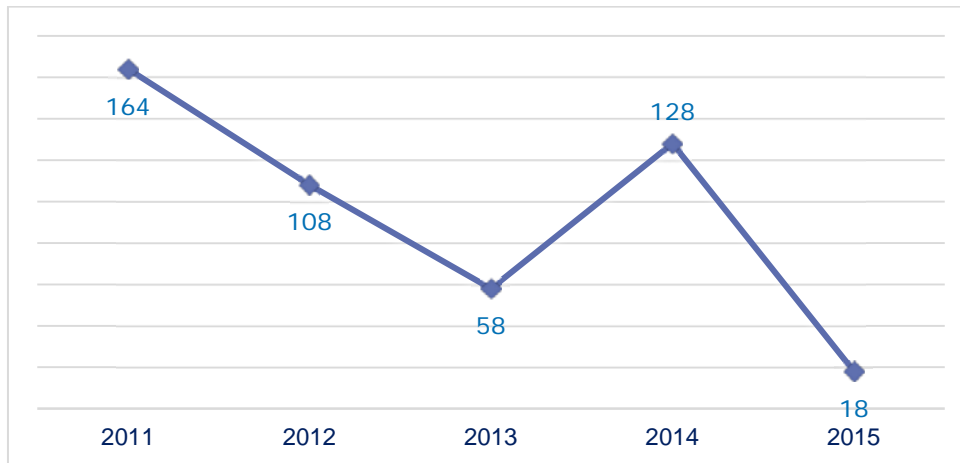
³ Commission Implementing [Decision \(EU\) 2015/789](#).

⁴ Directive [2011/24/EU](#).

- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)



2. New late transposition infringement cases opened in 2015: main policy sectors

The Commission opened 18 new late transposition infringements in the area of animal health.⁵

3. Key infringement cases and referrals to the Court

- a) The 18 cases for late transposition concern:
- the Directive on animal health requirements governing intra-Union trade in and imports into the Union of dogs, cats and ferrets.⁶
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- Ireland and France*: failure to ensure compliance with the Regulation on animal welfare during transport;⁷
- Ireland, Cyprus, Germany, France, Poland and Slovenia*: failure to apply correctly the Directive on the protection of pigs as regards group housing of sows.⁸

VII. IMPORTANT JUDGMENTS

1. Court rulings⁹

The Court ruled that:

- Denmark*: failed to fulfil its obligations by having continued to authorise the sale of loose snus (oral tobacco). EU legislation¹⁰ prohibits the sale of snus except in Sweden. Snus is finely ground or cut tobacco sold either loose or in small sachet portions and intended to be consumed by placing between the gum and the lip, without being chewed or smoked.

⁵ Directives [2013/31/EU](#) and [2014/22/EU](#).

⁶ Directive [2013/31/EU](#).

⁷ Regulation [\(EC\) No 1/2005](#).

⁸ Directive [2008/120/EC](#).

⁹ These rulings are almost exclusively handed down on infringement procedures.

¹⁰ Directive [2001/37/EC](#).

Danish law prohibited the sale of snus packed in porous sachets but allowed the sale of loose snus.¹¹

- *Poland*: the exclusion of legal obligations concerning reproductive cells, foetal tissues and embryonic tissues from the scope of national transposition legislation causes a public health concern. This is because the relevant medical procedures (e.g. in-vitro fertilisation) in Poland are not subject to the legal requirements of quality and safety complying with EU law. Since Polish legislation does not prohibit assisted reproduction procedures, Poland must ensure the correct transposition of the EU directives without delay.¹²

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *France*: permanently excluding blood donations from men who have had sexual relations with other men may be justified, depending on the situation in the Member State concerned. Under French law, men who have had sexual relations with other men are permanently excluded from donating blood in France, given the high prevalence of HIV. The French measure may discriminate on grounds of sexual orientation. The permanent exclusion should therefore be assessed in the light of the situation in that Member State and of the proportionality principle. Permanent exclusion from blood donation for men who have had sexual relations with other men may be justified by medical and scientific knowledge and the epidemiological situation prevailing in a Member State and where no effective techniques or less onerous methods exist to address the situation. It is for the national court to determine whether those conditions are met in France.¹³

VIII. OUTLOOK

Important implementation work in 2016 includes:

- continuing monitoring to ensure that Member States transpose the Cross-Border Healthcare Directive correctly and checking that their national implementing provisions comply with it;¹⁴
- starting monitoring to ensure that Member States transpose the Tobacco Products Directive correctly and checking that their national implementing provisions comply with it;¹⁵
- continuing to monitor plant health-related cases, in particular *Xylella fastidiosa* in Italy and the Pinewood Nematode in Portugal;
- finding ways, outside the context of formal infringement proceedings, to pursue work on guiding and supporting Member States in their implementation of EU legislation

¹¹ Commission v Denmark, [C-468/14](#).

¹² Commission v Poland, [C-29/14](#).

¹³ Léger, [C-528/13](#) and Court press release No [46/15](#).

¹⁴ Directive [2011/24/EU](#).

¹⁵ Directive [2014/40/EU](#).

Internal market, industry, entrepreneurship and SMEs

In 2015 the Commission received 552 new complaints in the area of internal market, industry entrepreneurship and SMEs, and opened 107 new EU Pilot files. The number of infringement cases pending at the end of 2015 was 129, while 56 new infringement procedures were opened for late transposition of directives.¹

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)

The Commission received 552 complaints from the members of the public in the area of internal market, industry, entrepreneurship and SMEs.

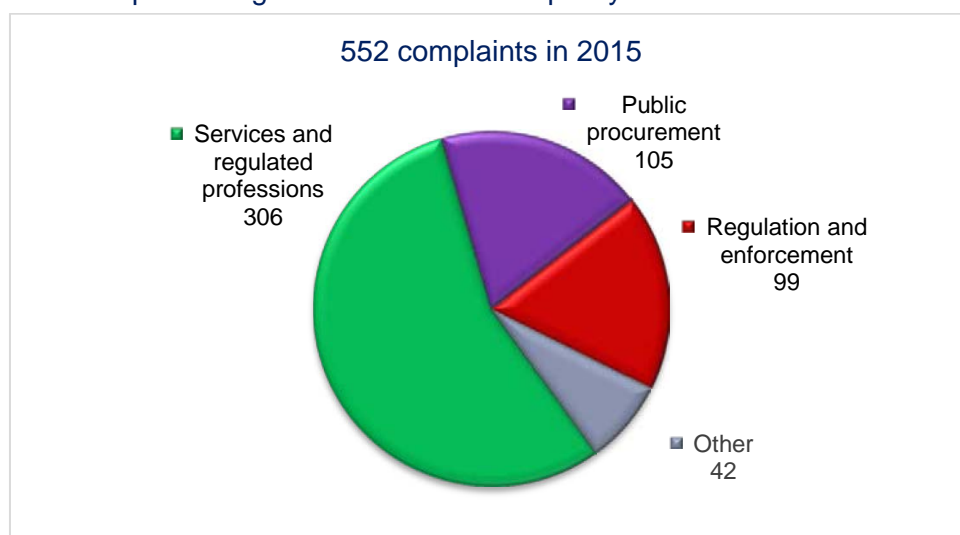
2. Public complaints open a year-end

552 > New complaints registered in 2015

462 > Complaints handled in 2015

527 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)

The Commission opened 107 EU Pilot files in 2015 in this area.

2. EU Pilot files open at year-end²

107 > New EU Pilot files registered in 2015

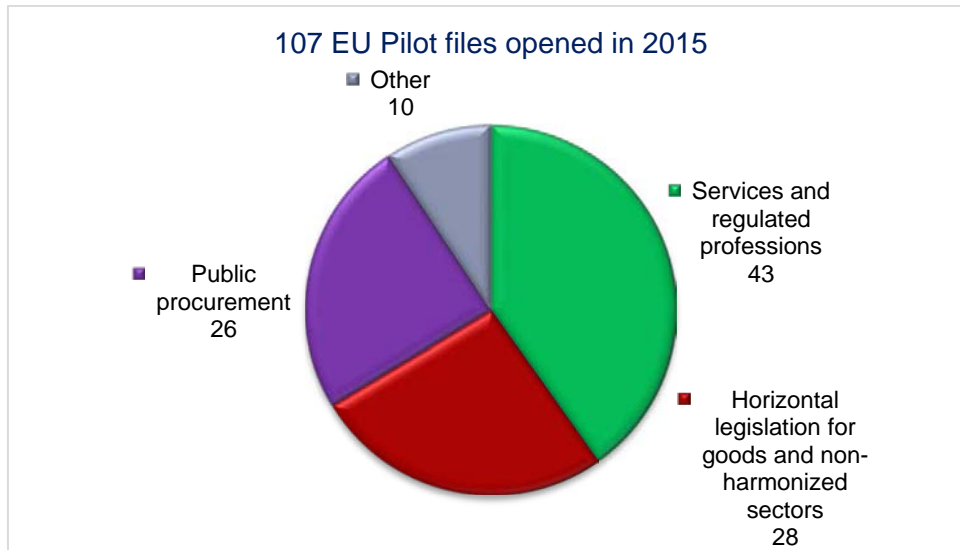
118 > EU Pilot files handled in 2015

132 > EU Pilot files open at end-2015

¹ The Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) was created on 1 January 2015 as part of a reorganisation of the Commission. Consequently historical data for this area are not available. An overview of the practical management of the Single Market is available at: http://ec.europa.eu/internal_market/scoreboard/.

² See footnote 1.

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015

The combined resolution rate for internal market, industry, entrepreneurship and SMEs in 2015 was 74 %. The general rate for all policy areas was 75 %.

III. OWN-INITIATIVE CASES

New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- freedom to provide services and freedom of establishment;
- public procurement;³
- the regulatory approach for the free movement of goods and market surveillance;⁴
- the Directive on measuring instruments;⁵
- the Services Directive;⁶
- regulated professions (qualifications);⁷
- the safety of toys;⁸
- restrictions on trade under Articles 34 to 36 TFEU;
- implementation of the Late Payment Directive.⁹

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2011-2015)

There were 129 infringement cases open on 31 December 2015 in this area.

³ Directive [2004/18/EC](#).

⁴ Regulation [\(EC\) 765/2008](#).

⁵ Directive [2004/22/EC](#).

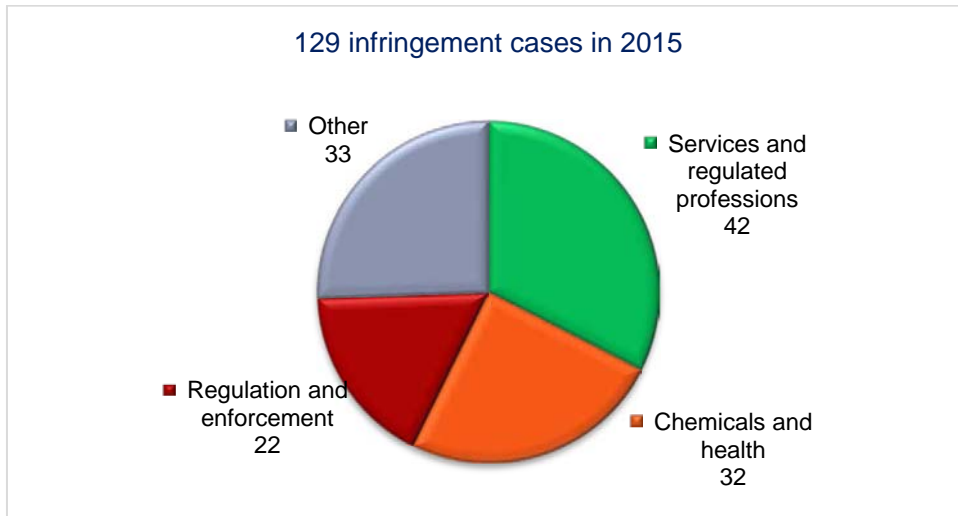
⁶ Directive [2006/123/EC](#).

⁷ Directive [2005/36/EC](#).

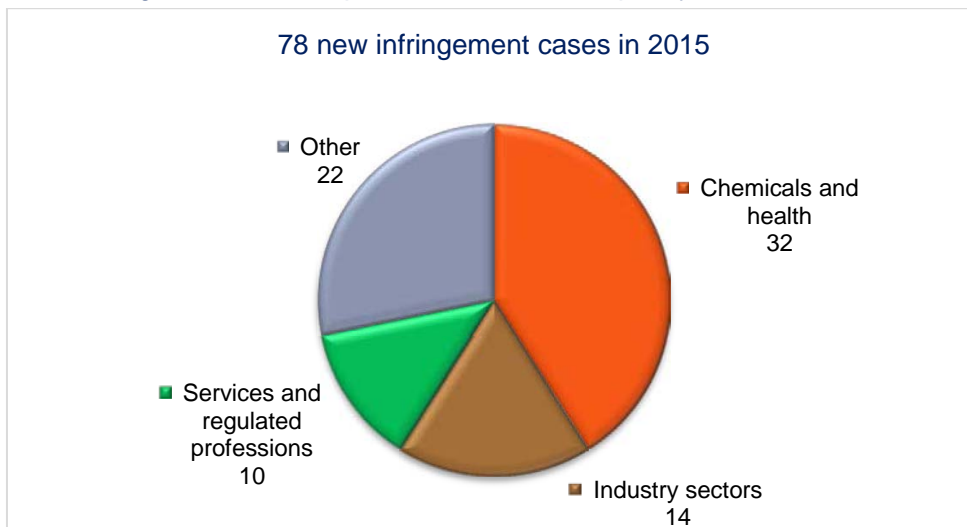
⁸ Directives [2014/84/EU](#) and [2014/79/EU](#).

⁹ Directive [2011/7/EU](#).

2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors



4. Key infringement cases and referrals to the Court

- a) The Commission opened 78 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *Austria, Cyprus, Germany, Greece, Malta, Poland, Spain*: Excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;¹⁰
 - *Hungary*: the direct award of a contract to construct two new reactors and refurbish two others at the Paks II nuclear power plant without a transparent procedure. This is not in compliance with EU public procurement legislation;¹¹
 - *Slovakia*: requirements for retailers with high turnover to publish and report information on the origin of food products. These breach provisions on the free movement of goods;¹²
 - *Spain*: breach of the Public Procurement Directive. Certain companies were favoured by receiving key information to prepare their tenders for clothing for the Army well before the information was published;¹³

¹⁰ Directive [2006/123/EC](#) and [IP/15/5199](#).

¹¹ Directives [2004/17/EC](#) and [2004/18/EC](#), [MEMO/15/6006](#).

¹² [MEMO/15/6006](#).

¹³ Directive [2004/18/EC](#) and [MEMO/15/5162](#).

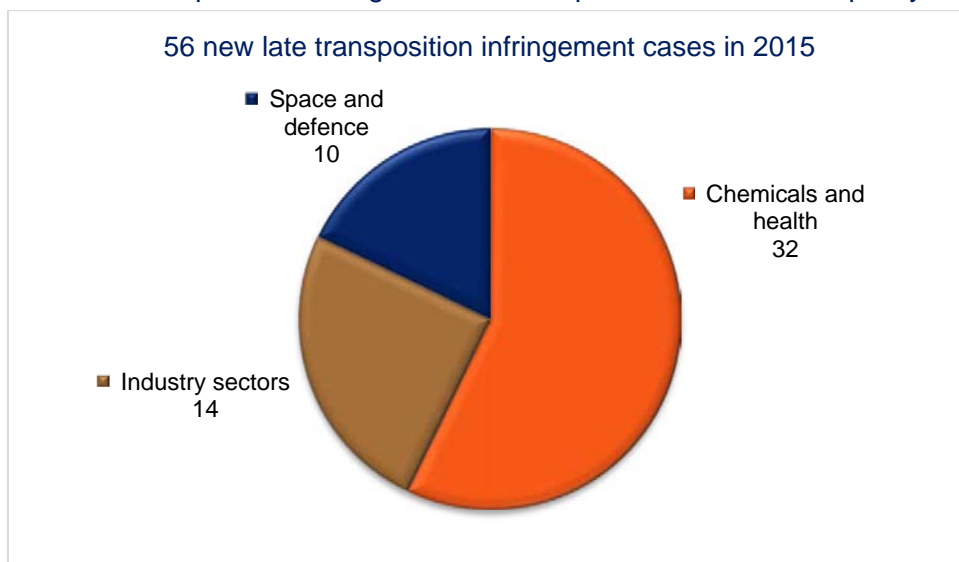
- *Spain*: rules subjecting firearms considered as 'historic' in other Member States to additional marking when brought into Spain.¹⁴
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- *Germany*: the German Explosives Act. This is not compatible with the 'free movement clause' laid down in the Directive on the placing on the market of pyrotechnic articles.¹⁵ The Act provides for a mandatory notification procedure before pyrotechnic articles can be placed on the German market, even where the articles satisfy the requirements of the Directive;¹⁶
 - *Hungary*: only Hungarian nationals are allowed to take up and practice the profession of notary in Hungary, thus excluding nationals from other Member States.¹⁷
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)

There were 56 new late transposition infringement cases opened in 2015.

