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COMMISSION

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SWD(2017) 260 final

PART 1/2

**COMMISSION STAFF WORKING DOCUMENT**

**Part II: Member States**

*Accompanying the document*

**Monitoring the application of European Union law  
2016 Annual Report**

{COM(2017) 370 final}

{SWD(2017) 259 final}

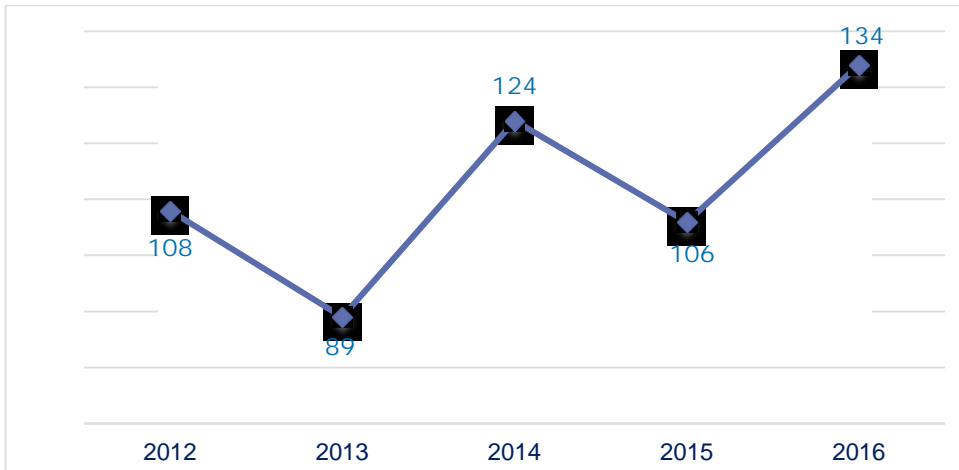
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Belgium

*New complaints against Belgium rose to the highest in 5 years, while new EU Pilot files increased only slightly. Open infringement cases also increased, to their highest level since 2012. New infringement cases for late transposition rose again after the previous year's dip, and are at a five-year peak.*

I. COMPLAINTS

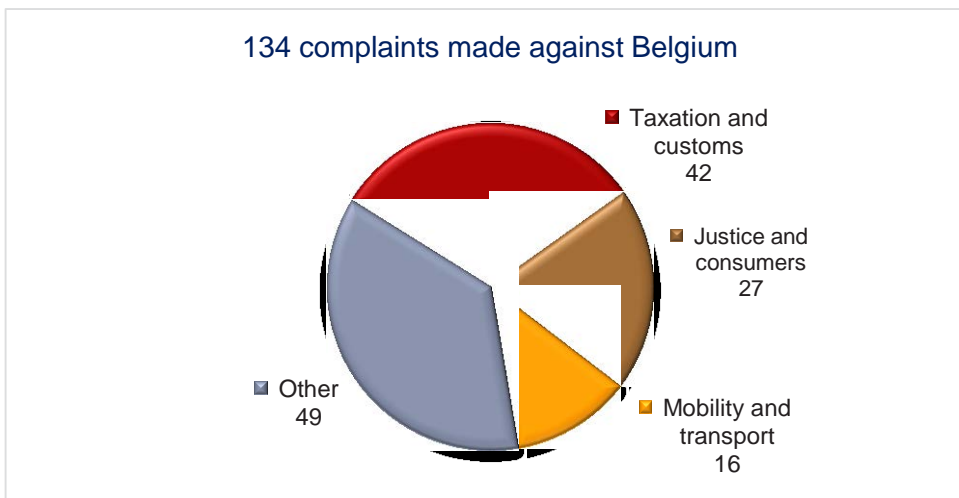
1. New complaints made against Belgium by members of the public (2012-2016)



2. Public complaints against Belgium open at year-end

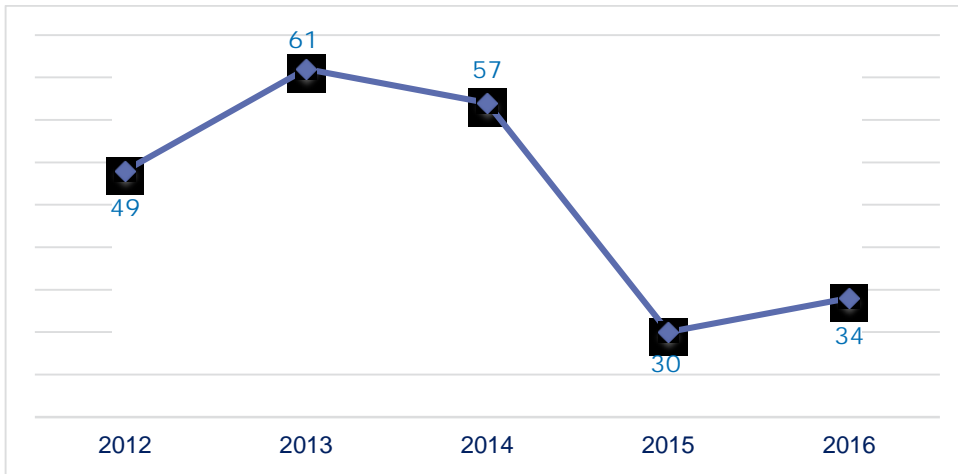
92	>	Complaints open at end-2015
134	>	New complaints registered in 2016
110	>	Complaints handled in 2016
<b>= 116</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

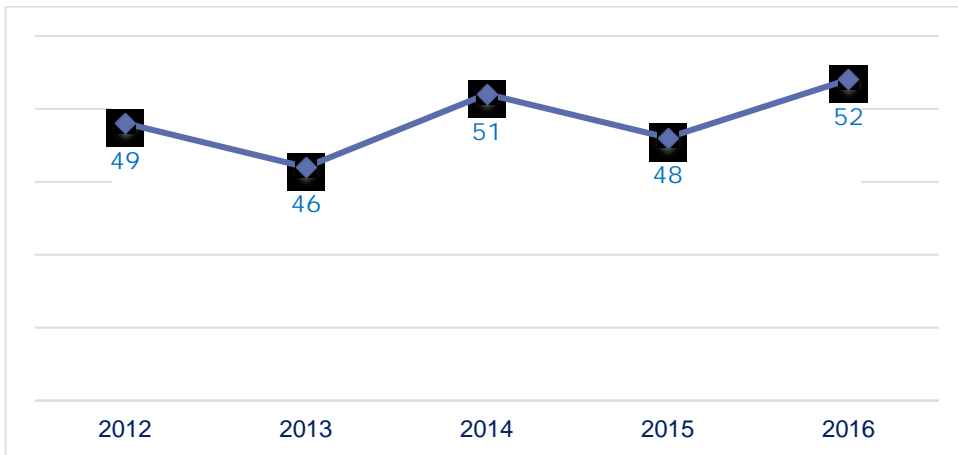


## II. EU PILOT

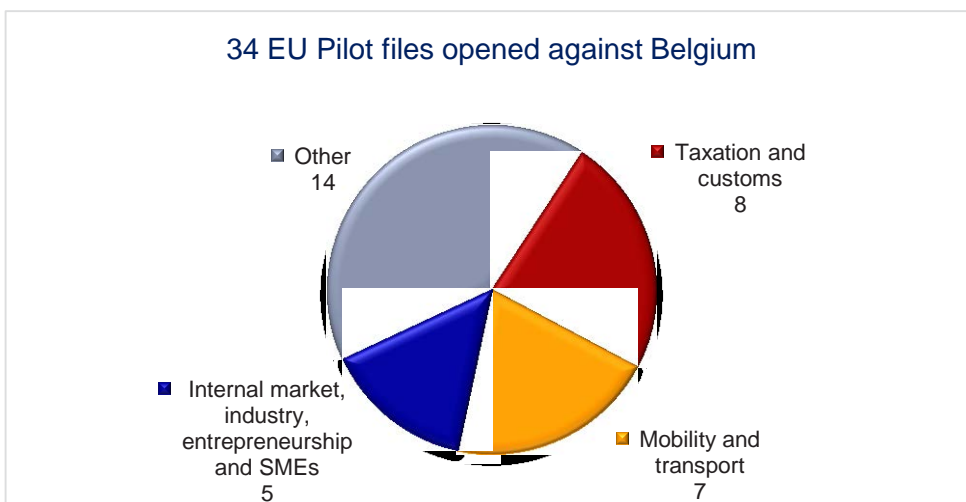
### 1. New EU Pilot files opened against Belgium (2012-2016)



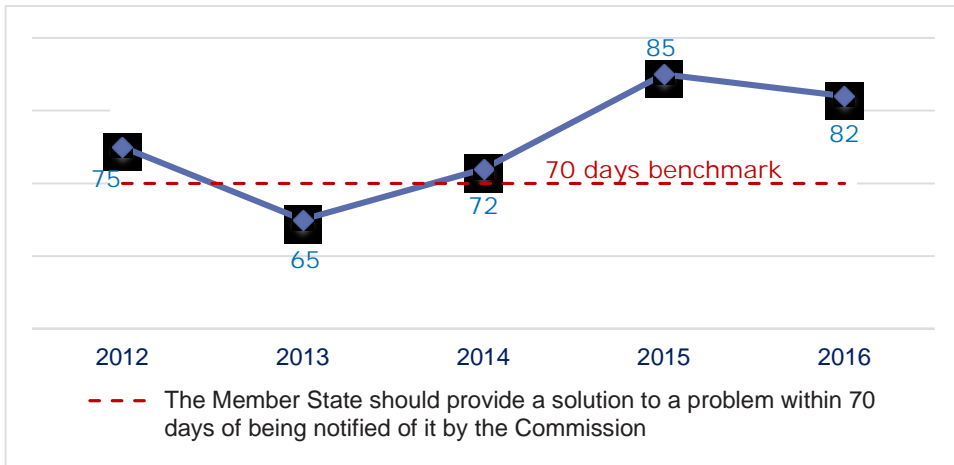
### 2. Files relating to Belgium open in EU Pilot at year-end



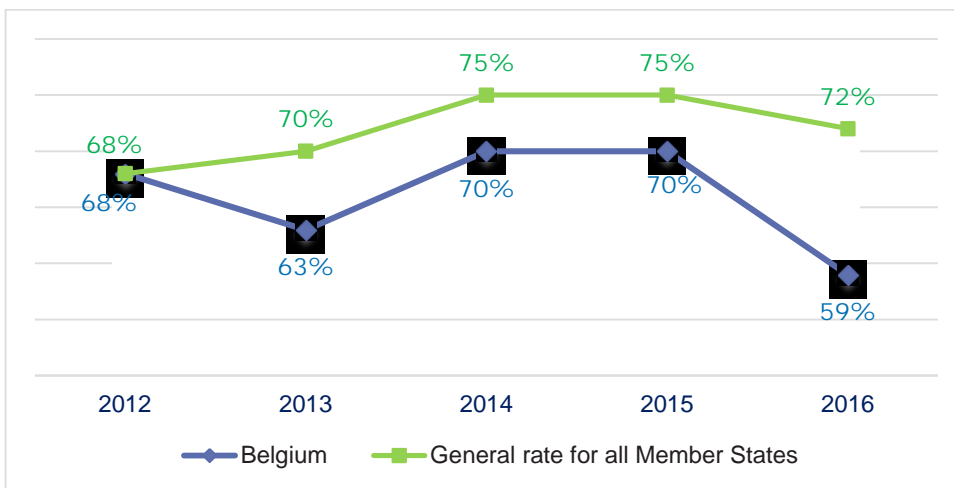
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Belgium's average response time in 2012-2016 (in days)

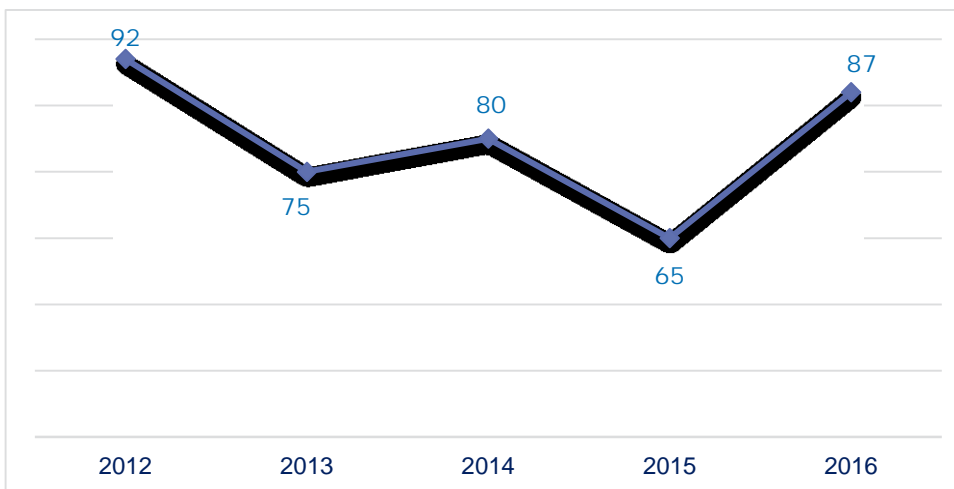


5. EU Pilot files: Belgium's resolution rate in 2012-2016

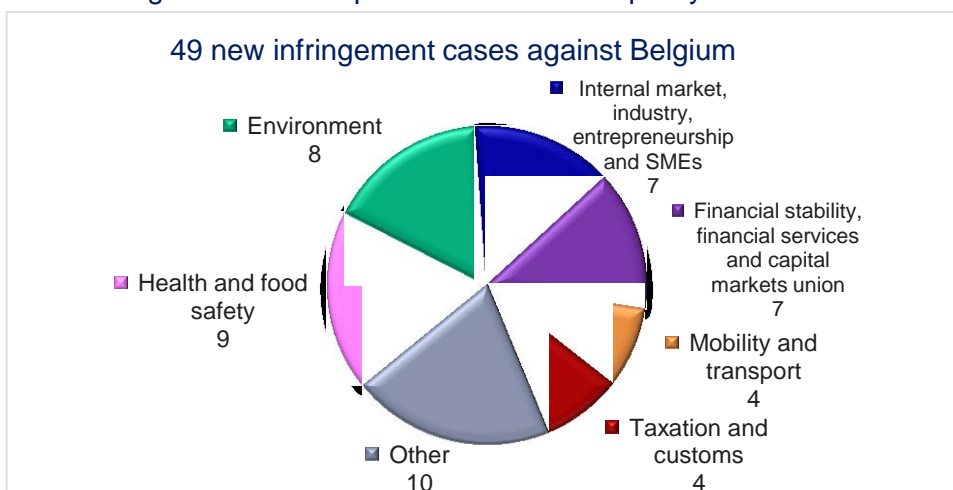


III. INFRINGEMENT CASES

1. Infringement cases against Belgium open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 49 new infringement cases against Belgium in 2016. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the Directive on attacks against information systems;<sup>1</sup>
  - non-communication of national measures transposing the European Protection Order Directive;<sup>2</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>3</sup>
  - inadequate urban waste water treatment;
  - non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>4</sup>
  - non-compliant transposition of the Environmental Liability Directive;<sup>5</sup>
  - failure to comply with the Third Internal Energy Market Package;<sup>6</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>7</sup>
  - failure to communicate all national measures transposing the Bank Recovery and Resolution Directive;<sup>8</sup>
  - failure to communicate all national measures transposing the Capital Requirements Directive;<sup>9</sup>
  - 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;<sup>10</sup>
  - restrictions on the freedom to provide port services and the freedom of establishment;
  - failure to correctly implement the Airport Charges Directive;<sup>11</sup>
  - incorrect implementation of the Directive on accident investigations;<sup>12</sup>

<sup>1</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).

<sup>2</sup> Directive [2011/99/EU](#); [MEMO/16/2490](#).

<sup>3</sup> Directive [2008/98/EC](#).

<sup>4</sup> Directive [2008/50/EC](#).

<sup>5</sup> Directive [2004/35/EC](#).

<sup>6</sup> Directives [2009/72/EC](#) and [2009/73/EC](#).

<sup>7</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

<sup>8</sup> Directive [2014/59/EU](#); [MEMO/16/1452](#).

<sup>9</sup> Directive [2013/36/EU](#); [MEMO/16/1452](#).

<sup>10</sup> [IP/16/1827](#) and [MEMO/16/1823](#).

<sup>11</sup> Directive [2009/12/EC](#); [MEMO/16/319](#).

<sup>12</sup> Directive [2009/18/EC](#).

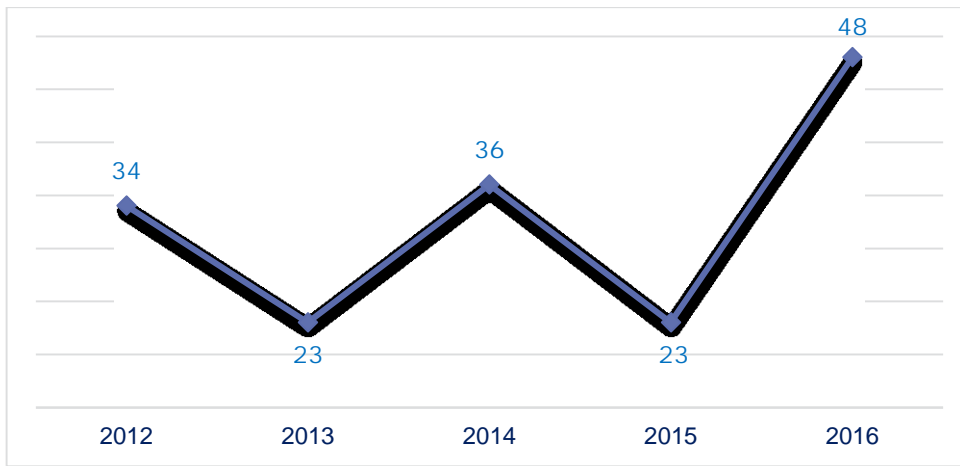
- incorrect implementation of the Regulation on the rights of passengers travelling by sea and inland waterway;<sup>13</sup>
- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>14</sup>
- failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>15</sup>

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

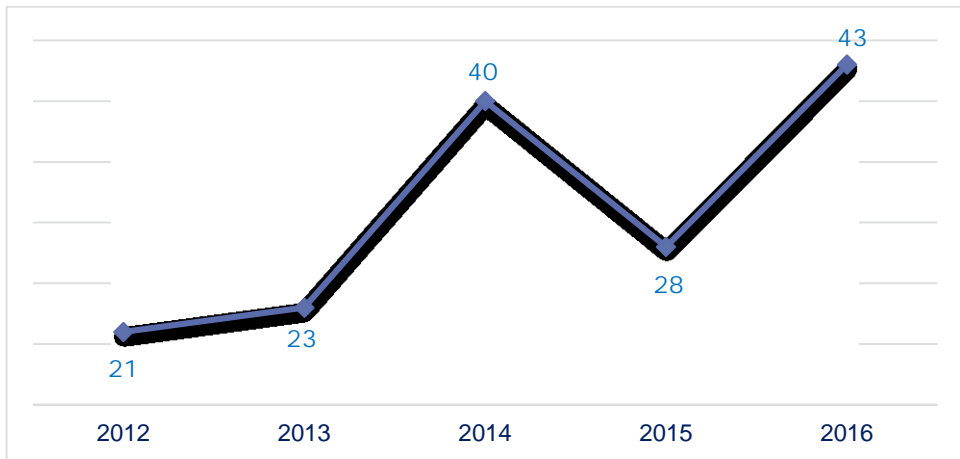
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Belgium open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Belgium (2012-2016)

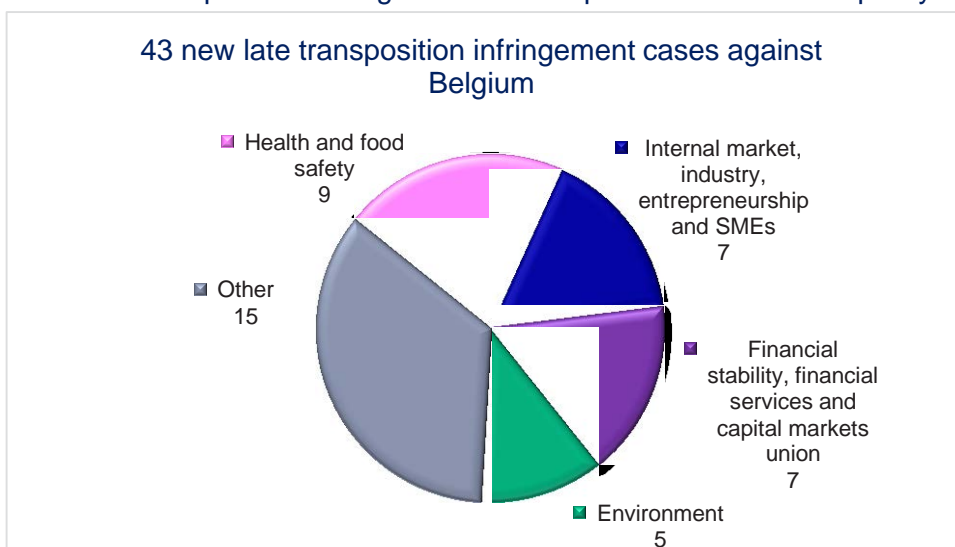


<sup>13</sup> Regulation (EU) No [1177/2010](#); [MEMO/16/1452](#).

<sup>14</sup> Directive [2006/123/EC](#).

<sup>15</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

### 3. New late transposition infringement cases opened in 2016: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- refusal to register the double surname for children born to a parent of Belgian nationality and a parent with another EU nationality;
- non-communication of national measures transposing the Seveso III Directive;<sup>16</sup>
- incorrect implementation of the Regulation on the rights of passengers travelling by sea or inland waterway;<sup>17</sup>
- reduced rate for online newspapers and publications;
- tax treatment of oil pipelines.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>18</sup>

The Court ruled that:

- Belgium has failed to fulfil its obligations under the Protocol on the Privileges and Immunities of the European Union, by not exempting the EU institutions from the federal contributions in respect of the supply of electricity and gas.<sup>19</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the Belgian judiciary, the Court held that:

- under the Consumer Sales Directive,<sup>20</sup> the concept of 'seller' also covers a trader acting as an intermediary on behalf of a private individual if the trader has not duly informed the consumer of the fact that the owner of the goods sold is a private individual. The Court's clarifications on intermediaries seem relevant for other areas of consumer law as well;<sup>21</sup>
- the exemption of distribution charges limited to green electricity produced in Flanders is incompatible with EU law. It fails to achieve the objective of increasing the production of

<sup>16</sup> Directive [2012/18/EU](#).

<sup>17</sup> Regulation (EU) No [1177/2010](#), [MEMO/16/1452](#).

<sup>18</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>19</sup> Commission v Belgium, [C-163/14](#).

<sup>20</sup> Directive [1999/44/EC](#).

<sup>21</sup> Wathelet, [C-149/15](#).



the exemption of distribution charges limited to green electricity produced in Flanders is incompatible with EU law. It fails to achieve the objective of increasing the production of green electricity and is thus considered non-proportionate discrimination against imported electricity;<sup>22</sup>

- a person making a train journey while not in possession of a ticket for that purpose, and who fails to regularise his situation within the periods laid down in national provisions, may be deemed to not have a contractual relationship with the railway undertaking;<sup>23</sup>
- the Directive on the systems of chartering and pricing in national and international inland waterway transport<sup>24</sup> must be interpreted so that contracts are to be freely concluded between the parties concerned. National legislation may therefore determine that a person who does not correspond to the Directive's definition of 'carrier' may nevertheless conclude a contract of carriage as a carrier;<sup>25</sup>
- measures contained in a plan or project not directly connected with the management of a site of Community importance which, before the occurrence of adverse effects on a natural habitat type present on it, are providing for the future creation of an area of that type may not be taken into account in the assessment of the effects of the plan or project on the site when that assessment precedes the completion of the respective area. Qualifying such measures as 'compensatory measures' under the Habitats Directive is strictly subject to the conditions it lays down;<sup>26</sup>
- a regulatory order containing provisions on the installation of wind turbines which must be complied with when administrative consent is granted for the installation and operation of such installations comes within the notion of 'plans and programmes' under the Strategic Environmental Assessment Directive;<sup>27</sup>
- national legislation which prohibits retailers from selling tobacco products at a unit price lower than the price indicated by the manufacturer or importer on the revenue stamp affixed to those products, in so far as that price has been freely determined by the importer, is compatible with EU law;<sup>28</sup>
- national legislation by a federated entity of a Member State, which requires every undertaking that has its place of establishment within the territory of that entity to draw up all the details on invoices relating to cross-border transactions exclusively in the official language of that entity, failing which those invoices are to be declared null and void by the national courts of their own motion, is incompatible with EU law.<sup>29</sup>

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<sup>22</sup> Essent Belgium NV v Vlaams Gewest and Others, [C-492/14](#).

<sup>23</sup> Nationale Maatschappij der Belgische Spoorwegen NV v Gregory Demey, [C-261/15](#).

<sup>24</sup> Directive [96/75/EC](#).

<sup>25</sup> Sven Mathys v De Grave Antverpia NV, [C-92/15](#).

<sup>26</sup> Directive [92/43/EEC](#), Orleans and Others, joined cases [C-387/15](#) and [C-388/15](#).

<sup>27</sup> Directive [2001/42/EC](#), D'Oultremont and Others, [C-290/15](#).

<sup>28</sup> Etablissements Fr. Colruyt, [C-221/15](#).

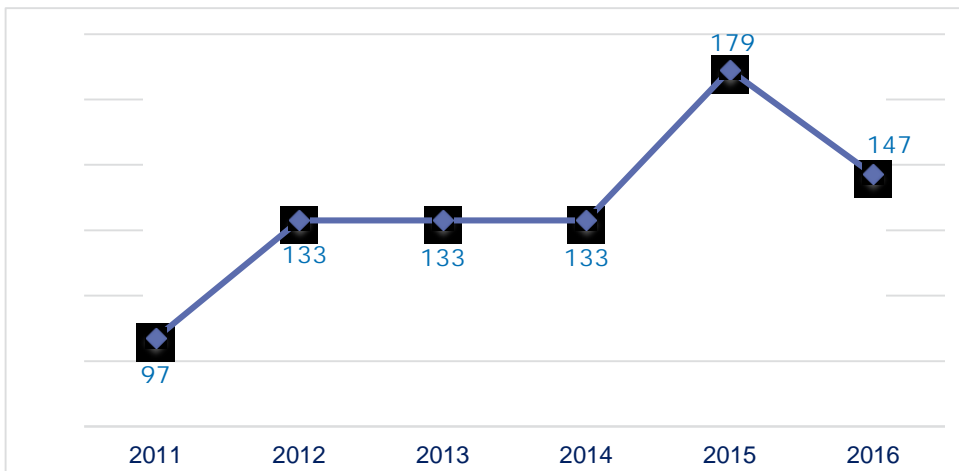
<sup>29</sup> [C-15/15](#), New Valmar BVBA, Court press release No [66/2016](#).

Bulgaria

New complaints against Bulgaria decreased somewhat in 2016 after jumping in 2015. Fewer new EU Pilot files were opened than in the previous 4 years. However, the number of open infringement cases increased sharply to the highest level since 2012. This correlates with the significantly higher level of infringement cases for late transposition that were open at the end of 2016.

I. COMPLAINTS

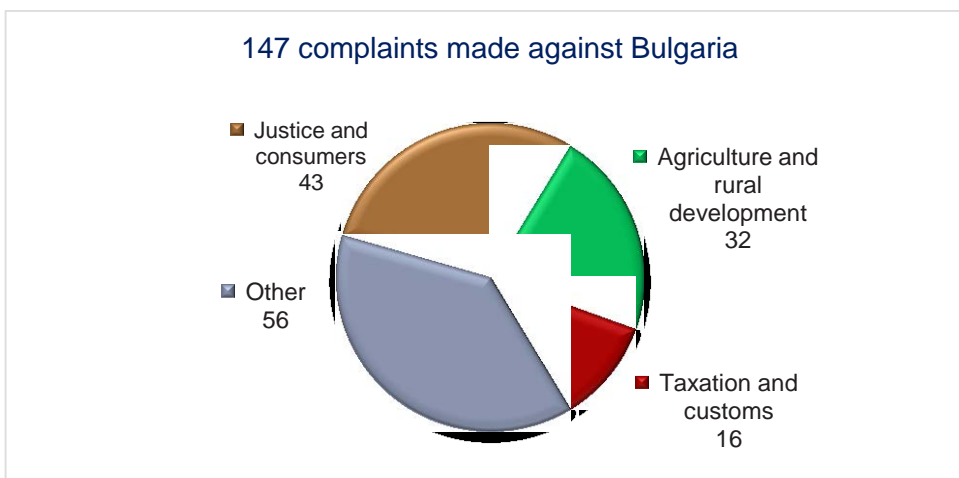
1. New complaints made against Bulgaria by members of the public (2012-2016)



1. Public complaints against Bulgaria open at year-end

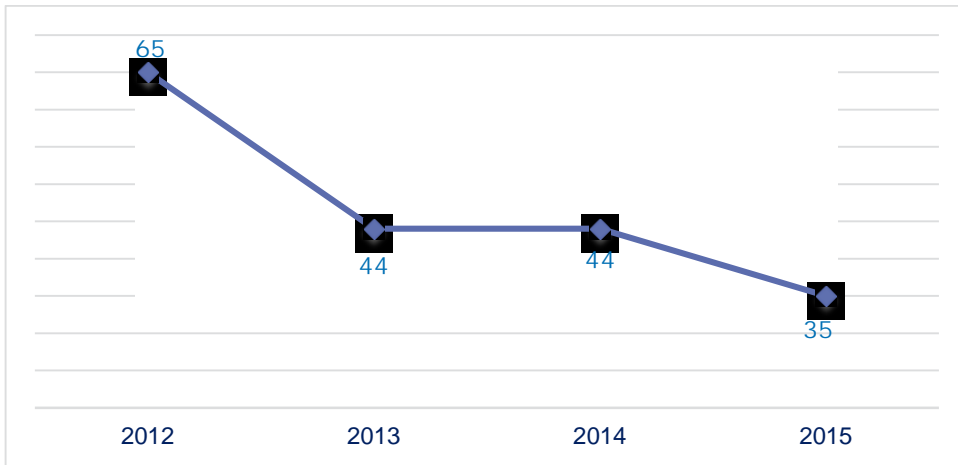
165	>	Complaints open at end-2015
147	>	New complaints registered in 2016
171	>	Complaints handled in 2016
<hr/>		
= 141	>	Complaints open at end-2016

2. New complaints registered in 2016: main policy areas

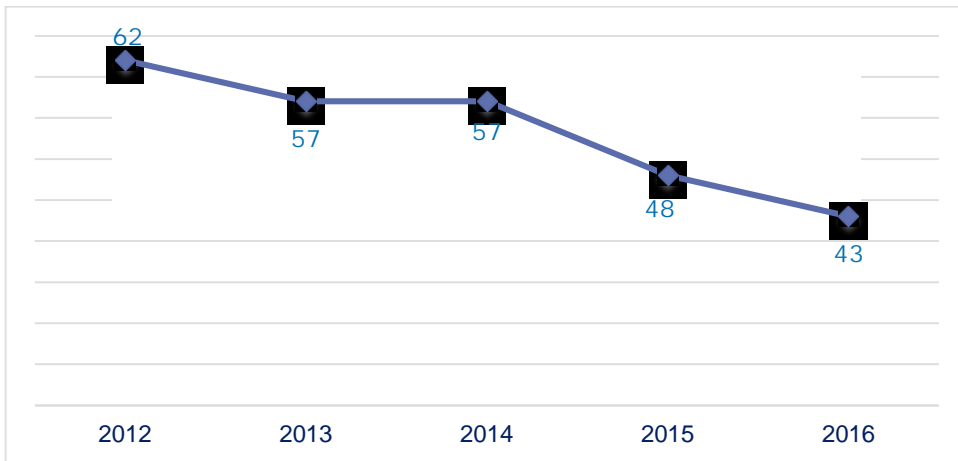


## II. EU PILOT

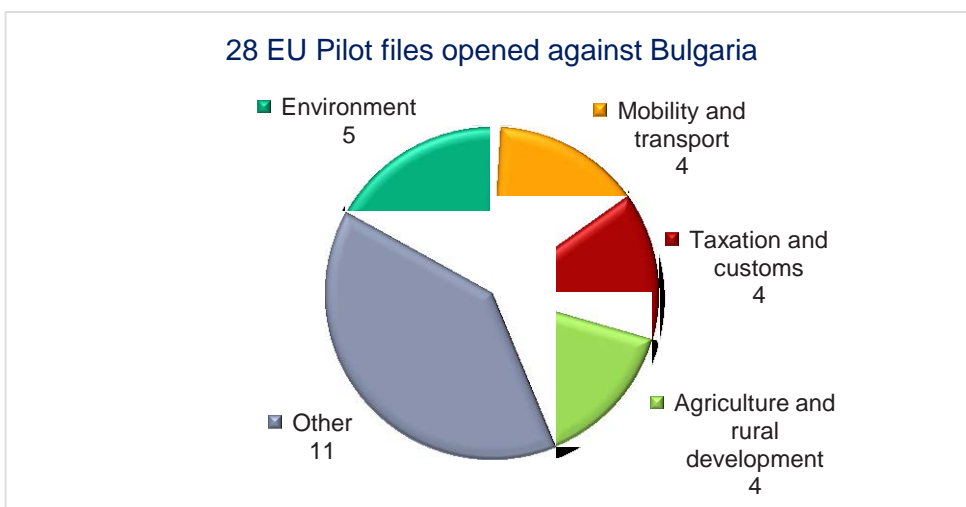
### 1. New EU Pilot files opened against Bulgaria (2012-2016)



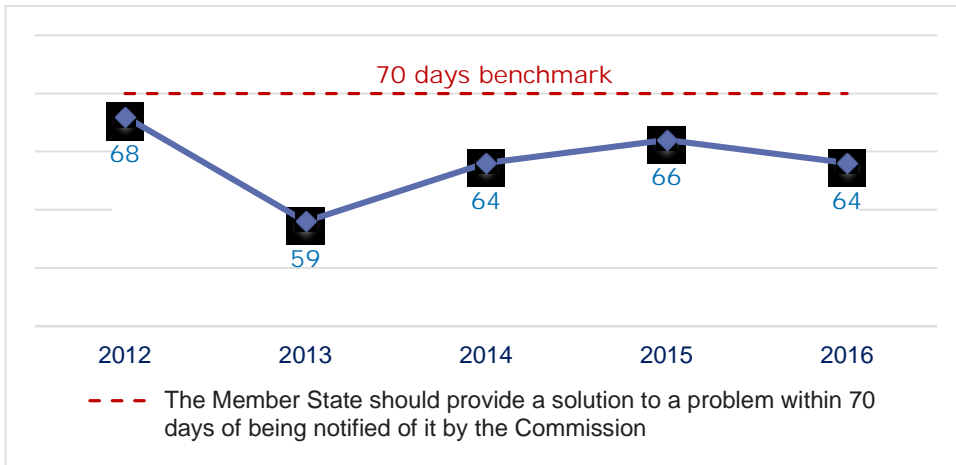
### 2. Files relating to Bulgaria open in EU Pilot at year-end



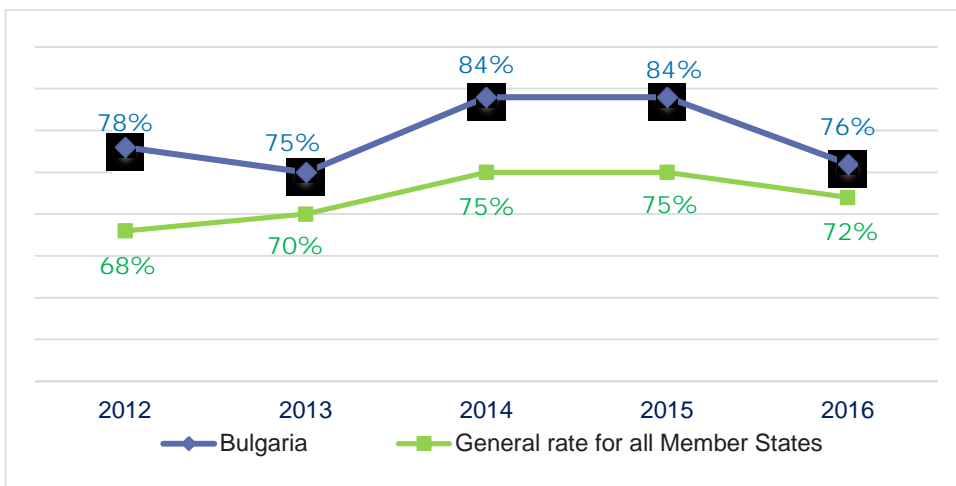
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Bulgaria's average response time in 2012-2016 (in days)

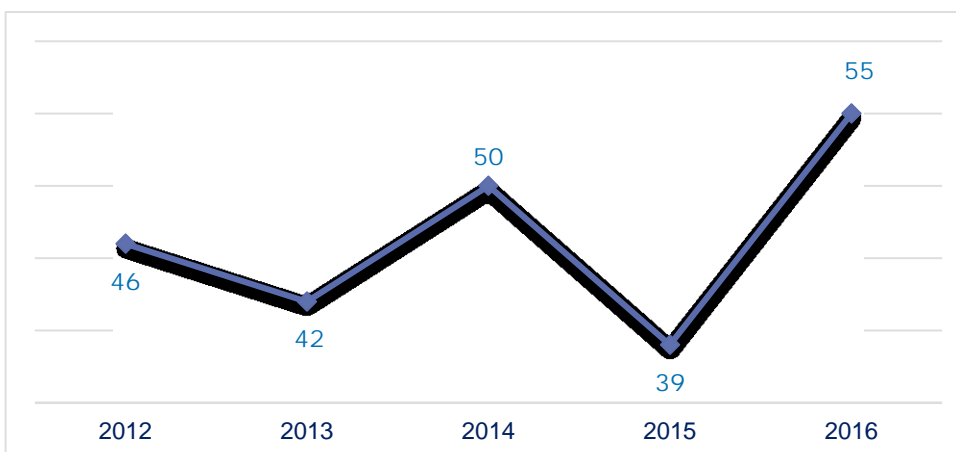


5. EU Pilot files: Bulgaria's resolution rate in 2012-2016

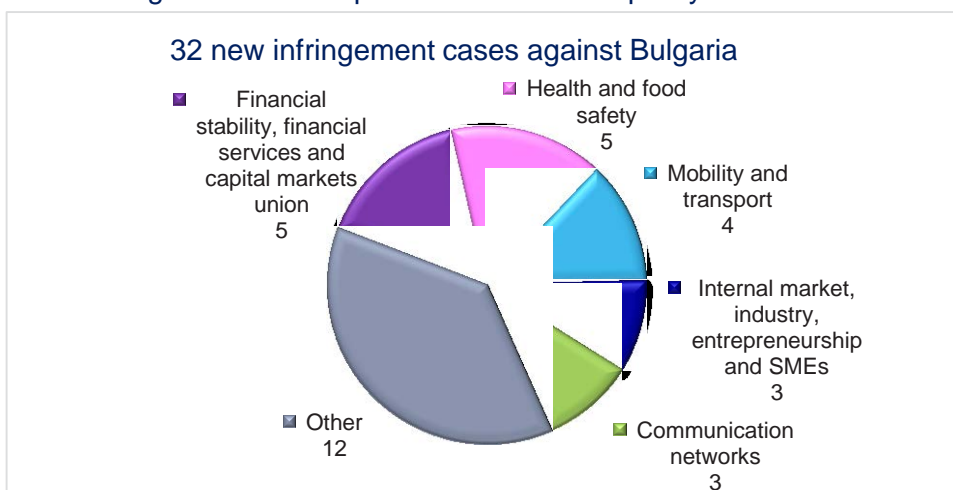


III. INFRINGEMENT CASES

1. Infringement cases against Bulgaria open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 32 new infringement cases against Bulgaria in 2016. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the Directive on attacks against information systems;<sup>1</sup>
  - incorrect implementation of the Directive on the status of third-country nationals who are long-term residents, by imposing disproportionate charges for resident permits;<sup>2</sup>
  - failure to fully transpose the Offshore Safety Directive;<sup>3</sup>
  - failure to comply with the Energy Performance of Buildings Directives;<sup>4</sup>
  - failure to fulfil obligations under the Directive on the protection of waters against pollution caused by nitrates from agricultural sources;<sup>5</sup>
  - failure to communicate all national measures transposing the Accounting Directive;<sup>6</sup>
  - failure to correctly implement the Airport Charges Directive;<sup>7</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>8</sup>
  - disproportionate fines for not declaring cash entered into the customs union;
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>9</sup>
  - 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.<sup>10</sup>
- 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.

<sup>1</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).

<sup>2</sup> Directive [2003/109/EC](#).

<sup>3</sup> Directive [2013/30/EU](#), [MEMO/16/319](#), [MEMO/16/1452](#) and [MEMO/16/3644](#).

<sup>4</sup> Directive [2010/31/EU](#) and [MEMO/16/3644](#), [MEMO/16/319](#) and [MEMO/16/2490](#).

<sup>5</sup> Directive [91/676/EEC](#) and [MEMO/16/3125](#).

<sup>6</sup> Directive [2013/34/EU](#), and press releases [MEMO/16/2097](#) and [MEMO/16/3644](#).

<sup>7</sup> Directive [2009/12/EC](#), [MEMO/16/319](#).

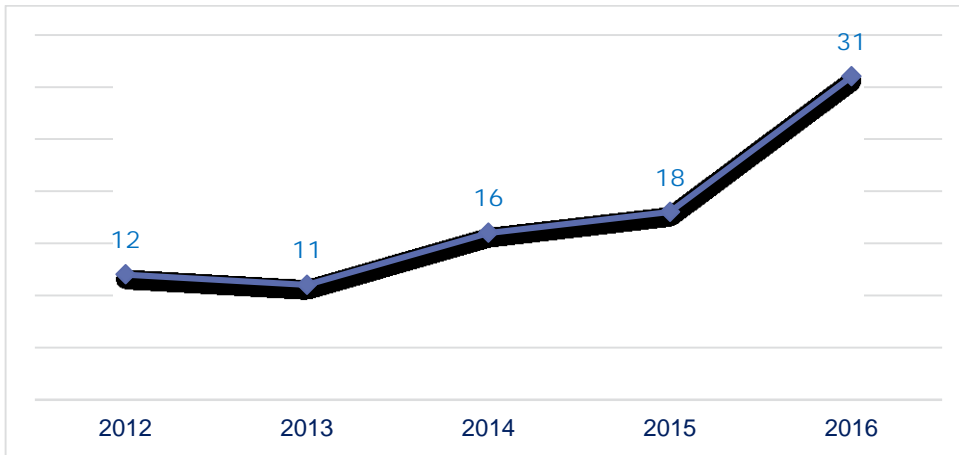
<sup>8</sup> Directive [2014/89/EU](#).

<sup>9</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

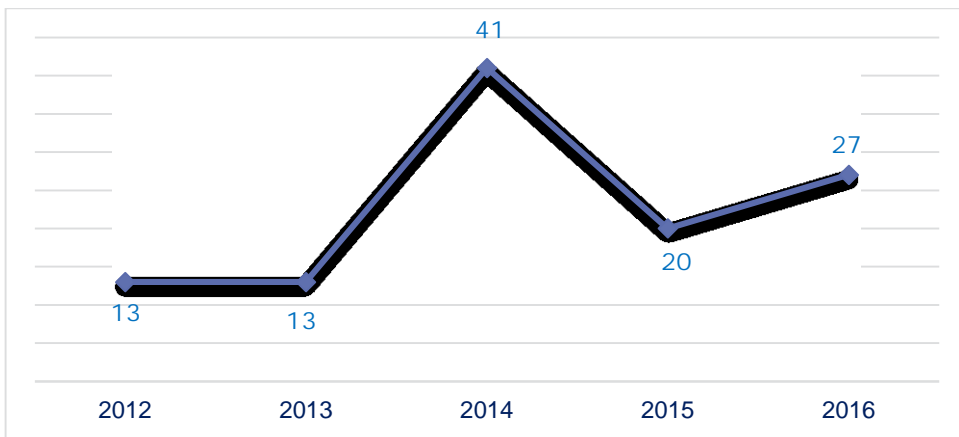
<sup>10</sup> Press releases [IP/16/1827](#) and [MEMO/16/1823](#).

#### IV. TRANSPOSITION OF DIRECTIVES

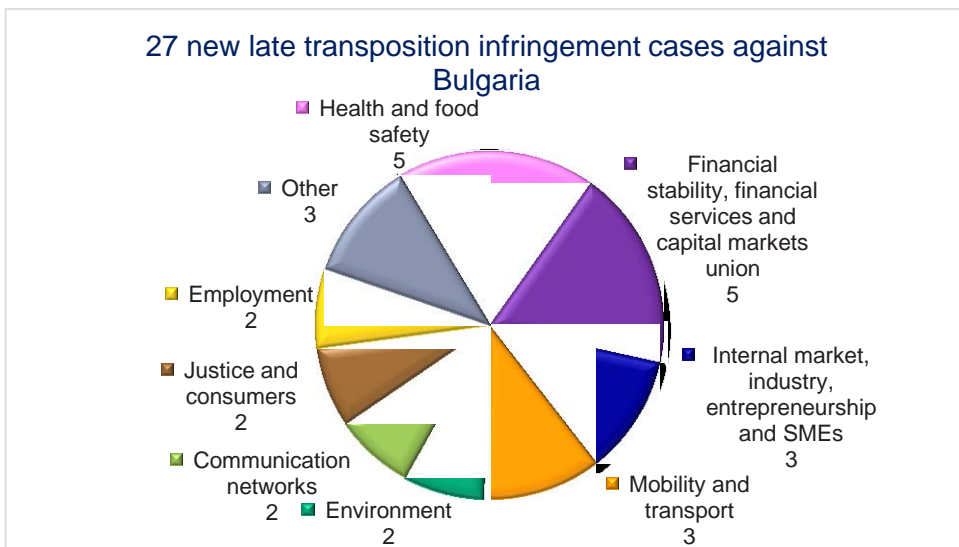
##### 1. Late transposition infringement cases against Bulgaria open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Bulgaria (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>11</sup>
- completing the notification of all national measures necessary to transpose the Capital Requirements Directive<sup>12</sup> and the Bank Resolution and Recovery Directive.<sup>13</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>14</sup>

The Court ruled that:

- has failed to protect unique habitats and endangered species in the Kaliakra region, in violation of the Birds Directive, the Habitats Directive and the Environmental Impact Assessment Directive.<sup>15</sup>

#### 2. Preliminary rulings

In a preliminary ruling addressed to the Bulgarian judiciary, the Court held that:

- the custodial sentence of a prisoner may not be reduced, when he is transferred from one Member State to another, by reason of time spent working in prison in the first Member State if that Member State has not, under its national law, granted such a reduction in sentence.<sup>16</sup>

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<sup>11</sup> Directive [2012/18/EU](#).

<sup>12</sup> Directive [2013/36/EU](#).

<sup>13</sup> Directive [2014/59/EU](#).

<sup>14</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>15</sup> Directives [2009/147/EC](#), [92/43/EEC](#) and [2011/92/EU](#), Commission v Bulgaria, [C-141/14](#).

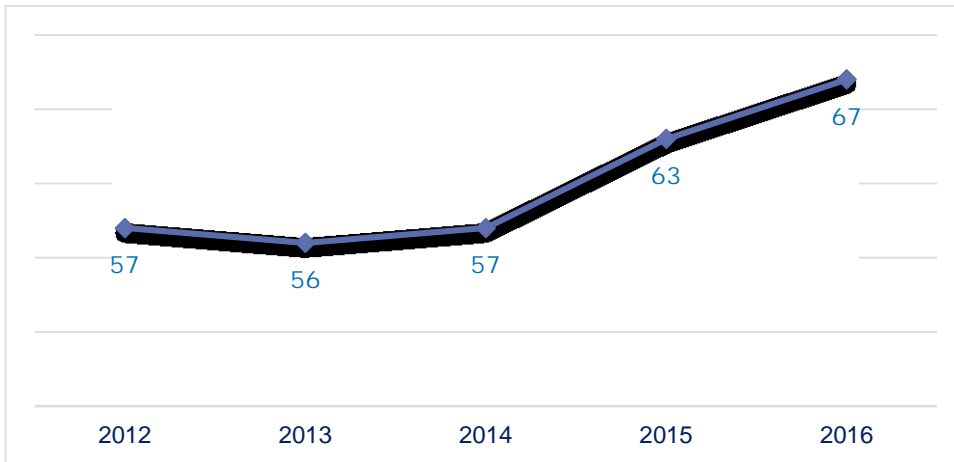
<sup>16</sup> Atanas Ognyanov v Sofiyska gradska prokuratura, [C-554/14](#) and Court press release No [117/16](#).

Czech Republic

*New complaints against the Czech Republic continued to increase in 2016, reaching their highest level in 5 years. Open infringement cases also continued their steady rise since 2013. New infringement cases for late transposition rose to almost double their 2015 level. By contrast, the number of new EU Pilot files continued falling from its 2013 peak, hitting its lowest point since 2012.*

I. COMPLAINTS

1. New complaints made against the Czech Republic by members of the public (2012-2016)



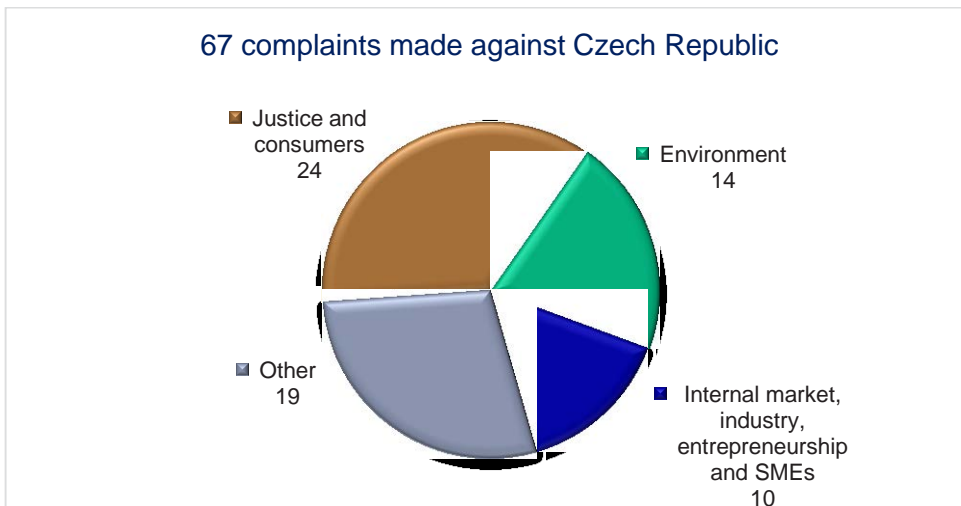
2. Public complaints against the Czech Republic open at year-end

- 68 > Complaints open at end-2015
- 67 > New complaints registered in 2016
- 67 > Complaints handled in 2016

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- = 68** > Complaints open at end-2016

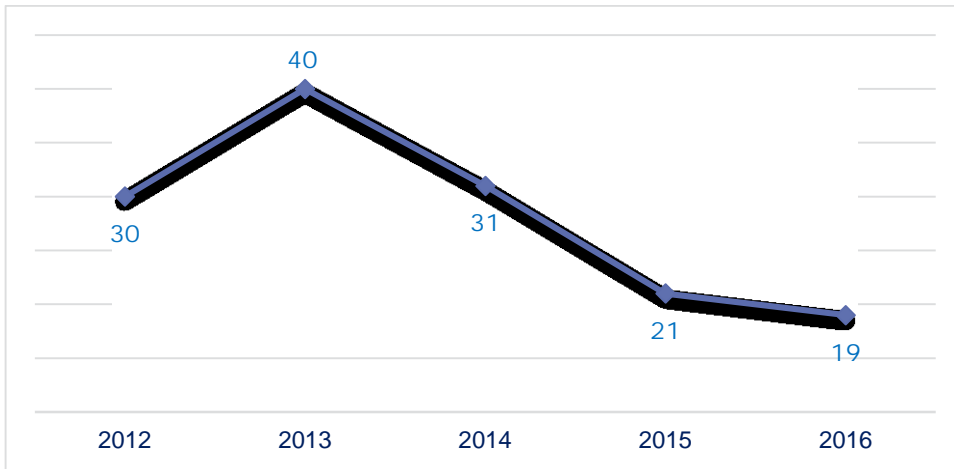
3. New complaints registered in 2016: main policy areas



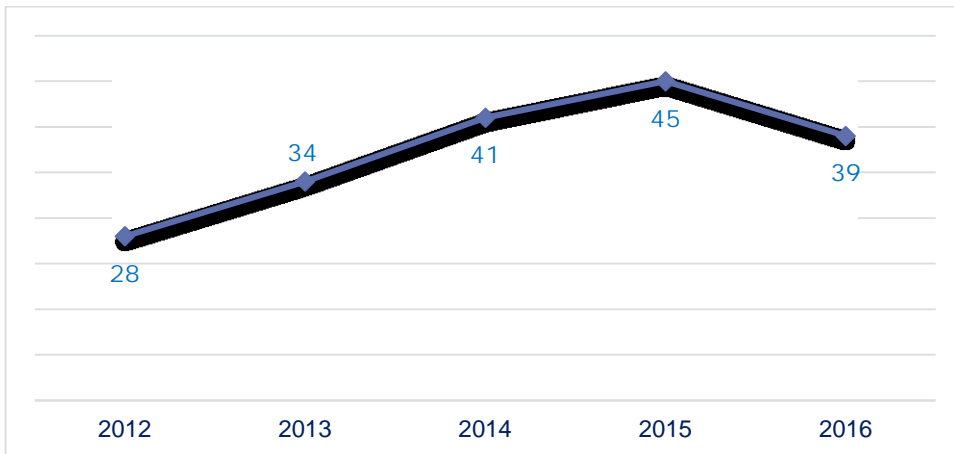


## II. EU PILOT

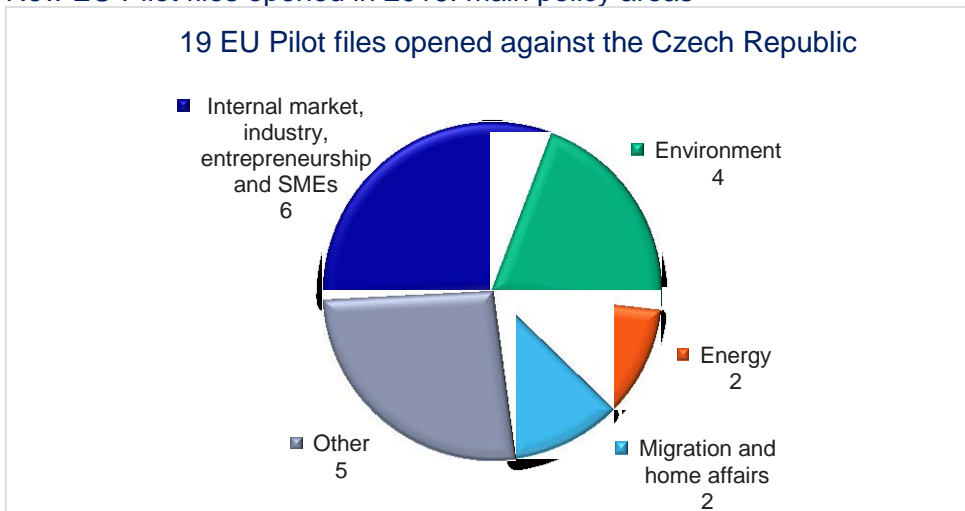
### 1. New EU Pilot files opened against the Czech Republic (2012-2016)



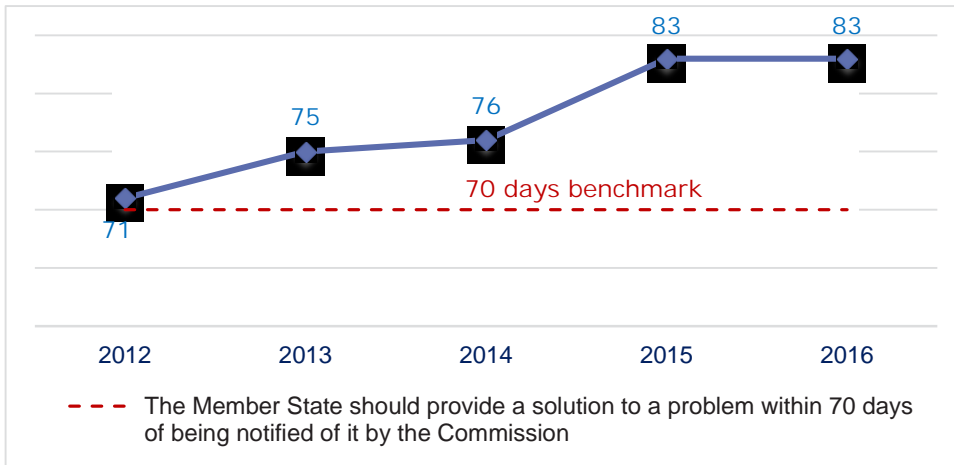
### 2. Files relating to the Czech Republic open in EU Pilot at year-end



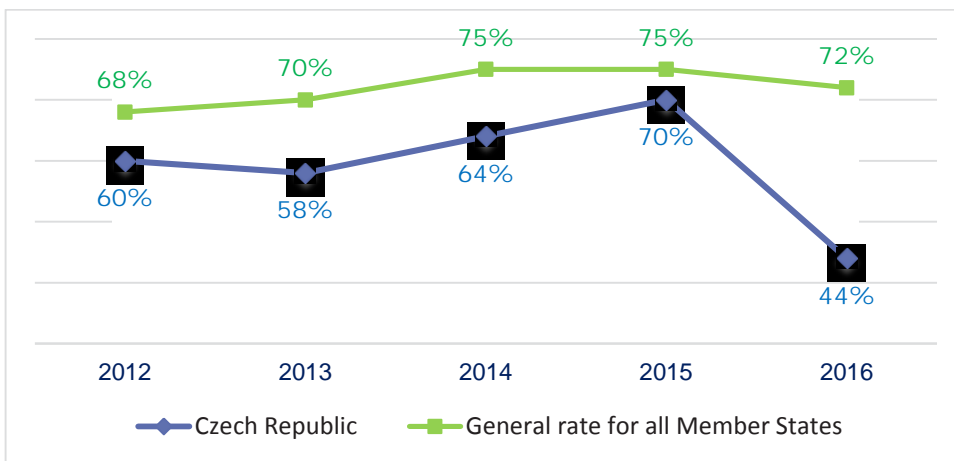
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Czech Republic's average response time in 2012-2016 (in days)

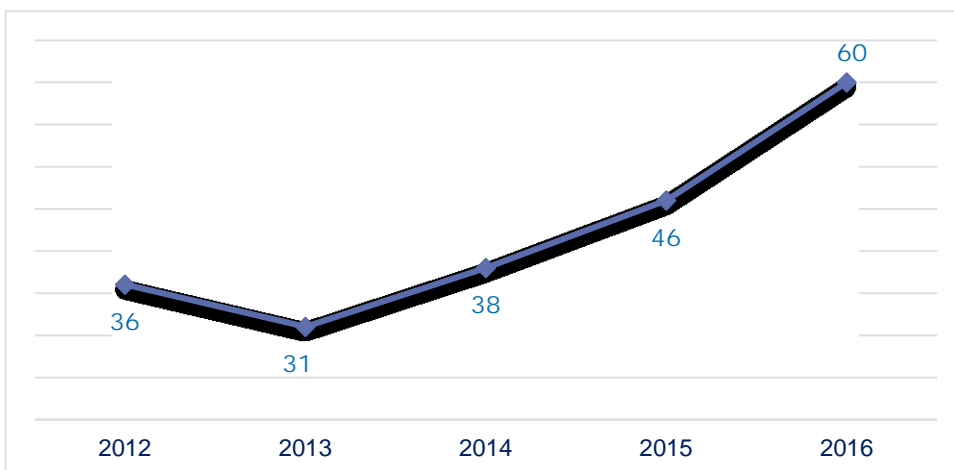


5. EU Pilot files: Czech Republic's resolution rate in 2012-2016

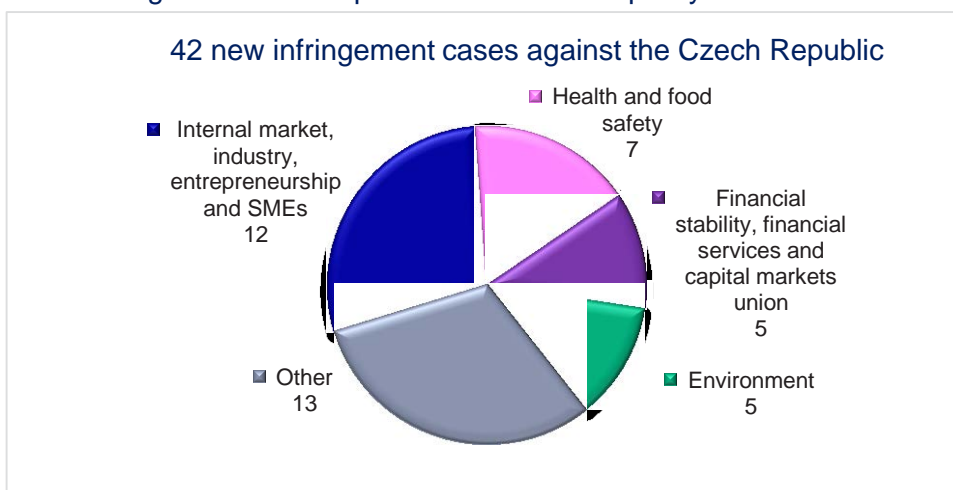


III. INFRINGEMENT CASES

1. Infringement cases against the Czech Republic open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 42 new infringement cases against the Czech Republic in 2016. These, and other major ongoing infringement cases, include:
- inadequate urban waste water treatment;
  - non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>1</sup>
  - non-compliant transposition of the Environmental Liability Directive;<sup>2</sup>
  - failure to comply with the Security of Gas Supply Regulation;<sup>3</sup>
  - incomplete natura 2000 network, contrary to the Directive on the conservation of natural habitats and of wild fauna and flora;<sup>4</sup>
  - failure to fully notify transposition measures for the Directive establishing a single European railway area;<sup>5</sup>
  - incorrect transposition of the Directive on the interoperability of the rail system within the Community;<sup>6</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>7</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation.<sup>8</sup>
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- failure to fulfil obligations under the Directive on driving licences;<sup>9</sup>
  - the condition of nationality laid down for the exercise of the profession of notary in the Czech legal system. This is discriminatory and constitutes a disproportionate restriction of the freedom of establishment.<sup>10</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2008/50/EC](#).

<sup>2</sup> Directive [2004/35/EC](#).

<sup>3</sup> Regulation [\(EU\) No 994/2010](#).

<sup>4</sup> Directive [92/43/EEC](#).

<sup>5</sup> Directive [2012/34/EU](#).

<sup>6</sup> Directive [2008/57/EC](#); [MEMO/16/319](#).

<sup>7</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

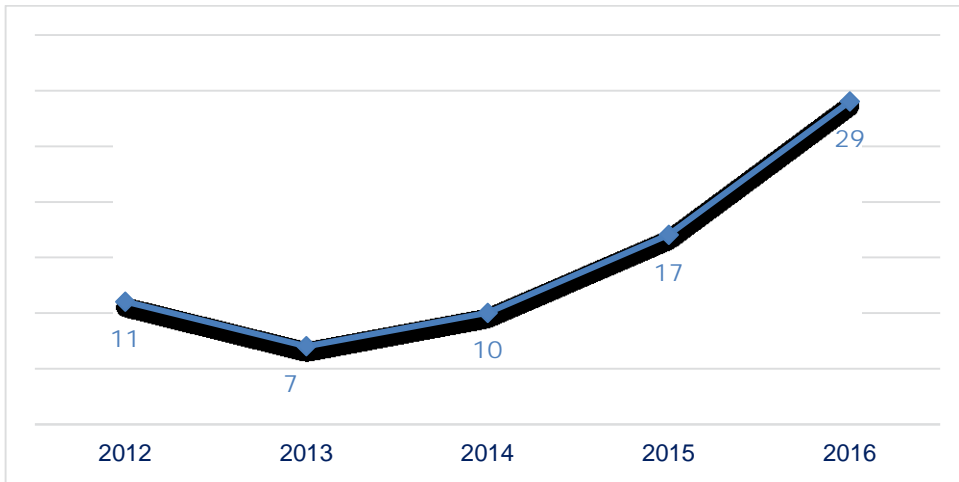
<sup>8</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#); [IP/16/4214](#).

<sup>9</sup> Directive [2006/126/EC](#), Commission v Czech Republic, [C-314/16](#); [IP/15/6013](#).

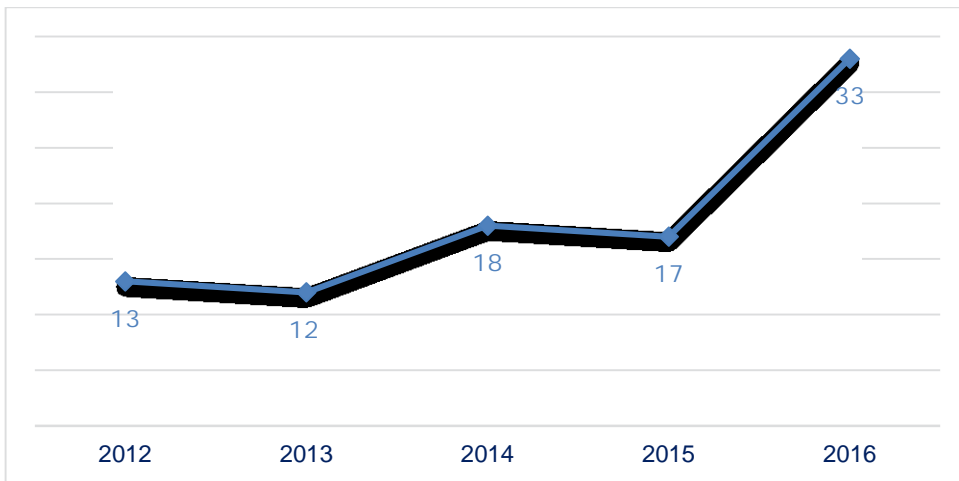
<sup>10</sup> Commission v Czech Republic [C-575/16](#); [IP/16/322](#) and [MEMO/16/319](#).

#### IV. TRANSPOSITION OF DIRECTIVES

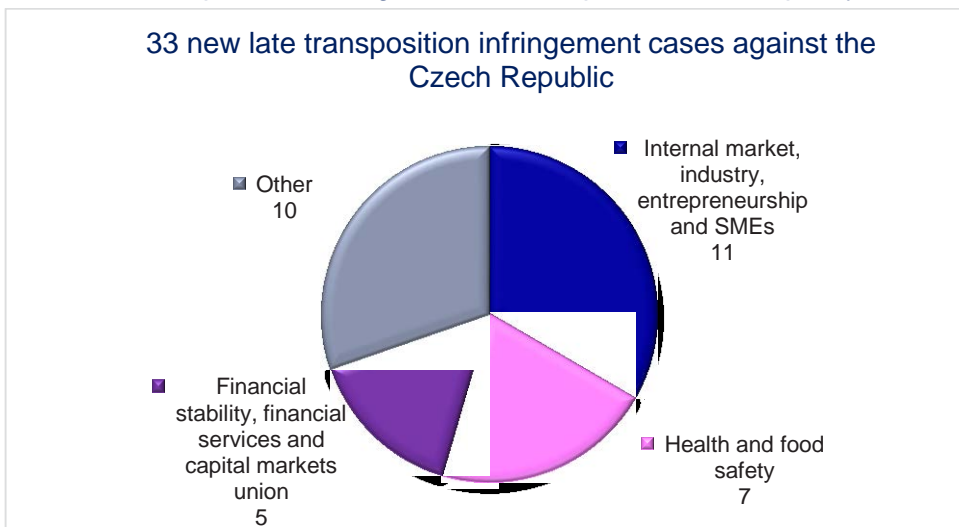
##### 1. Late transposition infringement cases against the Czech Republic open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against the Czech Republic (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2016

These concerned:

- non-compliant transposition of the Waste Framework Directive;<sup>11</sup>
- incorrect transposition of the Groundwater Directive;<sup>12</sup>
- incorrect transposition of the Environmental Quality Standards Directive;<sup>13</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>14</sup>
- completing the notification of all national measures necessary to transpose:
  - the Bank Resolution and Recovery Directive;<sup>15</sup>
  - the Deposit Guarantee Schemes Directive;<sup>16</sup>
  - the Financial Conglomerates Directive;<sup>17</sup>
- failure to meet the obligation to interconnect a national electronic register of road transport undertakings;<sup>18</sup>
- non-ratification of or reservations against appendices to the Convention concerning International Carriage by Rail;
- incorrect implementation of the Directive on a European electronic toll service.<sup>19</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>20</sup>

The Court ruled that:

- the Czech Republic failed to fulfil its obligations concerning the free movement of goods by refusing to recognise the hallmarks of Waarborg Holland, the Netherlands' independent assay office for precious metals. Although in some cases the Member State is entitled not to recognise hallmarks affixed outside the EU by that assay office, a general and systematic refusal to recognise any of that office's hallmarks is a disproportionate measure.<sup>21</sup>

#### 2. Preliminary rulings

In a preliminary ruling addressed to the Czech judiciary, the Court held that:

- Directive [2003/95/EU](#) does not preclude national legislation that requires individuals to complete periodic training of a specified duration as a condition for carrying out a driving activity in circumstances where the individuals concerned were exempted from the obligation laid down in the Directive to obtain an initial qualification.

<sup>11</sup> Directive [2008/98/EC](#).

<sup>12</sup> Directive [2006/118/EC](#).

<sup>13</sup> Directive [2008/105/EC](#).

<sup>14</sup> Directive [2012/18/EU](#).

<sup>15</sup> Directive [2014/59/EU](#).

<sup>16</sup> Directive [2014/49/EU](#).

<sup>17</sup> Directive [2011/89/EU](#).

<sup>18</sup> Regulation [\(EC\) No 1071/2009](#).

<sup>19</sup> Directive [2004/52/EC](#).

<sup>20</sup> These rulings are almost exclusively handed down in infringement procedures.

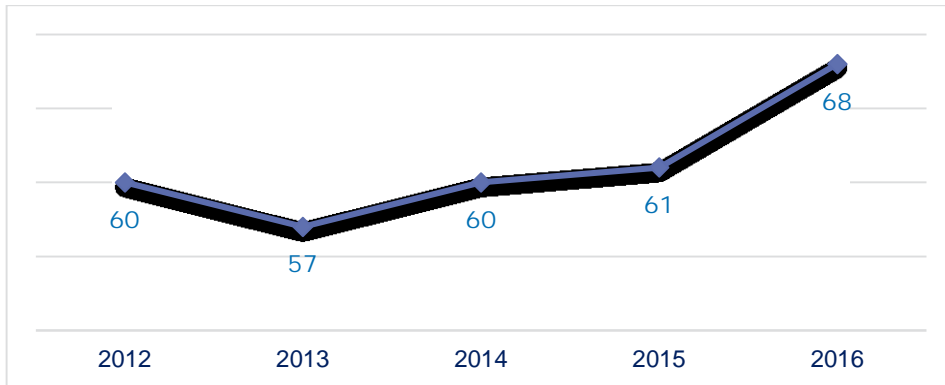
<sup>21</sup> Commission v Czech Republic, [C-525/14](#).

Denmark

All the main indicators for Denmark worsened in 2016. New complaints rose to their highest level since 2012, while the number of new EU Pilot files also increased after the sharp fall from its 2013 peak. Both open infringement cases and new cases for late transposition rose considerably, reaching five-year highs.

I. COMPLAINTS

1. New complaints made against Denmark by members of the public (2012-2016)



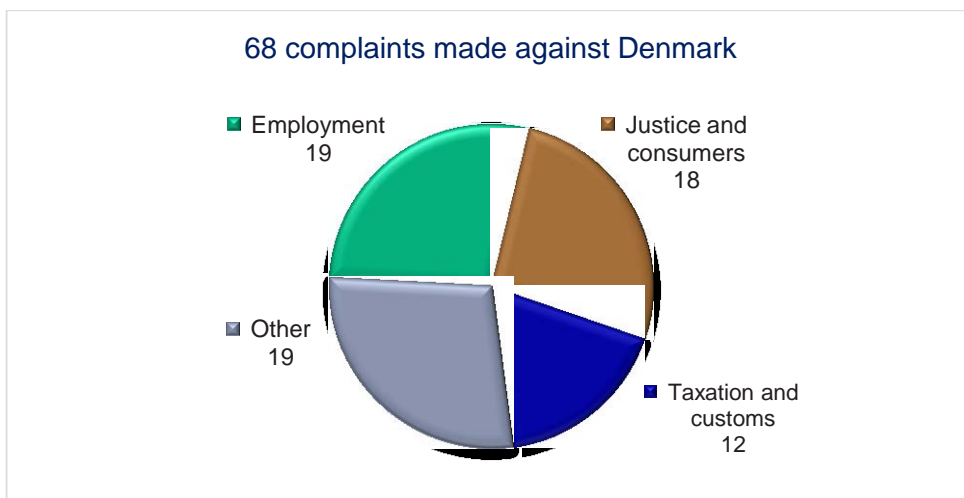
2. Public complaints against Denmark open at year-end

- 52 > Complaints open at end-2015
- 68 > New complaints registered in 2016
- 74 > Complaints handled in 2016

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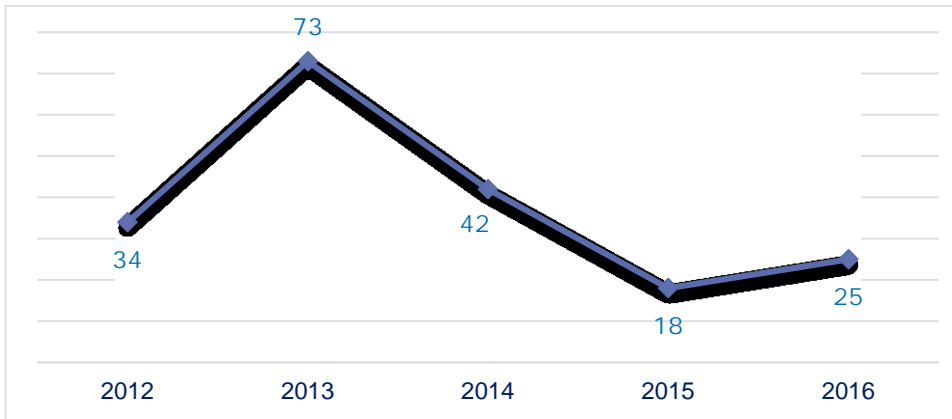
- = 46 > Complaints open at end-2016

3. New complaints registered in 2016: main policy areas

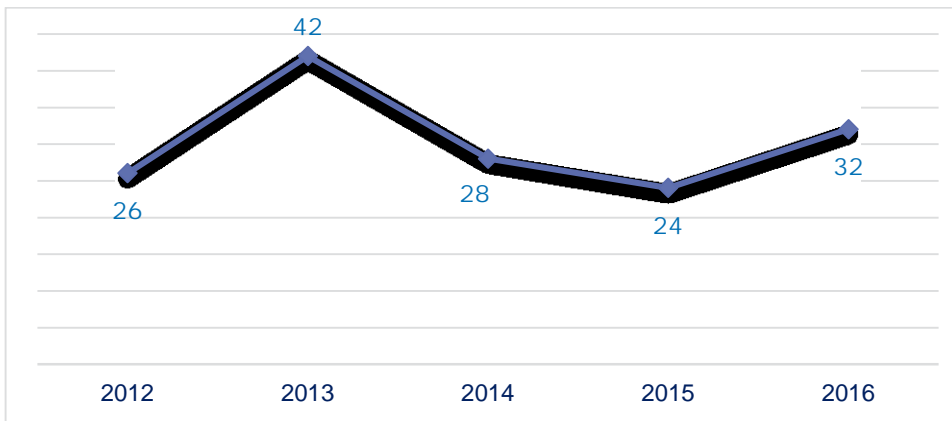


## II. EU PILOT

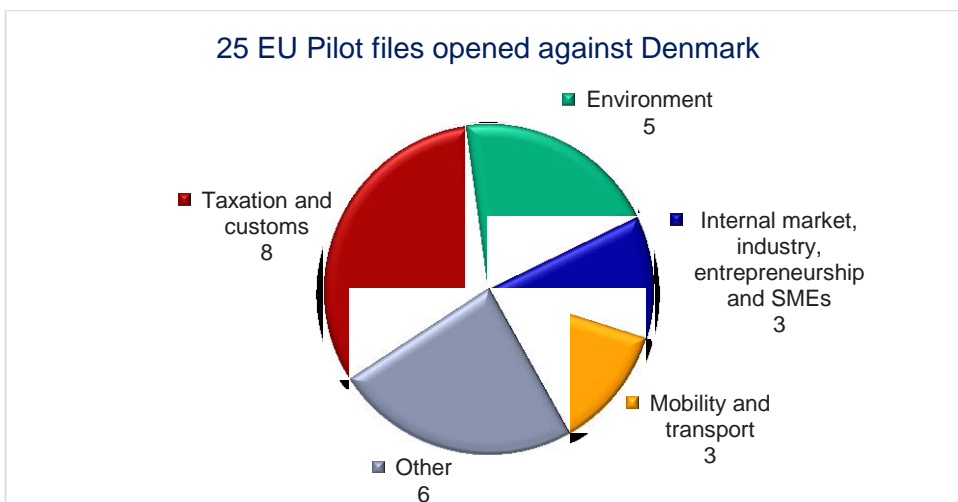
### 1. New EU Pilot files opened against Denmark (2012-2016)



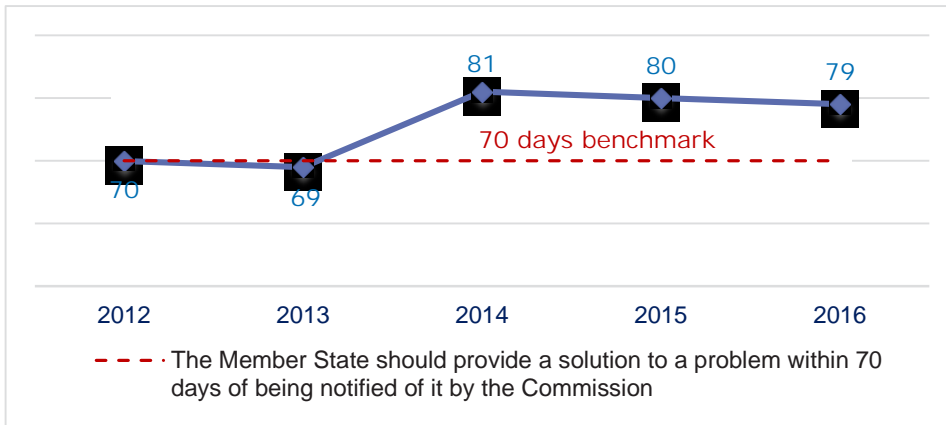
### 2. Files relating to Denmark open in EU Pilot at year-end



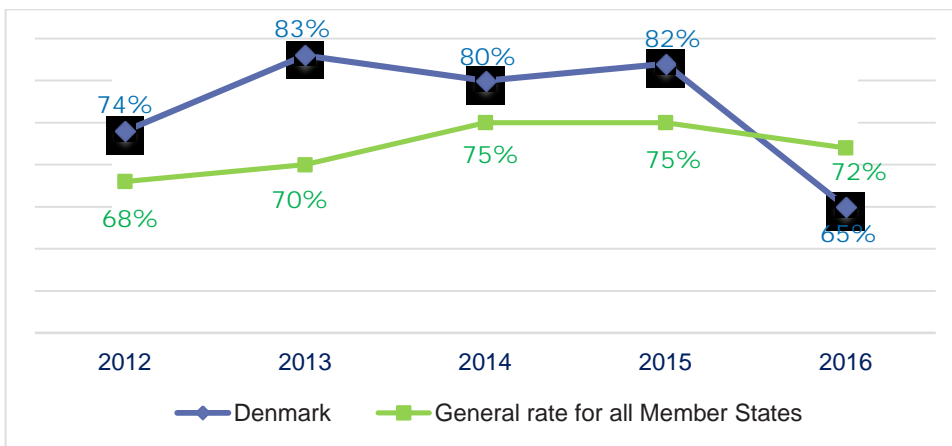
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Denmark's average response time in 2012-2016 (in days)

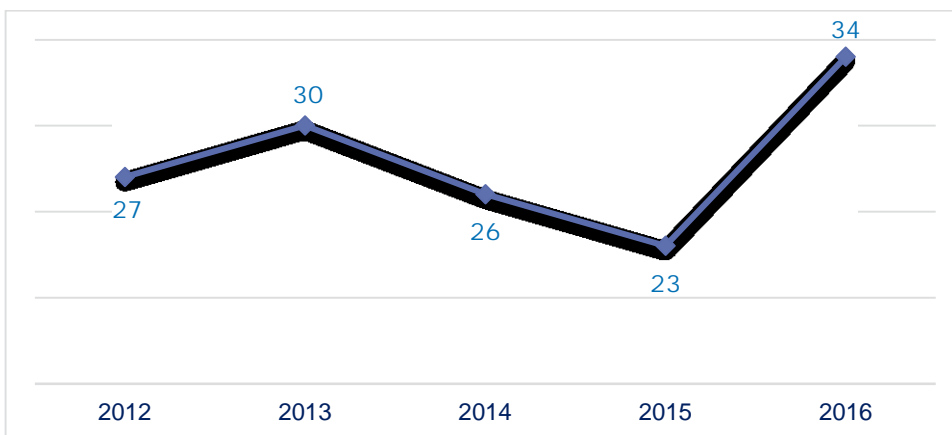


5. EU Pilot files: Denmark's resolution rate in 2012-2016



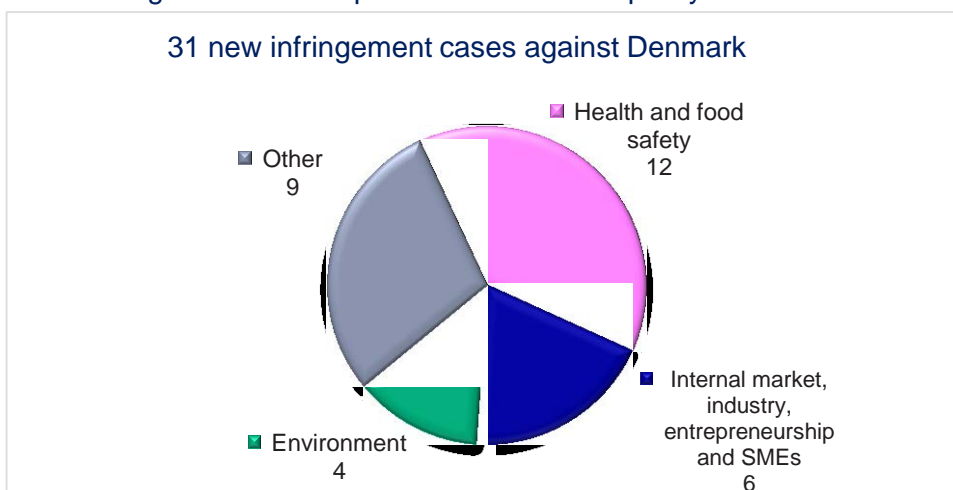
III. INFRINGEMENT CASES

1. Infringement cases against Denmark open on 31 December (2012-2016)





## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 31 new infringement cases against Denmark in 2016. These, and other major ongoing infringement cases, include:
- non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>1</sup>
  - non-compliant transposition of the Environmental Liability Directive;<sup>2</sup>
  - failure to fully transpose the Energy Efficiency Directive;<sup>3</sup>
  - failure to correctly transpose the Directive on driving licences;<sup>4</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive.<sup>5</sup>
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- failure to comply with cabotage rules as laid down in the Regulation on access to the international road haulage market.<sup>6</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2008/50/EC](#).

