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PART 1/4

**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}  
{SWD(2015) 133 final}

# **Part I: Policy areas**

Staff Working Document

2014 Annual Report

AGRICULTURE AND RURAL DEVELOPMENT .....	4
BUDGET.....	10
CLIMATE ACTION .....	12
COMMUNICATION NETWORKS, CONTENT AND TECHNOLOGY .....	18
COMPETITION .....	24
ECONOMIC AND FINANCIAL AFFAIRS .....	28
EDUCATION AND CULTURE.....	31
EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION .....	34
ENERGY .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
ENLARGEMENT .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
ENTERPRISE AND INDUSTRY .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
ENVIRONMENT .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
HEALTH AND CONSUMERS .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
HOME AFFAIRS .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
INTERNAL MARKET AND SERVICES .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
JUSTICE .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
MARITIME AFFAIRS AND FISHERIES .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
MOBILITY AND TRANSPORT .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
REGIONAL AND URBAN POLICY .....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>
TAXATION AND CUSTOMS UNION.....	<b>FEHLER! TEXTMARKE NICHT DEFINIERT.</b>

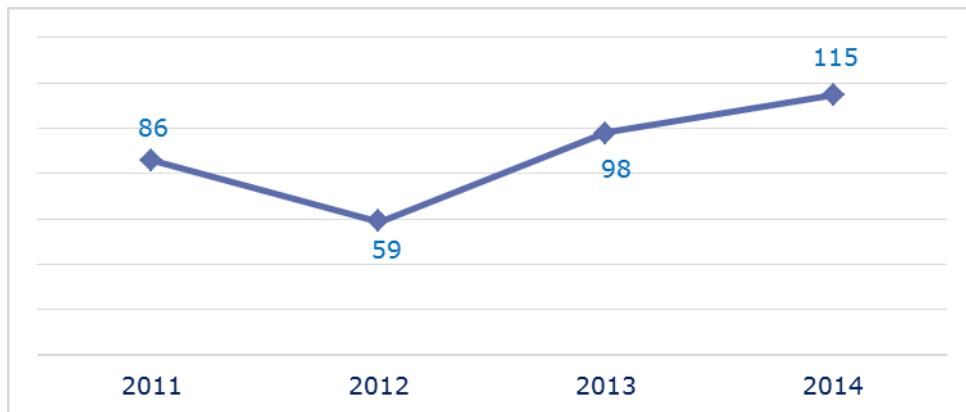
## AGRICULTURE AND RURAL DEVELOPMENT

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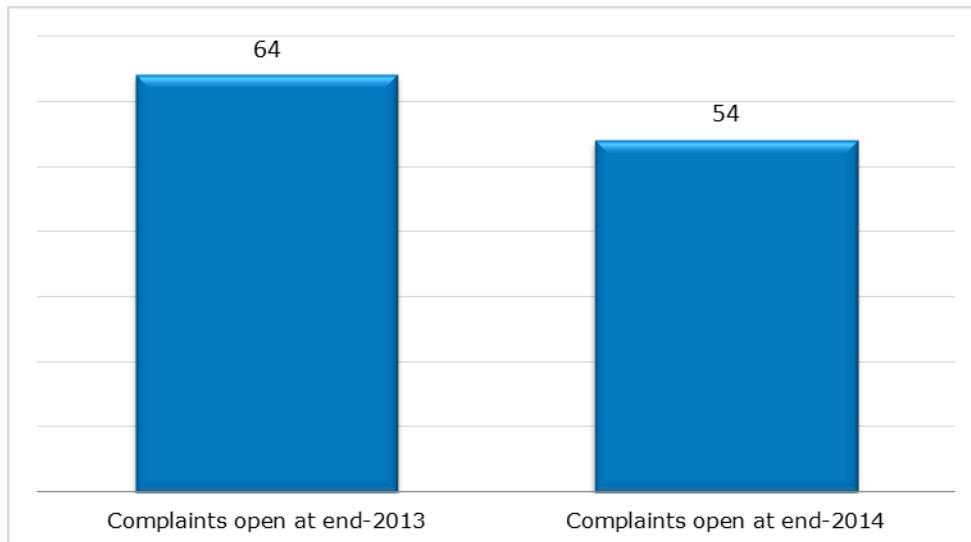
In 2014, the number of new complaints made in the area of agriculture and rural development reached a peak. Furthermore, the number of new files opened in EU Pilot increased, and almost reached the 2011 level, after having decreased in 2012 and 2013. After three consecutive years of high figures, the number of infringement cases still pending at the end of 2014 decreased considerably, even below the 2010 level. There were no late transposition infringement cases opened in the area of agriculture and rural development in 2014.

### I. COMPLAINTS

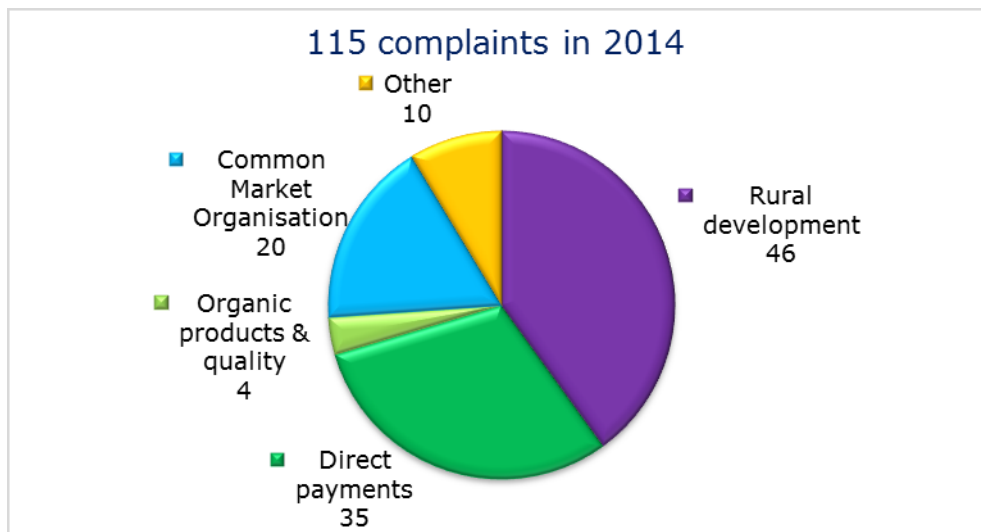
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

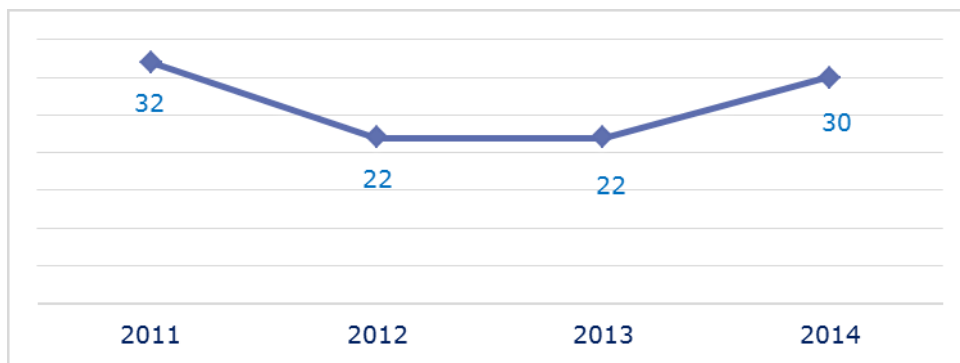


3. New complaints registered in 2014: main policy sectors

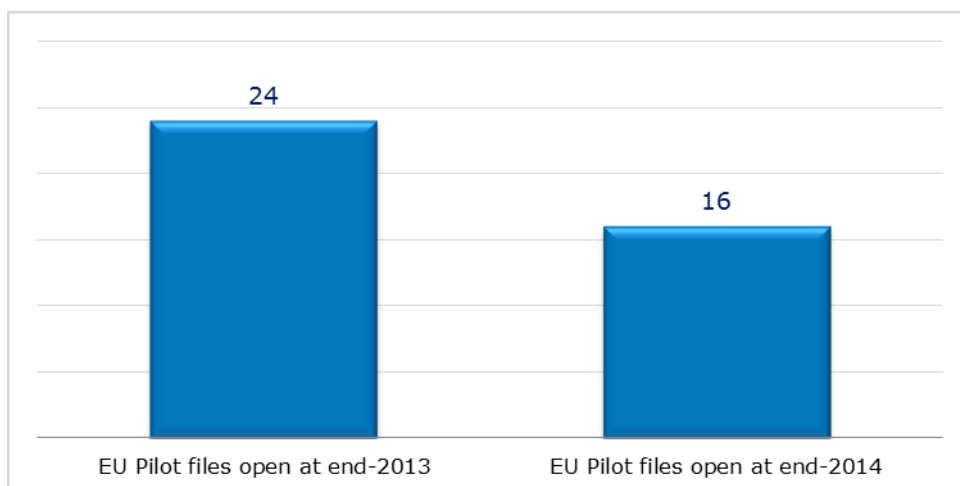


II. EU PILOT

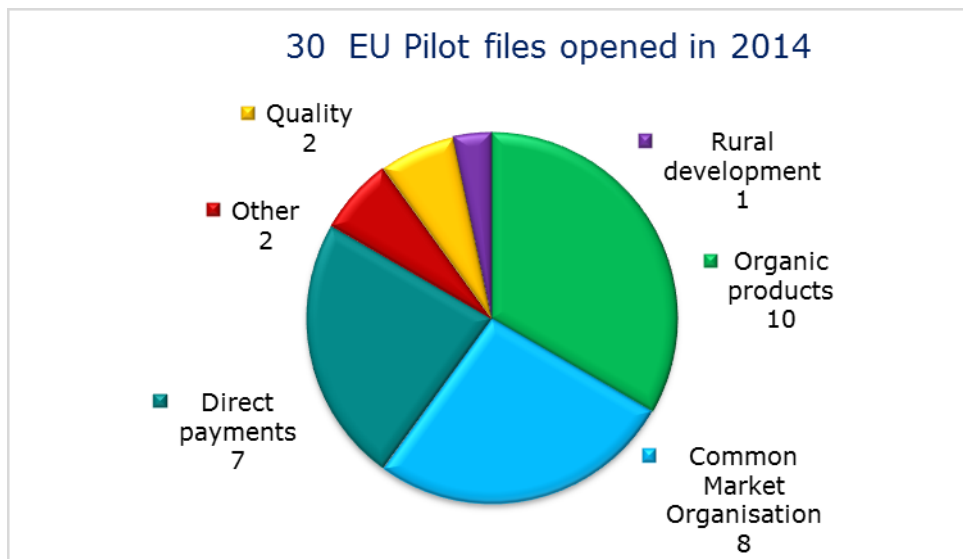
1. New EU Pilot files (2011-14)



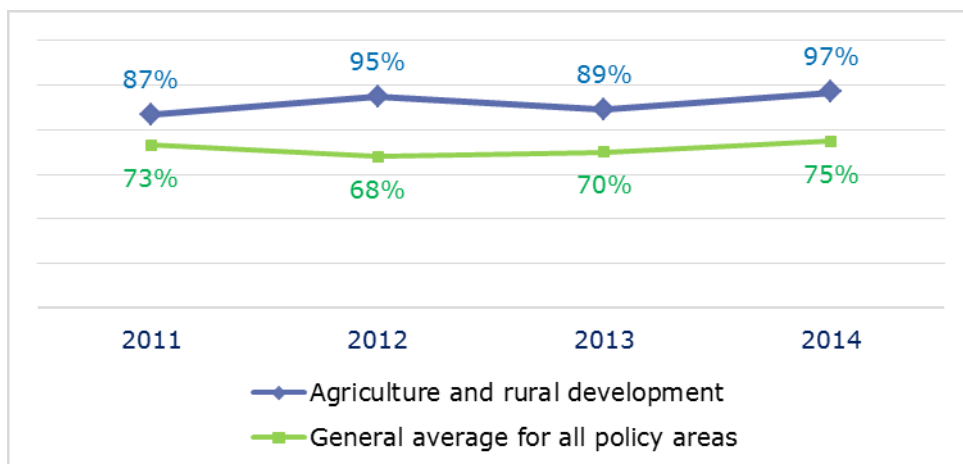
2. Evolution of files open in EU Pilot



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

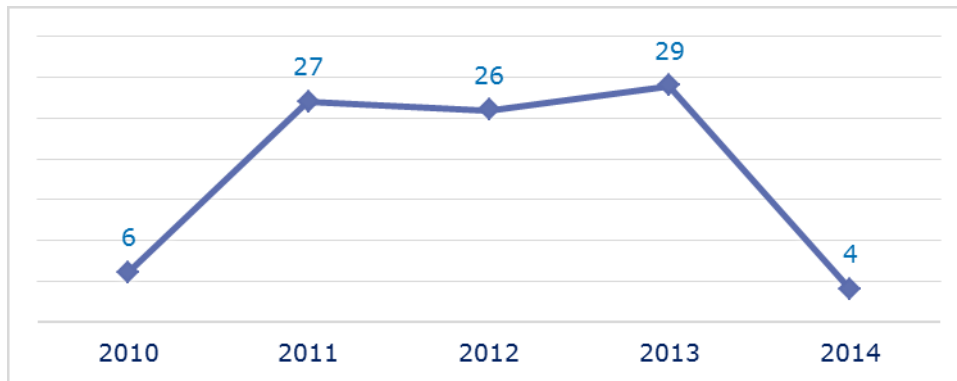
New own-initiative infringement cases

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

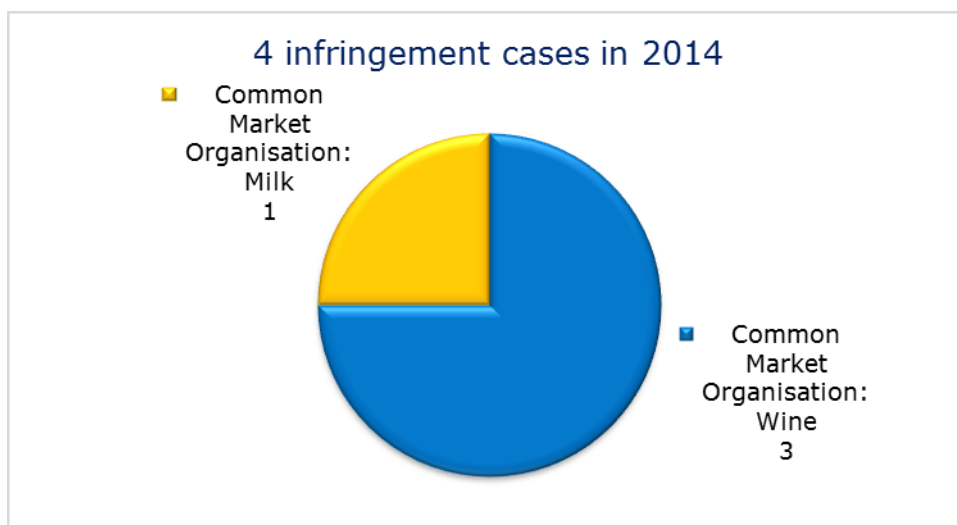
- organic production: 10 cases were opened due to fraud or other irregularities detected in relation to organic products, or infringements of EU requirements.