2. New late transposition infringement cases opened in 2015: main policy sectors



3. Key infringement cases and referrals to the Court

- a) Most of the 56 cases for late transposition opened in 2015 concern:
- the Directives regarding pyrotechnic articles;¹⁸
 - the Pressure Equipment Directive.¹⁹
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

¹⁴ [MEMO/15/4489](#).

¹⁵ Directive [2007/23/EC](#).

¹⁶ Commission v Germany, [C-220/15](#), and [IP/15/4444](#).

¹⁷ Commission v Hungary, [C-392/15](#), and [IP/15/4876](#).

¹⁸ Directive [2013/29/EU](#) and Directive [2014/58/EU](#).

¹⁹ Directive [2014/68/EU](#).

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Estonia*: obstacles to the parallel imports of medicinal products;
- *France*: the obligation for French breathalyser kits in cars to conform to a specific French standard;
- *France*: obstacles to the importation of antique firearms;
- *Germany*: the award of a waste disposal service contract by the city of Rostock on the basis of discriminatory award criteria;
- *Greece*: the non-compliance of Greek law with the Late Payment Directive regarding late payment rules for public hospitals and other public bodies;
- *Italy*: provisions in national law hindering the sale of plastic chimneys or flue ducts;
- *Poland*: barriers to the recognition of professional experience acquired by lawyers in another Member State;
- *Slovakia*: incorrect transposition of the Late Payment Directive;
- *Spain*: obstacles to manufacturing, importing and exporting, selling, installing and operating game machines;
- *Spain*: restrictions on the establishment of commercial buildings in Andalusia.

VII. IMPORTANT JUDGMENTS

1. Court rulings²⁰

The Court ruled that:

- *Latvia*: the requirement to hold Latvian nationality to exercise the profession of notary is a discrimination based on nationality prohibited by Article 49 TFEU.²¹

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *Austria*: provisions in national law made it excessively difficult to exercise the right to bring an action for damages under EU procurement rules;²²
- *Belgium*: the office of legal secretary at the 'Cour de cassation' is not a 'regulated profession';²³
- *Finland*: discriminatory measures on distance selling and transport of alcoholic beverages can be justified if they are appropriate and cannot be achieved by less restrictive measures;²⁴
- *Finland*: complex contractual arrangements can be classified as service proceedings so long as the relevant contracting authority has transferred to the concession holder all, or a significant share of, the risk which it faces;²⁵
- *Germany*: architects whose qualifications cannot be automatically recognised under the Professional Qualifications Directive can still benefit from the general system of recognition set out by the Directive;²⁶
- *Germany*: European public procurement legislation does not preclude national legislation that requires tenderers to pay a predetermined minimum wage to staff;²⁷
- *Germany*: non-corrective colour contact lenses featuring designs are not cosmetics under the Cosmetic Products Regulation;²⁸

²⁰ These rulings are almost exclusively handed down on infringement procedures.

²¹ Commission v Latvia, [C-151/14](#).

²² MedEval, [C-166/14](#).

²³ Brouillard v Jury du concours de recrutement de référendaires, [C-298/14](#).

²⁴ Visnapuu, [C-198/14](#).

²⁵ Kansaneläkelaitos, [C-269/14](#).

²⁶ Eintragungsausschuss bei der Bayerischen Architektenkammer v Hans Angerer, [C-477/13](#).

²⁷ Regiopost, [C-115/14](#), and Court press release No [139/15](#).

- *Hungary*: legislation which prohibits the operation of slot machines outside casinos may be contrary to the principle of freedom to provide services.²⁹
- *Italy*: labelling requirements constitute a barrier to intra-EU trade if goods coming from other Member States have to be given a different label;³⁰
- *Romania*: legislation imposing an approval or homologation procedure on products constitutes a trade barrier unless exceptions are laid down for Member States where such products are lawfully produced and marketed;³¹
- *United Kingdom*: the Scottish legislation introducing a minimum price per unit of alcohol is contrary to EU law if less trade-restrictive tax measures can be used.³²

VIII. OUTLOOK

Important implementation work in 2016 includes:

- ensuring follow-up to the 2012 and 2013 monitoring of compliance with legal form and shareholdings on the basis of the Services Directive;
- dealing with implementation issues in public procurement. This includes addressing the root causes of systemic and recurrent issues together with Member States;
- monitoring specific application and implementation issues arising from procurement rules in certain sectors, such as health, IT, energy and waste management.

²⁸ Colena, [C-321/14](#).

²⁹ Berlington Hungary and Others, [C-98/14](#) and Court press release No [69/15](#).

³⁰ Unione Nazionale Industria Conciaria, [C-95/14](#).

³¹ Capoda Import-Export, [C-354/14](#).

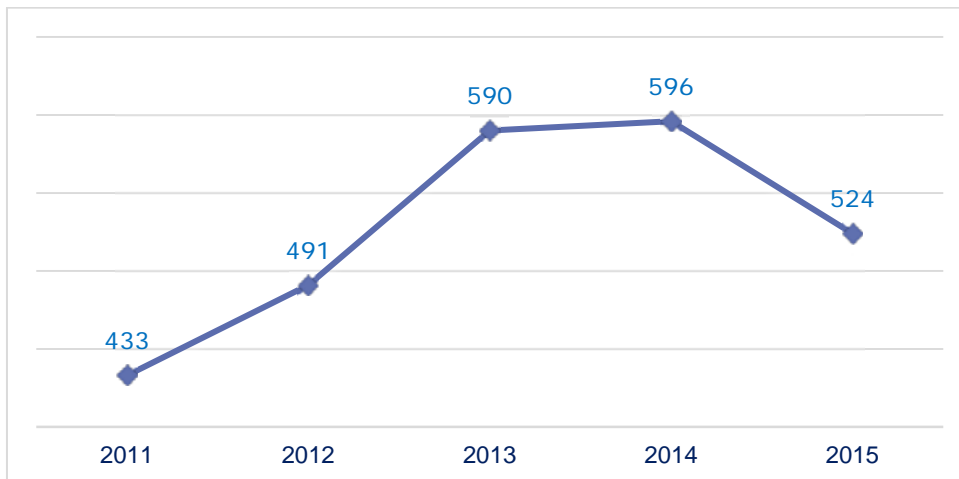
³² Scotch Whisky Association and Others v Lord Advocate, [C-333/14](#) and Court press release No [155/15](#).

Justice and consumers

In 2015 the number of new complaints in the area of justice and consumers fell for the first time since 2011. Following 2014's sharp decrease, new EU Pilot files rose back to their 2012 level. Infringement cases pending at the end of 2015 and new late transposition cases declined moderately after steadily increasing over the past three years.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

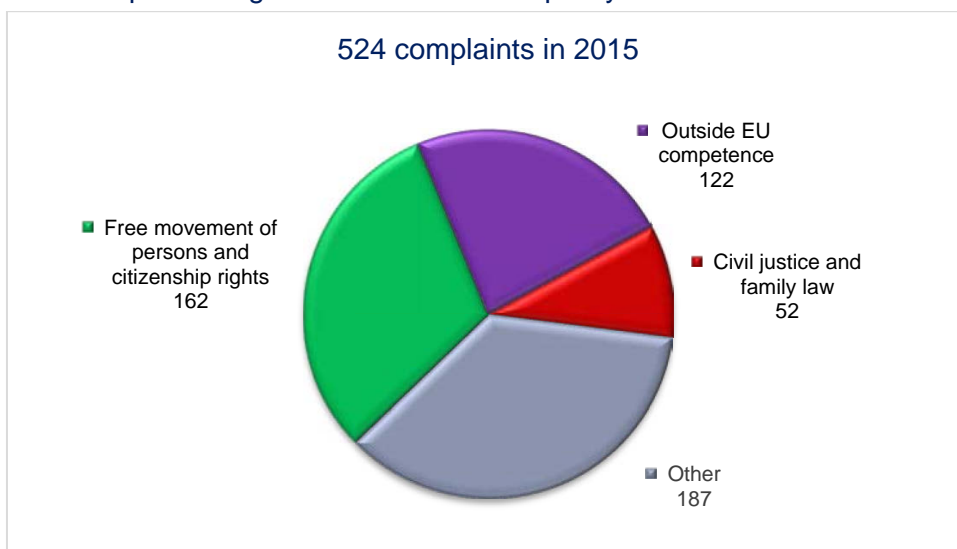
540 > Complaints open at end-2014

524 > New complaints registered in 2015

507 > Complaints handled in 2015

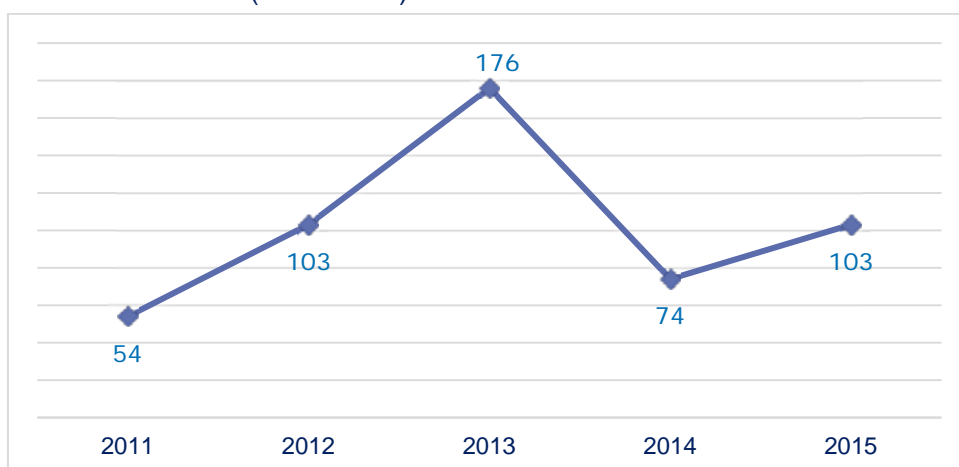
= 557 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot files open at year-end

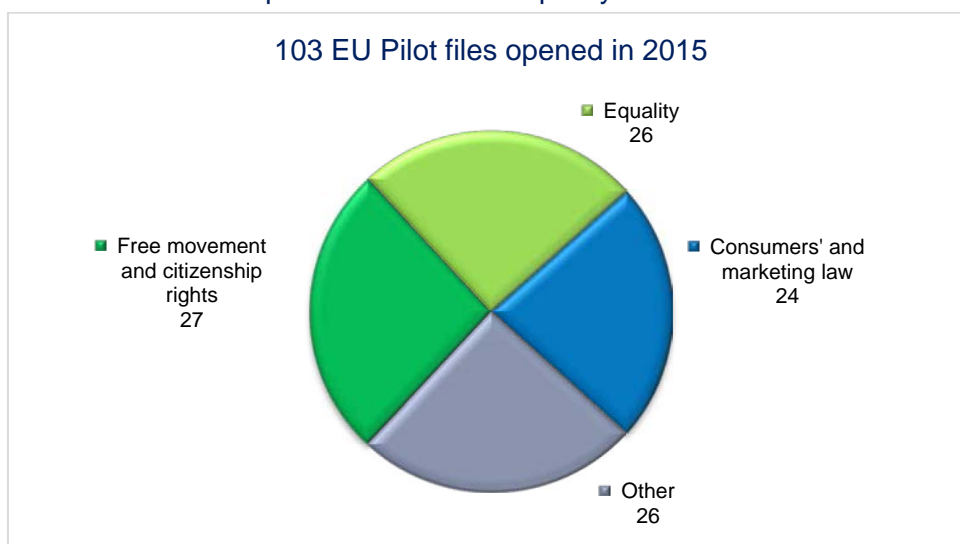
157 > EU Pilot files open at end-2014

103 > New EU Pilot files registered in 2015

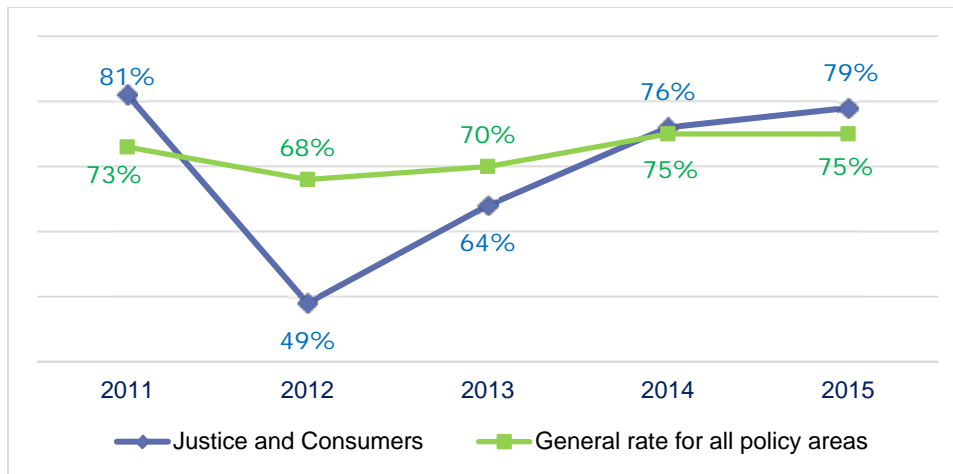
73 > EU Pilot files handled in 2015

= 187 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- incomplete or incorrect transposition of former 'third pillar' instruments, namely the Framework Decisions on exchange of information extracted from criminal records between Member States (ECRIS),¹ the European supervision order,² probation and alternative sanctions,³ and transfer of prisoners;⁴
- incorrect transposition of the Free Movement Directive⁵ in three Member States;
- the possibility for foreign investors to obtain the nationality of an EU Member State solely on the basis of their contribution to the economic development of that State's investor schemes ('EU citizenship for sale');
- spelling of personal names. The cases point to inconvenience experienced by EU citizens due to the non-recognition in one Member State of a name attributed or changed under the law of another Member State;
- the set-up of national equality bodies and access to education of the Roma population;
- incorrect transposition of the Consumer Rights Directive, the Unfair Commercial Practices Directive and the Timeshare Directive.⁶

¹ Framework Decision [2009/315/JHA](#).

² Framework Decision [2009/829/JHA](#).

³ Framework Decision [2008/947/JHA](#).

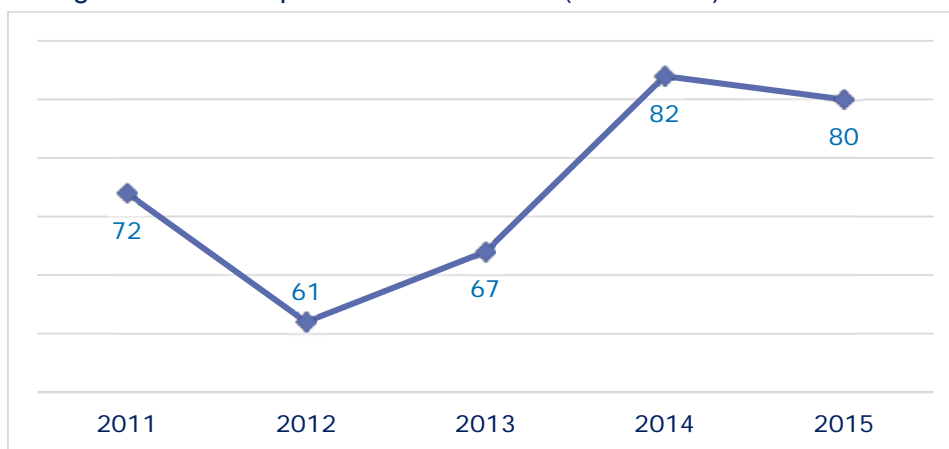
⁴ Framework Decision [2008/909/JHA](#).

⁵ Directive [2004/38/EC](#).