<sup>2</sup> Directive [2004/35/EC](#).

<sup>3</sup> Directive [2012/27/EU](#), [MEMO/16/3125](#) and [MEMO/16/1452](#).

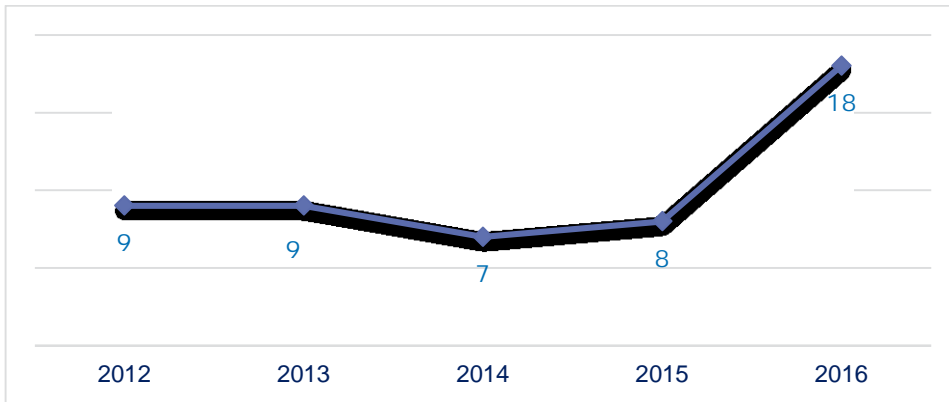
<sup>4</sup> Directive [2006/126/EC](#), [MEMO/16/2097](#).

<sup>5</sup> Directive [2006/123/EC](#), [IP/16/3646](#), [MEMO/16/3644](#).

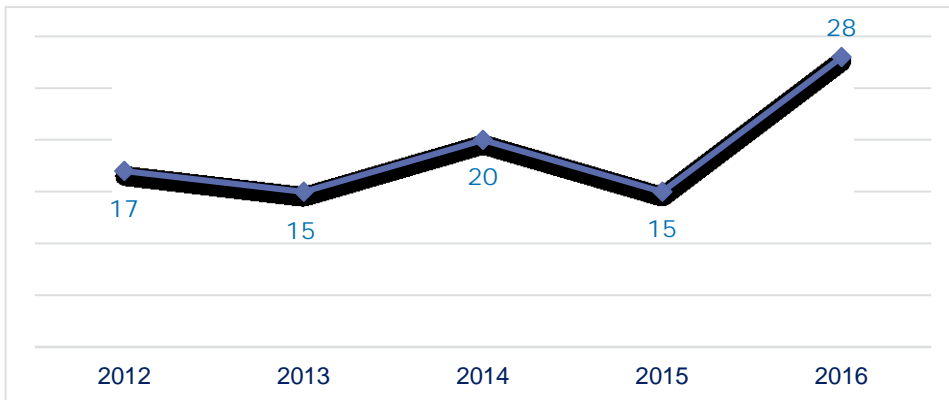
<sup>6</sup> Regulation (EC) [1072/2009](#), Commission v Denmark, [C-541/16](#), [MEMO/16/2097](#).

#### IV. TRANSPOSITION OF DIRECTIVES

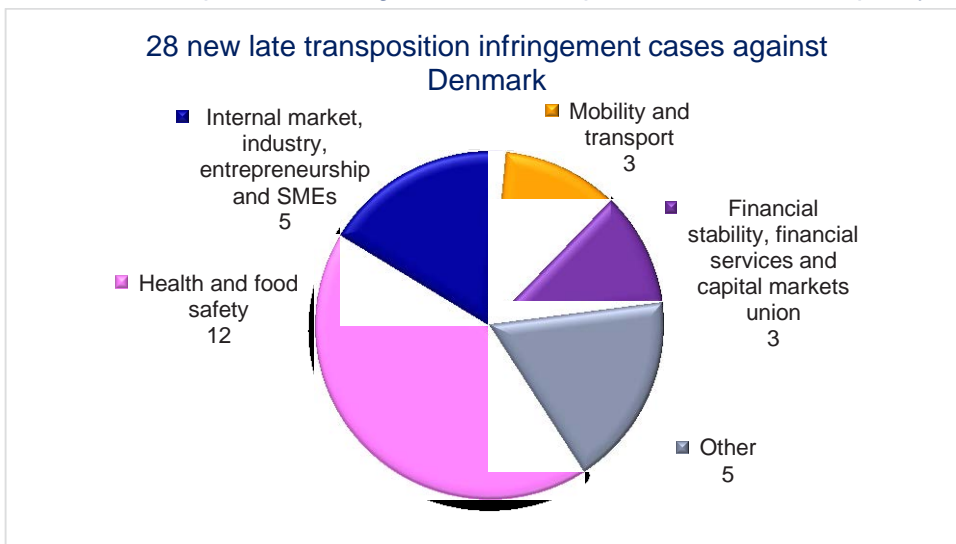
##### 1. Late transposition infringement cases against Denmark open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Denmark (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>7</sup>
- collective agreements in the municipal education sector which excluded part-time staff from a number of benefits if they worked less than 8 hours per week or were employed for less than 1 month.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>8</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In preliminary rulings addressed to the Danish judiciary, the Court held that:

- the Universal Service Directive<sup>9</sup> must be interpreted as precluding national legislation under which an undertaking designated as the provider of additional mandatory services is entitled to compensation from the Member State for the net cost of providing those services only if that cost constitutes an unfair burden on that undertaking;<sup>10</sup>
- the objective of ensuring the successful integration of non-EU nationals in the Member State concerned may constitute an overriding reason in the public interest which Member States can legitimately invoke to justify new restrictions on the rights of residence of Turkish citizens and their family members in relation to the standstill clauses of the EU-Turkey association law, provided that they are proportionate to the objectives pursued.<sup>11</sup>

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<sup>7</sup> Directive [2012/18/EU](#).

<sup>8</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>9</sup> Directive [2002/22/EC](#).

<sup>10</sup> TDC A/S v Teleklagenævnet and Erhvervsog Vækstministeriet, [C-327/15](#).

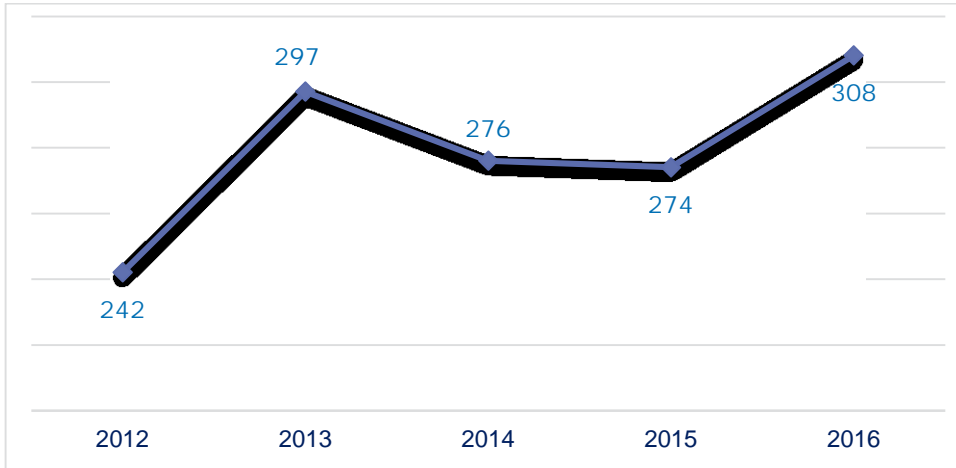
<sup>11</sup> Genc, [C-561/14](#).

Germany

*New complaints against Germany in 2016 increased to a five-year peak, but new EU Pilot files reached a five-year low after falling sharply from 2015's already low level. The number of infringement cases pending at the end of the year rose slightly. New infringement cases for late transposition remained at the 2015 level but were still above the 2012-2013 levels.*

I. COMPLAINTS

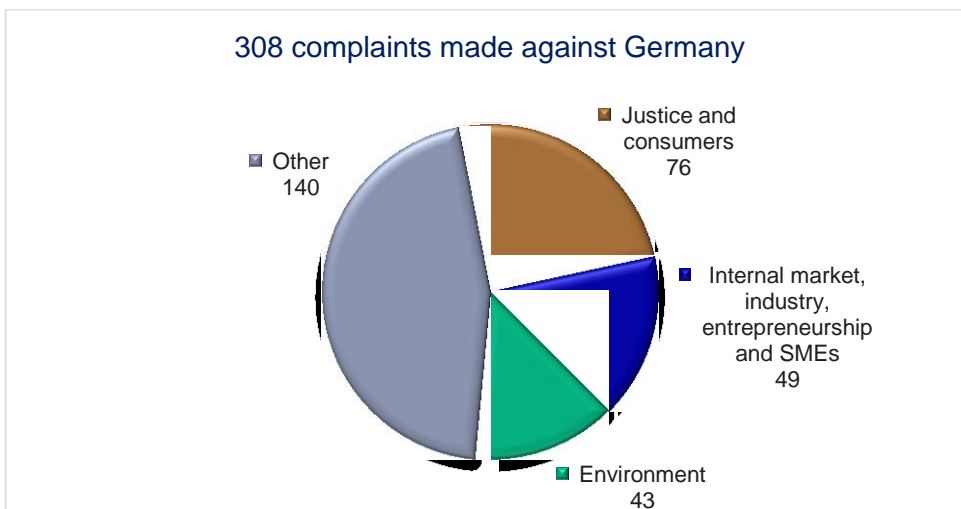
1. New complaints made against Germany by members of the public (2012-2016)



2. Public complaints against Germany open at year-end

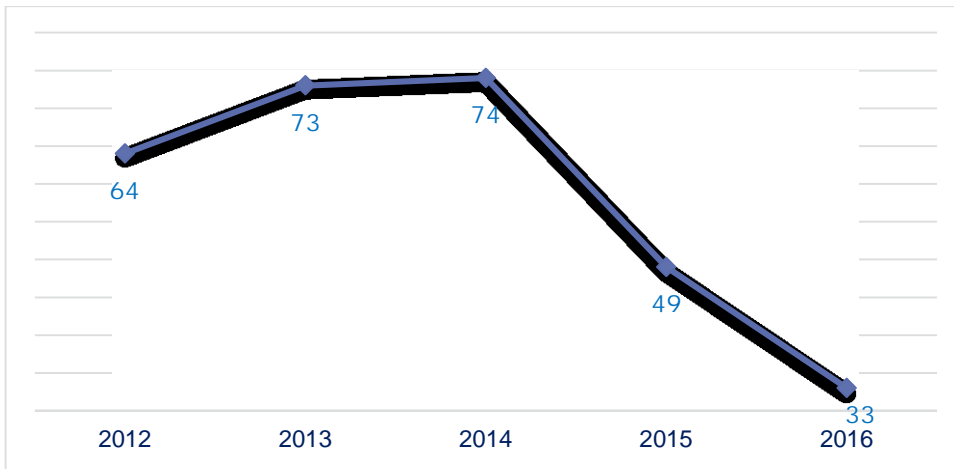
235	>	Complaints open at end-2015
308	>	New complaints registered in 2016
289	>	Complaints handled in 2016
<b>= 254</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

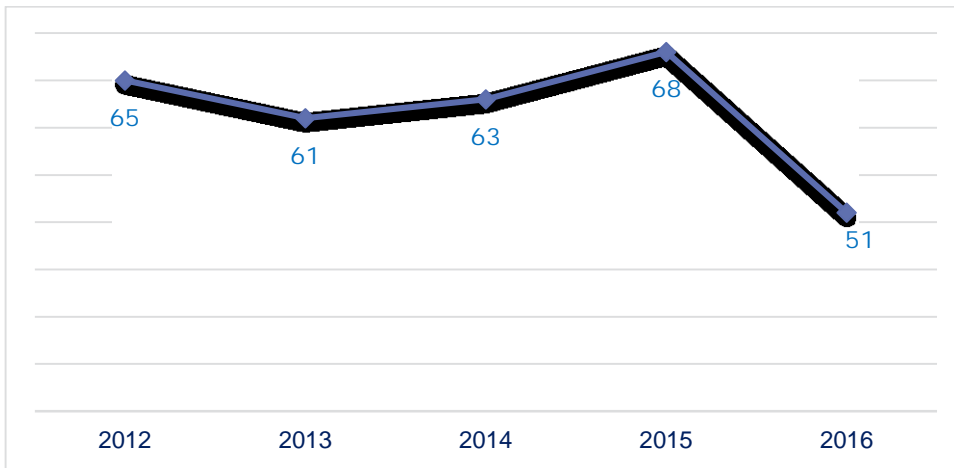


## II. EU PILOT

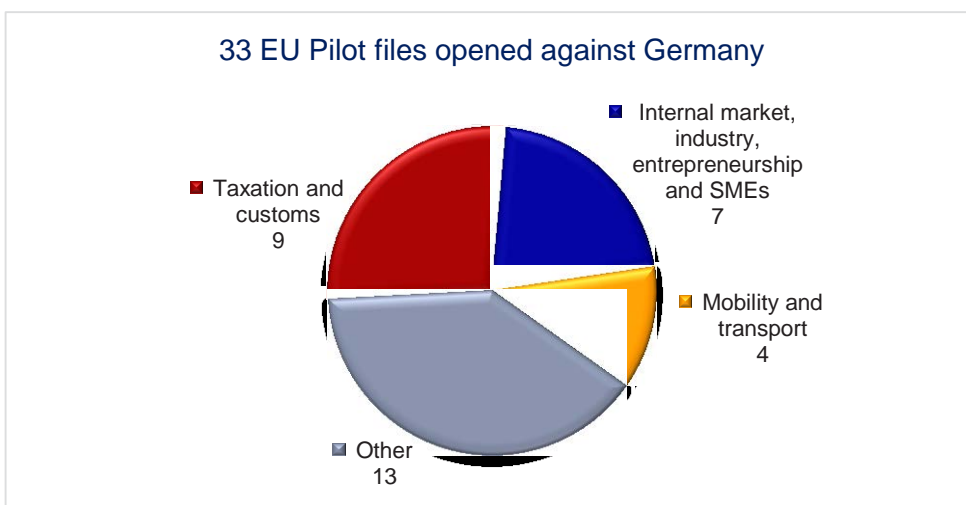
### 1. New EU Pilot files opened against Germany (2012-2016)



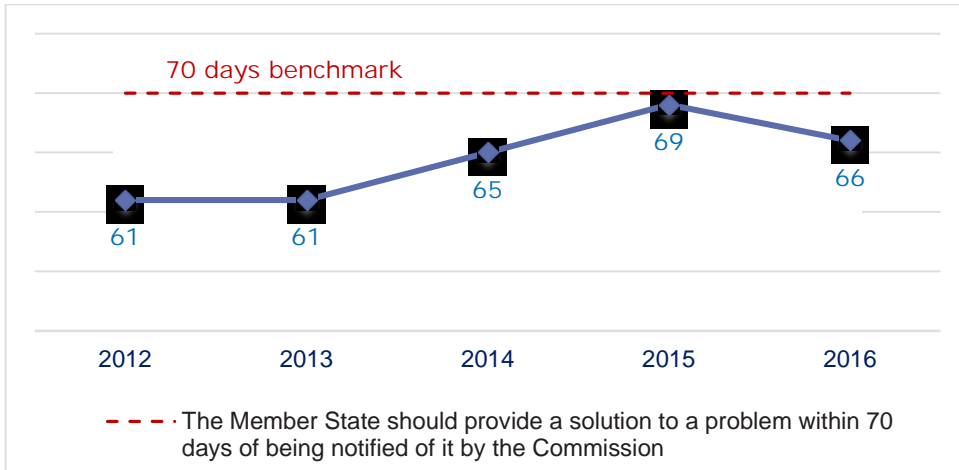
### 2. Files relating to Germany open in EU Pilot at year-end



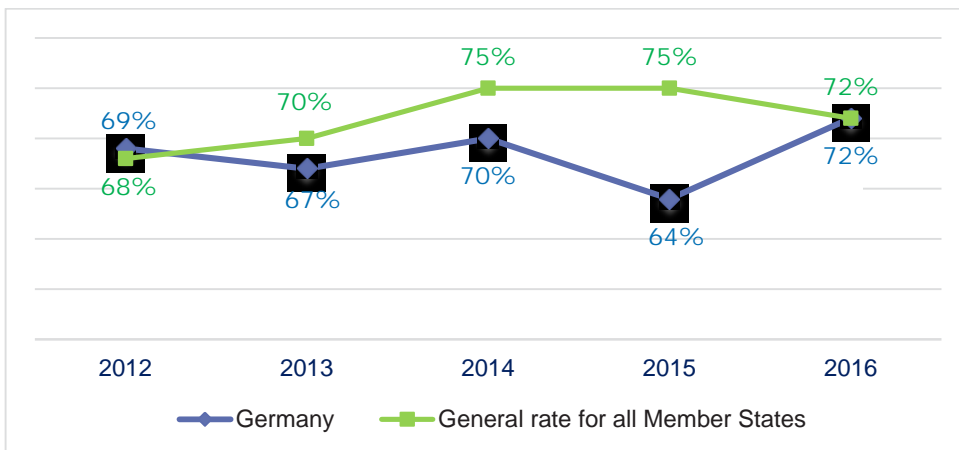
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Germany's average response time in 2012-2016 (in days)

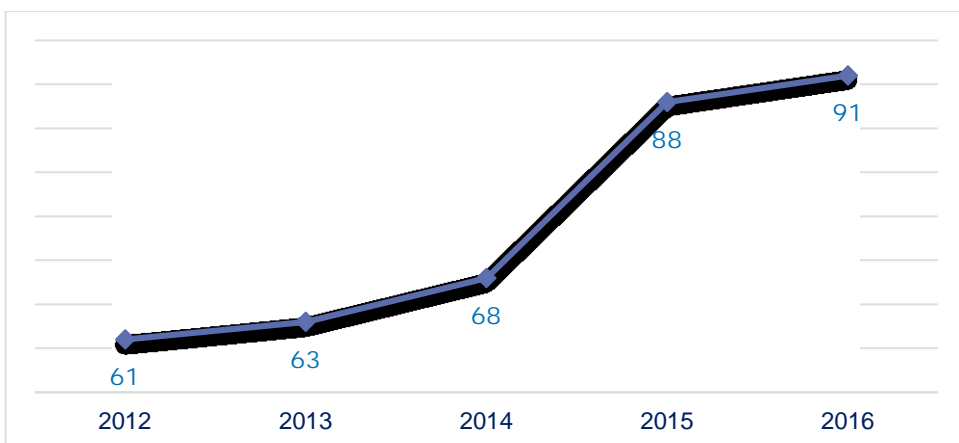


5. EU Pilot files: Germany's resolution rate in 2012-2016

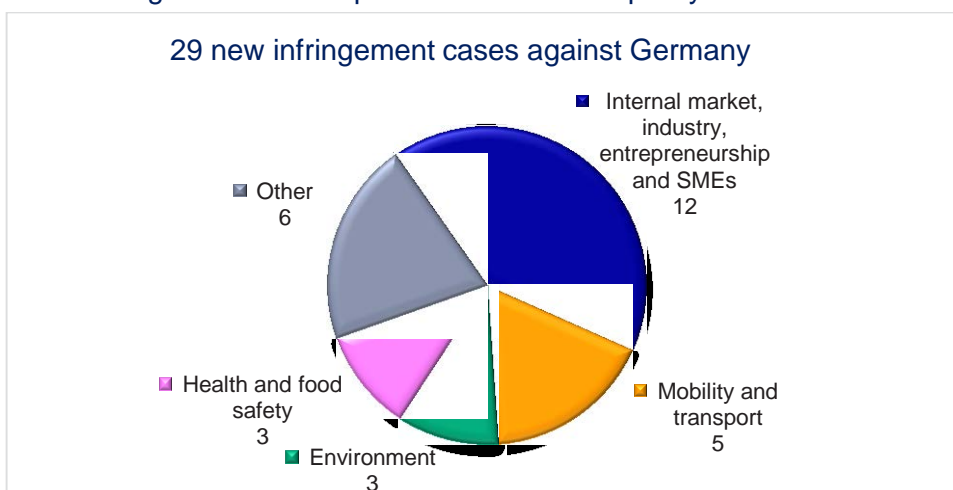


III. INFRINGEMENT CASES

1. Infringement cases against Germany open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

a) The Commission opened 29 new infringement cases against Germany in 2016. These, and other major ongoing infringement cases, include:

- non-communication of national measures transposing the Directives on asylum procedures and reception conditions;<sup>1</sup>
- failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System
- lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>2</sup>
- failure to communicate measures transposing the Seveso III Directive;<sup>3</sup>
- late transposition of the Directive<sup>4</sup> aligning various rules to the Regulation<sup>5</sup> on classification, labelling and packaging of substances and mixtures;
- failure to fully transpose the Offshore Safety Directive;<sup>6</sup>
- failure to comply with the Third Internal Energy Market Package;<sup>7</sup>
- failure to fulfil air safety oversight obligations regarding initial and continuous airworthiness;<sup>8</sup>
- restrictions on the provision of transport services and free movement of goods;<sup>9</sup>
- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>10</sup>
- limitation of approval of certain motor vehicles to two specific technical testing centres, contrary to the Services Directive;<sup>11</sup>
- failure to fulfil the obligations under EU vehicle type approval legislation.<sup>12</sup>

<sup>1</sup> Directives [2013/32/EU](#) and [2013/33/EU](#).

<sup>2</sup> Directive [2002/49/EC](#).

<sup>3</sup> Directive [2012/18/EU](#) and [MEMO/16/1452](#).

<sup>4</sup> Directive [2014/27/EU](#).

<sup>5</sup> Regulation (EC) No [1272/2008](#).

<sup>6</sup> Directive [2013/30/EU](#), [MEMO/16/319](#), [MEMO/16/1452](#) and [MEMO/16/3644](#).

<sup>7</sup> Directives [2009/72/EC](#) and [2009/73/EC](#), [MEMO/16/1452](#).

<sup>8</sup> Regulation (EU) No [748/2012](#) and Regulation (EC) No [1321/2014](#).

<sup>9</sup> [IP/16/2101](#), [IP/16/1456](#).

<sup>10</sup> Directive [2006/123/EC](#), [IP/16/323](#) and [MEMO/16/319](#), [IP/16/3646](#), [MEMO/16/3644](#).

<sup>11</sup> Directive [2006/123/EC](#).

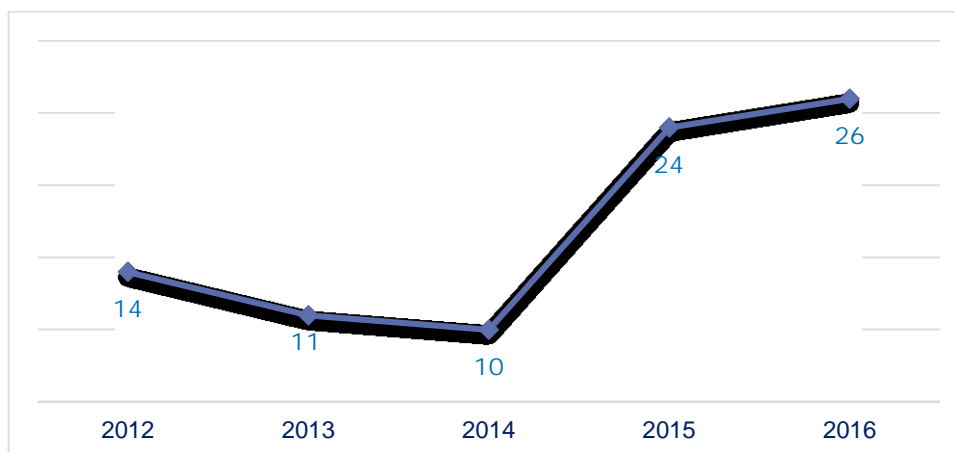
<sup>12</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#), [IP/16/4214](#).

Germany

- b) The Commission referred six cases to the Court under Article 258 TFEU. They concern:
- failure to correctly apply the requirements of the Habitats Directive in relation to the authorisation of a coal power plant in Hamburg/Moorburg;<sup>13</sup>
  - failure to take sufficient measures to combat water pollution caused by nitrates from agricultural sources;<sup>14</sup>
  - failure to fulfil the duty of sincere cooperation at the 25th session of the Revision Committee of the Intergovernmental Organisation for International Carriage by Rail;<sup>15</sup>
  - failure to fully implement, in North Rhine-Westphalia, the Directive on enhancing port security;<sup>16</sup>
  - failure to correctly transpose EU rules on driving licences;<sup>17</sup>
  - exclusion of travel services used by taxable persons for their business from the special scheme for travel agents (which allows travel agents to determine on a flat-rate basis the tax assessment base for groups of services and for each taxable period).<sup>18</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Germany open on 31 December (2012-2016)



<sup>13</sup> Directive [92/43/EEC](#), Commission v Germany, [C-142/16](#); [IP/15/4669](#).

<sup>14</sup> Commission v Germany, [C-543/16](#); [IP/16/1453](#).

<sup>15</sup> [IP/16/2104](#) and [MEMO/16/2097](#).

<sup>16</sup> Directive [2005/65/EC](#), Commission v Germany, [C-58/16](#), [IP/15/5659](#), [MEMO/15/5657](#).

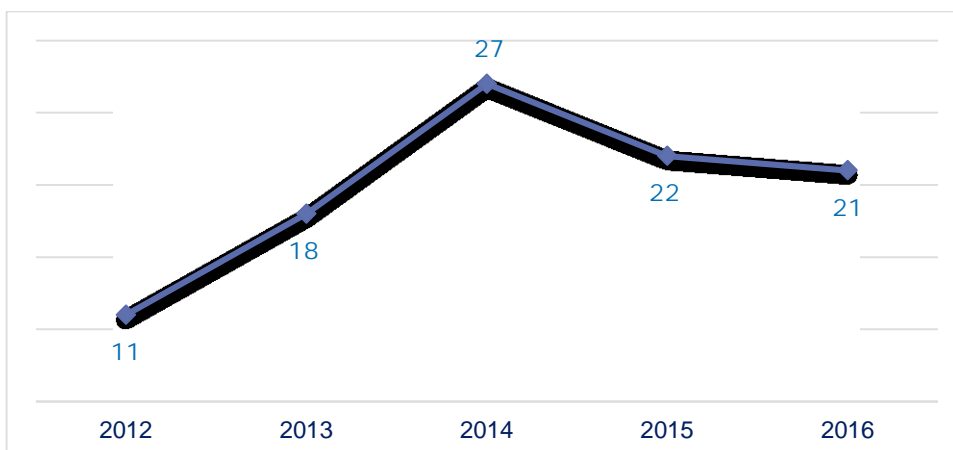
<sup>17</sup> Directive [2006/126/EC](#), Commission v Germany, [C-30/16](#), [IP/15/6229](#), [MEMO/15/6223](#).

<sup>18</sup> Commission v Germany [C-380/16](#) [IP/16/1461](#).

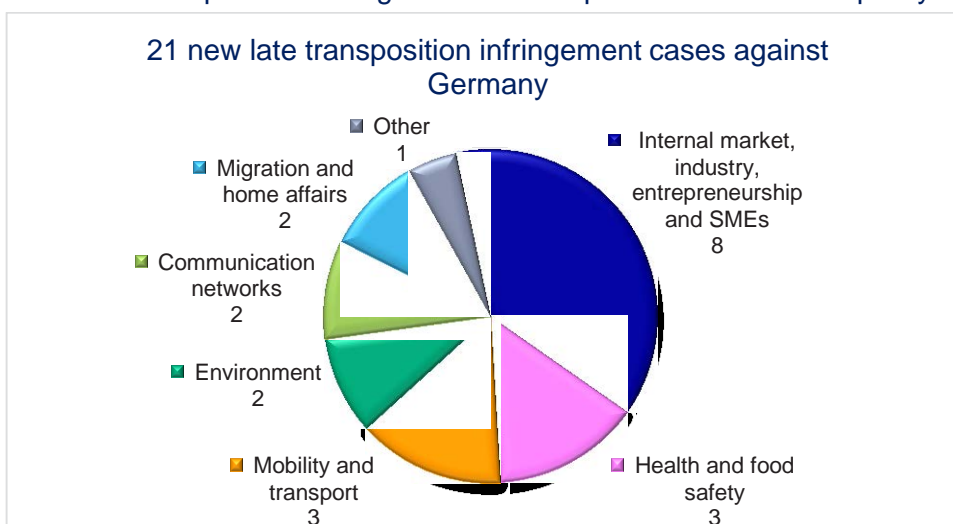


Germany

2. New late transposition infringement cases against Germany (2012-2016)



3. New late transposition infringement cases opened in 2016: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2016

These concerned:

- inadequate application of EU aviation security legislation.<sup>19</sup>

VI. IMPORTANT JUDGMENTS

1. Court rulings<sup>20</sup>

The Court ruled that:

- Germany failed to fulfil its obligations under the Directive on the placing on the market of pyrotechnic articles<sup>21</sup>. This was because Germany provided, over and above the requirements of the Directive and notwithstanding a previous conformity assessment of pyrotechnic articles, that (i) those articles are to be subject to a specific national procedure ('the SprengV') before being placed on the market; and that (ii) pursuant to

<sup>19</sup> Regulations (EC) No [300/2008](#) and (EU) No [18/2010](#).

<sup>20</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>21</sup> Directive [2007/23/EC](#).

the SprengV, a national body is to have the power to review and, where required, to modify their instructions for use.<sup>22</sup>

## 2. Preliminary rulings

In preliminary rulings addressed to the German judiciary, the Court held that:

- nationals of other Member States may be excluded from social assistance during the first 3 months of residence without the individual situation of the person concerned being assessed;<sup>23</sup>
- the recognition of freely chosen forenames and the surname (acquired legally in another Member State) may be refused in order to ensure equality before the law;<sup>24</sup>
- the execution of a European arrest warrant must be deferred if there is a real risk of inhuman or degrading treatment due to the detention conditions in the Member State where the warrant was issued;<sup>25</sup>
- under the Qualification Directive,<sup>26</sup> beneficiaries of subsidiary protection status may be subjected to a residence condition to promote their integration where they are not in a comparable situation to non-EU citizens;<sup>27</sup>
- when a person provides access to somebody else's content through open internet access, the person whose rights are breached cannot claim compensation from the access provider for that breach by a third party. However, it can claim compensation from the access provider if the infringement continues;<sup>28</sup>
- a civil servant of a Member State who leaves his post voluntarily in order to be employed in another Member State should not lose his pension rights under the retirement scheme for civil servants;<sup>29</sup>
- the EU poultry meat labelling rules are compatible with the Charter of Fundamental Rights' freedom to conduct a business and do not discriminate by requiring the indication of the total price and the price per weight unit on the pre-packaging or on the attached label;<sup>30</sup>
- the labelling, presentation and advertising of foodstuffs Directive<sup>31</sup> must be interpreted as meaning that each of the individual portions of honey presented in the form of portion-cups closed by an aluminium seal and packed in cartons supplied to mass caterers constitutes a 'pre-packaged foodstuff' where the mass caterers sell those portions separately or offer them for sale to the ultimate consumer as part of pre-prepared meals for an all-inclusive price;<sup>32</sup>
- Regulation (EC) No 258/97 concerning novel foods and novel food ingredients, must be interpreted as meaning that the expression 'new primary molecular structure' relates to foods or food ingredients which were not used for human consumption in the territory of the European Union before 15 May 1997;<sup>33</sup>
- the subcontracting rules in the Regulation on public passenger transport services by rail and by road<sup>34</sup> apply to contracts awarded for public passenger transport by bus. Also, a subcontracting limitation of 30 % of the transport services remains within the discretion of the competent authorities;<sup>35</sup>

<sup>22</sup> Commission v Germany, [C-220/15](#).

<sup>23</sup> Jovanna García-Nieto, [C-299/14](#).

<sup>24</sup> Bogendorff von Wolffersdorff, [C-438/14](#) and Court press release No [119/16](#).

<sup>25</sup> Aranyosi and Căldăraru, Joined Cases [C-404/15](#) and [C-659/15 PPU](#) and Court press release No [36/16](#).

<sup>26</sup> Directive [2011/95/EU](#).

<sup>27</sup> Kreis Warendorf v. Ibrahim Alo and Amira Osso v. Hannover Region, Joined Cases [C-443/14](#) and [C-444/14](#).

<sup>28</sup> Tobias Mc Fadden v Sony Music Entertainment Germany GmbH, Court press release No [99/16](#), [C-484/14](#).

<sup>29</sup> Pöpperl, [C-187/15](#).

<sup>30</sup> Regulation (EC) No [543/2008](#), Lidl, [C-134/15](#).

<sup>31</sup> Directive [2000/13/EC](#).

<sup>32</sup> Breitsamer, [C-113/15](#).

<sup>33</sup> Davitas, [C-448/14](#).

<sup>34</sup> Regulation (EC) No [1370/2007](#).

<sup>35</sup> Hörmann Reisen GmbH v Stadt Augsburg, Landkreis Augsburg, [C-292/15](#).

Germany

- the Court provided an interpretation of the terms ‘ticket’ and ‘price of the ticket’ under the Air Passenger Rights Regulation,<sup>36</sup> in the context of downgrading;<sup>37</sup>
- inheritance rules obliging financial institutions (including their branches) to notify the tax authorities about a client’s assets upon his death do not restrict the freedom of establishment. Thus, German banks’ branches in another Member State must also notify such information, even if inheritance tax is not levied in the other Member State and even if notification would breach the other Member State’s banking secrecy rules;<sup>38</sup>
- under the EU-Switzerland agreement on free movement of persons, the income of German resident nationals paid by a legal person governed by public law established in Switzerland must be granted the same tax exemptions as those granted to incomes paid by a legal person governed by public law established in Germany;<sup>39</sup>
- the Inheritance Tax Act’s restriction on the free movement of capital by affording tax reduction only if a multiple inheritance occurred under German rules (thus inheritance taxes paid to other Member States cannot be taken into account) could be justified by the need to safeguard the coherence of the tax system;<sup>40</sup>
- for the purposes of customs rules,<sup>41</sup> remunerated helicopter-flight training, if an instructor and the trainee pilot are present in the cockpit, is not commercial use of the aircraft;<sup>42</sup>
- when a plan indirectly connected with the management of a nature site was authorised following a study that is not compliant with the Habitats Directive, and before including this site in the list of sites of Community importance, a subsequent review shall be carried out if that is the only proper step to prevent significant deterioration of the habitat due to implementation of the plan;<sup>43</sup>
- a project aiming at stretching a road by less than 10 km is not, in itself, subject to a systematic environmental impact assessment, even though it widens an existing road with four or more lanes. The term ‘express road’ does not have to form part of the network of main international traffic arteries or to be located in urban areas. The term ‘construction’ covers the carrying-out of works not previously existing or the physical alteration of existing installations;<sup>44</sup>
- the Temporary Agency Work Directive<sup>45</sup> applies to members of non-profit associations working in an undertaking in so far as they are paid by the association and the association receives compensation in return for their work;<sup>46</sup>
- imposing fixed prices for the sale of prescription-only medicines by pharmacies restricts the free movement of goods due to its impact on pharmacies in other Member States. Imposing such price-fixing on foreign pharmacies cannot be justified as it is not an appropriate way to achieve the objective of protecting human health and life by ensuring a safe and high-quality supply of medicinal products.<sup>47</sup>

<sup>36</sup> Regulation (EC) [No 261/2004](#).

<sup>37</sup> *Steeff Mennens v Emirates* Direktion für Deutschland, [C-255/15](#).

<sup>38</sup> *Sparkasse Allgäu*, [C-522/14](#).

<sup>39</sup> *Radgen*, [C-478/15](#).

<sup>40</sup> *Feilen*, [C-123/15](#).

<sup>41</sup> Commission Regulation (EEC) [No 2454/93](#).

<sup>42</sup> *Robert Fuchs*, [C-80/15](#).

<sup>43</sup> Directive [92/43/EEC](#), *Grüne Liga Sachsen and Others*, [C-399/14](#).

<sup>44</sup> *Bund Naturschutz in Bayern*, [C-645/15](#).

<sup>45</sup> Directive [2008/104/EC](#).

<sup>46</sup> *Betriebsrat der Ruhrlandklinik*, [C-216/15](#).

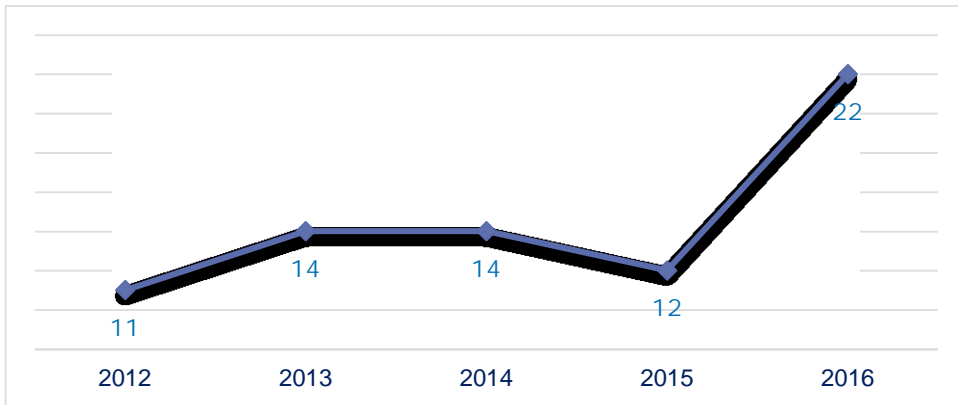
<sup>47</sup> *Deutsche Parkinson Vereinigung*, [C-148/15](#), Court press release No [113/2016](#).

Estonia

All the main indicators for Estonia worsened in 2016. New complaints reached their highest level since 2012, while the number of new EU Pilot files increased after dropping for 2 consecutive years. Open infringement cases and new cases for late transposition both rose to their highest levels in 5 years.

I. COMPLAINTS

1. New complaints made against Estonia by members of the public (2012-2016)



2. Public complaints against Estonia open at year-end

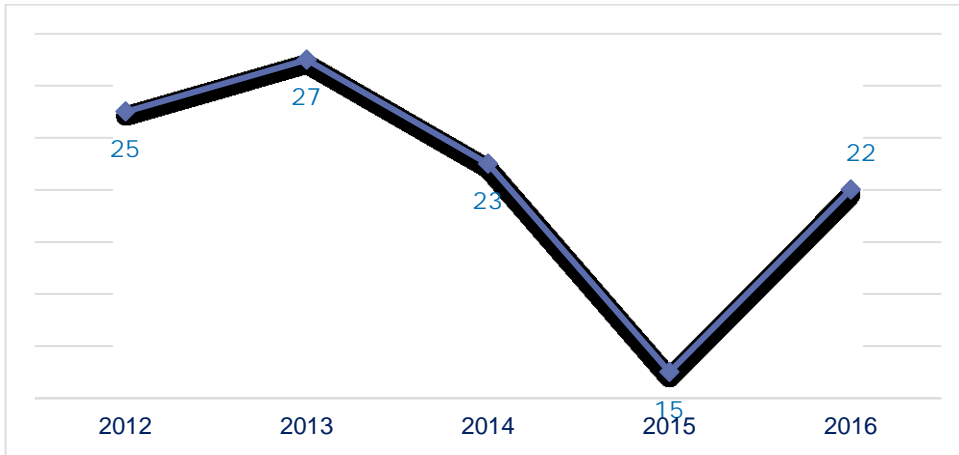
13	>	Complaints open at end-2015
22	>	New complaints registered in 2016
18	>	Complaints handled in 2016
<b>= 17</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

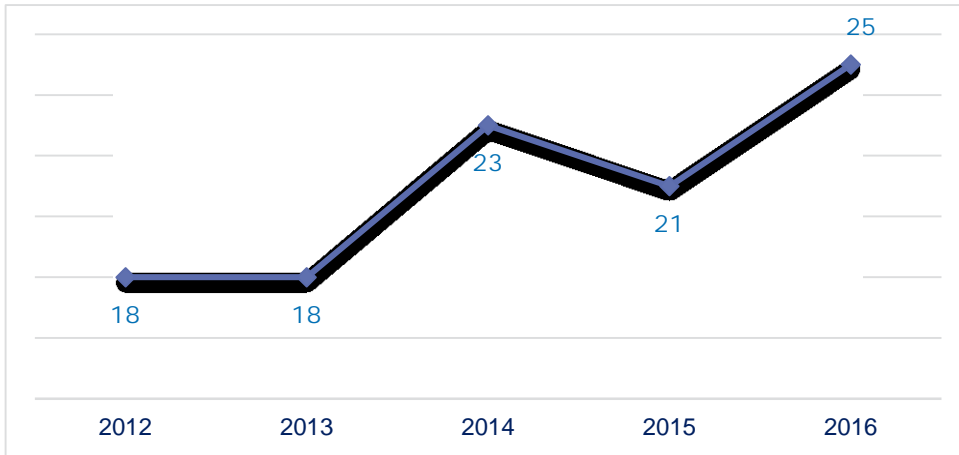


## II. EU PILOT

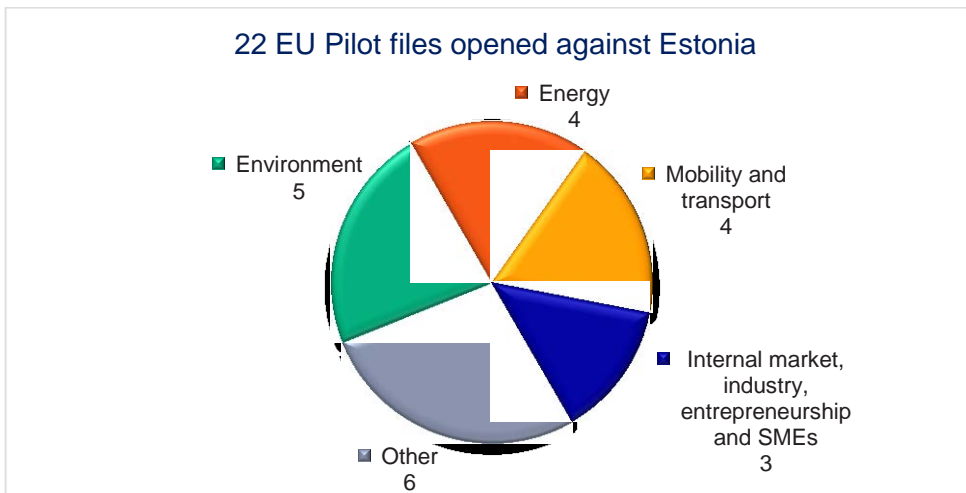
### 1. New EU Pilot files opened against Estonia (2012-2016)



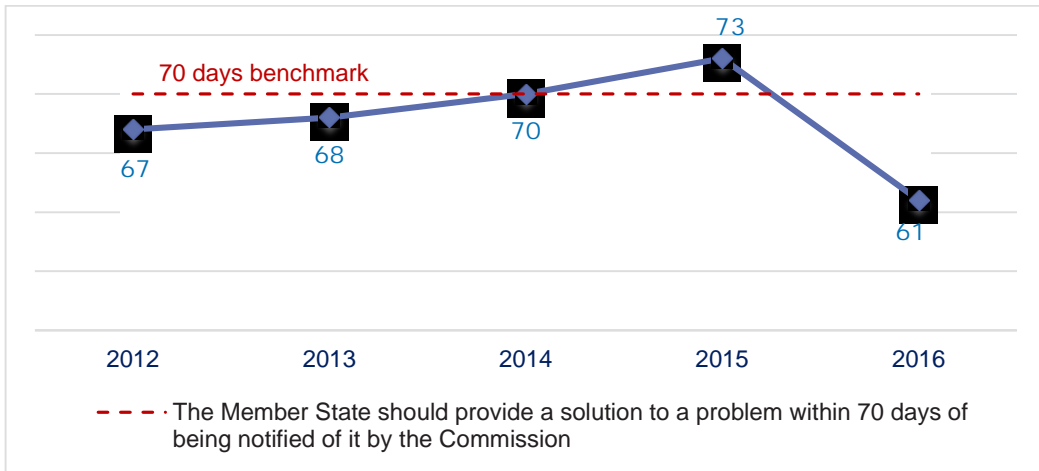
### 2. Files relating to Estonia open in EU Pilot at year-end



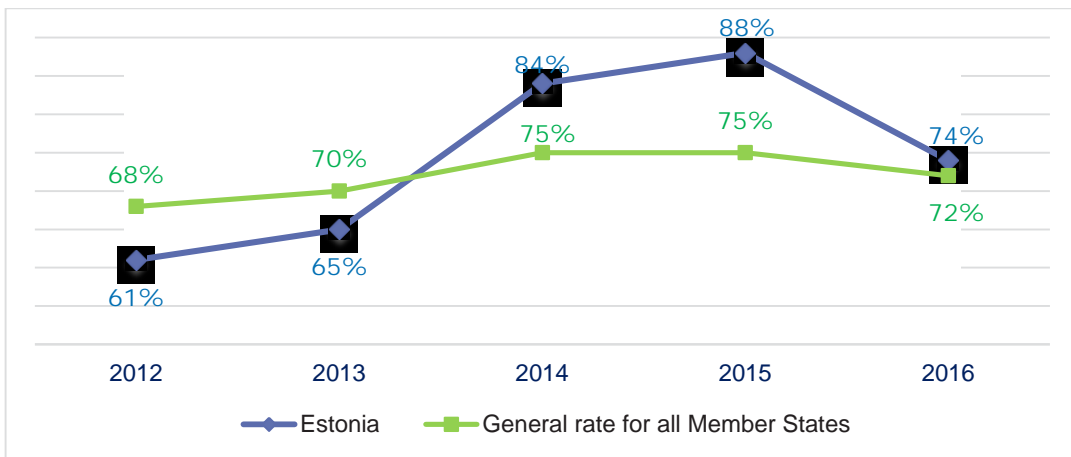
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Estonia's average response time in 2012-2016 (in days)

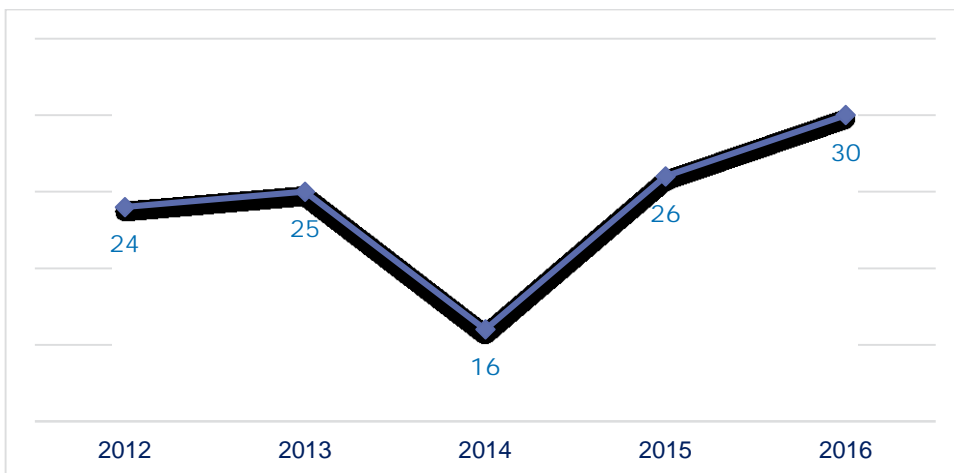


5. EU Pilot files: Estonia's resolution rate in 2012-2016

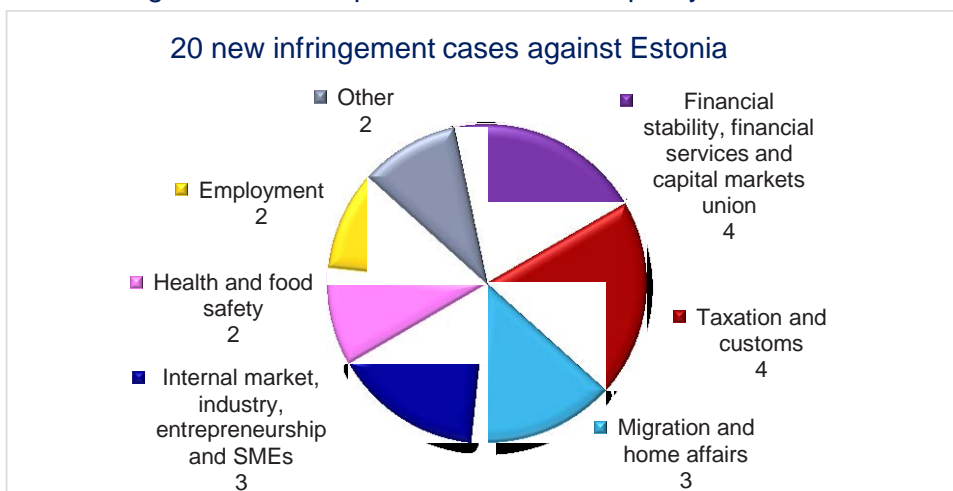


III. INFRINGEMENT CASES

1. Infringement cases against Estonia open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 20 new infringement cases against Estonia in 2016. These, and other major ongoing infringement cases, include:
- inadequate urban waste water treatment;
  - failure to take measures to combat water pollution caused by nitrates from agricultural sources;<sup>1</sup>
  - failure to fully transpose the Energy Efficiency Directive;<sup>2</sup>
  - incomplete transposition of the Directive on administrative cooperation on taxation<sup>3</sup> through a general provision broadly referring to the application of EU law in the relevant matters;
  - breach of the rules on the separation of accounts under the First Railway Package;<sup>4</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>5</sup>
- 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.

<sup>1</sup> Directive [91/676/EEC](#), [MEMO/16/319](#)..

<sup>2</sup> Directive [2012/27/EU](#), [MEMO/16/3125](#) and [MEMO/16/1452](#).

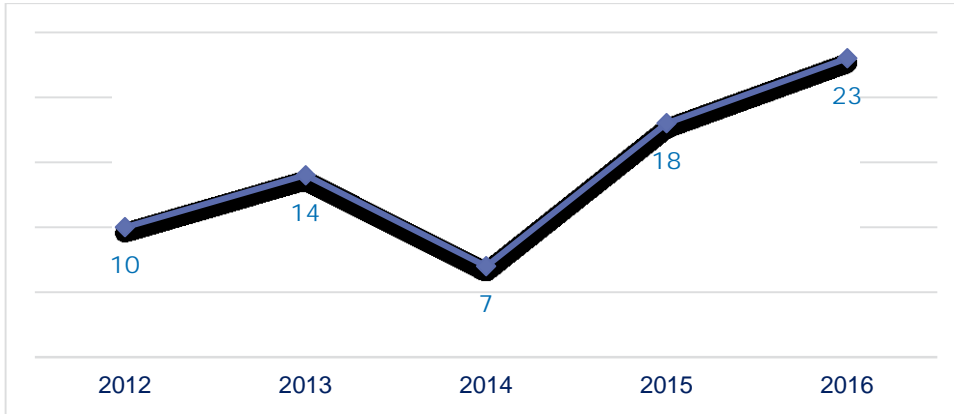
<sup>3</sup> Directive [2011/16/EU](#).

<sup>4</sup> Directives [2001/12/EC](#), [2001/13/EC](#) and [2001/14/EC](#).

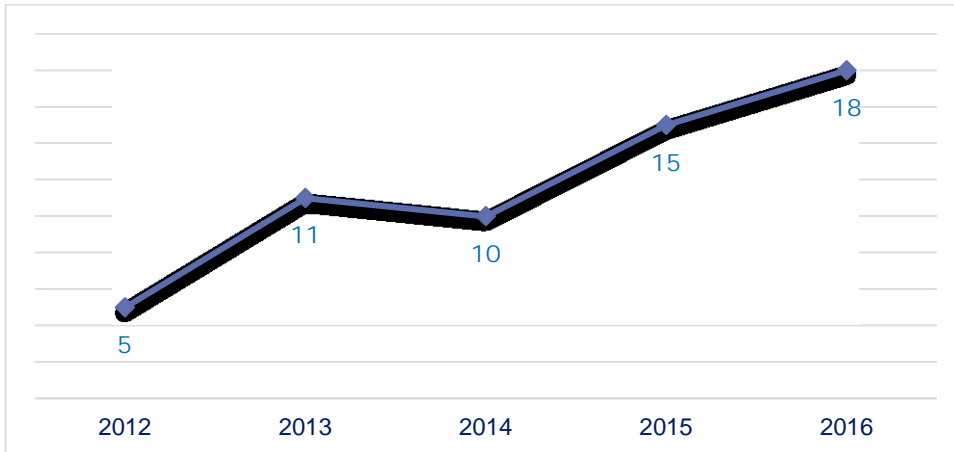
<sup>5</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

#### IV. TRANSPOSITION OF DIRECTIVES

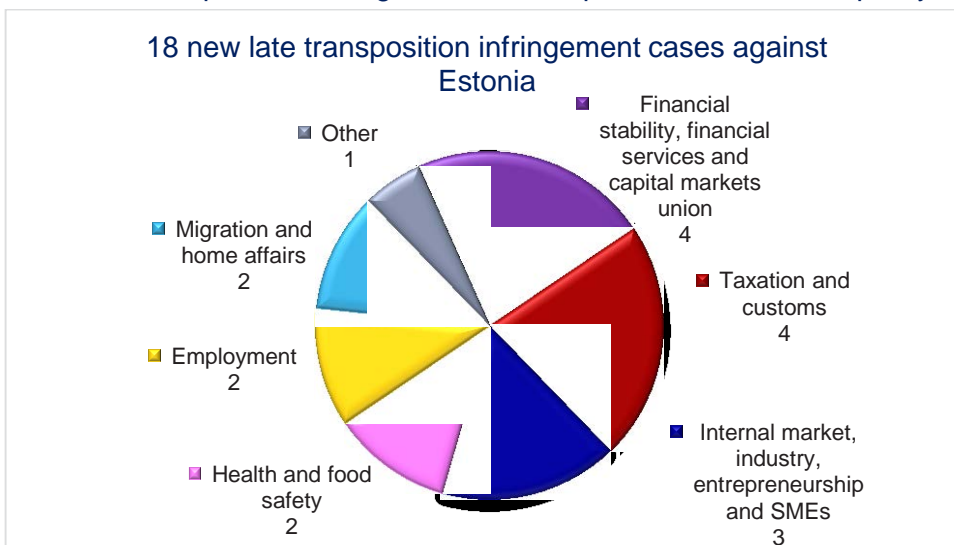
##### 1. Late transposition infringement cases against Estonia open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Estonia (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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



## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>6</sup>
- completing the notification of all national measures necessary to transpose
  - the Capital Requirements Directive;<sup>7</sup>
  - the Bank Resolution and Recovery Directive;<sup>8</sup>
  - the Deposit Guarantee Schemes Directive;<sup>9</sup>
  - the Directive on over-reliance on credit ratings;<sup>10</sup>
  - the Directive on alternative investment fund managers;<sup>11</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>12</sup>
- failure to meet the requirements of the Regulation on the investigation and prevention of accidents and incidents in civil aviation.<sup>13</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>14</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

No major preliminary rulings were addressed to the Estonian judiciary in 2016.

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<sup>6</sup> Directive [2012/18/EU](#).

<sup>7</sup> Directive [2013/36/EU](#).

<sup>8</sup> Directive [2014/59/EU](#).

<sup>9</sup> Directive [2014/49/EU](#).

<sup>10</sup> Directive [2013/14/EU](#).

<sup>11</sup> Directive [2011/61/EU](#).

<sup>12</sup> Directive [2006/126/EC](#).

<sup>13</sup> Regulation (EU) No [996/2010](#).

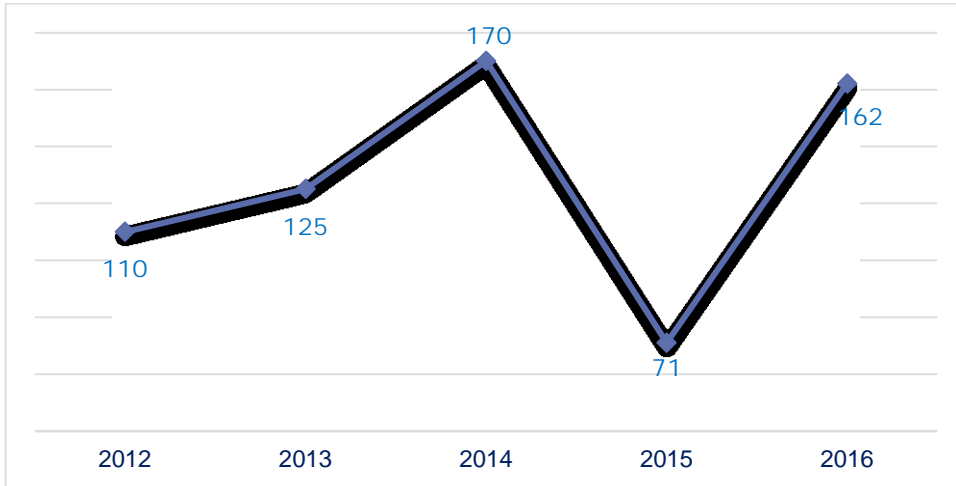
<sup>14</sup> These rulings are almost exclusively handed down in infringement procedures.

Ireland

*New complaints against Ireland more than doubled in 2016 and open infringement cases at year-end jumped to a five-year high. New infringement cases for late transposition of directives also more than doubled to the highest level for 5 years. On a more positive note, the number of new EU Pilot files fell to a five-year low.*

I. COMPLAINTS

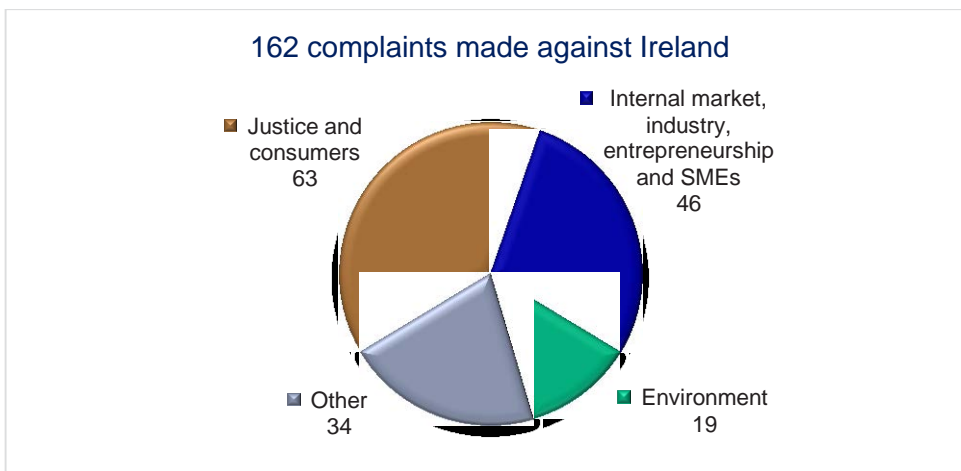
1. New complaints made against Ireland by members of the public (2012-2016)



2. Public complaints against Ireland open at year-end

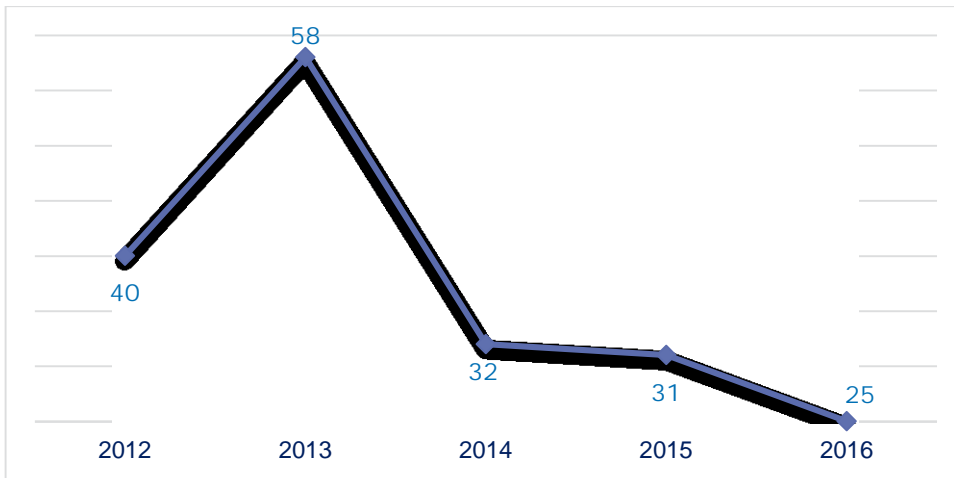
168	>	Complaints open at end-2015
162	>	New complaints registered in 2016
76	>	Complaints handled in 2016
<b>= 254</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

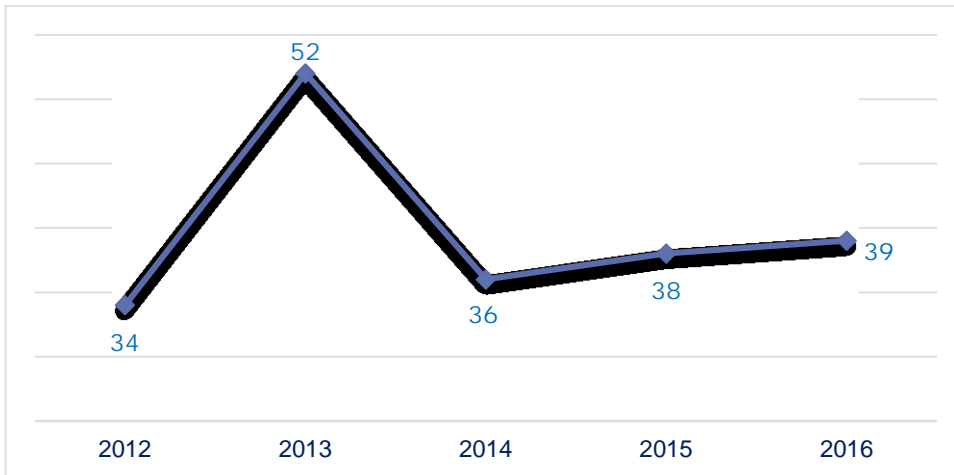


## II. EU PILOT

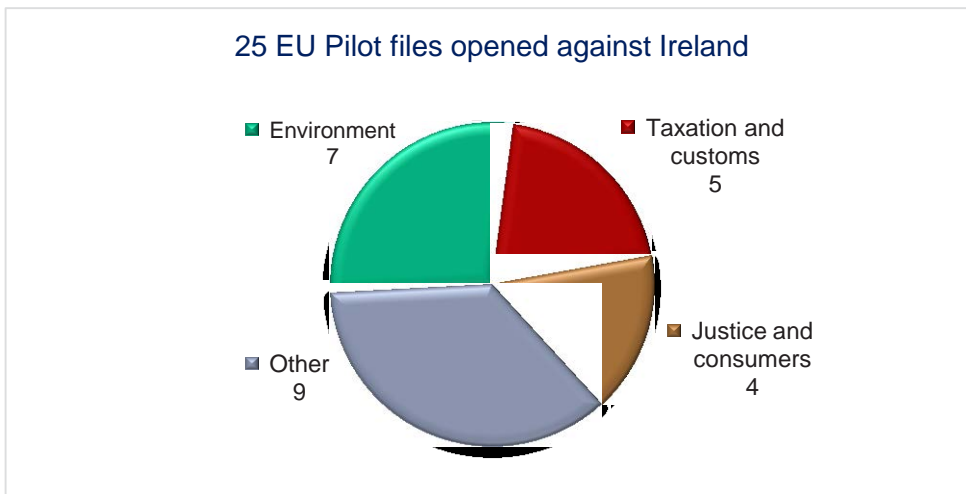
### 1. New EU Pilot files opened against Ireland (2012-2016)



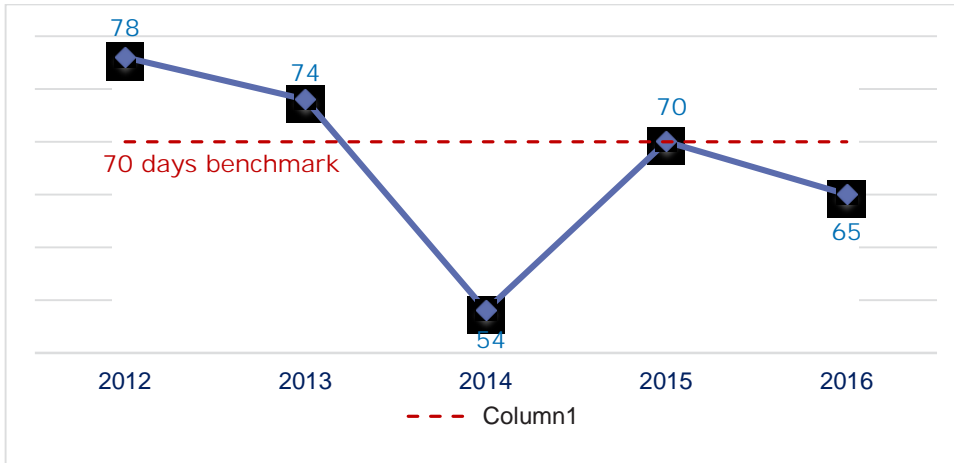
### 2. Files relating to Ireland open in EU Pilot at year-end



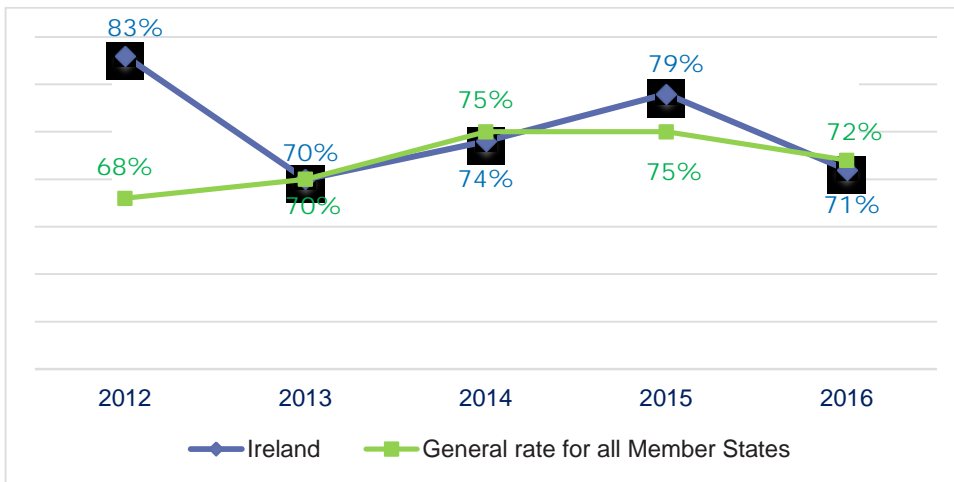
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Ireland's average response time in 2012-2016 (in days)

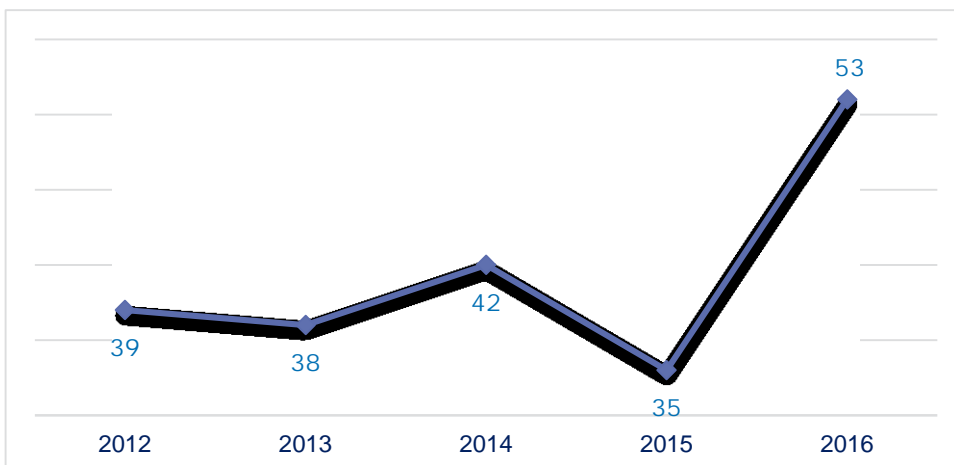


5. EU Pilot files: Ireland's resolution rate in 2012-2016

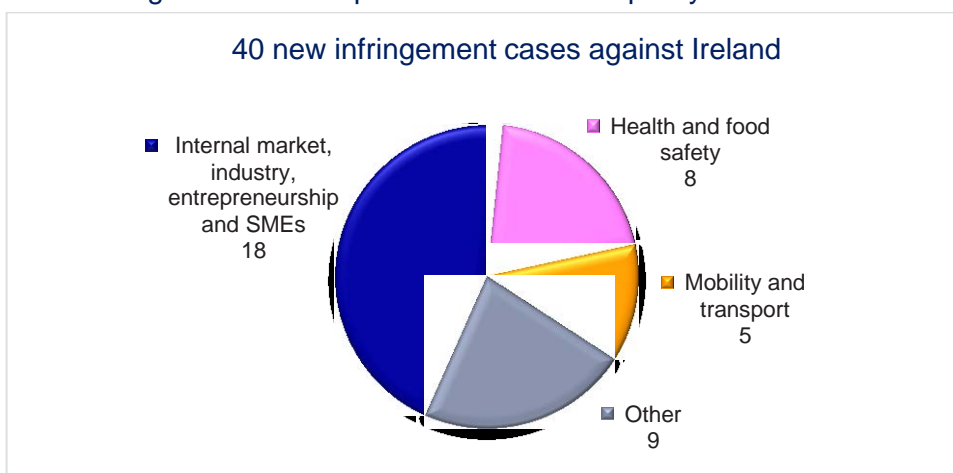


III. INFRINGEMENT CASES

1. Infringement cases against Ireland open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 40 new infringement cases against Ireland in 2016. These, and other major ongoing infringement cases, include:
- non-compliance of the national food safety control system as regards the production and marketing of live bivalve molluscs with the EU health standards;<sup>1</sup>
  - incorrect implementation of the Directive on attacks against information systems;<sup>2</sup>
  - non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>3</sup>
  - bad application of the Habitats Directive as regards designation of special areas of conservation and establishment of the necessary conservation measures;<sup>4</sup>
  - inadequate urban waste water treatment;<sup>5</sup>
  - failure to communicate all national measures transposing the Transparency Directive;<sup>6</sup>
  - failure to communicate all national measures transposing the Accounting Directive;<sup>7</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;
  - incorrect implementation of the Directive on accident investigations;<sup>8</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>9</sup>
- 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.

<sup>1</sup> Regulation No [853/2004](#) and Regulation No [854/2004](#).

<sup>2</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).

<sup>3</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>4</sup> Directive [92/43/EEC](#), [MEMO/16/1452](#).

<sup>5</sup> [MEMO/16/3125](#).

<sup>6</sup> Directive [2013/50/EU](#); [MEMO/16/3644](#).

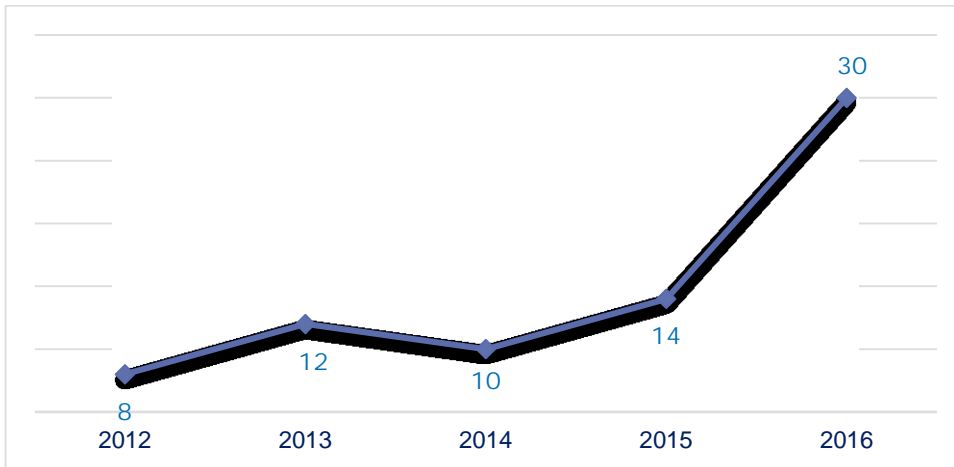
<sup>7</sup> Directive [2013/34/EU](#), and press releases [MEMO/16/2097](#) and [MEMO/16/3644](#).

<sup>8</sup> Directive [2009/18/EC](#).

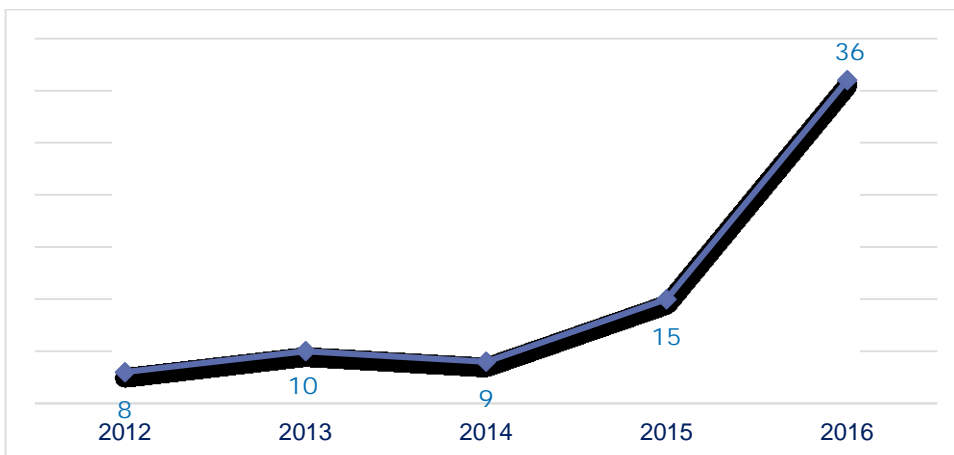
<sup>9</sup> Directives [2014/24/EU](#), [2014/25/EU](#).

#### IV. TRANSPOSITION OF DIRECTIVES

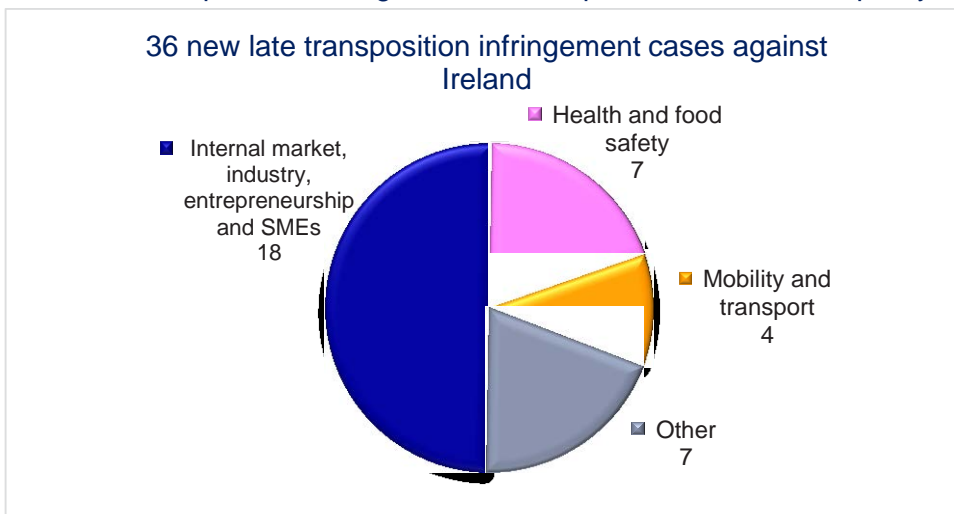
##### 1. Late transposition infringement cases against Ireland open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Ireland (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- completing the notification of all national measures necessary to transpose:
  - the Capital Requirements Directive;<sup>10</sup>
  - the Bank Resolution and Recovery Directive;<sup>11</sup>
  - the Deposit Guarantee Schemes Directive;<sup>12</sup>
- non-ratification of or reservations against appendices to the Convention concerning International Carriage by Rail.

## VI. IMPORTANT JUDGMENTS

### 1. Court ruling<sup>13</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In preliminary ruling addressed to the Irish judiciary, the Court held that:

- the principle of effectiveness must be interpreted as precluding a national procedural rule which requires an application for subsidiary protection status to be made within 15 working days of notification, by the competent authority, that an applicant whose asylum application has been rejected may make an application for subsidiary protection.<sup>14</sup>

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<sup>10</sup> Directive [2013/36/EU](#).

<sup>11</sup> Directive [2014/59/EU](#).

<sup>12</sup> Directive [2014/49/EU](#).

<sup>13</sup> These rulings are almost exclusively handed down in infringement procedures.

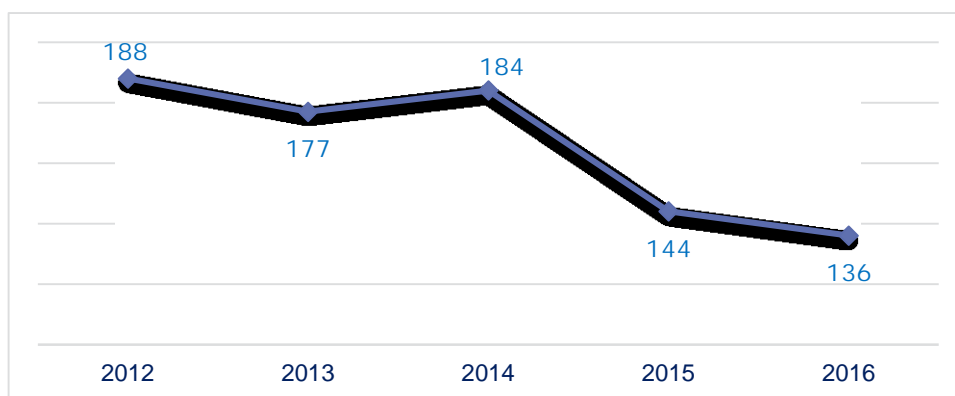
<sup>14</sup> Danqua, [C-429/15](#).

## Greece

Both new complaints and new EU Pilot files against Greece continued to drop in 2016, reaching their lowest level in recent years. The number of infringement cases open at the end of 2016 was only slightly higher than the previous year, confirming the relatively stable trend registered since 2012. The number of new infringement cases for late transposition also rose slightly.

