



Brussels, 12.7.2018  
SWD(2018) 379 final

PART 1/2

**COMMISSION STAFF WORKING DOCUMENT**

**Part III: Member States**

*Accompanying the document*

**REPORT FROM THE COMMISSION**

**Monitoring the application of European Union law  
2017 Annual Report**

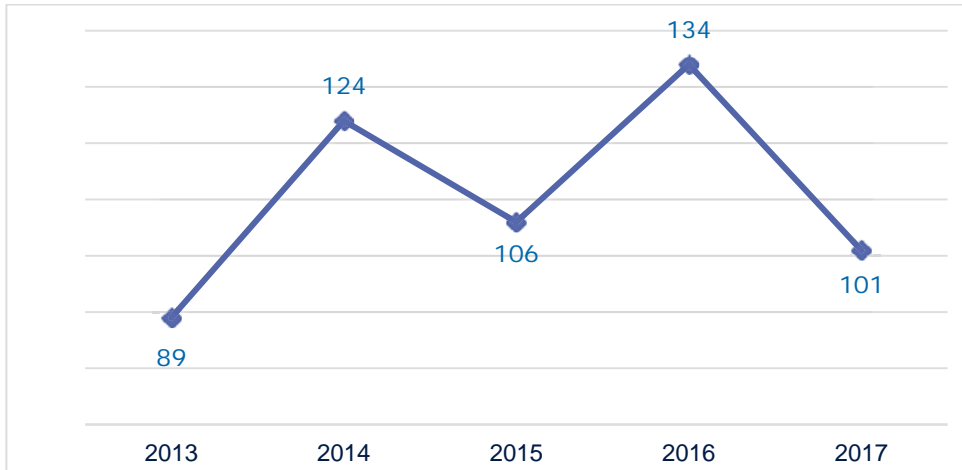
{COM(2018) 540 final} - {SWD(2018) 377 final} - {SWD(2018) 378 final}

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Belgium

I. COMPLAINTS

1. New complaints made against Belgium by members of the public (2013-2017)



2. Public complaints against Belgium open at year-end

116 > Complaints open at end-2016

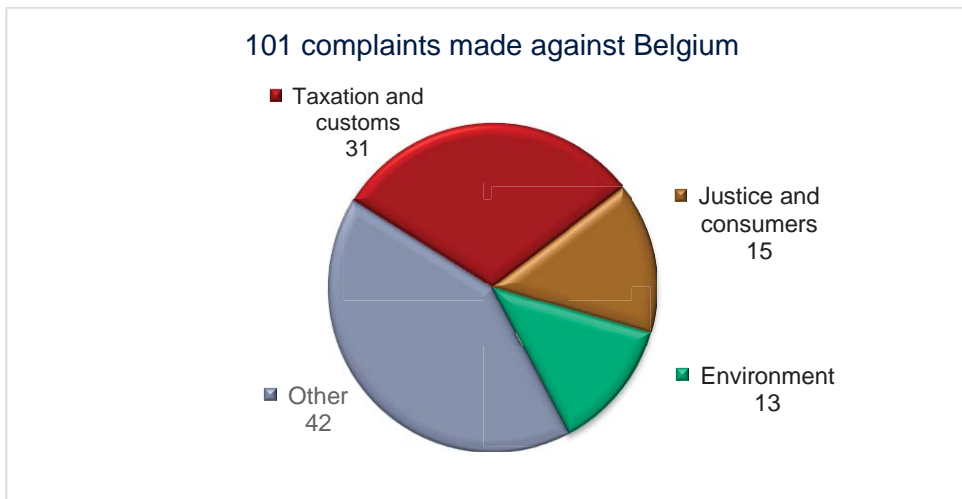
101 > New complaints registered in 2017

112 > Complaints handled in 2017

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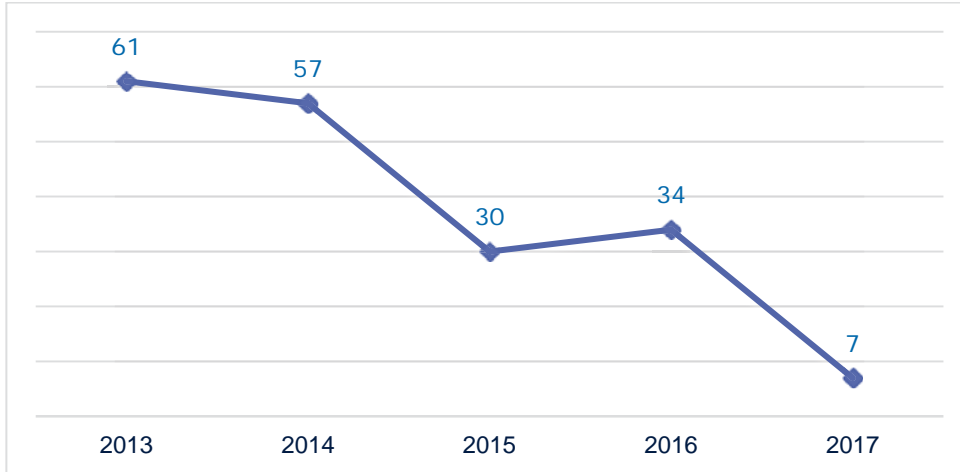
= 105 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

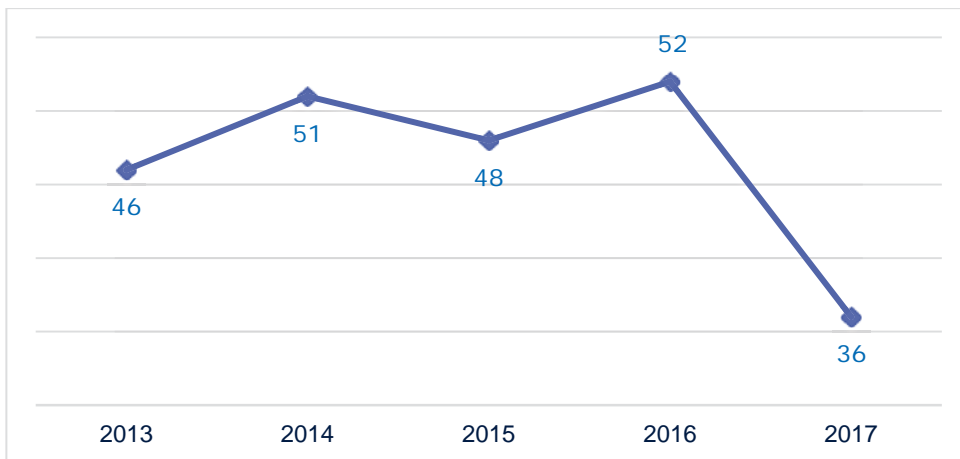


## II. EU PILOT

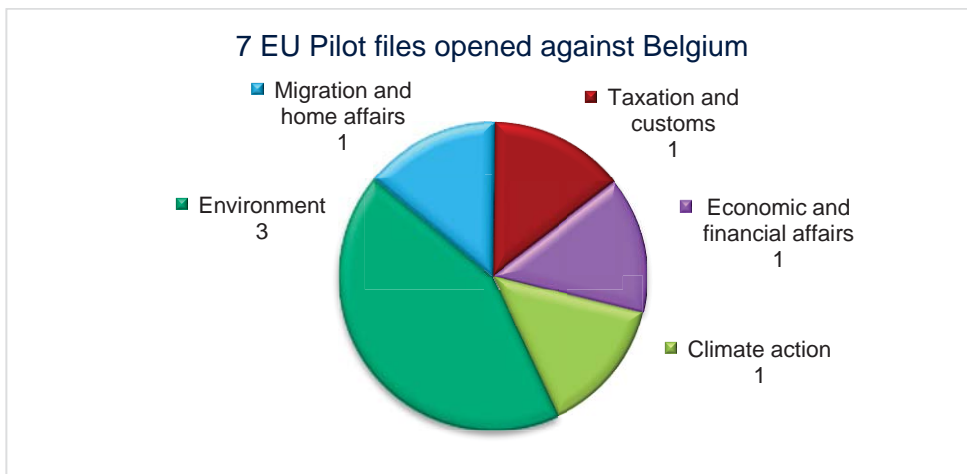
### 1. New EU Pilot files opened against Belgium (2013-2017)



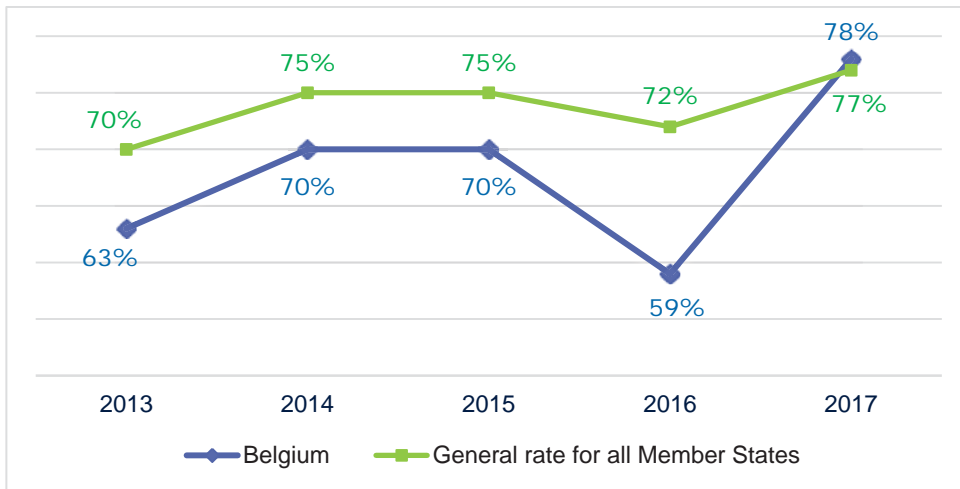
### 2. Files relating to Belgium open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

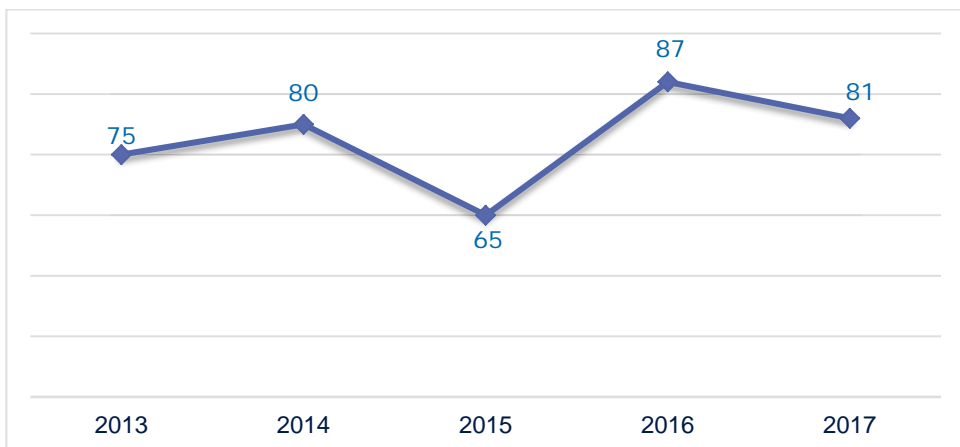


4. EU Pilot files: Belgium's resolution rate in 2013-2017

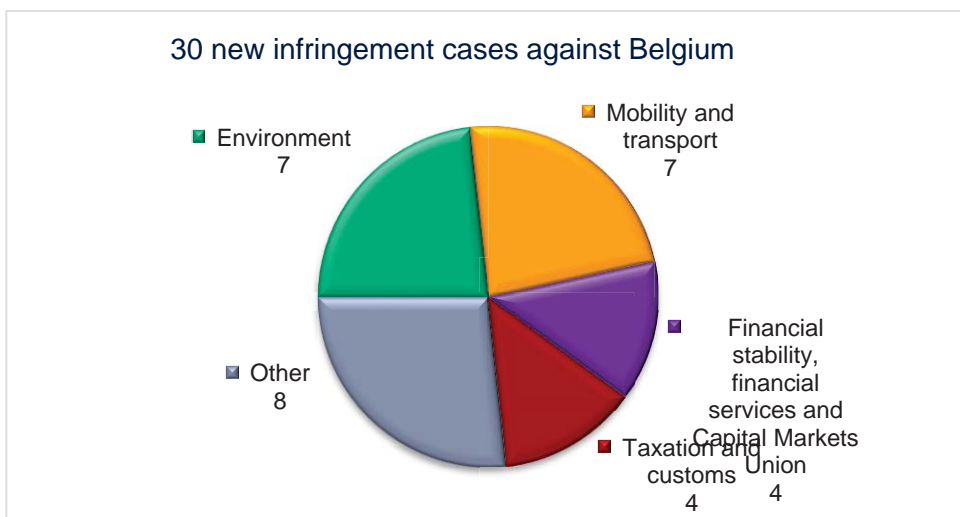


III. INFRINGEMENT CASES

1. Infringement cases against Belgium open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 30 new infringement cases against Belgium in 2017. These, and other major ongoing infringement cases, include:
- lack of waste management plans and waste prevention programmes required under the Waste Framework Directive<sup>1</sup>;
  - failure to establish strategic noise maps and action plans required by the Noise Directive<sup>2</sup>;
  - bad application of the Directive establishing the fundamental principles governing the investigation of accidents in the maritime transport sector<sup>3</sup>;
  - incorrect implementation of the Airspace Regulation and the Regulation on common rules for the flexible use of airspace<sup>4</sup>;
  - non-communication of national measures transposing the:
    - Directive on radioactive substances in water intended for human consumption<sup>5</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>6</sup>;
    - Directive on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer<sup>7</sup>;
    - Directive<sup>8</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>9</sup>;
    - Fourth Anti-Money Laundering Directive;<sup>10</sup>
    - Payment Accounts Directive<sup>11</sup>;
    - amending Nuclear Safety Directive<sup>12</sup>
  - failure to carry out analysis of the relevant telecom markets on time<sup>13</sup>.
- b) The Commission referred the following case to the Court under Article 258 TFEU.
- The Belgian tax laws apply different methods when assessing rents earned from real estate. They attribute a higher value to real estate located abroad than to comparable real estate in Belgium. The rules thus favour investments in Belgian real estates over that in other Member States. This may be contrary to the free movement of capital<sup>14</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2008/98/EC](#), [MEMO/17/234](#).

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

<sup>3</sup> Directive [2009/18/EC](#) amending Council Directive [1999/35/EC](#) and Directive [2002/59/EC](#), [MEMO/17/1045](#).  
<sup>4</sup> Regulation [551/2004](#) and Regulation [2150/2005](#).

<sup>5</sup> Directive [2014/87/Euratom](#).

<sup>6</sup> Directive [2014/65/EU](#).

<sup>7</sup> Directive [2014/66/EU](#); [MEMO/17/3494](#).

<sup>8</sup> Directive [2015/652/EU](#).

<sup>9</sup> Directive [98/70/EC](#).

<sup>10</sup> Directive [2015/849/EU](#), [MEMO/17/4767](#).

<sup>11</sup> Directive [2014/92/EU](#).

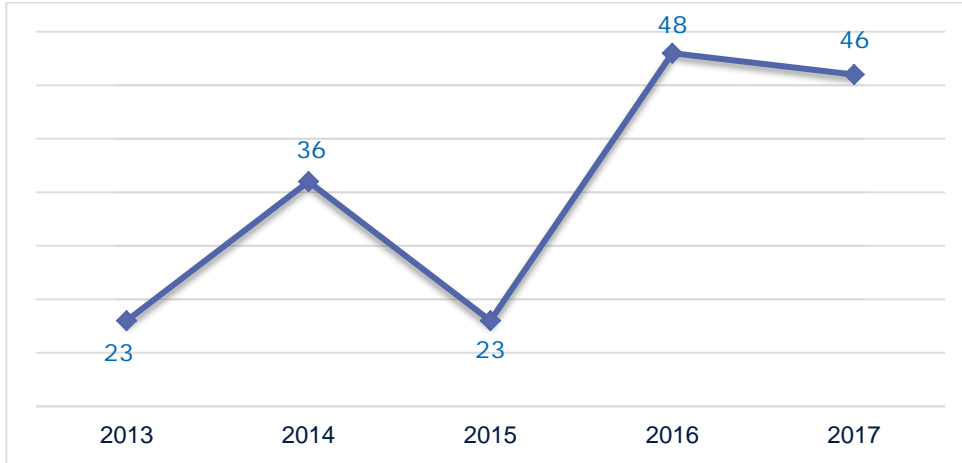
<sup>12</sup> Directive [2014/87/Euratom](#).

<sup>13</sup> Directive [2002/21/EC](#), [MEMO/17/3494](#).

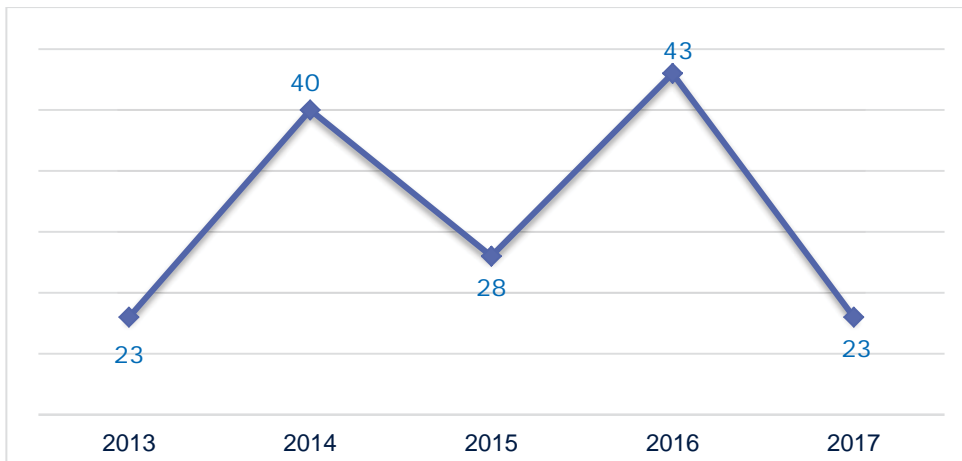
<sup>14</sup> Commission v Belgium, [C-110/17](#).

#### IV. TRANSPOSITION OF DIRECTIVES

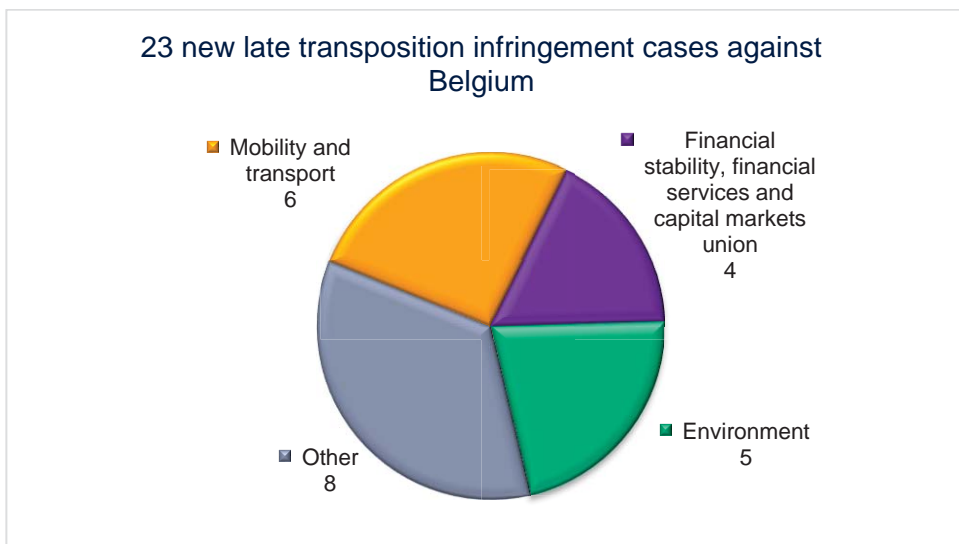
##### 1. Late transposition infringement cases against Belgium open on 31 December (2013-2017)



##### 2. New late transposition infringement cases against Belgium (2013-2017)



##### 3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

- failure to fully implement the Single Permit Directive, which introduces simplified procedures and a common set of rights for non-EU workers<sup>15</sup>;
- non-communication of measures transposing the Broadband Cost Reduction Directive<sup>16</sup>.

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2017

These concerned:

- incorrect application of the Directive on the protection of pigs as regards group housing of sows<sup>17</sup>;
- aligning the national law on police officers with the Working Time Directive<sup>18</sup>;
- non-conform transposition of the Environmental Liability Directive<sup>19</sup>;
- incomplete transposition of the Transparency Directive<sup>20</sup>;
- non-communication of national measures transposing the:
  - Solvency II Directive<sup>21</sup>; Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>22</sup>; Accounting Directive<sup>23</sup>; and Transparency Directive<sup>24</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>25</sup>.
- incorrect application of the Railway Safety Directive<sup>26</sup>.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings

There were no major Court rulings in 2017.

#### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Belgian judiciary.

- The denial of refugee status due to participation in terrorist activities is not confined to the commitment of a terrorist act. An asylum application can be rejected if the asylum-seeker participated in the activities of a terrorist network, for example by providing logistical support to the terrorist group, even without personally committing or instigating terrorist acts<sup>27</sup>.

<sup>15</sup> Directive [2011/98/EU](#), Commission v Belgium, [C-564/17](#), [IP/17/1953](#).

<sup>16</sup> Directive [2014/61/EU](#), Commission v Belgium, [C-543/17](#), [IP/17/1937](#).

<sup>17</sup> Directive [2008/120/EC](#).

<sup>18</sup> Directive [2003/88/EC](#).

<sup>19</sup> Directive [2004/35/CE](#).

<sup>20</sup> Directive [2013/50/EU](#).

<sup>21</sup> Directive [2009/138/EC](#).

<sup>22</sup> Directive [2014/51/EU](#).

<sup>23</sup> Directive [2013/34/EU](#).

<sup>24</sup> Directive [2013/50/EU](#).

<sup>25</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

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

<sup>27</sup> Mostafa Lounani, [C-573/14](#).



- A general and absolute prohibition of any advertising relating to the provision of oral and dental care services and the establishment of certain requirements of discretion regarding signs of dental practices violates the freedom to provide services<sup>28</sup>.
- Member States are not required, under EU law, to grant a humanitarian visa to persons who wish to enter their territory with a view to applying for asylum. They remain free to do so, on the basis of their national law. EU law establishes only the procedures and conditions for issuing visas for transit through or intended stays on the territory of the Member States not exceeding 90 days<sup>29</sup>.
- Belgian rules are contrary to the free movement of workers in requiring resident workers to register their own car in Belgium, if the car is already registered in another Member State and is intended to be used primarily in that other State<sup>30</sup>.
- When determining the competent jurisdiction in relation to employment contracts of members of an airline crew, the Court used a set of indicators to determine the “Member State where the employee habitually carries out his work” and retained that the “home base” amounts to a significant indicator. The Court also underlined that the jurisdiction clauses obliging those aircrew members to bring actions in Ireland were not enforceable against the employees as not meeting the conditions of the Regulation in question<sup>31</sup>.
- Article 56 TFEU and Article 36 EEA preclude the Belgian national legislation that imposes discriminatory conditions for savings deposits in order to benefit from a tax exemption<sup>32</sup>.
- The Parent-Subsidiary Directive<sup>33</sup> precludes the Belgian legislation on the ‘Fairness Tax’. This taxes dividends received from subsidiaries and exempted under the Directive in the hands of the parent company when they are redistributed by that company<sup>34</sup>.

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<sup>28</sup> Luc Vanderborght, [C-339/15](#).

<sup>29</sup> X and X, [C-638/16](#) and Court press release [No 24/17](#).

<sup>30</sup> Criminal proceedings against Mr U, [C-420/15](#).

<sup>31</sup> Moreno Osacar [C-169/16](#), Nogueira and Others [C-168/16](#).

<sup>32</sup> Van der Weegen and Others, [C-580/15](#).

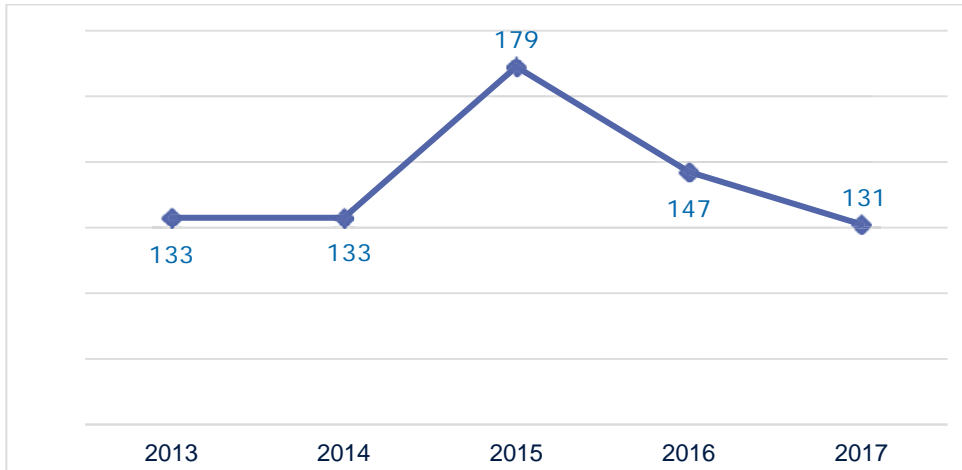
<sup>33</sup> Directive [2011/96/EU](#).

<sup>34</sup> X, [C-68/15](#).

Bulgaria

I. COMPLAINTS

1. New complaints made against Bulgaria by members of the public (2013-2017)



2. Public complaints against Bulgaria open at year-end

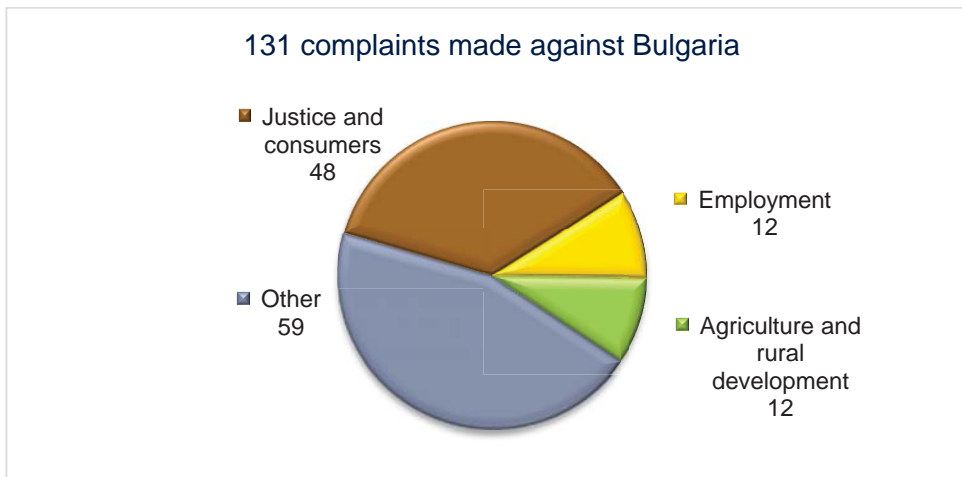
141 > Complaints open at end-2016

131 > New complaints registered in 2017

164 > Complaints handled in 2017

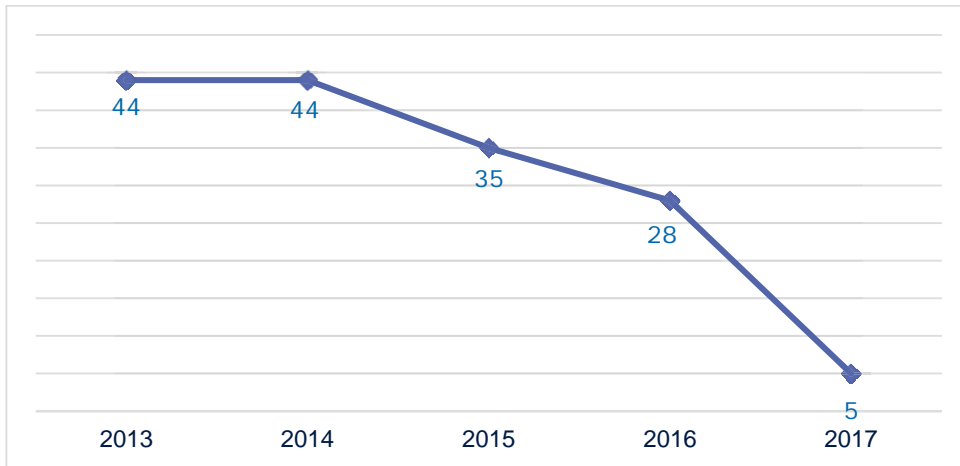
**= 108** > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

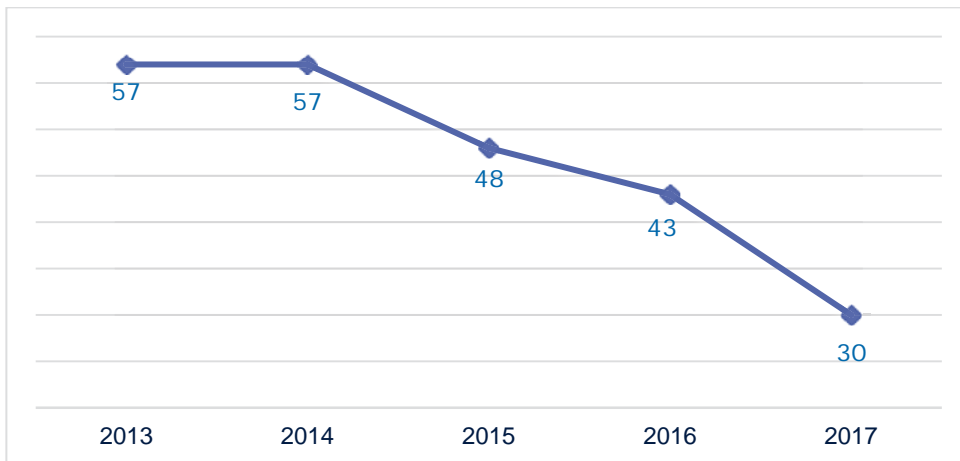


## II. EU PILOT

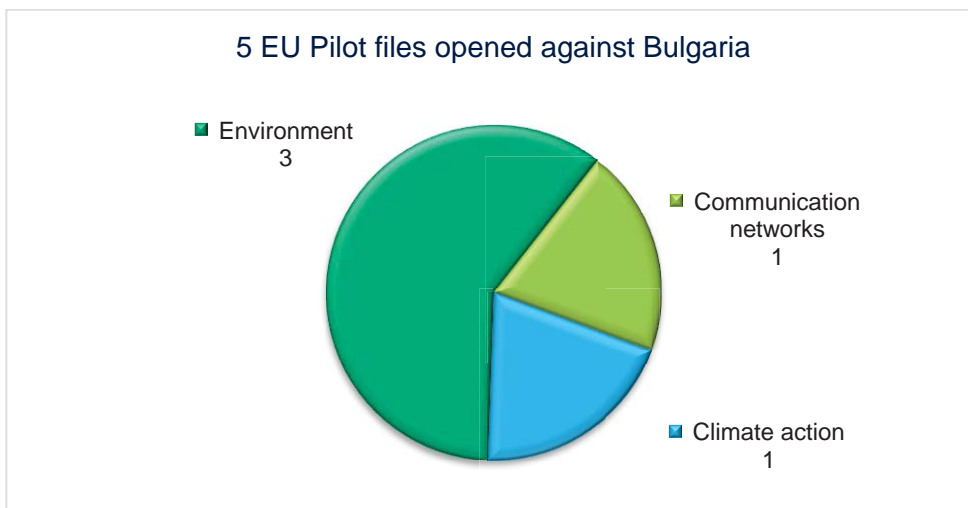
### 1. New EU Pilot files opened against Bulgaria (2013-2017)



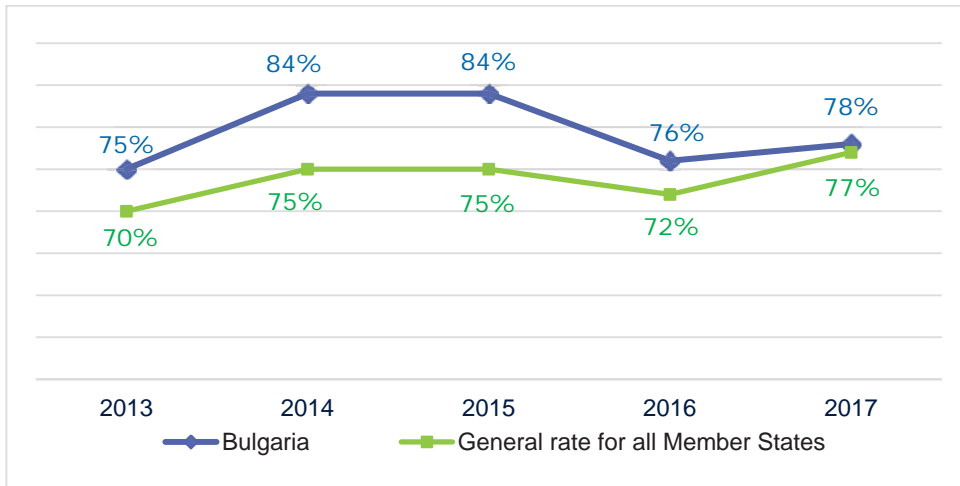
### 2. Files relating to Bulgaria open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

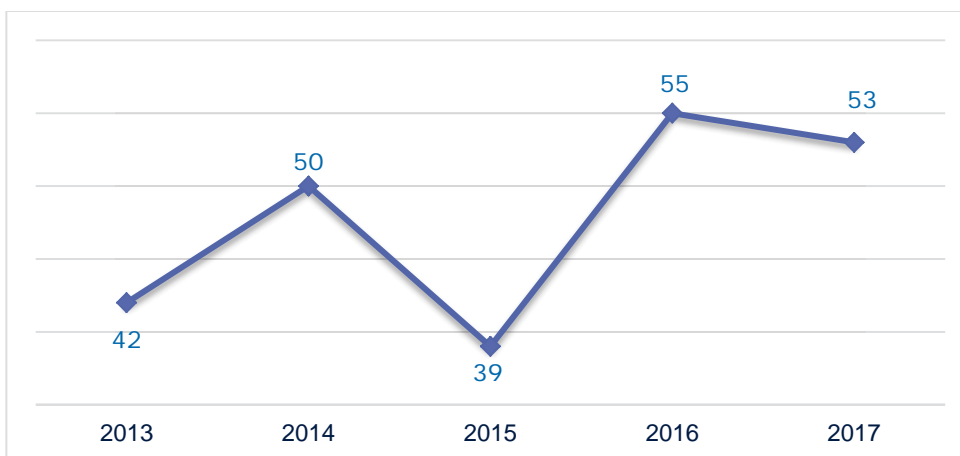


4. EU Pilot files: Bulgaria's resolution rate in 2013-2017

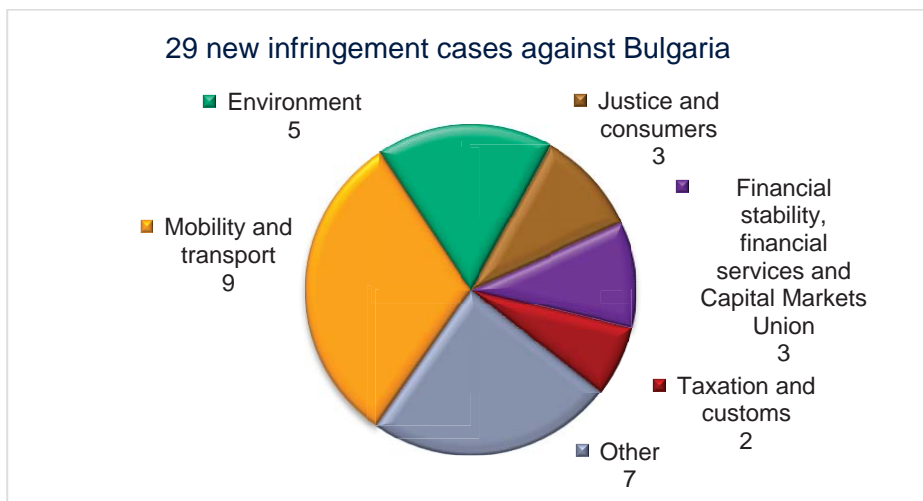


III. INFRINGEMENT CASES

1. Infringement cases against Bulgaria open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

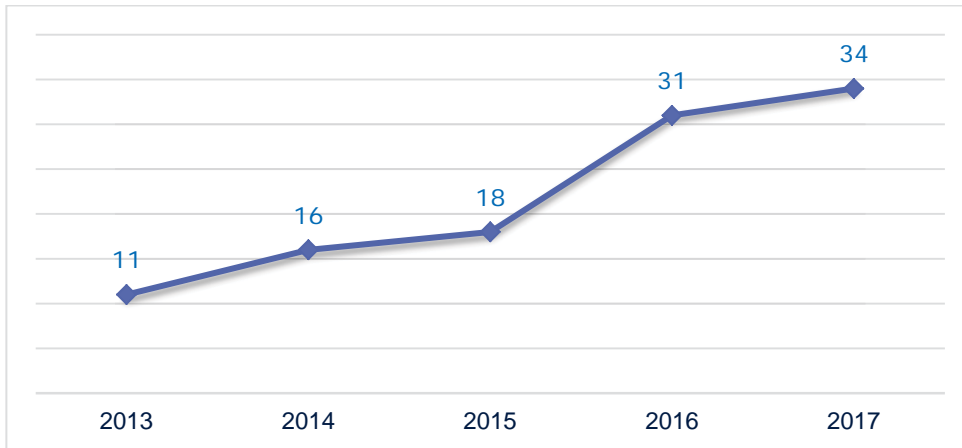
- a) The Commission opened 29 new infringement cases against Bulgaria in 2017. These, and other major ongoing infringement cases, include:
- lack of implementation of certain obligations under EU document security legislation<sup>1</sup>;
  - non-compliance with the Railway Safety Directive by failing to ensure the independence of the investigating body<sup>2</sup>;
  - cash control, proportionality of national fines<sup>3</sup>;
  - non-compliant transposition of the Extractive Waste Directive<sup>4</sup>;
  - failure to ensure that urban waste water is adequately treated<sup>5</sup>;
  - non-communication of national measures transposing the:
    - Fourth Anti-Money Laundering Directive<sup>6</sup>;
    - Maritime Spatial Planning Directive<sup>7</sup>;
    - Directive on caseins and caseinates<sup>8</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>9</sup>;
    - Directive on the organisation of working time in inland waterway transport<sup>10</sup>;
    - Directive laying down calculation methods and reporting requirements<sup>11</sup> pursuant to a Directive relating to the quality of petrol and diesel fuels<sup>12</sup>.
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerned:
- failure to protect unique habitats and important bird species in the Rila Mountains<sup>13</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

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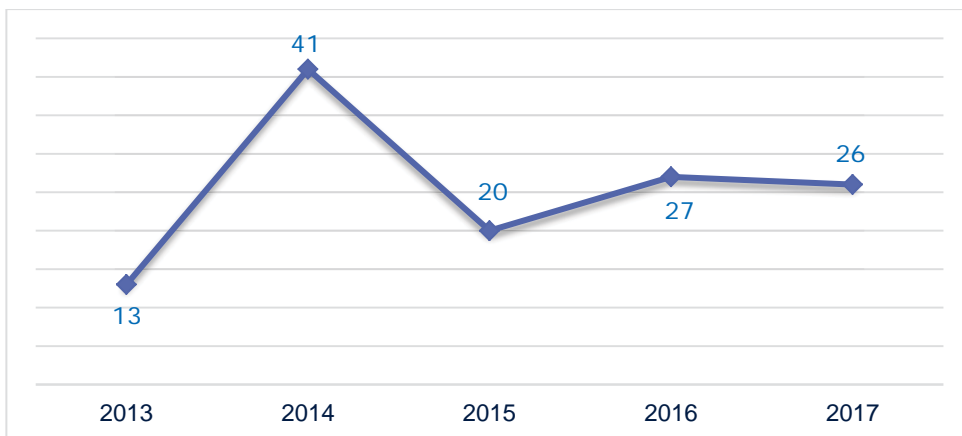
<sup>1</sup> Commission Decisions [C \(2013\) 6181](#) and [C \(2013\) 6178](#).  
<sup>2</sup> Directive [2004/49/EC](#), [MEMO/17/3494](#).  
<sup>3</sup> Regulation (EC) No [1889/2005](#).  
<sup>4</sup> Directive [2006/21/EC](#).  
<sup>5</sup> [MEMO/17/1936](#).  
<sup>6</sup> Directive [2015/849/EU](#), [MEMO/17/4767](#).  
<sup>7</sup> Directive [2014/89/EU](#), [MEMO/17/1935](#).  
<sup>8</sup> Directive [2015/2203/EU](#).  
<sup>9</sup> Directive [2016/1034/EU](#).  
<sup>10</sup> Directive [2014/112/EU](#).  
<sup>11</sup> Directive [2015/652/EU](#).  
<sup>12</sup> Directive [98/70/EC](#).  
<sup>13</sup> Directive [1979/409/EEC](#), Commission v Bulgaria, [C-97/17](#); [IP/16/2491](#).

#### IV. TRANSPOSITION OF DIRECTIVES

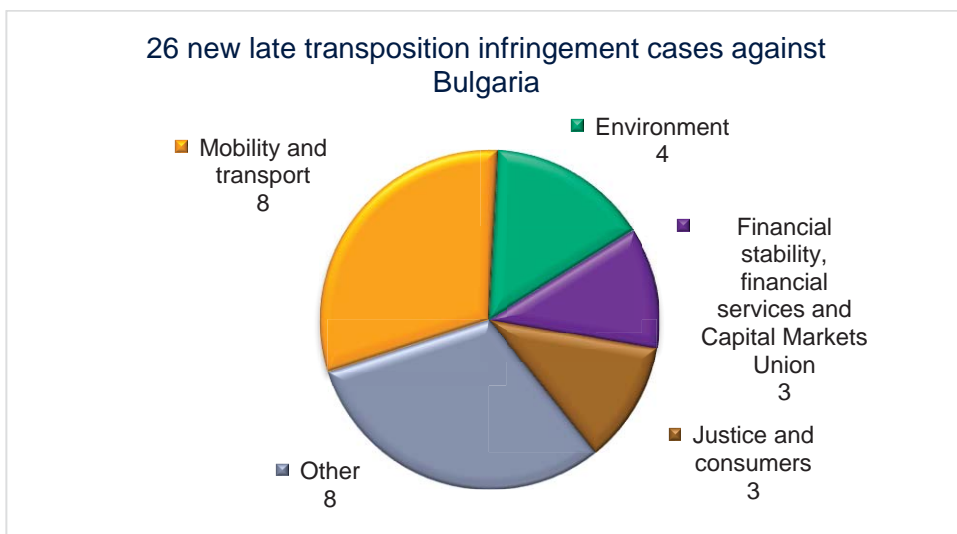
##### 1. Late transposition infringement cases against Bulgaria open on 31 December (2013-2017)



##### 2. New late transposition infringement cases against Bulgaria (2013-2017)



##### 3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2017

These concerned:

- disproportionate fees for issuing residence permits to third-country nationals;
- failure to correctly transpose and ensure the effective application of the Directive on the energy performance of buildings<sup>14</sup>;
- non-conformity with the Audiovisual Media Services Directive<sup>15</sup>;
- failure to make available to the Commission flood hazard and risk maps;
- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>16</sup>;
- groundhandling services at Sofia Airport<sup>17</sup>;
- failure to put in place a procedure for the registration of a European Electronic Toll Service<sup>18</sup>;
- non-communication of national measures transposing the:
  - Directive on recognition of professional qualifications<sup>19</sup>;
  - Directive on caseins and caseinates<sup>20</sup>;
  - Commission Directive<sup>21</sup> amending the Groundwater Directive<sup>22</sup>;
  - Solvency II Directive<sup>23</sup>;
  - Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>24</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>25</sup>;
  - Transparency Directive<sup>26</sup>;
  - Accounting Directive<sup>27</sup>;
  - Directive on driving licences<sup>28</sup>.

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<sup>14</sup> Directive [2010/31/EU](#).

<sup>15</sup> Directive [2007/65/EC](#) amending Directive [89/552/EEC](#).

<sup>16</sup> Directive [2014/94/EU](#).

<sup>17</sup> Directive [96/67/EC](#).

<sup>18</sup> Commission Decision [2009/750/EC](#).

<sup>19</sup> Directive [2005/36/EC](#).

<sup>20</sup> Directive [2015/2203/EU](#).

<sup>21</sup> Directive [2014/80/EU](#).

<sup>22</sup> Directive [2006/118/EC](#).

<sup>23</sup> Directive [2009/138/EC](#).

<sup>24</sup> Directive [2014/51/EU](#).

<sup>25</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

<sup>26</sup> Directive [2013/50/EU](#).

<sup>27</sup> Directive [2013/34/EU](#).

<sup>28</sup> Directive [2006/126/EC](#).

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>29</sup>

The Court ruled that:

- Bulgaria has failed to comply with the Air Quality Directive by exceeding the daily and/or annual limit values for PM<sub>10</sub><sup>30</sup> concentrations systematically and continuously in certain zones and agglomerations, and by not keeping the exceedance period as short as possible<sup>31</sup>.

### 2. Preliminary rulings

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

- the Third Energy Package does not preclude national legislation limiting the number of holders of electricity transmission licences for a particular territory<sup>32</sup>.

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<sup>29</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>30</sup> PM<sub>10</sub> is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometres. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: European Environment Agency).

<sup>31</sup> Directive [2008/50/EC](#), Commission v Bulgaria, [C-488/15](#).

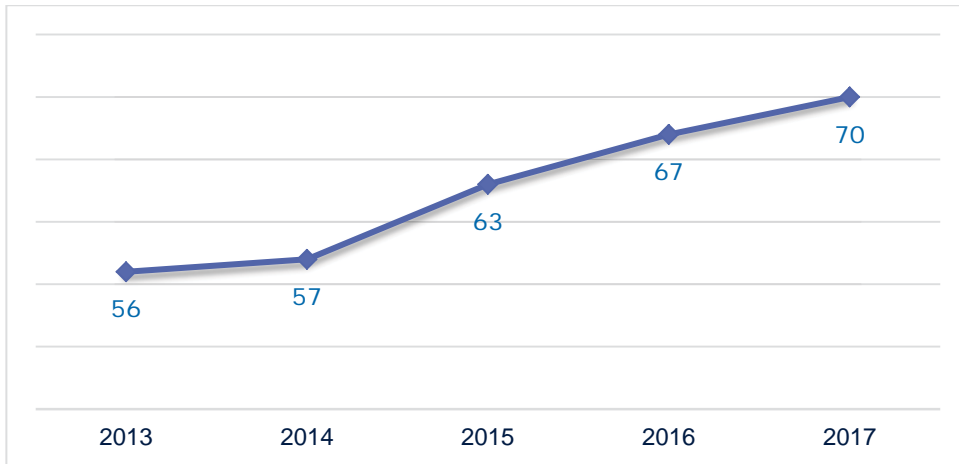
<sup>32</sup> Balgarska energiyna borsa AD (BEB), [C-347/16](#).



Czech Republic

I. COMPLAINTS

1. New complaints made against the Czech Republic by members of the public (2013-2017)



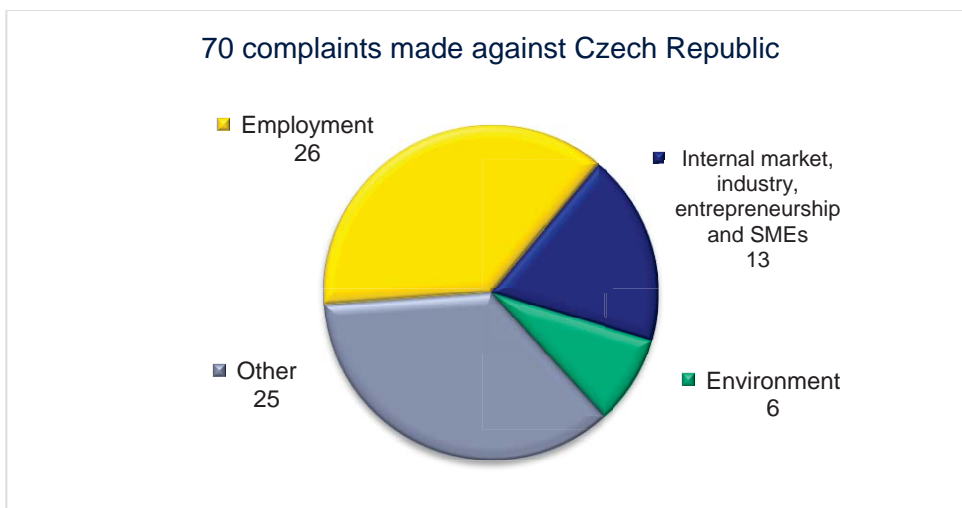
2. Public complaints against the Czech Republic open at year-end

68 > Complaints open at end-2016  
 70 > New complaints registered in 2017  
 53 > Complaints handled in 2017  


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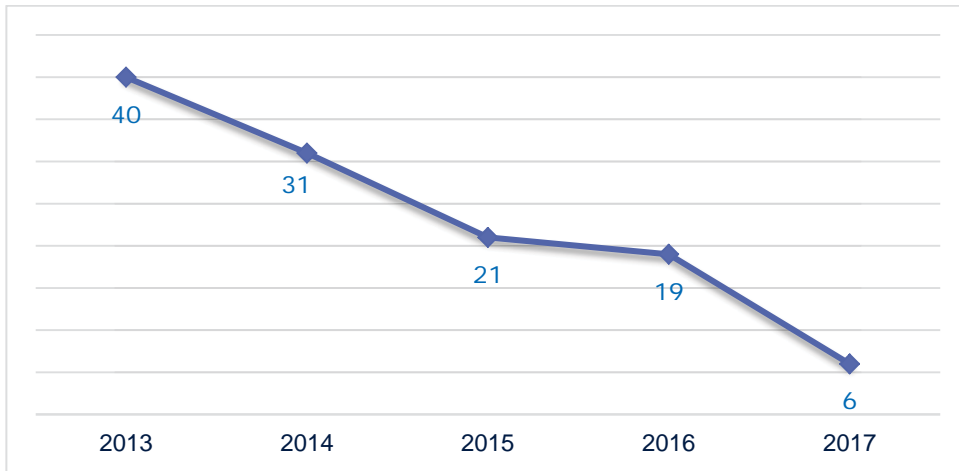
 = 85 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

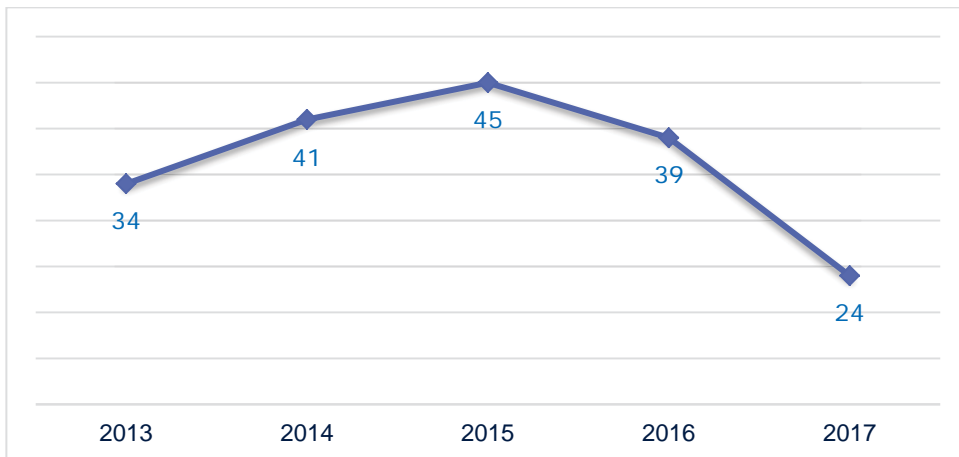


## II. EU PILOT

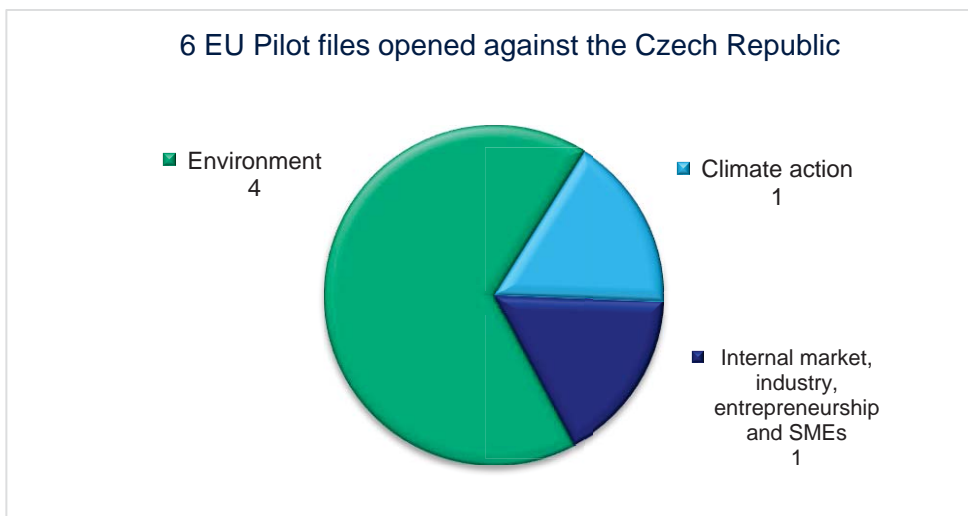
### 1. New EU Pilot files opened against the Czech Republic (2013-2017)



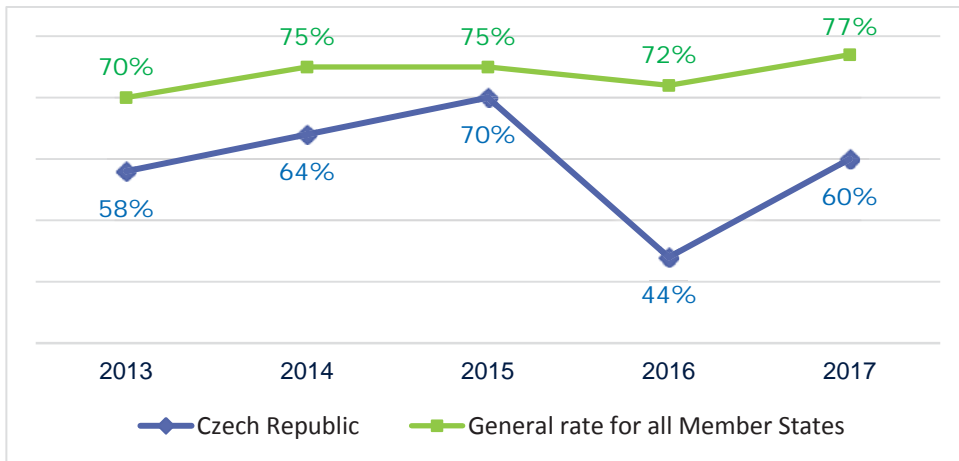
### 2. Files relating to the Czech Republic open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

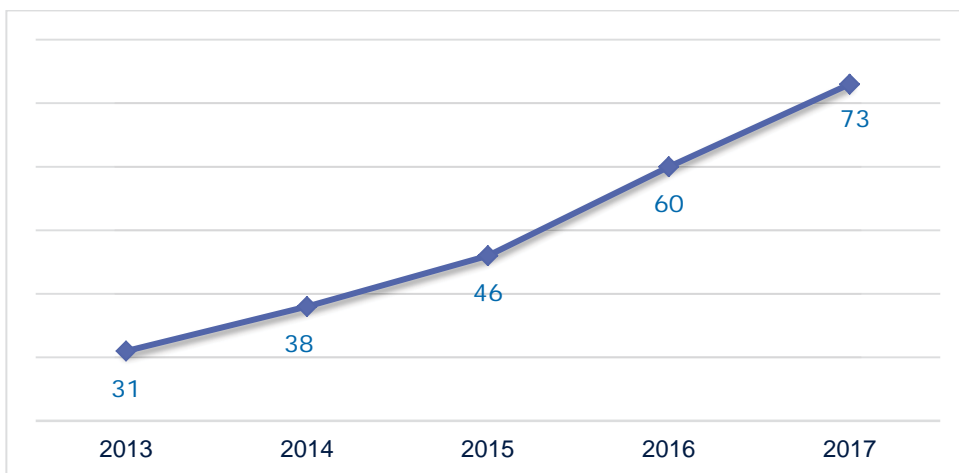


4. EU Pilot files: Czech Republic's resolution rate in 2013-2017

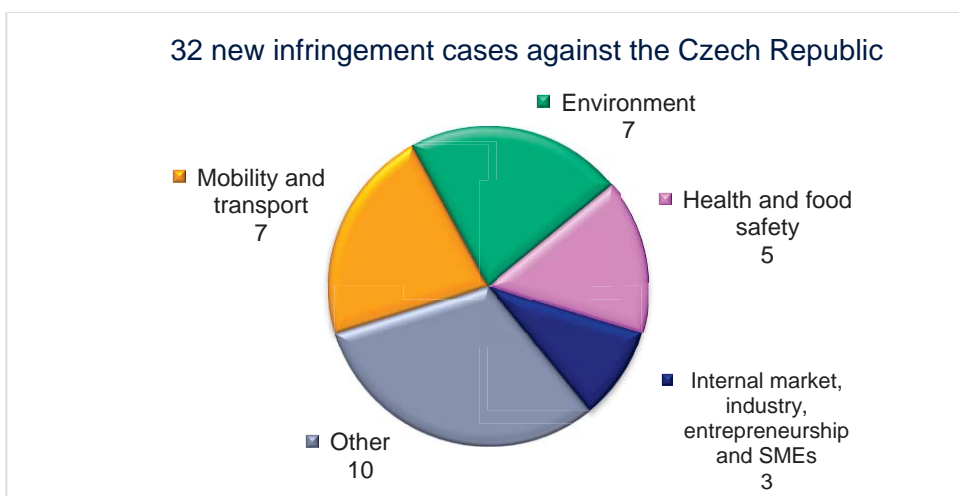


III. INFRINGEMENT CASES

1. Infringement cases against the Czech Republic open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 32 new infringement cases against the Czech Republic in 2017. These, and other major ongoing infringement cases, include:
- non-compliance with the obligations under the 2015 Council Decisions on relocation of migrants from Greece and Italy<sup>1</sup>;
  - incorrect transposition and application of the Energy Performance of Buildings Directive<sup>2</sup>;
  - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives)<sup>3</sup>;
  - non-compliance with the Directive on the interoperability of the rail system<sup>4</sup>;
  - non-communication of national measures transposing the:
    - Directives on the registration of suppliers and of varieties and the common list of varieties, on requirements for the labelling, sealing and packaging of fruit plant propagating material and on the specific requirements for the genus and species of fruit plants<sup>5</sup>;
    - Directive<sup>6</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>7</sup>;
    - Directive on the organisation of working time in inland waterway transport<sup>8</sup>;
  - failure to adopt a national programme for spent fuel and radioactive waste management compliant with the requirement of the Radioactive Waste Directive<sup>9</sup>;
  - failure to establish strategic noise maps and action plans required by the Noise Directive<sup>10</sup>.
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- non-compliance with the obligations under the 2015 Council Decisions on relocation of migrants from Greece and Italy<sup>11</sup>;
  - illegal shipment of hazardous waste to Poland<sup>12</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Council Decisions [\(EU\) 2015/1523](#) and [2015/1601](#); [IP/17/5002](#).

<sup>2</sup> Directive [2010/31/EU](#).

<sup>3</sup> Directive [2009/72/EC](#) and Directive [2009/73/EC](#), [MEMO/17/4767](#).

<sup>4</sup> Directive [2008/57/EC](#).

<sup>5</sup> Directives [2014/96/EU](#), [2014/97/EU](#) and Directive [2014/98/EU](#).

<sup>6</sup> Directive [2015/652/EU](#).

<sup>7</sup> Directive [98/70/EC](#).

<sup>8</sup> Directive [2014/112/EU](#).

<sup>9</sup> Directive [2011/70/Euratom](#), [MEMO/17/1935](#).

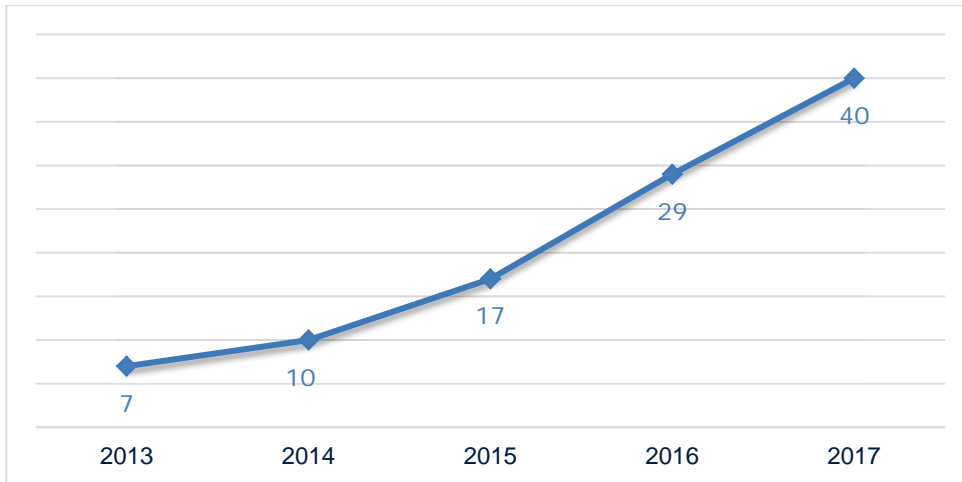
<sup>10</sup> Directive [2002/49/EC](#); [MEMO/17/1577](#).

<sup>11</sup> Council Decisions [\(EU\) 2015/1523](#) and [2015/1601](#), Commission v. Czech Republic, [C-719/17](#), [IP/17/5002](#).

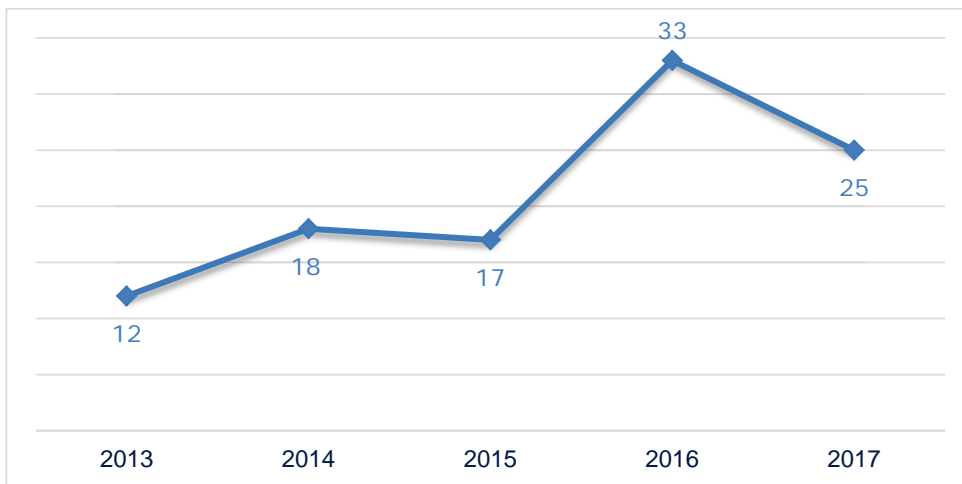
<sup>12</sup> Regulation [\(EC\) No 1013/2006](#), Commission v Czech Republic, [C-399/17](#); [IP/16/2492](#).

#### IV. TRANSPOSITION OF DIRECTIVES

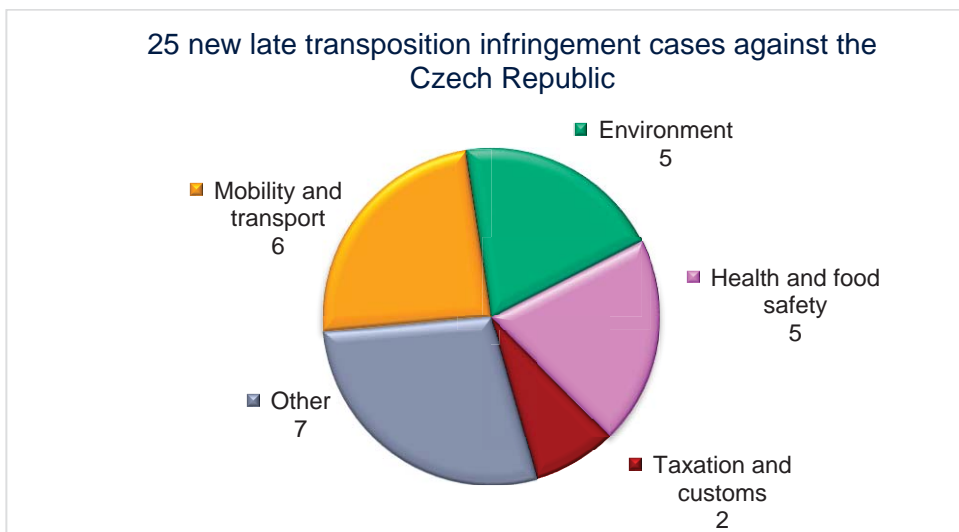
1. Late transposition infringement cases against the Czech Republic open on 31 December (2013-2017)



2. New late transposition infringement cases against the Czech Republic (2013-2017)



### 3. New late transposition infringement cases opened in 2017: policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- placing on the market of certain plant protection products that were not authorised under EU legislation<sup>13</sup>;
- non-communication of national measures transposing the:
  - Commission Directive<sup>14</sup> amending the Groundwater Directive<sup>15</sup>;
  - Transparency Directive<sup>16</sup>;
  - Accounting Directive<sup>17</sup>.
- bad application of the Directive on driving licences<sup>18</sup>.

<sup>13</sup> Regulation [\(EC\) No 1107/2009](#).

<sup>14</sup> Directive [2014/80/EU](#).

<sup>15</sup> Directive [2006/118/EC](#).

<sup>16</sup> Directive [2013/50/EU](#).

<sup>17</sup> Directive [2013/34/EU](#).

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

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2017.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Czech judiciary.

- A Member State may not detain an applicant for international protection for the purpose of securing a procedure for transferring her to another Member State if the objective criteria for assessing the risk of absconding are not defined in its legislation (even if those criteria are apparent from the case-law or the administrative practice of that Member State)<sup>19</sup>.
- A collision between an aircraft and a bird is an extraordinary circumstance exempting the carrier from the obligation to pay compensation in the event of significant delay. That delay cannot be justified by the alleged need to carry out a second check where an authorised expert found that the aircraft was airworthy after the collision<sup>20</sup>.

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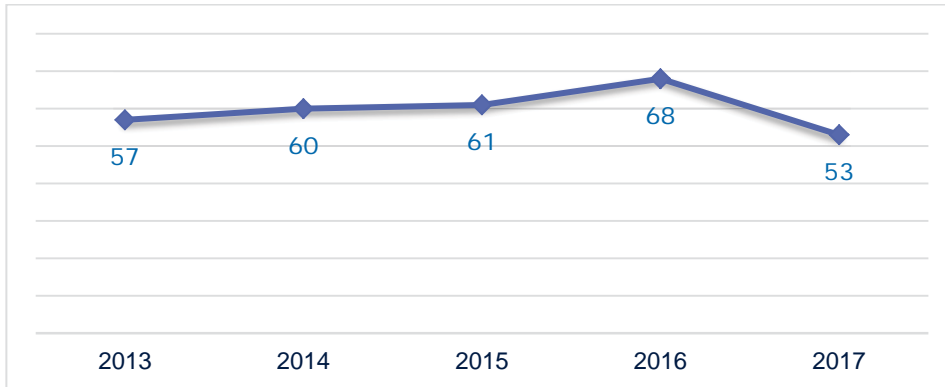
<sup>19</sup> Al Chodor and Others, [C-528/15](#).

<sup>20</sup> Pešková and Peška, [C-315/15](#).

Denmark

I. COMPLAINTS

1. New complaints made against Denmark by members of the public (2013-2017)



2. Public complaints against Denmark open at year-end

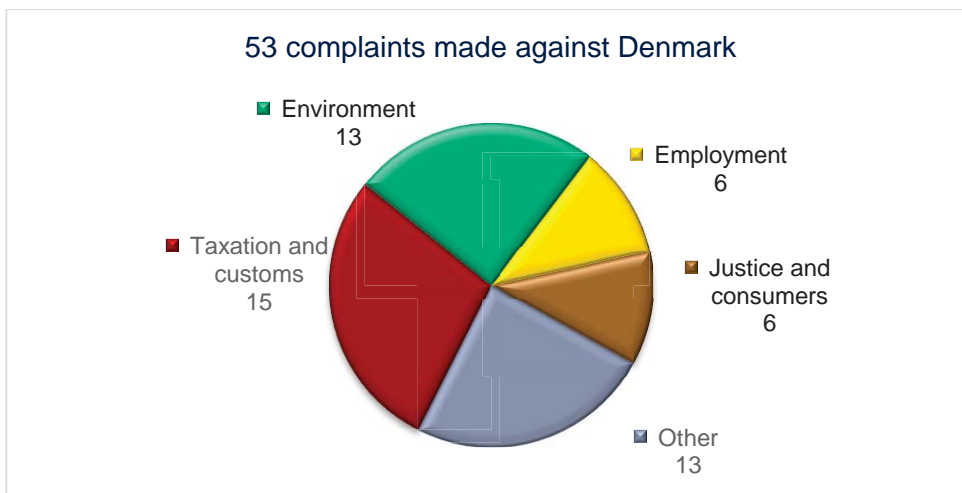
46 > Complaints open at end-2016

53 > New complaints registered in 2017

48 > Complaints handled in 2017

**= 51** > Complaints open at end-2017

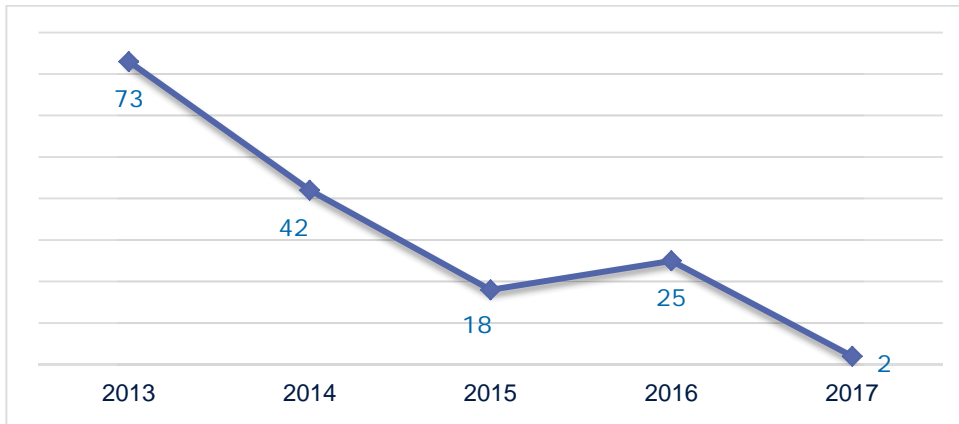
3. New complaints registered in 2017: main policy areas



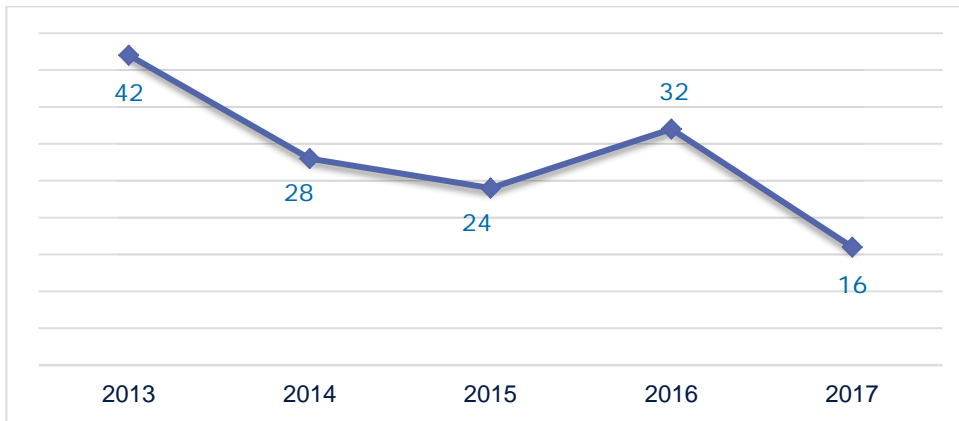


## II. EU PILOT

### 1. New EU Pilot files opened against Denmark (2013-2017)



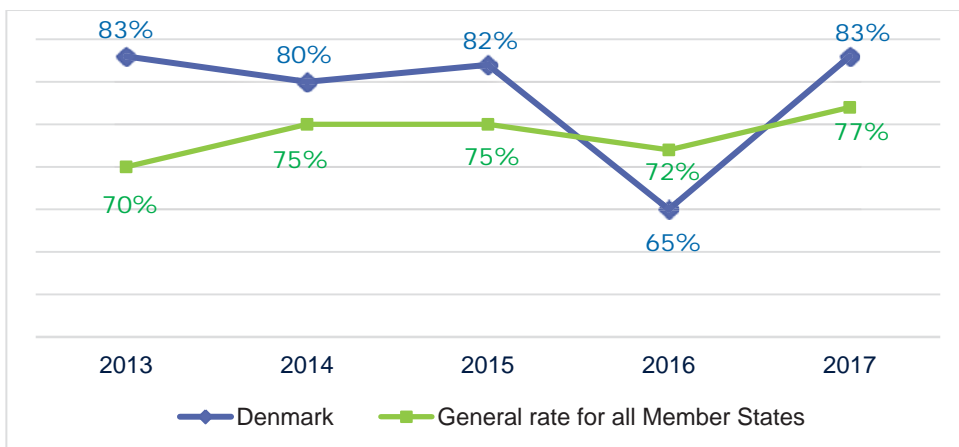
### 2. Files relating to Denmark open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

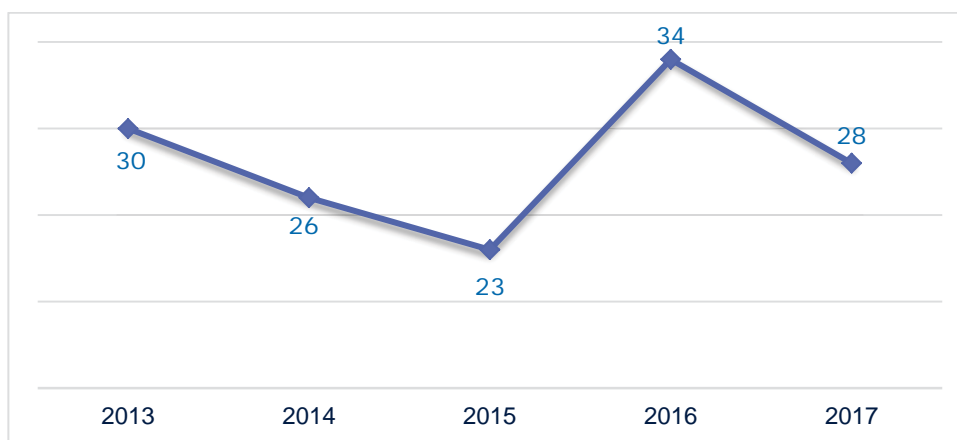
In 2017, the Commission opened 2 EU Pilot files against Denmark. Both files were opened in the area of environment.

### 4. EU Pilot files: Denmark's resolution rate in 2013-2017

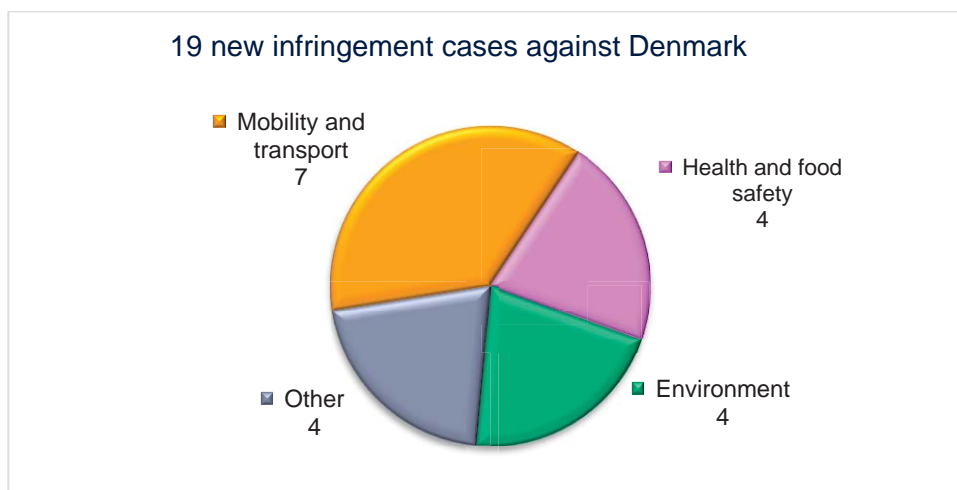


### III. INFRINGEMENT CASES

#### 1. Infringement cases against Denmark open on 31 December (2013-2017)



#### 2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 19 new infringement cases against Denmark in 2017. These, and other major ongoing infringement cases, include:
- failure to comply with reporting obligations under EU waste legislation<sup>1</sup>;
  - incorrect transposition and implementation of the Third Energy Package Directives (Electricity Directive<sup>2</sup> and Gas Directive<sup>3</sup>);
  - failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>4</sup>;
  - non-conformity of the Danish regime applicable to combined transport operations<sup>5</sup>;

<sup>1</sup> [MEMO/17/1281](#).

<sup>2</sup> Directive [2009/72/EC](#), [MEMO/17/4767](#).

<sup>3</sup> Directive [2009/73/EC](#), [MEMO/17/4767](#).