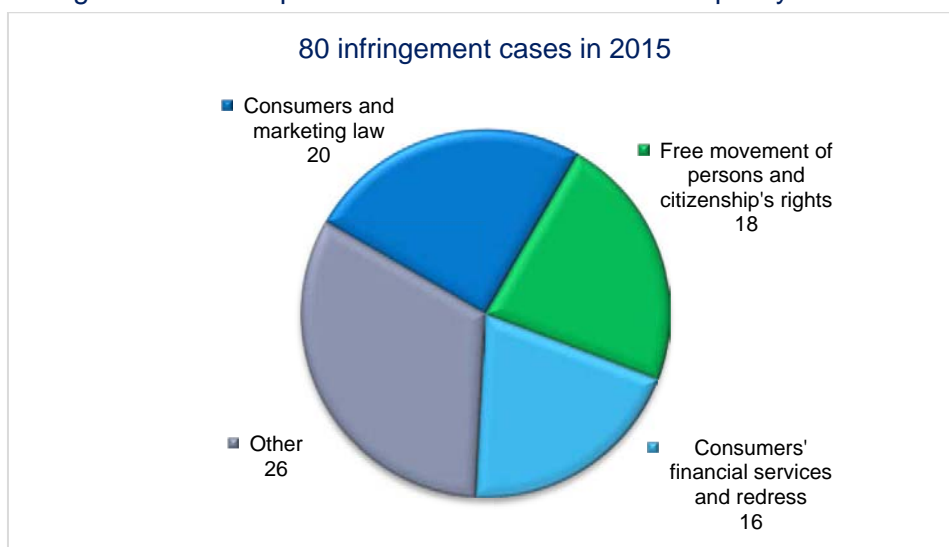
⁶ Directives [2011/83/EC](#), [2005/29/EC](#) and [2008/122/EC](#).

IV. INFRINGEMENT CASES

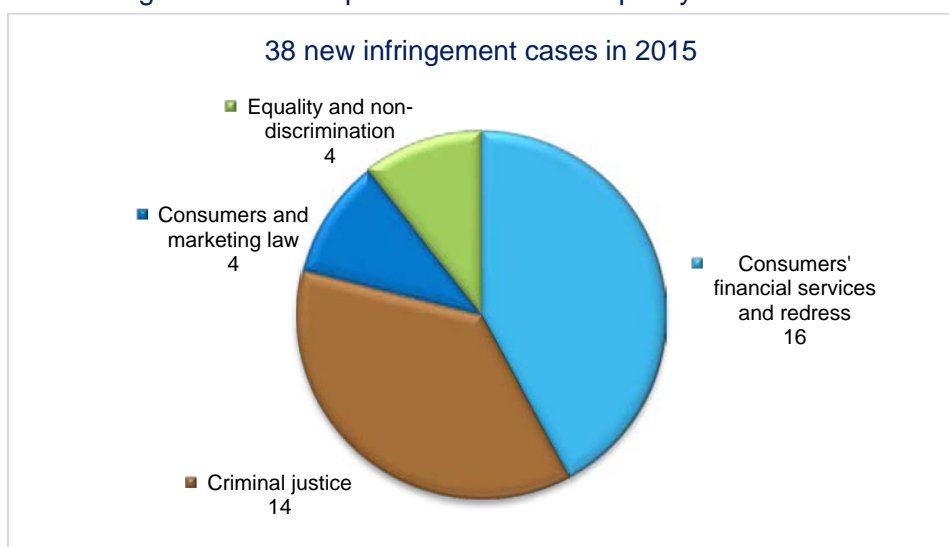
1. Infringement cases open on 31 December (2011-2015)



2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors

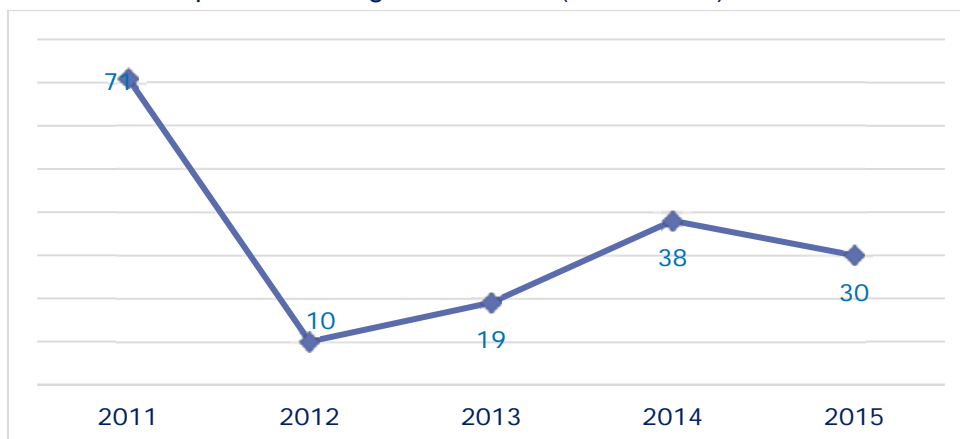


4. Key infringement cases and referrals to the Court

- a) The Commission opened 38 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *Cyprus*: failure to inform buyers about pre-existing mortgages on properties offered for sale. As a result, buyers who had paid for their property were unable to obtain their title deed;
 - *Italy*: pension reform which provides for 'early retirement' after a number of years of financial contributions which differ depending on the sex of the worker;
 - *Germany*: incorrect transposition of the Directive ensuring equal access between men and women to goods and services;⁷
 - *Lithuania*: failure to provide sufficient guarantees for the reimbursement of consumers affected by the insolvency of a package travel organiser;
 - *Slovenia*: failure to set up an independent and effective equality body in conformity with the Anti-Discrimination Directives;⁸
 - *Slovakia*: discrimination against Roma children in education.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)

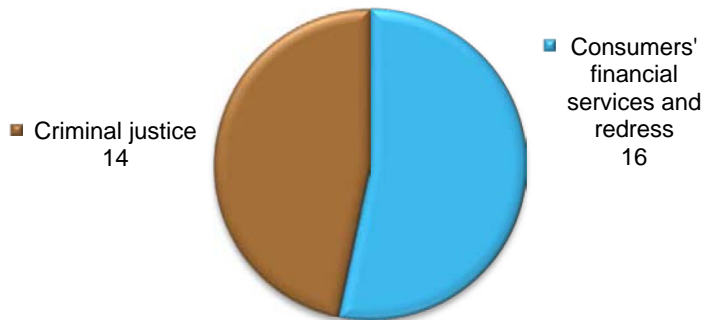


2. New late transposition infringement cases opened in 2015: main policy sectors

⁷ Directive [2004/113/EC](#).

⁸ Directives [2000/43/EC](#), [2004/113/EC](#) and [2006/54/EC](#).

30 new late transposition infringement cases in 2015



3. Key infringement cases and referrals to the Court

- a) The 30 cases of late transposition opened in 2015 concern:
 - the Directive on alternative dispute resolution (16 cases);⁹
 - the European protection order (14 cases).¹⁰
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *France*: incorrect transposition of the Directive on unfair commercial practices;¹¹
- *Cyprus, Czech Republic, Luxembourg, Slovenia, Slovakia and Spain*: failure to notify national transposition measures for the Directive on the right to information in criminal proceedings;¹²
- *Ireland and Slovenia*: failure to notify national transposition measures for the Directive on the right to interpretation and translation in criminal proceedings;¹³
- *Bulgaria, Czech Republic, Finland, France, Latvia, Lithuania, Portugal and Slovenia*: failure to notify national transposition measures for the Directive on the European protection order.

VII. IMPORTANT JUDGMENTS

1. Court rulings¹⁴

There were no major Court rulings in 2015.

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *Bulgaria*: the principle of equal treatment applies not only to people of a certain ethnic origin, but also to those who suffer, together with the former, less favourable treatment or a particular disadvantage on account of a discriminatory measure. The case concerned

⁹ Directive [2013/11/EU](#).

¹⁰ Directive [2011/99/EU](#).

¹¹ Directive [2005/29/EC](#).

¹² Directive [2012/13/EU](#).

¹³ Directive [2010/64/EU](#).

¹⁴ These rulings are almost exclusively handed down on infringement procedures.

the installation of electricity meters at a height of 6 metres in a district densely populated by Roma people. The meters are installed in other districts at normal height. According to the electricity company the installation of meters at 6 metres height was justified by their being increasingly tampered with and damaged, and by the numerous unlawful connections to the network in the district concerned. The Court observed that the company's practice seemed disproportionate to the aims of ensuring the security of the electricity network and the due recording of electricity consumption, and to the legitimate interests of the residents of the district concerned;¹⁵

- *France*: depriving a French citizen who had been convicted of a serious crime of the right to vote in European elections represents a limitation on the exercise of the right of EU citizens to vote in elections to the European Parliament. This right is guaranteed in the Charter of Fundamental Rights of the European Union. However, in the case at hand the ban is proportionate as it takes into account the seriousness of the crime and gives the person the possibility to apply for reinstatement of their voting right;¹⁶
- *Germany*: the Free Movement Directive allows Member States to set limits on the entitlements to social assistance of economically inactive EU citizens moving to another EU Member State, as well as for EU citizens seeking a job. Previously the Court had found that a Member State could, under the Free Movement Directive, deny the benefit to an economically non-active person who never had sufficient resources of their own to enjoy a right of residence and who, in addition, had never worked in the host Member State and had no intention of looking for a job there;¹⁷
- *Ireland*: the expiry of the time-limits for taking a decision on the execution of a European arrest warrant does not free the competent court of its obligation to adopt a decision in that regard. In addition the expiry of the time-limits does not preclude, in itself, the continued holding of the requested person in custody. However, the Court noted that, in accordance with the fundamental right to liberty and security the requested person must be released, and the measures necessary to prevent him from absconding ordered, if the duration of the custody is excessive;¹⁸
- *Ireland*: the Commission's Safe Harbour Decision¹⁹ is not valid as it did not contain sufficient findings by the Commission that U.S. public authorities' access to data transferred under the decision was limited or that effective legal protection against such interference existed;²⁰
- *Lithuania*: the Brussels I Regulation on jurisdiction in civil and commercial law²¹ was intended to prevent conflicts of jurisdiction between courts of the EU Member States and not conflicts between a court and an arbitral tribunal. Recognition of arbitral awards is governed by national law or, as the case may be, by the 1965 New York Convention. In the case at hand, after one party initiated court proceedings in Lithuania, the other party, Gazprom, commenced arbitral proceedings in Sweden. The arbitral tribunal found that the Lithuanian court proceedings were in breach of the arbitral agreement and issued an injunction against the suit. Gazprom then sought recognition of that arbitral award in Lithuania. The Lithuanian High Court made a preliminary reference to the Court of Justice asking whether the Brussels I Regulation can be invoked by the court to refuse recognition of anti-suit injunctions ordered by the arbitral tribunal;²²
- *Netherlands*: the Sales and Guarantees Directive²³ requires a national court to determine whether the purchaser may be classified as a consumer even if he/she has not relied on that status, as soon as that court has at its disposal the matters of law and of fact necessary for that purpose or may obtain them simply by making a request for clarification. The CJEU also decided that Article 5 (3) of the Directive, which provides that, within six months of the delivery, the trader has to prove that a lack of conformity did not

¹⁵ CHEZ Razpredelenie Bulgaria, [C-83/14](#).

¹⁶ Delvigne, [C-650/13](#) and Court press release No [118/15](#).

¹⁷ Alimanovic, [C-67/14](#) and Court press release No [101/15](#).

¹⁸ PPU Lanigan, [C-237/15](#) and Court press release No [91/15](#).

¹⁹ Commission Decision [2000/520/EC](#).

²⁰ Schrems, [C-362/14](#).

²¹ Regulation (EC) No [44/2001](#).

²² Gazprom, [C-536/13](#).

²³ Directive [1999/44/EC](#).

exist at the time of delivery, is of equal standing to a national public policy rule and that national courts, therefore, must apply it of their own motion;

- *Romania*: people whose personal data are subject to transfer and processing between two public administrative bodies must be informed in advance. The Romanian tax authority transferred data on self-employed workers' declared income to the National Health Insurance Fund, which then required the payment of arrears of contributions to the health insurance regime. Those affected contested the lawfulness of the transfer under the Data Protection Directive;²⁴
- *Slovakia*: the data protection legislation of a Member State may be applied to a foreign company which exercises in that State, through stable arrangements, a real and effective activity. In the case in hand, a company formally registered in Slovakia runs a real estate website focused on the Hungarian market. It is the data controller of the personal data of advertisers on the website. The company ignored requests from the advertisers for the data to be deleted and was therefore fined by the Hungarian Data Protection Authority. The company argued that since it is established in Slovakia, it cannot be fined under Hungarian law;²⁵
- *Spain*: the legislation on the calculation of permanent invalidity pensions complies with EU law. Spanish law provides that, for calculating an invalidity pension, some periods of unemployment of the worker can be taken into account and (as a fiction) be considered as periods when the person was working and making social security contributions. If the person was working full-time before she became unemployed, the unemployment period is counted as if she had been employed full-time. But if the person was working only part-time, the unemployment period is considered only at a reduced rate. The claimant argued that this method of calculation was indirectly discriminatory on the basis of sex, since it disfavors part-time workers and most of them are women. However, the Court dismissed the claim of discrimination, since the calculation method can also benefit part-time workers in certain circumstances. As the Spanish provision in question is not applicable to all part-time workers (only those that have a contribution gap) the fact that part-time workers in general are mostly women does not prove that the specific provision in question affects more women than men.²⁶
- *Spain*: when assessing whether a time-limit for opposing enforcement proceedings makes it excessively difficult for consumers to rely on protection against unfair contract terms, both the duration of the time-limit and the mechanism adopted to start that period running have to be taken into account. The Court considered that mere publication of a new law in the Spanish Official Journal, establishing an additional time-limit calculated to run from the day following the publication of that law, without the consumers being informed personally of that time-limit was incompatible with the principle of effectiveness, in circumstances where the previously applicable time-limit had been drawn to the individual attention of the consumers concerned. It created the risk that the time-limit would expire before they were able effectively and usefully to exercise their rights through legal action;²⁷
- *UK*: where non-EU nationals hold a 'residence card of a family member of a Union citizen', the Member States cannot require them to first obtain a visa before entering their territory. Even if Member States are faced with a high number of cases of abuse of rights or fraud, the adoption of measures of 'general prevention' are not justified without a specific assessment of the conduct of the person concerned. The family members of EU citizens who fulfil the conditions laid down in the Free Movement Directive enjoy the rights granted by this Directive without constraints due to the mere fact that they belong to a particular group of persons (non-EU nationals). Measures that automatically impose additional conditions disregard the very substance of the primary and individual right of EU citizens to move and reside freely within the territory of the Member States.²⁸

VIII. OUTLOOK

²⁴ Bara and Others, [C-201/14](#) and Court press release No [110/15](#).

²⁵ Weltimmo, [C-230/14](#) and Court press release No [111/15](#).

²⁶ Cachaldora Fernandez, [C-527/13](#) and Court press release No [36/15](#).

²⁷ BBVA, [C-8/14](#) and Court press release No [130/15](#).

²⁸ McCarthy and Others, [C-202/13](#).

Important implementation work in 2016 includes:

- closely monitoring that Member States transpose on time the Directive on the right of access to a lawyer and to communicate upon arrest;²⁹
- checking that Member States correctly transpose:
 - the European Protection Order,³⁰
 - the Directive on alternative dispute resolution,³¹
 - the Directive on the right to interpretation and translation in criminal proceedings,³²
 - the Directive on the right to information in criminal proceedings,³³
 - the Directive on the application of equal treatment between men and women engaged in a self-employed activity;³⁴
- taking action to enforce former 'third pillar' instruments on judicial cooperation in criminal matters;
- launching a study on practical implementation of the Commission Recommendation on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union law.³⁵

²⁹ Directive [2013/48/EU](#).

³⁰ Directive [2011/99/EU](#).

³¹ Directive [2013/11/EU](#).

³² Directive [2010/64/EU](#).

³³ Directive [2012/13/EU](#).

³⁴ Directive [2010/41/EU](#).