### I. COMPLAINTS

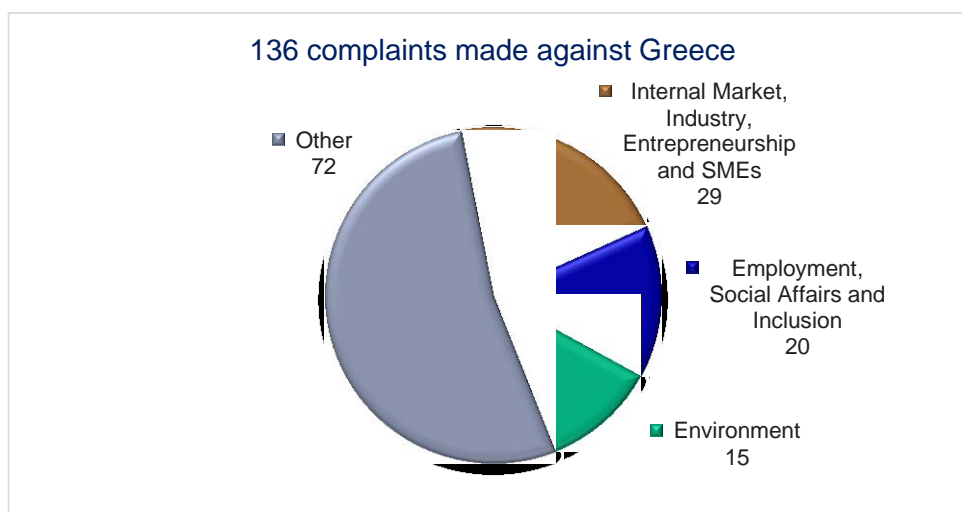
#### 1. New complaints made against Greece by members of the public (2012-2016)



#### 2. Public complaints against Greece open at year-end

108	>	Complaints open at end-2015
136	>	New complaints registered in 2016
132	>	Complaints handled in 2016
<b>= 112</b>	>	<b>Complaints open at end-2016</b>

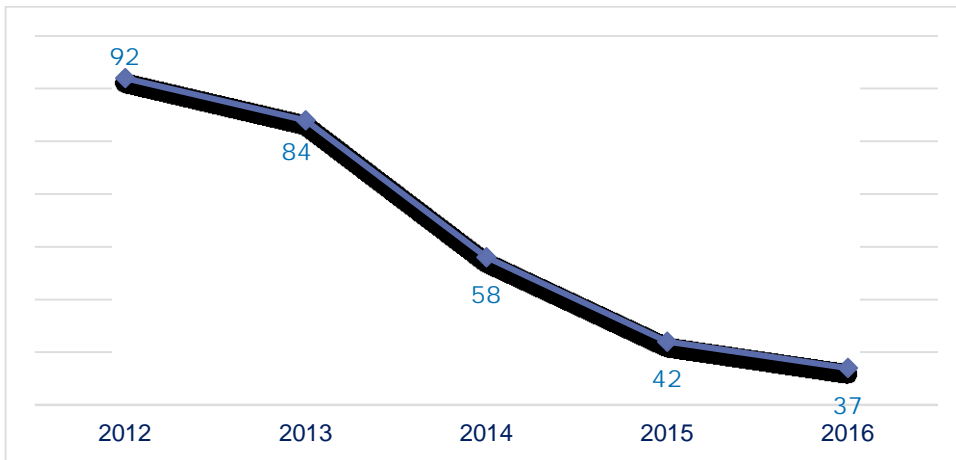
#### 3. New complaints registered in 2016: main policy areas



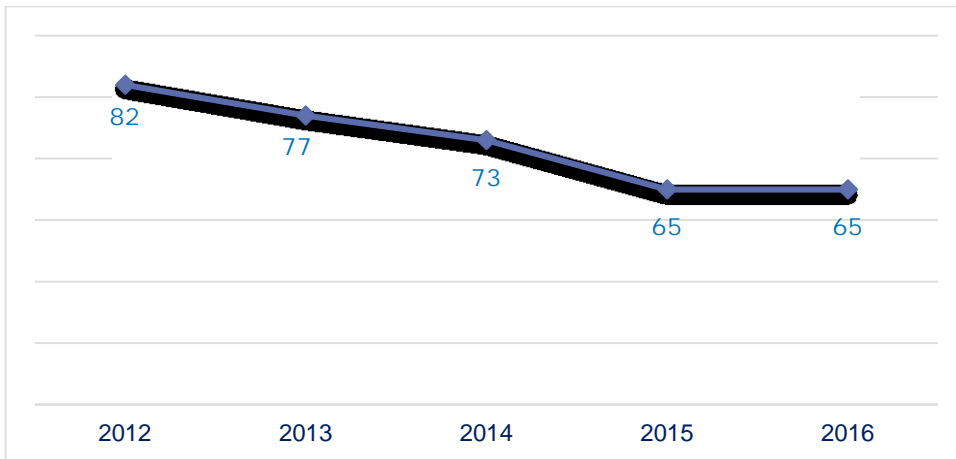


## II. EU PILOT

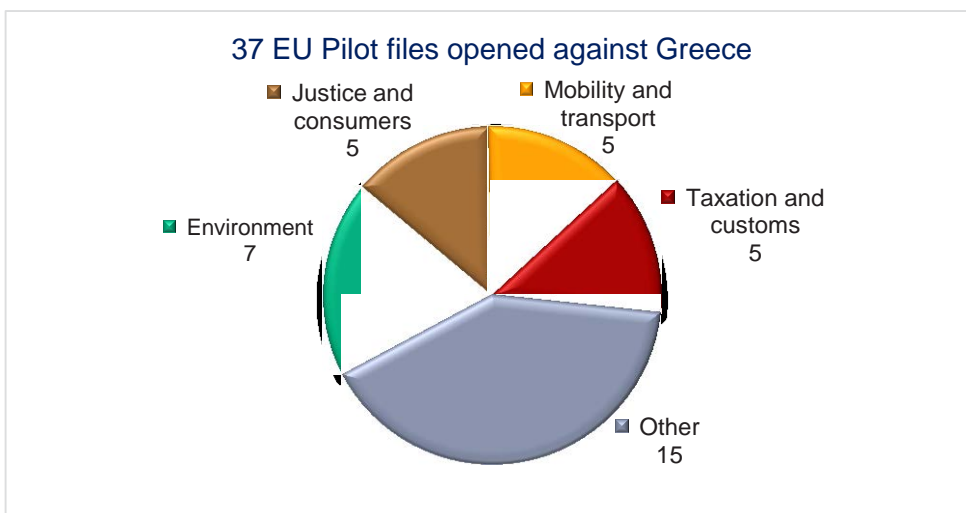
### 1. New EU Pilot files opened against Greece (2012-2016)



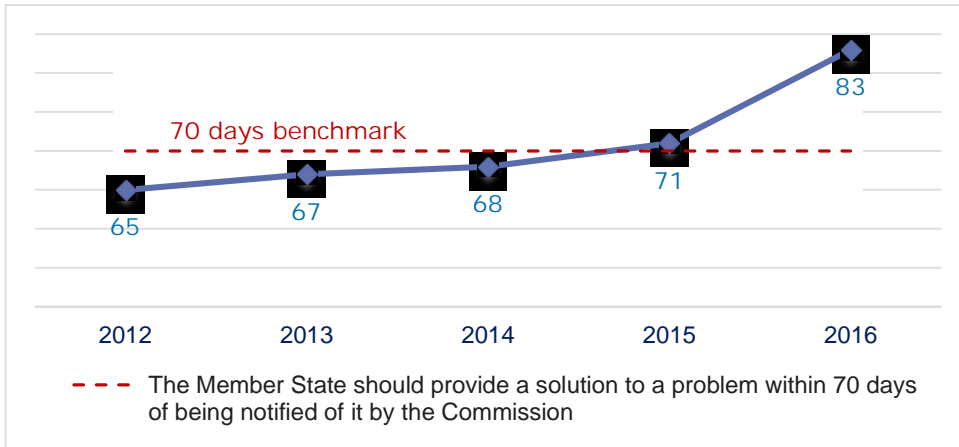
### 2. Files relating to Greece open in EU Pilot at year-end



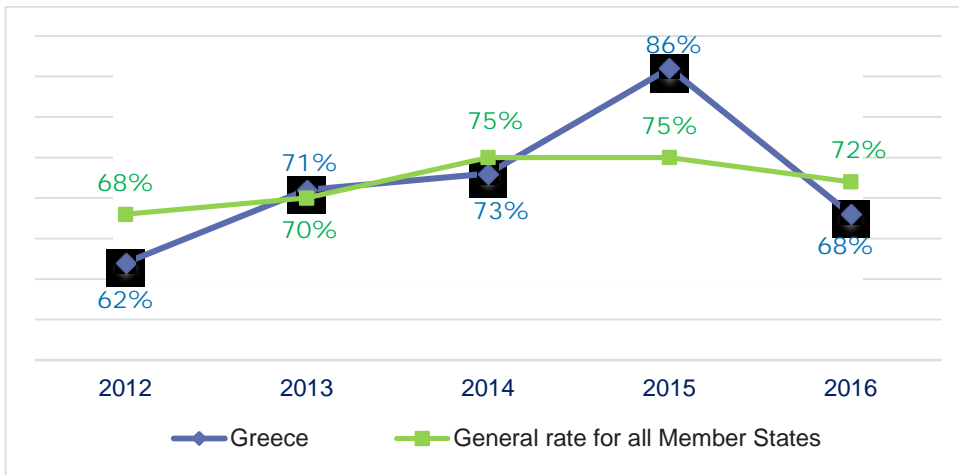
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Greece's average response time in 2012-2016 (in days)

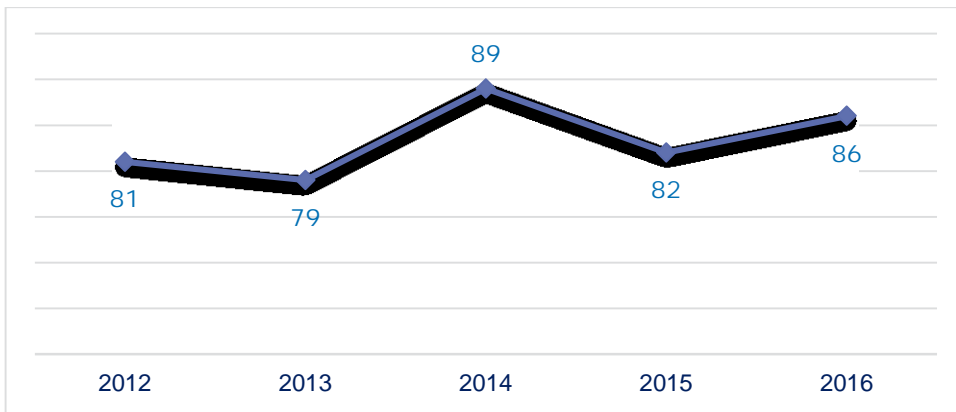


5. EU Pilot files: Greece's resolution rate in 2012-2016

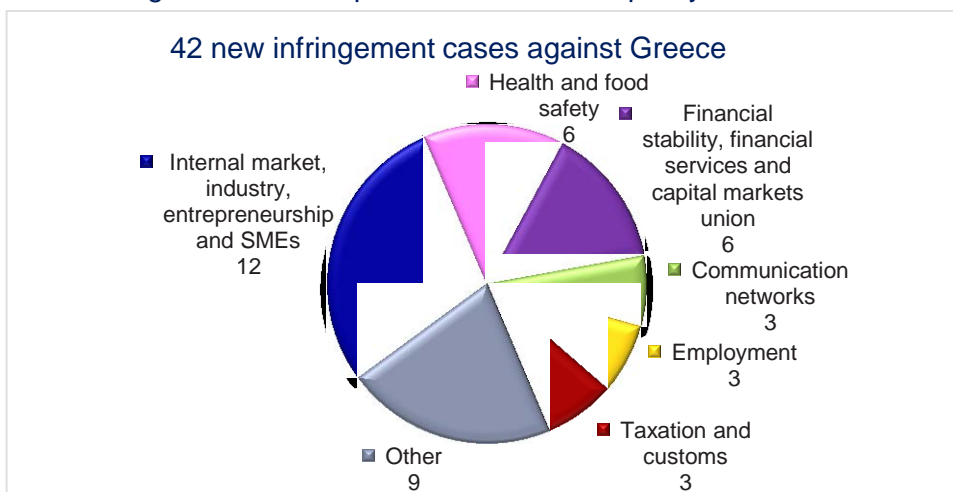


III. INFRINGEMENT CASES

1. Infringement cases against Greece open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 42 new infringement cases against Greece in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>1</sup>
  - non-communication of national measures transposing the Directives on asylum procedures and reception conditions;<sup>2</sup>
  - non-conformity of national legislation with the Return Directive;<sup>3</sup>
  - non-compliance with the rules under the Authorisation and Framework Directives as regards the independence of the national regulatory authority and rules on digital terrestrial television broadcasting;<sup>4</sup>
  - bad application of the Habitats Directive as regards designation of special areas of conservation and establishment of the necessary conservation measures;<sup>5</sup>
  - illegal poisoning of birds, in breach of the Birds Directive;<sup>6</sup>
  - failure to notify flood hazard and risk maps required under the Floods Directive;<sup>7</sup>
  - failure to fully transpose the Offshore Safety Directive;<sup>8</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>9</sup>
  - failure to communicate all national measures transposing the Audit Directive;<sup>10</sup>
  - the prohibition placed on individual wine growers on the island of Samos from producing and marketing wine products;<sup>11</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>12</sup>
  - incorrect application of the Regulation on the rights of passengers travelling by sea or inland waterways;<sup>13</sup>

<sup>1</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>2</sup> Directives [2013/32/EU](#) and [2013/33/EU](#).

<sup>3</sup> Directive [2008/115/EC](#).

<sup>4</sup> Directives [2002/20/EC](#) and [2002/21/EC](#).

<sup>5</sup> Directive [92/43/EEC](#); [MEMO/16/319](#).

<sup>6</sup> Directive [2009/147/EC](#); [MEMO/16/3125](#).

<sup>7</sup> Directive [2007/60/EC](#); [MEMO/16/3644](#).

<sup>8</sup> Directive [2013/30/EU](#); [MEMO/16/319](#).

<sup>9</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

<sup>10</sup> Directive [2014/56/EU](#); [MEMO/16/3644](#).

<sup>11</sup> [MEMO/16/2490](#).

<sup>12</sup> Directive [2014/89/EU](#).

<sup>13</sup> Regulation (EU) No [1177/2010](#).

- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>14</sup>
  - excessive delays in the examination of applications for recognition of qualifications from other Member States;<sup>15</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>16</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation;<sup>17</sup>
  - failure to ensure the adequate protection of Lake Koroneia in conformity with the Habitats Directive and the Urban Waste Water Treatment Directive.<sup>18</sup>
- b) The Commission referred four cases to the Court under Article 258 TFEU. They concern:
- poor management of the Temploni waste landfill on the island of Corfu;<sup>19</sup>
  - non-compliance with the obligation to calculate the cost-optimal levels of minimum energy performance requirements for buildings;<sup>20</sup>
  - national rules allowing service stations at its land borders with Kipi (Turkey), Kakkayia (Albania) and Evzoni (FYROM) to sell fuel without the payment of excise duties. Under the Horizontal Excise Duty Directive<sup>21</sup>, excise duties should be charged on the sale of such fuel.<sup>22</sup>
  - legacies bestowed on certain non-profit entities established in Greece which are treated more favourably than those bestowed on similar entities established in other EU Member States. For Greek non-profit entities, a preferential tax rate of 0.5 % is automatically available. However, similar non-profit entities from other Member States are taxed at a rate of 20 to 40 % unless their Member State also affords preferential tax treatment to Greek non-profit entities.<sup>23</sup>
- c) The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
- failure to implement a judgment of the Court of Justice that Greece was failing to adequately collect and treat waste water discharged into the Gulf of Elefsina. The Commission proposed to the Court to impose a lump sum payment of EUR 15 943 620 and a daily penalty payment of EUR 34 974 until full compliance with EU law is ensured.<sup>24</sup>

<sup>14</sup> Directive [2006/123/EC](#); [IP/16/323](#) and [MEMO/16/319](#).

<sup>15</sup> Directive [2005/36/EC](#).

<sup>16</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

<sup>17</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#); [IP/16/4214](#).

<sup>18</sup> Directives [92/43/EEC](#) and [91/271/EEC](#).

<sup>19</sup> Commission v Greece, [C-202/16](#); [IP/15/6224](#).

<sup>20</sup> Directive [2010/31/EU](#), Commission v Greece, [C-160/16](#); [IP/15/6007](#).

<sup>21</sup> Directive [2008/118](#)

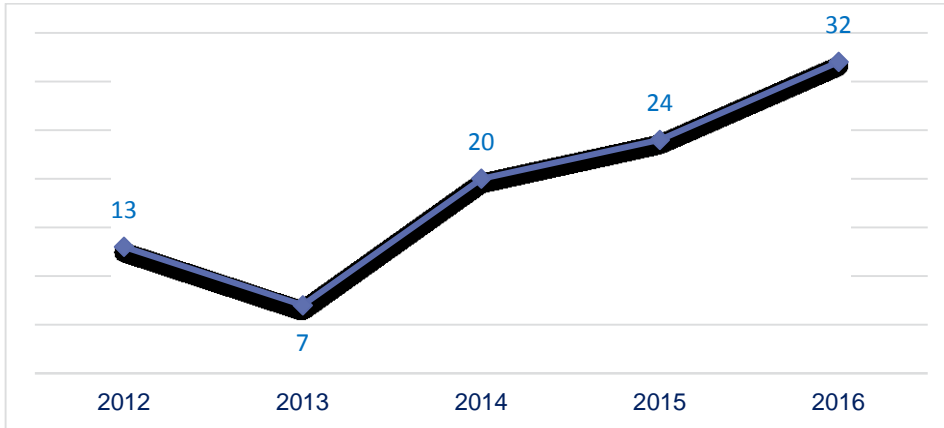
<sup>22</sup> Commission v Greece, [C-590/16](#).

<sup>23</sup> Commission v Greece, [C-98/16](#); [IP/15/4674](#).

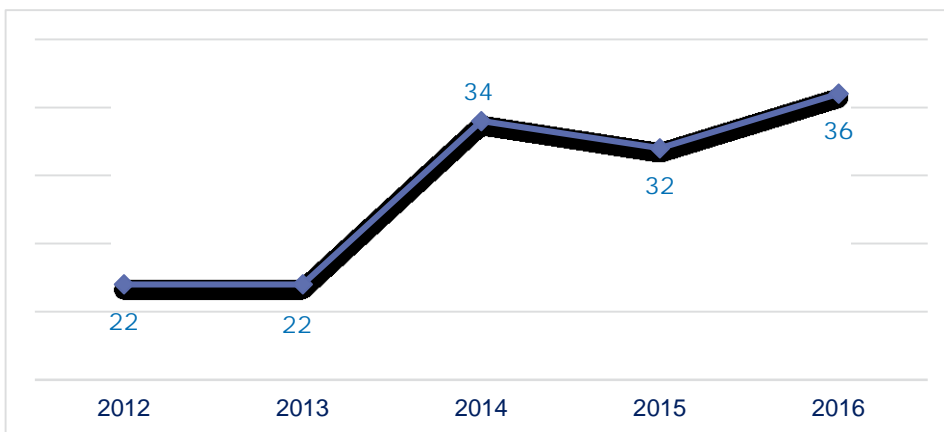
<sup>24</sup> Commission v Greece, [C-328/16](#); [IP/15/6009](#).

#### IV. TRANSPOSITION OF DIRECTIVES

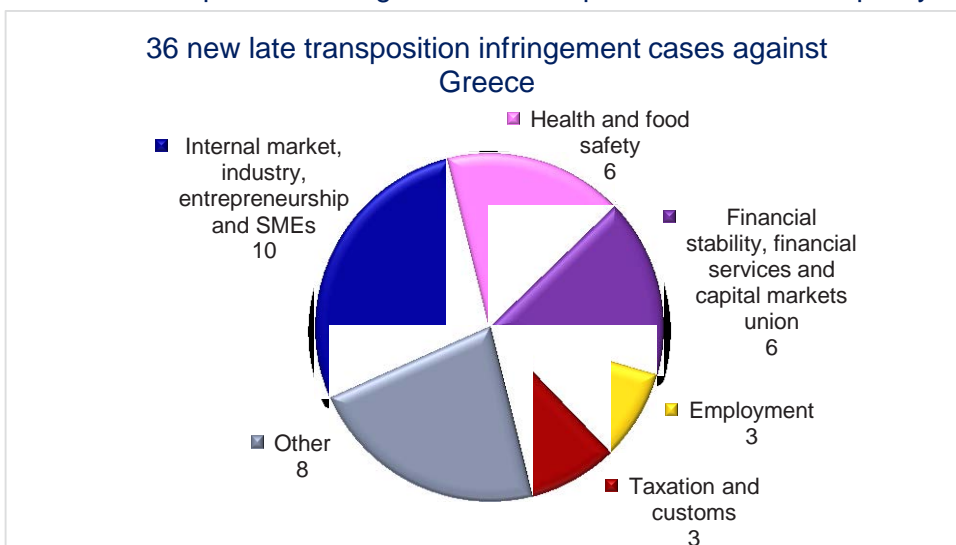
##### 1. Late transposition infringement cases against Greece open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Greece (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- failure to implement the Eurodac Regulation, which sets up an EU asylum fingerprint database;<sup>25</sup>
- non-communication of national measures transposing the Directive on attacks against information systems;<sup>26</sup>
- operation of the landfill of Mesolonghi in breach of the Landfill Directive and the Waste Framework Directive;<sup>27</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>28</sup>
- the notification of all national measures necessary to transpose:
  - the Bank Resolution and Recovery Directive;<sup>29</sup>
  - the Deposit Guarantee Schemes Directive;<sup>30</sup>
  - the Directive on over-reliance on credit ratings;<sup>31</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>32</sup>
- failure to transpose in full the three Directives on public procurement and concessions;<sup>33</sup>
- failure to meet the obligation to interconnect a national electronic register of road transport undertakings;<sup>34</sup>
- failure to establish a registration procedure for the European electronic toll service providers and a toll domain statement;
- non-compliance with the Airport Charges Directive.<sup>35</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>36</sup>

The Court ruled that:

- Greece has failed to comply with the Habitats Directive by not providing adequate protection for the endangered sea turtle *Caretta caretta* in the Bay of Kyparissia;<sup>37</sup>
- Greece has failed to take all the necessary measures to comply with the Court's 2009 judgment finding that Greece was not ensuring adequate management of hazardous waste. The Court ordered Greece to pay a lump sum of EUR 10 million and a daily penalty payment of EUR 30 000;<sup>38</sup>
- it is a restriction on the freedom to provide services to levy the full amount of car registration tax (as provided for under its national legislation) at the time of registration of a vehicle hired or leased by a Greek customer from a supplier established in another Member State, if the duration of the hire or lease contract and the duration of the vehicle's use in Greek territory is not taken into consideration;<sup>39</sup>
- national rules exempting the primary residence from inheritance tax only for nationals of EU Member States who are resident in Greece restricts the free movement of capital;<sup>40</sup>

<sup>25</sup> Regulation (EU) [603/2013](#); [MEMO/16/4211](#).

<sup>26</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).

<sup>27</sup> Directives [1999/31/EC](#) and [2008/98/EC](#).

<sup>28</sup> Directive [2012/18/EU](#).

<sup>29</sup> Directive [2014/59/EU](#).

<sup>30</sup> Directive [2014/49/EU](#).

<sup>31</sup> Directive [2013/14/EU](#).

<sup>32</sup> Directive [2006/126/EC](#).

<sup>33</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

<sup>34</sup> Regulation (EC) No [1071/2009](#).

<sup>35</sup> Directive [2009/12/EC](#).

<sup>36</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>37</sup> Directive [92/43/EEC](#), Commission v Greece, [C-504/14](#).

<sup>38</sup> Commission v Greece, [C-584/14](#) and Court press release No [87/16](#).

<sup>39</sup> Commission v Greece, [C-66/15](#).

<sup>40</sup> Commission v Greece, [C-244/15](#).

- Greece infringed Article 106 in conjunction with Article 102 TFEU by granting the public undertaking Dimosia Epicheirisi Ilektrismou AE privileged access to lignite. This maintained or reinforced its dominant position on Greece's wholesale electricity market.<sup>41</sup>

## 2. Preliminary rulings

In preliminary rulings addressed to the Greek judiciary, the Court held that:

- in principle, EU law allows national authorities to prohibit collective redundancies. However, these rules must strike a fair balance between the protection of workers and employers' freedom to conduct a business. The legal criteria on the basis of which the authorities may oppose planned collective redundancies must therefore be formulated in specific and precise terms. Thus a national authorisation regime for collective redundancies would be incompatible with the Collective Redundancies Directive<sup>42</sup> if it deprived the Directive of its practical effect.<sup>43</sup>

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<sup>41</sup> DEI v Commission, cases [T-169/08](#) RENV and [T-421/09](#) RENV.

<sup>42</sup> Directive [98/59/EC](#).

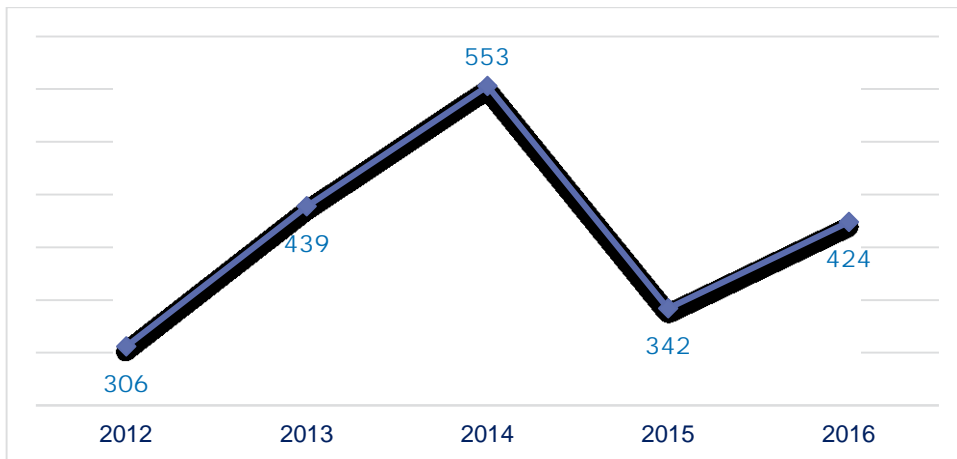
<sup>43</sup> AGET Iraklis, [C-201/15](#) and Court press release No [143/2016](#).

Spain

All the main indicators for Spain worsened in 2016. New complaints increased significantly after a sharp drop the previous year. New infringement cases for late transposition more than doubled. New EU Pilot files and open infringement cases both started to rise, reversing the downward trend seen since 2012.

I. COMPLAINTS

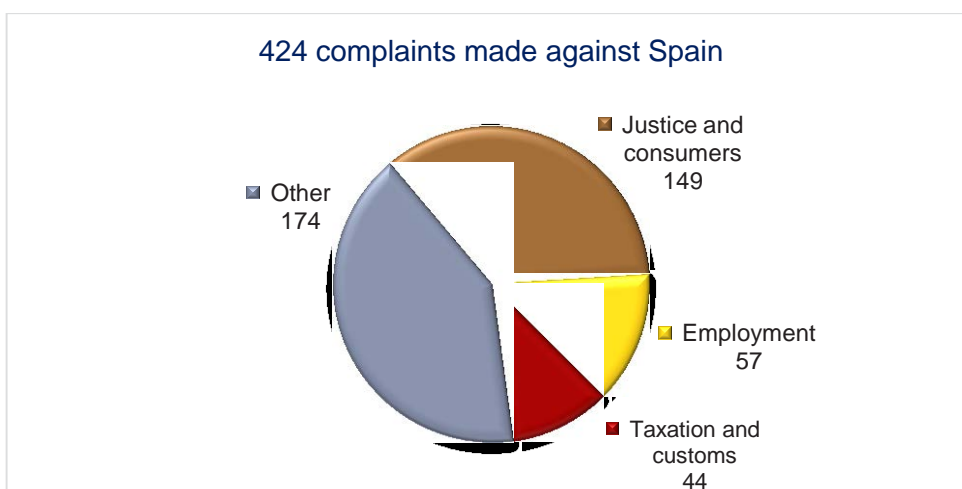
1. New complaints made against Spain by members of the public (2012-2016)



2. Public complaints against Spain open at year-end

276	>	Complaints open at end-2015
424	>	New complaints registered in 2016
344	>	Complaints handled in 2016
<b>= 356</b>	>	<b>Complaints open at end-2016</b>

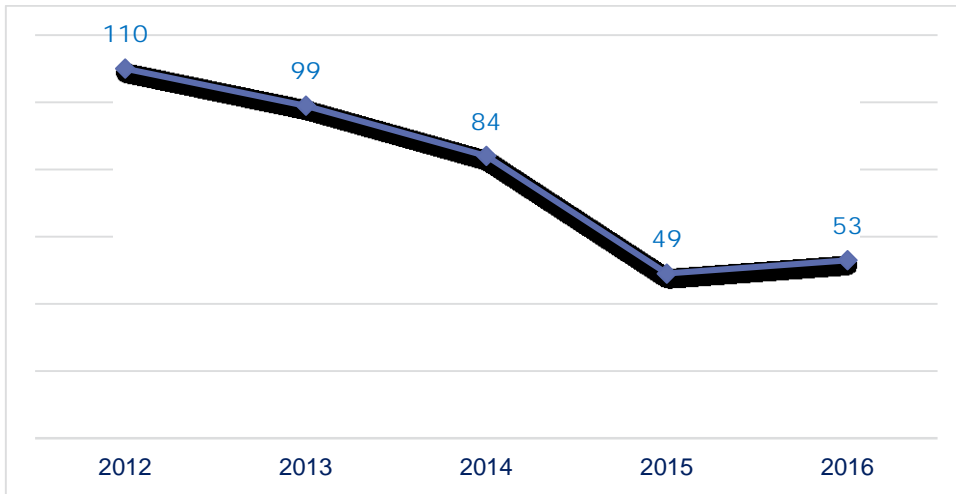
3. New complaints registered in 2016: main policy areas



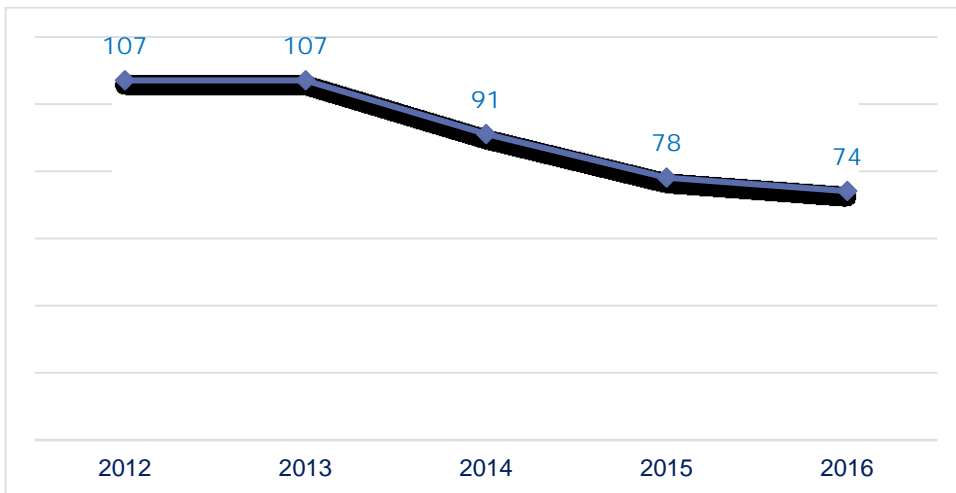


## II. EU PILOT

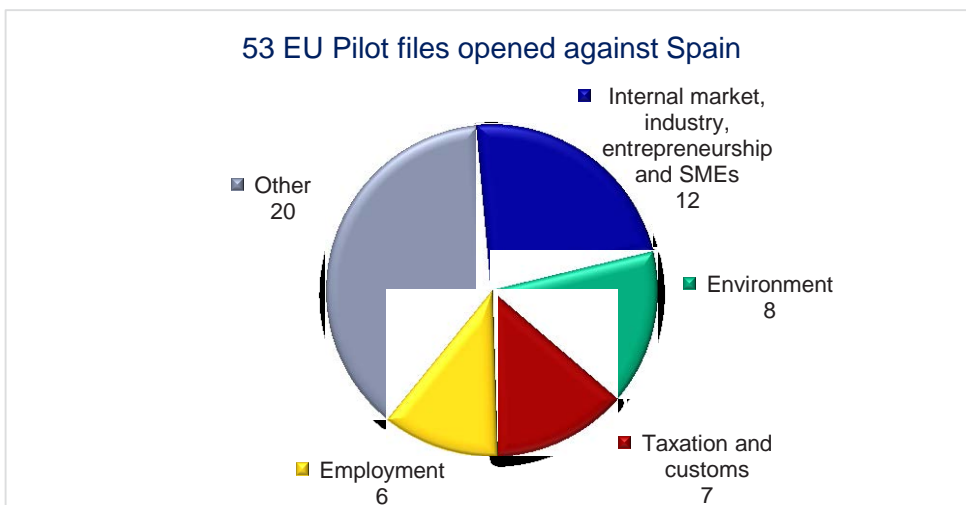
### 1. New EU Pilot files opened against Spain (2011-2016)



### 2. Files relating to Spain open in EU Pilot at year-end

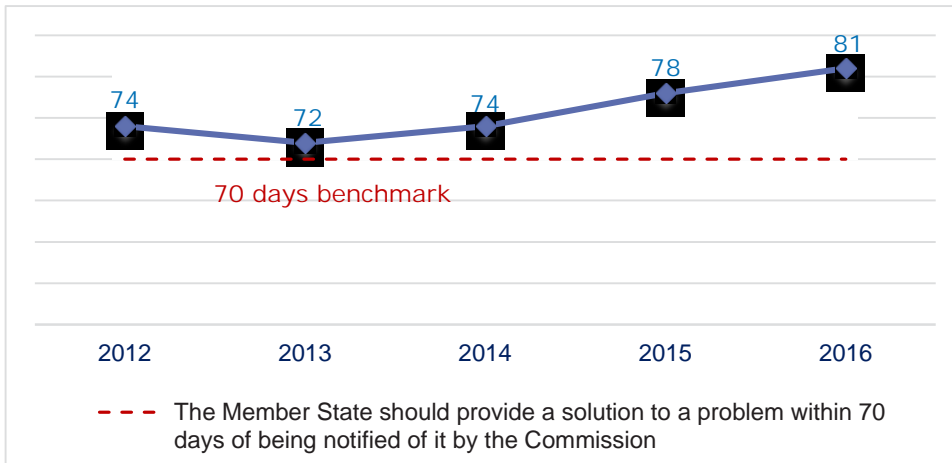


### 3. New EU Pilot files opened in 2016: main policy areas

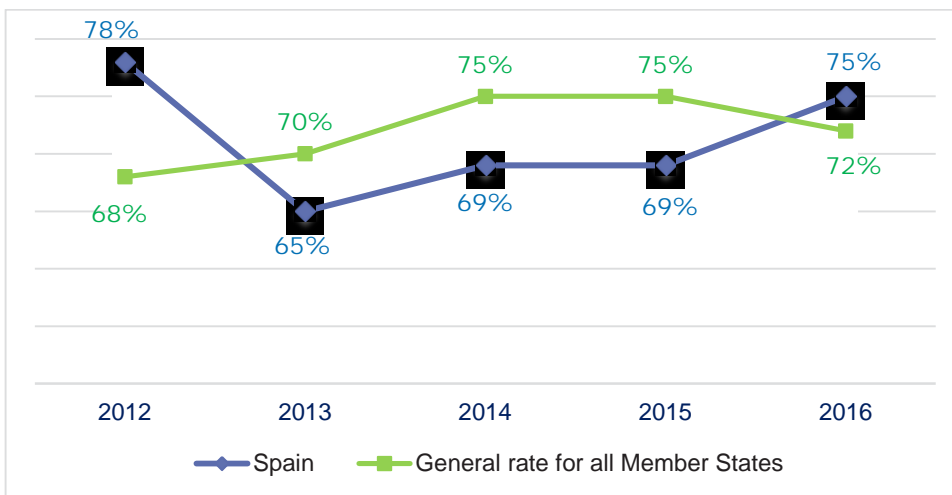


Spain

4. EU Pilot files: Spain's average response time in 2012-2016 (in days)

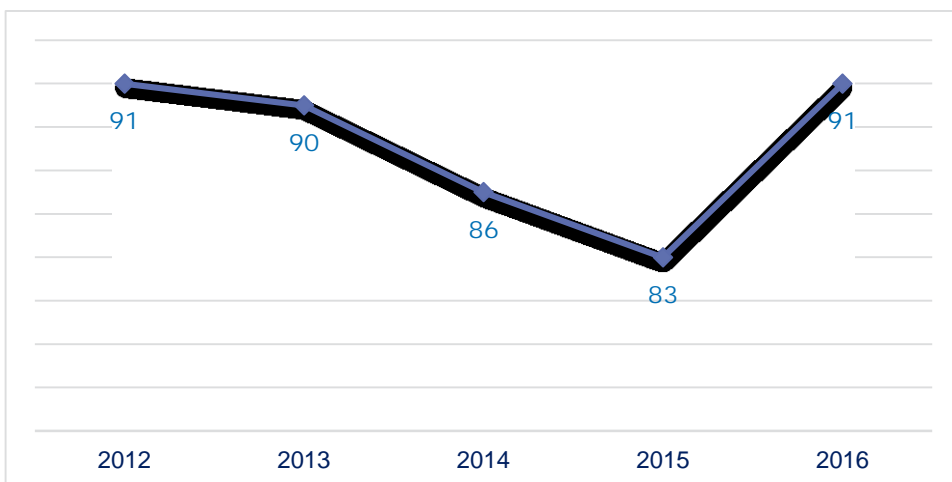


5. EU Pilot files: Spain's resolution rate in 2012-2016

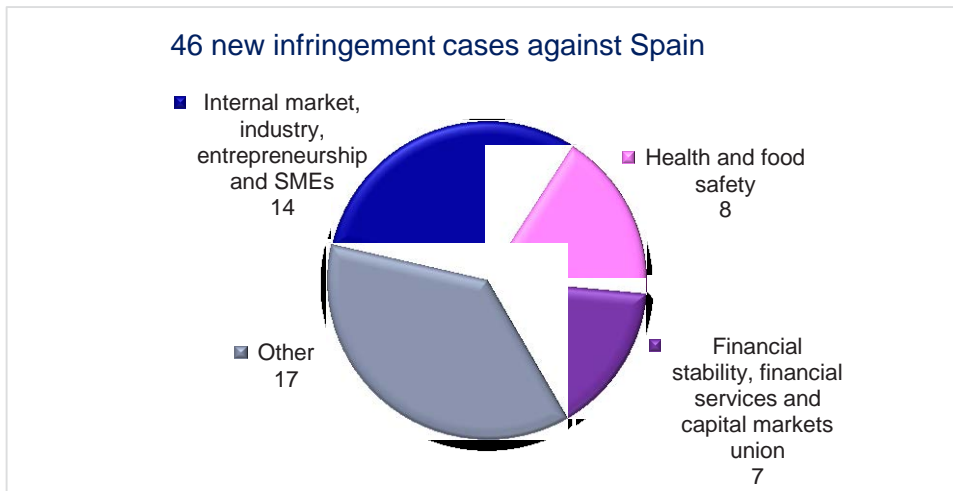


III. INFRINGEMENT CASES

1. Infringement cases against Spain open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 46 new infringement cases against Spain in 2016. These, and other major ongoing infringement cases, include:
- non-compliance of the national rules and the case law of the Spanish Supreme Court on mortgage enforcement with the Directive on unfair terms in consumer contracts;<sup>1</sup>
  - non-compliance with the Regulation on the marketing and use of explosives precursors;<sup>2</sup>
  - non-conformity of national legislation with the Return Directive;<sup>3</sup>
  - failure to notify measures transposing the Tobacco Directive;<sup>4</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>5</sup>
  - failure to ensure that waste landfills operate in compliance with EU standards;
  - failure to ensure adequate protection of natural habitats and sustainable management of water resources in the area of the Doñana national park;<sup>6</sup>
  - less favourable treatment of fixed-term staff in the public sector, which raises concerns under the Fixed-Term Work Directive;<sup>7</sup>
  - inadequate urban waste water treatment;
  - lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>8</sup>
  - trapping of finches in breach of the requirements of the Birds Directive;<sup>9</sup>
  - failure to fully transpose the Offshore Safety Directive;<sup>10</sup>
  - failure to comply with the Energy Performance of Buildings Directive;<sup>11</sup>
  - failure to comply with the Third Internal Energy Market Package;<sup>12</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>13</sup>

<sup>1</sup> Directive [93/13/EEC](#); [MEMO/16/1452](#).

<sup>2</sup> Regulation [\(EU\) No 98/2013](#); [MEMO/16/3125](#).

<sup>3</sup> Directive [2008/115/EC](#); [MEMO/16/3125](#).

<sup>4</sup> Directive [2014/40/EU](#); [MEMO/16/4211](#).

<sup>5</sup> Directive [2008/98/EC](#).

<sup>6</sup> [MEMO/16/1452](#).

<sup>7</sup> Directive [1999/70/EC](#).

<sup>8</sup> Directive [2002/49/EC](#).

<sup>9</sup> Directive [2009/147/EC](#).

<sup>10</sup> Directive [2013/30/EU](#); [MEMO/16/3644](#).

<sup>11</sup> Directive [2010/31/EU](#); [MEMO/16/319](#).

<sup>12</sup> Directives [2009/72/EC](#) and [2009/73/EC](#); [MEMO/16/3125](#).

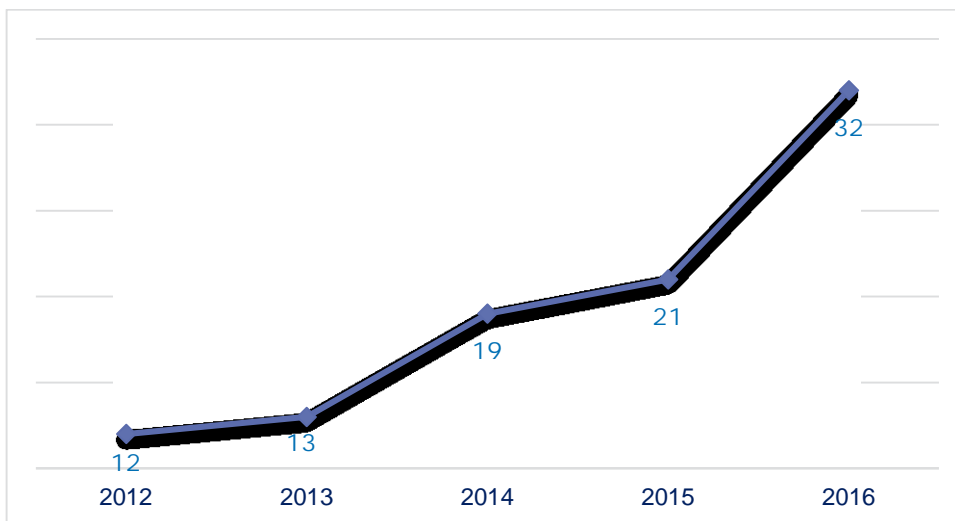
<sup>13</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

Spain

- failure to communicate all national measures transposing the Transparency Directive;<sup>14</sup>
  - incorrect application of the Regulation on passenger rights;<sup>15</sup>
  - failure to comply with EU rules on access to the occupation of road transport operator;<sup>16</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>17</sup>
  - failure to transpose in full the three Directives on public procurement and concessions;<sup>18</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation;<sup>19</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>20</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive.<sup>21</sup>
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
- failure to comply with a previous judgment of the Court concerning freedom of establishment at Spanish ports.<sup>22</sup>

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Spain open on 31 December (2012-2016)



<sup>14</sup> Directive [2013/50/EU](#); [MEMO/16/3644](#).

<sup>15</sup> Regulation [\(EU\) No 1177/2010](#).

<sup>16</sup> Regulation [\(EC\) No 1071/2009](#); [MEMO/16/319](#).

<sup>17</sup> Directive [2006/123/EC](#); [IP/16/3646](#) and [MEMO/16/3644](#).

<sup>18</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/4211](#).

<sup>19</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#); [IP/16/4214](#).

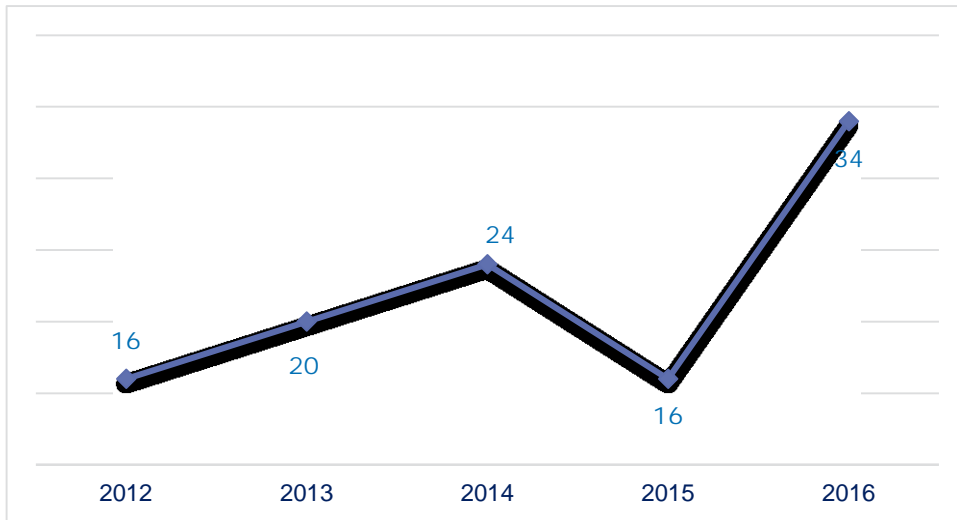
<sup>20</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

<sup>21</sup> Directive [2014/89/EU](#).

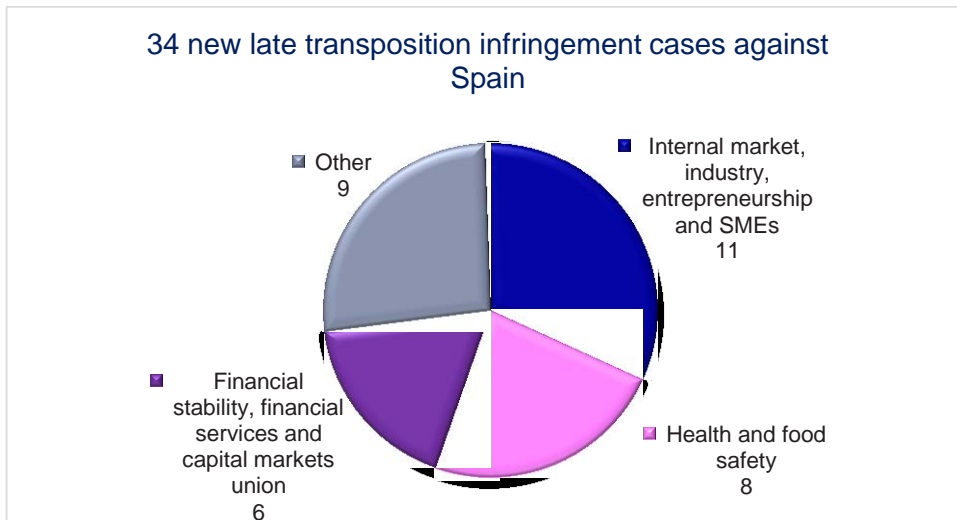
<sup>22</sup> Commission v Spain, [C-388/16](#); [IP/16/1455](#) and [MEMO/16/1452](#).

Spain

2. New late transposition infringement cases against Spain (2012-2016)



3. New late transposition infringement cases opened in 2016: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2016

These concerned:

- breach of EU citizens' right to stand as candidates in local and European elections in the Member State of residence due to restrictions on their involvement in political parties;
- incorrect transposition of the Environmental Impact Assessment Directive by the Tourism Act in the Balearic Islands;<sup>23</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>24</sup>
- the notification of all national measures necessary to transpose the Bank Resolution and Recovery Directive;<sup>25</sup>

<sup>23</sup> Directive [2011/92/EU](#).

<sup>24</sup> Directive [2012/18/EU](#).

<sup>25</sup> Directive [2014/59/EU](#).

Spain

- two cases related to the incompatibility of national law on the *Guardia Civil* with the Working Time Directive as regards maximum working time, minimum rest periods and the protective provisions concerning night work;
- notification of all national measures necessary to transpose the Deposit Guarantee Schemes Directive<sup>26</sup> and the Directive on alternative investment fund managers;<sup>27</sup>
- non-compliance with the Mediterranean Regulation regarding the obligation to adopt management plans for fisheries conducted by dredges;<sup>28</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>29</sup>
- incorrect implementation of the Regulation on the rights of passengers travelling by sea and inland waterway;<sup>30</sup>
- non-compliance with the Airport Charges Directive;<sup>31</sup>
- non-compliance with the Railway Safety Directive.<sup>32</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>33</sup>

The Court ruled that:

- Spain has failed to ensure the adequate treatment of urban waste water from four agglomerations discharging into sensitive areas;<sup>34</sup>
- Spain has not fulfilled its obligations under the Birds Directive and the Habitats Directive in relation to a project for the building of a high-speed railway line between Seville and Almeria;<sup>35</sup>
- Spain has infringed the Landfill Directive by not taking the necessary measures to ensure that non-compliant landfills do not continue to operate unless they satisfy the requirements of the Directive;<sup>36</sup>
- the Commission's appeals are unfounded in relation to the General Court's rulings to annul the Commission's decisions on the reduction of the EU contribution to various projects (due to irregularities in public procurements) because the Commission had not adopted its decision within the six-month deadline indicated in the General Structural Fund Regulation.<sup>37</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the Spanish judiciary, the Court held that:

- National case-law cannot temporally limit the restitutory effects connected with a finding of unfairness by a court, in respect of a clause contained in a contract concluded between a consumer and a seller or supplier, to amounts overpaid under such a clause after the delivery of the decision in which the finding of unfairness is made. The case concerned a decision by the Spanish Supreme Court of 2013 which had found so-called floor clauses in loan contracts concluded by consumers to be unfair, but had ruled that this finding would have effect only from the date of its judgment, thereby excluding restitution claims by consumers for overpayments made in the past;<sup>38</sup>
- Member States' may adopt or retain in force stricter measures to prevent money laundering and terrorist financing than the rules laid down in the Directive on the

<sup>26</sup> Directive [2014/49/EU](#).

<sup>27</sup> Directive [2011/61/EU](#).

<sup>28</sup> Regulation [\(EC\) No 1967/2006](#).

<sup>29</sup> Directive [2006/126/EC](#).

<sup>30</sup> Regulation [\(EU\) No 1177/2010](#).

<sup>31</sup> Directive [2009/12/EC](#).

<sup>32</sup> Directive [2004/49/EC](#).

<sup>33</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>34</sup> Directive [91/271/EEC](#), Commission v Spain, [C-38/15](#).

<sup>35</sup> Directives [2009/147/EC](#) and [92/43/EEC](#), Commission v Spain, [C-461/14](#).

<sup>36</sup> Directive [1999/31/EC](#), Commission v Spain, [C-454/14](#).

<sup>37</sup> Regulation [\(EC\) No 1083/2006](#), Commission v Spain, [C-139/15 P](#) and [C-140/15 P](#).

<sup>38</sup> Gutiérrez Naranjo, joined cases [C-154/15](#), [C-307/15](#) and [C-308/15](#).

Spain

prevention of the use of the financial system for money laundering and terrorist financing.<sup>39</sup> These measures, however, must be justified by the level of risk and must be proportionate;<sup>40</sup>

- a national of a non-EU country who has the sole care of an EU citizen who is a minor cannot be automatically refused a residence permit or expelled from the territory of the European Union on the sole ground that he has a criminal record. To be capable of being adopted, an expulsion measure must be proportionate and founded on the personal conduct of the national of a non-EU country. Moreover, that conduct must constitute a genuine, present and sufficiently serious threat adversely affecting one of the fundamental interests of the society of the host Member State.<sup>41</sup>
- a Member State may refuse an application for family reunification if the sponsor does not have sufficient, stable and regular resources to maintain himself and the members of his family without recourse to the social assistance system of that Member State. Such a decision could be based on the prospective assessment of the likelihood of the sponsor retaining, or failing to retain, the necessary stable and regular resources in the year following the date of submission of the application for family reunification. The assessment is based on the pattern of the sponsor's income in the 6 months preceding the date of the application;<sup>42</sup>
- the Framework Directive<sup>43</sup> on electronic communications networks and services does not preclude the possibility for national regulatory authorities to merge into one multisectoral authority provided that, in performing those tasks, that body meets the requirements of competence, independence, impartiality and transparency laid down by the Directive. In addition, an effective right of appeal to an independent body must be available against its decisions, which is a matter to be determined by the national court;<sup>44</sup>
- the Commission's decisions on remission of import duties, addressed to one or more Member States, are not of direct and individual concern to the operators concerned; thus they are not challengeable by way of direct action under Article 263 TFEU, fourth paragraph, but by way of indirect action before a national court via the preliminary ruling procedure set out in Article 267 TFEU.<sup>45</sup>

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<sup>39</sup> Directive [2005/60/EC](#).

<sup>40</sup> *Safe Interenvios, SA v Liberbank, SA and Others*, [C-235/14](#).

<sup>41</sup> *Rendón Marín and CS*, joined cases [C-165/14](#) and [C-304/14](#) and Court press release [No 95/16](#).

<sup>42</sup> *Mimoun Khachab*, [C-558/14](#).

<sup>43</sup> Directive [2002/21/EC](#).

<sup>44</sup> *Ormaetxea Garai and Lorenzo Almendros*, [C-424/15](#).

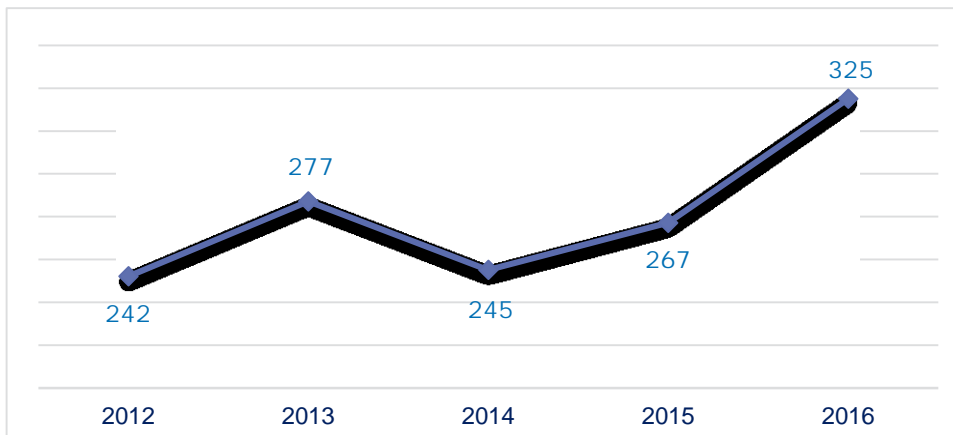
<sup>45</sup> *Makro autoservicio mayorista SA and Vestel Iberia SL v European Commission*, [C-264/15 P](#) and [C-265/15 P](#).

France

All the main indicators for France worsened in 2016. New complaints continued their upward trend, reaching their highest level in 5 years. The number of new EU Pilot files also rose, reversing a continuous fall since 2012. Continuing the trend seen since 2012, the number of open infringement cases rose slightly. New infringement cases for late transposition showed a more marked increase, hitting their highest level in 5 years.

I. COMPLAINTS

1. New complaints made against France by members of the public (2012-2016)



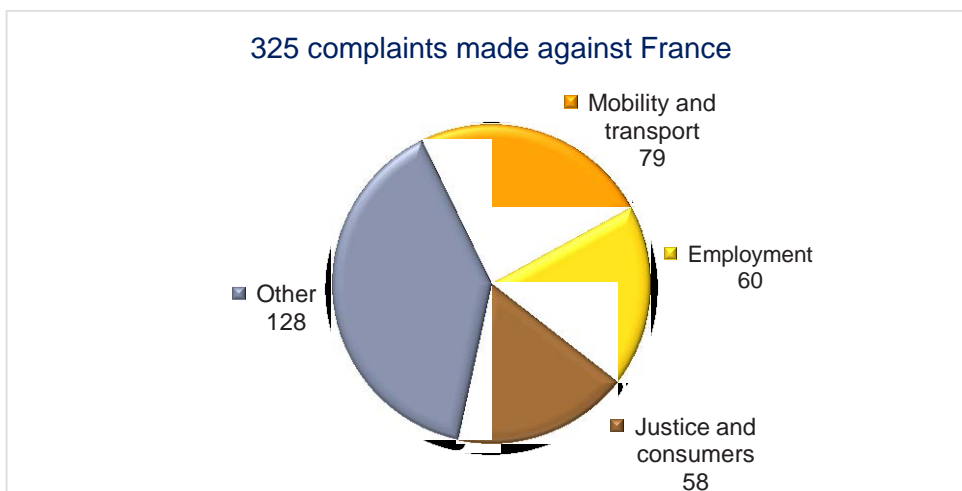
2. Public complaints against France open at year-end

- 260 > Complaints open at end-2015
- 325 > New complaints registered in 2016
- 319 > Complaints handled in 2016

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- = 266 > Complaints open at end-2016

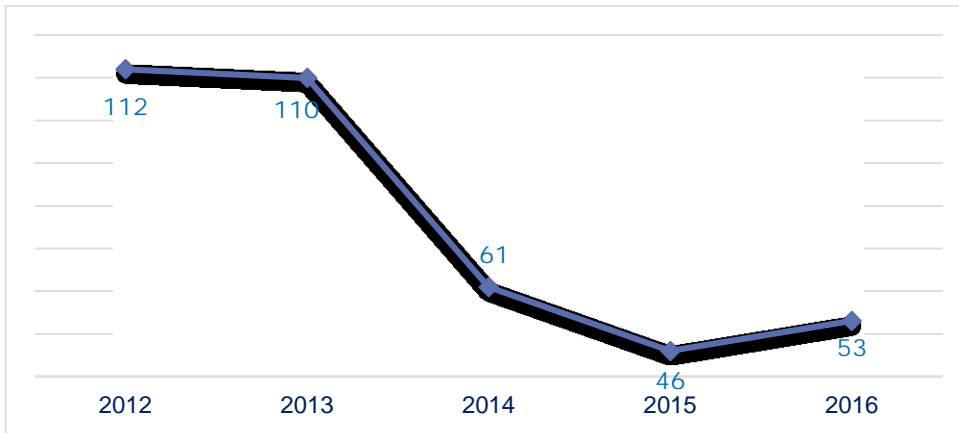
3. New complaints registered in 2016: main policy areas



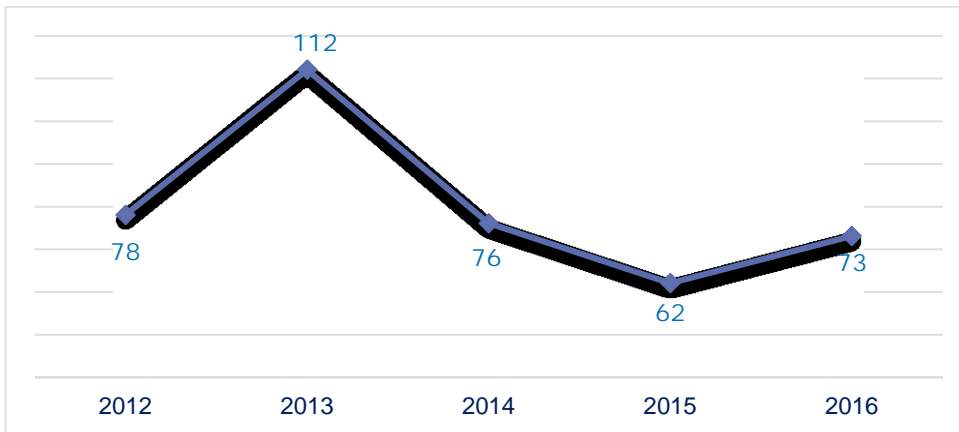


## II. EU PILOT

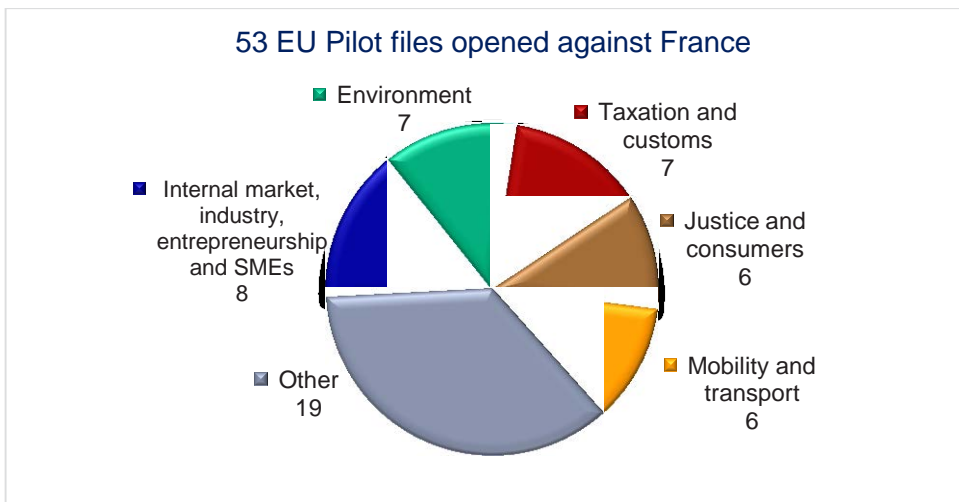
### 1. New EU Pilot files opened against France (2012-2016)



### 2. Files relating to France open in EU Pilot at year-end

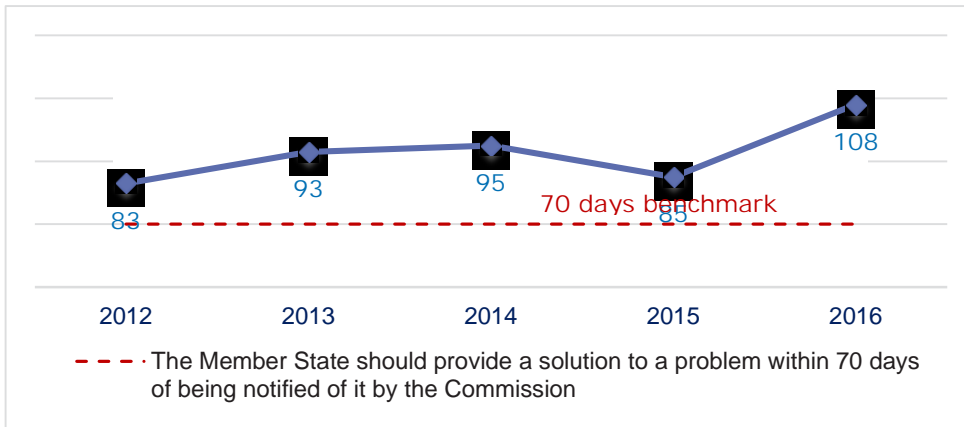


### 3. New EU Pilot files opened in 2016: main policy areas

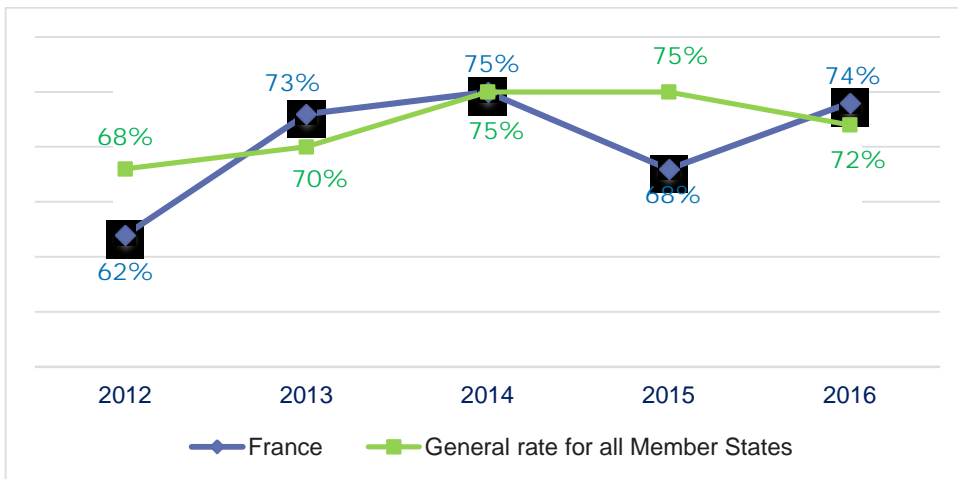


France

4. EU Pilot files: France's average response time in 2012-2016 (in days)

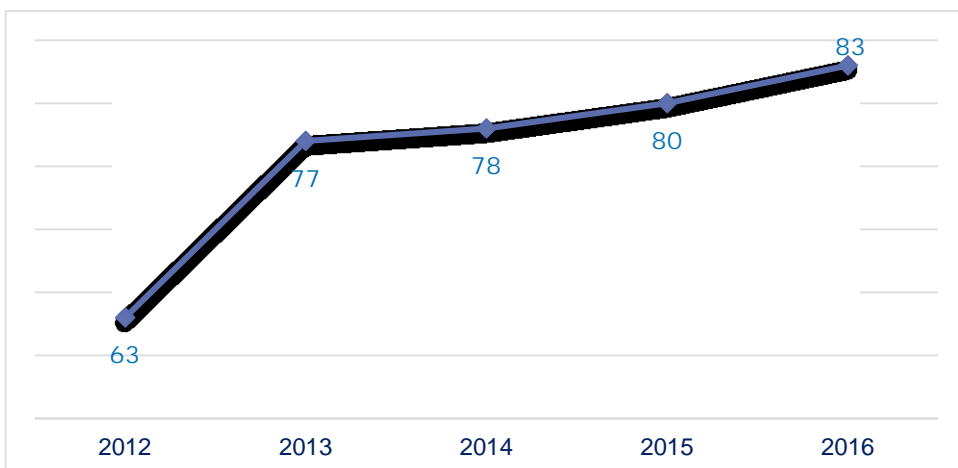


5. EU Pilot files: France's resolution rate in 2012-2016

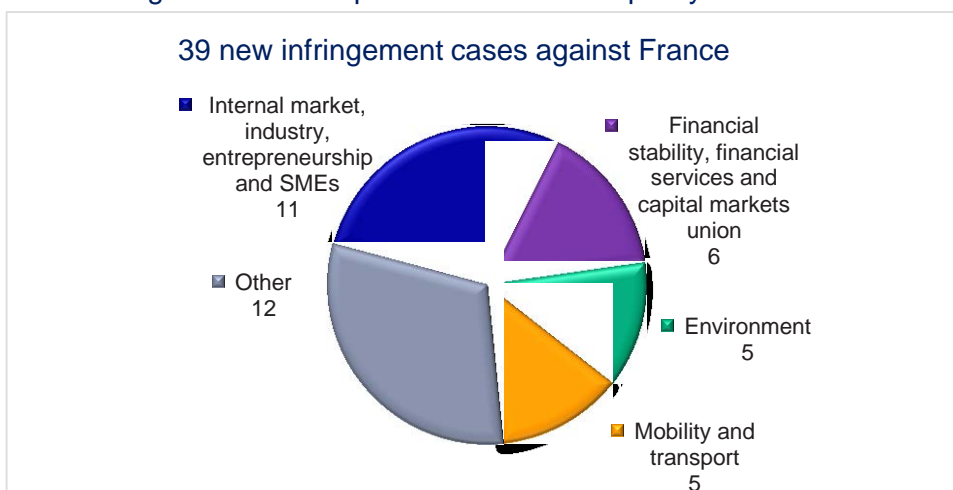


III. INFRINGEMENT CASES

1. Infringement cases against France open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



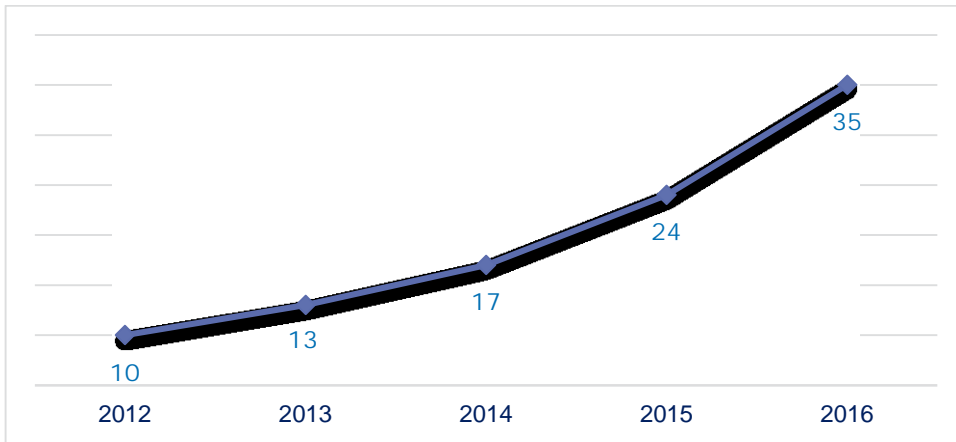
## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 39 new infringement cases against France in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Regulation on the marketing and use of explosives precursors;<sup>1</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>2</sup>
  - illegal poaching and killing of ortolan buntings;<sup>3</sup>
  - non-compliant transposition of the Mining Waste Directive;<sup>4</sup>
  - failure to comply with the Third Internal Energy Market Package;<sup>5</sup>
  - breach of the rules on the separation of accounts under the Directive establishing a single European railway area;<sup>6</sup>
  - restrictions on the provision of transport services and free movement of goods;<sup>7</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>8</sup>
  - non-communication of national measures transposing the Directive on priority substances in the field of water policy;<sup>9</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Professional Qualifications Directive;<sup>10</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System.<sup>11</sup>
- 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.

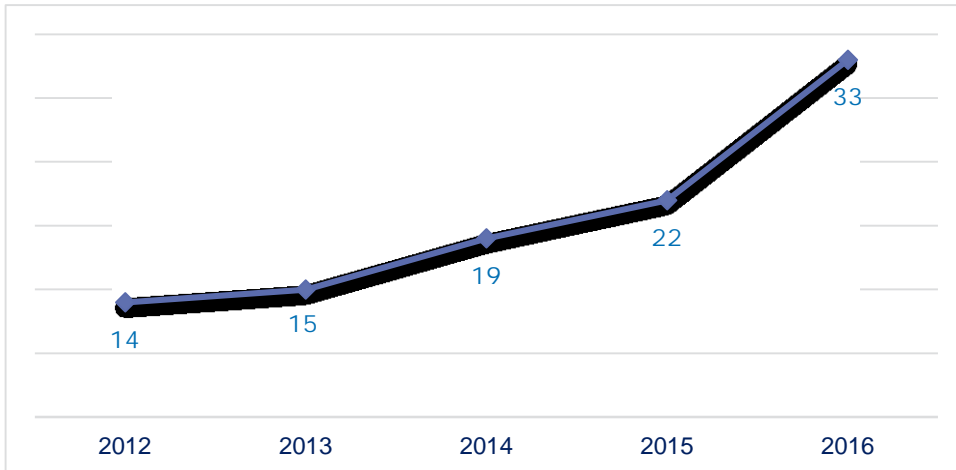
<sup>1</sup> Regulation (EU) No [98/2013](#).  
<sup>2</sup> Directive [2008/98/EC](#); [MEMO/16/3644](#).  
<sup>3</sup> [MEMO/16/209](#) and [IP/16/4213](#).  
<sup>4</sup> Directive [2006/21/EC](#).  
<sup>5</sup> Directives [2009/72/EC](#) and [2009/73/EC](#); [MEMO/16/2490](#).  
<sup>6</sup> Directive [2012/34/EC](#).  
<sup>7</sup> [IP/16/2101](#).  
<sup>8</sup> Directive [2014/89/EU](#).  
<sup>9</sup> Directive [2013/39/EU](#), [MEMO/16/1452](#).  
<sup>10</sup> Directive [2005/36/EC](#).  
<sup>11</sup> Directive [2013/55/EU](#), [MEMO/16/3125](#).

#### IV. TRANSPOSITION OF DIRECTIVES

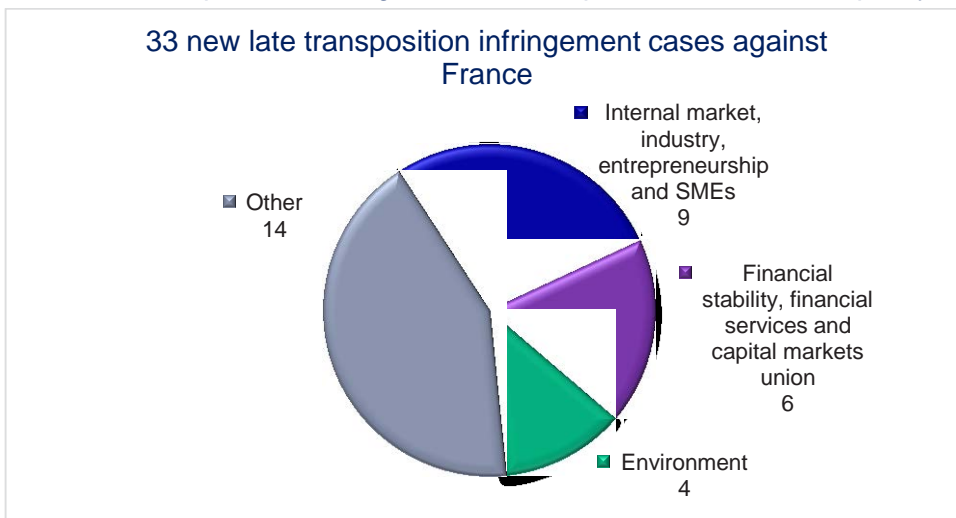
##### 1. Late transposition infringement cases against France open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against France (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- completing the notification of all national measures necessary to transpose:
  - the Capital Requirements Directive;<sup>12</sup>
  - the Bank Resolution and Recovery Directive;<sup>13</sup>
  - the Deposit Guarantee Schemes Directive;<sup>14</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>15</sup>
- non-compliance with the First Railway Package;
- enactment of administrative provisions respecting the proportionality requirements as regards the 3 % tax on properties in France owned by foreign companies.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>16</sup>

The Court ruled that:

- France has failed to provide adequate treatment of urban waste water in several smaller agglomerations.<sup>17</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the French judiciary, the Court held that:

- security of supply and territorial cohesion might be objectives in the general economic interest which may justify state intervention in fixing the price of supply of natural gas to household customers. However, such intervention would be compatible with the Gas Directive<sup>18</sup> only if strict requirements were met, including proportionality and non-discrimination;<sup>19</sup>
- roll cores in the form of rolls, tubes or cylinders, around which flexible material is wound and sold to consumers, constitute 'packaging' under the Packaging Directive;<sup>20</sup>
- a national court may, exceptionally and on a case-by-case basis, limit in time the effects of a declaration of the illegality of a national provision adopted in disregard of the Strategic Environmental Assessment Directive, provided that such a limitation is dictated by an overriding consideration linked to environmental protection and having regard to the specific circumstances of the case. However, this power may be exercised only if the following conditions are satisfied:
  - the contested national provision is a measure correctly transposing EU environmental law;
  - a new national provision would not avoid damage to the environment arising from annulment of the contested provision;
  - annulment of the contested provision would create a legal vacuum in the transposition of EU environmental law which would be more damaging to the environment; and
  - the effects of the contested provision are maintained only for the period strictly necessary to adopt the measures remedying the irregularity.<sup>21</sup>

<sup>12</sup> Directive [2013/36/EU](#).

<sup>13</sup> Directive [2014/59/EU](#).

<sup>14</sup> Directive [2014/49/EU](#).

<sup>15</sup> Directive [2006/126/EC](#).

<sup>16</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>17</sup> Directive [91/271/EEC](#); *Commission v France*, [C-314/15](#).

<sup>18</sup> Directive [2009/73/EC](#).

<sup>19</sup> *Association nationale des opérateurs détaillants en énergie (ANODE) v Premier ministre and Others*, [C-121/15](#), Court Press Release No [88/2016](#).

<sup>20</sup> Directive [94/62/EC](#); *Eco-Emballages*, joined cases [C-313/15](#) and [C-530/15](#).

<sup>21</sup> Directive [2001/42/EC](#); *Association France Nature Environnement*, [C-379/15](#).

France

- A commercial practice consisting of the sale of a computer equipped with pre-installed software without any option for the consumer to purchase the same model of computer not equipped with pre-installed software does not in itself constitute an unfair commercial practice within the meaning of Article 5(2) of the Unfair Commercial Practices Directive,<sup>22</sup> unless such a practice is contrary to the requirements of professional diligence and materially distorts or is likely to materially distort the economic behaviour of the average consumer with regard to the product, a matter which is for the national court to determine by taking account of the specific circumstances of the case in the main proceedings. In the context of a combined offer consisting of the sale of a computer equipped with pre-installed software, the failure to indicate the price of each of those items of pre-installed software does not constitute a misleading commercial practice within the meaning of the Unfair Commercial Practices Directive.<sup>23</sup>

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<sup>22</sup> Directive [2005/29/EC](#).

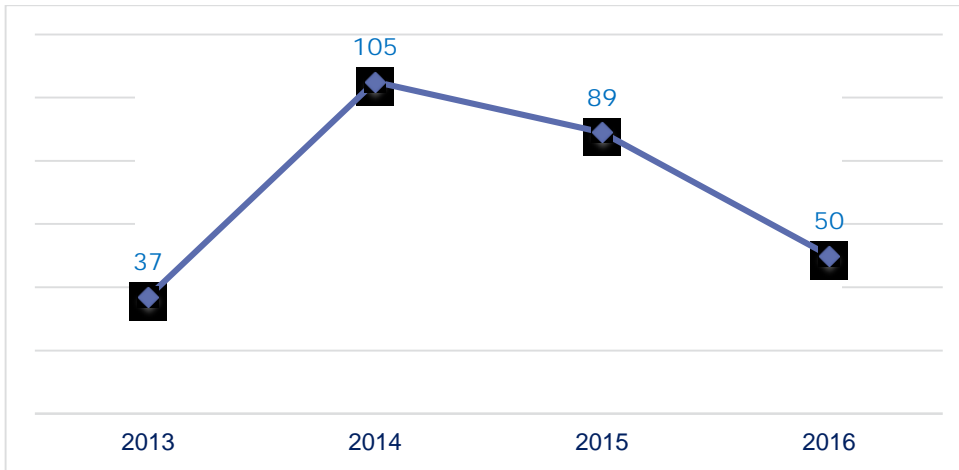
<sup>23</sup> Deroo-Blanquart, [C-310/15](#).

Croatia

*New complaints against Croatia continued to drop in 2016, to less than half their 2014 peak. The number of new EU Pilot files also fell slightly. In contrast, infringement cases open at the end of the year doubled. New infringement cases for late transposition also reached a new peak.*

I. COMPLAINTS

1. New complaints made against Croatia by members of the public (2013-2016)<sup>1</sup>



2. Public complaints against Croatia open at year-end

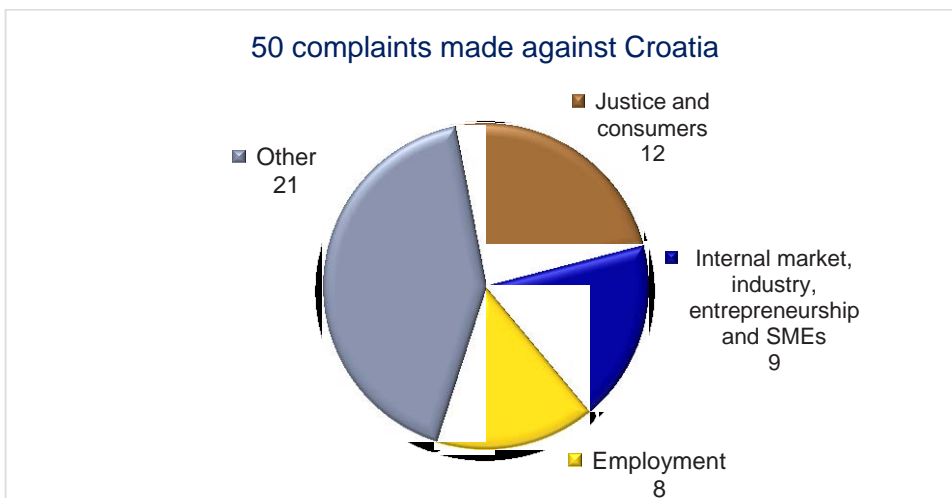
67 > Complaints open at end-2015

50 > New complaints registered in 2016

40 > Complaints handled in 2016

**= 77 > Complaints open at end-2016**

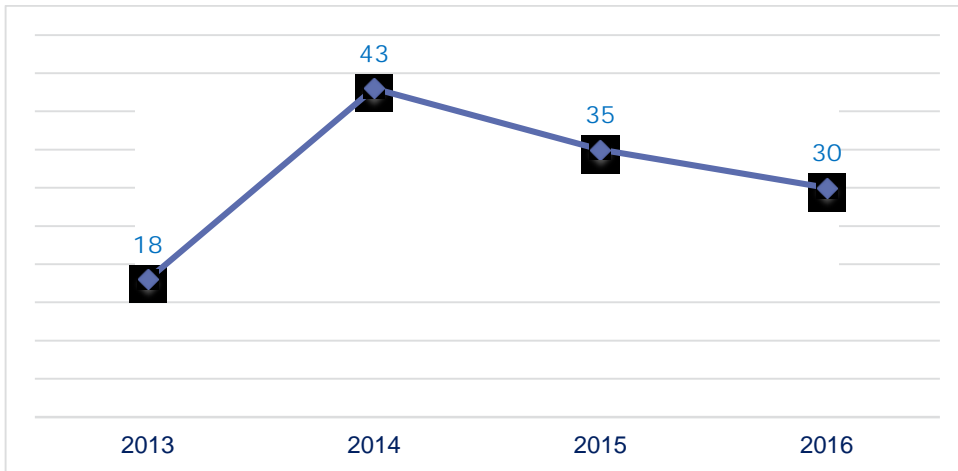
3. New complaints registered in 2016: main policy areas



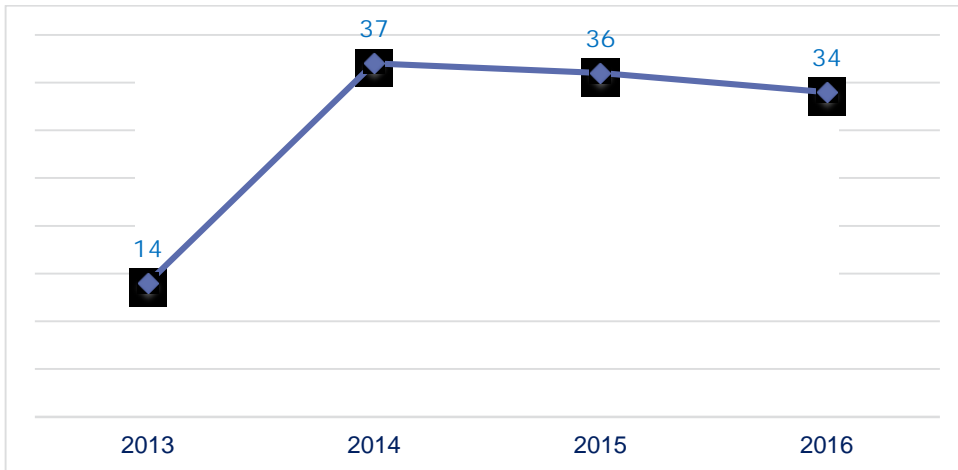
<sup>1</sup> Croatia joined the EU on 1 July 2013.

