



Brussels, 9.7.2015
SWD(2015) 134 final

PART 3/4

COMMISSION STAFF WORKING DOCUMENT

Part I: Policy areas

Accompanying the document

Report from the Commission

**Monitoring the application of Union law
2014 Annual Report**

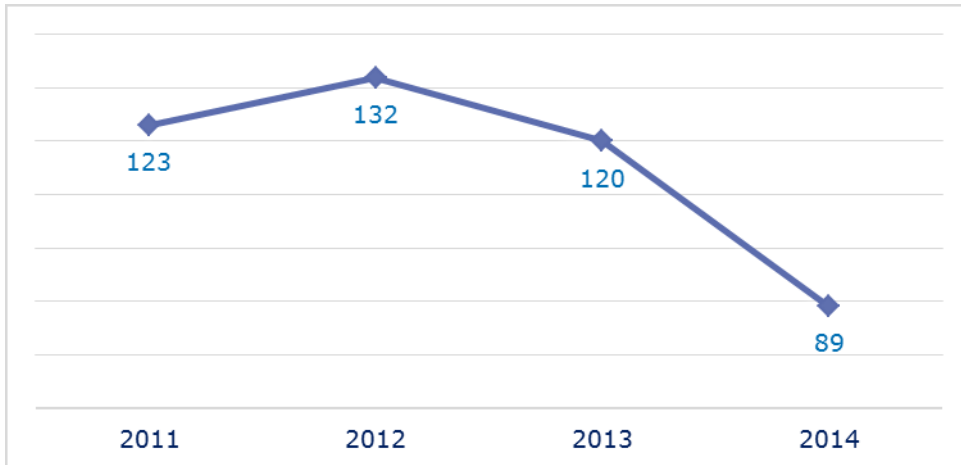
{COM(2015) 329 final}
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HOME AFFAIRS

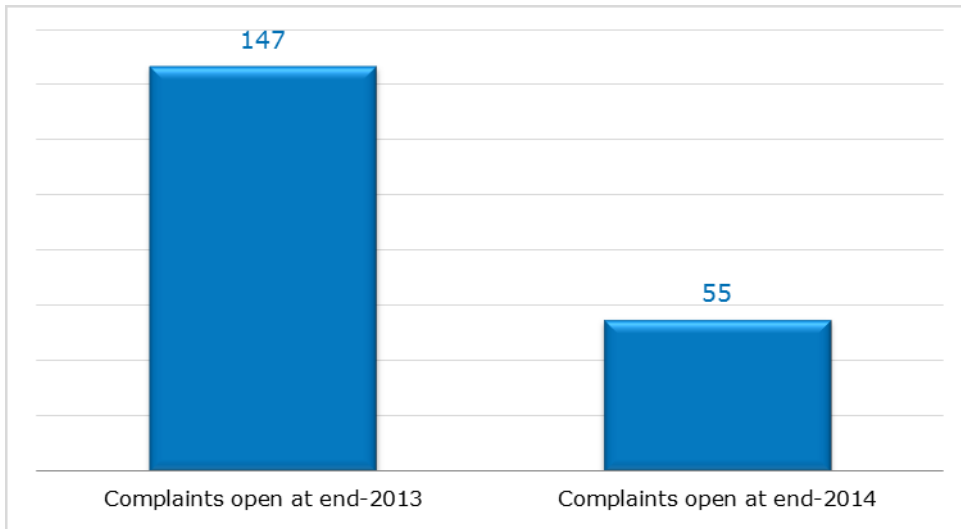
In 2014, the Commission received its lowest number of new complaints in the area of home affairs since 2011. In 2014, the number of new EU Pilot files opened decreased for the first time since 2011. The number of infringement cases pending at the end of the year continued to increase in 2014. Although the number of new late transposition cases increased in 2014, it was below the peak reached in 2011.

I. COMPLAINTS

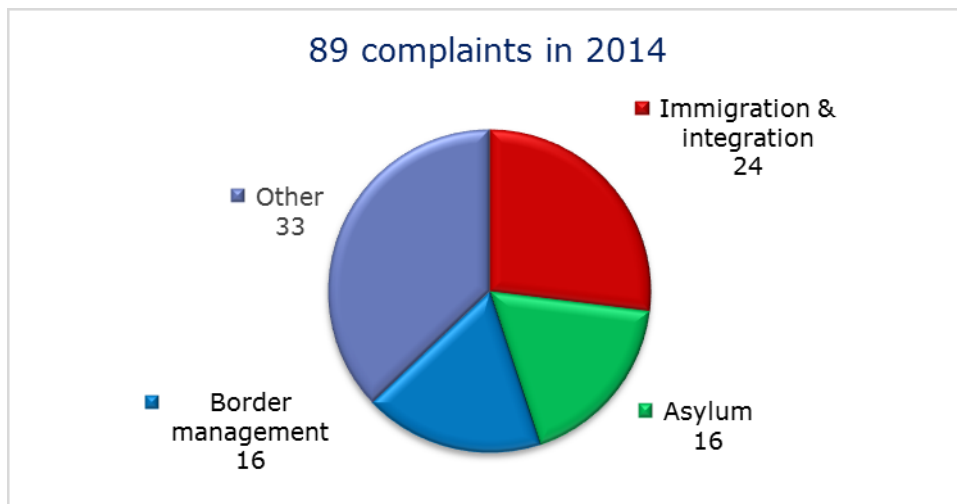
1. New complaints received from members of the public (2011-14)



2. Evolution of complaints

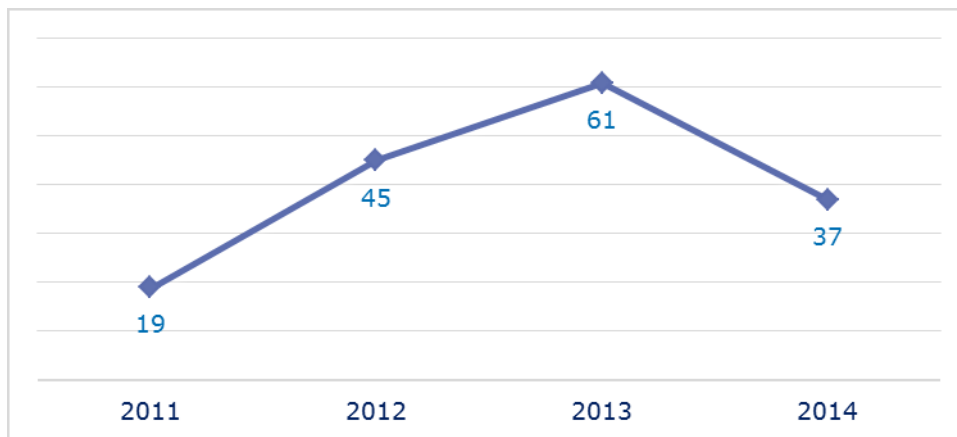


3. New complaints registered in 2014: main policy sectors

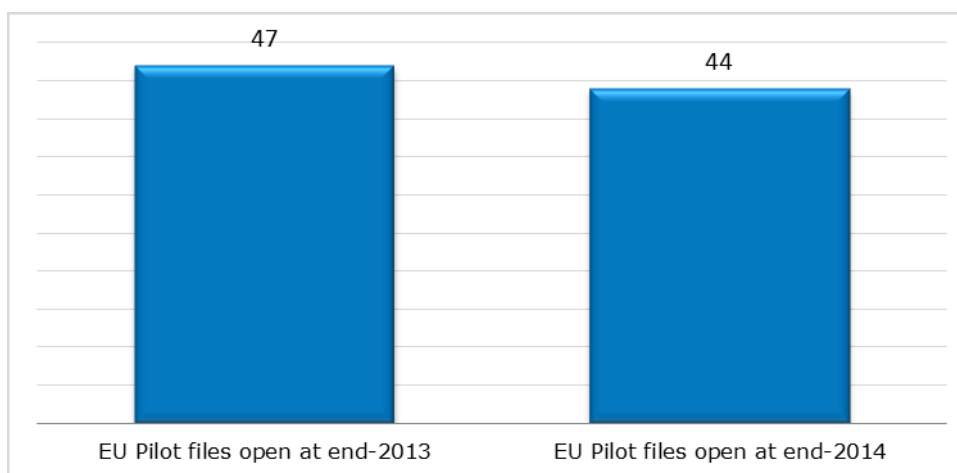


II. EU PILOT

1. New EU Pilot files (2011-14)

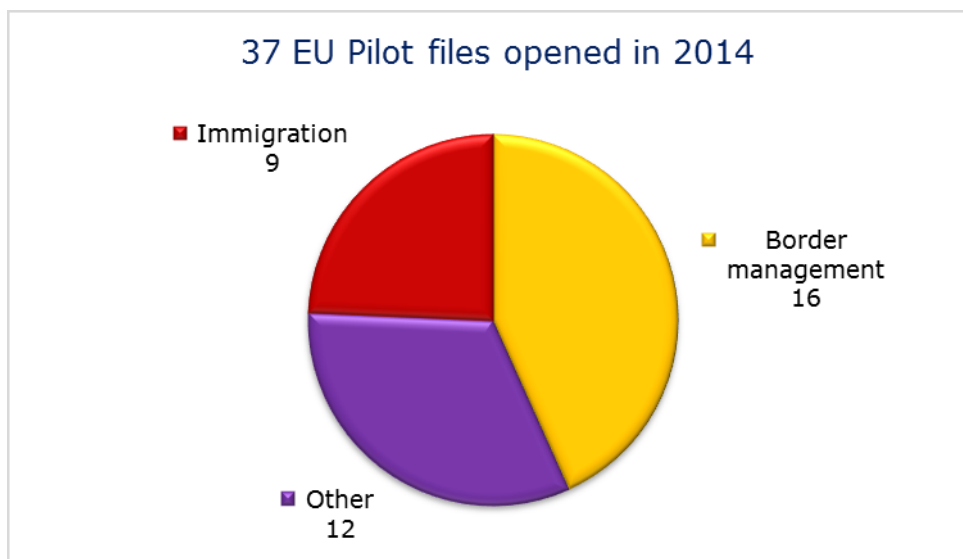


1. Evolution of files open in EU Pilot¹

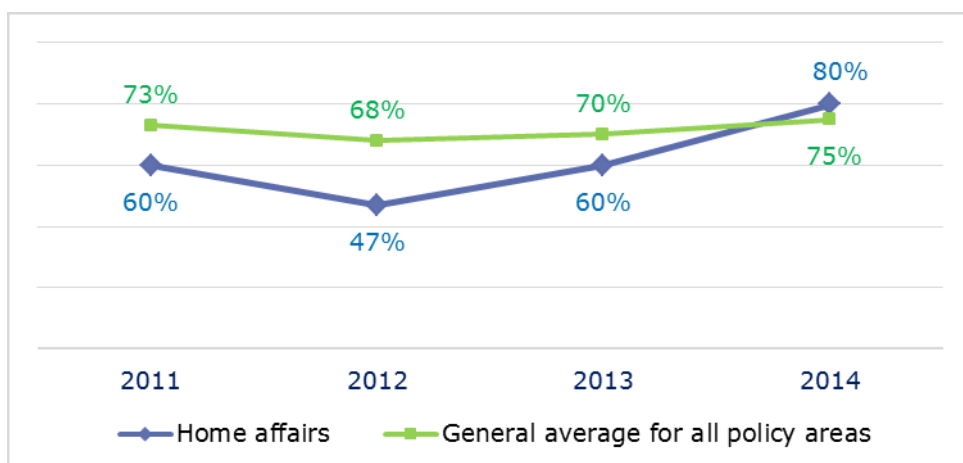


¹ The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

2. New EU Pilot files opened in 2014: main policy sectors



3. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

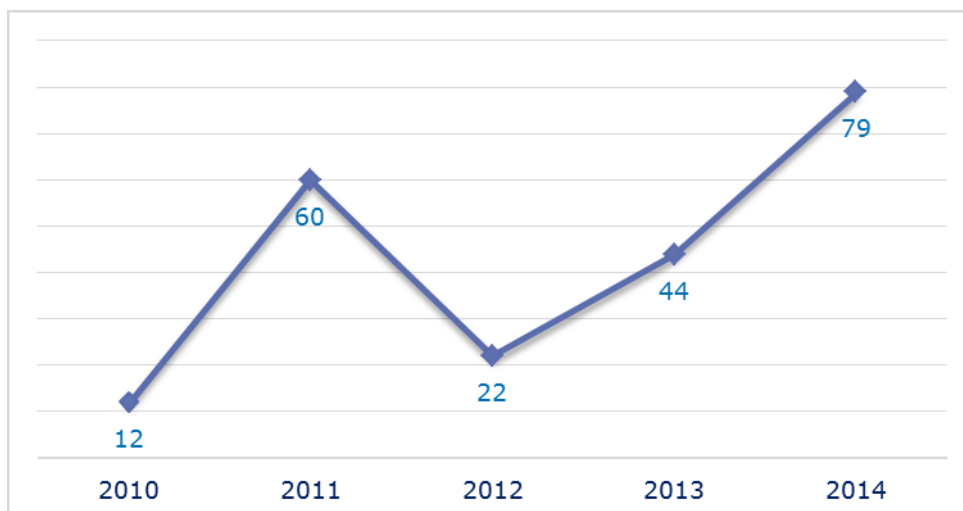
In 2014, the Commission opened own-initiative infringement cases concerning:

the Return Directive², on aspects such as an effective forced-return monitoring system, criminalisation of irregular stay, and detention and detention conditions.