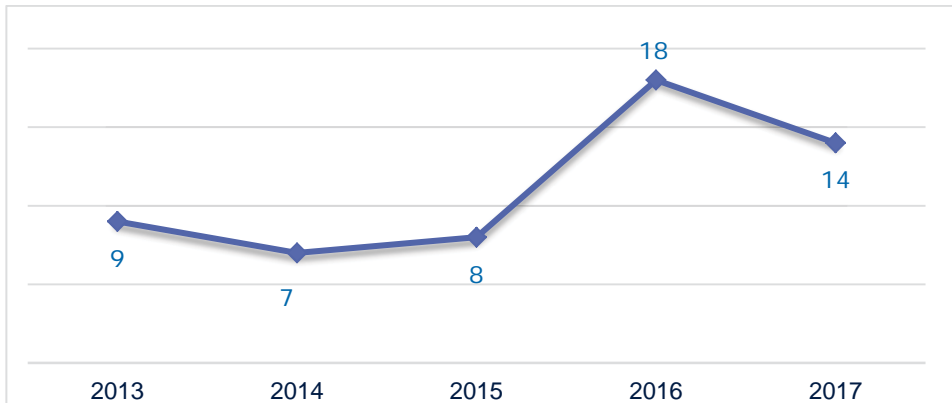
<sup>4</sup> Directive [2008/56/EC](#).

<sup>5</sup> Directive [92/106/EEC](#).

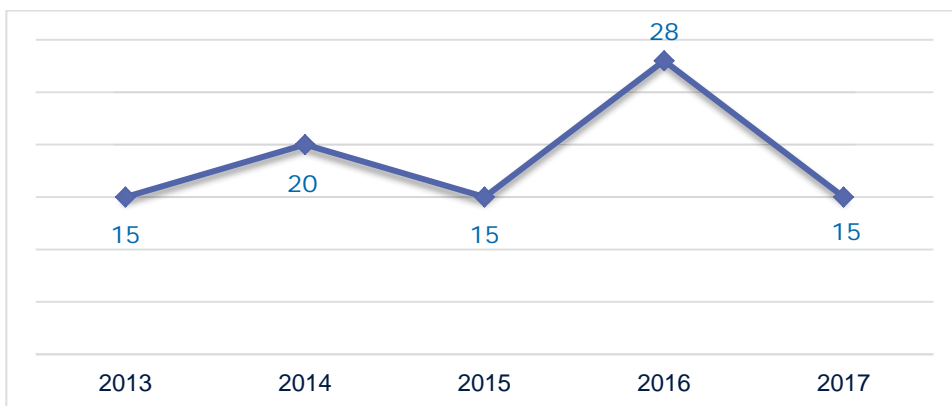
- non-communication of national measures transposing the amending Nuclear Safety Directive<sup>6</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Denmark open on 31 December (2013-2017)

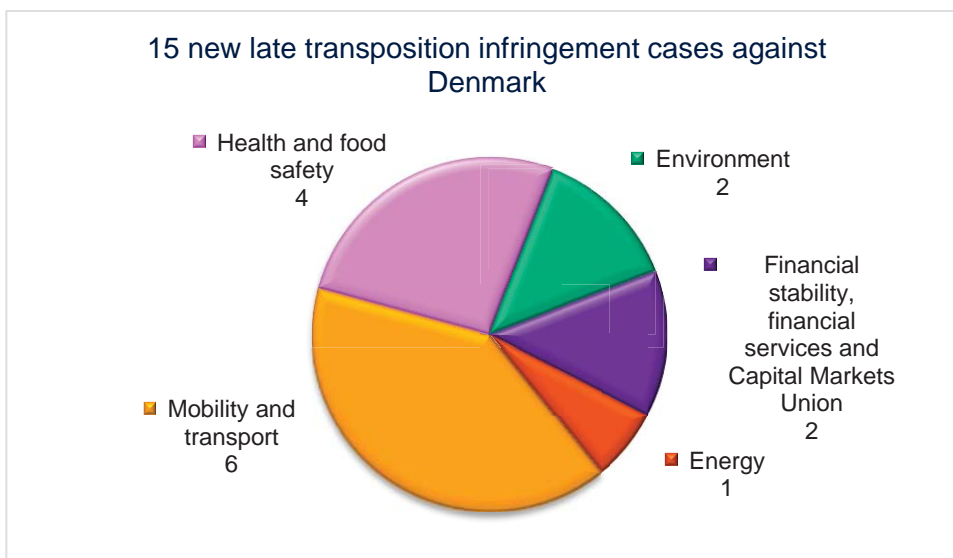


2. New late transposition infringement cases against Denmark (2013-2017)



<sup>6</sup> Directive [2014/87/Euratom](#).

### 3. New late transposition infringement cases opened in 2017: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- incorrect implementation of the EU Customs Code by not requiring certain data for a customs declaration<sup>7</sup>;
- non-communication of national measures transposing the:
  - Commission Directive<sup>8</sup> amending the Groundwater Directive<sup>9</sup>;
  - Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms; Banking Recovery and Resolution Directive; and Transparency Directive;<sup>10</sup>
  - Directive on placing on the market of explosives for civil uses<sup>11</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>12</sup>.
- failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>13</sup>;
- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>14</sup>;
- incorrect transposition of Driving Licences Directive<sup>15</sup>.

<sup>7</sup> Regulation (EC) No 2286/2003.

<sup>8</sup> Directive 2014/80/EU.

<sup>9</sup> Directive 2006/118/EC.

<sup>10</sup> Directives 2013/36/EU, 2014/59/EU and 2013/50/EU.

<sup>11</sup> Directive 2014/28/EU.

<sup>12</sup> Directive 2015/2087/EU amending Directive 2000/59/EC.

<sup>13</sup> Directive 2008/56/EC.

<sup>14</sup> Directive 2014/94/EU.

<sup>15</sup> Directive 2006/126/EC.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2017.

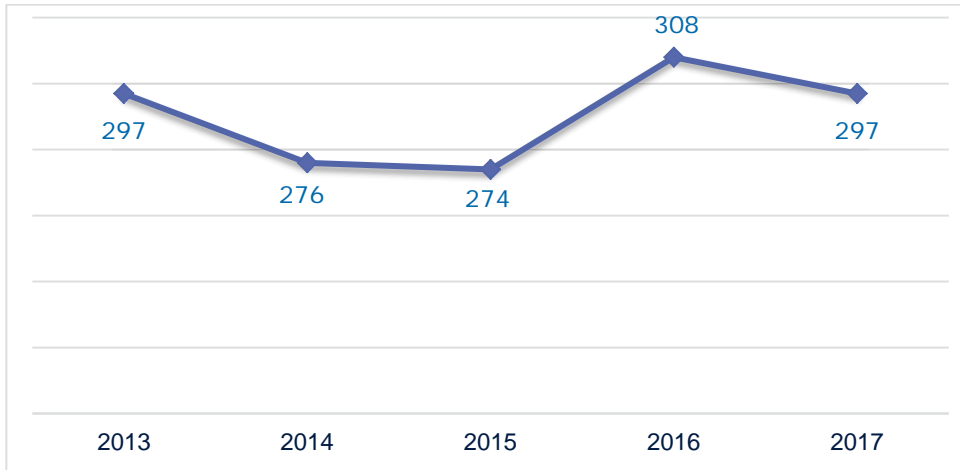
### 2. Preliminary rulings

No major preliminary rulings were addressed to the Danish judiciary in 2017.

Germany

I. COMPLAINTS

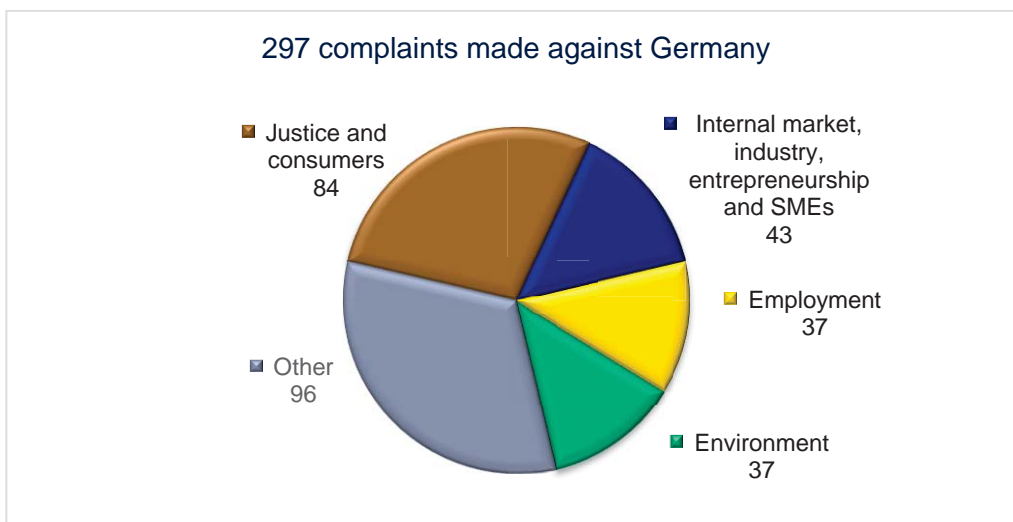
1. New complaints made against Germany by members of the public (2013-2017)



2. Public complaints against Germany open at year-end

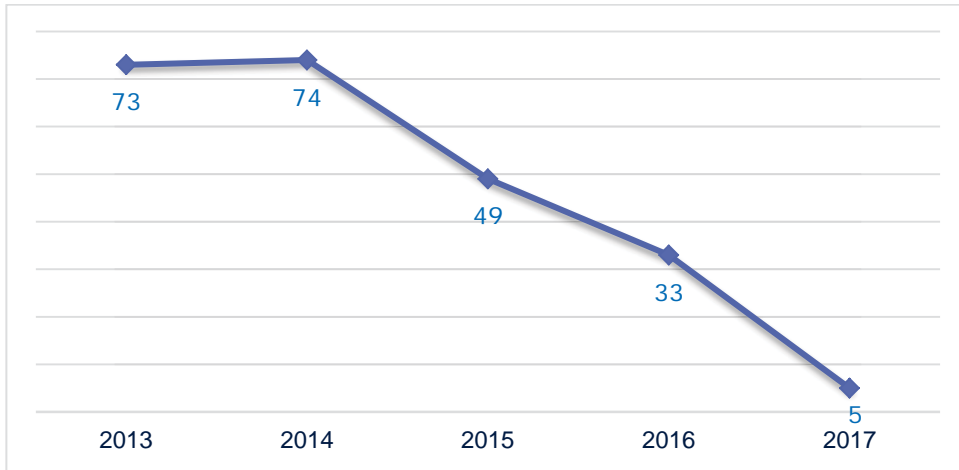
254	>	Complaints open at end-2016
297	>	New complaints registered in 2017
252	>	Complaints handled in 2017
<b>= 299</b>	>	<b>Complaints open at end-2017</b>

3. New complaints registered in 2017: main policy areas

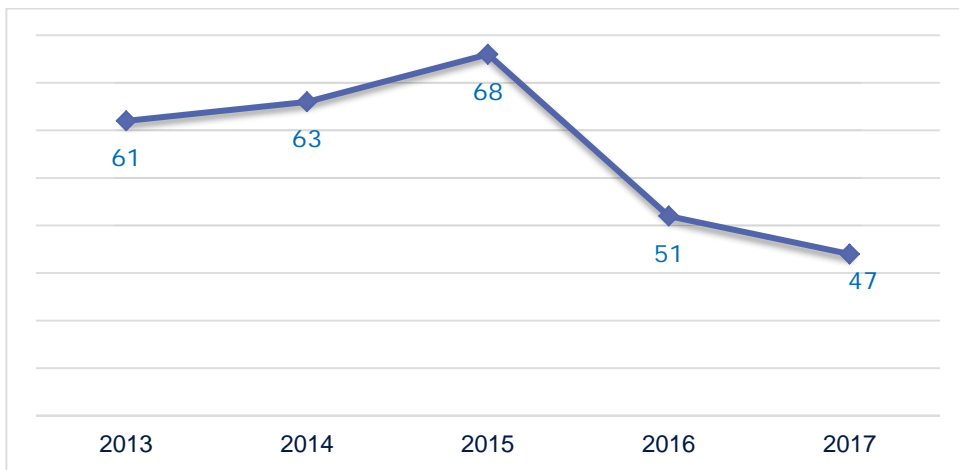


## II. EU PILOT

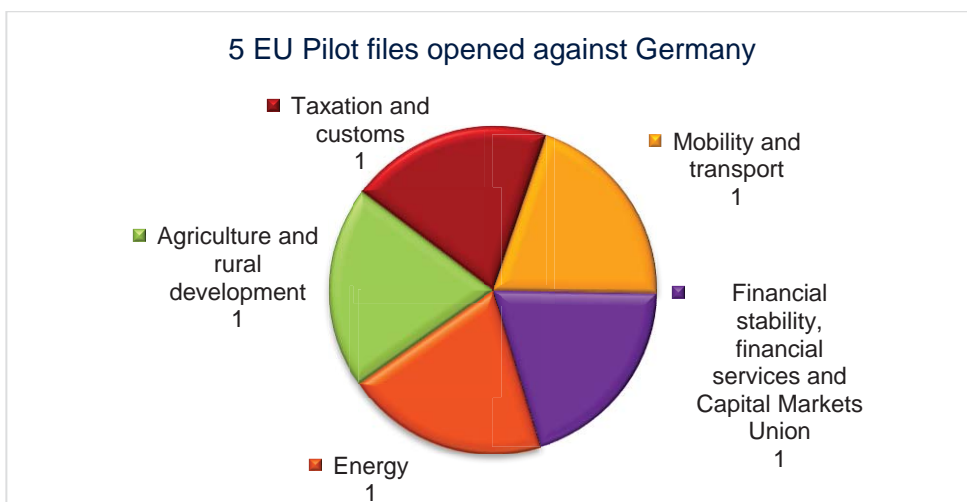
### 1. New EU Pilot files opened against Germany (2013-2017)



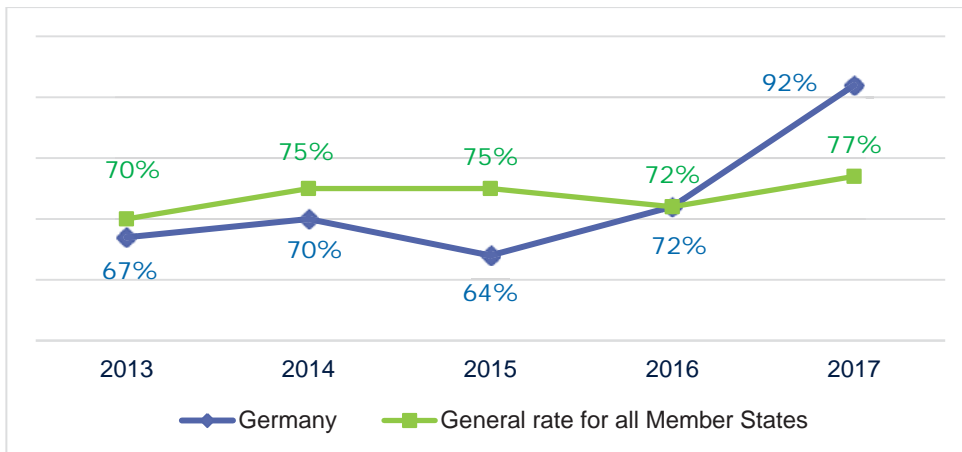
### 2. Files relating to Germany open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

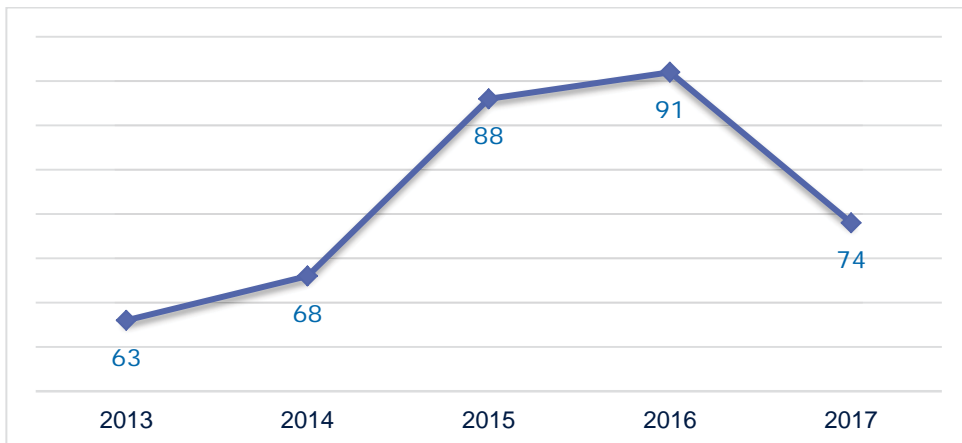


4. EU Pilot files: Germany's resolution rate in 2013-2017

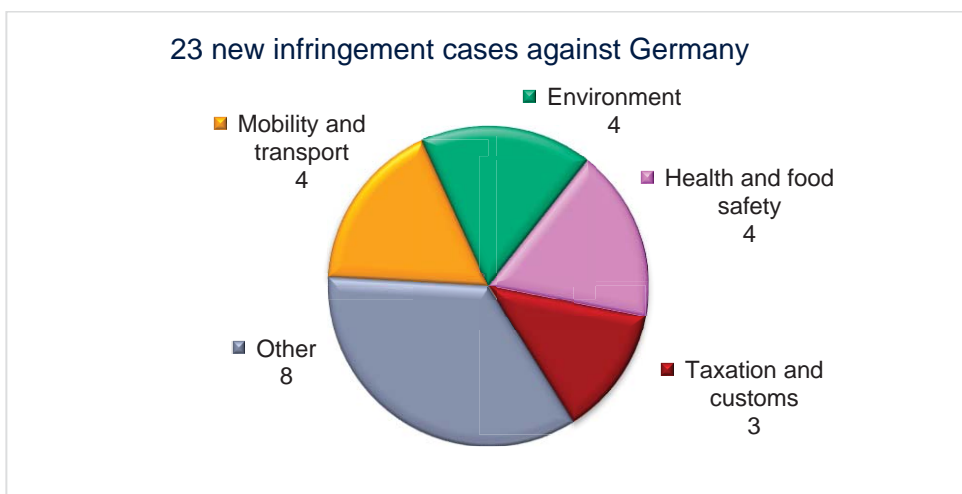


III. INFRINGEMENT CASES

1. Infringement cases against Germany open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas





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

- a) The Commission opened 23 new infringement cases against Germany in 2017. These, and other major ongoing infringement cases, include:
- failure to comply with reporting obligations under EU waste legislation<sup>1</sup>;
  - failure to comply with the NO<sub>2</sub> limit values set by the Air Quality Directive<sup>2</sup>;
  - failure to establish action plans required by the Noise Directive<sup>3</sup>;
  - reluctance by the tax administration to inform VAT refund applicants in certain cases, which may result in EU businesses losing those refund rights;
  - non-compliance with the Directive on the interoperability of the rail system<sup>4</sup>;
  - incorrect transposition of the Railway Safety Directive<sup>5</sup>;
  - non-communication of national measures transposing the:
    - Directive laying down calculation methods and reporting requirements<sup>6</sup> pursuant to a Directive relating to the quality of petrol and diesel fuels<sup>7</sup>;
    - Directive on the organisation of working time in inland waterway transport<sup>8</sup>;
    - Directives on the registration of suppliers and of varieties and the common list of varieties, on requirements for the labelling, sealing and packaging of fruit plant propagating material and on the specific requirements for the genus and species of fruit plants<sup>9</sup>.
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- authorisation of a car manufacturer to place vehicles on the EU market using a banned greenhouse gas in their air-conditioning systems<sup>10</sup>;
  - imposition of excessive and unjustified obstacles to the provision of services across the internal market<sup>11</sup>;
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

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<sup>1</sup> [MEMO/17/1577](#).

<sup>2</sup> Directive [2008/50/EC](#), [IP/17/238](#).

<sup>3</sup> Directive [2002/49/EC](#), [MEMO/17/3494](#).

<sup>4</sup> Directive [2008/57/EC](#), [MEMO/17/1045](#).

<sup>5</sup> Directive [2004/49/EC](#).

<sup>6</sup> Directive [2015/652/EU](#).

<sup>7</sup> Directive [98/70/EC](#).

<sup>8</sup> Directive [2014/112/EU](#).

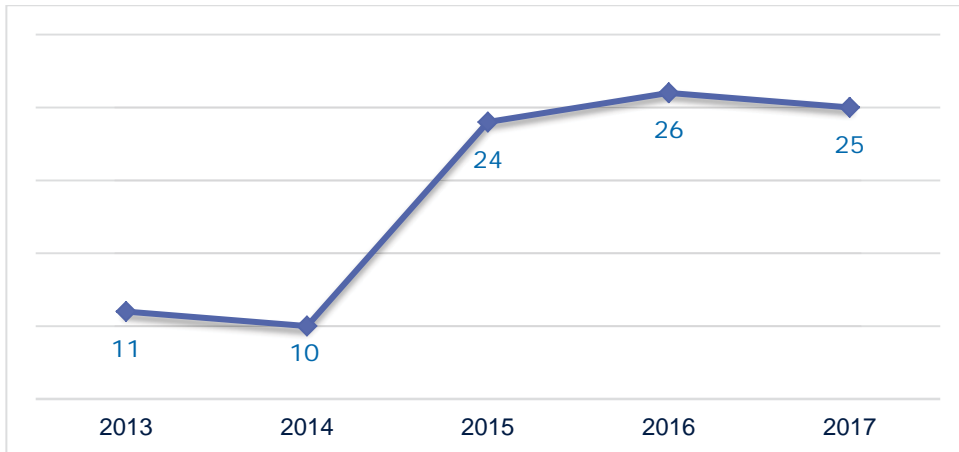
<sup>9</sup> Directives [2014/96/EU](#), [2014/97/EU](#) and [2014/98/EU](#).

<sup>10</sup> Directive [2006/40/EC](#), Commission v Germany, [C-668/2016](#), [IP/15/6290](#).

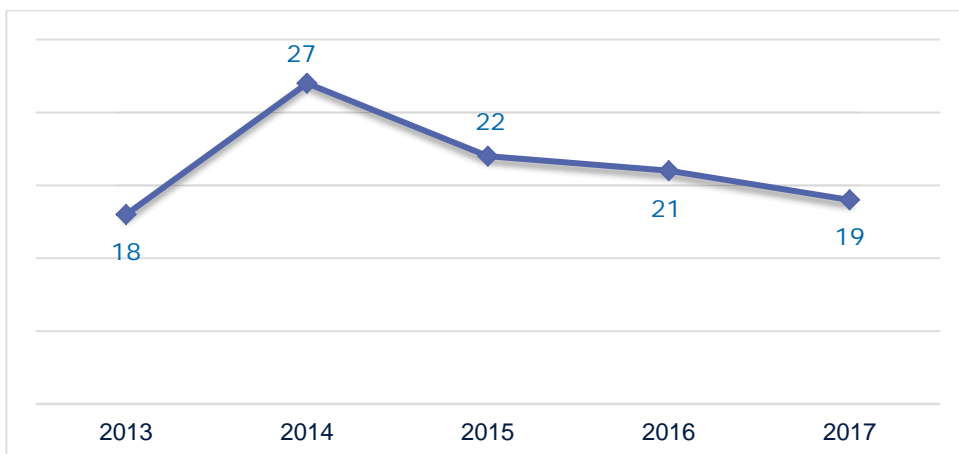
<sup>11</sup> Directive [2006/123/EC](#), Commission v Germany, [C-377/2017](#), [IP/16/3646](#), [MEMO/16/3644](#).

#### IV. TRANSPOSITION OF DIRECTIVES

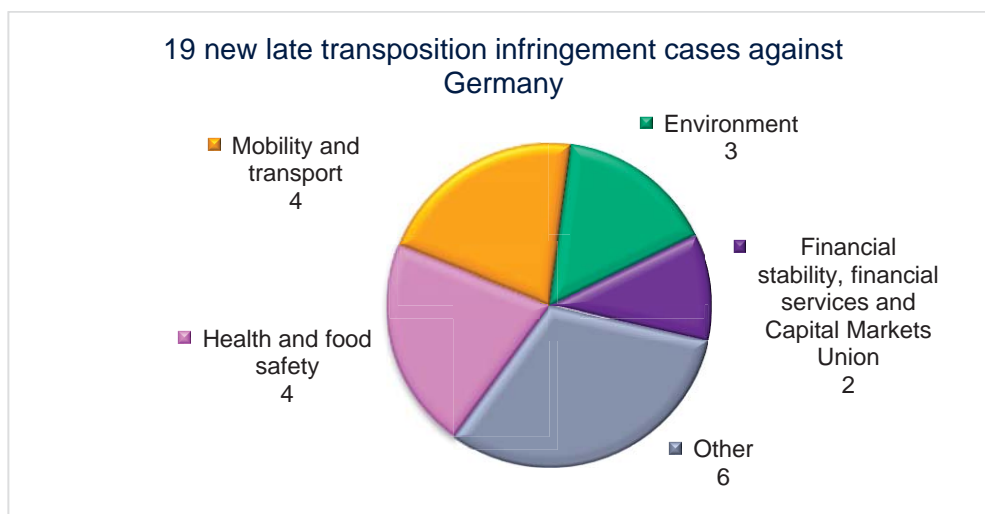
1. Late transposition infringement cases against Germany open on 31 December (2013-2017)



2. New late transposition infringement cases against Germany (2013-2017)



### 3. New late transposition infringement cases opened in 2017: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned the following.

- Incorrect transposition into national law of the Directive on unfair commercial practices<sup>12</sup>.
- Non-implementation of Regulations in the area of aviation safety (lack of appropriate recourses)<sup>13</sup>.
- Non-compliance with the Schengen Borders Code<sup>14</sup>.
- Incorrect transposition of the Waste Framework Directive<sup>15</sup>.
- Breach of EU law by German legislation on a user charge for passenger cars ('PKW-Maut').
- Non-ratification and non-deposition of ratification instruments of the Revised Convention and the Protocol of Accession of the EC to the Eurocontrol International Convention.
- Lack of resources to conduct duties attributed to Civil Aviation Competent Authority<sup>16</sup>.
- Lack of definition of 'normal residence' for the purpose of temporary car import from another Member State; refusal to exempt from motor vehicle tax the cars of people who return to their non-German place of normal residence every weekend but during the working week commute between their temporary residence and working place, both in Germany.
- The special maintenance allowance under inheritance law. This was extended to non-German surviving spouses (registered partners) upon inheriting a German estate or investment when neither the deceased nor the heir are tax-resident in Germany<sup>17</sup>.

<sup>12</sup> Directive [2005/29/EC](#).

<sup>13</sup> Regulation (EU) [748/2012](#) and Regulation [1321/2014](#).

<sup>14</sup> Regulation (EU) [2016/399](#).

<sup>15</sup> Directive [2008/98/EC](#).

<sup>16</sup> Commission Regulations [748/2012](#), [1321/2014](#) and [1178/2011](#).

<sup>17</sup> [MEMO/17/3494](#).

- non-communication of measures transposing the:
  - Directive on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles<sup>18</sup>;
  - Directive on trafficking in human beings<sup>19</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>20</sup>;
  - Directive on disclosure of non-financial and diversity information by certain large undertakings<sup>21</sup>.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>22</sup>

The Court gave the following rulings.

- Germany failed to fulfil its obligations under the Habitats Directive by authorising the construction of a coal-fired power plant in Moorburg, near Hamburg, without conducting an appropriate and comprehensive assessment of its implications<sup>23</sup>.
- Germany failed to fulfil its port security obligations in relation to port boundaries, port security assessments and port security officers<sup>24</sup>.
- As the VAT Directive exempts from VAT all services provided by cost-sharing groups<sup>25</sup> to their members (under certain common conditions), the German rule that restricted this kind of VAT exemption to cost-sharing groups operating in the medical and healthcare sector violated EU law<sup>26</sup>.
- Member States have to ensure that the accounts of railway undertakings are kept in a way that makes it possible to monitor the prohibition of transferring public funds earmarked for the management of railway infrastructure to transport services<sup>27</sup>.
- As the European Commission did not adopt a financial correction decision related to the European Regional Development Fund within the six-month deadline indicated in the relevant Regulation, the decision has been annulled on procedural grounds<sup>28</sup>.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the German judiciary.

- Purely plant-based products cannot, in principle, be marketed with designations such as 'milk', 'cream', 'butter', 'cheese' or 'yoghurt', which are reserved by EU law for animal products. This prohibition applies even if those designations are accompanied by clarifying or descriptive terms indicating the plant origin of the product concerned. This prohibition however does not apply if the product is mentioned on a list of exceptions set out in a Commission decision<sup>29</sup>.
- A sorbet may be sold under the name 'Champagner Sorbet' if it has, as one of its essential characteristics, a taste attributable primarily to champagne. If that is the case, that product name does not take undue advantage (and therefore does not exploit the

<sup>18</sup> Directive [2013/29/EU](#).

<sup>19</sup> Directive [2011/36/EU](#).

<sup>20</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

<sup>21</sup> Directive [2014/95/EU](#).

<sup>22</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>23</sup> Directive [92/43/EEC](#), Commission v Germany, [C-142/16](#).

<sup>24</sup> Directive [2005/65/EC](#), Commission v Germany, [C-58/16](#).

<sup>25</sup> Associations of taxpayers who come together to purchase services from third parties.

<sup>26</sup> Commission v Germany, [C-616/15](#), [IP/15/4493](#).

<sup>27</sup> Directive [91/440/EEC](#) and Directive [2001/14/EC](#), Commission v Germany, [C-482/14](#).

<sup>28</sup> Regulation (EC) No [1083/2006](#) and Cases [T-97/09](#), [T-21-10](#), [T-104/10](#), [T-114/10](#) and [T-116/10](#), Germany v Commission.

<sup>29</sup> TofuTown.com, [C-422/16](#) and Court press release [No 63/17](#).

reputation) of the protected designation of origin (PDO) 'champagne'. A PDO is protected not only against false or misleading indications which may create a false impression as to the origin of the product, but also against false or misleading indications relating to the nature or essential qualities of the product<sup>30</sup>.

- Substances which have not be registered at the time of their import into the territory of the EU in accordance with the REACH Regulation may be exported outside that territory<sup>31</sup>.
- The legal aid granted by the Member State of the court hearing a case, in which a natural person domiciled or resident in another Member State has submitted a legal aid application in the context of a cross-border dispute, also covers the costs paid by that person for the translation of the supporting documents necessary for the processing of that application<sup>32</sup>.
- The Rome III Regulation<sup>33</sup> does not apply to private divorce (i.e. a divorce which is not pronounced by a court or public authority), such as a unilateral declaration made by a spouse before a religious court (for example, under sharia law). The Rome III Regulation aims at facilitating cross-border divorces by determining which national law, of all those potentially applicable, should be applied by the courts of Member States to resolve the divorce<sup>34</sup>.
- The concept of 'basic rate', referred to in the Directive on consumer rights<sup>35</sup>, means that charges for the use of a telephone helpline operated by the trader, in order to contact him in relation to a concluded contract, may not exceed the cost of a call to a standard geographic landline or mobile telephone line. This is regardless of whether the relevant trader does or does not make a profit through that telephone helpline<sup>36</sup>.
- The efficient management of migration flows may justify a national measure requiring nationals of third countries under the age of 16 to hold a residence permit in order to enter and reside in that Member State. However, such a measure is not proportionate when it concerns child nationals of third countries born in the Member State in question and one of whose parents is a Turkish worker lawfully residing in that Member State<sup>37</sup>.
- Member States enjoy a wide discretion in refusing to admit third country students who plan to carry out research in that Member State in a field that is sensitive for public security, if the elements available provide a sufficiently solid factual basis to fear that the knowledge acquired by that person during research may subsequently be used for purposes contrary to public security<sup>38</sup>.
- EU law precludes the application of national provisions providing for a review of the equity of charges for the use of railway infrastructure, on a case-by-case basis, by the ordinary courts, and the possibility, if necessary, of amending the amount of those charges, independently of the monitoring performed by the regulatory body provided for in EU law<sup>39</sup>.
- The representation and collective defence of the employees' interests in the management or supervisory bodies of a company founded under national law is a non-harmonised and non-coordinated field from the point of view of EU law. A Member State may therefore adopt legislation applicable only to workers employed by companies located in its national territory<sup>40</sup>.

<sup>30</sup> Comité Interprofessionnel du Vin de Champagne, [C-393/16](#) and Court press release [No 139/17](#).

<sup>31</sup> Regulation [\(EC\) No 1907/2006](#), Pinckernelle, [C-535/15](#).

<sup>32</sup> Jan Šalplachta, [C-670/15](#).

<sup>33</sup> Regulation [\(EU\) No 1259/2010](#).

<sup>34</sup> Sahyouni, [C-372/16](#) and Court press release [No 137/17](#).

<sup>35</sup> Directive [2011/83/EU](#).

<sup>36</sup> Centrale zur Bekämpfung des unlauteren Wettbewerbs, [C-568/15](#) and Court press release [No 21/17](#).

<sup>37</sup> Tekdemir v Kreis Bergstraße, [C-652/15](#).

<sup>38</sup> Fahimian, [C-544/15](#).

<sup>39</sup> CTL Logistics GmbH, [C-489/15](#).

<sup>40</sup> Erzberger, [C-566/15](#).

- The German anti-abuse measures concerning dividend payments to foreign companies without genuine activity were incompatible, in the respective tax years, with both the Parent-Subsidiary Directive and the freedom of establishment<sup>41</sup>.
- It is incompatible with the free movement of workers that the German law does not allow residents working in another Member State to deduct, from their income tax base, their pension and health insurance contributions which were deducted from their wages in the Member State of employment, in contrast to comparable contributions paid to the German social security. This also applies where under a double-taxation Convention the income from the source state must not be taxed in the worker's Member State of residence but merely increases the tax rate to be applied to other income<sup>42</sup>.
- The authorities of a Member State may not refuse to recognise the change of name by a dual EU-national in one of the Member States of his nationalities, subject to the condition that that name must have been acquired during a period of habitual residence in that other Member State, unless there are other provisions of national law which effectively allow the recognition of that name<sup>43</sup>.
- In relation to customs valuation, a flat-rate adjustment based on transfer pricing arrangements, and made after the accounting period, cannot be taken into account when establishing the transaction value of imported goods<sup>44</sup>.
- The age limit of 65 years established under EU legislation for pilots of commercial aircraft transporting passengers, cargo or mail is justified by the aim of ensuring civil aviation safety<sup>45</sup>.
- The general rules protecting consumers also apply against unfair terms in contracts of carriage by air. When publishing their air fares, air carriers must specify separately the amounts payable in respect of taxes, airport charges and other charges, surcharges or fees<sup>46</sup>.
- For the purpose of calculating compensation payable to passengers in the event of cancellation or long delay of a connecting flight, the concept of 'distance' relates only to the radial distance. This is the distance calculated between the first point of departure and the final destination on the basis of the 'great circle' method and regardless of the actual distance flown<sup>47</sup>.

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<sup>41</sup> Deister, [C-504/16](#) and Juhler Holding, [C-613/16](#).

<sup>42</sup> Bechtel & Bechtel, [C-20/16](#).

<sup>43</sup> Freitag, [C-541/15](#).

<sup>44</sup> Hamamatsu Photonics Deutschland GmbH, [C-529/16](#).

<sup>45</sup> Fries, [C-190/16](#) and Court press release [No 73/17](#).

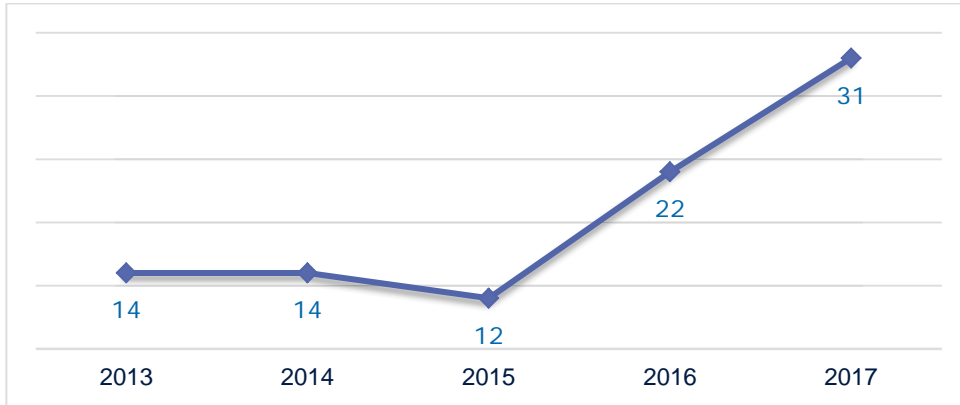
<sup>46</sup> Air Berlin, [C-290/16](#) and Court press release [No 75/17](#).

<sup>47</sup> Bossen and Others, [C-559/16](#) and Court press release [No 92/17](#).

Estonia

I. COMPLAINTS

1. New complaints made against Estonia by members of the public (2013-2017)



2. Public complaints against Estonia open at year-end

- 17 > Complaints open at end-2016
- 31 > New complaints registered in 2017
- 30 > Complaints handled in 2017

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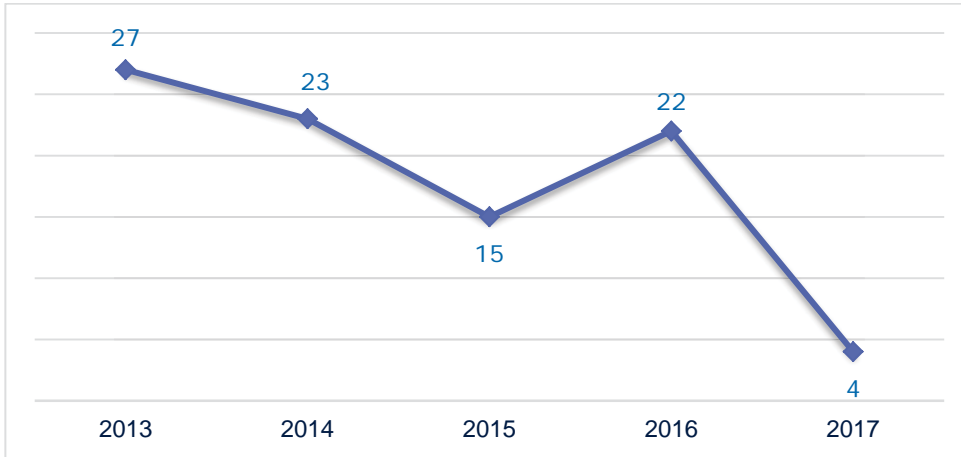
- = 18 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

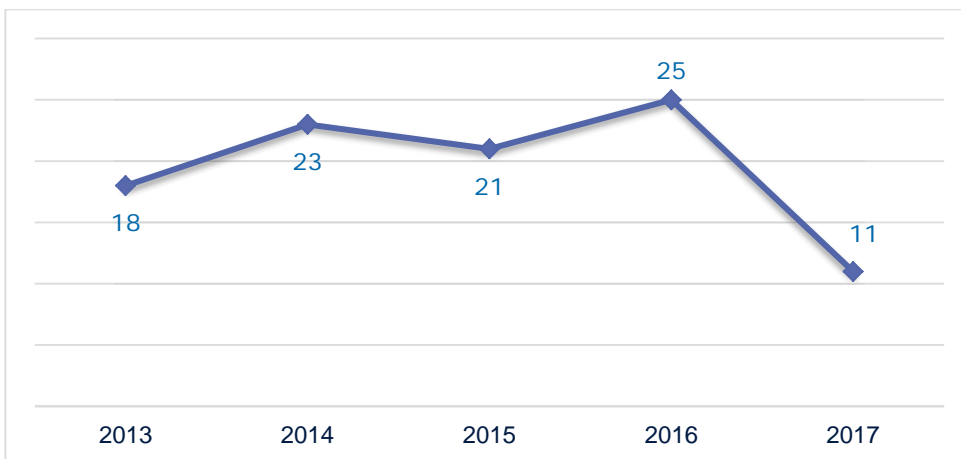


## II. EU PILOT

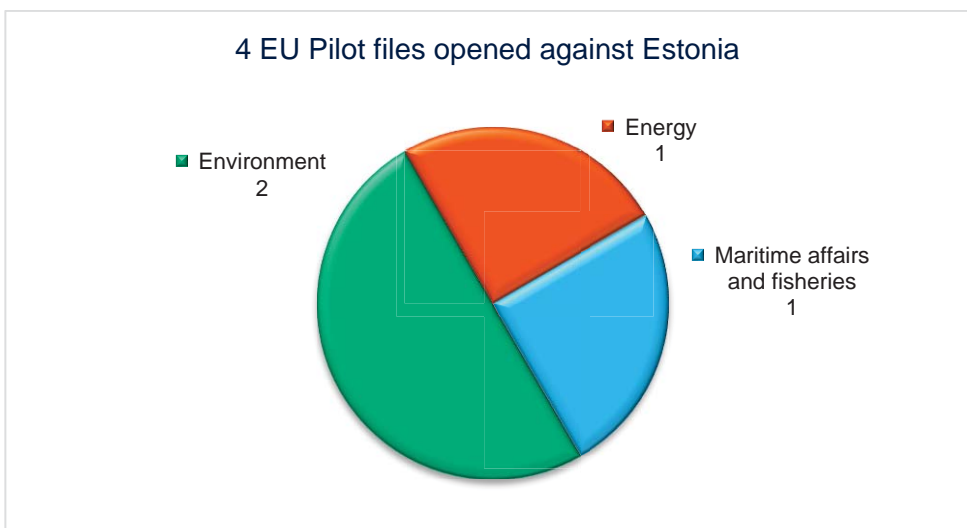
### 1. New EU Pilot files opened against Estonia (2013-2017)



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

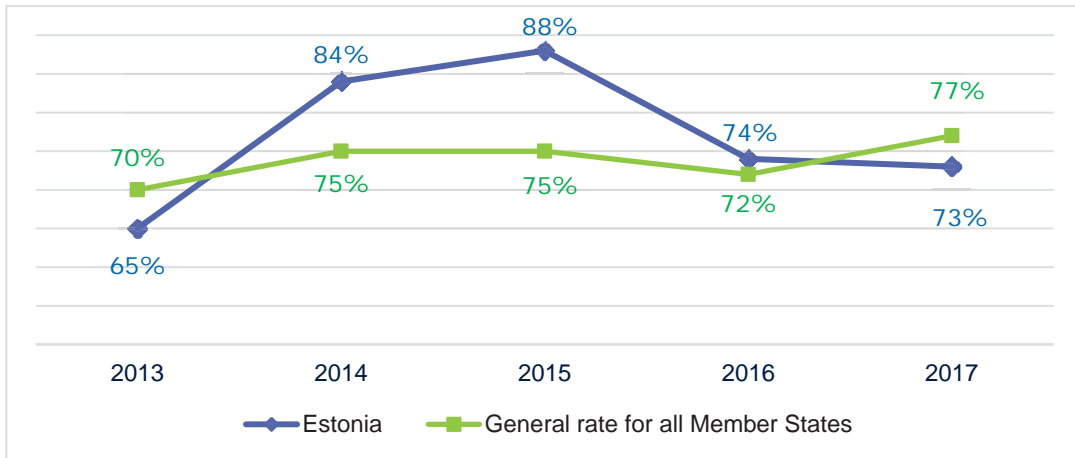


### 3. New EU Pilot files opened in 2017: main policy areas



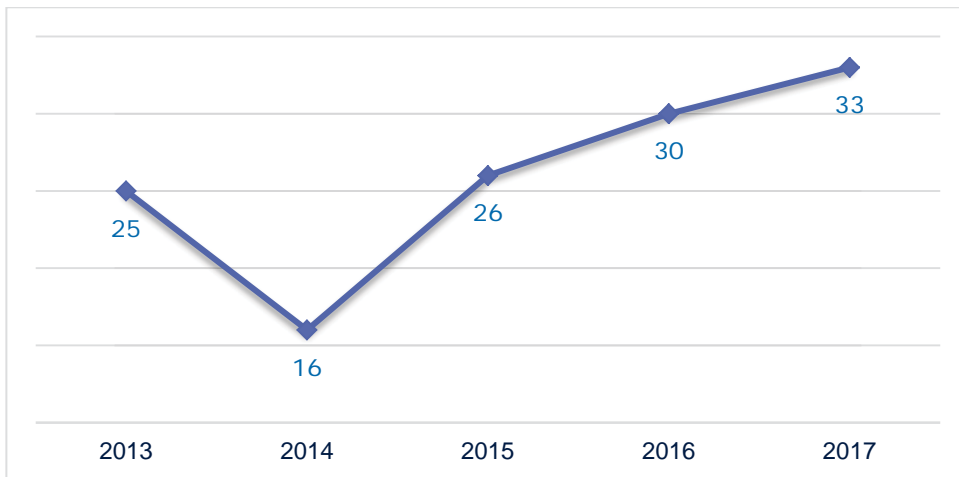


4. EU Pilot files: Estonia's resolution rate in 2013-2017

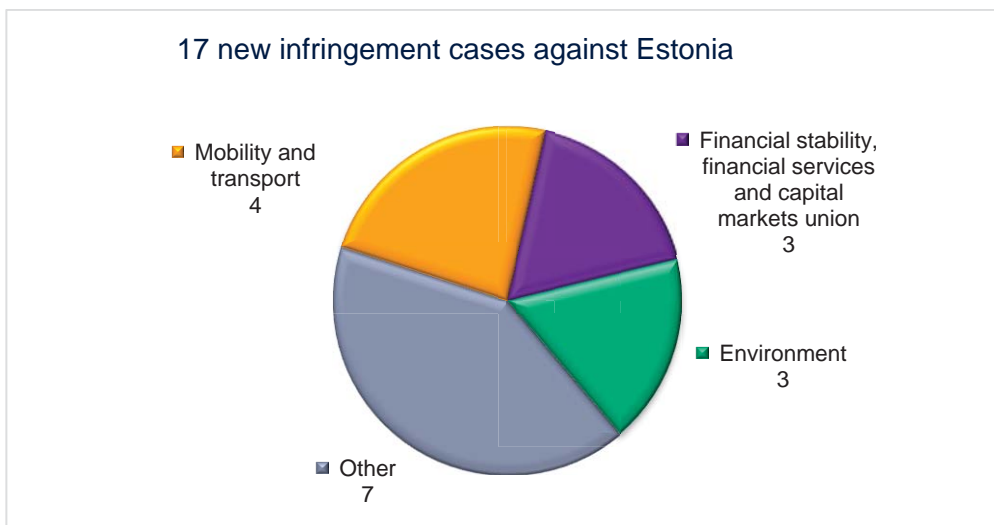


III. INFRINGEMENT CASES

1. Infringement cases against Estonia open on 31 December (2013-2017)



## 2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 17 new infringement cases against Estonia in 2017. These, and other major ongoing infringement cases, include:
- incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives)<sup>1</sup>;
  - non-communication of national measures transposing the:
    - Markets in Financial Instruments Directive (MiFID II) and Audit Directive<sup>2</sup>;
    - Fourth Anti-Money Laundering Directive<sup>3</sup>;
    - Directive<sup>4</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>5</sup>;
    - Directive on the organisation of working time in inland waterway transport<sup>6</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directives [2009/72/EC](#) and [2009/73/EC](#), [MEMO/17/1281](#).

<sup>2</sup> Directives [2016/1034/EU](#) and [2014/56/EU](#).

<sup>3</sup> Directive [2015/849/EU](#).

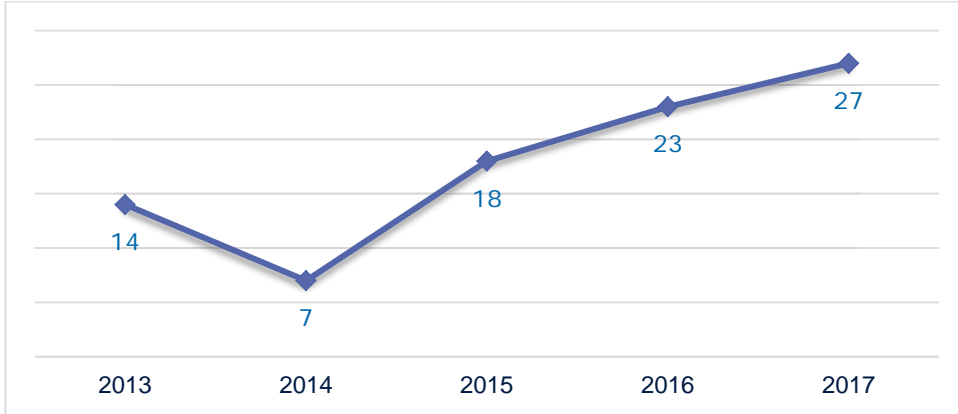
<sup>4</sup> Directive [\(EU\) 2015/652](#).

<sup>5</sup> Directive [98/70/EC](#).

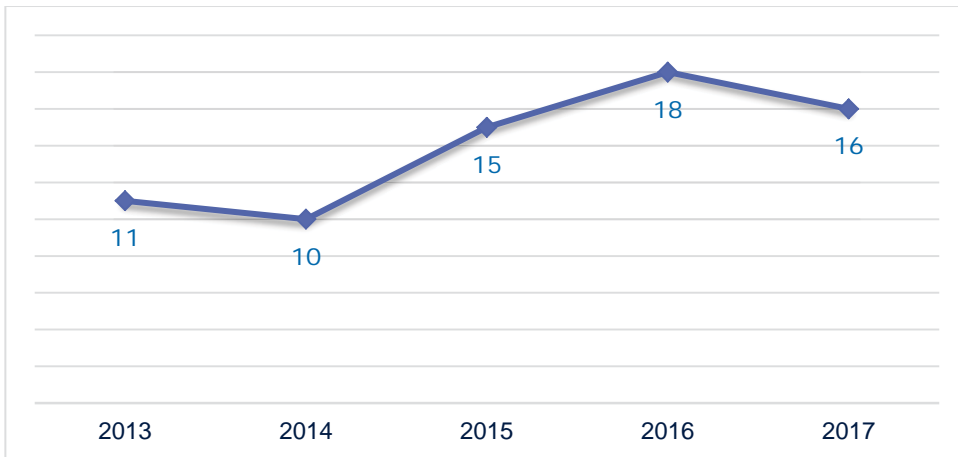
<sup>6</sup> Directive [2014/112/EU](#).

#### IV. TRANSPOSITION OF DIRECTIVES

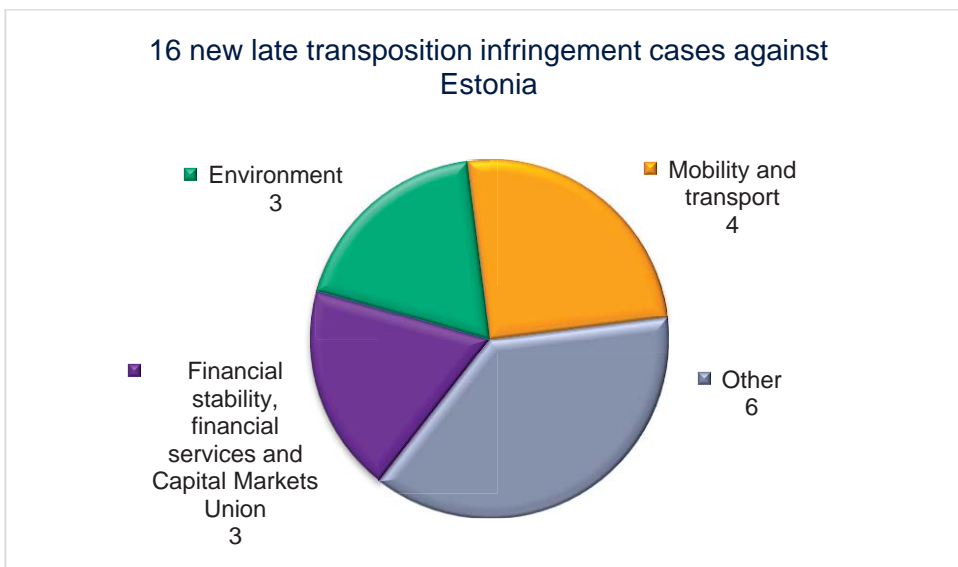
1. Late transposition infringement cases against Estonia open on 31 December (2013-2017)



2. New late transposition infringement cases against Estonia (2013-2017)



3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2017

These concerned:

- lack of implementation of certain obligations under EU document security legislation<sup>7</sup>;
- non-communication of national measures transposing the:
  - Directive on seasonal workers<sup>8</sup>;
  - Accounting Directive and Directive on undertakings for collective investment in transferable securities<sup>9</sup>;
  - Directive establishing a single European railway area<sup>10</sup>;
- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>11</sup>.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>12</sup>

There were no major Court rulings in 2017.

#### 1. Preliminary rulings

No major preliminary rulings were addressed to the Estonian judiciary in 2017.

<sup>7</sup> Commission Decisions [C \(2013\) 6181](#) and [C\(2013\)6178](#).

<sup>8</sup> Directive [2014/36/EU](#).

<sup>9</sup> Directives [2013/34/EU](#) and [2014/91/EU](#).

<sup>10</sup> Directive [2012/34/EU](#).

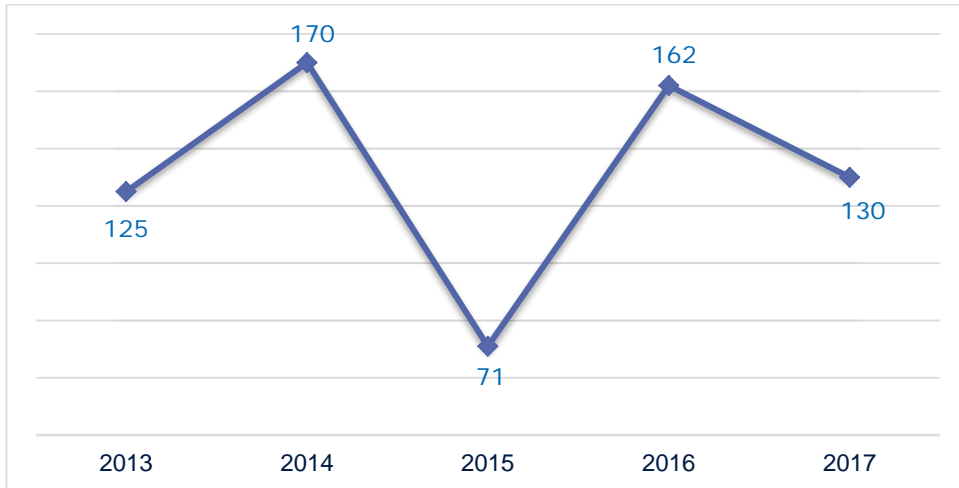
<sup>11</sup> Directive [2014/94/EU](#).

<sup>12</sup> These rulings are almost exclusively handed down in infringement procedures.

Ireland

I. COMPLAINTS

1. New complaints made against Ireland by members of the public (2013-2017)



2. Public complaints against Ireland open at year-end

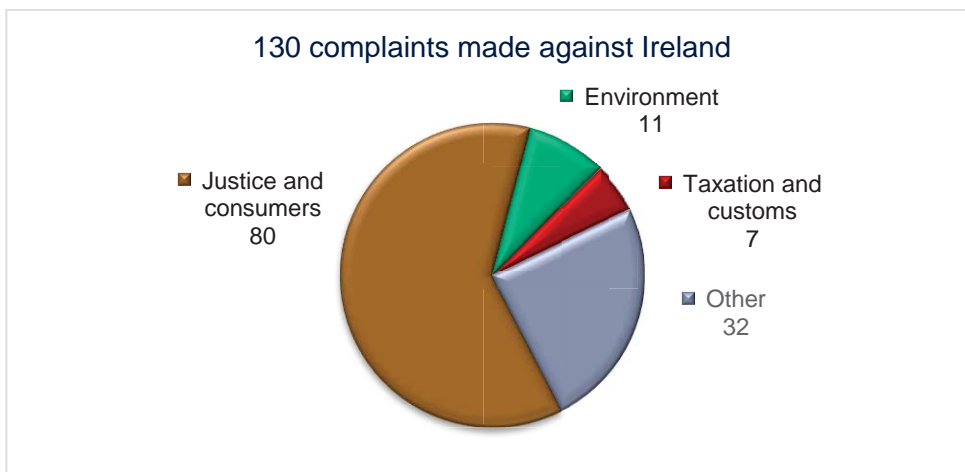
254 > Complaints open at end-2016

130 > New complaints registered in 2017

105 > Complaints handled in 2017

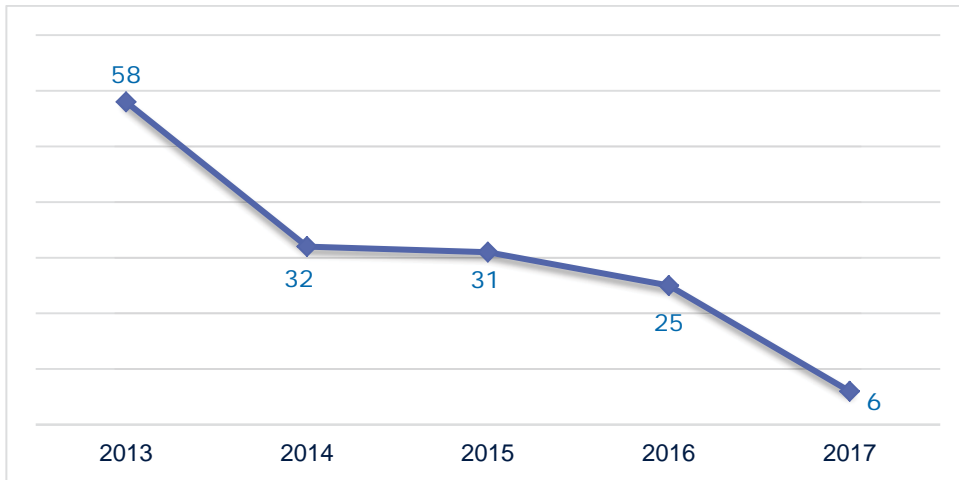
130  
= 279 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

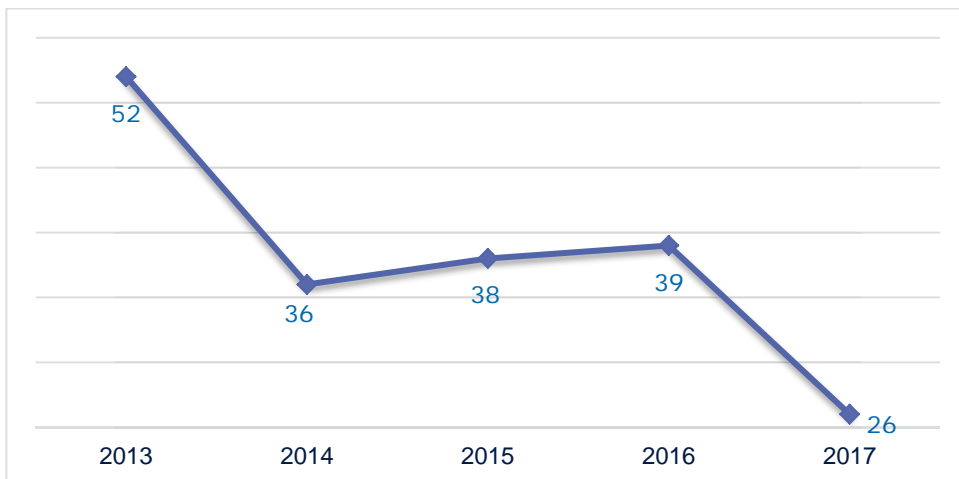


## II. EU PILOT

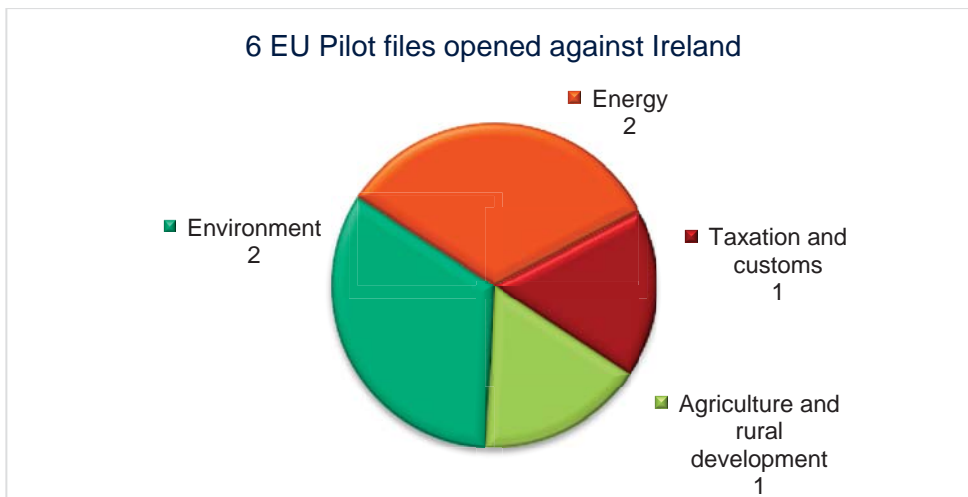
### 1. New EU Pilot files opened against Ireland (2013-2017)



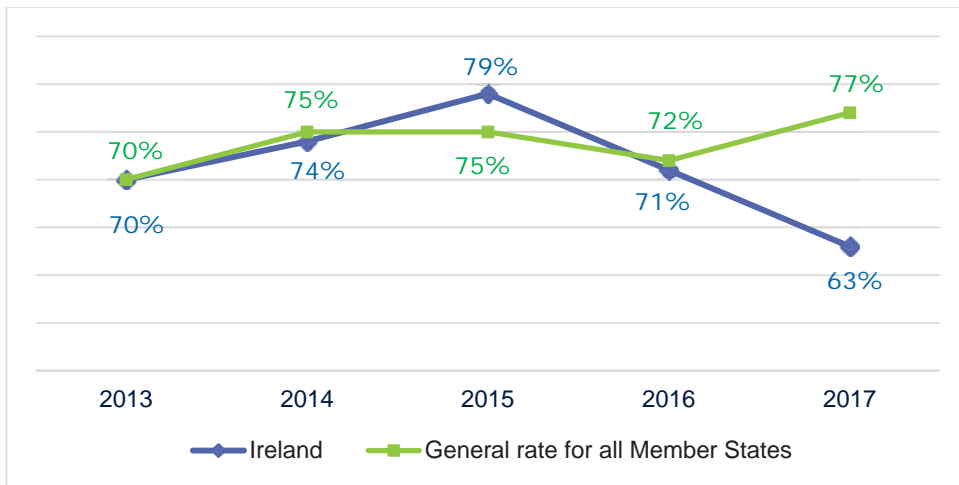
### 2. Files relating to Ireland open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

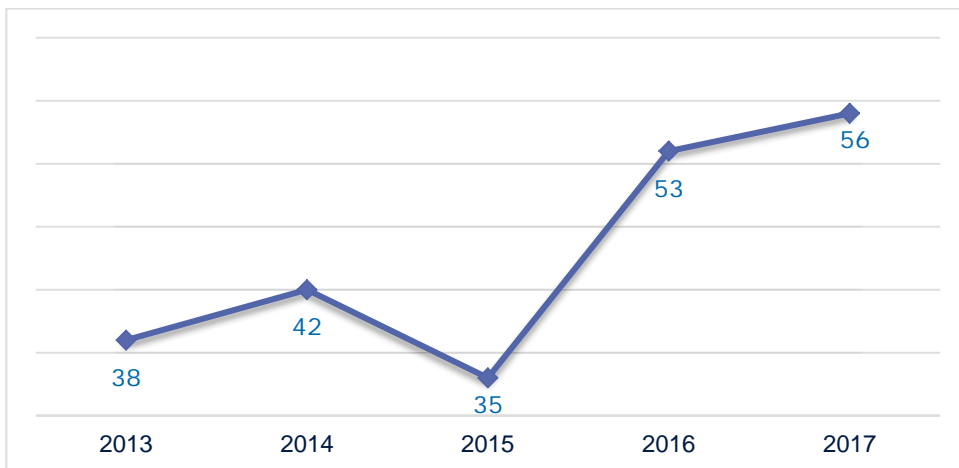


4. EU Pilot files: Ireland's resolution rate in 2013-2017

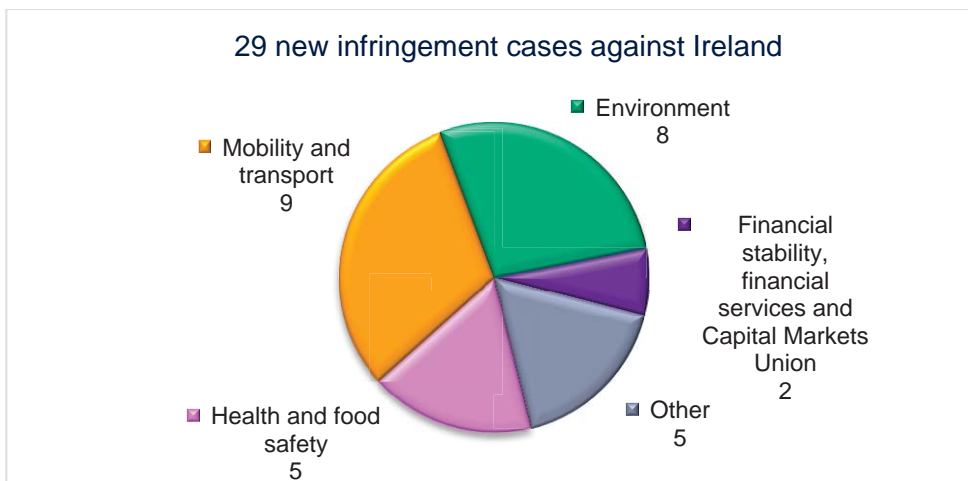


III. INFRINGEMENT CASES

1. Infringement cases against Ireland open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 29 new infringement cases against Ireland in 2017. These, and other major ongoing infringement cases, include:
- failure to implement the Schengen Information System<sup>1</sup>;
  - failing to fully implement the Prüm Decisions, which set up an information-exchange tool that can offer automated comparison of DNA profiles, fingerprint data and vehicle registration data<sup>2</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>3</sup>;
  - non-reporting of flood risk management plans under the Floods Directive<sup>4</sup>;
  - late adoption of the second round of river basin management plans under the Water Framework Directive<sup>5</sup>;
  - incorrect application of the Directive on the mutual recognition of seafarers' certificates issued by Member States<sup>6</sup>;
  - failure to carry out analysis of the relevant telecom markets on time<sup>7</sup>;
  - bad application of the Directive establishing the fundamental principles governing the investigation of accidents in the maritime transport sector<sup>8</sup>;
  - non-communication of national measures transposing the:
    - Fourth Anti-Money Laundering Directive<sup>9</sup>;
    - Directive on disclosure of non-financial and diversity information by certain large undertakings<sup>10</sup>;
    - Directive on seafarers<sup>11</sup>.
- b) The Commission referred two cases to the Court under Article 258 TFEU. They involve the following infringements.
- Failure to ensure adequate collection and treatment of urban waste water<sup>12</sup>.
  - Failure to apply properly the EU rules on fiscal marking<sup>13</sup> of fuel. Under the rules fishing vessels (among others) may benefit from a lower tax rate on their fuels; however, private leisure boats must use fuel subject to a standard rate. In addition, private leisure boats using marked fuel risk heavy penalties abroad charged by the authorities of other Member States<sup>14</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Council Decision [2002/192/EC](#).

<sup>2</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#).  
<sup>3</sup> [MEMO/17/1281](#).

<sup>4</sup> Directive [2007/60/EC](#).

<sup>5</sup> Directive [2000/60/EC](#).

<sup>6</sup> Directive [2005/45/EC](#), [MEMO/17/4767](#).

<sup>7</sup> Directive [2002/21/EC](#), [MEMO/17/3494](#).

<sup>8</sup> Directive [2009/18/EC](#), [MEMO/17/1045](#).

<sup>9</sup> Directive [2015/849/EU](#).

<sup>10</sup> Directive [2014/95/EU](#).

<sup>11</sup> Directive [2015/1794/EU](#).

<sup>12</sup> Directive [91/271/EEC](#), Commission v Ireland, [C-427/17](#), [IP/17/236](#).

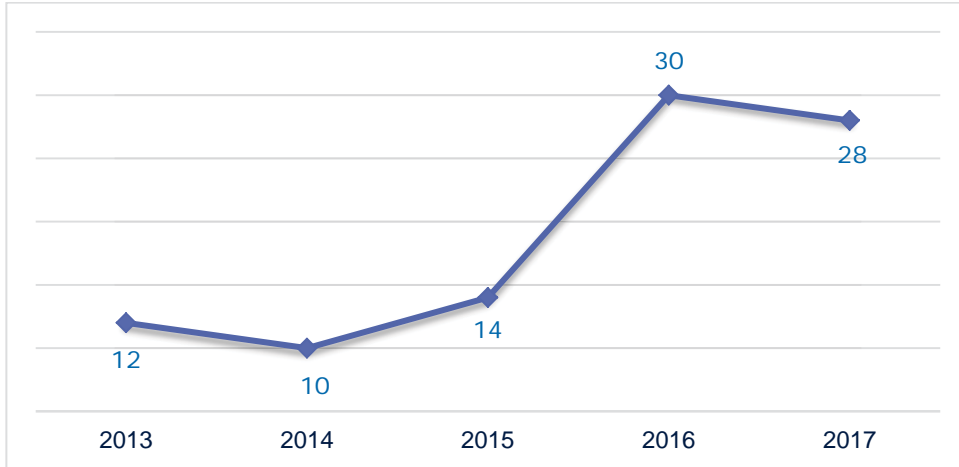
<sup>13</sup> The fuel that may benefit from a reduced tax rate has to be marked by coloured dye.

<sup>14</sup> Directive [2003/96/EC](#), Directive [96/60/EC](#), Commission v Ireland, [C-504/17](#), [IP/14/2138](#), [MEMO/14/2130](#).

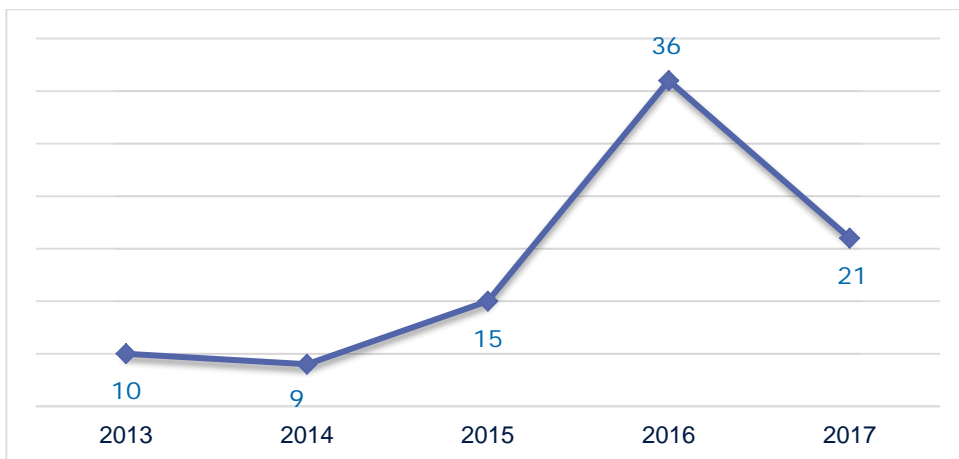


#### IV. TRANSPOSITION OF DIRECTIVES

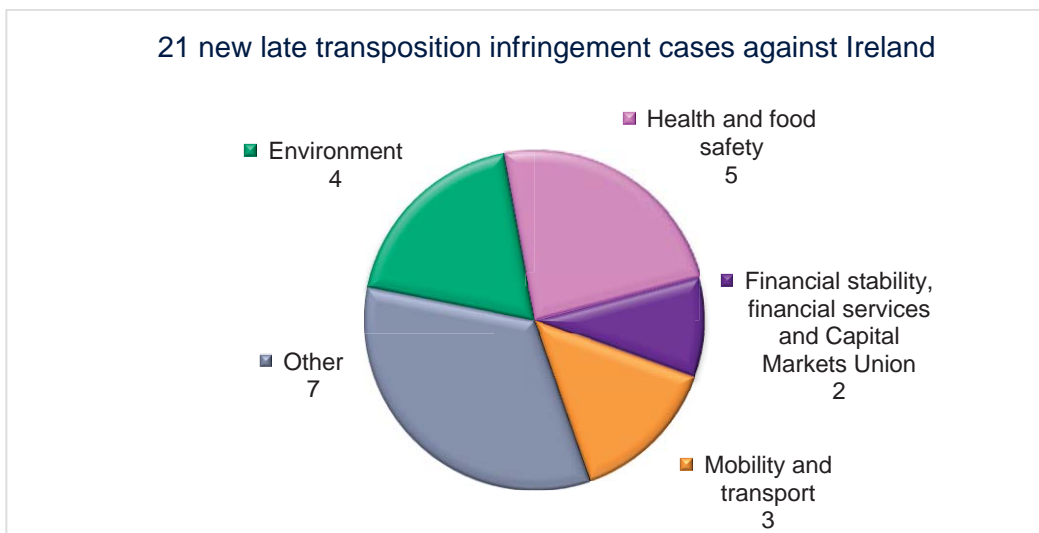
##### 1. Late transposition infringement cases against Ireland open on 31 December (2013-2017)



##### 2. New late transposition infringement cases against Ireland (2013-2017)



##### 3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2017

These concerned:

- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>15</sup>;
- non-communication of national measures transposing the:
  - Directive on recognition of professional qualifications<sup>16</sup>;
  - Directive on attacks against information systems<sup>17</sup>;
  - Directive on over-reliance on credit ratings<sup>18</sup>.

### VI. IMPORTANT JUDGMENTS

#### 1. Court ruling<sup>19</sup>

- The Court ruled that Ireland's legislation levied the full amount of car tax on leased or rented vehicles even if the precise duration of the lease or rent is known (e.g. based on a leasing or rental contract). Even though the amount levied in excess is refunded once the vehicle is registered in another country, the rules qualify as a disproportionate obstacle to the freedom to provide services<sup>20</sup>.

#### 2. Preliminary rulings

The Court addressed the following preliminary ruling to the Irish judiciary.

- An EU citizen who, after more than 1 year, has ceased to work in a self-employed capacity in another Member State for reasons beyond his control retains the status of self-employed person and, consequently, a right to reside in that Member State<sup>21</sup>.

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<sup>15</sup> Directive [2014/94/EU](#).

<sup>16</sup> Directive [2005/36/EC](#).

<sup>17</sup> Directive [2013/40/EU](#).

<sup>18</sup> Directive [2013/40/EU](#).

<sup>19</sup> These rulings are almost exclusively handed down in infringement procedures.

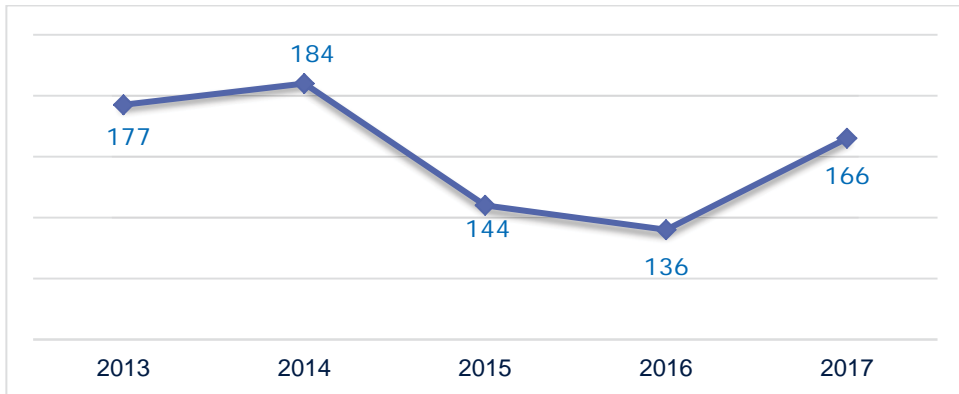
<sup>20</sup> Commission v Ireland, [C-552/15](#), [IP/15/5355](#), [MEMO/15/5356](#).

<sup>21</sup> Gusa, [C-442/16](#) and Court press release [No 144/17](#).

