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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	12 July 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Delegations will find attached document SWD(2018) 379 final.

Encl.: SWD(2018) 379 final



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

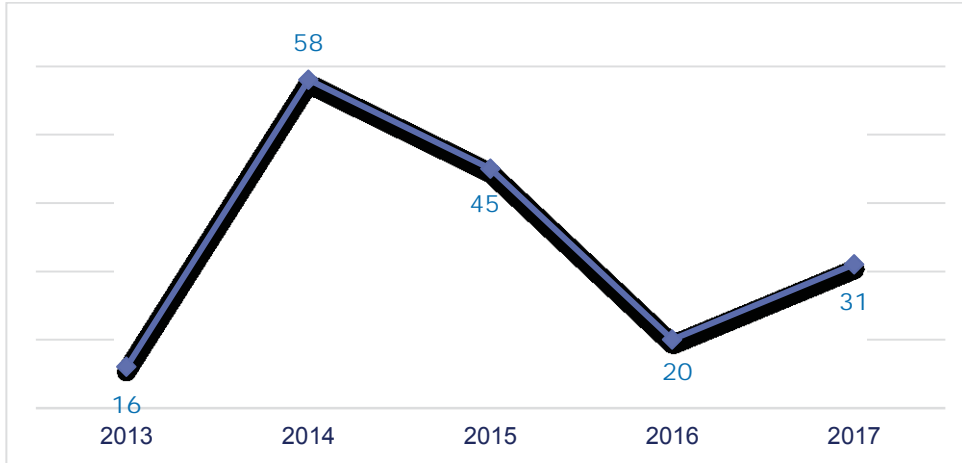
**Monitoring the application of European Union law
2017 Annual Report**

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

Luxembourg

I. COMPLAINTS

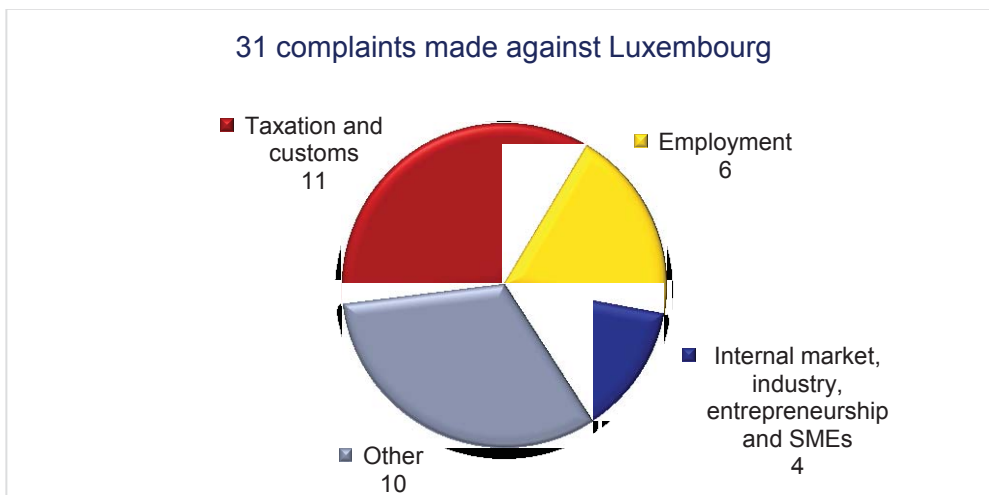
1. New complaints made against Luxembourg by members of the public (2013- 2017)



2. Public complaints against Luxembourg open at year-end

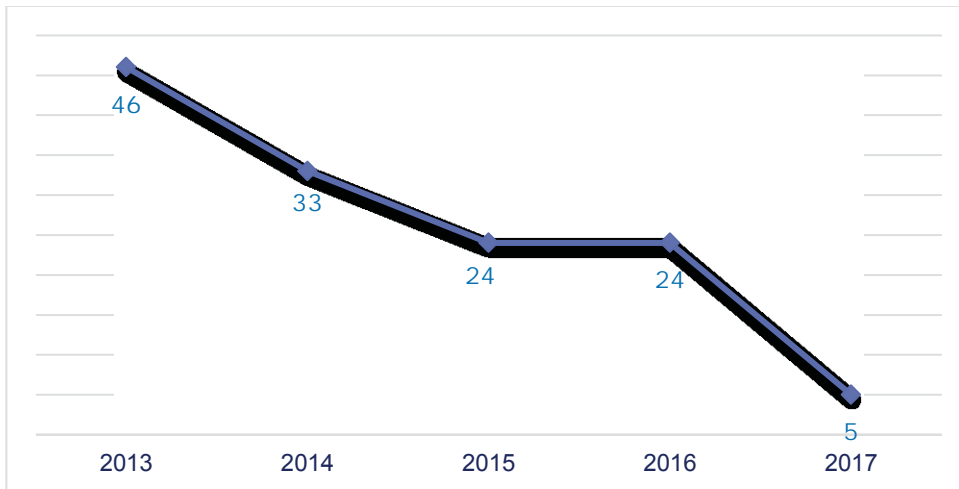
37	>	Complaints open at end-2016
31	>	New complaints registered in 2017
20	>	Complaints handled in 2017
= 48	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

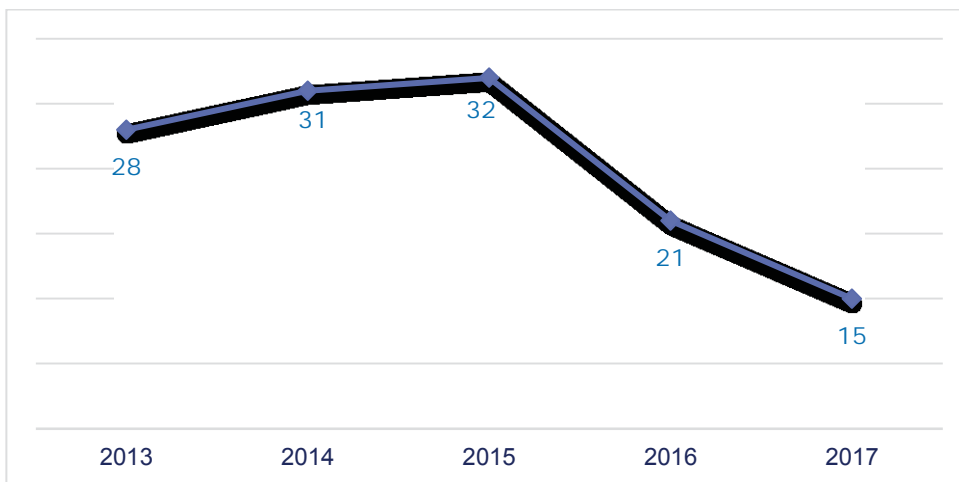


II. EU PILOT

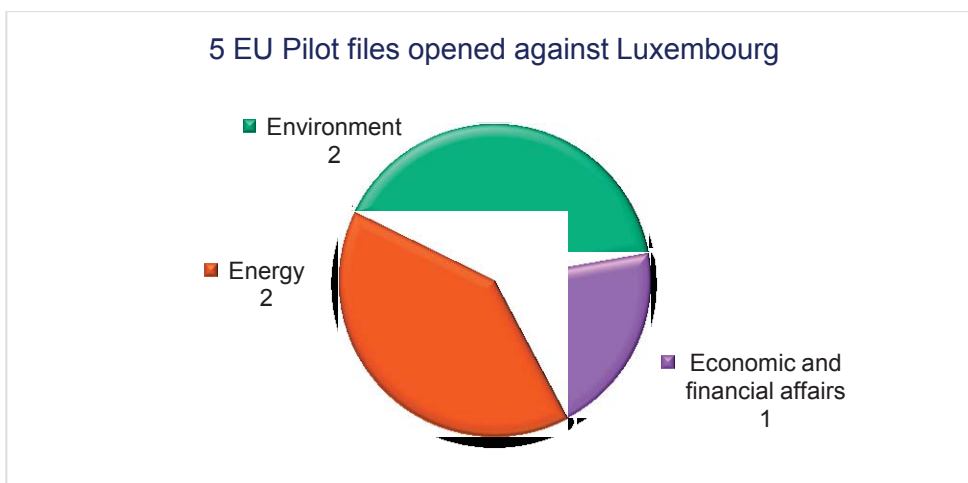
1. New EU Pilot files opened against Luxembourg (2013-2017)



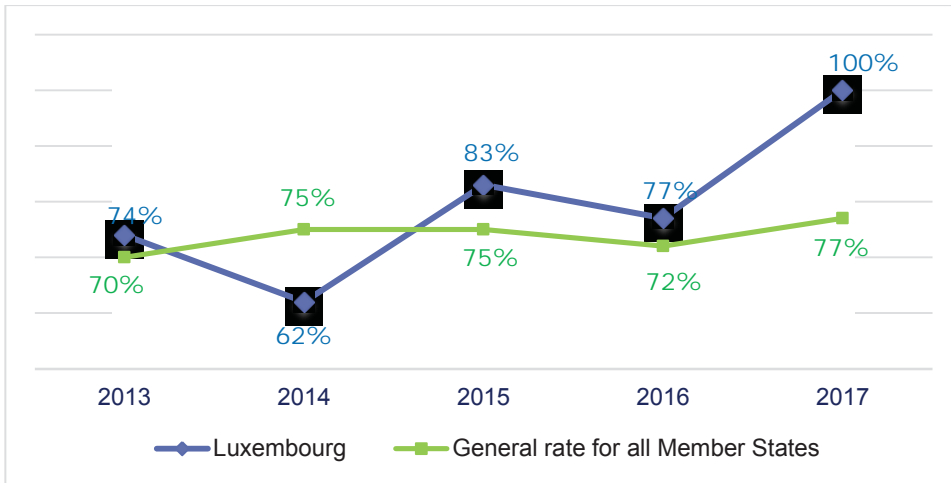
2. Files relating to Luxembourg open in EU Pilot at year-end



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

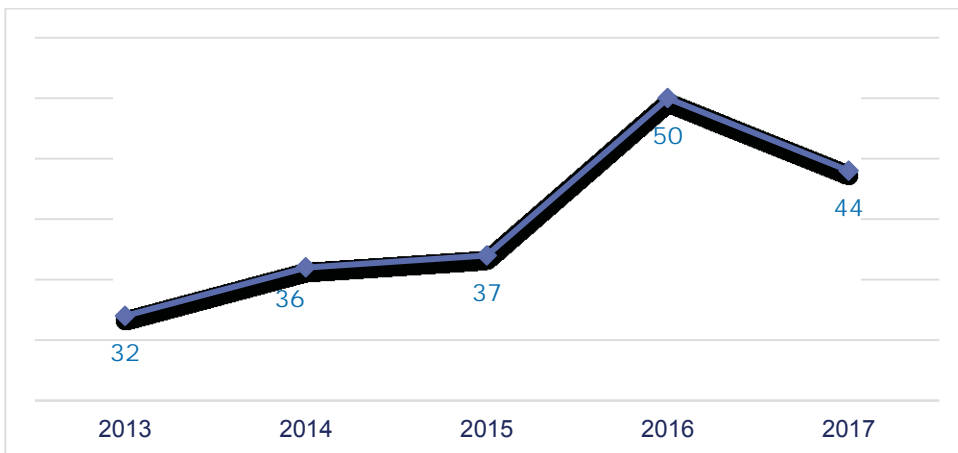


4. EU Pilot files: Luxembourg's resolution rate in 2013-2017

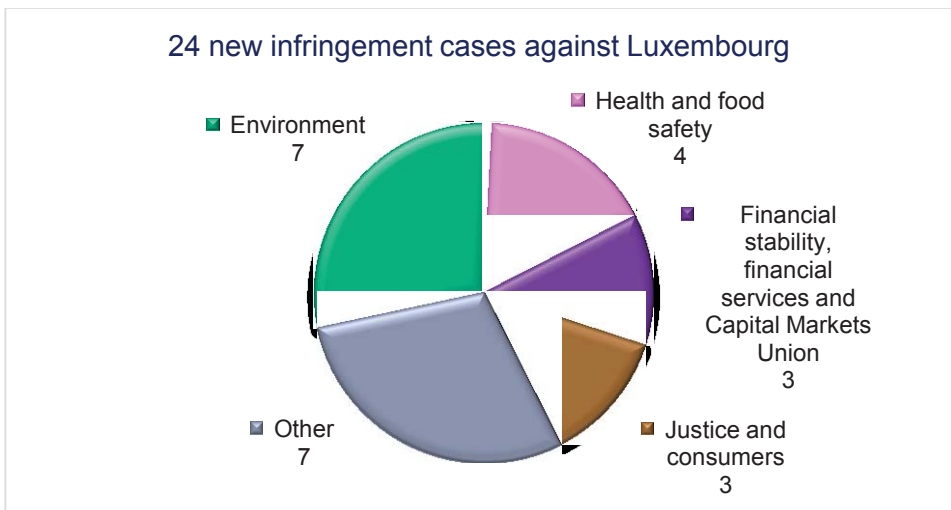


III. INFRINGEMENT CASES

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



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

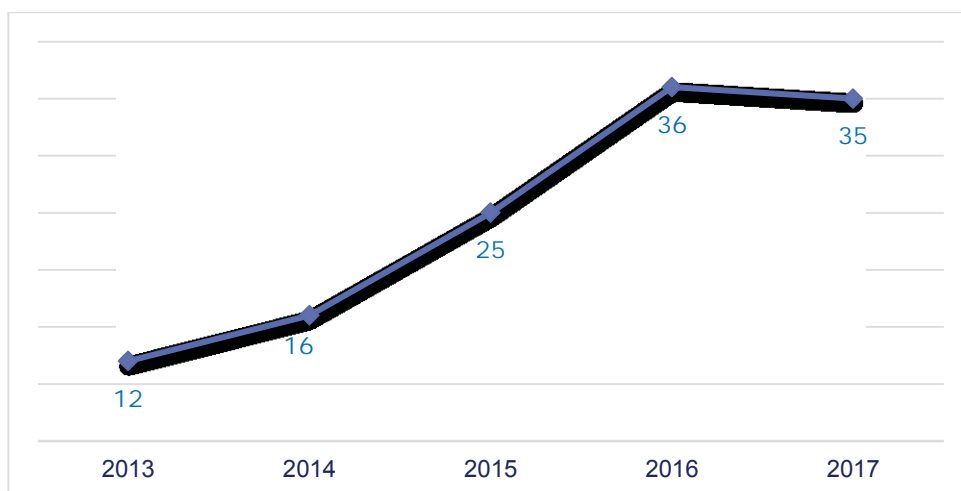


3. Key infringement cases and referrals to the Court

- 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 caseinates¹;
 - 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 Directive²;
 - '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)³;
 - Payment Accounts Directive⁴;
 - Directive on the organisation of working time in inland waterway transport⁵;
 - amending Nuclear Safety Directive⁶;
 - failure to comply with reporting obligations under EU waste legislation⁷;
 - failure to ensure proper monitoring of air quality throughout their whole territory⁸.
- 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.

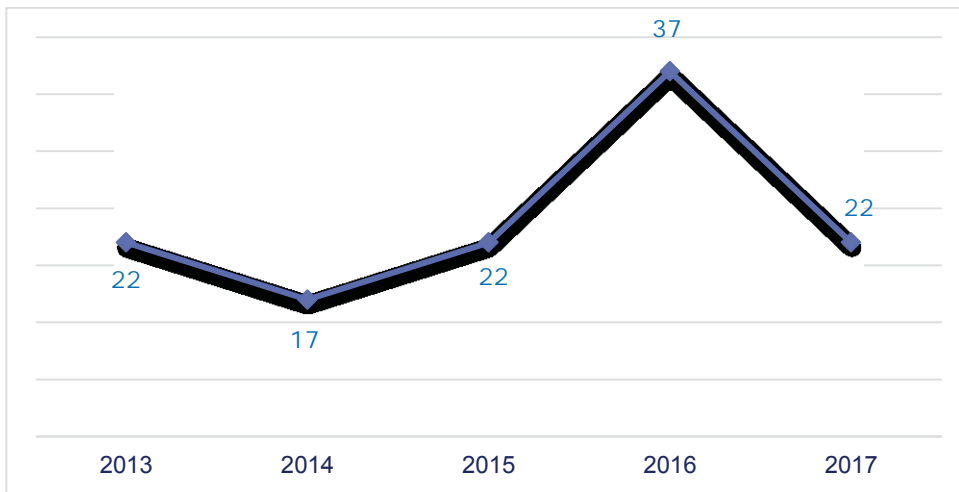
IV. TRANSPOSITION OF DIRECTIVES

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

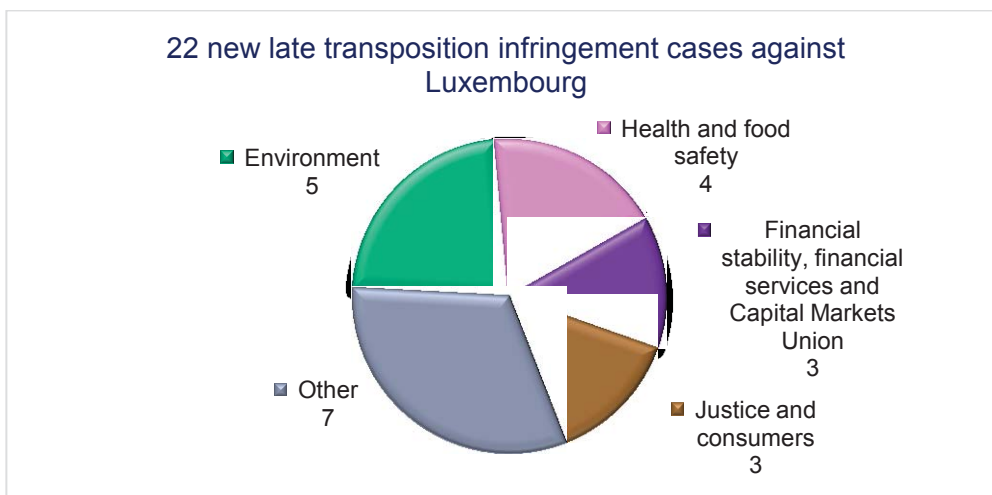


¹ Directive [2015/2203/EU](#).
² Directive [2015/849/EU](#). [MEMO/17/4767](#);
³ Directive [2014/65/EU](#).
⁴ Directive [2014/92/EU](#).
⁵ Directive [2014/112/EU](#).
⁶ Directive [2014/87/Euratom](#).
⁷ [MEMO/17/1281](#).
⁸ [MEMO/17/3494](#).