## II. EU PILOT

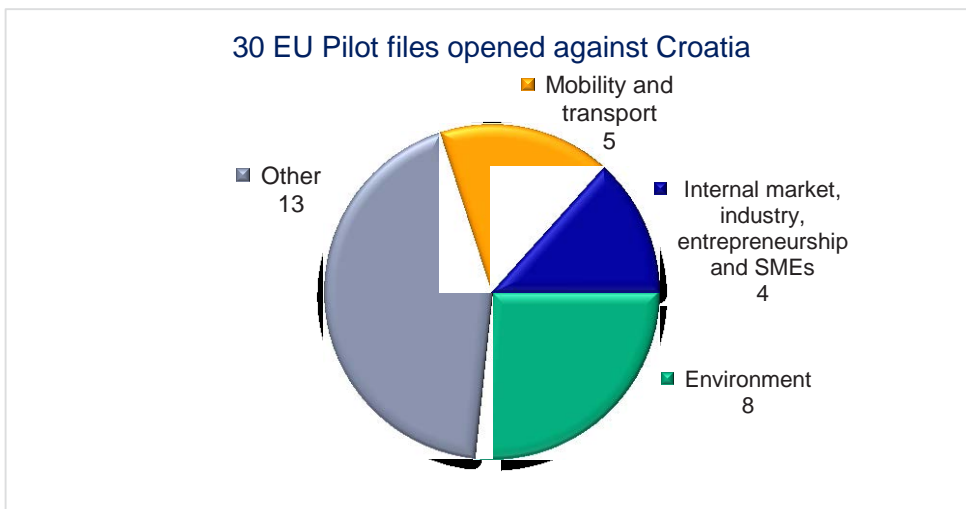
### 1. New EU Pilot files opened against Croatia (2013-2016)



### 2. Files relating to Croatia open in EU Pilot at year-end

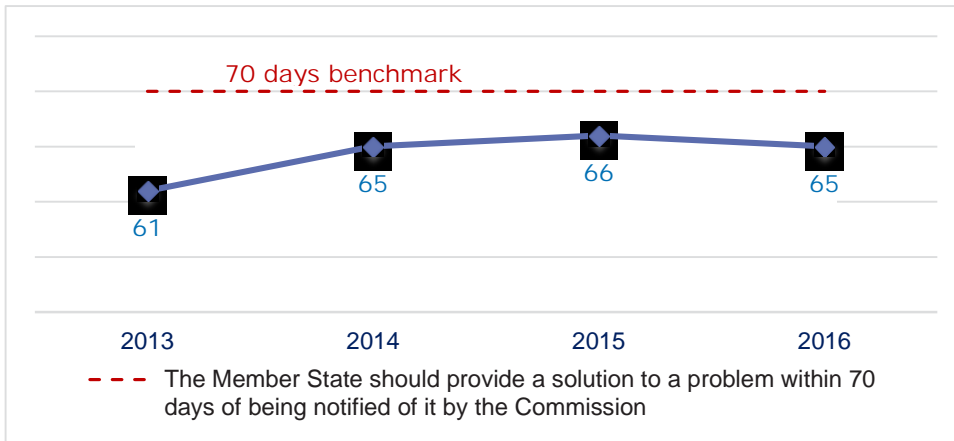


### 3. New EU Pilot files opened in 2016: main policy areas

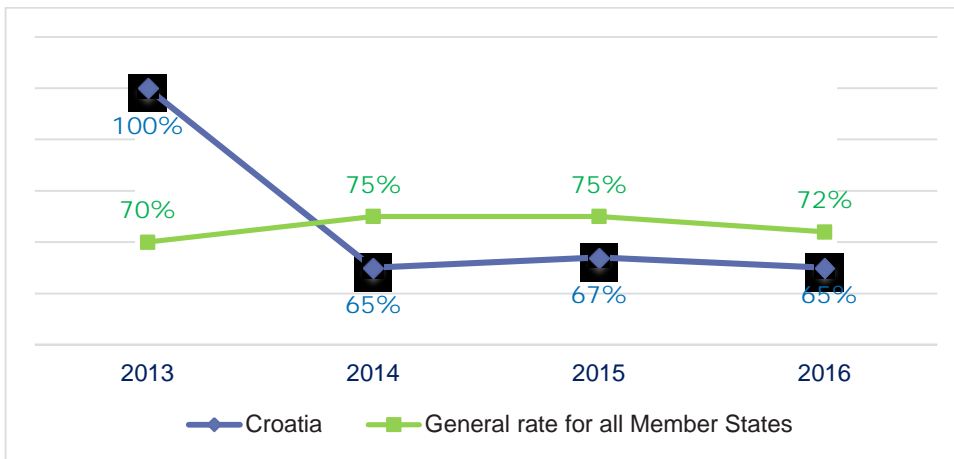




4. EU Pilot files: Croatia's average response time in 2013-2016 (in days)<sup>2</sup>

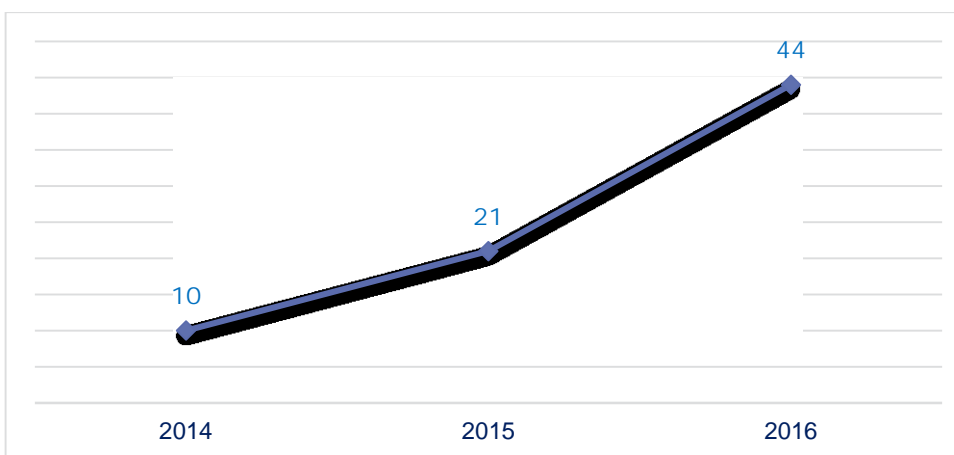


5. EU Pilot files: Croatia's resolution rate in 2013-2016<sup>3</sup>



III. INFRINGEMENT CASES

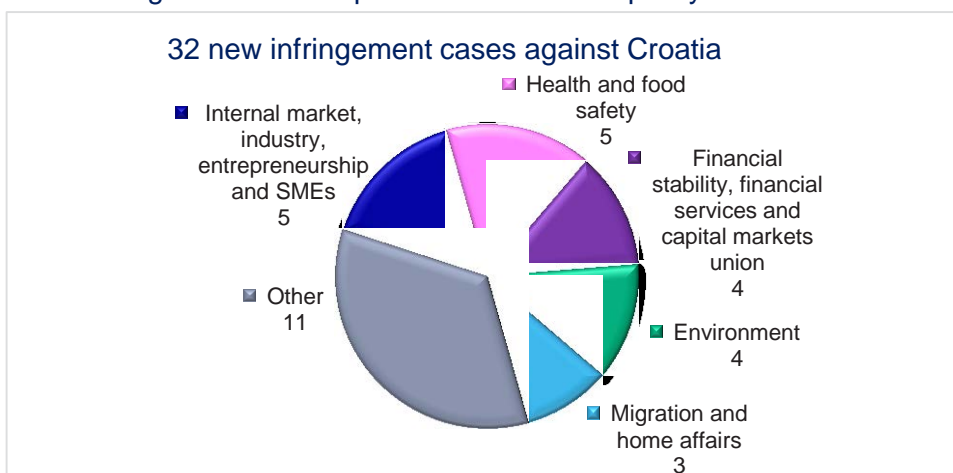
1. Infringement cases against Croatia open on 31 December (2014-2016)



<sup>2</sup> Croatia joined the EU Pilot system in July 2013.

<sup>3</sup> Croatia joined the EU Pilot system in July 2013.

## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 32 new infringement cases against Croatia in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>4</sup>
  - failure to notify transposition measures for the Tobacco Directive;<sup>5</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>6</sup>
  - non-compliant transposition of the Waste Framework Directive;<sup>7</sup>
  - non-compliant transposition of the Environmental Impact Assessment Directive;<sup>8</sup>
  - inadequate waste management in Biljane Donje;<sup>9</sup>
  - failure to comply with the free movement of goods and the EU internal energy market rules;<sup>10</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>11</sup>
  - the special powers reserved for the state in the main energy company, INA (Industrija Nafte d.d.), following its privatisation. These may restrict the free movement of capital and freedom of establishment under the TFEU;<sup>12</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>13</sup>
  - the reduced excise duty rate for small producers of ethyl alcohol. This seems to be incompatible with the Excise Duty Directive on alcohol and alcoholic beverages;<sup>14</sup>
  - failure to transpose in full the three Directives on public procurement and concessions;<sup>15</sup>
  - the discriminatory framework for the purchase of sport fishing licences to the disadvantage of non-residents, in breach of the Services Directive;<sup>16</sup>

<sup>4</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>5</sup> Directive [2014/40/EU](#); [MEMO/16/4211](#).

<sup>6</sup> Directive [2008/98/EC](#); [MEMO/16/1452](#).

<sup>7</sup> Directive [2008/98/EC](#); [MEMO/16/2490](#).

<sup>8</sup> Directive [2011/92/EU](#).

<sup>9</sup> Directive [2008/98/EC](#); [MEMO/16/3644](#).

<sup>10</sup> Directive [2009/73/EC](#) and Regulation [\(EC\) No 715/2009](#); [MEMO/16/319](#).

<sup>11</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

<sup>12</sup> [MEMO/16/4211](#).

<sup>13</sup> Directive [2014/89/EU](#).

<sup>14</sup> Directive [92/83/EEC](#); [MEMO/16/4211](#).

<sup>15</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/4211](#).

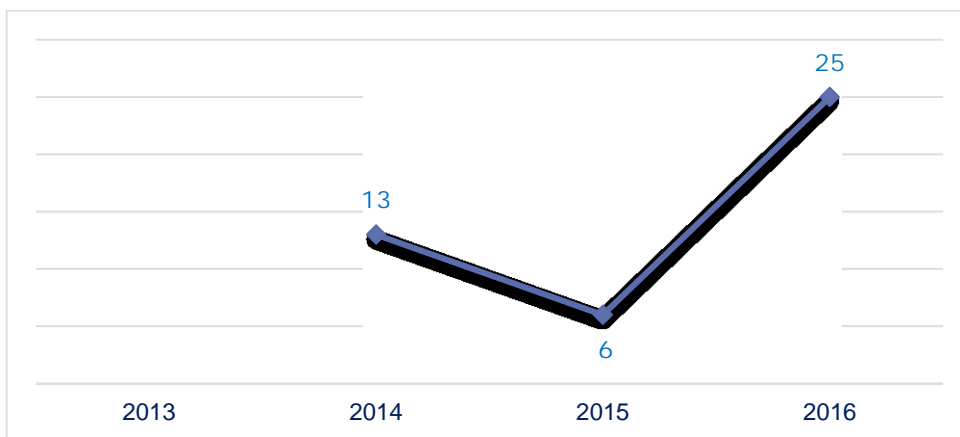
<sup>16</sup> Directive [2006/123/EC](#); [MEMO/16/3125](#).

- failure to correctly transpose and implement the EU rules on driving licences;<sup>17</sup>
- non-ratification of the Protocol of Accession to the Eurocontrol International Convention.<sup>18</sup>

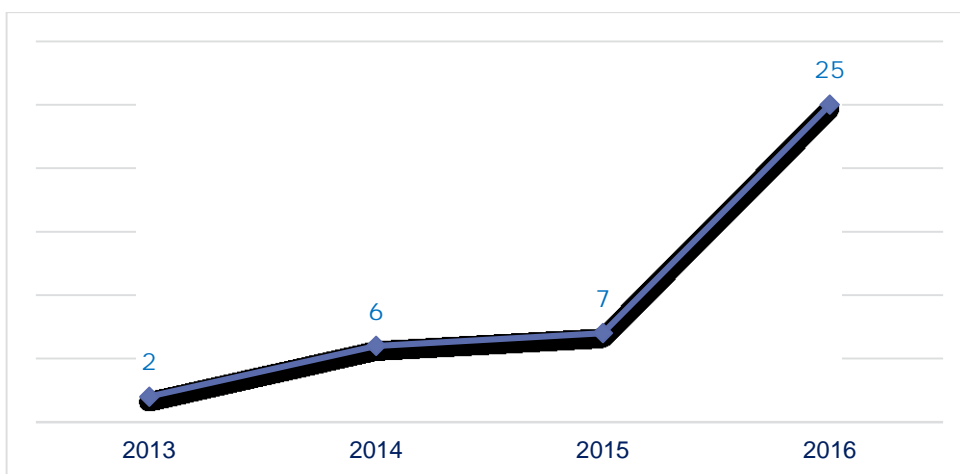
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.  
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Croatia open on 31 December (2013-2016)



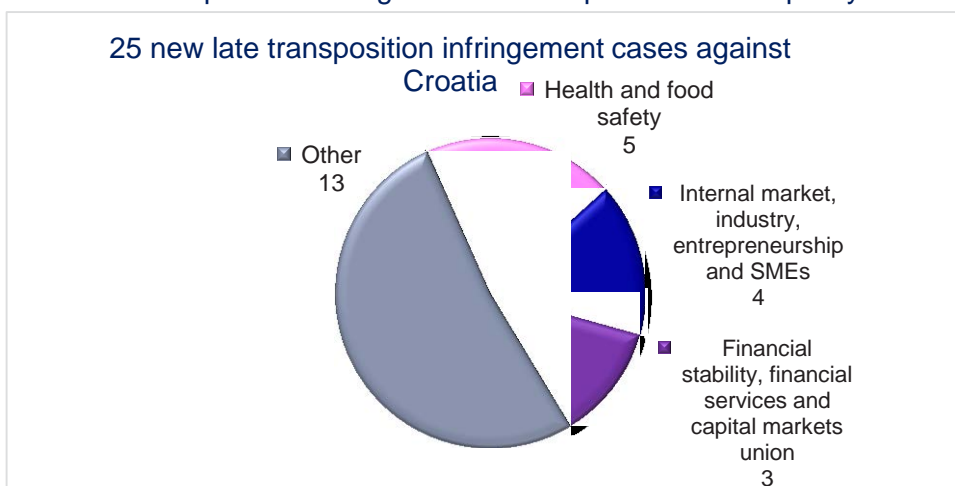
##### 2. New late transposition infringement cases against Croatia (2013-2016)



<sup>17</sup> Directive [2006/126/EC](#); [MEMO/16/2097](#).

<sup>18</sup> [MEMO/16/1452](#).

### 3. New late transposition infringement cases opened in 2016: policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- completing the notification of all national measures necessary to transpose the Bank Resolution and Recovery Directive<sup>19</sup> and the Financial Conglomerates Directive;<sup>20</sup>
- non-compliance with the rules on maritime cabotage;<sup>21</sup>
- non-compliance with the Railway Safety Directive.<sup>22</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>23</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In a preliminary ruling addressed to the Croatian judiciary, the Court held that:

- national legislation which provides that the price of water services invoiced to the consumer includes not only a variable component calculated according to the volume of water actually consumed by the person concerned, but also a fixed component not connected with that volume, is compatible with the Water Framework Directive.<sup>24</sup>

<sup>19</sup> Directive [2014/59/EU](#).

<sup>20</sup> Directive [2011/89/EU](#).

<sup>21</sup> Regulation [\(EEC\) No 3577/92](#).

<sup>22</sup> Directive [2004/49/EC](#).

<sup>23</sup> These rulings are almost exclusively handed down in infringement procedures.

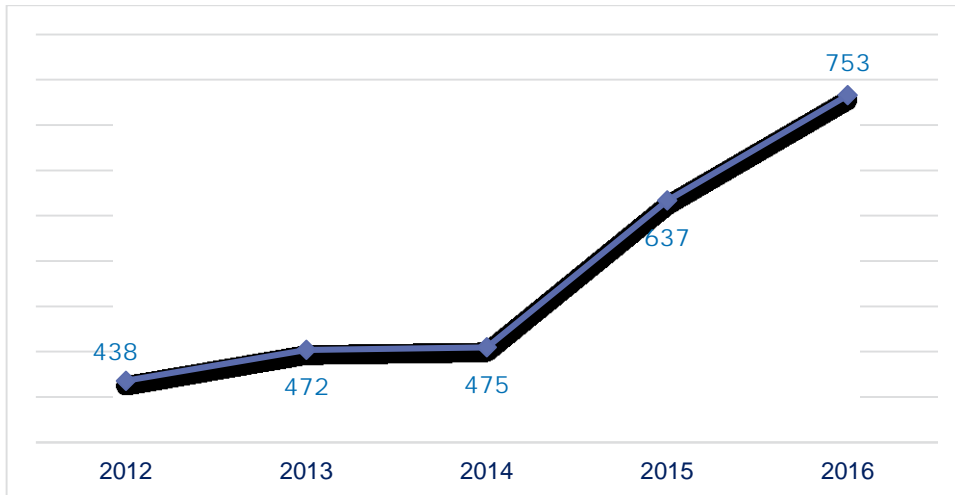
<sup>24</sup> Directive [2000/60/EC](#), Vodoopskrba i odvodnja, [C-686/15](#).

Italy

*New complaints against Italy jumped again in 2016, by approximately 20 % from the 2015 level and by around 50 % from the 2012-2014 levels. By contrast, the numbers of new EU Pilot files and of open infringement cases at year-end were down. New infringement cases for late transposition fell again to a five-year low.*

I. COMPLAINTS

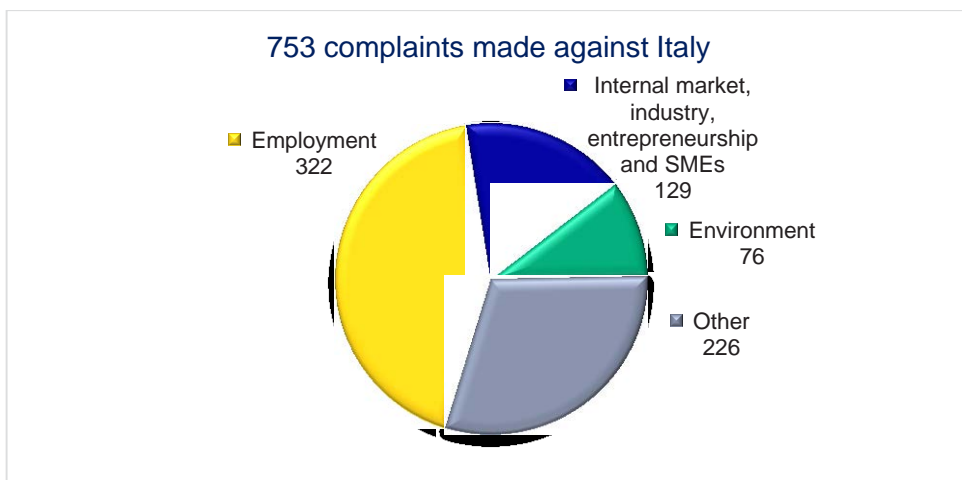
1. New complaints made against Italy by members of the public (2012-2016)



2. Public complaints against Italy open at year-end

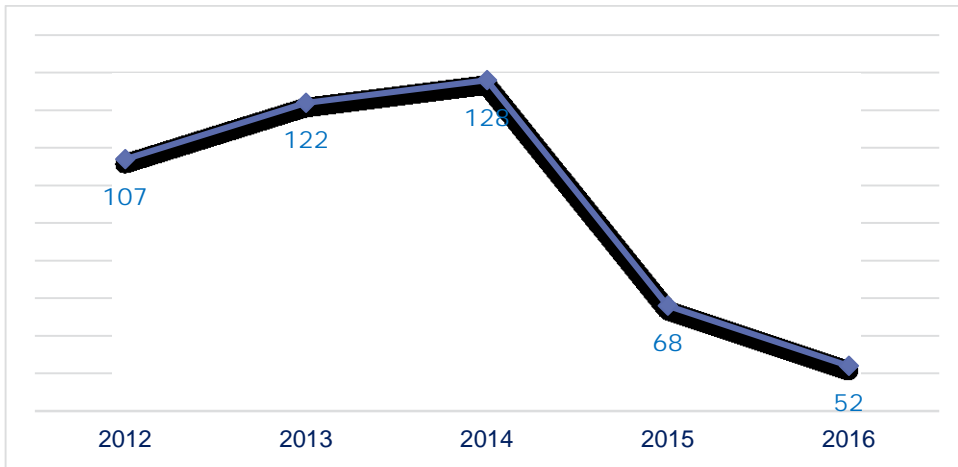
508	>	Complaints open at end-2015
753	>	New complaints registered in 2016
592	>	Complaints handled in 2016
<b>= 669</b>	>	Complaints open at end-2016

3. New complaints registered in 2016: main policy areas

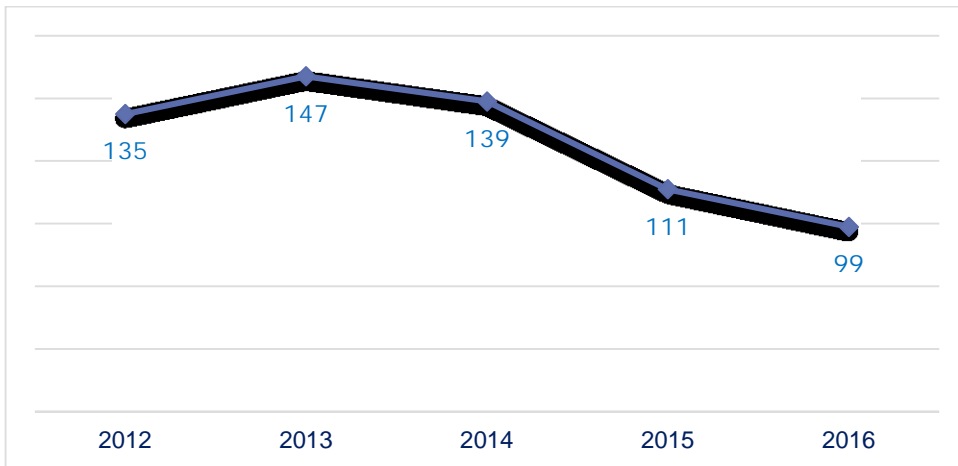


## II. EU PILOT

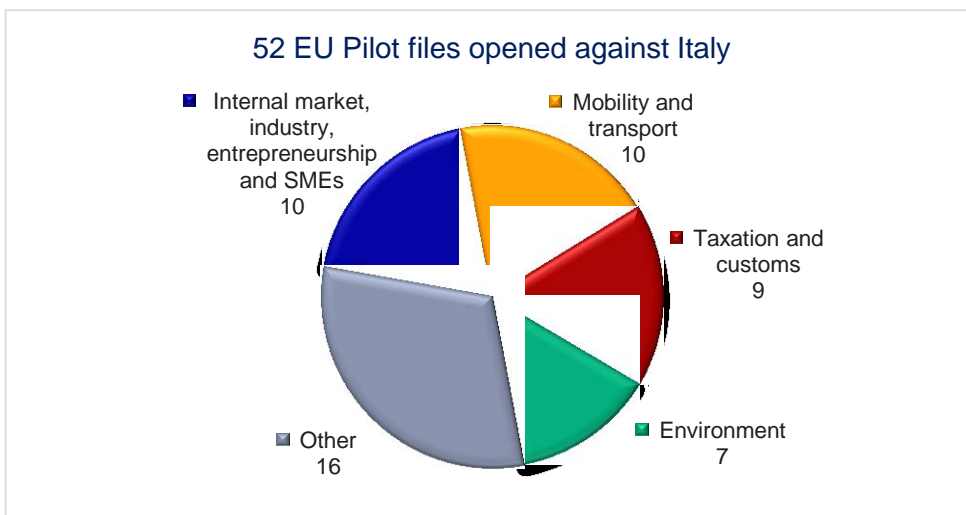
### 1. New EU Pilot files opened against Italy (2012-2016)



### 2. Files relating to Italy open in EU Pilot at year-end

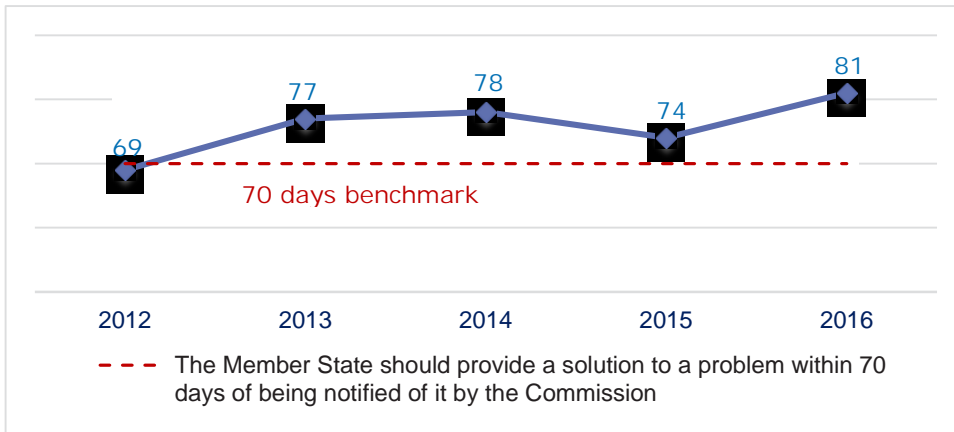


### 3. New EU Pilot files opened in 2016: main policy areas

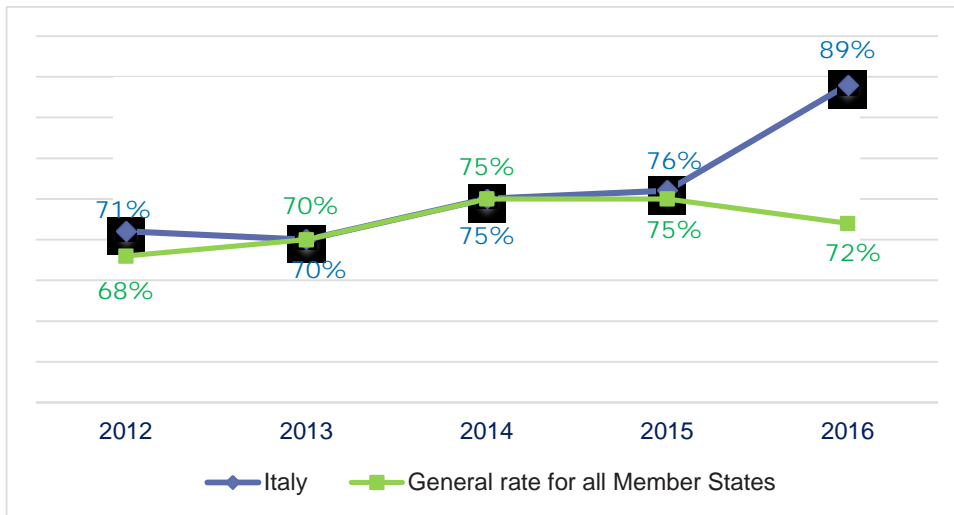


Italy

4. EU Pilot files: Italy's average response time in 2012-2016 (in days)

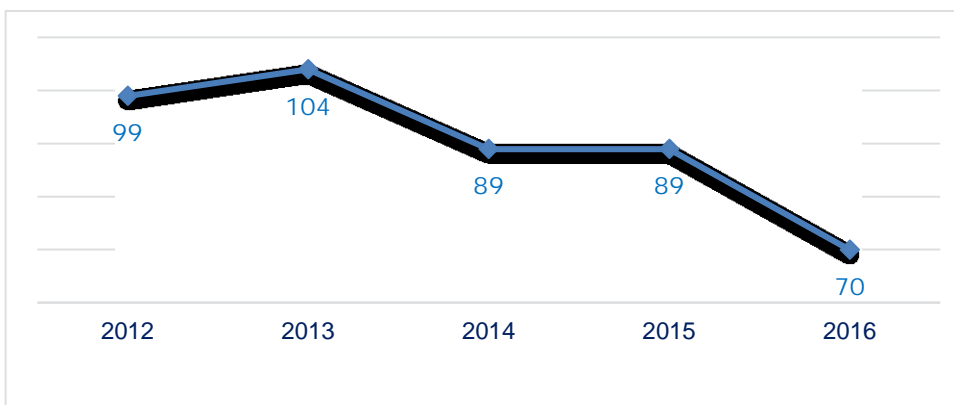


5. EU Pilot files: Italy's resolution rate in 2012-2016



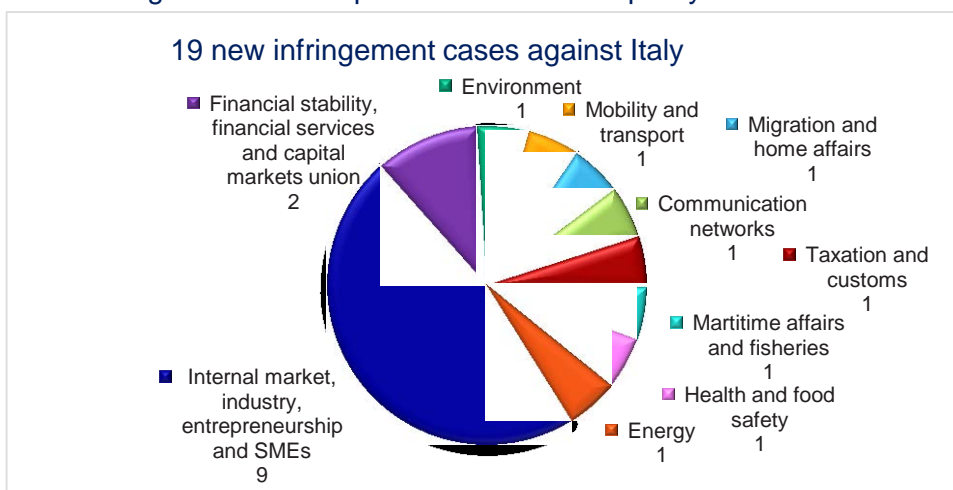
III. INFRINGEMENT CASES

1. Infringement cases against Italy open on 31 December (2012-2016)



Italy

## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

a) The Commission opened 19 new infringement cases against Italy in 2016. These, and other major ongoing infringement cases, include:

- non-compliance with the Commission's Decision<sup>1</sup> on measures to prevent the introduction into and the spread within the EU of the plant bacterium *Xylella fastidiosa*;<sup>2</sup>
- non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>3</sup>
- non-conformity of national legislation with the Return Directive;<sup>4</sup>
- non-communication of national measures transposing the Long-Term Residents Directive;<sup>5</sup>
- non-respect of the PM<sub>10</sub><sup>6</sup> limit values set by the Air Quality Directive;<sup>7</sup>
- lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>8</sup>
- incorrect transposition of the Directive on the protection of animals used for scientific purposes;<sup>9</sup>
- breach of the rules on the separation of accounts under the First Railway Package;<sup>10</sup>
- failure to correctly implement the Airport Charges Directive;<sup>11</sup>
- fishing activities of Italian-flagged vessels in the waters under the jurisdiction of Guinea-Bissau and the Gambia in violation of the EU provisions and the fisheries partnership agreements;
- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive.<sup>12</sup>

<sup>1</sup> Commission Implementing [Decision \(EU\) 2015/789](#).

<sup>2</sup> *Xylella fastidiosa* is one of the most dangerous plant bacteria worldwide, causing a variety of diseases, with huge economic impact for agriculture; [MEMO/16/2490](#).

<sup>3</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>4</sup> Directive [2008/115/EC](#).

<sup>5</sup> Directive [2011/51/EU](#).

<sup>6</sup> PM<sub>10</sub> 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: <http://www.eea.europa.eu/themes/air/air-quality/resources/glossary/pm10>).

<sup>7</sup> Directive [2008/50/EC](#).

<sup>8</sup> Directive [2002/49/EC](#).

<sup>9</sup> Directive [2010/63/EU](#).

<sup>10</sup> Directives [2001/12/EC](#), [2001/13/EC](#) and [2001/14/EC](#).

<sup>11</sup> Directive [2009/12/EC](#), [MEMO/16/319](#).

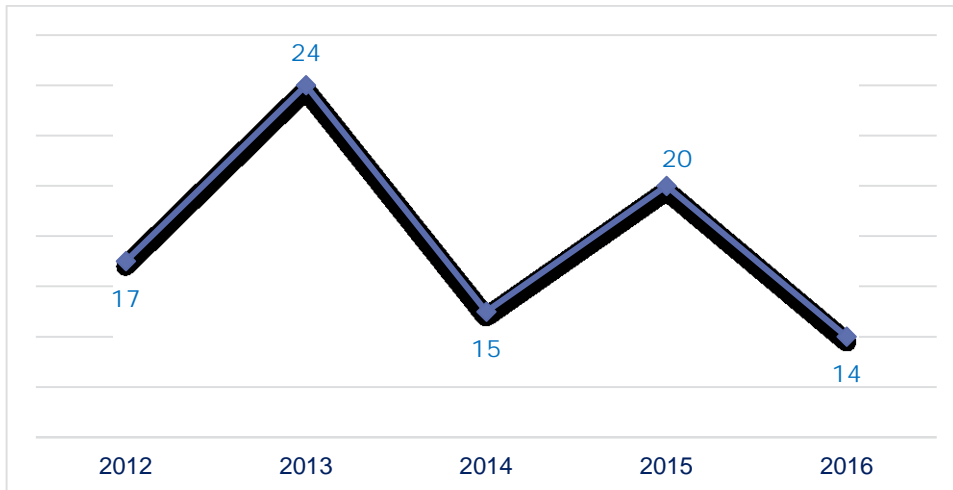


Italy

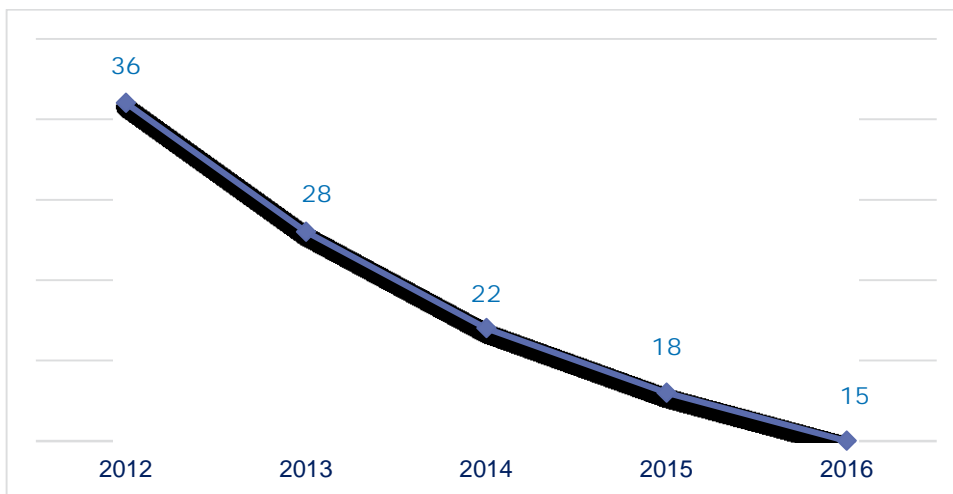
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Italy open on 31 December (2012-2016)



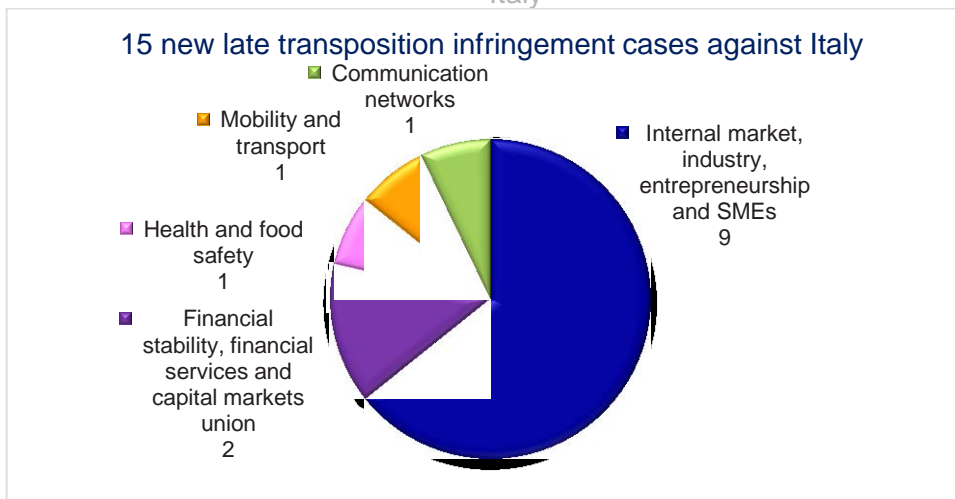
##### 2. New late transposition infringement cases against Italy (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas

<sup>12</sup> Directive [2006/123/EC](#), [MEMO/16/3644](#).

Italy



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2016

These concerned:

- failure to implement the Eurodac Regulation, which sets up an EU asylum fingerprint database;<sup>13</sup>
- bad application of the Birds Directive in relation to the trapping of live decoys using nets;<sup>14</sup>
- non-communication of national measures transposing the new Batteries Directive;<sup>15</sup>
- completing the notification of all national measures necessary to transpose the Capital Requirements Directive<sup>16</sup> and the Directive on alternative investment fund managers;<sup>17</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>18</sup>
- incorrect implementation of the principles governing the investigation of accidents in the maritime transport sector;<sup>19</sup>
- non-compliance with the rules on maritime cabotage.<sup>20</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>21</sup>

The Court ruled that:

- Italy has failed to fulfil its obligations under EU law by failing to guarantee just and appropriate compensation for victims of all violent intentional crimes committed in cross-border situations. The Directive on compensation to victims of crime<sup>22</sup> requires that all violent intentional crimes, as defined in the national legislation of each Member State, should give access to compensation from the state. Member States may not

<sup>13</sup> Regulation (EU) [603/2013](#); [MEMO/16/4211](#).

<sup>14</sup> Directive [2009/147/EC](#).

<sup>15</sup> Directive [2013/56/EU](#).

<sup>16</sup> Directive [2013/36/EU](#).

<sup>17</sup> Directive [2011/61/EU](#).

<sup>18</sup> Directive [2006/126/EC](#).

<sup>19</sup> Directive [2009/18/EC](#).

<sup>20</sup> Regulation (EEC) No [3577/92](#).

<sup>21</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>22</sup> Directive [2004/80/EC](#).

Italy

limit the scope of the compensation scheme for victims to only certain violent intentional crimes. The Court also confirmed that the principle of the prohibition of discrimination on the basis of nationality should be observed as regards access to compensation for the victims of crime in cross-border situations.<sup>23</sup>

## 2. Preliminary rulings

In preliminary rulings addressed to the Italian judiciary, the Court held that:

- the Commission may require Member States to remove all plants capable of being infected by the *Xylella fastidiosa* bacterium, even when there are no symptoms of infection, when such plants are in the vicinity of plants already affected by that bacterium. That measure is proportionate to the objective of protecting plant health in the European Union and is justified by the precautionary principle, taking into consideration the scientific evidence available to the Commission when the measure was adopted;<sup>24</sup>
- the Mining Waste Directive does not have the effect of making subject to the requirements of the Landfill Directive an operation which entails the backfilling of a quarry with waste other than extractive waste, if that operation does not amount to a disposal but to a recovery of waste;<sup>25</sup>
- the term 'small areas at local level', under the Strategic Environmental Assessment Directive, refers to areas under the territorial jurisdiction of the local authority preparing and/or adopting the plan or programme concerned, and which are small in size relative to that territorial jurisdiction;<sup>26</sup>
- the Services Directive<sup>27</sup> is also applicable to maritime concessions.<sup>28</sup>

<sup>23</sup> Commission v Italy, [C-601/14](#) and Court press release No [109/16](#).

<sup>24</sup> Joined Cases [C-78/16](#), *Pesce and Others*.

<sup>25</sup> Directives [2006/21/EC](#) and [1999/31/EC](#), *Edilizia Mastrodonato*, [C-147/15](#).

<sup>26</sup> Directive [2001/42/EC](#), *Associazione Italia Nostra Onlus*, [C-444/15](#).

<sup>27</sup> Directive [2006/123/EC](#).

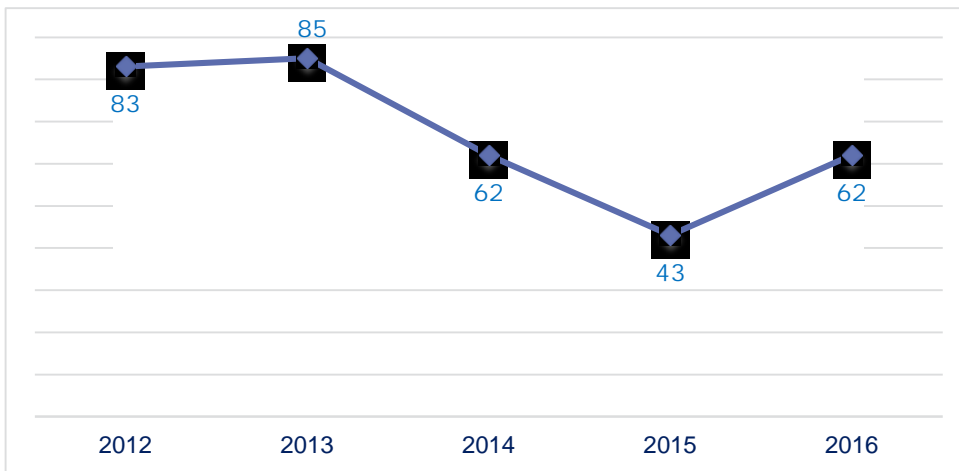
<sup>28</sup> Joined cases [C-458/14](#) and [C-67/15](#), *Promoimpresa /Comune di Loiri*, Court press release No [77/2016](#).

Cyprus

New complaints against Cyprus increased in 2016, equalling their 2014 level. The number of infringement cases open at the end of the year rose sharply to a new peak. The rising trend in new infringement cases for late transposition seen since 2012 continued, although the number remained below the 2011 level. In contrast, the number of new EU Pilot files against Cyprus dropped further.

I. COMPLAINTS

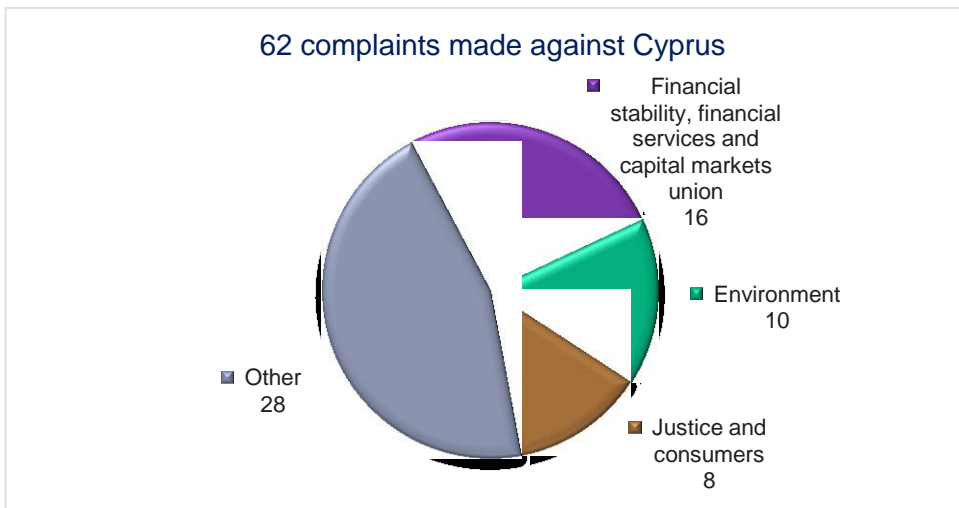
1. New complaints made against Cyprus by members of the public (2012-2016)



2. Public complaints against Cyprus open at year-end

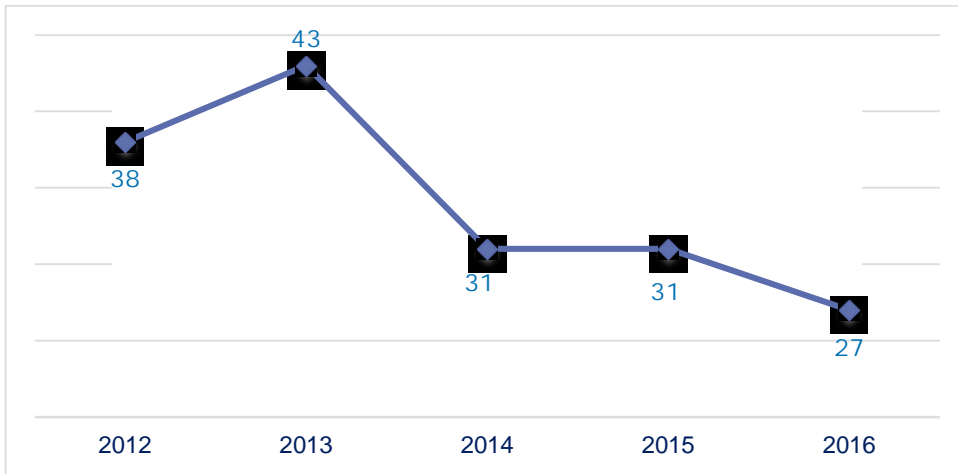
45	>	Complaints open at end-2015
62	>	New complaints registered in 2016
70	>	Complaints handled in 2016
<b>= 37</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

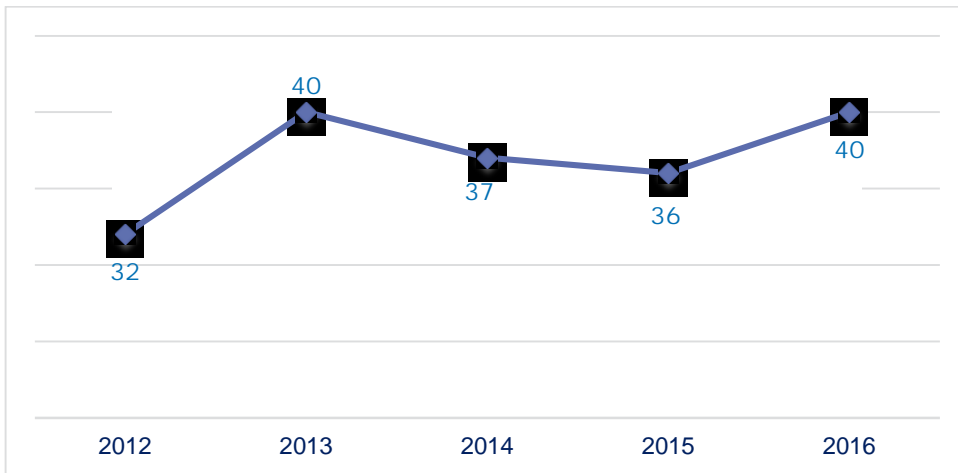


## II. EU PILOT

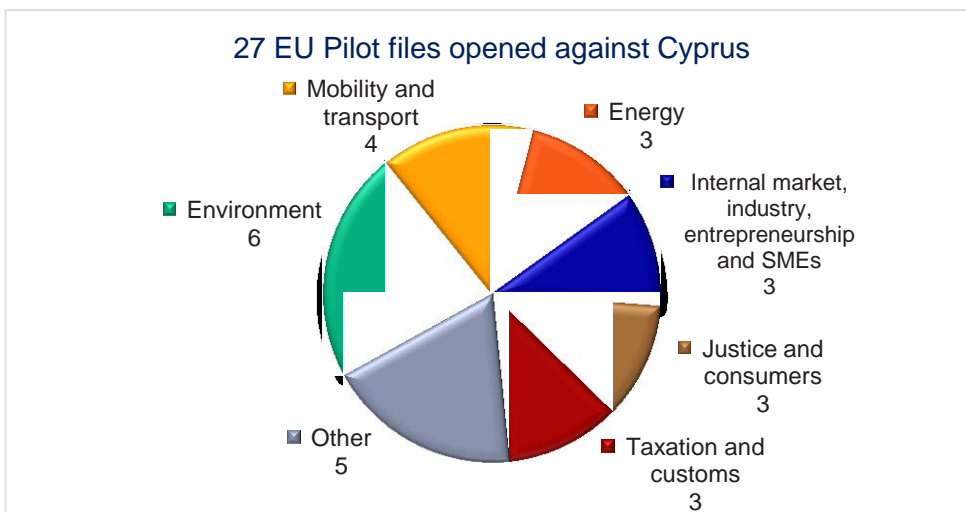
### 1. New EU Pilot files opened against Cyprus (2012-2016)



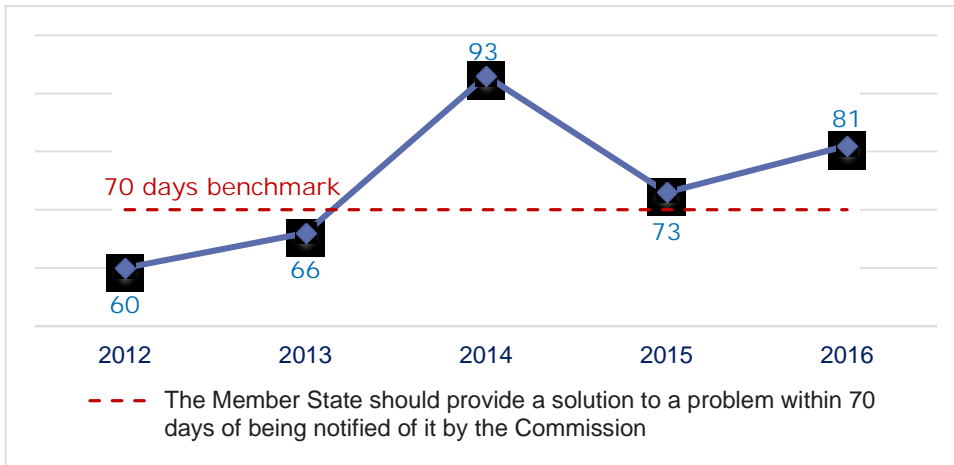
### 2. Files relating to Cyprus open in EU Pilot at year-end



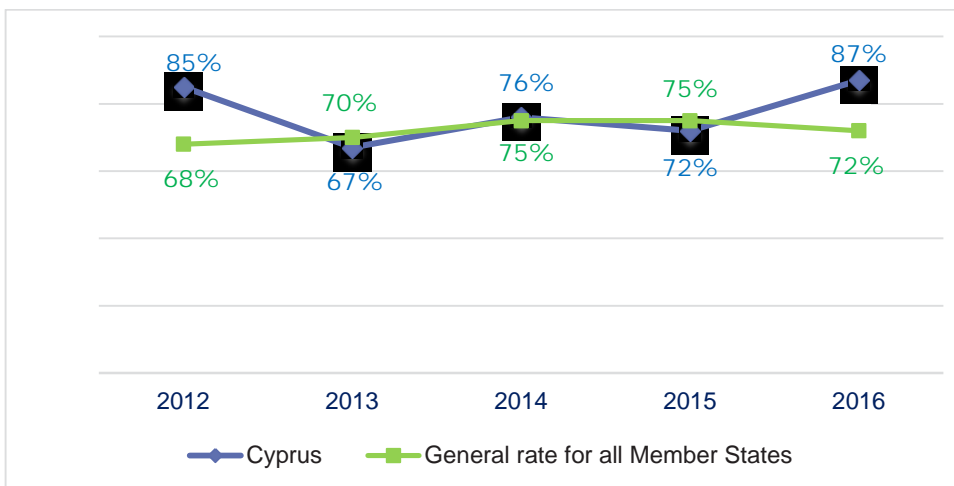
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Cyprus's average response time in 2012-2016 (in days)

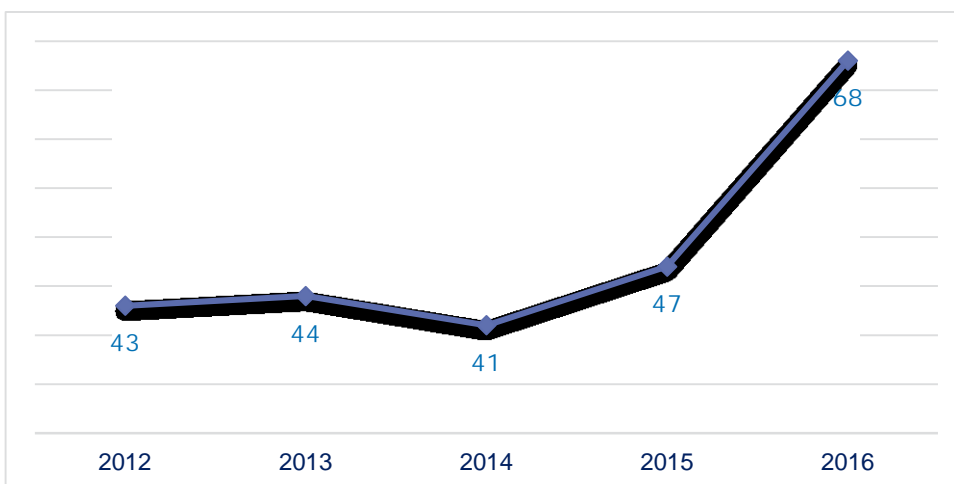


5. EU Pilot files: Cyprus's resolution rate in 2012-2016

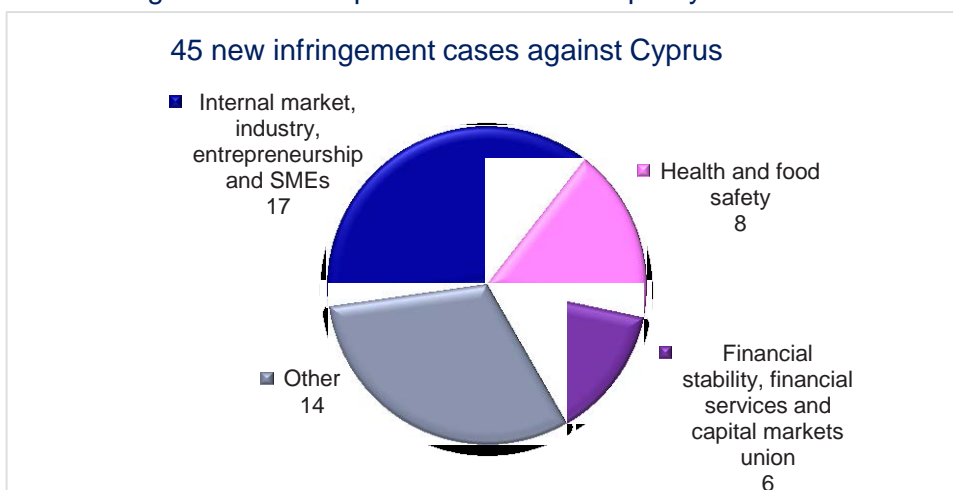


III. INFRINGEMENT CASES

1. Infringement cases against Cyprus open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 45 new infringement cases against Cyprus in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Regulation on the marketing and use of explosives precursors;<sup>1</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>2</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>3</sup>
  - failure to communicate all national measures transposing the Accounting Directive;<sup>4</sup>
  - incorrect implementation of the Directive on accident investigations;<sup>5</sup>
  - incorrect implementation of the Directive on port State control;<sup>6</sup>
  - failure to correctly transpose EU rules on driving licences;<sup>7</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>8</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>9</sup>
  - failure to transpose in full two Directives on public procurement and concessions;<sup>10</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>11</sup>
  - failure to notify transposition measures for the Tobacco Directive.<sup>12</sup>
- 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.

<sup>1</sup> Regulation [\(EU\) No 98/2013](#); [MEMO/16/3125](#).

<sup>2</sup> Directive [2008/98/EC](#); [MEMO/16/4211](#).

<sup>3</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

<sup>4</sup> Directive [2013/34/EU](#); [MEMO/16/2097](#).

<sup>5</sup> Directive [2009/18/EC](#).

<sup>6</sup> Directive [2009/16/EC](#); [MEMO/16/319](#).

<sup>7</sup> Directive [2006/126/EC](#); [MEMO/16/2097](#).

<sup>8</sup> Directive [2014/89/EU](#).

<sup>9</sup> Directive [2006/123/EC](#); [IP/16/323](#), [IP/16/3646](#), [MEMO/16/3644](#) and [MEMO/16/319](#).

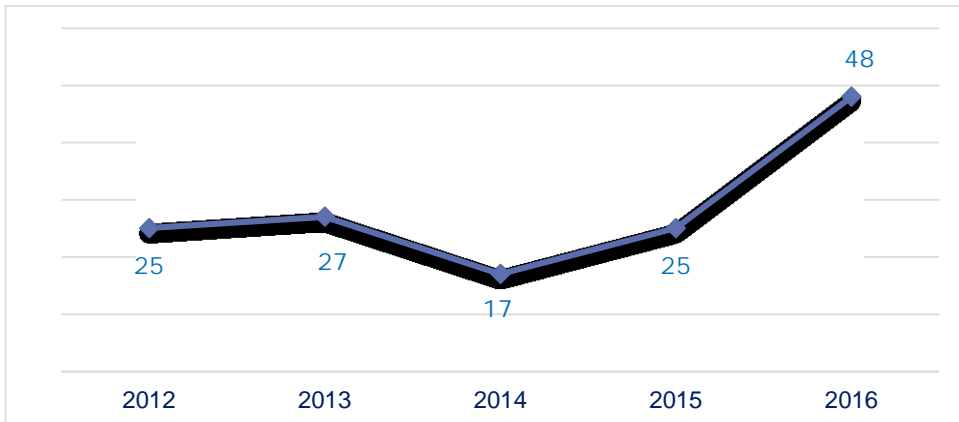
<sup>10</sup> Directives [2014/23/EU](#) and [2014/25/EU](#); [MEMO/16/4211](#).

<sup>11</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

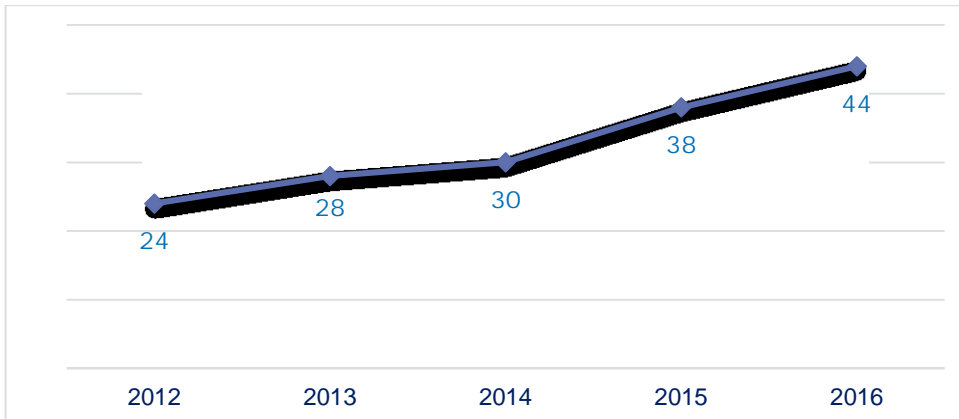
<sup>12</sup> Directive [2014/40/EU](#); [MEMO/16/4211](#).

#### IV. TRANSPOSITION OF DIRECTIVES

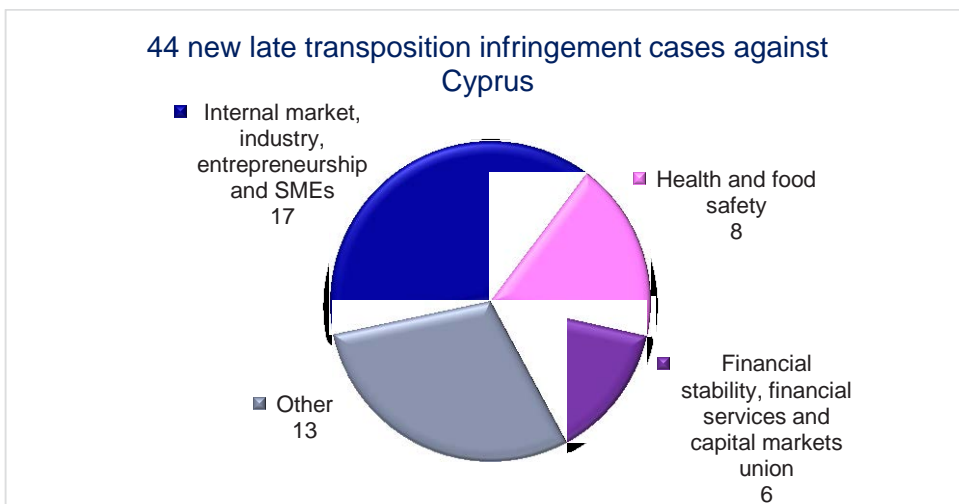
##### 1. Late transposition infringement cases against Cyprus open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Cyprus (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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



## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- failure to implement the Eurodac Regulation, which sets up an EU asylum fingerprint database;<sup>13</sup>
- non-communication of national measures transposing the new Batteries Directive;<sup>14</sup>
- non-communication of national measures transposing the Directive on priority substances in the field of water policy;<sup>15</sup>
- possible discrimination of nationals of other Member States regarding bus fares;<sup>16</sup>
- completing the transposition of the Directive on over-reliance on credit ratings.<sup>17</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>18</sup>

The Court ruled that:

- Cyprus has treated migrant workers unequally by providing that those who left the national civil service to work within the EU institutions or within another international organisation lose their pension right and receive only a lump sum payment. By contrast, civil servants who remained in their position or took up another civil service position in Cyprus received the lump sum and retained their pension right.<sup>19</sup>

### 2. Preliminary rulings

No major preliminary rulings were addressed to the Cyprus judiciary in 2016.

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<sup>13</sup> Regulation [\(EU\) 603/2013](#).

<sup>14</sup> Directive [2013/56/EU](#).

<sup>15</sup> Directive [2013/39/EU](#).

<sup>16</sup> Regulation [\(EU\) No 492/2011](#).

<sup>17</sup> Directive [2013/14/EU](#).

<sup>18</sup> These rulings are almost exclusively handed down in infringement procedures.

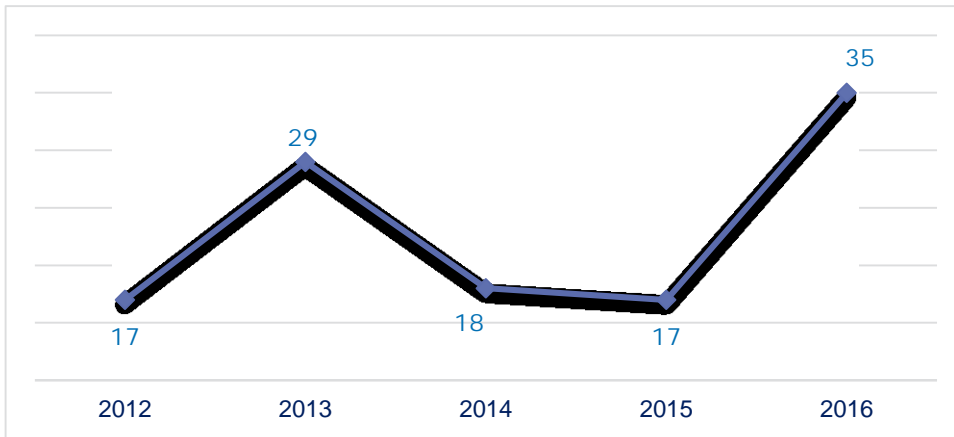
<sup>19</sup> Commission v Cyprus, [C-515/14](#).

Latvia

All the main indicators for Latvia worsened in 2016. New complaints doubled to their highest level since 2012 while the number of new EU Pilot files rose slightly after several years of steady decrease. Open infringement cases and new cases for late transposition both continued to increase.

I. COMPLAINTS

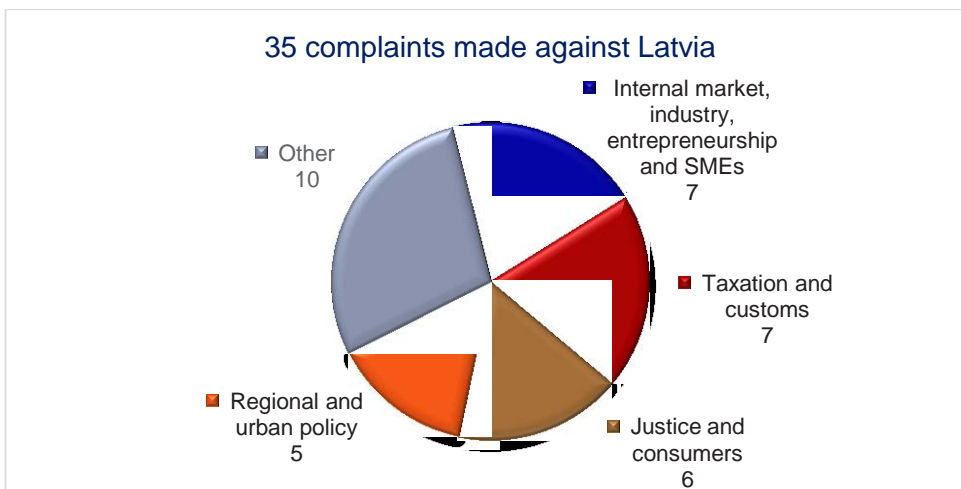
1. New complaints made against Latvia by members of the public (2012-2016)



2. Public complaints against Latvia open at year-end

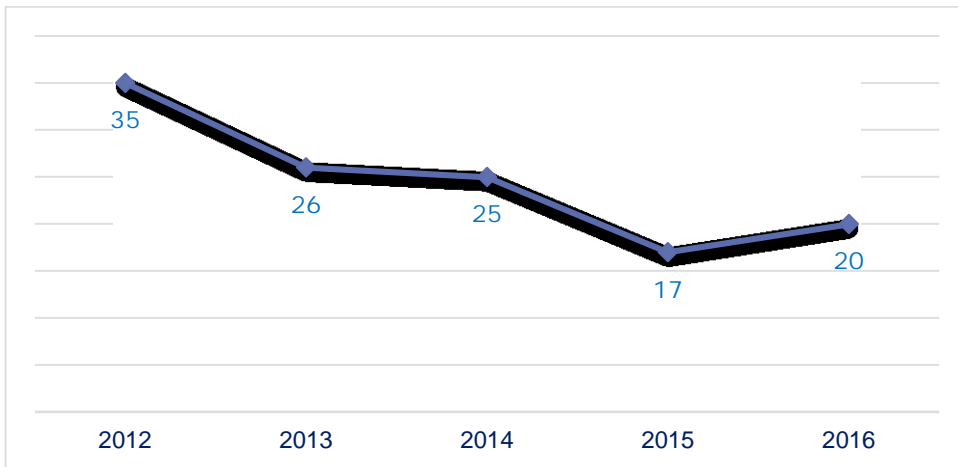
18	>	Complaints open at end-2015
35	>	New complaints registered in 2016
27	>	Complaints handled in 2016
<b>= 26</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

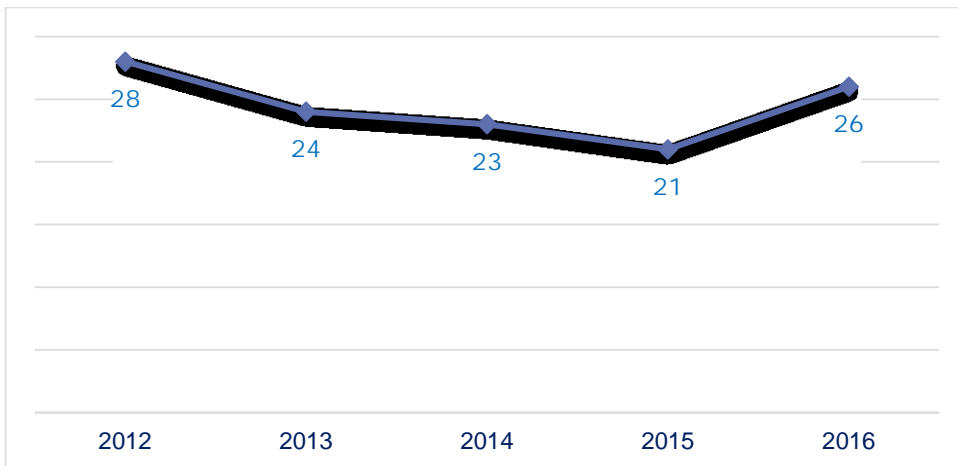


## II. EU PILOT

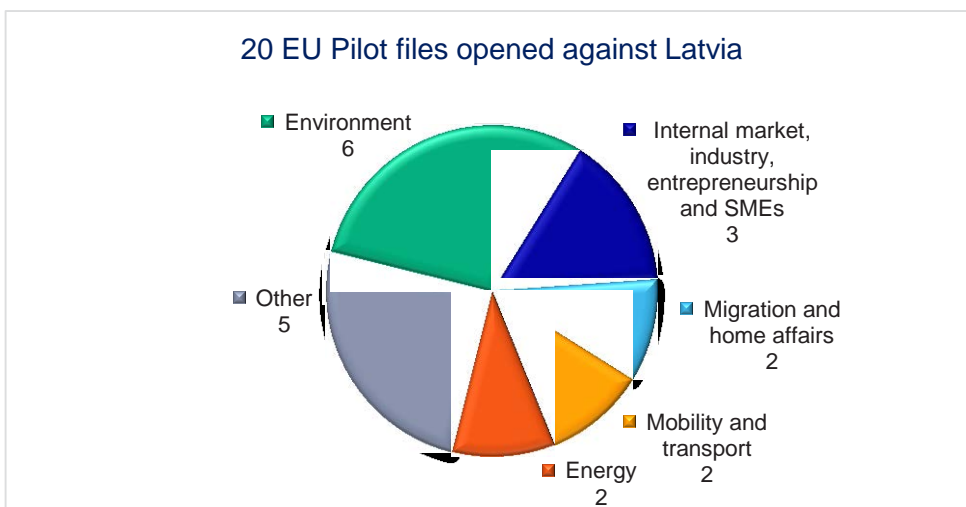
### 1. New EU Pilot files opened against Latvia (2012-2016)



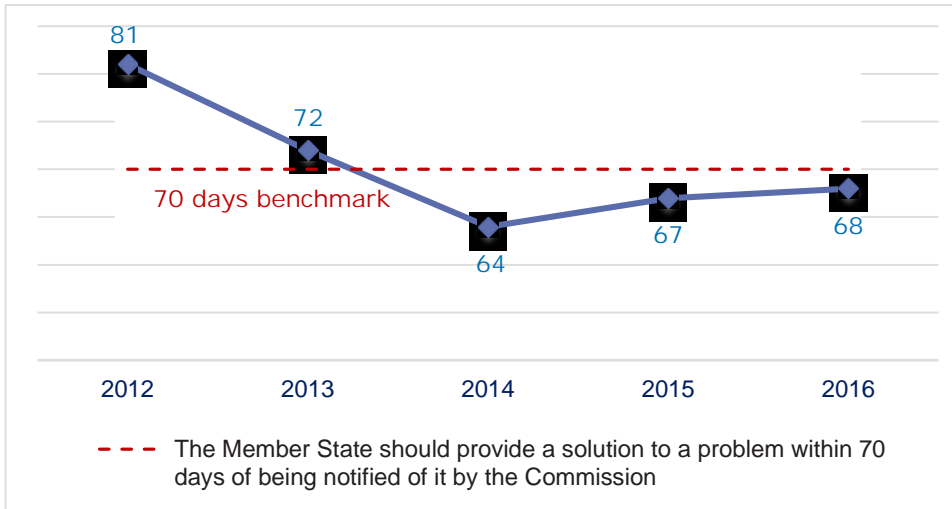
### 2. Files relating to Latvia open in EU Pilot at year-end



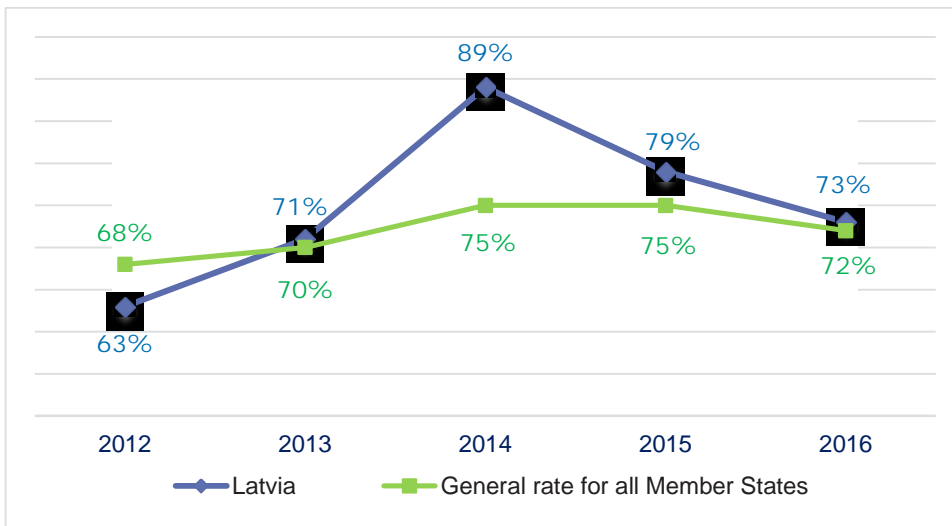
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Latvia's average response time in 2012-2016 (in days)

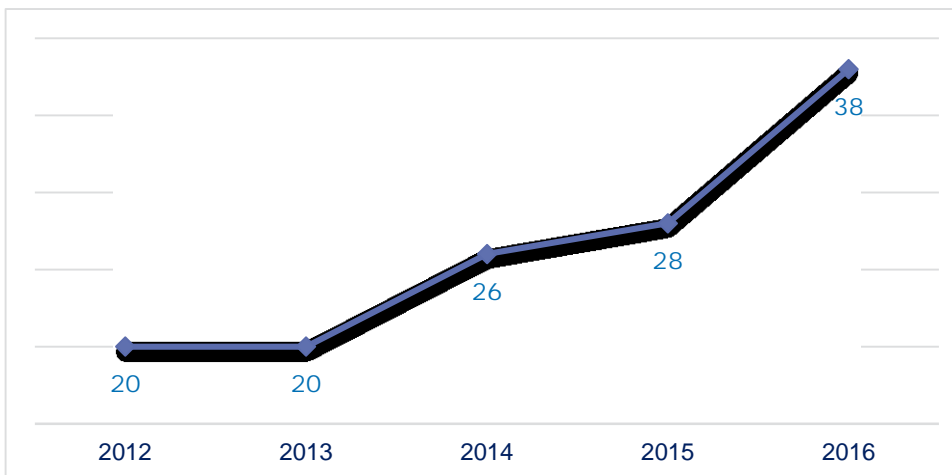


5. EU Pilot files: Latvia's resolution rate in 2012-2016

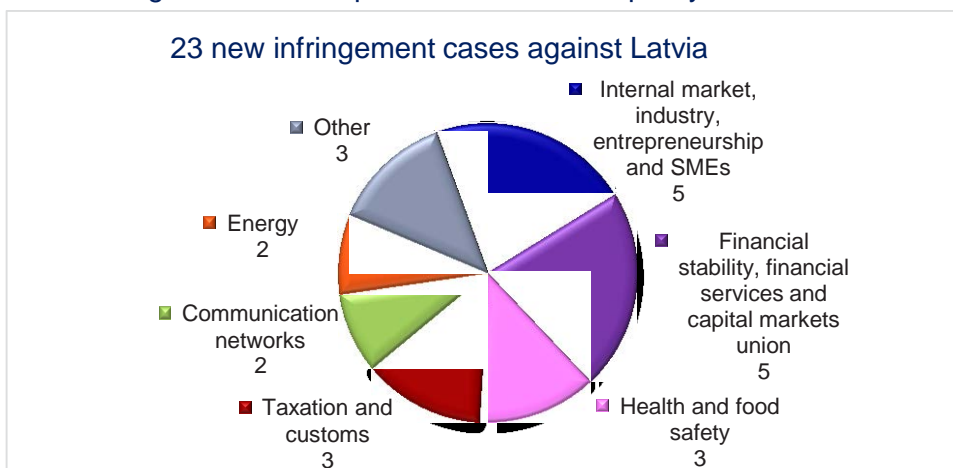


III. INFRINGEMENT CASES

1. Infringement cases against Latvia open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 23 new infringement cases against Latvia in 2016. These, and other major ongoing infringement cases, include:
- failure to fully transpose the Radioactive Waste Directive;<sup>1</sup>
  - failure to communicate all national measures transposing the Capital Requirements Directive<sup>2</sup> and the Directive amending the Transparency Directive;<sup>3</sup>
  - 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;<sup>4</sup>
  - failure to transpose the Directive establishing a single European railway area;<sup>5</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;
  - failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>6</sup>
- 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.

<sup>1</sup> Directive [2011/70/Euratom](#); [MEMO/16/1452](#).

<sup>2</sup> Directive [2013/36/EU](#); [MEMO/16/1452](#).

<sup>3</sup> Directive [2013/50/EU](#); [MEMO/16/3644](#).

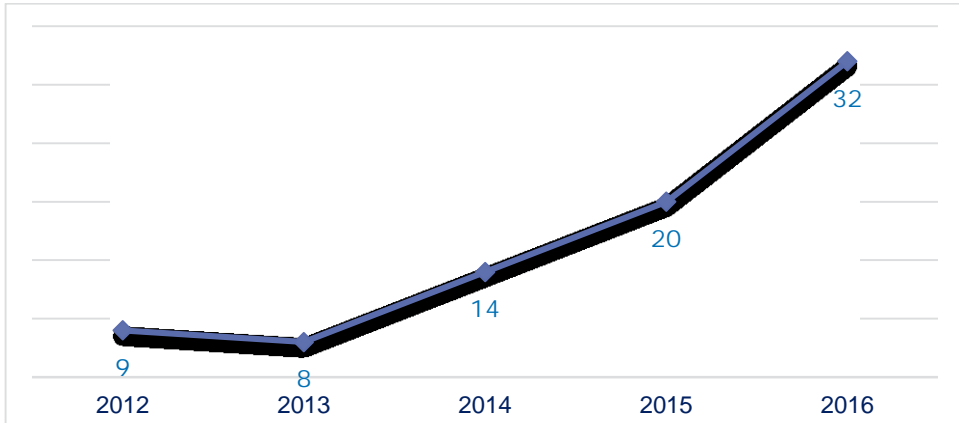
<sup>4</sup> Press releases [IP/16/1827](#) and [MEMO/16/1823](#).

<sup>5</sup> Directive [2012/34/EU](#); [MEMO/16/319](#).

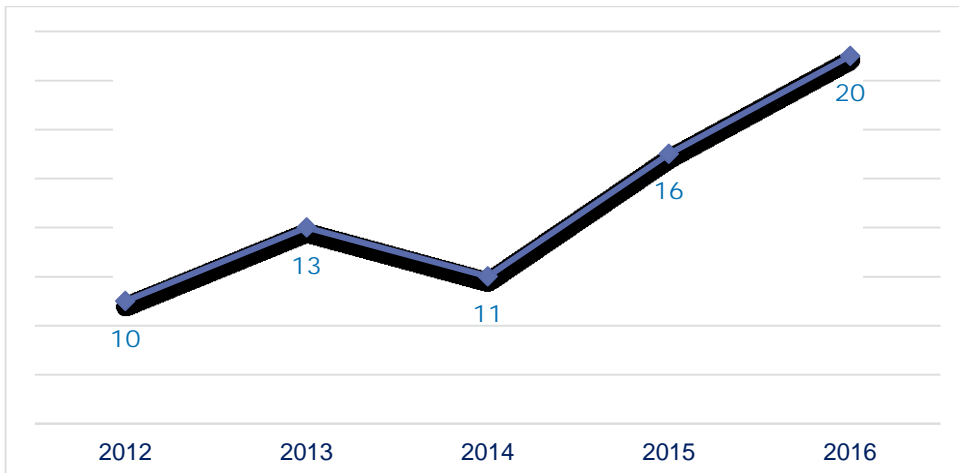
<sup>6</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#); [MEMO/16/1823](#).

#### IV. TRANSPOSITION OF DIRECTIVES

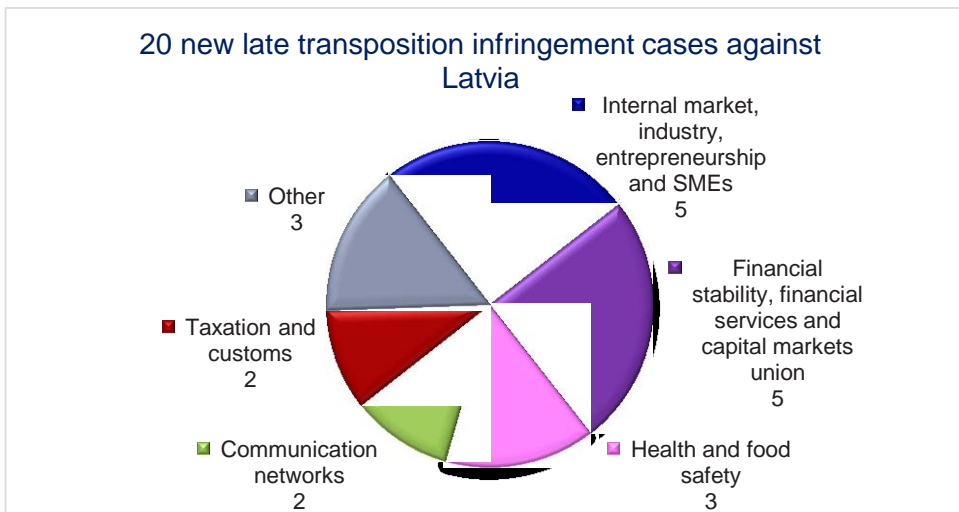
##### 1. Late transposition infringement cases against Latvia open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Latvia (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>7</sup>
- completing the notification of all national measures necessary to transpose the Bank Resolution and Recovery Directive<sup>8</sup> and the Directive on alternative investment fund managers;<sup>9</sup>
- failure to fulfil obligations under the Directive on driving licences.<sup>10</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court ruling<sup>11</sup>

There were no major Court rulings in 2016.

### 2. Preliminary ruling

In preliminary rulings addressed to the Latvian judiciary, the Court held that:

- a Member State is not required to grant every EU citizen who has moved within its territory the same protection against extradition as that granted to its own nationals. However, before extraditing the citizen, the Member State concerned must give priority to the exchange of information with the Member State of origin and allow that Member State to request the citizen's surrender for the purposes of prosecution;<sup>12</sup>
- monies deposited in the current account that are pledged to the bank as financial collateral to cover all the account holder's debts fall within the scope of the Directive on financial collateral arrangements<sup>13</sup> if those monies have been 'provided' to the bank, that is, the collateral provider must be prevented from disposing of such monies lodged in the ordinary bank account. The Court also confirmed that the collateral does not normally fall within the scope of the Directive if it was provided after the launch of an insolvency procedure but can be enforceable in exceptional circumstances.<sup>14</sup>

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<sup>7</sup> Directive [2012/18/EU](#).

<sup>8</sup> Directive [2014/59/EU](#).

<sup>9</sup> Directive [2011/61/EU](#).

<sup>10</sup> Directive [2006/126/EC](#).

<sup>11</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>12</sup> Petruhhin, [C-182/15](#) and Court press release [No 84/16](#).