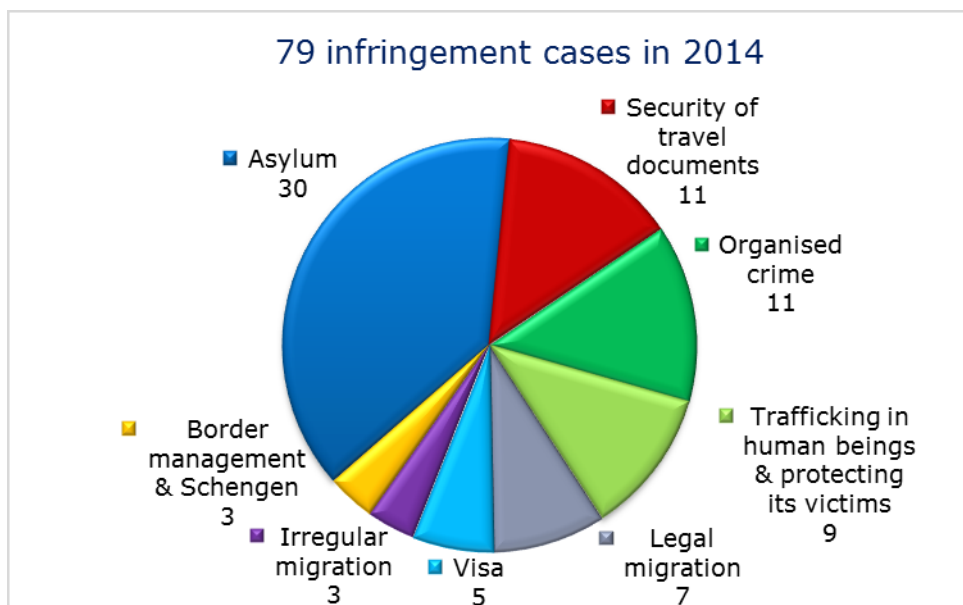
² Directive [2008/115/EC](#).

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 58 new infringement cases in 2014, among which:
- *Cyprus*: the alleged systematic detention of certain categories of asylum applicants without properly assessing the necessity of detention, and the lack of an effective remedy against detention orders;³
 - *Germany, Greece and Italy*: nonconformity of national legislation with the Return Directive⁴, on aspects such as an effective

³ In breach of Council Directives [2003/9/EC](#), [2005/85/EC](#) and Article 47 of the EU Charter of Fundamental Rights.

⁴ Directive [2008/115/EC](#).

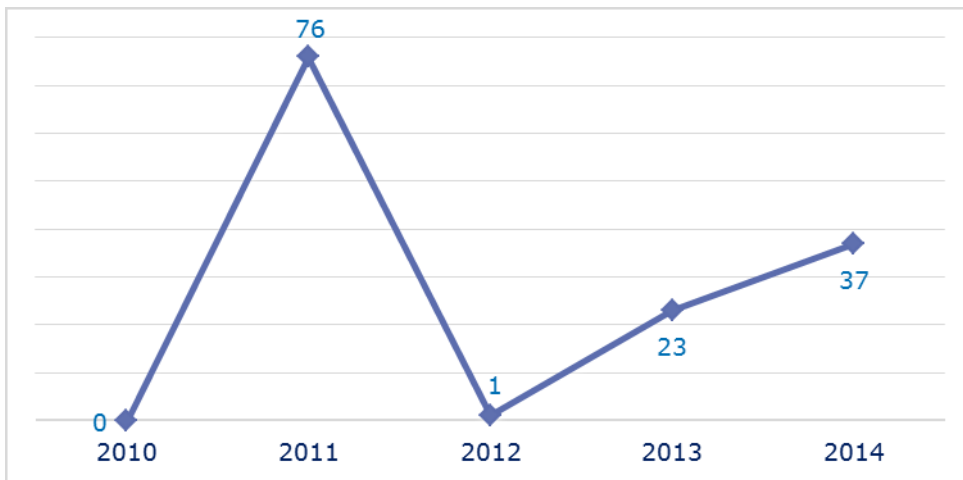
forced-return monitoring system, criminalisation of irregular stays, and detention and detention conditions;

- *Germany*: non-compliance of German legislation on checks on persons at internal borders with the abolition of internal border controls (Articles 20 and 21 of the Schengen border code;⁵
- *Italy*: the alleged denial of access to the asylum procedure to migrants arriving from Greece⁶ who may need international protection (under the Dublin Regulation⁷).

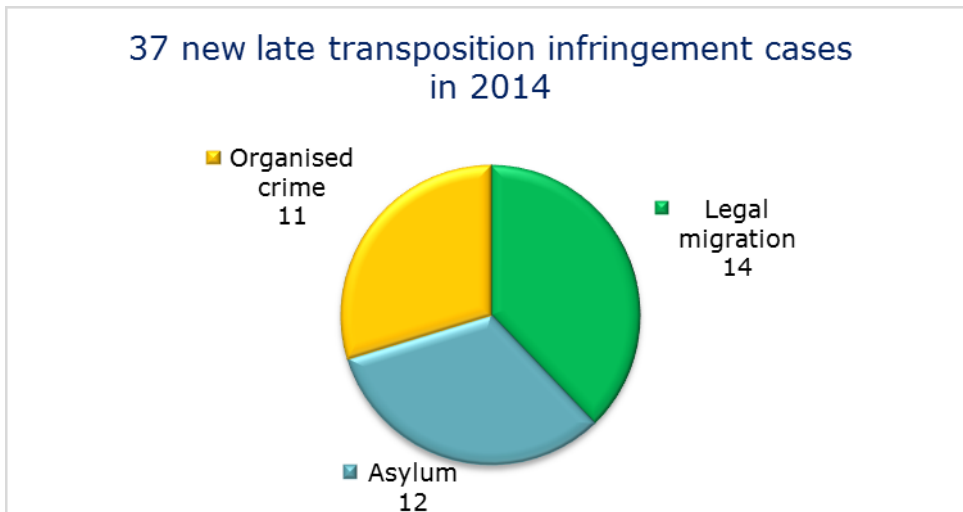
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors



⁵ Regulation (EC) No [562/2006](#).

⁶ In breach of Council Directive [2005/85/EC](#).

⁷ Council Regulation (EC) No [343/2003](#).

3. Key infringement cases and referrals to the Court

- a) The Commission opened 37 cases for late transposition, concerning:
- the directive on the single permit for non-EU nationals (Austria, Belgium, Cyprus, Czech Republic, Finland, Greece, Hungary, Italy, Lithuania, Malta, Netherlands, Romania, Spain and Slovenia);⁸
 - the directive setting out the standards for: allowing non-EU nationals or stateless people to qualify for international protection; a single status for refugees or for people eligible for subsidiary protection; the content of the protection granted (Bulgaria, Cyprus, Finland, France, Hungary, Italy, Malta, Poland, Portugal, Romania, Slovenia and Spain);⁹
 - the directive on combating the sexual abuse and sexual exploitation of children and child pornography (Belgium, Cyprus, Greece, Hungary, Italy, Malta, Netherlands, Portugal, Romania, Spain and United Kingdom).¹⁰
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

These concerned:

- the late transposition of the directive on preventing and combating trafficking in human beings and protecting its victims¹¹ (Cyprus, Ireland, Malta and Netherlands).

VII. IMPORTANT JUDGMENTS

1. Court rulings

There were no Court rulings in 2014.

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- Member States may impose the requirement that both the applicant and the spouse must have reached the age of 21 by the time they apply for a residence permit for the purpose of family reunification, a measure to prevent forced marriages.¹²
- the Data Retention Directive¹³ is invalid. The retention of data required by the directive might be considered appropriate to meet the objective of fighting organised crime and terrorism, and therefore of improving public security. However, the directive's wide-ranging and serious interference with the fundamental rights to respect of private life and to protection of personal data is not sufficiently limited to what is strictly necessary.¹⁴

⁸ Directive [2011/98/EU](#).

⁹ Directive [2011/95/EU](#).

¹⁰ Directive [2011/92/EU](#).

¹¹ Directive [2011/36/EU](#).

¹² Noorzia, [C-338/13](#) and Court press release No [108/14](#).

¹³ Directive [2006/24/EC](#).

¹⁴ Digital Rights Ireland and Seitlinger and Others, [C-293/12](#) and [C-594/12](#) and Court press release No [54/14](#).

- a national court reviewing an extension of the detention of an illegally staying non-EU national must be able to make an independent decision, whether or not it agrees with the authority that ordered the initial detention. In addition, any extension of the detention must be made in writing, and must include reasons in fact and in law. It is subject to a court review of its legality.¹⁵
- under EU asylum law,¹⁶ the interpretation of 'internal armed conflict' must be independent from the definition used in international humanitarian law. An internal armed conflict exists if a State's armed forces confront one or more armed groups or if two or more armed groups confront each other, regardless of the intensity of the confrontations, the level of organisation of the armed forces involved, or the duration of the conflict.¹⁷
- the requirement¹⁸ that the spouse of a Turkish national residing in a Member State should prove their basic knowledge of the official language of that Member State as a condition for issuing a visa for family reunification is incompatible with the standstill clause of the additional protocol to the EC-Turkey association agreement.¹⁹
- Member States must admit to their territory non-EU nationals who wish to stay for more than three months for study purposes, if they meet the conditions for admission under EU law²⁰ and if one of the grounds expressly listed by EU law as justification for refusing a residence permit cannot be invoked.²¹
- national authorities must ensure the respect of fundamental rights when assessing the credibility of the declared sexual orientation of applicants for asylum. This excludes intrusive and humiliating medical or pseudo-medical tests, intrusive questioning and requiring photographic or video evidence of sexual practices. The assessment cannot be based on stereotyped notions and should always take full account of the individual situation and personal circumstances of the applicant.²²
- a Member State cannot require a descendant applying for a residence permit to prove that s/he has unsuccessfully tried to find work or to obtain a subsistence allowance in his/her country of origin.²³

VIII. OUTLOOK

Important implementation work in 2015 includes:

- monitoring the implementation of EU law (Council framework decisions and decisions) in the area of police cooperation;
- monitoring the pre-integration conditions for family reunification under the Family Reunification Directive²⁴, in the light of the preliminary rulings²⁵ to be delivered in 2015;

¹⁵ Mahdi, [C-146/14 PPU](#) and Court press release No [80/14](#).

¹⁶ Council Directive [2004/83/EC](#).

¹⁷ Diakite, [C-285/12](#) and Court press release No [12/14](#).

¹⁸ This requirement is not compatible with the 'standstill clause' of the Association Agreement with Turkey.

¹⁹ Dogan, [C-138/13](#) and Court press release No [96/14](#).

²⁰ Council Directive [2004/114/EC](#).

²¹ Ben Alaya, [C-491/13](#) and Court press release No [120/14](#).

²² Joined cases A, B, C, [C-148/13 to C-150/13](#) and Court press release No [162/14](#).

²³ Reyes, [C-423/12](#), [CJE/6/14](#).

²⁴ Directive [2003/86/EC](#).

- monitoring implementation of the right to appeal against the refusal, annulment or revocation of a visa under the Visa Code Regulation,²⁶ also in the light of the Koushkaki Court ruling;²⁷
- monitoring implementation of the new Schengen evaluation mechanism to verify correct implementation of the Schengen acquis;²⁸
- continuation of the conformity assessments for the Long-Term Resident Directive,²⁹ the Single Permit Directive,³⁰ the Family Reunification Directive,³¹ the Return Directive³², and the Employers Sanctions Directive;³³
- the launch of conformity assessments for the directive on common procedures for granting and withdrawing international protection³⁴ and the directive laying down standards for the reception of applications for international protection.³⁵

²⁵ K and A, [C-153/14](#).

²⁶ Regulation (EC) No [810/2009](#).

²⁷ Koushkaki, [C-84/12](#).

²⁸ Regulation (EC) No [1053/2013/EU](#).

²⁹ Council Directive [2003/109/EC](#).

³⁰ Directive [2011/98/EU](#).

³¹ Directive [2003/86/EC](#).

³² Directive [2008/115/EC](#).

³³ Directive [2009/52/EC](#).

³⁴ Directive [2013/32/EU](#).

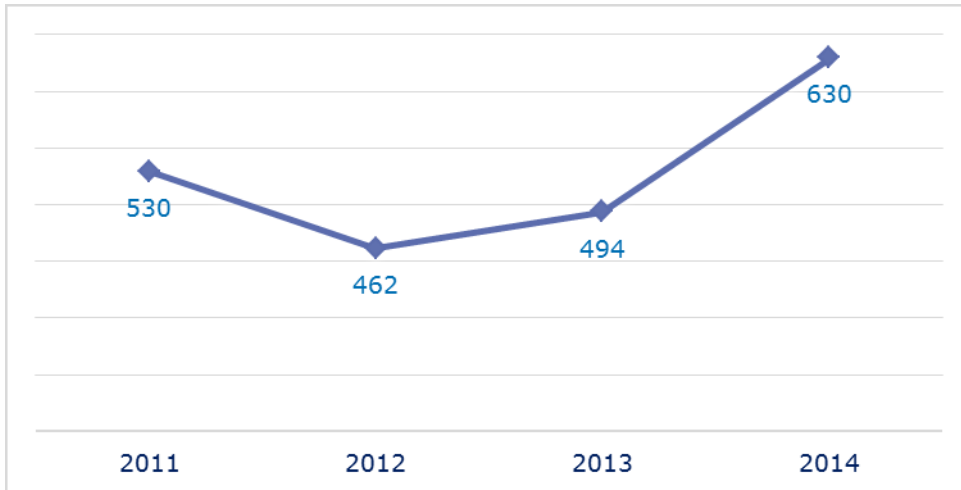
³⁵ Directive [2013/33/EU](#).