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 caseinates⁹;
 - Commission Directive¹⁰ amending the Groundwater Directive¹¹;
 - Directive on recognition of professional qualifications¹²;

⁹ Directive [2015/2203/EU](#).

¹⁰ Directive [2014/80/EU](#).

¹¹ Directive [2006/118/EC](#).

- Solvency II Directive¹³;
- Directive on marine equipment¹⁴;
- Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority¹⁵; Transparency Directive¹⁶; and Accounting Directive¹⁷;
- non-compliance with the Railway Safety Directive¹⁸;
- incorrect implementation of the Directive on driving licences¹⁹.

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁰

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 groups²¹, 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 Court²².
- 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 grounds²³.

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-compliance²⁴.

¹² Directive [2005/36/EC](#).

¹³ Directive [2009/138/EC](#).

¹⁴ Directive [2014/90/EU](#).

¹⁵ Directive [2014/51/EU](#).

¹⁶ Directive [2013/50/EU](#).

¹⁷ Directive [2013/34/EU](#).

¹⁸ Directive [2004/49/EC](#).

¹⁹ Directive [2006/126/EC](#).

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

²¹ Associations of taxpayers who come together to purchase services from third parties.

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

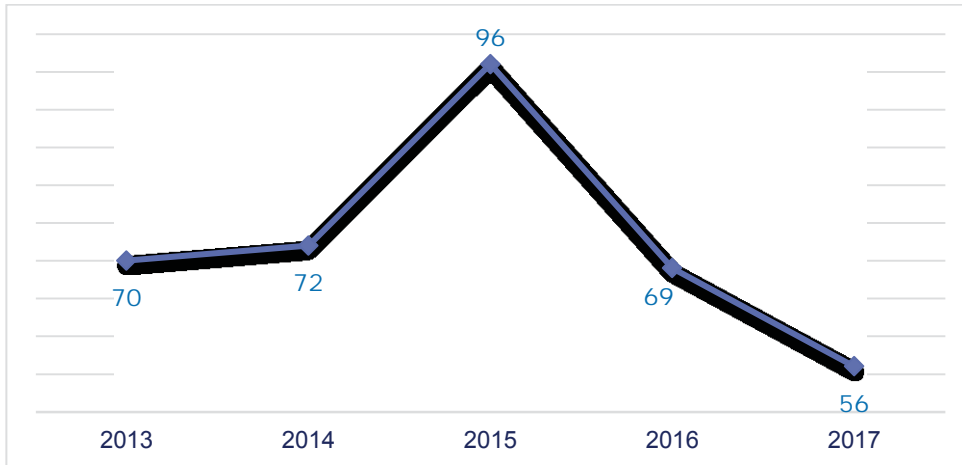
²³ Regulation (EC) No [1083/2006](#), Luxembourg v Commission, [T-109/10](#).

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

Hungary

I. COMPLAINTS

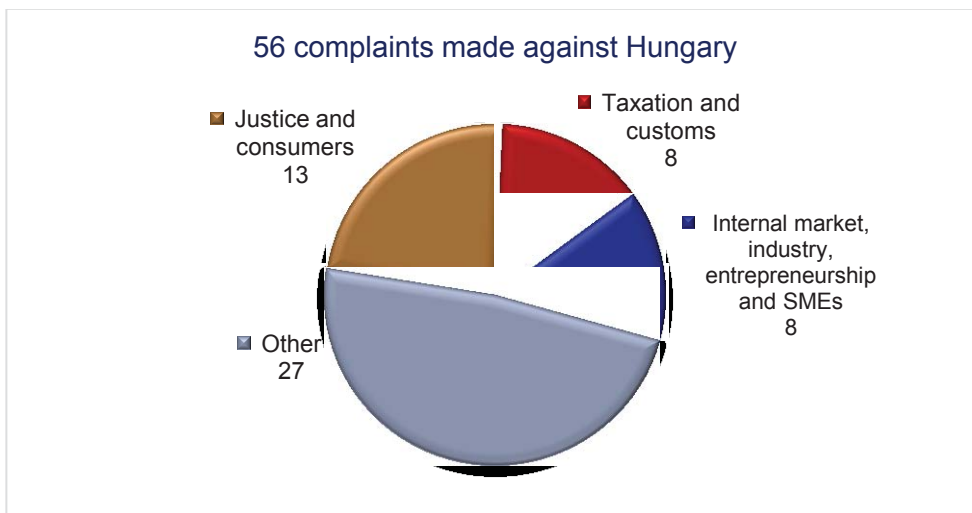
1. New complaints made against Hungary by members of the public (2013-2017)



2. Public complaints against Hungary open at year-end

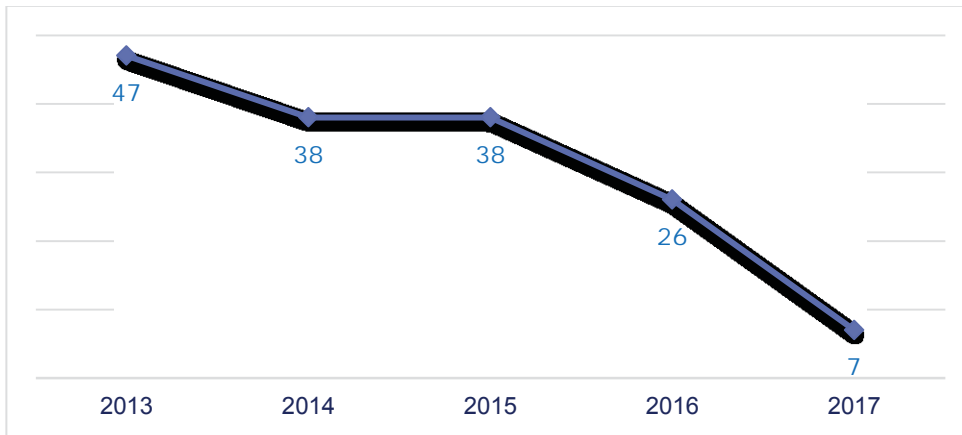
65	>	Complaints open at end-2016
56	>	New complaints registered in 2017
56	>	Complaints handled in 2017
= 65	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

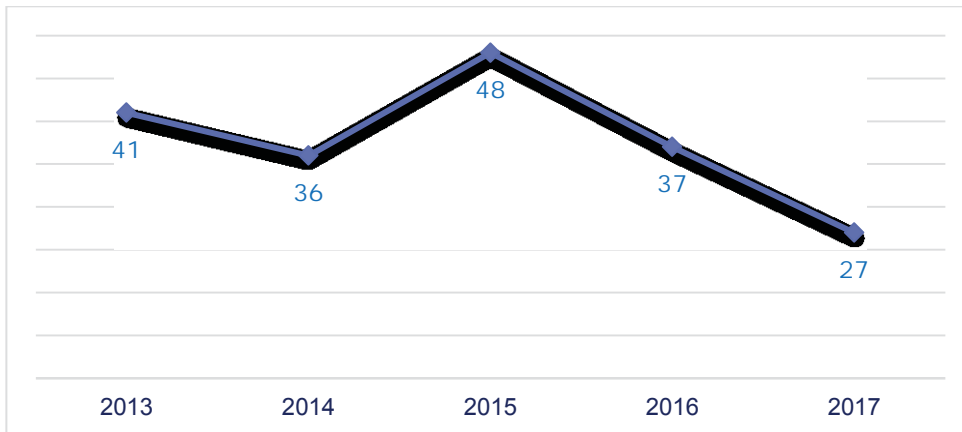


I. EU PILOT

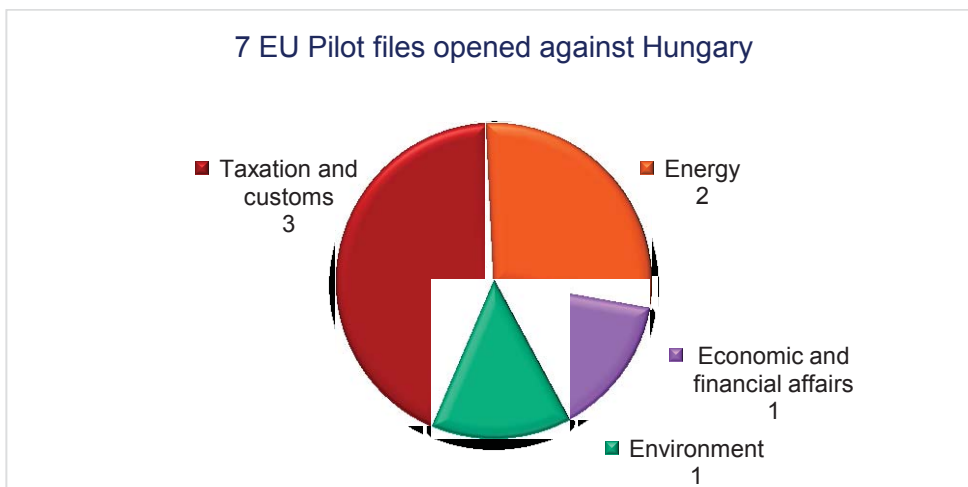
1. New EU Pilot files opened against Hungary (2013-2017)



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

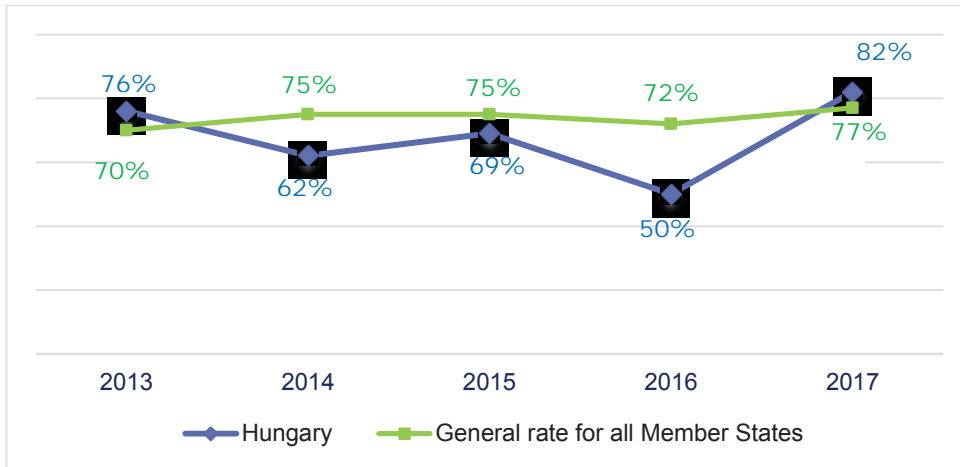


3. New EU Pilot files opened in 2017: policy areas



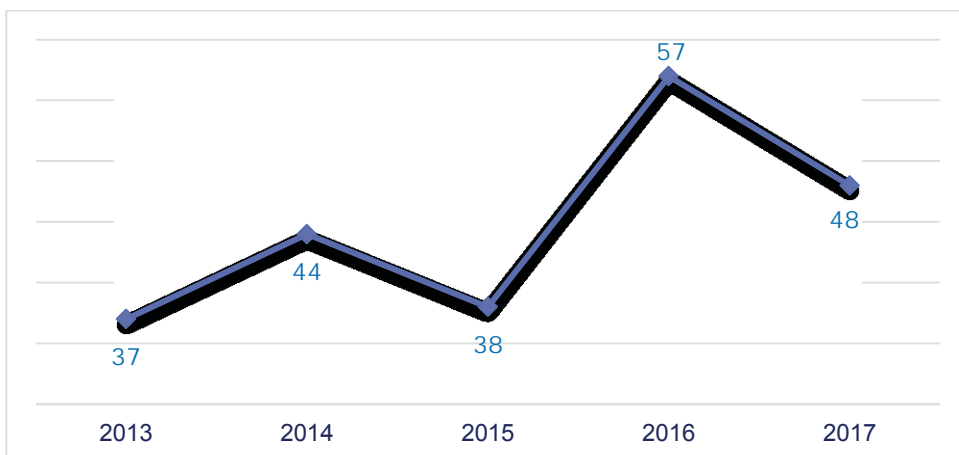
Hungary

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

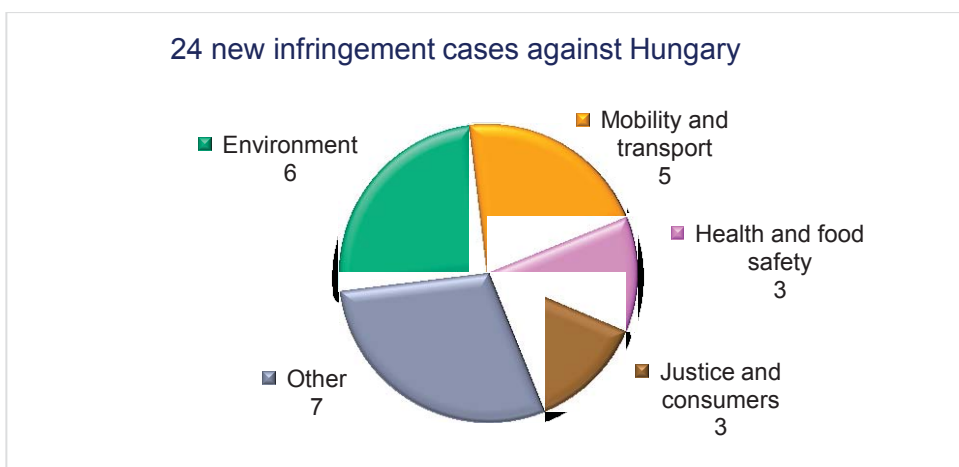


II. INFRINGEMENT CASES

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 treated¹;
 - failure to establish strategic noise maps and action plans required by the Noise Directive²;
 - failure to carry out analysis of the relevant telecom markets on time³;
 - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives)⁴;
 - 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 Rights⁵;
 - violation of EU law by amendments of the Hungarian Higher Education Act, by restricting EU and non-EU universities in their operations⁶;
 - non-compliance with the obligations under the 2015 Council Decisions on relocation of migrants from Greece and Italy⁷;
 - incorrect implementation of the EU asylum and migration *acquis*⁸;
 - cash control, proportionality of national fines⁹;
 - 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 Italy¹⁰.
 - 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 establishment¹¹.
 - Imposition of excessive and unjustified obstacles to cross-border activities by granting an exclusive right to a single operator to provide a service¹².
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ [MEMO/17/4767](#).

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

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

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

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

⁶ [IP/17/5004](#).

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

⁸ [IP/17/5023](#).

⁹ Regulation (EC) No [1889/2005](#).

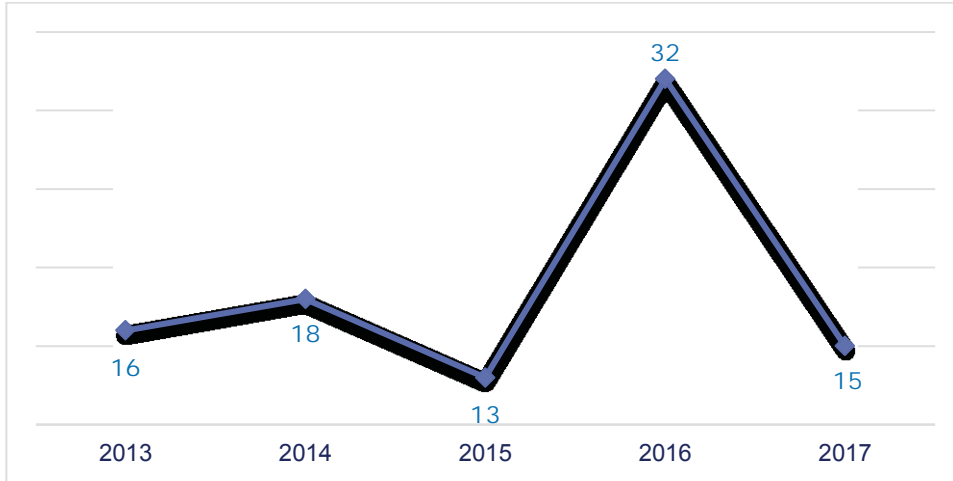
¹⁰ Council Decision (EU) [2015/1523](#) and [2015/1601](#), Commission v Hungary, [C-718/17](#), [IP/17/5002](#).