IV. INFRINGEMENT CASES

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



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

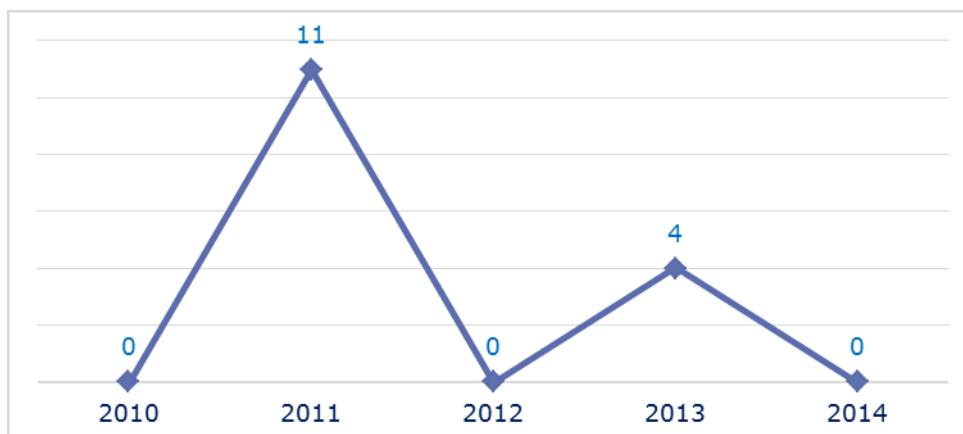


3. Key infringement cases and referrals to the Court

- a) The Commission did not open any new infringement cases in 2014.
- b) The Commission did not refer any cases to the Court under Article 258 of the Treaty on the Functioning of the European Union (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

The Commission did not open any late transposition infringement cases in 2014.

3. Key infringement cases and referrals to the Court

- a) The Commission did not open any new late transposition infringement cases in 2014.
- 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

There were no major cases closed without a Court judgment in 2014 in the area of agriculture and rural development.

VII. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- the German action for annulment under Article 263 TFEU challenging the Council decision of 18 June 2012 'establishing the position to be adopted on behalf of the European Union with regard to certain resolutions to be voted in the framework of the International Organisation for Vine and Wine (OIV)' is dismissed.<sup>1</sup>

2. Preliminary rulings

In two preliminary rulings, the Court ruled that:

- a Member State is required to recalculate a farmer's payment entitlements under the regulation laying down detailed rules for the

<sup>1</sup> Federal Republic of Germany v Council of the European Union, [C-399/12](#).



implementation of cross-compliance, modulation and the integrated administration and control system;<sup>2</sup>

- in a case concerning Romania, Common Agricultural Policy legislation<sup>3</sup> must be interpreted as meaning that Romanian legislation cannot prohibit producers from accessing complementary national aid because they have overdue debts towards the state budget and/or local budget on the date on which they make their request for assistance. This is because no condition relating to the absence of such debt has been subject to prior authorisation by the European Commission.<sup>4</sup>

### VIII. OUTLOOK

#### Important implementation work in 2015 includes:

- prioritising cases which raise issues concerning the compatibility of Member States' legislative, regulatory or administrative measures with EU agricultural rules, and to cases where the Member States concerned refrain from applying these common rules, thereby jeopardising the effectiveness of important mechanisms of the common agricultural policy, particularly regarding the 1st pillar;
- pursuing infringement cases of the type described in the previous paragraph challenging the application of reformed key mechanisms set out in the Common Market Organisation Regulation that entered into force on 1 January 2014 and those which would affect the correct application of the new direct payment system as reformed by Regulation (EU) No 1307/2013,<sup>5</sup> that entered into force on 1 January 2015;
- in the agricultural sector, continuing to make use of the clearance of accounts procedure to persuade Member States to adapt their management and control system in the cases where audit investigations have detected infringements.

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<sup>2</sup> Regulation [796/2004](#), Vonk Noordegraaf, [C/105/13](#).

<sup>3</sup> Article 143c of Council Regulation (EC) No [1782/2003](#) of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Article 132 of Council Regulation (EC) No [73/2009](#) of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers.

<sup>4</sup> Agenția de Plăți și Intervenție pentru Agricultură (APIA), [C-304/13](#).

<sup>5</sup> Regulation (EU) No [1307/2013](#).

## BUDGET

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As in previous years, no new complaints were received in the area of budgetary affairs in 2014. Budget-related matters are not handled in the EU Pilot system, because there are alternative pre-infringement mechanisms in place. Two new infringement cases on budgetary issues were opened in 2014. There were no new late transposition cases.

### I. COMPLAINTS

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

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

#### 2. Evolution of complaints

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

### II. EU PILOT

#### Evolution of files open in EU Pilot

The Commission did not process any EU Pilot files in the area of financial programming and budget.

### III. OWN-INITIATIVE CASES

#### New own-initiative infringement cases in 2014

The Commission opened two own-initiative infringement cases in 2014. They are outlined in point IV(1)(a) below.

### IV. INFRINGEMENT CASES

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

- a) The Commission opened two new infringement cases in 2014, both against Belgium:
  - one case concerns six requests made by Belgium's national authorities to waive the collection of traditional own resources, where the Commission is concerned that the authorities did not demonstrate that the entitlements were irrecoverable for reasons not attributable to them;
  - the other case concerns the collection of interest due on the late payment of own resources in a procedure where the requested securities turned out to be insufficient to cover a customs debt.
- 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

In 2014, the Commission made 90 new findings in the area of traditional own resources (there were 102 in 2013) and issued 28 value added tax (VAT) and

28 gross national income (GNI) reservations.<sup>1</sup> As a result, Member States carried out 789 accounting actions related to traditional own resources (421 in 2013) and 243 related to VAT and GNI (285 in 2013) for potential corrective payments (principal amounts and belated interest) made by Member States.

Most of the new findings were resolved at an early stage in bilateral discussions with Member States or in the Advisory Committee on Own Resources.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

The Court ruled that:

- the UK was financially responsible for its refusal to pay to the EU budget £15 million plus interest due from the import of fresh garlic under wrong authorising documents.<sup>2</sup>

### 2. Preliminary rulings

There were no major preliminary rulings in 2014 in the area of financial programming and budget.

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<sup>1</sup> Regulations (EEC, Euratom) No [1553/1989](#) and [1150/2000](#).

<sup>2</sup> Commission v United Kingdom, [C-60/13](#).

## CLIMATE ACTION

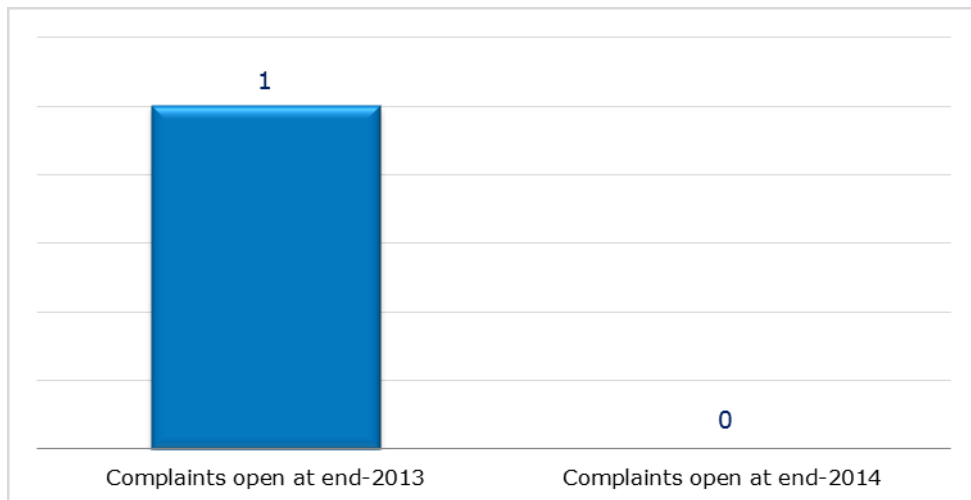
In 2014, the Commission received its lowest number of new complaints in the area of climate action since 2011. In contrast, the number of new EU Pilot files was higher in 2014 than it had been since 2011. The number of infringement cases still pending at the end of the year continued to fall in 2014, as did the number of new late transposition cases. There were no new late transposition cases opened in 2014, the lowest number registered in the area of climate action over the last five years.

### I. COMPLAINTS

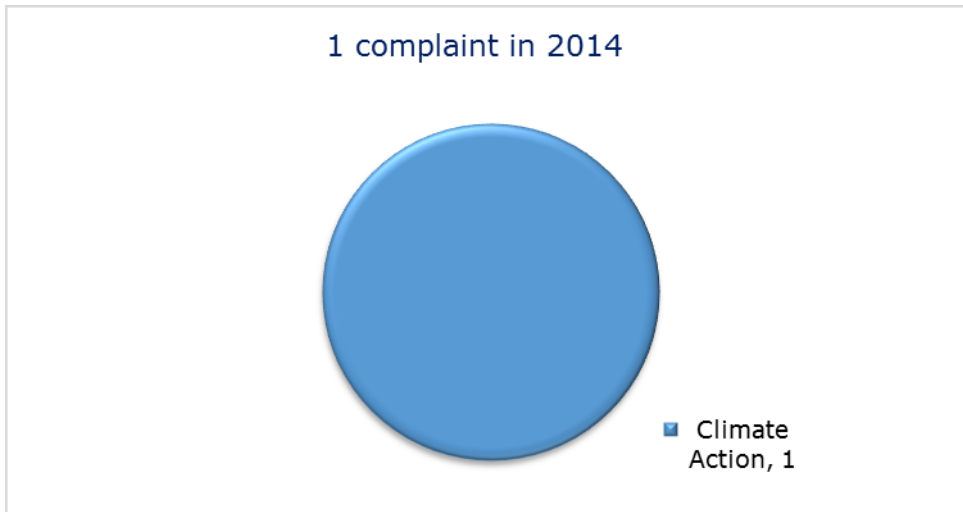
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints



3. New complaints registered in 2014: main policy sectors

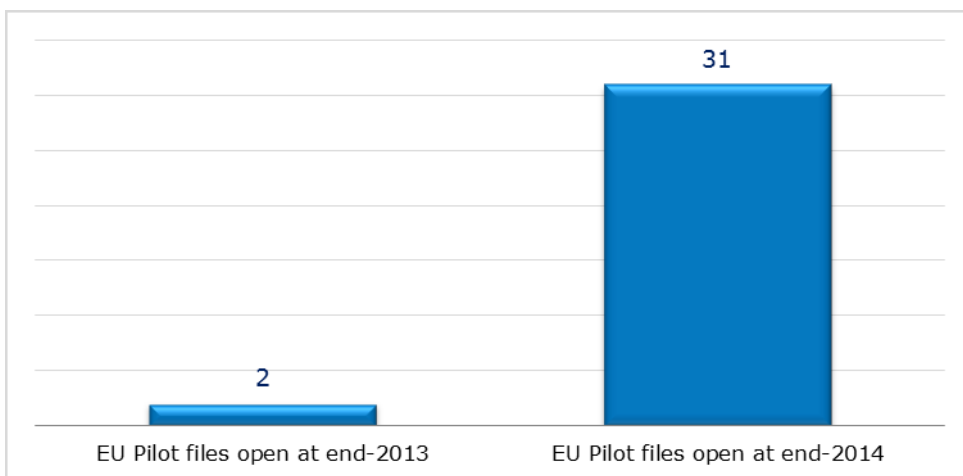


II. EU PILOT

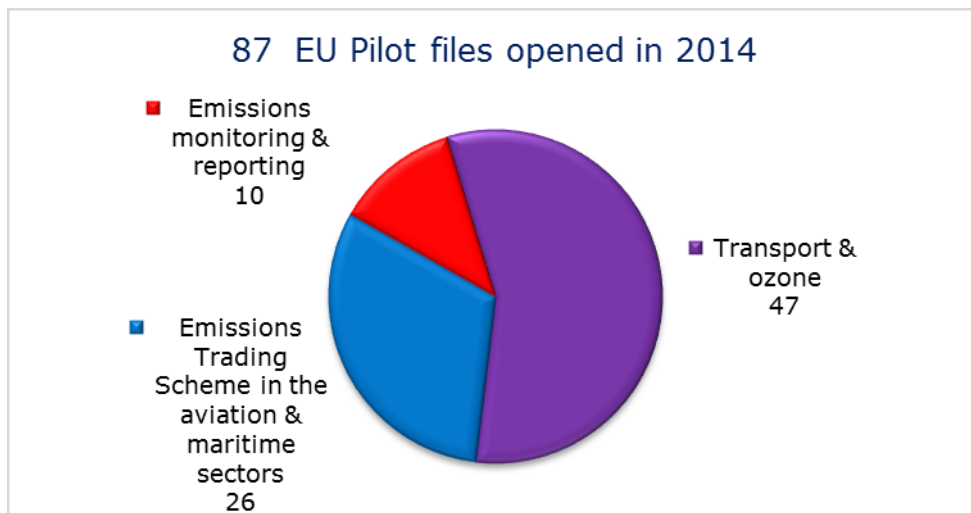
1. New EU Pilot files (2011-14)