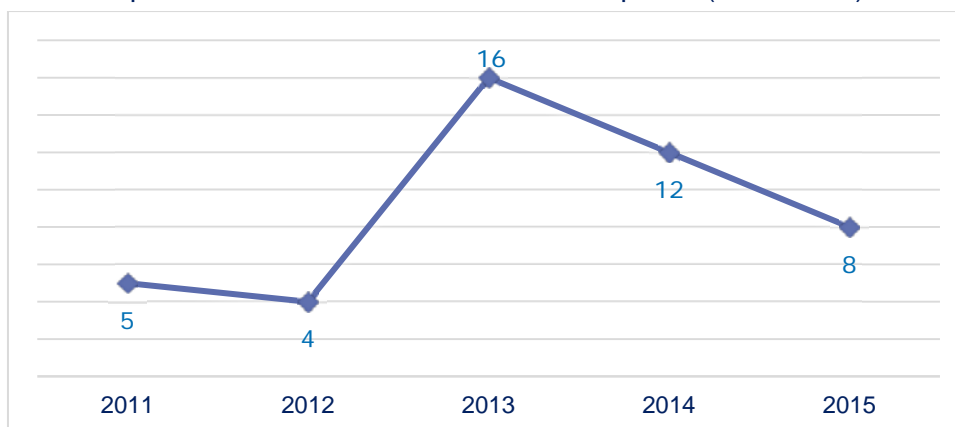
³⁵ Commission Recommendation [2013/396/EU](#).

Maritime affairs and fisheries

In 2015 new complaints in the area of maritime affairs and fisheries declined again, but the number of new EU Pilot files increased. The Commission opened one new infringement case.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)



2. Public complaints open at year-end

17 > Complaints open at end-2014

8 > New complaints registered in 2015

5 > Complaints handled in 2015

= 20 > Complaints open at end-2015

II. EU PILOT

1. EU Pilot files open at year-end

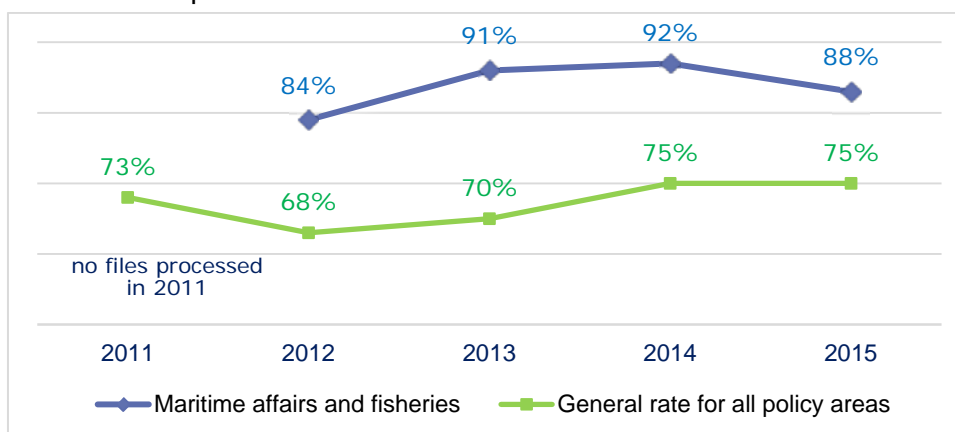
22 > EU Pilot files open at end-2014

16 > New EU Pilot files registered in 2015

17 > EU Pilot files handled in 2015

= 21 > EU Pilot files open at end-2015

2. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2015

In 2015, the Commission opened own-initiative infringement cases concerning:

- compliance with the fisheries control obligations, in particular the enforcement requirements for serious infringements of the Common Fisheries Policy rules;
- compliance with obligations undertaken in the framework of international fisheries management organisations;
- compliance with the EU's exclusive competence for conservation of marine biological resources.

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- a) The Commission opened one new infringement case in 2015. This, and other major ongoing infringement cases, concern:
 - *Portugal*: non-compliance with the EU's exclusive competence for conservation of marine biological resources;
 - *Greece*: non-compliance with the Mediterranean Regulation¹ regarding the obligation to adopt a national management plan for fisheries conducted by boat seines within its territorial waters;²
 - *Romania*: breach of the principle of equal access to EU waters for vessels flying the flag of other Member States.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Bulgaria, Greece, Romania and Slovenia*: non-compliance with the requirement to ensure direct electronic exchange of fisheries-related data with other Member States;
- *Italy*: non-compliance with the Mediterranean Regulation³ regarding the obligation to adopt a national management plan for fisheries conducted by dredges within its territorial waters.

VI. IMPORTANT JUDGMENTS

1. Court rulings⁴

There were no major Court rulings in this area in 2015.

2. Preliminary rulings

There were no major preliminary rulings in this area in 2015.

¹ Regulation (EC) No [1967/2006](#).

² [MEMO/15/5162](#).

³ Regulation (EC) No [1967/2006](#).

⁴ These rulings are almost exclusively handed down on infringement procedures.

VII. OUTLOOK

Important implementation work in 2016 includes:

- close monitoring of Member States' compliance with certain new obligations laid down in the Basic Common Fisheries Policy Regulation,⁵ as well as with other important fisheries control and enforcement obligations where deficiencies have been noticed;
- focusing on Member States' transposition of the Maritime Spatial Planning Directive,⁶ after the expiration of the transposition period on 18 September 2016.

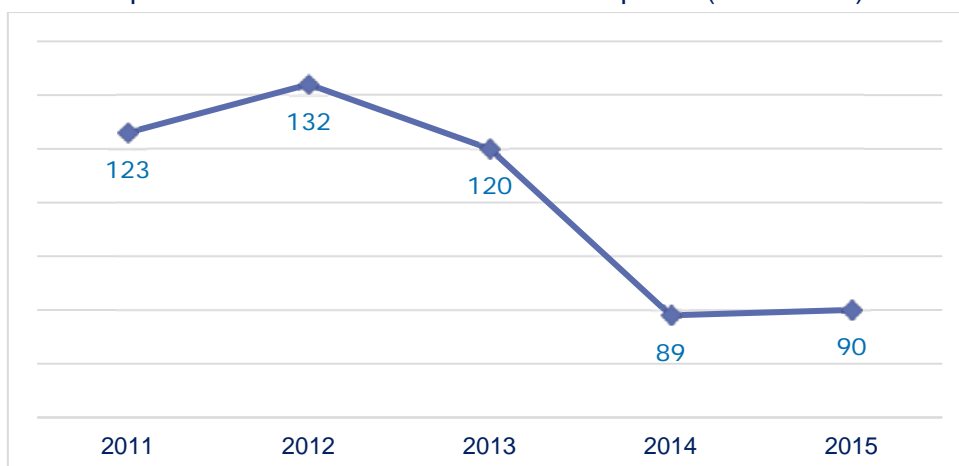
⁵ Regulation (EU) No [1380/2013](#).
⁶ Directive [2014/89/EU](#).

Migration and home affairs

All compliance indicators in the area of migration and home affairs worsened in 2015. New complaints rose very slightly, though they remained well below the peak reached in 2012. New EU Pilot files increased while the number of infringement cases pending at the end of the year continued to rise, reaching its highest level since 2011. New late transposition cases advanced for the third year in a row but held well below their 2011 peak.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

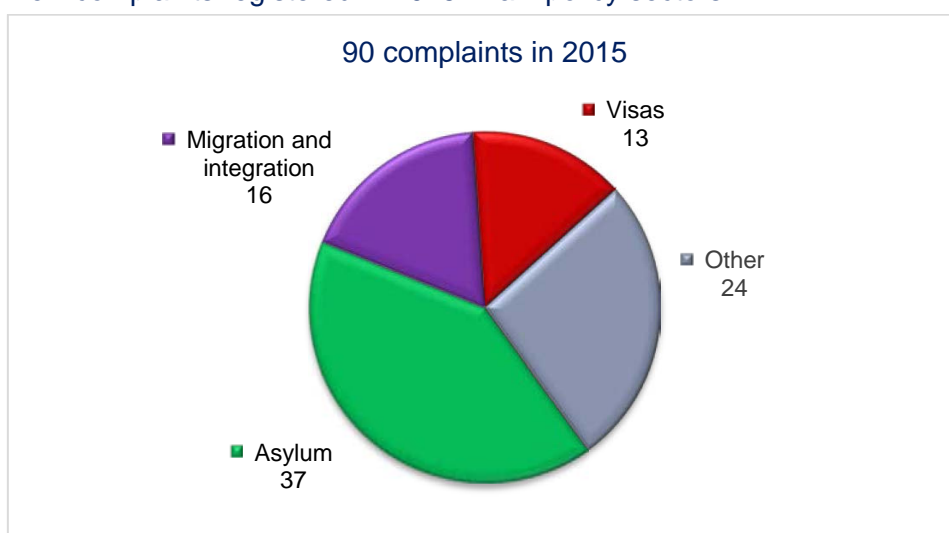
55 > Complaints open at end-2014

90 > New complaints registered in 2015

54 > Complaints handled in 2015

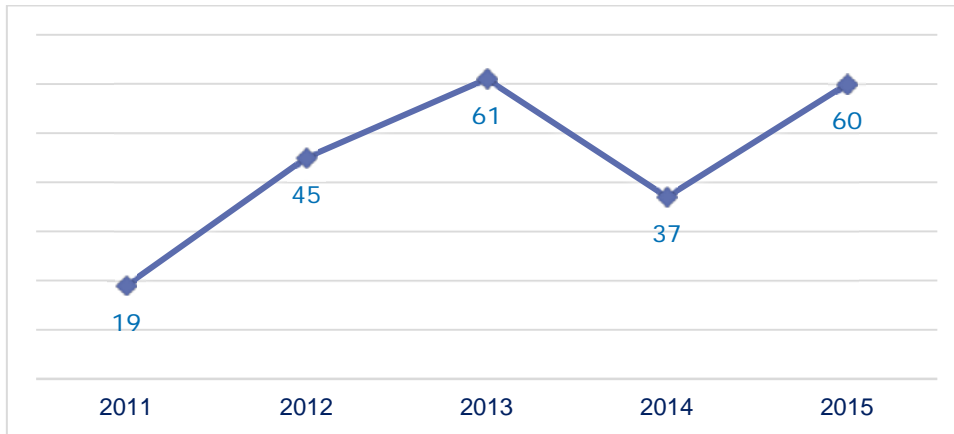
= 91 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot files open at year-end

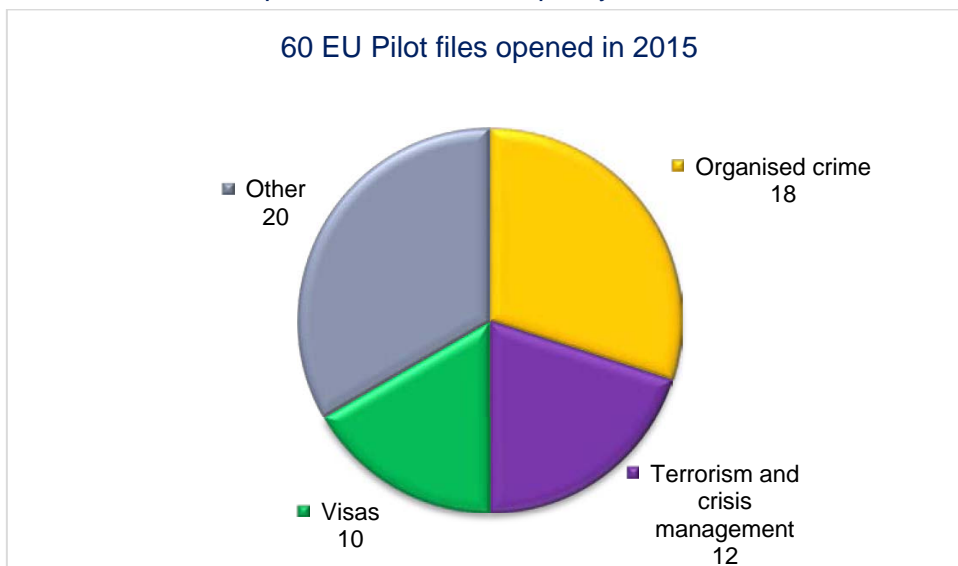
44 > EU Pilot files open at end-2014

60 > New EU Pilot files registered in 2015

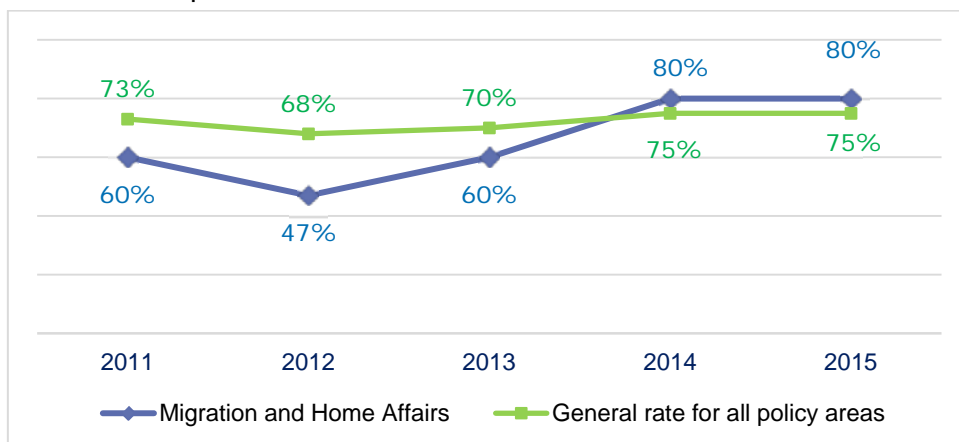
36 > EU Pilot files handled in 2015

= 68 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

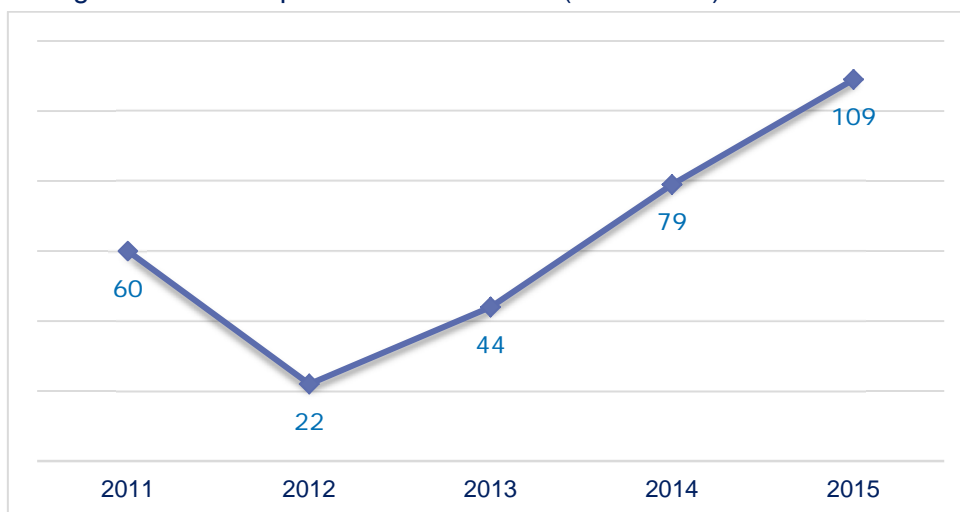
New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- non-conformity of national legislation with the Return Directive;¹
- incorrect implementation of the Directives on Asylum Procedures² and on the right to interpretation and translation in criminal proceedings,³ and of the 'Eurodac' Regulation.⁴

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2011-2015)



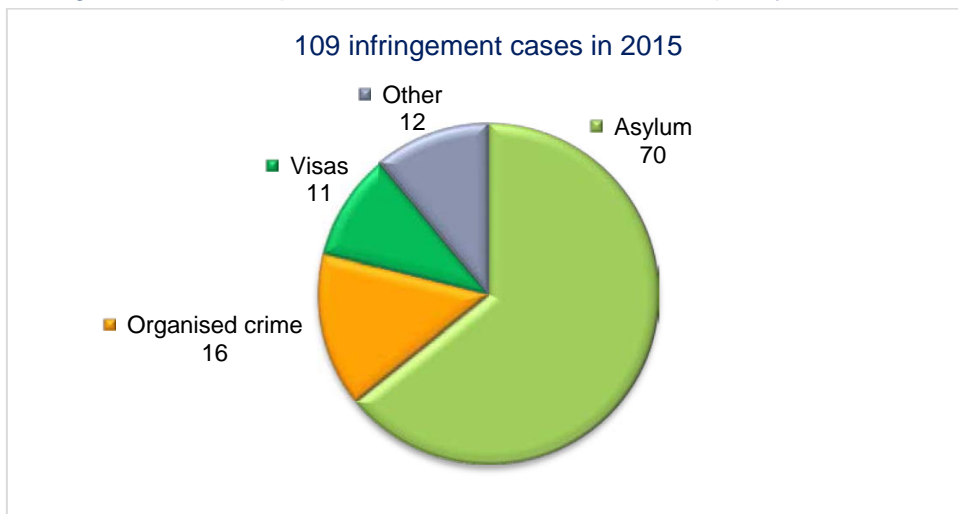
¹ Directive [2008/115/EC](#).