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

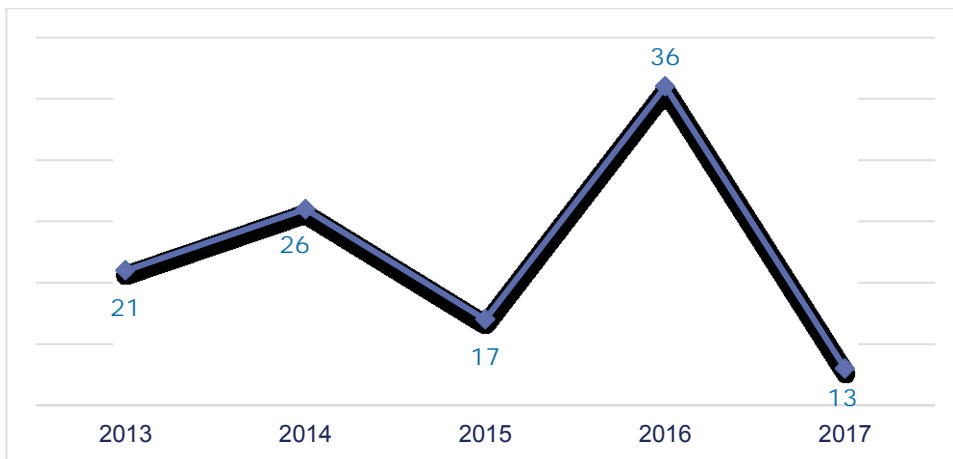
¹² Directive [2006/123/EC](#), Commission v Hungary, [C-171/17](#) and [IP/16/3646](#).

III. TRANSPOSITION OF DIRECTIVES

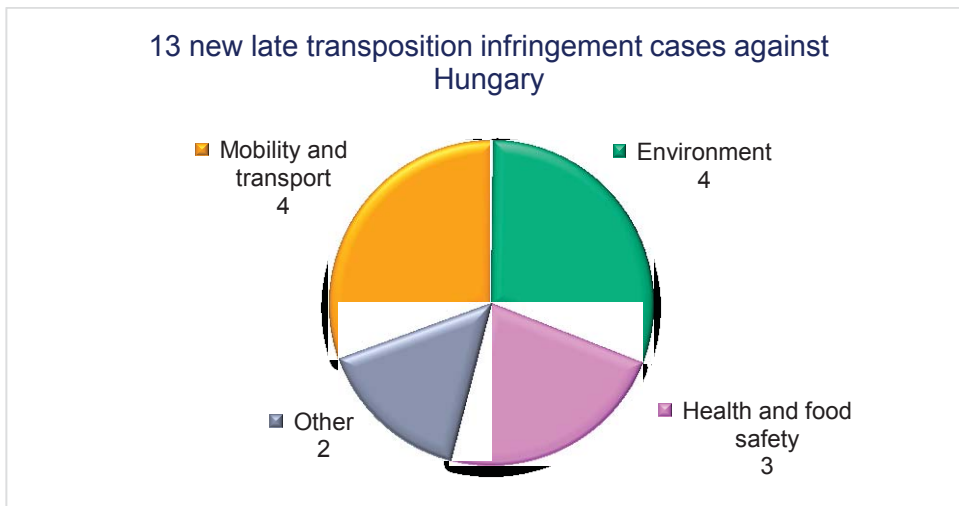
1. Late transposition infringement cases against Hungary open on 31 December (2013-2017)



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 Directive¹³ 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 Directive¹⁴;
 - Directive laying down calculation methods and reporting requirements¹⁵ pursuant to a Directive relating to the quality of petrol and diesel fuels¹⁶.

V. IMPORTANT JUDGMENTS

1. Court rulings¹⁷

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 Treaty¹⁸.
- 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 valid¹⁹. The Court dismissed the actions for annulment brought by Hungary and Slovakia²⁰.
- 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 tenderers²¹.

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 discrimination²².
- 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

¹³ Directive [2003/88/EC](#).

¹⁴ Directive [2013/50/EU](#).

¹⁵ Directive [2015/652/EU](#).

¹⁶ Directive [98/70/EC](#).

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

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

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

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

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

²² 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 objective²³.

- Under the Directive on the charging of heavy goods vehicles for the use of certain infrastructures²⁴, 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 system²⁵.

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

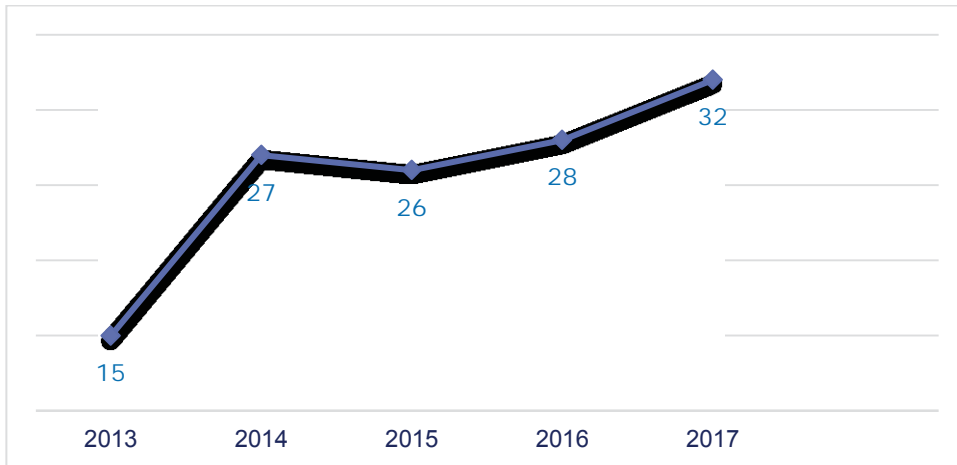
²⁴ Directive [1999/62/EC](#), as amended by Directive [2011/76/EU](#).

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

Malta

I. COMPLAINTS

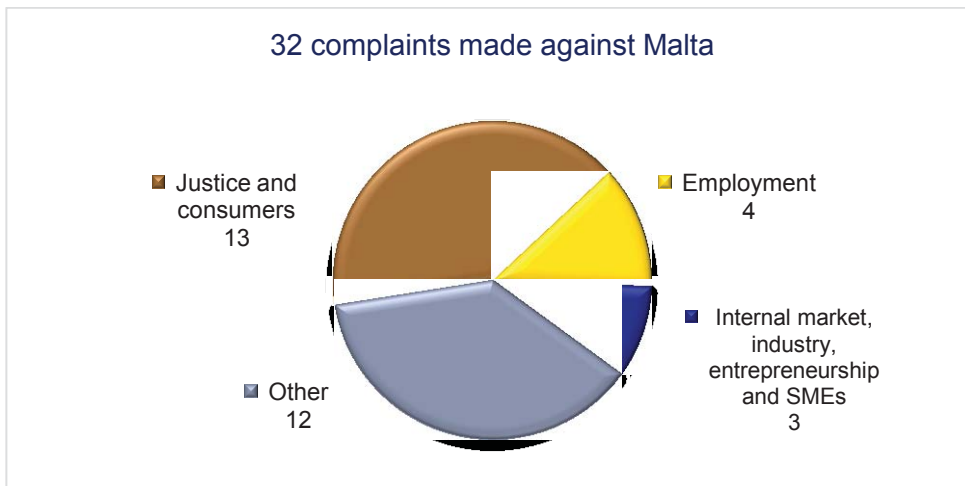
1. New complaints made against Malta by members of the public (2013-2017)



2. Public complaints against Malta open at year-end

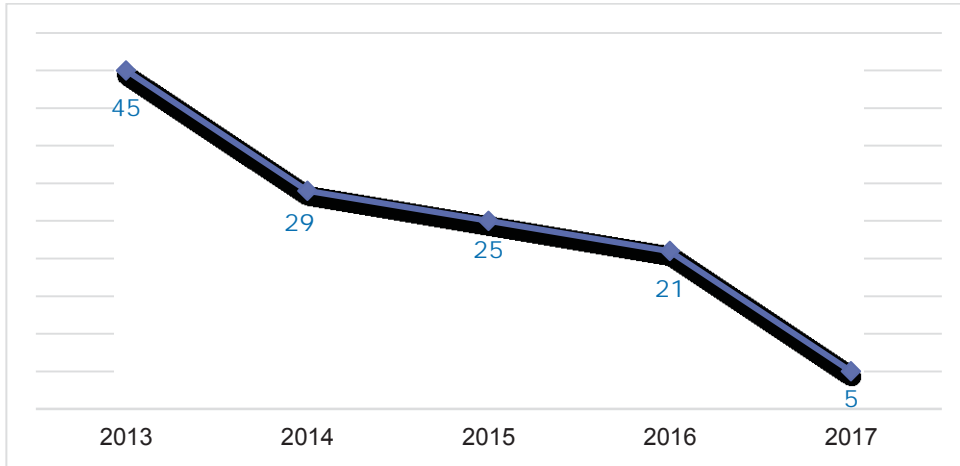
25	>	Complaints open at end-2016
32	>	New complaints registered in 2017
33	>	Complaints handled in 2017
= 24	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

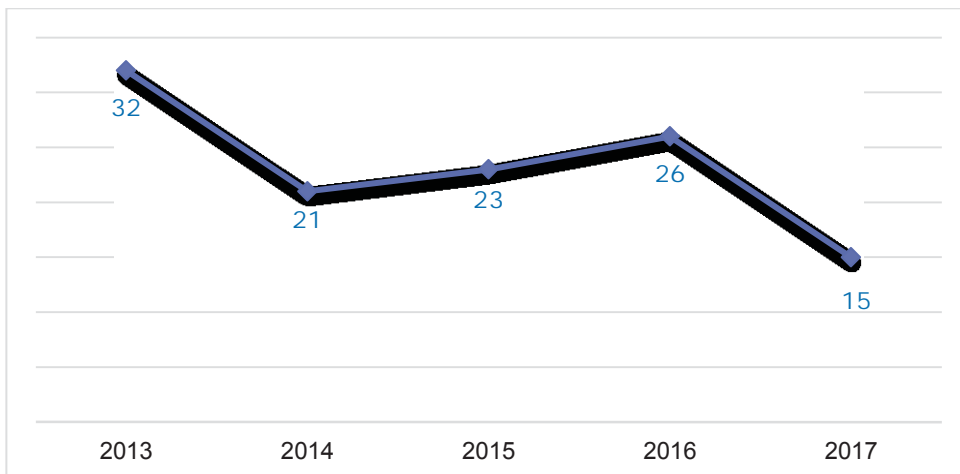


II. EU PILOT

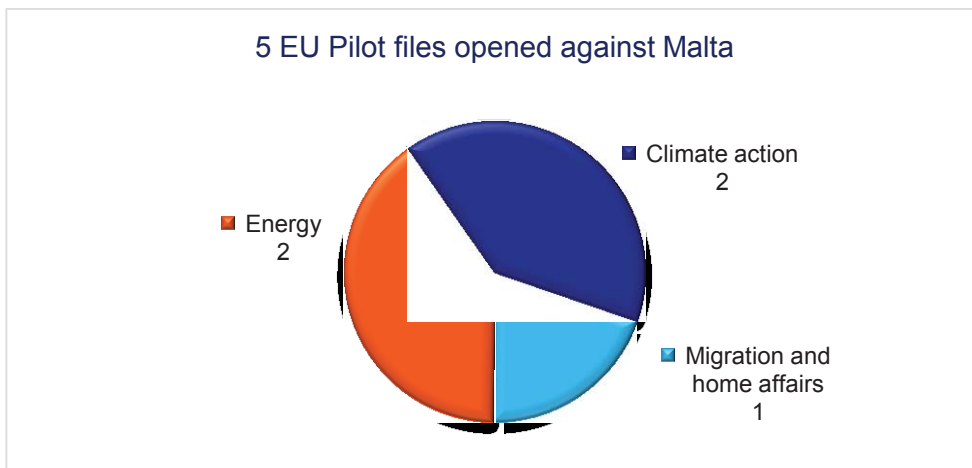
1. New EU Pilot files opened against Malta (2013-2017)



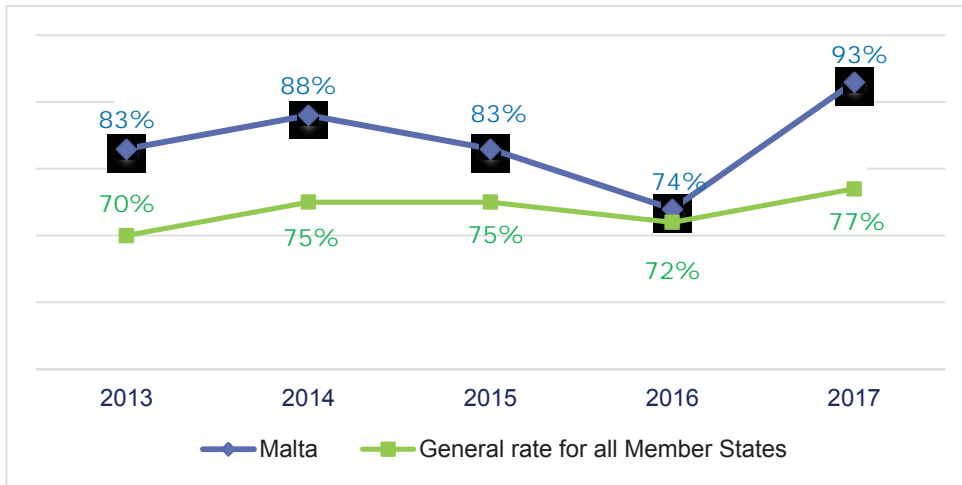
2. Files relating to Malta open in EU Pilot at year-end



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

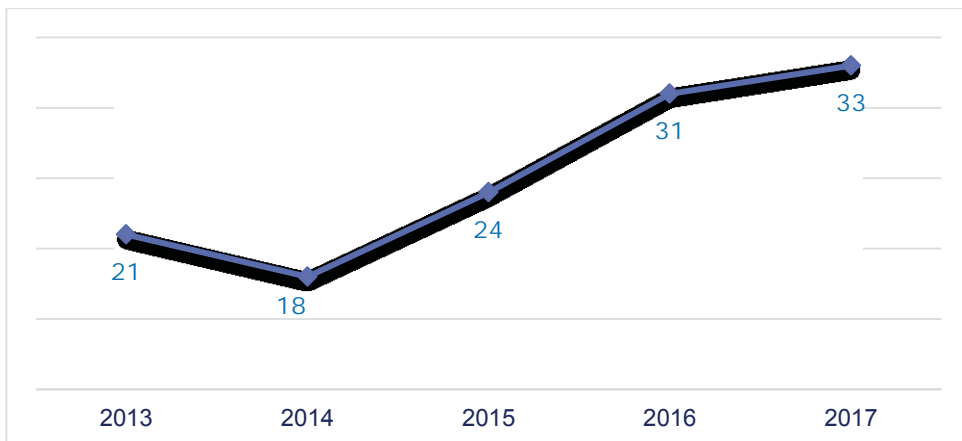


4. EU Pilot files: Malta's resolution rate in 2013-2017

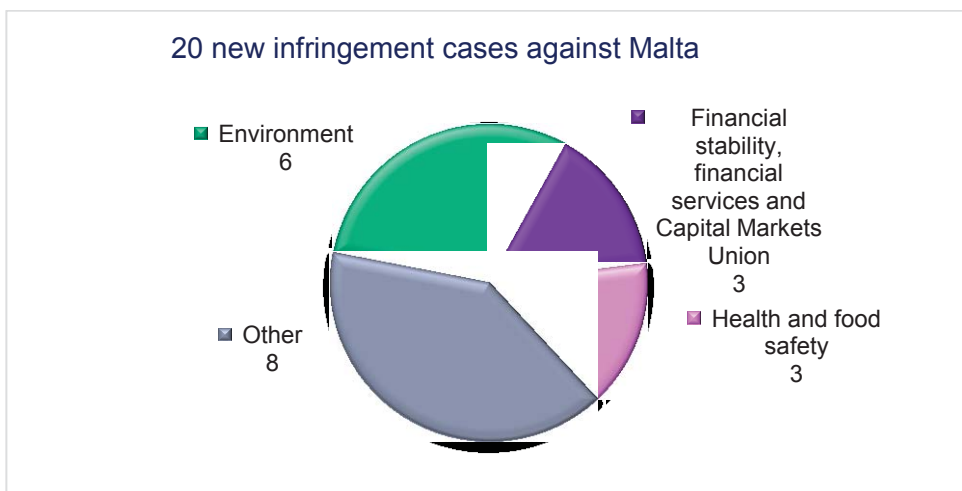


III. INFRINGEMENT CASES

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



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

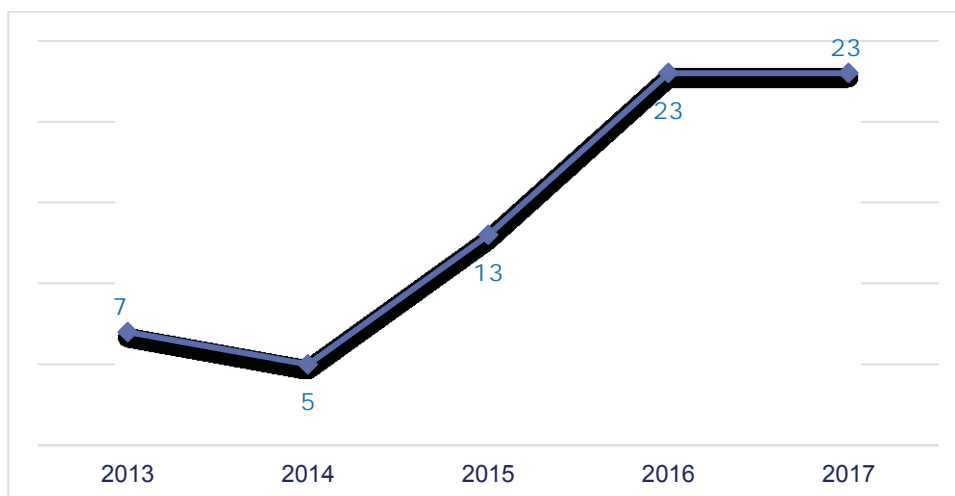


3. Key infringement cases and referrals to the Court

- 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 Directive¹;
 - Directive on recognition of professional qualifications²;
 - Markets in Financial Instruments Directive (MiFID II)³;
 - Directive⁴ laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality⁵;
 - failure to comply with reporting obligations under EU waste legislation⁶;
 - failure to ensure that urban waste water is adequately treated⁷;
 - failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive⁸;
 - incorrect transposition and application of the Energy Performance of Buildings Directive⁹.
- 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.