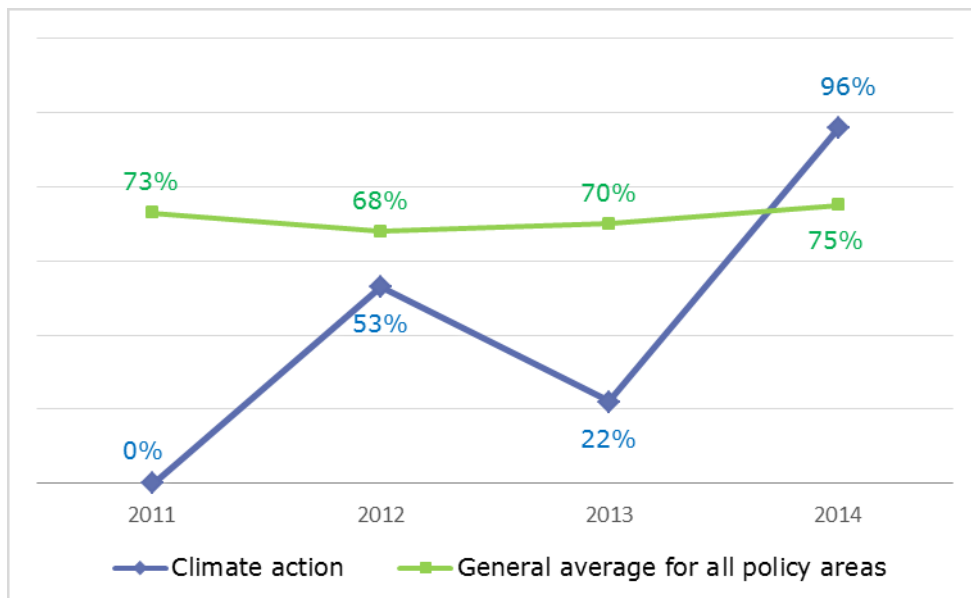
2. Evolution of files open in EU Pilot



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

In 2014, the Commission opened own-initiative infringement cases to assess whether Member States have correctly transposed the following four important directives:

- the directive on aviation in emissions trading;<sup>1</sup>
- the directive on the extension of the emissions trading system;<sup>2</sup>
- the directive on fuel quality;<sup>3</sup>
- the directive on the geological storage of carbon dioxide.<sup>4</sup>

<sup>1</sup> Directive [2008/101/EC](#).

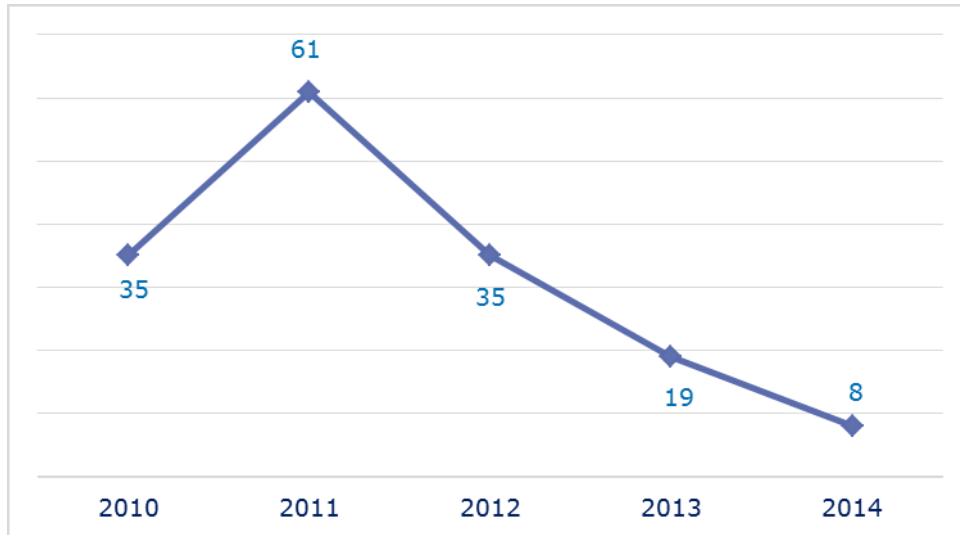
<sup>2</sup> Directive [2009/29/EC](#).

<sup>3</sup> Directive [2009/30/EC](#).

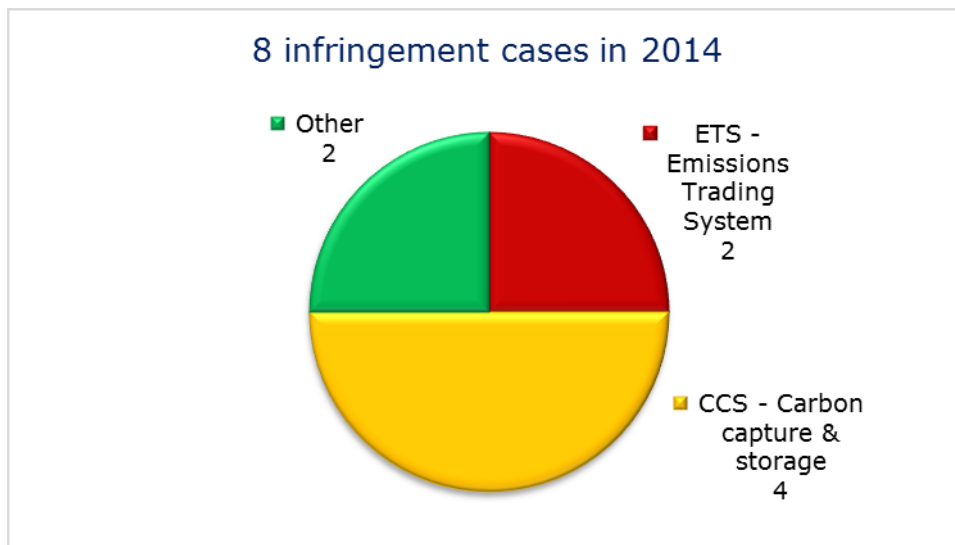
This has already led to the opening of pre-infringement files in the EU Pilot system and might lead to the opening of infringement cases in the coming year.

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 two new infringement cases in 2014, among which:
- *Lithuania*: incorrect application of the rule set out in the Fuel Quality Directive<sup>5</sup> requiring Member States to ensure that the ethanol content of petrol placed on the market within their territory is below 10%;

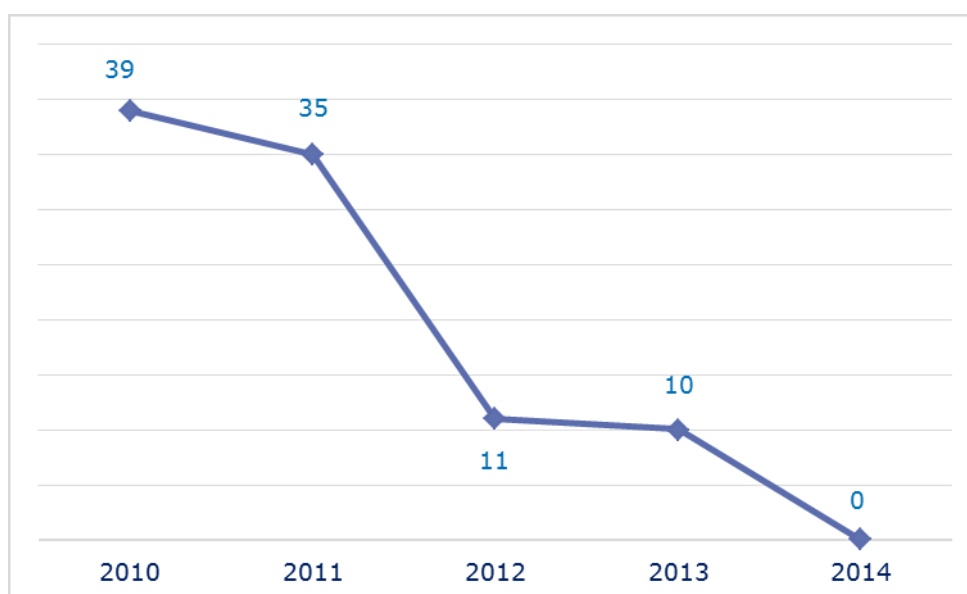
<sup>4</sup> Directive [2009/31/EC](#).

<sup>5</sup> Directive [2009/30/EC](#).

- *Poland*: granting of a building permit for two new units in a coal-fired power station without having carried out the assessment for retrofitting of CO<sub>2</sub> capture required by the Large Combustion Plants Directive.<sup>6</sup>
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerned:
- *Poland*: failure to notify the Commission of the penalties put in place to deal with cases where the EU rules for companies and personnel working with fluorinated gases are not followed.<sup>7</sup>
- 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

The Commission did not open any new late transposition cases in 2014.

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

- a) The Commission did not open any new late transposition cases in 2014.
- 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

They concerned:

<sup>6</sup> Directive [2001/80/EC](#).

<sup>7</sup> Commission v Poland, [C-303/14](#), [IP/14/449](#).



- *Belgium, Bulgaria, Hungary and Slovenia*: failure to fully transpose the directive on improving and extending the EU greenhouse gas emission allowance trading scheme;<sup>8</sup>
- *Cyprus, Hungary, Ireland and Slovenia*: failure to fully transpose the directive on the geological storage of CO<sub>2</sub>.<sup>9</sup>

### VII. IMPORTANT JUDGMENTS

There were no major Court rulings or preliminary rulings in the area of climate action in 2014.

### VIII. OUTLOOK

Important implementation work in 2015 includes:

- monitoring the conformity of national measures with the directives on: aviation in emissions trading,<sup>10</sup> extension of the emissions trading system,<sup>11</sup> fuel quality<sup>12</sup> and the geological storage of carbon dioxide.<sup>13</sup>

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<sup>8</sup> Directive [2009/29/EC](#).

<sup>9</sup> Directive [2009/31/EC](#).

<sup>10</sup> Directive [2008/101/EC](#).

<sup>11</sup> Directive [2009/29/EC](#).

<sup>12</sup> Directive [2009/30/EC](#).

<sup>13</sup> Directive [2009/31/EC](#).

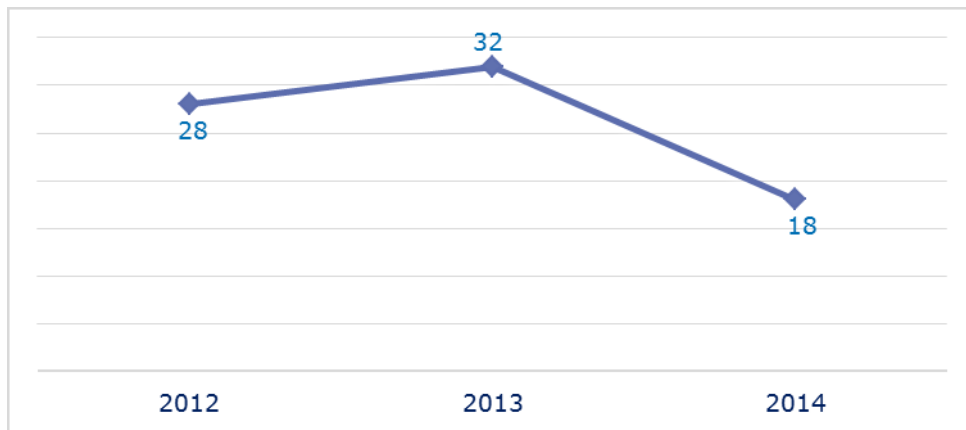
## COMMUNICATION NETWORKS, CONTENT AND TECHNOLOGY

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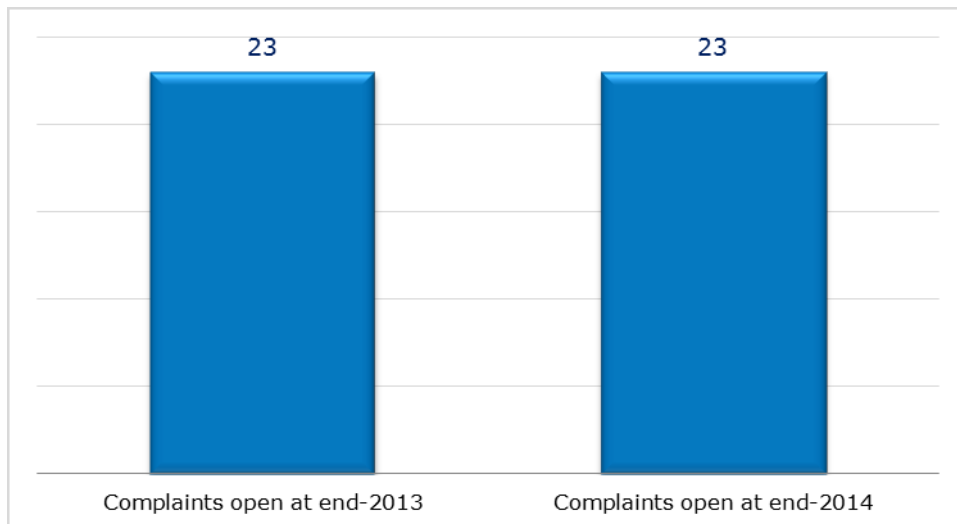
In 2014, the Commission received its lowest number of new complaints in the area of communication networks, content and technology since 2012. The number of EU Pilot files opened was at its lowest since 2011. The number of infringement cases pending at the end of the year in the area of communication networks, content and technology continued to decrease in 2014. There have been no new late transposition infringement cases since 2012.