Greece

I. COMPLAINTS

1. New complaints made against Greece by members of the public (2013-2017)



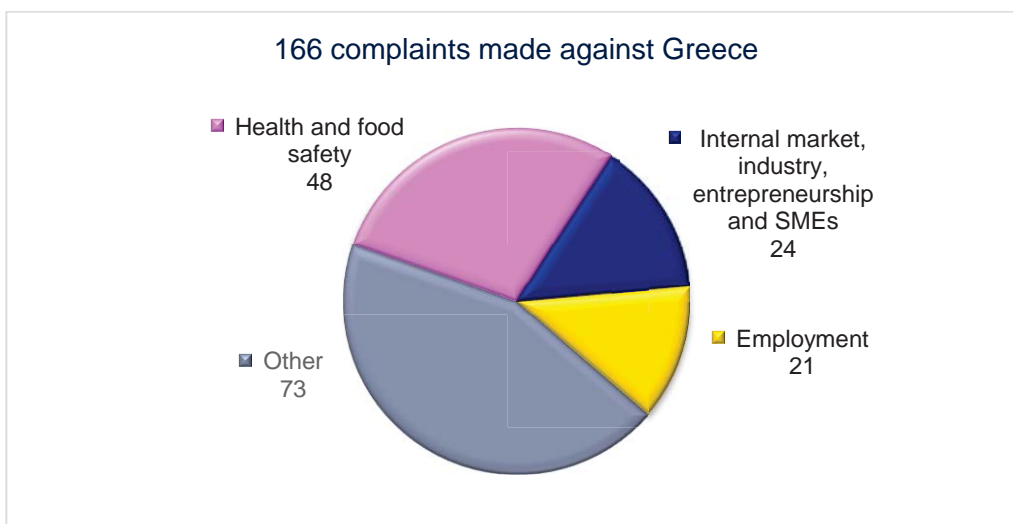
2. Public complaints against Greece open at year-end

- 112 > Complaints open at end-2016
- 166 > New complaints registered in 2017
- 169 > Complaints handled in 2017

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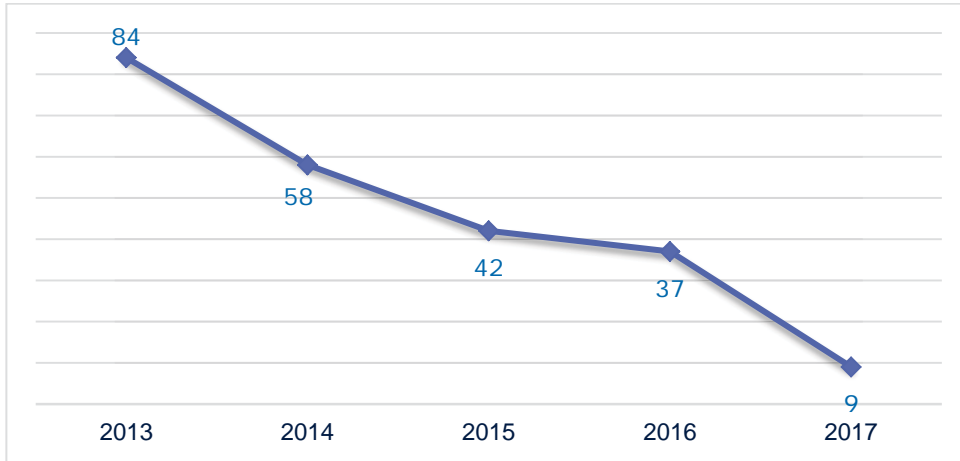
- = 109** > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

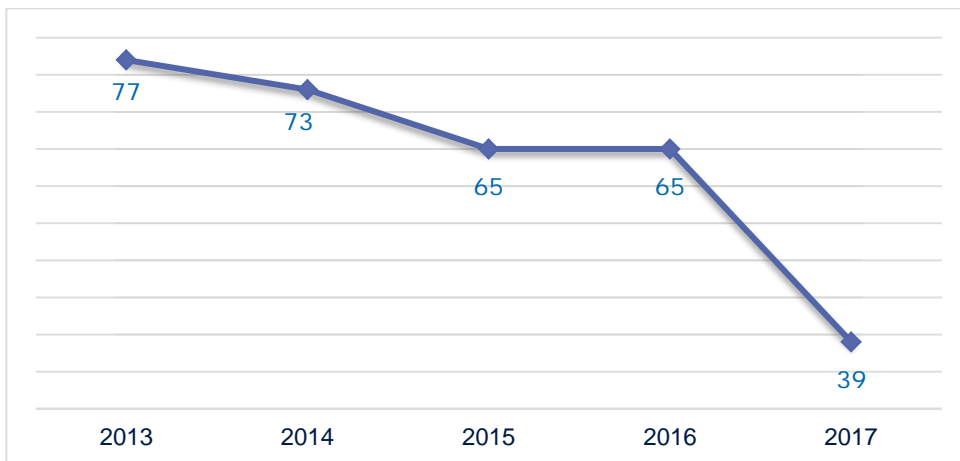


## II. EU PILOT

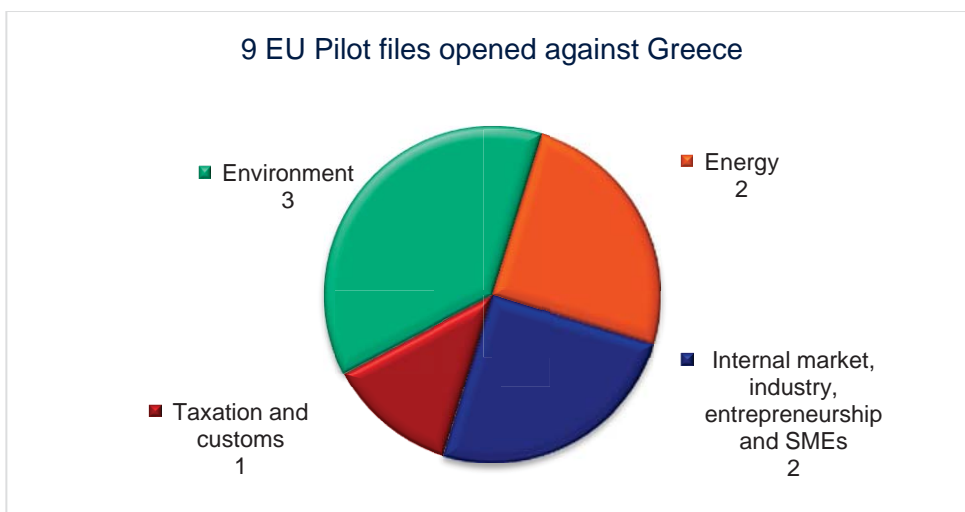
### 1. New EU Pilot files opened against Greece (2013-2017)



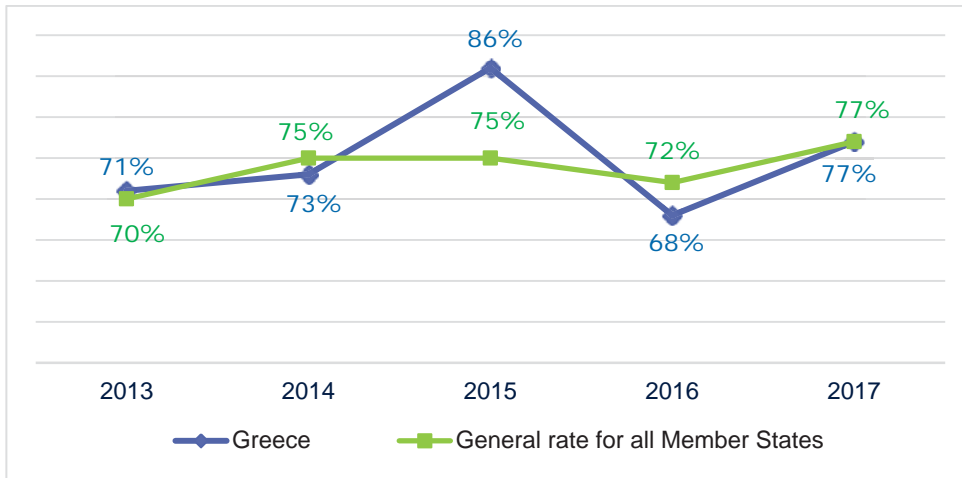
### 2. Files relating to Greece open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

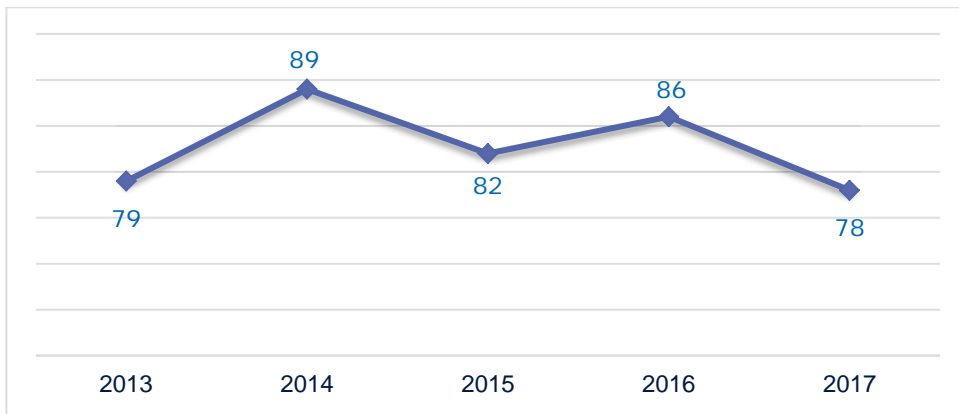


4. EU Pilot files: Greece's resolution rate in 2013-2017

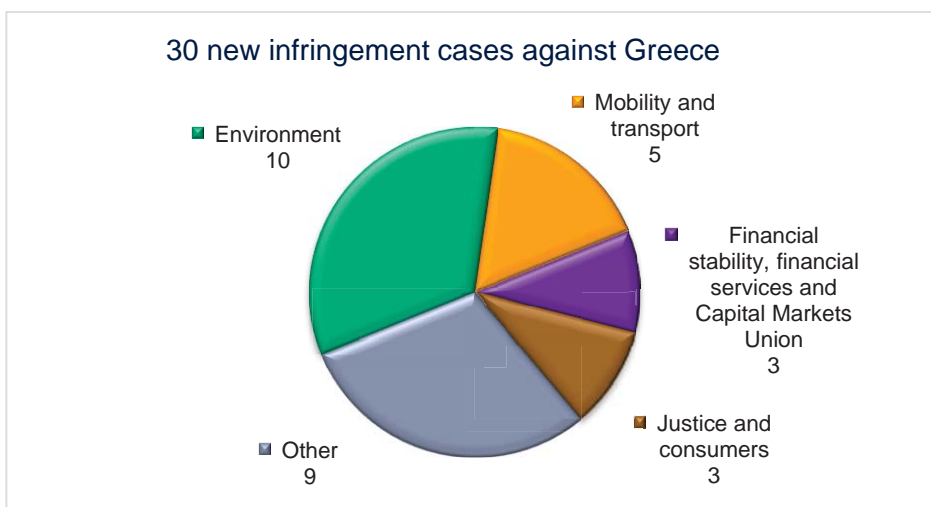


III. INFRINGEMENT CASES

1. Infringement cases against Greece open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 30 new infringement cases against Greece in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Fourth Anti-Money Laundering Directive<sup>1</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>2</sup>;
    - Directive on seafarers<sup>3</sup>;
    - Directive<sup>4</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>5</sup>;
    - Directive on recognition of professional qualifications<sup>6</sup>;
    - Maritime Spatial Planning Directive<sup>7</sup>.
  - incorrect transposition and application of the Energy Performance of Buildings Directive<sup>8</sup>;
  - failing to fully implement the Prüm Decisions, which set up an information-exchange tool that can offer automated comparison of DNA profiles, fingerprint data and vehicle registration data<sup>9</sup>;
  - disproportionate charges for residence permits under the Directives on legal migration<sup>10</sup>;
  - failure to establish nitrates action programmes for all nitrate vulnerable zones, as required under the Nitrates Directive<sup>11</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>12</sup>;
  - non-reporting of flood risk management plans under the Floods Directive<sup>13</sup>;
  - late adoption of the second round of river basin management plans under the Water Framework Directive<sup>14</sup>;
  - failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>15</sup>;
  - failure to establish strategic noise maps and action plans required by the Noise Directive<sup>16</sup>;
  - excessive delays in the examination of applications for recognition of professional qualifications from other Member States;
  - failure to comply with EU rules on late payments<sup>17</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission referred one case to the Court under Article 260(2) TFEU.
- This concerns a failure to comply with a 2008 Commission decision ordering the recovery of unlawful State aid from Hellenic Shipyards, and with a 2012 Court ruling finding that Greece had failed to implement the said Commission decision. The Commission asked the Court to impose a daily penalty payment of EUR 34 974 until full compliance with EU law is ensured, as well as a lump sum

<sup>1</sup> Directive [2015/849/EU](#), [MEMO/17/4767](#).

<sup>2</sup> Directive [2014/65/EU](#).

<sup>3</sup> Directive [2015/1794/EU](#).

<sup>4</sup> Directive [\(EU\) 2015/652](#).

<sup>5</sup> Directive [98/70/EC](#).

<sup>6</sup> Directive [2013/55/EU](#).

<sup>7</sup> Directive [2014/89/EU](#), [MEMO/17/1935](#).

<sup>8</sup> Directive [2010/31/EU](#), [MEMO/17/4767](#).

<sup>9</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#), [MEMO/17/3494](#).

<sup>10</sup> [MEMO/17/4767](#).

<sup>11</sup> Directive [91/676/EEC](#), [MEMO/17/3494](#).

<sup>12</sup> [MEMO/17/1281](#).

<sup>13</sup> Directive [2007/60/EC](#).

<sup>14</sup> Directive [2000/60/EC](#).

<sup>15</sup> Directive [2008/56/EC](#).

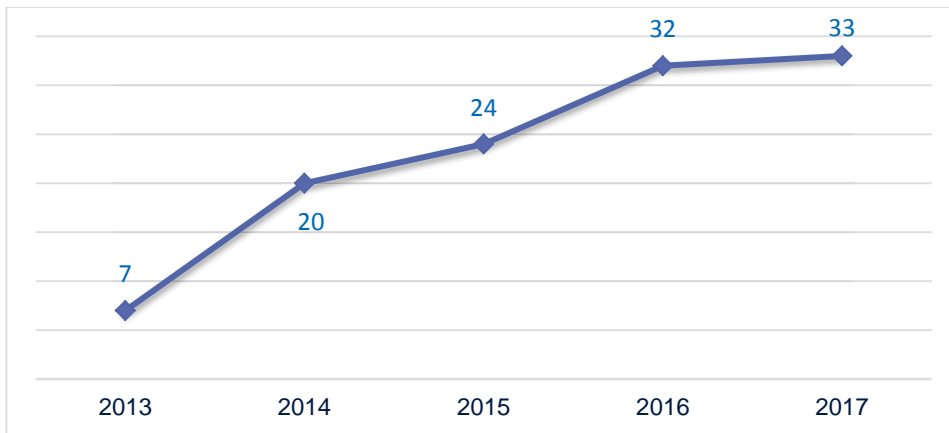
<sup>16</sup> Directive [2002/49/EC](#), [MEMO/17/4767](#).

<sup>17</sup> Directives [2000/35/EC](#) and [2011/7/EU](#), [MEMO/17/1281](#).

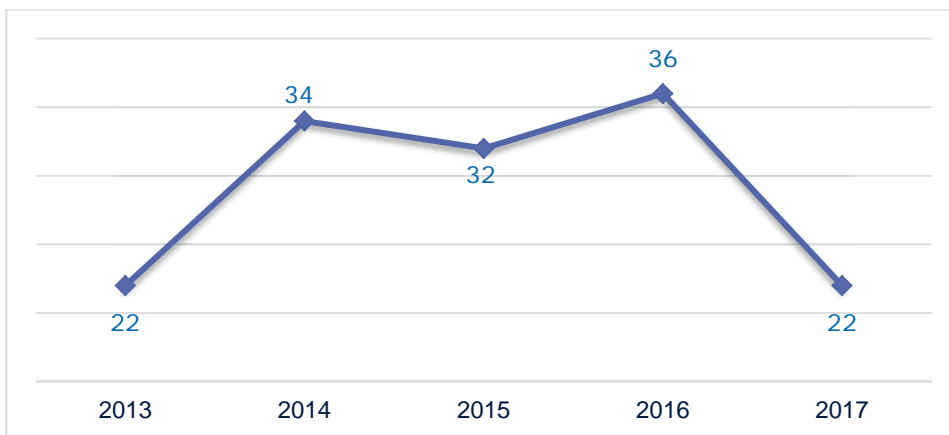
payment. The Commission proposed the latter should be calculated by multiplying EUR 3 828 by the number of days elapsed between the date of the first Court judgment and the date of compliance or the date of the second Court judgment<sup>18</sup>.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Greece open on 31 December (2013-2017)

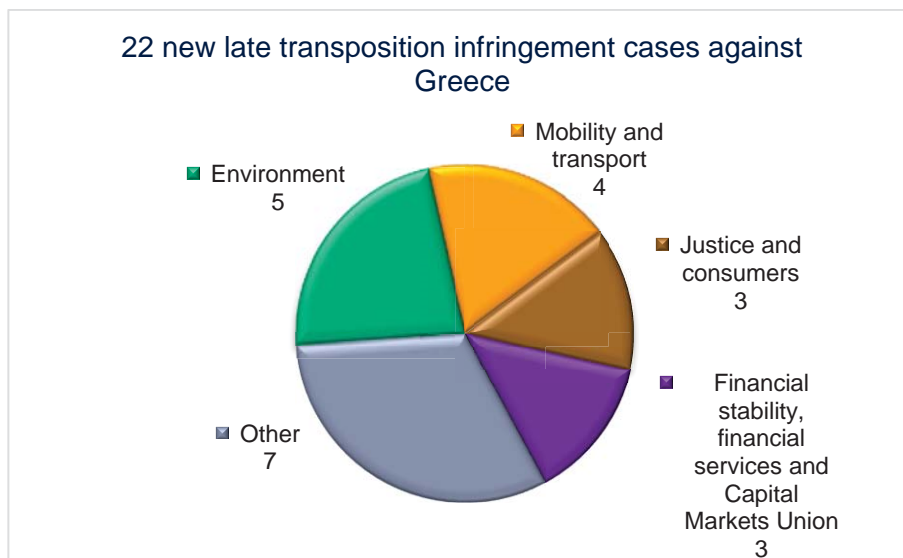


##### 2. New late transposition infringement cases against Greece (2013-2017)



<sup>18</sup> Commission v Greece, [C-93/17](#); [IP/16/2592](#).

### 3. New late transposition infringement cases opened in 2017: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Directive on recognition of professional qualifications<sup>19</sup>;
  - Directive on explosives for civil uses<sup>20</sup>;
  - Solvency II Directive<sup>21</sup>;
  - Transparency Directive<sup>22</sup>;
  - Accounting Directive<sup>23</sup>;
  - Omnibus II Directive, in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>24</sup>.
- lack of implementation of certain obligations under EU document security legislation<sup>25</sup>;
- excessive delays in the examination of applications for recognition of professional qualifications from other Member States;
- non-compliance of national legislation on gambling with EU rules;<sup>26</sup>
- failure to make available to the Commission flood hazard and risk maps;
- failure to prepare and communicate the monitoring programmes required by the Marine Strategy Framework Directive<sup>27</sup>;

<sup>19</sup> Directive [2005/36/EC](#).

<sup>20</sup> Directive [2014/28/EU](#).

<sup>21</sup> Directive [2009/138/EC](#).

<sup>22</sup> Directive [2013/50/EU](#).

<sup>23</sup> Directive [2013/34/EU](#).

<sup>24</sup> Directive [2014/51/EU](#).

<sup>25</sup> Commission Decisions [C \(2013\) 6181](#) and [C \(2013\) 6178](#).

<sup>26</sup> [IP/17/5109](#).

<sup>27</sup> Directive [2008/56/EC](#).



- non-compliance with the Regulation on management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea regarding the obligation to adopt a national management plan for fisheries conducted by boat seines within its territorial waters<sup>28</sup>;
- incorrect application of the Regulation on waterborne passenger rights<sup>29</sup>;
- restrictions on free movement of capital in the Hellenic Telecommunications Company (OTE).

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>30</sup>

The Court gave the following rulings.

- Greece has failed to fulfil its obligations under EU law by tolerating the operation of the Temploni waste landfill on the island of Corfu, which does not satisfy the conditions and requirements laid down by EU directives on waste<sup>31</sup>.
- Greece has failed to provide adequate treatment of urban waste water in several smaller agglomerations<sup>32</sup>.
- Greece has failed to calculate and report on the cost-optimal levels for the energy performance requirements in buildings, in violation of the Energy Performance of Buildings Directive<sup>33</sup>.
- Legacies bestowed on certain non-profit entities established in Greece benefited automatically from a preferential tax rate of 0.5 %; however, similar non-profit entities from other Member States could benefit from this tax rate only in case of reciprocity (without it, the tax rate varied 20-40 %). As the Greek measure could vastly reduce the value of the bequeathed property, it restricted the free movement of capital<sup>34</sup>.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Greek judiciary.

- A law that lays down, as a criterion for admission to a police school, a minimum height requirement irrespective of sex may constitute indirect sex discrimination against women. The objective of ensuring the effective accomplishment of the task of the police could be achieved by measures that are less disadvantageous to women, such as a pre-selection of candidates allowing their physical ability to be assessed<sup>35</sup>.
- A Member State may adopt an order for the removal of a citizen who constitutes a serious threat to public security based on the sole finding that a previous exclusion order was still valid<sup>36</sup>.

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

<sup>29</sup> Regulation [\(EU\) No 1177/2010](#).

<sup>30</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>31</sup> Directives [2008/98/EC](#) and [1999/31/EC](#), Commission v Greece, [C-202/16](#).

<sup>32</sup> Directive [91/271/EEC](#), Commission v Greece, [C-320/15](#).

<sup>33</sup> Commission v Greece, [C-160/16](#).

<sup>34</sup> Commission v Greece, [C-98/16](#).

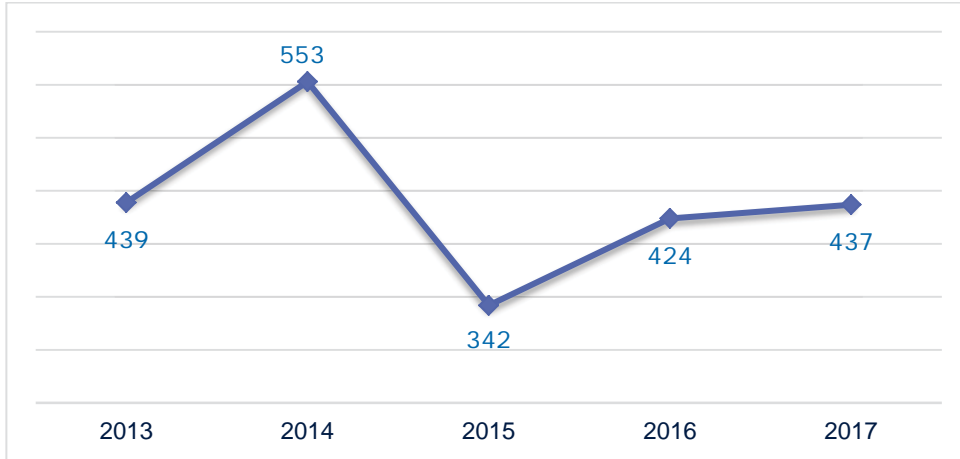
<sup>35</sup> Kalliri, [C-409/16](#) and Court press release No [106/17](#).

<sup>36</sup> Petrea, [C-184/16](#).

Spain

I. COMPLAINTS

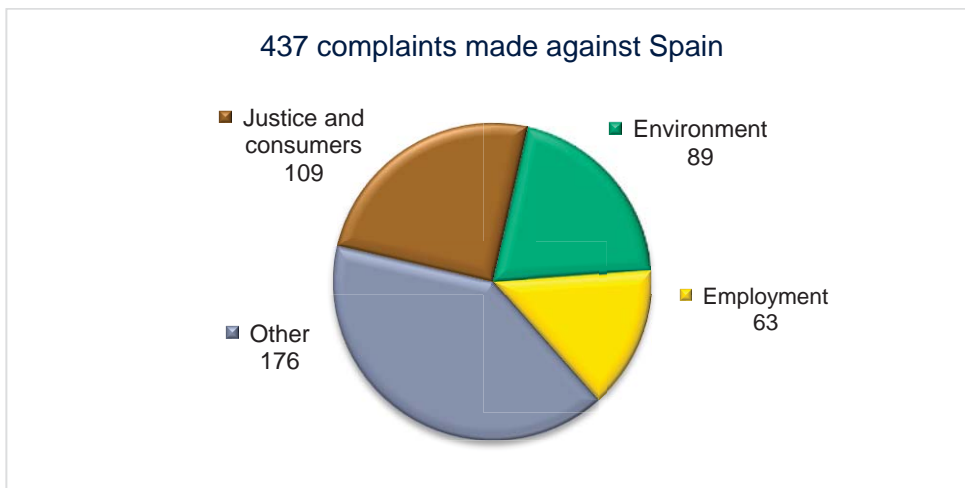
1. New complaints made against Spain by members of the public (2013-2017)



2. Public complaints against Spain open at year-end

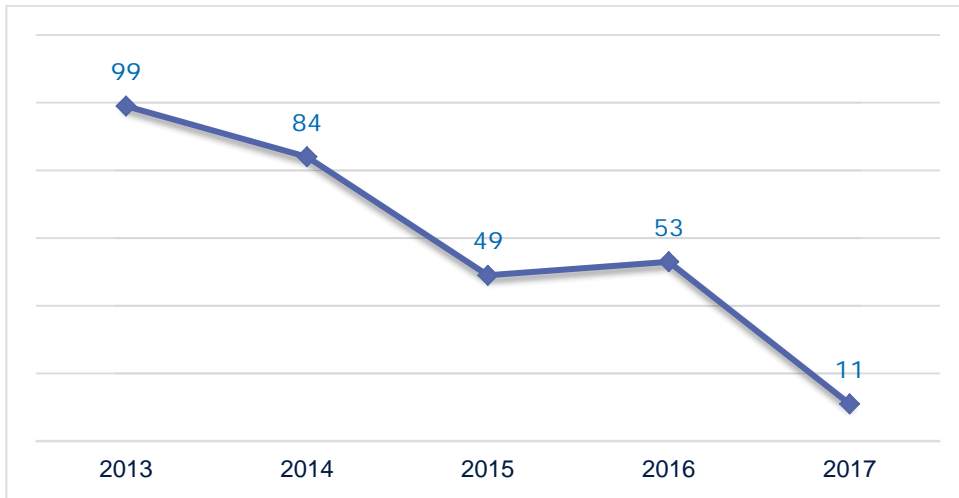
356	>	Complaints open at end-2016
437	>	New complaints registered in 2017
426	>	Complaints handled in 2017
<b>= 367</b>	>	<b>Complaints open at end-2017</b>

3. New complaints registered in 2017: main policy areas

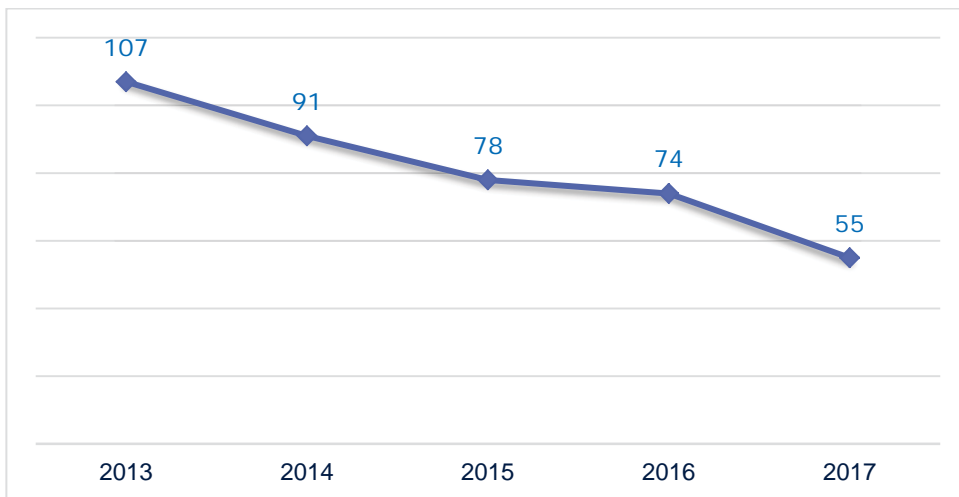


## II. EU PILOT

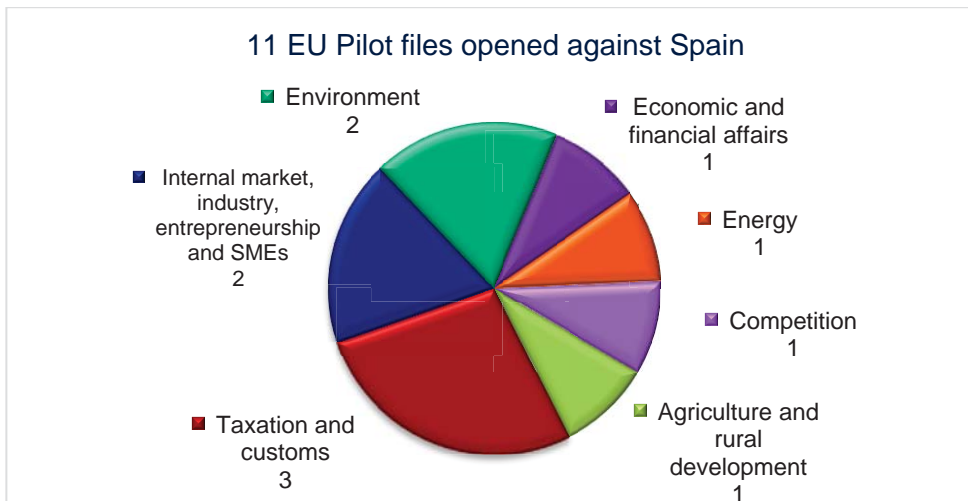
### 1. New EU Pilot files opened against Spain (2011-2017)



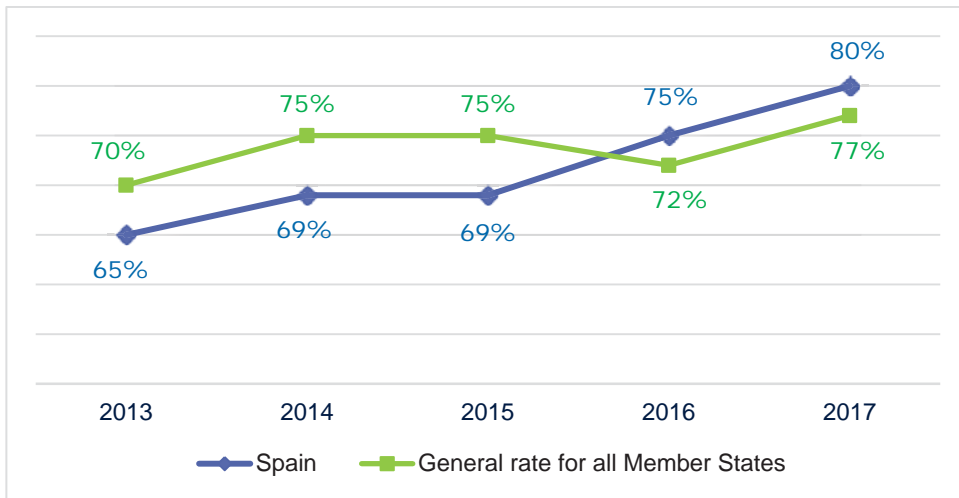
### 2. Files relating to Spain open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

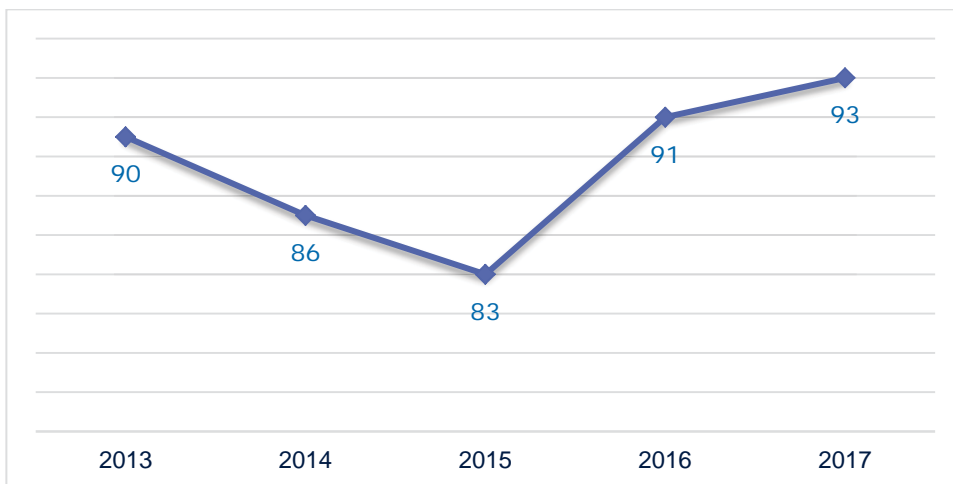


4. EU Pilot files: Spain's resolution rate in 2013-2017

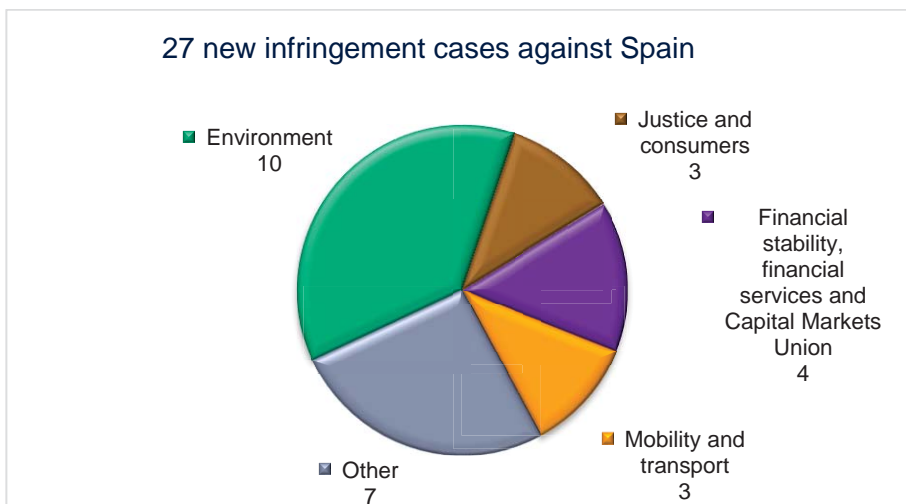


III. INFRINGEMENT CASES

1. Infringement cases against Spain open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 27 new infringement cases against Spain in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Fourth Anti-Money Laundering Directive<sup>1</sup>;
    - Directive establishing a single European railway area<sup>2</sup>;
    - Directive on recognition of professional qualifications<sup>3</sup>;
    - Directive<sup>4</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>5</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>6</sup>;
    - Payment Accounts Directive<sup>7</sup>;
    - Directive on disclosure of non-financial and diversity information by certain large undertakings<sup>8</sup>;
  - the penalty regime under the 'Modelo 720' (a compulsory declaration on tax residents' assets located abroad) may be disproportionate and thus contrary to, among other things, the free movement of capital<sup>9</sup>;
  - discriminatory practices affecting the marketing of food supplements<sup>10</sup>;
  - restrictions on imports of homeopathic medicines<sup>11</sup>;
  - failure to comply with the Late Payment Directive<sup>12</sup>;
  - failure to carry out analysis of the relevant telecom markets on time<sup>13</sup>;
  - failure to comply with the Energy Efficiency Directive<sup>14</sup>;
  - lack of waste management plans required under the Waste Framework Directive<sup>15</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>16</sup>;
  - persistence of illegal waste landfills, in violation of the Waste Framework Directive<sup>17</sup>;
  - failure to ensure that urban waste water is adequately treated<sup>18</sup>;
  - late adoption of the second round of river basin management plans under the Water Framework Directive<sup>19</sup>;
  - failure to comply with the NO<sub>2</sub> limit values set by the Air Quality Directive<sup>20</sup>.
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concerned:
- failure to comply with the rules on access to the occupation of road transport operator<sup>21</sup>;

<sup>1</sup> Directive [2015/849/EU](#), [MEMO/17/4767](#).

<sup>2</sup> Directive [2012/34/EU](#), [MEMO/17/1577](#).

<sup>3</sup> Directive [2013/55/EU](#).

<sup>4</sup> Directive [\(EU\) 2015/652](#).

<sup>5</sup> Directive [98/70/EC](#).

<sup>6</sup> Directive [2014/65/EU](#).

<sup>7</sup> Directive [2014/92/EU](#), [MEMO/17/1045](#).

<sup>8</sup> Directive [2014/95/EU](#), [MEMO/17/1577](#).

<sup>9</sup> [MEMO/17/234](#).

<sup>10</sup> [MEMO/17/1935](#).

<sup>11</sup> [MEMO/17/4767](#).

<sup>12</sup> Directive [2011/7/EU](#), [IP/17/239](#).

<sup>13</sup> Directive [2002/21/EC](#), [MEMO/17/3494](#).

<sup>14</sup> Directive [2012/27/EU](#), [MEMO/17/3494](#).

<sup>15</sup> Directive [2008/98/EC](#), [MEMO/17/1935](#).

<sup>16</sup> [MEMO/17/1281](#).

<sup>17</sup> Directive [2008/98/EC](#), [MEMO/17/3494](#).

<sup>18</sup> [MEMO/17/3494](#).

<sup>19</sup> Directive [2000/60/EC](#), [MEMO/17/3494](#).

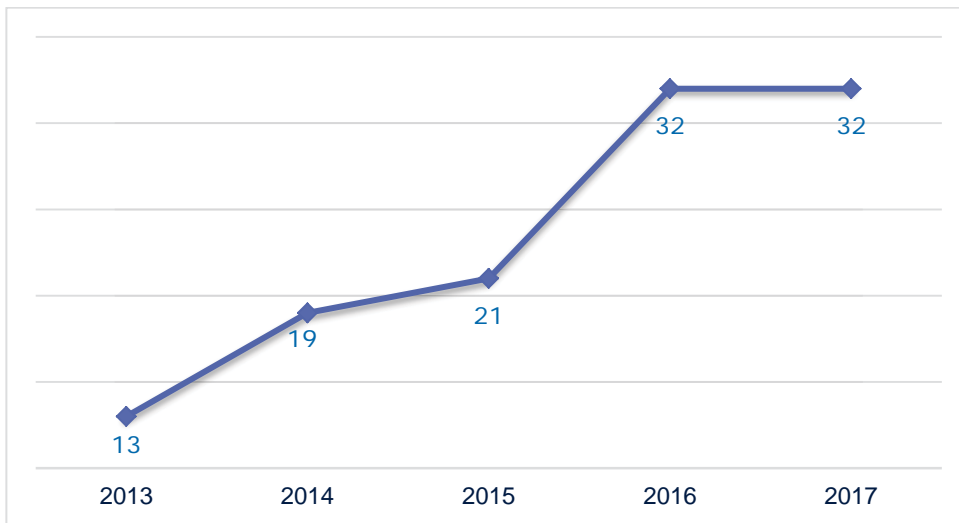
<sup>20</sup> Directive [2008/50/EC](#), [IP/17/238](#).

<sup>21</sup> Regulation [\(EC\) No 1071/2009](#), Commission v Spain, [C-181/17](#); [IP/16/3651](#), [MEMO/16/3644](#).

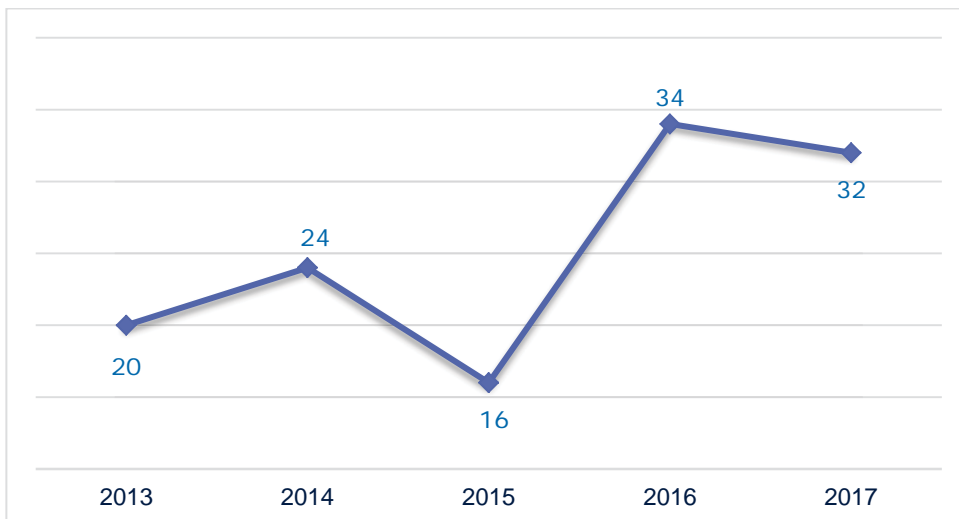
- late transposition of the so-called ‘Whistle-blowing’ Directive<sup>22</sup>.
- c) The Commission referred one case to the Court under Article 260(2) TFEU.
- This concerns a failure to comply with a Court judgment finding that Spain had failed to adequately collect and treat waste water in a number of agglomerations. The Commission asked the Court to impose a lump sum payment of EUR 46 522 999 and a daily penalty payment of EUR 171 217.20 until Spain fully complies with EU law<sup>23</sup>.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Spain open on 31 December (2013-2017)



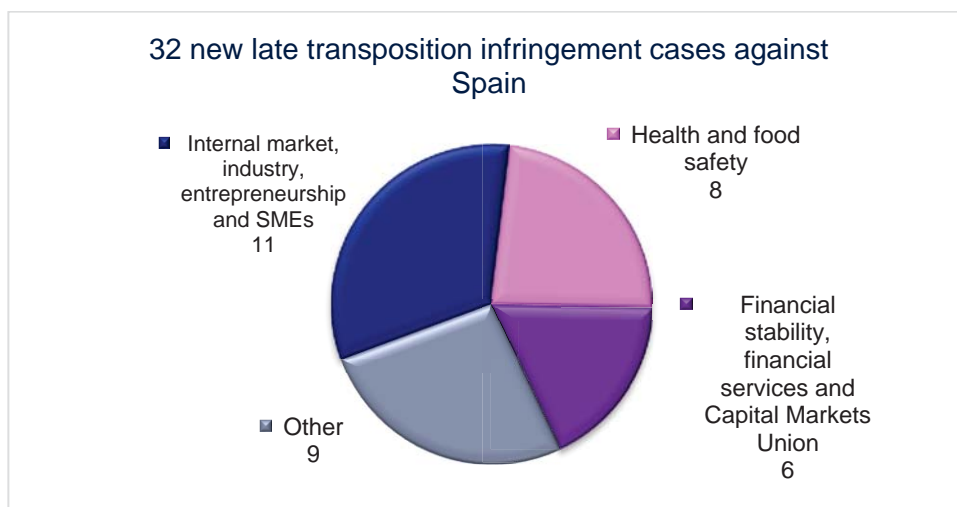
##### 2. New late transposition infringement cases against Spain (2013-2017)



<sup>22</sup> Commission Implementing Directive [\(EU\) 2015/2392](#), Commission v Spain, [C-599/17](#), [IP/17/1950](#).

<sup>23</sup> Directive [91/271/EEC](#), Commission v Spain, [C-205/17](#), [MEMO/16/3644](#), [IP/16/3645](#).

### 3. New late transposition infringement cases opened in 2017: main policy areas



### 4. Referrals to the Court

The Commission referred Spain to the Court under Articles 258 and 260(3) TFEU in the following case:

- failure to fully transpose the Mortgage Credit Directive<sup>24</sup>.

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Directive on recognition of professional qualifications<sup>25</sup>;
  - Solvency II Directive<sup>26</sup>;
  - Omnibus II Directive, in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>27</sup>;
  - Accounting Directive<sup>28</sup>;
  - amended Settlement Finality Directive<sup>29</sup>;
  - Maritime Spatial Planning Directive<sup>30</sup>;
  - Directive on the return of unlawfully removed cultural goods<sup>31</sup>;
  - Directive on explosives for civil uses<sup>32</sup>;
  - Directive on radioactive substances in water intended for human consumption<sup>33</sup>;

<sup>24</sup> Directive [2014/17/EU](#), Commission v Spain, [C-569/17](#); [IP/17/1049](#).

<sup>25</sup> Directive [2005/36/EC](#).

<sup>26</sup> Directive [2009/138/EC](#).

<sup>27</sup> Directive [2014/51/EU](#).

<sup>28</sup> Directive [2013/34/EU](#).

<sup>29</sup> Directive [98/26/EC](#).

<sup>30</sup> Directive [2014/89/EU](#).

<sup>31</sup> Directive [2014/60/EU](#).

<sup>32</sup> Directive [2014/28/EU](#).

<sup>33</sup> Directive [2013/51/Euratom](#).

- the Directive on radioactive substances in water intended for human consumption<sup>34</sup>.
- The adoption of amended transposition rules applicable to all workers as well as specific texts applicable to police workers in line with the provisions of the Working Time Directive on night work<sup>35</sup>;
- non-ratification of the Revised Convention and the Protocol of Accession to the Eurocontrol International Convention;
- breach of the free movement of goods by the imposition of specific requirements for components of cigarette papers.

## VI. IMPORTANT JUDGMENTS

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

The Court gave the following rulings.

- Spain has failed to comply with a 2014 Court judgment on freedom of establishment at Spanish ports<sup>37</sup>. The Court ordered Spain to pay a lump sum of EUR 3 million<sup>38</sup>;
- Spain has failed to comply with its obligations under the Waste Framework Directive regarding the operation of 61 illegal waste landfill sites<sup>39</sup>.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Spanish judiciary.

- The fact that a person is imprisoned, without the prospect of being released in the near future, when an expulsion decision is adopted does not exclude that his conduct represents a genuine threat to a fundamental interest of the society of the host Member State. Therefore, expulsion while the person is already in prison may be considered justified<sup>40</sup>.
- An intermediation service whose purpose is to connect, by means of a smartphone application and for remuneration, non-professional drivers using their own vehicle with persons who wish to make urban journeys must be considered as a 'service in the field of transport'. The service in question is consequently covered by the common transport policy<sup>41</sup>.
- Under the Fixed-Term Work Directive, and as long as permanent workers are entitled to special leave until the end of their parliamentary term of office, such leave cannot be completely denied to fixed-term workers<sup>42</sup>.
- The Renewable Energy Directive does not prevent a Member State from introducing a regional levy on windmills<sup>43</sup>.
- National legislation which gives consumers a time limit of one month to object, on the basis of alleged unfairness of contractual terms, to the enforcement of mortgage proceedings instituted before the entry into force of that legislation is not compatible with the Directive on unfair terms in consumer contracts. The *res judicata* principle does

<sup>34</sup> Directive [2013/51/Euratom](#).

<sup>35</sup> Directive [2003/88/EC](#).

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

<sup>37</sup> Commission v Spain, [C-576/13](#).

<sup>38</sup> Commission v Spain, [C-388/16](#).

<sup>39</sup> Directive [2008/98/EC](#), Commission v Spain, [C-563/15](#).

<sup>40</sup> Directive [2004/38/EC](#), E, [C-193/16](#).

<sup>41</sup> Asociación Profesional Elite Taxi, [C-434/15](#).

<sup>42</sup> Directive [1999/70/EC](#), Vega Gonzalez, [C-158/16](#).

<sup>43</sup> Elecdey Carcelen SA and Others, [C-215/16](#).



Spain

not prevent an appeal court from assessing the potential unfairness of some terms in consumer contracts which have not already been examined by the first instance court<sup>44</sup>.

- National legislation allowing a creditor to waive his right to interest for late payment and compensation for recovery costs in exchange for immediate payment of the principal amount of debts owed is compatible with the Late Payment Directive, on condition that such a waiver is freely agreed to<sup>45</sup>.
- A decision to expel a third-country national who is a long-term resident may not be adopted for the sole reason that he or she has been sentenced to a jail term of more than 1 year<sup>46</sup>. Before taking such decision, Member States must consider the duration of residence, the age of the person, the consequences for the person and family members and links with the country of residence

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<sup>44</sup> Directive [93/13/EEC](#), Banco Primus, [C-421/14](#).

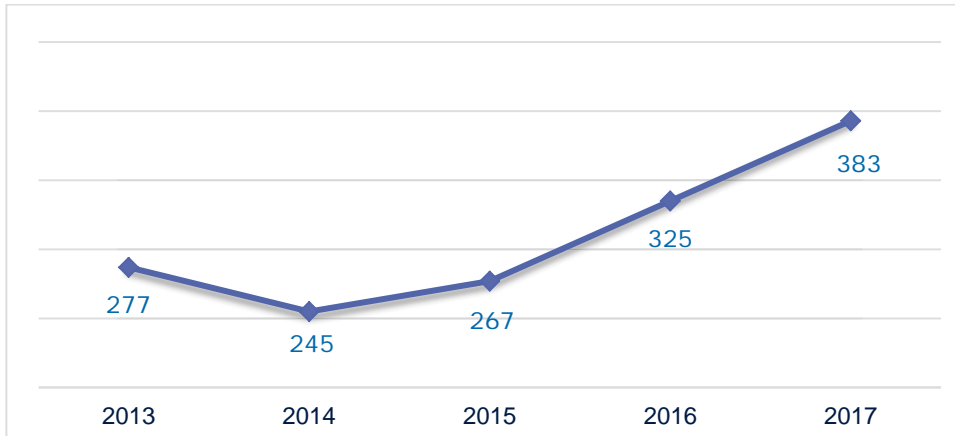
<sup>45</sup> Directive [2011/7/EU](#), IOS Finance EFC, [C-555/14](#).

<sup>46</sup> López Pastuzano, [C-636/16](#) and Court press release No [134/17](#).

France

I. COMPLAINTS

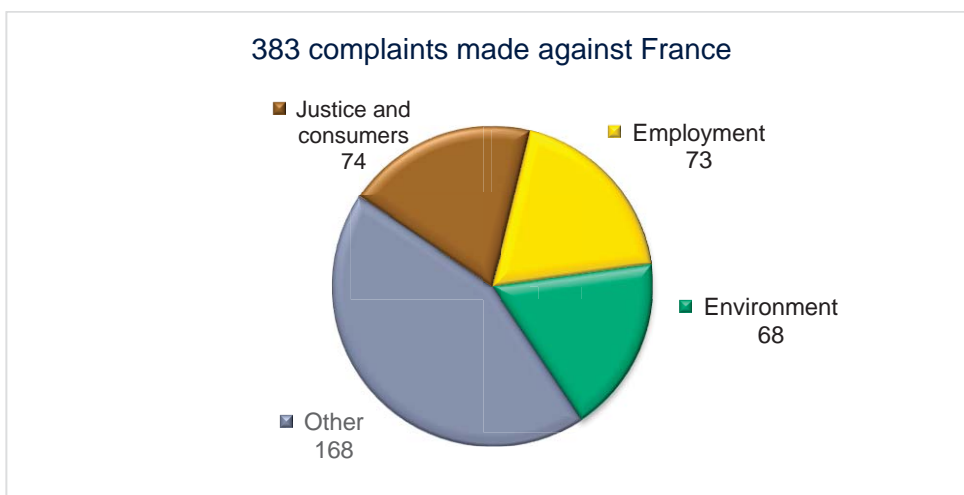
1. New complaints made against France by members of the public (2013-2017)



2. Public complaints against France open at year-end

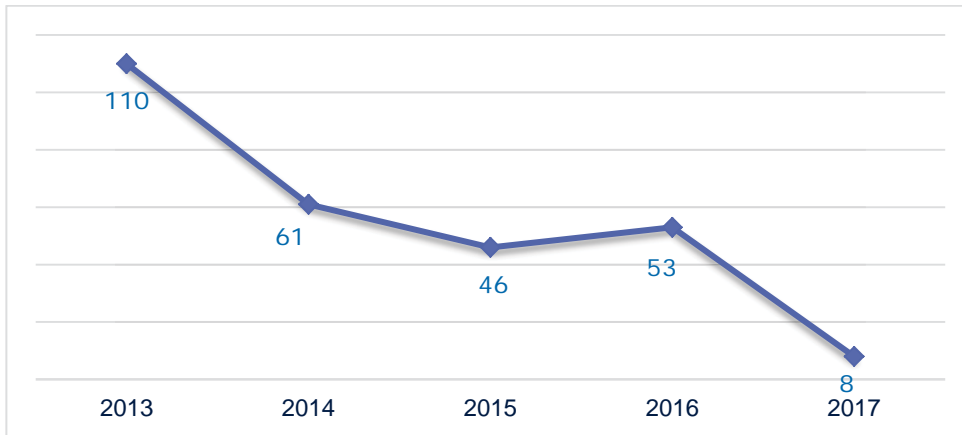
266	>	Complaints open at end-2016
383	>	New complaints registered in 2017
336	>	Complaints handled in 2017
<b>= 313</b>	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

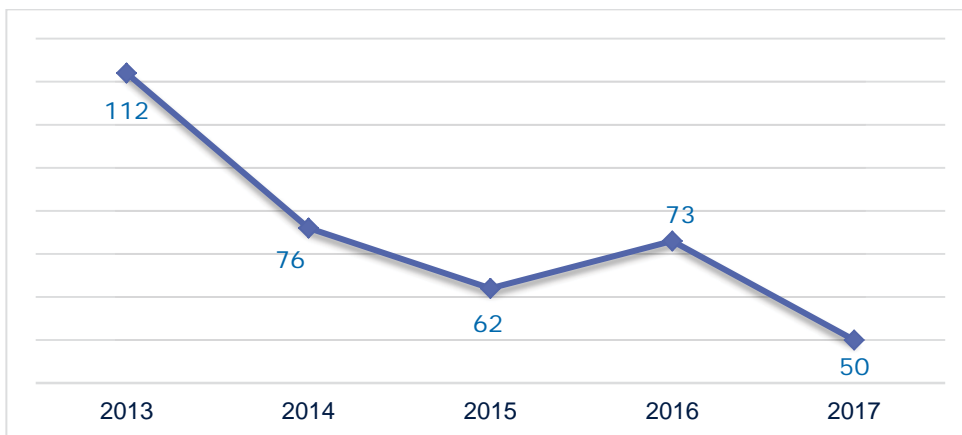


## II. EU PILOT

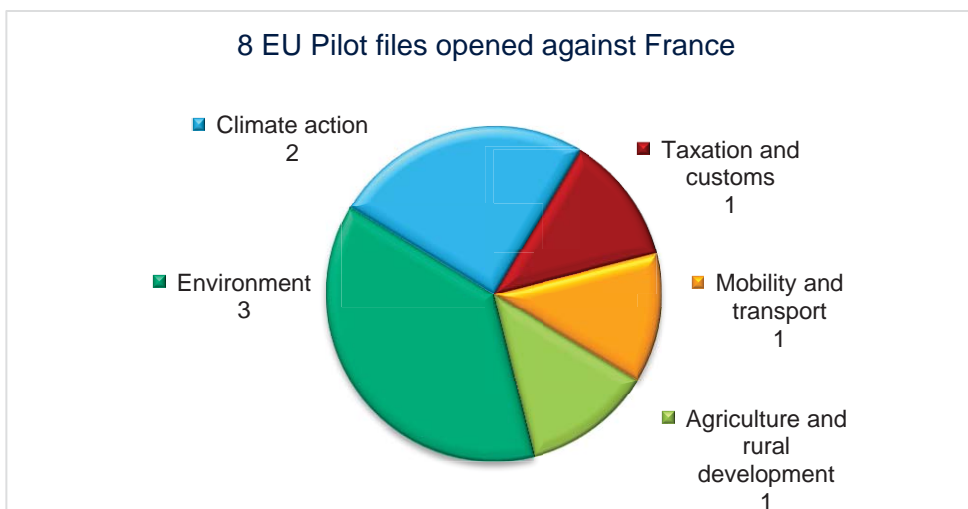
### 1. New EU Pilot files opened against France (2013-2017)



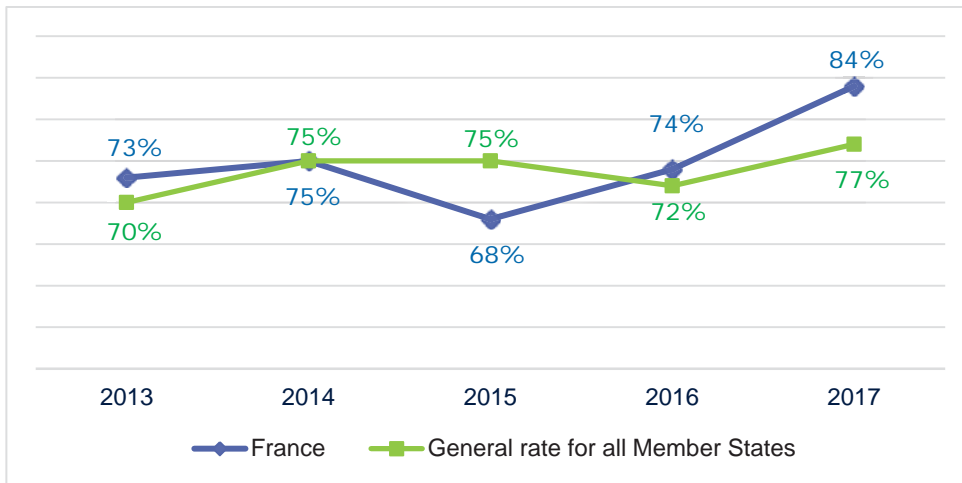
### 2. Files relating to France open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

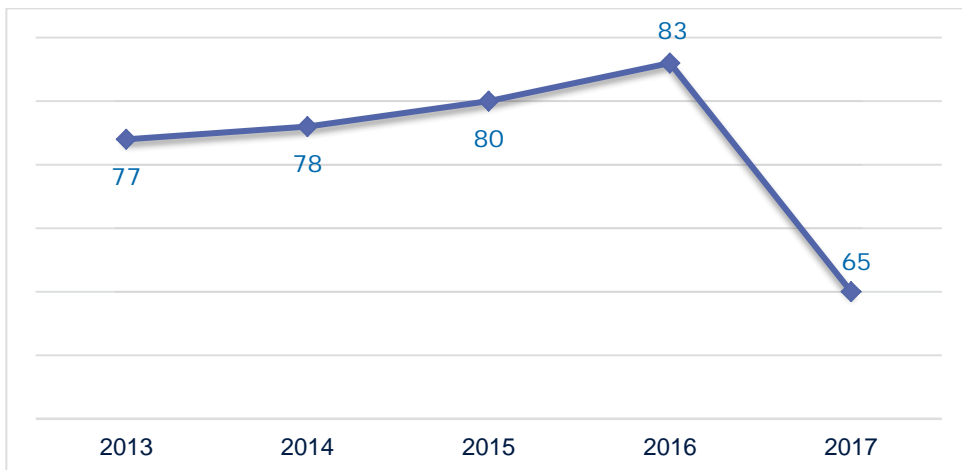


4. EU Pilot files: France's resolution rate in 2013-2017

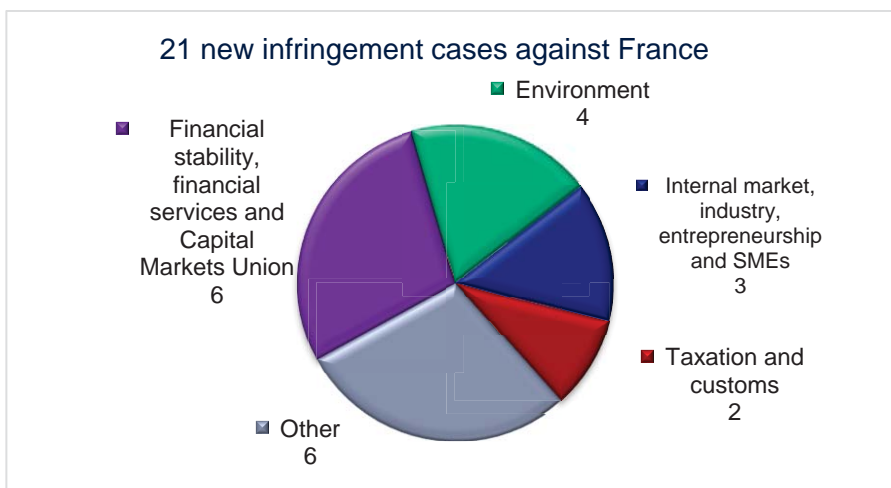


III. INFRINGEMENT CASES

1. Infringement cases against France open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 21 new infringement cases against France in 2017. These, and other major ongoing infringement cases, include:
- failure to fully implement the Regulation on explosives precursors. This restricts and controls access to several dangerous chemicals which could be used by terrorists to manufacture homemade explosives<sup>1</sup>;
  - prohibiting the transfer of public funds from infrastructure management to transport activities, and ensuring that funds paid for activities relating to the provision of passenger transport services are shown separately in the relevant accounts<sup>2</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>3</sup>;
  - failure to ensure that urban waste water is adequately treated<sup>4</sup>;
  - on-communication of national measures transposing the:
    - Directive<sup>5</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>6</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>7</sup>;
  - failure to comply with the NO<sub>2</sub> limit values set by the Air Quality Directive<sup>8</sup>;
  - failure to establish action plans required by the Noise Directive<sup>9</sup>.
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concerned the following.
- Failure to address continued violations of the EU legislation on the conservation of wild birds<sup>10</sup>.
  - The following criteria laid down in an earlier Court judgment<sup>11</sup> on tax treatment of dividends were not respected by France: First, the tax already paid by non-French subsidiaries is not taken into account. Second, the tax credit is limited to one third of the dividend redistributed by a non-French subsidiary, which discriminates between dividends received from companies in other Member States and those of French origin. Finally, the requirement of proof is still maintained to restrict the companies' right to a refund<sup>12</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

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<sup>1</sup> [MEMO/17/234](#).

<sup>2</sup> Directive [2012/34/EU](#).

<sup>3</sup> [MEMO/17/1281](#).

<sup>4</sup> [MEMO/17/3494](#).

<sup>5</sup> Directive [2015/652/EU](#).

<sup>6</sup> Directive [98/70/EC](#).

<sup>7</sup> Directive [2014/65/EU](#).

<sup>8</sup> Directive [2008/50/EC](#), [IP/17/238](#).

<sup>9</sup> Directive [2002/49/EC](#); [MEMO/17/4767](#).

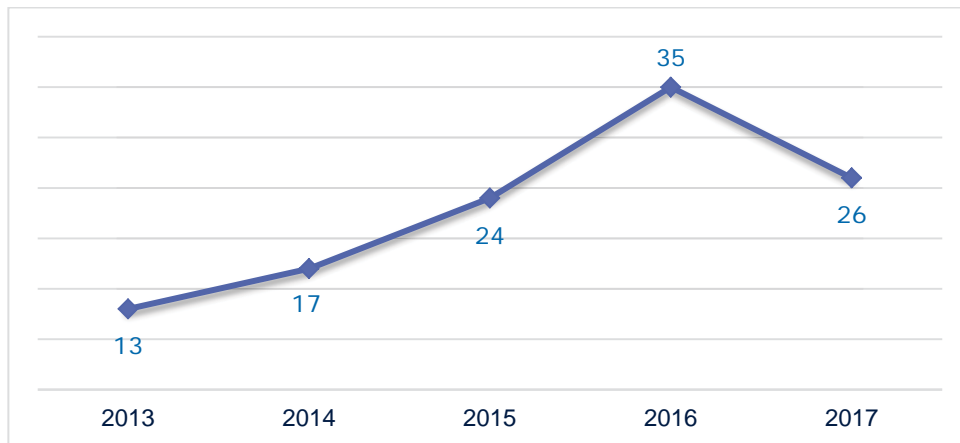
<sup>10</sup> Directive [2009/147/CE](#), *Commission v France*, [C-420/17](#), [IP/16/4213](#). France subsequently took the necessary measure to ensure compliance with EU law and the Commission has therefore withdrawn this case from the Court; [MEX/17/4652](#).

<sup>11</sup> *Accor SA*, [C-310/09](#).

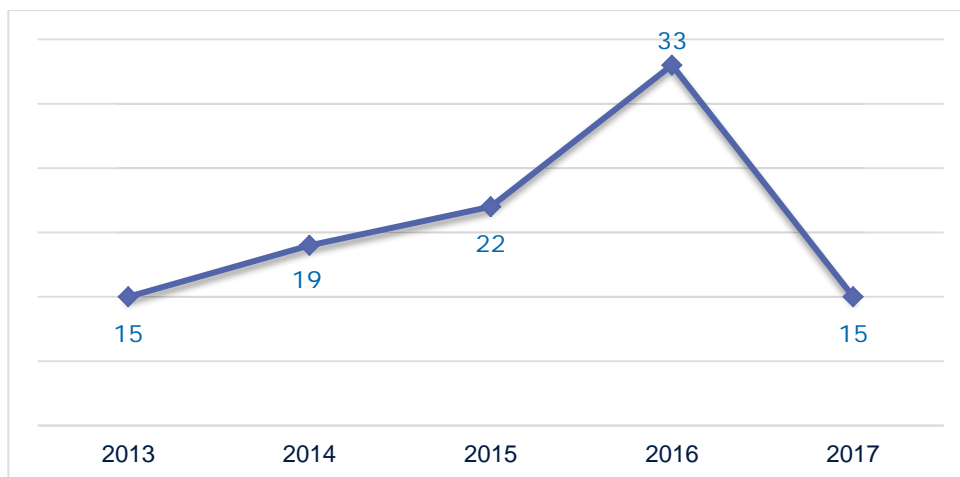
<sup>12</sup> *Commission v France*, [C-416/17](#), [IP/16/4216](#).

#### IV. TRANSPOSITION OF DIRECTIVES

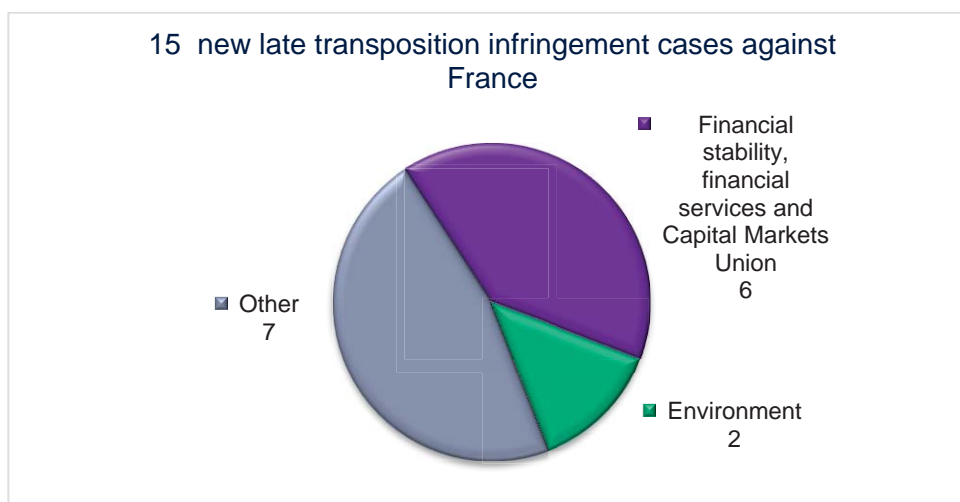
##### 1. Late transposition infringement cases against France open on 31 December (2013-2017)



##### 2. New late transposition infringement cases against France (2013-2017)



##### 3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2017

These concerned:

- failure to implement completely the Regulation on explosives precursors, which restricts and controls access to several dangerous chemicals that could be used by terrorists to manufacture homemade explosives;
- non-communication of national measures transposing the:
  - Intra-Corporate Transfer Directive<sup>13</sup>;
  - Long-Term Residents Directive<sup>14</sup>;
  - Maritime Spatial Planning Directive<sup>15</sup>;
  - Seveso-III Directive<sup>16</sup>;
  - Transparency Directive<sup>17</sup>;
  - Accounting Directive<sup>18</sup>;
  - Directive on the undertakings for collective investment in transferable securities (UCITS)<sup>19</sup>;
- incorrect transposition of certain requirements of the Directive on the energy performance of buildings<sup>20</sup>.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings

There were no major Court rulings in 2017.

#### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the French judiciary.

- Concertation on price and quantities between several organisations of agricultural producers and associations of such organisations may constitute an agreement, decision or concerted practice for the purposes of competition law. However, such practice is permitted within the same producer organisation or association of producer organisations if it is proportionate to the objectives assigned to that organisation. Such practice is not proportionate to the objectives of stabilising prices and concentrating supply if the collective fixing of minimum sale prices within a producer organisation or association of producer organisations:
  - does not allow producers to sell their own products at a lower price than those minimum prices; and
  - has the effect of reducing the already low level of competition in the markets for agricultural products<sup>21</sup>.

<sup>13</sup> Directive [2014/66/EU](#), [MEMO/17/3494](#).

<sup>14</sup> Directive [2011/51/EU](#).

<sup>15</sup> Directive [2014/89/EU](#).

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

<sup>17</sup> Directive [2013/50/EU](#).

<sup>18</sup> Directive [2013/34/EU](#).

<sup>19</sup> Directive [2014/91/EU](#).

<sup>20</sup> Directive [2010/31/EU](#).

<sup>21</sup> APVE and Others, [C-671/15](#) and Court press release [No 120/17](#).

- Member States may establish gas storage requirements which go beyond the minimum standard established by the Security of Gas Supply Regulation, provided that all the proportionality conditions of the Regulation are met. The Court further clarified that operators must have the effective possibility to satisfy their gas storage obligations at regional or EU level<sup>22</sup>.
- The case concerned a refusal to issue a router for access to the private virtual network for lawyers to a lawyer duly registered at a Bar of another Member State, for the sole reason that that lawyer is not registered at a Bar of the first Member State, in which he wishes to practise his profession as a free provider of services. The Court held that the refusal constitutes a restriction on the freedom to provide services under Council Directive 77/249/EEC<sup>23</sup>.
- The Parent-Subsidiary Directive<sup>24</sup> precludes a tax measure providing for the levy of a tax on dividends redistributed by a French parent company coming from that company's non-resident subsidiaries<sup>25</sup>.
- An E101 or A1 certificate issued by a competent authority in view of the posting of workers (in accordance with Regulation 883/2004) is binding on both the social security institutions of the Member State in which the work is carried out and the courts of that Member State. This remains so even if those courts find that the worker's employment conditions clearly demonstrate that he does not fall under the category of posted workers<sup>26</sup>.

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<sup>22</sup> Eni SpA and Others, [C-226/16](#).

<sup>23</sup> Jean-Philippe Lahorgue, [C-99/16](#).

<sup>24</sup> Directive [2011/96/EU](#).

<sup>25</sup> AFEP and Others, [C-365/16](#).

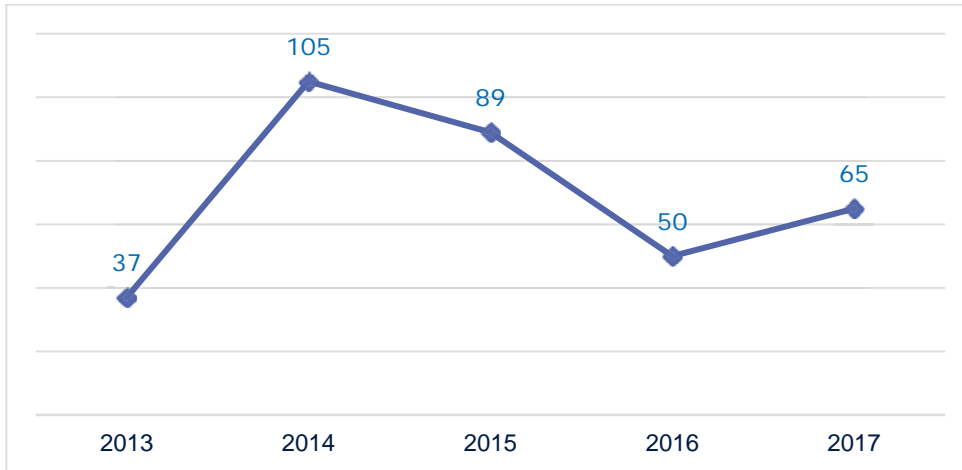
<sup>26</sup> A-ROSA, [C-620/15](#).



Croatia

I. COMPLAINTS

1. New complaints made against Croatia by members of the public (2013-2017)<sup>1</sup>



2. Public complaints against Croatia open at year-end

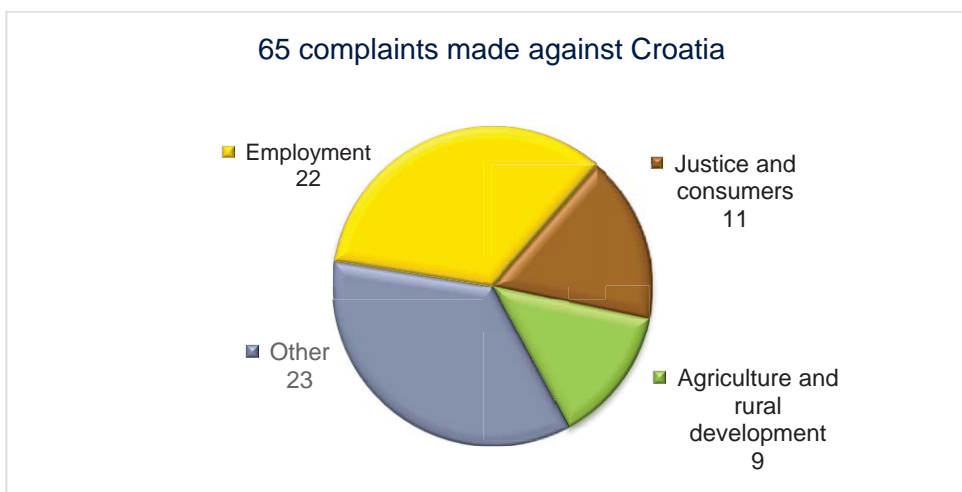
77 > Complaints open at end-2016

65 > New complaints registered in 2017

73 > Complaints handled in 2017

**= 69** > Complaints open at end-2017

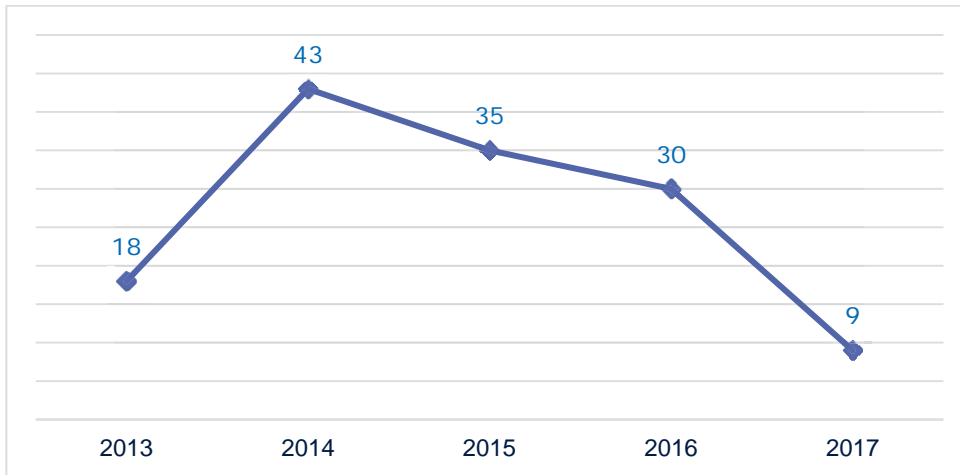
3. New complaints registered in 2017: main policy areas



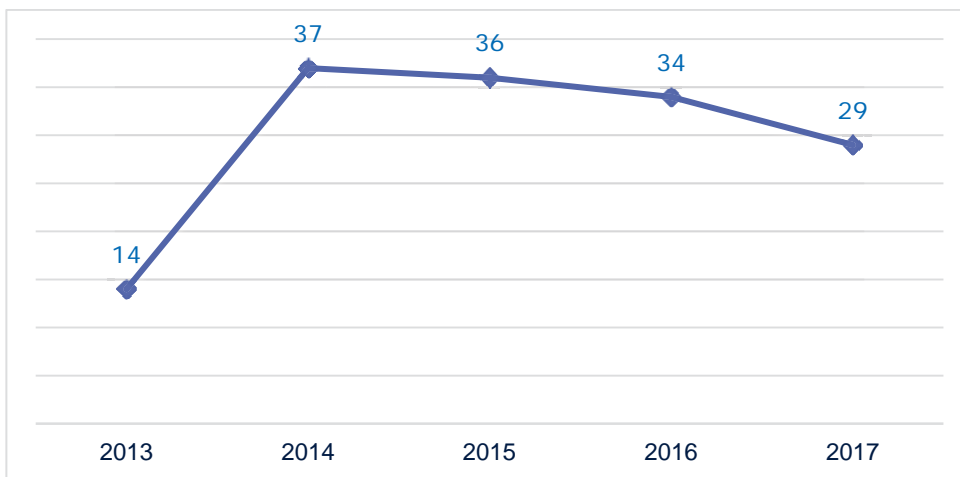
<sup>1</sup> Croatia joined the EU on 1 July 2013.