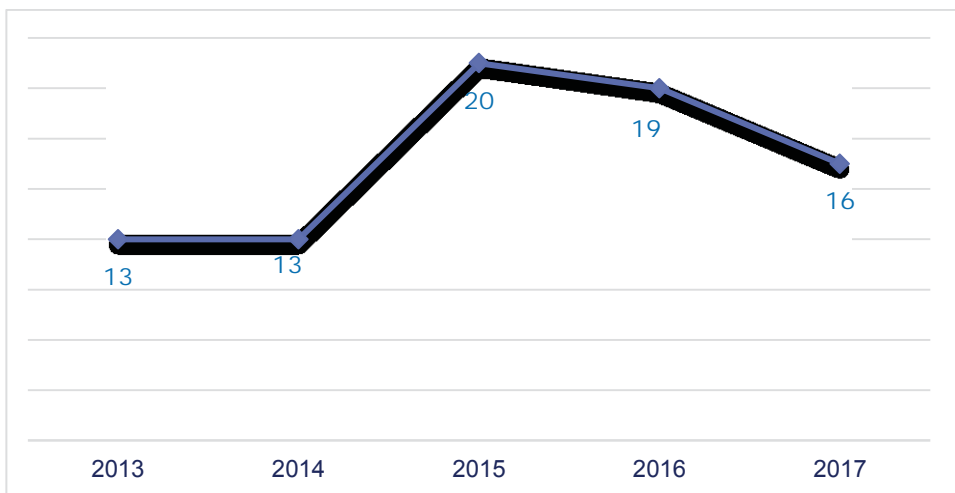
IV. TRANSPOSITION OF DIRECTIVES

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

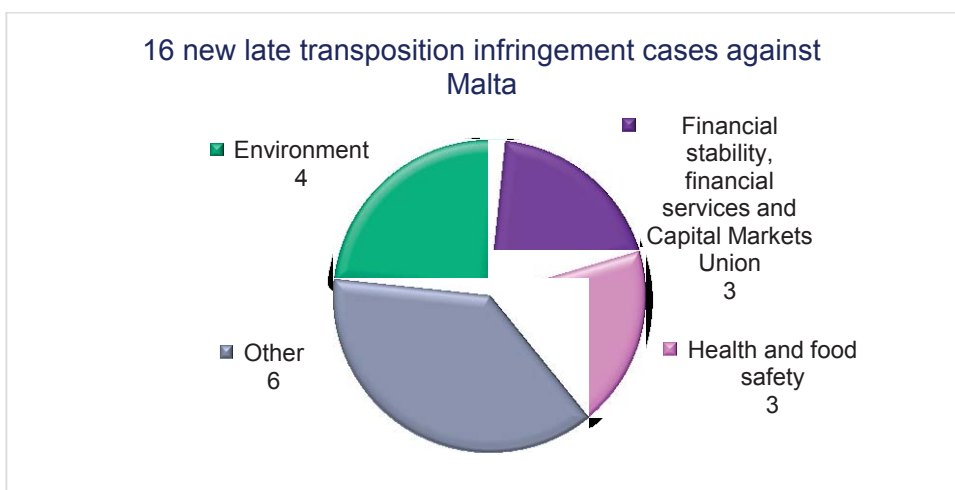


¹ Directive [2015/849/EU](#); [MEMO/17/4767](#).
² Directive [2013/55/EU](#).
³ Directive [2014/65/EU](#).
⁴ Council Directive (EU) [2015/652](#).
⁵ Directive [98/70/EC](#).
⁶ [MEMO/17/1281](#).
⁷ [MEMO/17/3494](#).
⁸ Directive [2008/56/EC](#).
⁹ Directive [2010/31/EU](#); [MEMO/17/4767](#).

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 Directive¹⁰;
 - Directive on the award of concession contracts¹¹;
 - Directive on procurement by entities operating in the water, energy, transport and postal services sectors¹²;
 - 'Qualifications' Directive¹³;

¹⁰ Directive [2014/24/EU](#).

¹¹ Directive [2014/23/EU](#).

¹² Directive [2014/25/EU](#).

- Directive on seasonal workers¹⁴;
- Solvency II Directive¹⁵;
- Omnibus II Directive, in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority¹⁶;
- Accounting Directive¹⁷;
- Directive on deposit guarantee schemes¹⁸;
- failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive¹⁹.

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 qualifications²⁰.

¹³ Directive [2011/95/EU](#).

¹⁴ Directive [2014/36/EU](#).

¹⁵ Directive [2009/138/EC](#).

¹⁶ Directive [2014/51/EU](#).

¹⁷ Directive [2013/34/EU](#).

¹⁸ Directive [2014/49/EU](#).

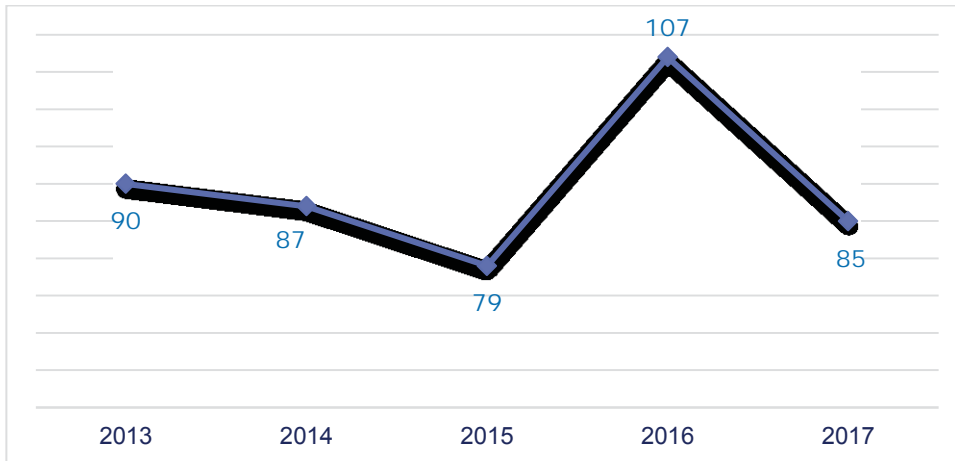
¹⁹ Directive [2008/56/EC](#).

²⁰ Directive [2005/36/EC](#) amended by Directive [2013/55/EU](#), Malta Dental Technologists Association et Reynaud, [C-125/16](#).

Netherlands

I. COMPLAINTS

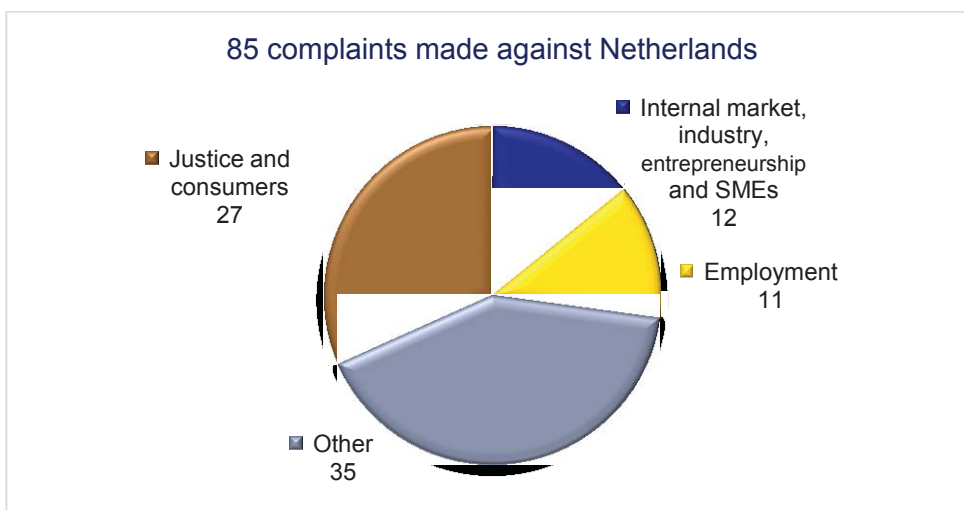
1. New complaints made against the Netherlands by members of the public (2013-2017)



2. Public complaints against the Netherlands open at year-end

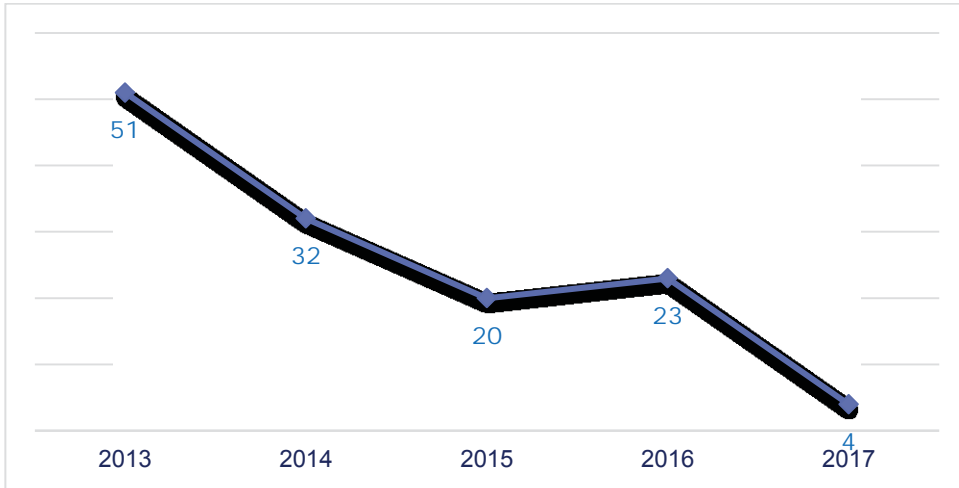
74	>	Complaints open at end-2016
85	>	New complaints registered in 2017
91	>	Complaints handled in 2017
= 68	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy area

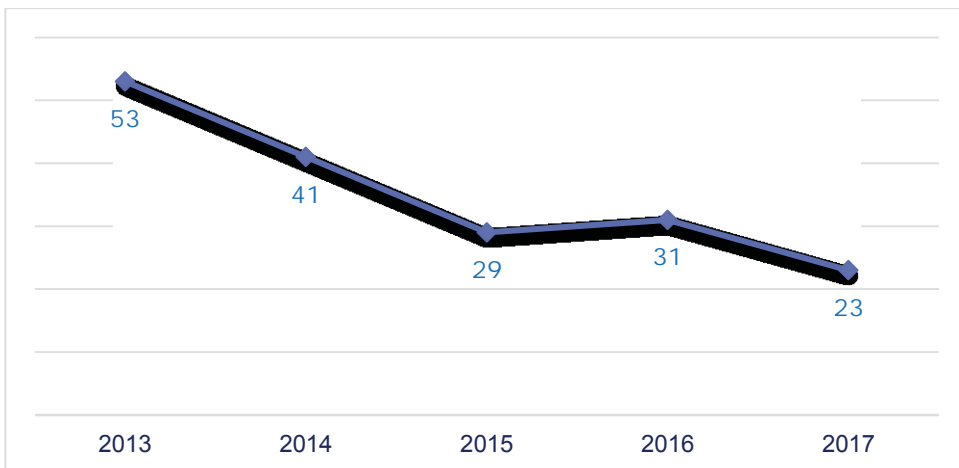


II. EU PILOT

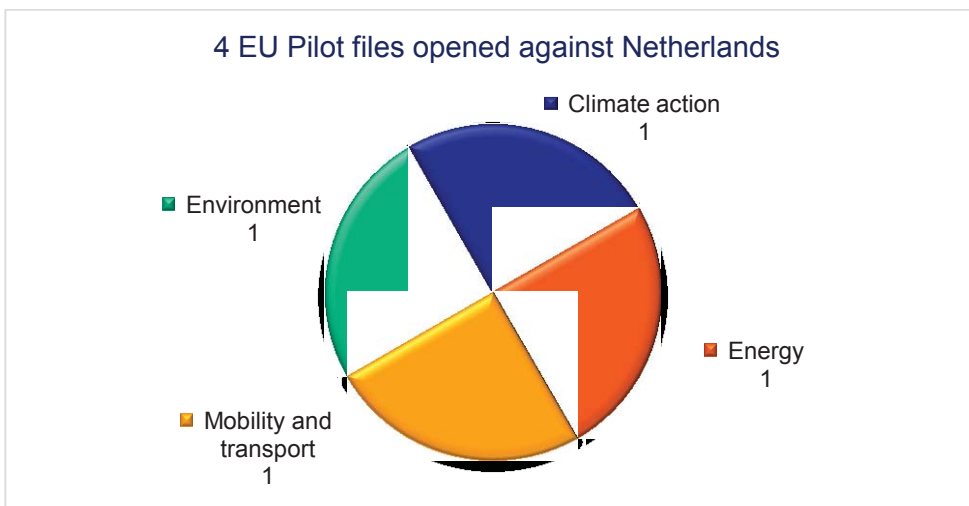
1. New EU Pilot files opened against the Netherlands (2013-2017)



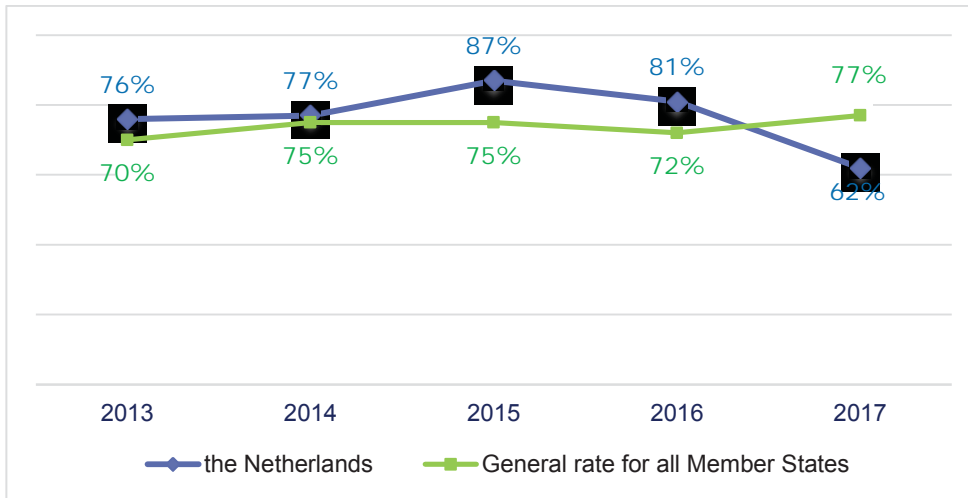
2. Files relating to the Netherlands open in EU Pilot at year-end