### I. COMPLAINTS

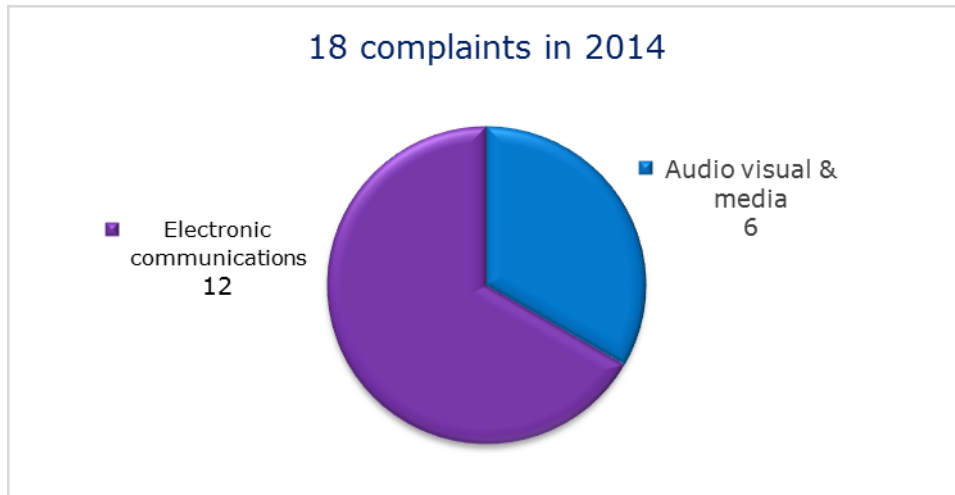
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

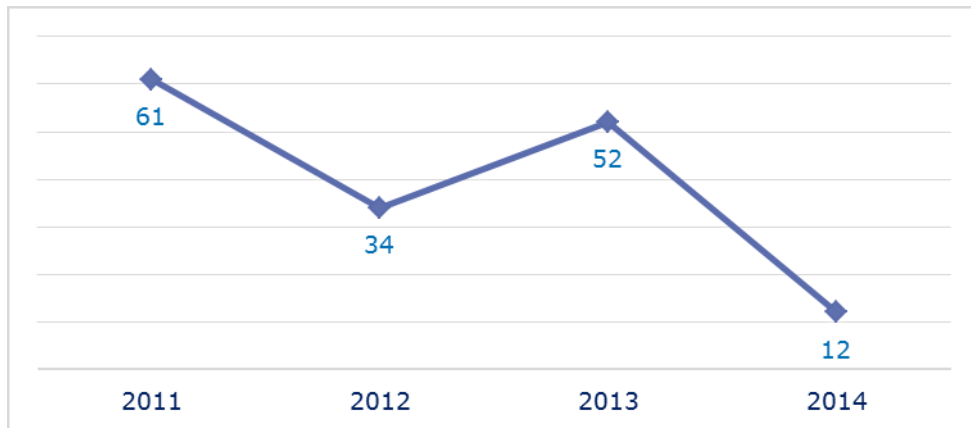


3. New complaints registered in 2014: main policy sectors

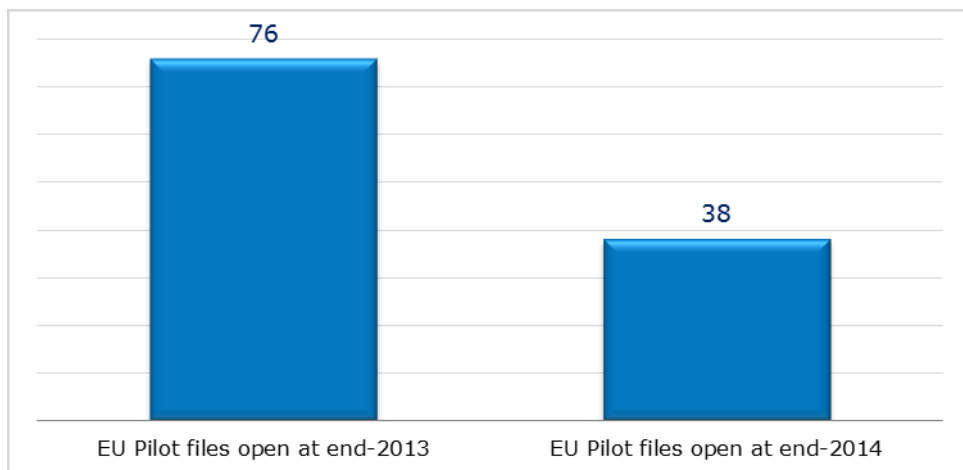


II. EU PILOT

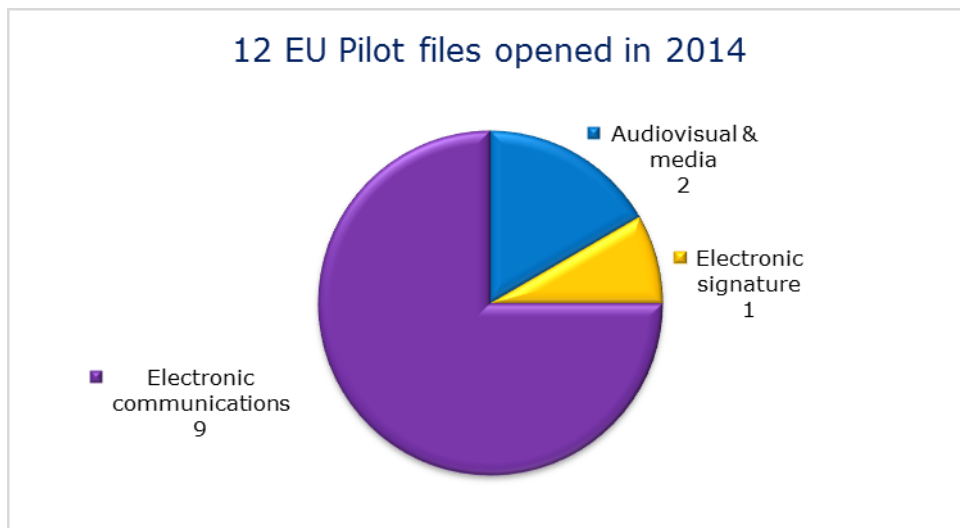
1. New EU Pilot files (2011-14)



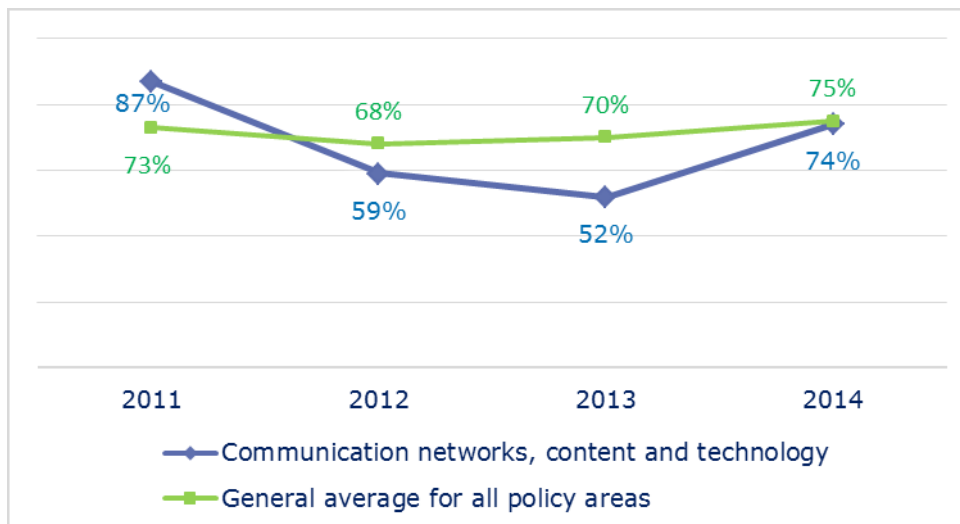
2. Evolution of files open in EU Pilot



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)



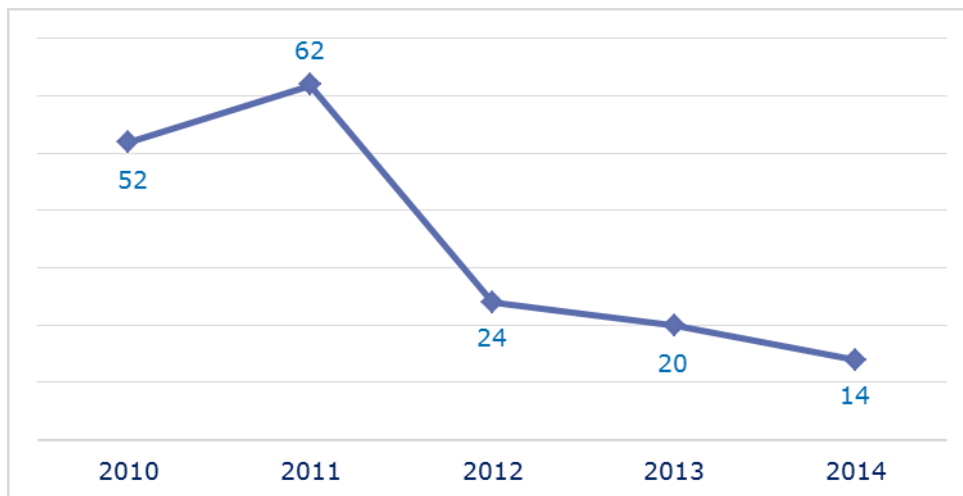
III. OWN-INITIATIVE CASES

**New own-initiative infringement cases**

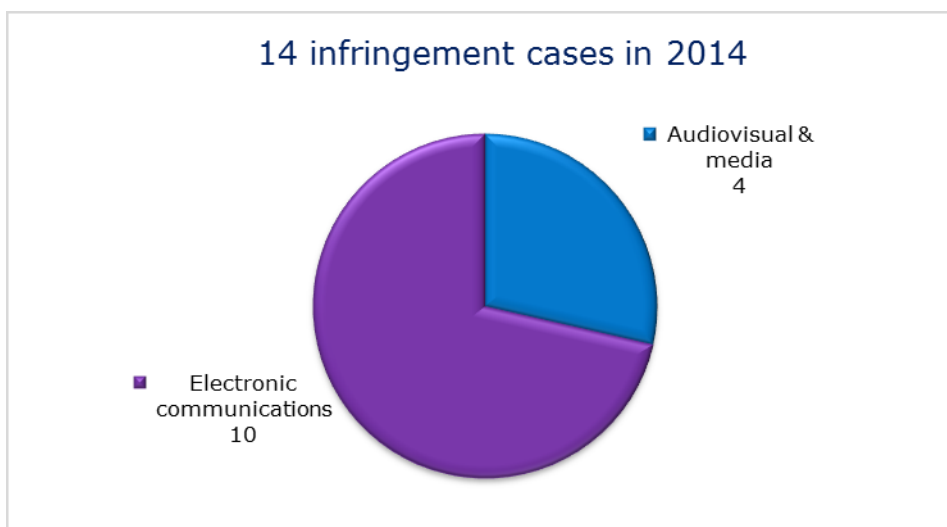
The Commission opened own-initiative infringement cases concerning electronic communications and audio visual and media services in 2014.