<sup>13</sup> Directive [2002/47/EC](#).

<sup>14</sup> Private Equity Insurance Group, [C-156/15](#).



Brussels, 6.7.2017  
SWD(2017) 260 final

PART 2/2

**COMMISSION STAFF WORKING DOCUMENT**

**Part II: Member States**

*Accompanying the document*

**Monitoring the application of European Union law  
2016 Annual Report**

{COM(2017) 370 final}  
{SWD(2017) 259 final}

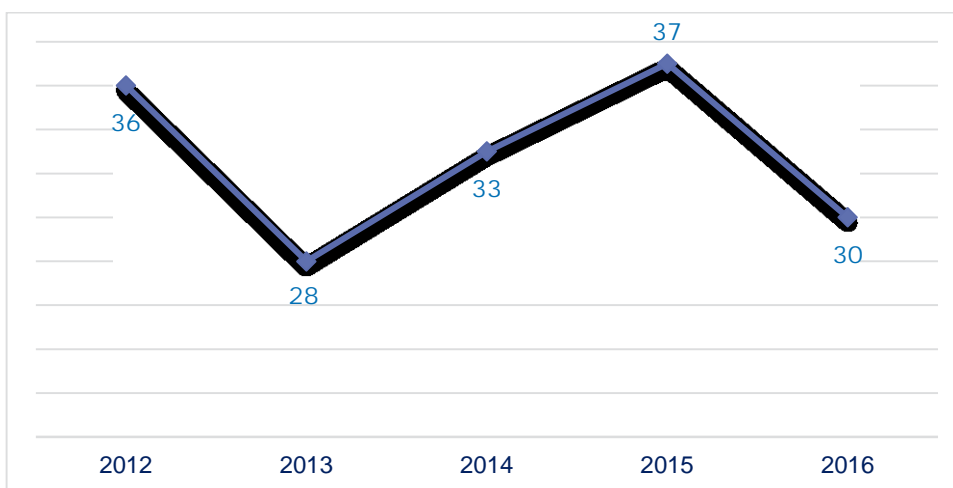


## Lithuania

*In 2016 new complaints against Lithuania fell after rising for 2 years. The number of new EU Pilot files continued its downward trend. However, both the numbers of open infringement cases and of new cases for late transposition rose to their highest levels since 2012.*

### I. COMPLAINTS

#### 1. New complaints made against Lithuania by members of the public (2012-2016)



#### 2. Public complaints against Lithuania open at year-end

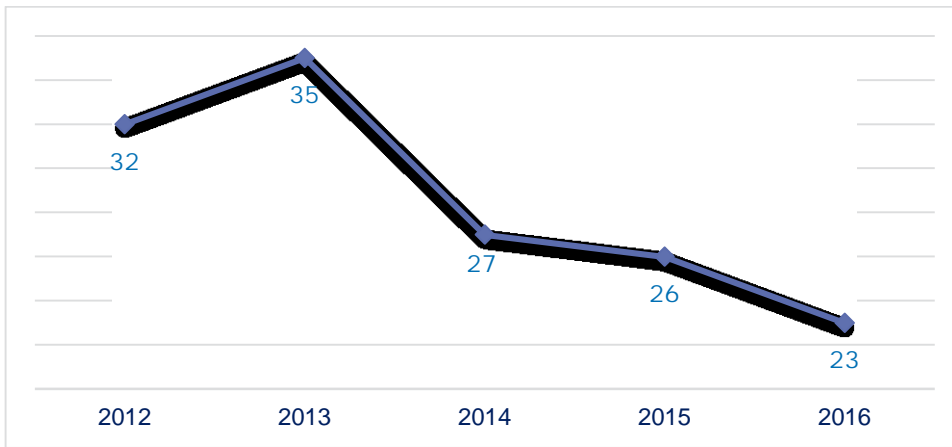
45	>	Complaints open at end-2015
30	>	New complaints registered in 2016
36	>	Complaints handled in 2016
<b>= 39</b>	>	Complaints open at end-2016

#### 3. New complaints registered in 2016: main policy areas

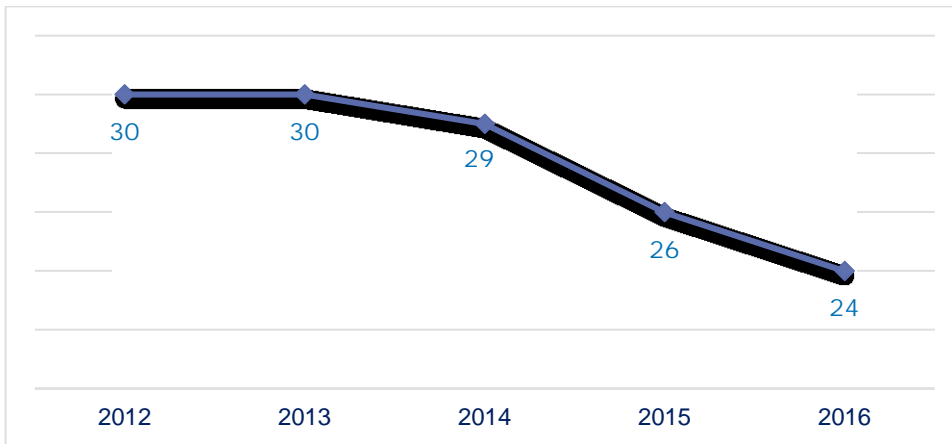


## II. EU PILOT

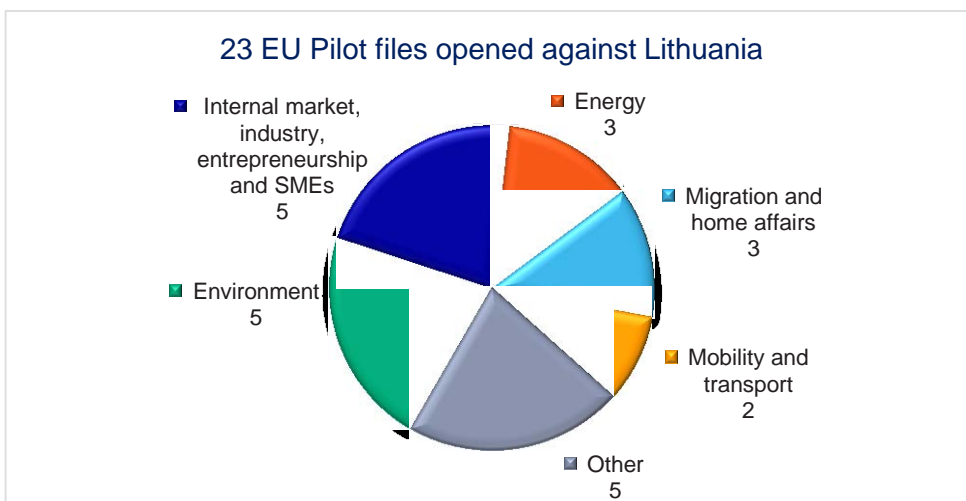
### 1. New EU Pilot files opened against Lithuania (2012-2016)



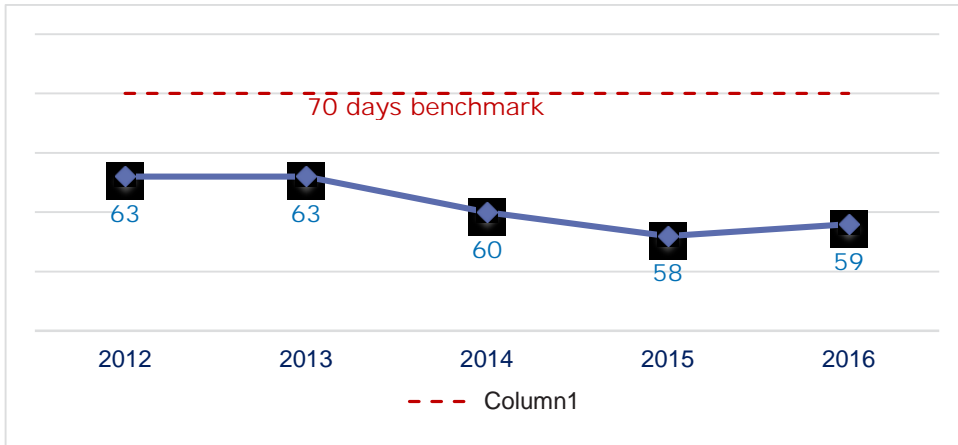
### 2. Files relating to Lithuania open in EU Pilot at year-end



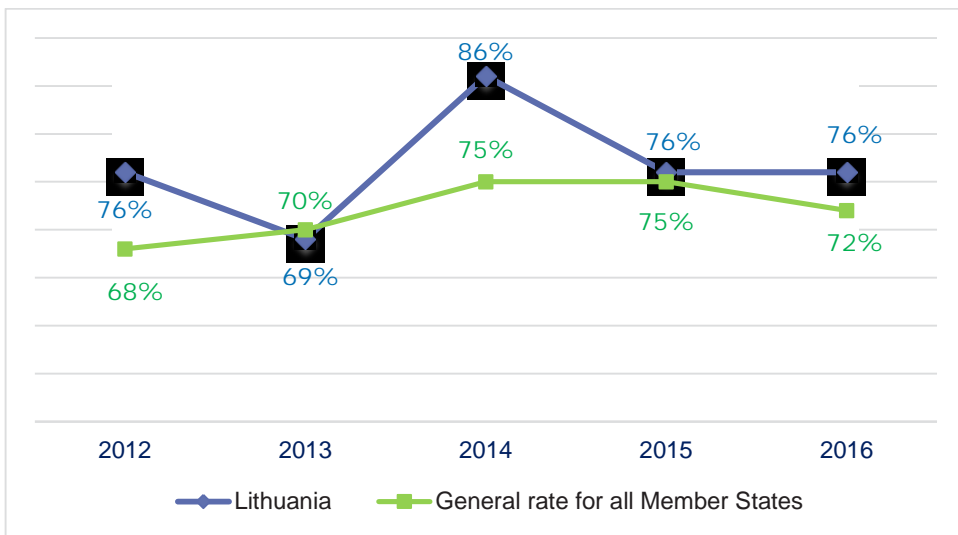
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Lithuania's average response time in 2012-2016 (in days)

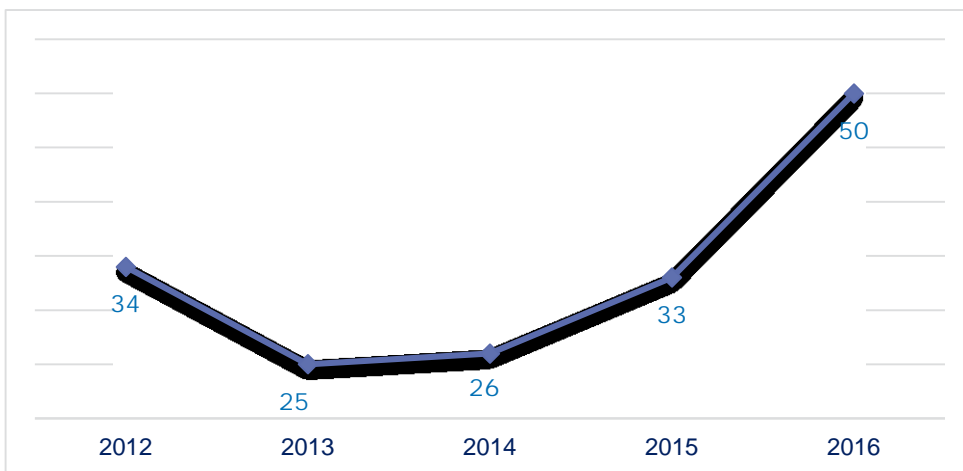


5. EU Pilot files: Lithuania's resolution rate in 2012-2016

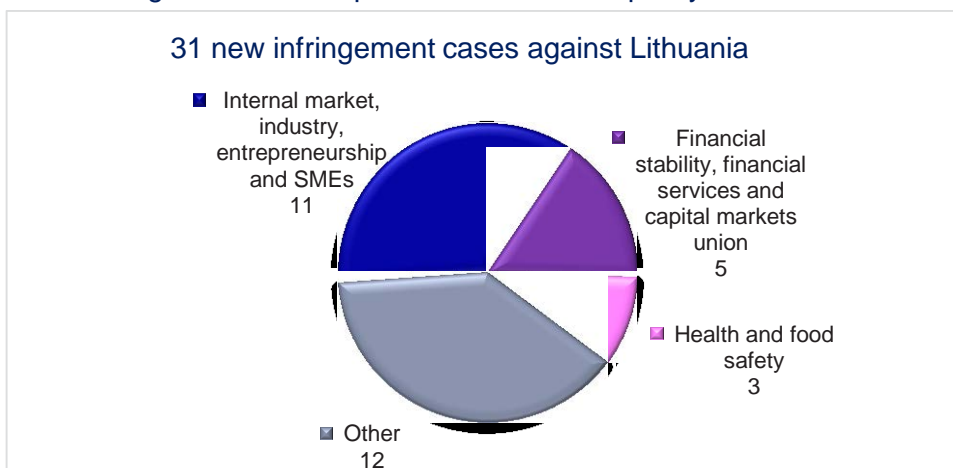


III. INFRINGEMENT CASES

1. Infringement cases against Lithuania open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 31 new infringement cases against Lithuania in 2016. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the Framework Decision on the 'Swedish initiative' on simplifying the exchange of information and intelligence between law enforcement authorities of EU Member States;<sup>1</sup>
  - non-communication of national measures transposing the Directive on interpretation and translation in criminal proceedings;<sup>2</sup>
  - 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;<sup>3</sup>
  - restrictions on the freedom to provide port services and the freedom of establishment;
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>4</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>5</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>6</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation.<sup>7</sup>
- 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.

<sup>1</sup> Framework Decision [2006/960/JHA](#).

<sup>2</sup> Directive [2010/64/EU](#); [MEMO/16/3644](#).

<sup>3</sup> Press releases [IP/16/1827](#) and [MEMO/16/1823](#).

<sup>4</sup> Directive [2014/89/EU](#).

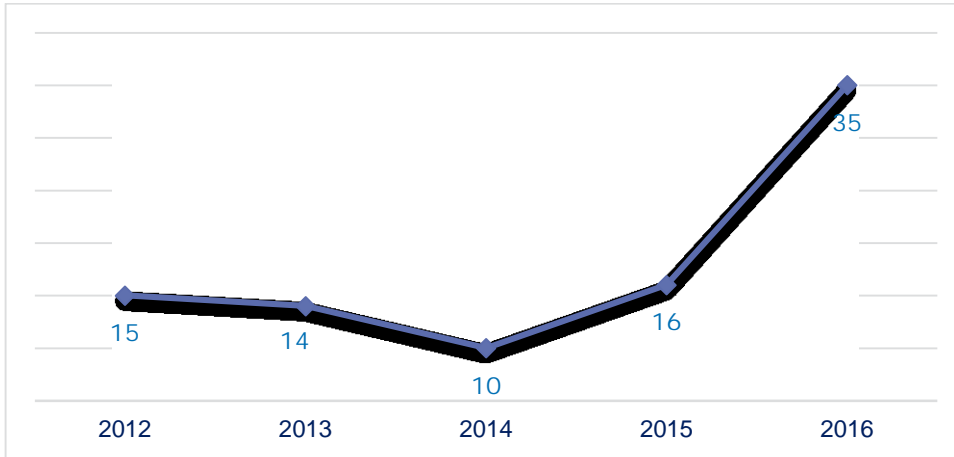
<sup>5</sup> Directive [2006/123/EC](#), [IP/16/3646](#), [MEMO/16/3644](#).

<sup>6</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

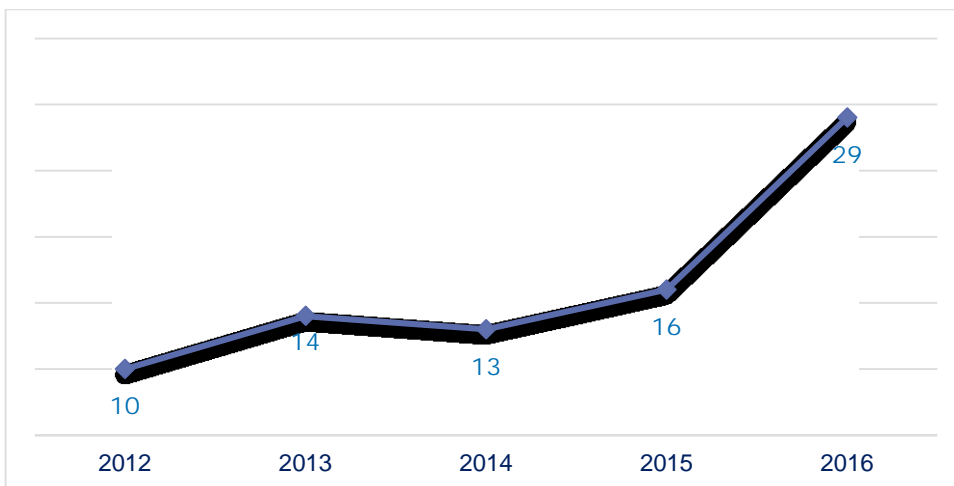
<sup>7</sup> Directive [2007/46/EC](#) and Regulation [2007/15/EC](#), [IP/16/4214](#).

#### IV. TRANSPOSITION OF DIRECTIVES

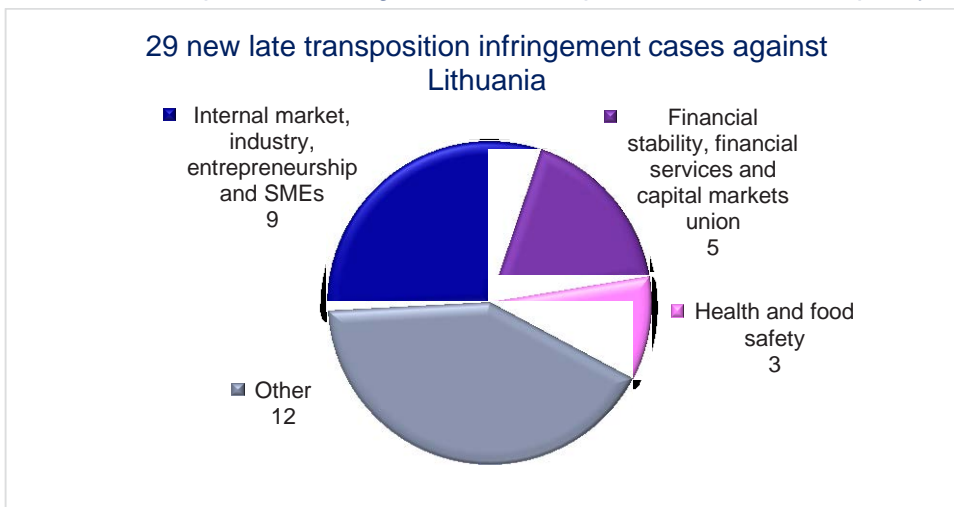
##### 1. Late transposition infringement cases against Lithuania open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Lithuania (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>8</sup>
- completing the notification of all national measures necessary to transpose the Capital Requirements Directive<sup>9</sup> and the Bank Resolution and Recovery Directive;<sup>10</sup>
- non-compliance with the Railway Safety Directive;<sup>11</sup>
- lack of implementation of the Regulations on airworthiness.<sup>12</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>13</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In a preliminary ruling addressed to the Lithuanian judiciary, the Court held that:

- an air carrier which has concluded a contract of international carriage with an employer of persons carried as passengers is liable to that employer for damage caused by a delay in flights on which its employees were passengers under that contract.<sup>14</sup>
- an organ of the executive such as the Ministry of Justice of the Republic of Lithuania cannot be designated as 'issuing judicial authority' and the act issued by such body cannot be regarded as a 'judicial decision' for the purpose of executing a European arrest warrant.<sup>15</sup>

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<sup>8</sup> Directive [2012/18/EU](#).

<sup>9</sup> Directive [2013/36/EU](#).

<sup>10</sup> Directive [2014/59/EU](#).

<sup>11</sup> Directive [2004/49/EC](#).

<sup>12</sup> Regulations (EU) [748/2012](#) and [1321/2014](#).

<sup>13</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>14</sup> *Air Baltic Corporation AS v Lietuvos Respublikos specialiujų tyrimų tarnyba*, [C-429/14](#).

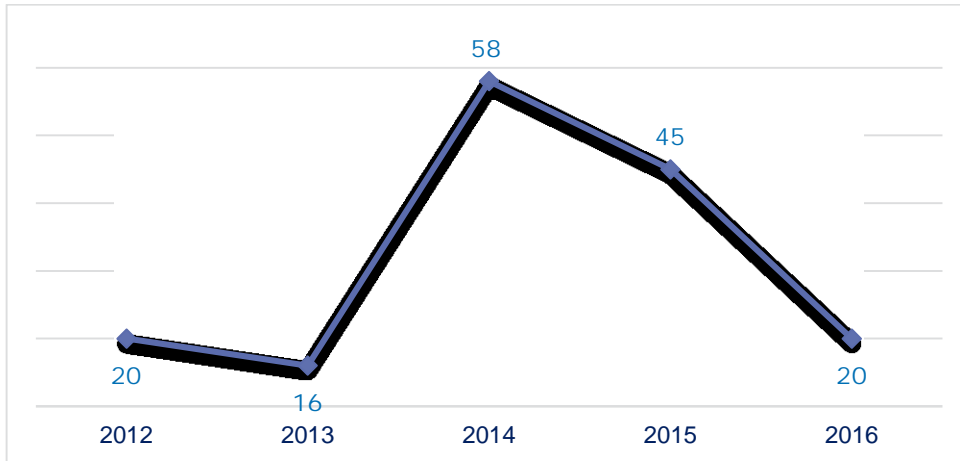
<sup>15</sup> *Kovalkovas*, [C-477/16 PPU](#).

Luxembourg

*New complaints against Luxembourg in 2016 fell by more than half, the second drop in a row. The number of new EU Pilot files was unchanged. By contrast, open infringement cases and new infringement cases for late transposition both increased quite sharply.*

I. COMPLAINTS

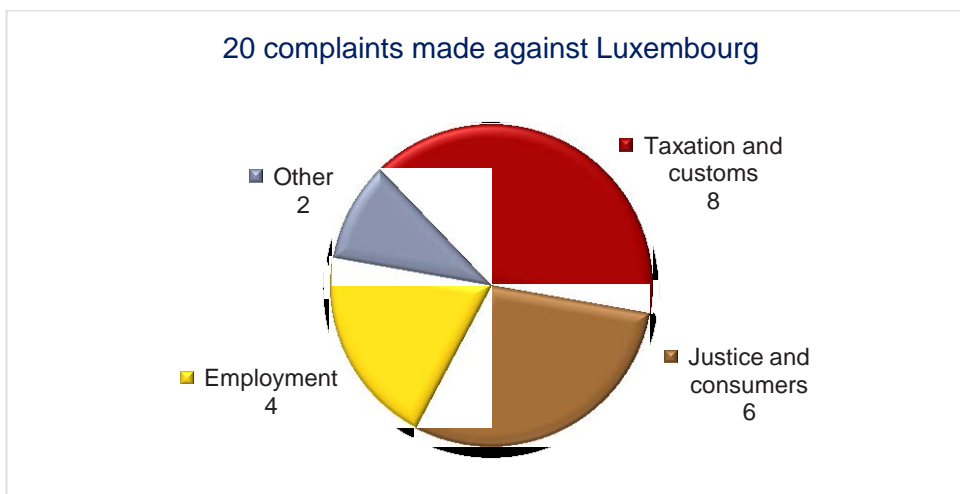
1. New complaints made against Luxembourg by members of the public (2012-2016)



2. Public complaints against Luxembourg open at year-end

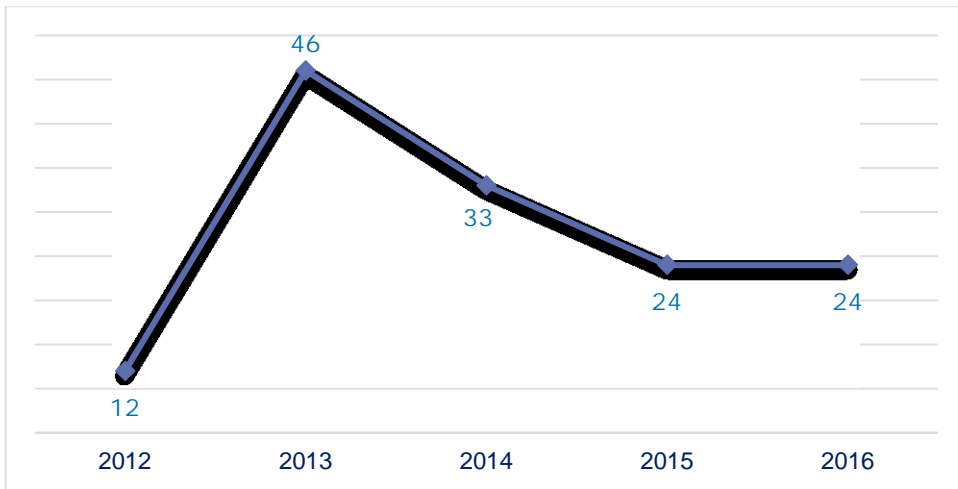
41	>	Complaints open at end-2015
20	>	New complaints registered in 2016
24	>	Complaints handled in 2016
<b>= 37</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

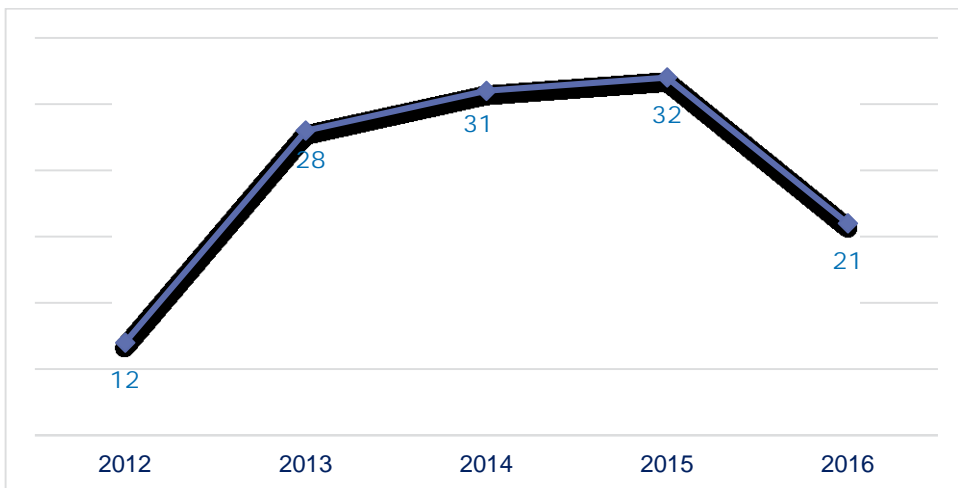


## II. EU PILOT

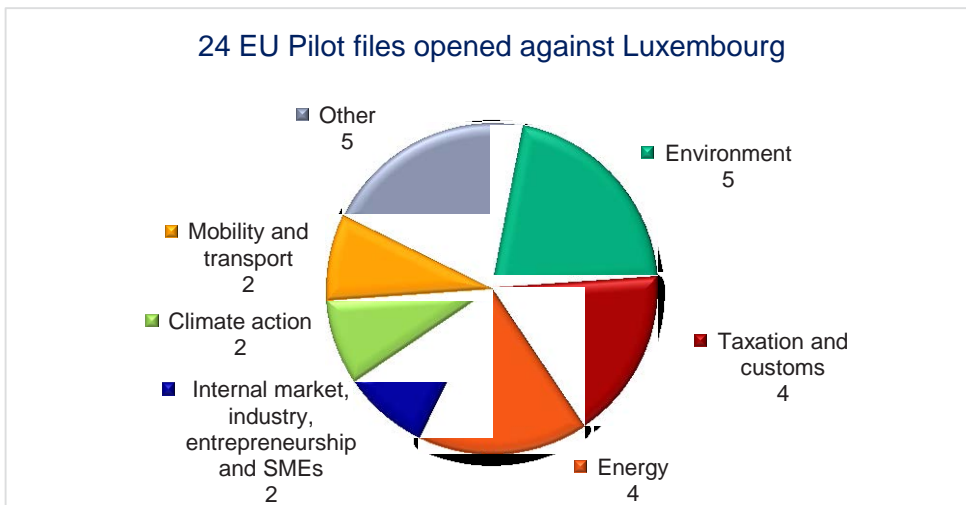
### 1. New EU Pilot files opened against Luxembourg (2012-2016)



### 2. Files relating to Luxembourg open in EU Pilot at year-end

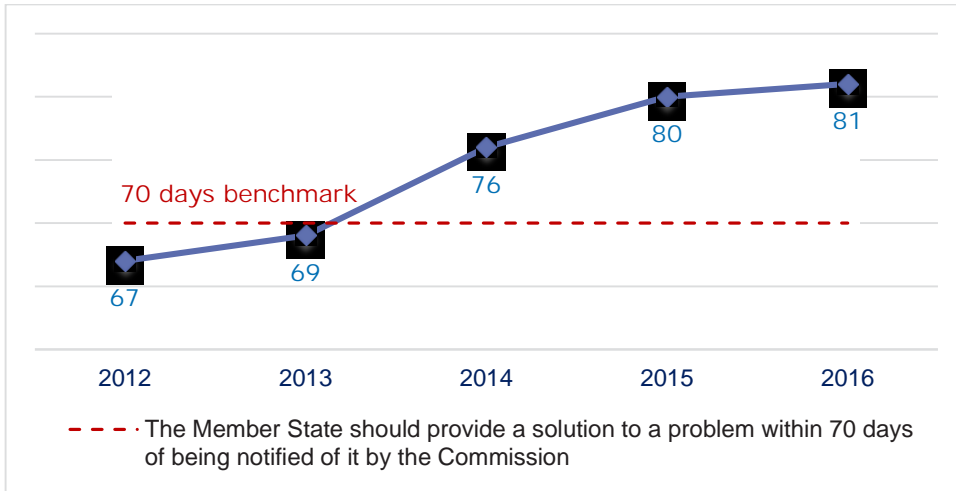


### 3. New EU Pilot files opened in 2016: main policy areas

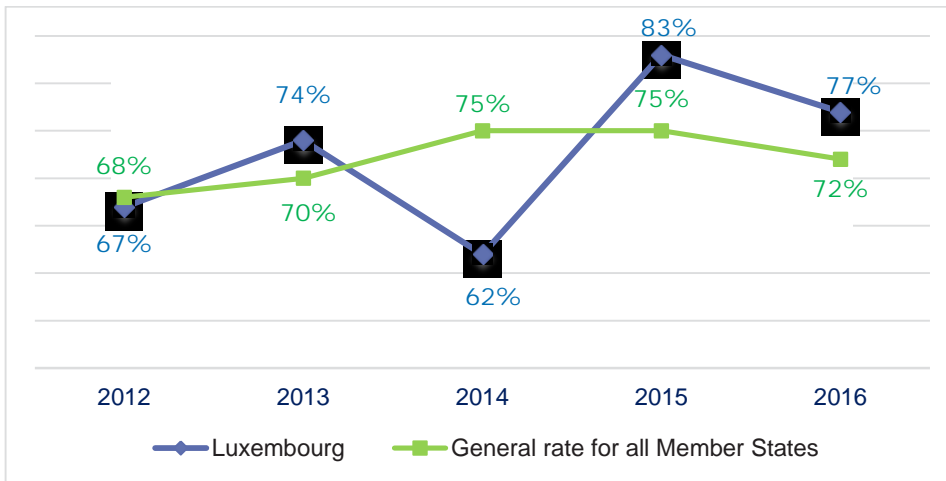




4. EU Pilot files: Luxembourg's average response time in 2012-2016 (in days)

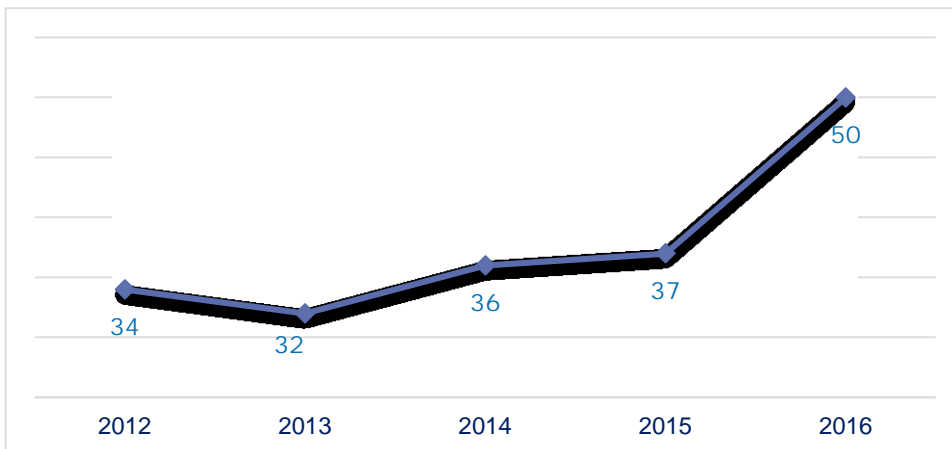


5. EU Pilot files: Luxembourg's resolution rate in 2012-2016

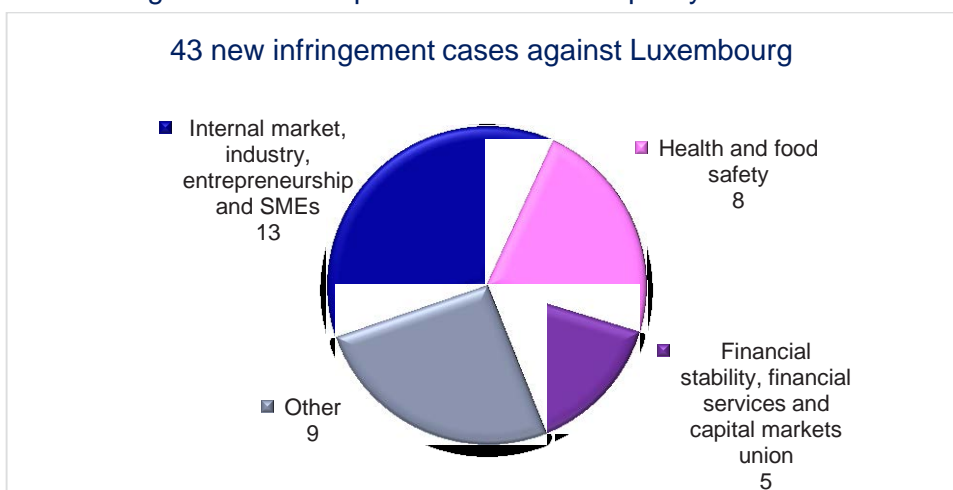


III. INFRINGEMENT CASES

1. Infringement cases against Luxembourg open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 43 new infringement cases against Luxembourg in 2016. These, and other major ongoing infringement cases, include:
- failure to notify measures transposing the Tobacco Directive;<sup>1</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>2</sup>
  - non-compliance with the Regulation on the marketing and use of explosives precursors;<sup>3</sup>
  - repeal of the minimum entity tax. This is incompatible with the Directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States;<sup>4</sup>
  - failure to notify transposition measures for the 'Swedish initiative' on simplifying the exchange of information and intelligence between law enforcement authorities of EU Member States;<sup>5</sup>
  - incorrect application of the Regulation on the rights of passengers travelling by sea and inland waterway;<sup>6</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>7</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation;<sup>8</sup>
  - failure to transpose in full the Directive amending the EU legislation on the recognition of professional qualifications and the Internal Market Information System.<sup>9</sup>
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- failure to meet the obligation to interconnect a national electronic register of road transport undertakings.<sup>10</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2014/40/EU](#); [MEMO/16/4211](#).

<sup>2</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

<sup>3</sup> Regulation (EU) No [98/2013](#); [MEMO/16/3125](#).

<sup>4</sup> Directive [2011/96/EU](#).

<sup>5</sup> Framework Decision [2006/960/JHA](#).

<sup>6</sup> Regulation (EU) No [1177/2010](#); [MEMO/16/3644](#).

<sup>7</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

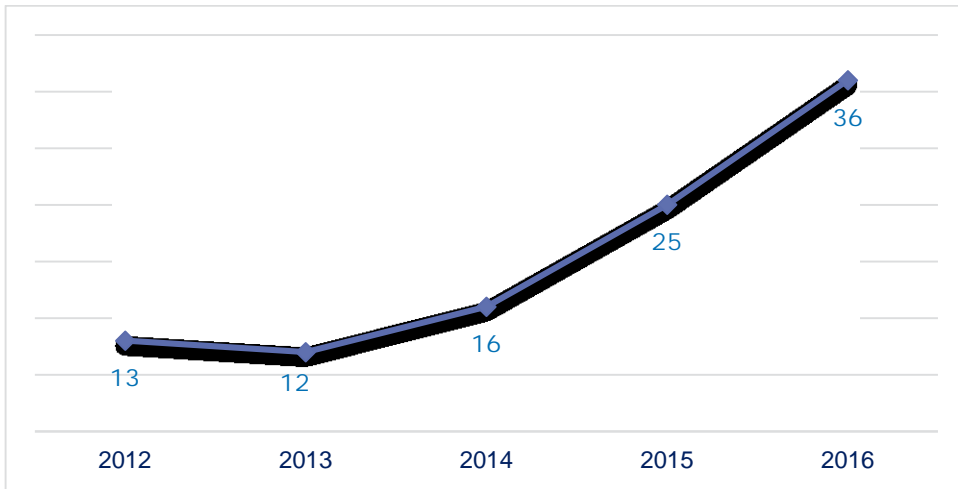
<sup>8</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#); [IP/16/4214](#).

<sup>9</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

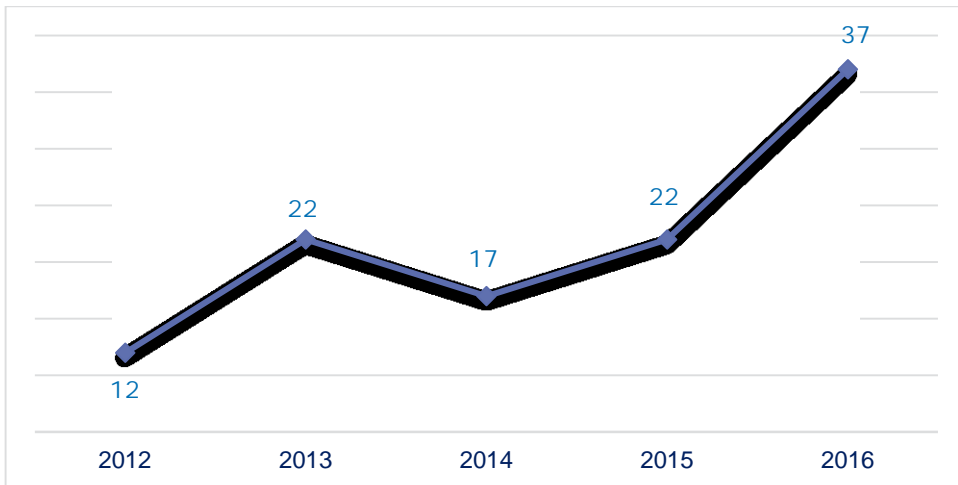
<sup>10</sup> Commission v Luxembourg, [C-152/16](#); [IP/15/5829](#) and [MEMO/15/5826](#).

#### IV. TRANSPOSITION OF DIRECTIVES

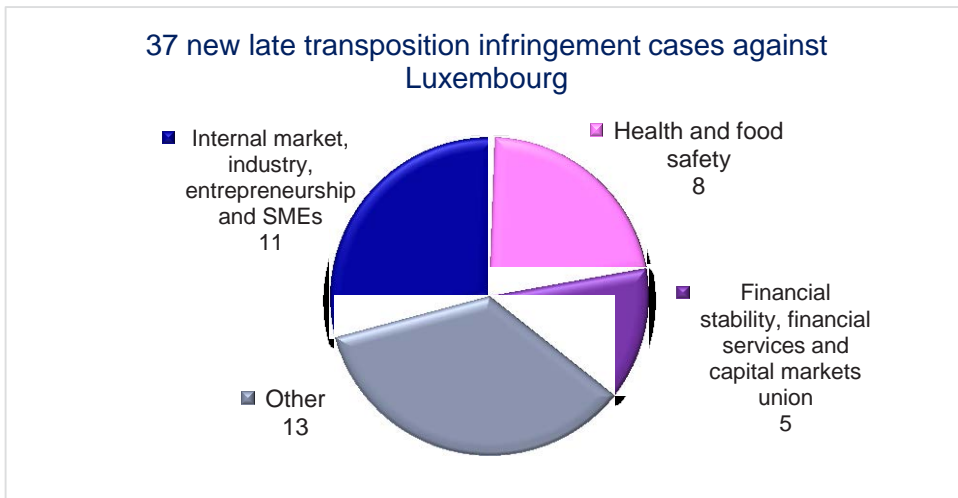
##### 1. Late transposition infringement cases against Luxembourg open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Luxembourg (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



#### 4. Referrals to the Court

The Commission referred three cases to the Court under Articles 258 and 260(3) TFEU. They concern:

- late transposition of the Directive<sup>11</sup> aligning various rules to the Regulation<sup>12</sup> on classification, labelling and packaging of substances and mixtures;<sup>13</sup>
- failure to transpose the Packaging & Labelling Directive;<sup>14</sup>
- failure to transpose the Directive on a single European railway area.<sup>15</sup>

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>16</sup>
- completing the notification of all national measures necessary to transpose:
  - the Capital Requirements Directive;<sup>17</sup>
  - the Bank Resolution and Recovery Directive;<sup>18</sup>
  - the Deposit Guarantee Schemes Directive;<sup>19</sup>
  - the Over-reliance on credit ratings Directive;<sup>20</sup>
  - the Financial Conglomerates Directive;<sup>21</sup>
- non-compliance with the Directive on the protection of employees in the event of the insolvency of their employer;<sup>22</sup>
- repeal of the minimum entity tax. This was incompatible with the Directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States.<sup>23</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>24</sup>

The Court ruled that:

- Luxembourg failed to establish a national electronic register and to interconnect with the national electronic registers of other Member States.<sup>25</sup>

#### 2. Preliminary rulings

In preliminary rulings addressed to the Luxembourgish judiciary, the Court held that:

- the grant of financial aid for higher education studies to a non-resident student cannot be made conditional on whether at least one of the student's parents worked in Luxembourg for a minimum and continuous period of 5 years,<sup>26</sup>

<sup>11</sup> Directive [2014/27/EU](#).

<sup>12</sup> Regulation (EC) No [1272/2008](#).

<sup>13</sup> Commission v Luxembourg [C-511/16](#); [IP/16/2599](#).

<sup>14</sup> Directive [2014/27/EU](#), Commission v Luxembourg [C-511/16](#); [IP/16/2599](#).

<sup>15</sup> Directive [2012/34/EU](#), Commission v Luxembourg [C-489/16](#); [IP/16/2494](#) and [MEMO/16/2490](#).

<sup>16</sup> Directive [2012/18/EU](#).

<sup>17</sup> Directive [2013/36/EU](#).

<sup>18</sup> Directive [2014/59/EU](#).

<sup>19</sup> Directive [2014/49/EU](#).

<sup>20</sup> Directive [2013/14/EU](#).

<sup>21</sup> Directive [2011/89/EU](#).

<sup>22</sup> Directive [2008/94/EC](#).

<sup>23</sup> Directive [2011/96/EU](#).

<sup>24</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>25</sup> Regulation (EC) No [1071/2009](#); Commission v Luxembourg, [C-152/16](#).

<sup>26</sup> [Bragança Linares Verruga and Others](#), [C-238/15](#).

Luxembourg

- national laws may not limit access to pensioners' tax credit to resident taxpayers receiving domestic pension income; the tax credit must also be open to residents receiving a pension from other Member States.<sup>27</sup>

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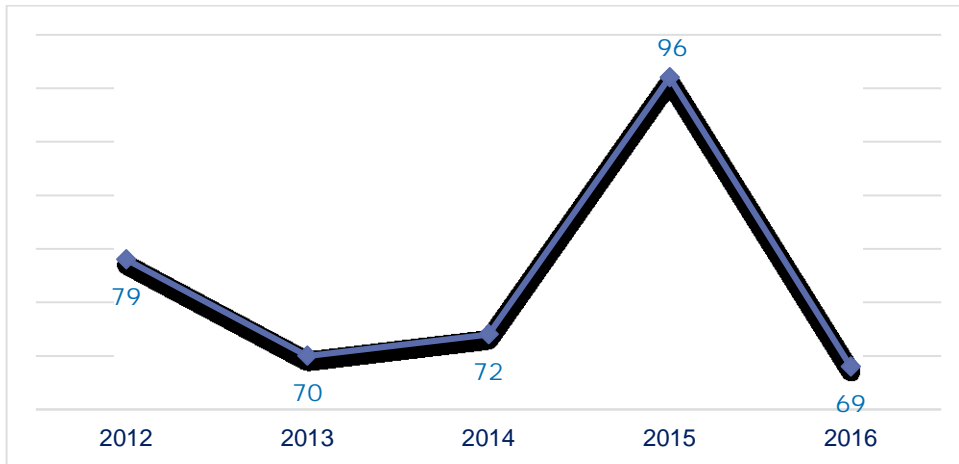
<sup>27</sup> Kohll and Kohll-Schlesser, [C-300/15](#).

Hungary

*New complaints against Hungary fell sharply in 2016, as did the number of new EU Pilot files. Both figures reached a five-year low. By contrast, the number of open infringement cases at the end of 2016 rose to a five-year high. This correlates with the increase in new infringement cases for late transposition, which doubled from the previous year.*

I. COMPLAINTS

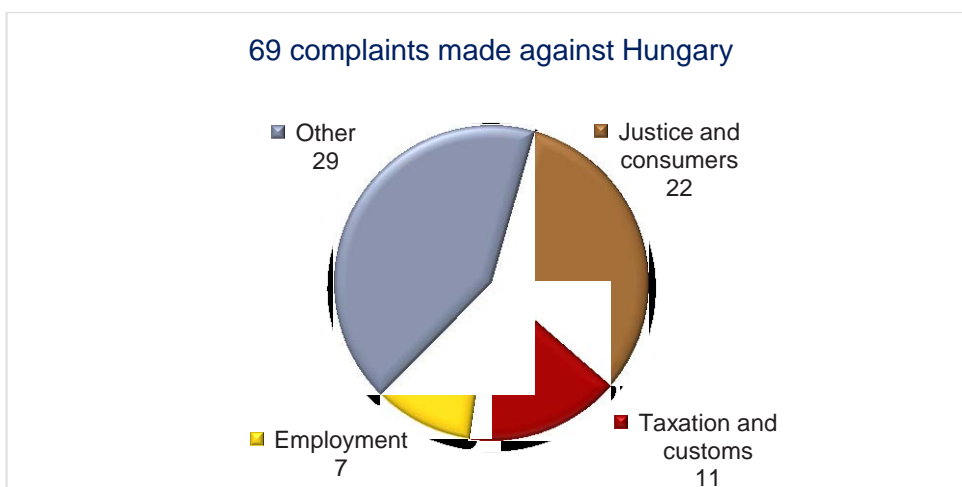
1. New complaints made against Hungary by members of the public (2012-2016)



1. Public complaints against Hungary open at year-end

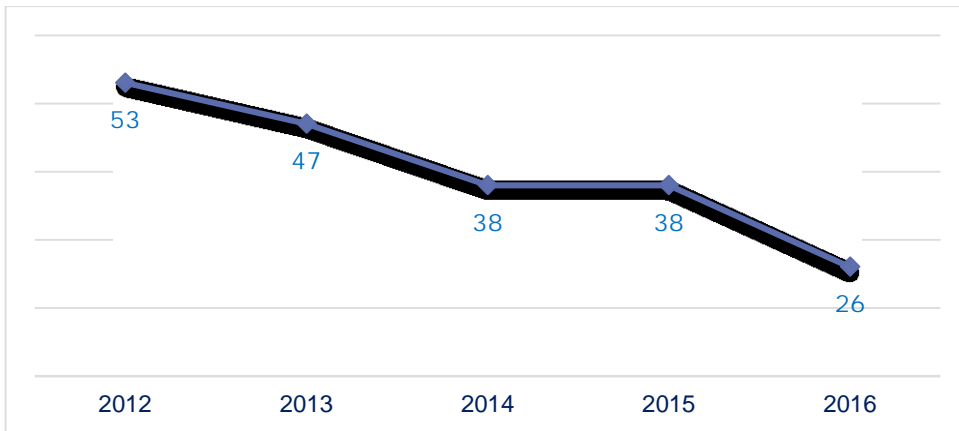
73	>	Complaints open at end-2015
69	>	New complaints registered in 2016
77	>	Complaints handled in 2016
<b>= 65</b>	>	<b>Complaints open at end-2016</b>

2. New complaints registered in 2016: main policy areas

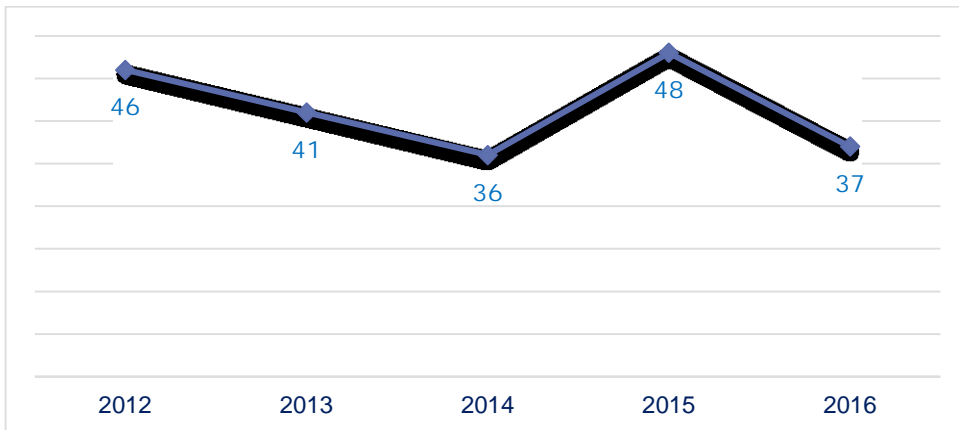


## II. EU PILOT

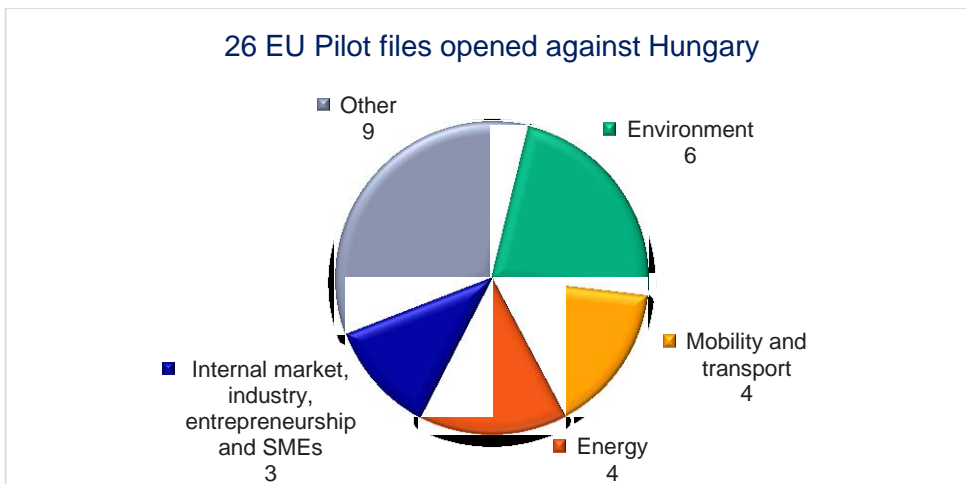
### 1. New EU Pilot files opened against Hungary (2012-2016)



### 2. Files relating to Hungary open in EU Pilot at year-end

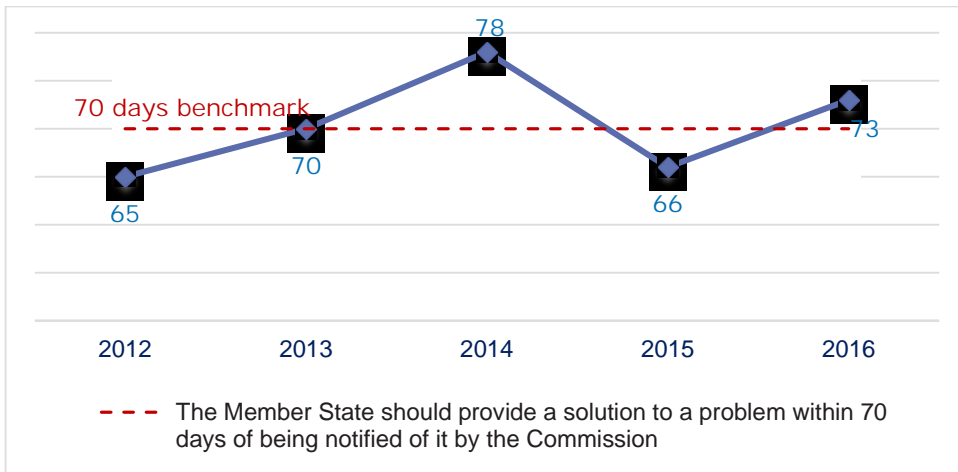


### 3. New EU Pilot files opened in 2016: main policy areas

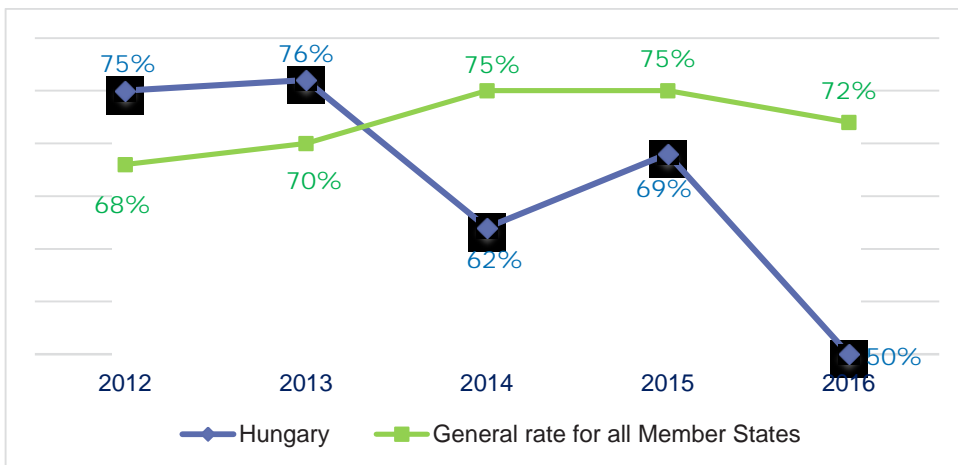


Hungary

4. EU Pilot files: Hungary's average response time in 2012-2016 (in days)

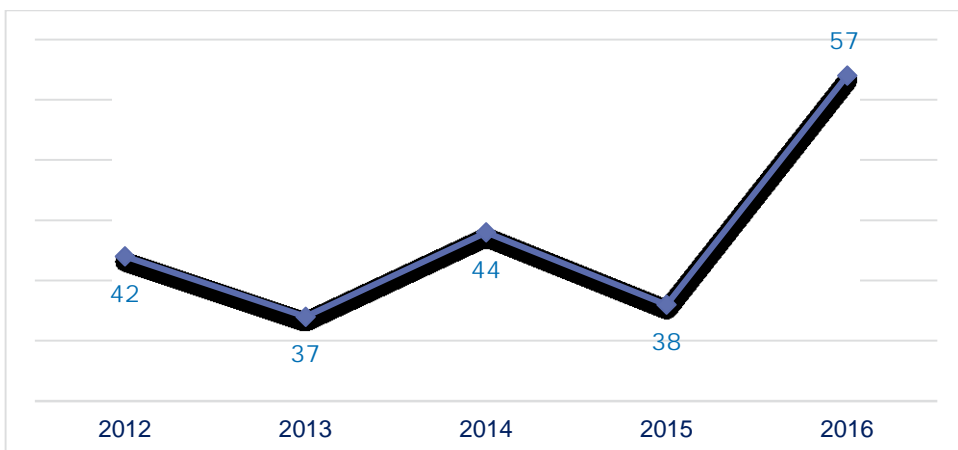


5. EU Pilot files: Hungary's resolution rate in 2012-2016



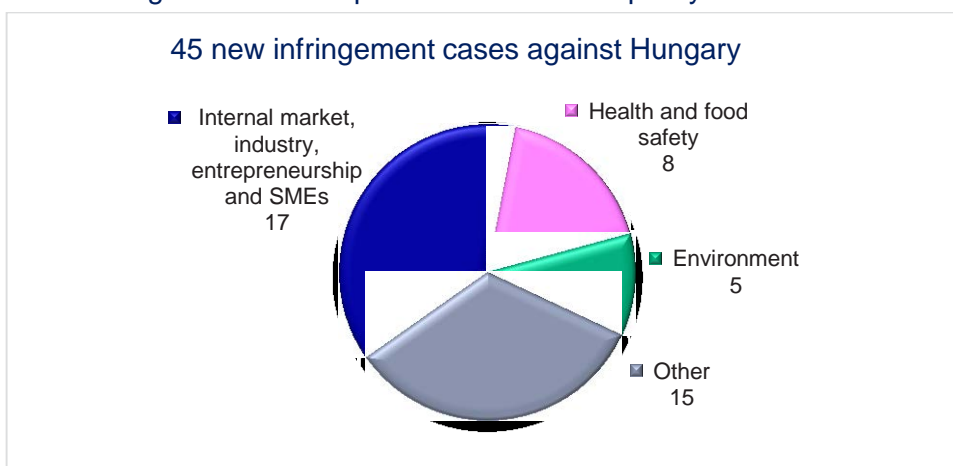
III. INFRINGEMENT CASES

1. Infringement cases against Hungary open on 31 December (2012-2016)





## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 45 new infringement cases against Hungary in 2016. These, and other major ongoing infringement cases, include:
- discrimination against Roma children in education;<sup>1</sup>
  - non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>2</sup>
  - lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>3</sup>
  - poor application of the Drinking Water Directive as regards non-respect of the EU parametric values for arsenic, boron and fluoride in several municipalities;<sup>4</sup>
  - failure to comply with the Third Internal Energy Market Package;<sup>5</sup>
  - 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;<sup>6</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>7</sup>
  - a selective consumption tax on spirits exempting fruit distillates (mainly produced domestically) and herbal bitters, which may be inconsistent with the free movement of goods.
- 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.

<sup>1</sup> [MEMO/16/1823](#).

<sup>2</sup> Directive [2008/50/EC](#).

<sup>3</sup> Directive [2002/49/EC](#).

<sup>4</sup> Directive [98/83/EC](#).

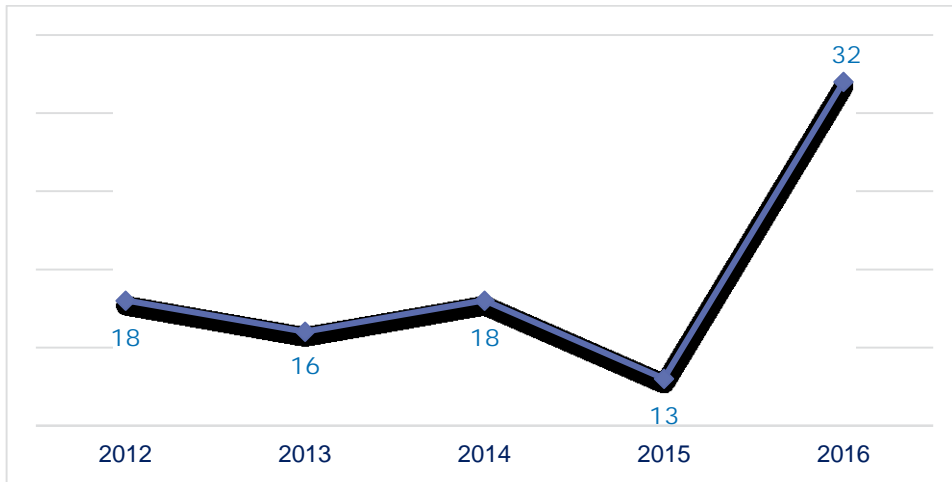
<sup>5</sup> Directives [2009/72/EC](#) and [2009/73/EC](#), [MEMO/16/4211](#).

<sup>6</sup> Press releases [IP/16/1827](#) and [MEMO/16/1823](#).

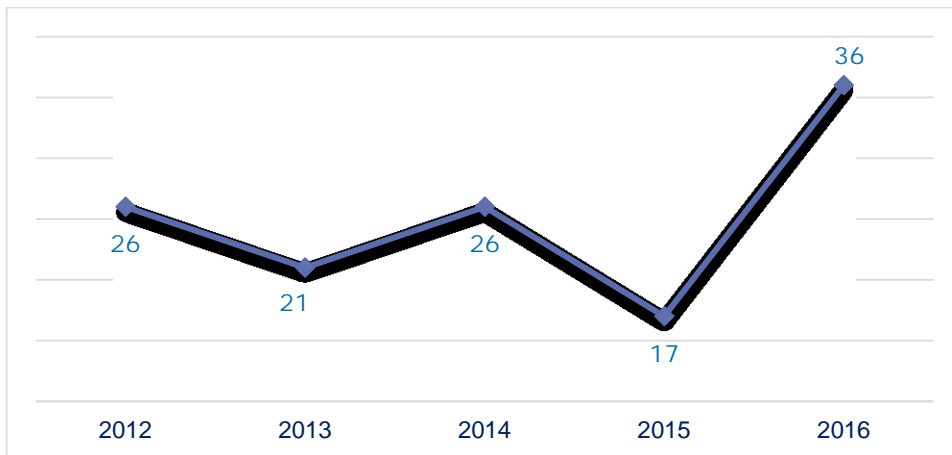
<sup>7</sup> [Directive 2006/123/EC](#), [IP/16/3646](#), [MEMO/16/3644](#).

#### IV. TRANSPOSITION OF DIRECTIVES

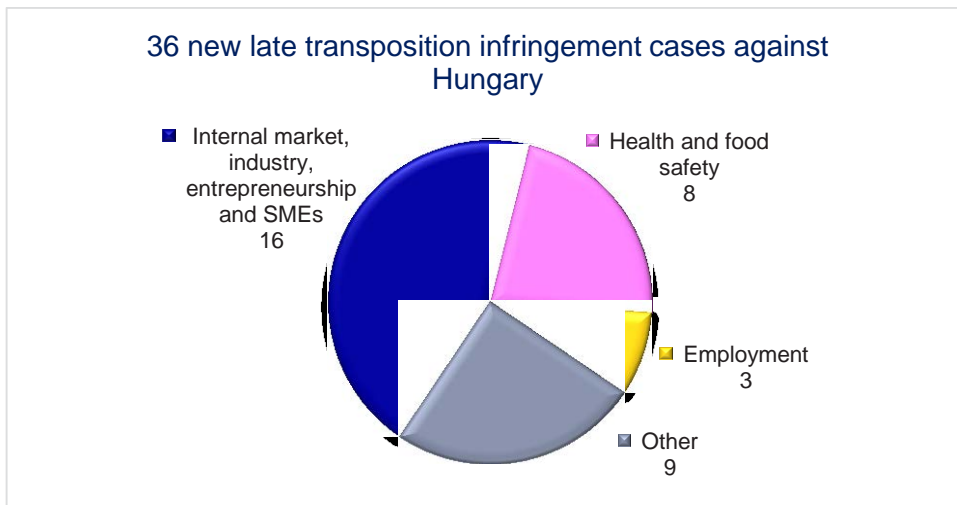
##### 1. Late transposition infringement cases against Hungary open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Hungary (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- paid annual leave granted to members of so-called school cooperatives;
- failure to implement the EU Timber Regulation and the Forest Law Enforcement, Governance and Trade Regulation;<sup>8</sup>
- completing the notification of all national measures necessary to transpose:
  - the Bank Resolution and Recovery Directive;<sup>9</sup>
  - the Directive on over-reliance on credit ratings;<sup>10</sup>
  - the Financial Conglomerates Directive;<sup>11</sup>
- failure to meet the obligation to interconnect a national electronic register of road transport undertakings;<sup>12</sup>
- incorrect implementation of the Directive on a European electronic toll service.<sup>13</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>14</sup>

The Court ruled that:

- the fact that the revenue generated by the holder of a public or private monopoly providing services is the source of funding for social programmes does not justify a restriction on freedom of establishment and freedom to provide services. Member States are not free to establish a services monopoly in the context of their tax and wages policies, as Member States must exercise their competence in the area of direct taxation consistently with EU law and, in particular, with the fundamental freedoms. National legislation reserving the activity of issuing leisure cards only to banks or financial institutions infringes the Services Directive,<sup>15</sup> unless the measure satisfies the cumulative conditions of non-discrimination, necessity and proportionality.<sup>16</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the Hungarian judiciary, the Court held that:

- a Member State has the right to send an applicant for international protection to a safe third country, if that Member State was responsible for examining an application for international protection submitted by the applicant who left that Member State before a decision on the substance of his first application for international protection was taken;<sup>17</sup>
- both the driver and/or the transport undertaking employing the driver can be held liable for infringements of the Regulation on the harmonisation of certain social legislation relating to road transport;<sup>18</sup>
- the customs authorities may disregard the declared price of imported goods and use secondary methods (laid down in the Community Customs Code<sup>19</sup>) to determine the transaction value, if they still doubt the accuracy of the declared value after asking for additional information or documents and providing the person concerned with a reasonable opportunity to clarify those doubts;<sup>20</sup>

<sup>8</sup> Regulation (EU) No [995/2010](#) and Regulation (EC) No [2173/2005](#).

<sup>9</sup> Directive [2014/59/EU](#).

<sup>10</sup> Directive [2013/14/EU](#).

<sup>11</sup> Directive [2011/89/EU](#).

<sup>12</sup> Regulation (EC) No [1071/2009](#).

<sup>13</sup> Directive [2004/52/EC](#).

<sup>14</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>15</sup> Directive [2006/123/EC](#).

<sup>16</sup> Commission v Hungary, [C-179/14](#).

<sup>17</sup> PPU - Mirza, [C-695/15](#).

<sup>18</sup> Regulation (EC) No [561/2006](#), Eurospeed Ltd v Szegedi Törvényszék, [C-287/14](#).

<sup>19</sup> Regulation (EEC) No [2913/92](#).

<sup>20</sup> EURO 2004, Case [C-291/15](#).

Hungary

- the requirements of the principle of proportionality are not met when a vehicle of a transport undertaking is immobilised if the driver, employed by the undertaking, drove in breach of the EU law on recording equipment<sup>21</sup> and if the competent national authority did not establish the liability of that undertaking.<sup>22</sup>
- shipments of waste intended for recovery must be considered illegal, under the Waste Shipment Regulation, when the shipment document contains incorrect or inconsistent information about the importer/consignee, the recovery facility and the countries/states concerned. This is the case irrespective of whether the error is made intentionally, that information is correct in other documents available to the competent authorities or procedures for taking back illegal shipments are being implemented. The fine for such an illegal shipment may, in principle, be the same as that imposed for infringements of the obligation to complete the respective document. However, in reviewing the proportionality of the penalty, account must be taken of the potential risks to the protection of the environment and human health.<sup>23</sup>

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<sup>21</sup> Regulation [No 3821/85](#).

<sup>22</sup> EL-EM-2001, [C-501/14](#).

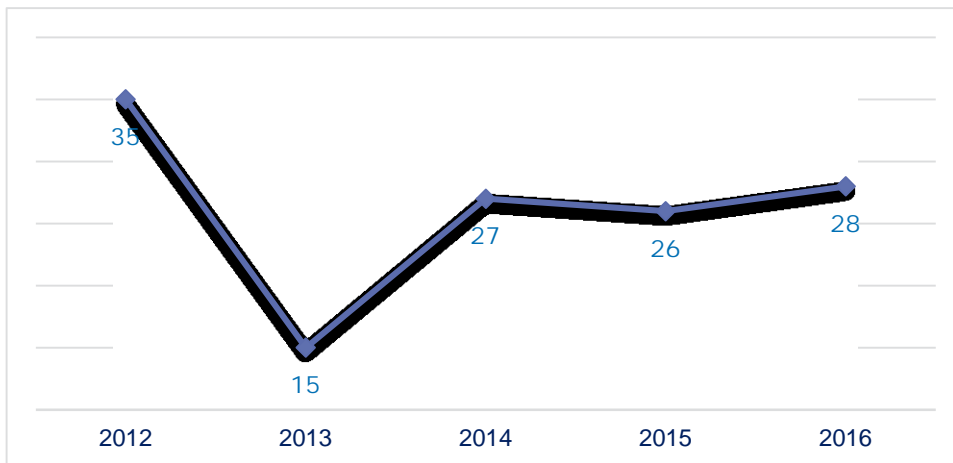
<sup>23</sup> Regulation (EC) No [1013/2006](#), Nutrivet, [C-69/15](#).

Malta

*New complaints against Malta have been relatively stable since 2014. The number of new EU Pilot files continued to drop in 2016, reaching its lowest level ever. Infringement cases open at the end of 2016 rose for the second year running. The number of new late transposition infringement cases was slightly lower than in 2015.*

I. COMPLAINTS

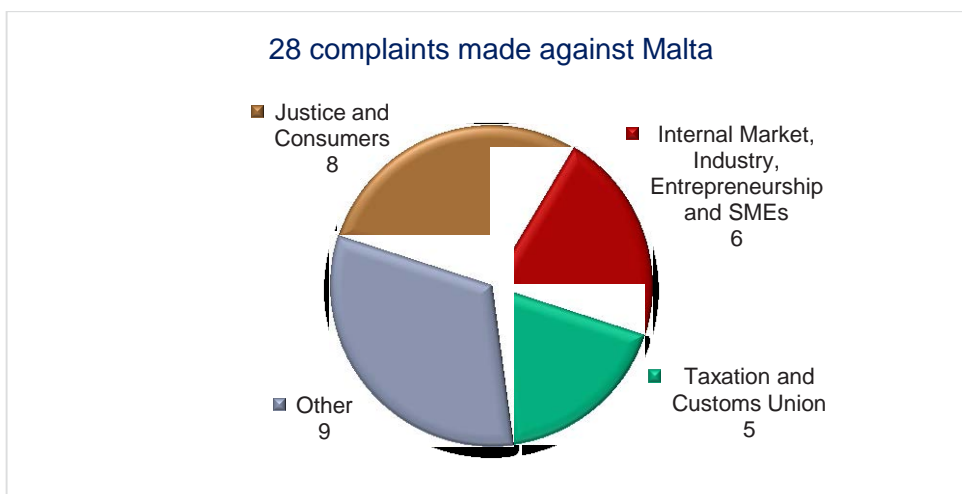
1. New complaints made against Malta by members of the public (2012-2016)



2. Public complaints against Malta open at year-end

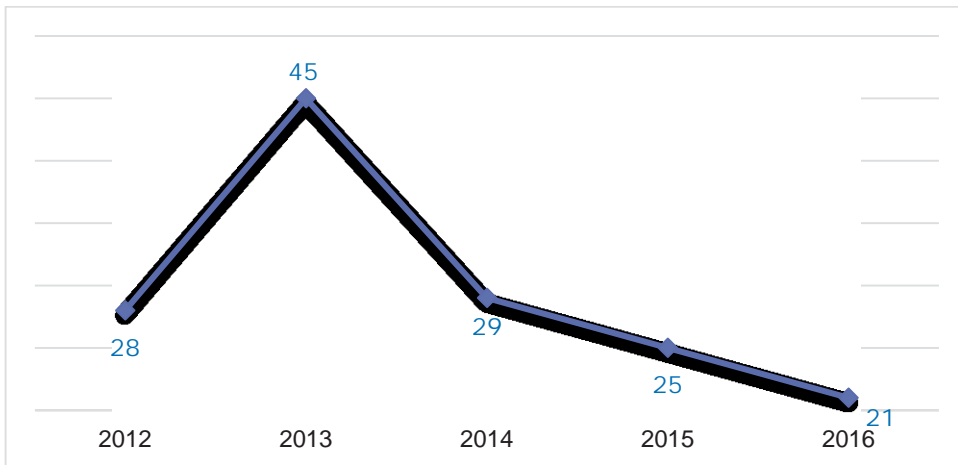
22	>	Complaints open at end-2015
28	>	New complaints registered in 2016
25	>	Complaints handled in 2016
<b>= 25</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

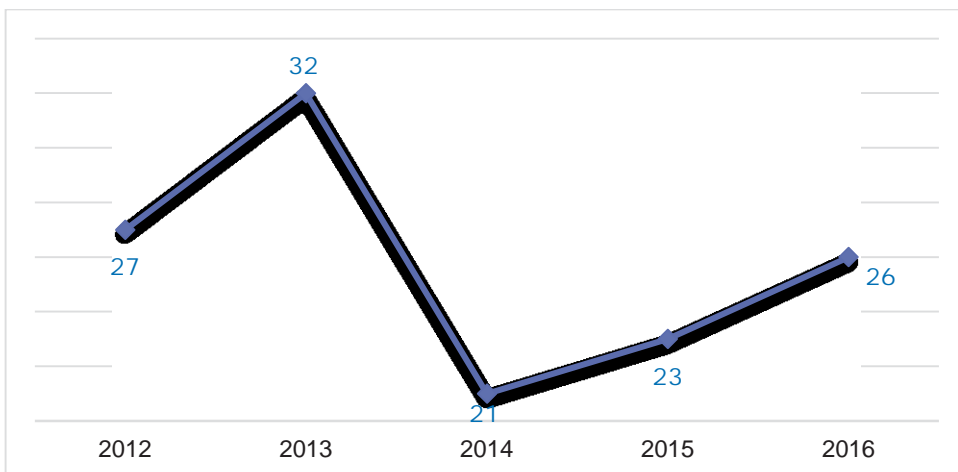


## II. EU PILOT

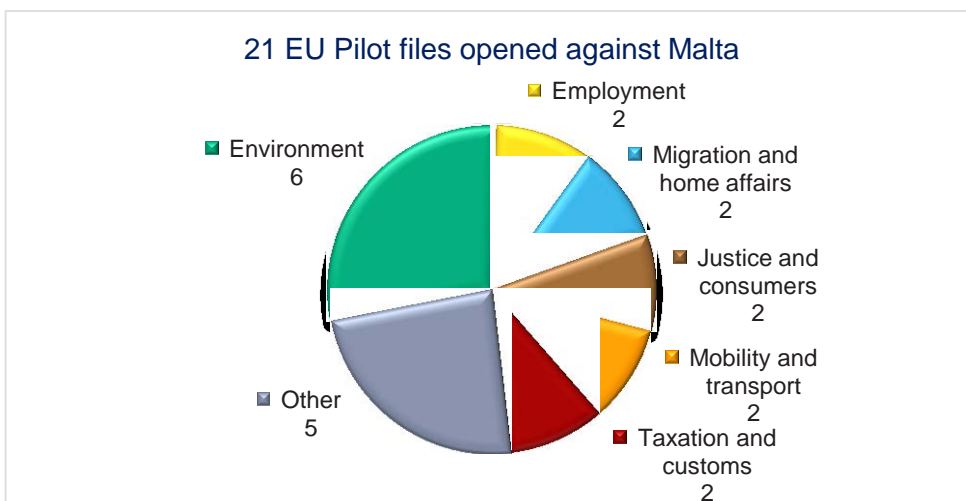
### 1. New EU Pilot files opened against Malta (2012-2016)<sup>1</sup>



### 2. Files relating to Malta open in EU Pilot at year-end

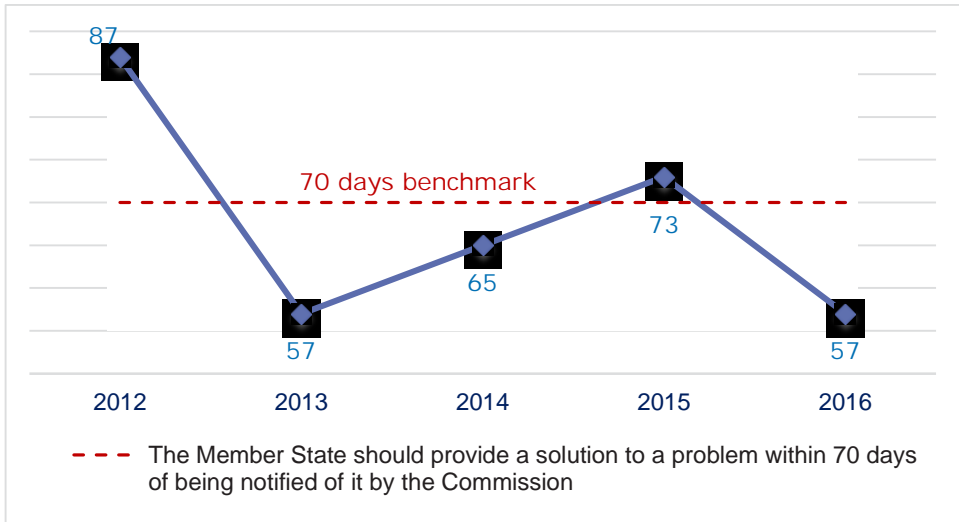


### 3. New EU Pilot files opened in 2016: main policy areas

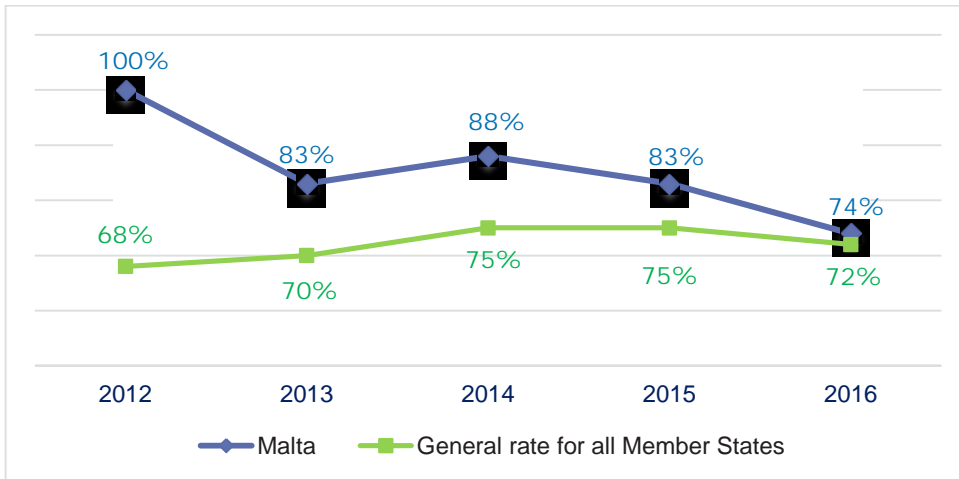


<sup>1</sup> Malta joined the EU Pilot system only in June 2012.

4. EU Pilot files: Malta's average response time in 2012-2016 (in days)<sup>2</sup>

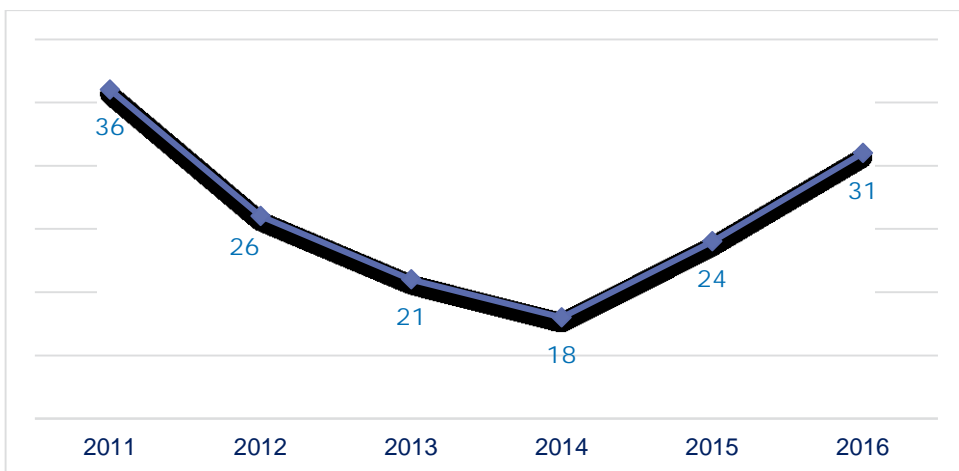


5. EU Pilot files: Malta's resolution rate in 2012-2016<sup>3</sup>



III. INFRINGEMENT CASES

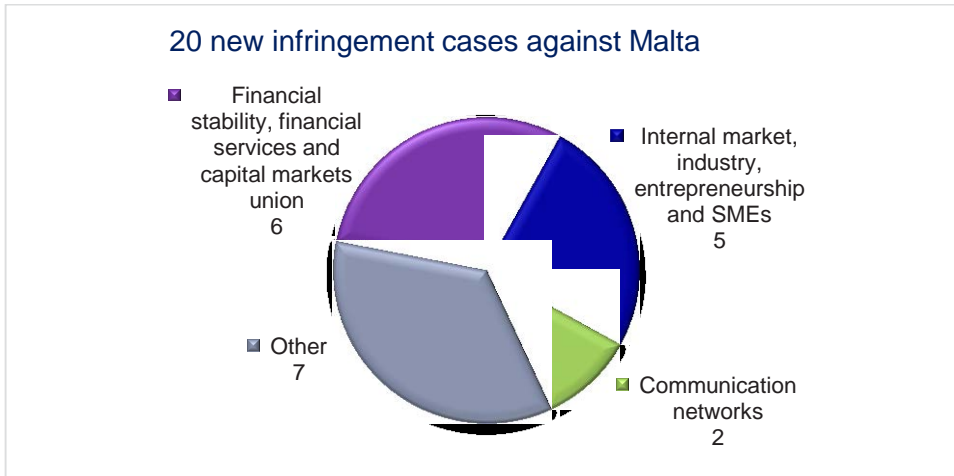
1. Infringement cases against Malta open on 31 December (2012-2016)



<sup>2</sup> See footnote 1.

<sup>3</sup> See footnote 1.