INTERNAL MARKET AND SERVICES

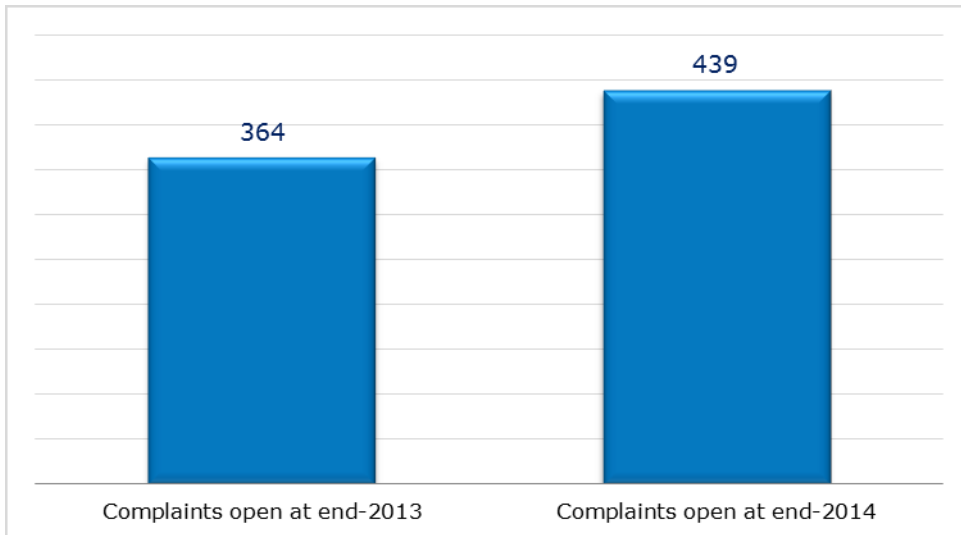
In 2014, the Commission received its highest number of new complaints in the area of single market and services since 2011. Over the same period, the number of new EU Pilot files opened remained stable. In 2014, the number of infringement cases pending at the end of the year continued to decrease. Although the number of new late transposition cases increased in 2014, it was below the peak reached in 2011.

I. COMPLAINTS

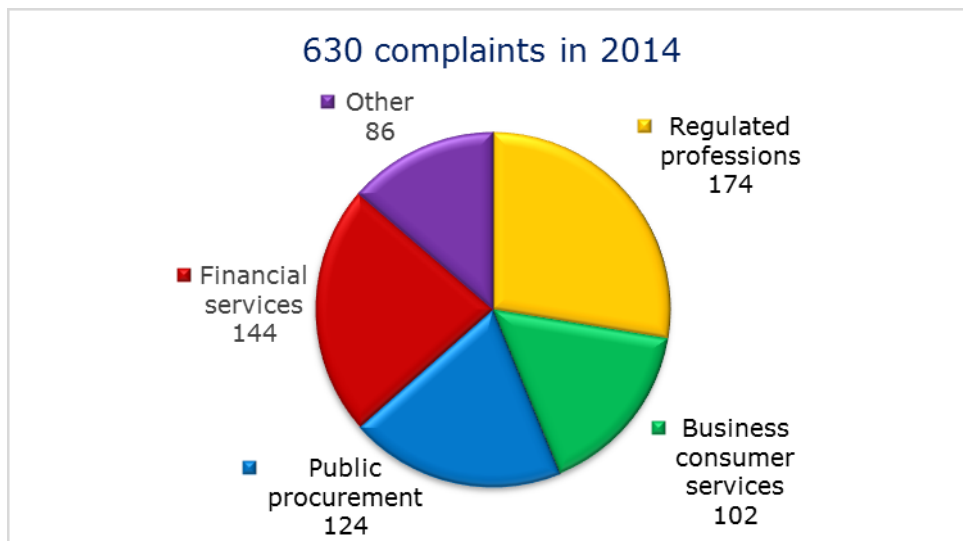
1. New complaints received from members of the public (2011-14)



2. Evolution of complaints

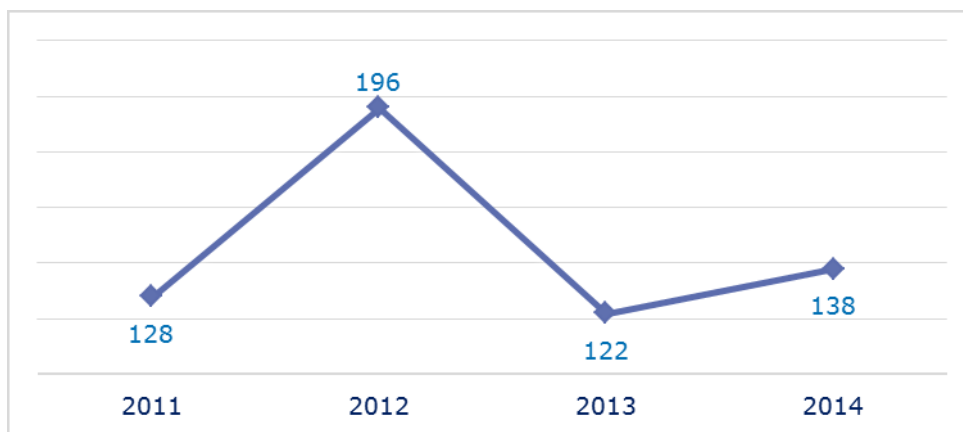


3. New complaints registered in 2014: main policy sectors

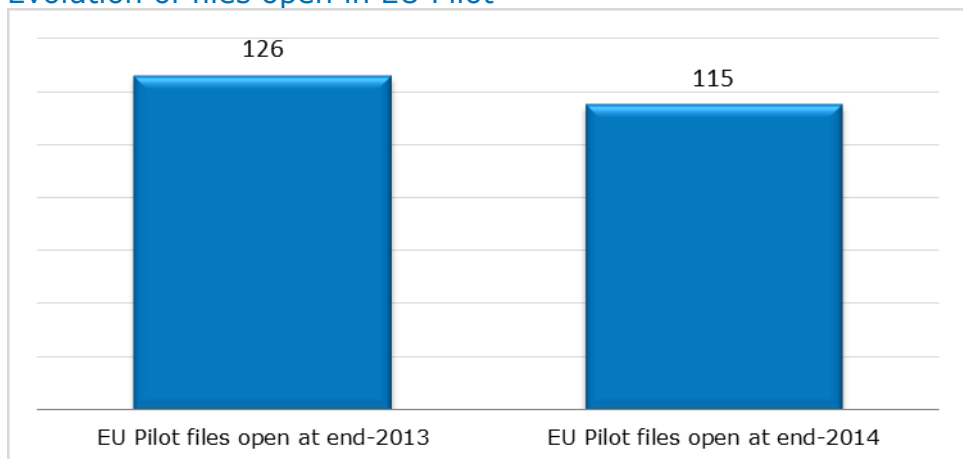


II. EU PILOT

1. New EU Pilot files (2011-14)

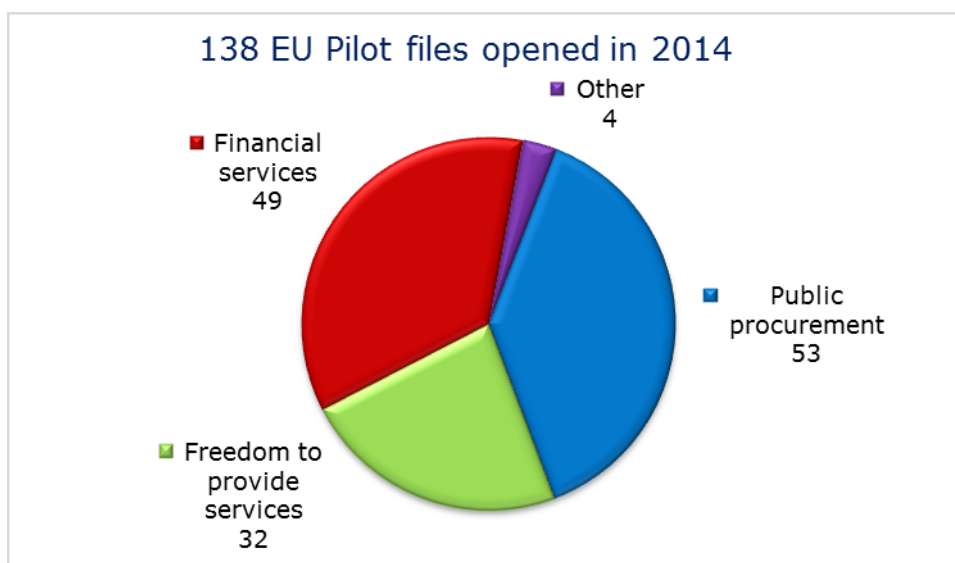


2. Evolution of files open in EU Pilot¹

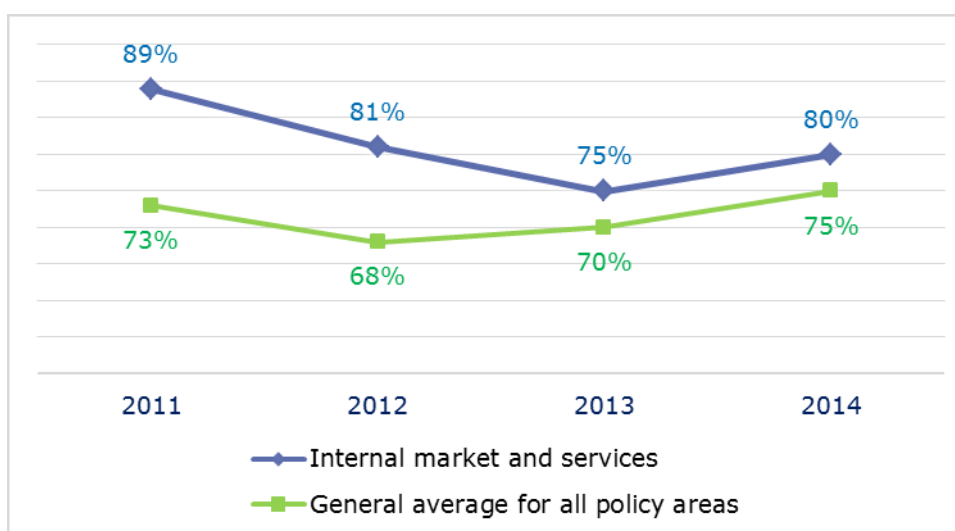


¹ The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

3. New EU Pilot files opened in 2014: main policy sectors



4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

The Commission opened major own-initiative infringement cases in 2014 concerning:

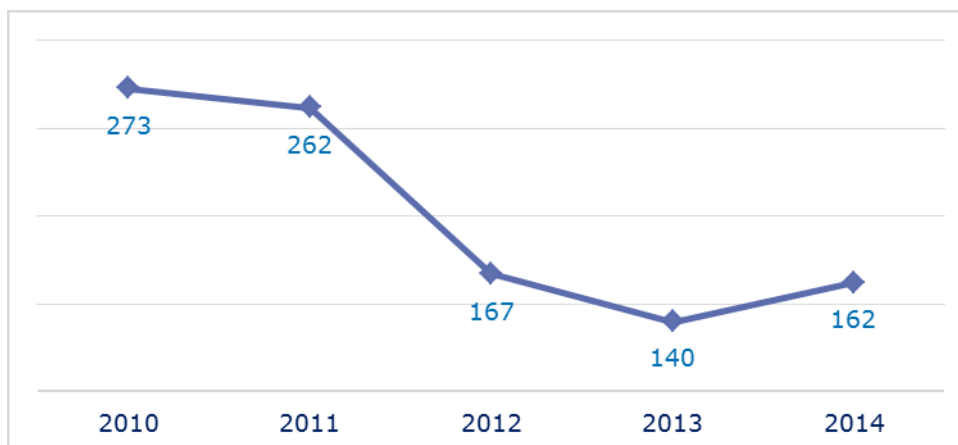
- the requirements of a legal form, shareholding and tariffs provided for in Article 15 of the Services Directive;²
- depositors' protection (provided for in the directive on deposit-guarantee schemes).³

² Directive [2006/123/EC](#).

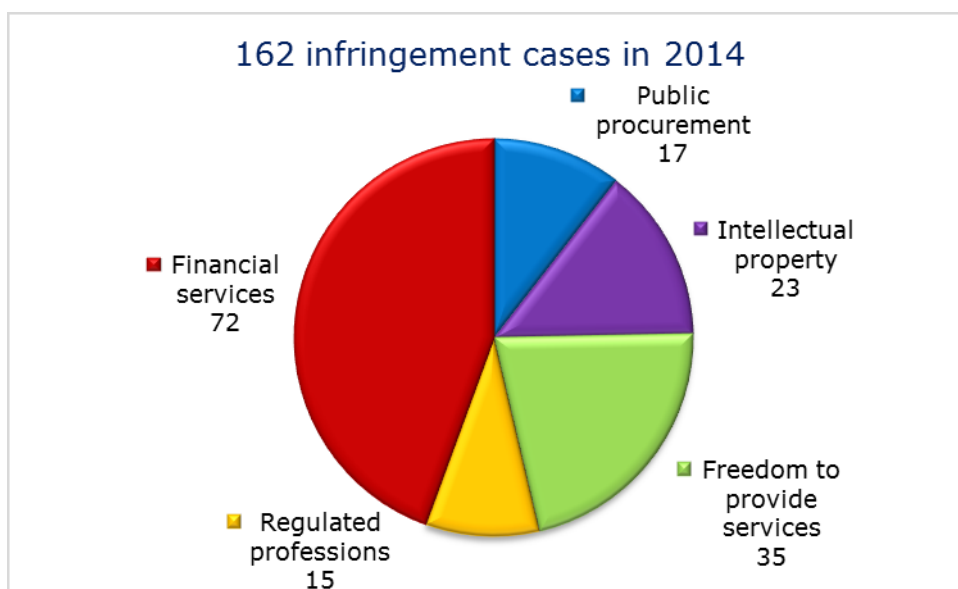
³ Directive [1994/19/EC](#).