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 three new infringement cases in 2014, among which:
- *Hungary*: a procedure in the National Media Act allows the assignment of temporary licences to use radio spectrum, for up to three years in certain cases. This might be disproportionate to the general objectives of the Authorisation Directive;<sup>1</sup>
  - *Latvia*: national rules prohibit any disrespect to Latvia’s national values in audiovisual commercial communications. This prohibition may not be in line with the Audiovisual Media Services Directive, in particular in light of the freedom of expression enshrined in the Charter of Fundamental Rights of the EU;
  - *Lithuania*: the national law provides that television broadcasts from another Member State may be suspended if they include information on gay marriage or on homosexual couples starting

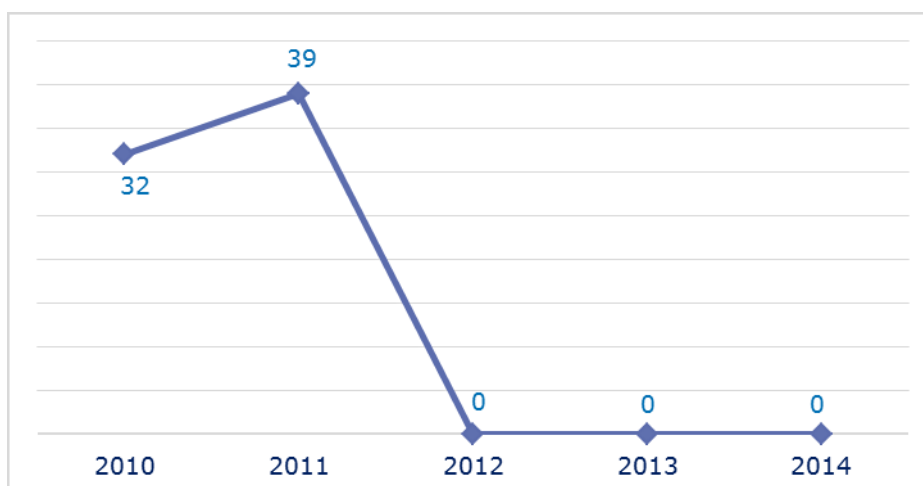
<sup>1</sup> Directive [2002/20/EC](#).

families. This provision may go beyond the scope of the derogations allowed under the Audiovisual Media Services Directive on the protection of minors.<sup>2</sup>

- b) The Commission referred one case to the Court under Article 258 TFEU. It concerned:
- *Luxembourg*: the national regulatory authority (the *Institut Luxembourgeois de Régulation*) has failed to carry out a timely analysis of the relevant markets for fixed access to the public telephone network and for leased lines, in breach of EU telecoms rules.<sup>3</sup>
- 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

The Commission did not open any new late transposition cases in 2014.

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

- a) The Commission did not open any new late transposition cases in 2014.
- 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

They concerned:

- *Estonia*: under national law, the Ministry of Economic Affairs and Communications carried out certain regulatory tasks, including managing radio frequency allocation and granting frequency authorisations. At the same time, it controlled the largest TV and

<sup>2</sup> Directive [2007/65/EC](#).

<sup>3</sup> Commission v Luxembourg, [C-536/14](#), [IP/14/1147](#).

radio broadcasting network operator in Estonia (the state-owned company Levira Ltd). These control tasks have been transferred to the Ministry of Finance, ensuring compliance with the Framework Directive for electronic communications networks and services.<sup>4</sup>

### VII. IMPORTANT JUDGMENTS

#### 1. Court rulings

The Court ruled that:

- *Portugal* had still failed to correctly transpose the provisions of the Universal Service Directive<sup>5</sup> despite the Court's earlier judgment. Since the Court found that Portugal had not designated the companies responsible for providing the universal service by using a procedure that is consistent with the directive, and in the end had not provided the requested proof of the termination of the designated provider, it ordered Portugal to pay a lump sum of EUR 3 million, plus a daily penalty of EUR 10 000 until it complies with the first judgment.<sup>6</sup>

#### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- at the reasonable request of competing operators aiming to access and use specific network elements and facilities, the Danish national regulatory authority may oblige an electronic communications operator with significant power in a given market to install specific cables provided that this obligation is based on the nature of the problem identified, is proportionate and is justified under the Framework Directive. The fulfilment of these criteria is for the national court to verify.<sup>7</sup> The Court has also taken into account the initial investment of the operator concerned and the price control mechanism that allows the recovery of installation costs.<sup>8</sup>

### VIII. OUTLOOK

#### Important implementation work in 2015 includes:

- continuing to monitor the correct implementation of: (1) the 'regulatory framework for electronic communications' (Citizens' Rights and Better Regulation Directives); priorities include: independence of national regulators, respect for consultation procedures and consumer protection; (2) the Audiovisual Media Services Directive;
- monitoring the transposition of new EU legal instruments including the directive on the re-use of public sector information.<sup>9</sup>

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<sup>4</sup> Directive [2002/21/EC](#).

<sup>5</sup> Directive [2002/22/EC](#).

<sup>6</sup> Commission v Portugal, [C-76/13](#) and Court press release No [89/14](#).

<sup>7</sup> Directive [2002/21/EC](#).

<sup>8</sup> TDC, [C-556/12](#).

<sup>9</sup> Directive [2013/37/EU](#).

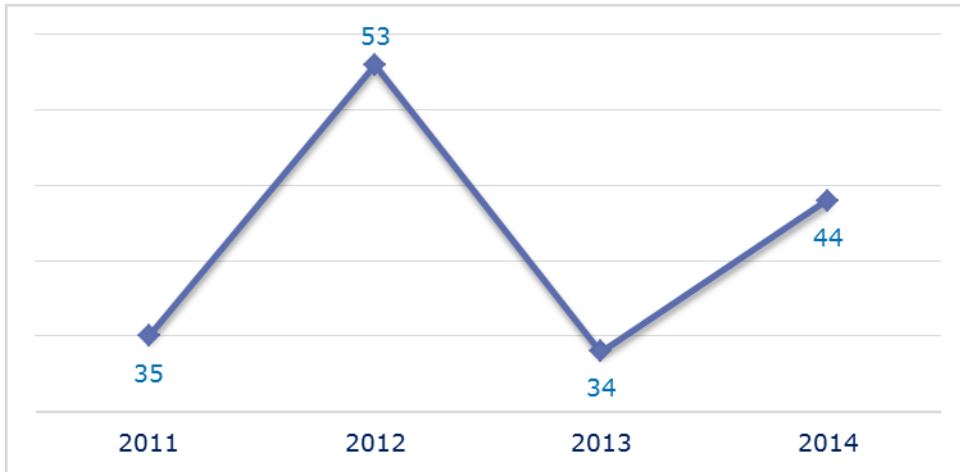
## COMPETITION

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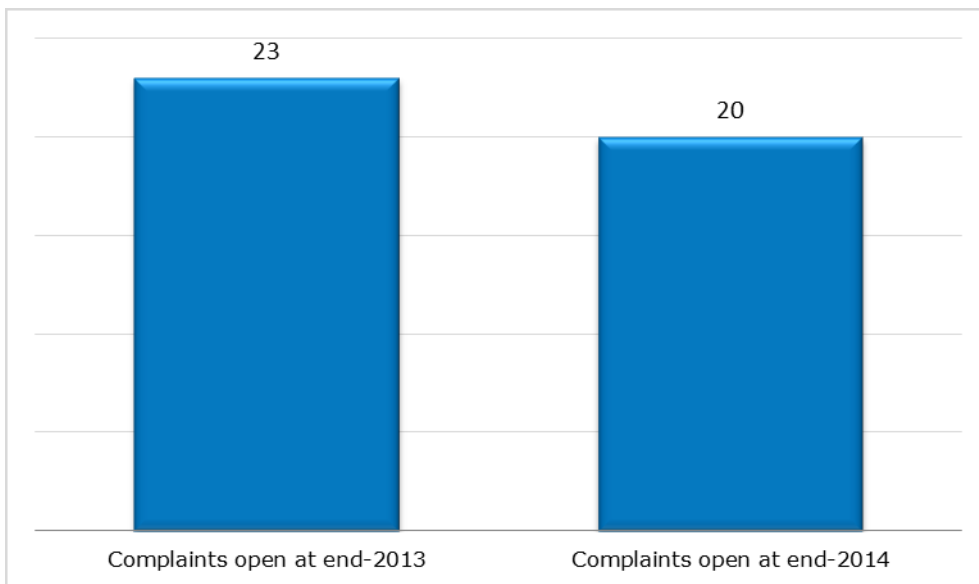
Although the number of new complaints received in the area of competition increased in 2014, it is still below the peak reached in 2012. In 2014, the Commission opened new infringement cases concerning one regulation and several Commission decisions.

### I. COMPLAINTS

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



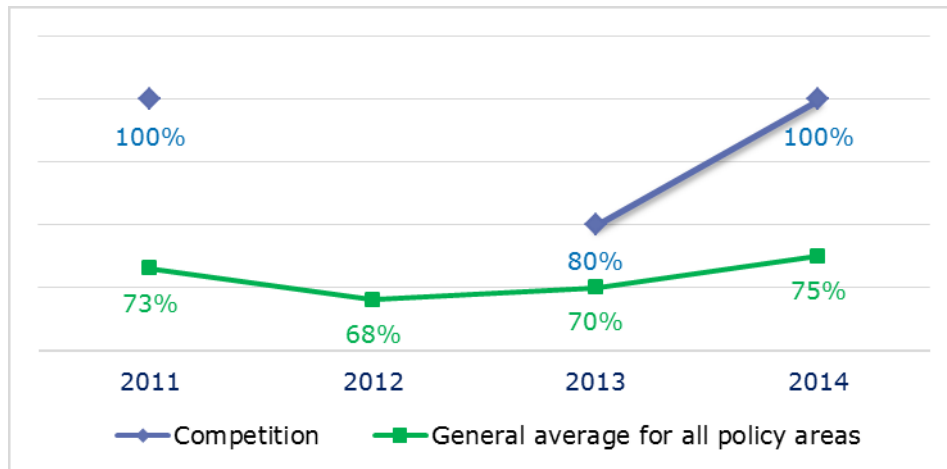
#### 2. Evolution of complaints





II. EU PILOT

EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)<sup>1</sup>



III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2014

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

- non-compliance with injunctions issued in the context of tax ruling and patent box enquiries based on the State aid Procedural Regulation;<sup>2</sup>
- non-compliance with Commission decisions on State aid (the Commission sent letters of formal notice to Italy and Greece).

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- a) The Commission opened four new infringement cases in 2014, among which:
- *Greece*: failure to comply with a Commission decision<sup>3</sup> and the subsequent judgment of the Court of Justice<sup>4</sup> under Article 108(2) TFEU on several aid measures in favour of Hellenic Shipyards SA that constitute incompatible aid and several aid measures approved by the Commission in the past that have been misused;
  - *Italy*: failure to comply with a Commission decision<sup>5</sup> and the subsequent judgment of the Court of Justice<sup>6</sup> under Article 108(2) on investment aid to the hotel industry in Sardinia;
  - *Luxembourg (two cases)*: non-compliance with injunctions issued in the context of tax ruling and patent box enquiries based on the State aid Procedural Regulation.<sup>7</sup>

<sup>1</sup> No EU Pilot files were closed in 2012.

<sup>2</sup> Council Regulation (EC) No [659/1999](#).

<sup>3</sup> Commission Decision [2009/610/EC](#).

<sup>4</sup> Commission v Greece, [C-485/10](#) and Court press release No [22/13](#).

<sup>5</sup> Commission Decision [2008/854/EC](#).

<sup>6</sup> Commission v Italy, [C-243/10](#).

- 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:
  - *Italy*: failure to recover illegal and incompatible State aid to companies in Venice and Chioggia. The Commission proposed a daily penalty of EUR 24 578.40 multiplied by the number of days between the first Court ruling and either the full compliance by the Member State or the second Court ruling under Article 260(2) TFEU and a degressive penalty payment of EUR 187 264 for every day from the judgment until implementation.<sup>8</sup>

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2014

These concerned:

- *Denmark*: failure to comply with the Competition Directive<sup>9</sup> by obliging property owners to become paying members of a particular local cable TV association;
- *France*: the incorrect application of the Competition Directive,<sup>10</sup> Framework Directive<sup>11</sup> and Authorisation Directive<sup>12</sup> concerning electronic broadcasting networks; incumbent national analogue broadcasters were granted 'bonus' frequencies while no procedure was in place for any other broadcasters to obtain similar frequencies.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings

The Court ruled that:

- a general Court judgment annulling the Commission's 2008 decision, finding that Greece had infringed Article 106 TFEU, should be overturned. The Commission's 2008 decision concerned lignite-exploitation rights giving the State-owned energy company privileged access to lignite, the cheapest source of electricity in Greece. The Commission decision has been referred back to the General Court to rule on outstanding arguments. However, the Court's judgment is a useful clarification as to the scope of application of Article 106 in combination with Article 102;
- Spain failed to fulfil its obligation to comply with a judgment under Article 108(2) requiring it to comply with six Commission State aid recovery decisions concerning Basque fiscal schemes. Spain having recovered the pending amounts before the date of the judgment in the Court case, the Commission did not impose

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<sup>7</sup> Council Regulation (EC) No [659/1999](#).

<sup>8</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 25 July 2014. *Commission v Italy*, [C-367/14](#), [IP/13/1103](#).

<sup>9</sup> Commission Directive [2002/77/EC](#).

<sup>10</sup> Commission Directive [2002/77/EC](#).

<sup>11</sup> Directive [2002/21/EC](#).

<sup>12</sup> Directive [2002/19/EC](#).

daily penalty payments. The Court ordered Spain to pay a lump sum of EUR 30 million.<sup>13</sup>

### 2. Preliminary rulings

There were no major preliminary rulings in 2014.

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<sup>13</sup> Commission v Spain, [C-184/11](#) and Court press release No [71/14](#).