## II. EU PILOT

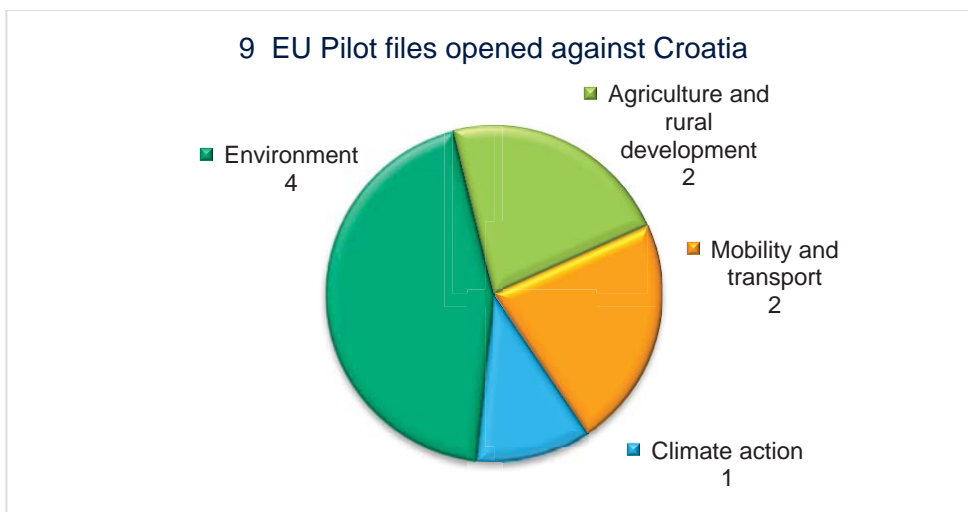
### 1. New EU Pilot files opened against Croatia (2013-2017)



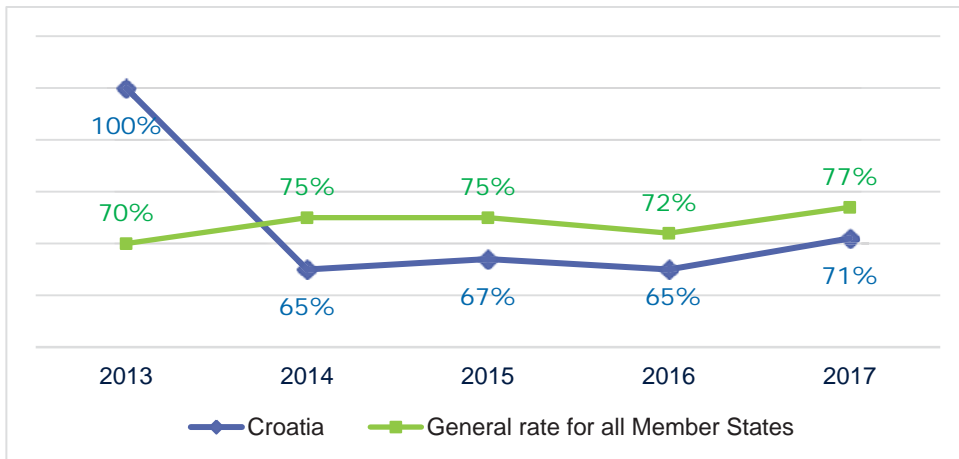
### 2. Files relating to Croatia open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

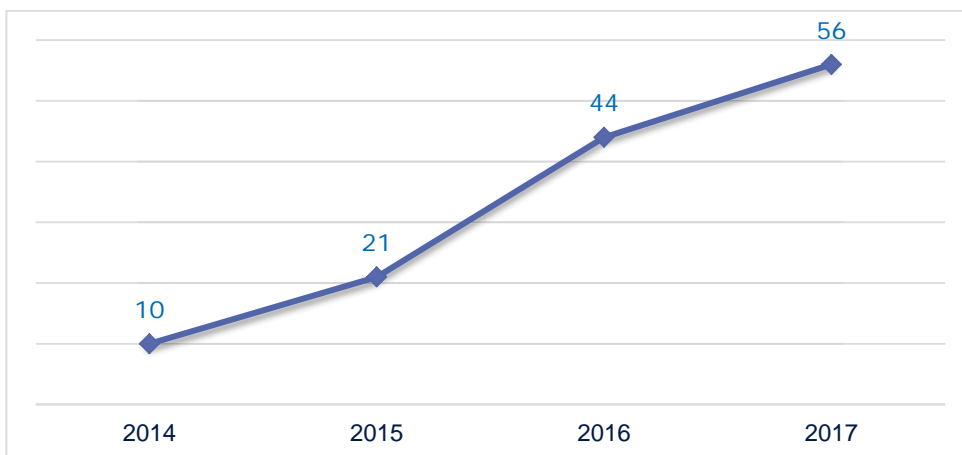


4. EU Pilot files: Croatia's resolution rate in 2013-2017<sup>2</sup>

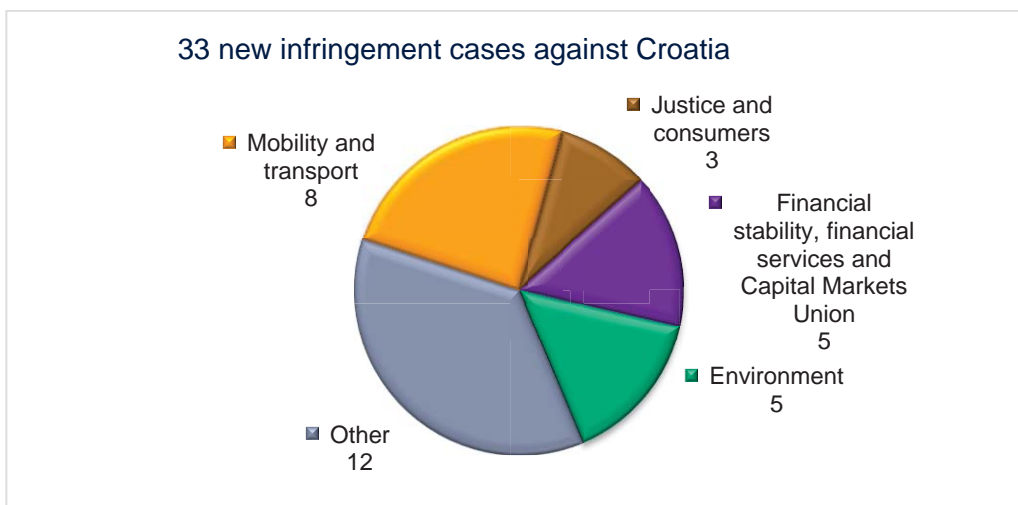


III. INFRINGEMENT CASES

1. Infringement cases against Croatia open on 31 December (2014-2017)



2. New infringement cases opened in 2017: main policy areas



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

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

- a) The Commission opened 33 new infringement cases against Croatia in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Seasonal Workers Directive<sup>3</sup>;
    - Spatial Planning Directive<sup>4</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>5</sup>;
    - Payment Accounts Directive<sup>6</sup>;
    - Directive on seafarers<sup>7</sup>;
    - Fourth Anti-Money Laundering Directive<sup>8</sup>.
  - failure to correctly fingerprint asylum seekers and irregular migrants apprehended after crossing an external border and to transmit this data to the central Eurodac database<sup>9</sup>;
  - failing to fully implement the Prüm Decisions, which set up an information-exchange tool that can offer automated comparison of DNA profiles, fingerprint data and vehicle registration data<sup>10</sup>;
  - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives);<sup>11</sup>
  - non-conformity of national legislation with the Birds and Habitats Directives<sup>12</sup>;
  - failure to establish strategic noise maps and action plans required by the Noise Directive<sup>13</sup>;
  - failure to adopt a national programme for spent fuel and radioactive waste management compliant with the requirements of the Radioactive Waste Directive<sup>14</sup>;
  - failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>15</sup>;
  - failure to fully implement EU legislation establishing common rules in the field of aviation security<sup>16</sup>;
  - national legislation restricting access to and pursuit of the profession of lawyer<sup>17</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>3</sup> Directive [2014/36/EU](#), [MEMO/17/1935](#).

<sup>4</sup> Directive [2014/89/EU](#), [MEMO/17/1935](#).

<sup>5</sup> Directive [2014/65/EU](#).

<sup>6</sup> Directive [2014/92/EU](#), [MEMO/17/1045](#).

<sup>7</sup> Directive [2015/1794/EU](#).

<sup>8</sup> Directive [2015/849/EU](#).

<sup>9</sup> [MEMO/17/1577](#).

<sup>10</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#), [MEMO/17/1280](#).

<sup>11</sup> Directives [2009/72/EC](#) and [2009/73/EC](#), [MEMO/17/1936](#).

<sup>12</sup> Directives [2009/147/EC](#) and [92/43/EEC](#), [MEMO/17/1045](#).

<sup>13</sup> Directive [2002/49/EC](#).

<sup>14</sup> Directive [2011/70/Euratom](#), [MEMO/17/1935](#).

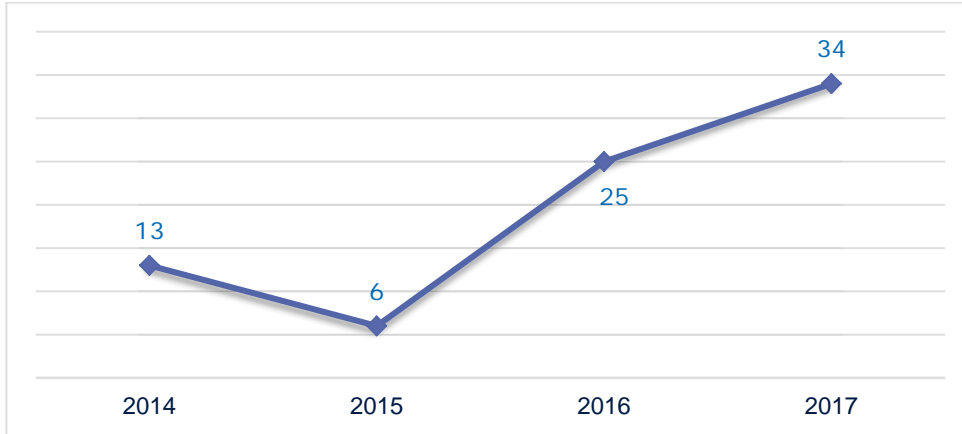
<sup>15</sup> Directive [2008/56/EC](#).

<sup>16</sup> Regulation (EC) No 300/2008; [MEMO/17/3494](#).

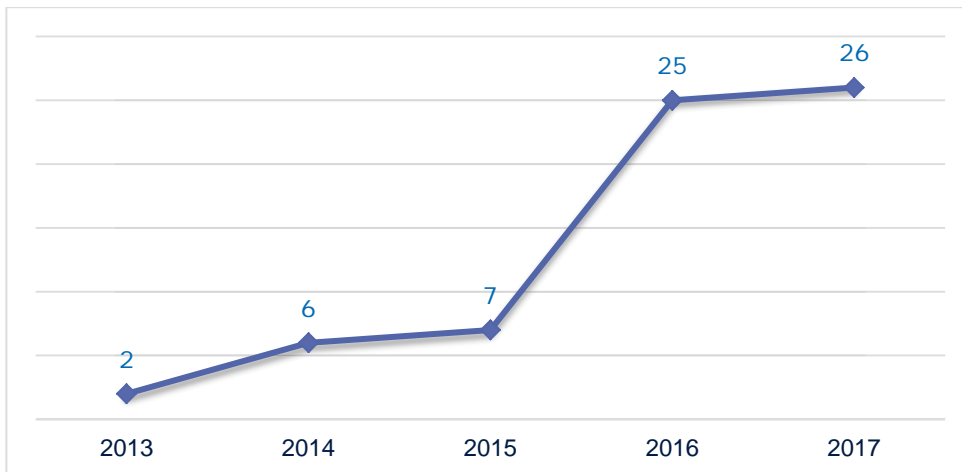
<sup>17</sup> [MEMO/17/1936](#).

#### IV. TRANSPOSITION OF DIRECTIVES

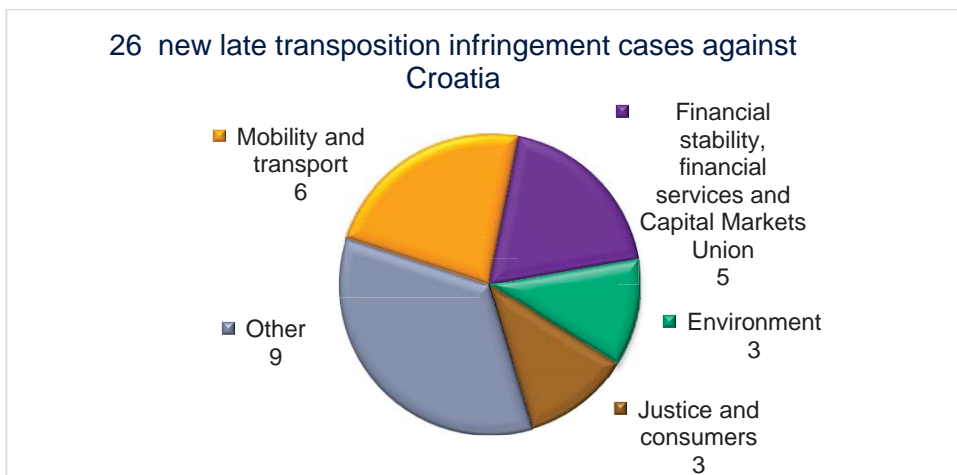
##### 1. Late transposition infringement cases against Croatia open on 31 December (2013-2017)



##### 2. New late transposition infringement cases against Croatia (2013-2017)



##### 3. New late transposition infringement cases opened in 2017: policy areas



#### 4. Referrals to the Court

The Commission referred two cases to the Court under Articles 258 and 260(3) TFEU. They concerned failure to fully transpose:

- the Mortgage Credit Directive<sup>18</sup>; and
- the Audit Directive<sup>19</sup>.

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Public Procurement Directive<sup>20</sup>;
  - Directive on procurement by entities operating in the water, energy, transport and postal services sectors<sup>21</sup>;
  - Directive on the deployment of alternative fuels<sup>22</sup>;
  - Directive on explosives for civil uses<sup>23</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>24</sup>;
  - Maritime Spatial Planning Directive<sup>25</sup>;
  - Directive<sup>26</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>27</sup>.
- non-ratification of the Protocol of Accession to the Eurocontrol International Convention;
- failure to correctly transpose the European rules on driving licences<sup>28</sup>;
- failure to revise the national waste management plan and to adopt a waste prevention programme.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings

There were no major Court rulings in 2017.

#### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Croatian judiciary.

- Notaries, acting within the framework of the powers conferred on them by national law in enforcement proceedings based on an 'authentic document', do not fall within the concept of 'court' within the meaning of EU legislation<sup>29</sup>. Thus, the writs of execution which they issue may not be recognised or enforced in other Member States as judicial decisions<sup>30</sup>.

<sup>18</sup> Directive [2014/17/EU](#), Commission v Croatia, [C-381/17](#), [IP/17/1049](#).

<sup>19</sup> Directive [2014/56/EU](#), Commission v Croatia, [C-415/17](#); [IP/17/1579](#).

<sup>20</sup> Directive [2014/24/EU](#).

<sup>21</sup> Directive [2014/25/EU](#).

<sup>22</sup> Directive [2014/94/EU](#).

<sup>23</sup> Directive [2014/28/EU](#).

<sup>24</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

<sup>25</sup> Directive [2014/89/EU](#).

<sup>26</sup> Directive [\(EU\) 2015/652](#).

<sup>27</sup> Directive [98/70/EC](#).

<sup>28</sup> Directive [2006/126/EC](#).

<sup>29</sup> Regulations [\(EC\) No 805/2004](#) and [\(EU\) No 1215/2012](#).

<sup>30</sup> Pula Parking, [C-551/15](#) and Court press release No [25/17](#).

- National legislation which provides for a fee calculated on the basis of an estimate of the volume of waste generated, and not on the basis of the quantity of waste actually produced and presented for collection, is in principle compatible with the Waste Framework Directive. However, it is for the national courts to verify whether such a fee triggers costs for certain waste holders which are manifestly disproportionate to the volumes or nature of the waste that they are liable to produce<sup>31</sup>.

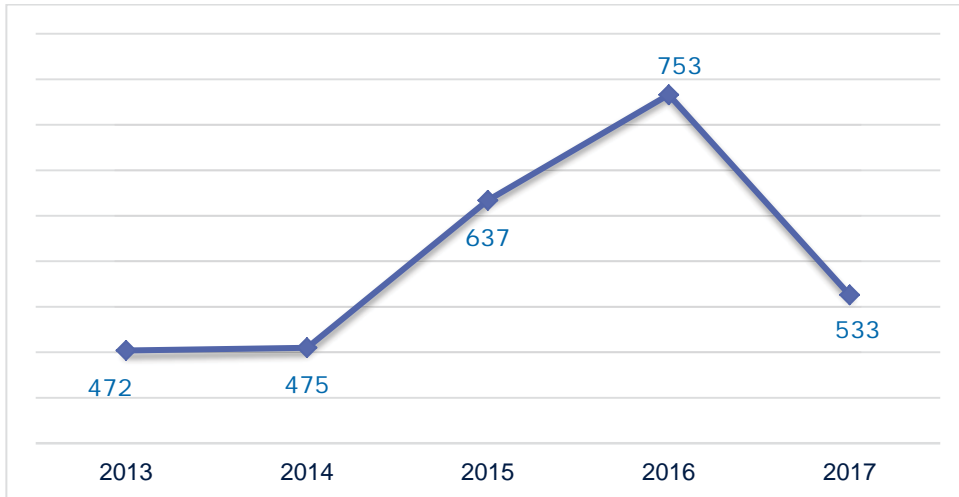
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<sup>31</sup> Directive [2008/98/EC](#), VG Čistoća, [C-335/16](#).

Italy

I. COMPLAINTS

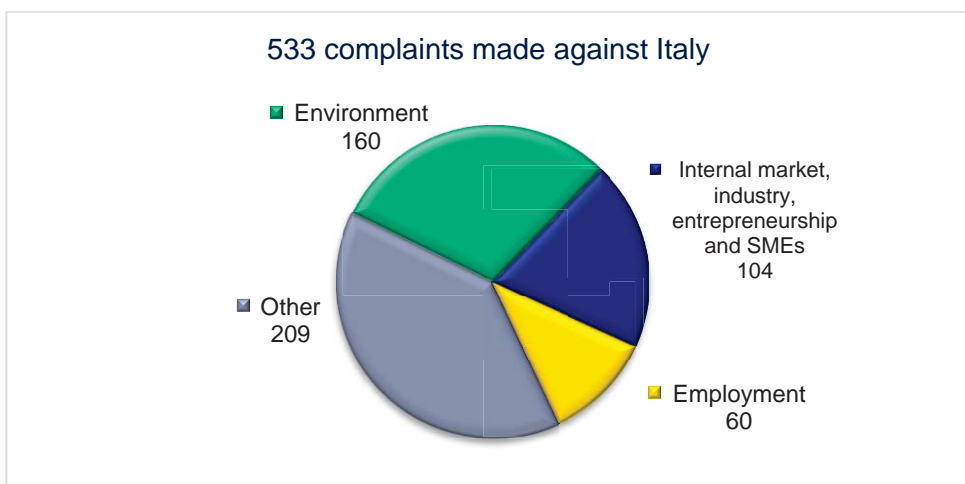
1. New complaints made against Italy by members of the public (2013-2017)



2. Public complaints against Italy open at year-end

669	>	Complaints open at end-2016
533	>	New complaints registered in 2017
620	>	Complaints handled in 2017
<b>= 582</b>	>	<b>Complaints open at end-2017</b>

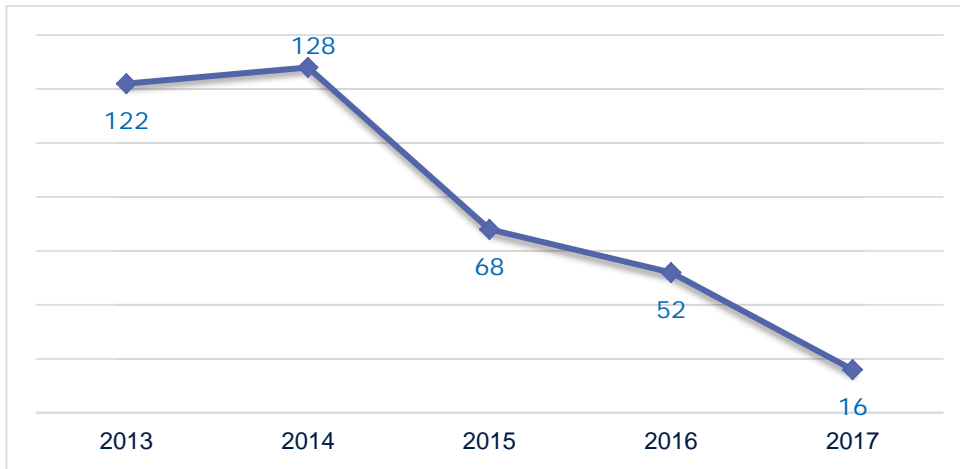
3. New complaints registered in 2017: main policy areas



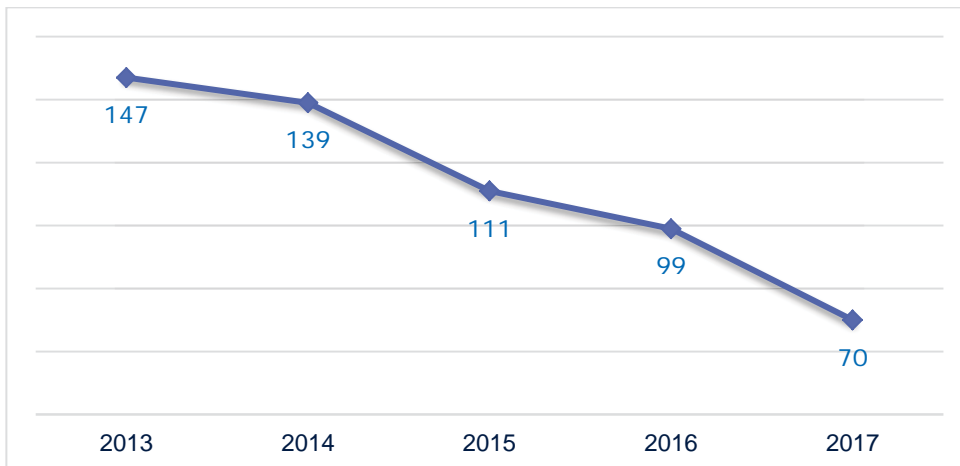


## II. EU PILOT

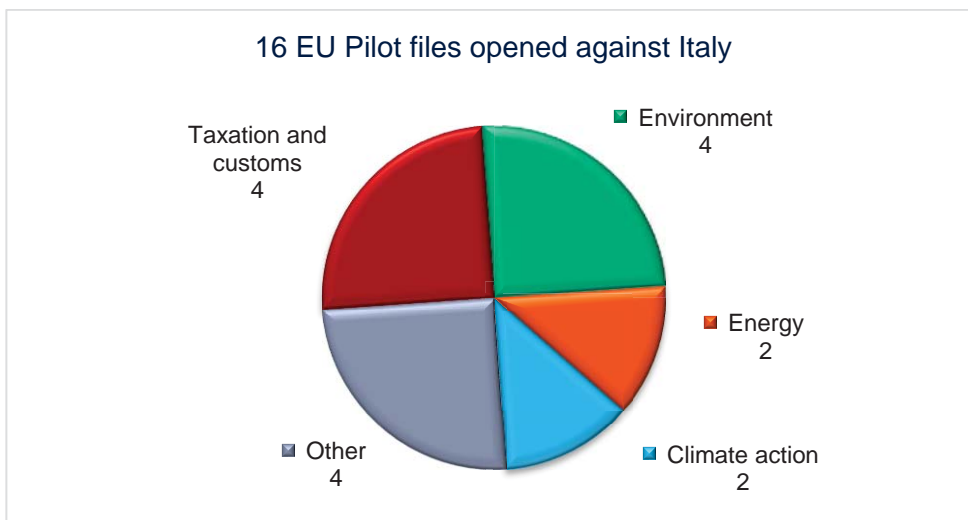
### 1. New EU Pilot files opened against Italy (2013-2017)



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

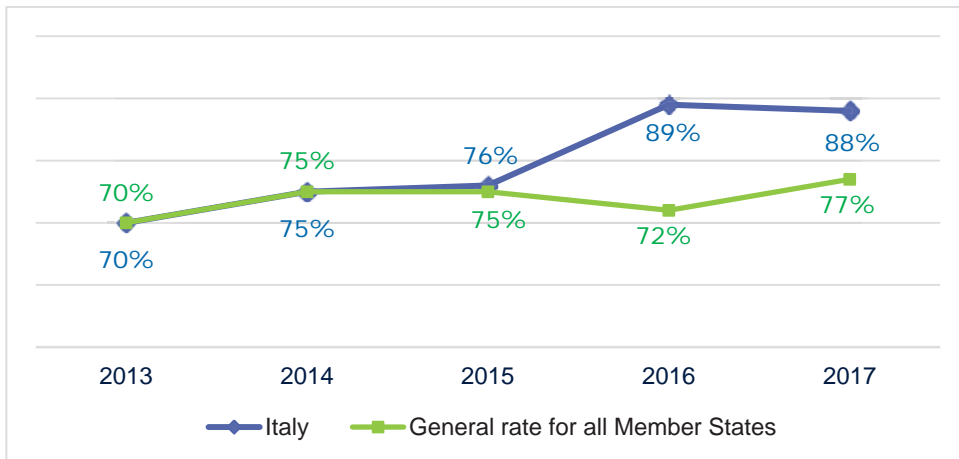


### 3. New EU Pilot files opened in 2017: main policy areas



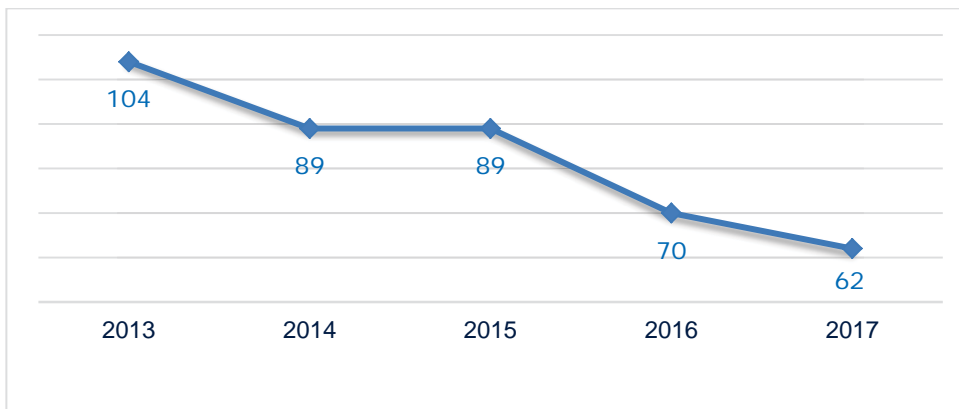
Italy

4. EU Pilot files: Italy's resolution rate in 2013-2017

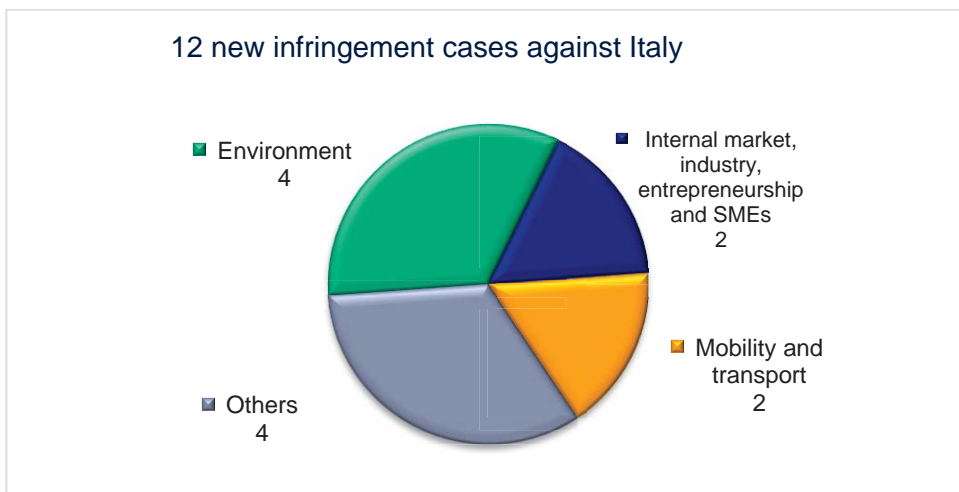


III. INFRINGEMENT CASES

1. Infringement cases against Italy open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 12 new infringement cases against Italy in 2017. These, and other major ongoing infringement cases, include:
- failure to adopt a national programme for spent fuel and radioactive waste management compliant with the requirements of the Radioactive Waste Directive<sup>1</sup>;
  - non-compliance with the Commission's decision on measures to prevent the spread within the EU of the plant bacterium *Xylella fastidiosa*<sup>2</sup>;
  - failing to fully implement the Prüm Decisions, which set up an information-exchange tool that can offer automated comparison of DNA profiles, fingerprint data and vehicle registration data<sup>3</sup>;
  - the prohibition on the transfer of public funds from infrastructure management to transport activities and the need to ensure that funds paid for activities relating to the provision of passenger transport services are shown separately in the relevant accounts<sup>4</sup>;
  - lack of waste management plans required under the Waste Framework Directive<sup>5</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>6</sup>;
  - failure to ensure that urban waste water is adequately treated<sup>7</sup>;
  - failure to comply with the PM<sub>10</sub><sup>8</sup> limit values set by the Air Quality Directive<sup>9</sup>;
  - failure to comply with the NO<sub>2</sub> limit values set by the Air Quality Directive<sup>10</sup>;
  - incorrect application of the Directive on the mutual recognition of seafarers' certificates issued by Member States<sup>11</sup>;
  - discriminatory fiscal treatment of green electricity and discriminatory taxation rules against non-Italian citizens relating to real estate;
  - non-communication of national measures transposing the:
    - Directive on caseins and caseinates<sup>12</sup>;
    - Directive on seafarers<sup>13</sup>.
- b) The Commission referred two cases to the Court under Article 258 TFEU. These concern:
- failure to rehabilitate or close non-compliant waste landfills posing a serious risk for human health and the environment<sup>14</sup>;
  - extension of a motorway concession contract without a prior call for tenders<sup>15</sup>.
- c) The Commission referred one case to the Court under Article 260(2) TFEU.

This concerns a failure to comply with a Court judgment finding that Italy had failed to adequately collect and treat waste water discharged by numerous agglomerations. The Commission asked the Court to impose a lump sum

<sup>1</sup> Directive [2011/70/Euratom](#), [MEMO/17/1935](#).

<sup>2</sup> Commission Implementing Decision (EU)2015/789, [MEMO/17/1935](#).

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

<sup>4</sup> Directive [2012/34/EU](#).

<sup>5</sup> Directive [2008/98/EC](#), [MEMO/17/234](#).

<sup>6</sup> [MEMO/17/1281](#).

<sup>7</sup> [MEMO/17/1280](#).

<sup>8</sup> PM<sub>10</sub> is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometres. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: European Environment Agency).

<sup>9</sup> Directive [2008/50/EC](#).

<sup>10</sup> Directive [2008/50/EC](#), [IP/17/238](#).

<sup>11</sup> Directive [2005/45/EC](#), [MEMO/17/4767](#).

<sup>12</sup> Directive [2015/2203/EU](#), [MEMO/17/1935](#).

<sup>13</sup> Directive [2015/1794/EU](#).

<sup>14</sup> Directive [1999/31/EC](#), Commission v Italy, [C-498/17](#), [IP/17/1283](#).

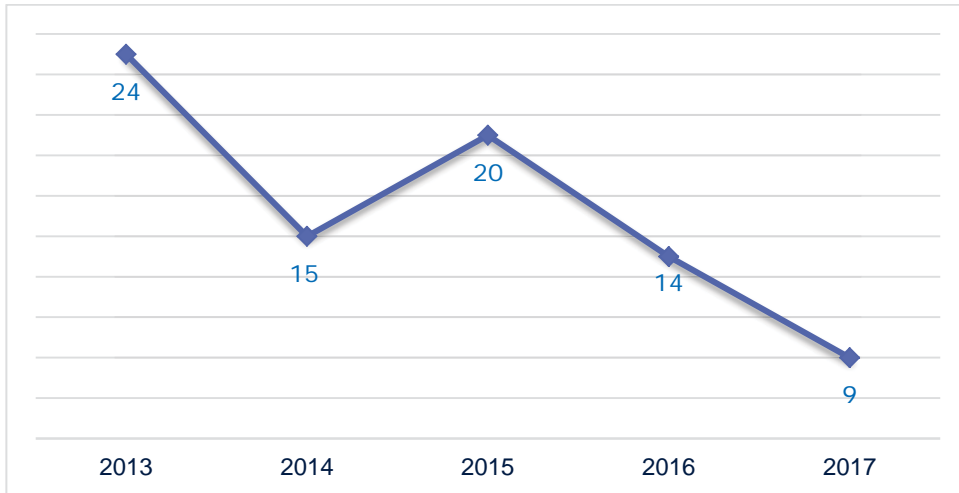
<sup>15</sup> Directive [2004/18/EC](#), Commission v Italy, [C-526/2017](#), [IP/17/1284](#).

Italy

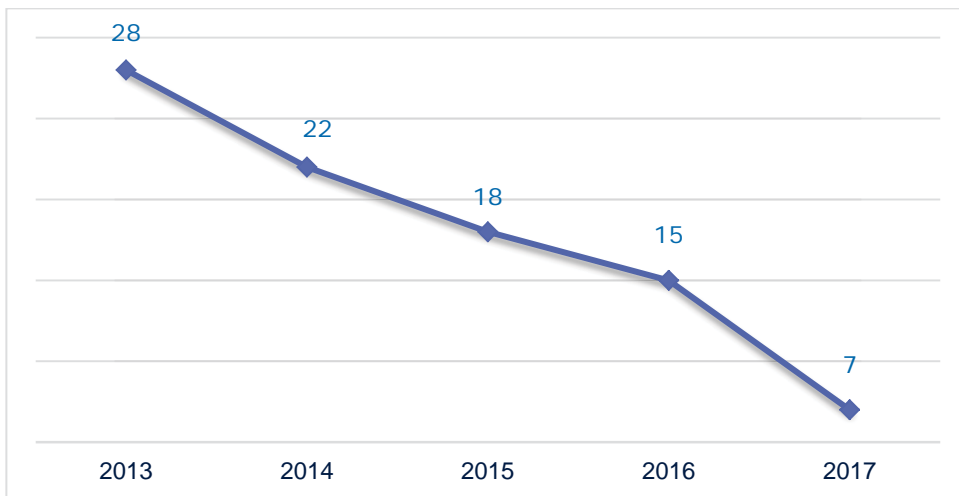
payment of EUR 62 699 421.40 and a daily penalty payment of EUR 346 922.40 until Italy fully complies with EU law<sup>16</sup>.

#### IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Italy open on 31 December (2013-2017)

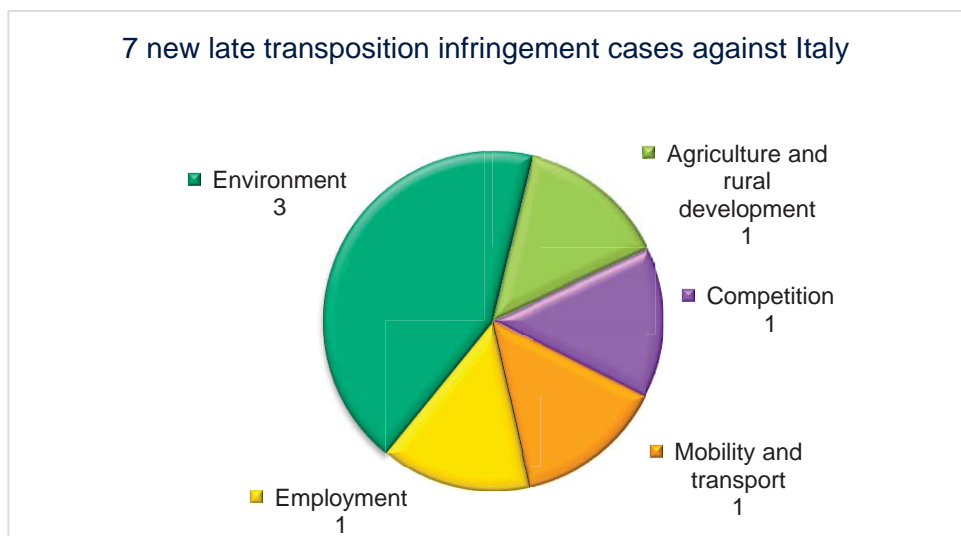


2. New late transposition infringement cases against Italy (2013-2017)



<sup>16</sup> Directive [91/271/EEC](#), Commission v Italy, [C-251/17](#); [IP/16/4212](#).

### 3. New late transposition infringement cases opened in 2017: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned the following.

- Incorrect transposition into national law of the Directive on package travel<sup>17</sup>. Under the Directive, organisers of package tours must have insolvency protection guaranteeing that consumers receive a refund and are repatriated if the organiser becomes insolvent<sup>18</sup>.
- Disproportionate fees for issuing residence permits to third-country nationals.
- Alleged violations of obligations under the Dublin Regulation and the Directive on asylum procedures<sup>19</sup>.
- Systematic and unexplained refusal of applications from customs agents to operate as direct representatives in the simplified customs procedures.
- Special rights of the state in the privatisation law.
- Failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>20</sup>.
- Non-communication of national measures transposing the:
  - 'Qualifications' Directive<sup>21</sup>;
  - Long-Term Residents Directive<sup>22</sup>;
  - Solvency II Directive<sup>23</sup>;
  - Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>24</sup>;

<sup>17</sup> Council Directive [90/314/EEC](#).

<sup>18</sup> [MEMO/17/4767](#).

<sup>19</sup> Regulation [No 343/2003/EC](#) and Directive [2005/85/EC](#).

<sup>20</sup> Directive [2014/94/EU](#).

<sup>21</sup> Directive [2011/95/EU](#).

<sup>22</sup> Directive [2011/51/EU](#).

<sup>23</sup> Directive [2009/138/EC](#).

<sup>24</sup> Directive [2014/51/EU](#).

- Banking Recovery and Resolution Directive<sup>25</sup>;
- Deposit Guarantee Schemes' Directive<sup>26</sup>;
- Transparency Directive<sup>27</sup>.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2017.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Italian judiciary.

- National courts may dismiss an appeal against a decision rejecting a manifestly unfounded application for international protection without hearing the applicant. In such case, the factual circumstances should leave no doubt as to whether that decision was well founded and during the proceedings at first instance, the applicant should have given the opportunity of a personal interview<sup>28</sup>.
- The Italian measures regarding the allocation of digital TV frequencies may violate in several regards the EU law on the internal market<sup>29</sup>.
- An online platform allowing users to store copies of TV programmes in a private cloud space cannot be deemed covered by the private copying exception. This exception applies to the reproduction right, but not the right to make available a protected work. EU rules<sup>30</sup> preclude national legislation which permits a commercial undertaking to provide private individuals with a cloud service for the remote recording of private copies of works protected by copyright, by means of a computer system, by actively involving itself in the recording, without the right holder's consent<sup>31</sup>.
- Restrictions imposed on gambling concession holders through new legislation may be compliant with the TFEU principles provided they are justified by overriding reasons relating to the general interest and are enacted proportionately i.e. with an amendment to the concession providing for a transitional period of sufficient length<sup>32</sup>.
- In line with the principle of equal treatment, a third-country national holding a single permit should also be entitled to the benefit for households<sup>33</sup>.
- In the event of failure to carry out an environmental impact assessment, Member States are required to nullify the unlawful consequences of that failure. EU law does not prevent the conduct of an impact assessment after the plant concerned has been constructed and has entered into operation, as long as the relevant national rules do not allow the requirements of EU law to be circumvented and the assessment covers both the past and future environmental impact of the plant<sup>34</sup>.
- EU law does not preclude national provisions which do not require a public selection procedure to be conducted prior to the allocation of areas within airports to be used for groundhandling services for which no remuneration is to be paid by the manager of the airport<sup>35</sup>.

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

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

<sup>27</sup> Directive [2013/50/EU](#).

<sup>28</sup> *Moussa Sacko*, [C-348/16](#).

<sup>29</sup> *Europa Way and Persidera*, [C-560/15](#) and *Persidera*, [C-112/16](#).

<sup>30</sup> Directive [2001/29/EC](#).

<sup>31</sup> *VCAST Limited v RTI SpA*, [C-265/16](#).

<sup>32</sup> *Global Starnet*, [C-322/16](#).

<sup>33</sup> *Martínez Silva*, [C-449/16](#).

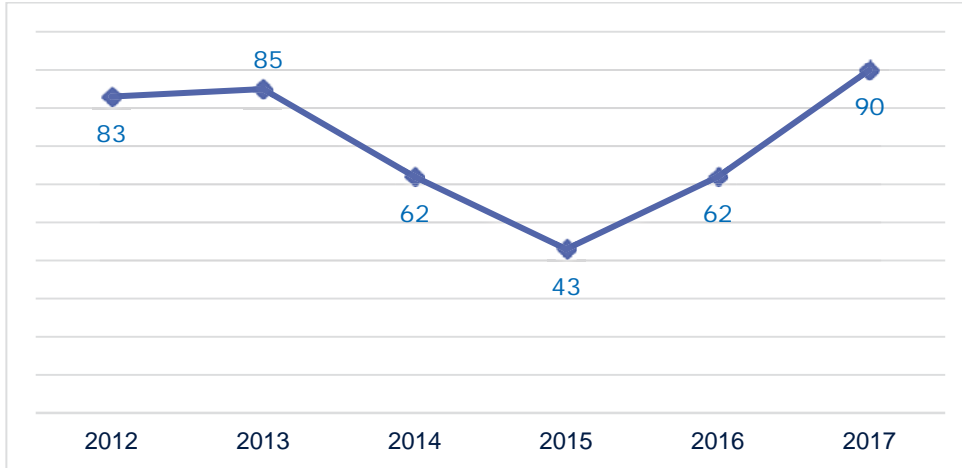
<sup>34</sup> *Joined cases Comune di Corridonia*, [C-196/16](#), *Bartolini and Others*, [C-197/16](#).

<sup>35</sup> *Malpensa Logistica Europa*, [C-701/15](#).

Cyprus

I. COMPLAINTS

1. New complaints made against Cyprus by members of the public (2013-2017)



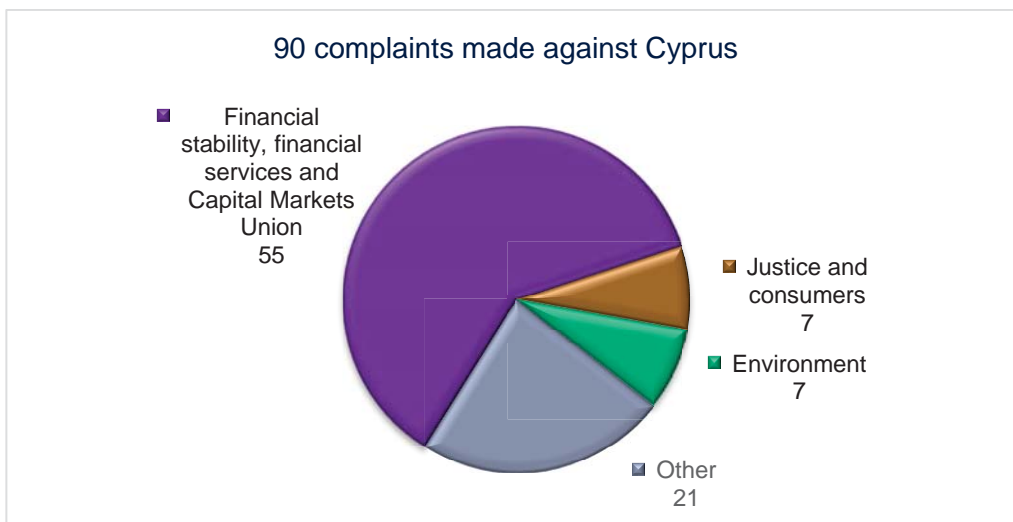
2. Public complaints against Cyprus open at year-end

37 > Complaints open at end-2016  
 90 > New complaints registered in 2017  
 69 > Complaints handled in 2017  


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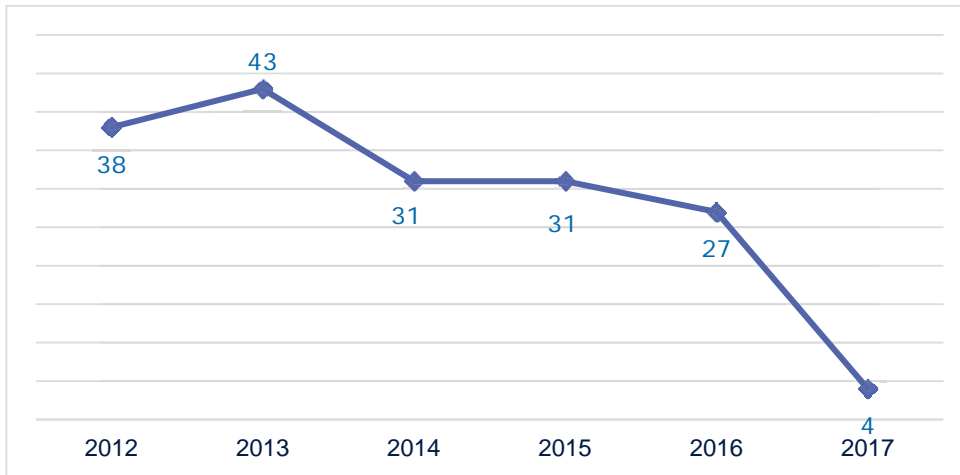
 = 58 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

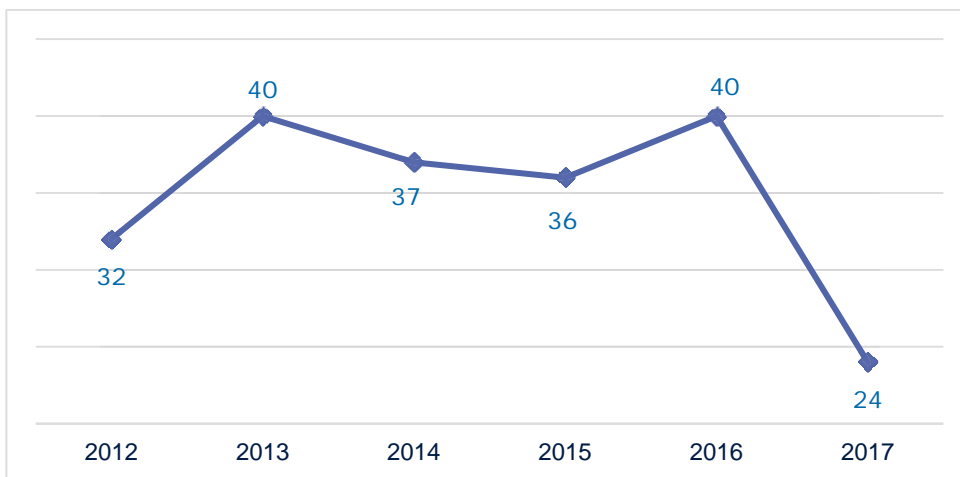


## II. EU PILOT

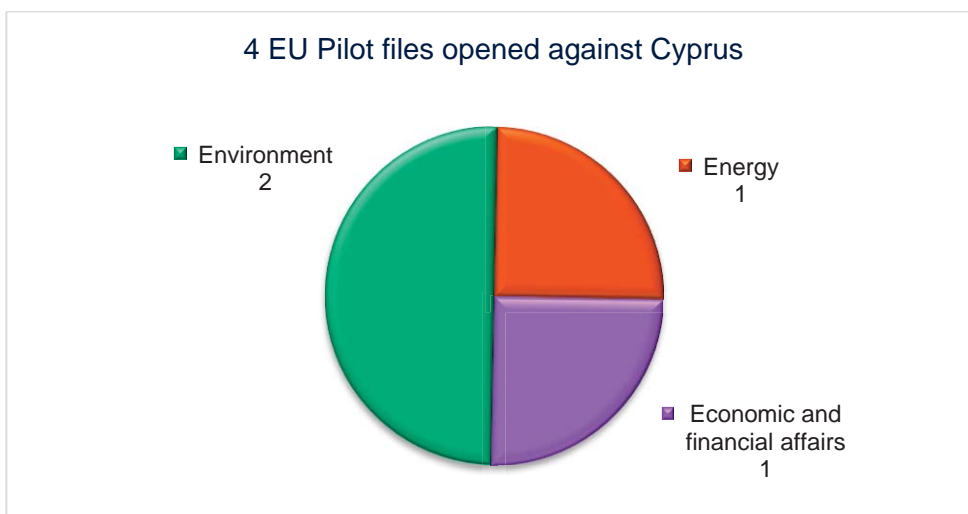
### 1. New EU Pilot files opened against Cyprus (2013-2017)



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

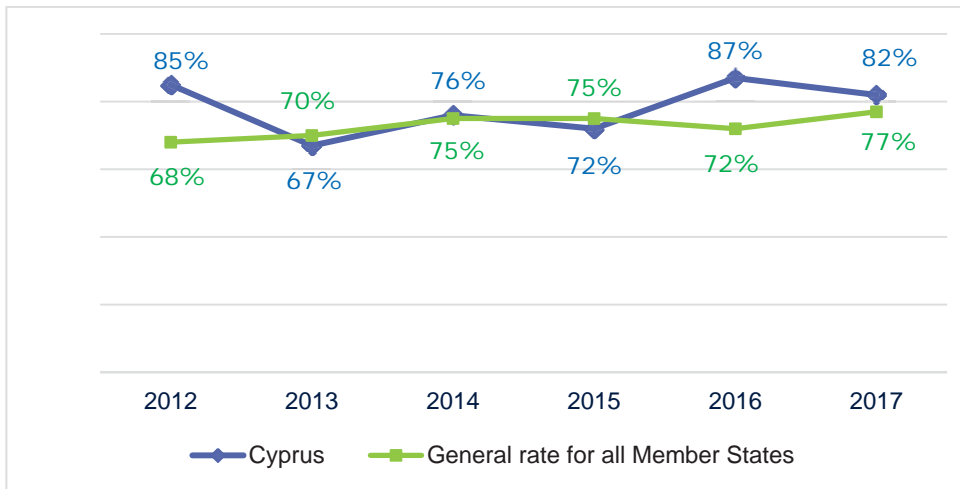


### 3. New EU Pilot files opened in 2017: policy areas



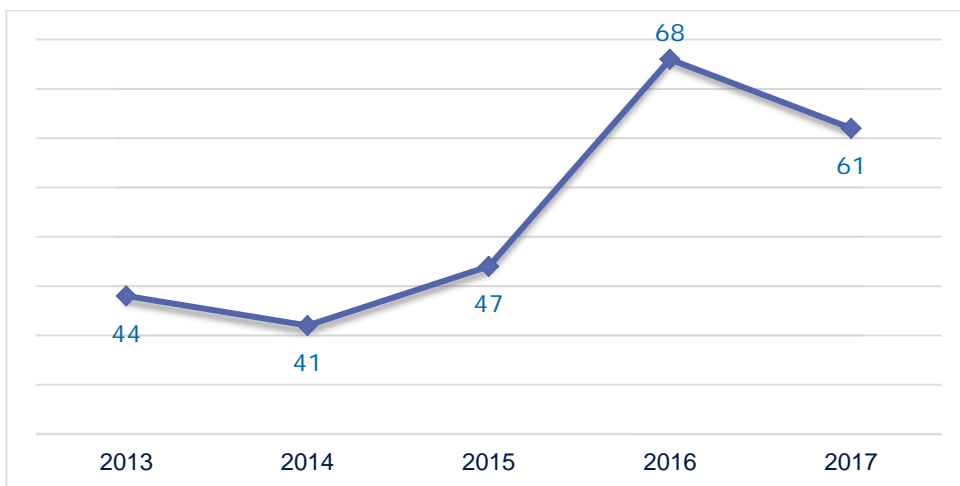


4. EU Pilot files: Cyprus's resolution rate in 2013-2017

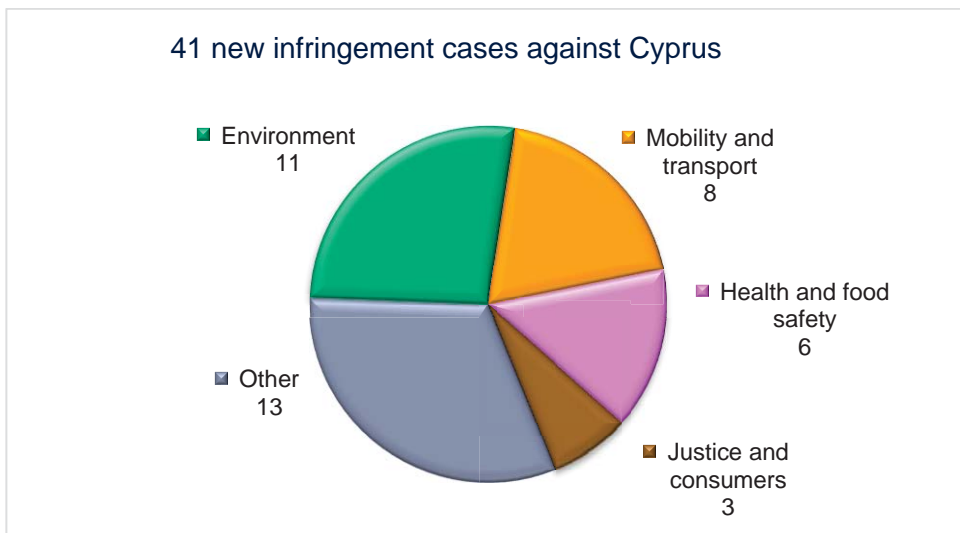


III. INFRINGEMENT CASES

1. Infringement cases against Cyprus open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

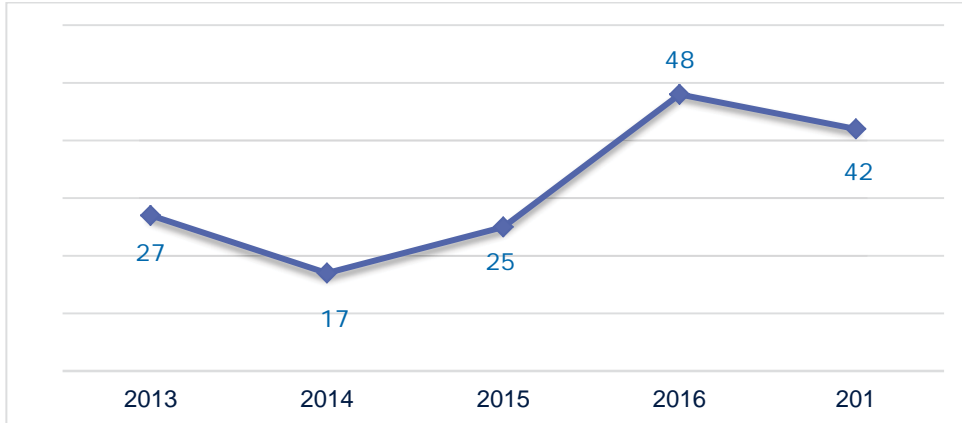
- a) The Commission opened 41 new infringement cases against Cyprus in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Directive on caseins and caseinates<sup>1</sup>;
    - Fourth Anti-Money Laundering Directive<sup>2</sup>;
    - Maritime Spatial Planning Directive<sup>3</sup>;
    - Payment Accounts Directive<sup>4</sup>;
    - Directive on disclosure of non-financial and diversity information by certain large undertakings<sup>5</sup>;
    - Audit Directive<sup>6</sup>;
    - Directive on seafarers<sup>7</sup>;
    - Directive<sup>8</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>9</sup>;
  - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives)<sup>10</sup>;
  - failure to ensure that waste landfills operate in compliance with EU standards;
  - failure to fully implement the Regulation on explosives precursors, which restricts and controls access to several dangerous chemicals that could be used by terrorists to manufacture homemade explosives<sup>11</sup>;
  - non-recognition of the professional training in engineering and architecture acquired abroad by Cypriot citizens<sup>12</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>13</sup>;
  - failure to ensure that urban waste water is adequately treated<sup>14</sup>;
  - failure to establish strategic noise maps and action plans required by the Noise Directive<sup>15</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

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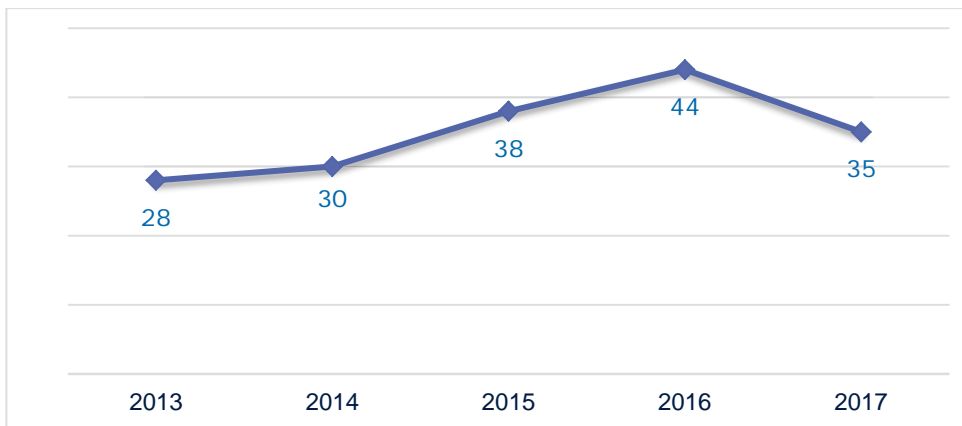
<sup>1</sup> Directive [2015/2203/EU](#).  
<sup>2</sup> Directive [2015/849/EU](#); [MEMO/17/4767](#).  
<sup>3</sup> Directive [2014/89/EU](#); [MEMO/17/1935](#).  
<sup>4</sup> Directive [2014/92/EU](#); [MEMO/17/1045](#).  
<sup>5</sup> Directive [2014/95/EU](#); [MEMO/17/1577](#).  
<sup>6</sup> Directive [2014/56/EU](#); [MEMO/17/234](#).  
<sup>7</sup> Directive [2015/1794/EU](#).  
<sup>8</sup> Directive [2015/652/EU](#).  
<sup>9</sup> Directive [98/70/EC](#).  
<sup>10</sup> Directives [2009/72/EC](#) and [2009/73/EC](#); [MEMO/17/4767](#).  
<sup>11</sup> [MEMO/17/234](#).  
<sup>12</sup> Directive [2005/36/EC](#); [IP/17/4773](#).  
<sup>13</sup> [MEMO/17/1281](#).  
<sup>14</sup> [MEMO/17/1936](#).  
<sup>15</sup> Directive [2002/49/EC](#); [MEMO/17/3494](#).

#### IV. TRANSPOSITION OF DIRECTIVES

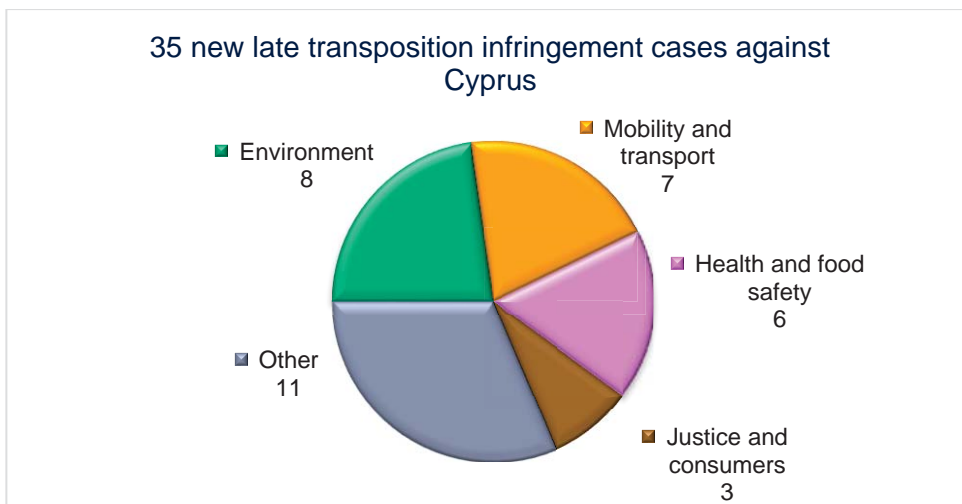
##### 1. Late transposition infringement cases against Cyprus open on 31 December (2013-2017)



##### 2. New late transposition infringement cases against Cyprus (2013-2017)



##### 3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - intra-corporate transfer Directive<sup>16</sup>;
  - 'Qualifications' Directive<sup>17</sup>;
  - Directive on procurement by entities operating in the water, energy, transport and postal services sectors<sup>18</sup>;
  - Directive on recognition of professional qualifications<sup>19</sup>;
  - Directive on lifts<sup>20</sup>;
  - Directive on electromagnetic compatibility<sup>21</sup>;
  - Low Voltage Directive<sup>22</sup>;
  - Directive on the return of unlawfully removed cultural goods<sup>23</sup>;
  - Transparency Directive<sup>24</sup>;
  - Banking Recovery and Resolution Directive<sup>25</sup>;
  - Accounting Directive<sup>26</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>27</sup>;
    - Deposit Guarantee Schemes Directive<sup>28</sup>;
    - amended Settlement Finality Directive<sup>29</sup>;
- failure to implement completely the Regulation on explosives precursors, which restricts and controls access to several dangerous chemicals that could be used by terrorists to manufacture homemade explosives;
- incomplete transposition of the Accounting Directive<sup>30</sup>;
- national requirements obstructing the free movement of lawyers;
- shareholding requirement imposed on engineering companies which are incorporated in Cyprus, in breach of the freedom of establishment and the Services Directive<sup>31</sup>;
- non-compliance of national legislation on gambling with EU rules<sup>32</sup>;
- failure to notify a national policy framework under the Directive on the deployment of alternative fuels<sup>33</sup>;
- failure to correctly transpose the EU rules on driving licences<sup>34</sup>.

<sup>16</sup> Directive [2014/66/EU](#), [MEMO/17/3494](#).

<sup>17</sup> Directive [2011/95/EU](#).

<sup>18</sup> Directive [2014/25/EU](#).

<sup>19</sup> Directive [2013/55/EU](#).

<sup>20</sup> Directive [2014/33/EU](#).

<sup>21</sup> Directive [2014/30/EU](#).

<sup>22</sup> Directive [2014/35/EU](#).

<sup>23</sup> Directive [2014/60/EU](#).

<sup>24</sup> Directive [2013/50/EU](#).

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

<sup>26</sup> Directive [2013/34/EU](#).

<sup>27</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

<sup>28</sup> Directive [2014/49/EU](#).

<sup>29</sup> Directive [98/26/EC](#).

<sup>30</sup> Directive [2013/34/EU](#).

<sup>31</sup> Directive [2006/123/EC](#), [IP/17/4772](#).

<sup>32</sup> [IP/17/5109](#).

<sup>33</sup> Directive [2014/94/EU](#).

<sup>34</sup> Directive [2006/126/EC](#).

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2017.

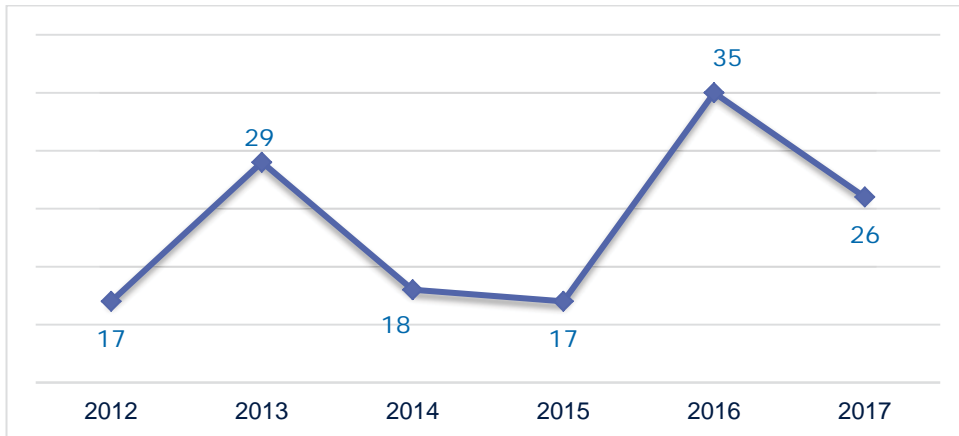
### 2. Preliminary rulings

No major preliminary rulings were addressed to the Cyprus judiciary in 2017.

Latvia

I. COMPLAINTS

1. New complaints made against Latvia by members of the public (2013-2017)



2. Public complaints against Latvia open at year-end

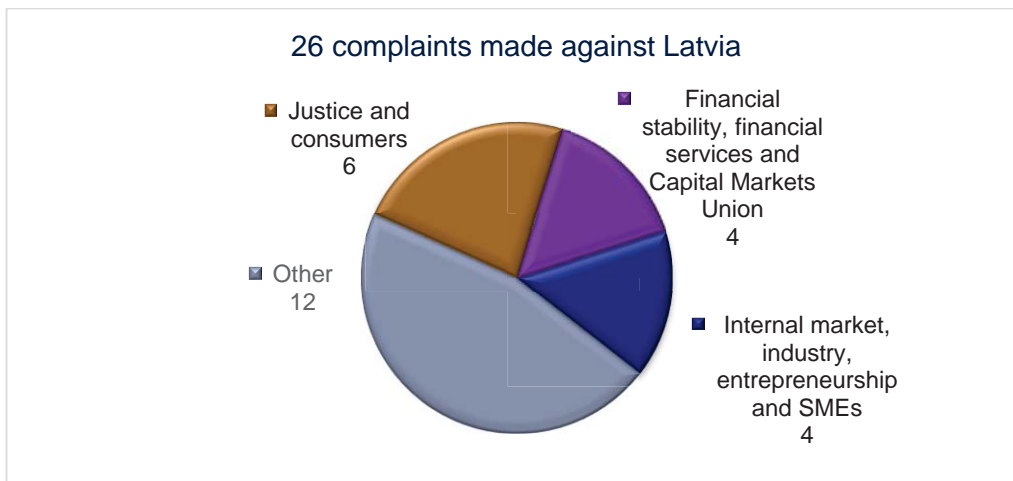
26 > Complaints open at end-2016

26 > New complaints registered in 2017

29 > Complaints handled in 2017

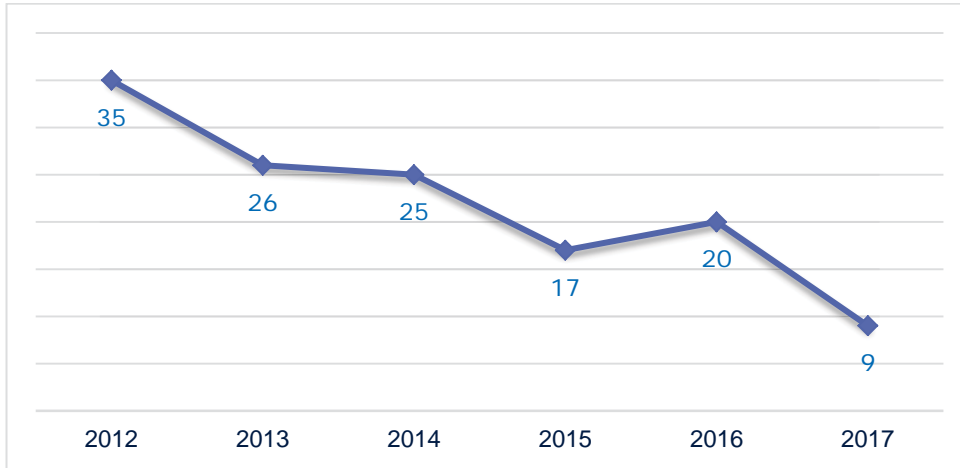
**= 23** > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

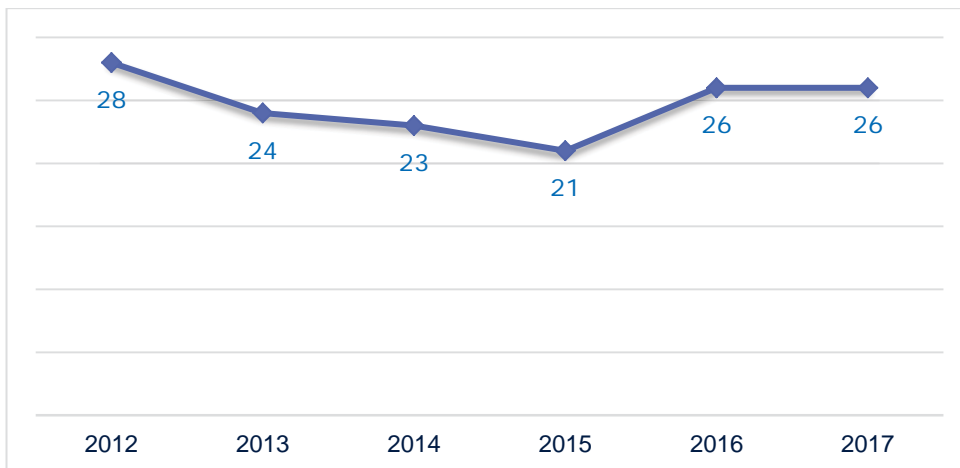


## II. EU PILOT

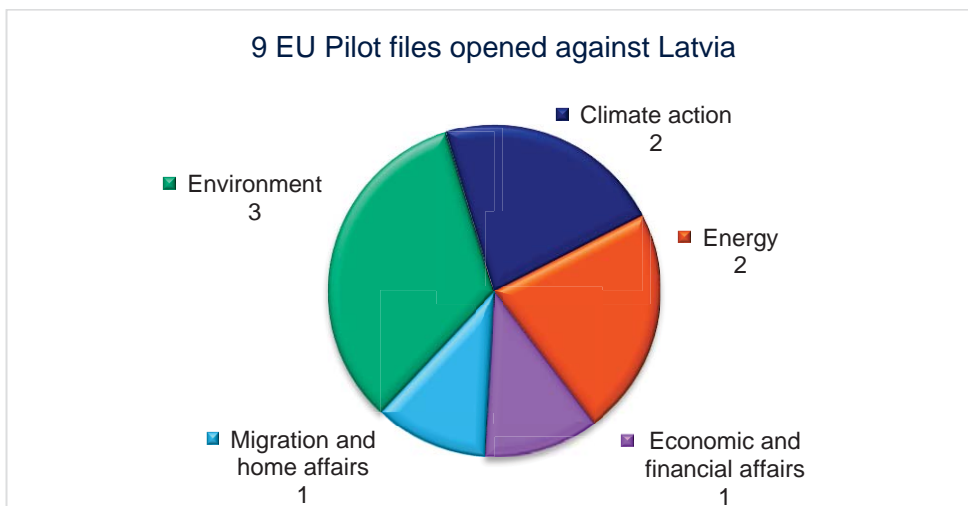
### 1. New EU Pilot files opened against Latvia (2013-2017)



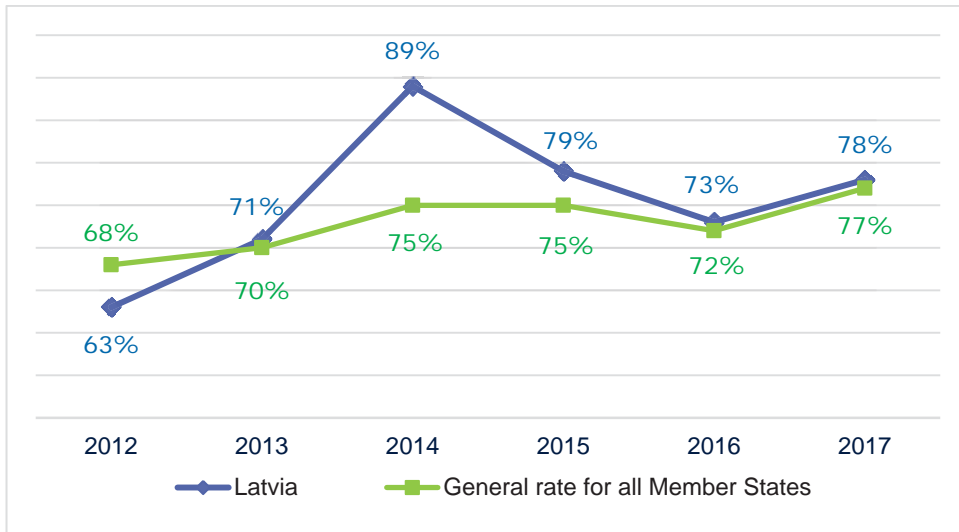
### 2. Files relating to Latvia open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

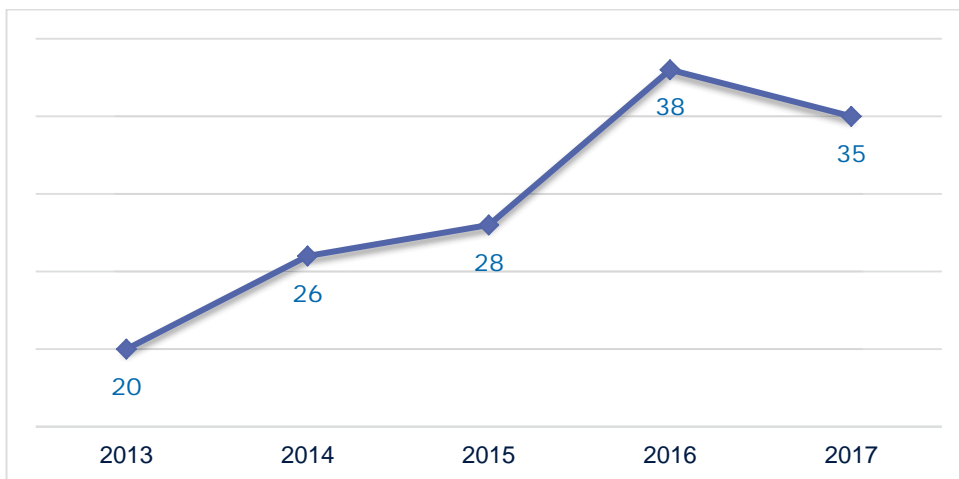


4. EU Pilot files: Latvia's resolution rate in 2013-2017



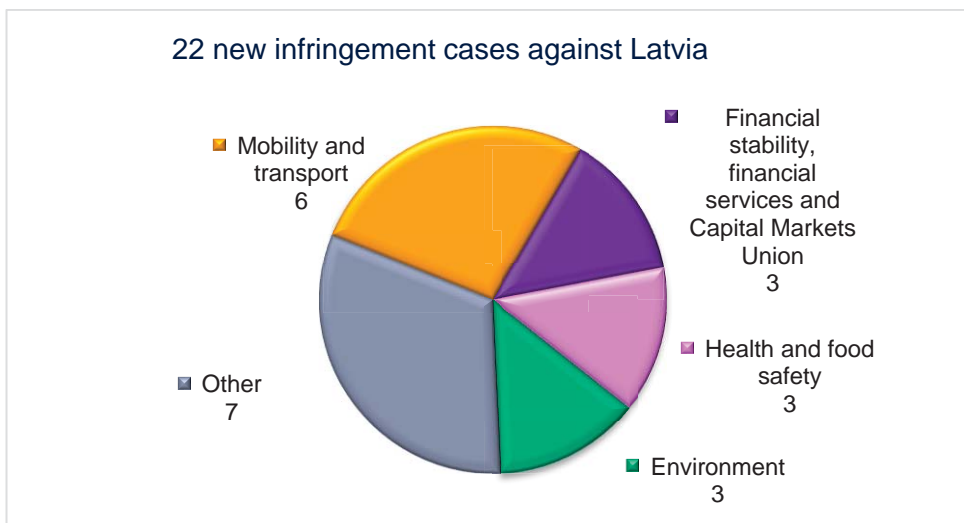
III. INFRINGEMENT CASES

1. Infringement cases against Latvia open on 31 December (2013-2017)





## 2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 22 new infringement cases against Latvia in 2017. These, and other major ongoing infringement cases, include:
- failure to ensure that urban waste water is adequately treated;
  - incorrect transposition and application of the Energy Performance of Buildings Directive<sup>1</sup>;
  - non-communication of national measures transposing the:
    - Markets in Financial Instruments Directive (MiFID II)<sup>2</sup>;
    - Fourth Anti-Money Laundering Directive<sup>3</sup>;
    - Directive<sup>4</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>5</sup>;
  - non-compliance with EU rules on indirect taxes on the raising of capital<sup>6</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2010/31/EU](#).

<sup>2</sup> Directive [2014/65/EU](#).

<sup>3</sup> Directive [2015/849/EU](#).

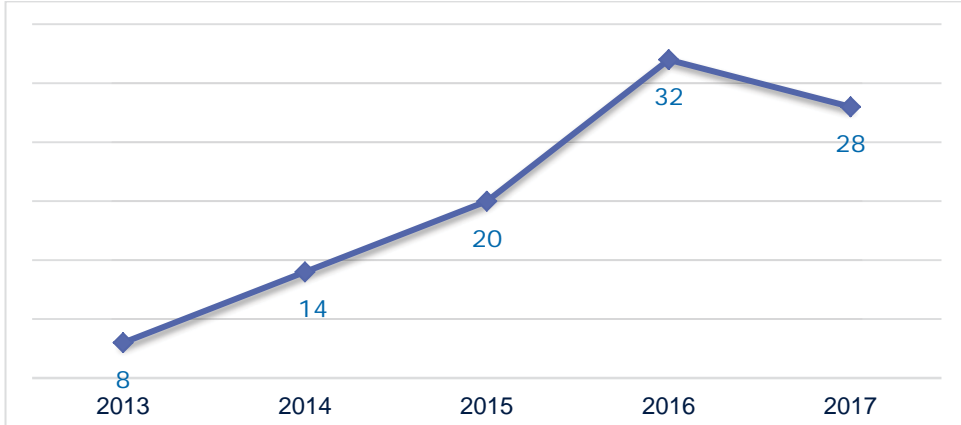
<sup>4</sup> Directive [2015/652/EU](#).

<sup>5</sup> Directive [98/70/EC](#).

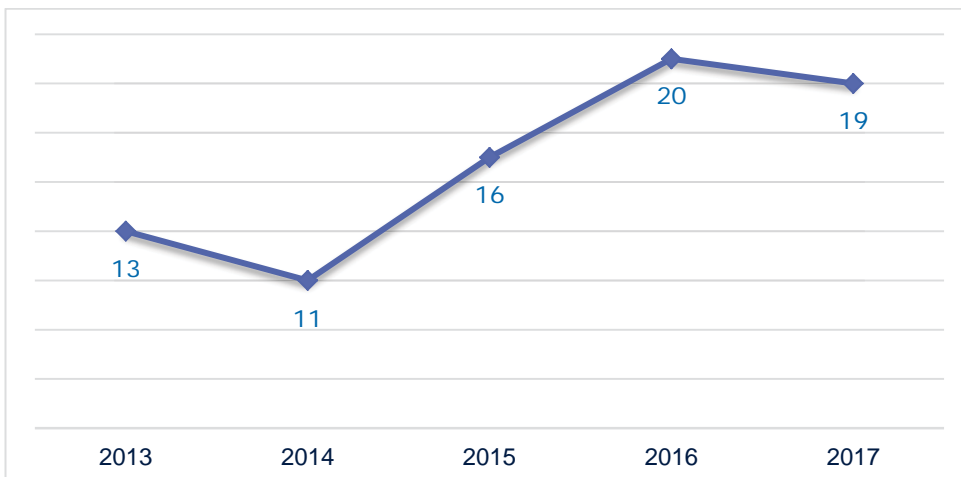
<sup>6</sup> Directive [2008/7/EC](#), [MEMO/17/4767](#).

#### IV. TRANSPOSITION OF DIRECTIVES

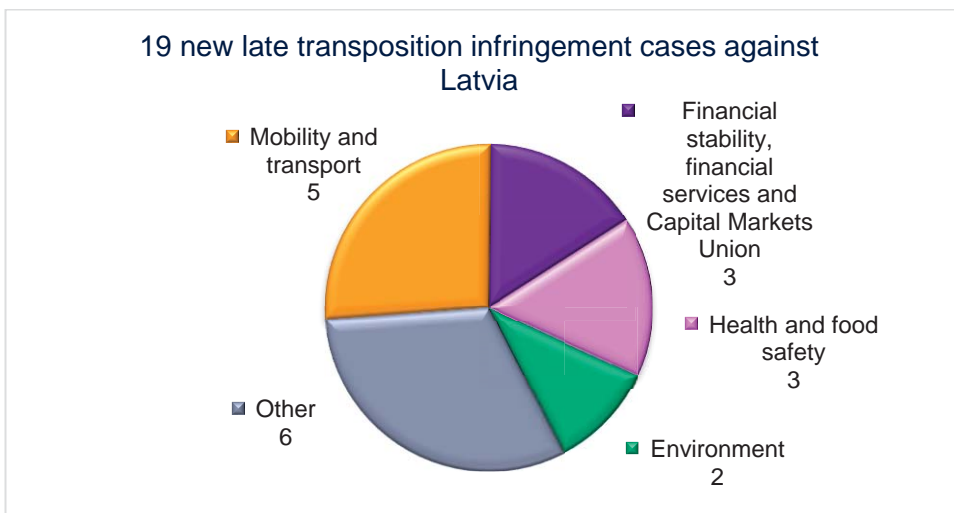
1. Late transposition infringement cases against Latvia open on 31 December (2013-2017)



2. New late transposition infringement cases against Latvia (2013-2017)



3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Intra-Corporate Transfer Directive<sup>7</sup>;
  - Directive on seasonal workers<sup>8</sup>;
  - Long-Term Residents Directive<sup>9</sup>;
  - Directive on recognition of professional qualifications<sup>10</sup>;
  - Transparency Directive, Accounting Directive and Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms<sup>11</sup>;
  - Directive establishing a single European railway area<sup>12</sup>;
  - Directives on recognition of professional qualifications and on defence-related products<sup>13</sup>;
- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>14</sup>
- failure to adopt a national programme for spent fuel and radioactive waste management compliant with the requirements of the Radioactive Waste Directive<sup>15</sup>.