² Directive [2013/32/EU](#).

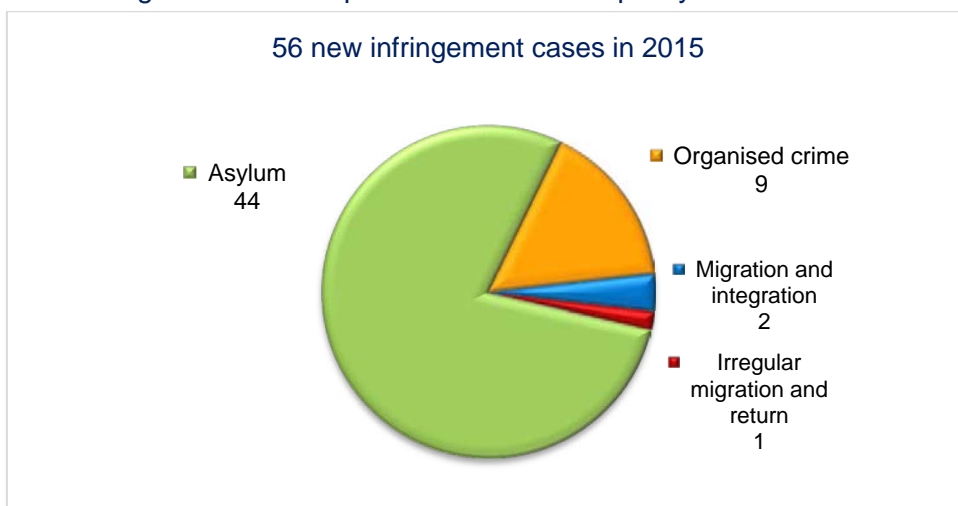
³ Directive [2010/64/EU](#).

⁴ Regulation (EU) No [603/2013](#).

2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors



4. Key infringement cases and referrals to the Court

- a) The Commission opened 56 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *Bulgaria and Spain*: failure to notify national measures transposing the Qualifications Directive;⁵
 - *Croatia, Cyprus, Greece and Italy*: failure to correctly implement the 'Eurodac' Regulation;⁶
 - *Cyprus, Italy and Malta*: incorrect application of the Long-Term Residents Directive⁷ on aspects such as the requirements on stable and regular resources, appropriate accommodation, and excessive and disproportionate charges levied;
 - *Greece*: serious deficiencies in the Greek asylum system. These concern in particular:

⁵ Directive [2011/95/EU](#) and [IP/15/5699](#).

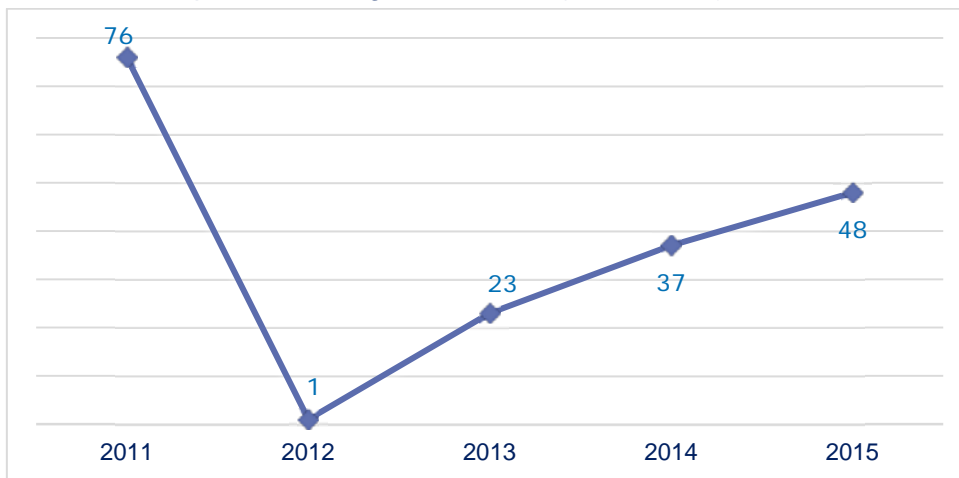
⁶ Regulation (EU) No [603/2013](#); [MEMO/15/6006](#) and [IP/15/6276](#).

⁷ Directive [2003/109/EC](#).

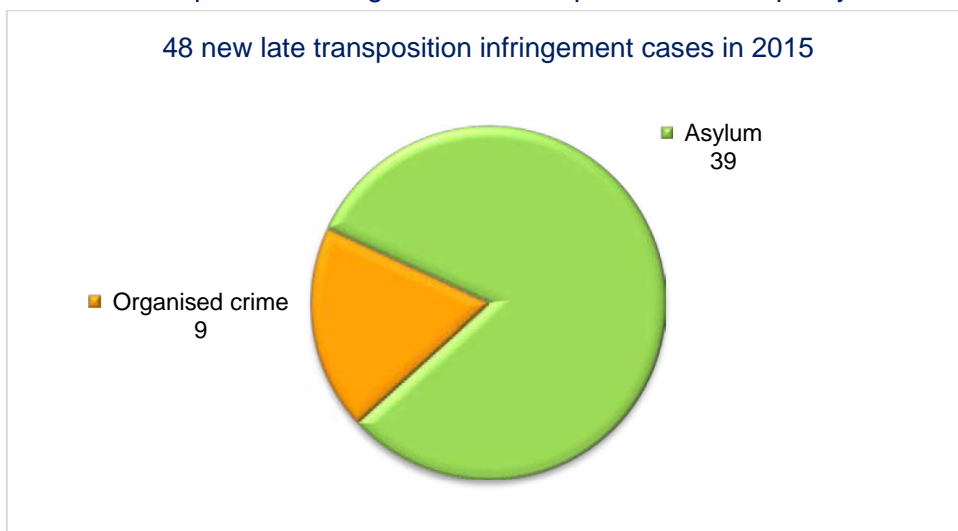
- the material conditions for receiving applicants for international protection, especially those with special reception needs and vulnerable persons; and
 - structural flaws in the functioning of the guardianship system or legal representation of all unaccompanied minors during the asylum procedure;⁸
 - *Hungary*: incorrect implementation of the Directives on asylum procedures and on the right to interpretation and translation in criminal proceedings.⁹
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)



2. New late transposition infringement cases opened in 2015: policy sectors



⁸ [IP/15/5699](#).

⁹ Directive [2011/95/EU](#) and Directive [2010/64/EU](#); [IP/15/6228](#).

3. Key infringement cases and referrals to the Court

- a) The Commission opened 48 cases for late transposition in 2015. Most concern late transposition of the :
 - Asylum Procedures Directive (18 cases launched);¹⁰
 - Reception Conditions Directive (19 cases launched).¹¹
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Austria, Greece, France, Italy, Luxembourg, Portugal, Slovakia and Spain*: late transposition of the Directive against trafficking in human beings.¹²
- *Belgium, Malta, Poland and Sweden*: late transposition of the Directive 2011/51/EU extending the Long-Term Residents Directive¹³ to beneficiaries of international protection;
- *Cyprus, Hungary, Netherlands and UK*: late transposition of the Directive combating the sexual abuse and sexual exploitation of children and child pornography;¹⁴
- *Germany*: the right to family reunification of non-EU nationals residing lawfully in the territory of a Member State;
- *Greece, Lithuania, Slovenia and Spain*: late transposition of the Single Permit Directive.¹⁵

VII. IMPORTANT JUDGMENTS

1. Court rulings¹⁶

There were no major Court rulings in 2015.

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *Germany*: under the Qualifications Directive, an act of persecution can take the form of 'prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes'. The judgment of the Court clarified the conditions in which a non-EU national who has deserted may be granted asylum in the EU;¹⁷
- *Italy*: the Return Directive does not, in principle, preclude national legislation which imposes a prison sentence on a non-EU national who unlawfully enters its territory in breach of an entry ban;¹⁸
- *Italy*: Directive on Long Term Residents,¹⁹ must be interpreted as precluding national legislation which requires third-country nationals, when applying for the issue or renewal

¹⁰ Directive [2013/32/EU](#) and [IP/15/5699](#).

¹¹ Directive [2013/33/EU](#) and [IP/15/5699](#).

¹² Directive [2011/36/EU](#).

¹³ Directive [2003/109/EC](#).

¹⁴ Directive [2011/92/EU](#).

¹⁵ Directive [2011/98/EU](#).

¹⁶ These rulings are almost exclusively handed down on infringement procedures.

¹⁷ Shepherd, [C-472/13](#) and Court press release No [20/15](#).

¹⁸ Skerdjan Celaj, [C- 290/14](#) and Court press release No [112/15](#).

of a residence permit in the Member State concerned, to pay a fee (varying in amount between EUR 80 and EUR 200), inasmuch as such a fee is disproportionate in the light of the objective pursued by the directive and is liable to create an obstacle to the exercise of the rights conferred by that directive;²⁰

- *Netherlands*: Member States may require non-EU nationals to pass a civic integration examination prior to family reunification. However, the exercise of the right to reunification must not be made impossible or excessively difficult;²¹
- *Netherlands*: the Directive on Long Term Residents²² does not preclude the imposition of an obligation to pass a civic integration examination, provided that the means of implementing that obligation are not liable to jeopardise the achievement of the objectives pursued by the directive;²³
- *Spain*: the Return Directive must be interpreted as precluding national legislation which provides, in the event of non-EU nationals illegally staying in that Member State, for either a fine or their removal. The two measures are mutually exclusive.²⁴

VIII. OUTLOOK

Important implementation work in 2016 includes:

- actively ensuring full and correct implementation by the Member States of the Common European Asylum System. This will be done by carrying out checks on their compliance with the Directives on asylum procedures and on reception;²⁵
- continued assessments of Member States' conformity with the rules on legal migration, which²⁶ may lead the Commission to launch further own-initiative cases for non-conformity concerning among others the proportionality of fees charged for residence permits, the application of stable and regular resources and application of pre-integration measures;
- finalising checks on the completeness of Member States' transposition of the Qualifications Directive;²⁷
- actively ensuring the full and correct implementation by the Member States of instruments identified as priorities under the European Agenda on Security. This includes the Regulation on Explosives Precursors,²⁸ the "Prüm" system,²⁹ the Framework Decision on the "Swedish initiative" on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union,³⁰ as well as the Directives on preventing and combating trafficking in human beings and protecting its victims, on combating the sexual abuse and sexual exploitation of children and child pornography³¹ and on attacks against information systems.³²

¹⁹ Directive [2003/109/EC](#).

²⁰ CGIL and INCA, [C-309/14](#).

²¹ K&A, [C-153/14](#) and Court press release No [78/15](#).

²² Directive [2003/109/EC](#).

²³ P and S, [C-579/13](#).

²⁴ Zaizoune, [C-38/14](#).

²⁵ Directives [2013/32/EU](#), [2013/33/EU](#) and [2013/40/EU](#).

²⁶ Directives [2003/86/EC](#), [2003/109/EC](#), [2011/98/EU](#).

²⁷ Directive [2011/95/EU](#).

²⁸ Regulation (EU) No [98/2013](#).

²⁹ Council Framework Decision [2006/960/JHA](#).

³⁰ Directive [2011/36/EU](#).

³¹ Directive [2011/93/EU](#).

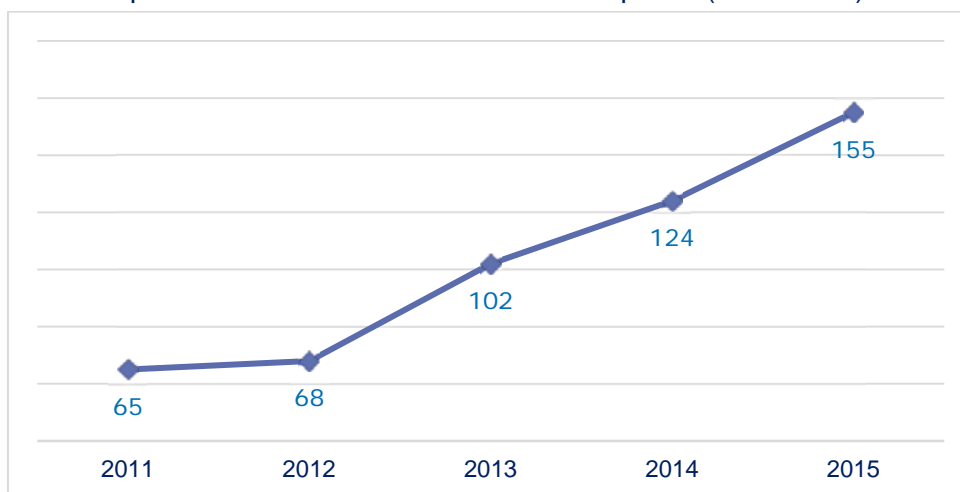
³² Directive [2013/40/EU](#).

Mobility and transport

In 2015 the Commission received the highest number of new complaints in the area of mobility and transport since 2011. By contrast, the number of new EU Pilot files fell further from its 2013 peak to the lowest level for five years. However, infringement cases pending at the end of the year and new late transposition cases both rose for the second year in a row.

I. COMPLAINTS

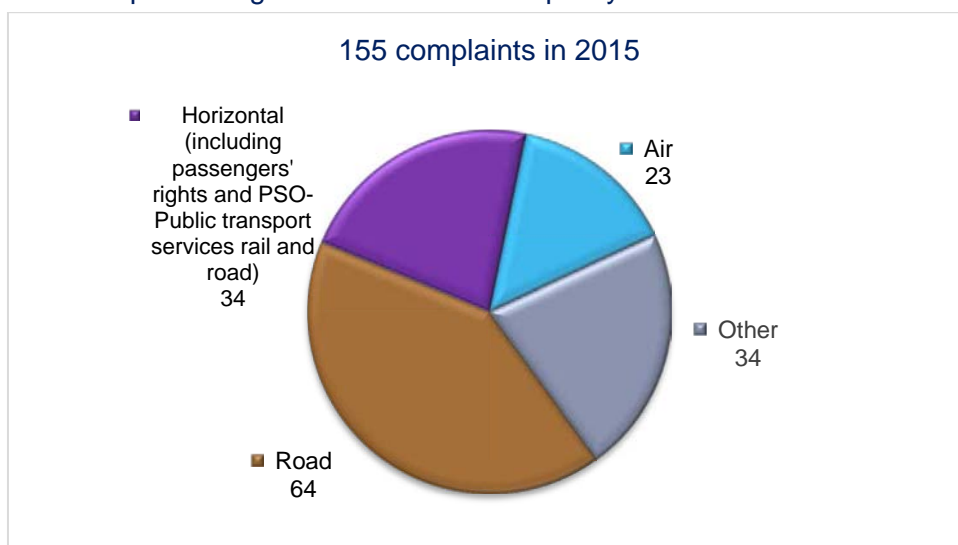
1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

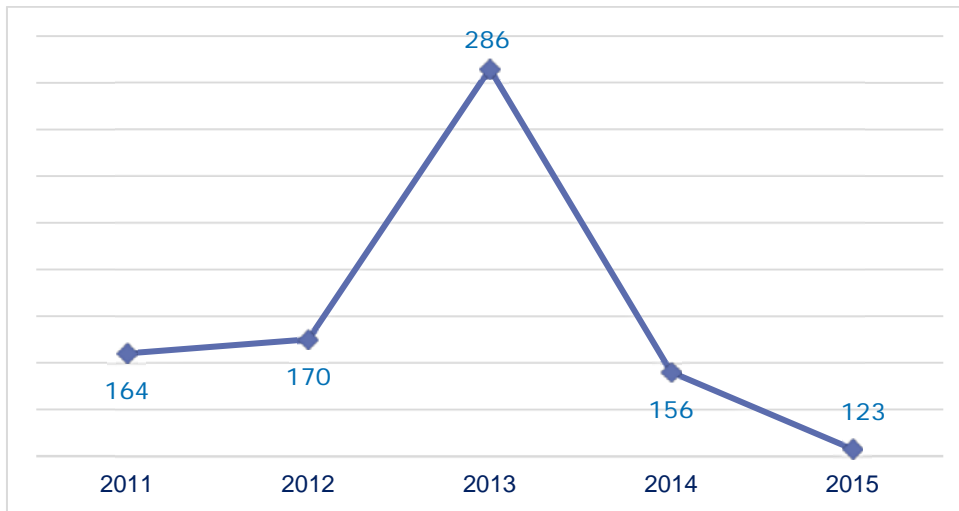
44	>	Complaints open at end-2014
155	>	New complaints registered in 2015
150	>	Complaints handled in 2015
<hr/>		
= 49	>	Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)