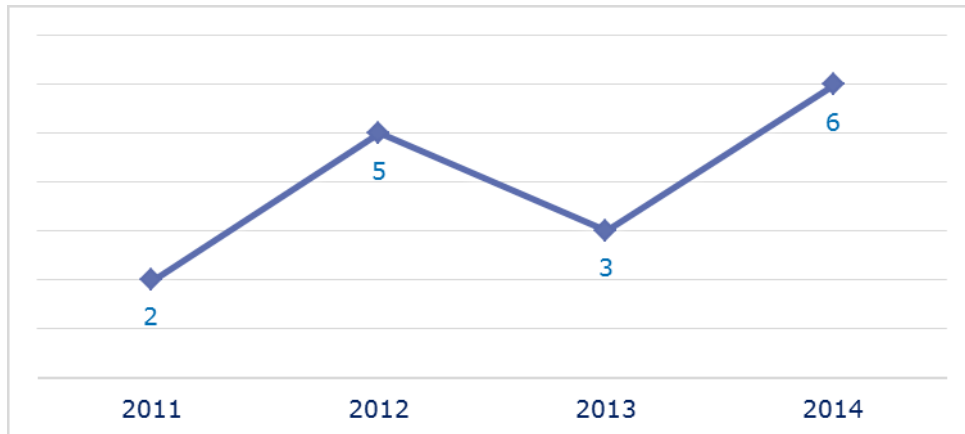
## ECONOMIC AND FINANCIAL AFFAIRS

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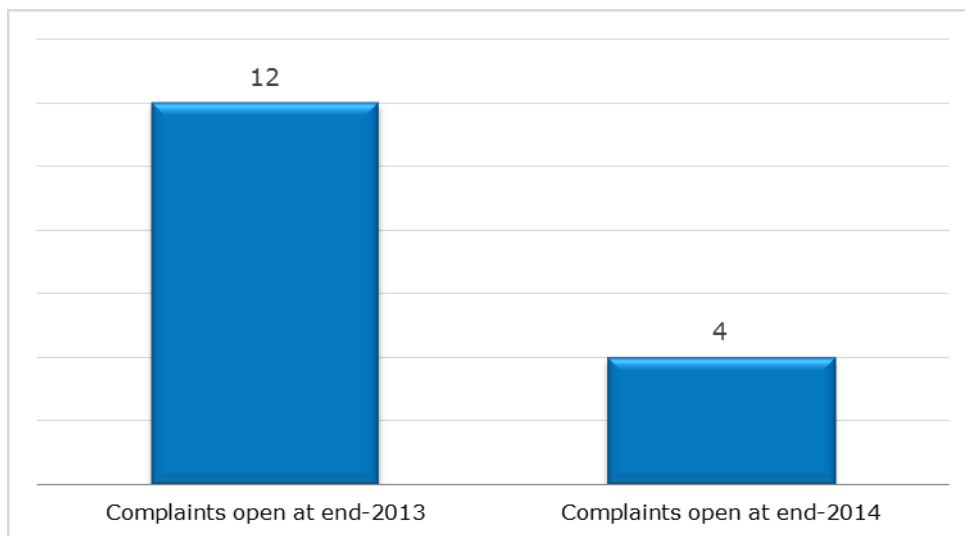
The number of new complaints made in the area of economic and financial affairs remained relatively stable over the last four years. All the infringement cases opened in 2014 concerned the implementation of the directive on the requirements for Member States' budgetary framework<sup>1</sup>.

### I. COMPLAINTS

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



#### 2. Evolution of complaints

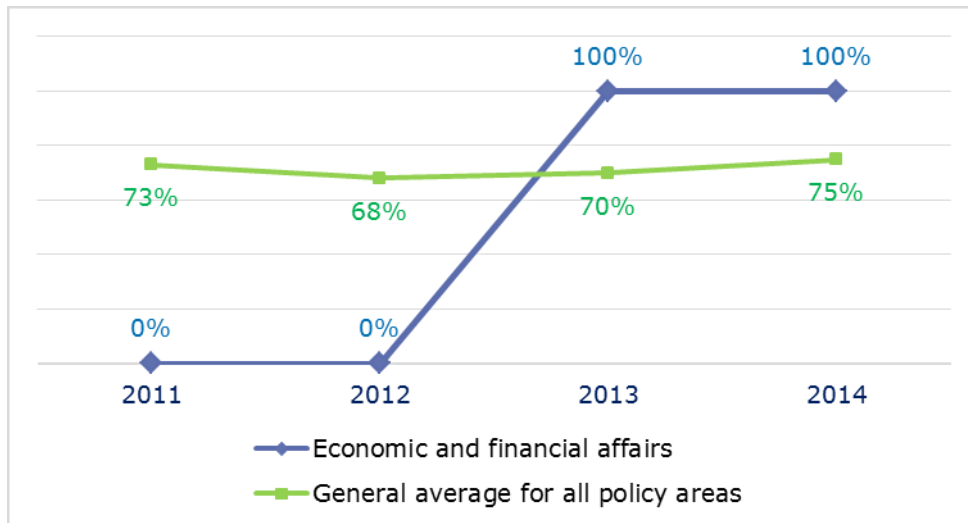


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<sup>1</sup> Directive [2011/85/EU](#)

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 opened own-initiative infringement cases in 2014 concerning:

- the directive on the requirements for Member States' budgetary frameworks.<sup>2</sup>

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- The Commission opened 17 new infringement cases in 2014, among which:
  - non-communication of the national implementing measures regarding the directive on the requirements for Member States' budgetary frameworks.<sup>3</sup>
- The Commission did not refer any cases to the Court under Article 258 TFEU.
- The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

These concern:

- non-communication of the national implementing measures regarding the directive on the requirements for Member States' budgetary frameworks (14 Member States).

<sup>2</sup> Directive [2011/85/EU](#).

<sup>3</sup> Directive [2011/85/EU](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no Court rulings in 2014 in the area of economic and financial affairs.

2. Preliminary rulings

There were no major preliminary rulings in 2014 in the area of economic and financial affairs.

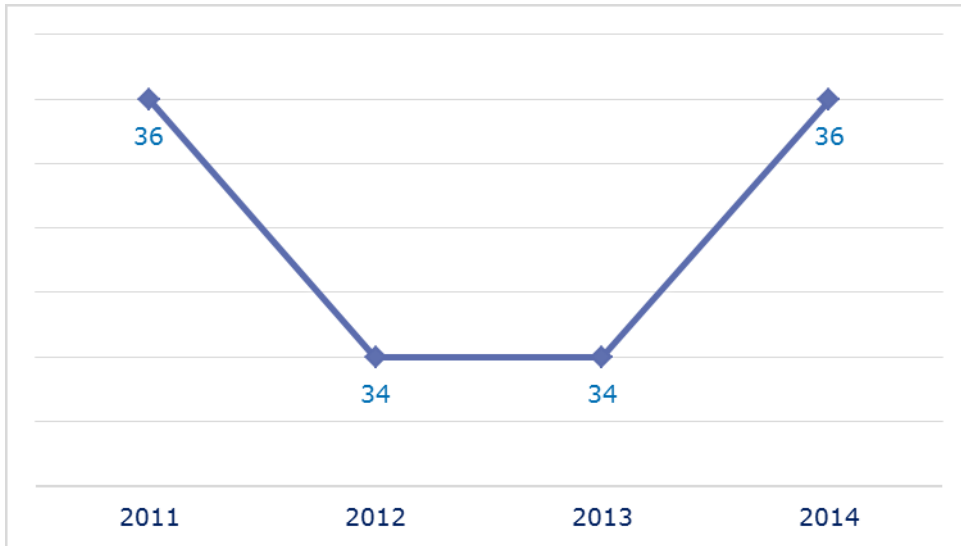
## EDUCATION AND CULTURE

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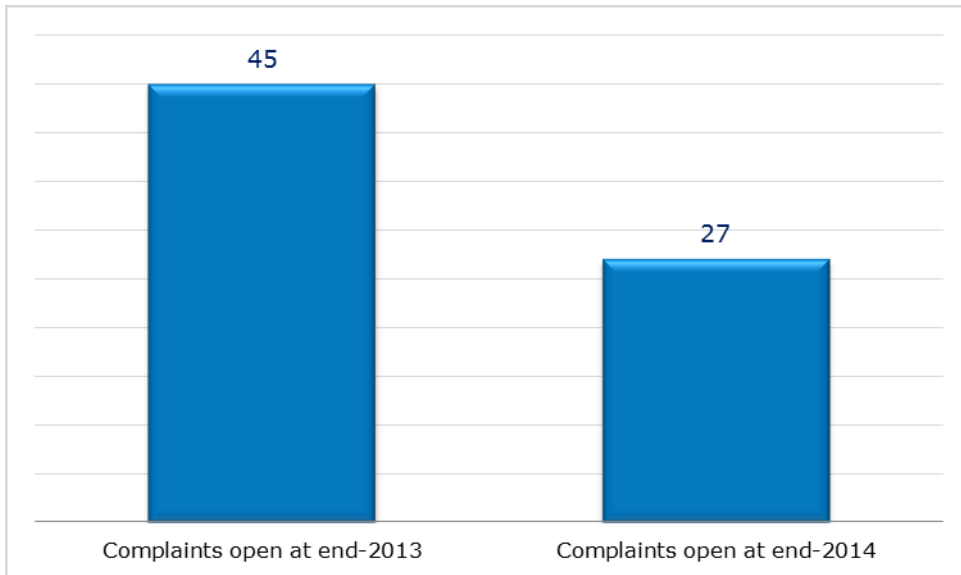
In 2014, the number of new complaints received in the area of education and culture reached the peak level seen in 2011. The Commission did not open any new infringement cases in 2014.

### I. COMPLAINTS

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

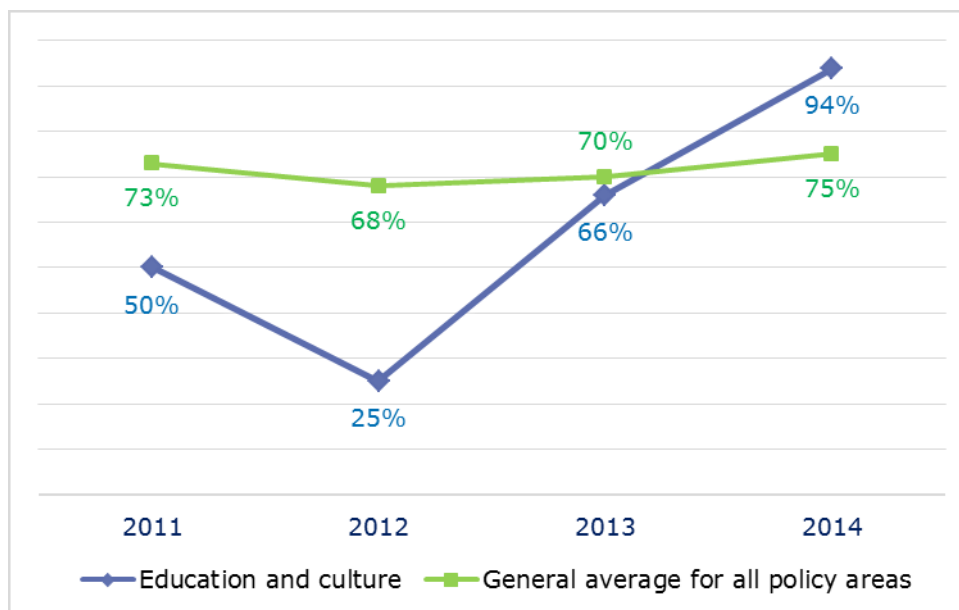


#### 2. Evolution of complaints



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 referred one case to the Court under Article 258 TFEU. It concerns:
  - *Netherlands*: refusal to allow Erasmus students and students from other Member States who are not economically active in the Netherlands or have not obtained a permanent right of residence to benefit from the reduced transport fares granted to Dutch students.<sup>1</sup>
- 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

The Commission did not close any major infringement cases without a Court judgment in 2014.

<sup>1</sup> The Commission decided on 20 June 2013 to refer the case to the Court; the application was filed on 12 May 2014. *Commission v Netherlands*, [C-233/14](#), [IP/13/574](#).



VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no Court rulings in 2014 in the area of education and culture.

2. Preliminary rulings

There were no major preliminary rulings in 2014 in the area of education and culture.

VII. OUTLOOK

Important implementation work in 2015 includes:

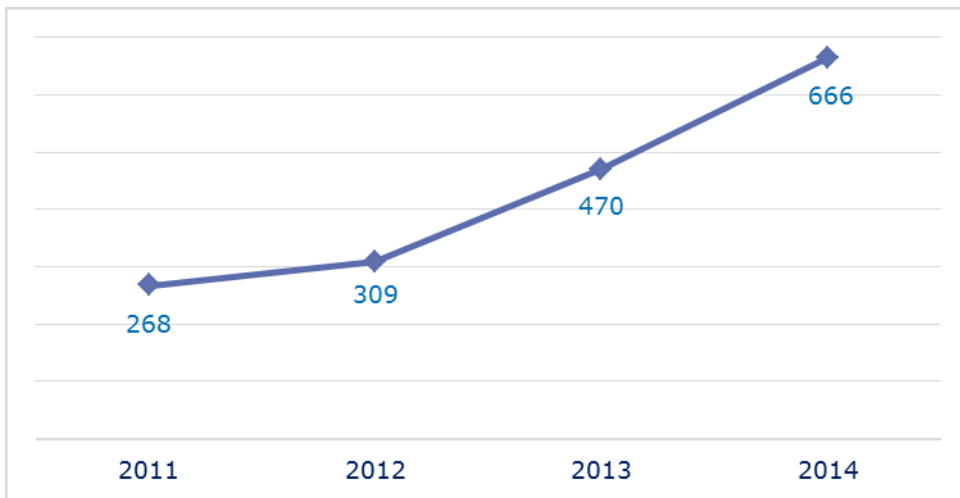
- following each case closely and respecting the given deadlines in order to strengthen the trust of students and other members of the public following education and training courses on the correct application of EU law.

## EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION

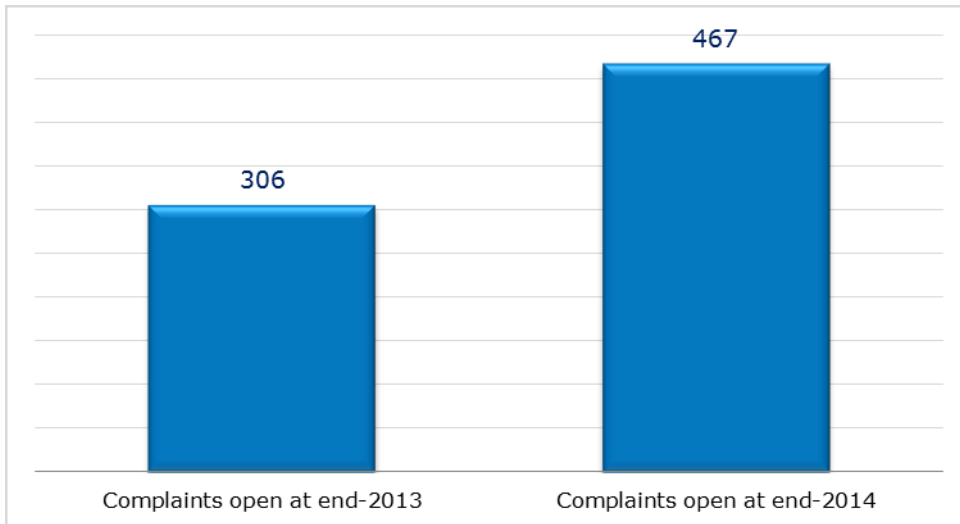
In 2014, the Commission received its highest number of new complaints in the area of employment, social affairs and inclusion since 2011. The number of new EU Pilot files opened has remained relatively stable since 2013, after reaching a peak in 2012. In 2014, the number of pending infringement cases at the end of the year saw a slight increase compared to the two previous years. While the number of new late transposition cases increased slightly in 2014 compared to 2013, this number is below the peak reached in 2012.

### I. COMPLAINTS

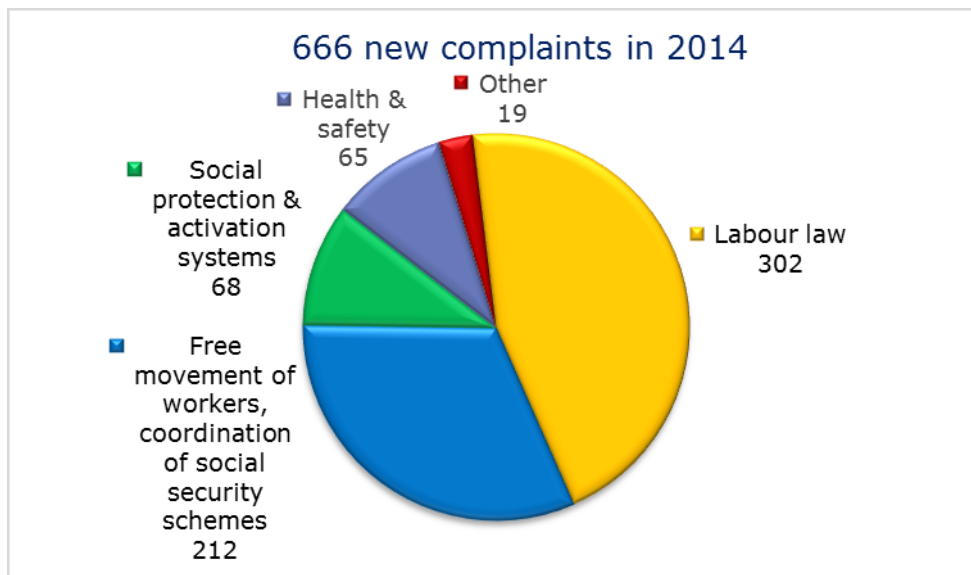
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

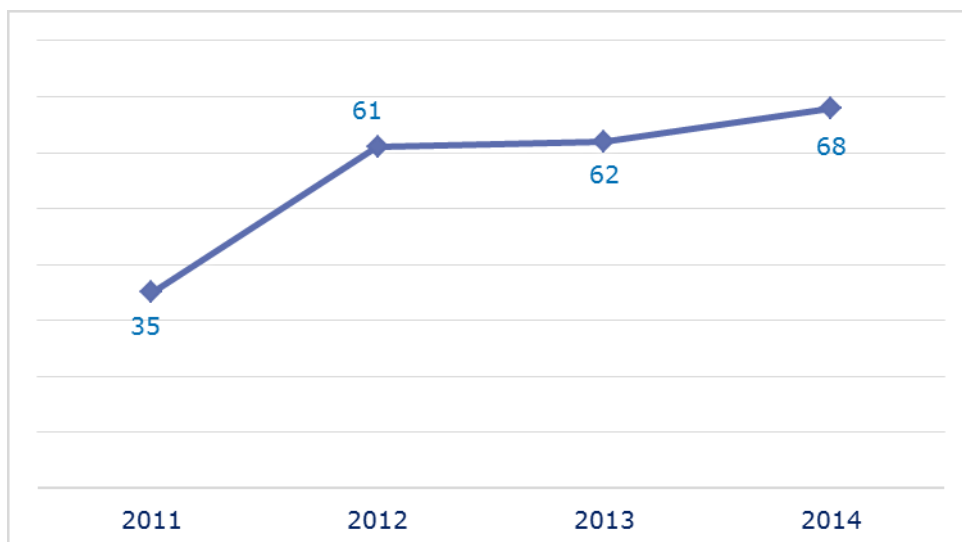


3. New complaints registered in 2014: main policy sectors

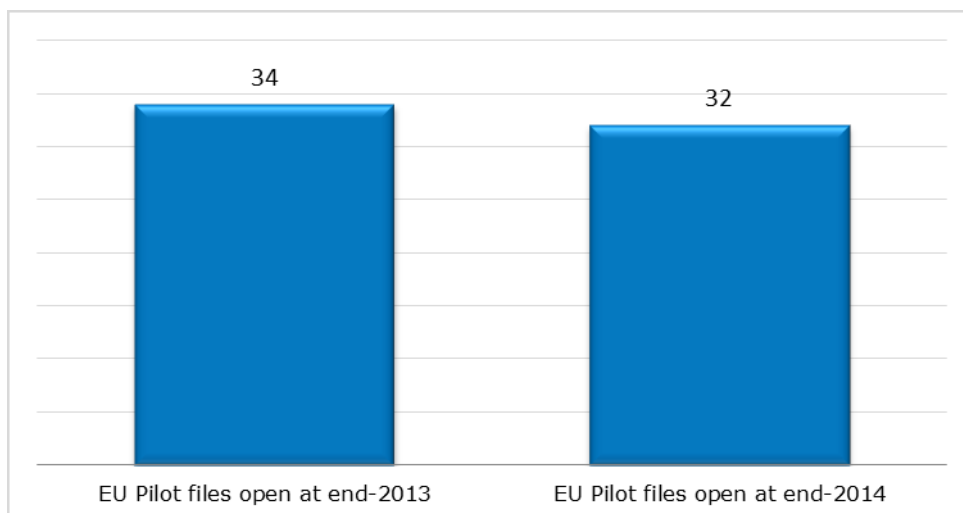


II. EU PILOT

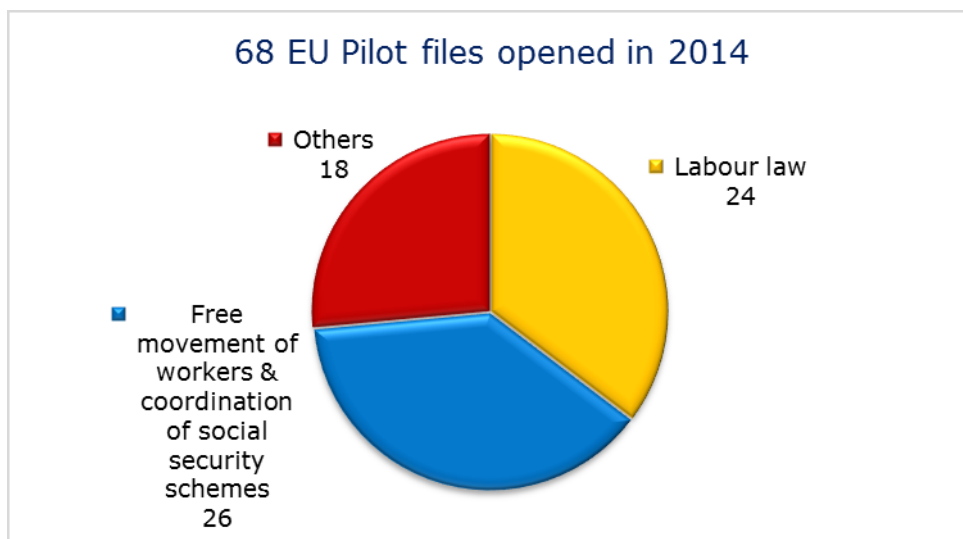
1. New EU Pilot files (2011-14)



1. Evolution of files open in EU Pilot<sup>1</sup>

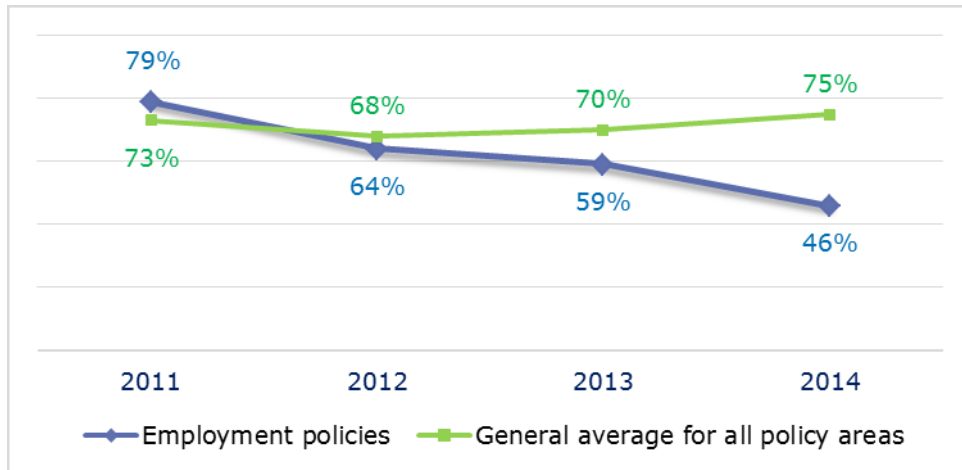


2. New EU Pilot files opened in 2014: main policy sectors



<sup>1</sup> 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. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

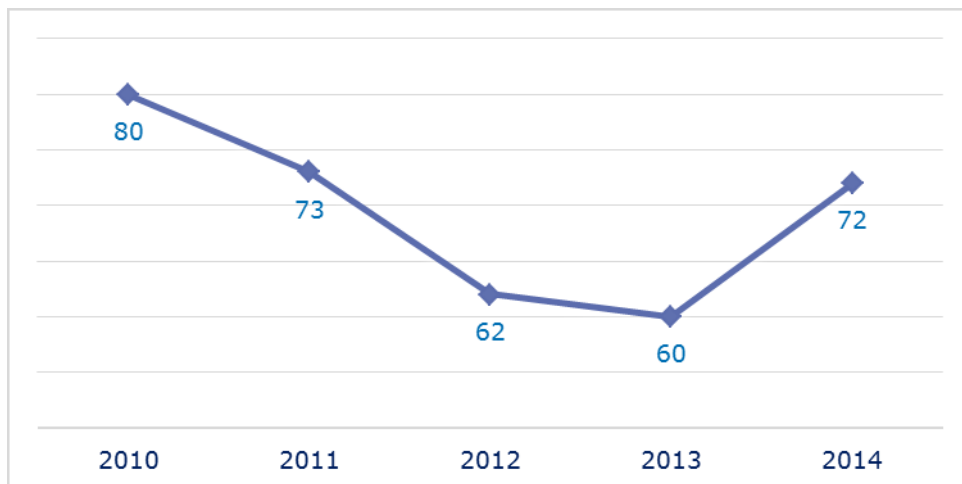
New own-initiative infringement cases

In 2014, the Commission opened (or followed up with an additional letter of formal notice or a reasoned opinion) three own-initiative infringement cases. They concern:

- *the hospital and healthcare sector*: late transposition of the directive implementing the Framework Agreement on preventing injuries caused by sharp objects in the hospital and healthcare sector concluded by the European Hospital and Healthcare Employers' association (HOSPEEM) and the European Federation of Public Service Unions (EPSU).<sup>2</sup>

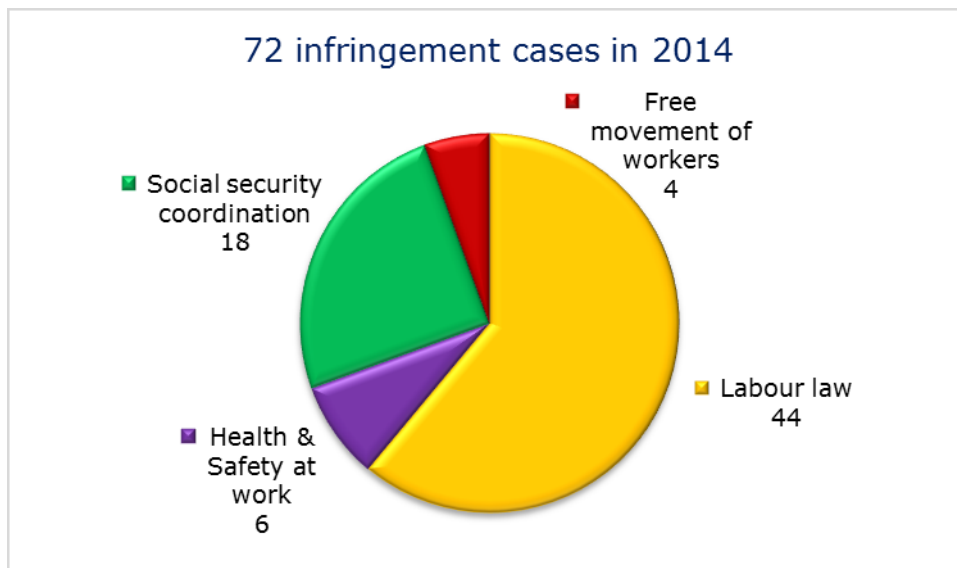
IV. INFRINGEMENT CASES

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



<sup>2</sup> Directive [2010/32/EU](#).