## 2. New infringement cases opened in 2016: main policy areas

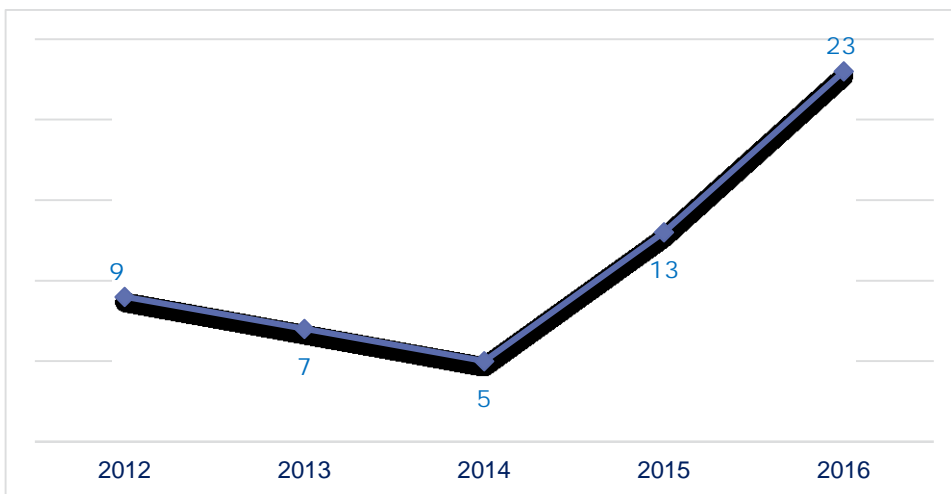


## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 20 new infringement cases against Malta in 2016. These, and other major ongoing infringement cases, include:
- inadequate urban waste water treatment;
  - failure to transpose in full the three Directives on public procurement and concessions;<sup>4</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System.<sup>5</sup>
- 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.

## IV. TRANSPOSITION OF DIRECTIVES

### 1. Late transposition infringement cases against Malta open on 31 December (2012-2016)

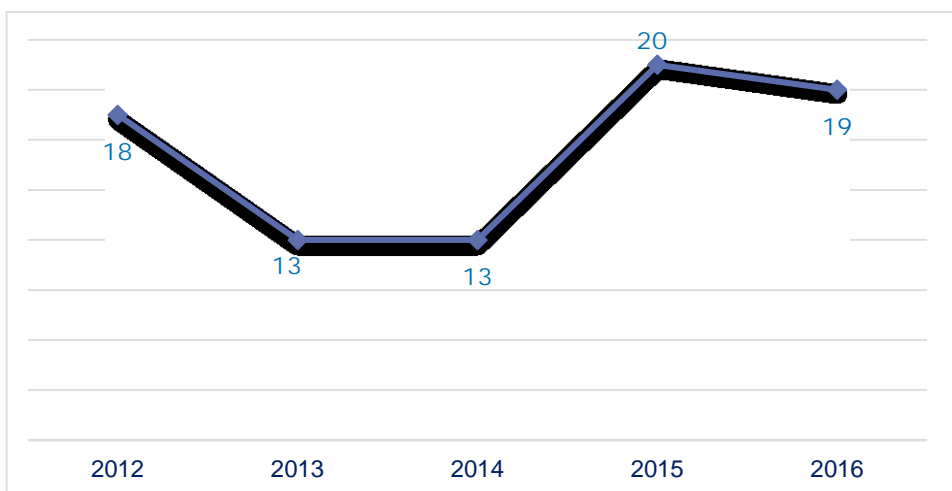


<sup>4</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

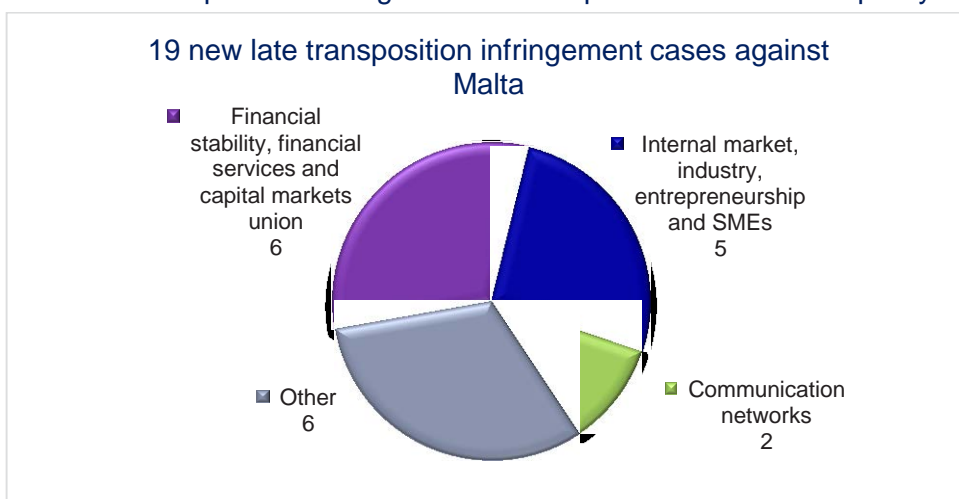
<sup>5</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).



## 2. New late transposition infringement cases against Malta (2012-2016)



## 3. New late transposition infringement cases opened in 2016: main policy areas



## 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- discriminatory application of water and energy tariffs;
- notification of all national measures necessary to transpose the Capital Requirements Directive<sup>6</sup> and the Bank Resolution and Recovery Directive;<sup>7</sup>
- failure to fulfil obligations under the Directive on driving licences.<sup>8</sup>

<sup>6</sup> Directive [2013/36/EU](#).

<sup>7</sup> Directive [2014/59/EU](#).

<sup>8</sup> Directive [2006/126/EC](#).

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>9</sup>

The Court ruled that:

- Malta did not violate EU social security rules when its laws deducted the value of civil-service old-age pensions from other Member States from Maltese old-age pensions.<sup>10</sup>

### 2. Preliminary rulings

No major preliminary rulings were addressed to the Maltese judiciary in 2016.

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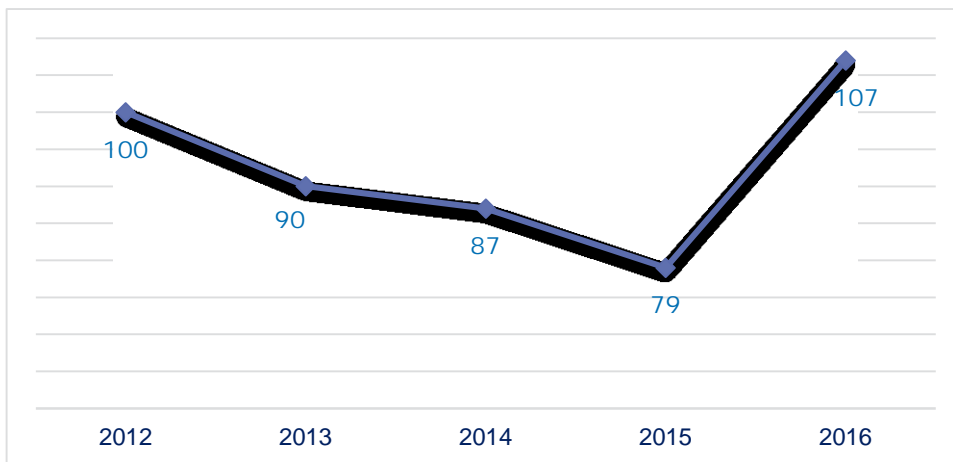
<sup>9</sup> These rulings are almost exclusively handed down in infringement procedures.  
<sup>10</sup> Commission v Malta, [C-12/14](#).

Netherlands

All the main indicators for the Netherlands worsened in 2016. After falling since 2012, new complaints jumped suddenly in 2016 to their highest level for 5 years. Open infringement cases also rose to a five-year peak, as did new infringement cases for late transposition. The number of new EU Pilot files was relatively stable, showing only a slight increase.

I. COMPLAINTS

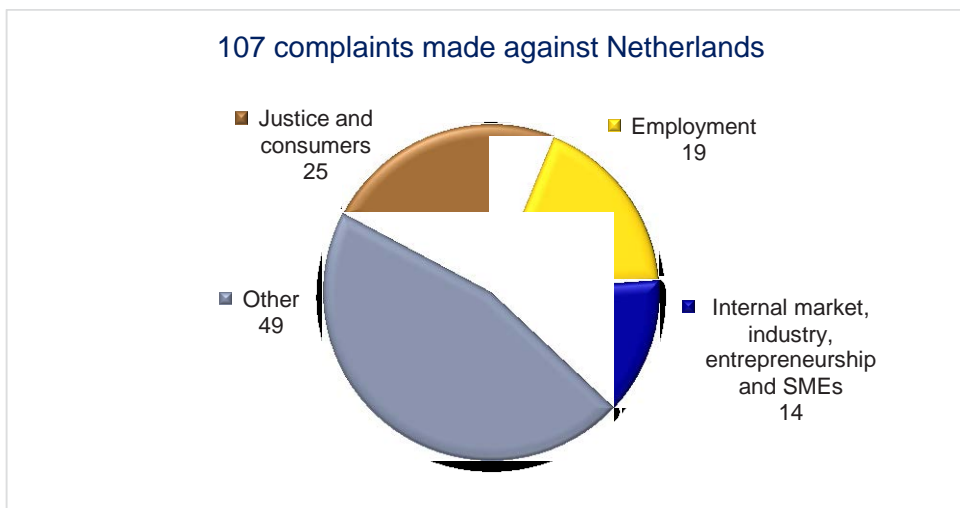
1. New complaints made against the Netherlands by members of the public (2012-2016)



2. Public complaints against the Netherlands open at year-end

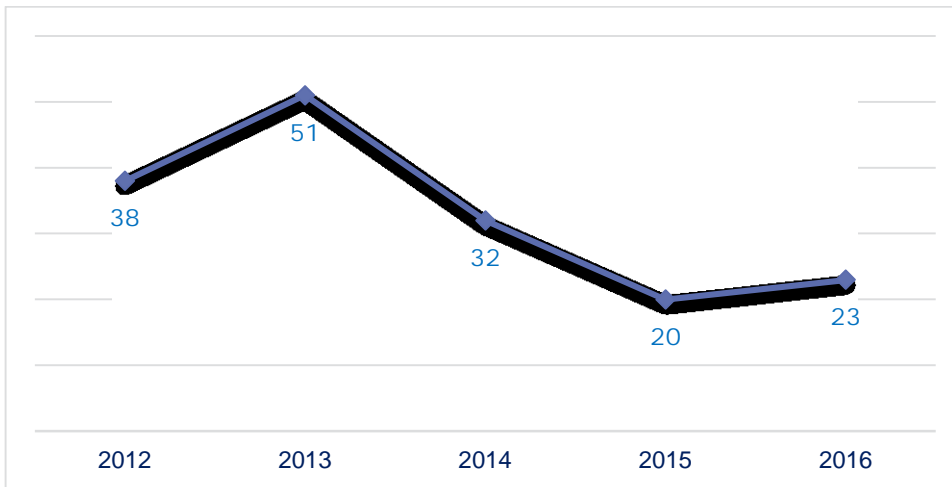
66	>	Complaints open at end-2015
107	>	New complaints registered in 2016
99	>	Complaints handled in 2016
<u>74</u>	>	Complaints open at end-2016

3. New complaints registered in 2016: main policy area

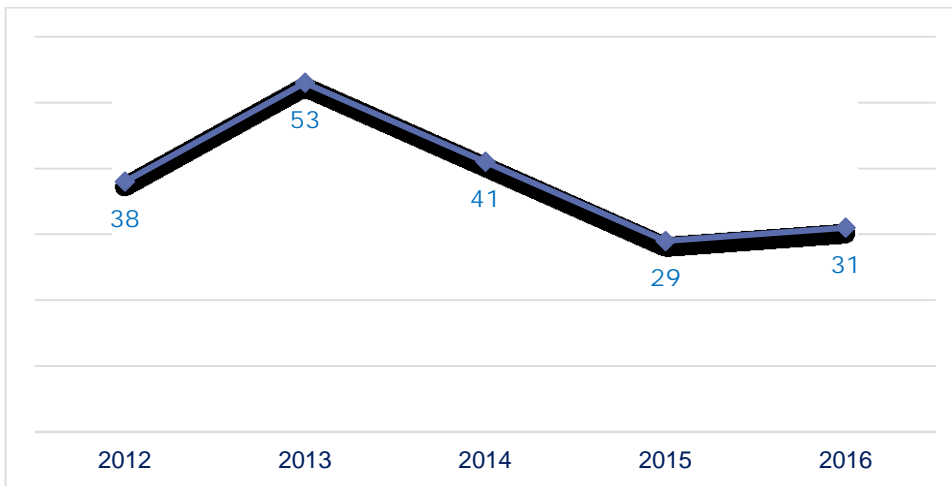


## II. EU PILOT

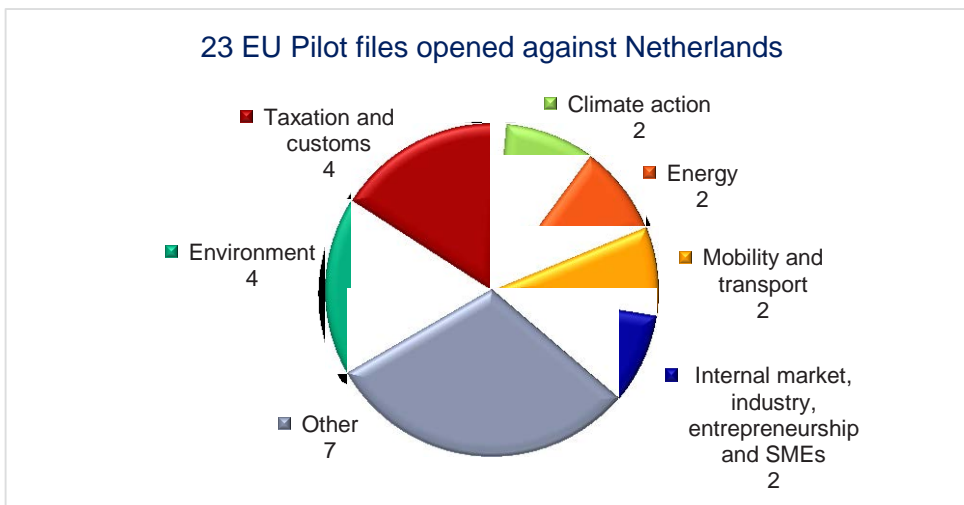
### 1. New EU Pilot files opened against the Netherlands (2012-2016)



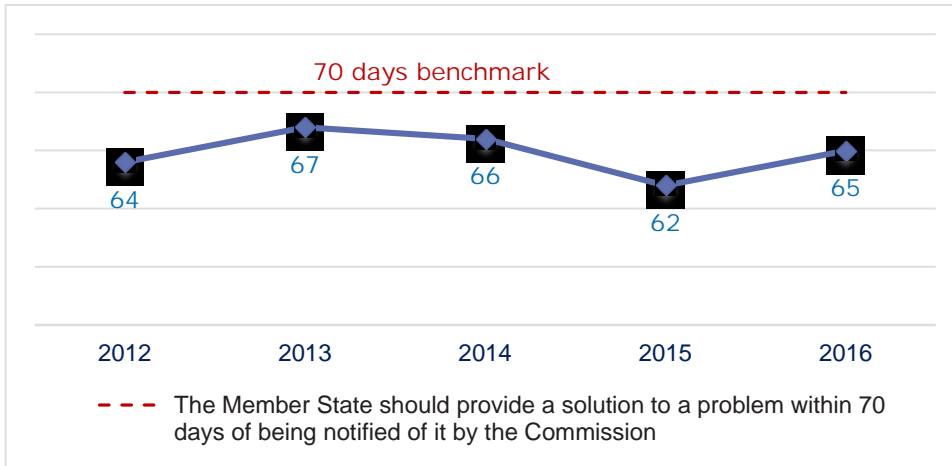
### 2. Files relating to the Netherlands open in EU Pilot at year-end



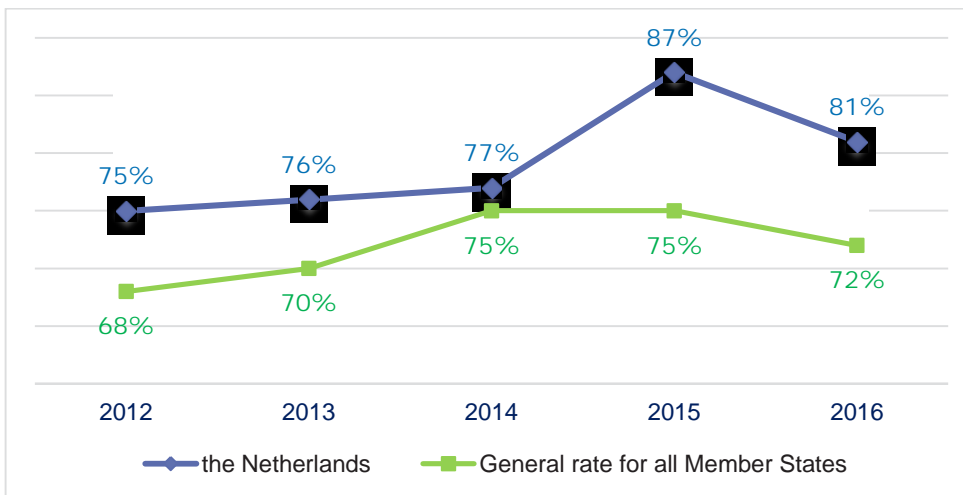
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Netherlands' average response time in 2012-2016 (in days)

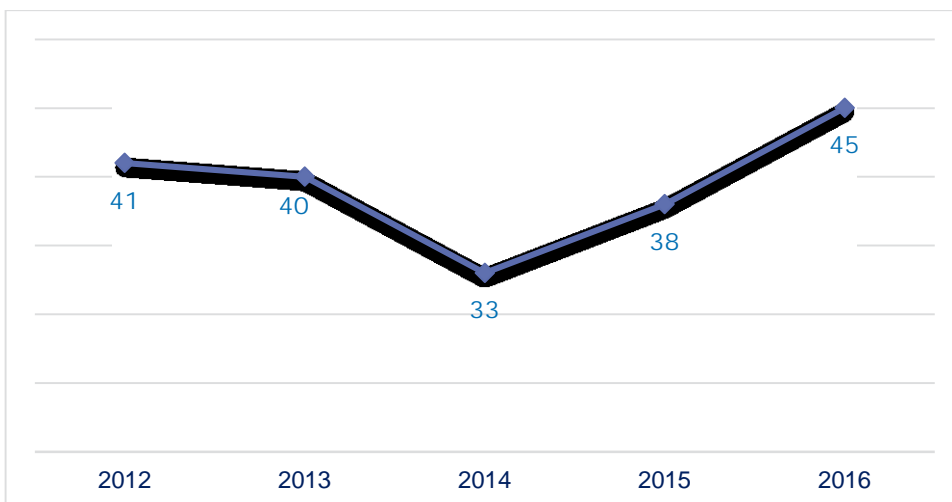


5. EU Pilot files: Netherlands' resolution rate in 2012-2016

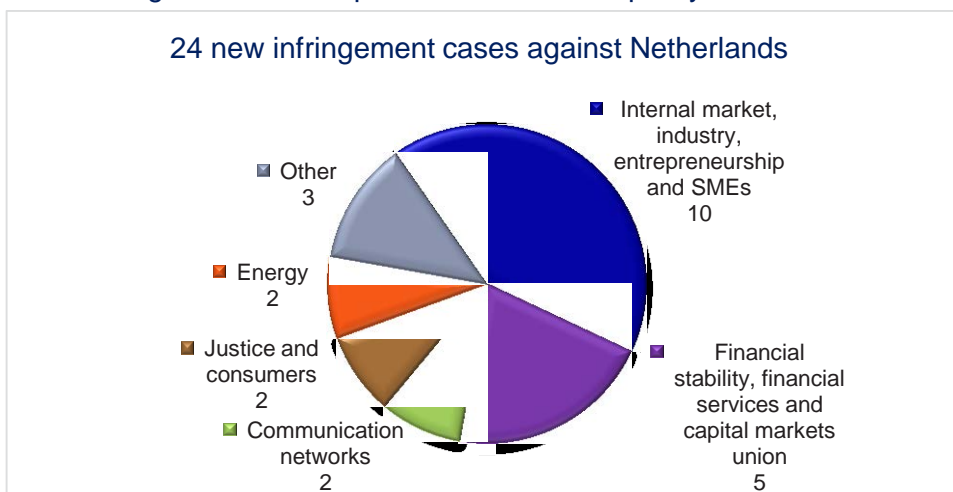


III. INFRINGEMENT CASES

1. Infringement cases against the Netherlands open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 24 new infringement cases against the Netherlands in 2016. These, and other major ongoing infringement cases, include:
- failure to fully transpose the Offshore Safety Directive;<sup>1</sup>
  - failure to communicate all national measures transposing the Capital Requirements Directive;<sup>2</sup>
  - bilateral investment treaties signed before all state parties became members of the EU and which now overlap and conflict with the EU single market on cross-border investments;<sup>3</sup>
  - failure to correctly implement the Directive on the qualification and training of road drivers;<sup>4</sup>
  - bad application of the Habitats Directive;<sup>5</sup>
  - failure to fully transpose the Directive on driving licences;<sup>6</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>7</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System.<sup>8</sup>
- 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.

<sup>1</sup> Directive [2013/30/EU](#); [MEMO/16/319](#).

<sup>2</sup> Directive [2013/36/EU](#); [MEMO/16/1452](#).

<sup>3</sup> [MEMO/16/3125](#).

<sup>4</sup> Directive [2003/59/EC](#).

<sup>5</sup> Directive [92/43/EEC](#).

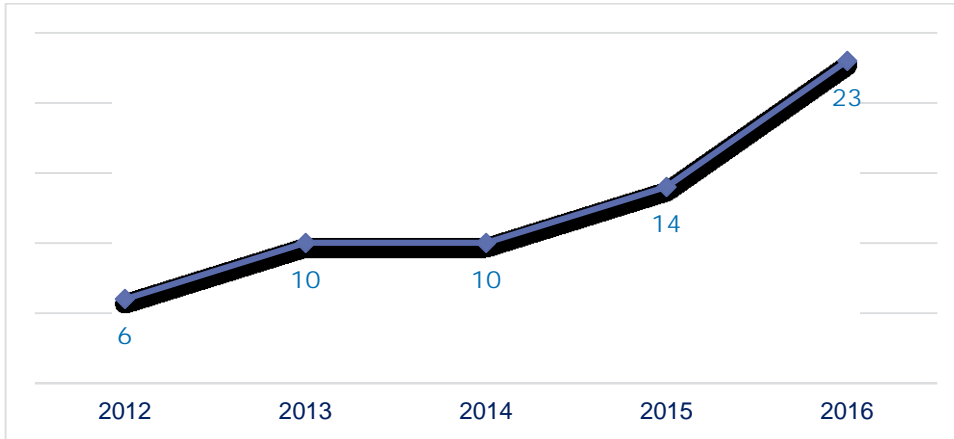
<sup>6</sup> Directive [2006/126/EC](#); [MEMO/16/2097](#).

<sup>7</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

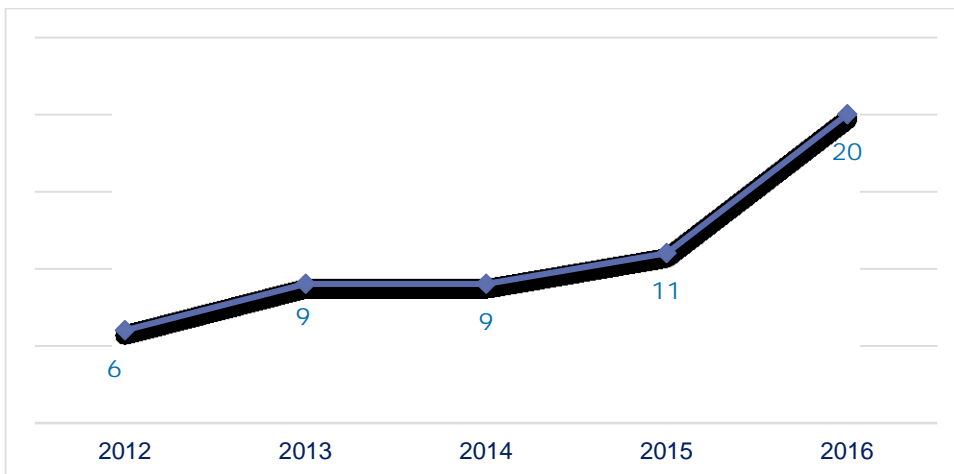
<sup>8</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

#### IV. TRANSPOSITION OF DIRECTIVES

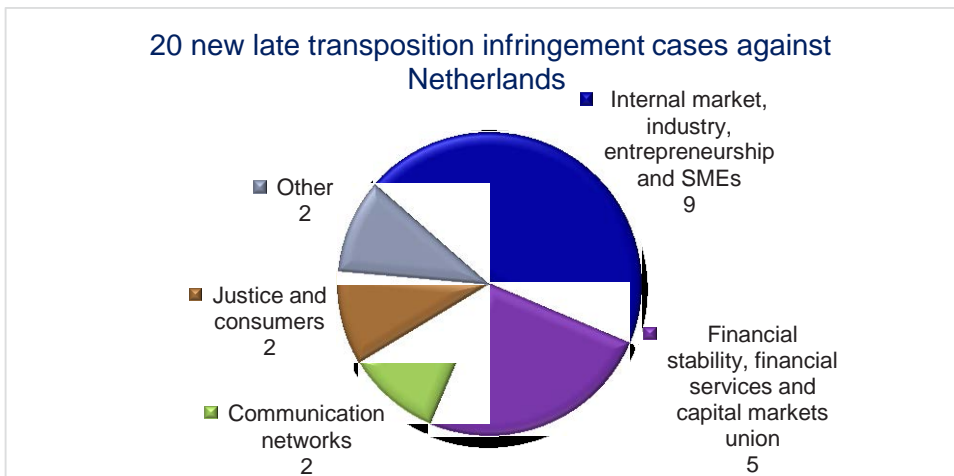
##### 1. Late transposition infringement cases against the Netherlands open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against the Netherlands (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- completing the notification of all national measures necessary to transpose the Deposit Guarantee Schemes Directive;<sup>9</sup>
- non-compliance with the Directive on the common system of value added tax as regards dental prostheses.<sup>10</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>11</sup>

The Court ruled that:

- financial support to students for travel costs (public transport for free or at a reduced rate), which is granted only to Dutch nationals and long-term residents, is not discriminatory as such support must be regarded as maintenance aid for studies consisting of student grants or student loans, which is covered by a derogation from equal treatment under the Citizens' Rights Directive;<sup>12</sup>
- the VAT Directive exempts from VAT the supply of sport or physical education services by non-profit-making organisations. However, the Netherlands granted this exemption only if such organisations employ volunteers, not employees, to supply these services. By contrast, the letting of berths and moorings for vessels (provided by non-profit water sport organisations) was exempted from VAT even when it was not linked to sports activities.<sup>13</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the Dutch judiciary, the Court held that:

- the Reception Conditions Directive<sup>14</sup> allows for an asylum seeker to be detained when the protection of national security or public order so requires. The introduction of a fresh asylum application by a person who is subject to a return decision does not render that decision inoperative under the Return Directive;<sup>15</sup>
- when a hyperlink is posted by the manager of a website to copyright-protected works made available on another website without the authorisation of the right holder, and no profit is pursued by the person posting the hyperlink, such a person can be considered, as a general rule, as not knowing or unable to reasonably know that the work was published without the consent of the right holder. However, when it is established that a person knew or ought to have known that the hyperlink provides access to a work illegally placed on the internet, the provision of the link constitutes a communication to the public. Such knowledge is presumed when the posting of hyperlinks is carried out for profit;<sup>16</sup>
- under the Directive on rental and lending rights,<sup>17</sup> the term 'lending' covers the lending of a digital copy of a book, where the lending is carried out by placing that copy on the server of a public library and allowing a user to reproduce that copy by downloading it onto his own computer. Only one copy may be downloaded and it can only be used during the lending period;<sup>18</sup>

<sup>9</sup> Directive [2014/49/EU](#).

<sup>10</sup> Directive [2006/112/EC](#).

<sup>11</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>12</sup> Directive [2004/38/EC](#) and Commission v the Netherlands, [C-233/14](#).

<sup>13</sup> Commission v Netherlands, [C-22/15](#); [IP/14/1040](#).

<sup>14</sup> Directive [2013/33/EU](#).

<sup>15</sup> Directive [2008/115/EC](#); J.N., [C-601/15](#).

<sup>16</sup> GS Media BV v Sanoma Media Netherlands BV and Others, [C-160/15](#).

<sup>17</sup> Directive [2006/115/EC](#).

<sup>18</sup> Vereniging Openbare Bibliotheken v Stichting Leenrecht, [C-174/15](#), Court press release [No 123/16](#).



- an asylum seeker is entitled to plead, in an appeal against a decision to transfer him, the incorrect application of one of the criteria for determining responsibility laid down in the Dublin Regulation,<sup>19</sup> in particular the criterion relating to the grant of a visa;<sup>20</sup>
- the European arrest warrant issued by the Swedish National Police Board is invalid as such body is not covered by the term 'issuing judicial authority' and acts issued by police service cannot be regarded as a 'judicial decision';<sup>21</sup>
- the national authorities carrying out general monitoring tasks with regard to air passengers' rights<sup>22</sup> are not required to take enforcement action in each individual case with a view to compelling air carriers to pay compensation. However, Member States have discretion in the allocation of the powers they give to such authorities and can nevertheless empower them to act on individual complaints;<sup>23</sup>
- the concept of 'emissions into the environment' includes the release into the environment of products or substances, such as plant protection products or biocides or active substances contained in those products, to the extent that the release is actual or foreseeable under normal or realistic conditions of use of the product or substance. The concept of 'information on emissions into the environment' covers not only emissions as such (the nature, composition, quantity, date and place of those emissions), but also information enabling the public to check whether the assessment of actual or foreseeable emissions is correct, as well as data relating to the medium- or long-term effects of those emissions on the environment. The confidentiality of commercial and industrial information may not be invoked to preclude the disclosure of 'information on emissions into the environment'.<sup>24</sup>

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<sup>19</sup> Regulation [No 604/2013](#).

<sup>20</sup> Mehrdad Ghezelbash v Staatssecretaris van Veiligheid en Justitie, [C-63/15](#).

<sup>21</sup> Poltorak, [C-452/16 PPU](#).

<sup>22</sup> Steef Mennens v Emirates Direktion für Deutschland, [C-255/15](#).

<sup>23</sup> K. Ruijsenaars and Others v Staatssecretaris van Infrastructuur en Milieu, Joined Cases [C-145/15](#) and [C-146/15](#), Court press release [No 31/2016](#).

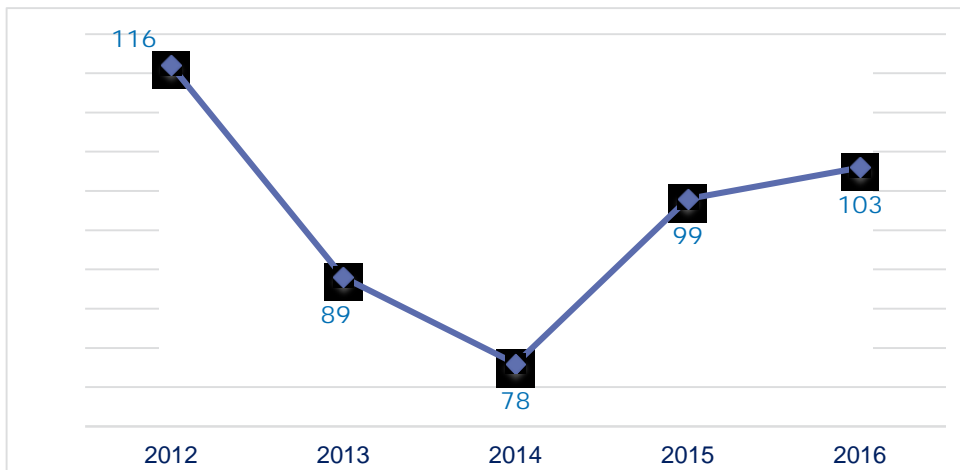
<sup>24</sup> Bayer CropScience and Stichting De Bijenstichting, [C-442/14](#) and Court press release [No 128/16](#).

Austria

*New complaints against Austria continued to rise in 2016 from the low point reached in 2014. The number of new EU Pilot files went up only slightly, while open infringement cases at the end of the year saw a sharp increase. New infringement cases for late transposition also rose, to almost triple the number of 2015.*

I. COMPLAINTS

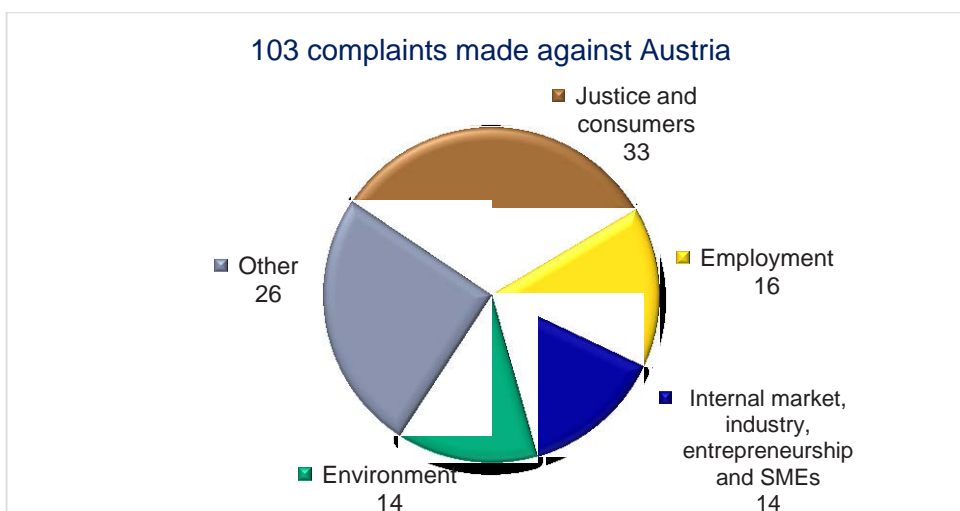
1. New complaints made against Austria by members of the public (2012-2016)



2. Public complaints against Austria open at year-end

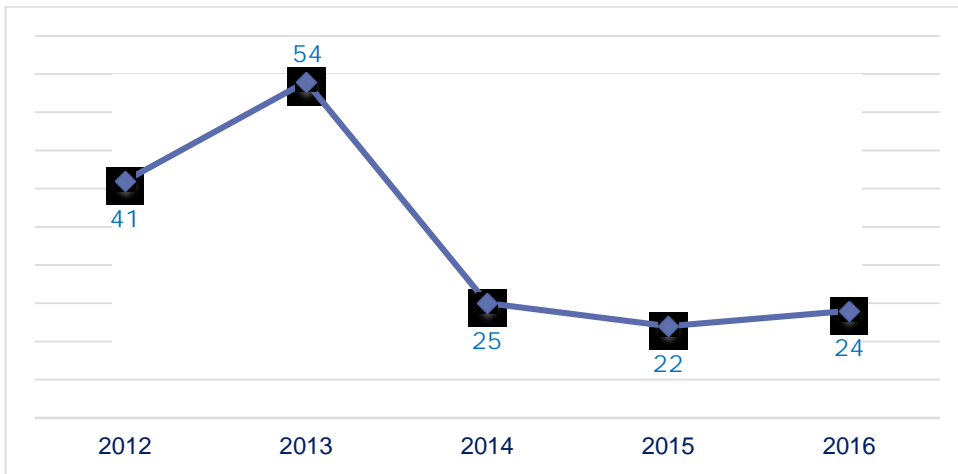
75	>	Complaints open at end-2016
103	>	New complaints registered in 2016
74	>	Complaints handled in 2016
<hr/>		
= 104	>	Complaints open at end-2016

3. New complaints registered in 2016: main policy areas

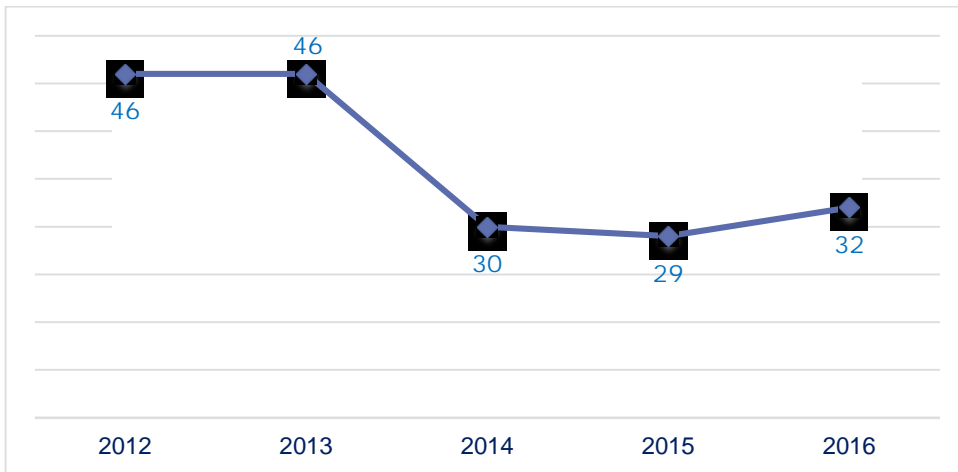


## II. EU PILOT

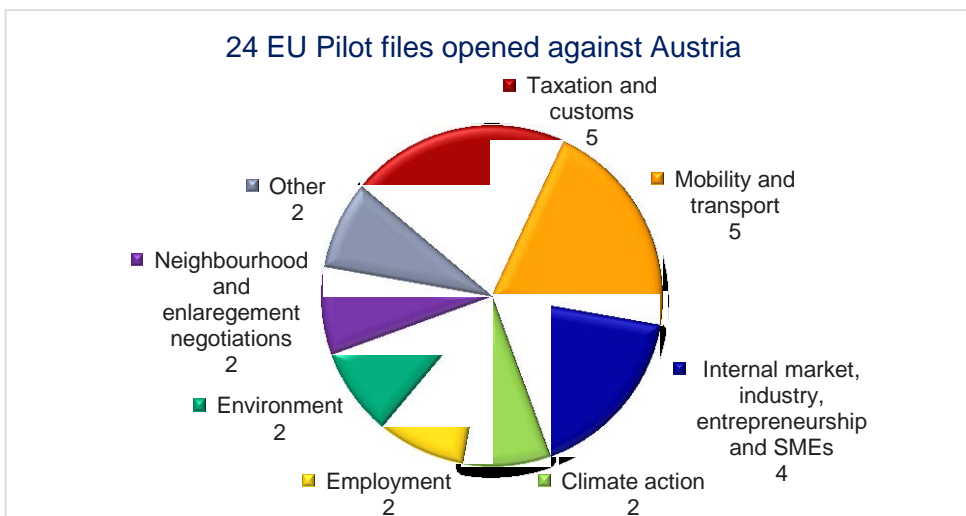
### 1. New EU Pilot files opened against Austria (2012-2016)



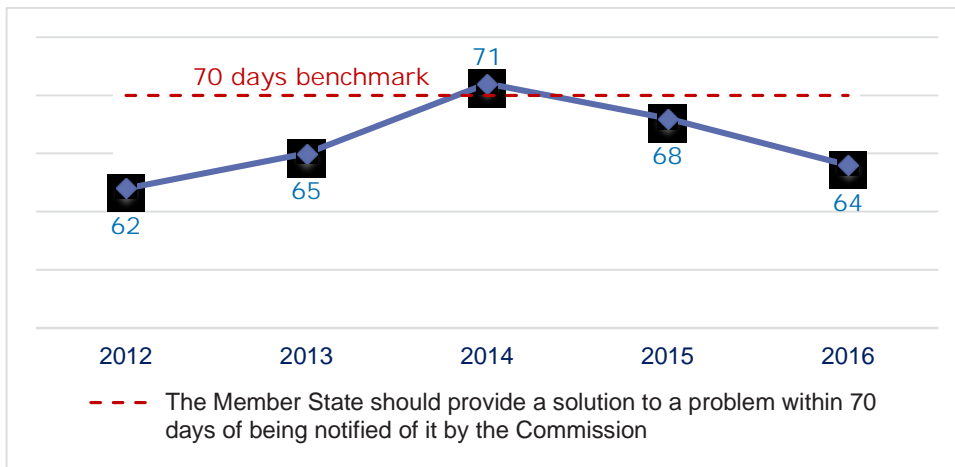
### 2. Files relating to Austria open in EU Pilot at year-end



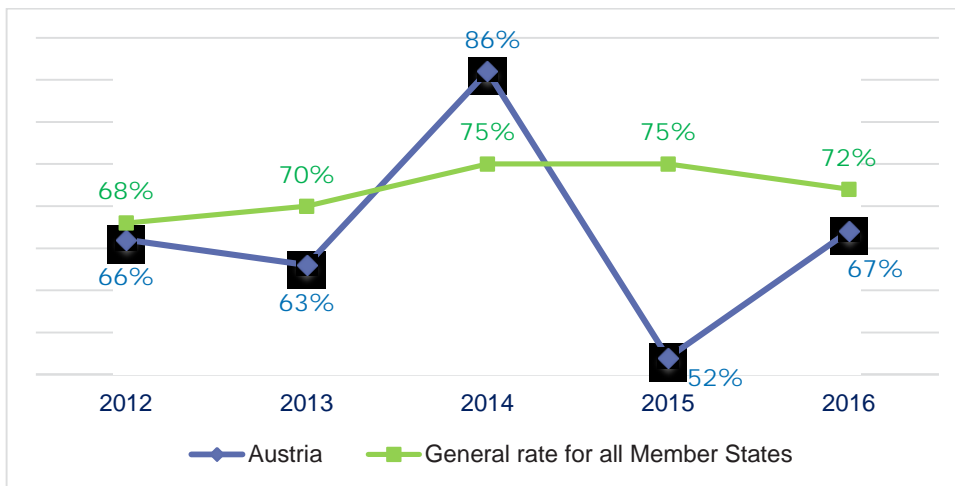
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Austria's average response time in 2012-2016 (in days)

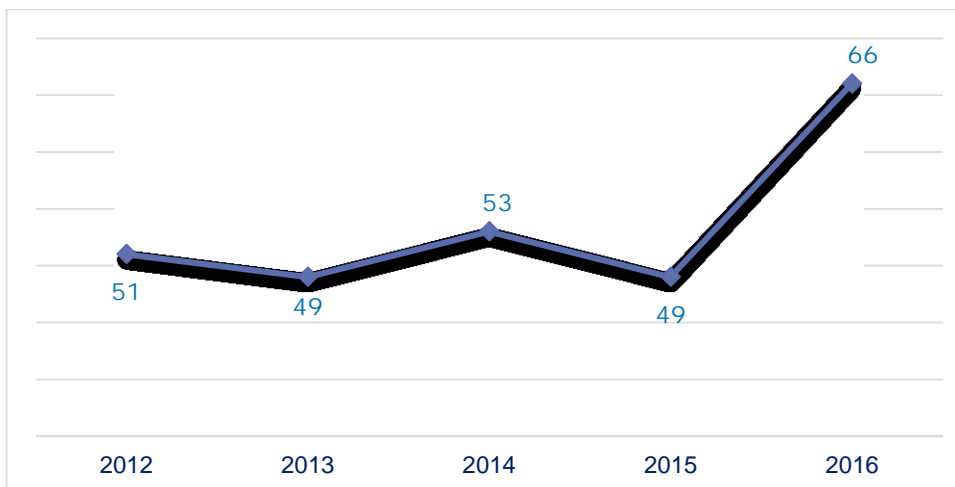


5. EU Pilot files: Austria's resolution rate in 2012-2016

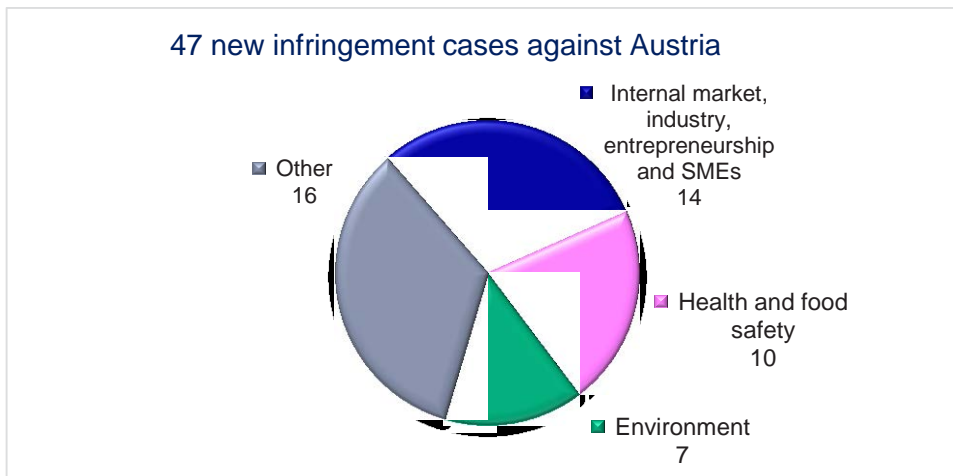


III. INFRINGEMENT CASES

1. Infringement cases against Austria open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

a) The Commission opened 47 new infringement cases against Austria in 2016. These, and other major ongoing infringement cases, include:

- non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>1</sup>
- failure to communicate measures transposing the Directive on priority substances in the field of water policy;<sup>2</sup>
- failure to comply with the Third Internal Energy Market Package;<sup>3</sup>
- bilateral investment treaties signed before all state parties became members of the EU and which now overlap and conflict with the EU single market on cross-border investments;<sup>4</sup>
- non-conformity with the Directive on structures of excise duties on alcohol and alcoholic beverages;<sup>5</sup>
- non-compliance with the VAT Directive;<sup>6</sup>
- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>7</sup>
- failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>8</sup>
- failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>9</sup>
- failure to fully transpose the Capital Requirements Directive<sup>10</sup> and the Bank Recovery and Resolution Directive;<sup>11</sup>
- charging VAT on the resale rights of works of art, which may violate the VAT Directive<sup>12</sup> due to the lack of a contractual relationship between the resale buyer and the artist.<sup>13</sup>

<sup>1</sup> Directive [2008/50/EC](#).

<sup>2</sup> Directive [2013/39/EU](#); [MEMO/16/2097](#).

<sup>3</sup> Directives [2009/72/EC](#) and [2009/73/EC](#); [MEMO/16/319](#).

<sup>4</sup> [MEMO/16/3125](#).

<sup>5</sup> Directive [92/83/EC](#).

<sup>6</sup> Directive [2006/112/EC](#); [MEMO/16/2490](#).

<sup>7</sup> Directive [2006/123/EC](#); [IP/16/323](#); [MEMO/16/319](#), [IP/16/3646](#) and [MEMO/16/3644](#).

<sup>8</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

<sup>9</sup> Directive [2013/55/EU](#), [MEMO/16/3125](#).

<sup>10</sup> Directive [2013/36/EU](#).

<sup>11</sup> Directive [2014/59/EU](#).

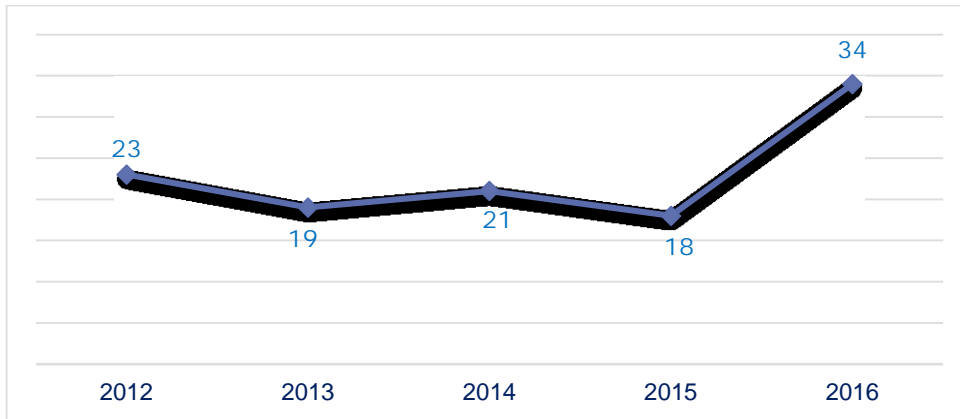
<sup>12</sup> Directive [2006/112/EC](#).

<sup>13</sup> [MEMO/16/2490](#).

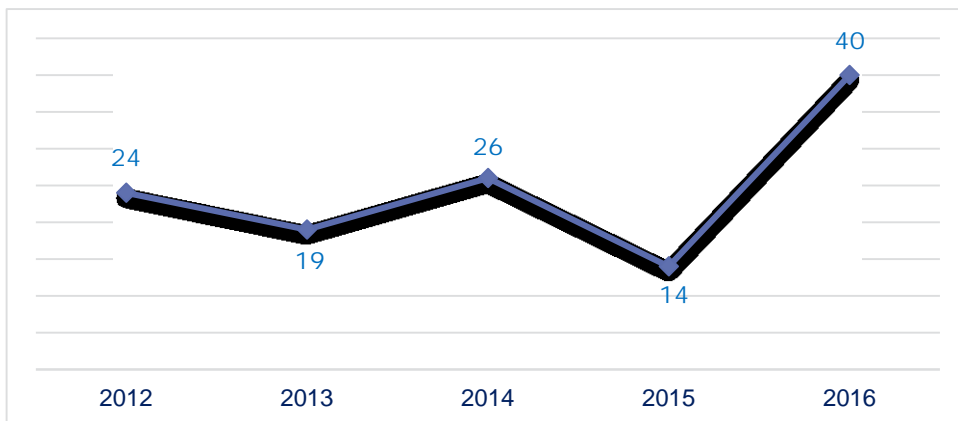
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- direct award of the security printing of official documents (such as passports, ID-cards, residence permits, driving licences) to the Austrian State Printing Office. This is in breach of public procurement legislation.<sup>14</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Austria open on 31 December (2012-2016)

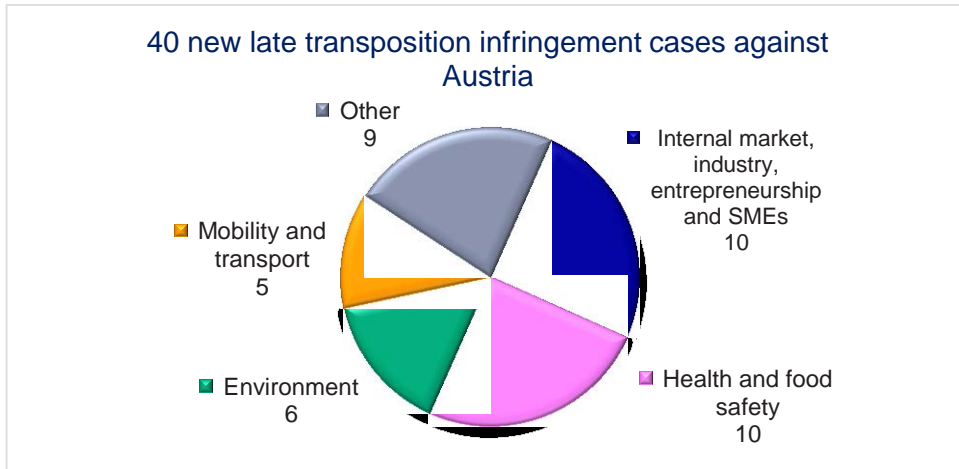


##### 2. New late transposition infringement cases against Austria (2012-2016)



<sup>14</sup> Directives [92/50/EC](#) and [2004/18/EC](#), Commission v Austria [C-187/16](#) [IP/15/6226](#).

### 3. New late transposition infringement cases opened in 2016: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- non-communication of national measures transposing the Industrial Emissions Directive;<sup>15</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>16</sup>
- failure to meet the obligation to interconnect a national electronic register of road transport undertakings;<sup>17</sup>
- breach of the EU-Turkey association law by the introduction of new restrictions on access to the Austrian labour market and on family reunification of Turkish nationals;<sup>18</sup>
- restrictions of resort homes in the Vorarlberg region contrary to the free movement of capital.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>19</sup>

The Court ruled that:

- Austria's failure to fulfil obligations under the Water Framework Directive in relation to the authorisation for the construction of a hydropower plant on the Schwarze Sulm River was unfounded.<sup>20</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the Austrian judiciary, the Court held that:

- processing of personal data carried out by an undertaking engaged in electronic commerce is governed by the law of the Member State to which that undertaking directs its activities, if it is shown that the undertaking carries out the data processing in

<sup>15</sup> Directive [2010/75/EU](#).

<sup>16</sup> Directive [2006/126/EC](#); [IP/15/6229](#) and [MEMO/15/6223](#).

<sup>17</sup> Regulation (EC) No [1071/2009](#).

<sup>18</sup> Commission v Austria, [C-1/15](#).

<sup>19</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>20</sup> Directive [2000/60/EC](#); Commission v Austria, [C-346/14](#).

question in the context of the activities of an establishment situated in that Member State. It is for the national court to ascertain whether that is the case;<sup>21</sup>

- old-age benefits provided under an occupational pension scheme of one Member State and those provided under a statutory pension scheme of another Member State are equivalent benefits, where both have the same aim of ensuring that their recipients maintain a standard of living commensurate with that which they enjoyed before retirement;<sup>22</sup>
- the Environmental Impact Assessment Directive does not apply to a project covered by a legislative provision according to which a project which has been the subject of a decision taken in breach of the obligation to assess its effects on the environment, for which the time limit for an action for annulment has expired, must be regarded as lawfully authorised. However, EU law precludes such a legislative provision insofar as it provides that a prior impact assessment is deemed to have been carried out for the project;<sup>23</sup>
- all postal operators may have imposed on them a number of obligations, ranging from a contribution to the financing of the national regulatory authority to compliance with working conditions and requirements on quality, availability and performance.<sup>24</sup>

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<sup>21</sup> Verein für Konsumenteninformation v Amazon EU Sàrl, [C-191/15](#).

<sup>22</sup> Knauer, [C-453/14](#).

<sup>23</sup> Directive [85/337/EEC](#) amended by Directive [97/11/EC](#), Stadt Wiener Neustadt, [C-348/15](#).

<sup>24</sup> Directive [97/67/EC](#); case [C-2/15](#), DHL Express Austria v. PCK.

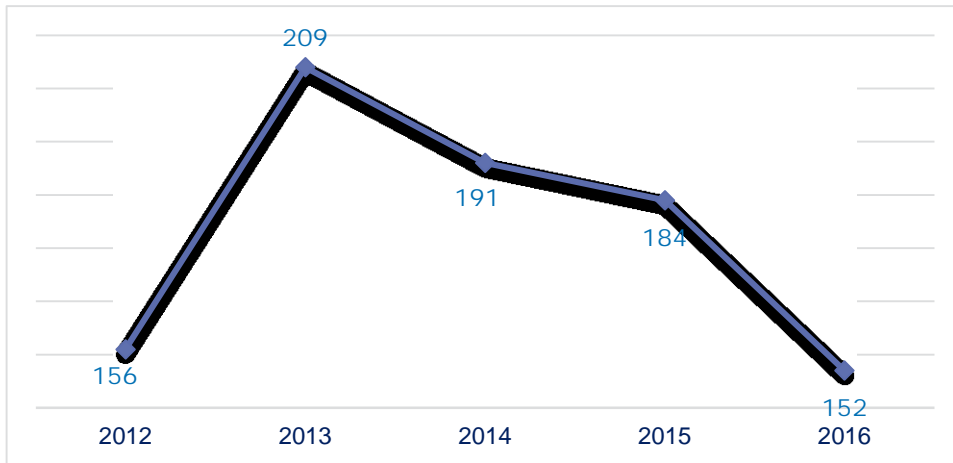


Poland

*New complaints against Poland in 2016 continued to fall from 2013's peak while EU Pilot files held steady. The number of open infringement cases continued the gentle downward trend seen since the previous year. New infringement cases for late transposition continued to rise, reaching a peak of twice their 2012 level.*

I. COMPLAINTS

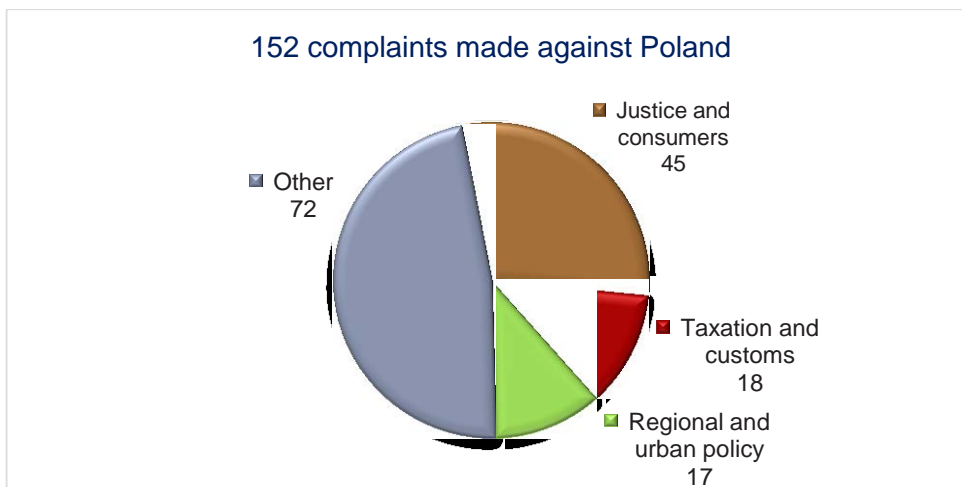
1. New complaints made against Poland by members of the public (2012-2016)



2. Public complaints against Poland open at year-end

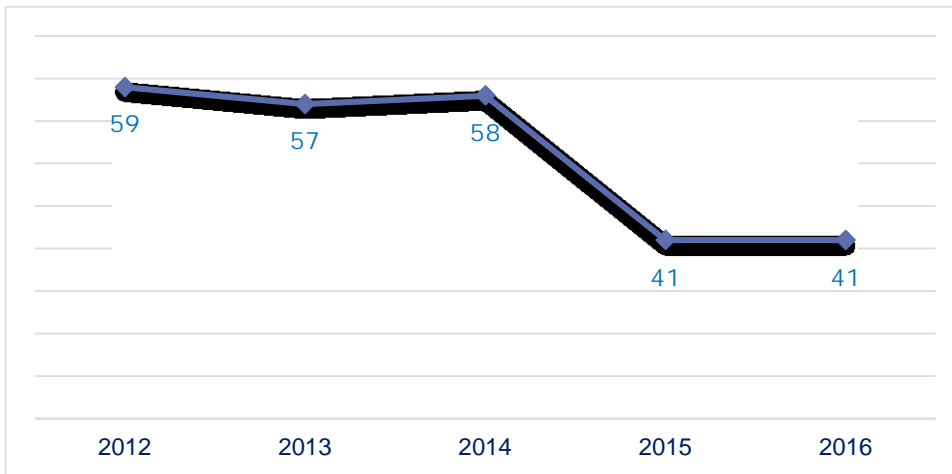
167	>	Complaints open at end-2015
152	>	New complaints registered in 2016
186	>	Complaints handled in 2016
<b>= 133</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

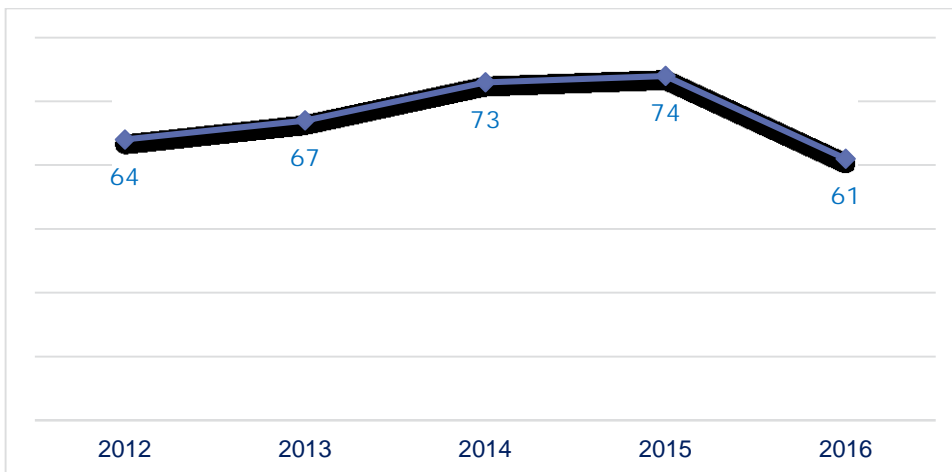


## II. EU PILOT

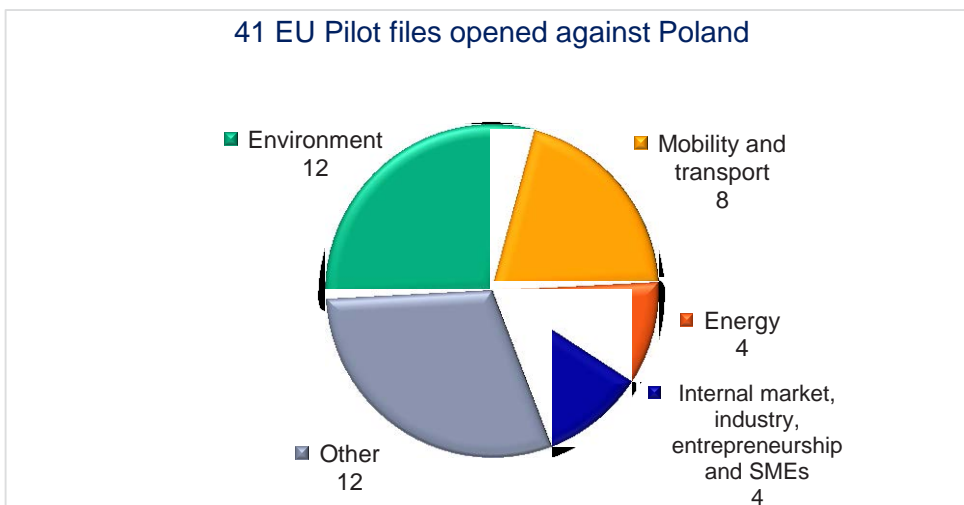
### 1. New EU Pilot files opened against Poland (2012-2016)



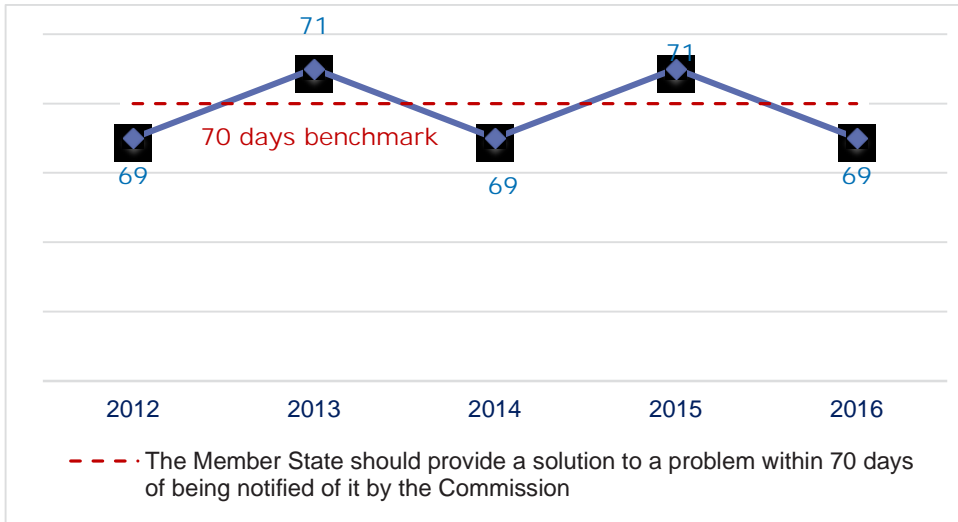
### 2. Files relating to Poland open in EU Pilot at year-end



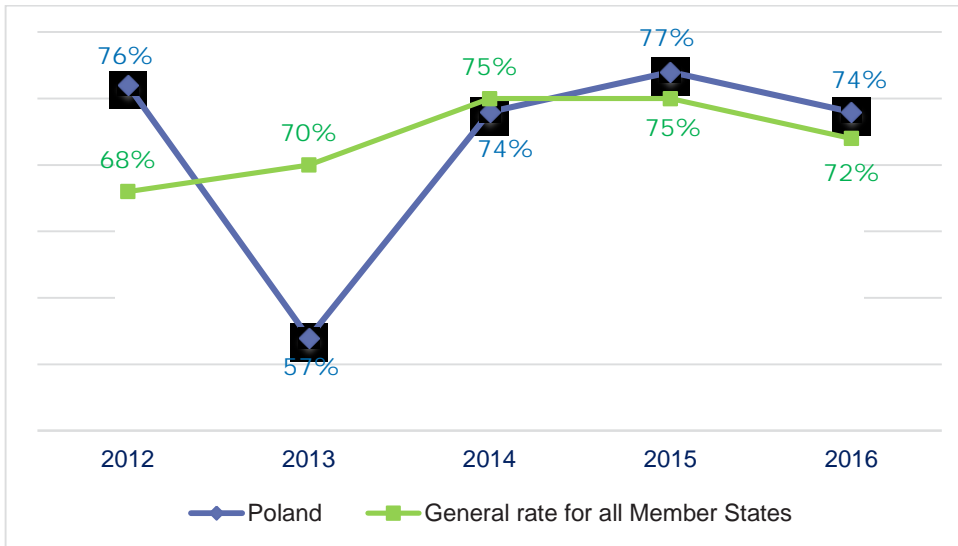
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Poland's average response time in 2012-2016 (in days)

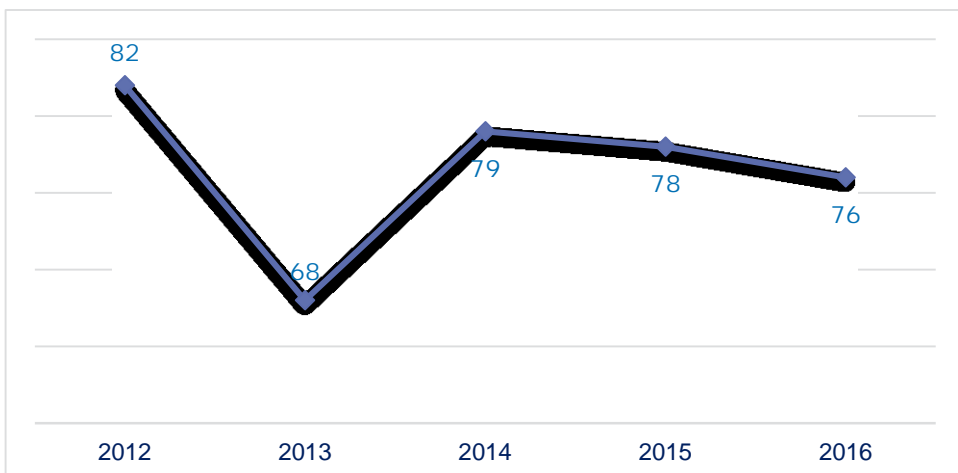


5. EU Pilot files: Poland's resolution rate in 2012-2016

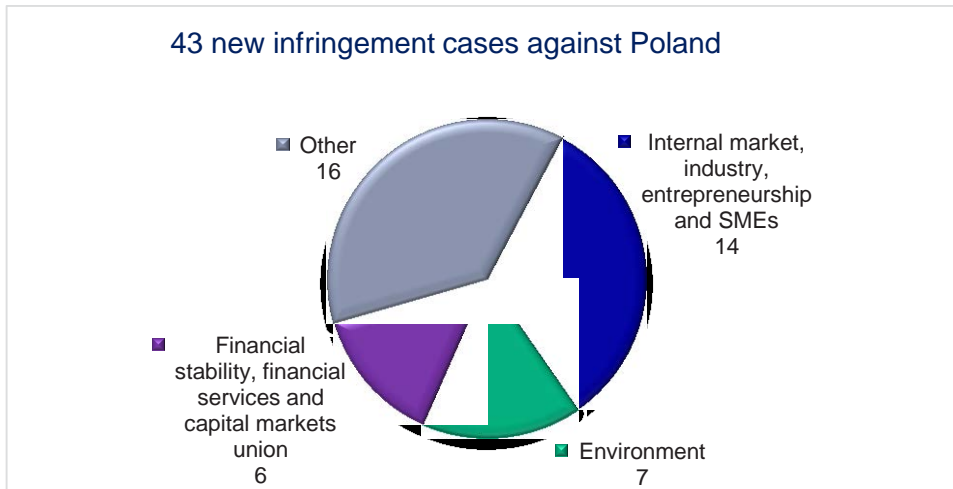


III. INFRINGEMENT CASES

1. Infringement cases against Poland open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 43 new infringement cases against Poland in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the rules under the Authorisation Directive, the Framework Directive and the Directive on competition in the market for communications networks and services as regards the spectrum assignment to a specific company without an open procedure;<sup>1</sup>
  - non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>2</sup>
  - increased logging in Białowieża Forest;
  - failure to communicate measures transposing the Seveso III Directive;<sup>3</sup>
  - failure to fully transpose the Energy Efficiency Directive and the Directive on safety of offshore oil and gas operations;<sup>4</sup>
  - failure to comply with the requirements of the Renewable Energy Directive;<sup>5</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>6</sup>
  - failure to correctly implement the Airport Charges Directive;<sup>7</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>8</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>9</sup>
- b) The Commission referred four cases to the Court under Article 258 TFEU. They concern:
- widespread non-respect of the PM<sub>10</sub> limit values set by the Air Quality Directive;<sup>10</sup>
  - failure to ensure that the environmental impacts of exploratory mining drillings are properly assessed;<sup>11</sup>

<sup>1</sup> Directives [2002/20/EC](#), [2002/21/EC](#) and [2002/77/EC](#).

<sup>2</sup> Directive [2008/50/EC](#).

<sup>3</sup> Directive [2012/18/EU](#) and [MEMO/16/1452](#).

<sup>4</sup> Directives [2012/27/EU](#) and [2013/30/EU](#), [MEMO/16/3125](#) and [MEMO/16/3644](#).

<sup>5</sup> Directive [2009/28/EC](#), [MEMO/16/1823](#) and [MEMO/16/1452](#).

<sup>6</sup> Directive [2014/17/EU](#), and press releases [MEMO/16/3644](#) and [MEMO/16/4211](#).

<sup>7</sup> Directive [2009/12/EC](#), [MEMO/16/319](#).

<sup>8</sup> Directive [2006/123/EC](#), [IP/16/323](#) and [MEMO/16/319](#).

<sup>9</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

<sup>10</sup> Directive [2008/50/EC](#), Commission v Poland, [C-336/16](#); [IP/15/6225](#).

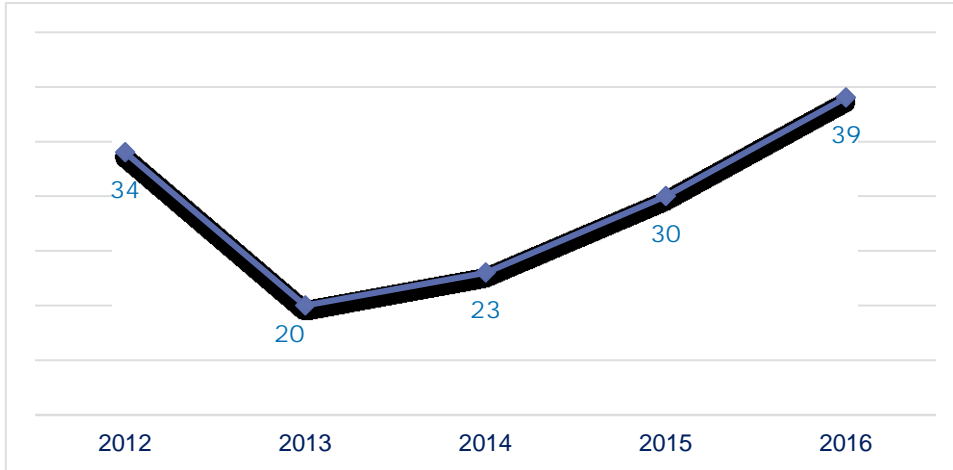
<sup>11</sup> Commission v Poland, [C-526/16](#); [IP/16/1454](#).

- failure to meet the obligation of establishing a national electronic register of road transport undertakings;<sup>12</sup>
- failure to correctly transpose and implement EU rules on rail safety.<sup>13</sup>

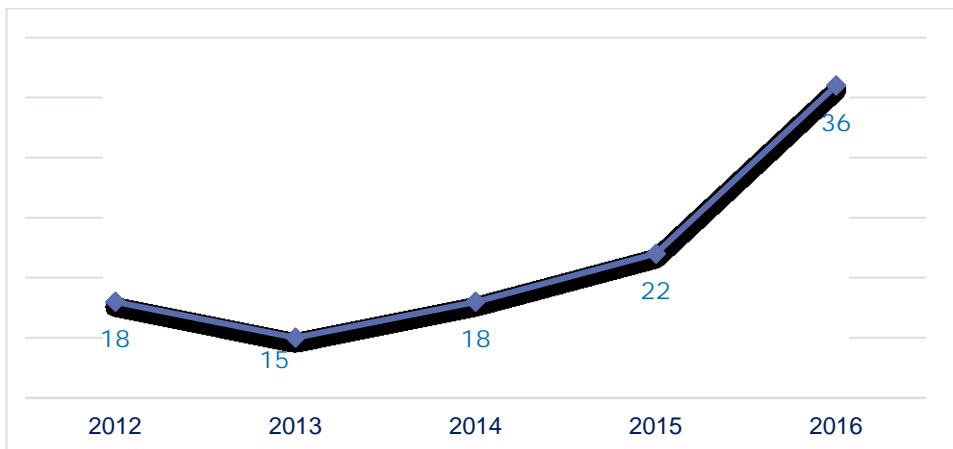
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Poland open on 31 December (2012-2016)



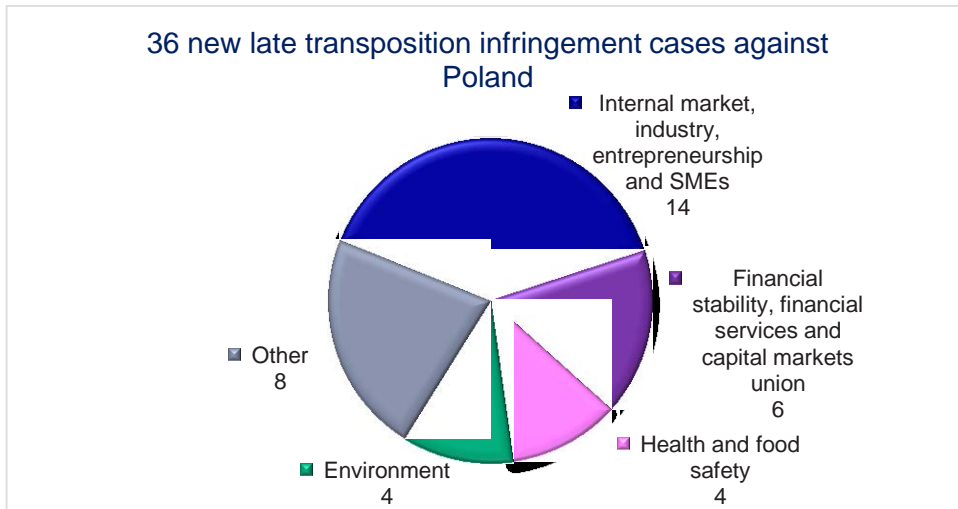
##### 2. New late transposition infringement cases against Poland (2012-2016)



<sup>12</sup> Commission v Poland, [C-23/16](#), [IP/15/6012](#), [MEMO/15/6006](#).

<sup>13</sup> Commission v Poland, [C-530/16](#), [IP/16/324](#), [MEMO/16/319](#).

### 3. New late transposition infringement cases opened in 2016: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- non-conformity of national legislation with the Directive on quality and safety of blood and blood components;<sup>14</sup>
- incorrect transposition of the Environmental Impact Assessment Directive and the Habitats Directive in relation to maintenance works on rivers;<sup>15</sup>
- non-communication of national measures transposing the Directive on waste electrical and electronic equipment;<sup>16</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>17</sup>
- incorrect implementation of the Directive on a European electronic toll service;<sup>18</sup>
- failure to correctly transpose and apply EU legislation on the separation of accounts in rail;<sup>19</sup>
- completing the transposition of the Directive on over-reliance on credit ratings;<sup>20</sup>
- completing the notification of all national measures necessary to transpose the Financial Conglomerates Directive;<sup>21</sup>
- minimum amounts of cover in relation to the Motor Insurance Directive.<sup>22</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>23</sup>

The Court ruled that:

<sup>14</sup> Directive [2002/98/EC](#).

<sup>15</sup> Directives [2011/92/EU](#) and [92/43/EEC](#).

<sup>16</sup> Directive [2012/19/EU](#).

<sup>17</sup> Directive [2006/126/EC](#), IP/15/6229, [MEMO/15/6223](#).

<sup>18</sup> Directive [2004/52/EC](#).

<sup>19</sup> Directive [2012/34/EU](#).

<sup>20</sup> Directive [2013/14/EU](#).

<sup>21</sup> Directive [2011/89/EU](#).

<sup>22</sup> Directive [2005/14/EC](#).

<sup>23</sup> These rulings are almost exclusively handed down in infringement procedures.

- Poland has failed to transpose correctly into its national legal framework several provisions of the Water Framework Directive;<sup>24</sup>
- Poland has failed to establish a national electronic register and to interconnect with the national electronic registers of other Member States.<sup>25</sup>

## 2. Preliminary rulings

In a preliminary rulings addressed to the Polish judiciary, the Court held that:

- the use of standard contract terms with content identical to that of terms which have been declared unlawful by a judicial decision having the force of law and which have been entered in a national register of unlawful standard contract terms can be regarded, in relation to another seller or supplier which was not a party to the proceedings culminating in the entry in that register, as an unlawful act, provided that that seller or supplier has an effective judicial remedy against the decision declaring the terms to be equivalent, as well as against the decision fixing the amount of the fine imposed. Such a national register of unlawful standard contract terms must comply with the requirements of Directive 93/13/EEC and of EU law more generally. It must in that regard be managed in a transparent manner in the interest not only of consumers but also of sellers or suppliers and kept up to date;<sup>26</sup>
- the Universal Services Directive<sup>27</sup> must be interpreted to mean that a Member State may provide that an operator of a public electronic communications network must ensure that all end users are able to access non-geographic numbers on its network in that State, and not only those of other Member States;<sup>28</sup>
- a national court hearing an appeal against a decision of the national regulatory authority in the area of electronic communications networks and services<sup>29</sup> must be able to annul that decision with retroactive effect if it finds that to be necessary in order to provide effective protection for the rights of the undertaking which has brought the appeal;<sup>30</sup>
- subjecting the organisation of games of chance and gaming on machines to the requirement to hold a licence to operate a gaming casino does not fall within the concept of 'technical regulation' under the Single Market Transparency Directive.<sup>31</sup>

<sup>24</sup> Directive [2000/60/EC](#), Commission v Poland, [C-648/13](#).

<sup>25</sup> Regulation (EC) [No 1071/2009](#), Commission v Poland, [C-23/16](#).

<sup>26</sup> Biuro podróży 'Partner', [C-119/15](#).

<sup>27</sup> Directive [2002/22/EC](#).

<sup>28</sup> Polkomtel, [C-397/14](#).

<sup>29</sup> Directive [2002/21/EC](#).

<sup>30</sup> Prezes Urzędu Komunikacji Elektronicznej and Petrotel, [C-231/15](#).

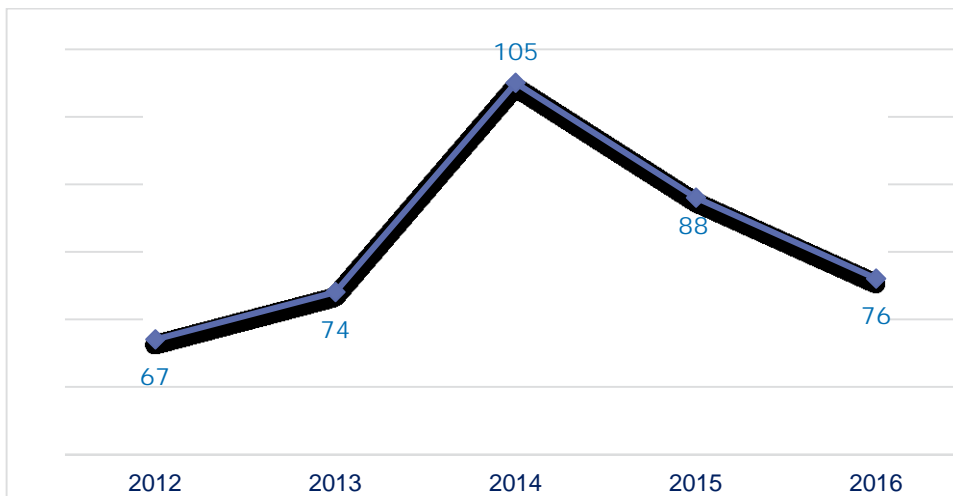
<sup>31</sup> Directive [2015/1535/EU](#), M. and S. [C-303/15](#).

## Portugal

New complaints against Portugal dropped further in 2016, almost equalling their 2013 level. The decreasing trend also continued for new EU Pilot files, which reached a five-year low. In contrast, the number of infringement cases against Portugal open at the end of the year increased sharply, equalling the 2012 peak. New infringement cases for late transposition also jumped, reaching a new five-year high.