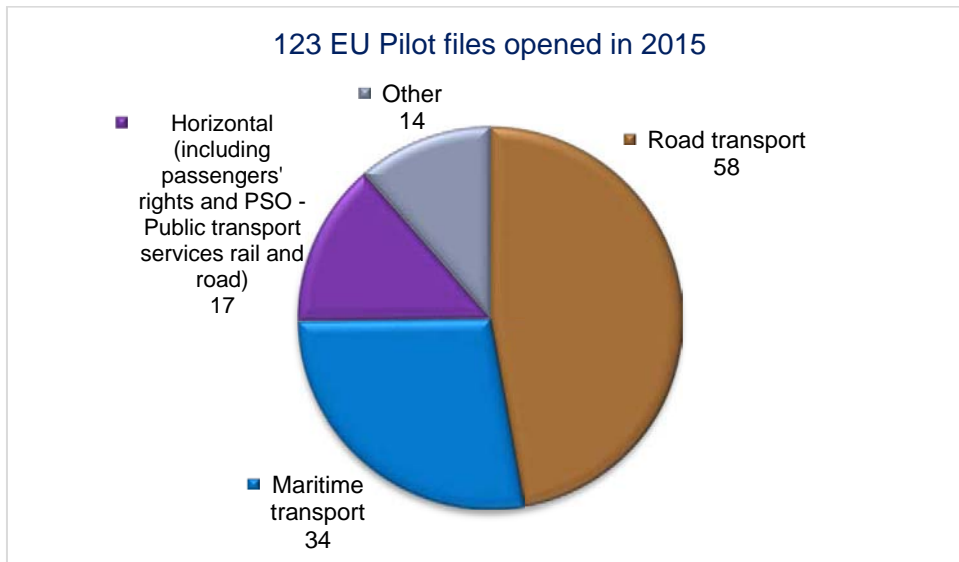


2. EU Pilot files open at year-end

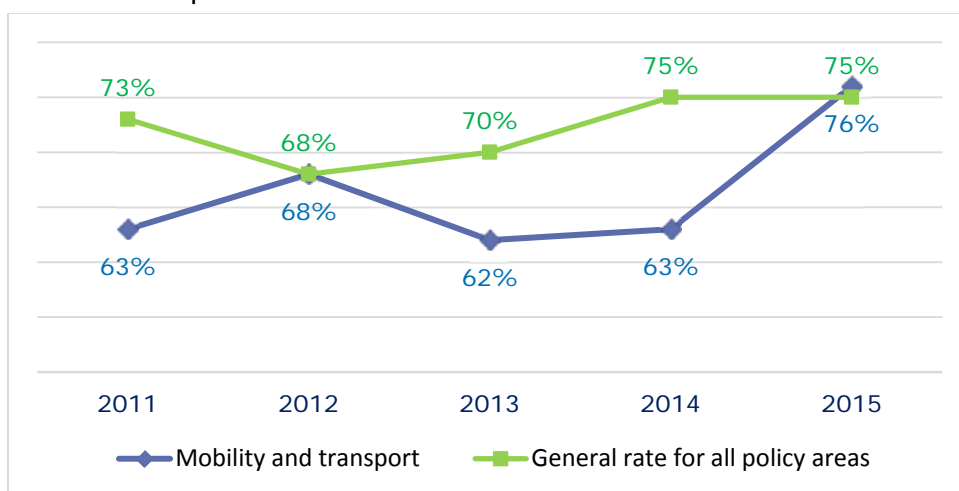
157 > EU Pilot files open at end-2014
 123 > New EU Pilot files registered in 2015
 205 > EU Pilot files handled in 2015

 = 75 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

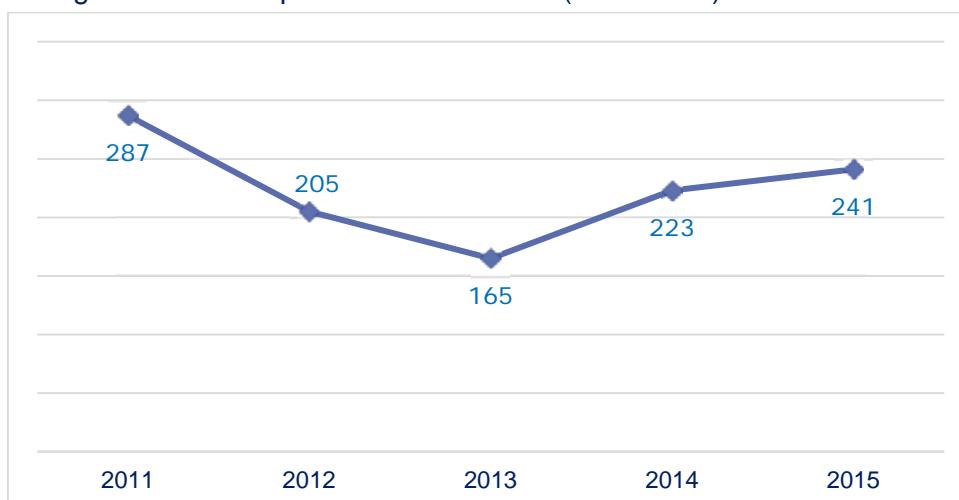
New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- *Railway sector:* railway safety and interoperability;
- *Road sector:*
 - breach of Treaty principles on non-discrimination, free movement of goods and persons, and provision of services;
 - incorrect implementation of Regulations on the conditions for pursuing the occupation of road transport operator, in particular the electronic interconnection of national registers and the European Electronic Toll Service;¹
 - non-conformity with and incorrect implementation of the Directive on driving licences,² in particular connection to the driving licence network;
- *Air sector:* air safety and the implementation of functional airspace blocks ('single European sky').³

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2011-2015)

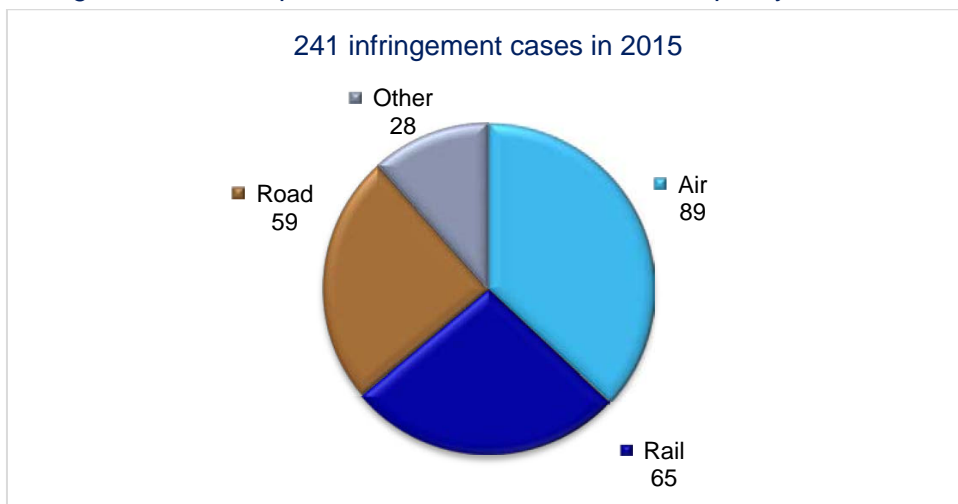


¹ Regulation (EC) No [1071/2009](#) and Directive [2004/52/EC](#).

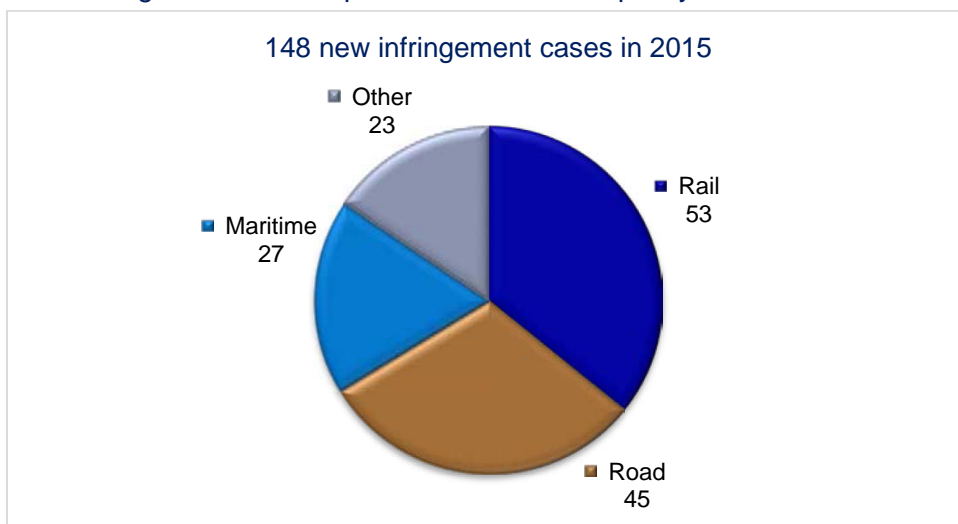
² Directive [2006/126/EC](#).

³ Regulations (EC) No [748/2012](#) and (EU) No [1321/2014](#).

2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors



4. Key infringement cases and referrals to the Court

- a) The Commission opened 148 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *12 Member States*: failure to implement functional airspace blocks (FABs) effectively. Under the 'single European sky' legislation,⁴ national air traffic control organisations should work together in nine regional airspace blocks to increase efficiency, cut costs and reduce emissions. The infringement procedures concern three FABs;⁵
 - *Belgium and Spain*: restrictions on the freedom of establishment regarding the provision of port services;
 - *Germany*: discriminatory user charges for passenger cars (introduced by a new road charging scheme known as the Pkw-Maut). These hinder the free movement of persons and goods and the provision of services;⁶
 - *Germany*: restrictions on the provision of transport services and free movement of goods deriving from the German minimum wage law;

⁴ Regulation (EC) No [550/2004](#).

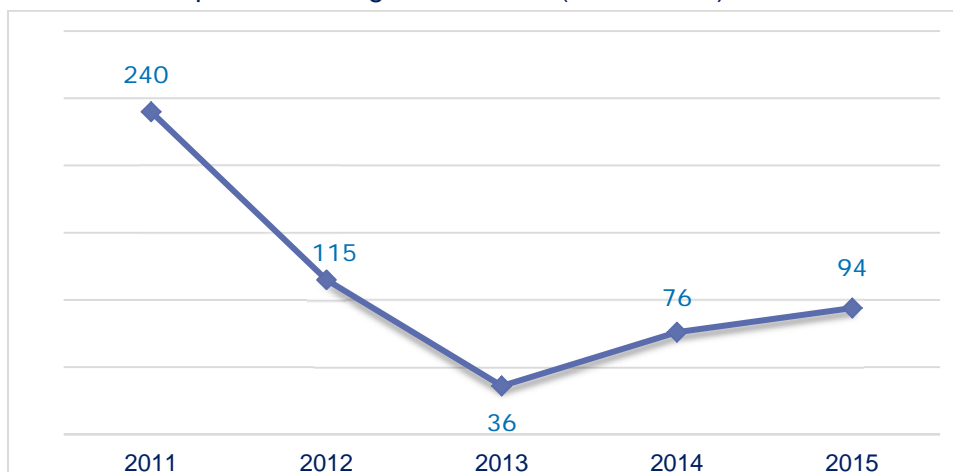
⁵ FABEC (the FAB between Germany, Belgium, France, Netherlands, Luxembourg and Switzerland — [MEMO/15/5356](#)); BLUEMED (the FAB between Italy, Greece, Cyprus, and Malta); SOUTHWEST (the FAB between Spain and Portugal); and the UK/Ireland FAB.

⁶ [MEMO/15/5162](#) and [IP/15/5200](#).

- *Germany, Lithuania, Slovakia and Slovenia*: failure to fulfil air safety oversight obligations regarding initial and continuous airworthiness;⁷
 - *Italy*: failure to correctly implement the Airport Charges Directive.⁸
- b) The Commission referred seven cases to the Court under Article 258 TFEU. They concern:
- *Austria*: failure to comply with EU provisions on financial transparency in the rail transport sector;⁹
 - *Czech Republic*: incorrect transposition and implementation of EU railway safety rules;¹⁰
 - *Czech Republic*: failure to establish a national electronic register of road transport undertakings and/or to connect it with the national electronic registers of the other Member States;¹¹
 - *Germany*: inadequate monitoring of security controls at some airports. Such monitoring is required by EU legislation;¹²
 - *Portugal*: failure to connect to the EU driving licences network;¹³
 - *Portugal*: failure to connect a national electronic register of road transport undertakings with the national electronic registers of the other Member States.¹⁴
 - *Spain*: adoption and implementation of some port security plans.¹⁵
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)



⁷ Regulation (EU) No [748/2012](#) and Regulation (EC) No [1321/2014](#).

⁸ Directive [2009/12/EC](#).

⁹ Directive [2012/34/EU](#), Commission v Austria, [C-347/15](#), and [IP/14/2132](#).

¹⁰ Directive [2004/49/EC](#), Commission v Czech Republic, [C-606/15](#) and [IP/15/5828](#).

¹¹ Regulation (EC) No [1071/2009](#), Commission v Czech Republic, [C-581/15](#) and [IP/15/5829](#).

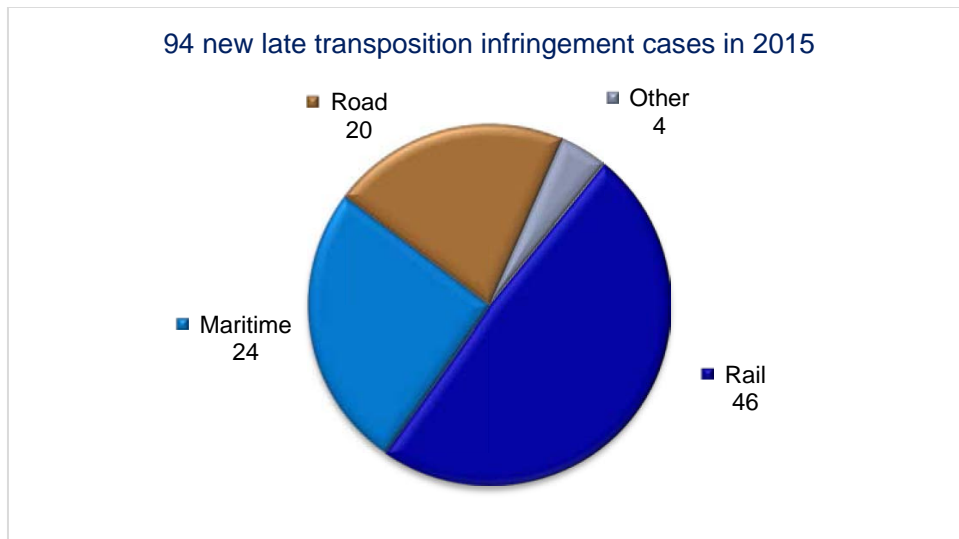
¹² Commission v Germany, [C-481/15](#) and [IP/15/5056](#).

¹³ Directive No [2006/126/EC](#), Commission v Portugal, [C-665/15](#) and [IP/15/6013](#).

¹⁴ Regulation (EC) No [1071/2009](#), Commission v Portugal, [C-583/15](#) and [IP/15/5829](#).

¹⁵ Directive No [2005/65/EC](#), Commission v Spain, [C-172/15](#) and [IP/14/1039](#).