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

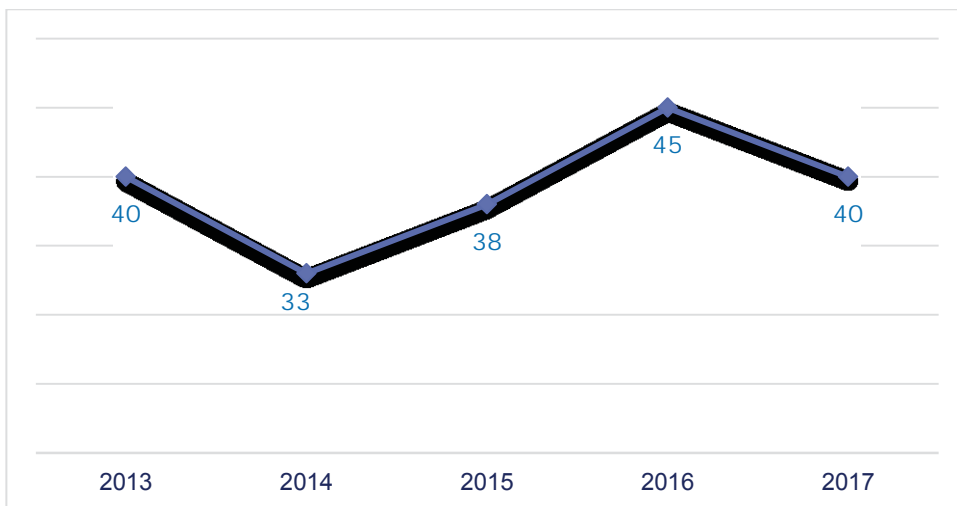


4. EU Pilot files: Netherlands' resolution rate in 2013-2017

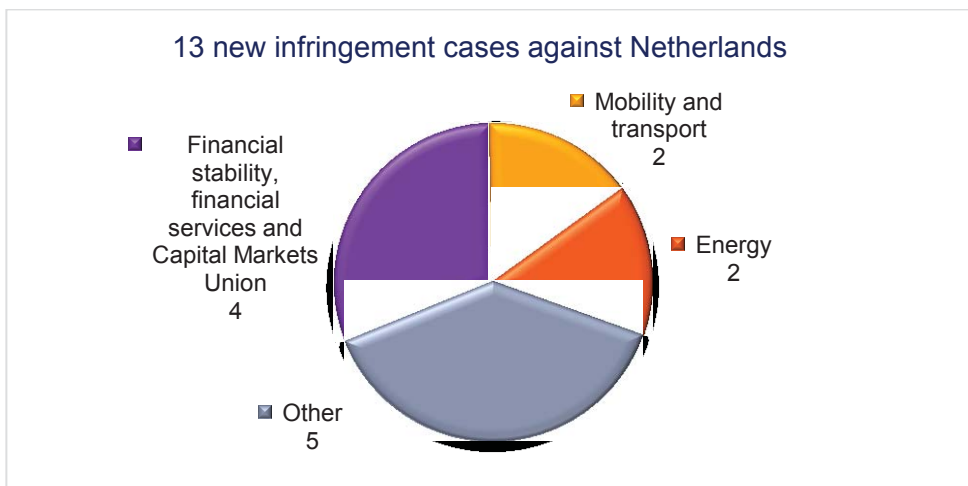


III. INFRINGEMENT CASES

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



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

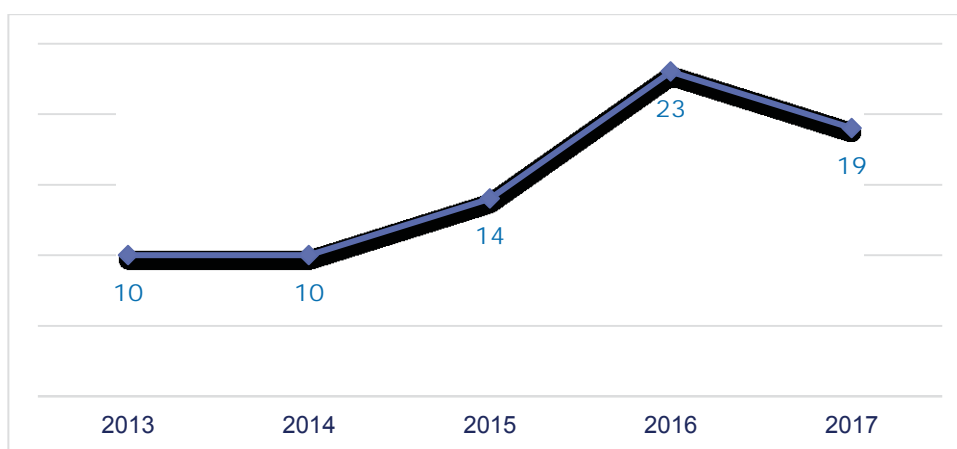


3. Key infringement cases and referrals to the Court

- 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 Directive¹;
 - Markets in Financial Instruments Directive (MiFID II)²;
 - Payment Accounts Directive³;
 - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directive)⁴;
 - failure to comply with reporting obligations under EU waste legislation⁵.
- 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)⁶;
- 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)



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

² Directive [2014/65/EU](#).

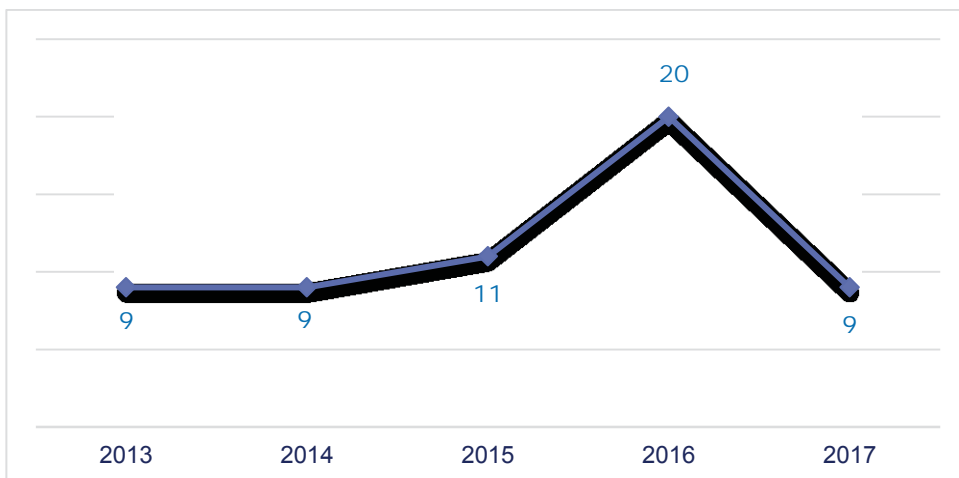
³ Directive [2014/92/EU](#).

⁴ Directive [2009/72/EC](#) and Directive [2009/73/EC](#), [MEMO/17/1577](#).

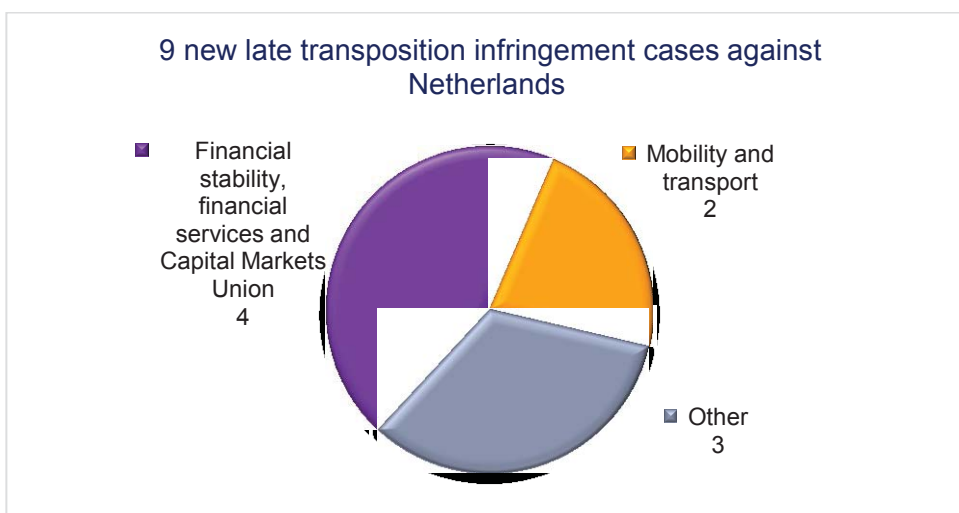
⁵ [MEMO/17/1281](#).

⁶ 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 qualifications⁷;
 - 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)⁸;
 - Directive establishing a single European railway area⁹;

⁷ Directive [2005/36/EC](#).

⁸ Directives [2013/50/EU](#) and [2013/36/EU](#).

⁹ Directive [2012/34/EU](#).

- Accounting Directive¹⁰;
- Directive on disclosure of non-financial and diversity information by certain large undertakings¹¹;
- non-conformity with the Directive on the interoperability of the rail system¹²;
- non-compliance with the freedom of establishment (hazard games act)¹³;
- non-compliance with the Railway Safety Directive¹⁴.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹⁵

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 grounds¹⁶.

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 EU¹⁷.
- 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 content¹⁸.
- 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 into¹⁹.
- 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 act²⁰.
- 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 States²¹.

¹⁰ Directive [2013/34/EU](#).

¹¹ Directive [2014/95/EU](#).

¹² Directive [2008/57/EC](#).

¹³ [IP/17/5109](#).

¹⁴ Directive [2004/49/EC](#).

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

¹⁶ Regulation (EC) No [1082/2006](#), Netherlands v Commission, [T-119/10](#).

¹⁷ Chavez-Vilchez, [C-133/15](#) and Court press release [No 48/17](#).

¹⁸ Stichting Brein v Ziggo BV and XS4All Internet BV, [C-610/15](#).

¹⁹ Bas Jacob Adriaan Krijgsman [C-302/16](#).

²⁰ A, B, C, D, [C-158/14](#).

²¹ 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 goods²².
- 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 separately²³.
- 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 screws²⁴.
- The Transfer of Undertakings Directive²⁵ 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 implemented²⁶.
- The Commission Implementing Decision adopting the eighth update of the list of sites of Community importance for the Atlantic biogeographical region was invalid²⁷.

²² The Shirtmakers BV, [C-59/16](#).

²³ GROFA GmbH and GoPro Coperatief, Joined Cases [C-435/15](#) and [C-666/15](#).

²⁴ Stryker EMEA Supply Chain BV, [C-51/16](#).

²⁵ Directive [2001/23/EC](#).

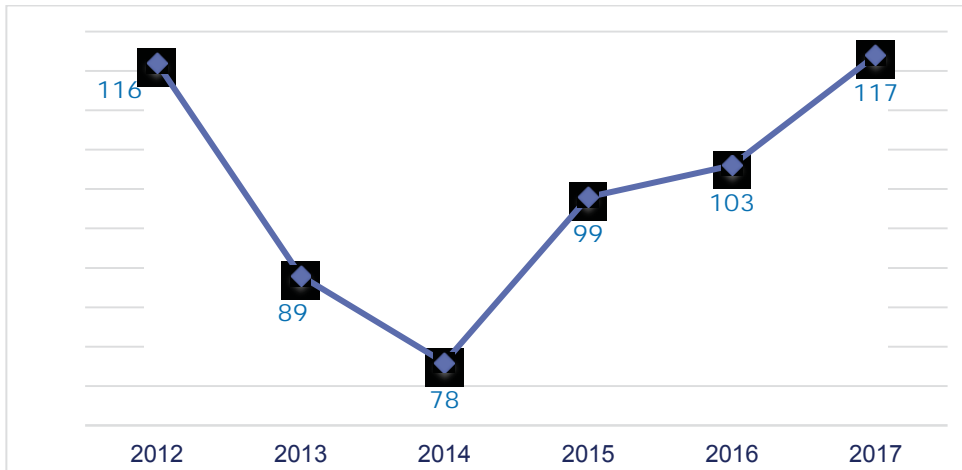
²⁶ Smallsteps, [C-126/16](#).

²⁷ 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

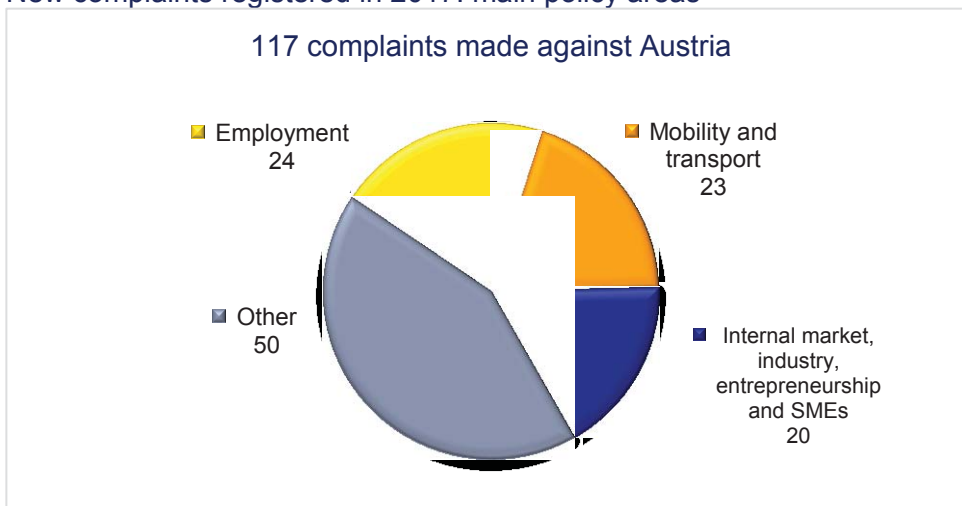
104 > Complaints open at end-2016

117 > New complaints registered in 2017

99 > Complaints handled in 2017

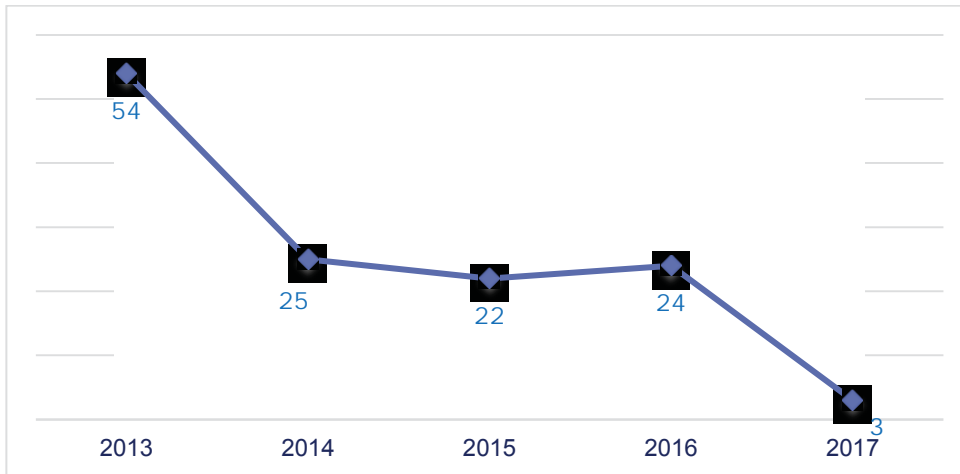
= 122 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

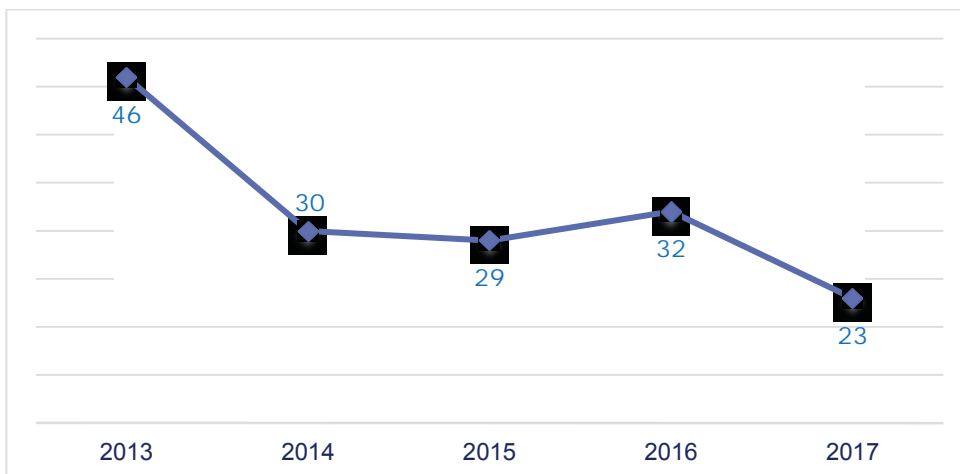


II. EU PILOT

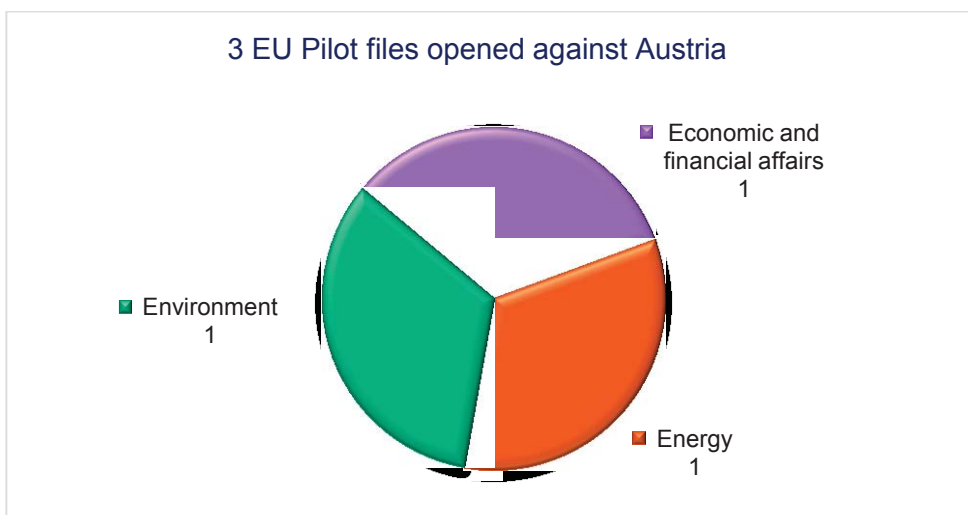
1. New EU Pilot files opened against Austria (2013-2017)