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 112 new infringement cases in 2014, among which:
- *Bulgaria*: incorrect transposition of the directive on deposit-guarantee schemes and disproportionate restriction of the free movement of capital.⁴ Two banks have been put into receivership with a complete suspension of payments and bank activities, and depositors have not had access to their funds for three months.⁵
 - *Croatia*: the law on privatising the *Industrija Nafta d.d. (INA)* energy company, which grants the Croatian State significant special powers over the INA; these seem to be unjustified restrictions to the free movement of capital.

⁴ Directive [1994/19/EC](#).

⁵ [IP/14/1041](#).

- *Hungary*: the award of a contract for the development and operation of an e-tolling system on the Hungarian motorways without a prior competitive procedure.⁶
 - *Hungary*: the so-called 'Plaza Stop Law', which banned the construction and expansion of retail outlets larger than 300 m² from January 2012 until December 2014. A government decree introduced the possibility of requesting an exemption from this ban, but the criteria for granting an exemption were unclear and included a potential 'economic needs' test.
 - *Hungary*: national legislation adopted in December 2013 that on 1 May 2014 terminated all existing usufruct (the right to use land and profit from it) and use rights which had been granted for agricultural land by a contract between parties other than close relatives. This radically shortened the 20-year transitional period adopted in 2012 to four and a half months. The measure has affected people and businesses from other EU Member States that had acquired such rights for an unlimited period of time or who bought lifelong usufruct on small plots of land before 2002.⁷
- b) The Commission referred three cases to the Court under Article 258 TFEU. They concerned:
- *Hungary*: the restrictive issuing conditions for meal and holiday vouchers under the new national legal framework;⁸
 - *Latvia*: the requirement to have Latvian nationality to work as a notary in Latvia;⁹
 - *Poland*: national legislation specifying grounds for exclusion from tenders that differ from those provided for in the Public Procurement Directive.¹⁰ The exclusion concerned economic operators who had been awarded a contract but had failed to perform that contract correctly or had the contract terminated due to circumstances for which they were responsible.¹¹
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

⁶ For procedural reasons — complete execution of the contract in question — the Commission has decided to close the infringement case.

⁷ [IP/14/1152](#).

⁸ The Commission decided on 20 June 2013 to refer the case to the Court; the application was filed on 10 April 2014. *Commission v Hungary*, [C-179/14](#), [IP/13/578](#).

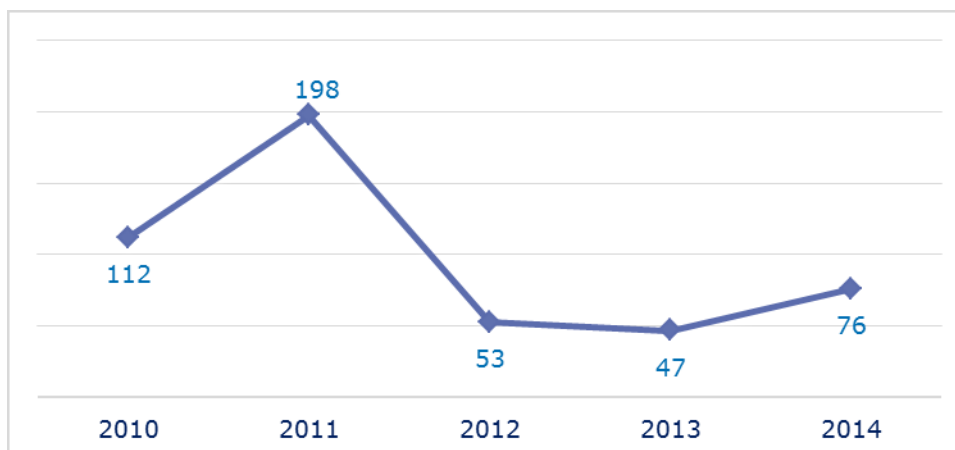
⁹ *Commission v Latvia*, [C-151/14](#), [IP/14/48](#).

¹⁰ Directive [2004/18/EC](#).

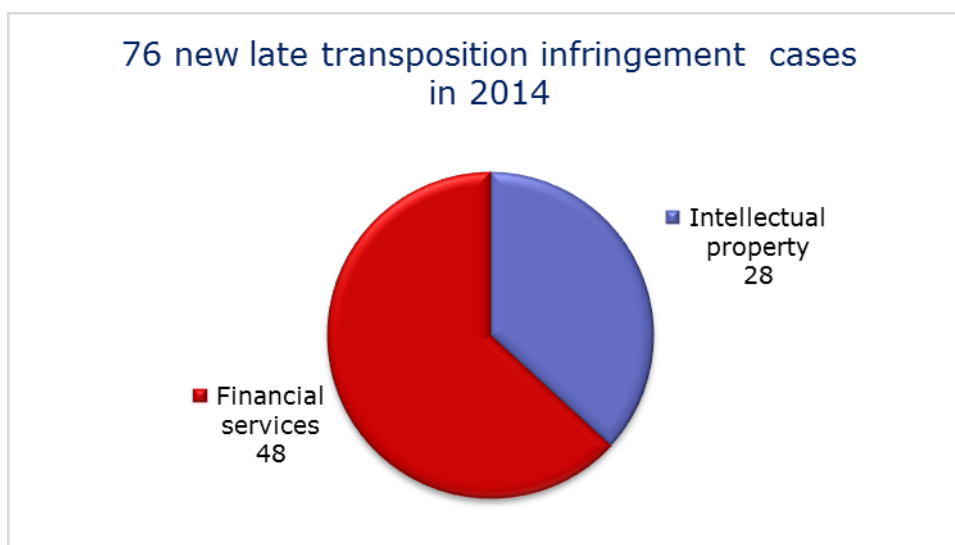
¹¹ The Commission decided on 17 October 2013 to refer the case to the Court; the application was filed on 4 April 2014. *Commission v Poland*, [C-162/14](#), [IP/13/965](#).

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 76 cases for late transposition. Most concern:
 - the Capital Requirements Directive (27 Member States);¹²
 - the directive on protecting copyright¹³ (15 Member States).
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

These concerned:

¹² [MEMO/14/589](#).

¹³ Directive [2011/77/EU](#).

- *Greece*: award of a contract for providing information technology services to the Social Insurance Foundation (IKA);
- *Greece*: public procurement restrictions for consultants based in Greece and domestic construction companies;
- *Italy*: the Italian authorities' refusal to recognise that holders of the Italian '*Maturita magistrale*' diploma were fully qualified to exercise the profession of primary school teacher in Italy. As a result, holders of this diploma could not work in any other Member State either;
- *Spain*: restrictions on inspection bodies in Catalonia (limited number of inspection bodies, minimum number of offices and sectors, minimum share capital, separate authorisation for Catalonia);
- *Spain*: restrictions on the technical designer profession.

VII. IMPORTANT JUDGMENTS

1. Court rulings

There were no major Court rulings in 2014.

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the demographic criteria applied in Austria for determining whether there is a need to set up a new pharmacy is contrary to the freedom of establishment.¹⁴
- the EU Copyright Directive¹⁵ does not allow health establishments (SPAs) to be exempt from paying copyright fees. The monopoly granted by Czech legislation to the Czech copyright collecting society (to collect fees on behalf of composers for the use of their musical works) is compatible with the freedom to provide services.¹⁶ Moreover, the grant of this territorial monopoly over the management of copyright is not, as such, contrary to competition rules either (Article 106 in conjunction with Article 102 TFEU).
- Excluding the participation in a tendering procedure of an economic operator who has committed an infringement of competition law established by a judicial decision is allowed under Directive 2004/18/EC; as a consequence such exclusion is also allowed under Articles 49 and 56 TFEU regarding public contracts which fall below the EU thresholds.¹⁷
- a national of a Member State who qualifies as a lawyer in another Member State has the right to work as a lawyer in his own Member State.¹⁸
- the in-house exemption (which makes it possible to not apply the public procurement directives) requires, amongst other conditions, that the contracting authority exercises over the contractor a control similar to the control that it exercises over its own departments. This condition is not met if a private undertaking or a non-profit entity makes any investment in the

¹⁴ Sokoll-Seebacher, [C-367/12](#) and Court press release No [19/14](#).

¹⁵ Directive [2001/29/EC](#).

¹⁶ OSA, [C-351/12](#) and Court press release No [23/14](#).

¹⁷ Generali-Providencia Biztosító, [C-470/13](#).

¹⁸ Torresi, [C-58/13](#), [CJE/14/59](#).

capital of a company of which the awarding authority is also part.¹⁹

- an unfertilised human ovum whose division and further development have been stimulated by parthenogenesis does not constitute a 'human embryo' within the meaning of Article 6(2)(c) of the directive on the legal protection of biotechnological inventions²⁰ if, in the light of current scientific knowledge, it is not capable of developing into a human being.²¹

VIII. OUTLOOK

Important implementation work in 2015 includes:

- *Gambling area*: the resolution of infringement cases and the investigation of compliance of national rules with EU law in the area of gambling services (with a focus on online gambling).
- *Regulated professions*: follow-up of the transparency exercise regarding the regulation of professions in Member States (started in 2013). In 2014, the exercise covered the professions of driving instructor, real estate agent, architect, civil engineer, electrician and optician (for the real estate, transport, business services, constructions and retail sectors). Member States will have to provide national actions plans for these sectors by April 2015.²² Meetings to discuss other professions are also scheduled in 2015.
- *Deposit-guarantee schemes*: transposition of and compliance checks on the directive on deposit-guarantee schemes.²³ Implementation of the expected judgment of the Court in the case on investor-compensation schemes and deposit-guarantee schemes (preliminary ruling from a Lithuanian court).²⁴
- *Bank resolution*: transposition of and compliance checks on the Bank Recovery and Resolution Directive.²⁵
- *EU insurance framework*: monitoring of the implementation of the Solvency II Directive.²⁶

¹⁹ Centro Hospitalar de Setúbal and SUCH, [C-574/12](#).

²⁰ Directive [98/44/EC](#).

²¹ International Stem Cell Corporation, [C-364/13](#).

²² According to Communication [COM\(2013\) 676](#).

²³ Directive [2014/49/EU](#).

²⁴ Indėlių ir investicijų draudimas and Nemaniūnas, [C-671/13](#).

²⁵ Directive [2014/59/EU](#).

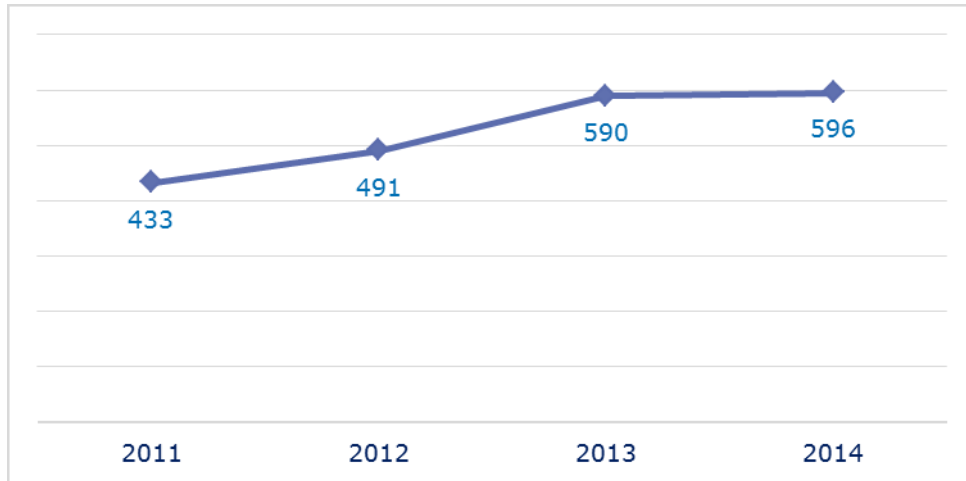
²⁶ Directive [2014/51/EU](#).

JUSTICE

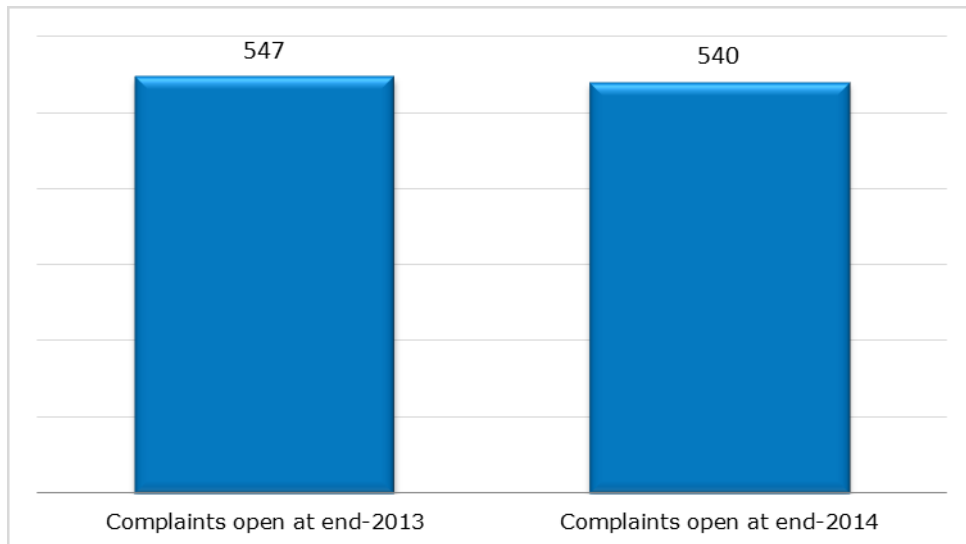
In 2014, the Commission received its highest number of new complaints in the field of justice since 2011. Over the same period, the number of new EU Pilot files decreased considerably. The number of pending infringement cases in 2014 was at its highest since 2011, continuing the increasing trend. Although the number of new late transposition cases increased in 2014, it was below the peak reached in 2011.