2. New late transposition infringement cases opened in 2015: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 94 cases for late transposition in 2015. Most concern:
 - the Directive on a single European railway area (21 Member States);¹⁶
 - the Directive on cross-border exchange of information on road-safety-related traffic offences (9 Member States);¹⁷
 - the Directive on certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006 (9 Member States).¹⁸
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Austria, Belgium, Denmark, Greece, Hungary, Ireland, Italy, Portugal and Romania*: non-conformity with the Railway Safety Directive;¹⁹
- *Austria, Greece, Italy, Luxembourg, Poland, Portugal, Sweden*: incorrect implementation of EU legislation on the rights of bus and coach passengers;²⁰
- *Austria and Italy*: incorrect implementation of EU legislation on the rights of passengers travelling by sea and inland waterways;²¹
- *Belgium and Denmark*: non-communication of national measures transposing EU legislation on the charging of heavy goods vehicles;²²
- *Belgium, Bulgaria, Cyprus, France, Ireland and Romania*: bad application (Belgium and Cyprus) or non-conformity of national legislation with the Directive on driving licences as amended;²³
- *Bulgaria and Greece*: bad application of the 'single European sky' legislation;
- *Bulgaria and Romania*: failure to implement the Danube functional airspace block effectively;

¹⁶ Directive [2012/34/EU](#).

¹⁷ Directive [2015/413/EU](#).

¹⁸ Directive [2013/54/EU](#).

¹⁹ Directive [2004/49/EC](#).

²⁰ Regulation (EU) No [181/2011](#).

²¹ Regulation (EU) No [1177/2010](#).

²² Directive [2011/76/EU](#).

²³ Directive [2006/126/EC](#).

- *Cyprus*: investigation and prevention of accidents and incidents in civil aviation;
- *Denmark*: alleged discriminatory treatment against Dutch traditional sailing vessels over compliance with the safety rules for passenger ships;
- *Germany*: non-ratification of the Air Transport Agreement between Germany and the US;
- *Greece*: non-ratification of the European Common Aviation Area Agreement;
- *Hungary, Luxembourg and Slovakia*: connection to the driving licence network;
- *Ireland*: national register of road transport undertakings;
- *Latvia*: incorrect implementation of the legislation on a European Electronic Toll Service²⁴ and restrictions on freedom of establishment for the provision of towage services in the port of Riga;
- *Luxembourg, Portugal and Spain*: interoperability of the rail system;²⁵
- *Slovenia and Spain*: incorrect implementation of the Directive establishing a single European railway area.²⁶

VII. IMPORTANT JUDGMENTS

1. Court rulings²⁷

There were no major Court rulings in 2015.

2. Preliminary rulings

In preliminary rulings:

- *Austria*: the Court provided answers to questions related to the definition of 'passenger' regarding legislation on insurance requirements for air carriers and aircraft operators;²⁸
- *Germany*: a computerised booking system must indicate the final price to be paid, not only for the air service selected by the customer but also for each service for which the price is displayed, including when the prices are indicated for the first time;²⁹
- *Germany*: a Member State is not precluded from refusing to recognise the validity of a driving licence issued by another Member State when the holder has engaged in unlawful conduct resulting in unfitness to drive;³⁰
- *Netherlands*: a technical problem which occurs unexpectedly, is not due to defective maintenance and which was not detected during regular tests does not exempt a carrier from its obligation to compensate passengers in the event of a flight cancellation.³¹

VIII. OUTLOOK

Important implementation work in 2016 includes:

- monitoring Member States' transposition of the Directive on the deployment of alternative fuels infrastructure. This is the most significant directive in the transport area to be transposed in 2016;³²
- following up Court cases on the separation of accounts in the railway sector and on the use of charges for railway infrastructure, as well as a case on slot allocation at EU airports.

²⁴ Decision [2009/750/EC](#).

²⁵ Directive [2008/57/EC](#).

²⁶ Directive [2012/34/EU](#).

²⁷ These rulings are almost exclusively handed down on infringement procedures.

²⁸ Regulation (EC) No [785/2004](#), Wucher Helicopte and Euro-Aviation Versicherung, [C-6/14](#).

²⁹ Air Berlin, [C-573/13](#) and Court press release No [4/15](#).

³⁰ Aykul, [C-260/13](#) and Court press release No [40/15](#).

³¹ van der Lans, [C-257/14](#) and Court press release No [105/15](#).

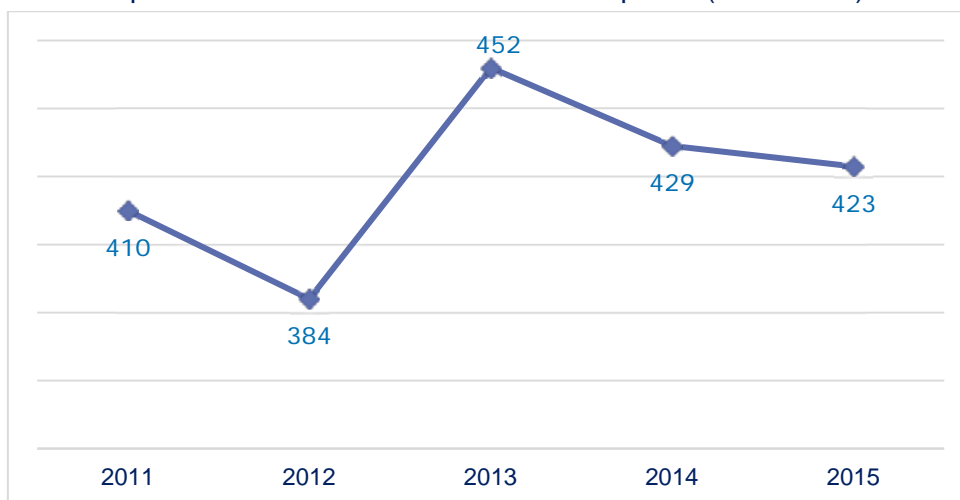
³² Directive [2014/94/EU](#).

Taxation and customs union

Most indicators of compliance with EU legislation in the area of taxation and customs union improved in 2015. New complaints fell slightly while new EU Pilot files dropped by 38 %. The number of infringement cases pending at the end of the year was once again slightly lower, at half the 2011 level. However, late transposition cases increased, from zero in the previous year, due to the expiry of the deadlines for transposing two directives.

I. COMPLAINTS

1. New complaints received from members of the public (2011-2015)



2. Public complaints open a year-end

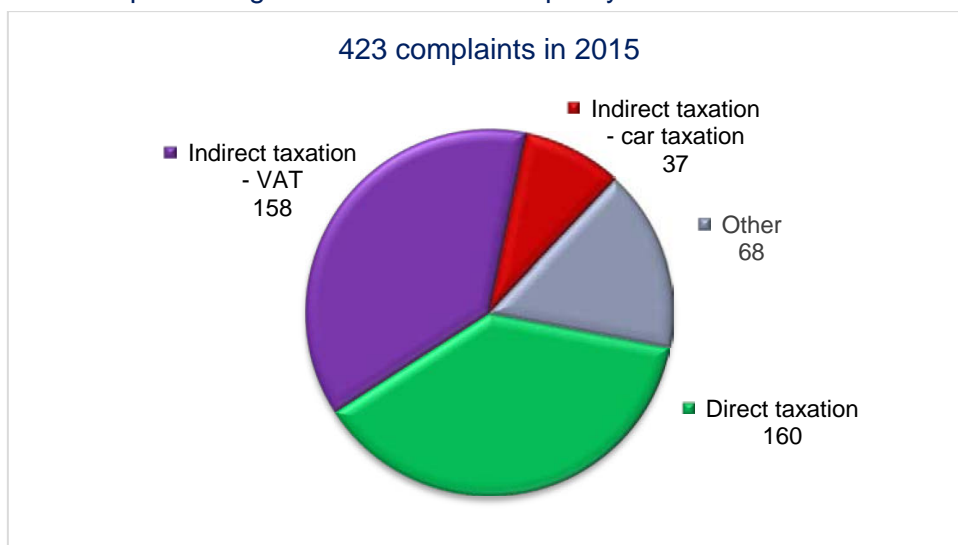
321 > Complaints open at end-2014

423 > New complaints registered in 2015

409 > Complaints handled in 2015

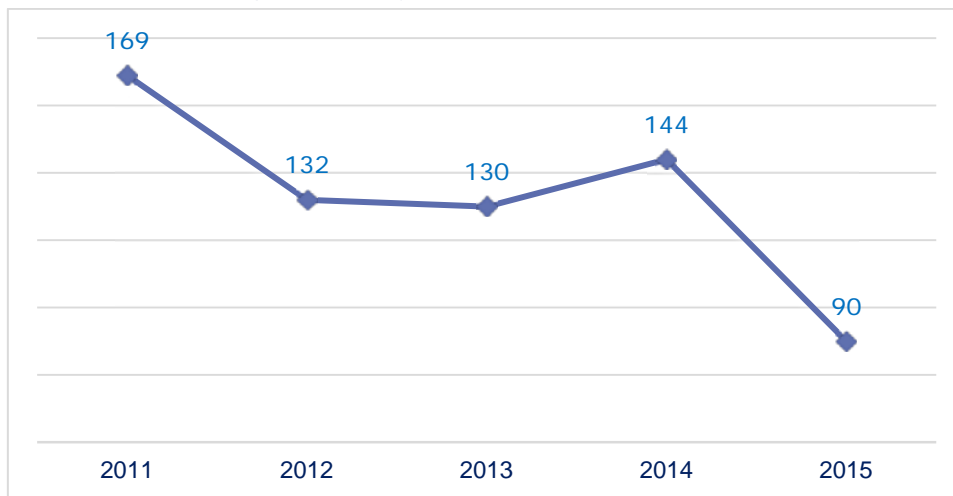
= 335 > Complaints open at end-2015

3. New complaints registered in 2015: main policy sectors



II. EU PILOT

1. New EU Pilot files (2011-2015)



2. EU Pilot files open at year-end

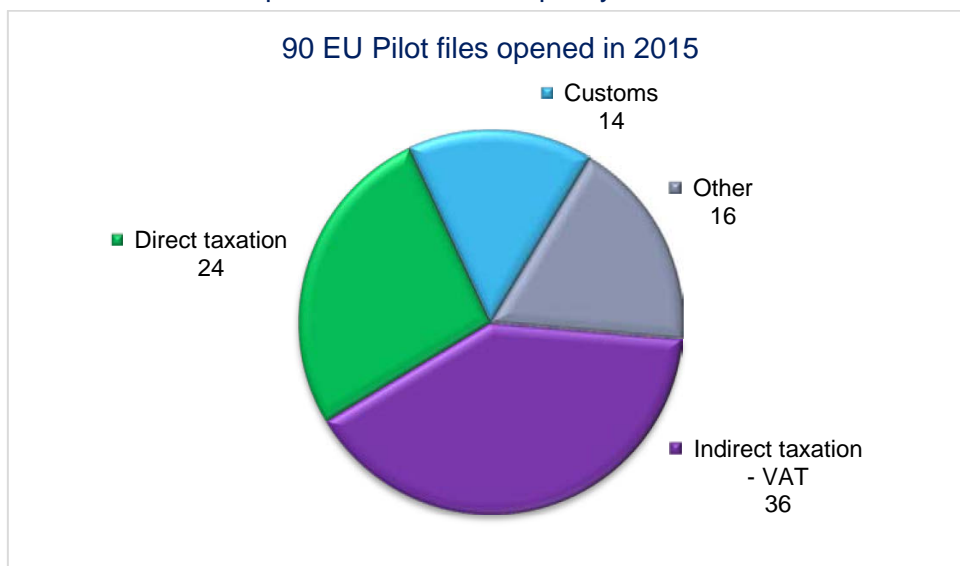
136 > EU Pilot files open at end-2014

90 > New EU Pilot files registered in 2015

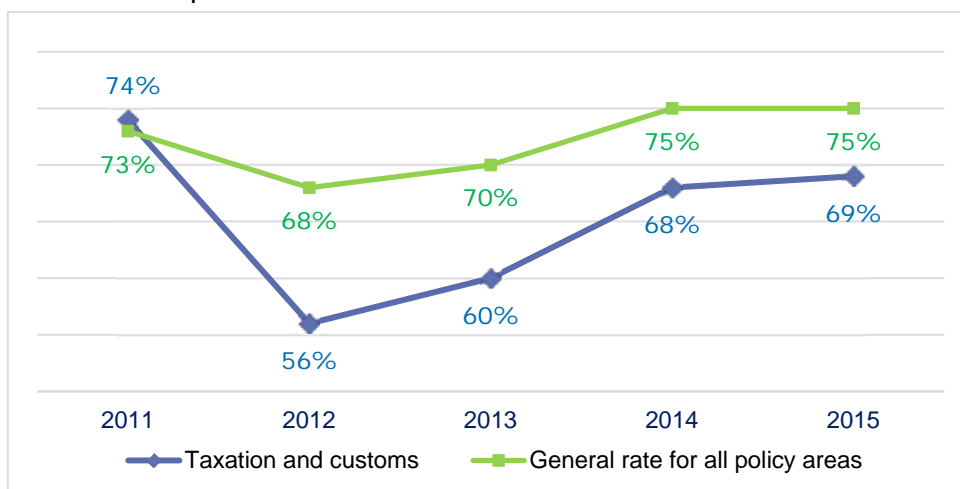
84 > EU Pilot files handled in 2015

136
= 142 > EU Pilot files open at end-2015

3. New EU Pilot files opened in 2015: main policy sectors



4. EU Pilot files: policies' combined resolution rate in 2011-2015



III. OWN-INITIATIVE CASES

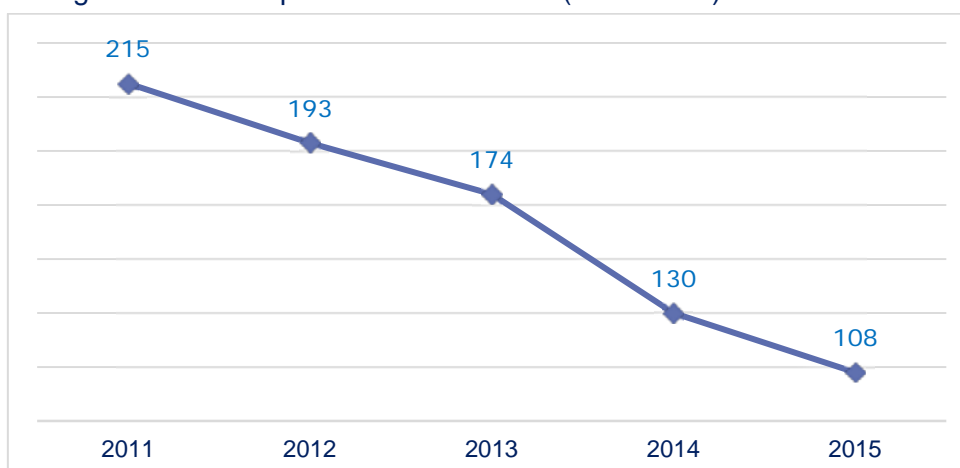
New own-initiative infringement cases

In 2015, the Commission opened own-initiative infringement cases concerning:

- *Customs*: a Member State's cash control provisions (relating to the EUR 10 000 threshold) as well as fees charged for unloading and loading goods, which may be equivalent to customs fees;
- *Indirect taxation*:
 - difficulties in refunding VAT to taxable persons established outside the EU,
 - the validity of tax markings on tobacco products, and
 - the application of case law on taxation of leased cars;
- *Direct taxation*: potential tax discrimination against EU citizens residing in a Member State other than their own ('mobile persons'). Most of the infringement cases stem from an EU-wide study¹ that aimed to identify such discrimination.