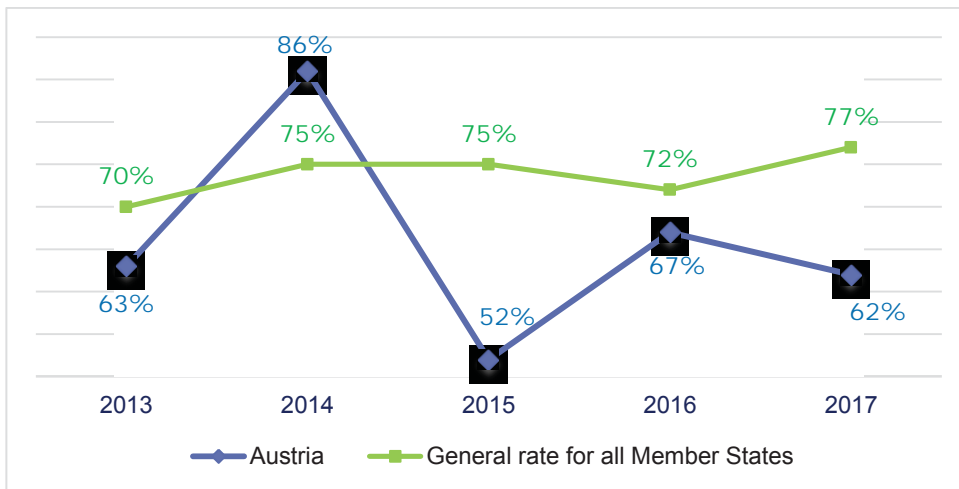
2. Files relating to Austria open in EU Pilot at year-end



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

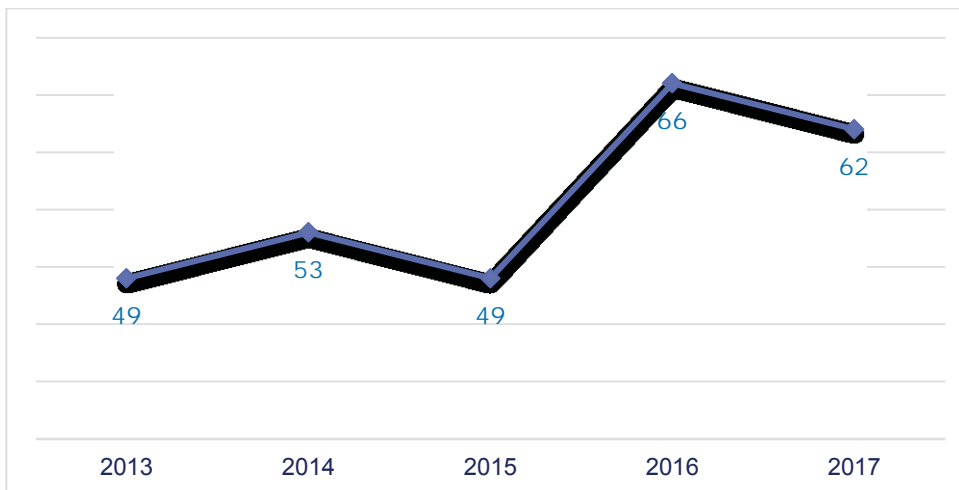


4. EU Pilot files: Austria's resolution rate in 2013-2017

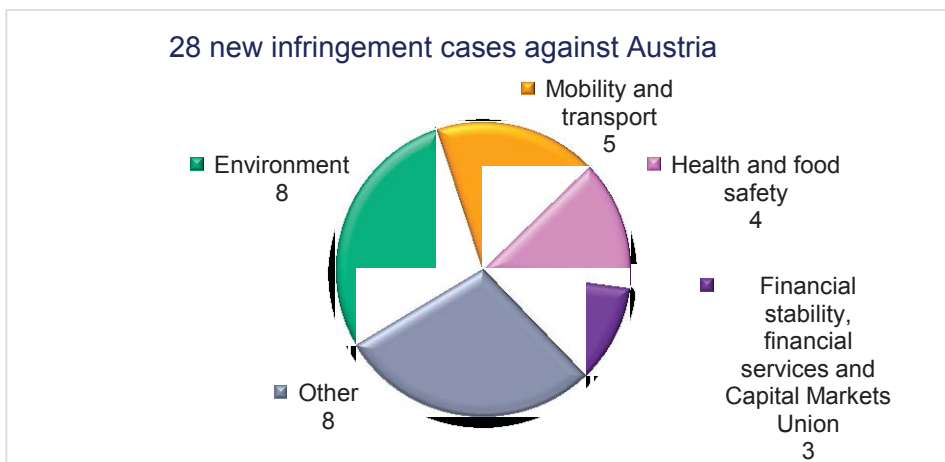


III. INFRINGEMENT CASES

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



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



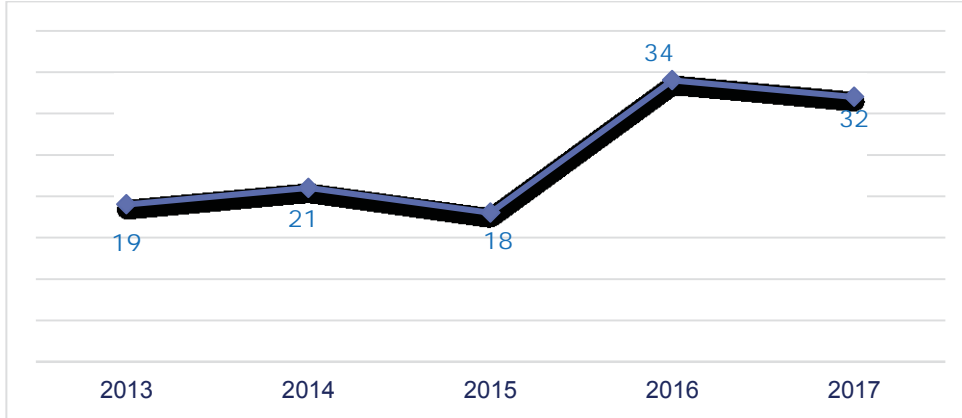
3. Key infringement cases and referrals to the Court

- 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 qualification¹;
 - Directive² laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality³;
 - Seveso-III Directive⁴;
 - amending Nuclear Safety Directive⁵;
 - failure to adopt a national programme for spent fuel and radioactive waste management compliant with the requirements of the Radioactive Waste Directive⁶;
 - failure to comply with reporting obligations under EU waste legislation;⁷
 - late adoption of the second round of river basin management plans under the Water Framework Directive⁸;
 - restrictions on the provision of transport services and free movement of goods deriving from the national law on posting of workers⁹.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

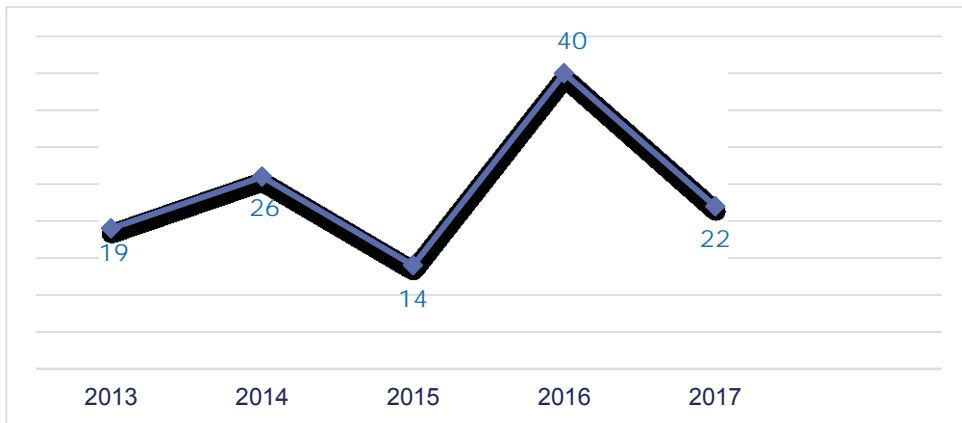
¹ Directive [2013/55/EU](#).
² Directive [2015/652/EU](#).
³ Directive [98/70](#).
⁴ Directive [2012/18/EU](#).
⁵ Directive [2014/87/Euratom](#).
⁶ Directive [2011/70/Euratom](#), [MEMO/17/1935](#).
⁷ [MEMO/17/1577](#).
⁸ Directive [2000/60/EC](#).
⁹ Directive [96/71/EC](#), [IP/17/1053](#).

IV. TRANSPOSITION OF DIRECTIVES

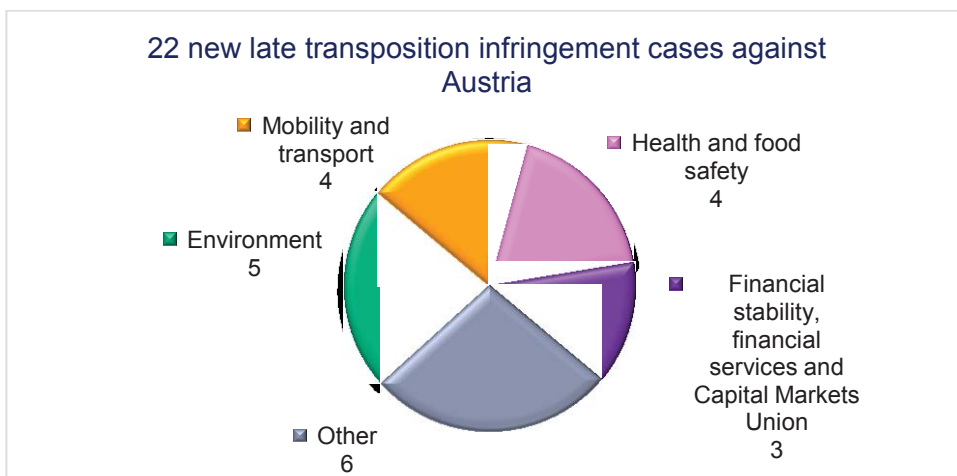
1. Late transposition infringement cases against Austria open on 31 December (2013-2017)



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 qualifications¹⁰;
 - Solvency II Directive¹¹;
 - Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority¹²;
 - Directive as regards disclosure of non-financial and diversity information by certain large undertakings¹³;
 - Directive on port reception facilities for ship-generated waste and cargo residues¹⁴;
- non-compliance with the Directive establishing a single European railway area (separation of accounts)¹⁵.

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 person¹⁶.
- 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 proceedings¹⁷.
- 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

¹⁰ Directive [2005/36/EC](#).

¹¹ Directive [2009/138/EC](#).

¹² Directive [2014/51/EU](#).

¹³ Directive [2014/95/EU](#).

¹⁴ Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

¹⁵ Directive [2012/34/EU](#).

¹⁶ Majid Shiri, [C-201/16](#).

¹⁷ Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation, [C-664/15](#).

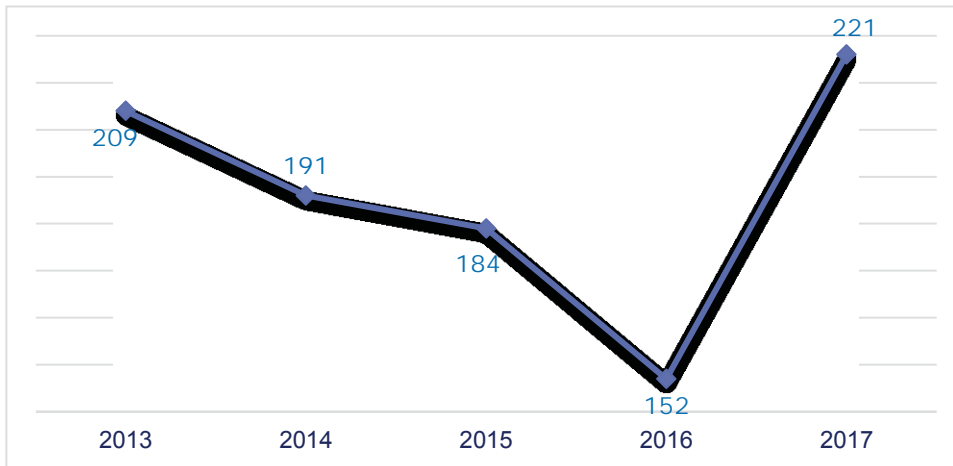
water, solely based on the fact that it is covered by an authorisation granted under that national legislation. Also not compatible with EU law is national legislation which does not entitle people holding fishing rights to initiate a review procedure for environmental damage¹⁸.

¹⁸ 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

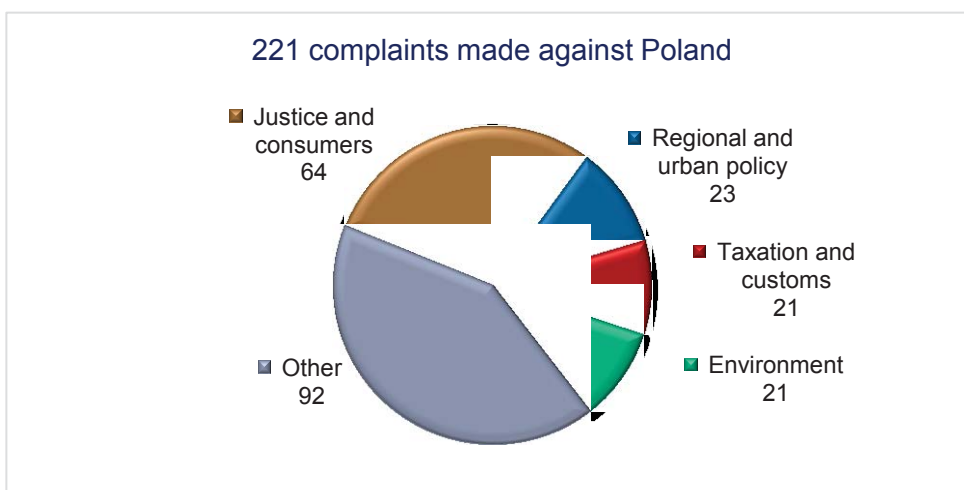
133 > Complaints open at end-2016

221 > New complaints registered in 2017

184 > Complaints handled in 2017

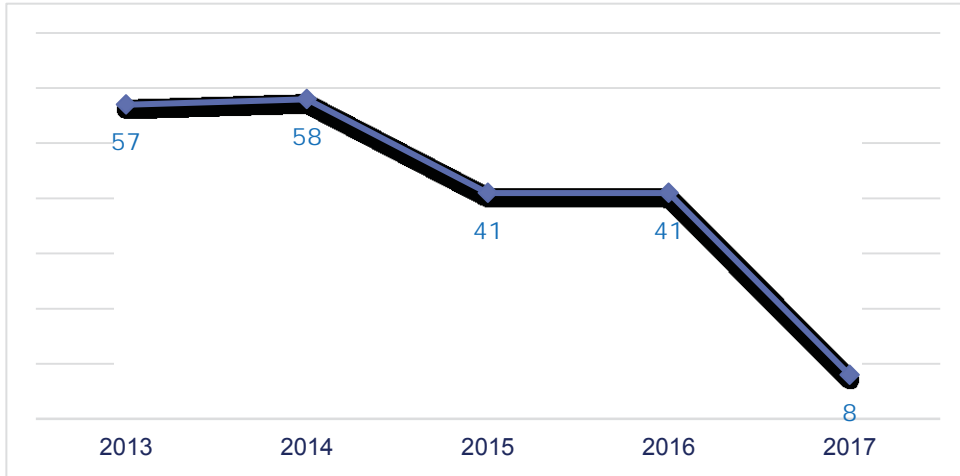
= 170 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

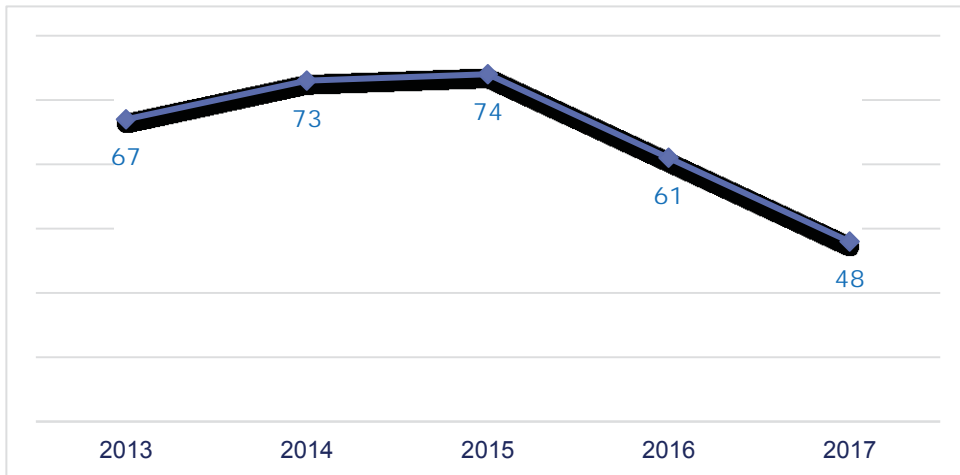


II. EU PILOT

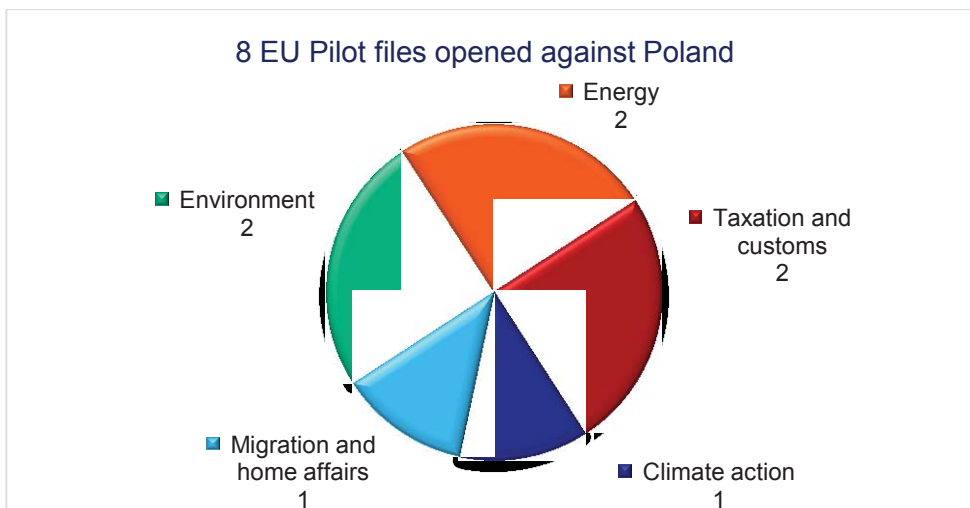
1. New EU Pilot files opened against Poland (2013-2017)