### VI. IMPORTANT JUDGMENTS

#### 1. Court ruling

There were no major Court rulings in 2017.

#### 2. Preliminary ruling

No major preliminary rulings were addressed to the Latvian judiciary in 2017.

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<sup>7</sup> Directive [2014/66/EU](#); [MEMO/17/3494](#).

<sup>8</sup> Directive [2014/36/EU](#).

<sup>9</sup> Directive [2011/51/EU](#).

<sup>10</sup> Directive [2005/36/EC](#).

<sup>11</sup> Directive [2013/50/EU](#), [2013/34/EU](#) and [2013/36/EU](#).

<sup>12</sup> Directive [2012/34/EU](#).

<sup>13</sup> Directives [2013/55/EU](#) and [2016/970/EU](#).

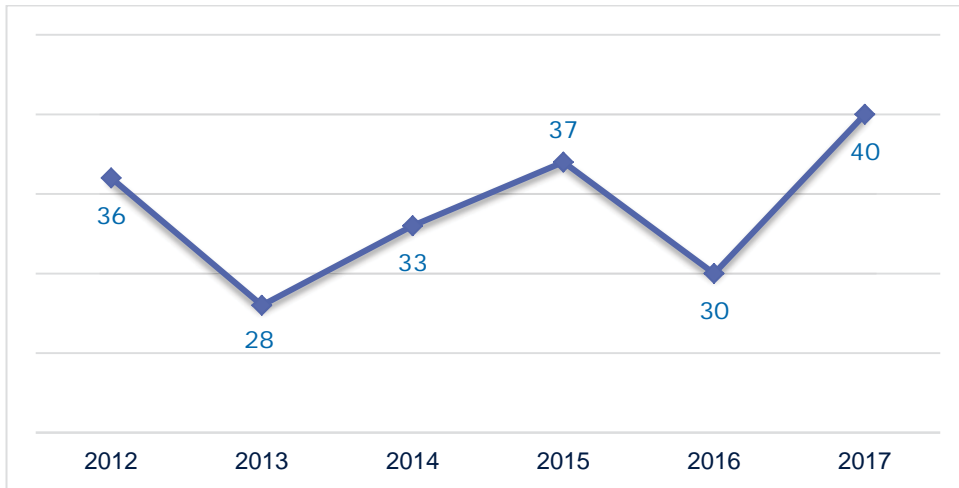
<sup>14</sup> Directive [2014/94/EU](#).

<sup>15</sup> Directive [2011/70/Euratom](#).

Lithuania

I. COMPLAINTS

1. New complaints made against Lithuania by members of the public (2013-2017)



2. Public complaints against Lithuania open at year-end

39 > Complaints open at end-2016

40 > New complaints registered in 2017

43 > Complaints handled in 2017

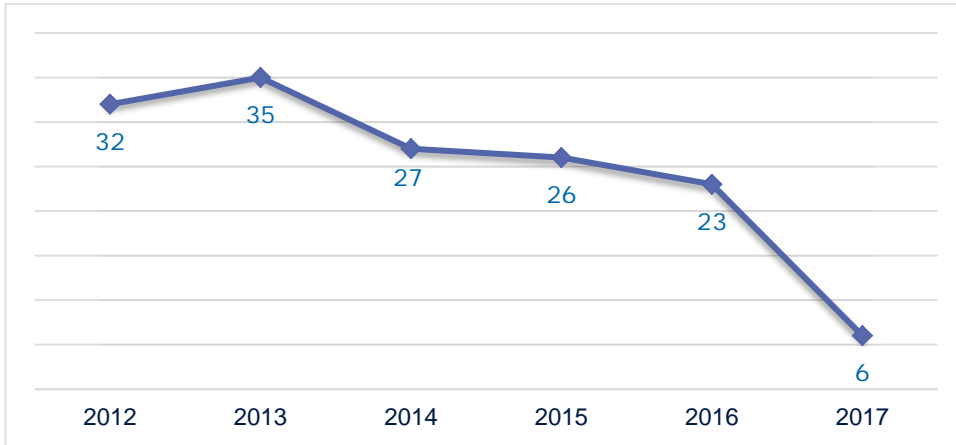
**= 36** > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

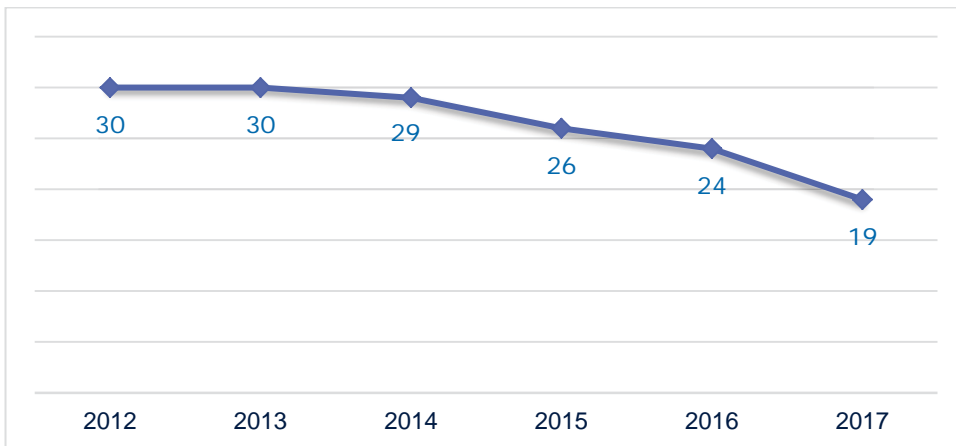


## II. EU PILOT

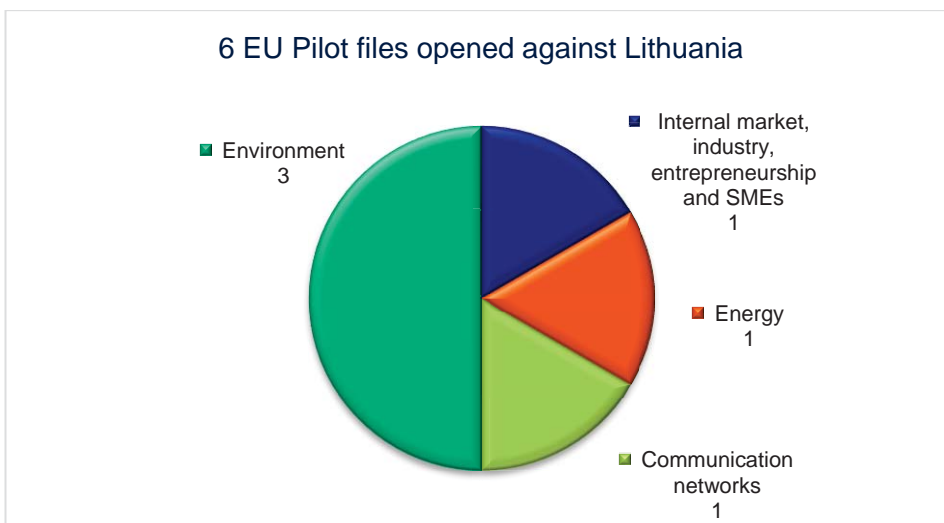
### 1. New EU Pilot files opened against Lithuania (2013-2017)



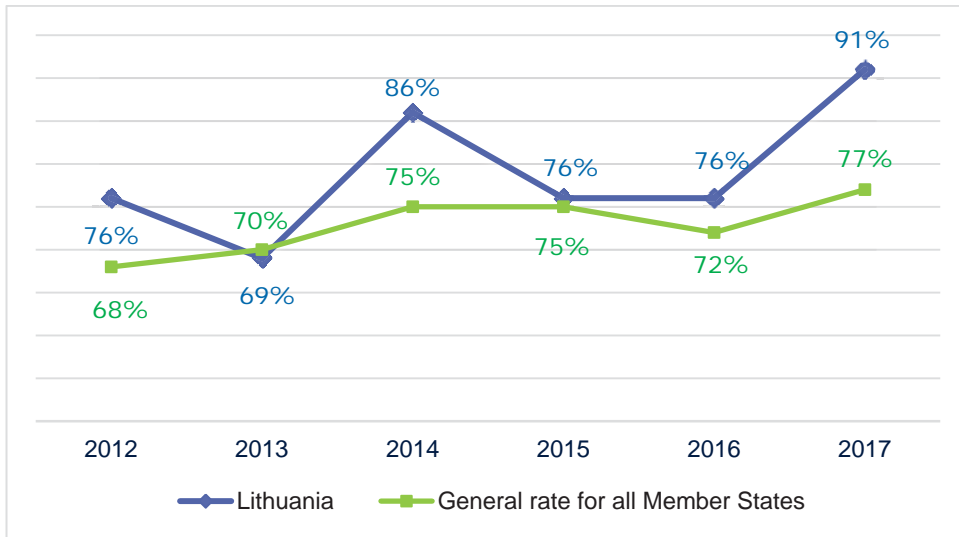
### 2. Files relating to Lithuania open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

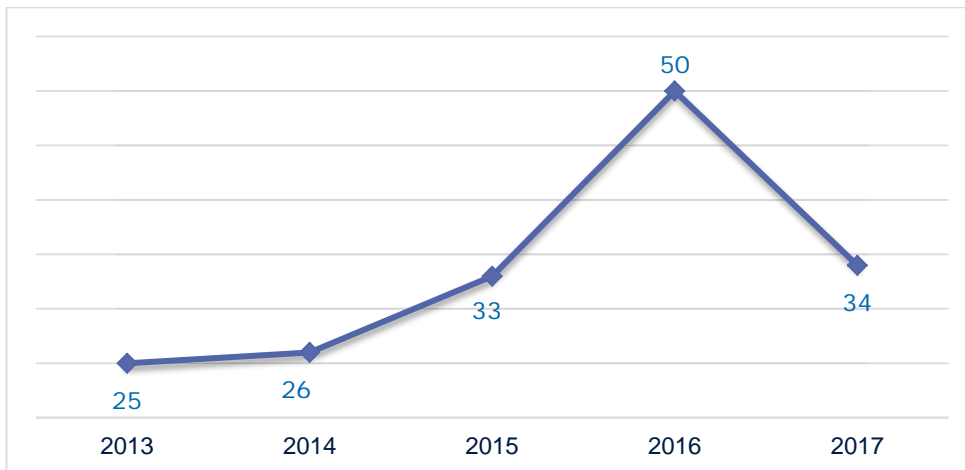


4. EU Pilot files: Lithuania's resolution rate in 2013-2017

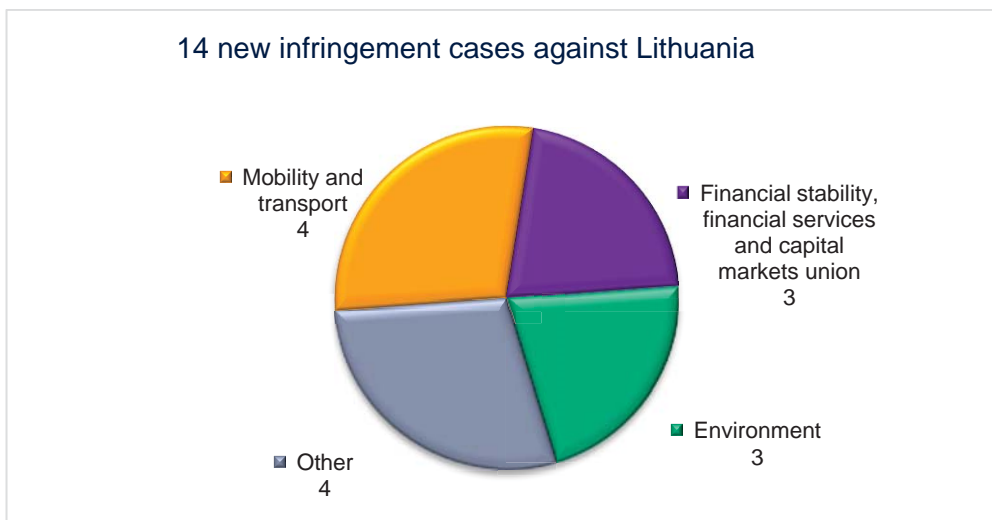


III. INFRINGEMENT CASES

1. Infringement cases against Lithuania open on 31 December (2013-2017)



## 2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 14 new infringement cases against Lithuania in 2017. These, and other major ongoing infringement cases, include:
- failure to ensure that urban waste water is adequately treated;
    - failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>1</sup>;
    - incorrect transposition and application of the Energy Performance of Buildings Directive<sup>2</sup>;
    - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives)<sup>3</sup>;
    - non-communication of national measures transposing the:
      - Markets in Financial Instruments Directive (MiFID II)<sup>4</sup>;
      - Fourth Anti-Money Laundering Directive<sup>5</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2008/56/EC](#).

<sup>2</sup> Directive [2010/31/EU](#).

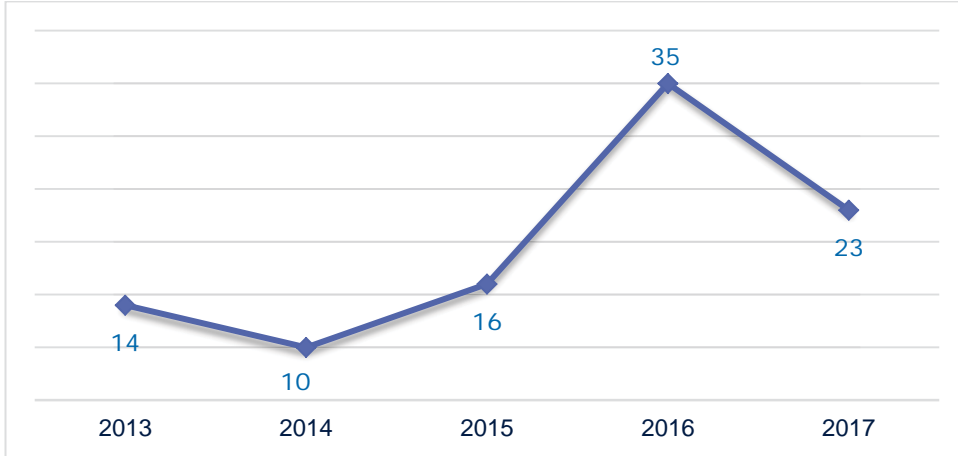
<sup>3</sup> Directives [2009/72/EC](#) and [2009/73/EC](#).

<sup>4</sup> Directive [2014/65/EU](#).

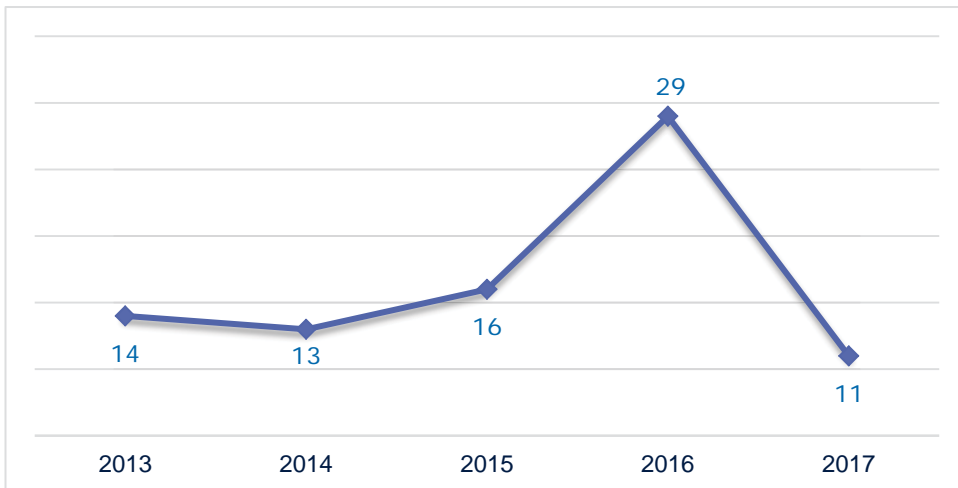
<sup>5</sup> Directive [2015/849/EU](#).

#### IV. TRANSPOSITION OF DIRECTIVES

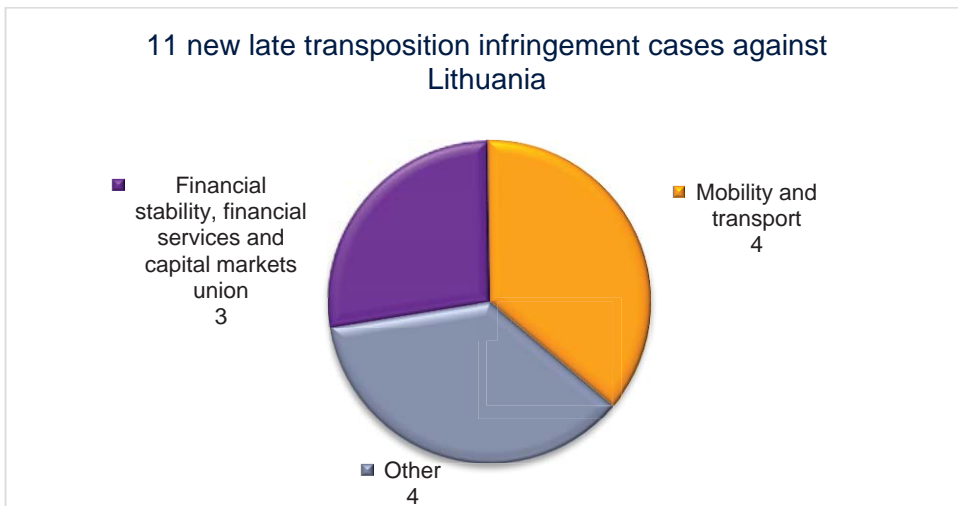
1. Late transposition infringement cases against Lithuania open on 31 December (2013-2017)



2. New late transposition infringement cases against Lithuania (2013-2017)



3. New late transposition infringement cases opened in 2017: main policy areas





#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2017

These concerned the following.

- Incorrect transposition into national law of the Directive on package travel<sup>6</sup>. Under the Directive, organisers of package tours must have insolvency protection guaranteeing that consumers receive a refund and are repatriated if the organiser becomes insolvent<sup>7</sup>.
- Incorrect transposition of Directives on common rules for the internal market in electricity<sup>8</sup> and natural gas<sup>9</sup>.
- Non-conformity with the Audiovisual Media Services Directive<sup>10</sup>.
- Lack of implementation of certain obligations under EU document security legislation<sup>11</sup>.
- Failure to implement completely the Regulation on explosives precursors, which restricts and controls access to several dangerous chemicals that could be used by terrorists to manufacture homemade explosives.
- Non-communication of national measures transposing the:
  - Intra-Corporate Transfer Directive<sup>12</sup>;
  - Directive on seasonal workers<sup>13</sup>;
  - Maritime Spatial Planning Directive<sup>14</sup>;
  - Transparency Directive, Deposit Guarantee Schemes Directive and Directive on undertakings for collective investment in transferable securities<sup>15</sup>;
  - Directive establishing a single European railway area<sup>16</sup>;
  - Directive on placing on the market of explosives for civil uses<sup>17</sup>.
- Failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive.
- Failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>18</sup>.
- Non-compliant transposition of Directive establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)<sup>19</sup>.
- Non-compliance of national legislation on gambling with EU rules<sup>20</sup>.

<sup>6</sup> Council Directive [90/314/EEC](#).

<sup>7</sup> [MEMO/17/4767](#).

<sup>8</sup> Directive [2009/72/EC](#).

<sup>9</sup> Directive [2009/73/EC](#).

<sup>10</sup> Directive [2007/65/EC](#) amending Directive [89/552/EEC](#).

<sup>11</sup> Commission Decisions [C \(2013\) 6181](#) and [C \(2013\) 6178](#).

<sup>12</sup> Directive [2014/66/EU](#).

<sup>13</sup> Directive [2014/36/EU](#).

<sup>14</sup> Directive [2014/89/EU](#).

<sup>15</sup> Directives [2013/50/EU](#), [2014/49/EU](#) and [2014/91/EU](#).

<sup>16</sup> Directive [2012/34/EU](#).

<sup>17</sup> Directive [2014/28/EU](#).

<sup>18</sup> Directive [2014/94/EU](#).

<sup>19</sup> Directive [2007/2/EC](#).

<sup>20</sup> [IP/17/5109](#).

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2017.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Lithuanian judiciary.

- The practices of a debt collection agency are subject to the Unfair Commercial Practices Directive. This includes the situation where the debt of a consumer, who has defaulted under a consumer credit agreement, has been assigned to a debt collection agency regardless of whether the existence of the debt was confirmed by a court decision<sup>21</sup>.
- The excise exemption provided by EU law is applicable to the fuel used to sail a ship, without cargo, from a port of a Member State, where that ship was built, to a port of another Member State in order to take on cargo to be transported to a port of a third Member State<sup>22</sup>.

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<sup>21</sup> Directive [2005/29/EC](#), UAB Gelvora, [C-357/16](#).

<sup>22</sup> Directive [2003/96/EC](#), Vakarų Baltijos laivų statykla, [C-151/16](#).



Brussels, 12.7.2018  
SWD(2018) 379 final

PART 2/2

**COMMISSION STAFF WORKING DOCUMENT**

**Part III: Member States**

*Accompanying the document*

**REPORT FROM THE COMMISSION**

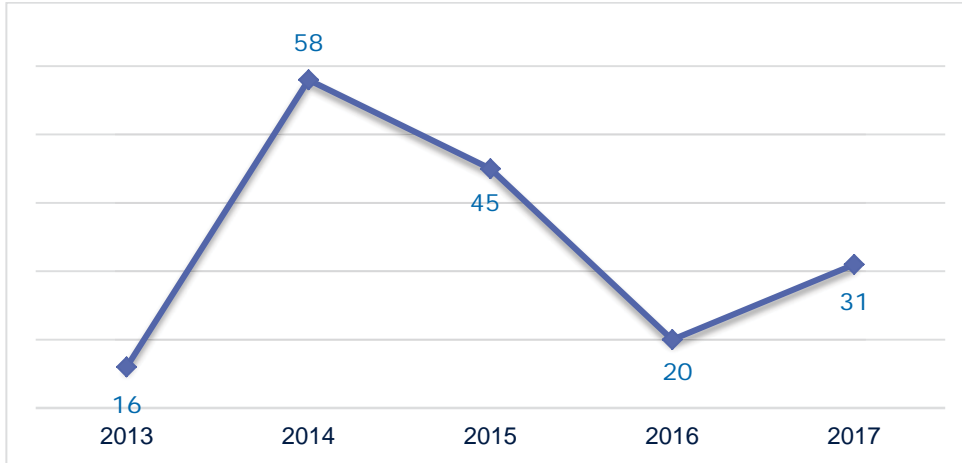
**Monitoring the application of European Union law  
2017 Annual Report**

{COM(2018) 540 final} - {SWD(2018) 377 final} - {SWD(2018) 378 final}

Luxembourg

I. COMPLAINTS

1. New complaints made against Luxembourg by members of the public (2013- 2017)



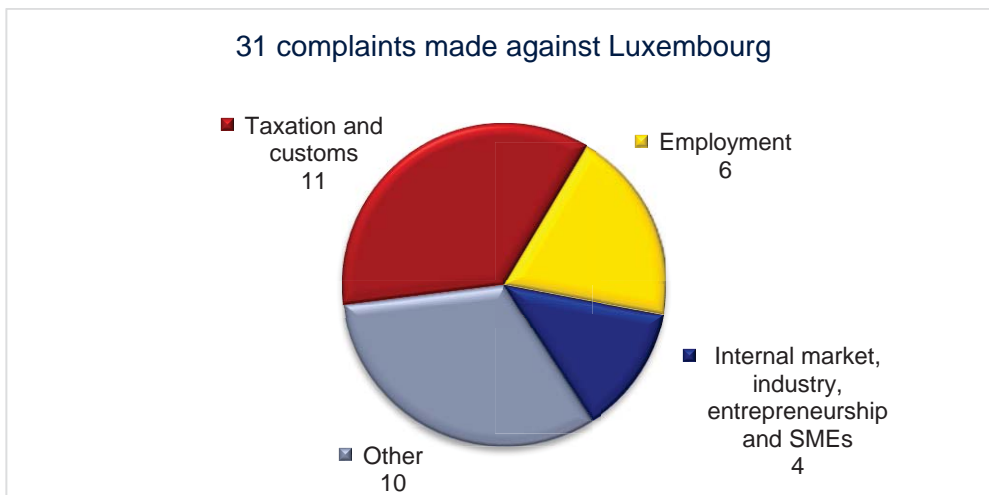
2. Public complaints against Luxembourg open at year-end

37 > Complaints open at end-2016  
 31 > New complaints registered in 2017  
 20 > Complaints handled in 2017  


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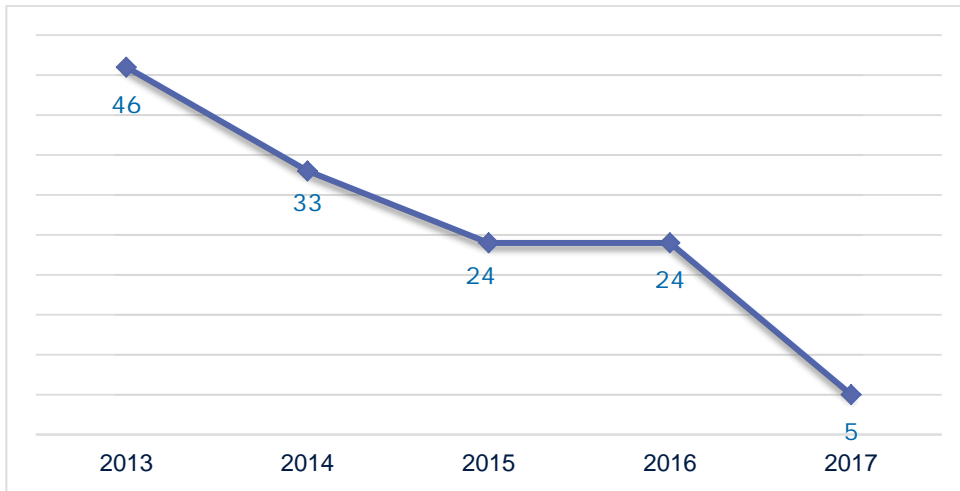
 = 48 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

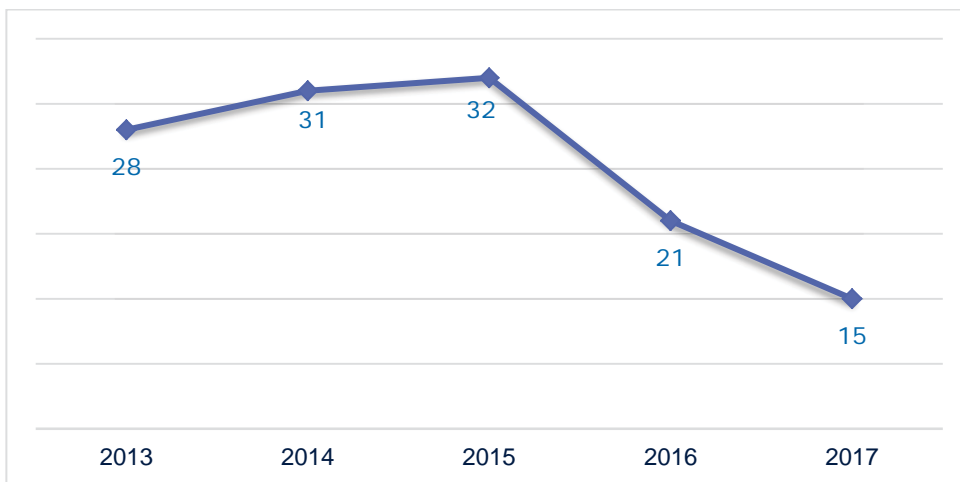


## II. EU PILOT

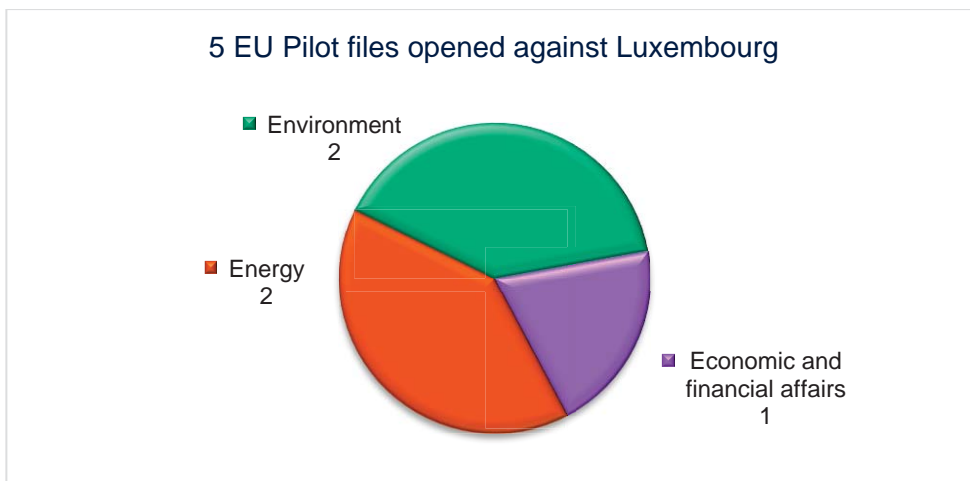
### 1. New EU Pilot files opened against Luxembourg (2013-2017)



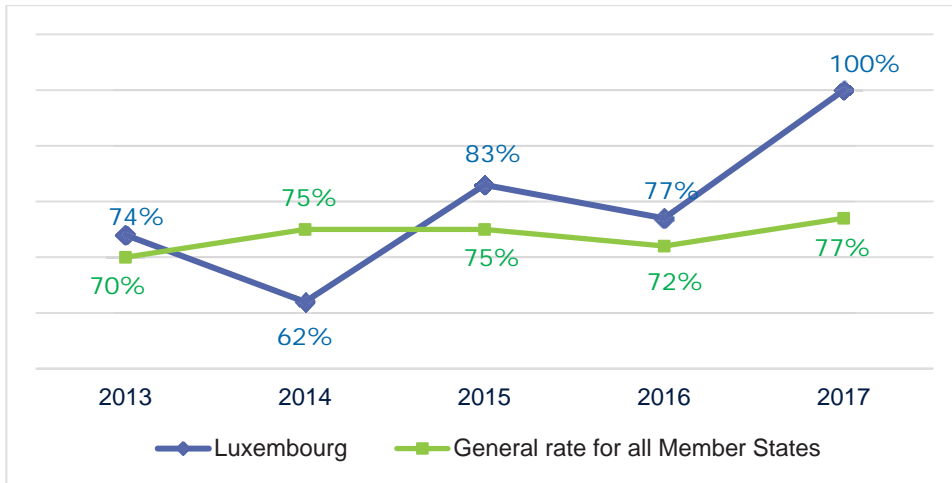
### 2. Files relating to Luxembourg open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

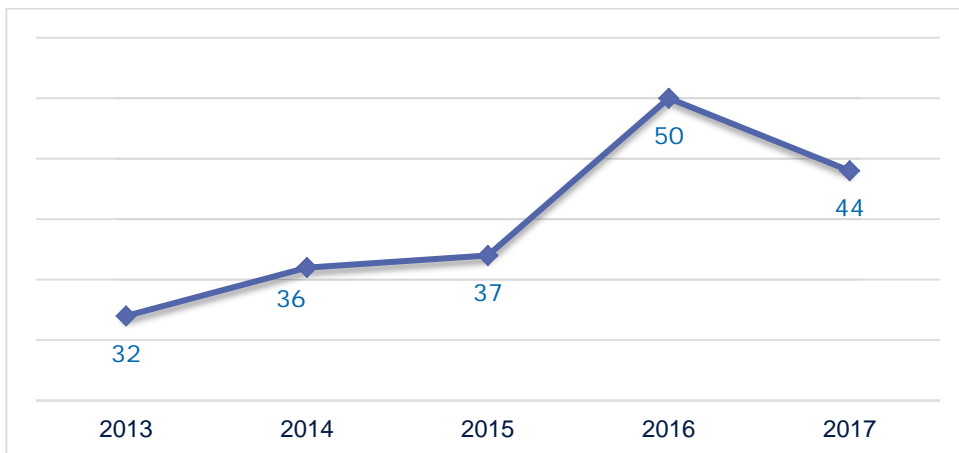


4. EU Pilot files: Luxembourg's resolution rate in 2013-2017

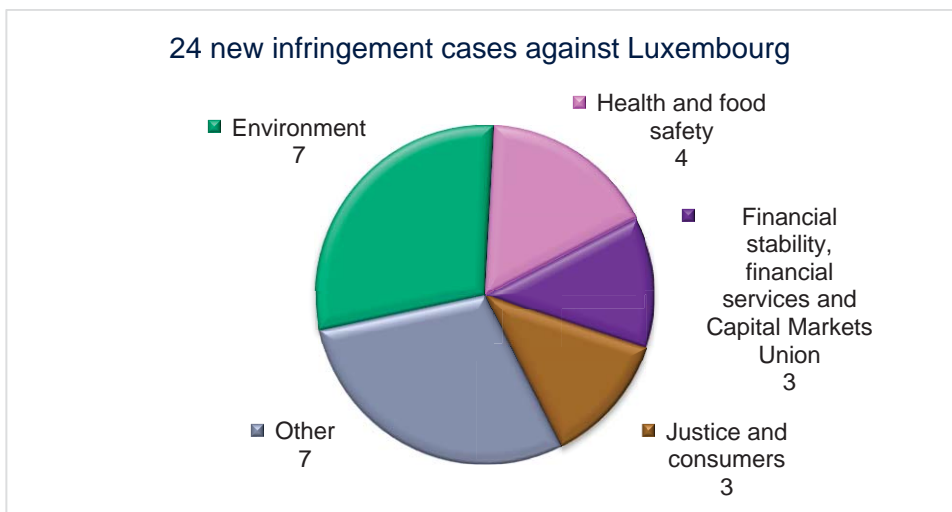


III. INFRINGEMENT CASES

1. Infringement cases against Luxembourg open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas

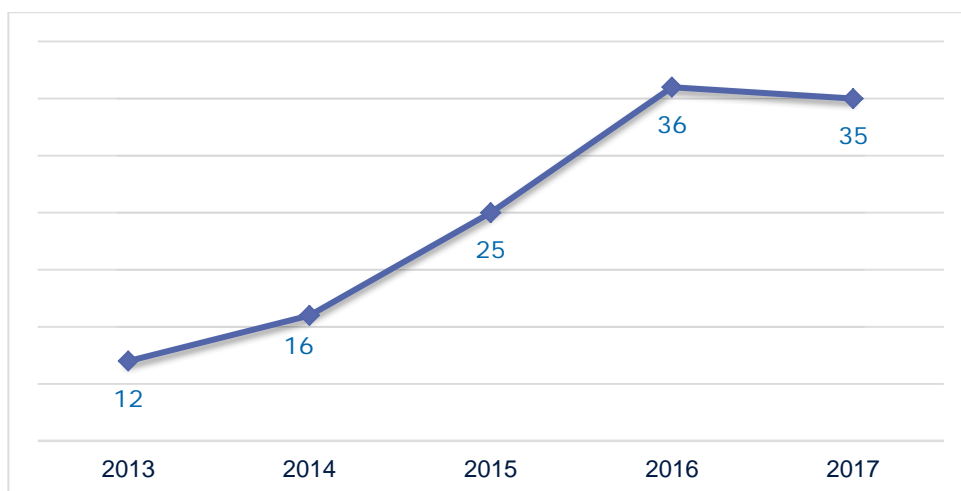


### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 24 new infringement cases against Luxembourg in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Directive on caseins and caseinates<sup>1</sup>;
    - Directives on the registration of suppliers and of varieties and the common list of varieties, on requirements for the labelling, sealing and packaging of fruit plant propagating material and on the specific requirements for the genus and species of fruit plants;
    - Fourth Anti-Money Laundering Directive<sup>2</sup>;
    - 'Swedish initiative', which allows for more effective information and intelligence sharing between Member States' law enforcement authorities when conducting criminal investigations or criminal intelligence operations;
    - Markets in Financial Instruments Directive (MiFID II)<sup>3</sup>;
    - Payment Accounts Directive<sup>4</sup>;
    - Directive on the organisation of working time in inland waterway transport<sup>5</sup>;
    - amending Nuclear Safety Directive<sup>6</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>7</sup>;
  - failure to ensure proper monitoring of air quality throughout their whole territory<sup>8</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

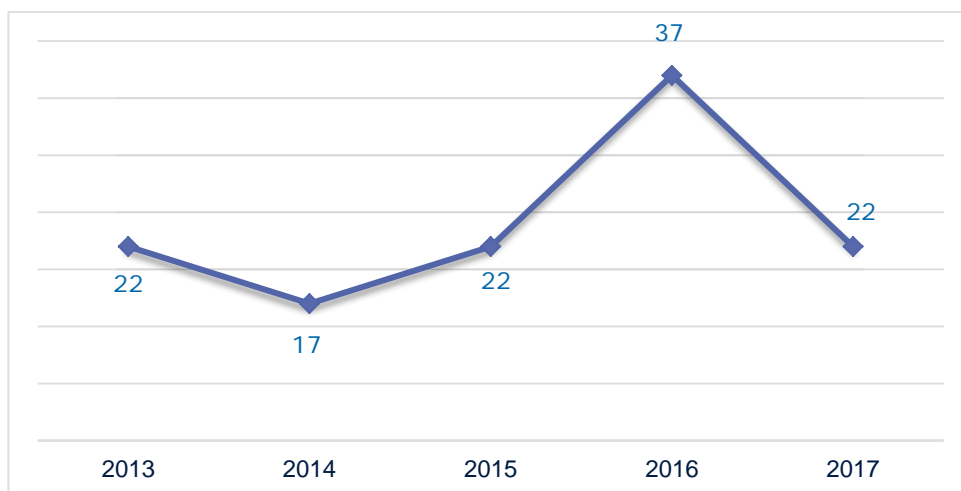
## IV. TRANSPOSITION OF DIRECTIVES

### 1. Late transposition infringement cases against Luxembourg open on 31 December (2013-2017)

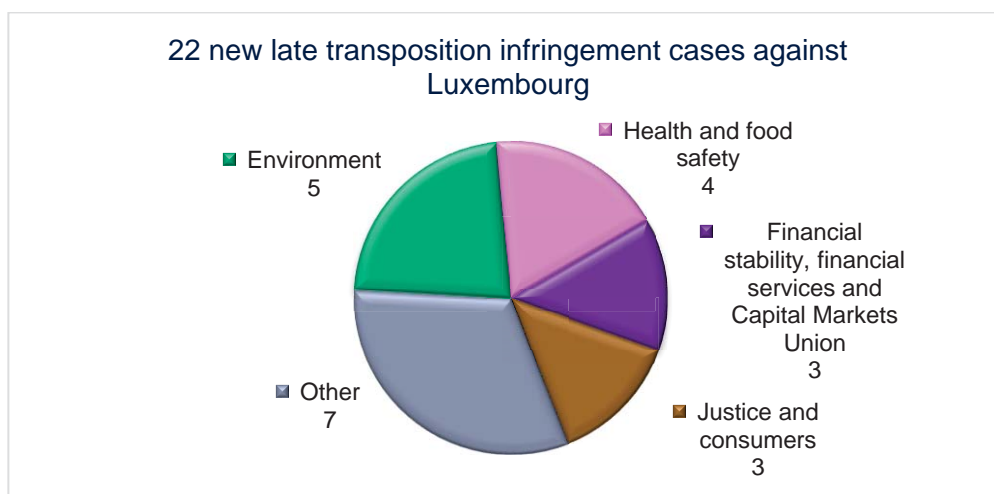


<sup>1</sup> Directive [2015/2203/EU](#).  
<sup>2</sup> Directive [2015/849/EU](#). [MEMO/17/4767](#);  
<sup>3</sup> Directive [2014/65/EU](#).  
<sup>4</sup> Directive [2014/92/EU](#).  
<sup>5</sup> Directive [2014/112/EU](#).  
<sup>6</sup> Directive [2014/87/Euratom](#).  
<sup>7</sup> [MEMO/17/1281](#).  
<sup>8</sup> [MEMO/17/3494](#).

## 2. New late transposition infringement cases against Luxembourg (2013-2017)



## 3. New late transposition infringement cases opened in 2017: main policy areas



## 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Directive on caseins and caseinates<sup>9</sup>;
  - Commission Directive<sup>10</sup> amending the Groundwater Directive<sup>11</sup>;
  - Directive on recognition of professional qualifications<sup>12</sup>;

<sup>9</sup> Directive [2015/2203/EU](#).

<sup>10</sup> Directive [2014/80/EU](#).

<sup>11</sup> Directive [2006/118/EC](#).



- Solvency II Directive<sup>13</sup>;
- Directive on marine equipment<sup>14</sup>;
- Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>15</sup>; Transparency Directive<sup>16</sup>; and Accounting Directive<sup>17</sup>;
- non-compliance with the Railway Safety Directive<sup>18</sup>;
- incorrect implementation of the Directive on driving licences<sup>19</sup>.

## VI. IMPORTANT JUDGMENTS

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

The Court gave the following rulings.

- Contrary to the strict conditions in the VAT Directive on exempting from VAT the services provided by cost-sharing groups<sup>21</sup>, Luxembourgish law allowed the exemption only if the members' taxed activities did not exceed 30 % (or in some cases 45 %) of their annual turnover. In addition, group members were allowed to deduct the VAT charged to the group on its purchases of goods and services. Lastly, operations by a member in his or her own name but on behalf of the group were regarded as outside the scope of VAT, with national rules considered as incompatible with the VAT Directive by the Court<sup>22</sup>.
- As the European Commission did not adopt its financial correction decisions related to the European Regional Development Fund within the six-month deadline indicated in the relevant Regulation these decisions have been annulled on procedural grounds<sup>23</sup>.

### 2. Preliminary rulings

The Court addressed the following preliminary ruling to the Luxembourgish judiciary.

- In the context of information exchange between Member States, the right to an effective remedy under the EU Charter of Fundamental Rights requires that the information holder should be able to contest the legality of an information request before a court if it is subject to a fine in case of non-compliance<sup>24</sup>.

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<sup>12</sup> Directive [2005/36/EC](#).

<sup>13</sup> Directive [2009/138/EC](#).

<sup>14</sup> Directive [2014/90/EU](#).

<sup>15</sup> Directive [2014/51/EU](#).

<sup>16</sup> Directive [2013/50/EU](#).

<sup>17</sup> Directive [2013/34/EU](#).

<sup>18</sup> Directive [2004/49/EC](#).

<sup>19</sup> Directive [2006/126/EC](#).

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

<sup>21</sup> Associations of taxpayers who come together to purchase services from third parties.

<sup>22</sup> Commission v Luxembourg, [C-274/15](#), [IP/14/161](#), [MEMO/14/116](#).

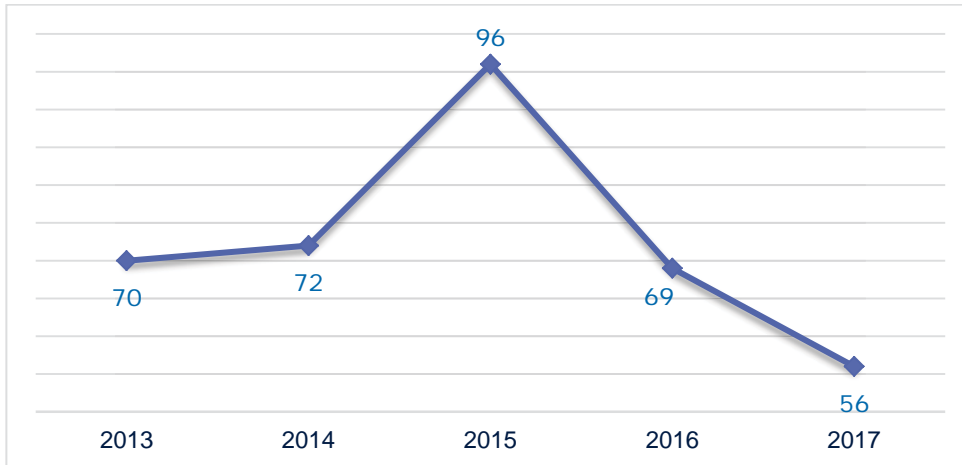
<sup>23</sup> Regulation (EC) No [1083/2006](#), Luxembourg v Commission, [T-109/10](#).

<sup>24</sup> Berlioz Investment Fund, [C-682/15](#).

Hungary

I. COMPLAINTS

1. New complaints made against Hungary by members of the public (2013-2017)



2. Public complaints against Hungary open at year-end

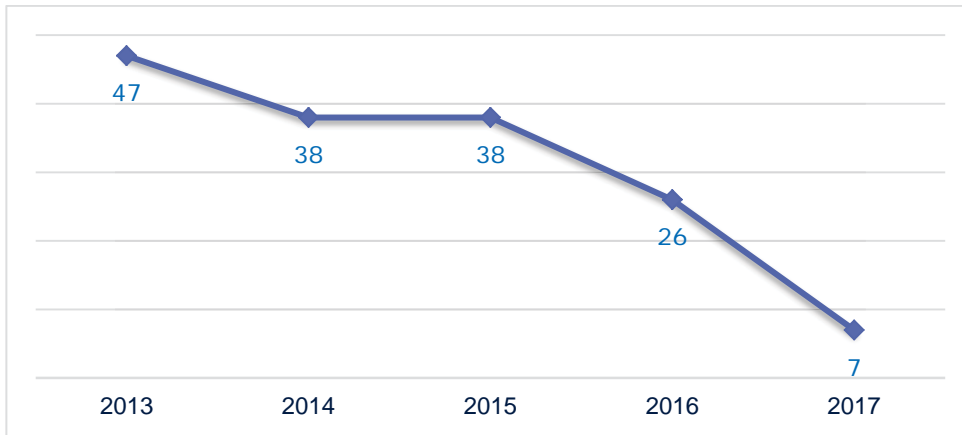
65	>	Complaints open at end-2016
56	>	New complaints registered in 2017
56	>	Complaints handled in 2017
<b>= 65</b>	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

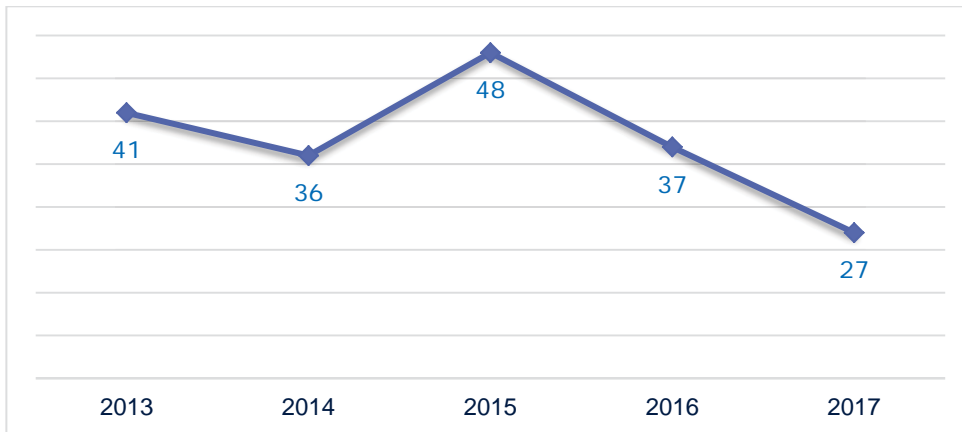


## I. EU PILOT

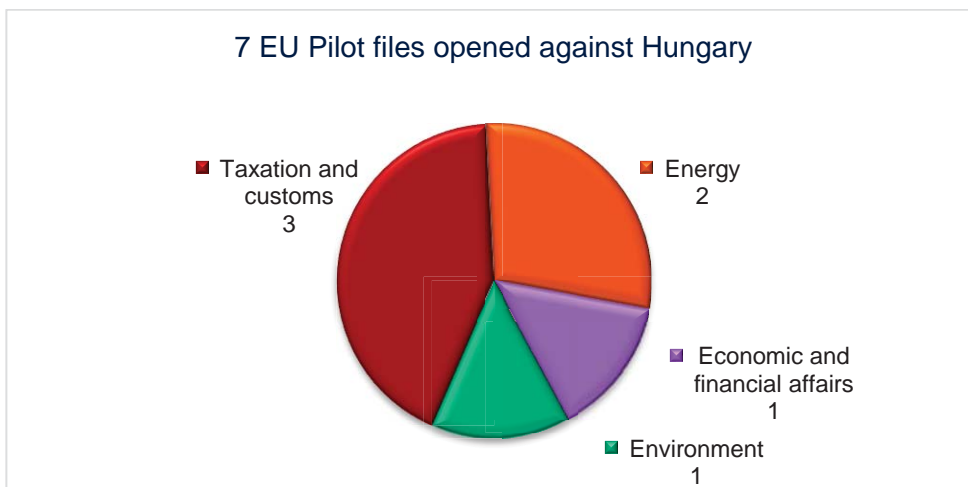
### 1. New EU Pilot files opened against Hungary (2013-2017)



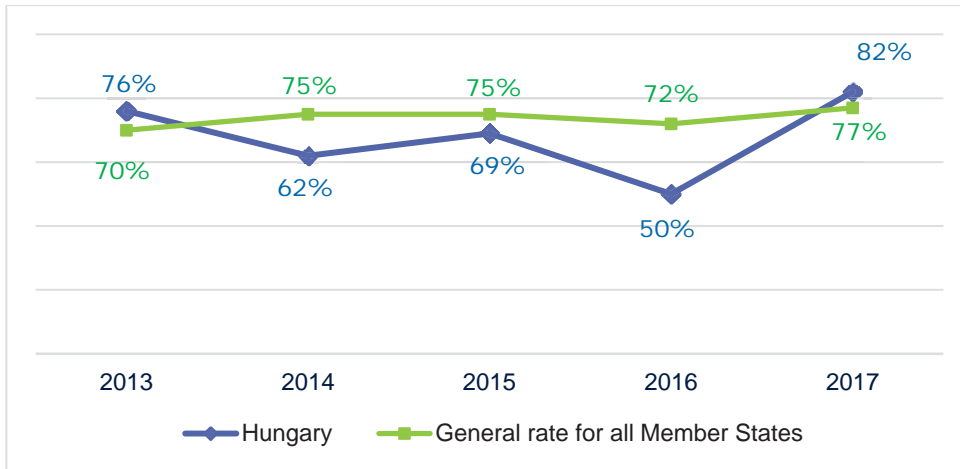
### 2. Files relating to Hungary open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

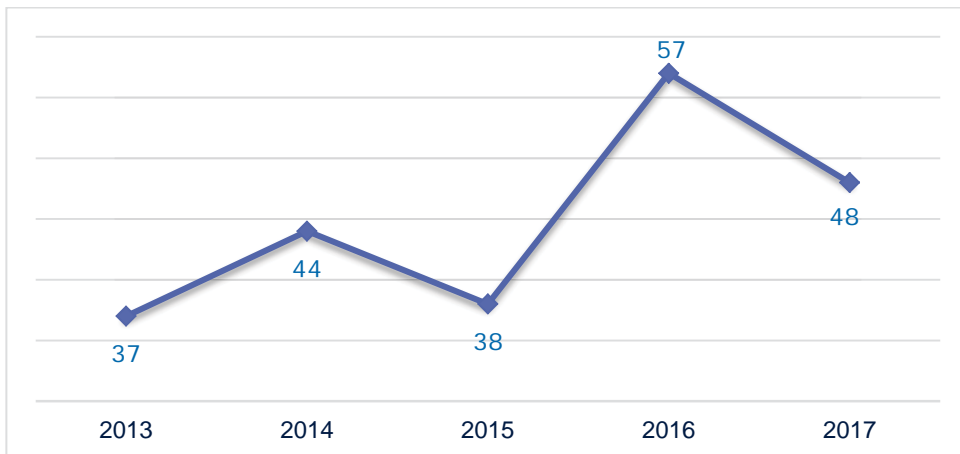


4. EU Pilot files: Hungary's resolution rate in 2013-2017

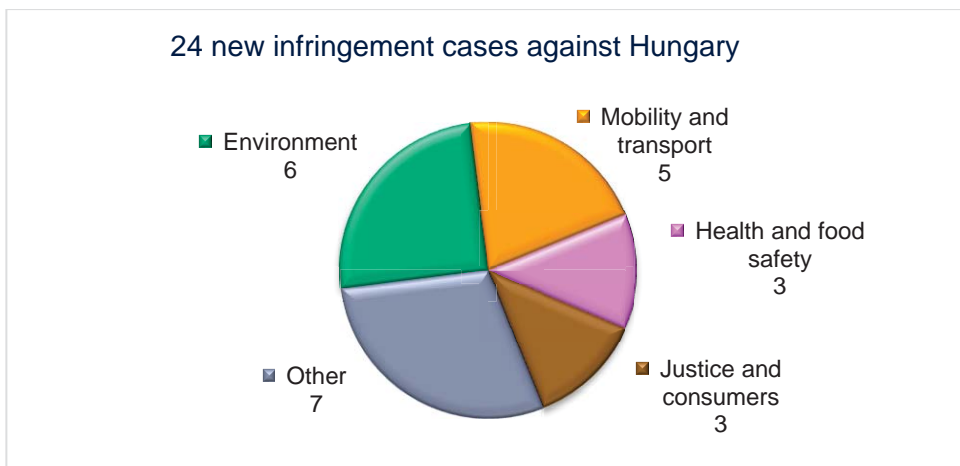


II. INFRINGEMENT CASES

1. Infringement cases against Hungary open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 24 new infringement cases against Hungary in 2017. These, and other major ongoing infringement cases, include:
- failure to ensure that urban waste water is adequately treated<sup>1</sup>;
  - failure to establish strategic noise maps and action plans required by the Noise Directive<sup>2</sup>;
  - failure to carry out analysis of the relevant telecom markets on time<sup>3</sup>;
  - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives)<sup>4</sup>;
  - incompatibility of the Hungarian law on foreign-funded civil society organisations with the free movement of capital, right to freedom of association and the rights to protection of private life and personal data enshrined in the EU Charter of Fundamental Rights<sup>5</sup>;
  - violation of EU law by amendments of the Hungarian Higher Education Act, by restricting EU and non-EU universities in their operations<sup>6</sup>;
  - non-compliance with the obligations under the 2015 Council Decisions on relocation of migrants from Greece and Italy<sup>7</sup>;
  - incorrect implementation of the EU asylum and migration *acquis*<sup>8</sup>;
  - cash control, proportionality of national fines<sup>9</sup>;
  - excessive reporting obligations on businesses under the Electronic Road Cargo Monitoring System which may violate the equal treatment of intra-EU and domestic transports.
- b) The Commission referred three cases to the Court under Article 258 TFEU. They concern the following.
- Non-compliance with the obligations under the 2015 Council Decisions on relocation of migrants from Greece and Italy<sup>10</sup>.
  - The termination of so-called ‘usufruct rights’ — contracts giving the right to use a property and to profit from it — held by investors in Hungary, especially on agricultural land. The measure deprived both foreign and domestic investors of their acquired rights and of the value of their investments without providing them with compensation. The law cut the original 20-year transitional period down to four and a half months, which is too short to give investors the opportunity to adapt to the new legal environment and deprives them of their acquired rights. The measure may fail to ensure legal certainty and respect of the right to property (protected by the EU Charter of Fundamental Rights). It may also violate the principles of free movement of capital and freedom of establishment<sup>11</sup>.
  - Imposition of excessive and unjustified obstacles to cross-border activities by granting an exclusive right to a single operator to provide a service<sup>12</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> [MEMO/17/4767](#).

<sup>2</sup> Directive [2002/49/EC](#) and [MEMO/17/234](#).

<sup>3</sup> Directive [2002/21/EC](#) and [MEMO/17/3494](#).

<sup>4</sup> Directive [2009/72/EC](#) and Directive [2009/73/EC](#), [MEMO/17/1045](#).

<sup>5</sup> [IP/17/1982](#); [IP/17/3663](#) and [IP/17/5003](#).

<sup>6</sup> [IP/17/5004](#).

<sup>7</sup> [Council Decision \(EU\) 2015/1523](#) and [2015/1601](#), and [IP/17/5002](#).

<sup>8</sup> [IP/17/5023](#).

<sup>9</sup> Regulation (EC) No [1889/2005](#).

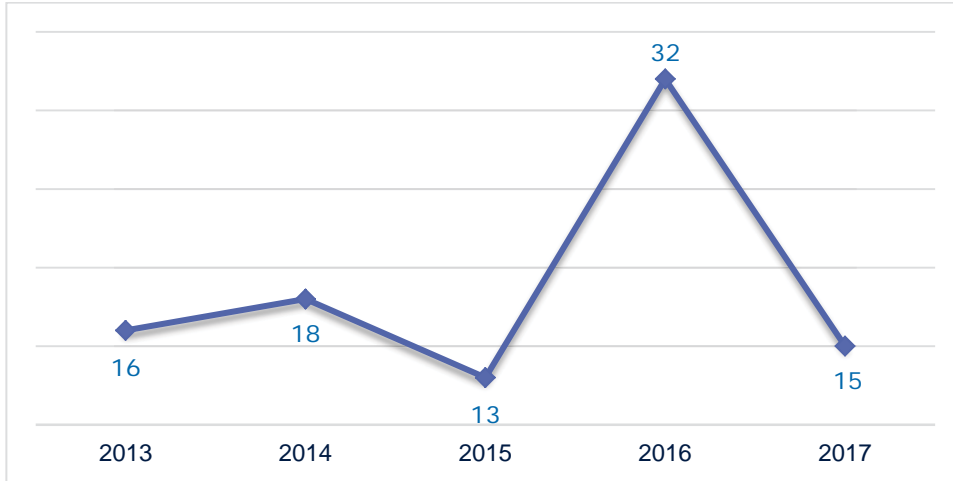
<sup>10</sup> Council Decision (EU) [2015/1523](#) and [2015/1601](#), Commission v Hungary, [C-718/17](#), [IP/17/5002](#).

<sup>11</sup> Commission v Hungary, [C-235/2017](#) (info 06.03.2018 [C-52/16](#)) and [IP/16/2102](#).

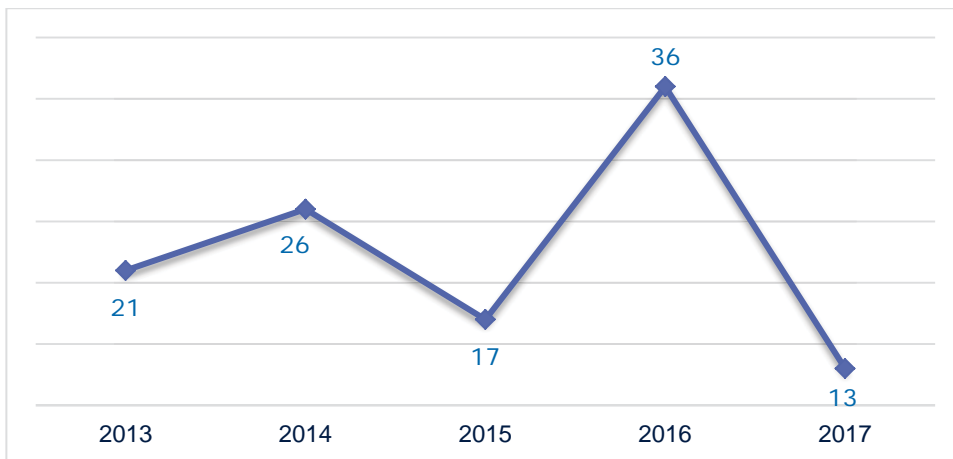
<sup>12</sup> Directive [2006/123/EC](#), Commission v Hungary, [C-171/17](#) and [IP/16/3646](#).

### III. TRANSPOSITION OF DIRECTIVES

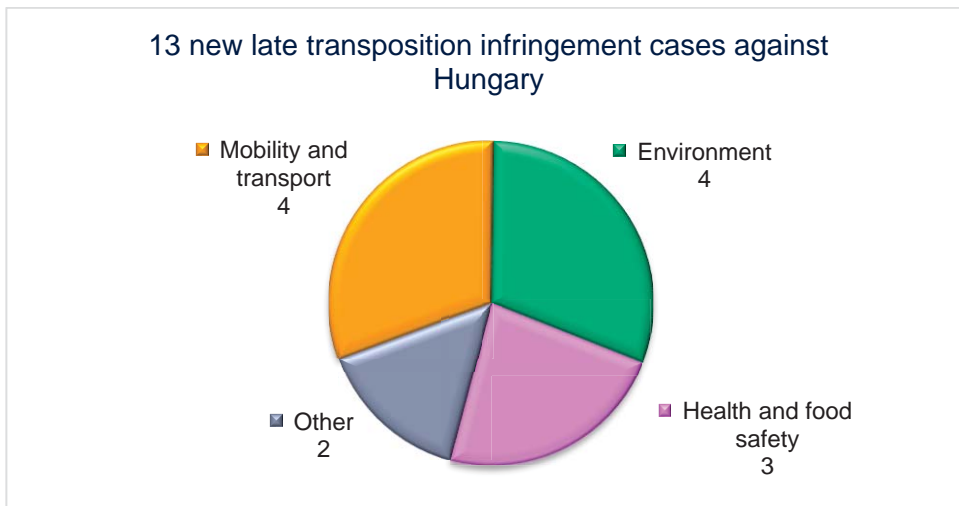
#### 1. Late transposition infringement cases against Hungary open on 31 December (2013-2017)



#### 2. New late transposition infringement cases against Hungary (2013-2017)



#### 3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

### IV. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2017

These concerned:

- conformity with the Working Time Directive<sup>13</sup> by amending the rules applying to workers working on regular passenger transport services, regular inter-urban short-distance public transport services and uninterrupted transport services;
- non-communication of national measures transposing the:
  - Transparency Directive<sup>14</sup>;
  - Directive laying down calculation methods and reporting requirements<sup>15</sup> pursuant to a Directive relating to the quality of petrol and diesel fuels<sup>16</sup>.

### V. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>17</sup>

The Court gave the following rulings.

- The requirement to hold Hungarian nationality in order to exercise as a notary constitutes discrimination based on nationality prohibited by the Treaty<sup>18</sup>.
- The provisional mechanism for the mandatory relocation of asylum seekers set up by the 2015 Council Decisions on relocation of migrants from Greece and Italy is valid<sup>19</sup>. The Court dismissed the actions for annulment brought by Hungary and Slovakia<sup>20</sup>.
- Hungary accepted a General Court declaration that there was no need to adjudicate on Hungary's action against the Commission Decision to suspend part of the interim payments from the European Regional Development Fund and the Cohesion Fund for expenditure in the national transport programme and seven regional programmes. The Commission suspended the payments on the grounds that Hungary had used discriminatory selection criteria in the public procurement procedures for the vast majority of contracts funded by these programmes. The irregular criteria concerned the location of asphalt plants used for road construction. They were considered in breach of the principle of free provision of services by favouring Hungarian tenderers<sup>21</sup>.

#### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Hungarian judiciary.

- The Hungarian legislation prohibiting the organisation of games of chance without a licence violates the freedom to provide services. The requirement of having provided such services in Hungary for at least 10 years constitutes discrimination<sup>22</sup>.
- National legislation which provides that users and owners of land on which unlawful pollution was produced are jointly responsible for the environmental damage is not

<sup>13</sup> Directive [2003/88/EC](#).

<sup>14</sup> Directive [2013/50/EU](#).

<sup>15</sup> Directive [2015/652/EU](#).

<sup>16</sup> Directive [98/70/EC](#).

<sup>17</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>18</sup> Commission v Hungary, [C-392/15](#).

<sup>19</sup> Council Decisions (EU) [2015/1523](#) and [2015/1601](#), and [IP/17/5002](#).

<sup>20</sup> Slovakia v Council, [C-643/15](#), Hungary v Council, [C-647/15](#) and Court press release No [91/17](#).

<sup>21</sup> Hungary v Commission, Case [T-542/15](#).

<sup>22</sup> Unibet International, [C-49/16](#).

Hungary

contrary to EU law. It is not necessary for this purpose to establish a causal link between the conduct of the land owners and the damage established, provided that such legislation complies with the principles and provisions of EU law. It is also allowed by EU law to provide in national legislation that owners of land on which unlawful pollution has been produced may be subject to fines, provided such legislation is appropriate for attaining the objective of more stringent protection and the methods for determining the amount of the fine do not go beyond what is necessary to attain that objective<sup>23</sup>.

- Under the Directive on the charging of heavy goods vehicles for the use of certain infrastructures<sup>24</sup>, the requirement of proportionality is not met by a system of penalties providing for the imposition of a flat-rate fine for all offences, whatever their gravity, under the rules on the obligation to make prior payment of a road toll. The requirement of proportionality does not preclude a system of penalties which institutes strict liability but does preclude the level of penalty provided for by Hungary's system<sup>25</sup>.

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<sup>23</sup> Túrkevei Tejtermelő Kft., [C-129/16](#).

<sup>24</sup> Directive [1999/62/EC](#), as amended by Directive [2011/76/EU](#).

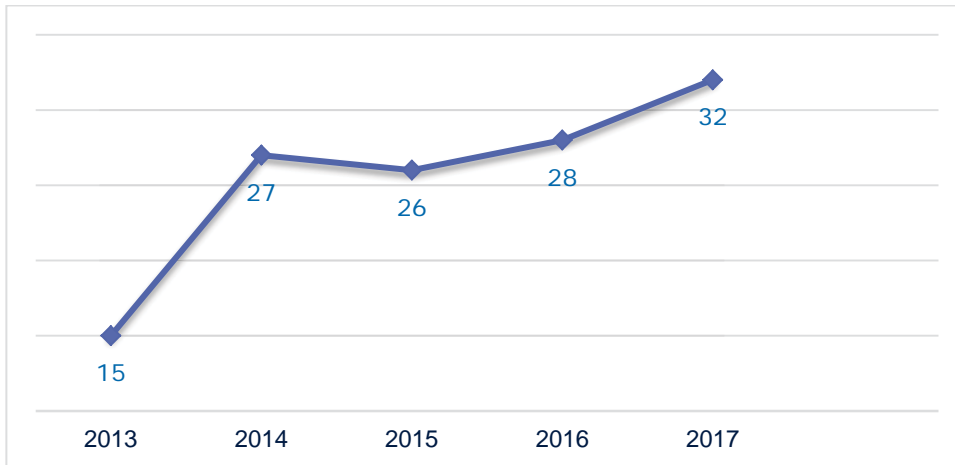
<sup>25</sup> Joined cases: Euro-Team [C-497/15](#), Spirál-Gép [C-498/15](#).



Malta

I. COMPLAINTS

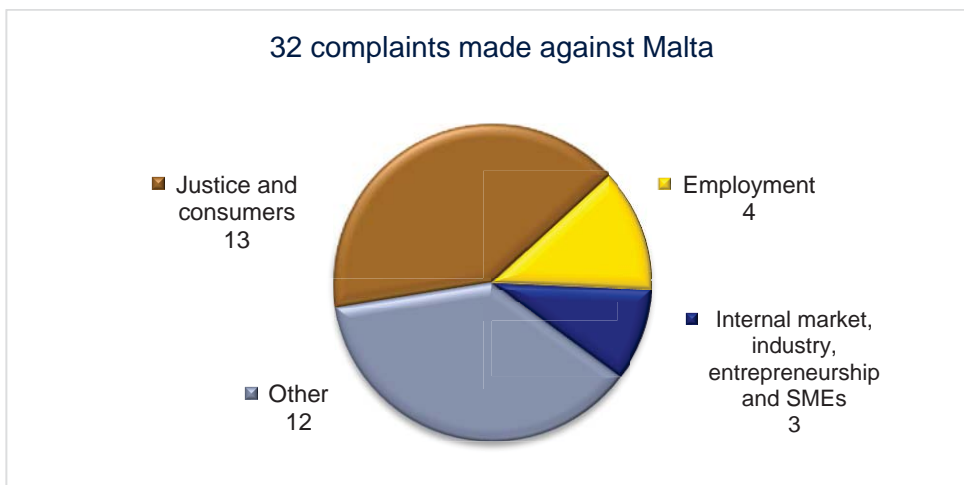
1. New complaints made against Malta by members of the public (2013-2017)



2. Public complaints against Malta open at year-end

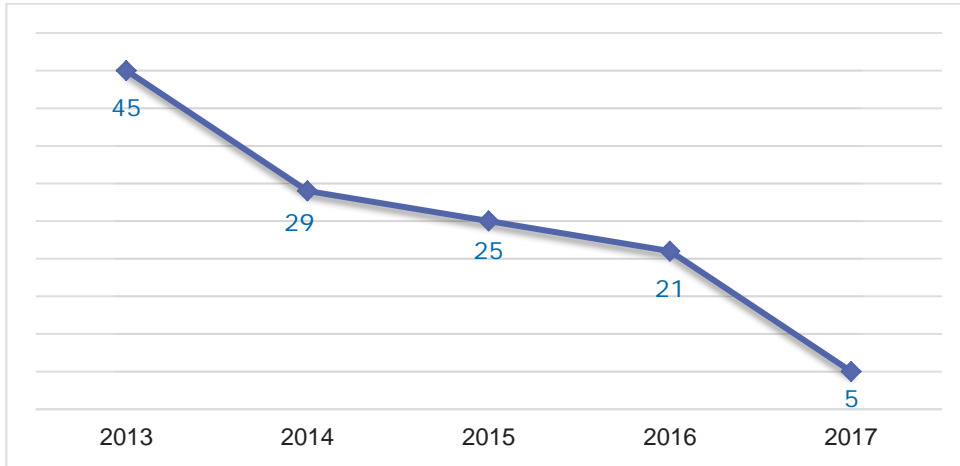
25	>	Complaints open at end-2016
32	>	New complaints registered in 2017
33	>	Complaints handled in 2017
<b>= 24</b>	>	<b>Complaints open at end-2017</b>

3. New complaints registered in 2017: main policy areas

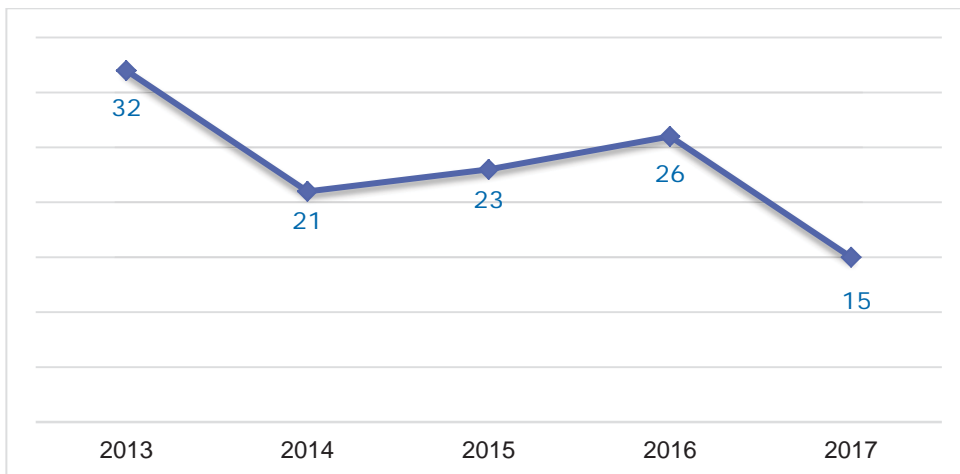


## II. EU PILOT

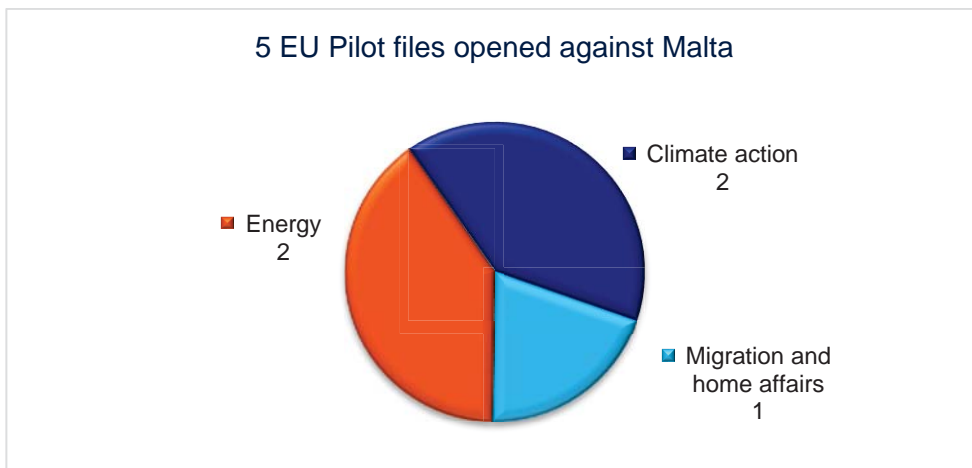
### 1. New EU Pilot files opened against Malta (2013-2017)



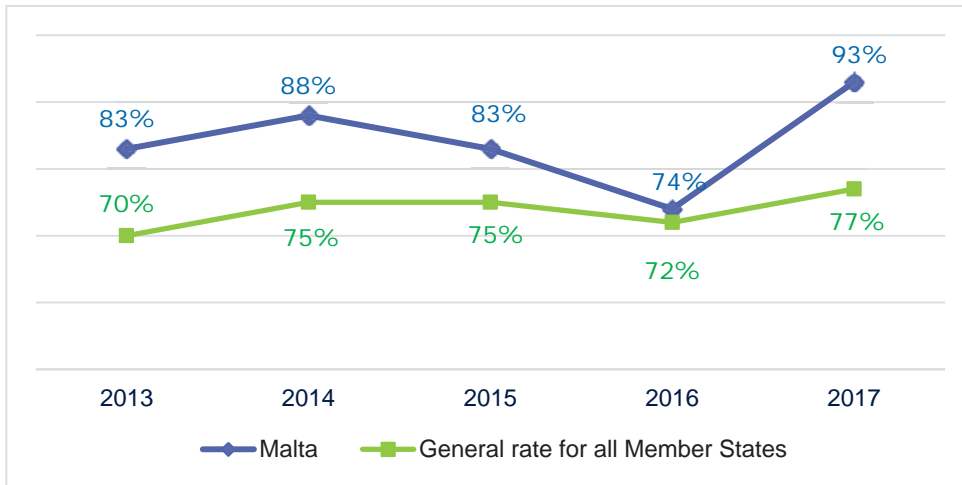
### 2. Files relating to Malta open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

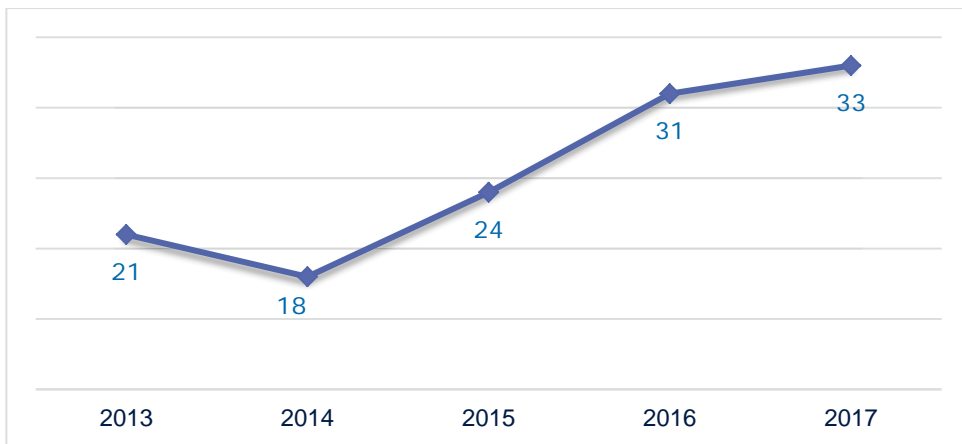


4. EU Pilot files: Malta's resolution rate in 2013-2017

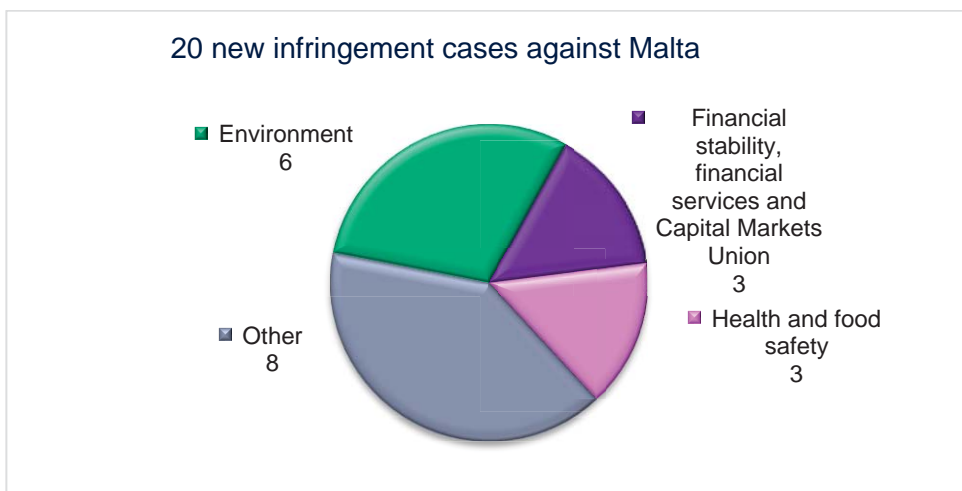


III. INFRINGEMENT CASES

1. Infringement cases against Malta open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas

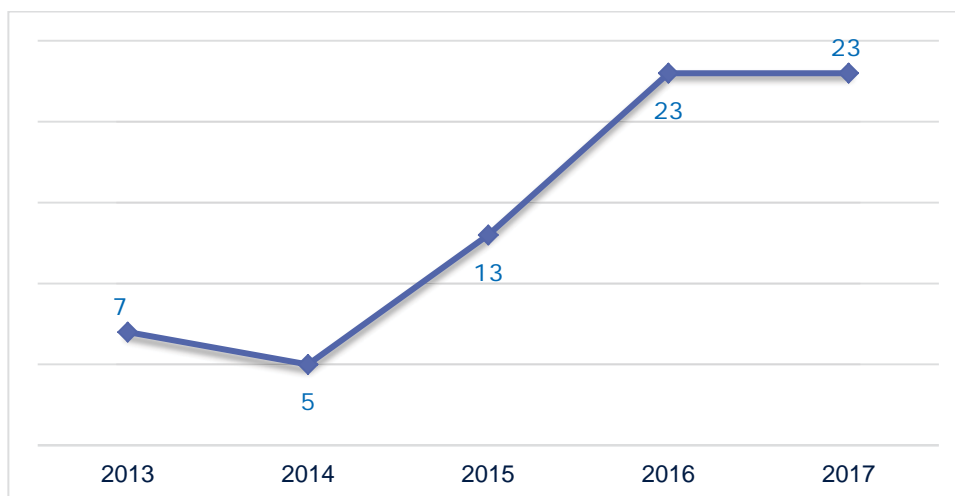


### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 20 new infringement cases against Malta in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Fourth Anti-Money Laundering Directive<sup>1</sup>;
    - Directive on recognition of professional qualifications<sup>2</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>3</sup>;
    - Directive<sup>4</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>5</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>6</sup>;
  - failure to ensure that urban waste water is adequately treated<sup>7</sup>;
  - failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>8</sup>;
  - incorrect transposition and application of the Energy Performance of Buildings Directive<sup>9</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

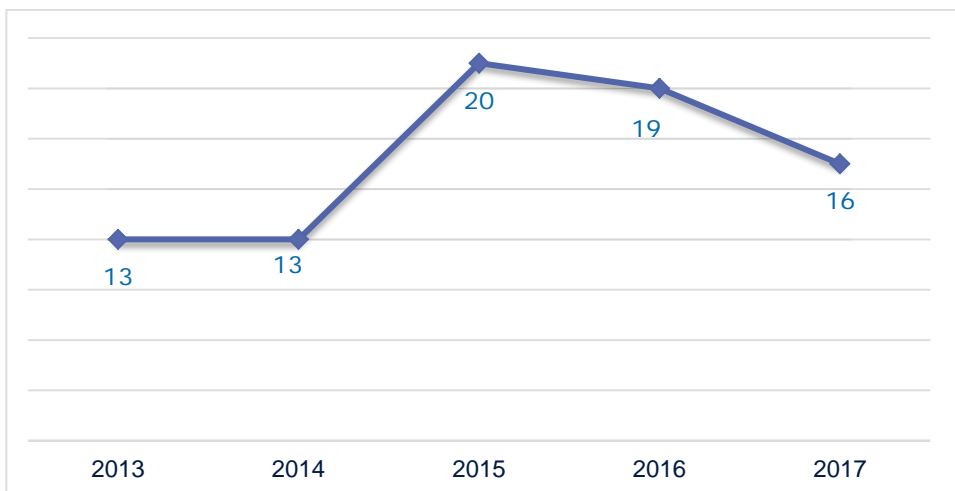
## IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Malta open on 31 December (2013-2017)

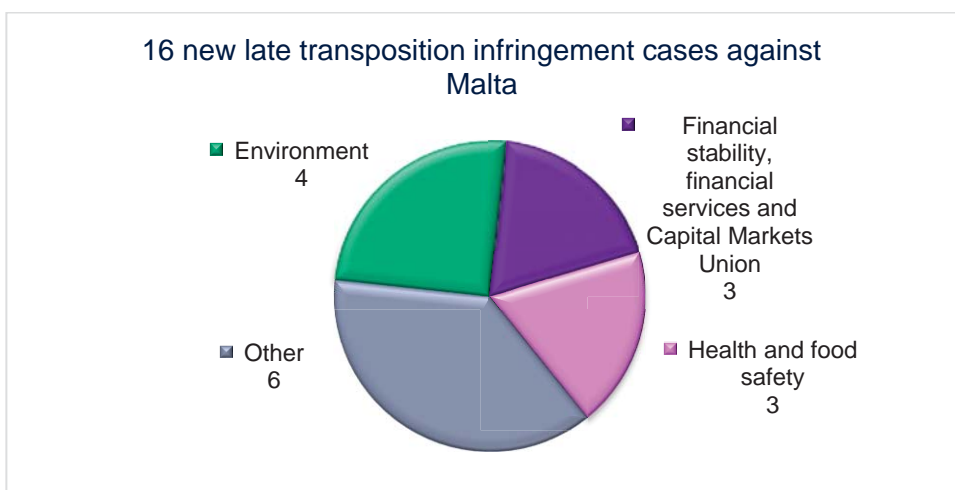


<sup>1</sup> Directive [2015/849/EU](#); [MEMO/17/4767](#).  
<sup>2</sup> Directive [2013/55/EU](#).  
<sup>3</sup> Directive [2014/65/EU](#).  
<sup>4</sup> Council Directive (EU) [2015/652](#).  
<sup>5</sup> Directive [98/70/EC](#).  
<sup>6</sup> [MEMO/17/1281](#).  
<sup>7</sup> [MEMO/17/3494](#).  
<sup>8</sup> Directive [2008/56/EC](#).  
<sup>9</sup> Directive [2010/31/EU](#); [MEMO/17/4767](#).