I. COMPLAINTS

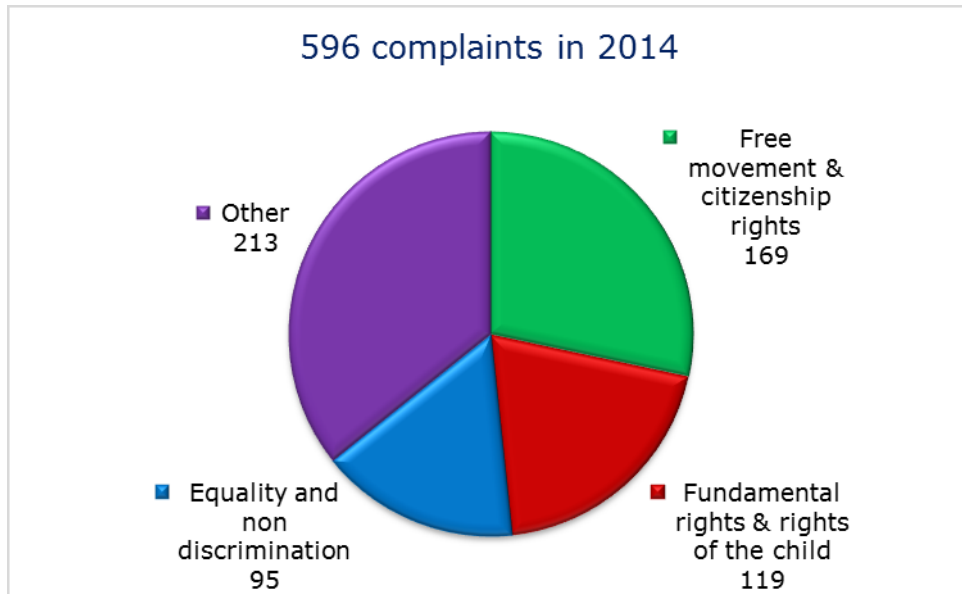
1. New complaints received from members of the public (2011-14)



2. Evolution of complaints

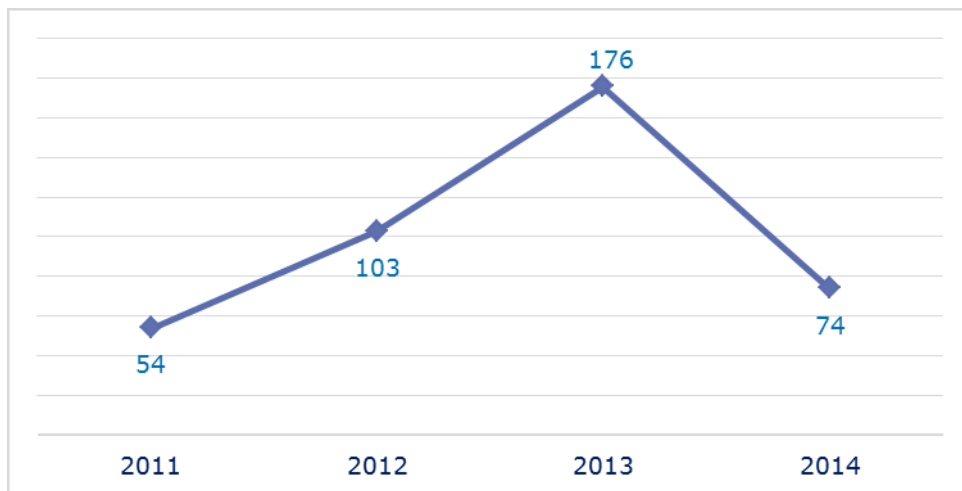


3. New complaints registered in 2014: main policy sectors

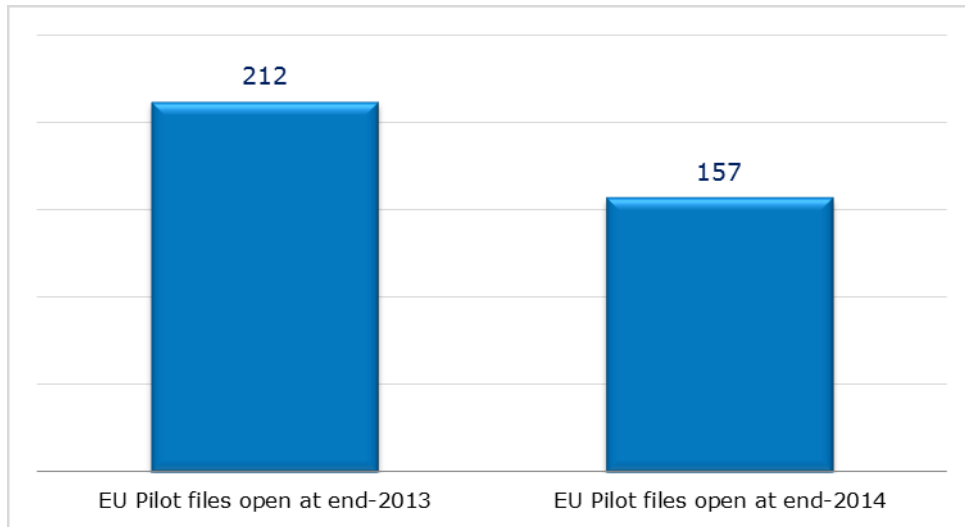


II. EU PILOT

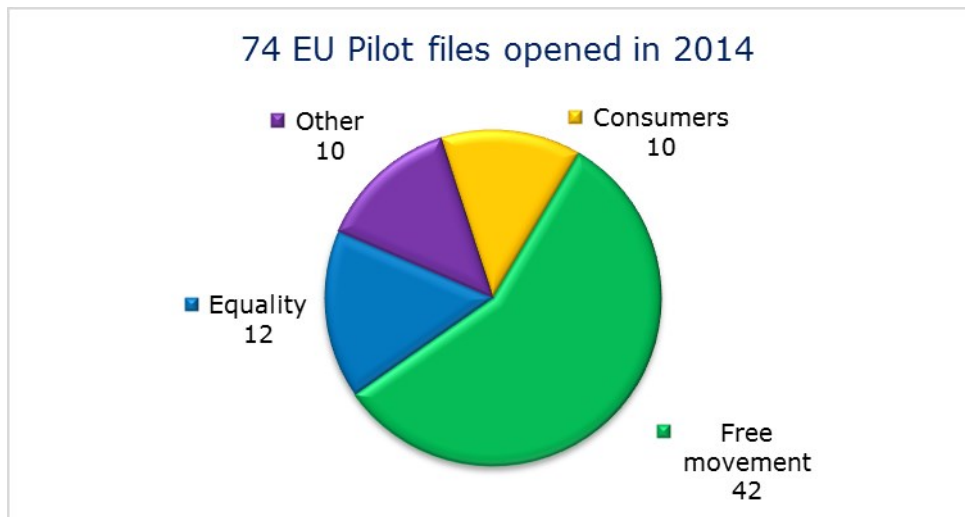
1. New EU Pilot files (2011-14)



2. Evolution of files open in EU Pilot¹

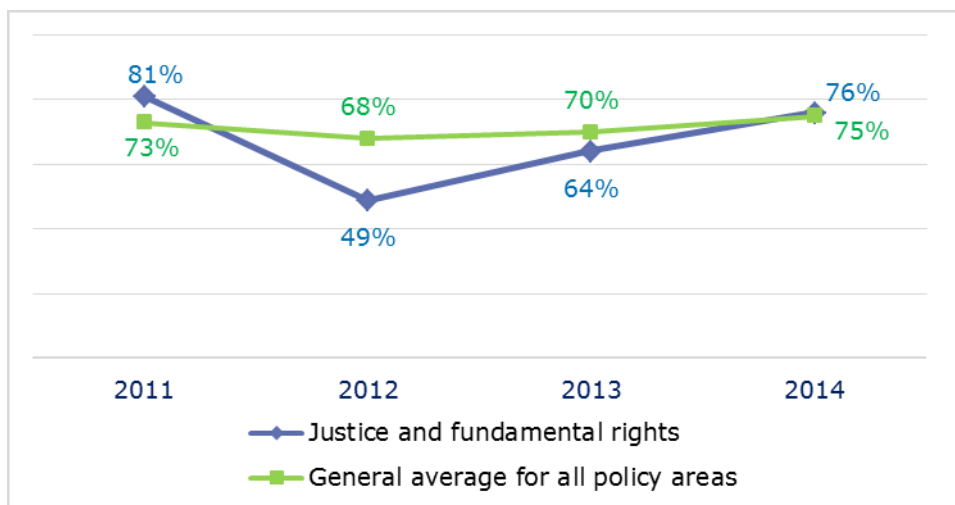


3. New EU Pilot files opened in 2014: main policy sectors



¹ The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

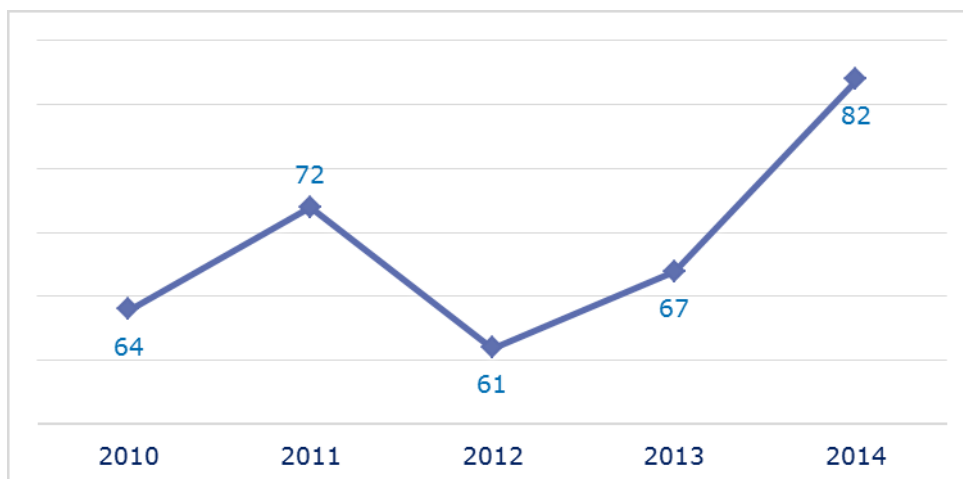
New own-initiative infringement cases

The Commission opened own-initiative infringement cases in 2014 concerning:

- The Unfair Commercial Practices Directive:² the Commission sent letters of formal notice to Croatia, Denmark, Finland, Malta and Sweden for inadequate transposition of the directive, in addition to the letters already sent to Austria, Czech Republic, Cyprus, Germany, Italy, Poland, Portugal and Slovakia in 2013;
- The Timeshare Directive:³ the Commission sent a letter of formal notice to Romania for inadequate transposition of the directive.

IV. INFRINGEMENT CASES

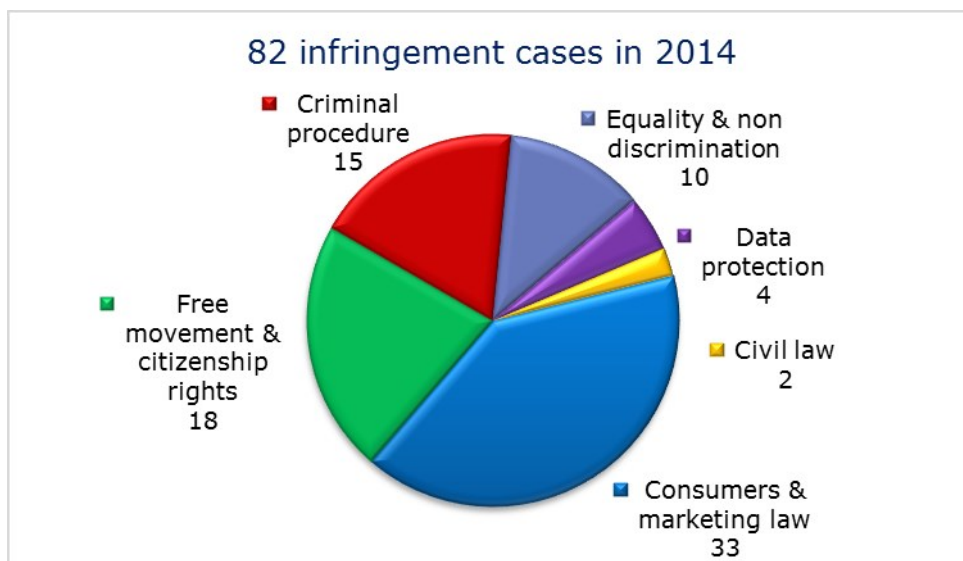
1. Infringement cases open on 31 December (2010-14)



² Directive [2005/29/EC](#).