### I. COMPLAINTS

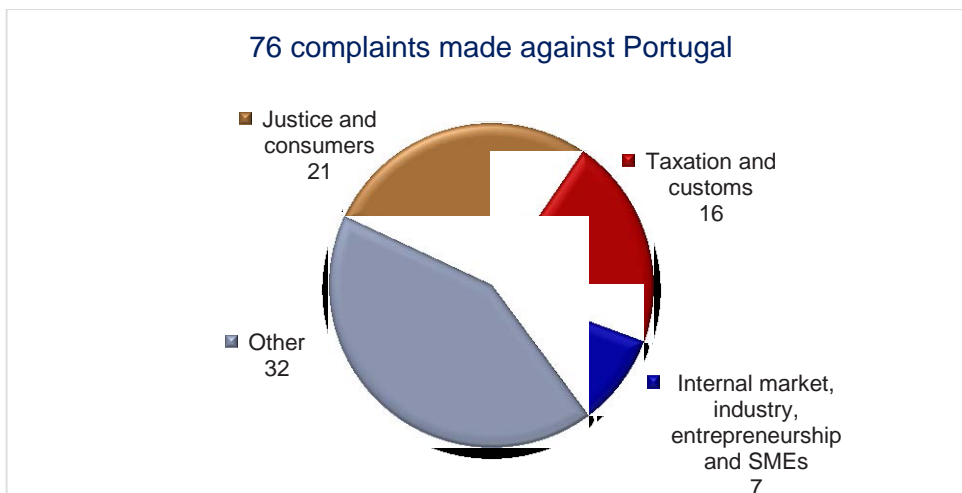
#### 1. New complaints made against Portugal by members of the public (2012-2016)



#### 2. Public complaints against Portugal open at year-end

78	>	Complaints open at end-2015
76	>	New complaints registered in 2016
98	>	Complaints handled in 2016
<b>= 56</b>	>	Complaints open at end-2016

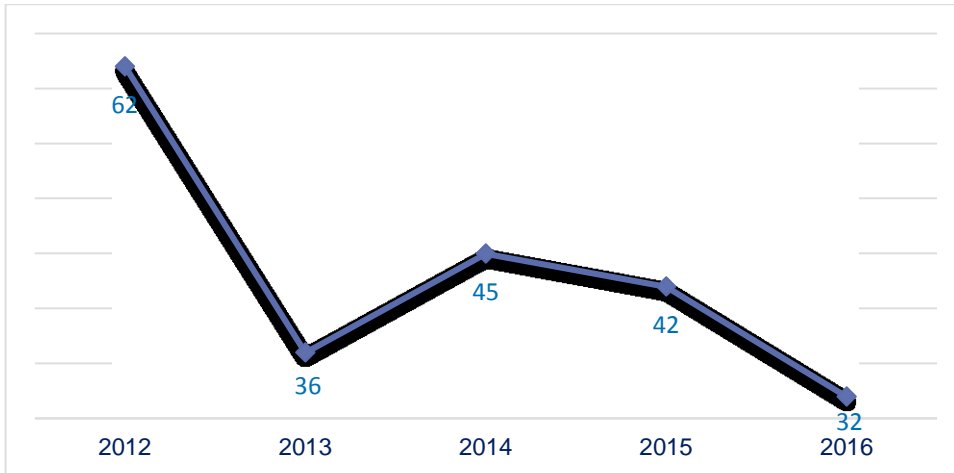
#### 3. New complaints registered in 2016: main policy areas



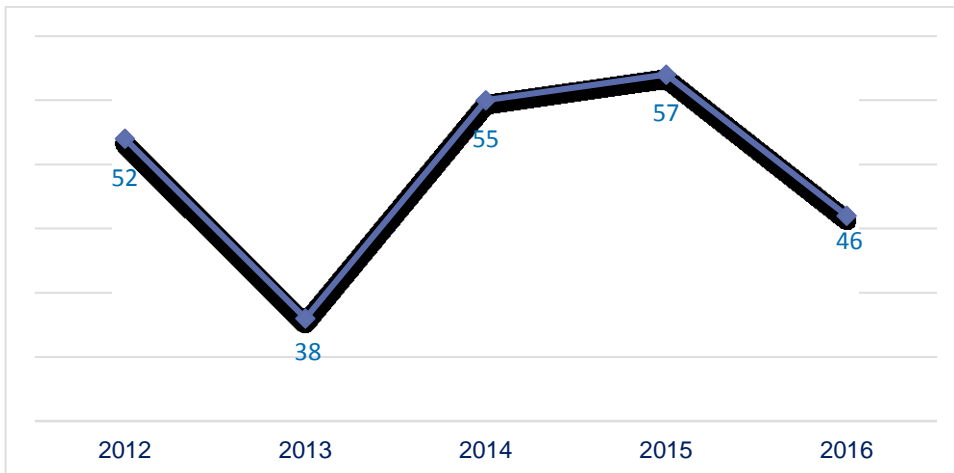


## II. EU PILOT

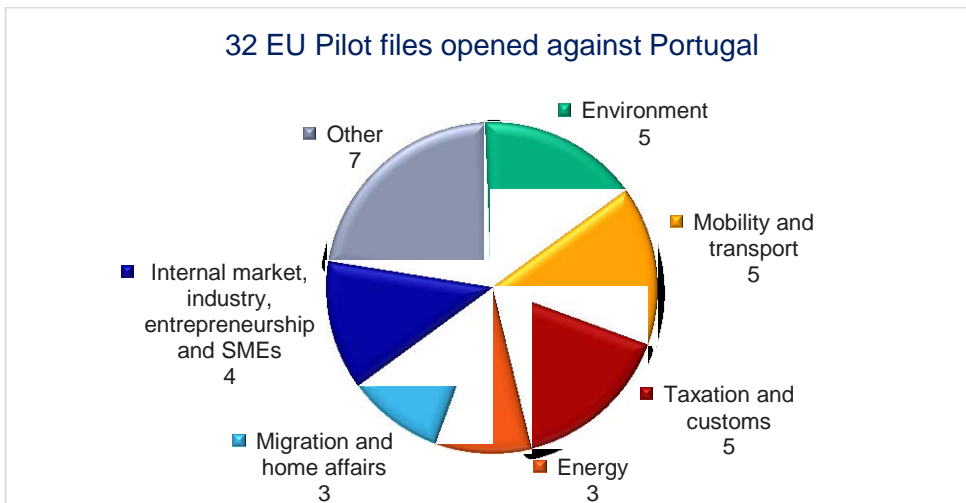
### 1. New EU Pilot files opened against Portugal (2012-2016)



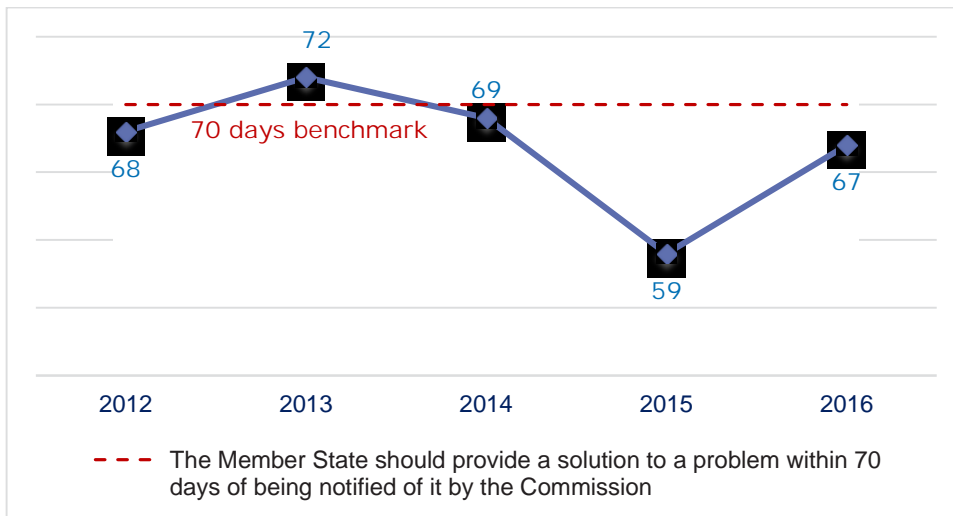
### 2. Files relating to Portugal open in EU Pilot at year-end



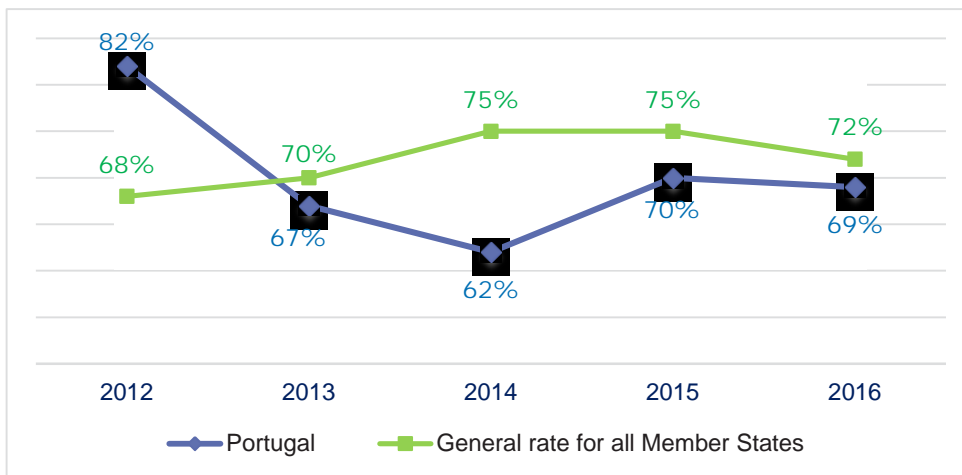
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Portugal's average response time in 2012-2016 (in days)

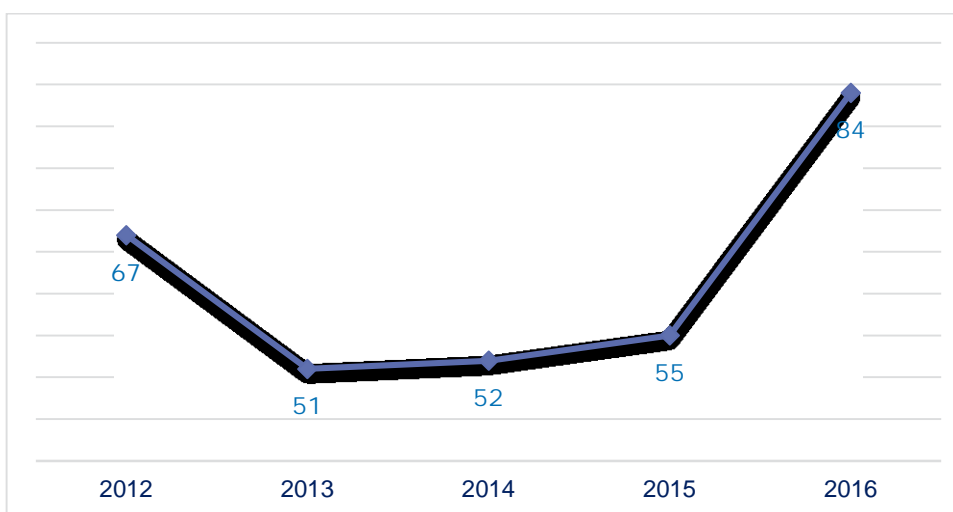


5. EU Pilot files: Portugal's resolution rate in 2012-2016

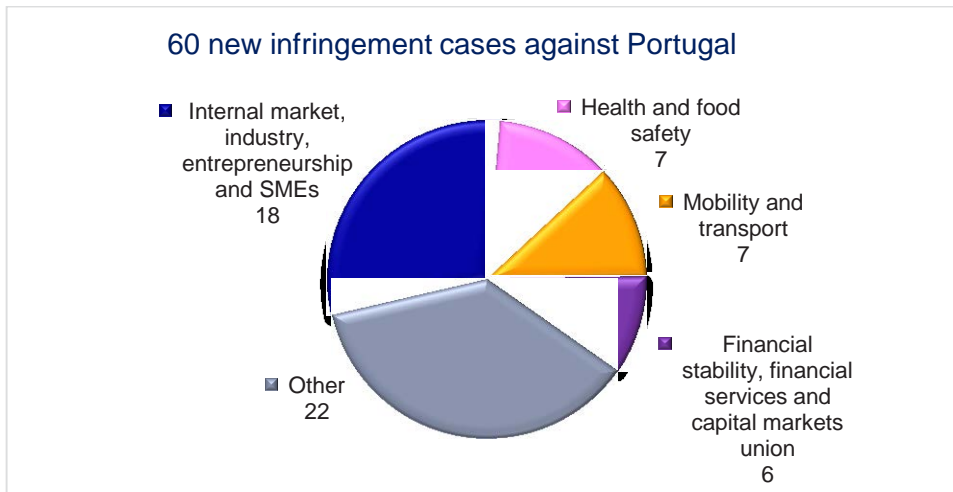


III. INFRINGEMENT CASES

1. Infringement cases against Portugal open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 60 new infringement cases against Portugal in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>1</sup>
  - bad application of the Habitats Directive as regards designation of special areas of conservation and establishment of the necessary conservation measures;<sup>2</sup>
  - inadequate urban waste water treatment;
  - failure to fully transpose the Offshore Safety Directive;<sup>3</sup>
  - failure to comply with the requirements of the Renewable Energy Directive;<sup>4</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>5</sup>
  - failure to communicate all national measures transposing the Transparency Directive;<sup>6</sup>
  - incorrect implementation of the Directive on accident investigations;<sup>7</sup>
  - incorrect implementation of the Directive on port State control;<sup>8</sup>
  - incorrect implementation of the Flag State Directive;<sup>9</sup>
  - failure to report on monitoring activities carried out by the maritime authority;<sup>10</sup>
  - failure to correctly transpose and implement EU rules on driving licences;<sup>11</sup>
  - failure to transpose in full the three Directives on public procurement and concessions;<sup>12</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>13</sup>
  - the airport tax applied by the Lisbon municipality on passengers arriving at the Lisbon airport: as passengers with their domicile in Portugal are exempted from

<sup>1</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>2</sup> Directive [92/43/EEC](#); [MEMO/16/1823](#).

<sup>3</sup> Directive [2013/30/EU](#); [MEMO/16/319](#)

<sup>4</sup> Directive [2009/28/EC](#); [MEMO/16/1452](#).

<sup>5</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

<sup>6</sup> Directive [2013/50/EU](#); [MEMO/16/3644](#).

<sup>7</sup> Directive [2009/18/EC](#).

<sup>8</sup> Directive [2009/16/EC](#).

<sup>9</sup> Directive [2009/21/EC](#); [MEMO/16/3125](#).

<sup>10</sup> Directive [2009/15/EC](#); [MEMO/16/2490](#).

<sup>11</sup> Directive [2006/126/EC](#); [MEMO/16/2097](#).

<sup>12</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/4211](#).

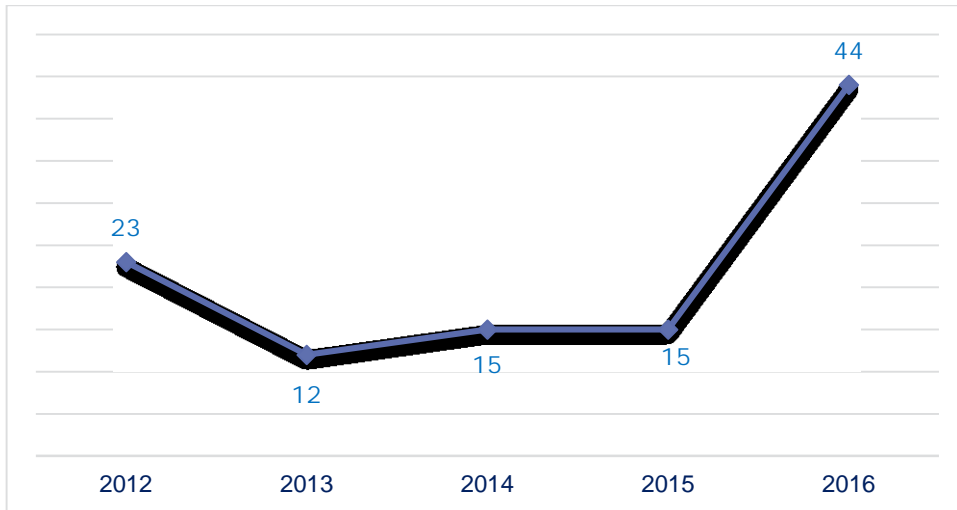
<sup>13</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

the tax, it may constitute a covert discrimination by reason of nationality that infringes Article 18 TFEU.

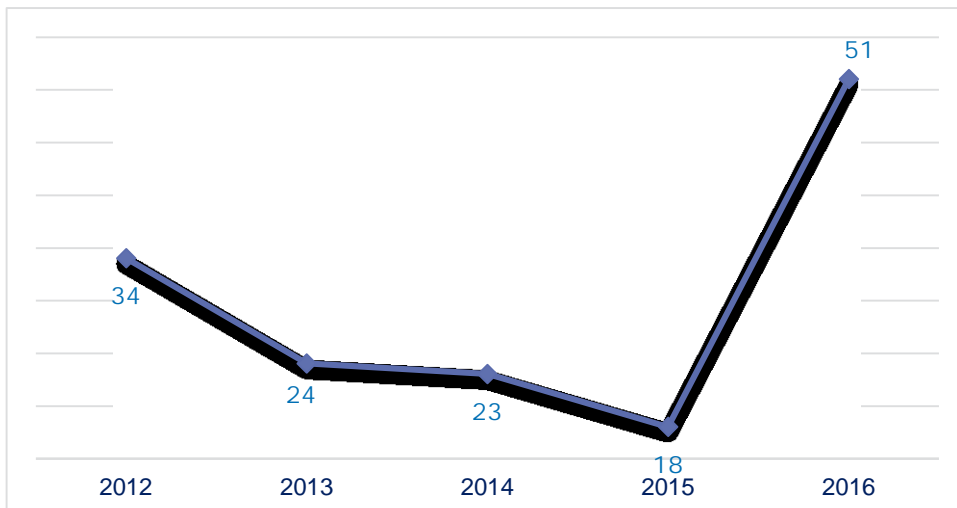
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

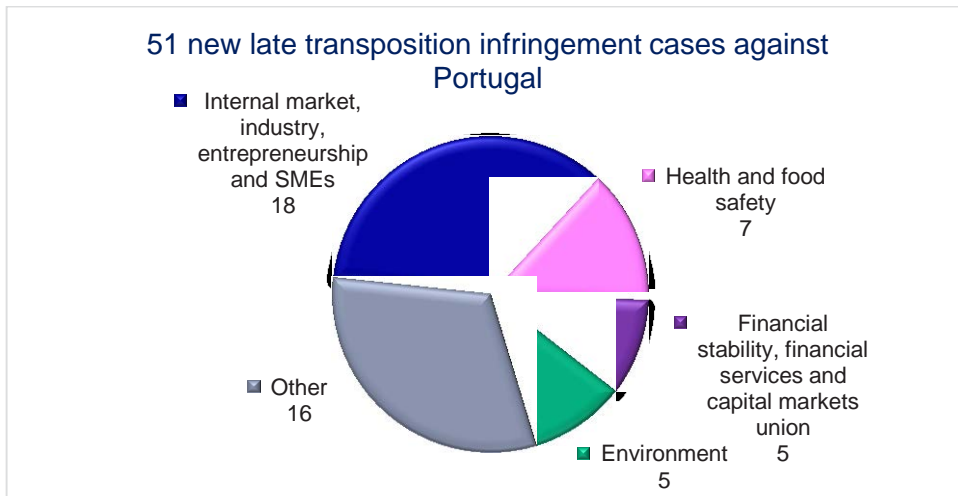
##### 1. Late transposition infringement cases against Portugal open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Portugal (2012-2016)



### 3. New late transposition infringement cases opened in 2016: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- failure to apply correctly the Directive on the protection of pigs as regards group housing of sows;<sup>14</sup>
- illegal landfills operated in breach of the Landfill Directive;<sup>15</sup>
- the notification of all national measures necessary to transpose the Capital Requirements Directive<sup>16</sup> and the Bank Resolution and Recovery Directive;<sup>17</sup>
- transposition of the Directive on over-reliance on credit ratings;<sup>18</sup>
- incorrect implementation of the Directive on a European electronic toll service;<sup>19</sup>
- non-ratification of the Protocol of Accession to the Eurocontrol International Convention;
- unequal treatment in recognition of qualifications of fixed-term teachers.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>20</sup>

The Court ruled that:

- Portugal failed to execute in full the Court's 2009 judgment finding that Portugal was not ensuring adequate treatment of urban waste water in certain agglomerations discharging into normal areas. The Court ordered Portugal to pay a lump sum of EUR 3 million and a daily penalty payment of EUR 8 000;<sup>21</sup>
- Portugal failed to ensure adequate treatment of urban waste water in several smaller agglomerations;<sup>22</sup>

<sup>14</sup> Directive [2008/120/EC](#).

<sup>15</sup> Directive [1999/31/EC](#).

<sup>16</sup> Directive [2013/36/EU](#).

<sup>17</sup> Directive [2014/59/EU](#).

<sup>18</sup> Directive [2013/14/EU](#).

<sup>19</sup> Directive [2004/52/EC](#).

<sup>20</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>21</sup> Directive [91/271/EEC](#), Commission v Portugal, [C-557/14](#) and Court press release No [67/16](#).

<sup>22</sup> Directive [91/271/EEC](#), Commission v Portugal, [C-398/14](#).

- Portugal failed to fulfil its obligations under the Regulation on common rules for allocating slots at Community airports. The Court also provided clarification on the notion of independence of the slot allocation body under the Regulation;<sup>23</sup>
- Portugal failed to establish a national electronic register and to interconnect with the national electronic registers of other Member States;<sup>24</sup>
- the depreciation rates applied in Portugal on used vehicles for vehicle registration tax purposes were not in compliance with Article 110 TFEU. This is because no depreciation is taken into account before the vehicle is 1 year old and no further depreciation is taken into account in the case of vehicles older than 5 years.<sup>25</sup>

## 2. Preliminary rulings

In a preliminary ruling addressed to the Portuguese judiciary, the Court held that:

- the freedom to provide services under the TFEU allows Member States to apply a withholding tax at source to the income of non-resident banks without levying such a tax on resident banks, if such a tax is justified by an overriding reason in the general interest and necessary to achieve the objective. However, Member States may not tax non-resident banks by prohibiting them from deducting business expenses directly related to their activities while this opportunity is given to resident banks.<sup>26</sup>

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<sup>23</sup> Regulation (EEC) No [95/93](#), Commission v Portugal, [C-205/14](#).

<sup>24</sup> Regulation (EC) No [1071/2009](#), Commission v Portugal, [C-583/15](#).

<sup>25</sup> Commission v Portugal, [C-200/15](#).

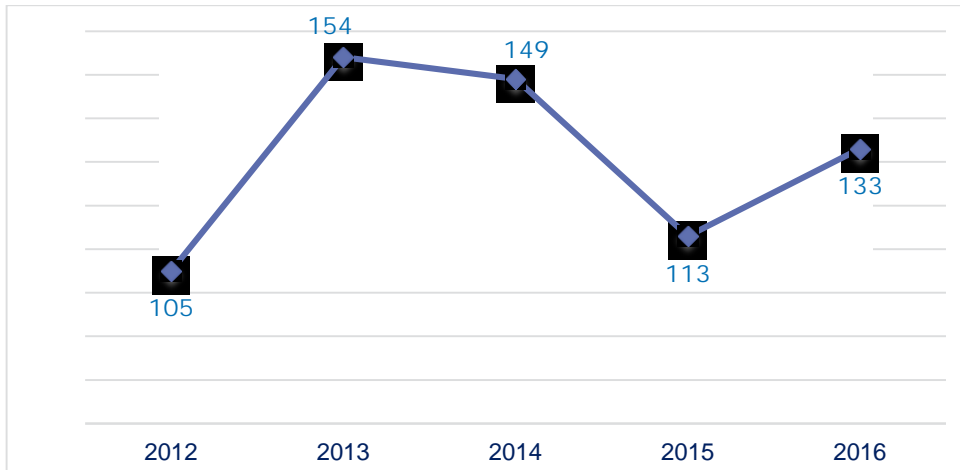
<sup>26</sup> *Brisal*, [C-18/15](#).

Romania

*New complaints against Romania rose again in 2016 after falling for 2 years. Open infringement cases and new cases for late transposition also both increased, while remaining below their 2014 peaks. By contrast, new EU Pilot files continued their steady decline, falling to less than half their 2012 level.*

I. COMPLAINTS

1. New complaints made against Romania by members of the public (2012-2016)



2. Public complaints against Romania open at year-end

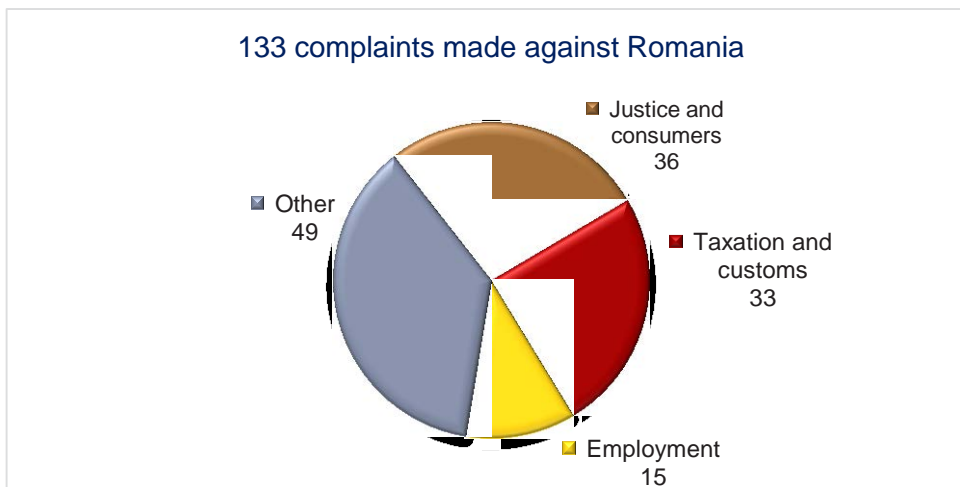
98 > Complaints open at end-2015

133 > New complaints registered in 2016

117 > Complaints handled in 2016

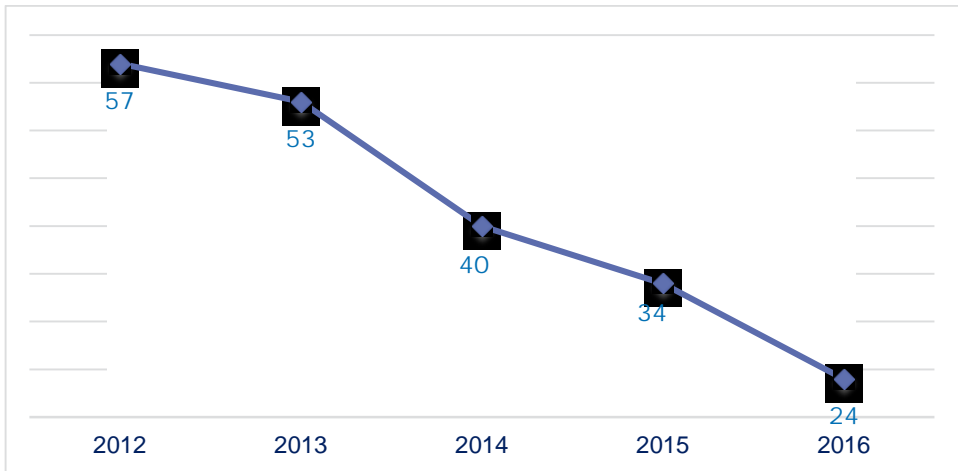
**= 114** > Complaints open at end-2016

3. New complaints registered in 2016: main policy areas

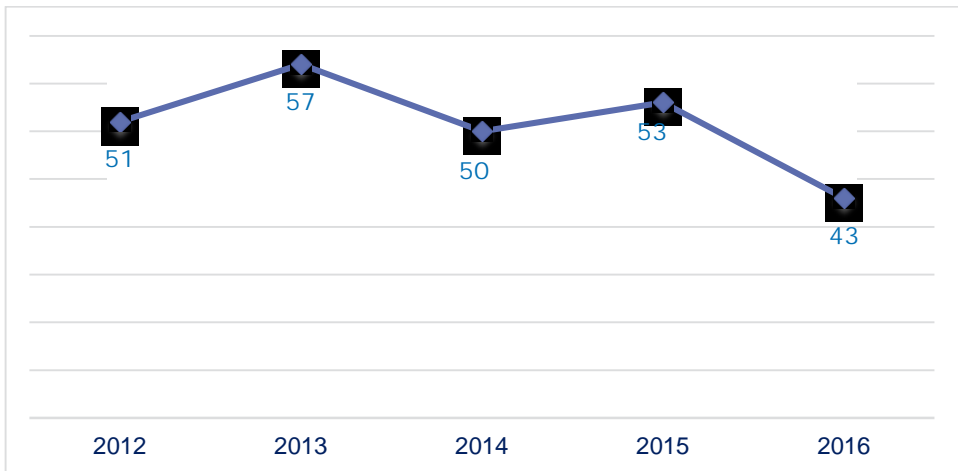


## II. EU PILOT

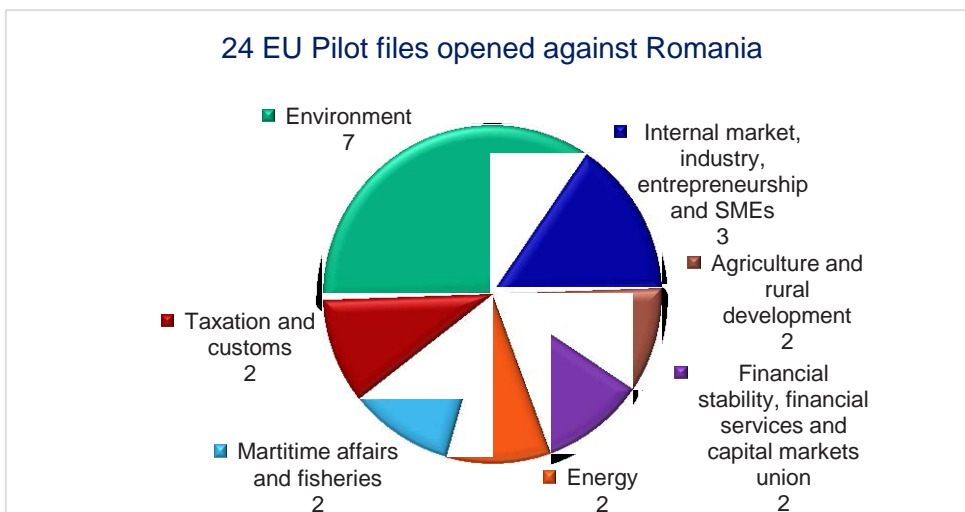
### 1. New EU Pilot files opened against Romania (2012-2016)



### 2. Files relating to Romania open in EU Pilot at year-end

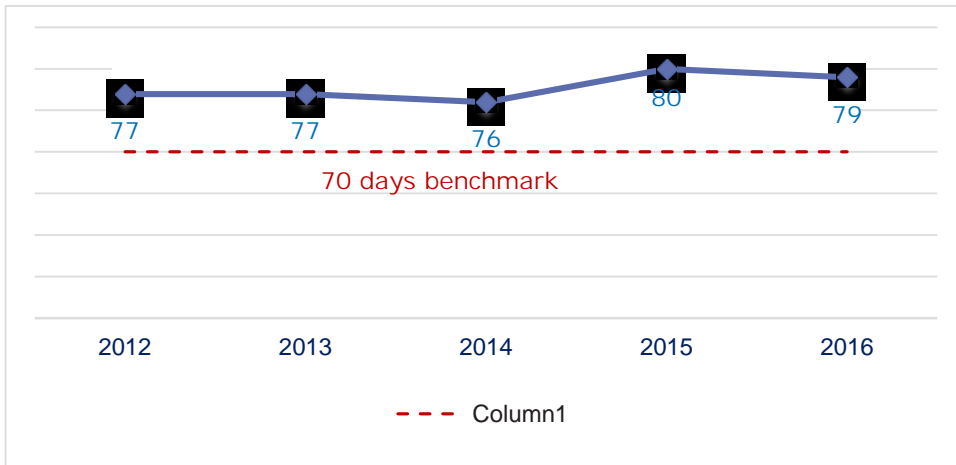


### 3. New EU Pilot files opened in 2016: main policy areas

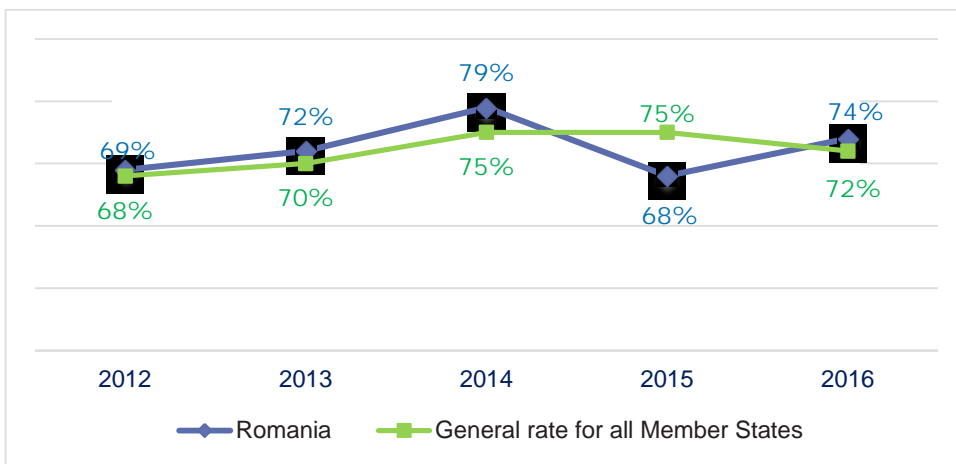




4. EU Pilot files: Romania's average response time in 2012-2016 (in days)

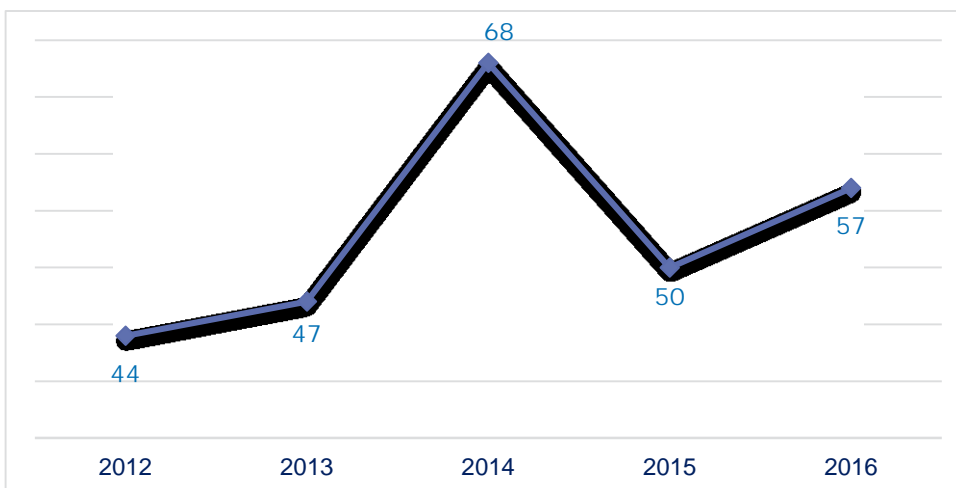


5. EU Pilot files: Romania's resolution rate in 2012-2016

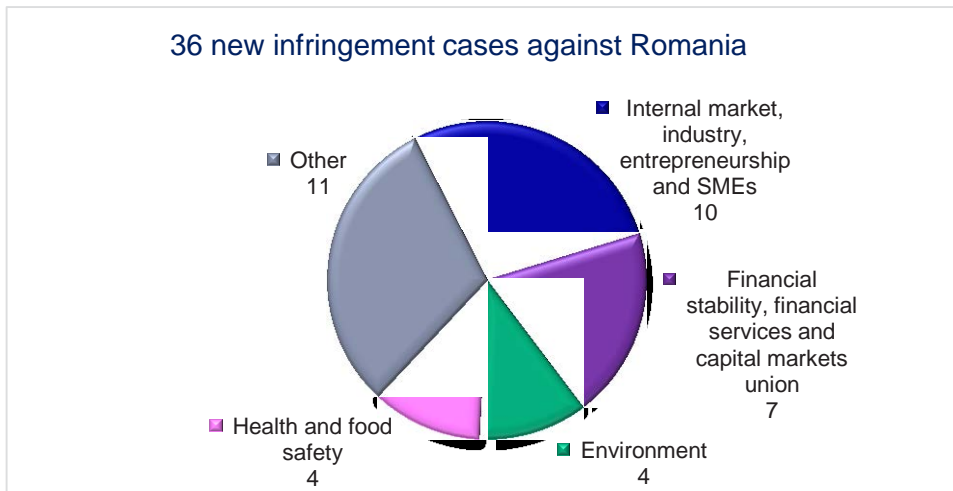


III. INFRINGEMENT CASES

1. Infringement cases against Romania open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 36 new infringement cases against Romania in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Regulation on the marketing and use of explosives precursors;<sup>1</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>2</sup>
  - failure to fully transpose the Offshore Safety Directive;<sup>3</sup>
  - failure to comply with the requirements of the Oil Stocks Directive;<sup>4</sup>
  - to communicate all national measures transposing the Directive amending the Transparency Directive;<sup>5</sup>
  - bilateral investment treaties signed before all state parties became members of the EU and which now overlap and conflict with the EU single market on cross-border investments;<sup>6</sup>
  - failure to transpose the establishing a single European railway area;<sup>7</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>8</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System.
- 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.

<sup>1</sup> Regulation (EU) No [98/2013](#).

<sup>2</sup> Directive [2008/98/EC](#), [MEMO/16/1823](#).

<sup>3</sup> Directive [2013/30/EU](#), [MEMO/16/319](#), [MEMO/16/1452](#) and [MEMO/16/3644](#).

<sup>4</sup> Directive [2009/119/EC](#) and [MEMO/16/3644](#).

<sup>5</sup> Directive [2013/50/EU](#); [MEMO/16/3644](#).

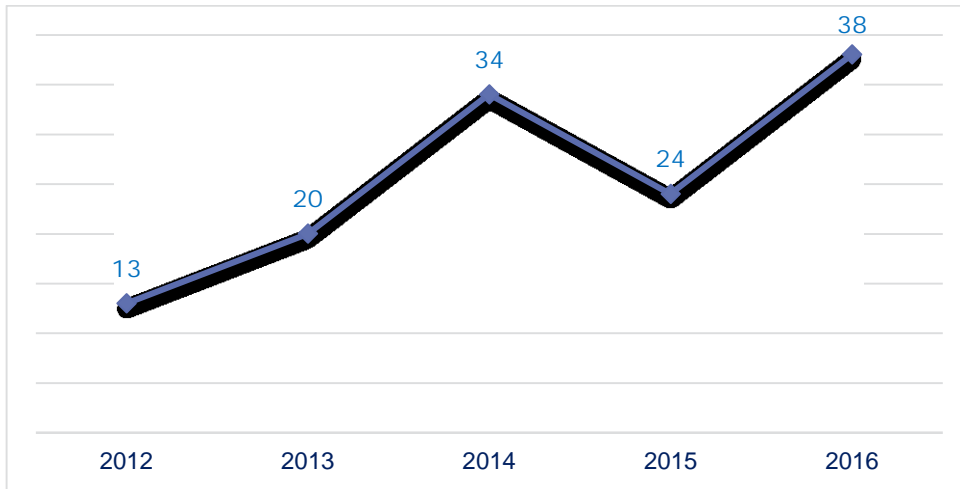
<sup>6</sup> [MEMO/16/3125](#).

<sup>7</sup> Directive [2012/34/EU](#), [MEMO/16/319](#).

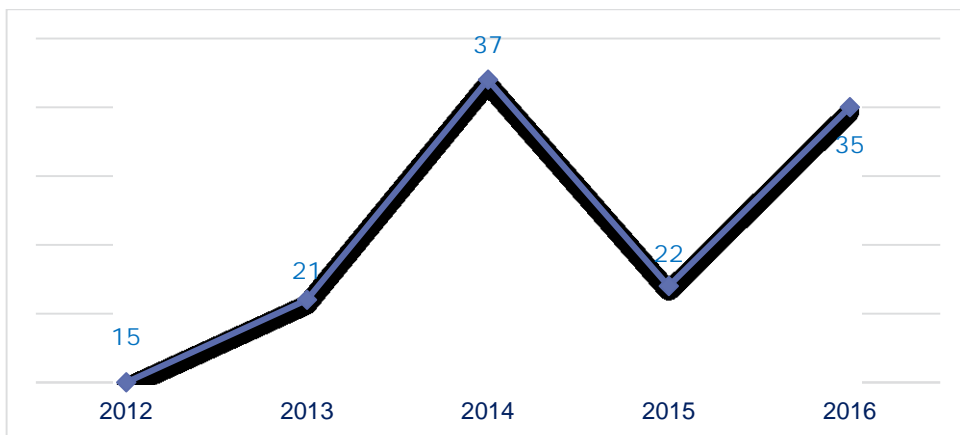
<sup>8</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

#### IV. TRANSPOSITION OF DIRECTIVES

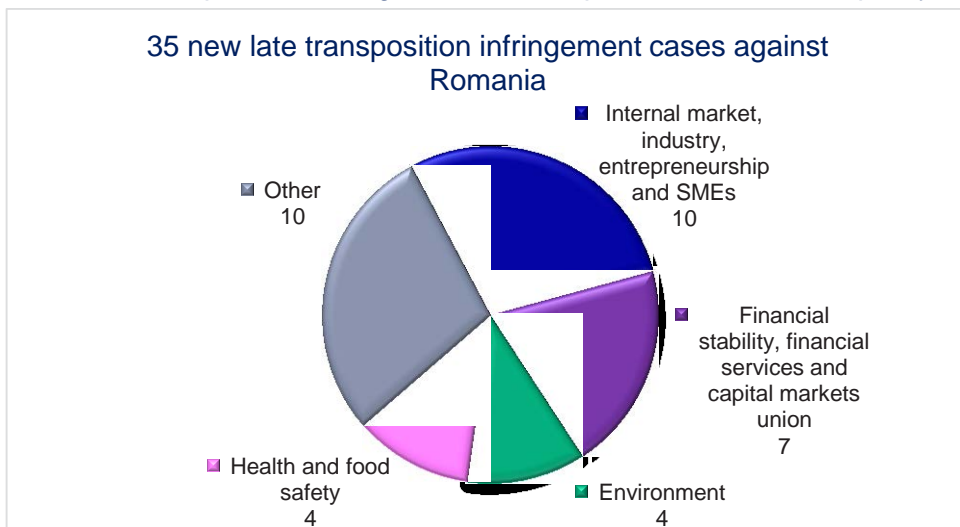
##### 1. Late transposition infringement cases against Romania open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Romania (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



#### 4. Referrals to the Court

The Commission referred one case to the Court under Articles 258 and 260(3) TFEU. It concerns:

- failure to communicate measures transposing the Directive on the sulphur content of marine fuels.<sup>9</sup>

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2016

These concerned:

- incorrect application of the Environmental Impact Assessment Directive in relation to the operation of the FCN Pitesti nuclear power plant;<sup>10</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>11</sup>
- failure to implement the EU Timber Regulation and the Forest Law Enforcement, Governance and Trade Regulation;<sup>12</sup>
- national laws on government employees. These were incompatible with the Working Time Directive as regards workers' right to acquire annual leave during sick leave and to carry over untaken annual leave due to sick leave;
- completing the notification of all national measures necessary to transpose the Bank Resolution and Recovery Directive<sup>13</sup> and the Deposit Guarantee Schemes Directive;<sup>14</sup>
- the status of the RASDAQ market according to the requirements of the Markets in Financial Instruments Directive;<sup>15</sup>
- incorrect application of the Regulation on public passenger transport services by rail and road.<sup>16</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>17</sup>

The Court ruled that:

- Romania has failed to take the necessary measures to prevent pollution from dust particles coming from a copper mining operation, in breach of the Mining Waste Directive.<sup>18</sup>

#### 2. Preliminary rulings

In preliminary rulings addressed to the Romanian judiciary, the Court held that:

- the execution of a European arrest warrant must be deferred if there is a real risk of inhuman or degrading treatment because of the conditions of detention of the person concerned in the issuing Member State. If the existence of that risk cannot be discounted within a reasonable period, the executing judicial authority must decide whether the surrender procedure should be brought to an end;<sup>19</sup>
- Member States may not repay taxes incompatible with EU law by instalments over 5 years.<sup>20</sup>

<sup>9</sup> Directive [2012/33/EU](#), Commission v Romania, [C-62/16](#); [IP/15/6008](#). Romania subsequently adopted the necessary legislative measures and the Commission has therefore withdrawn this case from the Court.

<sup>10</sup> Directive [2011/92/EU](#).

<sup>11</sup> Directive [2012/18/EU](#).

<sup>12</sup> Regulation (EU) No [995/2010](#) and Regulation (EC) No [2173/2005](#).

<sup>13</sup> Directive [2003/88/EC](#).

<sup>14</sup> Directive [2014/49/EU](#).

<sup>15</sup> Directive [2004/39/EC](#).

<sup>16</sup> Regulation (EC) No [1370/2007](#).

<sup>17</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>18</sup> Directive [2006/21/EC](#), Commission v Romania, [C-104/15](#).

<sup>19</sup> Aranyosi and Căldăraru, Joined Cases [C-404/15](#) and [C-659/15](#) PPU and Court press release No [36/16](#).

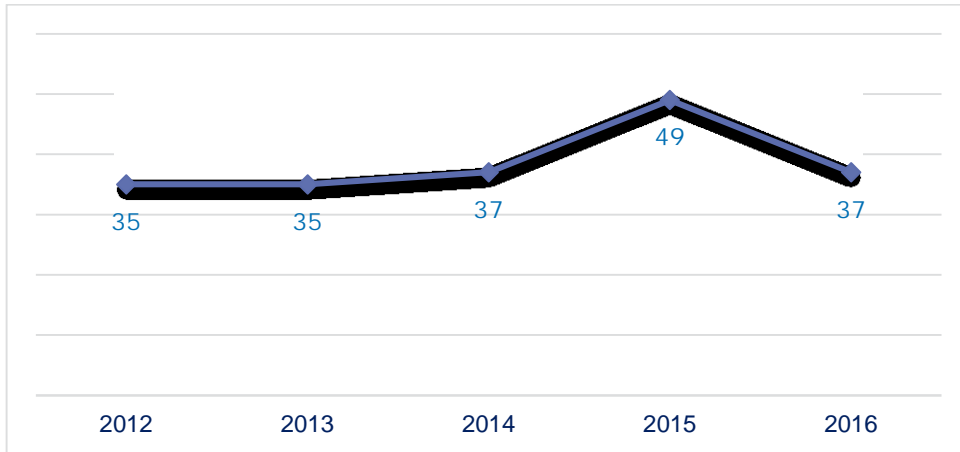
<sup>20</sup> Câmpean, [C-200/14](#) and Ciup, [C-288/14](#).

Slovenia

*New complaints against Slovenia fell back to the 2014 level in 2016, and new EU Pilot files dropped to a five-year low. By contrast, the number of open infringement cases and of new infringement cases for late transposition both increased to five-year highs.*

I. COMPLAINTS

1. New complaints made against Slovenia by members of the public (2012-2016)



2. Public complaints against Slovenia open at year-end

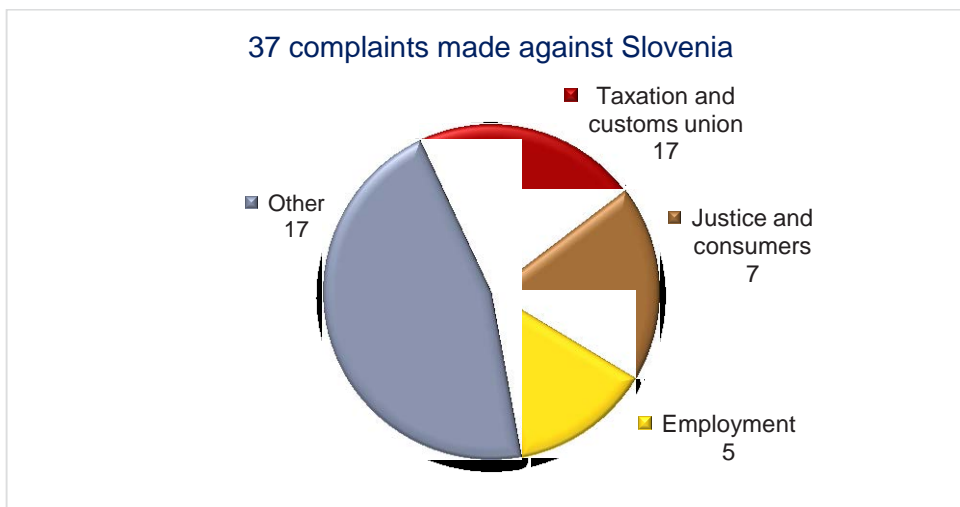
42 > Complaints open at end-2015

37 > New complaints registered in 2016

38 > Complaints handled in 2016

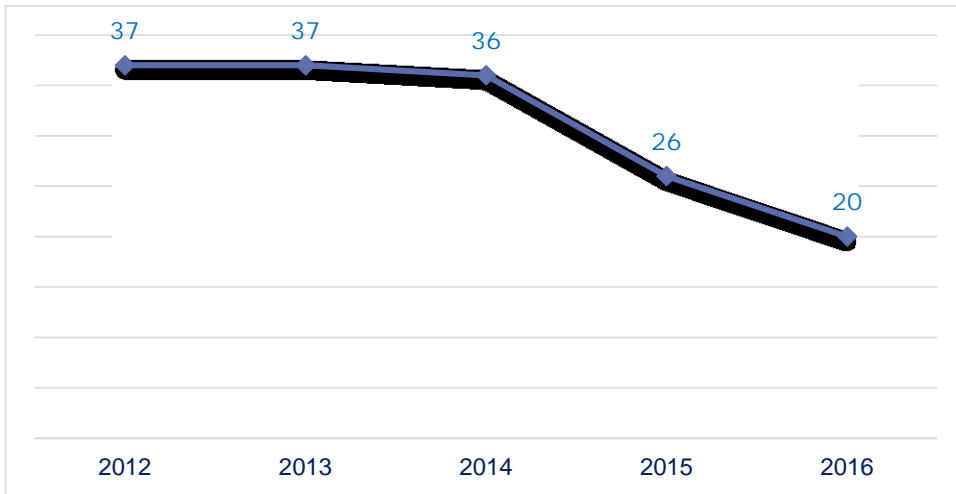
**= 41** > Complaints open at end-2016

3. New complaints registered in 2016: main policy areas

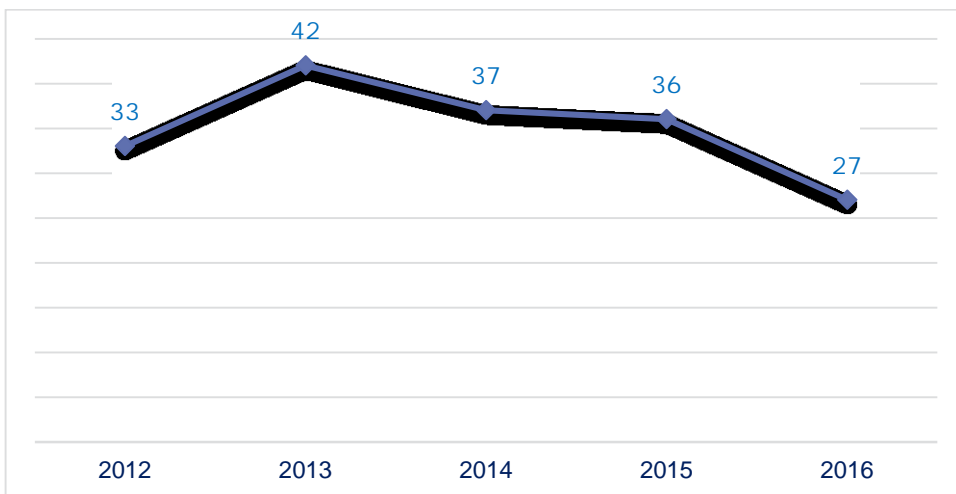


## II. EU PILOT

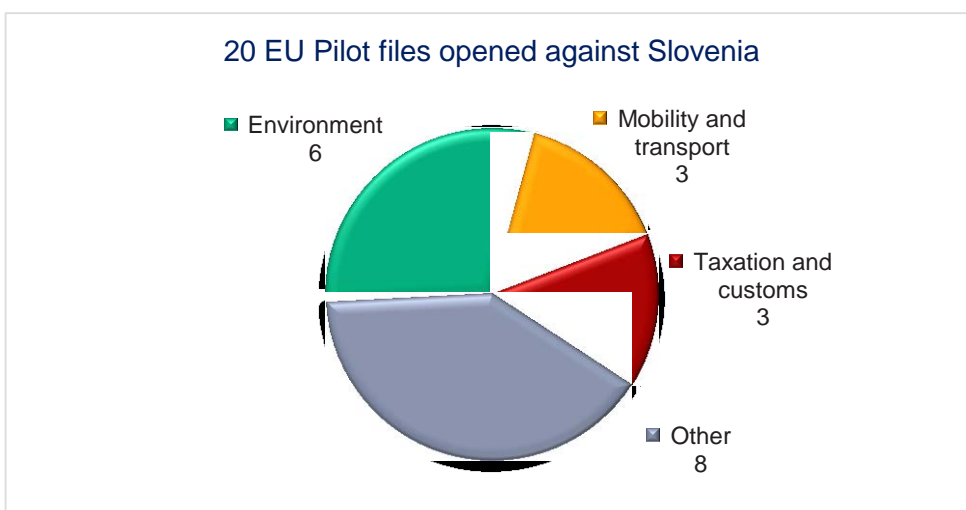
### 1. New EU Pilot files opened against Slovenia (2012-2016)



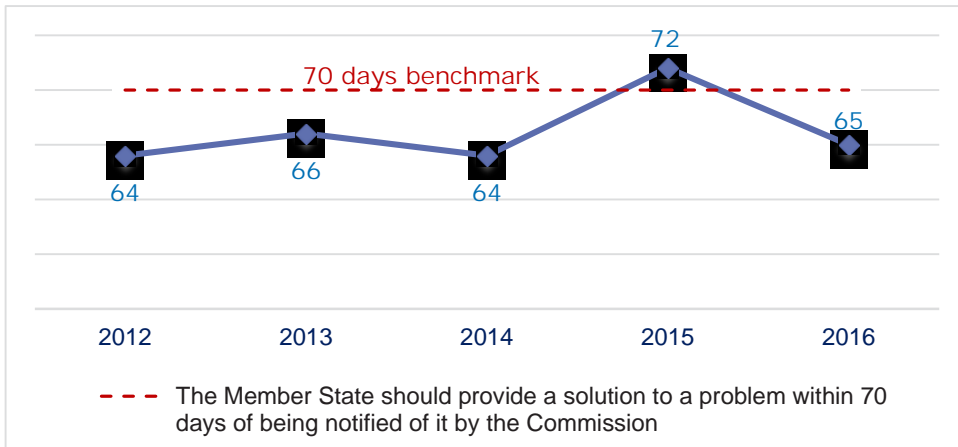
### 2. Files relating to Slovenia open in EU Pilot at year-end



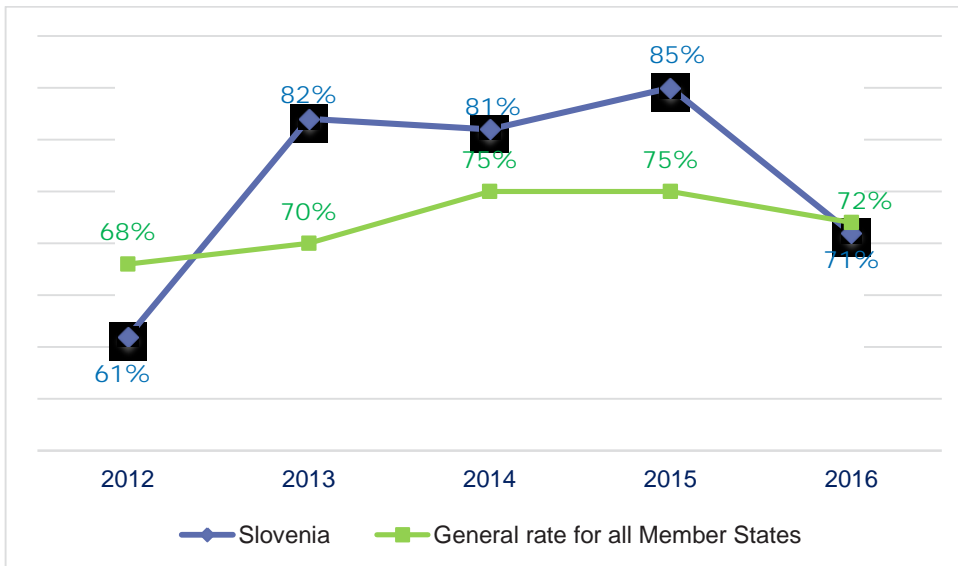
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Slovenia's average response time in 2012-2016 (in days)

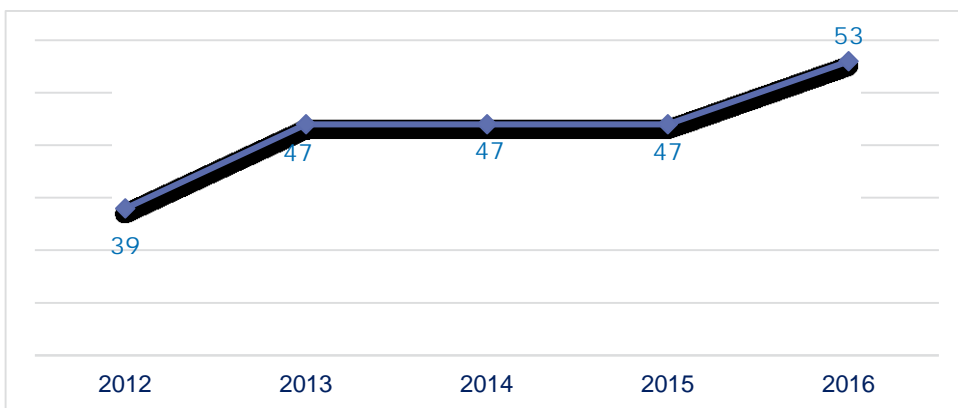


5. EU Pilot files: Slovenia's resolution rate in 2012-2016

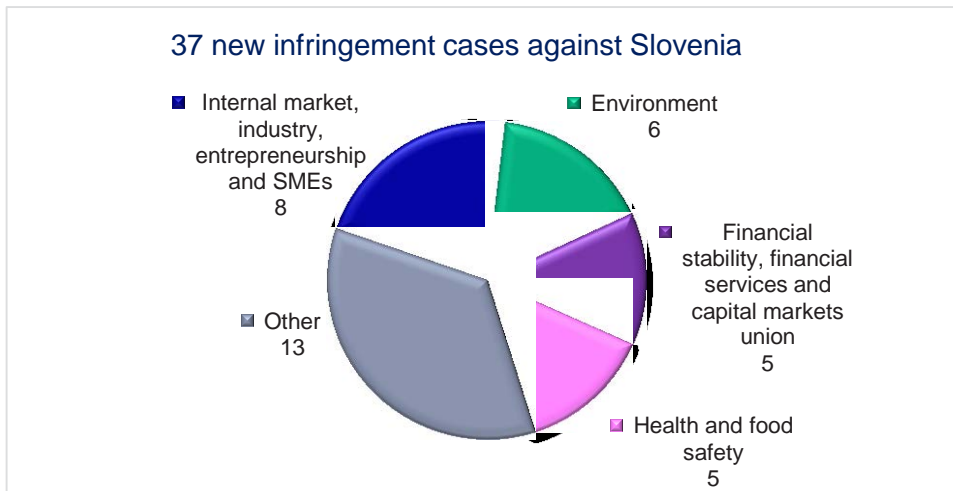


III. INFRINGEMENT CASES

1. Infringement cases against Slovenia open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 37 new infringement cases against Slovenia in 2016. These, and other major ongoing infringement cases, include:
- failure to notify measures transposing the Tobacco Directive;<sup>1</sup>
  - failure to ensure that waste landfills operate in compliance with EU standards;<sup>2</sup>
  - lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>3</sup>
  - lack of public participation and access to justice in relation to spatial planning;
  - failure to comply with the Energy Efficiency and Energy Performance of Buildings Directives;<sup>4</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive<sup>5</sup> and the Bank Recovery and Resolution Directive;<sup>6</sup>
  - failure to fulfil air safety oversight obligations regarding initial and continuous airworthiness;<sup>7</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>8</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System.<sup>9</sup>
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- inappropriate treatment of waste tyres in Lovrenc na Dravskem polju.<sup>10</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2014/40/EU](#); [MEMO/16/4211](#).

<sup>2</sup> [MEMO/16/1452](#).

<sup>3</sup> Directive [2002/49/EC](#).

<sup>4</sup> Directive [2012/27/EU](#), and press releases [MEMO/16/3644](#), and [MEMO/16/4211](#).

<sup>5</sup> Directive [2014/17/EU](#), and press releases [MEMO/16/3644](#) and [MEMO/16/4211](#).

<sup>6</sup> Directive [2014/59/EU](#) and [MEMO/16/1452](#).

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

<sup>8</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

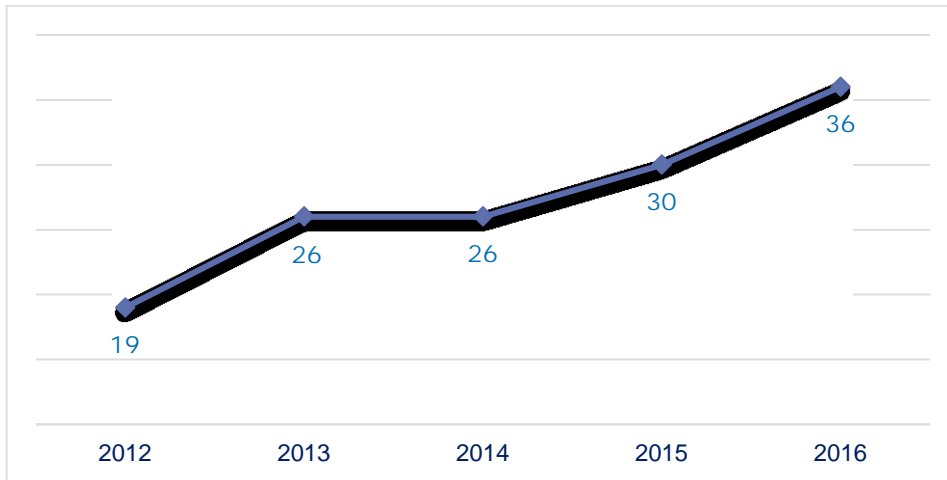
<sup>9</sup> Directive [2013/55/EU](#), [MEMO/16/3125](#).

<sup>10</sup> Commission v Slovenia, [C-153/16](#); [IP/15/4671](#).

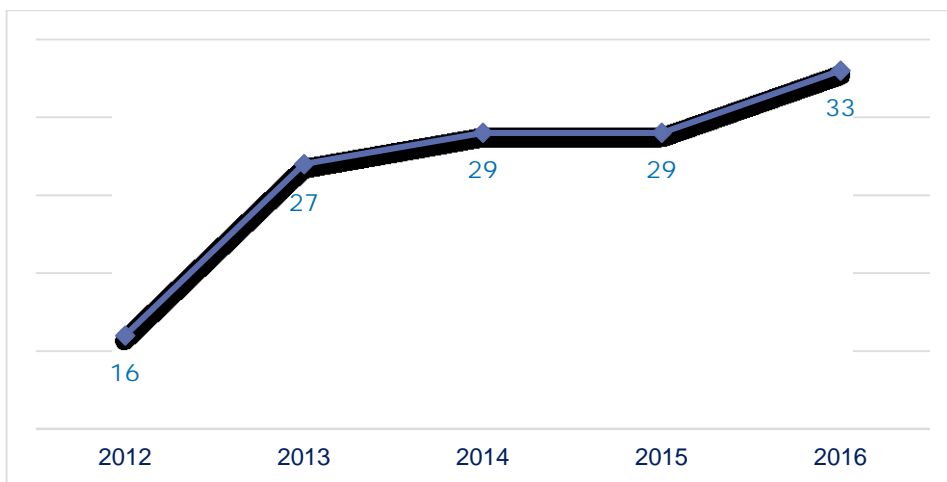


#### IV. TRANSPOSITION OF DIRECTIVES

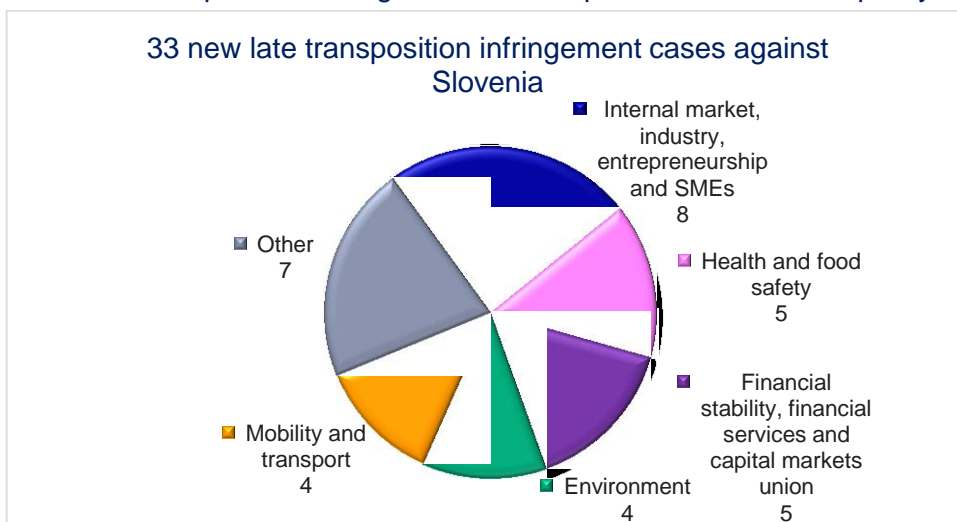
##### 1. Late transposition infringement cases against Slovenia open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Slovenia (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referral to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- the independence of the national equality body;<sup>11</sup>
- non-communication of national measures transposing the Directive on attacks against information systems;<sup>12</sup>
- failure to adopt a national waste management plan and a waste prevention programme required under the Waste Framework Directive;<sup>13</sup>
- non-communication of national measures transposing the Industrial Emissions Directive;<sup>14</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>15</sup>
- completing the transposition of the Directive on over-reliance on credit ratings;<sup>16</sup>
- failure to fulfil obligations under the Directive on driving licences.<sup>17</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court ruling<sup>18</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In a preliminary ruling addressed to the Slovenian judiciary, the Court held that:

- when defining the concept 'undertaking' under the Late Payment Directive,<sup>19</sup> all circumstances must be taken into account where a transaction forms part of the exercise of an independent economic or professional activity that is carried out in a structured and stable way. Therefore a natural person can be regarded as an undertaking and the transactions concluded are also to be considered as 'commercial transactions' according to the Directive. Also, as the Directive lays down only a 'minimum harmonisation framework', it is lawful for a Member State to introduce and maintain national provisions capping the accrual of interest.<sup>20</sup>

<sup>11</sup> Directives [2000/43](#), [2004/113](#) and [2006/54](#).

<sup>12</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).

<sup>13</sup> Directive [2008/98/EC](#).

<sup>14</sup> Directive [2010/75/EU](#).

<sup>15</sup> Directive [2012/18/EU](#).

<sup>16</sup> Directive [2013/14/EU](#).

<sup>17</sup> Directive [2006/126/EC](#).

<sup>18</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>19</sup> Directive [2000/35/EC](#).

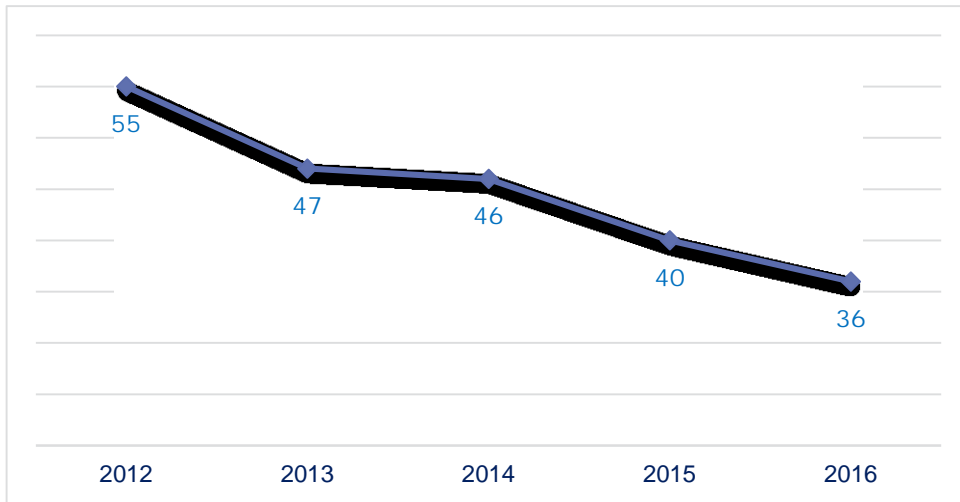
<sup>20</sup> [C-256/15](#), *Drago Nemec vs Slovenia*.

Slovakia

*New complaints against Slovakia in 2016 continued the steady fall seen since 2012. New EU Pilot files have decreased since 2012 and are now at their lowest for 5 years. Open infringement cases also fell from their 2015 peak. New infringement cases for late transposition held steady.*

I. COMPLAINTS

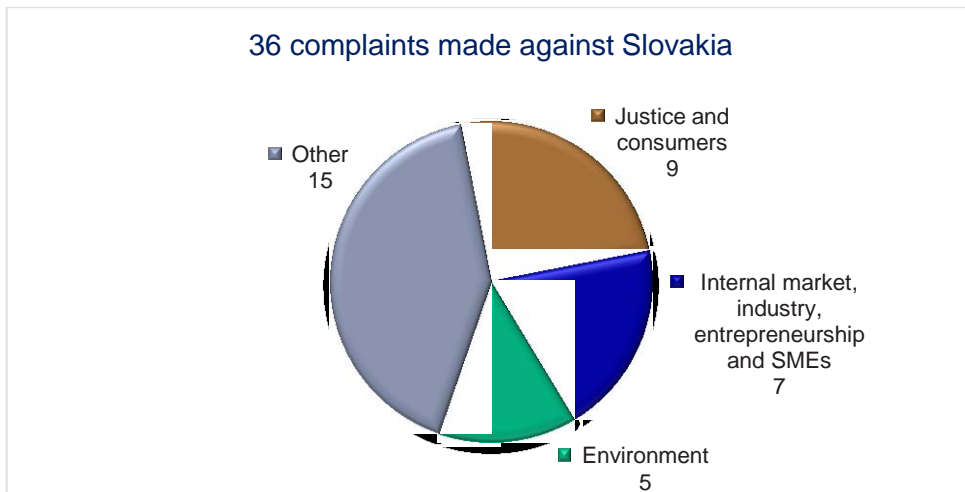
1. New complaints made against Slovakia by members of the public (2012-2016)



2. Public complaints against Slovakia open at year-end

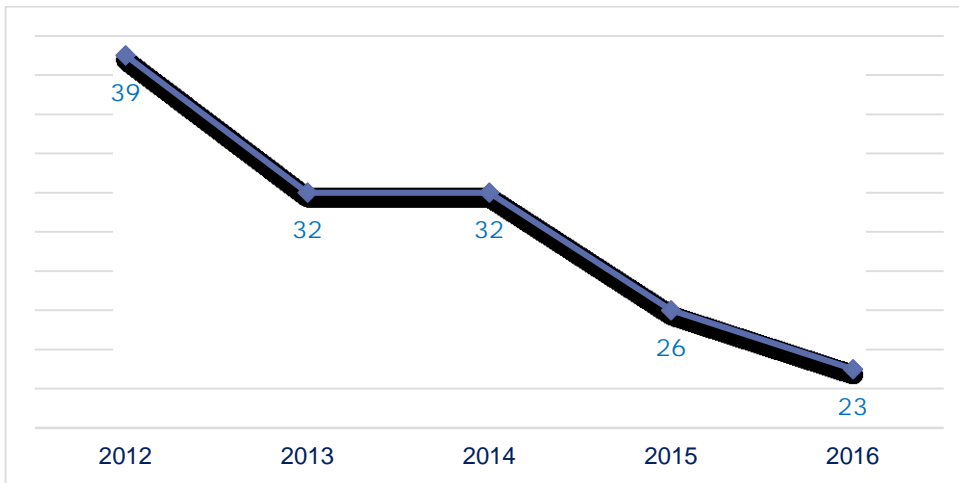
36	>	Complaints open at end-2015
36	>	New complaints registered in 2016
33	>	Complaints handled in 2016
<b>= 39</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

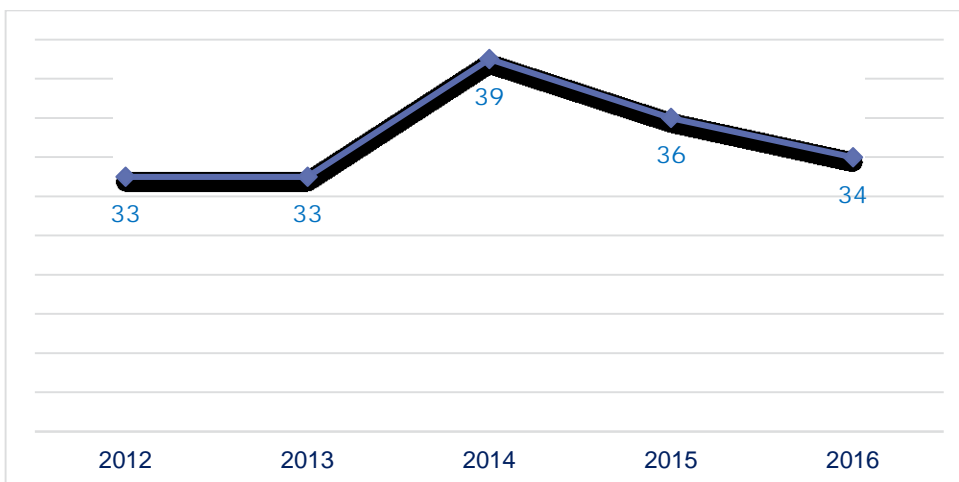


## II. EU PILOT

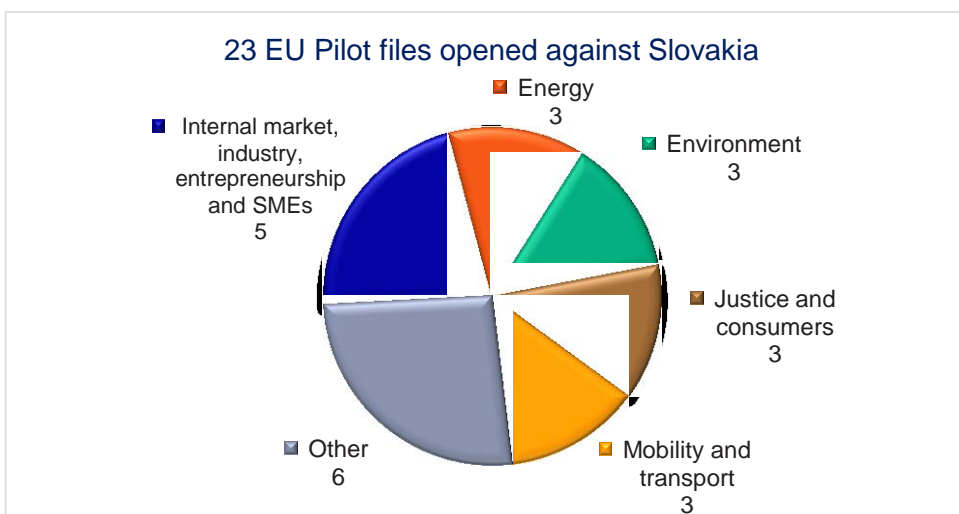
### 1. New EU Pilot files opened against Slovakia (2012-2016)



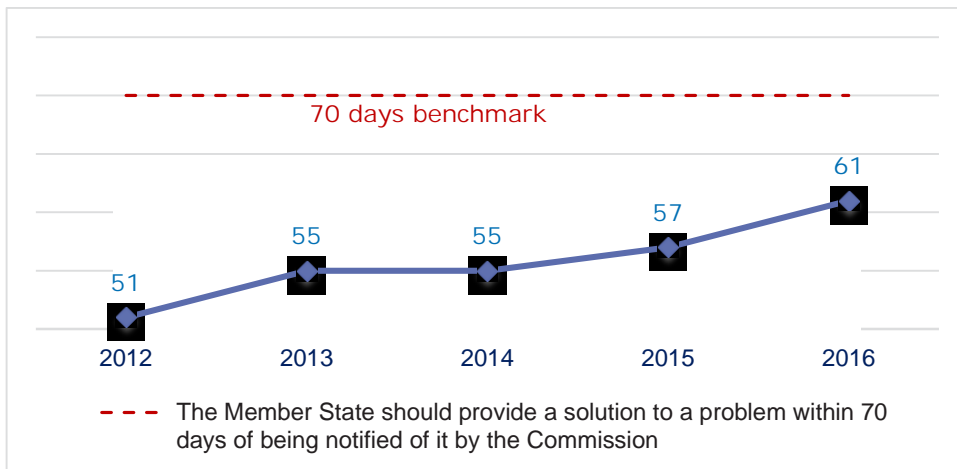
### 2. Files relating to Slovakia open in EU Pilot at year-end



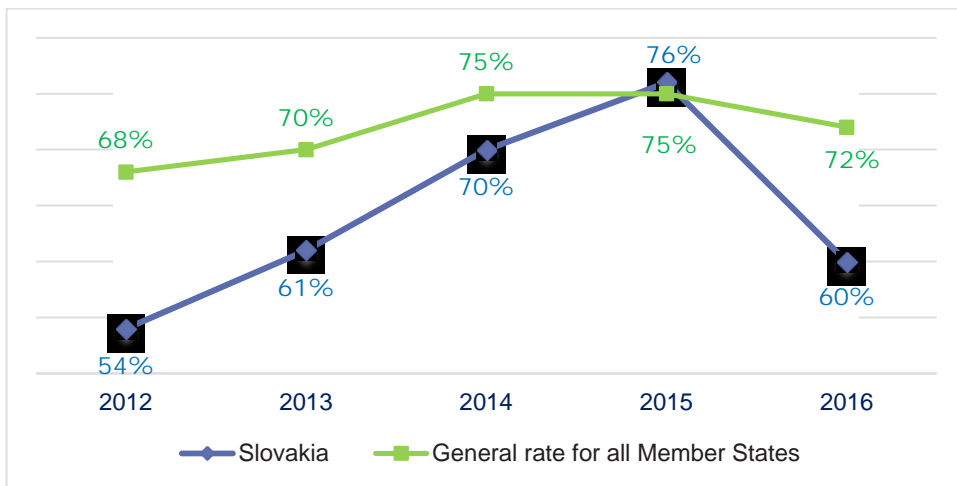
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Slovakia's average response time in 2012-2016 (in days)

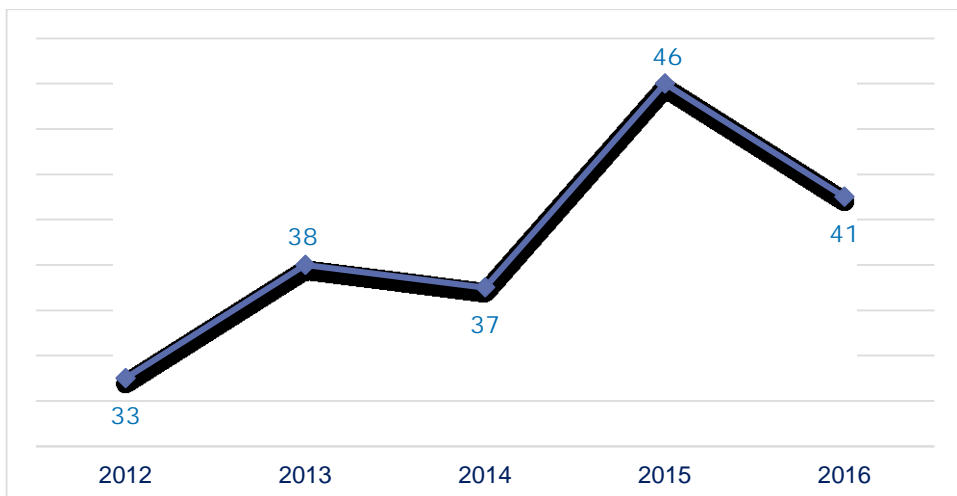


5. EU Pilot files: Slovakia's resolution rate in 2012-2016

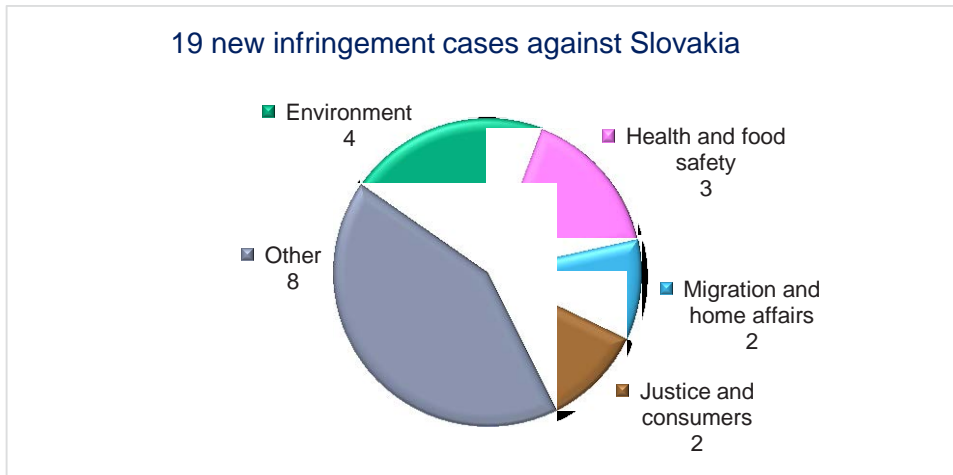


III. INFRINGEMENT CASES

1. Infringement cases against Slovakia open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

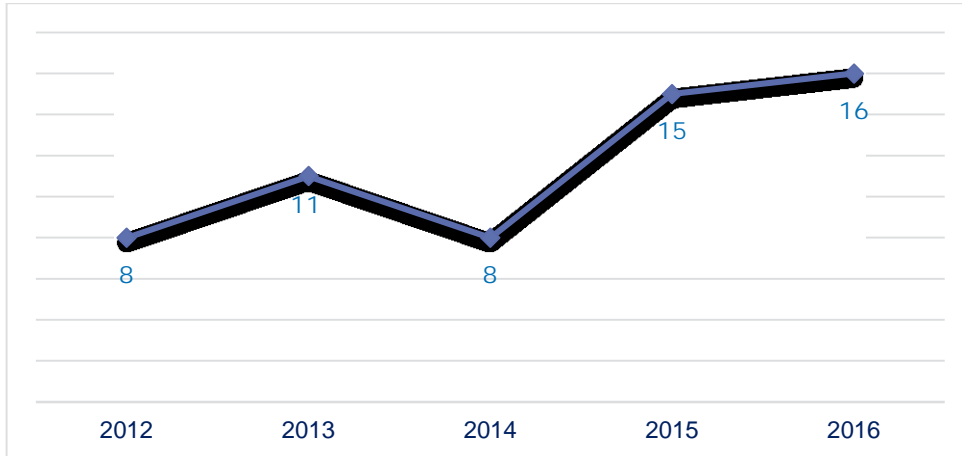
- a) The Commission opened 19 new infringement cases against Slovakia in 2016. These, and other major ongoing infringement cases, include:
- lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>1</sup>
  - non-compliance with the EU Timber Regulation;<sup>2</sup>
  - failure to communicate all national measures transposing the Capital Requirements Directive;<sup>3</sup>
  - bilateral investment treaties signed before all State parties became members of the EU and which now overlap and conflict with the EU single market on cross-border investments;<sup>4</sup>
  - 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;<sup>5</sup>
  - failure to fulfil air safety oversight obligations regarding initial and continuous airworthiness;<sup>6</sup>
  - failure to fulfil obligations under the Directive on the protection of waters against pollution caused by nitrates from agricultural sources;<sup>7</sup>
  - an incomplete Natura 2000 network;
  - incorrect implementation of the Remedies Directive.<sup>8</sup>
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
- failure to implement a Court judgment that Slovakia was failing to ensure that decisions on the operation of the landfill in Žilina–Považský Chlmec were taken in line with EU rules on landfilling of waste. The Commission proposed to the Court

<sup>1</sup> Directive [2002/49/EC](#).  
<sup>2</sup> Regulation (EU) No [995/2010](#).  
<sup>3</sup> Directive [2013/36/EU](#); [MEMO/16/1452](#).  
<sup>4</sup> [MEMO/16/3125](#).  
<sup>5</sup> [IP/16/1827](#) and [MEMO/16/1823](#).  
<sup>6</sup> Regulation (EU) No [748/2012](#) and Regulation (EC) No [1321/2014](#).  
<sup>7</sup> Directive [91/676/EEC](#); [MEMO/16/3125](#).  
<sup>8</sup> [Directive 92/13/EEC](#); [MEMO/16/3125](#).