## 2. New late transposition infringement cases against Malta (2013-2017)



## 3. New late transposition infringement cases opened in 2017: main policy areas



## 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Public Procurement Directive<sup>10</sup>;
  - Directive on the award of concession contracts<sup>11</sup>;
  - Directive on procurement by entities operating in the water, energy, transport and postal services sectors<sup>12</sup>;
  - 'Qualifications' Directive<sup>13</sup>;

<sup>10</sup> Directive [2014/24/EU](#).

<sup>11</sup> Directive [2014/23/EU](#).

<sup>12</sup> Directive [2014/25/EU](#).

- Directive on seasonal workers<sup>14</sup>;
- Solvency II Directive<sup>15</sup>;
- Omnibus II Directive, in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>16</sup>;
- Accounting Directive<sup>17</sup>;
- Directive on deposit guarantee schemes<sup>18</sup>;
- failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>19</sup>.

## VI. IMPORTANT JUDGMENTS

### 1. Court ruling

There were no major Court rulings in 2017.

### 1. Preliminary rulings

The Court addressed the following preliminary ruling to the Maltese judiciary.

- National rules requiring dental technicians to perform their activities in collaboration with a dental practitioner are not inconsistent with EU rules on recognition of professional qualifications<sup>20</sup>.

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<sup>13</sup> Directive [2011/95/EU](#).

<sup>14</sup> Directive [2014/36/EU](#).

<sup>15</sup> Directive [2009/138/EC](#).

<sup>16</sup> Directive [2014/51/EU](#).

<sup>17</sup> Directive [2013/34/EU](#).

<sup>18</sup> Directive [2014/49/EU](#).

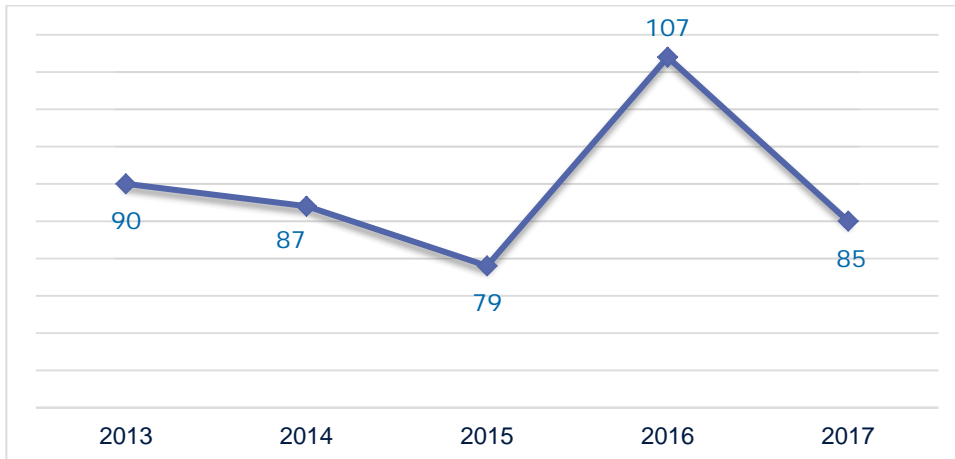
<sup>19</sup> Directive [2008/56/EC](#).

<sup>20</sup> Directive [2005/36/EC](#) amended by Directive [2013/55/EU](#), Malta Dental Technologists Association et Reynaud, [C-125/16](#).

Netherlands

I. COMPLAINTS

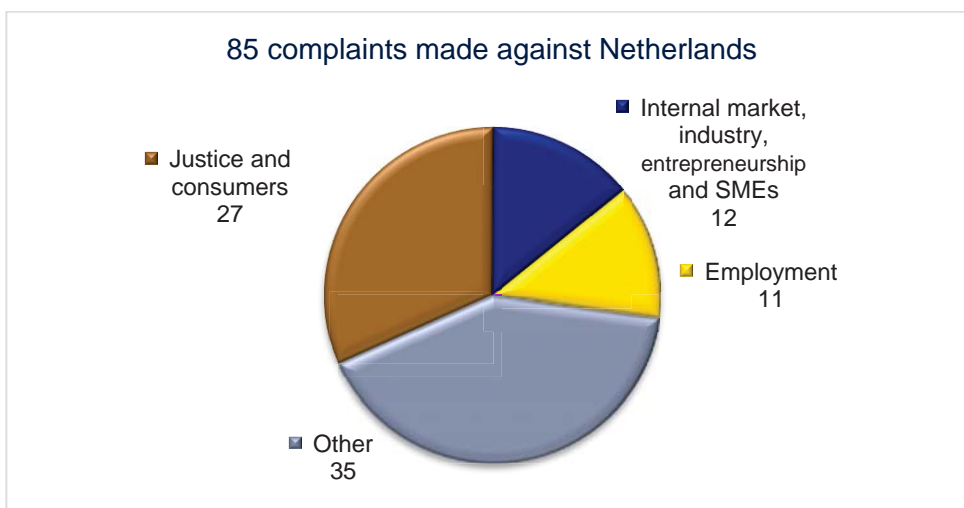
1. New complaints made against the Netherlands by members of the public (2013-2017)



2. Public complaints against the Netherlands open at year-end

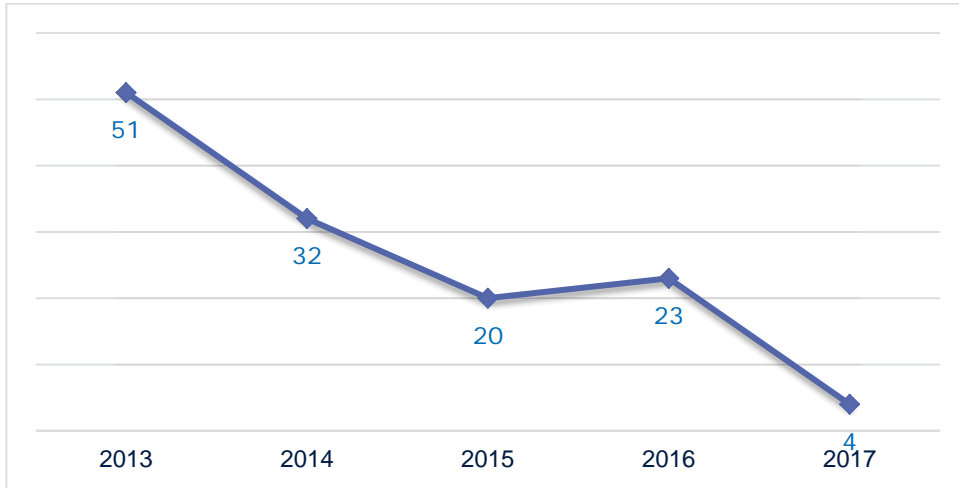
74	>	Complaints open at end-2016
85	>	New complaints registered in 2017
91	>	Complaints handled in 2017
<b>= 68</b>	>	<b>Complaints open at end-2017</b>

3. New complaints registered in 2017: main policy area

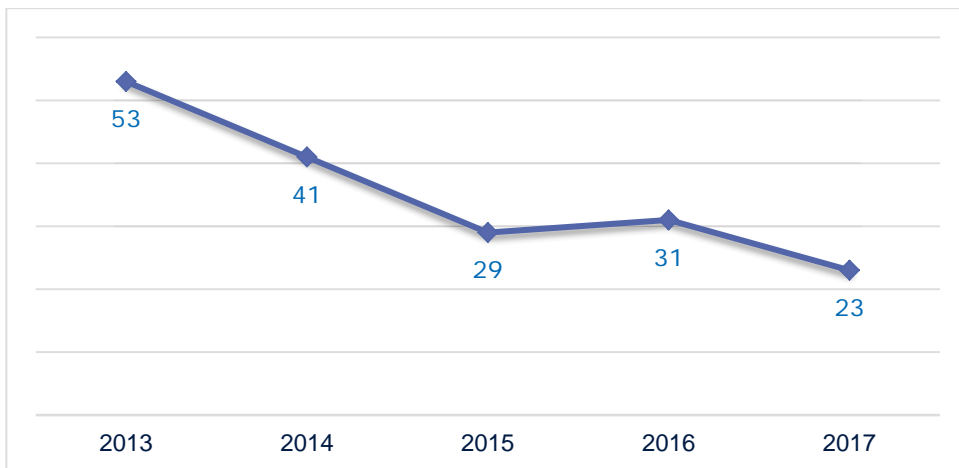


## II. EU PILOT

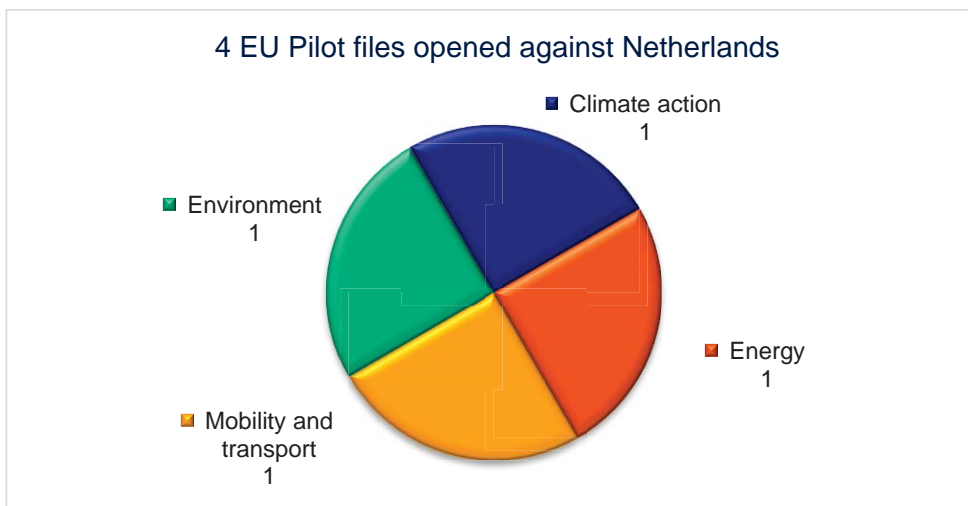
### 1. New EU Pilot files opened against the Netherlands (2013-2017)



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

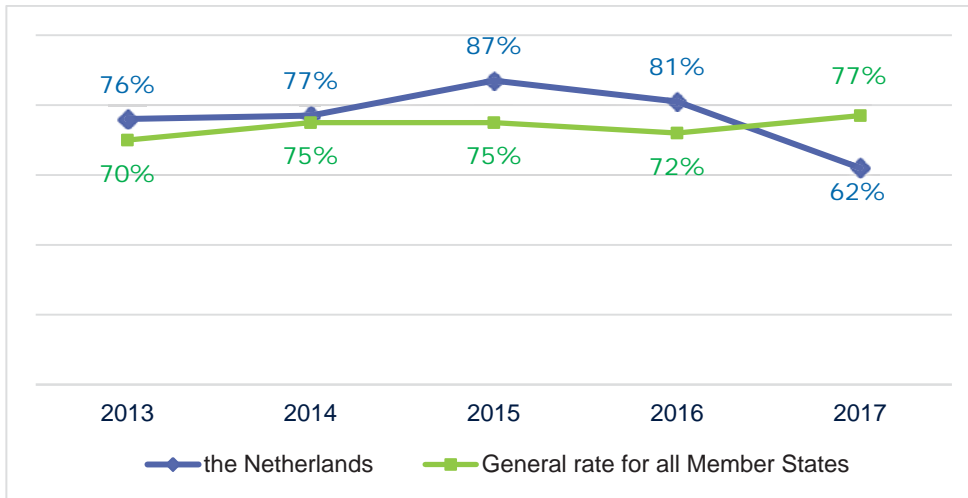


### 3. New EU Pilot files opened in 2017: policy areas



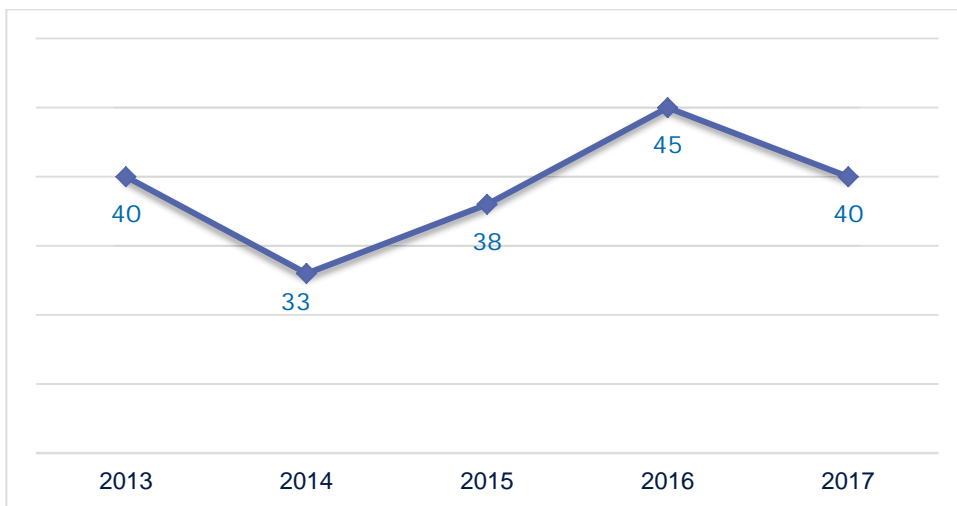


4. EU Pilot files: Netherlands' resolution rate in 2013-2017

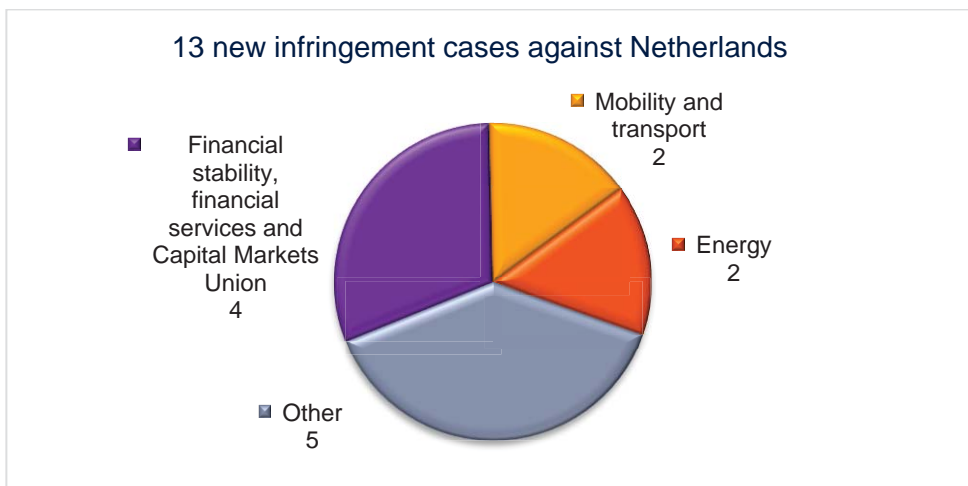


III. INFRINGEMENT CASES

1. Infringement cases against the Netherlands open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas

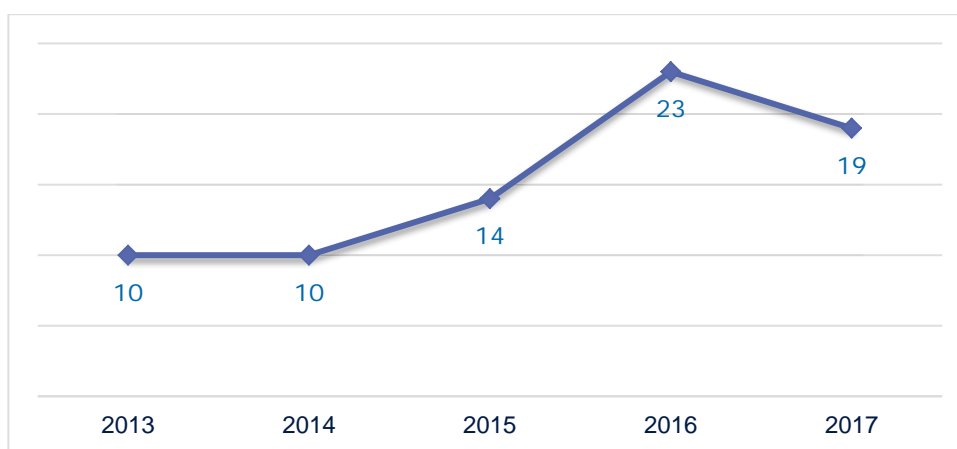


### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 13 new infringement cases against the Netherlands in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Fourth Anti-Money Laundering Directive<sup>1</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>2</sup>;
    - Payment Accounts Directive<sup>3</sup>;
  - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directive)<sup>4</sup>;
  - failure to comply with reporting obligations under EU waste legislation<sup>5</sup>.
- b) The Commission referred one case to the Court under Article 258 TFEU.
- This concerns imported milk powder, groats and rice products from the Dutch overseas countries Curaçao and Aruba, which were then re-exported to the EU. The imports wrongly benefited from an exemption from EU customs duties, causing a loss of revenue to the EU budget of EUR 18.5 million (less collection costs)<sup>6</sup>;
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against the Netherlands open on 31 December (2013-2017)



<sup>1</sup> Directive [2015/849/EU](#), [MEMO/17/4767](#).

<sup>2</sup> Directive [2014/65/EU](#).

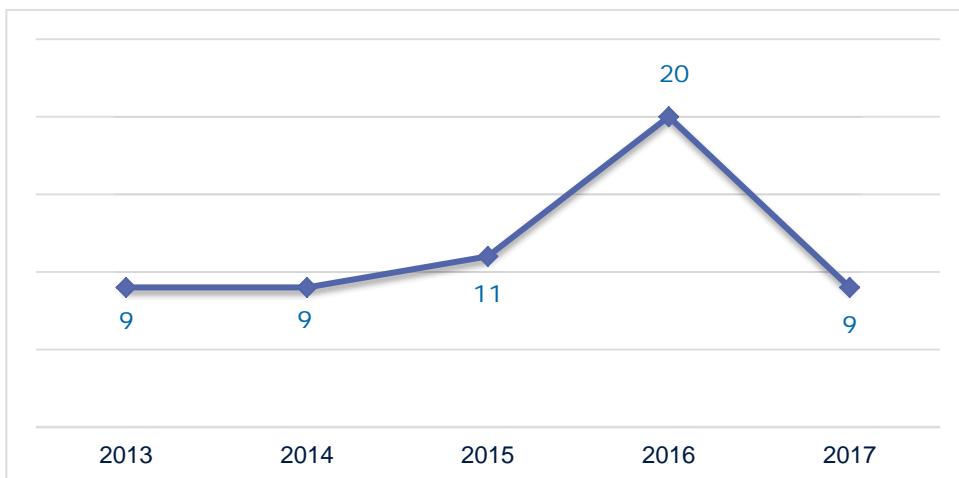
<sup>3</sup> Directive [2014/92/EU](#).

<sup>4</sup> Directive [2009/72/EC](#) and Directive [2009/73/EC](#), [MEMO/17/1577](#).

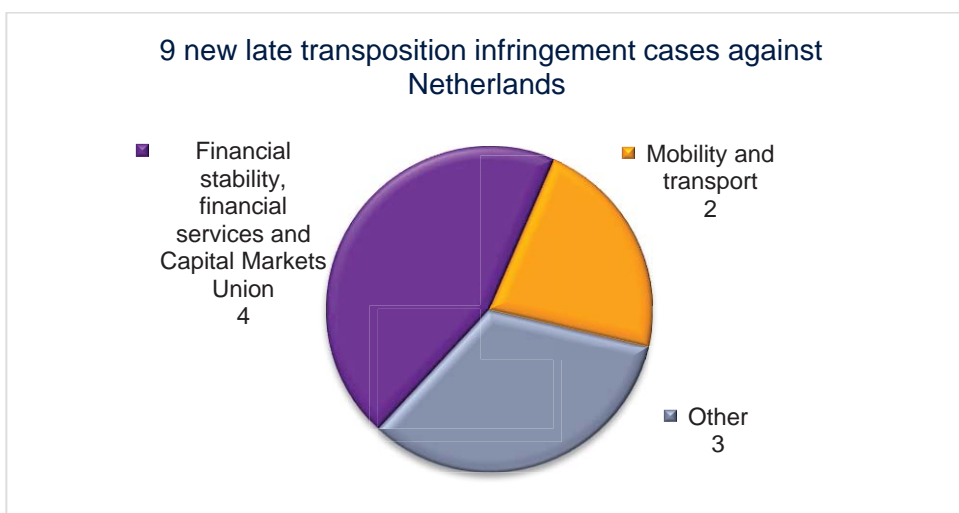
<sup>5</sup> [MEMO/17/1281](#).

<sup>6</sup> Regulation [1552/89](#), *Commission v Netherlands*, [C-395/17](#) and [MEMO/16/3125](#).

## 2. New late transposition infringement cases against the Netherlands (2013-2017)



## 3. New late transposition infringement cases opened in 2017: main policy areas



## 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Directive on recognition of professional qualifications<sup>7</sup>;
  - Transparency Directive and the Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (CRD IV)<sup>8</sup>;
  - Directive establishing a single European railway area<sup>9</sup>;

<sup>7</sup> Directive [2005/36/EC](#).

<sup>8</sup> Directives [2013/50/EU](#) and [2013/36/EU](#).

<sup>9</sup> Directive [2012/34/EU](#).

- Accounting Directive<sup>10</sup>;
- Directive on disclosure of non-financial and diversity information by certain large undertakings<sup>11</sup>;
- non-conformity with the Directive on the interoperability of the rail system<sup>12</sup>;
- non-compliance with the freedom of establishment (hazard games act)<sup>13</sup>;
- non-compliance with the Railway Safety Directive<sup>14</sup>.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>15</sup>

The Court ruled that:

- As the European Commission did not adopt its decisions related to the European Regional Development Fund within the six-month deadline indicated in the relevant Regulation, its claim must be rejected on procedural grounds<sup>16</sup>.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Dutch judiciary.

- A third-country national may, as the parent of a minor child who is an EU citizen, rely on a derived right of residence in the EU. The fact that the other parent, an EU citizen, could assume sole responsibility for the primary day-to-day care of the child is a relevant factor, but is not in itself a sufficient ground to refuse a residence permit. National authorities must also determine whether there is, between the child and the third-country national parent, such a relationship of dependency that a decision to refuse a right of residence to that parent would compel the child to leave the EU<sup>17</sup>.
- The Pirate Bay platform, by offering a search feature, categorising files, deleting faulty trackers, and filtering out some types of content, and making advertising revenues plays an essential role in making protected works available to the public and as such engages in communication to the public. In other words the platform is considered to play an essential role, and to intervene, in providing access to copyright-protected content<sup>18</sup>.
- Where a flight was cancelled, the air carrier has to pay the compensation if that information was not communicated to the passenger at least 2 weeks before departure time. This holds even where the information has reached, at least 2 weeks before the same time, the travel agent through which the carriage contract had been entered into<sup>19</sup>.
- Actions by armed forces during periods of armed conflict, within the meaning of international humanitarian law, may constitute 'terrorist acts' for the purposes of EU law (despite the fact that some international conventions exclude them). Consequently, preventative measures may be applied to the perpetrator of the act<sup>20</sup>.
- The starting point of the duration of an entry ban, which in principle may not exceed 5 years, must be calculated from the date on which the person concerned actually left the territory of the Member States<sup>21</sup>.

<sup>10</sup> Directive [2013/34/EU](#).

<sup>11</sup> Directive [2014/95/EU](#).

<sup>12</sup> Directive [2008/57/EC](#).

<sup>13</sup> [IP/17/5109](#).

<sup>14</sup> Directive [2004/49/EC](#).

<sup>15</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>16</sup> Regulation (EC) No [1082/2006](#), Netherlands v Commission, [T-119/10](#).

<sup>17</sup> Chavez-Vilchez, [C-133/15](#) and Court press release [No 48/17](#).

<sup>18</sup> Stichting Brein v Ziggo BV and XS4All Internet BV, [C-610/15](#).

<sup>19</sup> Bas Jacob Adriaan Krijgsman [C-302/16](#).

<sup>20</sup> A, B, C, D, [C-158/14](#).

<sup>21</sup> Mossa Ouhrami, [C-225/16](#).

- The 'cost of transport' as defined in the Community Customs Code is not necessarily limited to the amounts charged by the carriers which themselves carry out the transport of the imported goods<sup>22</sup>.
- Under the Combined Nomenclature, the classification video footage lasting longer than 30 minutes does not change if it is divided into parts shorter than 30 minutes. This remains so either when during the playback the user is unable to perceive the transition from one file to the next, or when he must play each file separately<sup>23</sup>.
- Screws to be used for medical implant purposes should be classified as orthopaedic articles under the Combined Nomenclature and not as 'regular' screws, even if they 'entirely correspond' to ordinary screws<sup>24</sup>.
- The Transfer of Undertakings Directive<sup>25</sup> applies to a transfer that follows a declaration of insolvency when a 'pre-pack' notably aimed at ensuring the continuation of the activities of the undertaking by a third party is implemented<sup>26</sup>.
- The Commission Implementing Decision adopting the eighth update of the list of sites of Community importance for the Atlantic biogeographical region was invalid<sup>27</sup>.

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<sup>22</sup> The Shirtmakers BV, [C-59/16](#).

<sup>23</sup> GROFA GmbH and GoPro Cooperatief, Joined Cases [C-435/15](#) and [C-666/15](#).

<sup>24</sup> Stryker EMEA Supply Chain BV, [C-51/16](#).

<sup>25</sup> Directive [2001/23/EC](#).

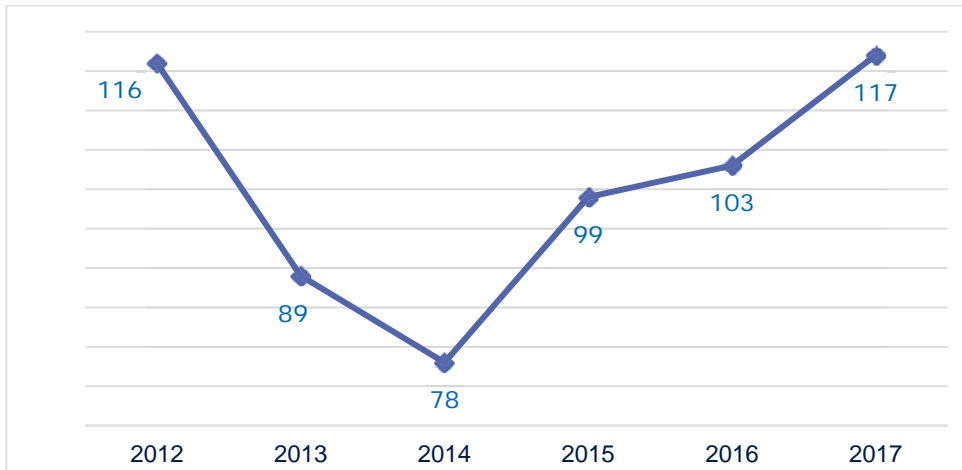
<sup>26</sup> Smallsteps, [C-126/16](#).

<sup>27</sup> Decision (EU) [2015/72](#), Vereniging Hoekschewaards Landschap, [C-281/16](#).

Austria

I. COMPLAINTS

1. New complaints made against Austria by members of the public (2013-2017)



2. Public complaints against Austria open at year-end

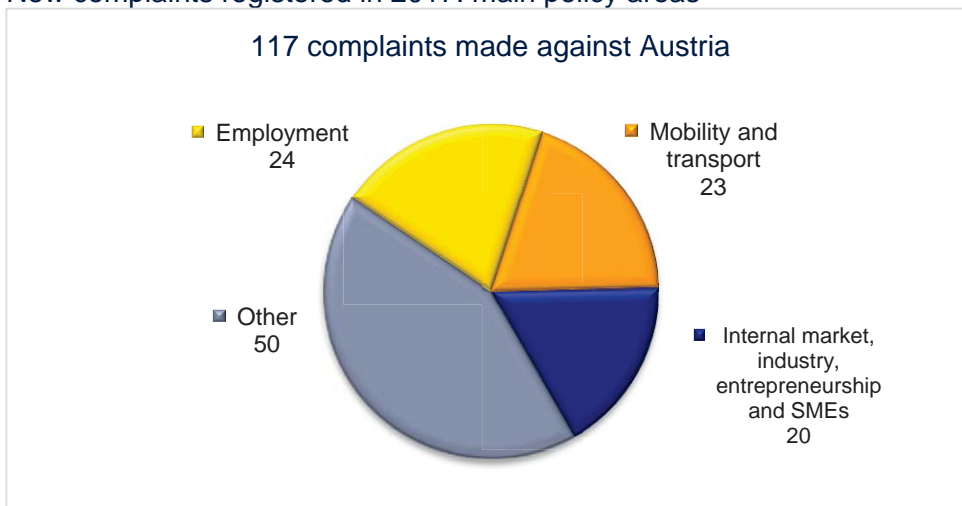
104 > Complaints open at end-2016

117 > New complaints registered in 2017

99 > Complaints handled in 2017

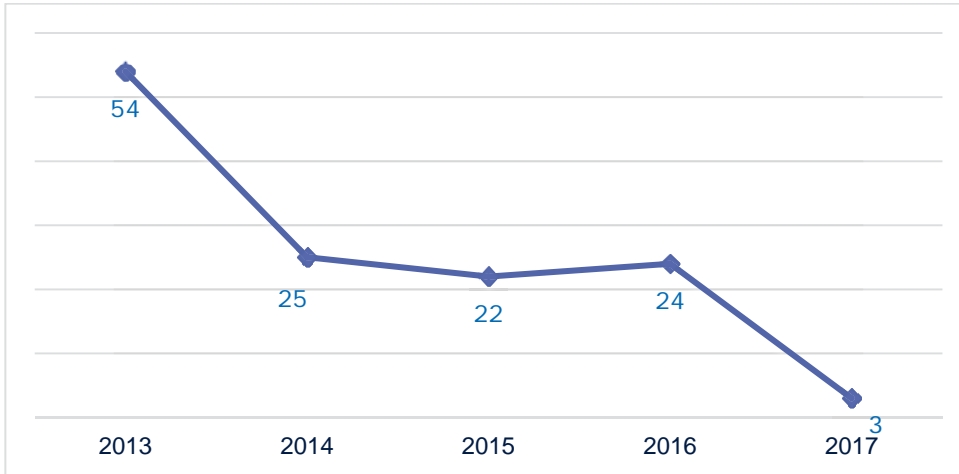
117 - 99 = 122 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

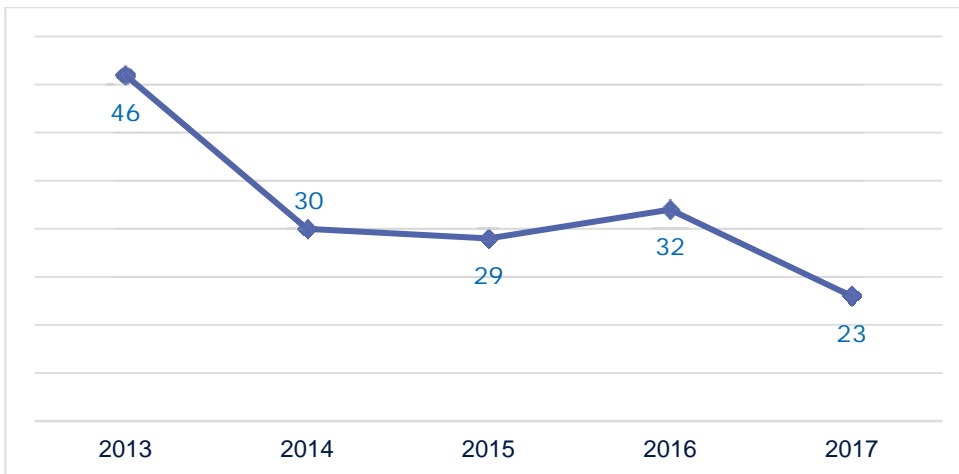


## II. EU PILOT

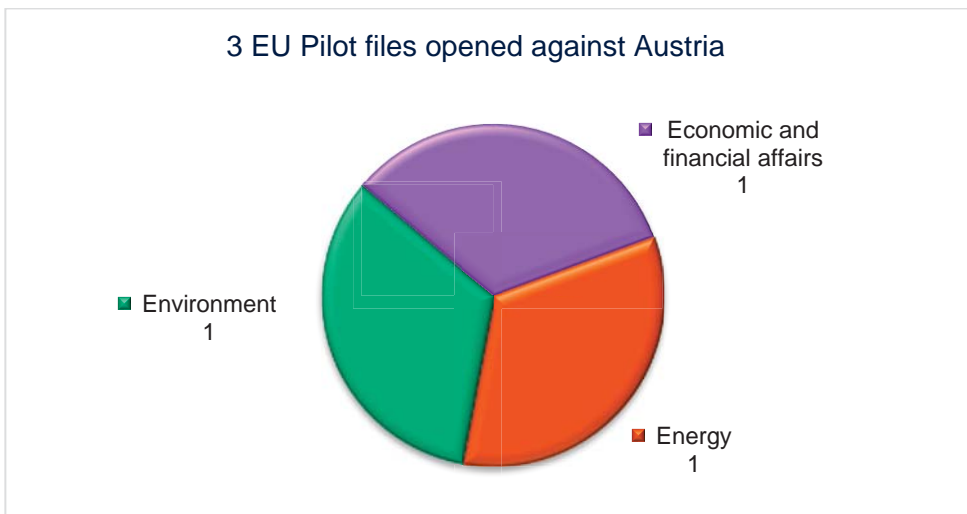
### 1. New EU Pilot files opened against Austria (2013-2017)



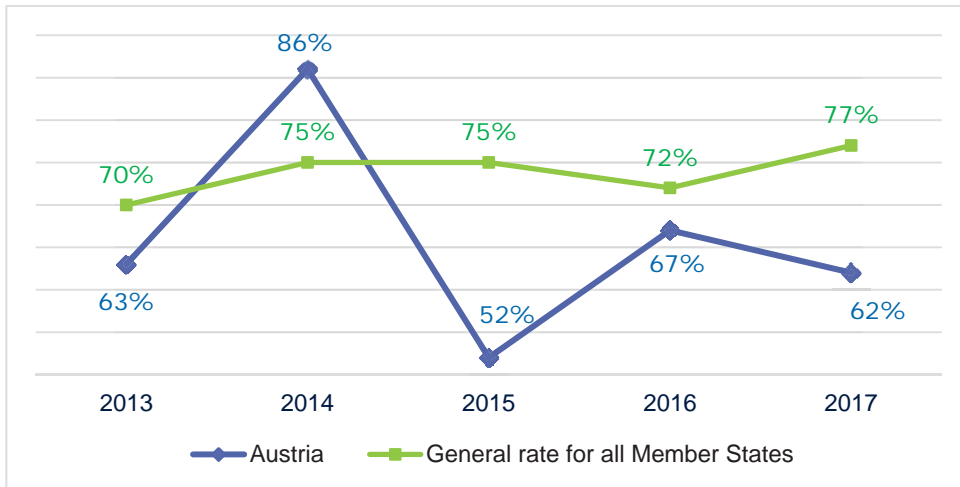
### 2. Files relating to Austria open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

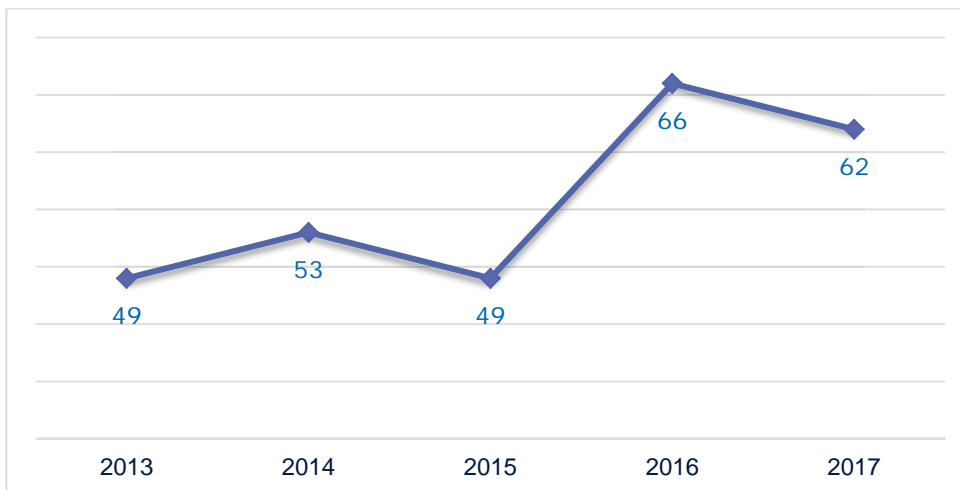


#### 4. EU Pilot files: Austria's resolution rate in 2013-2017



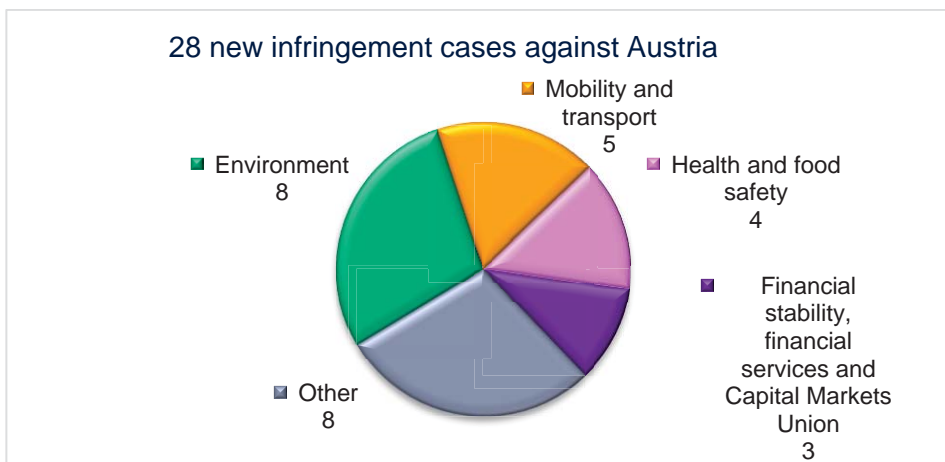
### III. INFRINGEMENT CASES

#### 1. Infringement cases against Austria open on 31 December (2013-2017)





## 2. New infringement cases opened in 2017: main policy areas



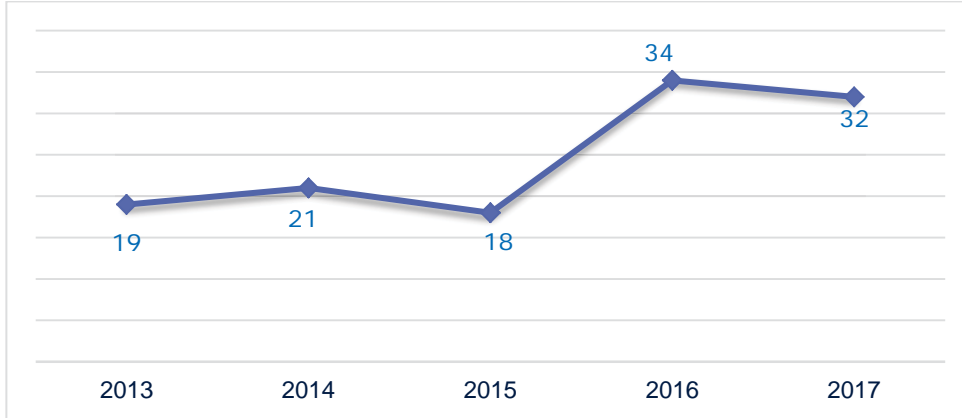
## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 28 new infringement cases against Austria in 2017. These, and other major ongoing infringement cases, include:
- non- communication of national measuring transposing the:
    - Directive on recognition of professional qualification<sup>1</sup>;
    - Directive<sup>2</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>3</sup>;
    - Seveso-III Directive<sup>4</sup>;
    - amending Nuclear Safety Directive<sup>5</sup>;
  - failure to adopt a national programme for spent fuel and radioactive waste management compliant with the requirements of the Radioactive Waste Directive<sup>6</sup>;
  - failure to comply with reporting obligations under EU waste legislation;<sup>7</sup>
  - late adoption of the second round of river basin management plans under the Water Framework Directive<sup>8</sup>;
  - restrictions on the provision of transport services and free movement of goods deriving from the national law on posting of workers<sup>9</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

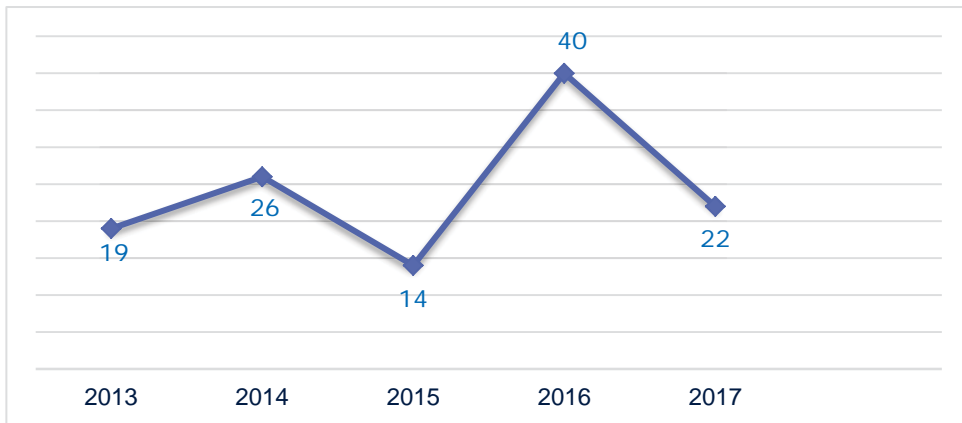
<sup>1</sup> Directive [2013/55/EU](#).  
<sup>2</sup> Directive [2015/652/EU](#).  
<sup>3</sup> Directive [98/70](#).  
<sup>4</sup> Directive [2012/18/EU](#).  
<sup>5</sup> Directive [2014/87/Euratom](#).  
<sup>6</sup> Directive [2011/70/Euratom](#), [MEMO/17/1935](#).  
<sup>7</sup> [MEMO/17/1577](#).  
<sup>8</sup> Directive [2000/60/EC](#).  
<sup>9</sup> Directive [96/71/EC](#), [IP/17/1053](#).

#### IV. TRANSPOSITION OF DIRECTIVES

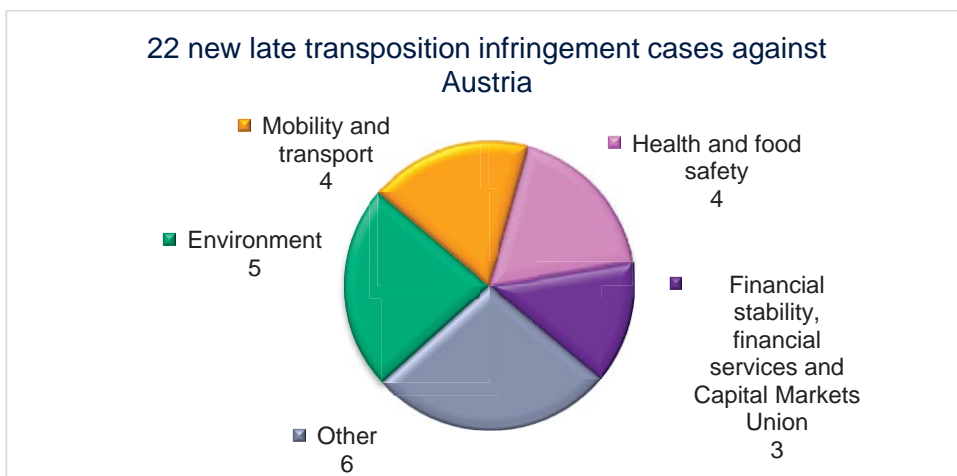
1. Late transposition infringement cases against Austria open on 31 December (2013-2017)



2. New late transposition infringement cases against Austria (2013-2017)



3. New late transposition infringement cases opened in 2017: main policy areas



4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Directive on recognition of professional qualifications<sup>10</sup>;
  - Solvency II Directive<sup>11</sup>;
  - Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>12</sup>;
  - Directive as regards disclosure of non-financial and diversity information by certain large undertakings<sup>13</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>14</sup>;
- non-compliance with the Directive establishing a single European railway area (separation of accounts)<sup>15</sup>.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2017.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Austrian judiciary.

- Where the transfer of a third-country national to the Member State that, according to the Dublin mechanism, is responsible for examining his application for international protection does not take place within the six-month time limit, the responsibility for examination is transferred automatically to the Member State which requested that charge be taken of the person concerned. It is not necessary for the Member State responsible to refuse to take charge of that person<sup>16</sup>.
- An environmental organisation duly constituted and operating in accordance with the requirements of national law must be able to challenge before a court a decision authorising a project that may be contrary to the obligation to prevent deterioration of the condition of water bodies. The imposition on an environmental organisation of a time limit leading to it losing both its status as a party to the administrative procedure for the authorisation of a project and its right to bring an action against the decision issued at the end of that procedure constitutes an excessive restriction of the right to bring judicial proceedings<sup>17</sup>.
- The Environmental Liability Directive applies to environmental damage occurring after 30 April 2007 but caused by the operation of a facility authorised and put into operation before that date. National legislation is not compatible with EU law if it automatically excludes from qualification as 'environmental damage' damage which has a significant adverse effect on the ecological, chemical or quantitative status or ecological potential of

<sup>10</sup> Directive [2005/36/EC](#).

<sup>11</sup> Directive [2009/138/EC](#).

<sup>12</sup> Directive [2014/51/EU](#).

<sup>13</sup> Directive [2014/95/EU](#).

<sup>14</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

<sup>15</sup> Directive [2012/34/EU](#).

<sup>16</sup> Majid Shiri, [C-201/16](#).

<sup>17</sup> Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation, [C-664/15](#).

water, solely based on the fact that it is covered by an authorisation granted under that national legislation. Also not compatible with EU law is national legislation which does not entitle people holding fishing rights to initiate a review procedure for environmental damage<sup>18</sup>.

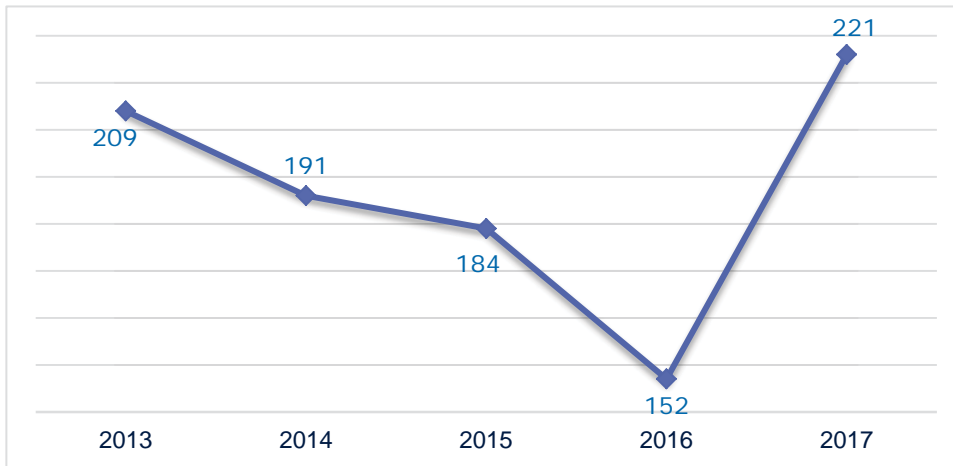
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<sup>18</sup> Directive [2004/35/EC](#), Folk, [C-529/15](#).

Poland

I. COMPLAINTS

1. New complaints made against Poland by members of the public (2013-2017)



2. Public complaints against Poland open at year-end

133 > Complaints open at end-2016

221 > New complaints registered in 2017

184 > Complaints handled in 2017

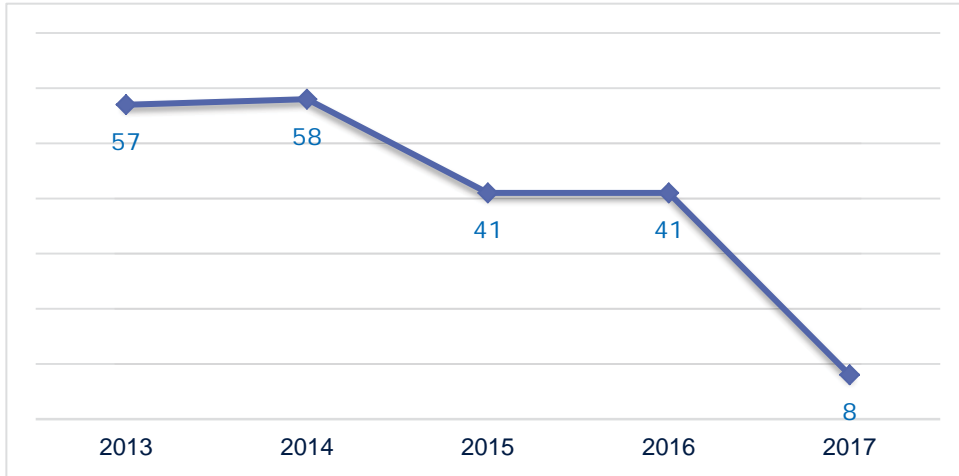
**= 170** > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

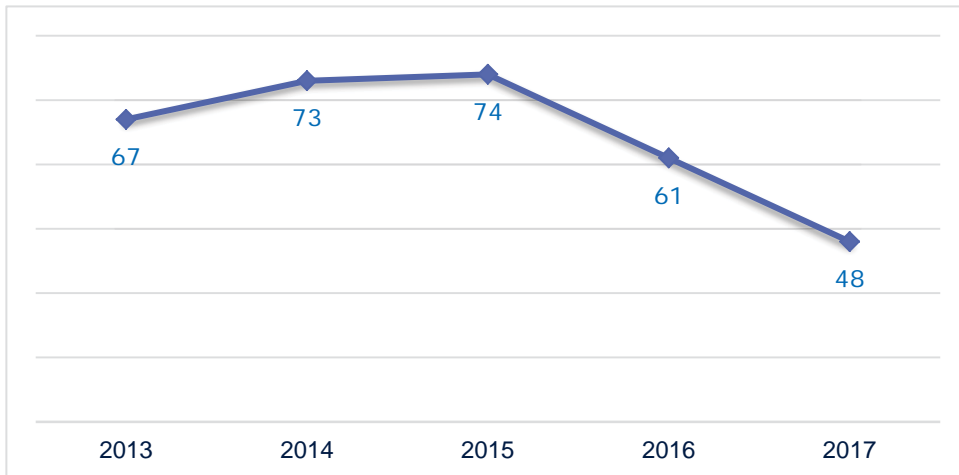


## II. EU PILOT

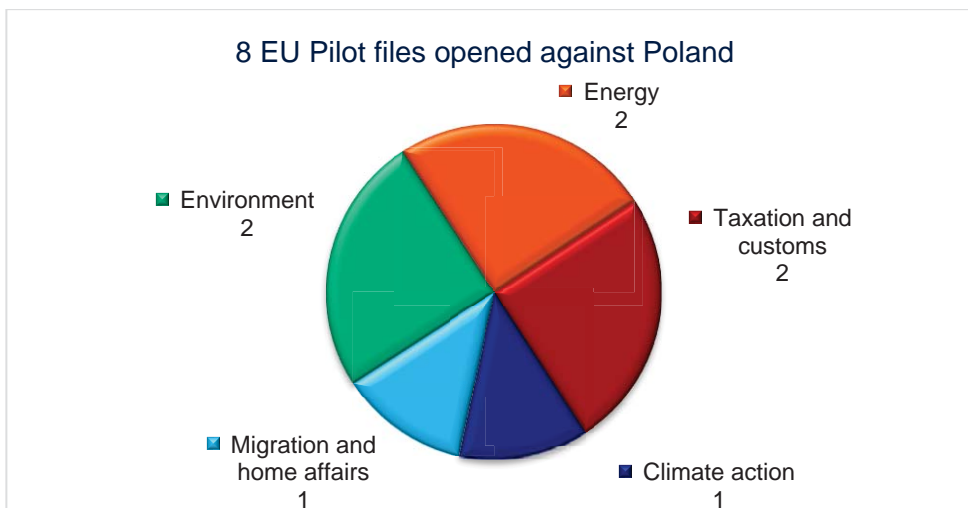
### 1. New EU Pilot files opened against Poland (2013-2017)



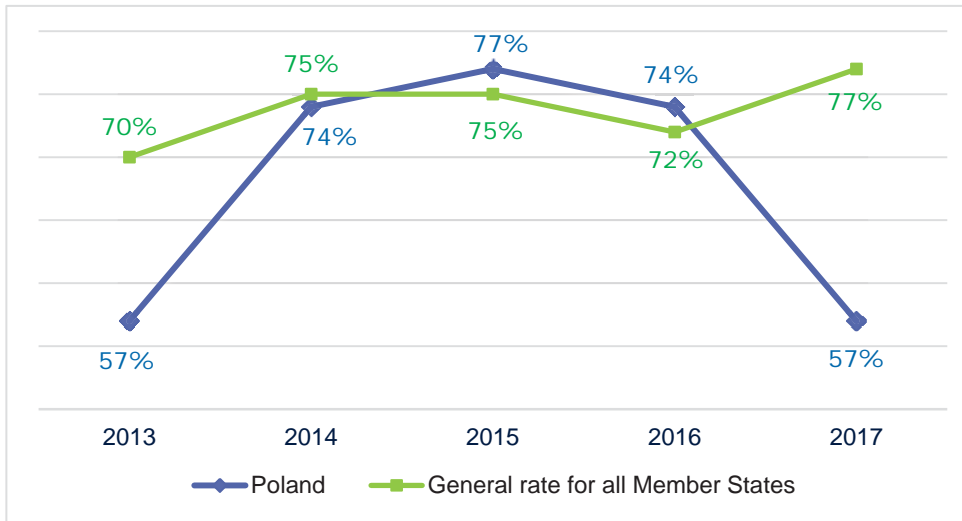
### 2. Files relating to Poland open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

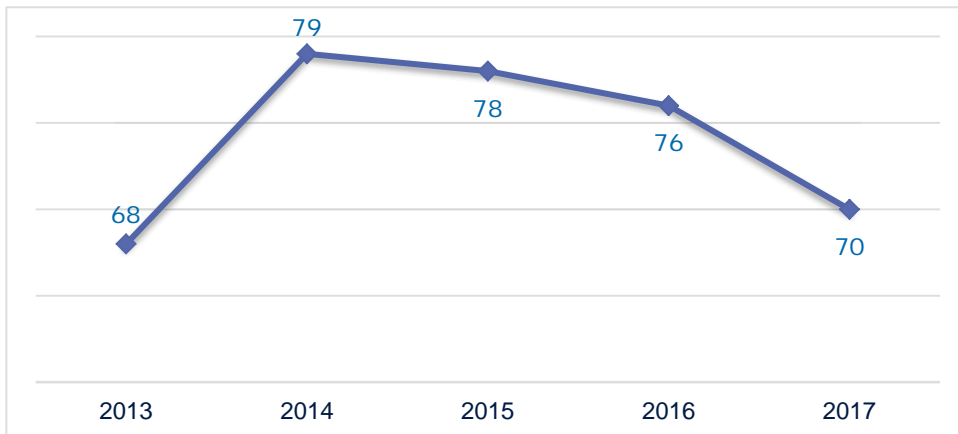


4. EU Pilot files: Poland's resolution rate in 2013-2017

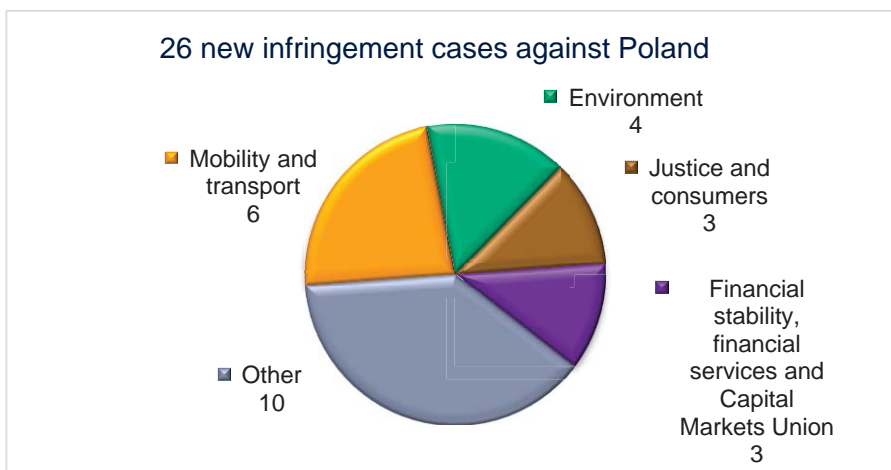


III. INFRINGEMENT CASES

1. Infringement cases against Poland open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 26 new infringement cases against Poland in 2017. These, and other major ongoing infringement cases, include the following.
- Incompatibility of the Polish law on the Ordinary Courts Organisation with EU law because of:
    - a. discrimination on the basis of gender due to the introduction of a different retirement age for female judges (60 years) and male judges (65 years) contrary to Article 157 TFEU and the Directive on gender equality in employment; and
    - b. the discretionary power of the Minister of Justice to prolong the mandate of judges who have reached the retirement age which undermines the independence of Polish courts, in breach of Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights<sup>1</sup>.
  - Non-compliance with the Renewable Energy Directive<sup>2</sup>.
  - Failure to carry out analysis of the relevant telecom markets on time<sup>3</sup>.
  - Non-compliance with the obligations under the 2015 Council Decisions on relocation of migrants from Greece and Italy<sup>4</sup>.
  - Failure to establish strategic noise maps and action plans required by the Noise Directive<sup>5</sup>.
  - Failure to adequately define the waters liable to be polluted by nitrates from agricultural sources, to designate vulnerable zones and to establish adequate measures in its action programmes<sup>6</sup>.
  - Non-communication of national measures transposing the:
    - Cable and Satellite Directive<sup>7</sup>;
    - Markets in Financial Instruments Directive (MiFID II) and the Audit Directive<sup>8</sup>;
    - Fourth Anti-Money Laundering Directive<sup>9</sup>;
    - Directive on seafarers<sup>10</sup>;
    - Directive on the organisation of working time in inland waterway transport<sup>11</sup>.
- a) The Commission referred three cases to the Court under Article 258 TFEU. They concern:
- non-compliance with the obligations under the 2015 Council Decisions on relocation of migrants from Greece and Italy<sup>12</sup>;
  - implementation of the Directive on axle weights limits<sup>13</sup>;
  - increased logging operations in the Białowieża Forest in breach of the Birds and Habitats Directives<sup>14</sup>.
- b) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> [IP/17/2205](#); [IP/17/3186](#) and [IP/17/5367](#).

<sup>2</sup> Directive [2009/28/EC](#), [MEMO/17/1045](#).

<sup>3</sup> Directive [2002/21/EC](#), [MEMO/17/3494](#).

<sup>4</sup> Council Decisions (EU) [2015/1523](#) and [2015/1601](#); [IP/17/5002](#).

<sup>5</sup> Directive [2002/49/EC](#); [MEMO/17/1281](#).

<sup>6</sup> Failure to comply with the Court judgment Commission v Poland, [C-356/13](#).

<sup>7</sup> Directive [93/83/CEE](#).

<sup>8</sup> Directives [2016/1034/EU](#) and [2014/56/EU](#).

<sup>9</sup> Directive [2015/849/EU](#), [MEMO/17/4767](#).

<sup>10</sup> Directive [2015/1794/EU](#).

<sup>11</sup> Directive [2014/112/EU](#).

<sup>12</sup> Council Decisions (EU) [2015/1523](#) and [2015/1601](#), Commission v Poland, [C-715/17](#), [IP/17/5002](#).

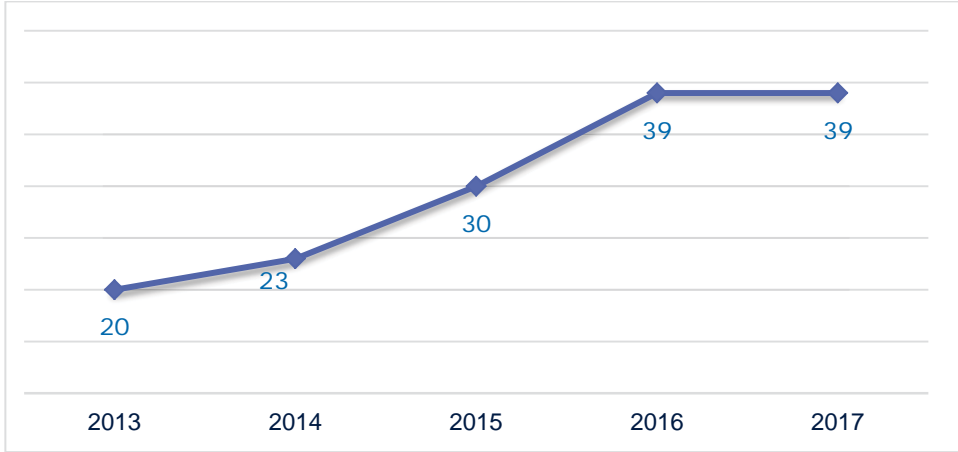
<sup>13</sup> Directive [96/53/EC](#), Commission v Poland, [C-127/2017](#), [IP/16/3649](#), [MEMO/16/3644](#).

<sup>14</sup> Directives [92/43/EEC](#) and [2009/147/EC](#), Commission v Poland (Forêt de Białowieża), [C-441/17](#); [IP/17/1948](#). The Commission also requested interim measures compelling Poland to cease operations immediately, [C-441/17 R](#). The Court granted the Commission's request for interim measures and confirmed that Poland could face financial penalties if it did not respect the Court decision; Court press release [No 122/17](#).

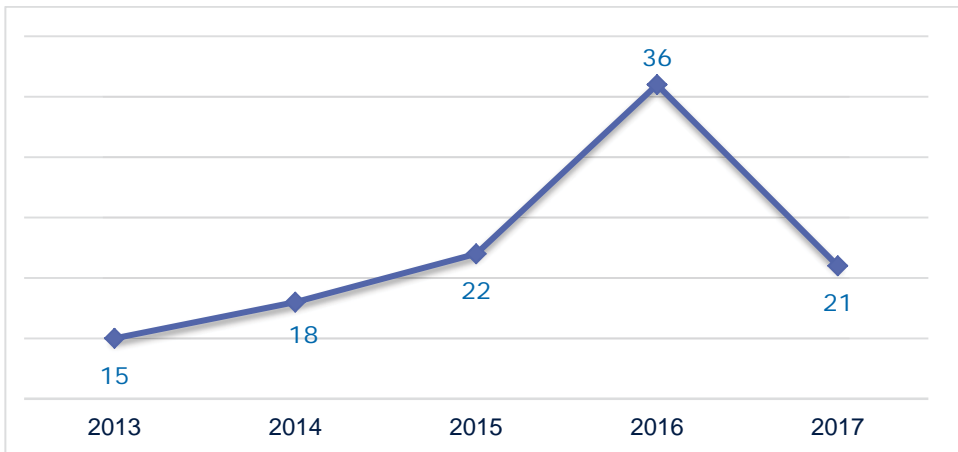


#### IV. TRANSPOSITION OF DIRECTIVES

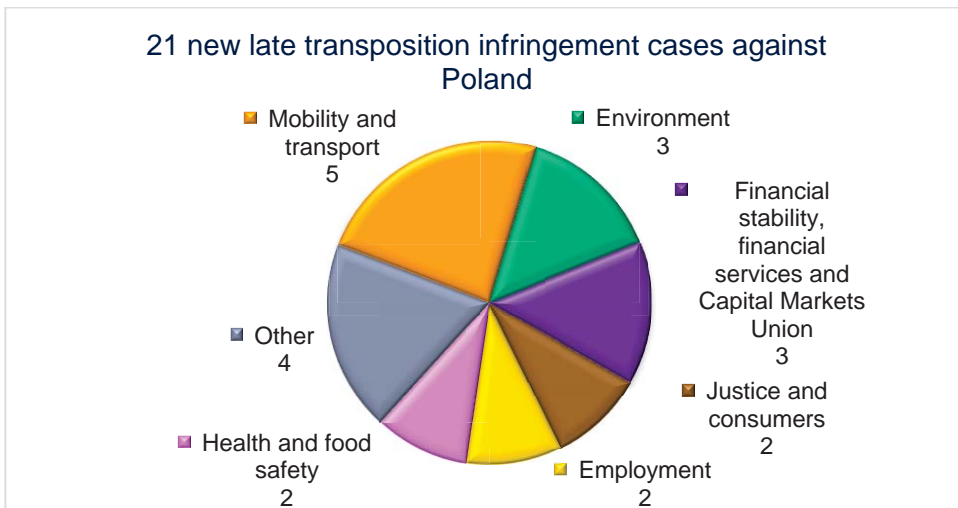
1. Late transposition infringement cases against Poland open on 31 December (2013-2017)



2. New late transposition infringement cases against Poland (2013-2017)



3. New late transposition infringement cases opened in 2017: main policy areas



## 1. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- lack of implementation of certain obligations under EU document security legislation<sup>15</sup>;
- non-communication of national measures transposing a Commission Directive<sup>16</sup> amending the Groundwater Directive<sup>17</sup>;
- minimum tariff requirements for patent agents;
- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>18</sup>;
- discriminatory airport charges<sup>19</sup>;
- non-compliance with the Directive on the interoperability of the rail system;<sup>20</sup>
- non-compliance of national legislation on gambling with EU rules<sup>21</sup>;
- non-communication of national measures transposing the:
  - Seveso III Directive<sup>22</sup>;
  - Transparency Directive, Deposit Guarantee Schemes Directive, Banking Recovery and Resolution Directive and Accounting Directive<sup>23</sup>;
  - Directive on the award of concession contracts;
  - Directive establishing a single European railway area<sup>24</sup>;
  - Directive on placing on the market of explosives for civil uses<sup>25</sup>.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>26</sup>

- The Court upheld the Commission's request for interim measures to stop logging operations in the Białowieża Forest. The Court ordered Poland to cease operations immediately, except where strictly necessary to ensure public safety. Poland could face financial penalties of at least EUR 100 000 per day if it did not respect the Court order<sup>27</sup>.

<sup>15</sup> Commission Decisions [C \(2013\) 6181](#) and [C \(2013\) 6178](#).

<sup>16</sup> Directive [2014/80/EU](#).

<sup>17</sup> Directive [2006/118/EC](#).

<sup>18</sup> Directive [2014/94/EU](#).

<sup>19</sup> Directive [2009/12/EC](#).

<sup>20</sup> Directive [2008/57/EC](#).

<sup>21</sup> [IP/17/5109](#).

<sup>22</sup> Directive [2012/18/EU](#).

<sup>23</sup> Directives [2013/50/EU](#), [2014/49/EU](#), [2014/59/EU](#) and [2013/34/EU](#).

<sup>24</sup> Directive [2012/34/EU](#).

<sup>25</sup> Directive [2014/28/EU](#).

<sup>26</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>27</sup> Commission v Poland (Forêt de Białowieża), [C-441/17 R](#) and Court press release [No 122/17](#).

## 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Polish judiciary.

- ‘Hydropower’ has to be understood as including energy generated by the downward flow of industrial waste water<sup>28</sup>.
- The case concerns a situation where a national regulatory authority imposes an obligation regarding cost orientation of prices on an operator designated as having significant market power on a specific market. The Court held that in such a case the national regulatory authority may, to promote efficiency and sustainable competition, set the prices of the services covered by such an obligation below the level of the costs incurred by that operator to provide them, if those costs are higher than the costs of an efficient operator<sup>29</sup>.
- Member States may not impose mandatory liquidation on companies that wish to transfer their registered office to another Member State. The transfer of the registered office of such a company, when there is no change in the location of its real head office, falls within the scope of the freedom of establishment protected by EU law<sup>30</sup>.
- The Regulation establishing a Community Code on Visas<sup>31</sup> requires Member States to provide for an appeal procedure against decisions refusing visas. The procedural rules are a matter for the legal order of each Member State in accordance with the principles of equivalence and effectiveness. The proceedings must guarantee a judicial appeal<sup>32</sup>.
- Under the Collective Redundancies Directive<sup>33</sup>, an employer is required to consult workers’ representatives when he intends, to the detriment of employees, to amend unilaterally the terms of remuneration, which, if refused by employees, will entail termination of their employment relationship<sup>34</sup>.
- On the basis of the Visa Code<sup>35</sup> and the Charter of Fundamental Rights, visa applicants have the right to a non-arbitrary treatment of their visa application and that this right is to be protected by a judicial appeal procedure<sup>36</sup>.

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<sup>28</sup> J. D. v Prezes Urzędu Regulacji Energetyki, [C-4/16](#).

<sup>29</sup> Directive [2002/19/EC](#); Polkomtel sp. z o.o., [C-277/16](#).

<sup>30</sup> Polbud — Wykonawstwo, [C-106/16](#) and Court press release No [112/17](#).

<sup>31</sup> Regulation (EC) No [810/2009](#).

<sup>32</sup> Soufiane Hassani, [C-403/16](#).

<sup>33</sup> Directive [1998/59/EC](#).

<sup>34</sup> Socha, [C-149/16](#) and Ciupa, [C-429/16](#).

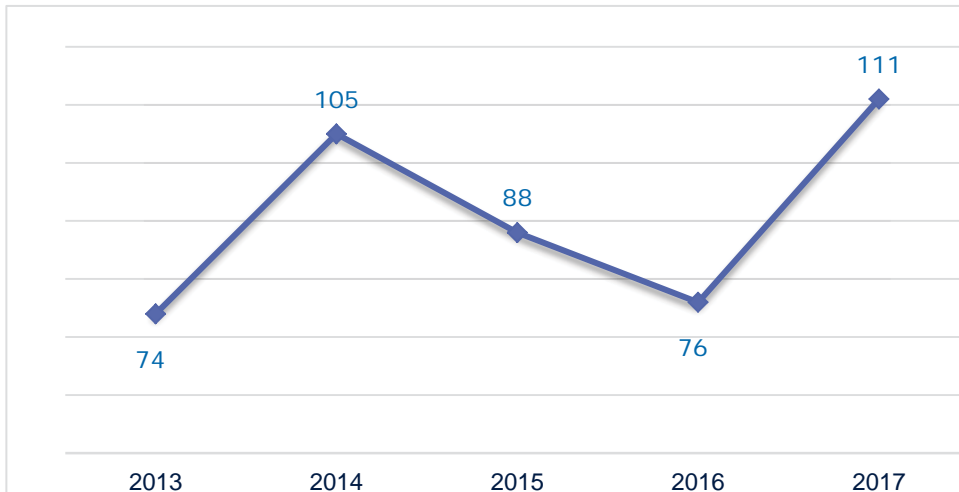
<sup>35</sup> Regulation (EC) No [810/2009](#).

<sup>36</sup> Soufiane Hassani, [C-403/16](#).