³ Directive [2008/122/EC](#).

2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 53 new infringement cases in 2014, among which:
- *Czech Republic*: nonconformity with the Racial Equality Directive⁴ due to discrimination of Roma children by disproportionately and systematically placing them in special schools meant for children with disabilities;
 - *Ireland*: failure to accept applications for a residence card lodged by family members during their first three months of residence, in breach of the directive on the right of EU citizens and their family members to move and reside freely within the territory of the Member States.⁵
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concerned:
- *Finland*: nonconformity with the Racial Equality Directive⁶ due to deficiencies in the competences of the national equality body which provides assistance to victims of discrimination;⁷
 - *Italy*: nonconformity with the directive on compensation for crime victims⁸ due to the fact that Italian legislation only provides for compensation to victims of certain violent intentional crimes, such as terrorism and organised crime, but not for all of them.⁹
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

⁴ Directive [2000/43/EC](#).

⁵ Directive [2004/38/EC](#).

⁶ Directive [2000/43/EC](#).

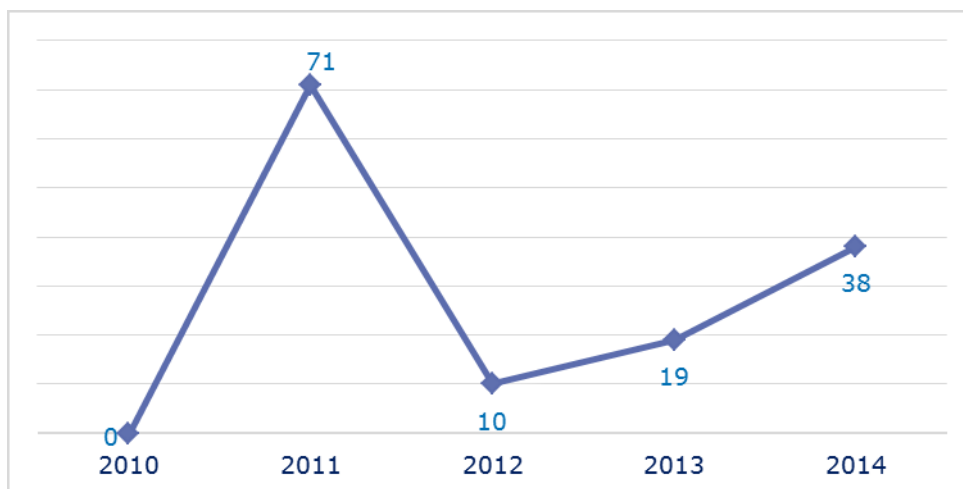
⁷ Commission v Finland, [C-538/14](#), [IP/14/811](#).

⁸ Council Directive [2004/80/EC](#).

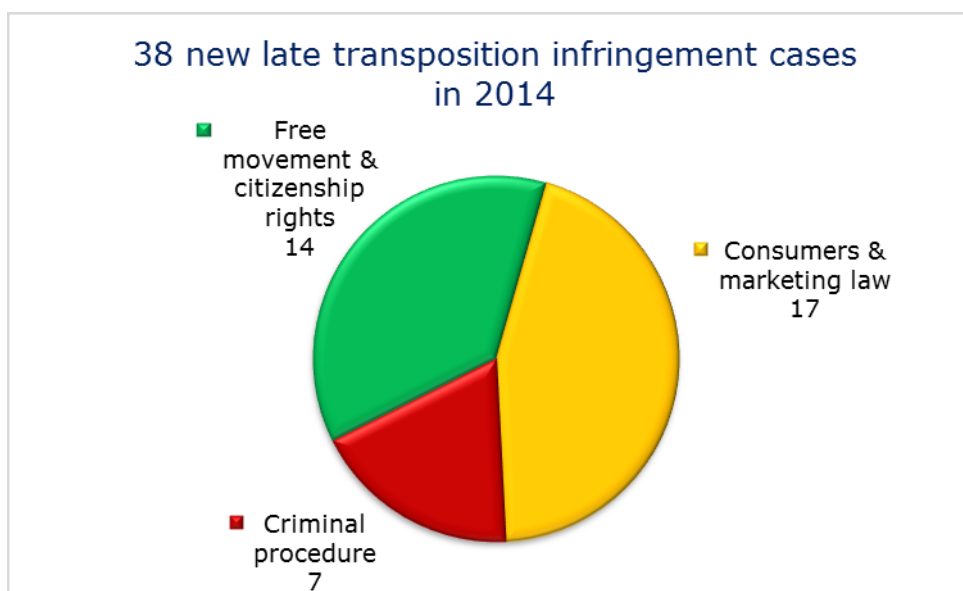
⁹ Commission v Italy, [C-601/14](#), [IP/14/1146](#).

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 38 cases due to the late transposition of:
- the Consumers' Rights Directive¹⁰ (Austria, Belgium, Bulgaria, Croatia, Finland, France, Hungary, Italy, Luxembourg, Latvia, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain);
 - the directive¹¹ amending a directive¹², on certain detailed arrangements for exercising the right to stand as a candidate in European Parliament elections, for EU nationals residing in a Member State of which they are not nationals (Belgium, Bulgaria,

¹⁰ Directive [2011/83/EU](#).

¹¹ Council Directive [2013/1/EU](#).

¹² Council Directive [93/109/EC](#).

Czech Republic, Denmark, France, Greece, Italy, Lithuania, Malta, Poland, Romania, Spain, Slovakia and Sweden);

- the directive on the right to information in criminal proceedings (Cyprus, Czech Republic, Luxembourg, Malta, Slovenia, Slovakia and Spain).¹³

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

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

4. Major cases closed without a Court judgment in 2014

These concerned:

- *Germany*, as it modified its legislation on door-to-door sales so that consumers are now guaranteed effective protection in all cases covered by the directive on protecting the consumer in contracts negotiated away from business premises.¹⁴

VII. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- *Belgium* infringed Union law by excluding members of a profession, (dentists and physiotherapists) from the scope of the law which transposes the Unfair Commercial Practices Directive,¹⁵ by imposing restrictive rules on the announcement of price reductions, and by banning door-to-door sales for products above EUR 250.¹⁶
- *Hungary* infringed Union law by ending the term served by its data protection supervisor before the expiry of the term of office. The independence of the authorities responsible for data protection, as detailed in the Data Protection Directive¹⁷, requires Member States to allow them to serve their full term of office.¹⁸

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the notion of "final judgment" under the "ne bis in idem" principle (Article 54 of the Convention implementing the Schengen Agreement (CISA)) includes an order making a finding that there is no ground to refer a case to a trial court which precludes, in the State in which that order was made, to bring new criminal proceedings in respect of the same acts against the person to whom that finding applies, unless new facts and/or evidence against that person come to light; such an order precludes new proceedings against the same person in respect of the same acts in another State;¹⁹

¹³ Directive [2012/13/EU](#).

¹⁴ Council Directive [85/577/EC](#).

¹⁵ Directive [2005/29/EC](#).

¹⁶ Commission v Belgium, [C-421/12](#).

¹⁷ Directive [95/46/EC](#).

¹⁸ Commission v Hungary, [C-288/12](#) and Court press release No [53/14](#).

¹⁹ M., [C-398/12](#).

- the Court upheld the validity of the enforcement condition in the "*ne bis in idem*" principle (Article 54 CISA) requiring that, upon conviction and sentencing, the penalty imposed 'has been enforced' or is 'actually in the process of being enforced';²⁰
- the operation of a camera system installed by an individual in their family home to protect the property and the health and life of the family, but which also monitors a public space, is not considered as processing data for a purely personal or household activity and therefore falls within the scope of the Data Protection Directive;²¹
- the obesity of a worker may be considered a disability covered by the directive on employment equality²² if it hinders the person's full and effective participation in personal and professional life on an equal basis with other workers;²³
- Member States are not allowed to take into account the different life expectancies of men and women when calculating the statutory benefits payable due to an accident at work;²⁴
- data about an applicant for a residence permit that are contained in an administrative document (including the data in the document's legal analysis) are personal data within the meaning of the Data Protection Directive.²⁵ The person whose data have been processed may request a full summary of the data in an intelligible form;²⁶
- under the Data Protection Directive,²⁷ the operator of a search engine is obliged to remove from the list of results displayed following a search made on the basis of a person's name links to web pages published by third parties and containing information relating to that person. Before removing such links, the operator must examine whether the data subject has the right to the information in question no longer being linked to his/her name. This is the case if the information on the data subject appears to be inadequate, irrelevant or no longer relevant, or excessive in relation to the purposes for which it was processed. However, such right to erasure is denied if the data subject played a role in public life. In this case, the public interest in accessing all information available on the data subject prevails over the subject's right to deletion of the data;²⁸
- a system of enforcement that states that mortgage enforcement proceedings may not be handled by a court of first instance to which the debtor may not bring an appeal is a breach of the directive on unfair terms²⁹ and Article 47 of the Charter of Fundamental Rights;³⁰

²⁰ Zoran Spasic, [C-129/14 PPU](#).

²¹ Rynes, [C-212/13](#) and Court press release No [175/14](#).

²² Directive [2000/78/EC](#).

²³ FOA, [C-354/13](#) and Court press release No [183/14](#).

²⁴ X., [C-318/13](#).

²⁵ Directive [95/46/EC](#).

²⁶ YS and others, joined cases [C-141/12](#) and [C-372/12](#).

²⁷ Directive [95/46/EC](#).

²⁸ Google Spain and Google, [C-131/12](#) and Court press release No [70/14](#).

²⁹ Directive [93/13/EEC](#).

³⁰ Sanchez Morcillo and Abril Garcia, [C-169/14](#).

- Member States are not required to grant maternity leave or adoption leave to a female worker who was a commissioning mother and had a baby through a surrogacy arrangement.³¹

VIII. OUTLOOK

Important implementation work in 2015 includes:

- monitoring the timely and correct transposition of the directive on the European Protection Order,³² the directive establishing the minimum standards on the rights, support and protection of victims of crime,³³ and the directive on alternative dispute resolution for consumer disputes;³⁴
- the continuation of the conformity assessments for the directive on the right to interpretation and translation in criminal proceedings,³⁵ the directive on the right to information in criminal proceedings,³⁶ the directive on protecting the environment through criminal law,³⁷ the directive on ship-source pollution,³⁸ the directive on the free movement of EU nationals and their family members,³⁹ the directive on the right to stand as a candidate in European Parliament elections for EU nationals residing in a Member State of which they are not nationals,⁴⁰ the Consumer Rights Directive,⁴¹ and the Unfair Commercial Practices Directive;⁴²
- the launch of conformity assessments for the Parental Leave Directive⁴³ and the directive on equality between men and women in self-employment;⁴⁴
- follow-up on the application of the regulation on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.⁴⁵

³¹ D., [C-167/12](#) and Court press release No [36/14](#).

³² Directive [2011/99/EU](#).

³³ Directive [2012/29/EU](#).

³⁴ Directive [2013/11/EU](#).

³⁵ Directive [2010/64/EU](#).

³⁶ Directive [2012/13/EU](#).

³⁷ Directive [2008/99/EC](#).

³⁸ Directive [2009/123/EC](#).

³⁹ Directive [2004/38/EU](#).

⁴⁰ Council Directive [2013/1/EU](#).

⁴¹ Directive [2011/83/EU](#).

⁴² Directive [2005/29/EC](#).

⁴³ Directive [2010/18/EU](#).

⁴⁴ Directive [2010/41/EU](#).

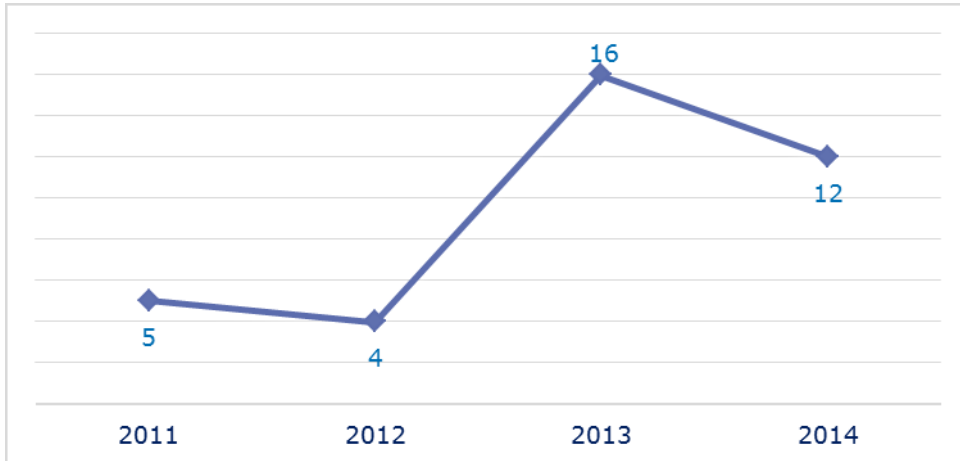
⁴⁵ Regulation (EC) No [650/2012](#).