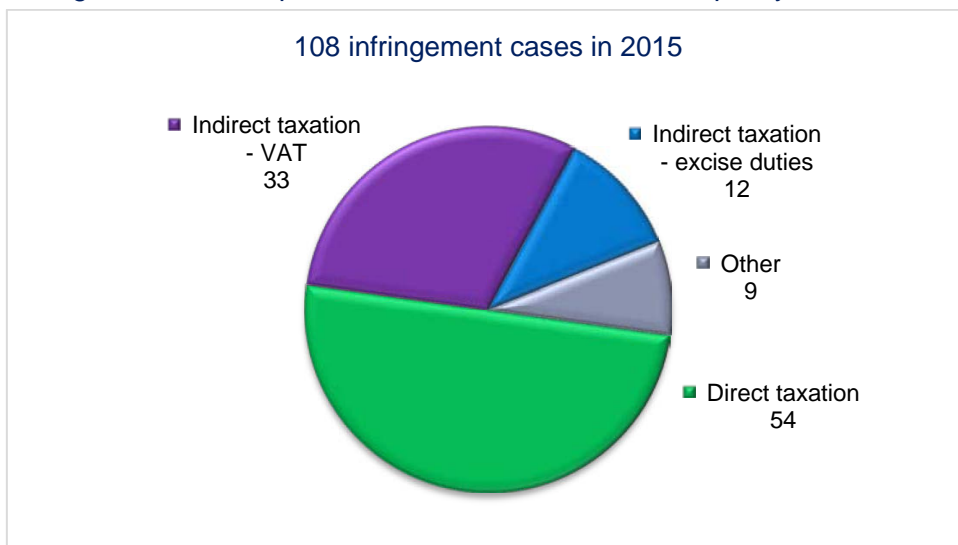
IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2011-2015)

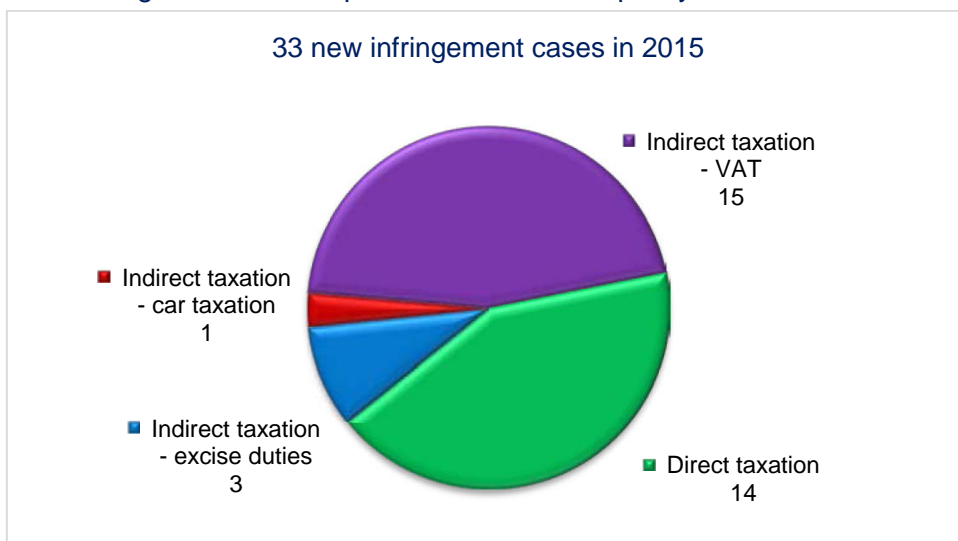


¹ [IP/14/31](#).

2. Infringement cases open on 31 December 2015: main policy sectors



3. New infringement cases opened in 2015: main policy sectors



4. Key infringement cases and referrals to the Court

- a) The Commission opened 33 new infringement cases in 2015. These, and other major ongoing infringement cases, concern:
- *Slovakia*: registration tax on imported second-hand cars. No depreciation rates are applied to reflect their real market value when the tax is levied;
 - *Netherlands*: the 'limitation on benefits' clause in the Dutch-Japanese Tax Treaty. This grants better treatment to companies held by shareholders resident in Dutch territory (or listed on Dutch stock exchanges) than to comparable companies held by non-resident EU shareholders (or traded on other EU stock exchanges).
 - *Spain*: the penalty regime introduced for the so-called '*Modelo 720*' compulsory informative declaration of foreign assets. This may restrict the fundamental EU freedoms of Spanish tax residents.

- b) The Commission referred nine cases to the Court under Article 258 TFEU. They concern:
- *Belgium*: tax legislation discriminating against foreign property investments by applying different methods for assessing property-related income depending on whether the real estate is in Belgium or elsewhere in the EU;²
 - *Germany*: application only to the health and medical sector of the VAT exemption granted to cost-sharing associations (taxpayers' groups purchasing services from third parties jointly). This is despite the VAT Directive³ containing no sector-specific limitations;
 - *Greece*: car registration rules which levy the total registration tax on Greek residents even if they only rent or lease vehicles from non-Greek lessors, instead of requiring proportionate amounts;⁴
 - *Greece*: rules granting a tax exemption to people inheriting property in Greece only if they are considered a Greek resident;⁵
 - *Ireland*: the rule that the total registration tax is levied for cars rented or leased by Irish residents from lessors in other Member States and that the conditions for a partial refund of this tax at the end of the lease or rental period are unnecessarily harsh (i.e. disproportionate);⁶
 - *Luxembourg*: national VAT rules. These seem to contradict the VAT Directive by:
 - limiting the reception of VAT-free services to members of a cost-sharing group whose taxed activities remain below 30 % (in certain cases 45 %) of their annual turnover; and
 - allowing group members to deduct VAT charged to the group.⁷
 - *Netherlands*: the exemption in the VAT Directive⁸ for the supply of sport or physical education services by non-profit-making organisations. The Dutch rules both restrict and expand this exemption. On the one hand, exemptions are granted only to organisations where volunteers supplied these services; on the other hand, the letting of berths and moorings for vessels was VAT-free even for non-sport purposes;⁹
 - *Portugal*: the regular change of fiscal stamps on cigarettes. This seems to operate as a de facto sales and marketing prohibition which cannot be justified by the objective of combating fraud;¹⁰
 - *Portugal*: the depreciation rates on imported second-hand vehicles. These do not seem to be calculated on the basis of the real value of the vehicle (i.e. no depreciation for cars less than one year old and a uniform rate for all cars older than five years).¹¹
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.
- d) The Commission issued a reasoned opinion under Article 259 TFEU in a case initiated by Bulgaria against Greece over the latter's income tax legislation. The Commission found that the non-deductibility from tax of certain cross-border expenses, and the less favourable tax treatment of expenses incurred by certain non-Greek EU suppliers,

² Commission v Belgium, [C-589/14](#).
³ Commission v Germany, [C-616/15](#).
⁴ Commission v Greece, [C-66/15](#).
⁵ Commission v Greece, [C-244/15](#); [IP/15/4675](#).
⁶ Commission v Ireland, [C-552/15](#).
⁷ Commission v Luxembourg, [C-274/15](#).
⁸ Directive [2006/112/EC](#).
⁹ Commission v Netherlands, [C-22/15](#).
¹⁰ Commission v Portugal, [C-126/15](#).
¹¹ Commission v Portugal, [C-200/15](#).

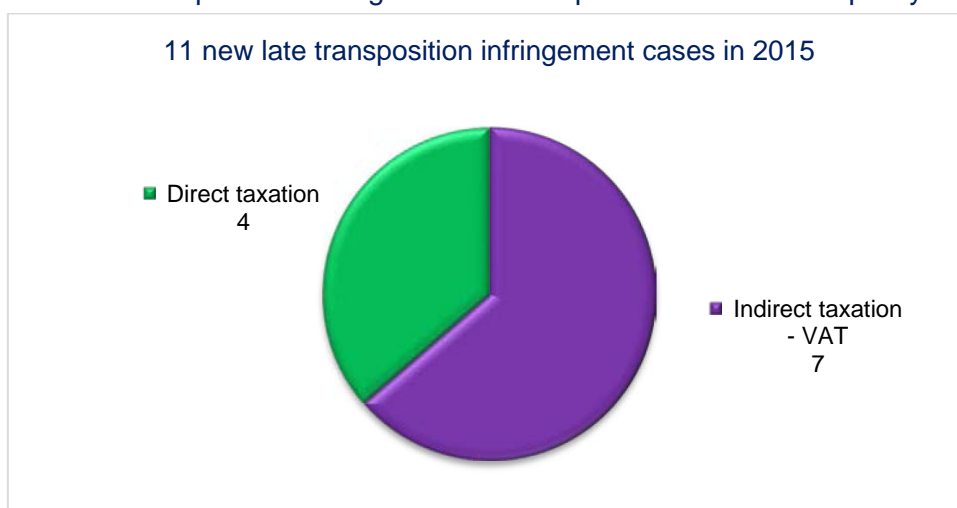
restricted free movement of goods and services. However, it concluded that the Greek-controlled foreign company regime, which treated domestic and cross-border firms differently, while also restrictive to the freedom of establishment, could be justified by the need to prevent tax abuse. In August 2015 the Greek Parliament repealed the legislative provision limiting the deductibility from income tax of expenses paid to contractors in countries with favourable tax regimes. The Commission welcomed this development. The Bulgarian Government subsequently issued a statement expressing its satisfaction with the revocation of the regime and stating that it will not refer the case to the Court of Justice.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2011- 2015)



2. New late transposition infringement cases opened in 2015: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 11 cases for late transposition in 2015. Most concerned:
- the Directive on administrative cooperation on taxation¹² (4 Member States);
 - a Directive amending certain Directives regarding the French outermost regions and Mayotte in particular¹³ (5 Member States).

¹² Directive [2011/16/EU](#).

- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2015

These concerned:

- *Belgium*: laws on the representation rights of customs agents. The relevant provisions were subsequently amended on the specific issues covered by the infringement;
- *France*: the requirement to designate a fiscal representative for various capital transactions, which is considered in the case law as a restriction on the freedom of establishment. The requirement was removed;
- *France*: rules on corporate group taxation. These were changed to put French-owned and non-French-owned groups on the same tax footing;
- *Hungary*: measures establishing different excise duty rates for ethyl alcohol, in breach of the Excise Duty Directive on alcohol and alcoholic beverages. The measures were repealed;
- *Italy*: higher excise duties on certain categories of cigarettes. These were removed by applying a uniform duty as required by the Excise Duty Directive on manufactured tobacco products;
- *Italy*: tax treatment of resident taxpayers and 'Schumacker non-residents'. Tax laws subsequently introduced comparable procedural and substantial rules for the two categories.
- *Romania*: unreasonable delays in VAT refunds.¹⁴ Effective measures have been taken to ensure refunds are made within a reasonable time;
- *Spain*: the general VAT exemption on medical equipment. The national rules have been changed so that the exemption is confined, in line with the VAT Directive, to devices that are used exclusively by disabled persons.

VII. IMPORTANT JUDGMENTS

1. Court rulings¹⁵

The Court ruled that:

- *Belgium*: exempting the interest accrued on Belgian debt instruments from a withholding tax on condition that such instruments are deposited or credited to an account opened by a Belgian financial institution is incompatible with the free provision of services;¹⁶
- *France*: the reduced VAT rate for digital books did not comply with the VAT Directive;¹⁷
- *France*: exempting donations and bequests to public bodies from inheritance tax only if the beneficiary is established in France or in another Member State with which France has concluded a bilateral agreement is incompatible with the free movement of capital;¹⁸
- *Germany*: making a tax benefit (a deferral of capital gains tax due on the sale of assets located in Germany) subject to the condition that such gains are reinvested in Germany is incompatible with the right of establishment;¹⁹
- *Luxembourg*: the reduced VAT rate on digital books did not comply with the VAT Directive;²⁰

¹³ Directive [2013/61/EU](#).

¹⁴ [MEMO/13/820](#).

¹⁵ These rulings are almost exclusively handed down on infringement procedures.

¹⁶ Commission v Belgium, [C-589/14](#).

¹⁷ Commission v France, [C-479/13](#) and Court press release No [30/15](#).

¹⁸ Commission v France, [C-485/14](#).

¹⁹ Commission v Germany, [C-591/13](#).

²⁰ Commission v Luxembourg, [C-502/13](#).

- *Poland*: the VAT exemption for certain medical equipment and pharmaceutical products went beyond the scope of what is allowed under the VAT Directive;²¹
- *Sweden*: the provider of the 'universal postal service should have been exempted from VAT in line with the VAT Directive';²²
- *UK*: applying reduced VAT rates for the supply of energy-efficient products in houses did not comply with the VAT Directive;²³
- *UK*: the Commission's claim that it is virtually impossible for non-resident companies to obtain cross-border group relief was to be dismissed.²⁴

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- *Austria*: allowing the parent company to depreciate the goodwill embedded in the shares of the acquired firm only for domestic subsidiaries restricts the freedom of establishment;²⁵
- *Germany*: e-book readers with translation or dictionary functions are classified as 'electronic apparatus having an individual function not specified elsewhere' — and thus subject to a conventional rate of duty amounting to 3.7 % — instead of 'electrical machine with dictionary function,' which are duty free;²⁶
- *Germany*: the penalty tax for holding units in investment funds established in certain non-EU countries (such as the Cayman Islands) can result in less favourable treatment, even by restricting the free movement of capital, including the provision of financial services, if the provision already existed on 31 December 1993;²⁷
- *Germany*: the staggered taxation of the hidden reserves of assets used for professional purposes over a period of five years, in the event of them being transferred from a German to a Dutch permanent establishment of the same undertaking, is compatible with the freedom of establishment;²⁸
- *Germany*: as a general rule, final losses of a foreign subsidiary cannot be taken into account at the level of the parent company;²⁹
- *Hungary*: the system of fines laid down in Hungarian law to sanction undeclared cash was disproportionate;³⁰
- *Italy*: if necessary to prevent serious VAT fraud, national courts must disapply the overall limitation in the sanction system and impose effective and dissuasive penalties;³¹
- *Latvia*: the fact that a product bears a CE mark certifying conformity with the Directive on medical devices cannot be regarded as decisive regarding its assessment for tariff classification purposes;³²
- *Poland*: in principle, the real estate rent and the costs of public services (e.g. electricity, heating, water and garbage collection) must be regarded as several distinct and independent supplies, to be assessed separately for VAT purposes;³³
- *Poland*: the Polish 'partnership limited by shares' must be regarded as a capital company for the purposes of the Directive concerning indirect taxes on the raising of

²¹ Commission v Poland, [C-678/13](#).

²² Commission v Sweden, [C-114/14](#).

²³ Commission v United Kingdom, [C-161/14](#).

²⁴ Commission v United Kingdom, [C-172/13](#).

²⁵ Finanzamt Linz, [C-66/14](#).

²⁶ Amazon EU, [C-58/14](#).

²⁷ Wagner-Raith, [C-560/13](#).

²⁸ Verder LabTec, [C-657/13](#).

²⁹ Timac Agro Deutschland, [C-388/14](#).

³⁰ Chmielewski, [C-255/14](#) and Court press release No [90/15](#).

³¹ Taricco and others, [C-105/14](#) and Court press release No [95/15](#).

³² Oliver Medical, [C-547/13](#).

³³ Wojskowa Agencja Mieszkaniowa w Warszawie, [C-42/14](#).

capital, even if only some of its capital and members are able to satisfy the conditions laid down in the Directive.³⁴

- *Poland*: EU Directives on excise duty do not preclude a Member State from applying an identical tax system for products outside the scope of those Directives (such as lubricating oils not used in vehicles or for heating);³⁵
- *Poland*: public law bodies, such as budgetary entities carrying out economic activities in the name and on behalf of a municipality, cannot be regarded as taxable persons for the purposes of VAT;³⁶
- *Sweden*: the exchange of traditional currency for units of the 'bitcoin' virtual currency and vice versa constitutes a supply of services exempt from VAT.³⁷
- *Sweden*: if capital gains on holdings for business purposes are exempted from tax under national rules, the Member State is not obliged to grant a deduction if losses occur on such holdings, even if they are due to currency changes.³⁸

VIII. OUTLOOK

Important implementation work in 2016 includes:

- *Customs*: handling efficiently any complaints and infringements during the transition to the Union Customs Code from the Community Customs Code;
- *Indirect taxation*:
 - applying Court judgments to all member States, especially the case law on car registration taxes,
 - pursuing the initiative to harmonise VAT reimbursements to recipients not registered as taxpayers in the Member State, and
 - checking the proportionality of national excise duty rules (such as the validity of fiscal marks allowing the marketing of excise goods, such as cigarettes);
- *Direct taxation*:
 - completing checks on all Member States' compliance with the rules on cross-border inheritances and cross-border workers,
 - proceeding with the third initiative (mobile persons), and
 - launching a study on discriminatory tax obstacles to cross-border investment by pension funds and life insurance companies.

³⁴ Drukarnia Multipress, [C-357/13](#).

³⁵ Oil Trading Poland, [C-349/13](#).

³⁶ Gmina Wrocław, [C-276/14](#).

³⁷ Hedqvist, [C-264/14](#) and Court press release No [128/15](#).

³⁸ X AB v Skatteverket, [C-686/13](#).