Portugal

I. COMPLAINTS

1. New complaints made against Portugal by members of the public (2013-2017)



2. Public complaints against Portugal open at year-end

56 > Complaints open at end-2016

111 > New complaints registered in 2017

81 > Complaints handled in 2017

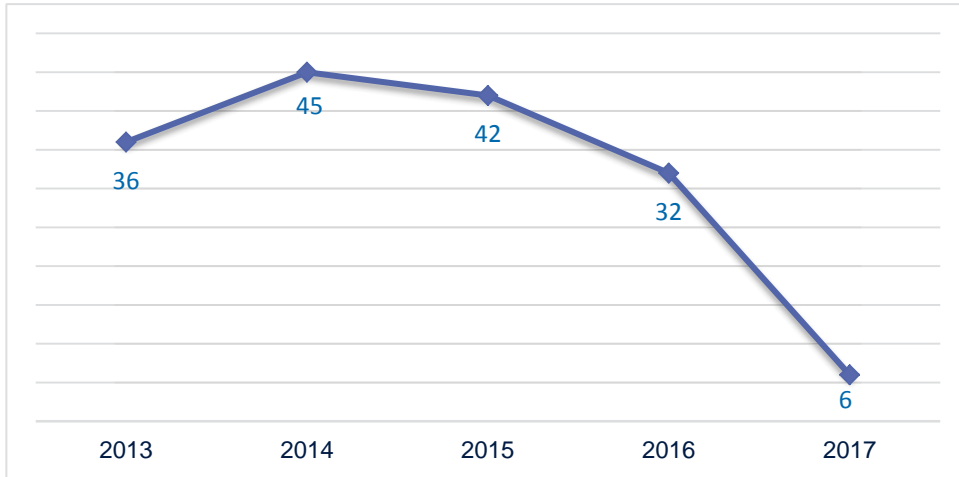
81  
= 86 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

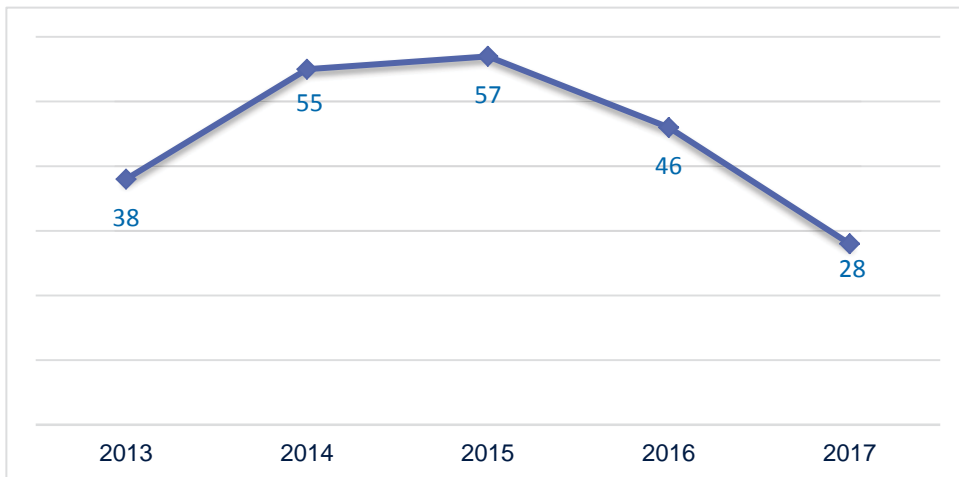


## II. EU PILOT

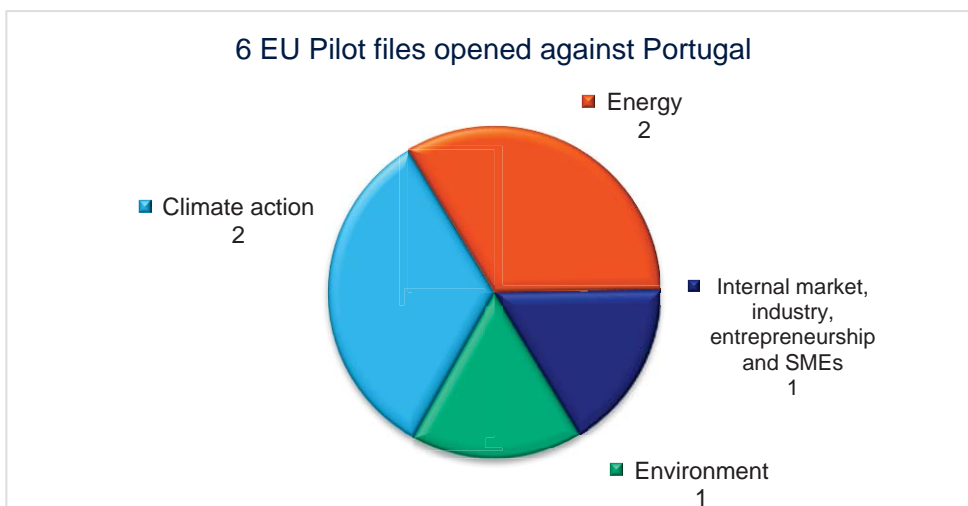
### 1. New EU Pilot files opened against Portugal (2013-2017)



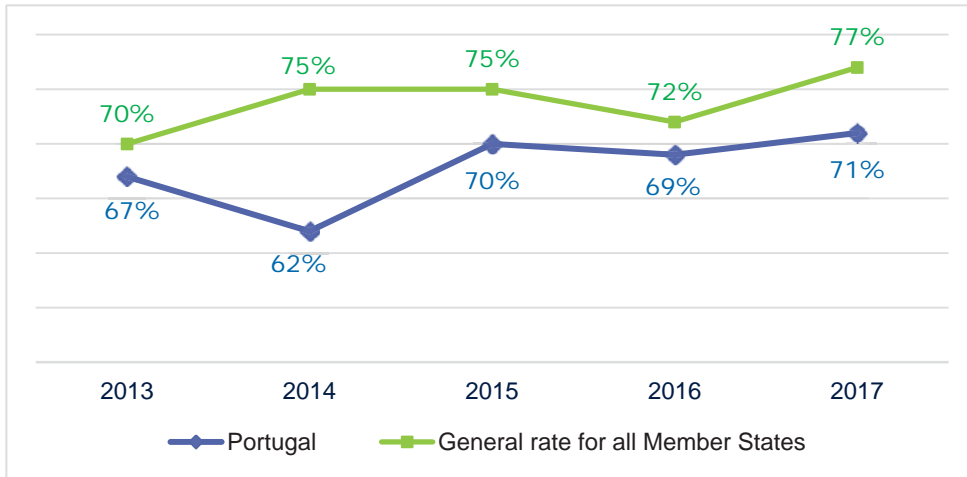
### 2. Files relating to Portugal open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

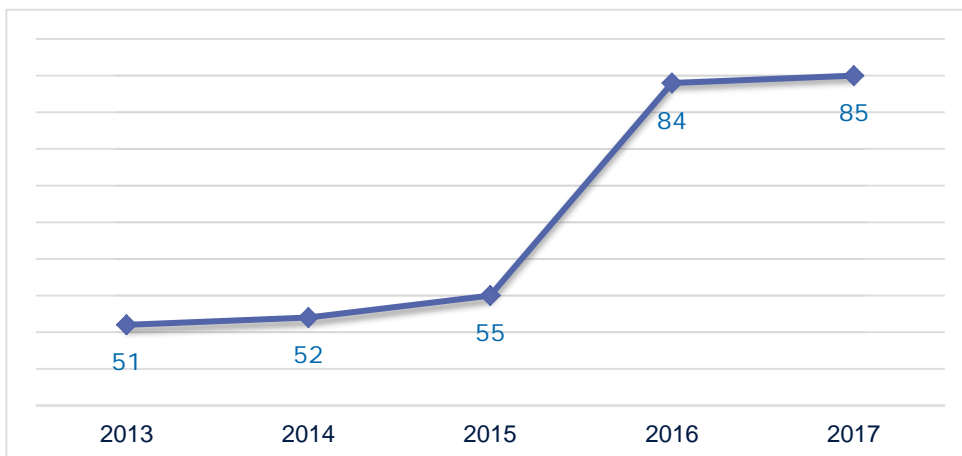


4. EU Pilot files: Portugal's resolution rate in 2013-2017

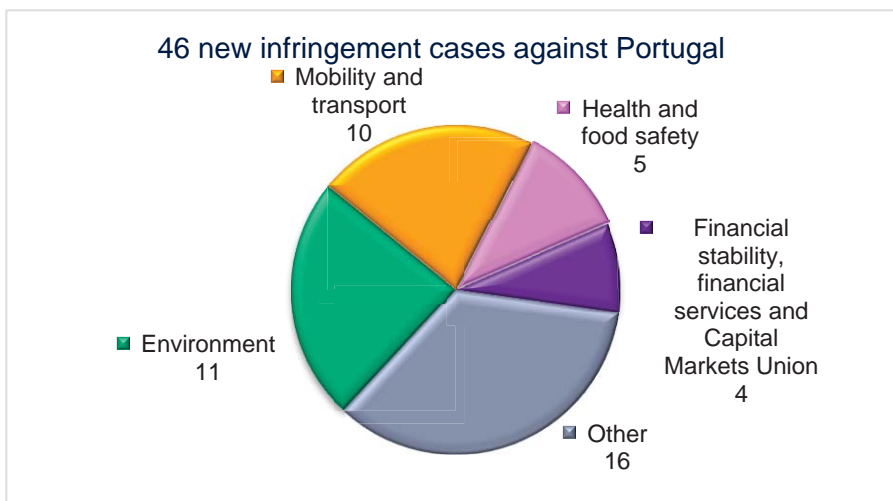


III. INFRINGEMENT CASES

1. Infringement cases against Portugal open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 46 new infringement cases against Portugal in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Directive on caseins and caseinates<sup>1</sup>;
    - Directive on recognition of professional qualification<sup>2</sup>;
    - Fourth Anti-Money Laundering Directive<sup>3</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>4</sup>;
    - Payment Accounts Directive<sup>5</sup>;
  - lack of action in preventing, deterring and eliminating illegal, unreported and unregulated fishing by Portuguese-flagged vessels in the waters under the responsibility of the Northwest Atlantic Fisheries Organisation<sup>6</sup>;
  - non-reporting of flood risk management plans under the Floods Directive<sup>7</sup>;
  - failure to establish strategic noise maps and action plans required by the Noise Directive<sup>8</sup>;
  - non-compliance with the Radioactive Waste Directive<sup>9</sup>;
  - non-compliance with the Pressure Equipment Directive, by imposing additional requirements on pressure equipment that is already CE-marked<sup>10</sup>;
  - incorrect application of the Late Payment Directive<sup>11</sup>;
  - disproportionate charges for residence permits under the Directives on legal migration<sup>12</sup>.
- b) The Commission refer three cases to the Court under Article 258 TFEU. These concern:
- incorrect transposition of the Directive on driving licences<sup>13</sup>;
  - incorrect transposition of the Directive on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations<sup>14</sup>;
  - lack of a certified quality management system for the Portuguese administration's flag State-related activities<sup>15</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive (EU) [2015/2203](#).

<sup>2</sup> Directive [2013/55/EU](#).

<sup>3</sup> Directive [2015/849/EU](#).

<sup>4</sup> Directive [2014/65/EU](#).

<sup>5</sup> Directive [2014/92/EU](#), [MEMO/17/1045](#).

<sup>6</sup> [MEMO/17/3494](#).

<sup>7</sup> Directive [2007/60/EC](#).

<sup>8</sup> Directive [2002/49/EC](#); [MEMO/17/1281](#).

<sup>9</sup> Directive [2011/70/Euratom](#), [MEMO/17/1935](#).

<sup>10</sup> Directive [2014/68/EU](#); [MEMO/17/1936](#).

<sup>11</sup> Directive [2011/7/EU](#); [MEMO/17/3494](#).

<sup>12</sup> [MEMO/17/4767](#).

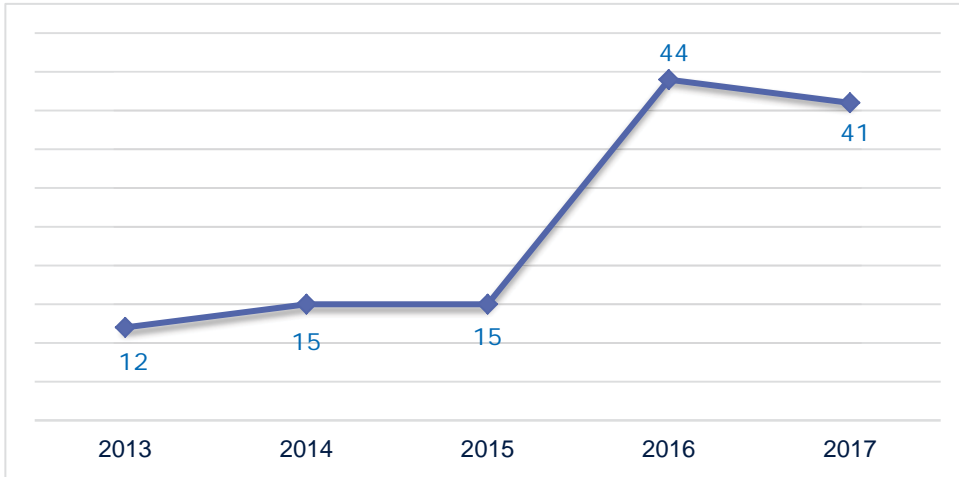
<sup>13</sup> Directive [2006/126/EC](#), Commission v Portugal, [C-170/17](#), [IP/17/241](#).

<sup>14</sup> Directive [2009/15/EC](#), Commission v Portugal, [C-383/17](#), [IP/17/1052](#).

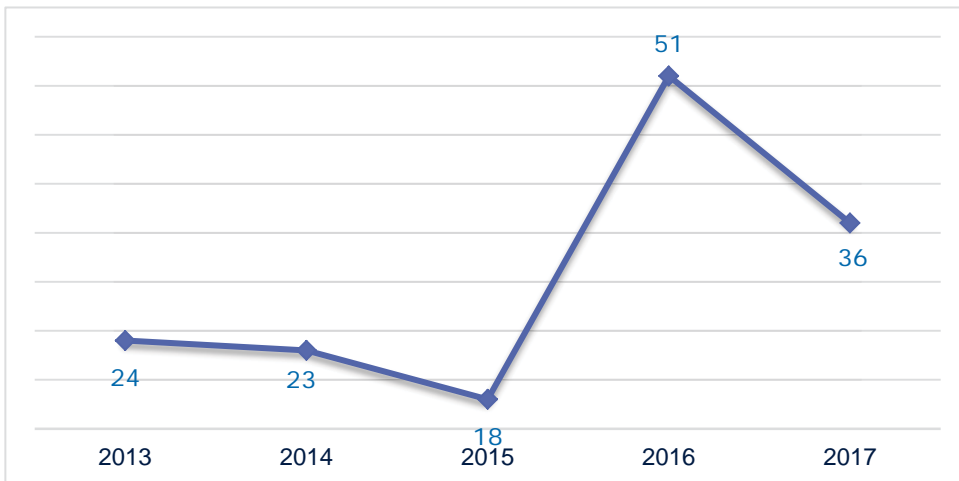
<sup>15</sup> Directive [2009/21/EC](#), Commission v Portugal, [C-382/17](#), [IP/17/1052](#).

#### IV. TRANSPOSITION OF DIRECTIVES

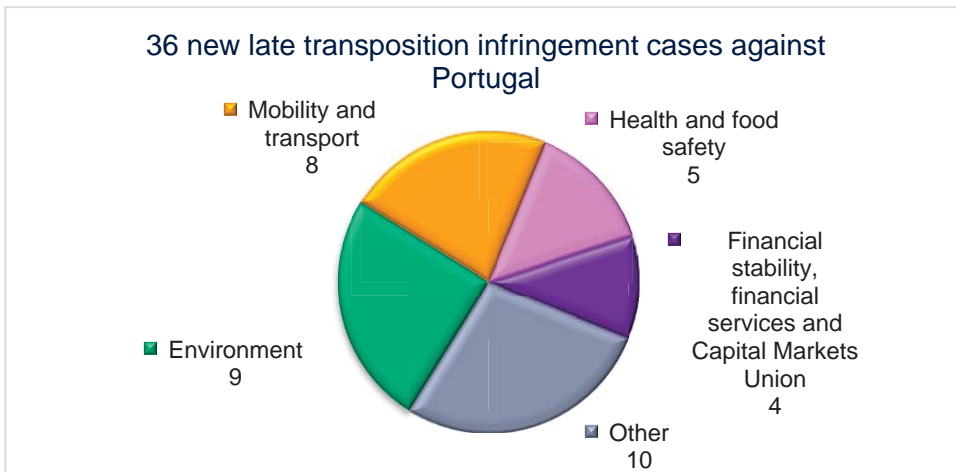
1. Late transposition infringement cases against Portugal open on 31 December (2013-2017)



2. New late transposition infringement cases against Portugal (2013-2017)



3. New late transposition infringement cases opened in 2017: main policy areas





#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Directive on caseins and caseinates<sup>16</sup>;
  - ‘Qualifications’ Directive<sup>17</sup>;
  - Directive on recognition of professional qualifications<sup>18</sup>;
  - Directive<sup>19</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>20</sup>;
  - Directive relating to the making available on the market of simple pressure vessels<sup>21</sup>;
  - Directive on lifts<sup>22</sup>;
  - Low Voltage Directive<sup>23</sup>;
  - Directive relating to the making available on the market of radio equipment<sup>24</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>25</sup>;
  - Directive relating to the making available on the market of measuring instruments<sup>26</sup>;
- incorrect transposition of the Late Payment Directive<sup>27</sup>;
- failure to notify a national policy framework under the Directive on the deployment of alternative fuels<sup>28</sup>.
- failure to adopt a national programme for spent fuel and radioactive waste management compliant with the requirements of the Radioactive Waste Directive<sup>29</sup>;
- for incomplete transposition of the Directive on radioactive substances in water intended for human consumption<sup>30</sup>.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>31</sup>

The Court gave the following rulings.

- Portugal failed to fulfil its obligations under the Directive on driving licences as it failed to connect to the ‘Resper’ network<sup>32</sup>.

<sup>16</sup> Directive (EU) [2015/2203](#).

<sup>17</sup> Directive [2011/95/EU](#).

<sup>18</sup> Directive [2013/55/EU](#).

<sup>19</sup> Directive (EU) [2015/652](#).

<sup>20</sup> Directive [98/70/EC](#).

<sup>21</sup> Directive [2014/29/EU](#).

<sup>22</sup> Directive [2014/33/EU](#).

<sup>23</sup> Directive [2014/35/EU](#).

<sup>24</sup> Directive [2014/53/EU](#).

<sup>25</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

<sup>26</sup> Directive [2014/32/EU](#).

<sup>27</sup> Directive [2011/7/EU](#); [IP/17/239](#).

<sup>28</sup> Directive [2011/70/Euratom](#).

<sup>29</sup> Directive [2013/51/Euratom](#).

<sup>30</sup> These rulings are almost exclusively handed down in infringement procedures.

- National rules provided that cigarettes released for consumption in a given year may no longer be marketed or sold to the public after the expiry of a three-month time limit starting from the first day of the following year, even where there is no increase in the excise duty in that following year<sup>33</sup>. These rules were not in line with the Excise Duty Directive<sup>34</sup> and the principle of proportionality.

## 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Portuguese judiciary.

- For an intra-Community supply transaction to benefit from the VAT exemption set out in the VAT Directive, the purchaser should neither have to acquire a VAT identification number valid for the purpose of carrying out intra-Community transactions nor include that number in the VIES system. These are merely formal requirements which cannot undermine the vendor's right to be exempt from VAT where the substantive conditions are satisfied<sup>35</sup>.
- EU law does not require the minimum uninterrupted weekly rest period to be provided no later than the day following a period of 6 consecutive working days, but requires it to be provided within each seven-day period<sup>36</sup>.

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<sup>32</sup> Directive [2006/126/EC](#), Commission v Portugal, [C-665/15](#).

<sup>33</sup> Directive [2008/118/EC](#) and Commission v Portugal, [C-126/15](#).

<sup>34</sup> Directive [2008/118/EC](#).

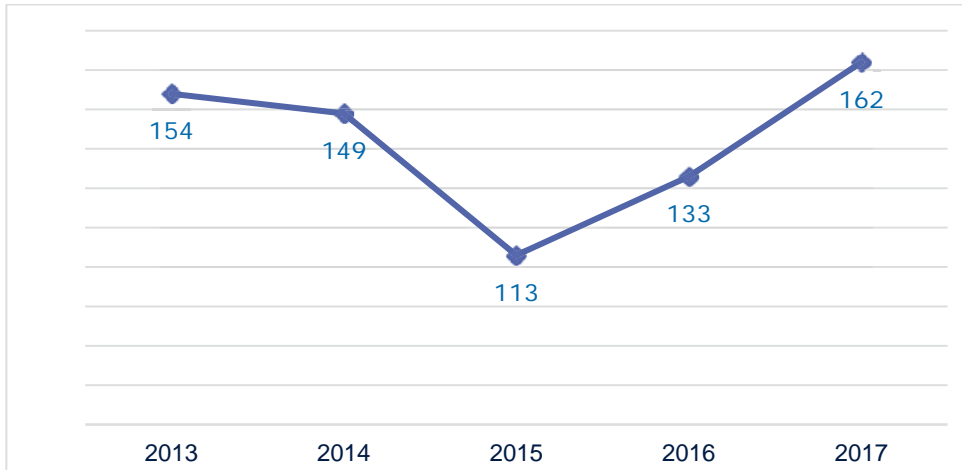
<sup>35</sup> Euro Tyre BV, [C-21/16](#).

<sup>36</sup> Maio Marques da Rosa, [C-306/16](#).

Romania

I. COMPLAINTS

1. New complaints made against Romania by members of the public (2013-2017)



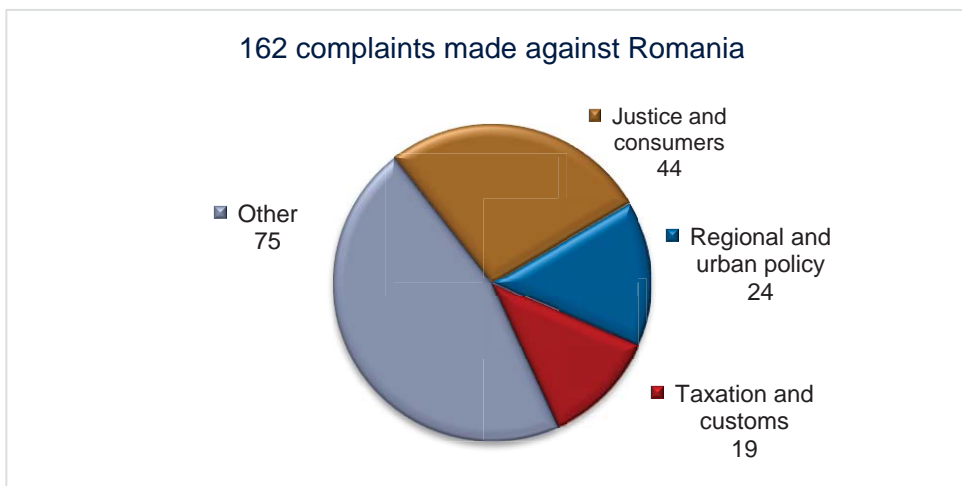
2. Public complaints against Romania open at year-end

114 > Complaints open at end-2016  
162 > New complaints registered in 2017  
162 > Complaints handled in 2017  

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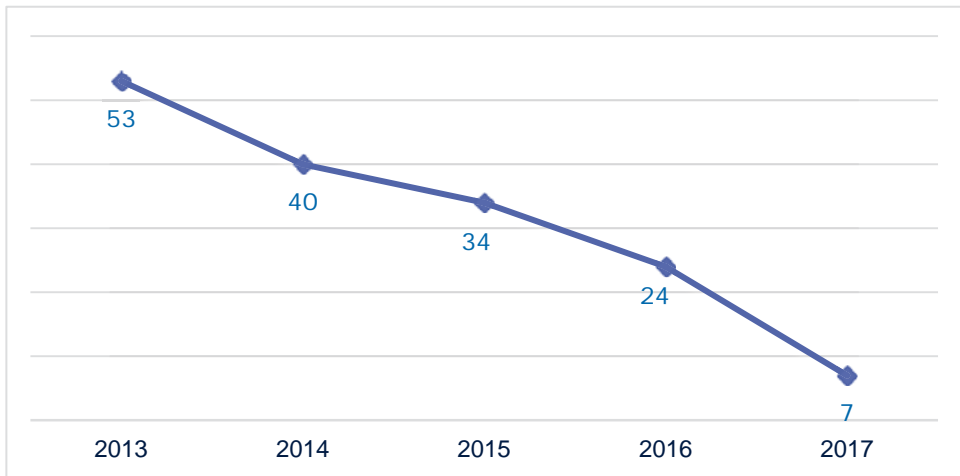
**= 114** > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

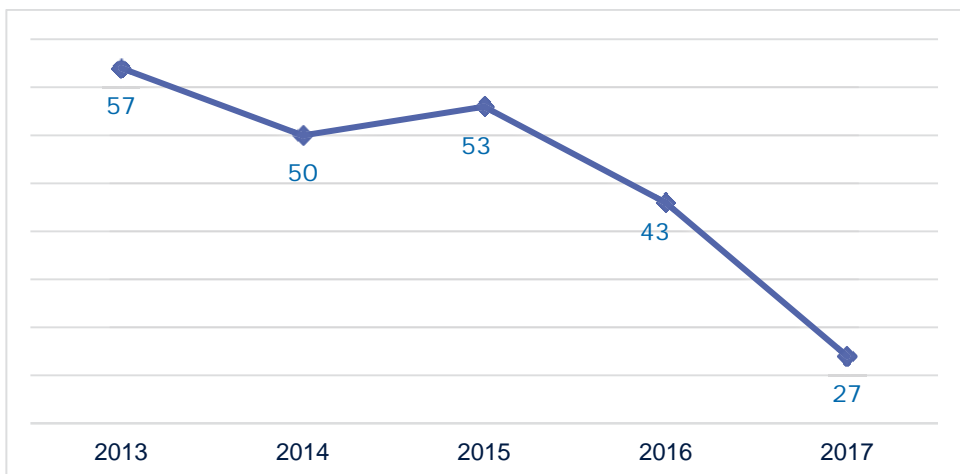


## II. EU PILOT

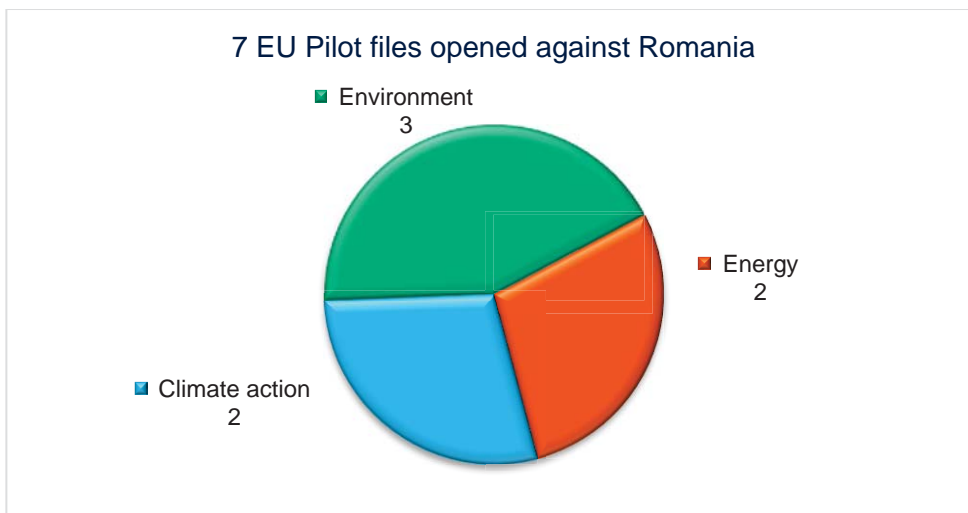
### 1. New EU Pilot files opened against Romania (2013-2017)



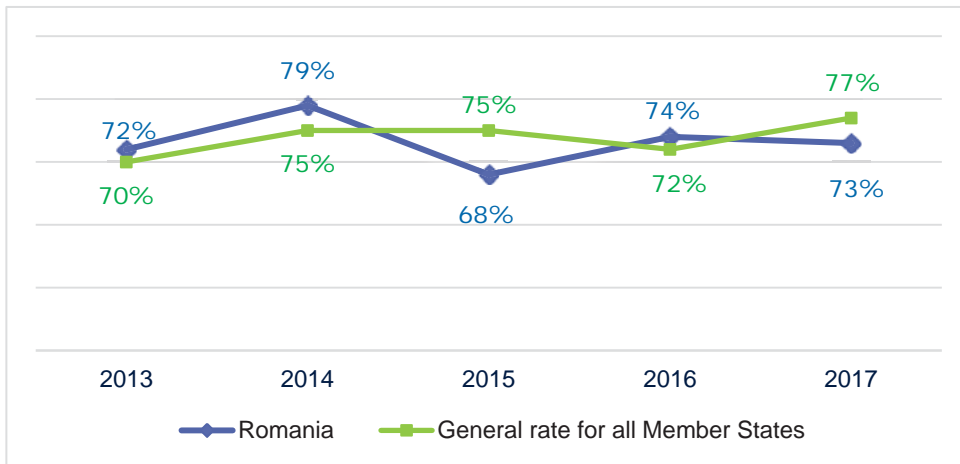
### 2. Files relating to Romania open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

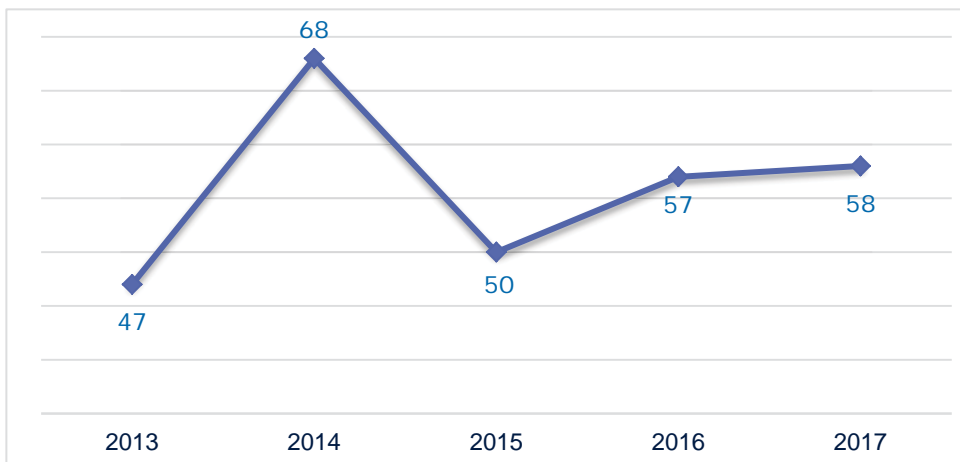


4. EU Pilot files: Romania's resolution rate in 2013-2017

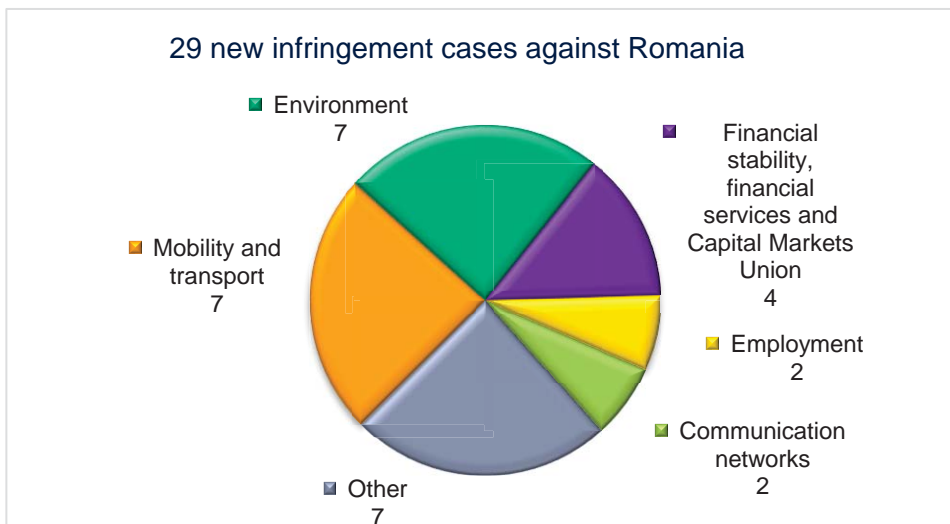


III. INFRINGEMENT CASES

1. Infringement cases against Romania open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

a) The Commission opened 29 new infringement cases against Romania in 2017. These, and other major ongoing infringement cases, include:

- failure to carry out analysis of the relevant telecom markets on time<sup>1</sup>;
- non-compliance with the Collective Rights Management Directive<sup>2</sup>;
- failure to fully implement the Regulation on explosives precursors, which restricts and controls access to several dangerous chemicals that could be used by terrorists to manufacture homemade explosives;
- failure to transpose correctly the Directives on legal migration<sup>3</sup>;
- failure to adopt appropriate measures to ensure that waste from extractive industries is managed without endangering human health or harming the environment<sup>4</sup>;
- failure to comply with the principle of equal access to EU waters and resources<sup>5</sup>;
- failure to comply with reporting obligations under EU waste legislation<sup>6</sup>;
- failure to ensure proper monitoring of air quality throughout the whole territory<sup>7</sup>;
- failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>8</sup>;
- failure to establish strategic noise maps and action plans required by the Noise Directive<sup>9</sup>;
- failure to communicate measures to reduce emissions from petrol vapour according to EU rules on air quality<sup>10</sup>;
- incorrect transposition of the Directive establishing a single European railway area<sup>11</sup>;
- non-compliance of the national rules on retail trade in agricultural and food products with EU law<sup>12</sup>;
- non-communication of national measures transposing the:
  - Directive on caseins and caseinates<sup>13</sup>;
  - Fourth Anti-Money Laundering Directive<sup>14</sup>;
  - Markets in Financial Instruments Directive (MiFID II) and Audit Directive;<sup>15</sup>
  - Payment Accounts Directive<sup>16</sup>;
  - Directive<sup>17</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>18</sup>;
  - Directive on seafarers<sup>19</sup>;
  - Directive on the organisation of working time in inland waterway transport<sup>20</sup>.

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

<sup>1</sup> Directive [2002/21/EC](#), [MEMO/17/3494](#).

<sup>2</sup> Directive [2014/26/EU](#), [MEMO/17/4767](#).

<sup>3</sup> Directives [2004/114/EC](#), [2005/71/EC](#), [2009/50/EC](#), [2011/98/EU](#), [2003/109/EC](#) and [2003/86/EC](#);  
[MEMO/17/4767](#).

<sup>4</sup> [MEMO/17/1936](#).

<sup>5</sup> [MEMO/17/234](#).

<sup>6</sup> [MEMO/17/1281](#).

<sup>7</sup> [MEMO/17/1577](#).

<sup>8</sup> Directive [2008/56/EC](#).

<sup>9</sup> Directive [2002/49/EC](#); [MEMO/17/3494](#).

<sup>10</sup> Directive [2014/99/EU](#), [MEMO/17/3494](#).

<sup>11</sup> Directive [2012/34/EU](#), [MEMO/17/4767](#).

<sup>12</sup> [MEMO/17/234](#).

<sup>13</sup> Directive (EU) [2015/2203](#).

<sup>14</sup> [MEMO/17/4767](#); Directive [2015/849/EU](#).

<sup>15</sup> Directives [2016/1034/EU](#) and [2014/56/EU](#).

<sup>16</sup> Directive [2014/92/EU](#), [MEMO/17/1577](#).

<sup>17</sup> Directive (EU) [2015/652](#).

<sup>18</sup> Directive [98/70/EC](#).

<sup>19</sup> Directive [2015/1794/EU](#).

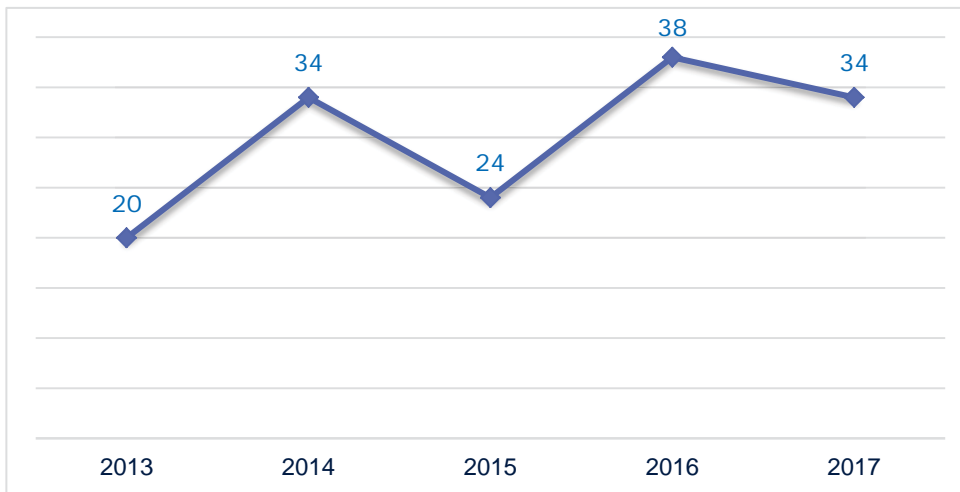
<sup>20</sup> Directive [2014/112/EU](#).

- failure to close and rehabilitate illegal landfills representing a serious risk for human health and the environment<sup>21</sup>.

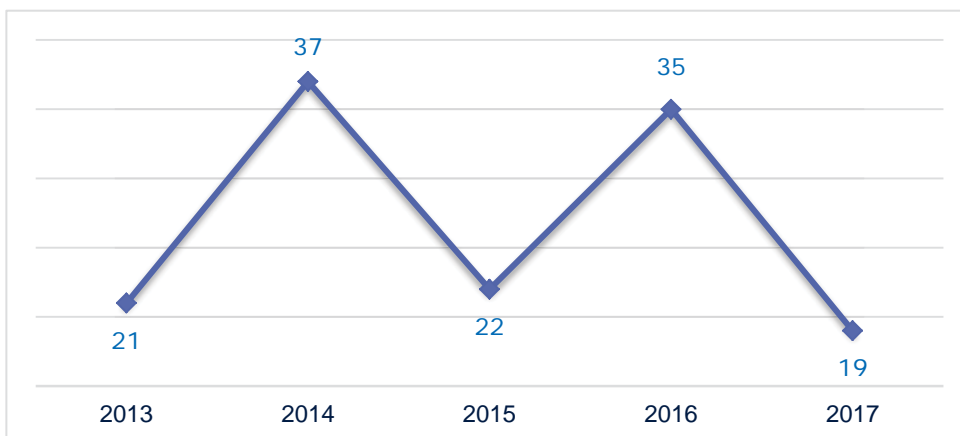
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Romania open on 31 December (2013-2017)

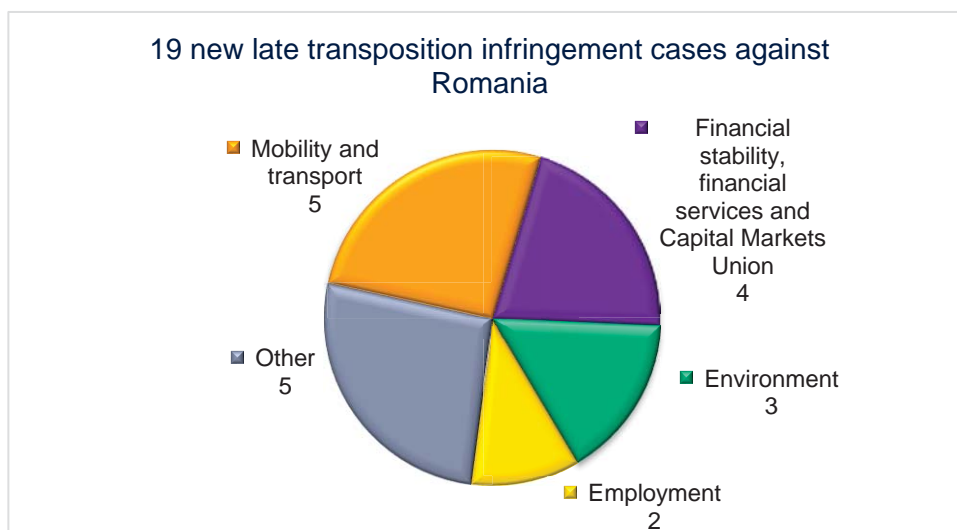


2. New late transposition infringement cases against Romania (2013-2017)



<sup>21</sup> Directive [1999/31/EC](#), Commission v Romania, [C-301/17](#); [IP/17/237](#).

### 3. New late transposition infringement cases opened in 2017: main policy areas



### 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>22</sup>;
- non-compliance of national legislation on gambling with EU rules<sup>23</sup>;
- non-communication of national measures transposing the:
  - Directive on caseins and caseinates<sup>24</sup>;
  - Directive on seasonal workers<sup>25</sup>;
  - 'Qualifications' Directive<sup>26</sup>;
  - Public Procurement Directive<sup>27</sup>;
  - Directive on the award of concession contracts<sup>28</sup>;
  - Directive on procurement by entities operating in the water, energy, transport and postal services sectors<sup>29</sup>;
  - Directive on the charging of heavy goods vehicles for the use of certain infrastructures<sup>30</sup>;
  - Solvency II Directive<sup>31</sup>;
  - Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>32</sup>;

<sup>22</sup> Directive [2008/56/EC](#).

<sup>23</sup> [IP/17/5109](#).

<sup>24</sup> Directive (EU) [2015/2203](#).

<sup>25</sup> Directive [2014/36/EU](#).

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

<sup>27</sup> Directive [2014/24/EU](#).

<sup>28</sup> Directive [2014/23/EU](#).

<sup>29</sup> Directive [2014/25/EU](#).

<sup>30</sup> Directive [2011/76/EU](#).

<sup>31</sup> Directive [2009/138/EC](#).

<sup>32</sup> Directive [2014/51/EU](#).



- Accounting Directive<sup>33</sup>;
- Directive on disclosure of non-financial and diversity information by certain large undertakings<sup>34</sup>;
- Directive establishing a single European railway area<sup>35</sup>.

## VI. IMPORTANT JUDGMENTS

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

The Court gave the following ruling.

- No direct legal obligations are created in the letters sent by the Commission to Member States inviting them to make available amounts for the loss of traditional own resources. As under the own resources legislation the Commission does not have competence to adopt binding acts, these letters intend to start an informal discussion with the Member States before a possible formal infringement procedure. As such these letters cannot be appealed by the Member States before the Court<sup>37</sup>.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Romanian judiciary.

- National provisions terminating the authorisation to ride mopeds without holding a driving licence, the issue of which is subject to passing tests or examination, are compliant with EU law<sup>38</sup>.
- When a financial institution grants a loan denominated in a foreign currency, it must provide the borrower with sufficient information to enable him to take a prudent and well-informed decision and to evaluate the economic consequences of such clause on his financial obligations<sup>39</sup>.

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<sup>33</sup> Directive [2013/34/EU](#).

<sup>34</sup> Directive [2014/95/EU](#).

<sup>35</sup> Directive [2012/34/EU](#).

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

<sup>37</sup> Romania v Commission, [C-599/15](#).

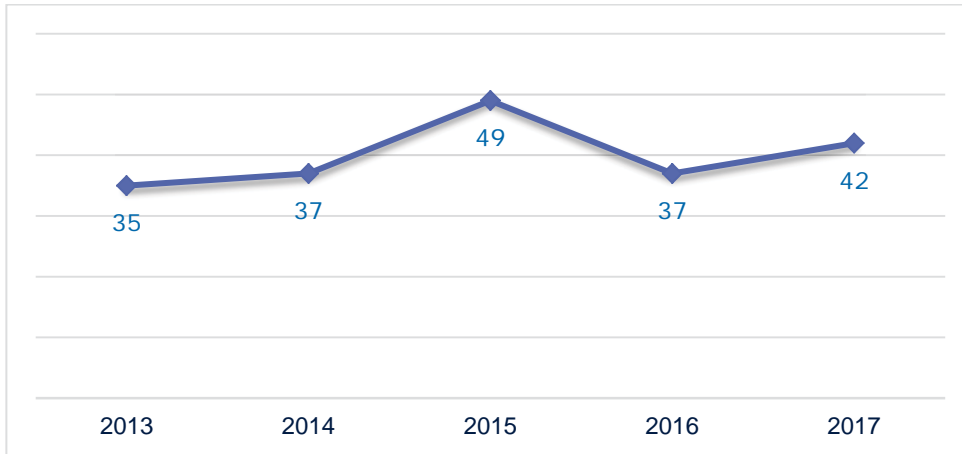
<sup>38</sup> Popescu, [C-632/15](#).

<sup>39</sup> Andriciu and Others, [C-186/16](#) and Court press release No [103/17](#).

Slovenia

I. COMPLAINTS

1. New complaints made against Slovenia by members of the public (2013-2017)



2. Public complaints against Slovenia open at year-end

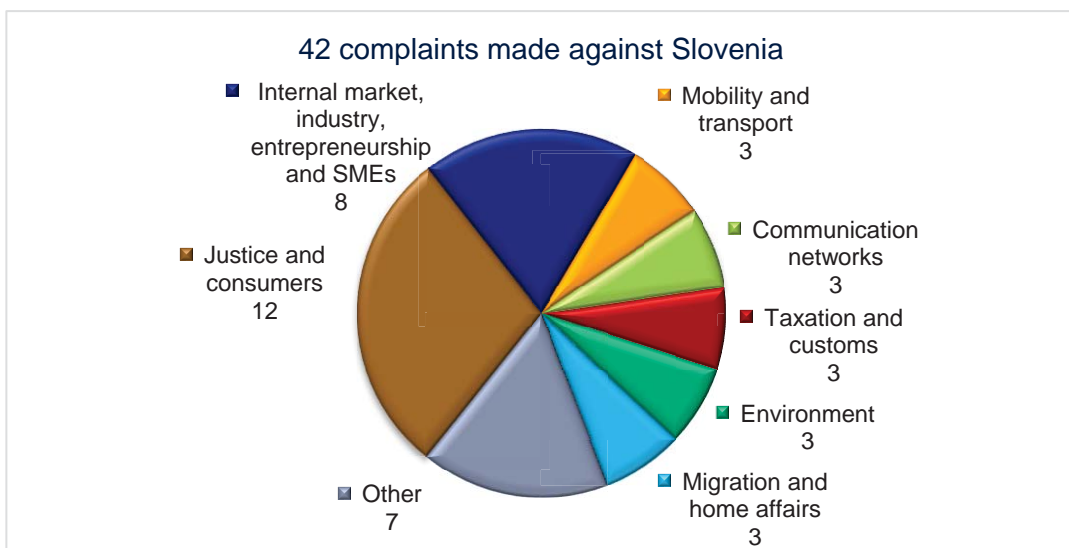
41 > Complaints open at end-2016

42 > New complaints registered in 2017

36 > Complaints handled in 2017

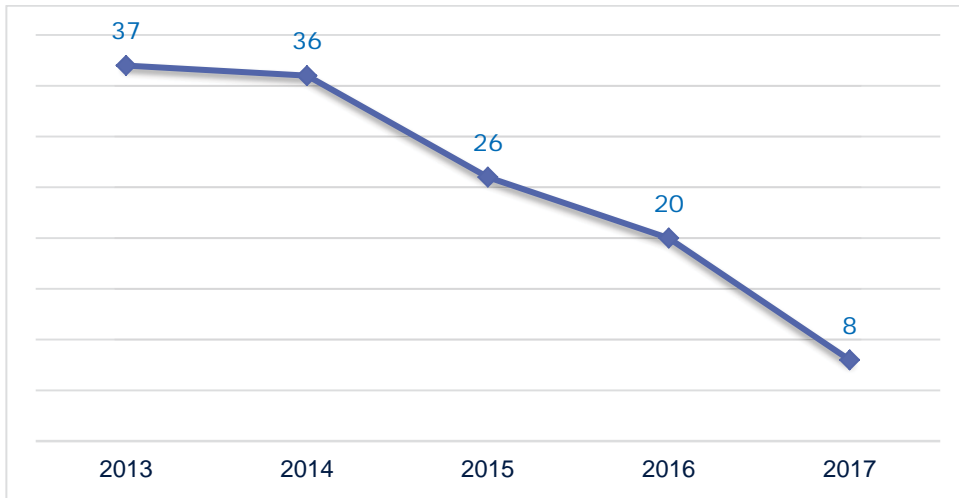
**= 47** > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

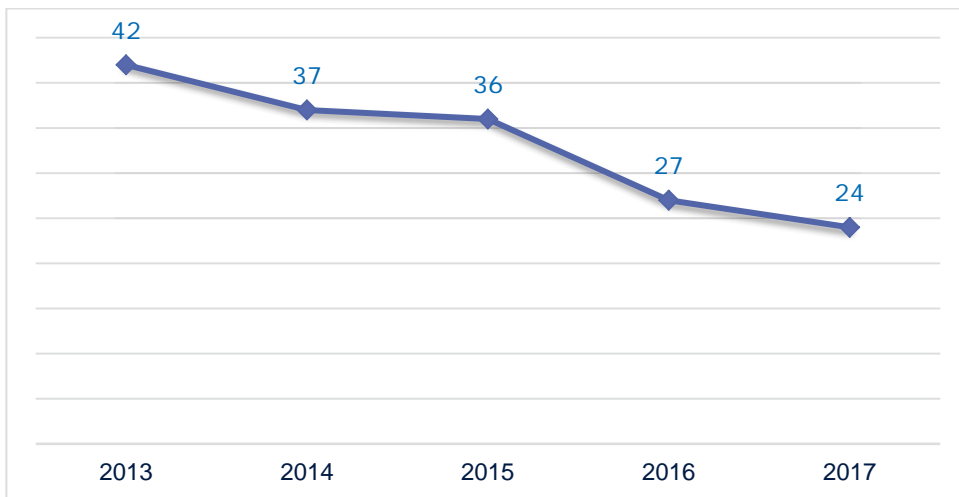


## II. EU PILOT

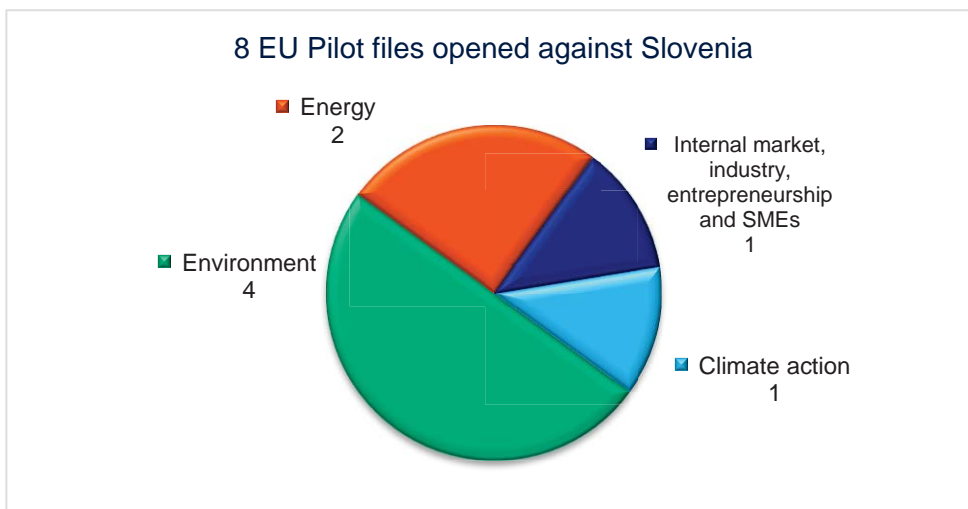
### 1. New EU Pilot files opened against Slovenia (2013-2017)



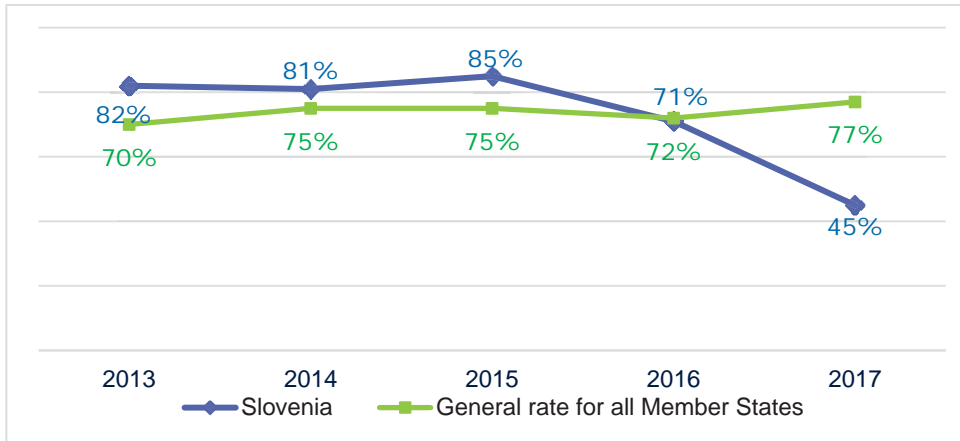
### 2. Files relating to Slovenia open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

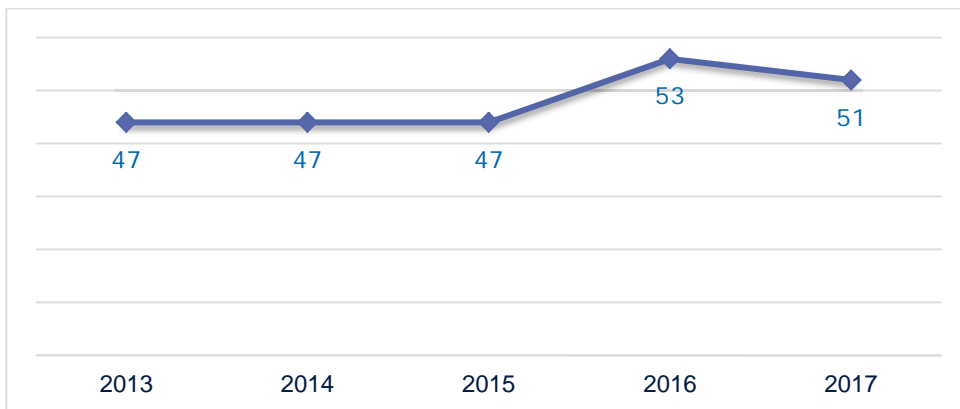


4. EU Pilot files: Slovenia's resolution rate in 2013-2017

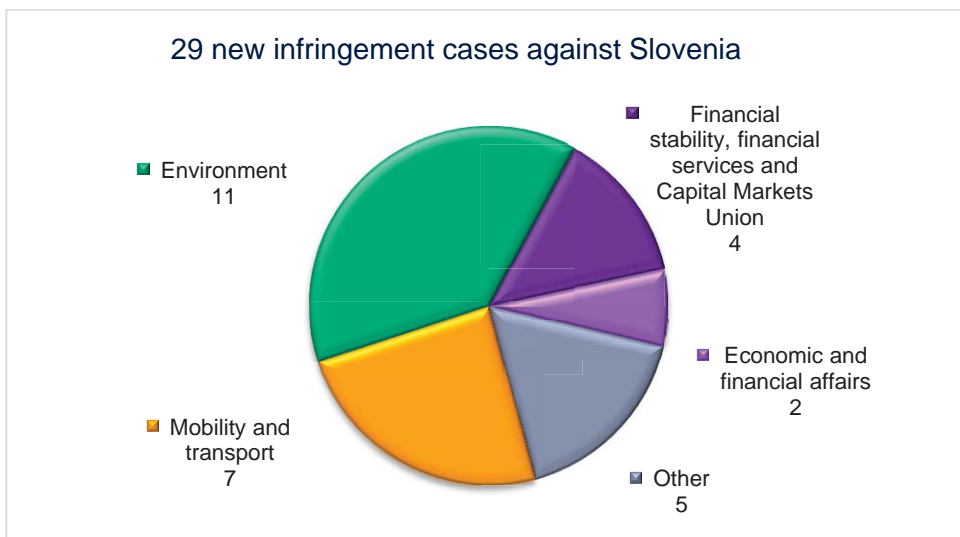


III. INFRINGEMENT CASES

1. Infringement cases against Slovenia open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas

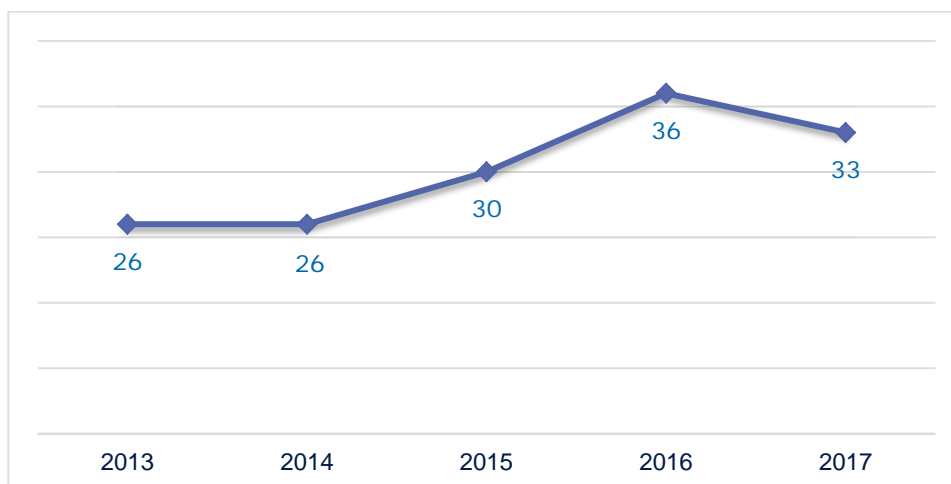


### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 29 new infringement cases against Slovenia in 2017. These, and other major ongoing infringement cases, include:
- failure to comply with reporting obligations under EU waste legislation<sup>1</sup>;
  - non-conformity of national legislation with the Birds and Habitats Directives<sup>2</sup>;
  - failure to ensure that urban waste water is adequately treated;
  - non-reporting of flood risk management plans under the Floods Directive<sup>3</sup>;
  - failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>4</sup>;
  - failure to carry out analysis of the relevant telecom markets on time<sup>5</sup>;
  - failure to establish action plans required by the Noise Directive<sup>6</sup>;
  - seizure of the European Central Bank's documents and IT hardware without its prior authorisation as required by Protocol No 7 on the Privileges and Immunities of the EU and in violation of the duty of sincere cooperation<sup>7</sup>;
  - non-communication of national measures transposing the:
    - Audit Directive<sup>8</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>9</sup>.
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns
- failure to close and rehabilitate illegal waste landfills posing a serious risk for human health and the environment<sup>10</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

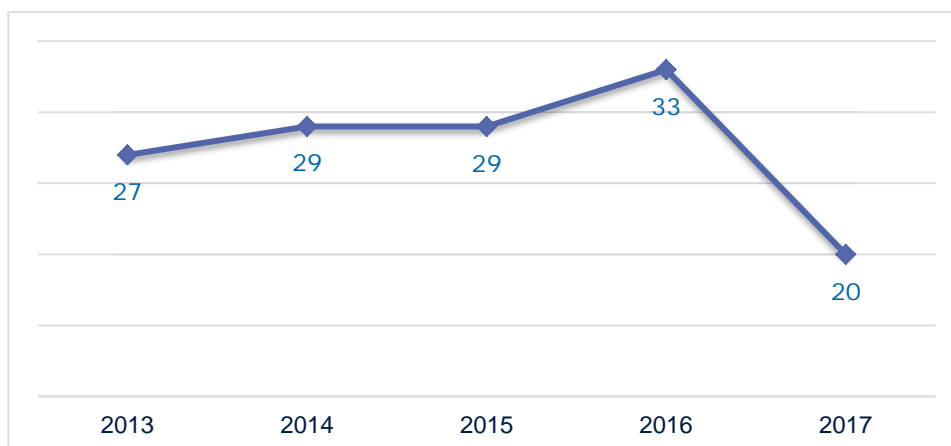
## IV. TRANSPOSITION OF DIRECTIVES

### 1. Late transposition infringement cases against Slovenia open on 31 December (2013-2017)

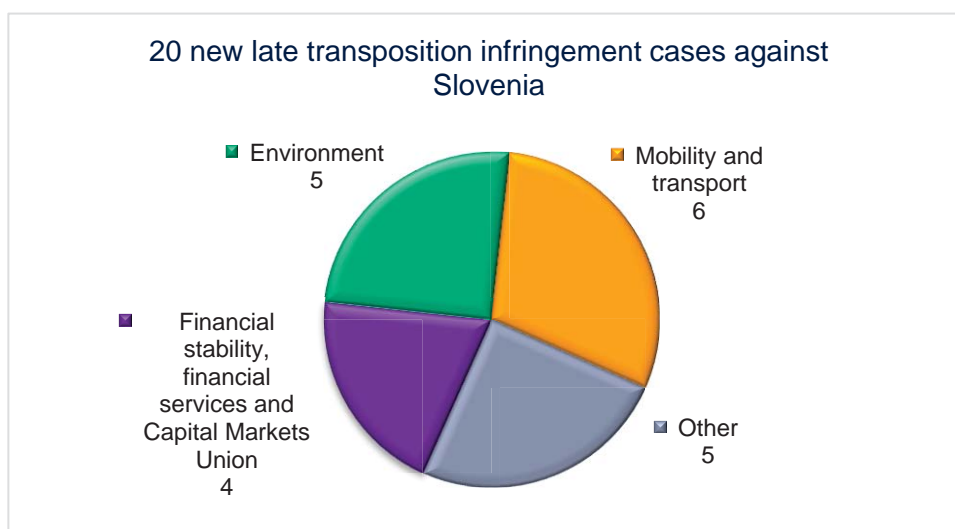


<sup>1</sup> [MEMO/17/1281](#).  
<sup>2</sup> Directive [2009/147/EC](#) and Directive [92/43/EEC](#); [MEMO/17/3494](#).  
<sup>3</sup> Directive [2007/60/EC](#).  
<sup>4</sup> Directive [2008/56/EC](#).  
<sup>5</sup> Directive [2002/21/EC](#), [MEMO/17/3494](#).  
<sup>6</sup> Directive [2002/49/EC](#); [MEMO/17/3494](#).  
<sup>7</sup> Article 4(3) of the [TFEU](#).  
<sup>8</sup> Directive [2014/56/EU](#).  
<sup>9</sup> Directive [2014/65/EU](#).  
<sup>10</sup> Directive [1999/31/EC](#), *Commission v Slovenia*, [C-506/17](#); [IP/17/1048](#).

## 2. New late transposition infringement cases against Slovenia (2013-2017)



## 3. New late transposition infringement cases opened in 2017: main policy areas



## 4. Referral to the Court

The Commission referred one case to the Court under Articles 258 and 260(3) TFEU. It concerned:

- The incomplete transposition of the Directive on requirements for budgetary frameworks of the Member States<sup>11</sup>.

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- non-implementation of Regulations in the area of aviation safety (lack of appropriate recourses)<sup>12</sup>;
- lack of flood risk management plans required by the Floods Directive<sup>13</sup>;

<sup>11</sup> Council Directive [2011/85/EU](#) and Commission v Slovenia, [C-594/17](#); [IP/17/1956](#).

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

- failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive<sup>14</sup>;
- lack of resources to conduct duties attributed to the Civil Aviation Competent Authority<sup>15</sup>;
- non-communication of national measures transposing the:
  - Driving Licences Directive<sup>16</sup>;
  - Directive establishing a single European railway area (recast)<sup>17</sup>;
  - Directive as regards disclosure of non-financial and diversity information by certain large undertakings<sup>18</sup>;
  - Accounting Directive<sup>19</sup>;
  - Directive on port reception facilities for ship-generated waste and cargo residues<sup>20</sup>;
  - Directive on undertakings for collective investment in transferable securities<sup>21</sup>;
  - Transparency Directive<sup>22</sup>;
  - Directive on recognition of professional qualifications<sup>23</sup>;
  - Commission Directive<sup>24</sup> amending the Groundwater Directive<sup>25</sup>;
  - Deposit Guarantee Schemes Directive<sup>26</sup>;
  - Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms<sup>27</sup>;
  - amending Nuclear Safety Directive<sup>28</sup>.

## VI. IMPORTANT JUDGMENTS

### 1. Court ruling<sup>29</sup>

The Court ruled in 2017 that:

- Slovenia has failed to ensure appropriate storage and landfill of waste tyres in Lovrenc na Dravskem polju, in breach of EU directives on waste<sup>30</sup>.

### 2. Preliminary rulings

The Court addressed the following preliminary ruling to the Slovenian judiciary.

- The transfer of an asylum-seeker to the Member State responsible for examining the asylum application cannot go ahead if it might result in a risk of the person concerned suffering inhuman or degrading treatment. The transfer of an asylum-seeker with a particularly serious mental or physical illness that would risk worsening that person's health would constitute inhuman and degrading treatment<sup>31</sup>.

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<sup>13</sup> Directive [2007/60/EC](#).

<sup>14</sup> Directive [2008/56/EC](#).

<sup>15</sup> Commission Regulations [748/2012](#) and [1321/2014](#).

<sup>16</sup> Directive [2006/126/EC](#).

<sup>17</sup> Directive [2012/34/EU](#).

<sup>18</sup> Directive [2014/95/EU](#).

<sup>19</sup> Directive [2013/34/EU](#).

<sup>20</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

<sup>21</sup> Directive [2014/91/EU](#).

<sup>22</sup> Directive [2013/50/EU](#).

<sup>23</sup> Directive [2005/36/EC](#).

<sup>24</sup> Directive [2014/80/EU](#).

<sup>25</sup> Directive [2006/118/EC](#).

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

<sup>27</sup> Directive [2013/36/EU](#).

<sup>28</sup> Directive [2014/87/Euratom](#).

<sup>29</sup> These rulings are almost exclusively handed down in infringement procedures.

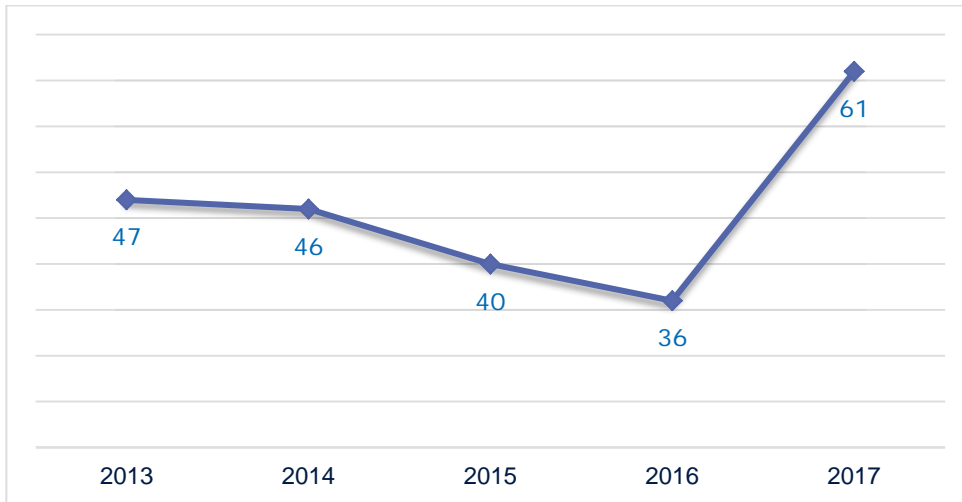
<sup>30</sup> Directives [1999/31/EC](#) and [2008/98/CE](#), and Commission v Slovenia, [C-153/16](#).

<sup>31</sup> C. K., H. F., A. S., [C-578/16](#).

Slovakia

I. COMPLAINTS

1. New complaints made against Slovakia by members of the public (2013-2017)



2. Public complaints against Slovakia open at year-end

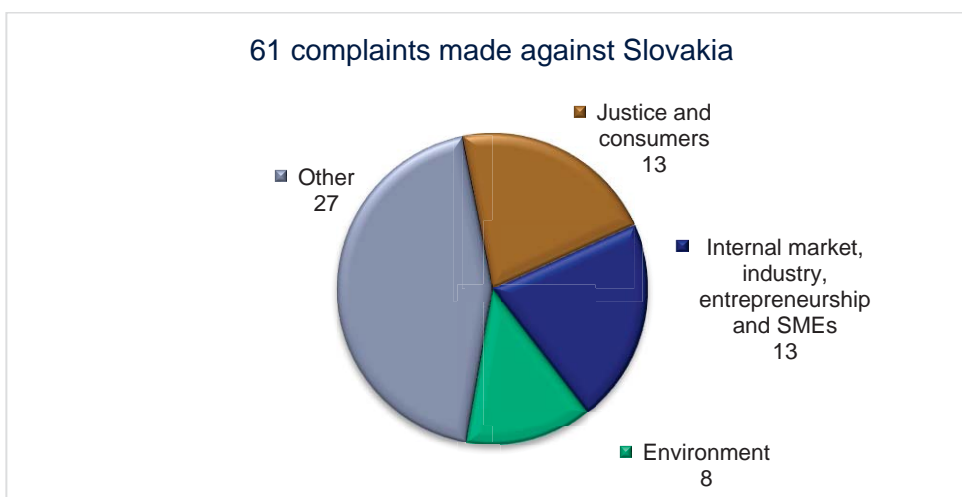
39 > Complaints open at end-2016

61 > New complaints registered in 2017

51 > Complaints handled in 2017

**= 49** > Complaints open at end-2017

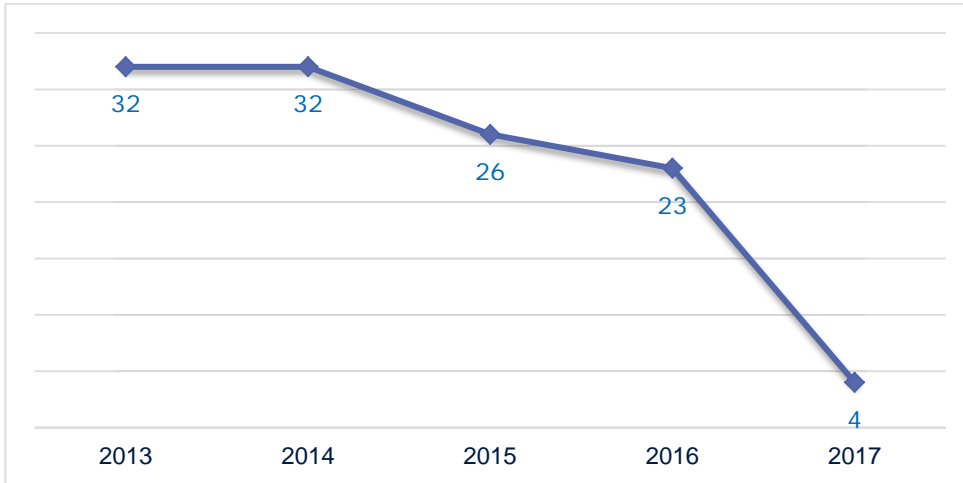
3. New complaints registered in 2017: main policy areas



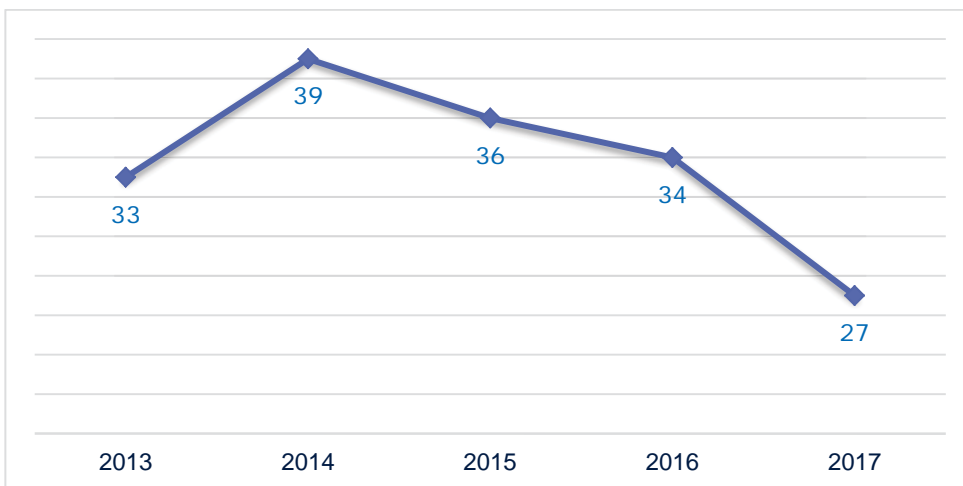


## II. EU PILOT

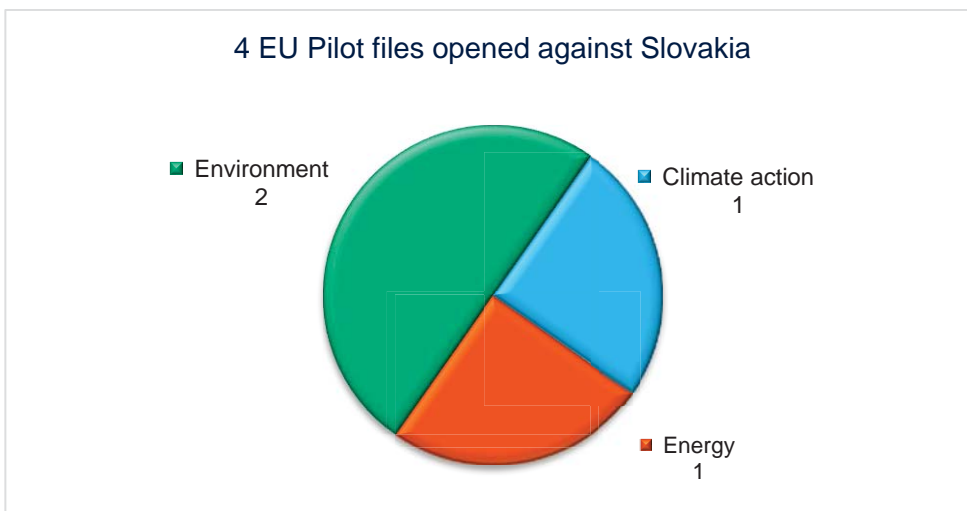
### 1. New EU Pilot files opened against Slovakia (2013-2017)



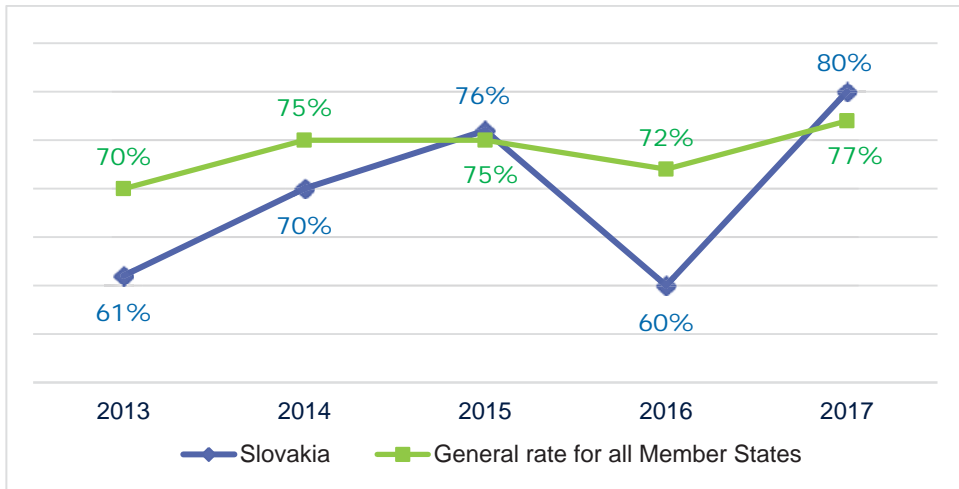
### 2. Files relating to Slovakia open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

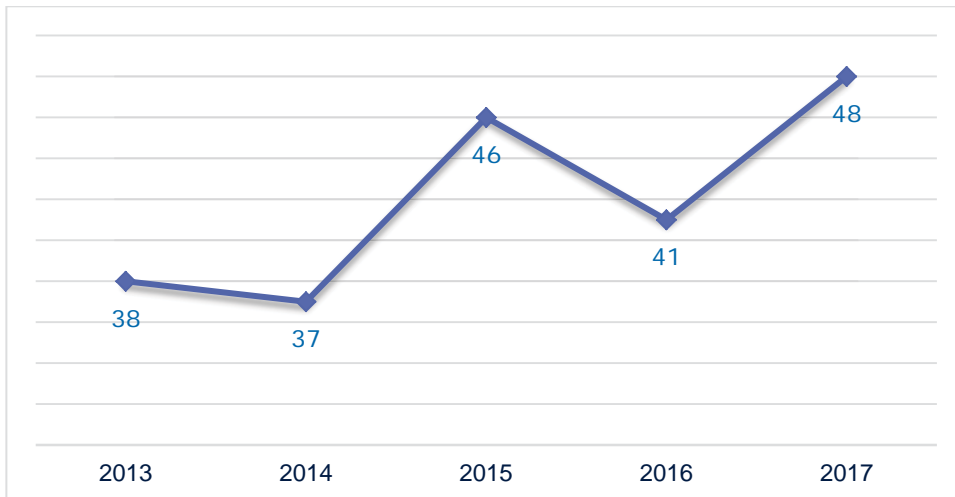


4. EU Pilot files: Slovakia's resolution rate in 2013-2017

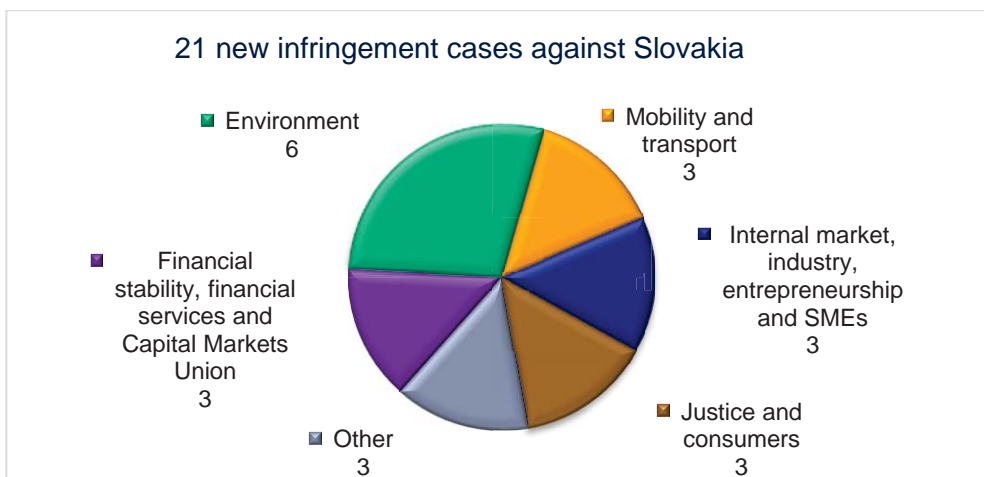


III. INFRINGEMENT CASES

1. Infringement cases against Slovakia open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas

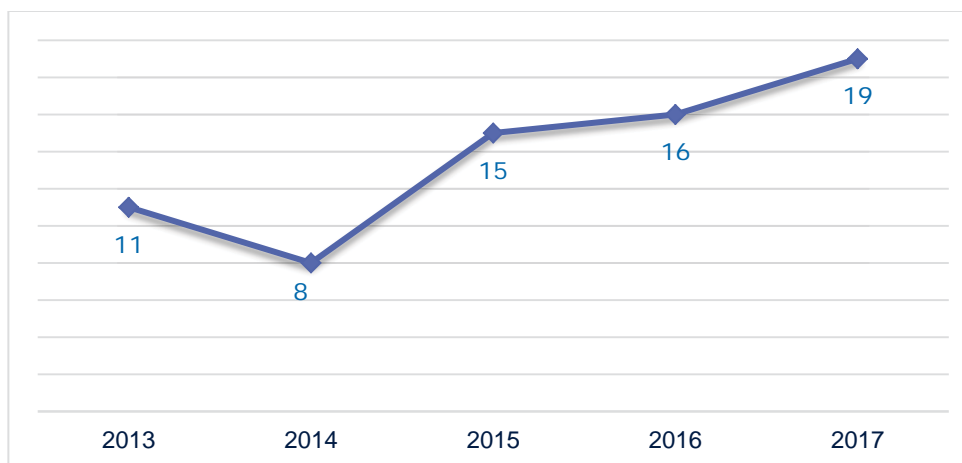


### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 21 new infringement cases against Slovakia in 2017. These, and other major ongoing infringement cases, include:
- failure to ensure that waste landfills operate in compliance with EU standards;
  - failure to ensure that urban waste water is adequately treated;
  - non-compliance with the Regulation on electronic identification and trust services for electronic transactions in the internal market (eIDAS Regulation)<sup>1</sup>;
  - failure to ensure proper monitoring of air quality throughout the whole territory<sup>2</sup>;
  - failure to establish strategic noise maps and action plans required by the Noise Directive<sup>3</sup>;
  - non-communication of national measures transposing the:
    - Directive laying down calculation methods and reporting requirements<sup>4</sup> pursuant to the Directive on fuels quality<sup>5</sup>;
    - Fourth Anti-Money Laundering Directive<sup>6</sup>;
    - Markets in Financial Instruments Directive (MiFID II)<sup>7</sup>;
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

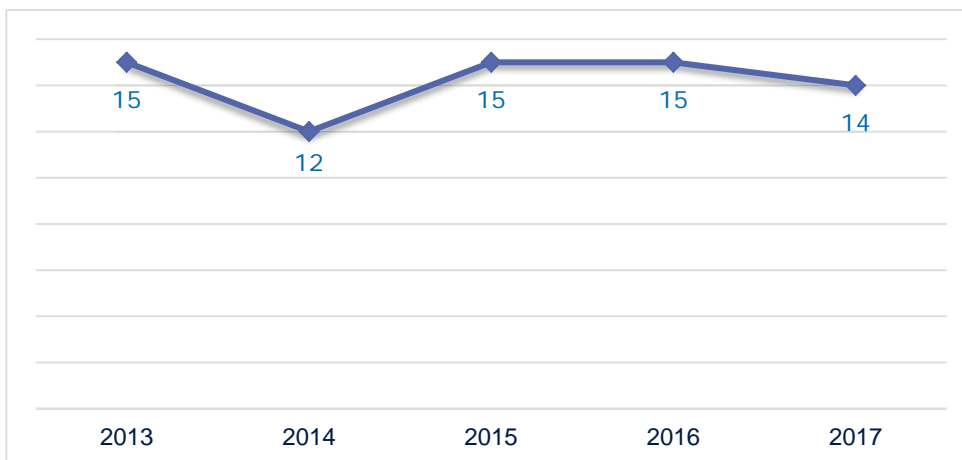
## IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Slovakia open on 31 December (2013-2017)

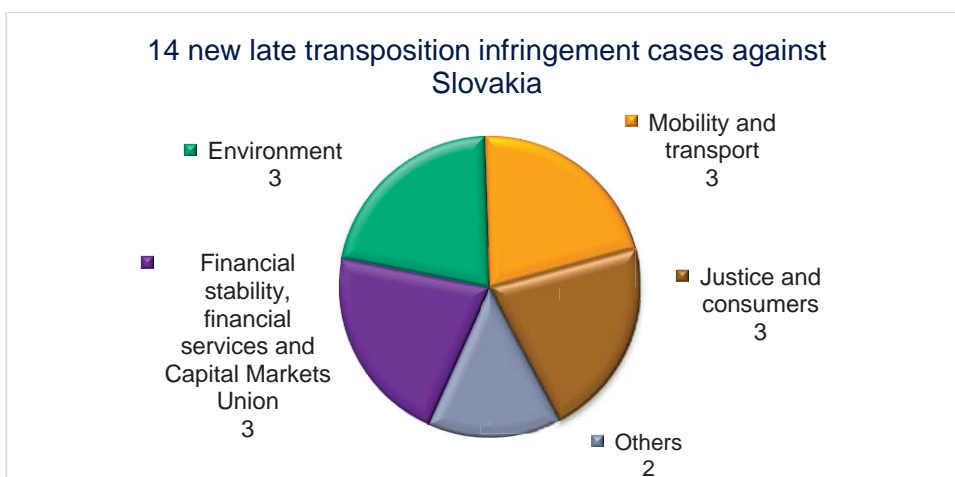


<sup>1</sup> Regulation [910/2014/EU](#), [MEMO/17/3494](#).  
<sup>2</sup> [MEMO/17/3494](#).  
<sup>3</sup> Directive [2002/49/EC](#); [MEMO/17/1577](#).  
<sup>4</sup> Directive [2015/652/EU](#).  
<sup>5</sup> Directive [98/70/EC](#).  
<sup>6</sup> Directive [2015/849/EU](#).  
<sup>7</sup> Directive [2014/65/EU](#).