MARITIME AFFAIRS AND FISHERIES

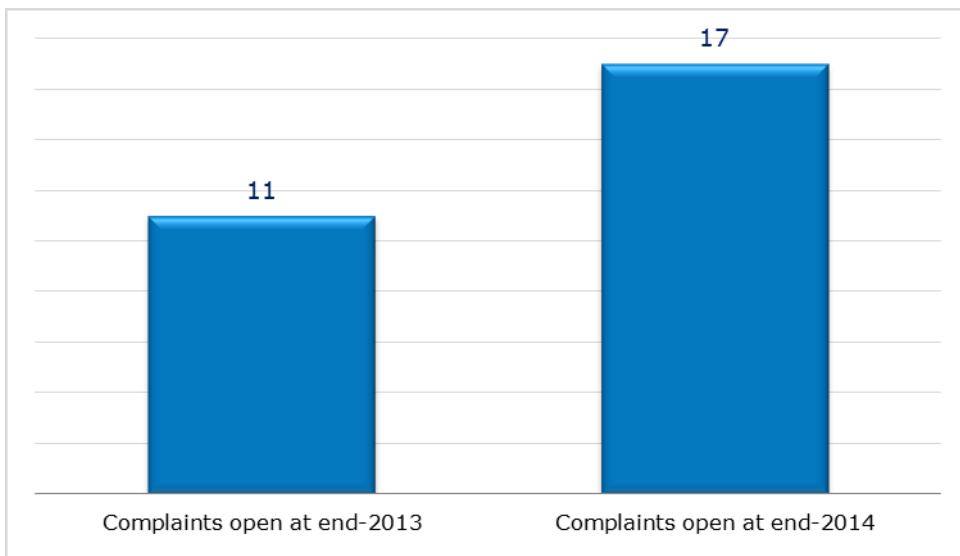
In 2014, the Commission received its second highest number of new complaints in the area of maritime affairs and fisheries since 2011, after a peak in 2013. In 2014, six new EU Pilot files were opened. No infringement cases were opened in the area of maritime affairs and fisheries.

I. COMPLAINTS

1. New complaints received from members of the public (2011-14)

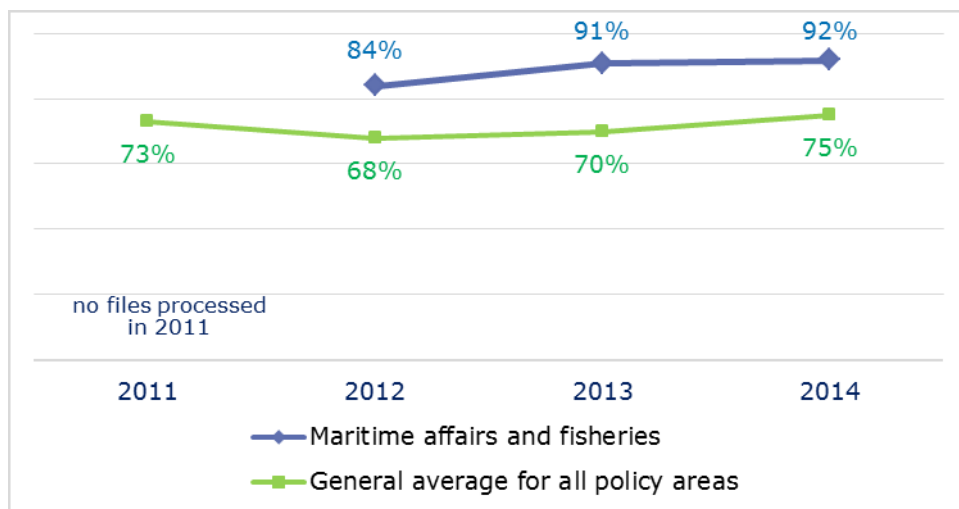


2. Evolution of complaints



II. EU PILOT

EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2014

The Commission did not open any own-initiative infringement cases in 2014.

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- a) The Commission did not open any new infringement cases in 2014.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

They concerned:

- *Italy*: lack of controls on the illegal use of driftnets. Following a Court judgment in October 2009¹, and in the context of an action plan, Italy agreed to give top priority to implementing additional measures to eradicate illegal driftnet activities. The Commission monitored Italy's implementation of the remedial actions included in the action plan over the first half of 2014.
- *Italy*: several fishing agreements concluded by Italy with non-EU countries were in breach of the EU's exclusive competence in the field of fisheries (the Italian authorities provided evidence that the agreements in question have been terminated).

¹ Commission v Italy, [C-249/08](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no major Court rulings in the area of maritime affairs and fisheries in 2014.

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the exclusivity clause contained in Fishing Partnership Agreements concluded between the Union and third countries excludes any possibility for Union vessels to carry out fishing activities on the basis of a licence issued by those third countries without the intervention of the competent EU authorities.²

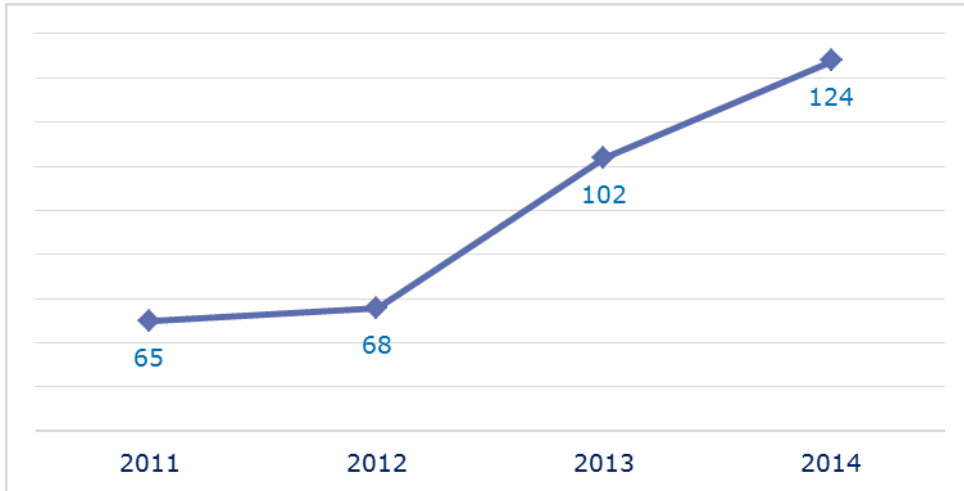
² Ahlström and Others, [C-565/13](#).

MOBILITY AND TRANSPORT

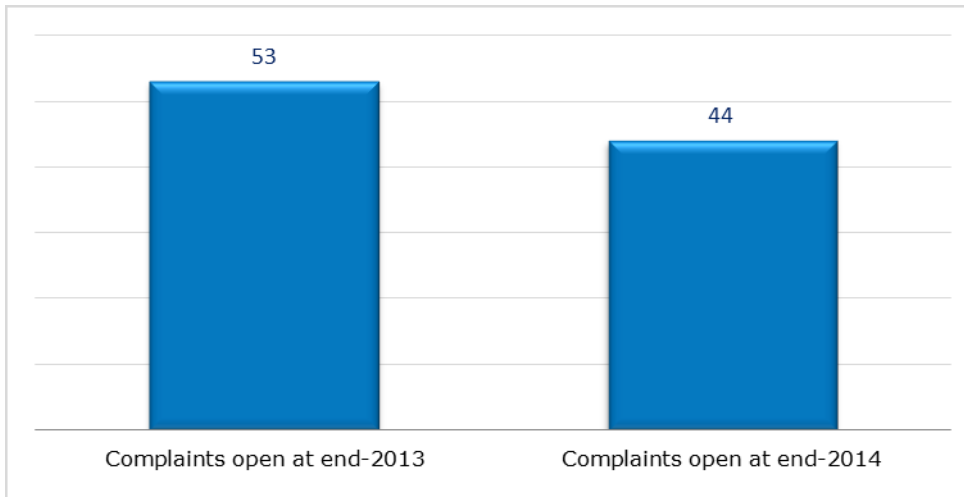
In 2014, the number of new complaints in the area of mobility and transport continued to rise. At the same time, the number of new EU Pilot files continued to decrease. Both the number of new pending infringement cases and the number of new late transposition infringement cases increased again in 2014, for the first time since 2011.

I. COMPLAINTS

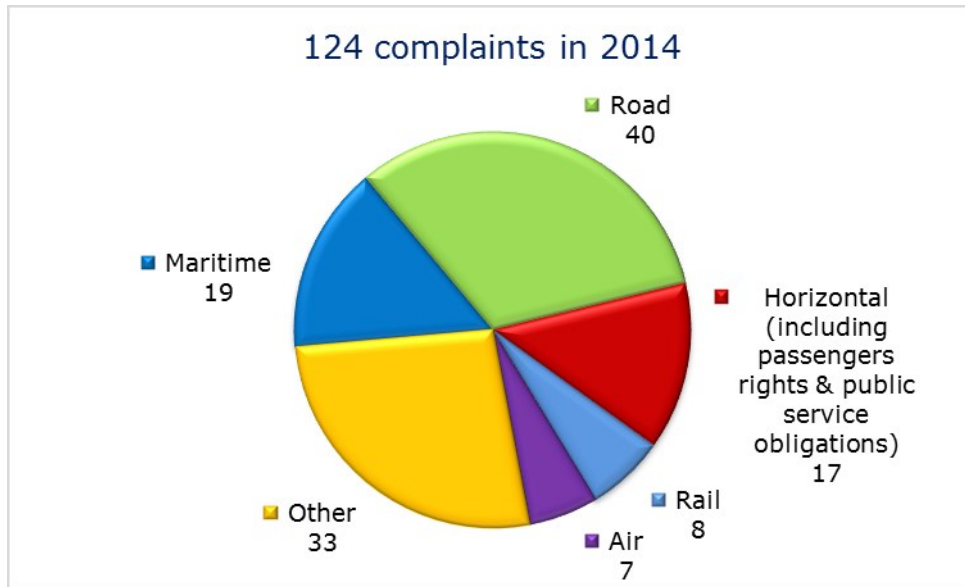
1. New complaints received from members of the public (2011-14)



2. Evolution of complaints

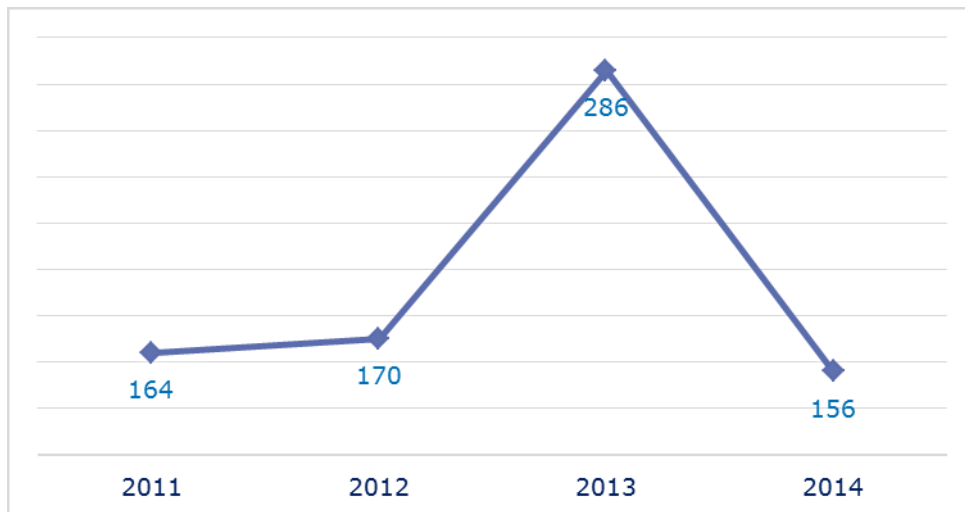


3. New complaints registered in 2014: main policy sectors

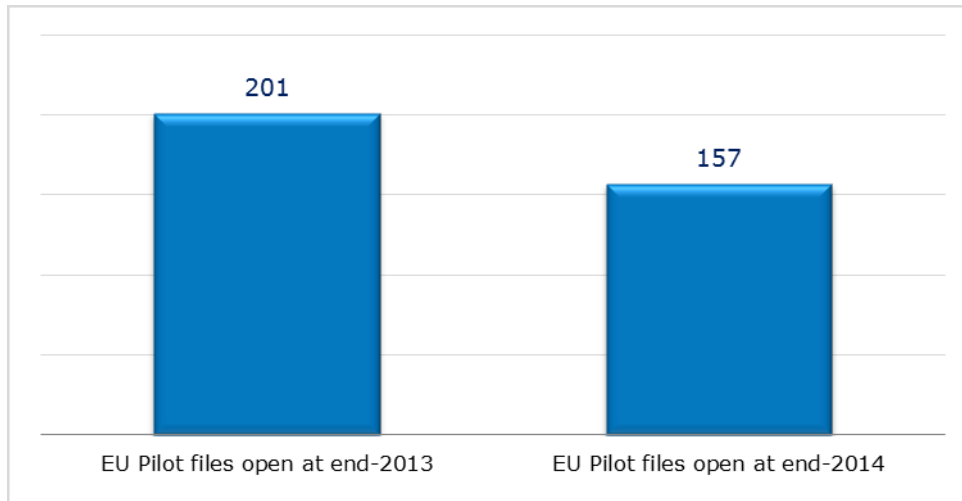


II. EU PILOT

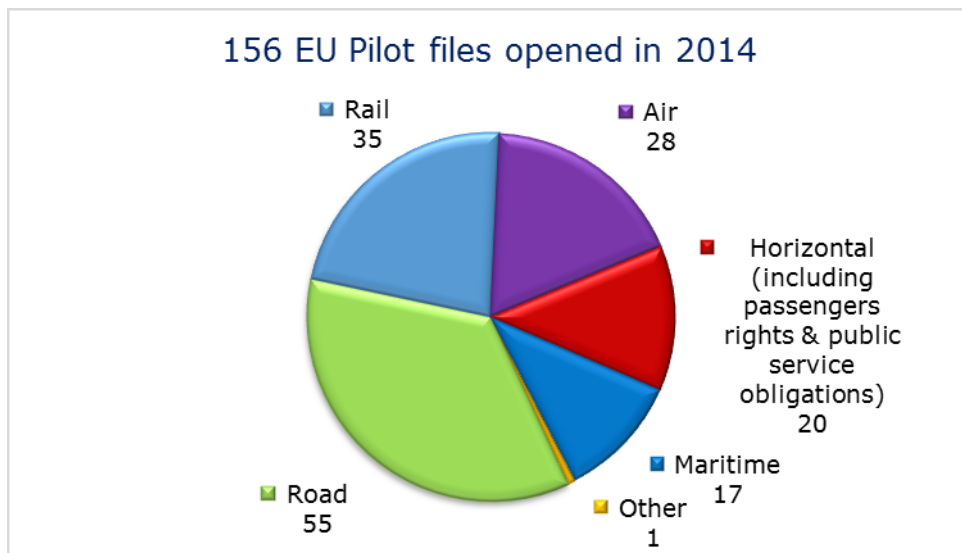
1. New EU Pilot files (2011-14)