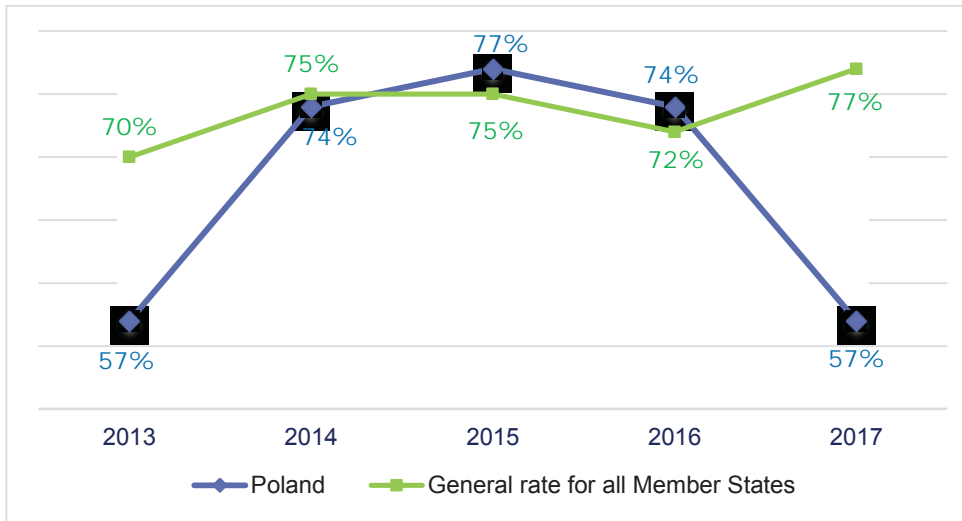
2. Files relating to Poland open in EU Pilot at year-end



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

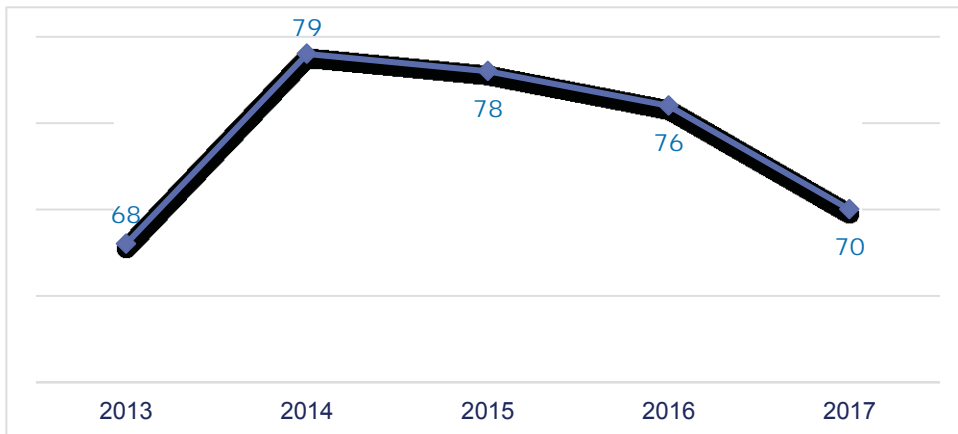


4. EU Pilot files: Poland's resolution rate in 2013-2017

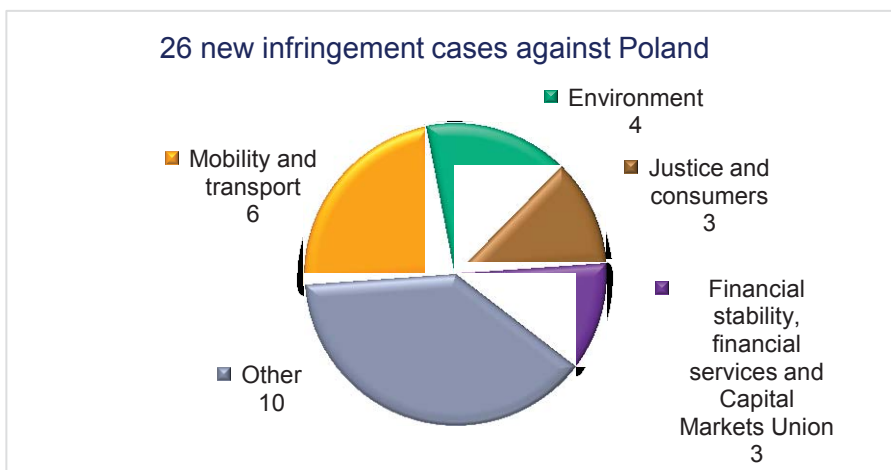


III. INFRINGEMENT CASES

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 Rights¹.
 - Non-compliance with the Renewable Energy Directive².
 - Failure to carry out analysis of the relevant telecom markets on time³.
 - Non-compliance with the obligations under the 2015 Council Decisions on relocation of migrants from Greece and Italy⁴.
 - Failure to establish strategic noise maps and action plans required by the Noise Directive⁵.
 - 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 programmes⁶.
 - Non-communication of national measures transposing the:
 - Cable and Satellite Directive⁷;
 - Markets in Financial Instruments Directive (MiFID II) and the Audit Directive⁸;
 - Fourth Anti-Money Laundering Directive⁹;
 - Directive on seafarers¹⁰;
 - Directive on the organisation of working time in inland waterway transport¹¹.
- 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 Italy¹²;
 - implementation of the Directive on axle weights limits¹³;
 - increased logging operations in the Białowieża Forest in breach of the Birds and Habitats Directives¹⁴.
- b) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ [IP/17/2205](#); [IP/17/3186](#) and [IP/17/5367](#).

² Directive [2009/28/EC](#), [MEMO/17/1045](#).

³ Directive [2002/21/EC](#), [MEMO/17/3494](#).

⁴ Council Decisions (EU) [2015/1523](#) and [2015/1601](#); [IP/17/5002](#).

⁵ Directive [2002/49/EC](#); [MEMO/17/1281](#).

⁶ Failure to comply with the Court judgment *Commission v Poland*, [C-356/13](#).

⁷ Directive [93/83/CEE](#).

⁸ Directives [2016/1034/EU](#) and [2014/56/EU](#).

⁹ Directive [2015/849/EU](#), [MEMO/17/4767](#).

¹⁰ Directive [2015/1794/EU](#).

¹¹ Directive [2014/112/EU](#).

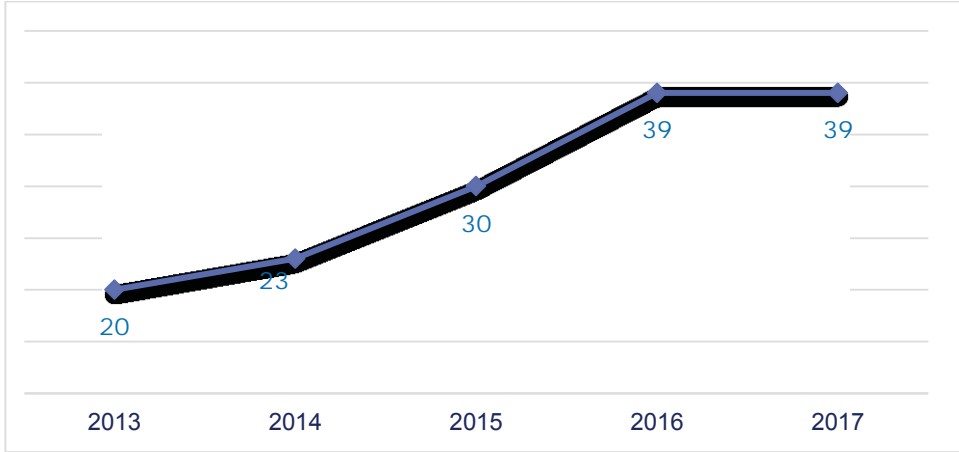
¹² Council Decisions (EU) [2015/1523](#) and [2015/1601](#), *Commission v Poland*, [C-715/17](#), [IP/17/5002](#).

¹³ Directive [96/53/EC](#), *Commission v Poland*, [C-127/2017](#), [IP/16/3649](#), [MEMO/16/3644](#).

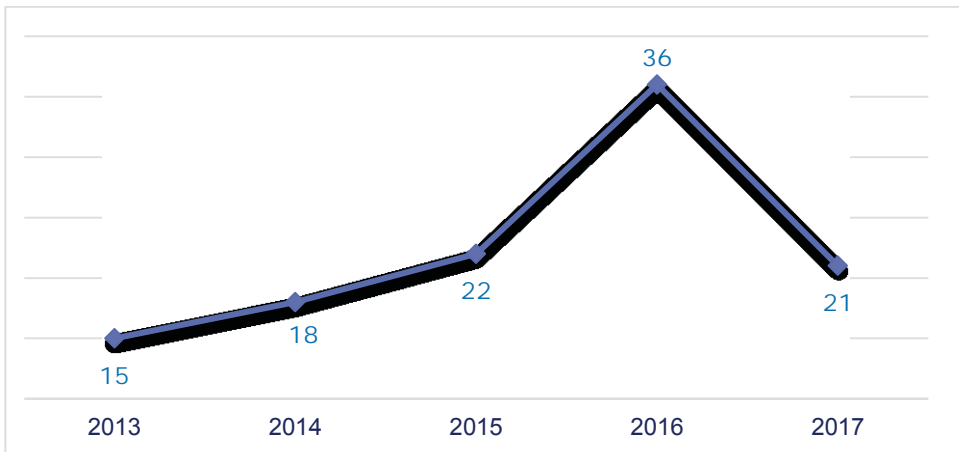
¹⁴ Directives [92/43/EEC](#) and [2009/147/EC](#), *Commission v Poland (Forêt de Białowieża)*, [C-441/17](#); [IP/17/1948](#). The Commission also requested interim measures compelling Poland to cease operations immediately, [C-441/17 R](#). The Court granted the Commission's request for interim measures 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

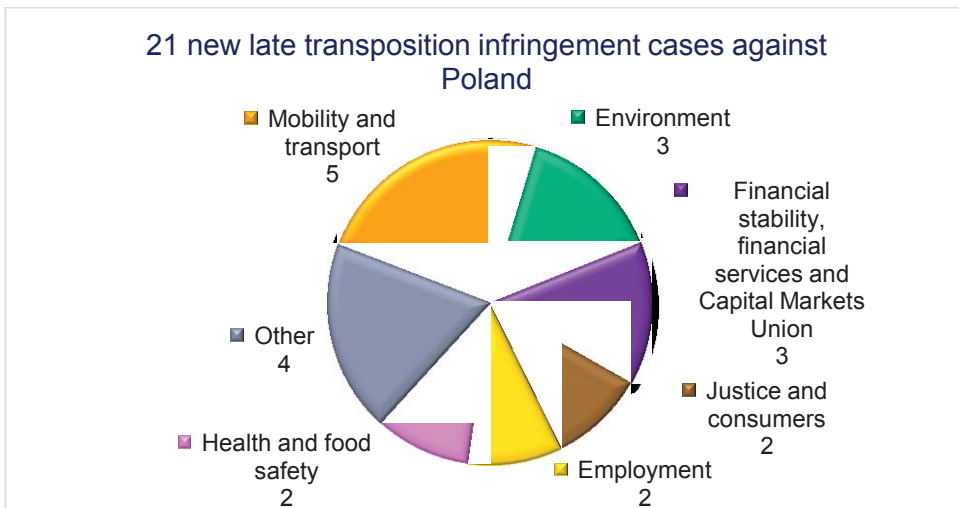
1. Late transposition infringement cases against Poland open on 31 December (2013-2017)



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 legislation¹⁵;
- non-communication of national measures transposing a Commission Directive¹⁶ amending the Groundwater Directive¹⁷;
- minimum tariff requirements for patent agents;
- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure¹⁸;
- discriminatory airport charges¹⁹;
- non-compliance with the Directive on the interoperability of the rail system;²⁰
- non-compliance of national legislation on gambling with EU rules²¹;
- non-communication of national measures transposing the:
 - Seveso III Directive²²;
 - Transparency Directive, Deposit Guarantee Schemes Directive, Banking Recovery and Resolution Directive and Accounting Directive²³;
 - Directive on the award of concession contracts;
 - Directive establishing a single European railway area²⁴;
 - Directive on placing on the market of explosives for civil uses²⁵.

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁶

- 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 order²⁷.

¹⁵ Commission Decisions [C \(2013\) 6181](#) and [C \(2013\) 6178](#).

¹⁶ Directive [2014/80/EU](#).

¹⁷ Directive [2006/118/EC](#).

¹⁸ Directive [2014/94/EU](#).

¹⁹ Directive [2009/12/EC](#).

²⁰ Directive [2008/57/EC](#).

²¹ [IP/17/5109](#).

²² Directive [2012/18/EU](#).

²³ Directives [2013/50/EU](#), [2014/49/EU](#), [2014/59/EU](#) and [2013/34/EU](#).

²⁴ Directive [2012/34/EU](#).

²⁵ Directive [2014/28/EU](#).

²⁶ These rulings are almost exclusively handed down in infringement procedures.

²⁷ 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 water²⁸.
- 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 operator²⁹.
- 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 law³⁰.
- The Regulation establishing a Community Code on Visas³¹ 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 appeal³².
- Under the Collective Redundancies Directive³³, 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 relationship³⁴.
- On the basis of the Visa Code³⁵ 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 procedure³⁶.

²⁸ J. D. v Prezes Urzędu Regulacji Energetyki, [C-4/16](#).

²⁹ Directive [2002/19/EC](#); Polkomtel sp. z o.o., [C-277/16](#).

³⁰ Polbud — Wykonawstwo, [C-106/16](#) and Court press release No [112/17](#).

³¹ Regulation (EC) No [810/2009](#).

³² Soufiane Hassani, [C-403/16](#).

³³ Directive [1998/59/EC](#).

³⁴ Socha, [C-149/16](#) and Ciupa, [C-429/16](#).

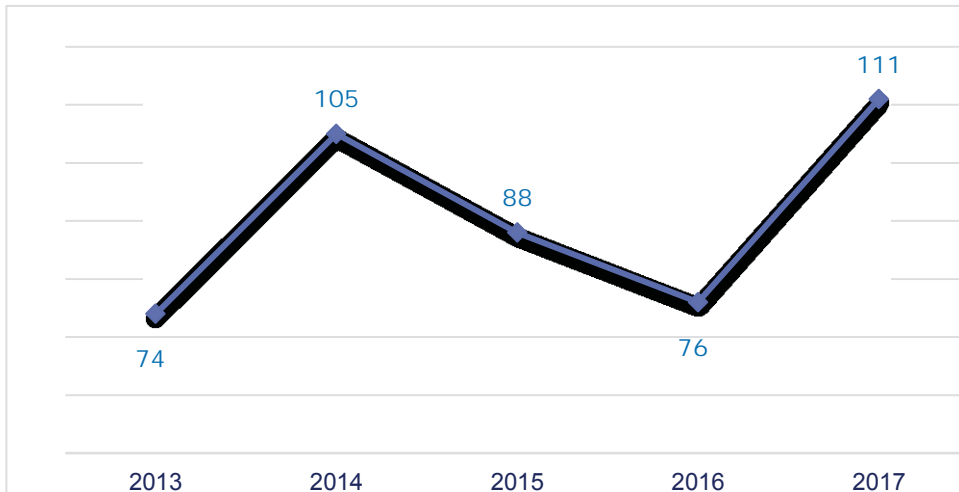
³⁵ Regulation (EC) No [810/2009](#).

³⁶ Soufiane Hassani, [C-403/16](#).