## 2. New late transposition infringement cases against Slovakia (2013-2017)



## 3. New late transposition infringement cases opened in 2017: main policy areas



## 4. Referrals to the Court

The Commission referred one case under under Articles 258 and 260(3) TFEU. It concerned:

- non-communication of measures transposing the Broadband Cost Reduction Directive<sup>8</sup>.

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Intra-Corporate Transfer Directive<sup>9</sup>;
  - Solvency II Directive<sup>10</sup>;

<sup>8</sup> Directive [2014/61/EU](#), Commission v Slovakia, [C-605/17](#); [IP/17/1937](#).

<sup>9</sup> Directive [2014/66/EU](#); [MEMO/17/3494](#).

<sup>10</sup> Directive [2009/138/EC](#).

- Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>11</sup>;
- incorrect transposition of the Environmental Impact Assessment Directive<sup>12</sup>.

## VI. IMPORTANT JUDGMENTS

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

The Court gave the following rulings.

- It upheld the validity of the provisional mechanism for the mandatory relocation of asylum seekers set up by the 2015 Council Decisions on relocation of migrants from Greece and Italy<sup>14</sup>. The Court dismissed the actions for annulment brought by Hungary and Slovakia<sup>15</sup>.
- No direct legal obligations are created by the letters sent by the Commission to Member States inviting them to make available amounts for the loss of traditional own resources. As under the own resources legislation the Commission does not have competence to adopt binding acts, these letters intend to start an informal discussion with the Member States before a possible formal infringement procedure. As such, these letters cannot be appealed by the Member States before the Court<sup>16</sup>.

### 2. Preliminary rulings

The Court addressed the following preliminary ruling to the Slovak judiciary.

- Under the EU social security coordination rules<sup>17</sup>, a person working as self-employed in one Member State and performing only marginal activities as an employed person in another is to be covered by the social security legislation of the first Member State. Marginal activities performed in the other Member State are not to be taken into consideration for determining the applicable legislation<sup>18</sup>.

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<sup>11</sup> Directive [2014/51/EU](#).

<sup>12</sup> Directive [2011/92/EU](#).

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

<sup>14</sup> Council Decisions (EU) [2015/1523](#) and [2015/1601](#); [IP/17/5002](#).

<sup>15</sup> Slovakia v. Council, [C-643/15](#) and Court press release [No 91/17](#).

<sup>16</sup> Joint cases [C-593/15](#) and [C-594/15](#), Slovakia v Commission.

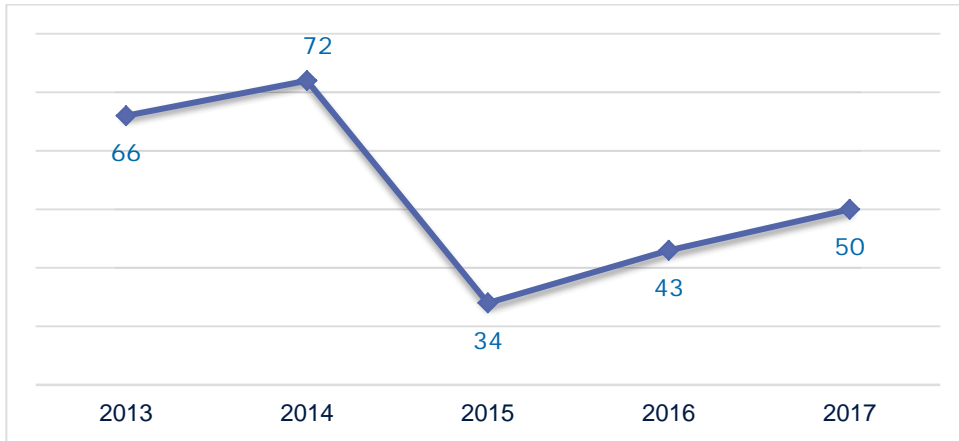
<sup>17</sup> Regulation (EC) No [883/2004](#).

<sup>18</sup> Szoja, [C-89/16](#).

Finland

I. COMPLAINTS

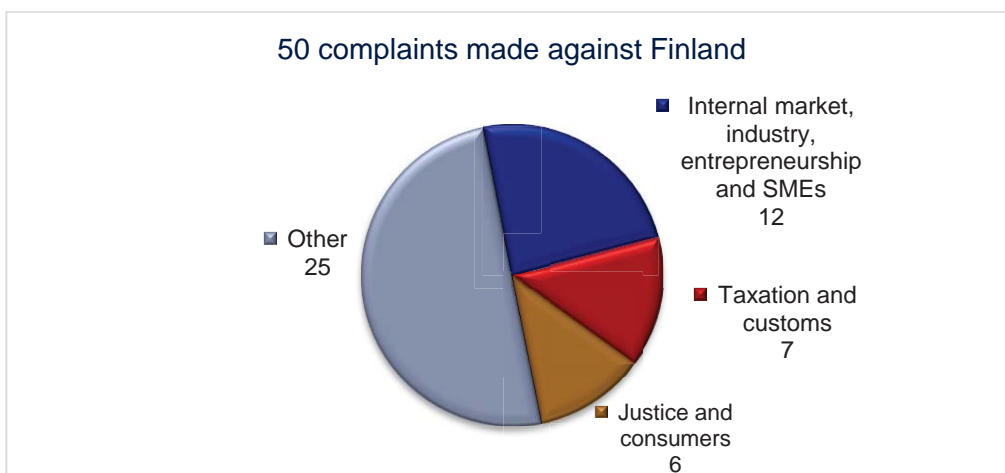
1. New complaints made against Finland by members of the public (2013-2017)



2. Public complaints against Finland open at year-end

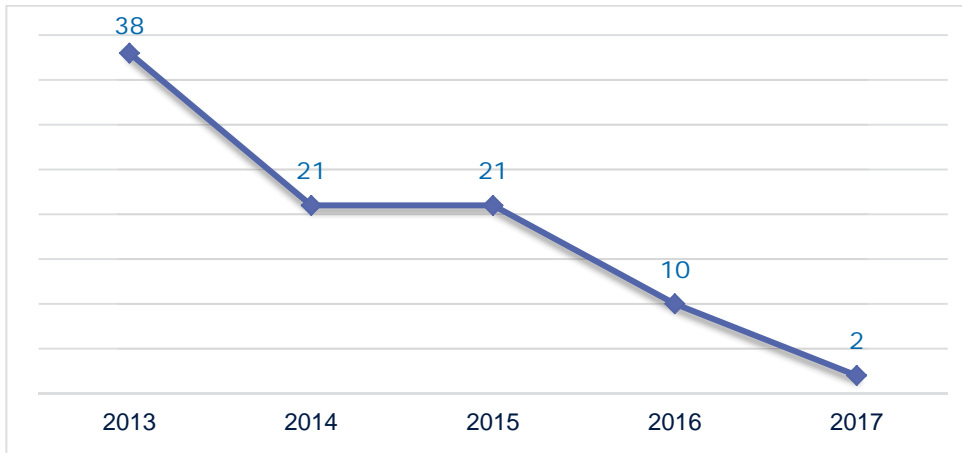
37	>	Complaints open at end-2016
50	>	New complaints registered in 2017
46	>	Complaints handled in 2017
<b>= 41</b>	>	<b>Complaints open at end-2017</b>

3. New complaints registered in 2017: main policy areas

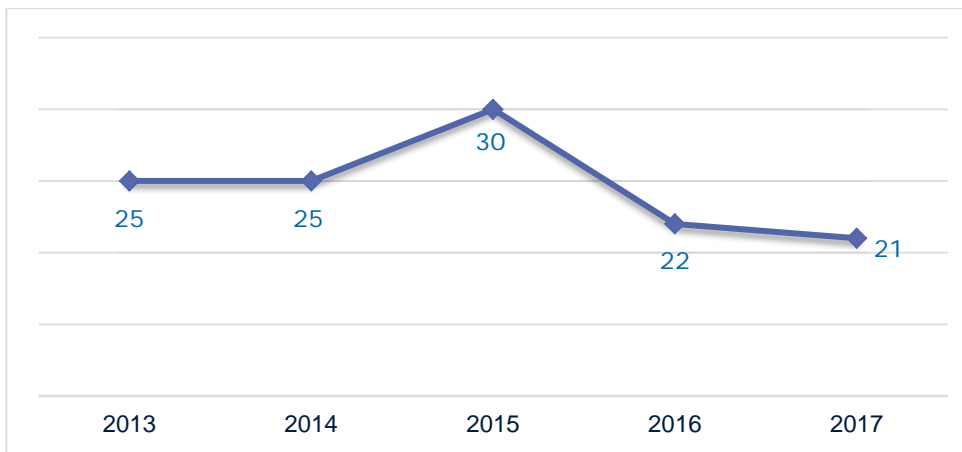


## II. EU PILOT

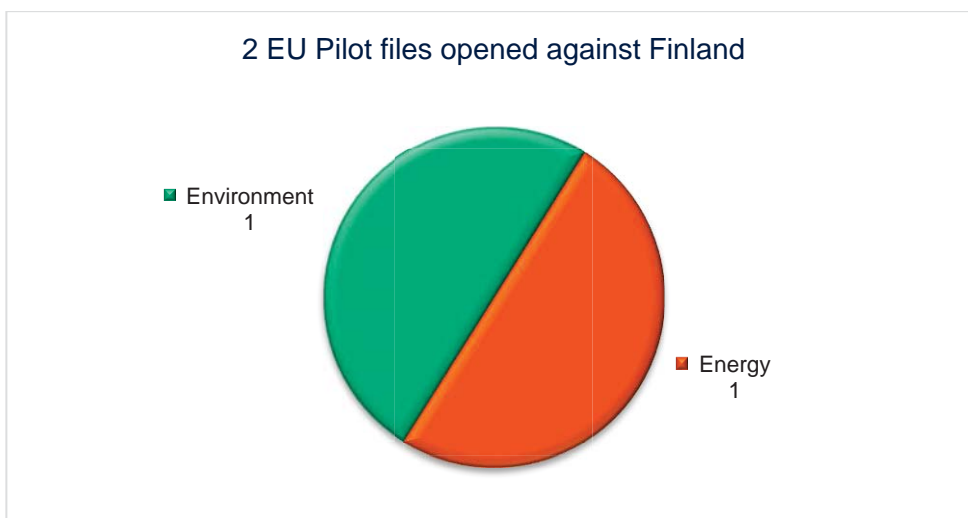
### 1. New EU Pilot files opened against Finland (2013-2017)



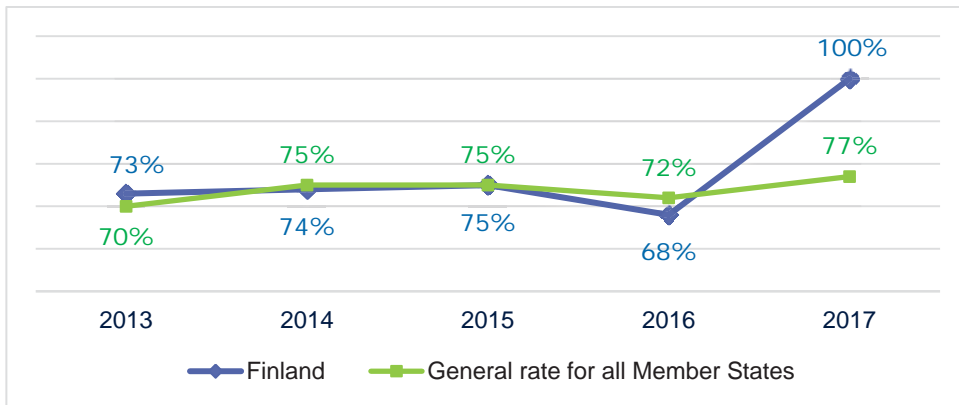
### 2. Files relating to Finland open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

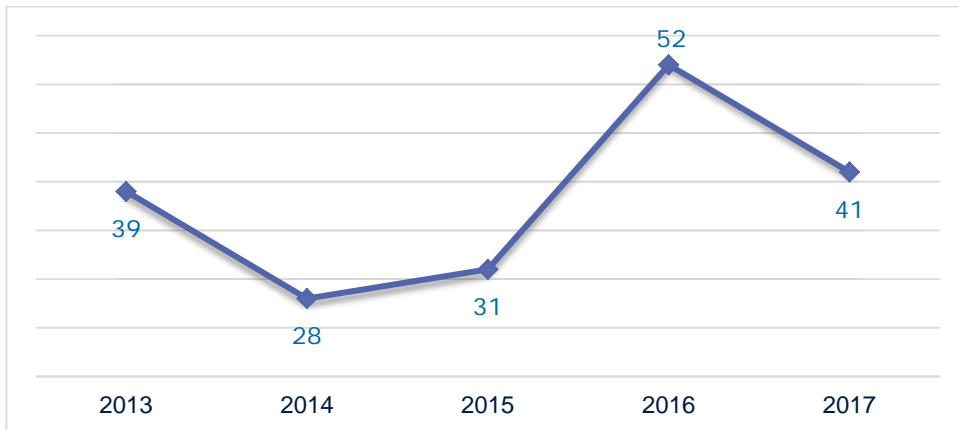


4. EU Pilot files: Finland's resolution rate in 2013-2017

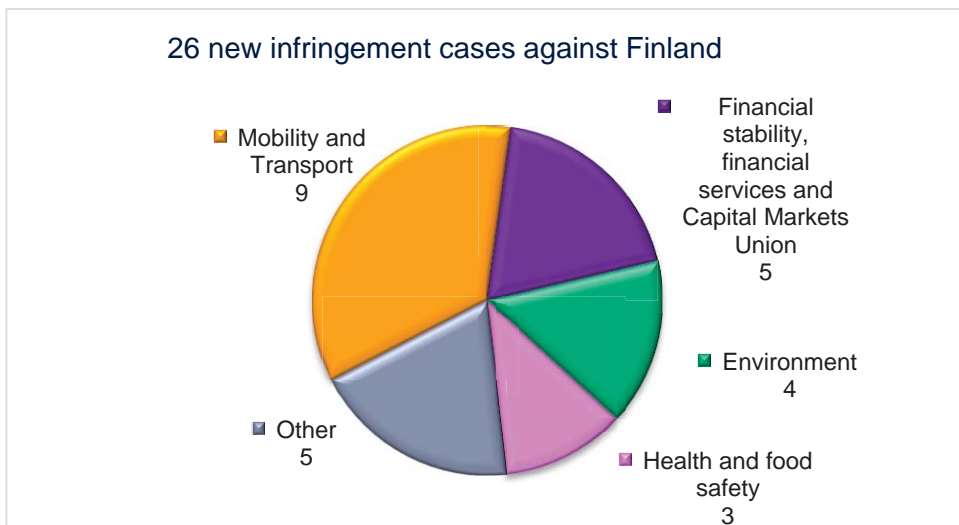


III. INFRINGEMENT CASES

1. Infringement cases against Finland open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



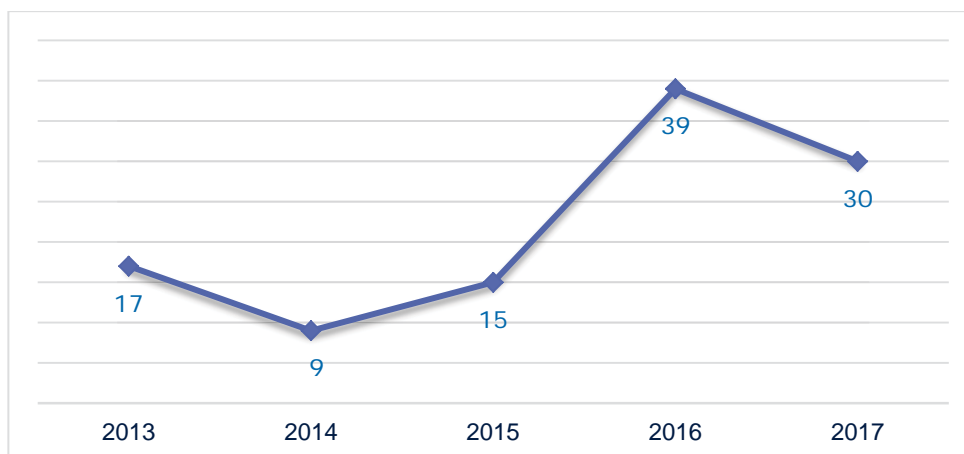


### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 26 new infringement cases against Finland in 2017. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
    - Markets in Financial Instruments Directive (MiFID II)<sup>1</sup>;
    - Directive on caseins and caseinates<sup>2</sup>;
    - Maritime Spatial Planning Directive<sup>3</sup>;
    - Directive on the organisation of working time in inland waterway transport<sup>4</sup>;
    - Fourth Anti-Money Laundering Directive<sup>5</sup>;
    - Directive<sup>6</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>7</sup>;
    - Intra-Corporate Transfers Directive<sup>8</sup>;
    - Seasonal Workers Directive<sup>9</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

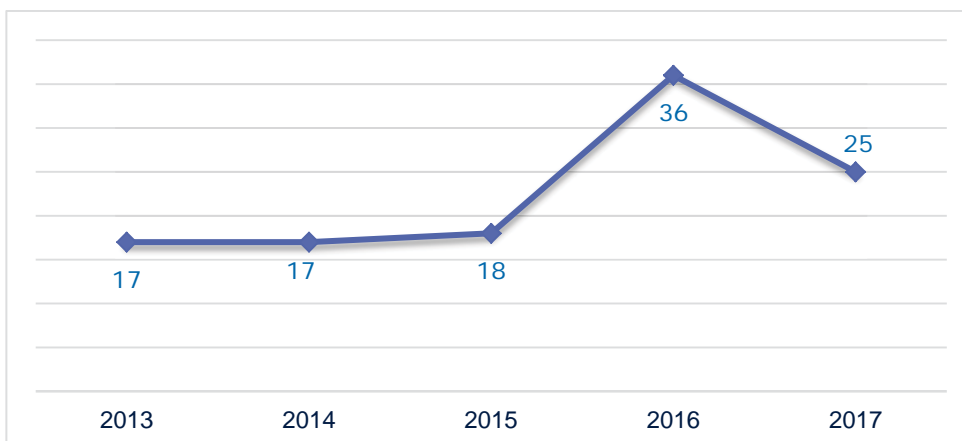
## IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Finland open on 31 December (2013-2017)

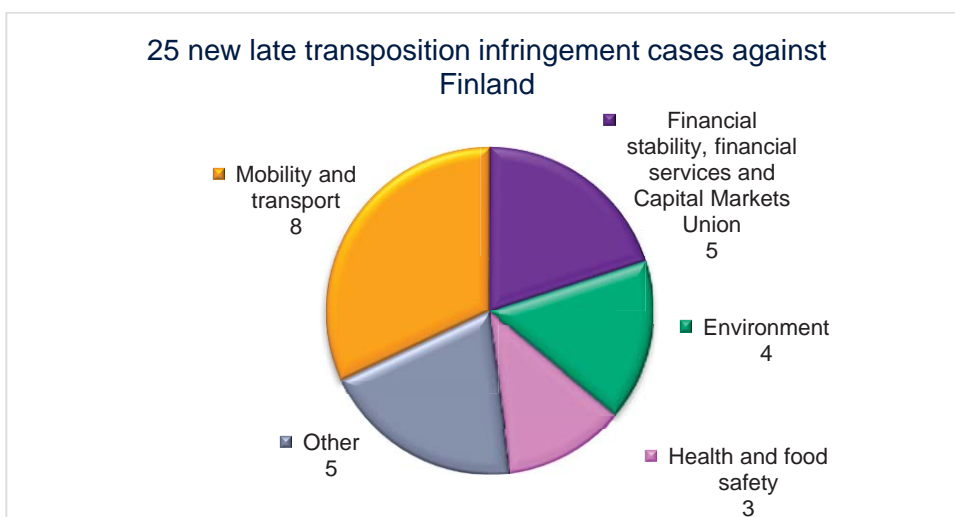


<sup>1</sup> Directive [2014/65/EU](#).  
<sup>2</sup> Directive (EU) [2015/2203](#).  
<sup>3</sup> Directive [2014/89/EU](#); [MEMO/17/1935](#).  
<sup>4</sup> Directive [2014/112/EU](#).  
<sup>5</sup> Directive [2015/849/EU](#).  
<sup>6</sup> Directive (EU) [2015/652](#).  
<sup>7</sup> Directive [98/70/EC](#).  
<sup>8</sup> Directive [2014/66/EU](#); [MEMO/17/3494](#).  
<sup>9</sup> Directive [2014/36/EU](#); [MEMO/17/1935](#).

## 2. New late transposition infringement cases against Finland (2013-2017)



## 3. New late transposition infringement cases opened in 2017: main policy areas



## 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- non-communication of national measures transposing the:
  - Directive on caseins and caseinates<sup>10</sup>;
  - Seveso III Directive<sup>11</sup>;
  - Directive on recognition of professional qualifications<sup>12</sup>;
  - 'Qualifications' Directive<sup>13</sup>;

<sup>10</sup> Directive (EU) [2015/2203](#).

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

<sup>12</sup> Directive [2013/55/EU](#).

- Accounting Directive<sup>14</sup>;
- Directive on undertakings for collective investment in transferable securities<sup>15</sup>;
- Directive on disclosure of non-financial and diversity information by certain large undertakings<sup>16</sup>;
- Directive relating to the making available on the market of simple pressure vessels<sup>17</sup>;
- Directive on lifts<sup>18</sup>;
- Low Voltage Directive<sup>19</sup>;
- Directive relating to the making available on the market of measuring instruments<sup>20</sup>;
- Directive on the return of unlawfully removed cultural goods<sup>21</sup>;
- Directive relating to the making available on the market of non-automatic weighing instruments<sup>22</sup>;
- Directive on port reception facilities for ship-generated waste and cargo residues<sup>23</sup>;
- Directive on recreational craft and personal watercraft<sup>24</sup>;
- disproportionate taxing of vehicles leased or rented in other Member States when their limited duration of use in Finland is precisely known<sup>25</sup>;
- failure to notify a national policy framework under the Directive on the deployment of alternative fuels<sup>26</sup>.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2017.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Finnish judiciary.

- The provisions of the Working Time Directive on working time and rest periods are applicable to 'relief parents'<sup>27</sup> unless their working time as a whole is not measured or predetermined or may be determined by the worker himself<sup>28</sup>.
- All postal service providers may be subject to obligations concerning quality, availability and performance; express/courier/parcel service providers are subject to the Postal Services Directive<sup>29</sup>.

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<sup>13</sup> Directive [2011/95/EU](#).

<sup>14</sup> Directive [2013/34/EU](#).

<sup>15</sup> Directive [2014/91/EU](#).

<sup>16</sup> Directive [2014/95/EU](#).

<sup>17</sup> Directive [2014/29/EU](#).

<sup>18</sup> Directive [2014/33/EU](#).

<sup>19</sup> Directive [2014/35/EU](#).

<sup>20</sup> Directive [2014/32/EU](#).

<sup>21</sup> Directive [2014/60/EU](#).

<sup>22</sup> Directive [2014/31/EU](#).

<sup>23</sup> Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

<sup>24</sup> Directive [2013/53/EU](#).

<sup>25</sup> [MEMO/17/1577](#).

<sup>26</sup> Directive [2014/94/EU](#).

<sup>27</sup> Persons caring for children in a family-like environment (in SOS Children's villages, for example).

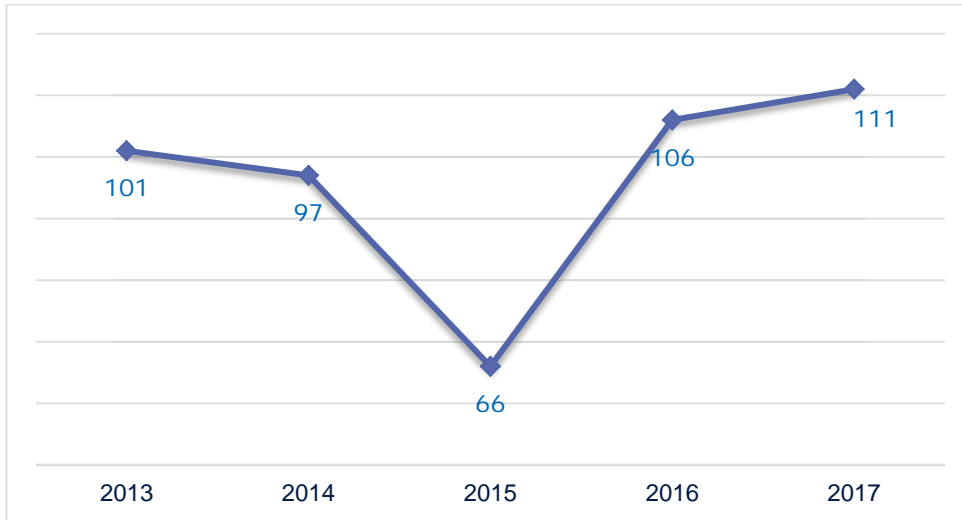
<sup>28</sup> Hälvä, [C-175/16](#).

<sup>29</sup> Ilves Jakelu, [C-368/15](#).

Sweden

I. COMPLAINTS

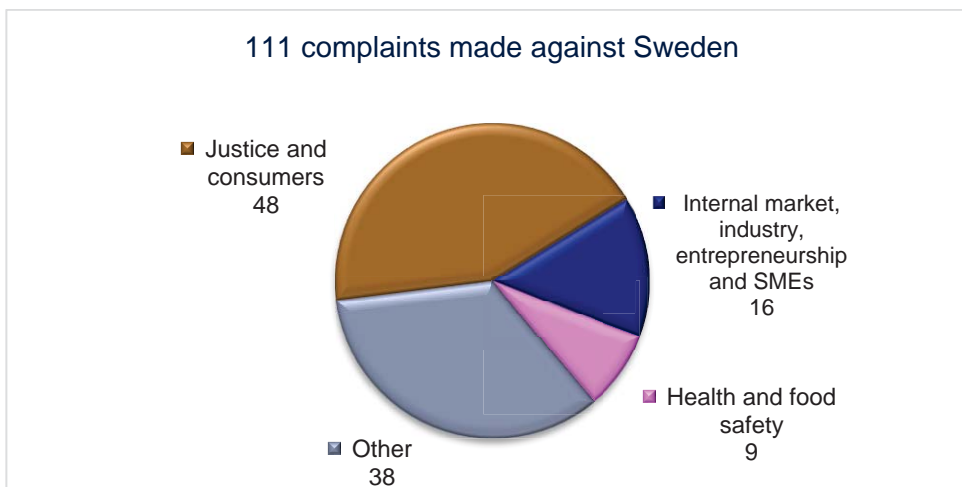
1. New complaints made against Sweden by members of the public (2013-2017)



2. Public complaints against Sweden open at year-end

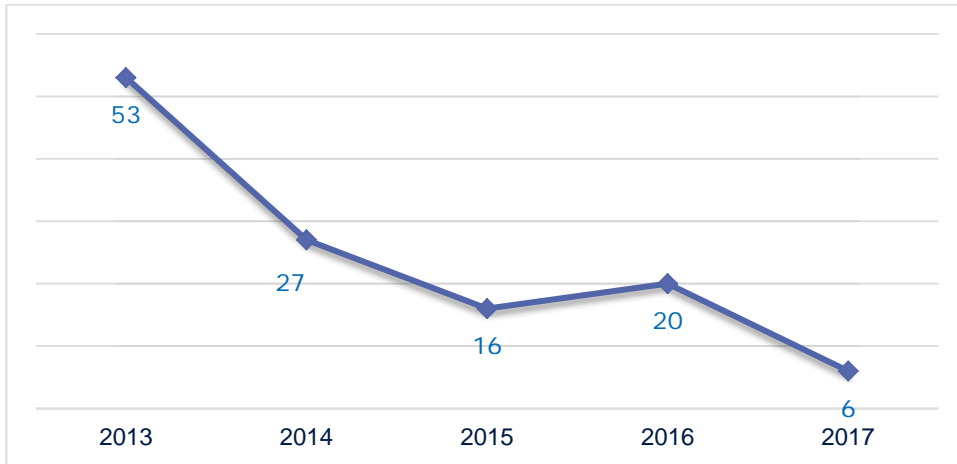
89	>	Complaints open at end-2016
111	>	New complaints registered in 2017
85	>	Complaints handled in 2017
<hr/>		
= 115	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

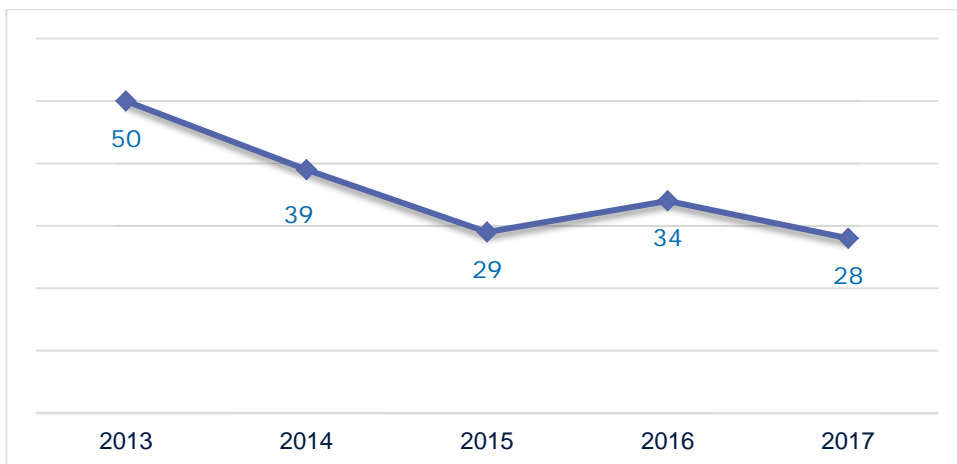


## II. EU PILOT

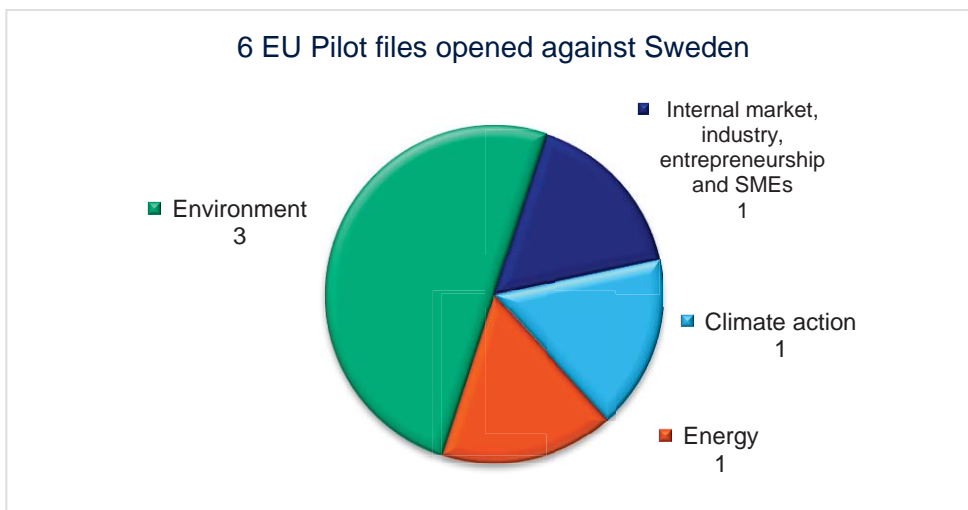
### 1. New EU Pilot files opened against Sweden (2013-2017)



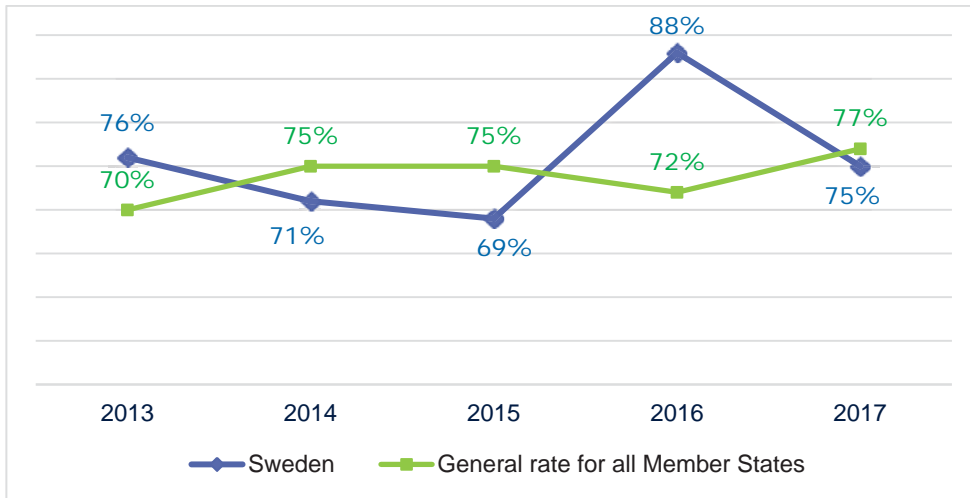
### 2. Files relating to Sweden open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: policy areas

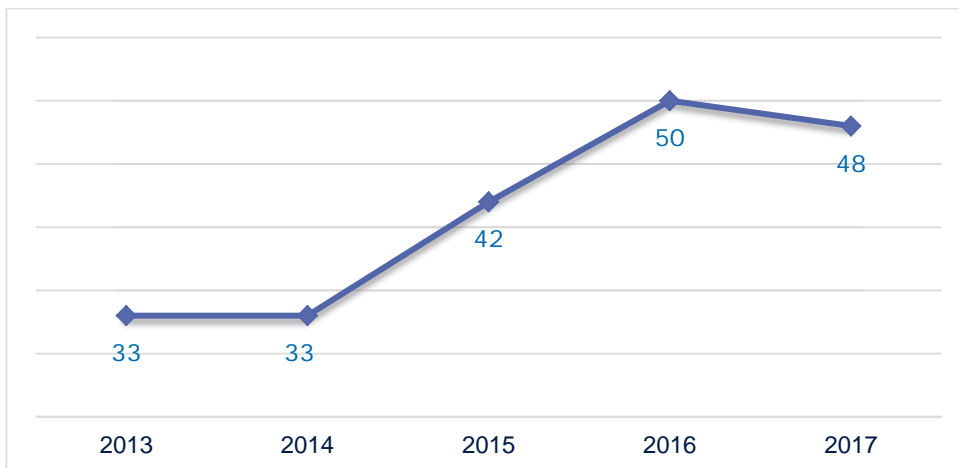


4. EU Pilot files: Sweden's resolution rate in 2013-2017

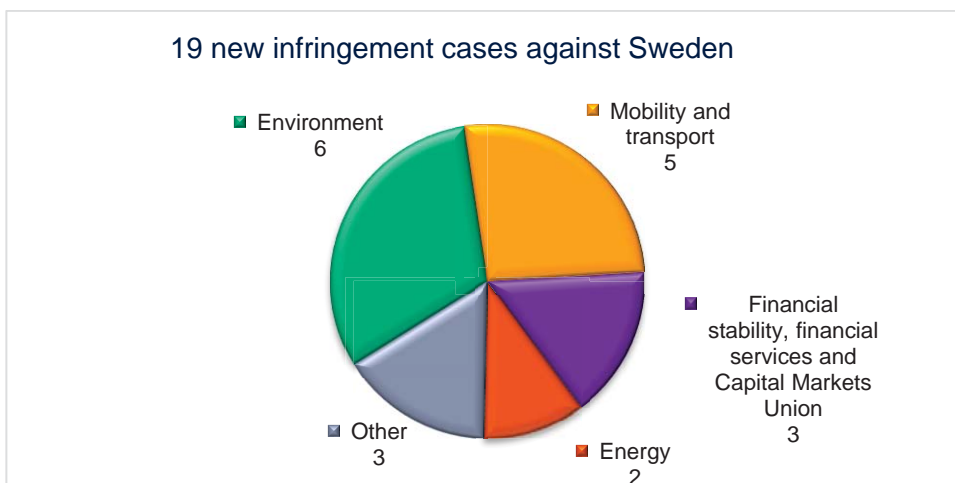


III. INFRINGEMENT CASES

1. Infringement cases against Sweden open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas

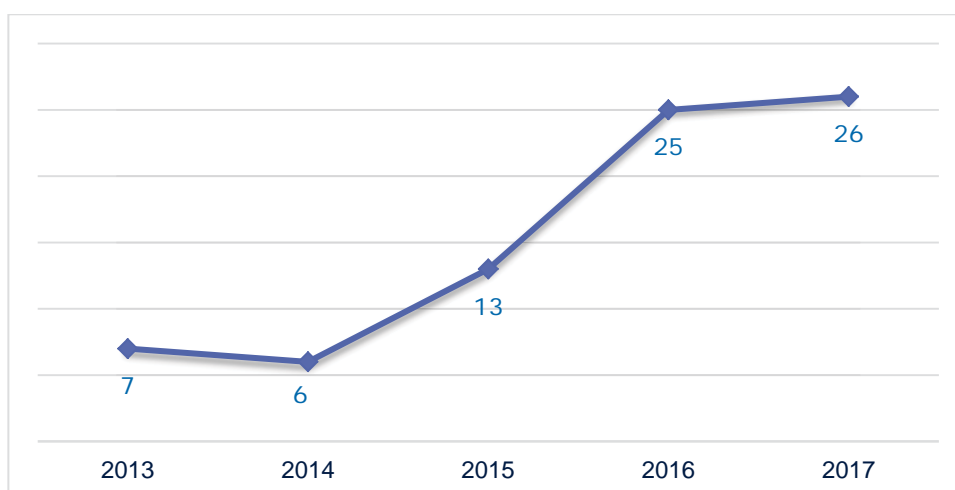


### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 19 new infringement cases against Sweden in 2017. These, and other major ongoing infringement cases, include:
- failure to comply with reporting obligations under EU waste legislation<sup>1</sup>;
  - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives)<sup>2</sup>;
  - failure to ensure that urban waste water is adequately treated;
  - non-communication of national measures transposing the:
    - Markets in Financial Instruments Directive (MiFID II)<sup>3</sup>;
    - Directive<sup>4</sup> laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality<sup>5</sup>;
    - Directive on intra-corporate transfers and on seasonal workers<sup>6</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Sweden open on 31 December (2013-2017)



<sup>1</sup> [MEMO/17/1281](#).

<sup>2</sup> Directive [2009/72/EC](#), [MEMO/17/4767](#).

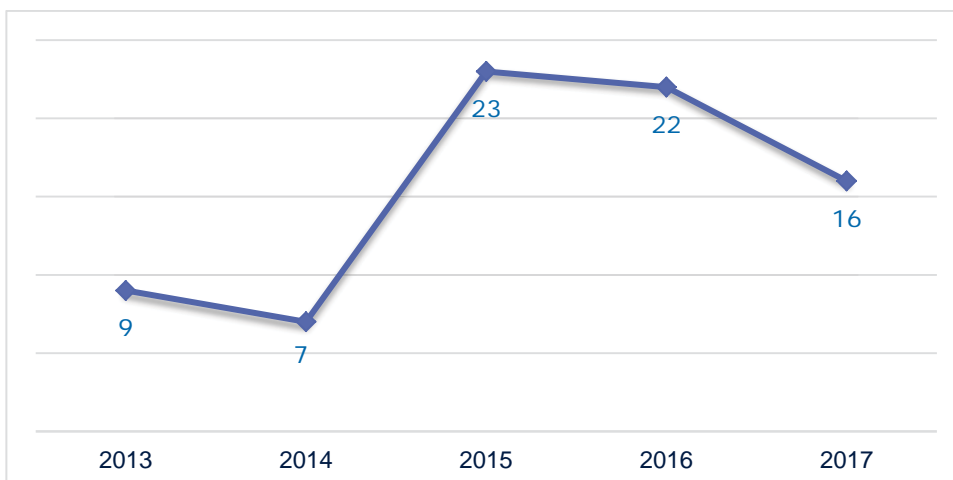
<sup>3</sup> Directive [2014/65/EU](#).

<sup>4</sup> Directive (EU) [2015/652](#).

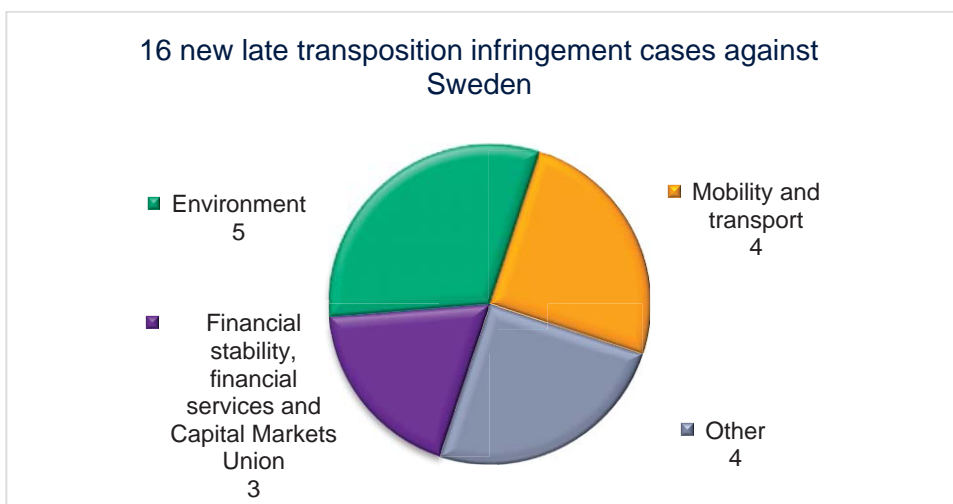
<sup>5</sup> Directive [98/70/EC](#).

<sup>6</sup> Directives [2014/66/EU](#) and [2014/36/EU](#); [MEMO/17/3494](#) and [MEMO/17/1935](#).

## 2. New late transposition infringement cases against Sweden (2013-2017)



## 3. New late transposition infringement cases opened in 2017: main policy areas



## 4. Referrals to the Court

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

## V. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2017

These concerned:

- incorrect transposition of certain requirements of the Directive on the energy performance of buildings<sup>7</sup>;
- non-compliance of national legislation on gambling with EU rules<sup>8</sup>;
- non-communication of national measures transposing the:

<sup>7</sup> Directive [2010/31/EU](#).

<sup>8</sup> [IP/17/5109](#).



- Directive on maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic<sup>9</sup>;
- Transparency Directive, Deposit Guarantee Schemes Directive, Banking Resolution Directive, Directive on undertakings for collective investment in transferable securities, and Accounting Directive<sup>10</sup>.

## VI. IMPORTANT JUDGMENTS

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

The Court ruled that:

- The appeal brought by Sweden against a judgment of the General Court interpreting EU provisions on access to documents was unfounded. The Court clarified that the documents exchanged between the Commission and the Member State concerned in the framework of the EU Pilot dialogue are covered by a general presumption of confidentiality.

### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the Swedish judiciary.

- National legislation that prescribes a general and indiscriminate obligation on providers of electronic communications services to retain data is contrary to EU law. Such interference with the right to private life could only be justified by the objective of fighting serious crime<sup>12</sup>.
- Article 34 of the TFEU precludes a national measure which, on the one hand, allows economic operators to implement a mass balance system in respect of sustainable biogas if the biogas is transported within the Member State's national gas network, while, on the one hand, preventing the implementation of such a mass balance system if the biogas is transported cross-border in interconnected national gas networks<sup>13</sup>;

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<sup>9</sup> Directive [2015/719/EU](#) amending Council Directive [96/53/EC](#).

<sup>10</sup> Directives [2013/50/EU](#), [2014/49/EU](#), [2014/59/EU](#), [2014/91/EU](#) and [2013/34/EU](#).

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

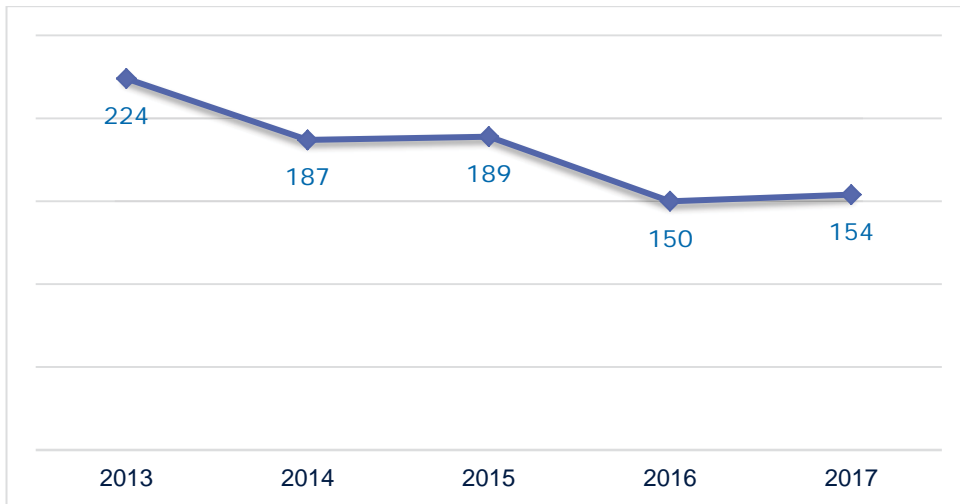
<sup>12</sup> Tele2 Sverige and Watson and Others, [C-203/15](#) and [C-698/15](#).

<sup>13</sup> E.ON Biofor Sverige AB, [C-549/15](#).

United Kingdom

I. COMPLAINTS

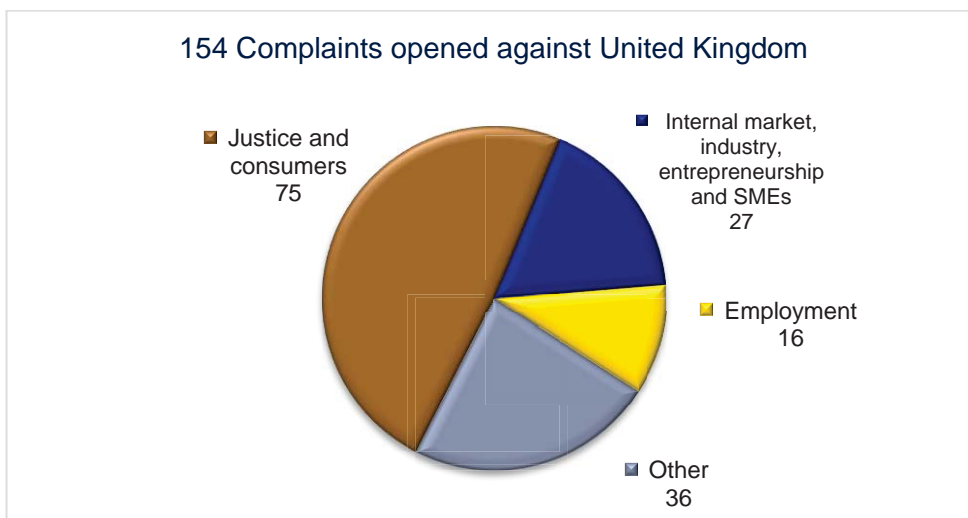
1. New complaints made against the United Kingdom by members of the public (2013-2017)



2. Public complaints against the United Kingdom open at year-end

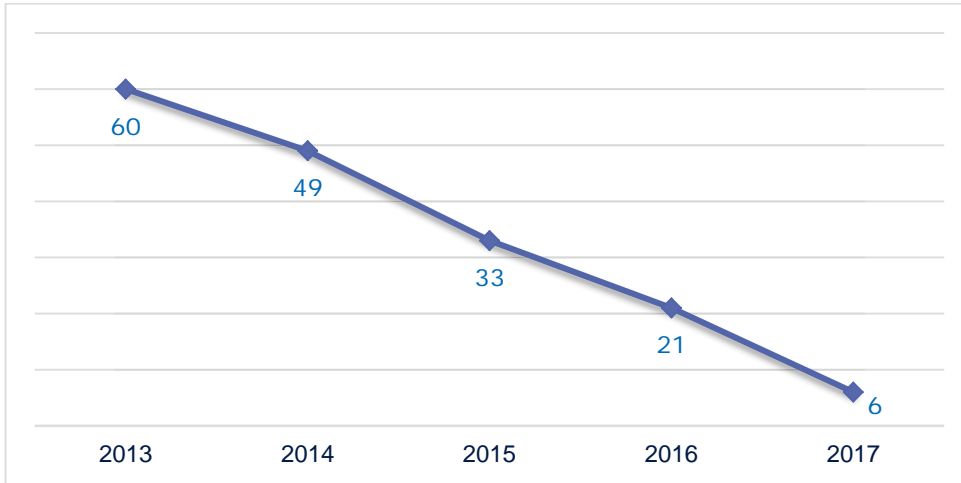
172	>	Complaints open at end-2016
154	>	New complaints registered in 2017
138	>	Complaints handled in 2017
<u>188</u>	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

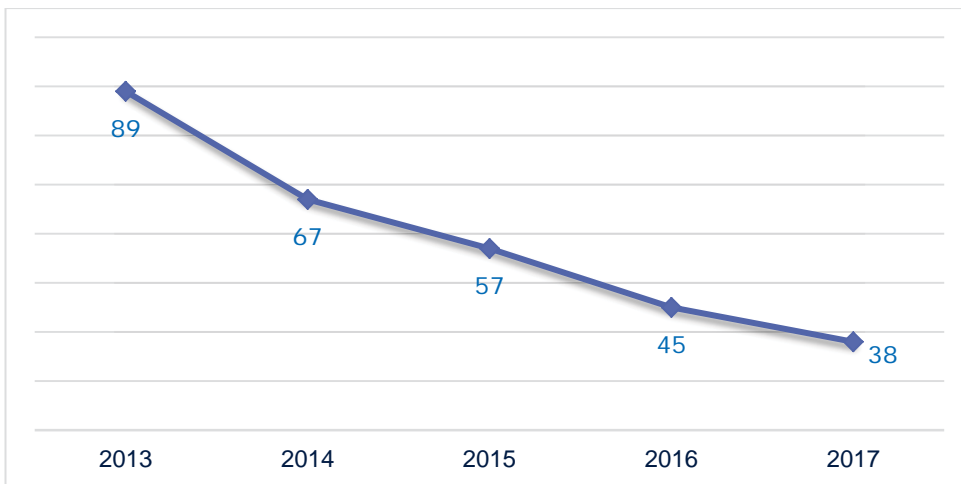


## II. EU PILOT

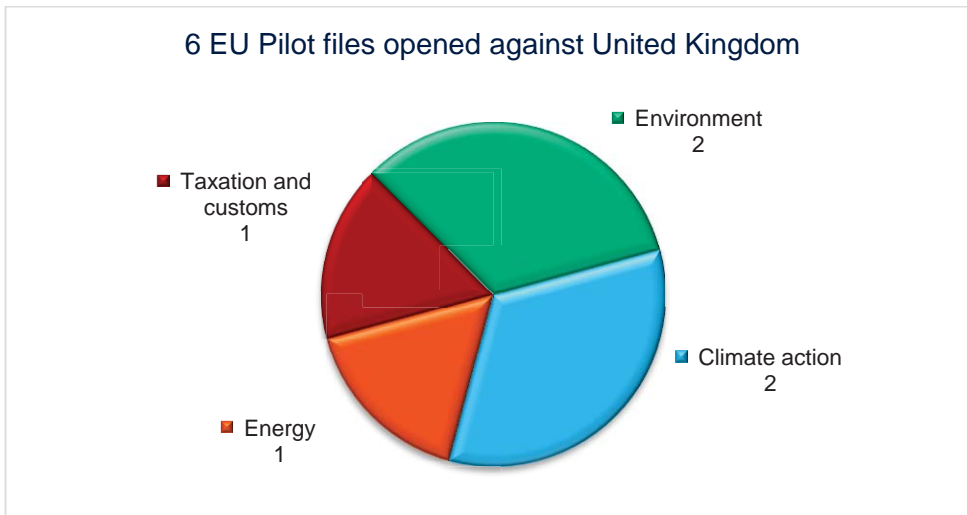
### 1. New EU Pilot files opened against the United Kingdom (2013-2017)



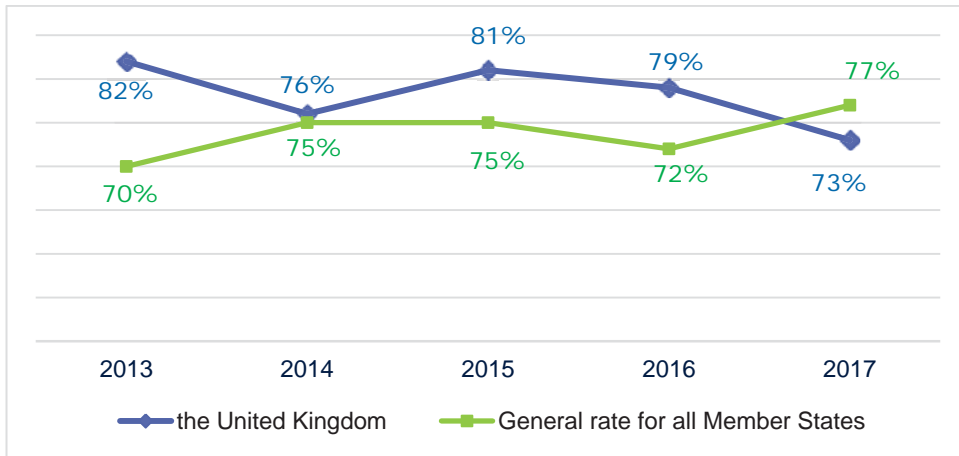
### 2. Files relating to the United Kingdom open in EU Pilot at year-end



### 3. New EU Pilot files opened in 2017: main policy areas

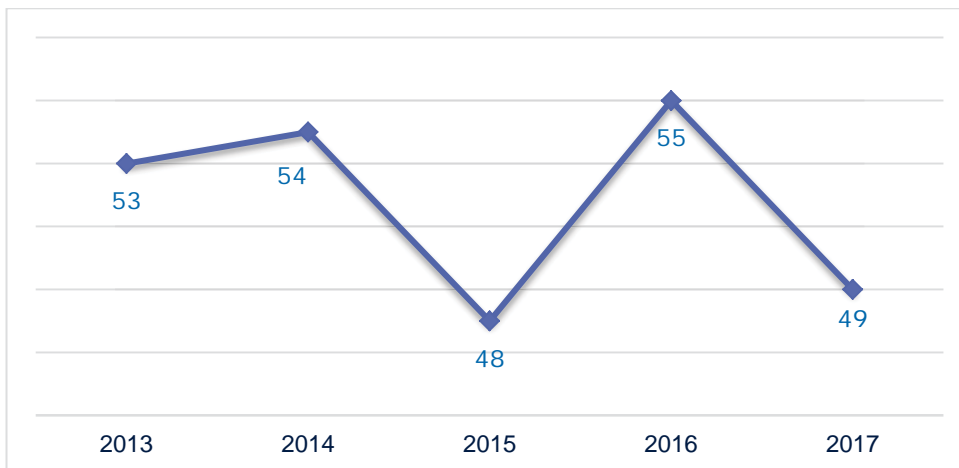


4. EU Pilot files: United Kingdom's resolution rate in 2013-2017

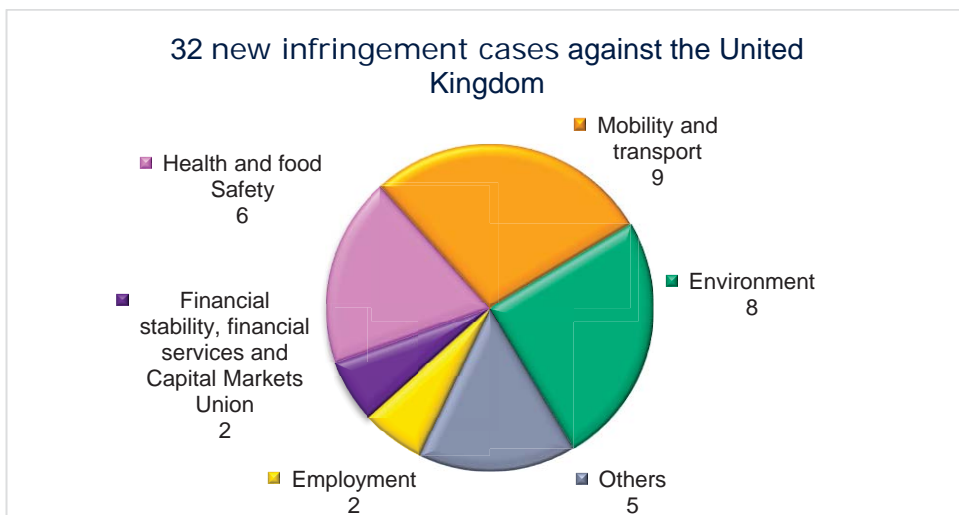


III. INFRINGEMENT CASES

1. Infringement cases against the United Kingdom open on 31 December (2013-2017)



2. New infringement cases opened in 2017: main policy areas



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

- a) The Commission opened 32 new infringement cases against the United Kingdom in 2017. These, and other major ongoing infringement cases, include:
- failure to comply with the NO<sub>2</sub> limit values set by the Air Quality Directive<sup>1</sup>;
  - non-communication of national measures transposing the:
    - Directive on seafarers<sup>2</sup>;
    - Directive laying down calculation methods and reporting requirements<sup>3</sup> pursuant to a Directive relating to the quality of petrol and diesel fuels<sup>4</sup>;
    - Directive on the organisation of working time in inland waterway transport<sup>5</sup>;
    - Directive on caseins and caseinates<sup>6</sup>;
- b) The Commission referred three cases to the Court under Article 258 TFEU: They concern the following.
- Imported aluminium from third countries to the UK's overseas territory Anguilla, which was then re-exported to the EU. The import wrongly benefited from an exemption from EU customs duties. This is considered as a loss of revenue to the EU budget of EUR 1.5 million (less collection costs)<sup>7</sup>.
  - Failure to protect the harbour porpoise (*Phocoena phocoena*)<sup>8</sup>.
  - Failure to properly apply the EU rules on fiscal marking of fuel<sup>9</sup>. Under the rules, fishing vessels, among others, may benefit from a lower tax rate on their fuels; by contrast, private leisure boats must use fuel subject to a standard rate. UK law does not require fuel distributors to have separate fuel tanks for marked and standard fuel. Thus, private leisure boat owners often have no choice but to buy the marked fuel, which is not intended for them. In addition, private leisure boats using marked fuel risk heavy penalties abroad charged by the authorities of other Member States<sup>10</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

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<sup>1</sup> Directive [2008/50/EC](#) and [IP/17/238](#).

<sup>2</sup> Directive [2015/1794/EU](#).

<sup>3</sup> Directive [2015/652/EU](#).

<sup>4</sup> Directive [98/70/EC](#).

<sup>5</sup> Directive [2014/112/EU](#).

<sup>6</sup> Directive [2015/2203](#).

<sup>7</sup> Directive [1552/89](#), Commission v United Kingdom, [C-391/17](#) and [MEMO/16/3125](#).

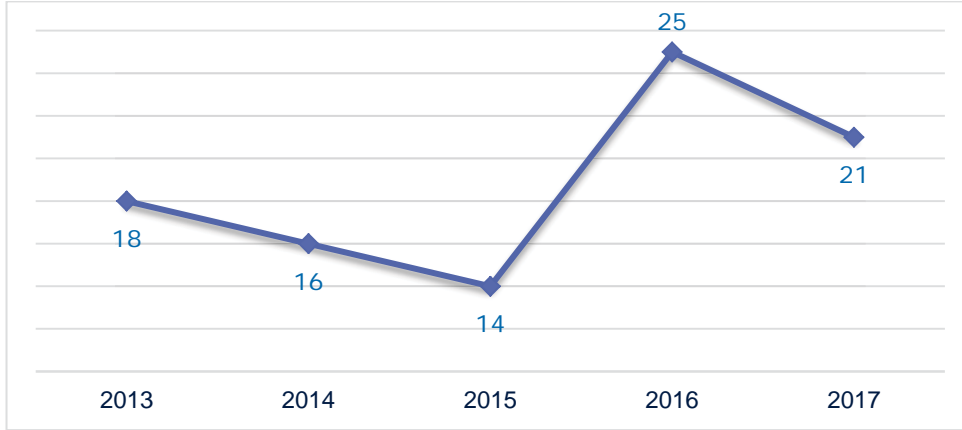
<sup>8</sup> Directive [92/43/CEE](#), Commission v United Kingdom, [C-669/16](#); [IP/16/3128](#).

<sup>9</sup> The fuel that may benefit from a reduced tax rate has to be marked by coloured dye.

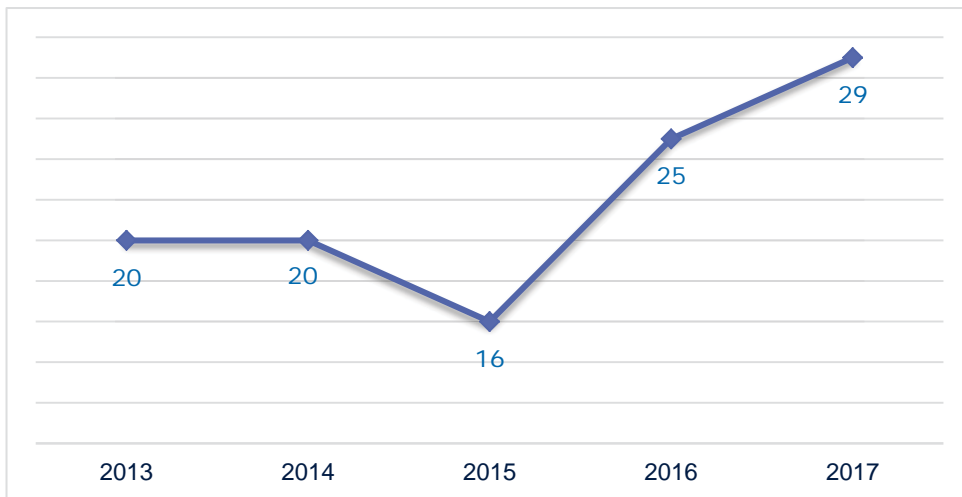
<sup>10</sup> Directive [95/60/EC](#), Commission v United Kingdom, [C-503/17](#), [IP/14/810](#).

#### IV. TRANSPOSITION OF DIRECTIVES

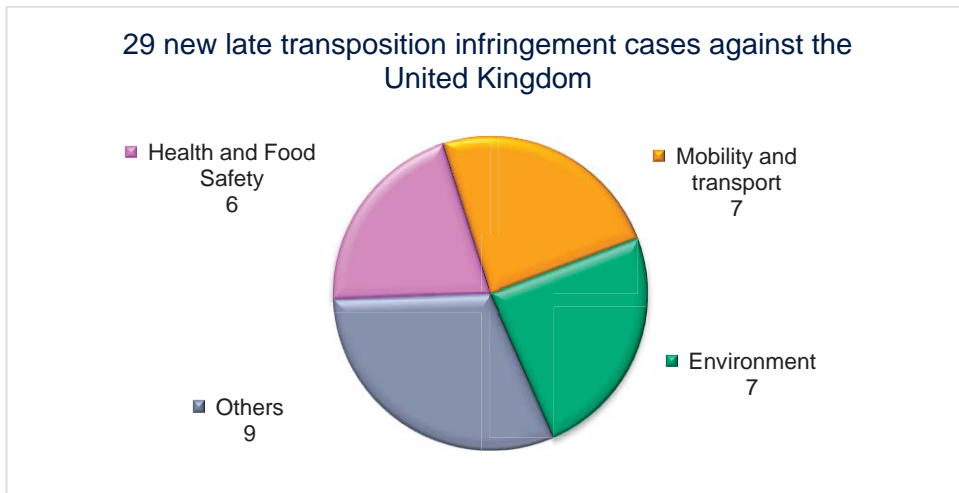
1. Late transposition infringement cases against the United Kingdom open on 31 December (2013-2017)



2. New late transposition infringement cases against the United Kingdom (2013-2017)



3. New late transposition infringement cases opened in 2017: main policy areas



#### 4. Referrals to the Court

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

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2017

These concerned:

- non-conformity with the Directive on harmonisation of certain aspects of copyright and related acts<sup>11</sup>;
- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure<sup>12</sup>;
- non-withdrawal of reservations against certain appendices of the Convention concerning International Carriage by Rail (COTIF 1999);
- non-communication of national measures transposing the:
  - Directive on recognition of professional qualifications<sup>13</sup>;
  - Directive on the deployment of alternative fuels<sup>14</sup>;
  - Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority<sup>15</sup>;
  - Banking Recovery and Resolution Directive<sup>16</sup>;
  - Driving Licences Directive<sup>17</sup>;
  - Directive establishing a single European railway area (recast)<sup>18</sup>.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>19</sup>

The Court ruled that:

- The United Kingdom has failed to ensure adequate treatment of urban waste water in several agglomerations, some discharging into sensitive areas<sup>20</sup>.

#### 2. Preliminary rulings

The Court addressed the following preliminary rulings to the UK judiciary.

- Once an EU citizen acquires the citizenship of another EU Member State, the Free Movement Directive ceases to apply to him/her<sup>21</sup>. Consequently, as a general rule his/her spouse cannot benefit from a derived right of residence in that EU Member State on the basis of the Directive unless this would be necessary to ensure the effective exercise, by the EU citizen concerned, of his/her freedom of movement and of the rights which the Treaties affords him/her<sup>22</sup>.

<sup>11</sup> Directive [2001/29/EC](#).

<sup>12</sup> Directive [2014/94/EU](#).

<sup>13</sup> Directive [2005/36/EC](#).

<sup>14</sup> Directive [2014/94/EU](#).

<sup>15</sup> Directive [2014/51/EU](#).

<sup>16</sup> Directive [2014/59/EU](#).

<sup>17</sup> Directive [2006/126/EC](#).

<sup>18</sup> Directive [2012/34/EU](#).

<sup>19</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>20</sup> Directive [91/271/EEC](#) and Commission v United Kingdom, [C-502/15](#).

<sup>21</sup> Directive [2004/38/EC](#).

<sup>22</sup> Lounes, [C-165/16](#) and Court press release [No 121/17](#).

- The national legislation goes beyond what is considered necessary to achieve the objectives of preserving the allocation of powers of taxation between the Member States<sup>23</sup>.
- The TFEU Treaty cannot be invoked between the United Kingdom and Gibraltar regarding the UK tax regime on the provision of gambling services<sup>24</sup>.
- The case concerned the interpretation of the words ‘contract for hire which provides that in the normal course of events ownership is to pass at the latest upon payment of the final instalment’, used in the VAT Directive. The Court held that this phrase must be interpreted as applying to a leasing contract with an option to purchase if the contract’s financial terms suggest that exercising the option appears to be the only economically rational choice to be made by the lessee at the time of performing the contract in full<sup>25</sup>.
- Under the Working Time Directive<sup>26</sup>, a worker must be able to carry over and accumulate unexercised rights to paid annual leave when an employer does not put that worker in a position in which he is able to exercise his right to paid annual leave. The Directive precludes the requirement that the worker must take leave before establishing whether he has the right to be paid in respect of that leave<sup>27</sup>.

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<sup>23</sup> Trustees of the P Panayi Accumulation & Maintenance Settlements, [C-646/15](#).

<sup>24</sup> The Gibraltar Betting and Gaming Association Limited and The Queen, [C-591/15](#).

<sup>25</sup> Mercedes-Benz Financial Services UK, [C-164/16](#).

<sup>26</sup> Directive [2003/88/EC](#).

<sup>27</sup> King, [C-214/16](#).



## Methodology and explanations

### ANNEX II — MEMBER STATES

#### 1. COMPLAINTS

##### **First chart: New complaints made against the Member State by members of the public (2013-2017)**

This shows the number of public complaints the Commission registered against the Member State for the years 2013-2017.

##### **Second chart: Public complaints against the Member State open at year-end**

This starts with the number of open complaints against the Member State carried over from 2016 (first column). The second column shows the number of new complaints registered in 2017. The third column shows the number of complaints on which the Commission took a decision in 2017. The fourth column shows the number of complaints against the Member State that were open at the end of 2017 (calculated by taking the first figure, adding the second and subtracting the third).

##### **Third chart: New complaints registered in 2017: main policy areas**

The number of complaints registered in 2017 is broken down by policy area. Generally, this breakdown shows the three policy areas which attracted the most complaints. However, four (or more) policy areas are mentioned if two (or more) policy areas tied for the third highest number of complaints.

#### 2. EU PILOT

##### **First chart: New EU Pilot files opened against the Member State (2013-2017)**

This analyses the number of EU Pilot files the Commission opened against the Member State for the years 2013-2017.

##### **Second chart: EU Pilot files relating to the Member State open at year-end**

This analyses the number of EU Pilot files still pending at year-end against the Member State for the years 2013-2017.

##### **Third chart: New EU Pilot files opened in 2017: main policy areas**

The figure for the number of new EU Pilot files opened against the Member State in 2017 is broken down by policy area. Generally, this breakdown shows the three policy areas in which the most EU Pilot files were opened in 2017. However, four (or more) policy areas are mentioned if two (or more) policy areas tied for the third highest number of EU Pilot files or if the top three policy areas do not account for more than 50 % of the cases.

##### **Fourth chart: EU Pilot files: Member State's resolution rate in 2013-2017**

The resolution rate per Member State is the percentage of EU Pilot files handled for which the Commission accepted that Member State's response. The chart shows the resolution rate for the last 5 years.

### 3. INFRINGEMENT CASES

#### First chart: Infringement cases against the Member State open on 31 December (2013-2017)

These figures include all procedures the Commission initiated against the Member State by sending a letter of formal notice under Article 258 TFEU. It covers letters sent in 2017 or before, irrespective of the stages the cases have reached. Only cases which have not yet been closed by a formal decision are shown.

Accordingly, these numbers include all cases that, on 31 December of the years 2013 to 2017:

- were in the pre-litigation phase (letter of formal notice, reasoned opinion or decision on referral to the Court under Article 258 TFEU);
- were pending before the Court under Article 258 TFEU and Article 260(3) TFEU;
- the Court had ruled on but where the Commission could not yet confirm that the Member State had implemented the judgment correctly;
- were in the second pre-litigation procedure (letter of formal notice or referral decision under Article 260(2) TFEU);
- were pending before the Court due to a second referral; and
- the Court had ruled on for the second time but where the Commission could not yet confirm that the Member State had implemented the second judgment correctly.

These figures do *not* include, for example, open EU Pilot files in the policy area. They also do not include EU Pilot files for which the Commission had already rejected a Member State's response but had not yet sent a letter of formal notice under Article 258 TFEU.

#### Second chart: New infringement cases opened in 2017: main policy areas

As a rule, this chart shows the three policy areas in which the most infringements were open on 31 December 2017. Four (or more) policies are mentioned if two (or more) policies tied for the third highest number of open infringements. Only two policies are highlighted if too many policies tied for the third highest number, or if this would make the chart very fragmented (this might occur in Member States with relatively few infringements).

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

This section has three parts:

Part a) shows the number of new infringement cases opened against the Member State in 2017 and lists the major new and ongoing infringement cases at the stage of letters of formal notice or reasoned opinions (under Article 258 TFEU).

Part b) lists the cases which the Commission referred to the Court solely under Article 258 TFEU by 31 December 2017. The cases submitted to the Court under Article 258 *and* 260(3) TFEU are discussed in the 'Transposition of directives' section (see below).

Part c) lists the cases which the Commission referred to the Court under Article 260(2) TFEU by 31 December 2017.

#### 4. TRANSPOSITION OF DIRECTIVES

##### **First chart: Late transposition infringement cases against the Member State open on 31 December (2013-2017)**

This shows the number of letters of formal notice sent to the Member State under Article 258 TFEU for missing or partial notification of national transposition measures. It covers letters sent in 2017 or before, irrespective of the stages the cases have reached. Only cases which have not yet been closed by a formal decision are shown.

Accordingly, the number includes all cases that, on 31 December of the years 2013 to 2017:

- were in the pre-litigation phase (letter of formal notice, reasoned opinion or decision on referral to the Court under Article 258 TFEU and Article 260(3) TFEU);
- were pending before the Court under Article 258 TFEU and Article 260(3) TFEU.

This figure is already included in the total number of infringement cases open against the Member State in 2017. It should therefore *not* be added to the figure shown in the first chart of the general statistics section.

##### **Second chart: New late transposition infringement cases against the Member State (2013-2017)**

This shows the number of new letters of formal notice sent in 2017 to the Member State under Article 258 TFEU for missing or partial notifications of national transposition measures. This figure is already included in the total number of new infringement cases initiated against the Member State in 2017. It should therefore *not* be added to the figure shown in the second chart of the general statistics section.

Please note that not all of these new infringement cases for late transposition were necessarily still open on 31 December 2017. For example, if the Commission opened a late transposition infringement procedure in March 2017 by sending a letter of formal notice, this would be added to the new infringement cases even if the Commission closed the case in October 2017 as a result of the Member State notifying complete transposition.

##### **Third chart: New late transposition infringement cases opened in 2017: main policy areas**

As a rule, this chart shows the three policy areas in which the most infringement procedures for late transposition were launched in 2017. Four (or more) policies are mentioned if two (or more) policies tied for the third highest number of open infringements. Only two policy areas are highlighted if too many policy areas tied for the third highest number, or if this would make the chart very fragmented (this might occur in Member States with relatively few infringements).

##### **Referrals to the Court**

This section contains the cases which the Commission referred to the Court under Article 258 TFEU and Article 260(3) by 31 December 2017.

#### 5. EARLY RESOLUTION OF INFRINGEMENT CASES

##### **Major cases closed without a Court judgment in 2017**

This section contains a list of the major infringement cases the Commission closed in 2017 without a Court judgment. The list is not exhaustive.

#### 6. IMPORTANT JUDGMENTS

This section contains two lists:

The first list contains the Court's most important judgments against the Member State in 2017. These judgments are almost exclusively handed down under Article 258 or Articles 260(2) TFEU.

The second list contains the most important preliminary rulings the Court has issued to the Member State's judiciary. These lists are not necessarily exhaustive.