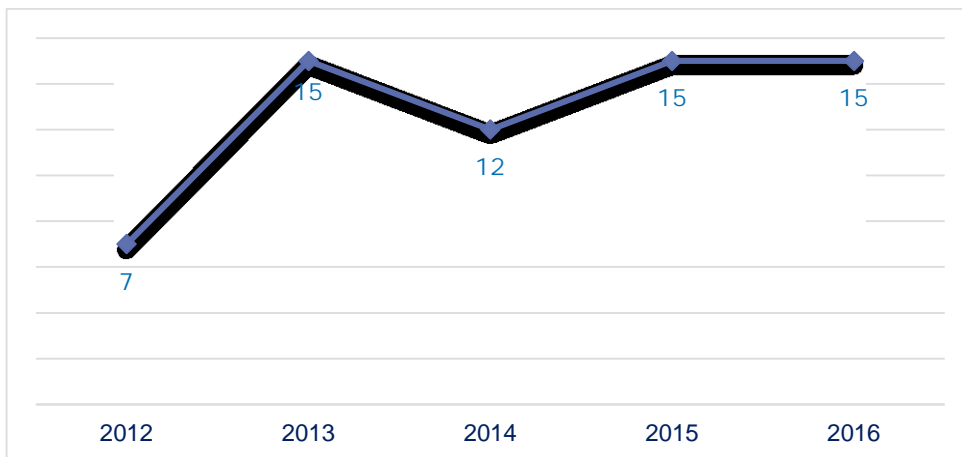
to impose a lump sum payment of EUR 939 000 and a daily penalty payment of EUR 6 793.80 until full compliance with EU law is ensured.<sup>9</sup>

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Slovakia open on 31 December (2012-2016)

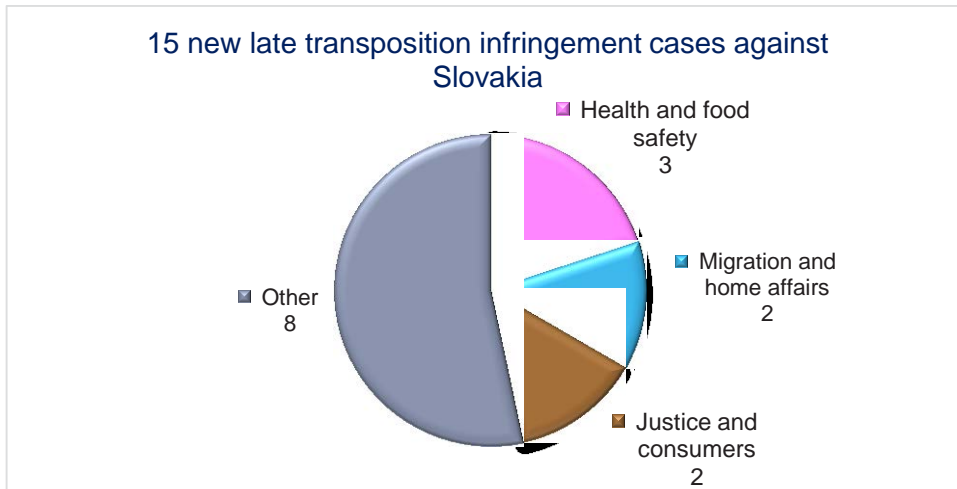


##### 2. New late transposition infringement cases against Slovakia (2012-2016)



<sup>9</sup> Commission v Slovakia, [C-626/16](#); [IP/16/2099](#).

### 3. New late transposition infringement cases opened in 2016: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- breach of EU citizens' right to stand as candidates in local and European elections in the Member State of residence due to restrictions on their involvement in political parties;
- failure to ensure adequate protection of wolves, in line with the Habitats Directive;<sup>10</sup>
- incorrect transposition of the Floods Directive;<sup>11</sup>
- completing the notification of all national measures necessary to transpose:
  - the Capital Requirements Directive;<sup>12</sup>
  - the Bank Resolution and Recovery Directive;<sup>13</sup>
  - the Deposit Guarantee Schemes Directive;<sup>14</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>15</sup>
- non-compliance with the Directive on the interoperability of the rail system;<sup>16</sup>
- car registration tax, following a change in tax rates for second hand cars imported from other Member States.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>17</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In preliminary rulings addressed to the Slovak judiciary, the Court held that:

- a lender must include in a consumer credit agreement all the information required under the Directive on consumer credit.<sup>18</sup> Failure to do so may be penalised by

<sup>10</sup> Directive [92/43/EEC](#).

<sup>11</sup> Directive [2007/60/EC](#).

<sup>12</sup> Directive [2013/36/EU](#).

<sup>13</sup> Directive [2014/59/EU](#).

<sup>14</sup> Directive [2014/49/EU](#).

<sup>15</sup> Directive [2006/126/EC](#).

<sup>16</sup> Directive [2008/57/EC](#).

<sup>17</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>18</sup> Directive [2008/48/EC](#).



Member States by depriving the lender of an entitlement to interest and charges. Such a penalty is permitted where the information covers matters which, if not included may compromise the consumer's ability to assess the extent of his liability,<sup>19</sup>

- when an environmental organisation is refused the status of party to a procedure for the authorisation of a project to be carried out on a site protected under the Habitats Directive, EU law precludes national rules which do not request the examination in the course of the authorisation procedure of an action against that refusal decision, do not prevent the conclusion of the authorisation procedure in the absence of a definitive judicial decision on the status of party and consider the action automatically dismissed as soon as the project is authorised.<sup>20</sup>

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<sup>19</sup> Home Credit Slovakia, [C-42/15](#) and Court press release No [119/16](#).

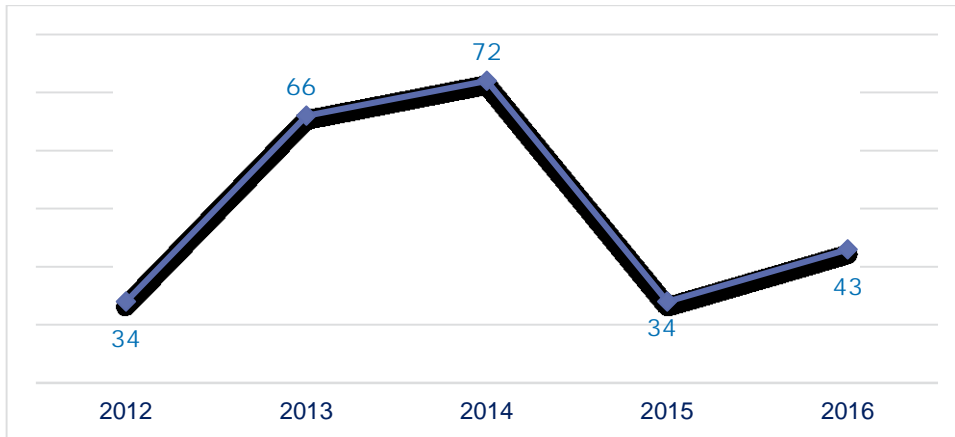
<sup>20</sup> Lesoochránárske zoskupenie VLK, [C-243/15](#).

Finland

*New complaints against Finland rose again in 2016 after the previous year's sharp fall. The number of infringement cases open at the end of 2016 rose sharply to only slightly below its 2012 peak. New infringement cases for late transposition doubled. By contrast, the number of new EU Pilot files fell to its lowest level ever.*

I. COMPLAINTS

1. New complaints made against Finland by members of the public (2012-2016)



2. Public complaints against Finland open at year-end

- 35 > Complaints open at end-2015
- 43 > New complaints registered in 2016
- 41 > Complaints handled in 2016

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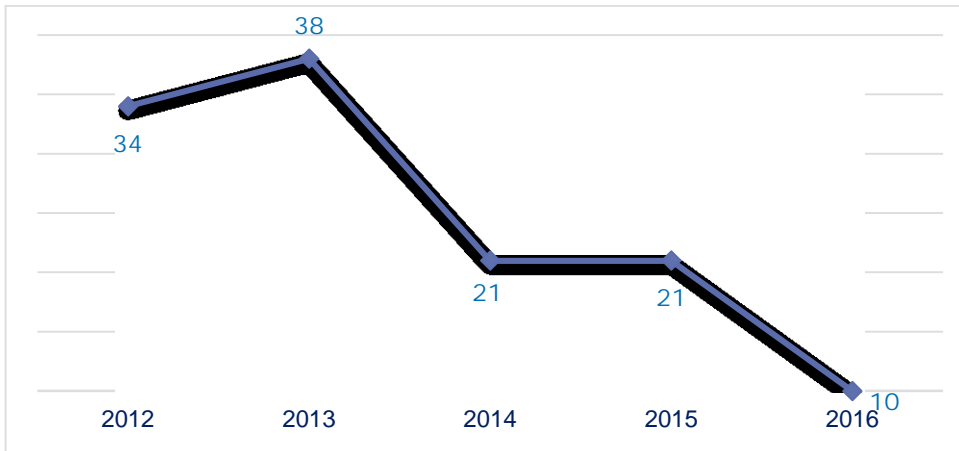
- = 37 > Complaints open at end-2016

3. New complaints registered in 2016: main policy areas

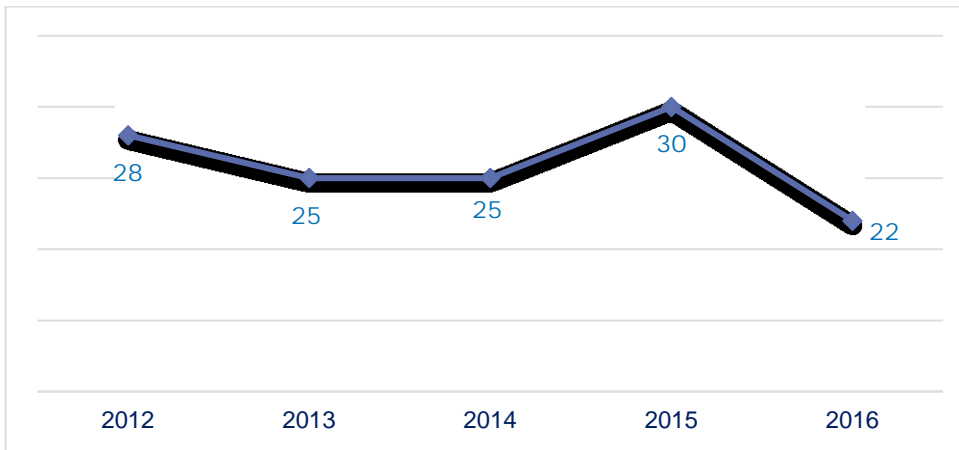


## II. EU PILOT

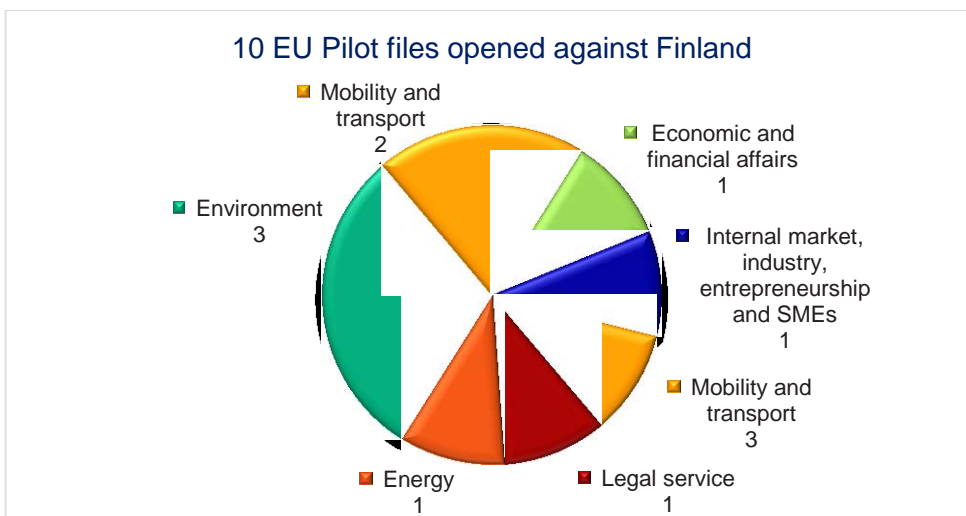
### 1. New EU Pilot files opened against Finland (2012-2016)



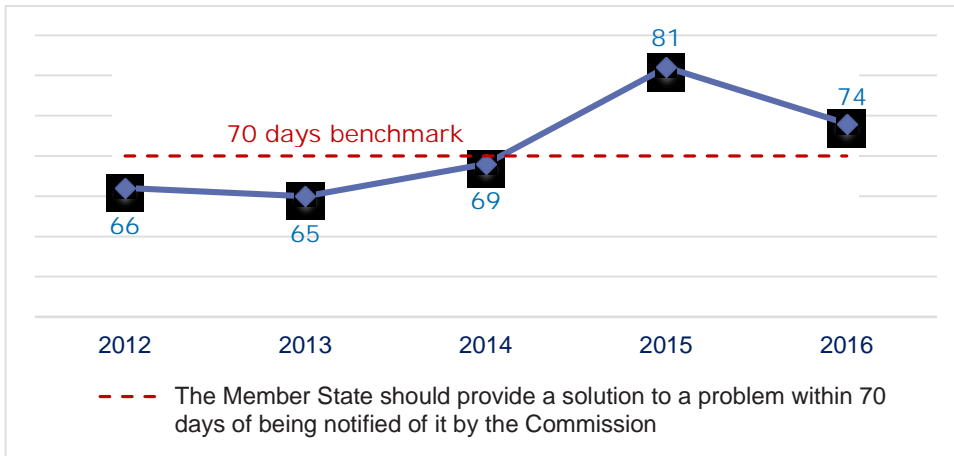
### 2. Files relating to Finland open in EU Pilot at year-end



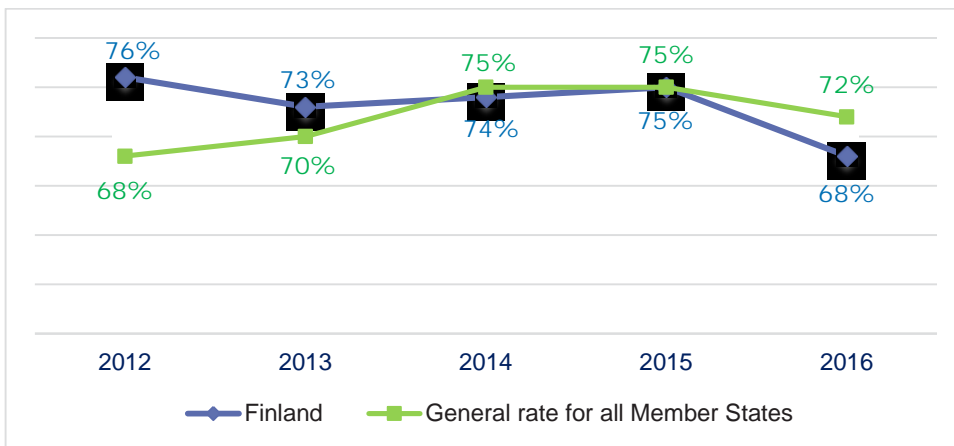
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Finland's average response time in 2012-2016 (in days)

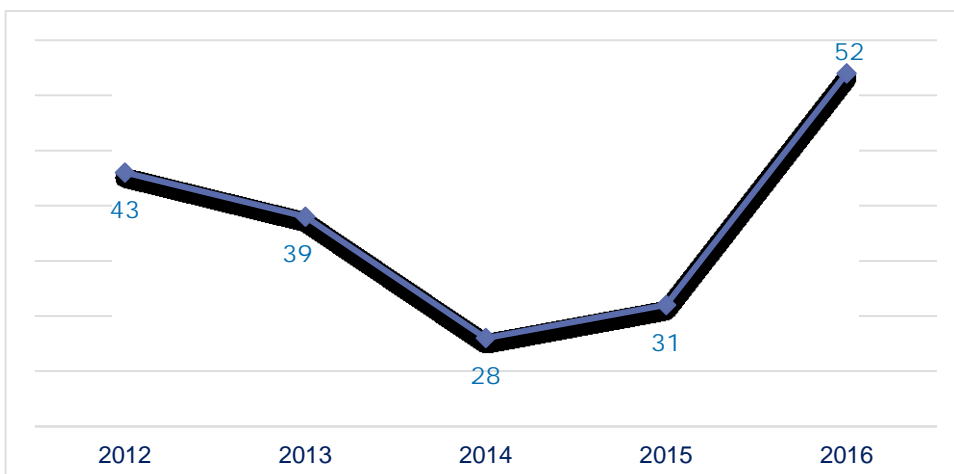


5. EU Pilot files: Finland's resolution rate in 2012-2016

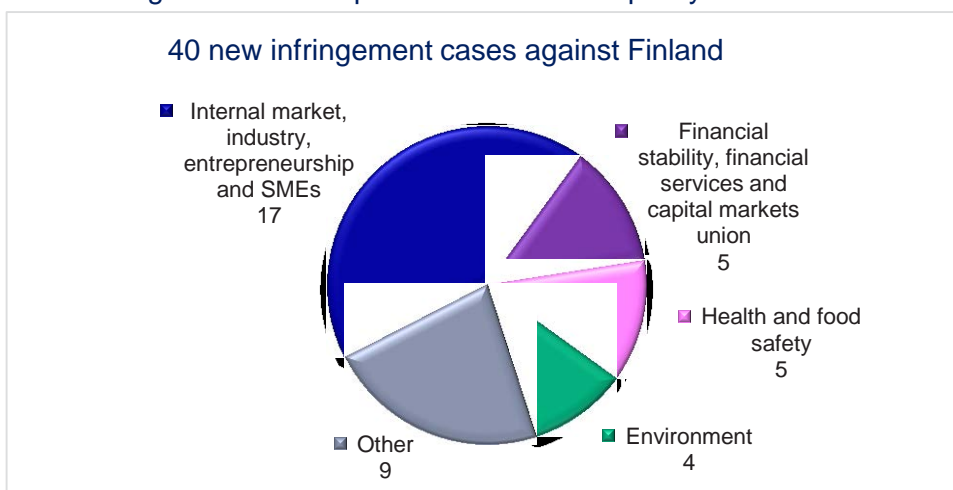


III. INFRINGEMENT CASES

1. Infringement cases against Finland open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 40 new infringement cases against Finland in 2016. These, and other major ongoing infringement cases, include:
- non-conformity of national legislation with the Directive on patients' rights in cross-border healthcare. The case relates to the level of costs reimbursed by the Member State of affiliation to an insured person who receives cross-border healthcare;<sup>1</sup>
  - non-compliant transposition of the Waste Framework Directive;<sup>2</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>3</sup>
  - failure to correctly implement the Airport Charges Directive;<sup>4</sup>
  - failure to transpose amendments to EU legislation on ship inspection and survey organisations;<sup>5</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>6</sup>
  - failure to transpose in full the three Directives on public procurement and concessions;<sup>7</sup>
  - illegal spring hunting of male eiders in the province of Åland, in breach of the Birds Directive;<sup>8</sup>
  - non-communication of national measures transposing the Seveso III Directive;<sup>9</sup>
  - non-compliant transposition of the Directive on public access to environmental information;<sup>10</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System.<sup>11</sup>
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- failure to correctly transpose EU rules on driving licences.<sup>12</sup>

<sup>1</sup> Directive [2011/24/EU](#); [MEMO/16/1452](#).

<sup>2</sup> Directive [2008/98/EC](#).

<sup>3</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

<sup>4</sup> Directive [2009/12/EC](#).

<sup>5</sup> Directive [2014/111/EU](#); [MEMO/16/4211](#).

<sup>6</sup> Directive [2014/89/EU](#).

<sup>7</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/4211](#).

<sup>8</sup> Directive [2009/147/EC](#); [MEMO/16/4211](#).

<sup>9</sup> Directive [2012/18/EU](#); [MEMO/16/3644](#).

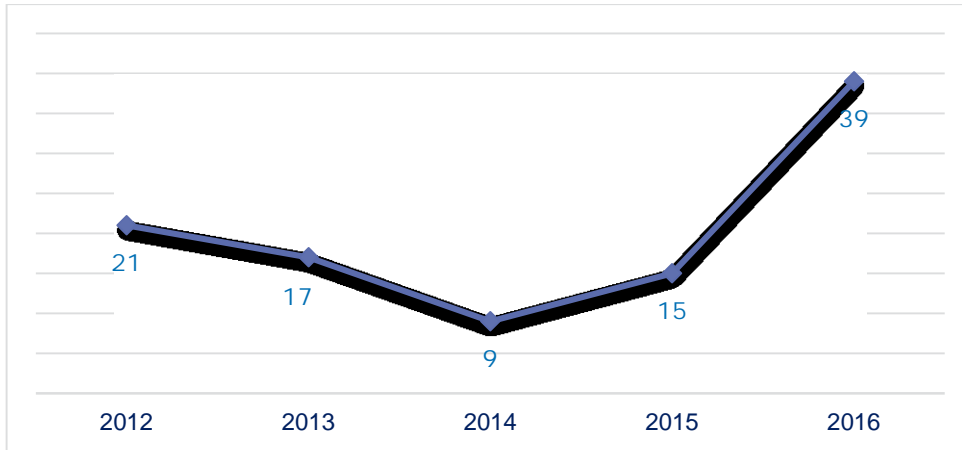
<sup>10</sup> Directive [2003/4/EC](#); [MEMO/16/2490](#).

<sup>11</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

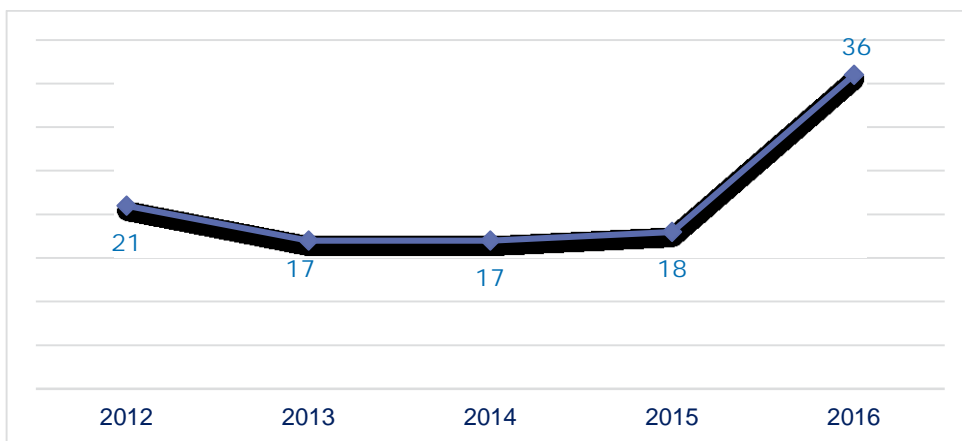
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

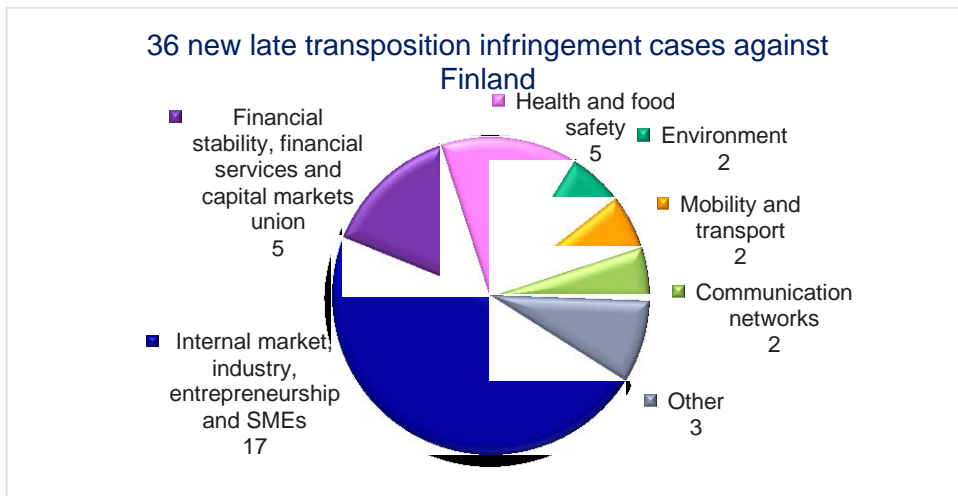
##### 1. Late transposition infringement cases against Finland open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Finland (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



<sup>12</sup> Directive [2006/126/EC](#); [IP/15/6229](#) and [MEMO/15/6223](#). The Commission subsequently decided to withdraw the case from the Court as Finland remedied the breach before the Court handed down its judgment.

#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2016

These concerned:

- failure to apply correctly the Directive on the protection of pigs as regards group housing of sows;<sup>13</sup>
- incorrect transposition of the Water Framework Directive;<sup>14</sup>
- notification of all national measures necessary to transpose the Capital Requirements Directive<sup>15</sup> and the Bank Resolution and Recovery Directive;<sup>16</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>17</sup>
- non-compliance with the rules on access to the occupation of road transport operator and with rules on cabotage.<sup>18</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>19</sup>

There were no major Court rulings in 2016.

#### 2. Preliminary rulings

In preliminary rulings addressed to the Finnish judiciary, the Court held that:

- a separation between a programme's closing credits and advertising can be made spatially and not necessarily also optically or acoustically, as long as the advertising remains readily recognisable and distinguishable from editorial content. The Court also held that sponsorship announcements not placed at the beginning or end of a programme, as well as so-called black seconds that briefly separate one advertising spot from another, must be counted within the hourly limit for advertising;<sup>20</sup>
- when assessing whether the name of a spirit drink can be classified as an 'evocation' of a protected geographical indication, national courts must refer to the perception of the average European consumer who is reasonably well informed, observant and circumspect, and must take into consideration the phonetic and visual relationship between the names concerned and any evidence showing that such a relationship is not fortuitous. Evocation may exist even in the absence of any likelihood of confusion between the products concerned. The Court clarified these aspects in a case about the marketing of a Finnish spirit drink named 'Verlados'.<sup>21</sup>

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<sup>13</sup> Directive [2008/120/EC](#).

<sup>14</sup> Directive [2000/60/EC](#).

<sup>15</sup> Directive [2013/36/EU](#).

<sup>16</sup> Directive [2014/59/EU](#).

<sup>17</sup> Directive [2006/126/EC](#); [IP/15/6229](#) and [MEMO/15/6223](#).

<sup>18</sup> Regulations (EC) No [1071/2009](#) and (EC) No [1072/2009](#).

<sup>19</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>20</sup> *Sanoma Media Finland Oy — Nelonen Media v Viestintävirasto*, [C-314/14](#).

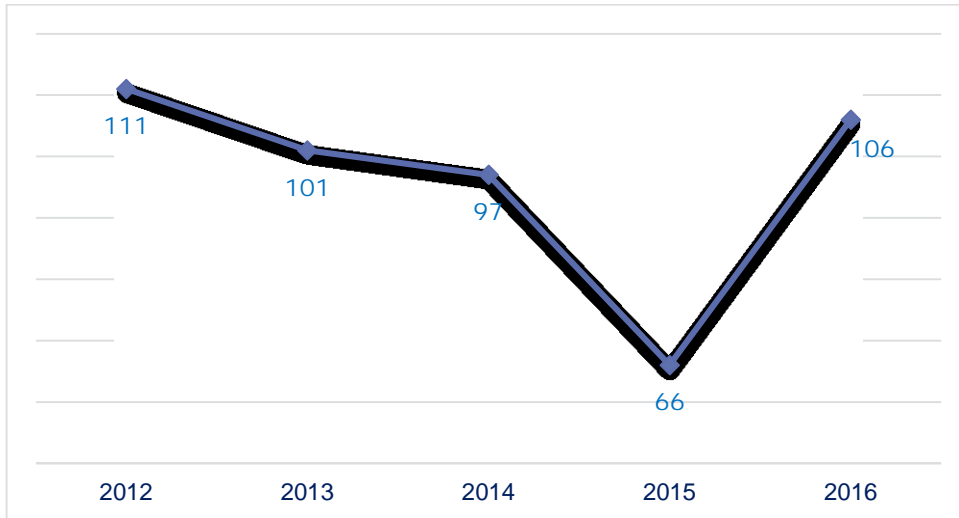
<sup>21</sup> Regulation (EC) No [110/2008](#), *Viiniverla*, [C-75/15](#).

Sweden

*New complaints against Sweden jumped in 2016 to their highest level since 2012, and new EU Pilot files rose slightly after falling for 2 years. Open infringement cases continued to increase, reaching a five-year peak. The number of new cases for late transposition fell slightly after the previous year's sharp rise.*

I. COMPLAINTS

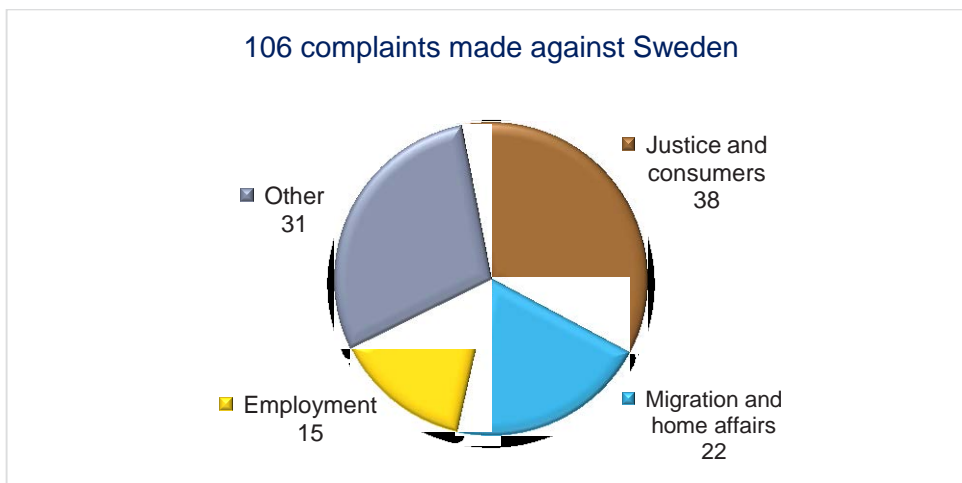
1. New complaints made against Sweden by members of the public (2012-2016)



2. Public complaints against Sweden open at year-end

80	>	Complaints open at end-2015
106	>	New complaints registered in 2016
97	>	Complaints handled in 2016
<b>= 89</b>	>	<b>Complaints open at end-2016</b>

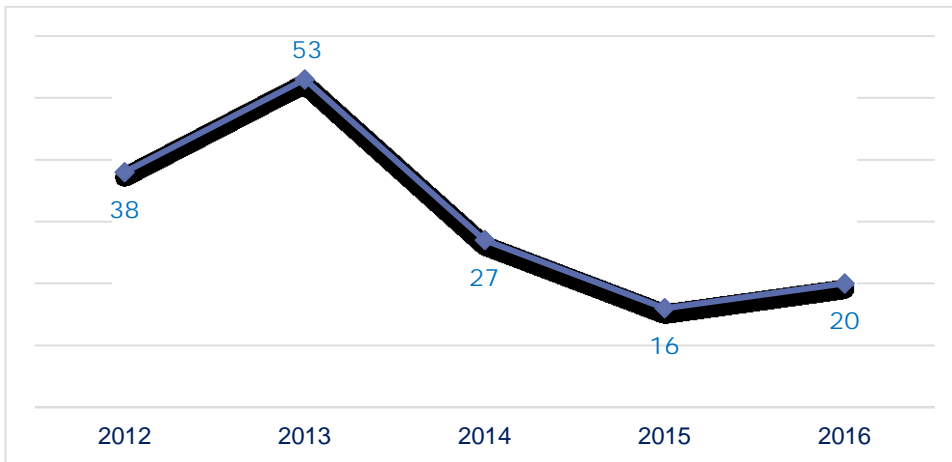
3. New complaints registered in 2016: main policy areas



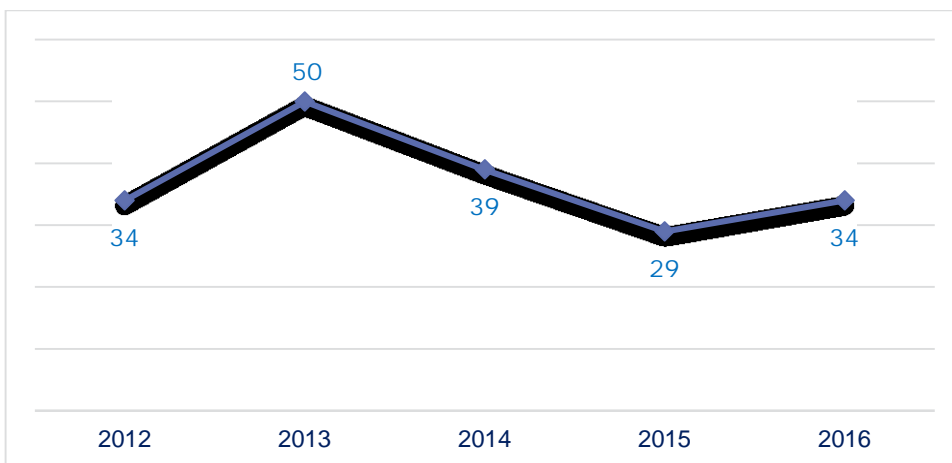


## II. EU PILOT

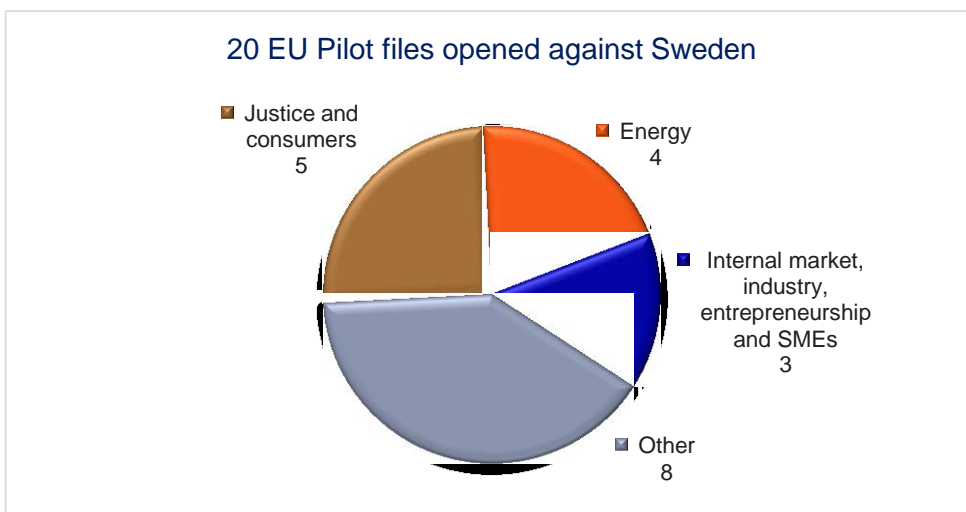
### 1. New EU Pilot files opened against Sweden (2011-2016)



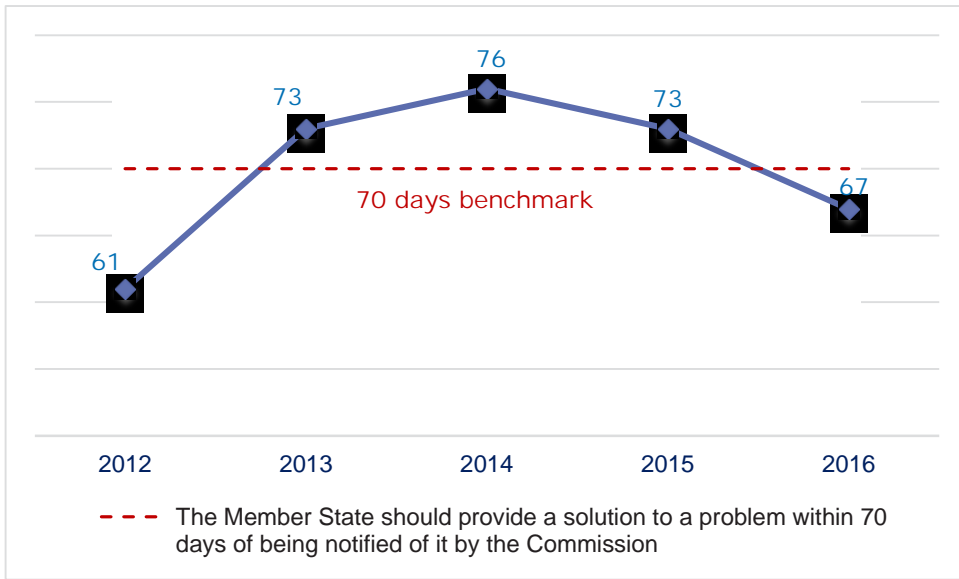
### 2. Files relating to Sweden open in EU Pilot at year-end



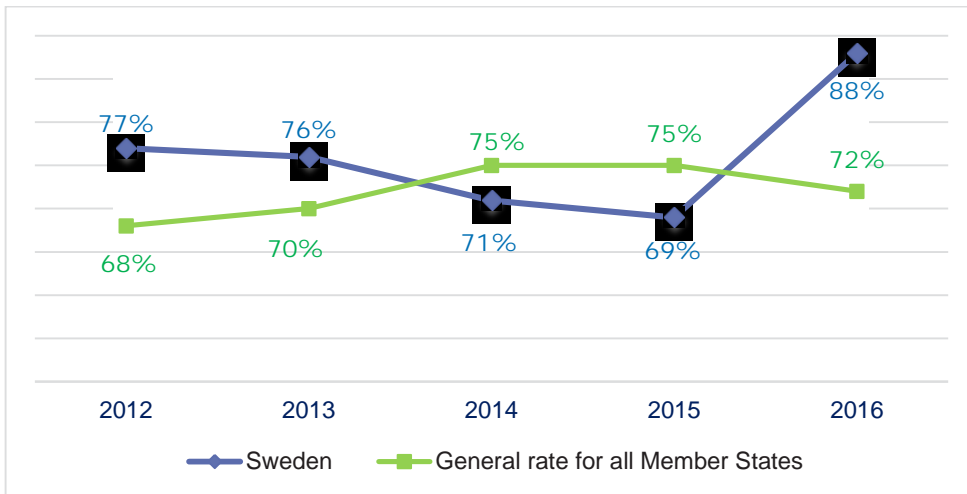
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Sweden's average response time in 2012-2016 (in days)

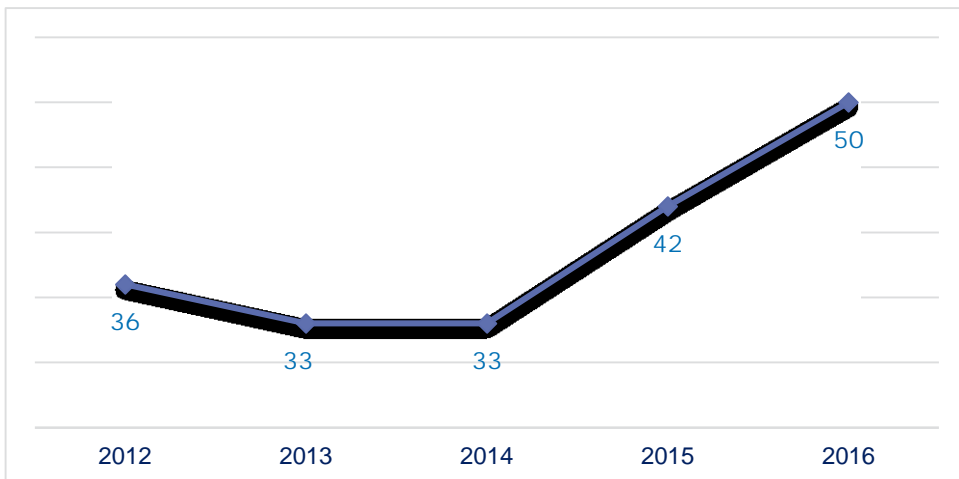


5. EU Pilot files: Sweden's resolution rate in 2012-2016

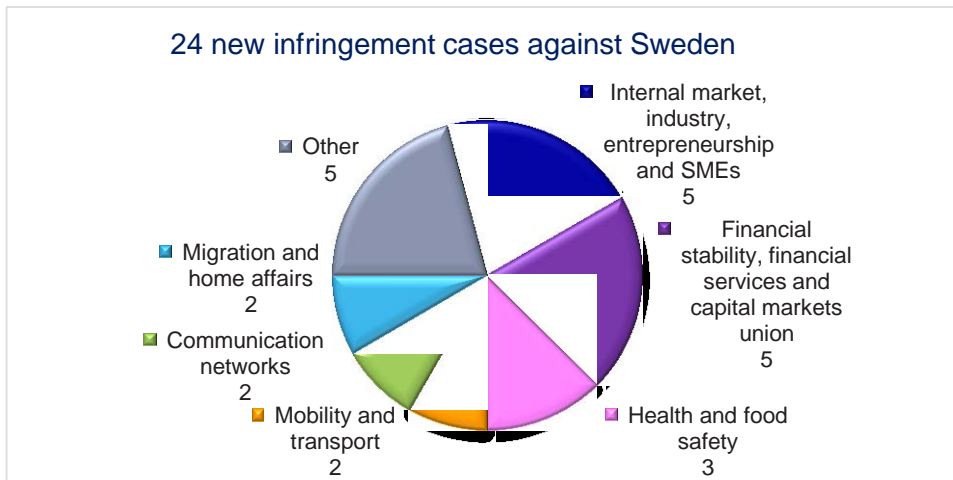


III. INFRINGEMENT CASES

1. Infringement cases against Sweden open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 24 new infringement cases against Sweden in 2016. These, and other major ongoing infringement cases, include:
- failure to notify measures transposing the Tobacco Directive;<sup>1</sup>
  - non-complaint transposition of the Waste Framework Directive<sup>2</sup> and the Water Framework Directive;<sup>3</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>4</sup>
  - bilateral investment treaties signed before all state parties became members of the EU and which now overlap and conflict with the EU single market on cross-border investments;<sup>5</sup>
  - failure to correctly implement the Airport Charges Directive;<sup>6</sup>
  - failure to correctly transpose the Directive on driving licences;<sup>7</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>8</sup>
- 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.

<sup>1</sup> Directive [2014/40/EU](#); [MEMO/16/4211](#).

<sup>2</sup> Directive [2008/98/EC](#).

<sup>3</sup> Directive [2000/60/EC](#).

<sup>4</sup> Directive [2014/17/EU](#), and press releases [MEMO/16/3644](#) and [MEMO/16/4211](#).

<sup>5</sup> [MEMO/16/3125](#).

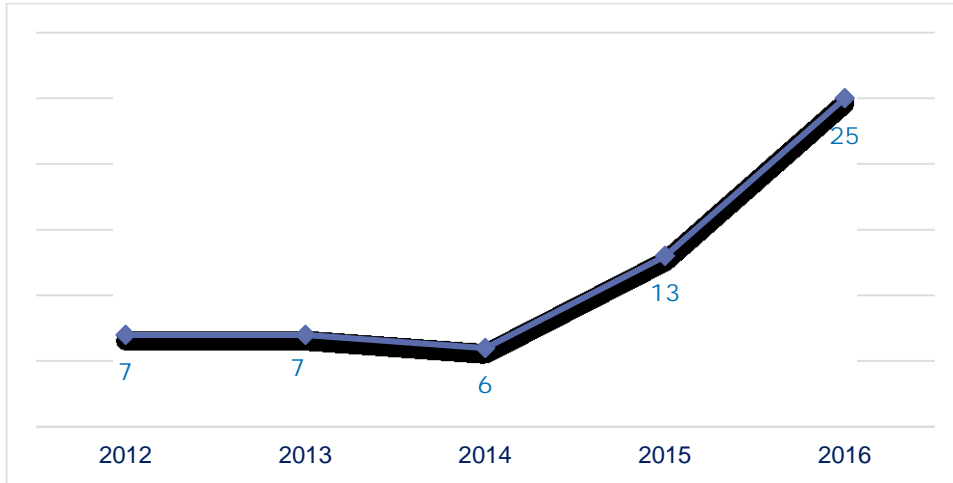
<sup>6</sup> Directive [2009/12/EC](#), [MEMO/16/319](#).

<sup>7</sup> Directive [2006/126/EC](#), [MEMO/16/2097](#).

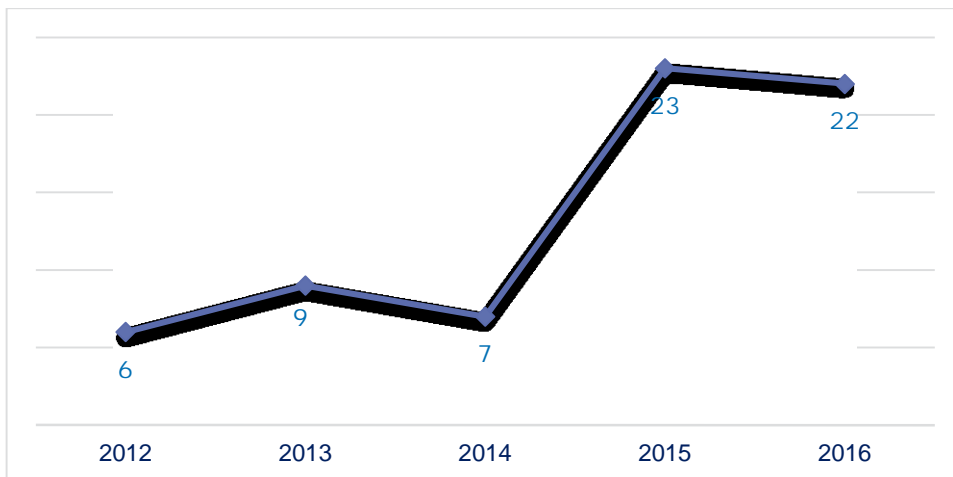
<sup>8</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

#### IV. TRANSPOSITION OF DIRECTIVES

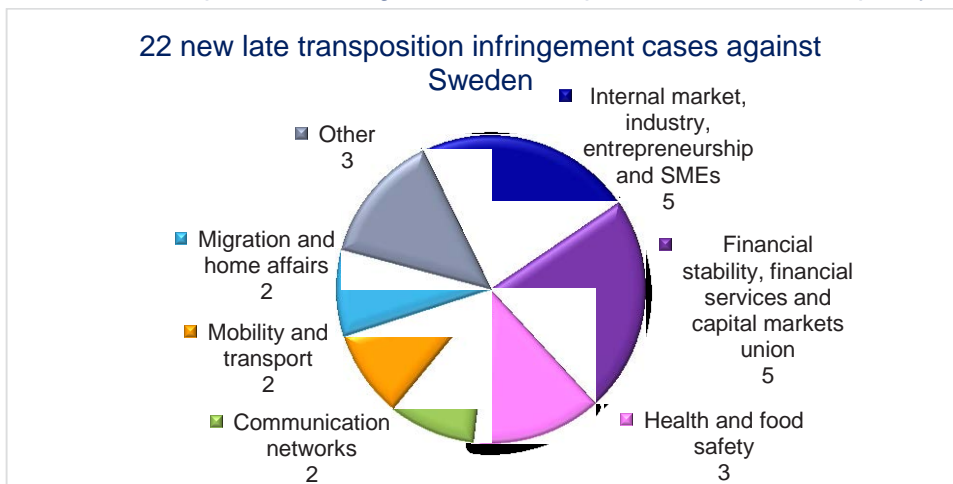
##### 1. Late transposition infringement cases against Sweden open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Sweden (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas



##### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- lack of access to justice in relation to hunting decisions taken by the County Administrative Boards;
- insufficient protection in national legislation against abuse of successive fixed-term employment contracts. This allowed employers to use various fixed-term contracts without limitation;
- completing the notification of all national measures necessary to transpose the Capital Requirements Directive.<sup>9</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court ruling<sup>10</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In preliminary rulings addressed to or concerning the Swedish judiciary, the Court held that:

- an asylum applicant may, in an action challenging a transfer decision made about him, invoke an infringement of the rule set out in the Dublin Regulation<sup>11</sup> concerning an absence of at least 3 months from the territory of the Member State concerned;<sup>12</sup>
- under the Directive on privacy and electronic communications<sup>13</sup> Member States may establish, as a preventive measure, a targeted retention of data solely for the purpose of fighting serious crime, provided that such retention is limited to what is strictly necessary regarding the categories of data to be retained, means of communication affected, persons concerned and duration of the retention period. The Court further clarified that the access of national authorities to the retained data must be subject to conditions, including prior review by an independent authority, and that the data must be retained within the EU;<sup>14</sup>
- the European arrest warrant issued by the Swedish National Police Board is invalid as such body is not covered by the term 'issuing judicial authority' and acts issued by police service cannot be regarded as a 'judicial decision';<sup>15</sup>
- higher taxation of Swedish dividends paid to non-resident pension funds than of dividends paid to resident pension funds is not contrary to EU law because resident and non-resident pension funds are not in a comparable situation. This is so because the objective of the Swedish yield tax, applicable to resident pension funds, is to tax the fund's entire capital, and this objective cannot be fulfilled for non-resident pension funds as they are by definition only liable for tax on Swedish-sourced income, not on their entire capital.<sup>16</sup>

<sup>9</sup> Directive [2013/36/EU](#).

<sup>10</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>11</sup> Article 19(2) of Regulation [\(EU\) 604/2013](#).

<sup>12</sup> Karim, [C-155/15](#).

<sup>13</sup> Directive [2002/58/EC](#).

<sup>14</sup> Tele2 Sverige, joined case [C-203/15](#) and [C-698/15](#), Court press release [No 145/16](#).

<sup>15</sup> Poltorak, [C-452/16](#).

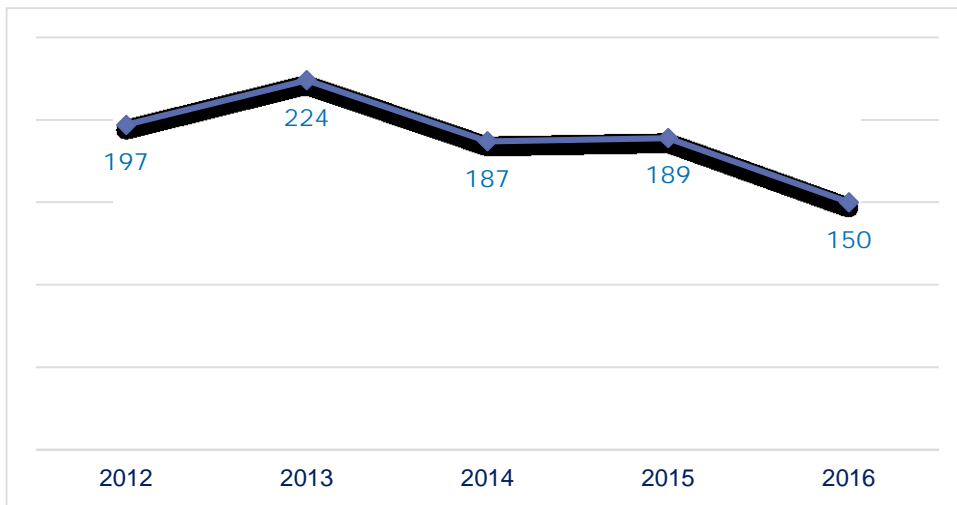
<sup>16</sup> Pensioenfonds Metaal en Techniek, [C-252/14](#).

United Kingdom

*New complaints against the United Kingdom decreased markedly in 2016 to a five-year low. The number of new EU Pilot files continued its downward trend since 2012, also reaching a five-year low. Open infringement cases at the end of 2016 increased somewhat and the Commission initiated more new infringement cases for late transposition.*

I. COMPLAINTS

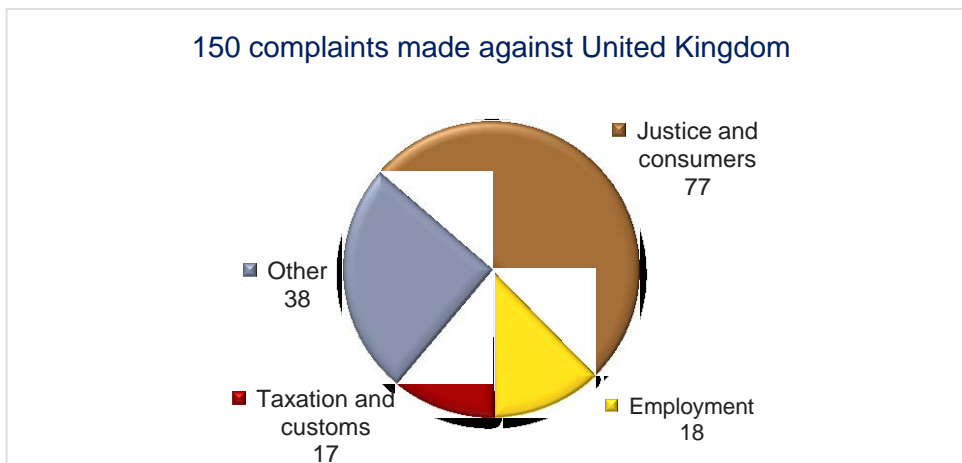
1. New complaints made against the United Kingdom by members of the public (2012-2016)



2. Public complaints against the United Kingdom open at year-end

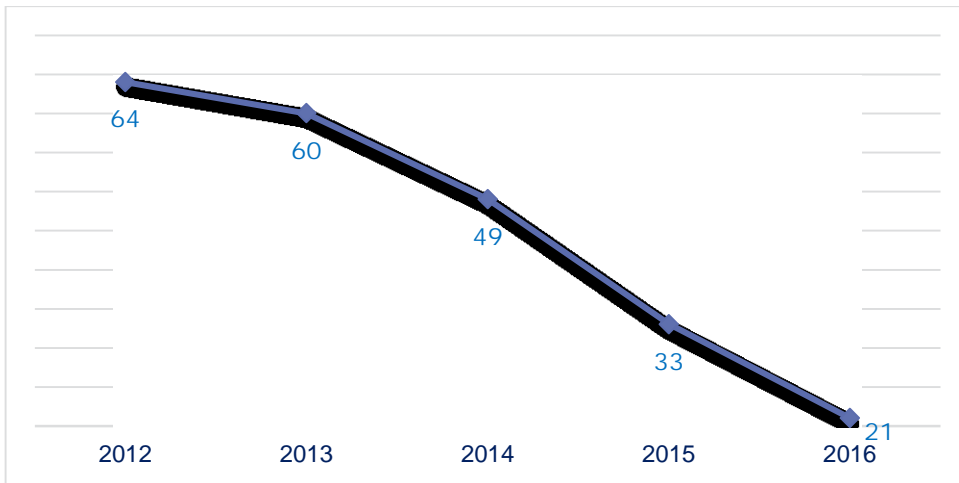
186	>	Complaints open at end-2015
150	>	New complaints registered in 2016
164	>	Complaints handled in 2016
<b>= 172</b>	>	<b>Complaints open at end-2016</b>

3. New complaints registered in 2016: main policy areas

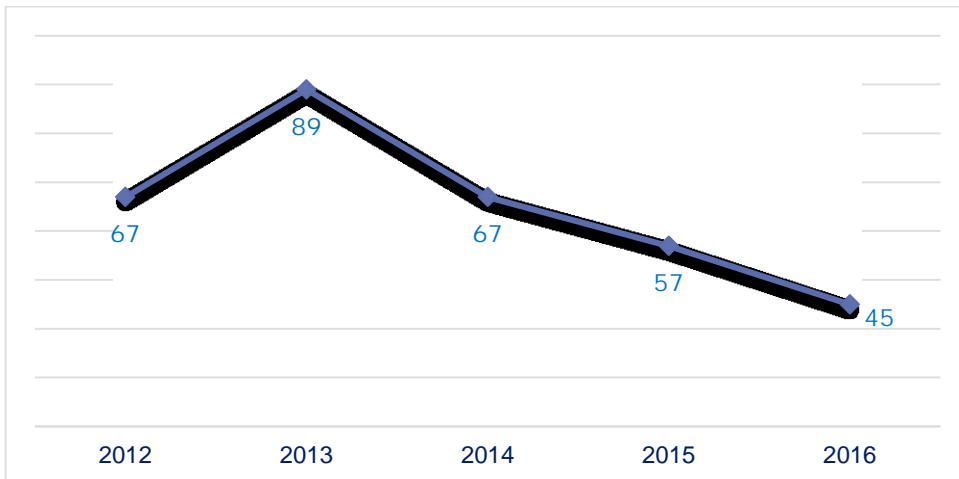


## II. EU PILOT

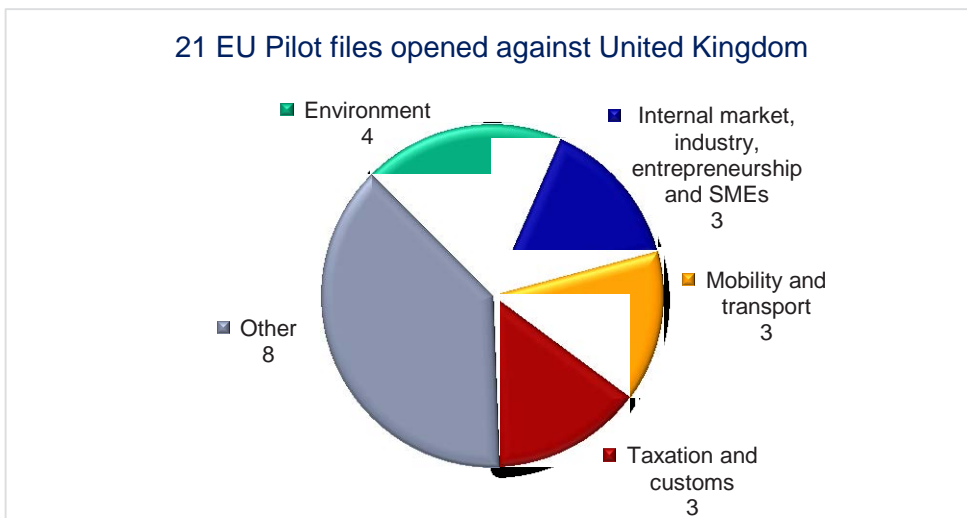
### 1. New EU Pilot files opened against the United Kingdom (2012-2016)



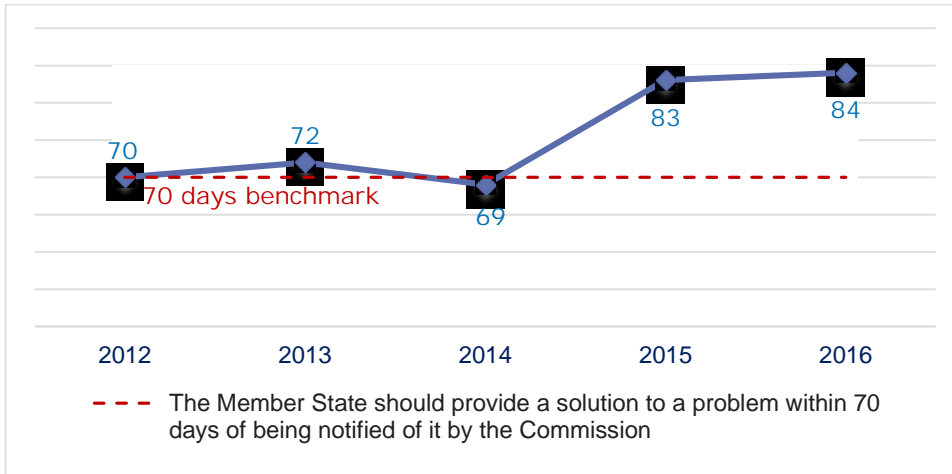
### 2. Files relating to the United Kingdom open in EU Pilot at year-end



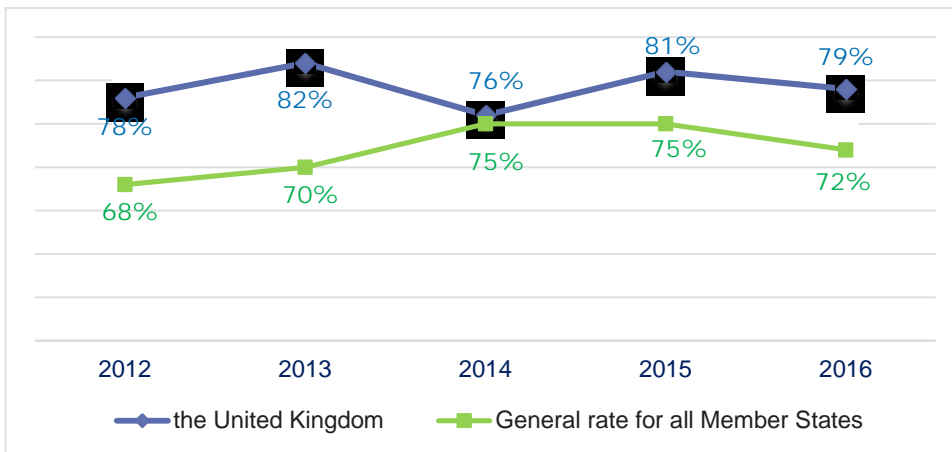
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: United Kingdom's average response time in 2012-2016 (in days)

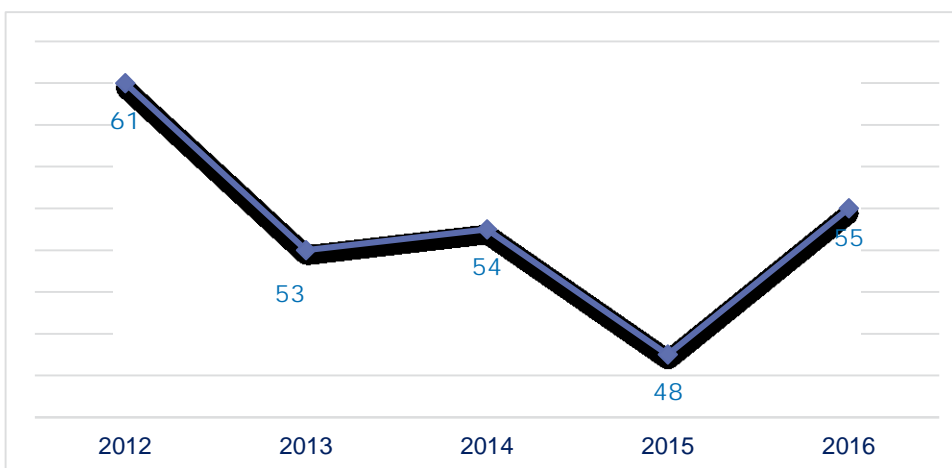


5. EU Pilot files: United Kingdom's resolution rate in 2012-2016



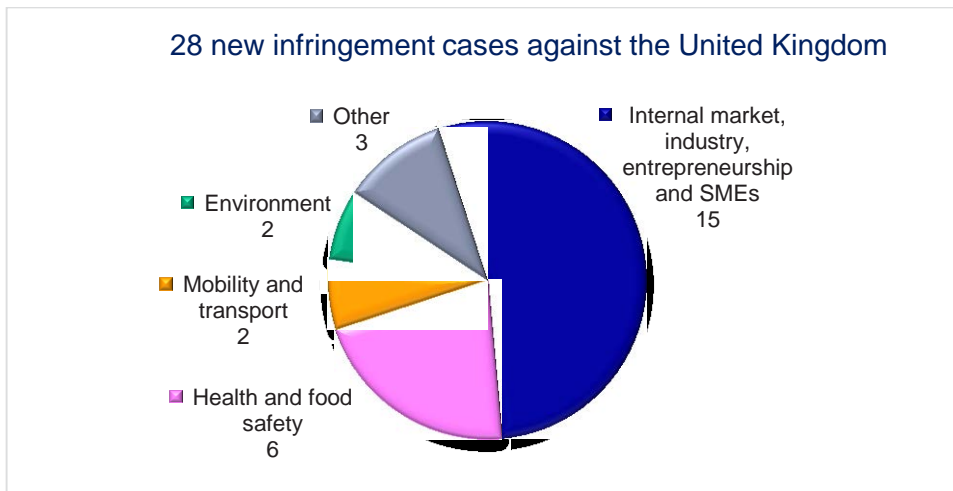
III. INFRINGEMENT CASES

1. Infringement cases against the United Kingdom open on 31 December (2012-2016)





## 2. New infringement cases opened in 2016: main policy areas

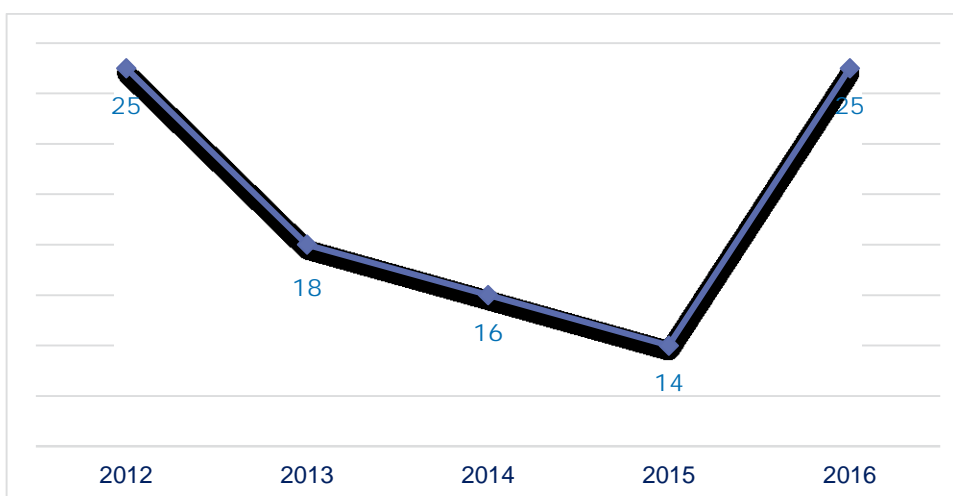


## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 28 new infringement cases against the United Kingdom in 2016. These, and other major ongoing infringement cases, include:
- failure to fully transpose the Offshore Safety Directive;<sup>1</sup>
  - restrictions on the provision of transport services and free movement of goods;<sup>2</sup>
  - failure to protect priority blanket bogs, in particular from excessive burning, in special areas of conservation in England;
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>3</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation.<sup>4</sup>
- 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.

## IV. TRANSPOSITION OF DIRECTIVES

### 1. Late transposition infringement cases against the United Kingdom open on 31 December (2012-2016)



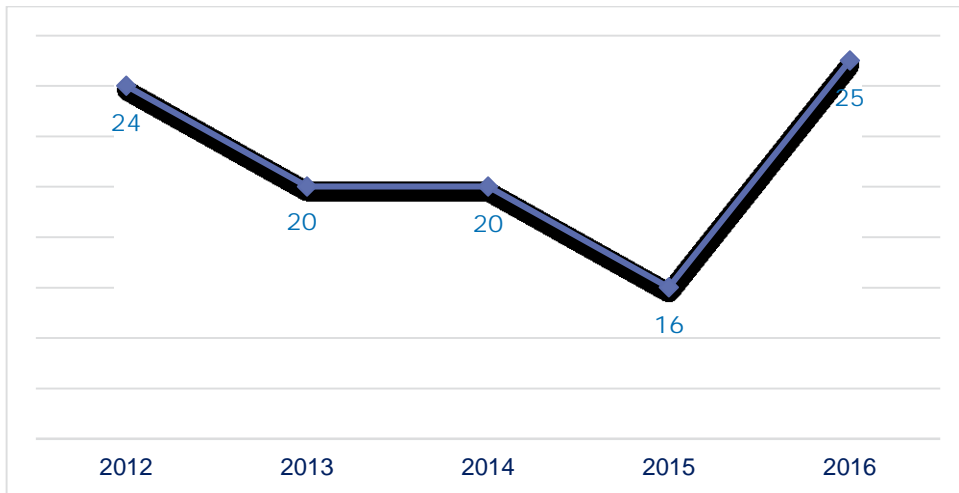
<sup>1</sup> Directive [2013/30/EU](#), [MEMO/16/319](#), [MEMO/16/1452](#) and [MEMO/16/3644](#).

<sup>2</sup> [IP/16/2101](#), [IP/16/1456](#).

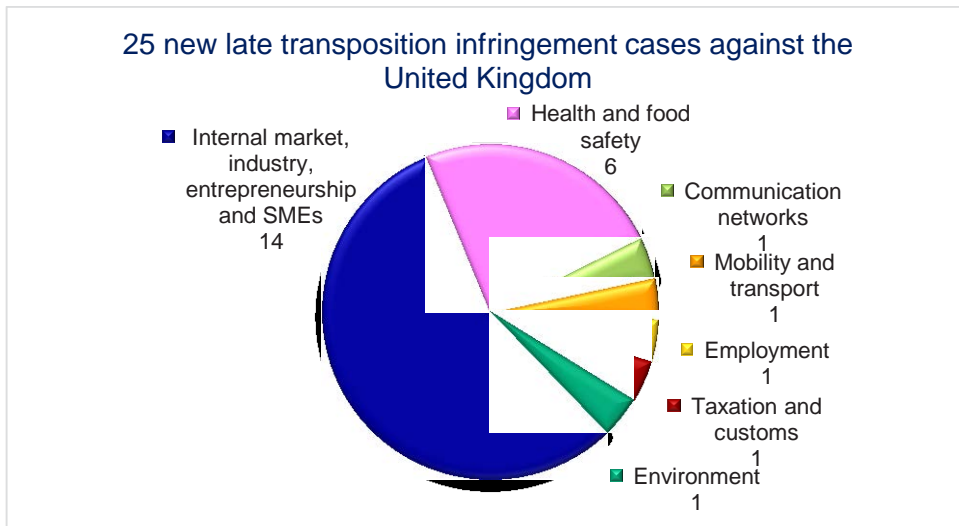
<sup>3</sup> Directive [2013/55/EU](#), [MEMO/16/3125](#).

<sup>4</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#), [IP/16/4214](#).

## 2. New late transposition infringement cases against the United Kingdom (2012-2016)



## 3. New late transposition infringement cases opened in 2016: main policy areas



## 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2016

These concerned:

- failure to comply with the Habitats Directive as regards protection of wild salmon in Scotland;<sup>5</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>6</sup>
- incorrect application of the Industrial Emissions Directive by excluding small waste oil burners from the scope of the definition of waste incineration plants;<sup>7</sup>
- notification of all national measures necessary to transpose the Capital Requirements Directive<sup>8</sup> and the Financial Conglomerates Directive;<sup>9</sup>
- transposition of the Directive on over-reliance on credit ratings;<sup>10</sup>

<sup>5</sup> Directive [92/43/EEC](#).

<sup>6</sup> Directive [2012/18/EU](#).

<sup>7</sup> Directive [2010/75/EU](#).

<sup>8</sup> Directive [2013/36/EU](#).

<sup>9</sup> Directive [2011/89/EU](#).

- non-compliance with the First Railway Package.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>11</sup>

The Court ruled that:

- the United Kingdom has incorrectly applied the Large Combustion Plants Directive to the Aberthaw Power Station in Wales, by not respecting the emission limit value for nitrogen oxides (NOx);<sup>12</sup>
- the United Kingdom did not violate the Regulation on the coordination of social security systems<sup>13</sup> by requiring a person claiming certain social benefits (child benefit and child tax credit) to satisfy the so-called right to reside test in order to be treated as habitually resident in the UK.<sup>14</sup>

### 2. Preliminary rulings<sup>2</sup>

In preliminary rulings addressed to the UK judiciary, the Court held that:

- a national of a non-EU country who has the sole care of an EU citizen who is a minor cannot be automatically refused a residence permit or expelled from the territory of the European Union on the sole ground that he has a criminal record. To be capable of being adopted, an expulsion measure must be proportionate and founded on the personal conduct of the national of a non-EU country. That conduct must constitute a genuine, present and sufficiently serious threat adversely affecting one of the fundamental interests of the society of the host Member State;<sup>15</sup>
- under the Directive on privacy and electronic communications<sup>16</sup> Member States may establish, as a preventive measure, a targeted retention of data solely for the purpose of fighting serious crime, provided that such retention is limited to what is strictly necessary regarding the categories of data to be retained, means of communication affected, persons concerned and duration of the retention period. The Court further clarified that the access of national authorities to the retained data must be subject to conditions, including prior review by an independent authority, and that the data must be retained within the EU;<sup>17</sup>
- a fee demanded for the issuing of services licences was excessive as it did not correspond to the real cost of authorisation procedures. The national legislation on granting the licences was therefore judged non-compliant with the Services Directive;<sup>18</sup>
- the placing on the EU market of cosmetic products containing some ingredients that have been tested on animals outside the EU in order to market those products in third countries may be prohibited if the data resulting from that testing is used to prove the safety of the products concerned for the purposes of placing them on the EU market.<sup>19</sup>

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<sup>10</sup> Directive [2013/14/EU](#).

<sup>11</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>12</sup> Directive [2001/80/EC](#), Commission v United Kingdom, [C-304/15](#).

<sup>13</sup> Regulation (EC) No [883/2004](#).

<sup>14</sup> Commission v United Kingdom, [C-308/14](#).

<sup>15</sup> Rendón Marín and CS, joined cases [C-165/14](#) and [C-304/14](#) and Court press release [No 95/16](#).

<sup>16</sup> Directive [2002/58/EC](#).

<sup>17</sup> Tele2 Sverige, joined case [C-203/15](#) and [C-698/15](#), Court press release [No 145/16](#).

<sup>18</sup> Directive [2006/123/EC](#), [C-316/15](#), Timothy Martin Hemming and Others v Westminster City Council, Court press release No [127/2016](#).

<sup>19</sup> European Federation for Cosmetic Ingredients v Secretary of State for Business, Innovation and Skills and Attorney General, [C-592/14](#), Court press release No [105/2016](#).

## METHODOLOGY AND EXPLANATIONS

### ANNEX II — MEMBER STATES

#### 1. COMPLAINTS

##### **First chart: New complaints made against the Member State by members of the public (2012-2016)**

This shows the number of public complaints the Commission registered against the Member State for the years 2012-2016.

##### **Second chart: Public complaints against the Member State open at year-end**

This starts with the number of open complaints against the Member State carried over from 2015 (first column). The second column shows the number of new complaints registered in 2016. The third column shows the number of complaints on which the Commission took a decision in 2016. The fourth column shows the number of complaints against the Member State that were open at the end of 2016 (calculated by taking the first figure, adding the second and subtracting the third).

##### **Third chart: New complaints registered in 2016: main policy areas**

The number of complaints registered in 2016 is broken down by policy area. Generally, this breakdown shows the three policy areas which attracted the most complaints. However, four (or more) policy areas are mentioned if two (or more) policy areas tied for the third highest number of complaints.

#### 2. EU PILOT

##### **First chart: New EU Pilot files opened against the Member State (2012-2016)**

This analyses the number of EU Pilot files the Commission opened against the Member State for the years 2012-2016.

##### **Second chart: EU Pilot files relating to the Member State open at year-end**

This analyses the number of EU Pilot files still pending at year-end against the Member State for the years 2012-2016.

##### **Third chart: New EU Pilot files opened in 2016: main policy areas**

The figure for the number of new EU Pilot files opened against the Member State in 2016 is broken down by policy area. Generally, this breakdown shows the three policy areas in which the most EU Pilot files were opened in 2016. However, four (or more) policy areas are mentioned if two (or more) policy areas tied for the third highest number of EU Pilot files or if the top three policy areas do not account for more than 50 % of the cases.

##### **Fourth chart: EU Pilot files: Member State's average response time in 2012-2016 (in days)**

This shows how the Member State's average response time in EU Pilot has changed over the past 5 years.

##### **Fifth chart: EU Pilot files: Member State's resolution rate in 2012-2016**

This shows how many EU Pilot files the Commission closed without opening an infringement case by 31 December of each year from 2012 to 2016.

### 3. INFRINGEMENT CASES

#### **First chart: Infringement cases against the Member State open on 31 December (2012-2016)**

These figures include all procedures the Commission initiated against the Member State by sending a letter of formal notice under Article 258 TFEU. It covers letters sent in 2016 or before, irrespective of the stages the cases have reached. Only cases which have not yet been closed by a formal decision are shown.

Accordingly, these numbers include all cases that, on 31 December of the years 2012 to 2016:

- were in the pre-litigation phase (letter of formal notice, reasoned opinion or decision on referral to the Court under Article 258 TFEU);
- were pending before the Court under Article 258 TFEU and Article 260(3) TFEU;
- the Court had ruled on but where the Commission could not yet confirm that the Member State had implemented the judgment correctly;
- were in the second pre-litigation procedure (letter of formal notice or referral decision under Article 260(2) TFEU);
- were pending before the Court due to a second referral; and
- the Court had ruled on for the second time but where the Commission could not yet confirm that the Member State had implemented the second judgment correctly.

These figures do *not* include, for example, open EU Pilot files in the policy area. They also do not include EU Pilot files for which the Commission had already rejected a Member State's response but had not yet sent a letter of formal notice under Article 258 TFEU.

#### **Second chart: New infringement cases opened in 2016: main policy areas**

As a rule, this chart shows the three policy areas in which the most infringements were open on 31 December 2016. Four (or more) policies are mentioned if two (or more) policies tied for the third highest number of open infringements. Only two policies are highlighted if too many policies tied for the third highest number, or if this would make the chart very fragmented (this might occur in Member States with relatively few infringements).

#### **Key infringement cases and referrals to the Court**

This section has three parts:

Part a) shows the number of new infringement cases opened against the Member State in 2016 and lists the major new and ongoing infringement cases at the stage of letters of formal notice or reasoned opinions (under Article 258 TFEU).

Part b) lists the cases which the Commission referred to the Court solely under Article 258 TFEU by 31 December 2016. The cases submitted to the Court under Article 258 *and* 260(3) TFEU are discussed in the 'Transposition of directives' section (see below).

Part c) lists the cases which the Commission referred to the Court under Article 260(2) TFEU by 31 December 2016.

### 4. TRANSPOSITION OF DIRECTIVES

#### **First chart: Late transposition infringement cases against the Member State open on 31 December (2012-2016)**

This shows the number of letters of formal notice sent to the Member State under Article 258 TFEU for missing or partial notification of national transposition measures. It covers letters sent in 2016 or before, irrespective of the stages the cases have reached. Only cases which have not yet been closed by a formal decision are shown.

Accordingly, the number includes all cases that, on 31 December of the years 2012 to 2016:

- were in the pre-litigation phase (letter of formal notice, reasoned opinion or decision on referral to the Court under Article 258 TFEU and Article 260(3) TFEU),
- were pending before the Court under Article 258 TFEU and Article 260(3) TFEU.

This figure is already included in the total number of infringement cases open against the Member State in 2016. It should therefore *not* be added to the figure shown in the first chart of the general statistics section.

### **Second chart: New late transposition infringement cases against the Member State (2012-2016)**

This shows the number of new letters of formal notice sent in 2016 to the Member State under Article 258 TFEU for missing or partial notifications of national transposition measures. This figure is already included in the total number of new infringement cases initiated against the Member State in 2016. It should therefore *not* be added to the figure shown in the second chart of the general statistics section.

Please note that not all of these new infringement cases for late transposition were necessarily still open on 31 December 2016. For example, if the Commission opened a late transposition infringement procedure in March 2016 by sending a letter of formal notice, this would be added to the new infringement cases even if the Commission closed the case in October 2016 as a result of the Member State notifying complete transposition.

### **Third chart: New late transposition infringement cases opened in 2016: main policy areas**

As a rule, this chart shows the three policy areas in which the most infringement procedures for late transposition were launched in 2016. Four (or more) policies are mentioned if two (or more) policies tied for the third highest number of open infringements. Only two policy areas are highlighted if too many policy areas tied for the third highest number, or if this would make the chart very fragmented (this might occur in Member States with relatively few infringements).

### **Referrals to the Court**

This section contains the cases which the Commission referred to the Court under Article 258 TFEU and Article 260(3) by 31 December 2016.

## **5. EARLY RESOLUTION OF INFRINGEMENT CASES**

### **Major cases closed without a Court judgment in 2016**

This section contains a list of the major infringement cases the Commission closed in 2016 without a Court judgment. The list is not exhaustive.

## **6. IMPORTANT JUDGMENTS**

This section contains two lists:

The first list contains the Court's most important judgments against the Member State in 2016. These judgments are almost exclusively handed down under Article 258 or Articles 260(2) TFEU.

The second list contains the most important preliminary rulings the Court has issued to the Member State's judiciary. These lists are not necessarily exhaustive.