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



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

- a) The Commission opened 39 new infringement cases in 2014, among which:
- *Austria*: the incompatibility of Austrian legislation with EU law<sup>3</sup> regarding questions related to who is responsible for the health and safety at work of school teachers in certain provinces;
  - *Ireland*: the incompatibility of national provisions on annual leave with the Working Time Directive as regards the carry-over period for leave not taken due to illness;
  - *Sweden*: the way parental allowances are classified under Swedish legislation;
  - *United Kingdom*: the incompatibility of national law with the Working Time Directive<sup>4</sup> regarding annual leave entitlements for overtime;
  - *United Kingdom*: the incompatibility of national law with the Working Time Directive regarding annual leave entitlements for sick leave.
- b) The Commission referred eight cases to the Court under Article 258 TFEU. They concern:
- *Belgium*: the requirement under Belgian legislation to prove language knowledge exclusively through a certificate issued by the Belgian authorities for posts in the local administrations of the French-, Flemish- and German-speaking regions;<sup>5</sup>
  - *Cyprus*: the incompatibility with EU law of Cyprus' pension rights for Cypriot nationals under 45 years old working in the EU institutions;<sup>6</sup>

<sup>3</sup> Directive [89/391/EEC](#).

<sup>4</sup> Directive [2003/88/EC](#).

<sup>5</sup> The Commission decided on 26 September 2013 to refer the case to the Court; the application was filed on 2 July 2014. *Commission v Belgium*, [C-317/14](#), [IP/13/868](#).

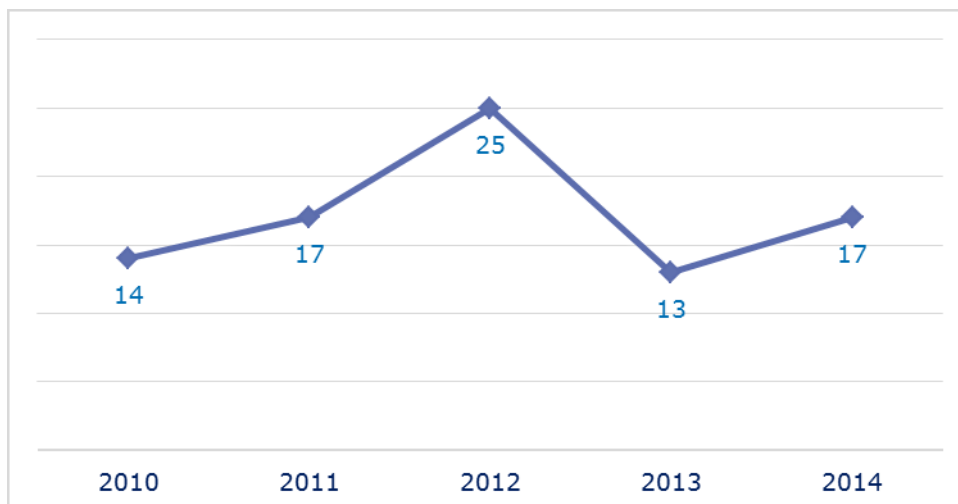
<sup>6</sup> The Commission decided on 26 September 2013 to refer the case to the Court; the application was filed on 14 November 2014, *Commission v Cyprus*, [C-515/14](#), [IP/13/869](#).

- *Greece*: the incorrect application of the Working Time Directive<sup>7</sup> as interpreted by the Court of Justice, particularly as regards doctors' on-call time in rural public health services;<sup>8</sup>
- *Ireland*: the application of national legislation for doctors-in-training raises concerns regarding the Working Time Directive (limits, minimum rest requirements);<sup>9</sup>
- *Italy*: exclusion of National Health Service staff from certain rights under the Working Time Directive;<sup>10</sup>
- *Luxembourg*: Labour Code incompatibility with the Fixed-Term Work Directive<sup>11</sup> regards the advertising of vacancies and workers in casual employment in showbusiness;<sup>12</sup>
- *Malta*: the situation of some Maltese nationals who previously worked in the UK civil service and whose UK pensions are deducted from their Maltese retirement pensions;<sup>13</sup>
- *United Kingdom*: the incompatibility with EU law<sup>14</sup> of UK restrictions on EU nationals' eligibility for certain social security benefits (the 'right to reside test').<sup>15</sup>

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)



<sup>7</sup> Directive [2003/88/EC](#).

<sup>8</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 11 April 2014. *Commission v Greece*, [C-180/14](#), [IP/13/1108](#).

<sup>9</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 18 February 2014. *Commission v Ireland*, [C-87/14](#), [IP/13/1109](#).

<sup>10</sup> *Commission v Italy*, [C-124/14](#), [IP/14/159](#).

<sup>11</sup> Directive [1999/70/EC](#).

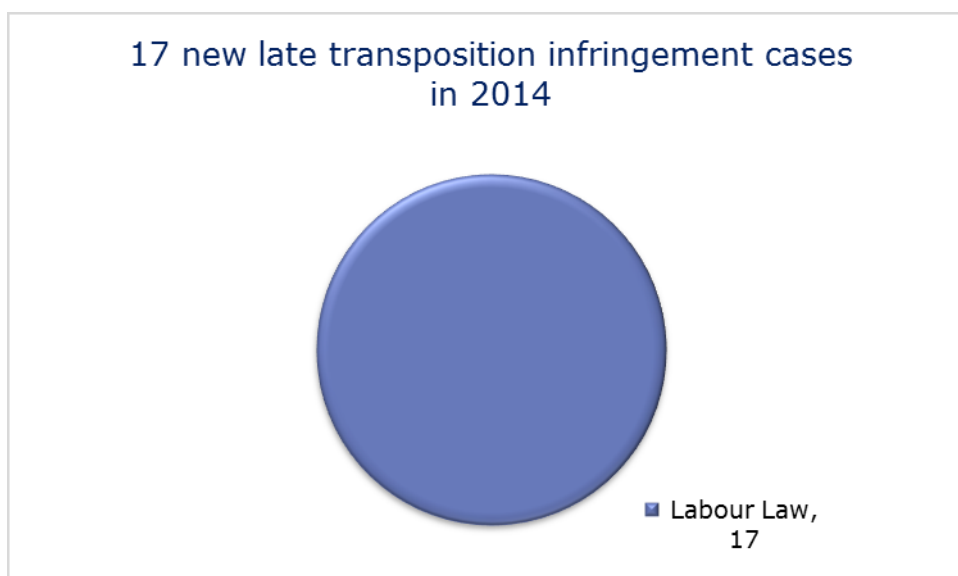
<sup>12</sup> *Commission v Luxembourg*, [C-238/14](#), [IP/160/14](#).

<sup>13</sup> The Commission decided on 21 March 2013 to refer the case to the Court; the application was filed on 10 January 2014. *Commission v Malta*, [C-12/14](#), [IP/13/249](#).

<sup>14</sup> Regulation (EU) No [883/2004](#).

<sup>15</sup> *Commission v United Kingdom*, [C-308/14](#).

## 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 17 new late transposition cases in 2014. Most of these concern:
  - the Council Directive implementing the agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the 2006 Maritime Labour Convention (16 Member States).<sup>16</sup>
- 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

They concerned:

- *France*: the freeze of military pensions provided to widows of former Moroccan soldiers who served in the French army;
- *Spain*: rules on the composition of teams in basketball competitions organised by the Spanish Basketball Federation and the Spanish federation of basketball clubs, requiring a minimum number of locally trained players;
- *Spain*: failure to apply the provisions of the Framework Directive on health and safety at work<sup>17</sup> correctly to Civil Guard staff.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in the area of employment, social affairs and inclusion in 2014.

<sup>16</sup> Council Directive [2009/13/EC](#).

<sup>17</sup> Directive [89/391/EEC](#).



## 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the *German* monetary allowance for annual leave not taken upon termination of the employment relationship must still be paid if termination is a result of a workers' death, based on Article 7 of the Working Time Directive;<sup>18</sup>
- in a *German* case, Member States are not obliged to grant social assistance benefits to people who do not meet the conditions for legal residence set out in the directive on the right of EU nationals and their family members to move and reside freely within the territory of the Member States;<sup>19</sup>
- the definitions of 'residence' and 'stay' for the purposes of applying Regulation (EC) No 883/2004 on the coordination of social security systems apply when someone is suddenly taken seriously ill while on holiday in another Member State and is compelled to remain in that Member State as a result of the illness;<sup>20</sup>
- the Fixed-Term Work Directive precludes national rules (here *Italian*) that authorise the renewal of fixed-term contracts to fill vacant posts, pending the recruitment of tenured school staff, without stating a definite deadline for the completion of these recruitment processes and without providing compensation for damage suffered due to such unlimited renewals;<sup>21</sup>
- in an *Italian* case, the Part-Time Work Directive does not always require an employer to obtain a worker's consent before changing his part-time contract into a full-time one;<sup>22</sup>
- when calculating the supplementary allowance to which a migrant worker may be entitled in his or her Member State of employment, it is not possible to take account of all the family benefits received by the worker's family under the legislation of the Member State;<sup>23</sup>
- prior medical authorisation under the regulation on coordinating social security systems<sup>24</sup> cannot be refused due to the hospital concerned not being able to provide medication, basic medical supplies or infrastructure in good time in the insured person's Member State of residence;<sup>25</sup>
- in a *Dutch* case, the directive on approximating national legislation on protecting employees in the event of their employer's insolvency<sup>26</sup> must be interpreted as prohibiting national legislation which treats a non-EU national who is not legally resident in the Member State concerned as not being an employee with the right to an insolvency benefit even if recognised under Member State law as having the status of an 'employee';<sup>27</sup>

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<sup>18</sup> Directive [2003/88/EC](#), Bollacke [C-118/13](#).

<sup>19</sup> Directive [2004/38](#), Dano, [C-333/13](#).

<sup>20</sup> 'I', [C-255/13](#).

<sup>21</sup> Mascolo, [C-22/13](#) and Court press release No [161/14](#).

<sup>22</sup> Mascellani, [C-221/13](#).

<sup>23</sup> Wiering, [C-347/12](#).

<sup>24</sup> Regulation (EC) No [883/2004](#).

<sup>25</sup> Elena Petru, [C-268/13](#), [CJE/134/14](#).

<sup>26</sup> Directive [80/987](#).

<sup>27</sup> Tumer, [C-311/13](#).

- in *Poland*, the non-discrimination rule in the Fixed-Term Work Directive also applies to notice periods;<sup>28</sup>
- compensation for loss of remuneration due to the length of judicial procedures declaring a dismissal unfair, following the insolvency of the employer (*'salarios de tramitación'*), is more favourable than is required by the directive on protecting employees in the event of their employer's insolvency.<sup>29</sup> As a result, it may be granted only to employees of insolvent employers who have been unfairly dismissed and not to those whose dismissal was declared null and void;<sup>30</sup>
- Article 7 of the Working Time Directive<sup>31</sup> must be interpreted as meaning that a salesperson's holiday pay cannot be limited to their basic salary and that if their pay includes a sales commission, then the commission must also be included when calculating holiday pay.<sup>32</sup>

## VIII. OUTLOOK

### Important implementation work in 2015 includes the following:

- a number of expected important judgments of the CJEU concerning the rights of EU job-seekers to receive social security benefits (*Alimanovic*<sup>33</sup> and *Garcia Nieto*<sup>34</sup>). Judgments of the ECJ in these two cases should clarify the question of benefits for jobseekers in other Member States.
- the analysis of the conformity of the national measures transposing the 'Sharp injuries' Directive<sup>35</sup> will continue during 2015.
- special attention will be given in 2015 to monitoring the progress of the complex infringement case concerning Portugal and the alleged violations of the provisions on health and safety at work applicable to public sector workers, in particular those working in the buildings of the national Court.

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<sup>28</sup> Nierodzik, [C-38/13](#).

<sup>29</sup> Directive [2008/94/EC](#).

<sup>30</sup> Hernández, [C-198/13](#).

<sup>31</sup> Directive [2003/88/EC](#).

<sup>32</sup> Lock, [C-539/12](#), [CJE/14/76](#).

<sup>33</sup> Alimanovic, [C-67/14](#).

<sup>34</sup> Garcia Nieto, [C-299/14](#).

<sup>35</sup> Directive [2010/32/EU](#).