2. Evolution of files open in EU Pilot¹

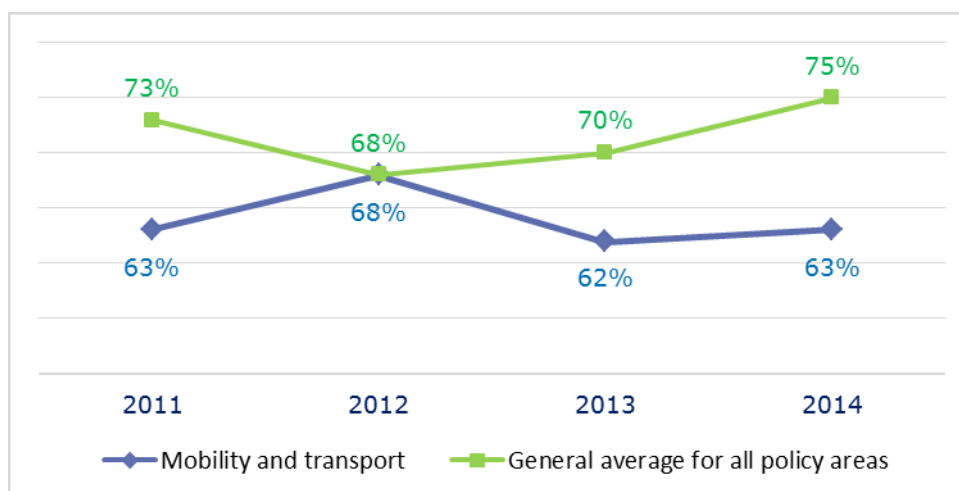


3. New EU Pilot files opened in 2014: main policy sectors



¹ The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

The Commission opened own-initiative infringement cases in 2014 concerning the:

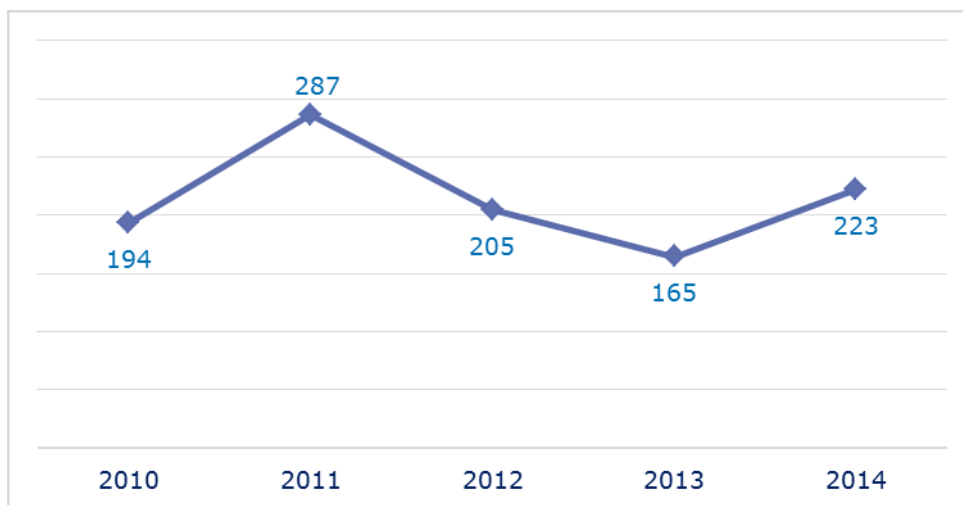
- *railway sector*: railway safety and separating the accounts of railway companies and railway infrastructure managers;
- *road sector*: implementation of the directive on driving licences, in particular connection to the driving licence network (RESPER)², and of the regulation on the conditions for pursuing the occupation of road transport operator, in particular the electronic interconnection of national registers (ERRU);³
- *air sector*: implementation of functional airspace blocks under the Single European Sky legislation;
- *maritime sector*: port security;
- *passenger rights*: designation and operation of national bodies to handle passenger complaints (in particular sea and inland waterway, bus and coach passengers); designation of special bus terminals for people with reduced mobility.

² Directive [2006/126/EC](#).

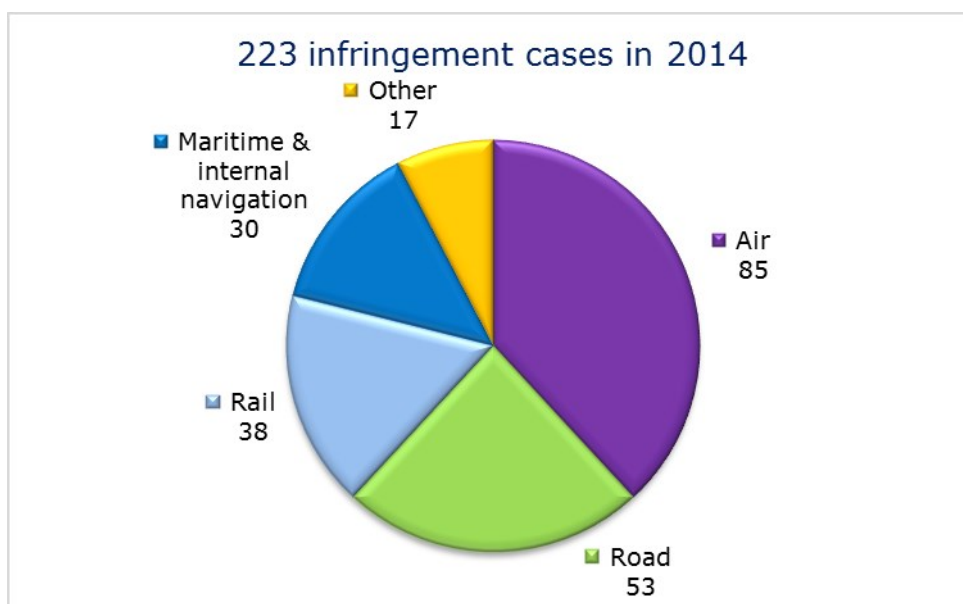
³ Regulation (EC) No [1071/2009](#).

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 171 new infringement cases in 2014, among which:
- *23 Member States*: failure to efficiently implement functional airspace blocks (FABs). Under the Single European Sky legislation,⁴ national air traffic control organisations should work together in nine regional airspace blocks to gain efficiency, cut costs and reduce emissions. The set-up of these common airspace blocks is arranged around traffic flows rather than state boundaries, which leads to performance improvements. The

⁴ Regulation (EC) No [550/2004](#).

- Commission opened infringement procedures concerning seven FABs.⁵
- *Austria, Greece, Luxembourg and Portugal*: incorrect application of the regulation on the rights of bus and coach passengers.⁶
 - *Belgium*: restrictions to the principle of freedom of establishment as regards organisation of port labour.
 - *Poland*: award of land-lease contracts in the Port of Gdansk in breach of the principle of freedom of establishment.
 - *Portugal*: incorrect application of the regulation on rail passengers' rights and obligations.⁷
- b) The Commission referred four cases to the Court under Article 258 TFEU. They concerned:
- *Austria*: failure to bring national rules in line with the directive on rail safety;⁸
 - *Germany*: failure to separate financial flows between train operators and rail track managers, in breach of the directive on the separation of accounts in the rail sector;⁹
 - *Portugal*: failure to establish guidelines for assessing infrastructure safety for road infrastructure in the trans-European network (TEN-T);¹⁰
 - *Portugal*: failure to guarantee the independence of the airport slot coordinator.¹¹
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

⁵ FABEC (the FAB between Germany, Belgium, France, Netherlands, Luxembourg and Switzerland) — [IP/14/446](#), BLUEMED (the FAB between Italy, Greece, Cyprus, and Malta), FABCE (the FAB between Austria, Czech Republic, Slovakia, Slovenia, Hungary, Croatia), DANUBE (the FAB between Bulgaria and Romania), BALTIC (the FAB between Lithuania and Poland), SOUTHWEST (the FAB between Spain and Portugal) and the UK/IRELAND FAB — [IP/14/818](#).

⁶ Regulation (EU) No [181/2011](#), [MEMO/14/241](#), [MEMO/14/537](#).

⁷ Regulation (EC) No [1371/2007](#), [MEMO/14/2130](#).

⁸ Commission v Austria, [C-244/14](#), [IP/14/323](#).

⁹ Commission v Germany, [C-482/14](#).

¹⁰ Commission v Portugal, [C-116/14](#), [IP/14/49](#).

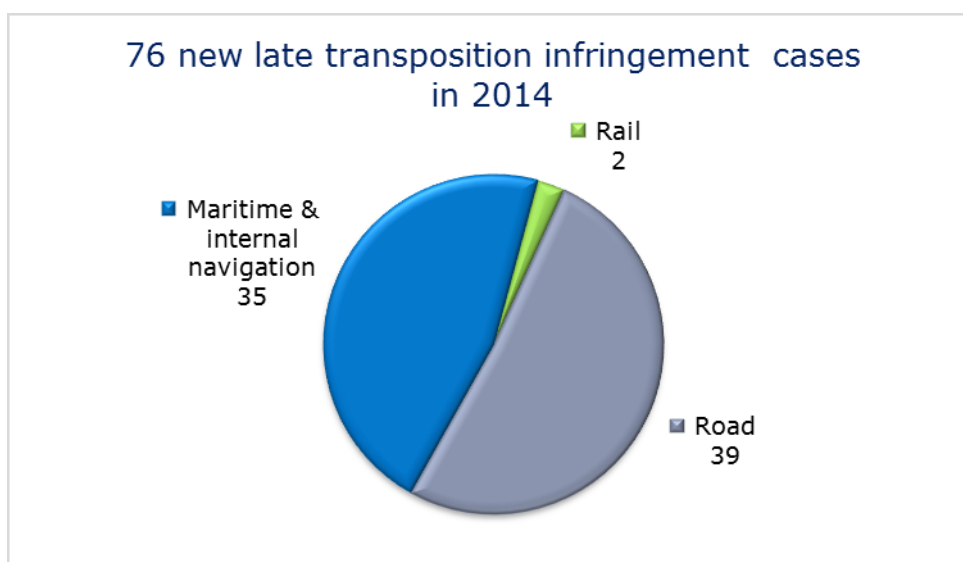
¹¹ The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 24 April 2014. Commission v Portugal, [C-205/14](#), [IP/13/1100](#).

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 76 cases for late transposition in 2014. Most concerned:
 - the directive on the minimum level of training for seafarers;¹²
 - the directive on the charging of heavy goods vehicles for the use of certain infrastructure.¹³
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

¹² Directive [2012/35/EU](#).

¹³ Directive [2011/76/EU](#).

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Cases closed without a Court judgment in 2014

These concerned:

- *France*: tax discrimination of railway service providers;
- *Italy*: incorrect application of the rail passengers' rights and obligations regulation;¹⁴
- *Italy*: discriminatory airport charges on non-EU carriers;
- *Poland*: award of land-lease contracts in the Port of Gdansk in breach of the principle of freedom of establishment.

VII. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- Bulgaria failed to comply with the provisions of the First Railway Package¹⁵ because it included staff remuneration and social security contributions in the calculation of charges incurred for all minimum services and for the network's access to the service infrastructure costs. However, staff remuneration and social security cannot be considered to have been directly incurred as a result of operating the train service.¹⁶
- Portugal failed to organise a procedure for selecting suppliers to provide ground handling services for baggage handling, 'ramp handling' and freight and mail handling at Lisbon, Porto and Faro airports.¹⁷
- Spanish legislation that provides a monopoly for the recruitment of dockers violates Article 49 TFEU.¹⁸

2. Preliminary rulings

There were no major preliminary rulings in the area of mobility and transport in 2014.

VIII. OUTLOOK

Important implementation work in 2015 includes:

- monitoring of the implementation of the directive on certain State responsibilities for compliance with and enforcement of the Maritime Labour Convention, and the directive establishing a single European railway area;¹⁹
- follow-up to the Court's proceedings in a case on separating accounts in the rail sector.²⁰

¹⁴ Regulation (EC) No [1371/2007](#), [IP/14/325](#). Italy subsequently adopted the necessary legislative amendments and the Commission withdrew the Court application.

¹⁵ Directive [2001/14/EC](#).

¹⁶ Commission v Bulgaria, [C-152/12](#).

¹⁷ Commission v Portugal, [C-277/13](#).

¹⁸ Commission v Spain, [C-576/13](#).

¹⁹ Directives [2013/54/EU](#) and [2012/34/EU](#).

²⁰ Commission v Germany, [C-482/14](#).