Portugal

I. COMPLAINTS

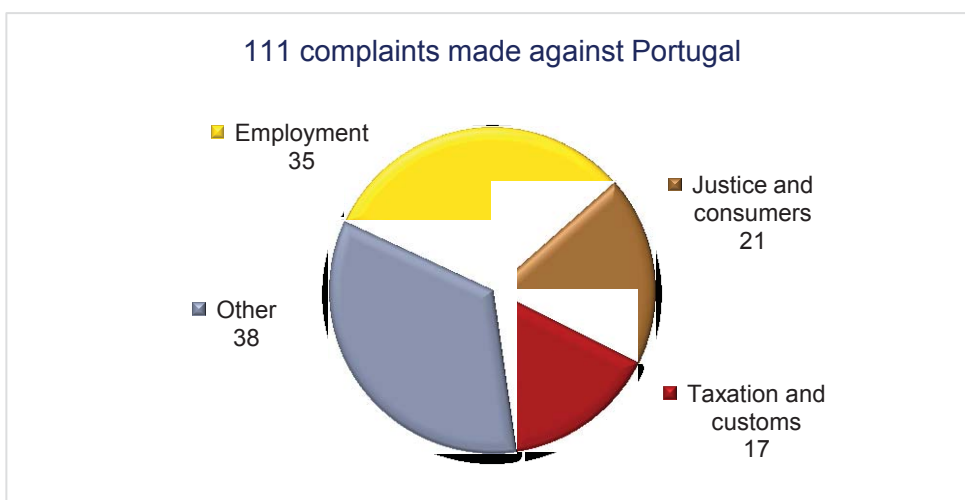
1. New complaints made against Portugal by members of the public (2013-2017)



2. Public complaints against Portugal open at year-end

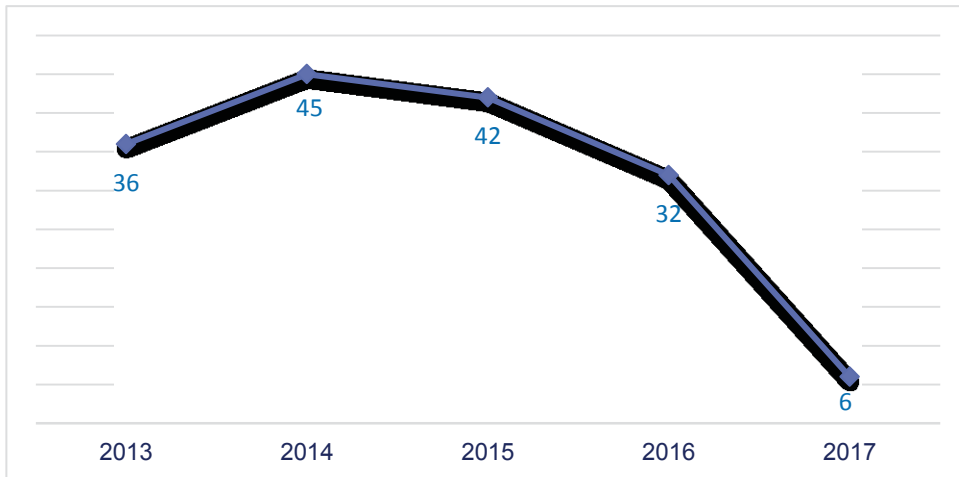
56	>	Complaints open at end-2016
111	>	New complaints registered in 2017
81	>	Complaints handled in 2017
= 86	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

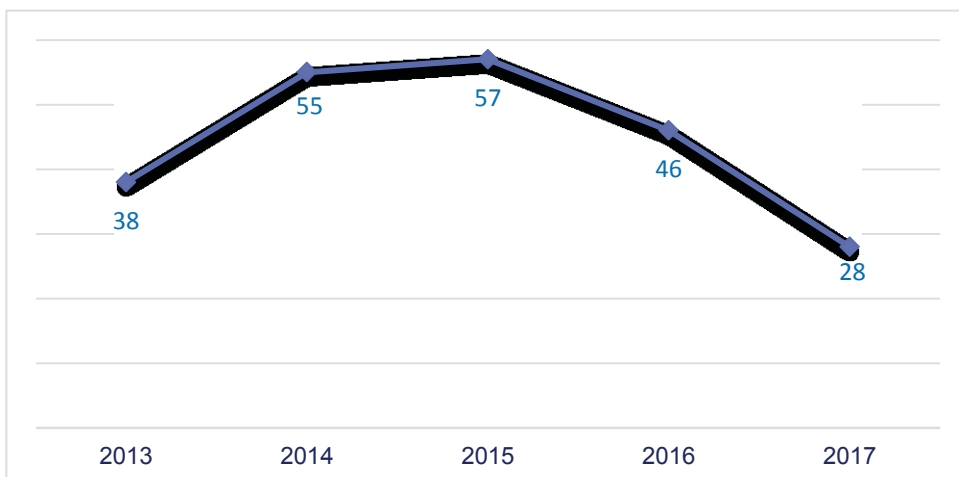


II. EU PILOT

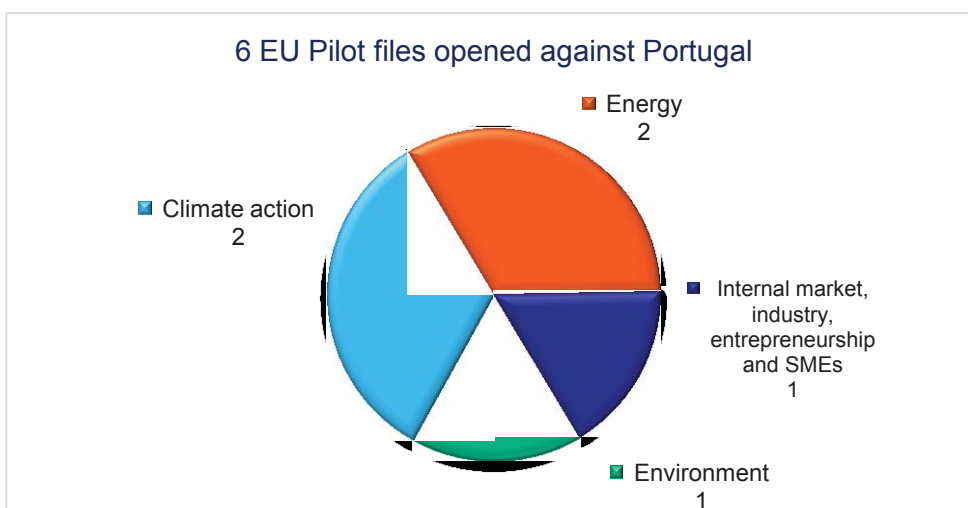
1. New EU Pilot files opened against Portugal (2013-2017)



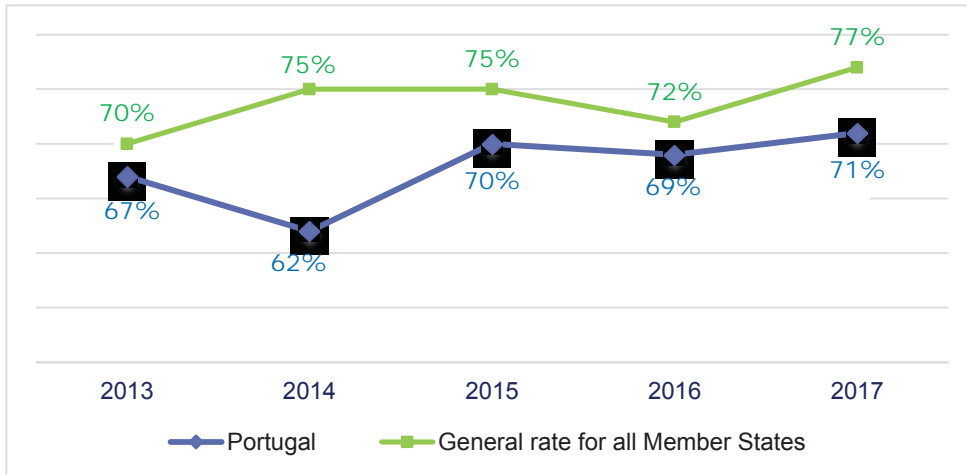
2. Files relating to Portugal open in EU Pilot at year-end



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

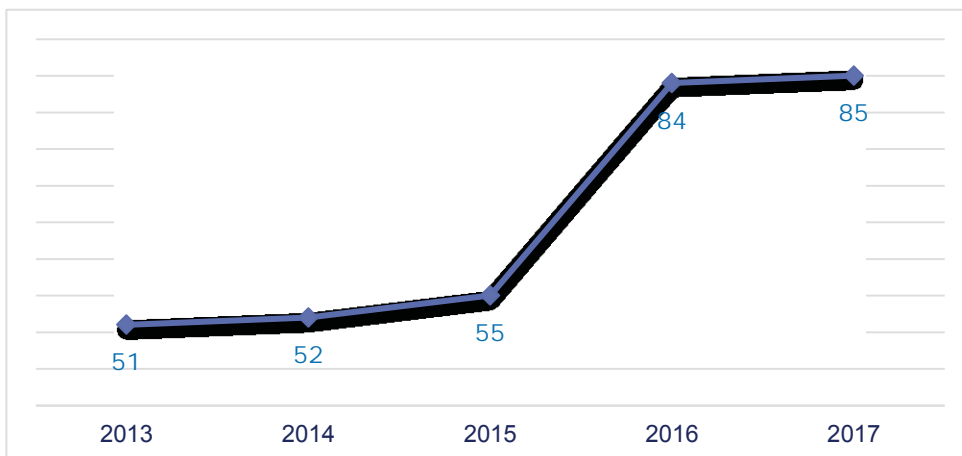


4. EU Pilot files: Portugal's resolution rate in 2013-2017

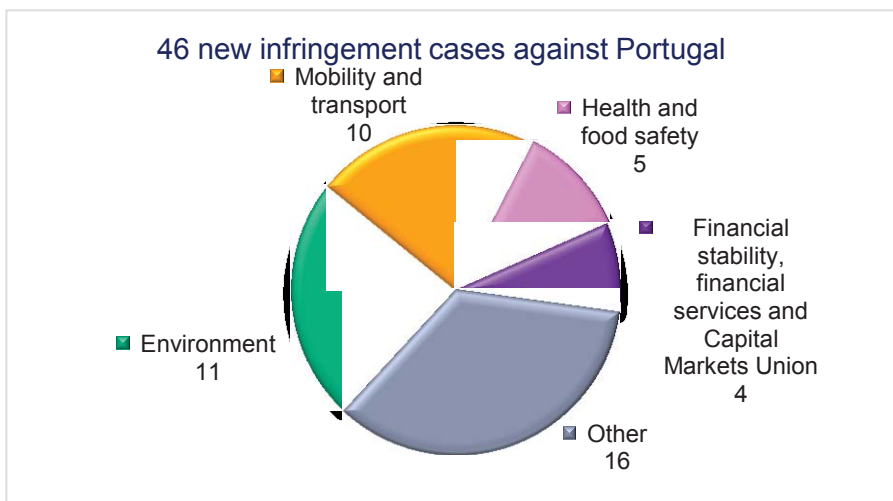


III. INFRINGEMENT CASES

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 caseinates¹;
 - Directive on recognition of professional qualification²;
 - Fourth Anti-Money Laundering Directive³;
 - Markets in Financial Instruments Directive (MiFID II)⁴;
 - Payment Accounts Directive⁵;
 - 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 Organisation⁶;
 - non-reporting of flood risk management plans under the Floods Directive⁷;
 - failure to establish strategic noise maps and action plans required by the Noise Directive⁸;
 - non-compliance with the Radioactive Waste Directive⁹;
 - non-compliance with the Pressure Equipment Directive, by imposing additional requirements on pressure equipment that is already CE-marked¹⁰;
 - incorrect application of the Late Payment Directive¹¹;
 - disproportionate charges for residence permits under the Directives on legal migration¹².
- b) The Commission refer three cases to the Court under Article 258 TFEU. These concern:
- incorrect transposition of the Directive on driving licences¹³;
 - incorrect transposition of the Directive on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations¹⁴;
 - lack of a certified quality management system for the Portuguese administration's flag State-related activities¹⁵.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Directive (EU) [2015/2203](#).

² Directive [2013/55/EU](#).

³ Directive [2015/849/EU](#).

⁴ Directive [2014/65/EU](#).

⁵ Directive [2014/92/EU](#), [MEMO/17/1045](#).

⁶ [MEMO/17/3494](#).

⁷ Directive [2007/60/EC](#).

⁸ Directive [2002/49/EC](#); [MEMO/17/1281](#).

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

¹⁰ Directive [2014/68/EU](#); [MEMO/17/1936](#).

¹¹ Directive [2011/7/EU](#); [MEMO/17/3494](#).

¹² [MEMO/17/4767](#).

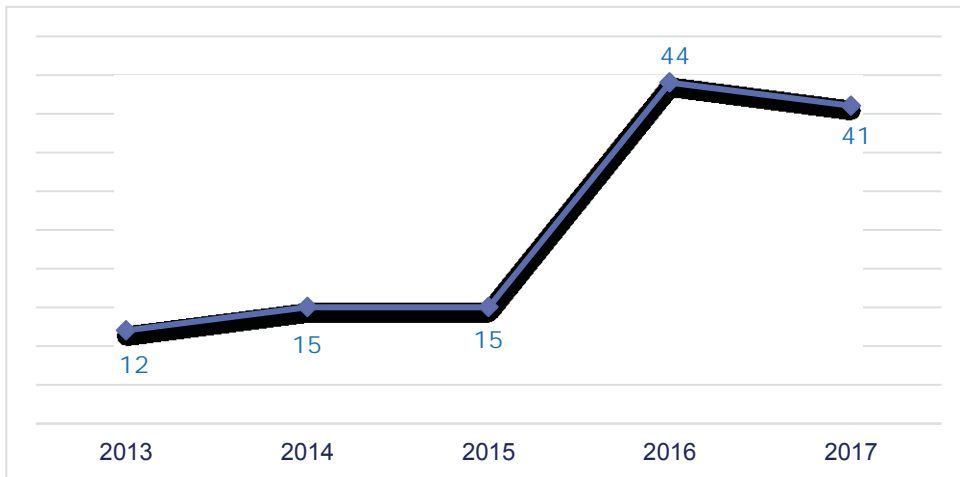
¹³ Directive [2006/126/EC](#), Commission v Portugal, [C-170/17](#), [IP/17/241](#).

¹⁴ Directive [2009/15/EC](#), Commission v Portugal, [C-383/17](#), [IP/17/1052](#).

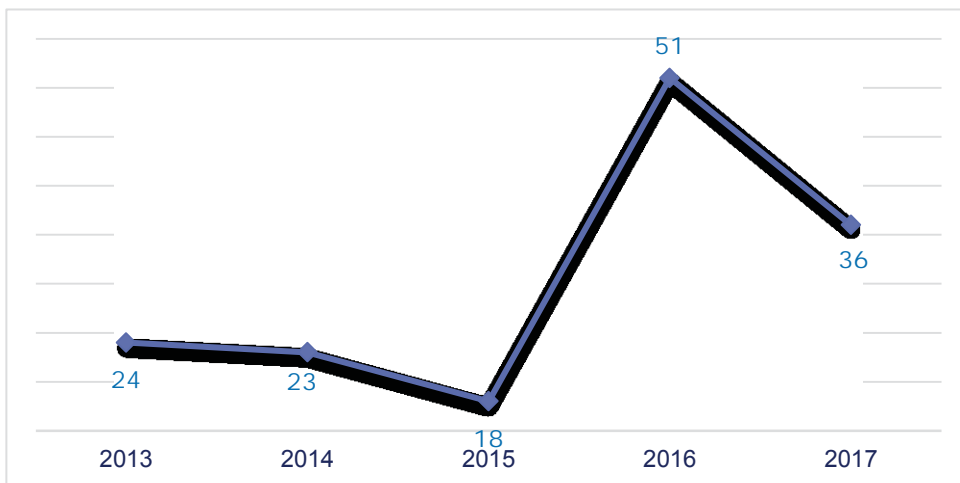
¹⁵ Directive [2009/21/EC](#), Commission v Portugal, [C-382/17](#), [IP/17/1052](#).

IV. TRANSPOSITION OF DIRECTIVES

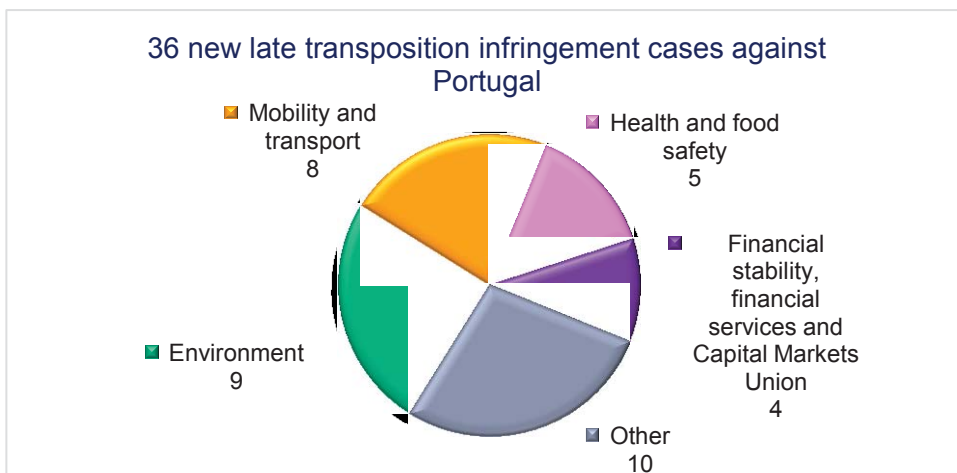
1. Late transposition infringement cases against Portugal open on 31 December (2013-2017)



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 caseinates¹⁶;
 - ‘Qualifications’ Directive¹⁷;
 - Directive on recognition of professional qualifications¹⁸;
 - Directive¹⁹ laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality²⁰;
 - Directive relating to the making available on the market of simple pressure vessels²¹;
 - Directive on lifts²²;
 - Low Voltage Directive²³;
 - Directive relating to the making available on the market of radio equipment²⁴;
 - Directive on port reception facilities for ship-generated waste and cargo residues²⁵;
 - Directive relating to the making available on the market of measuring instruments²⁶;
- incorrect transposition of the Late Payment Directive²⁷;
- failure to notify a national policy framework under the Directive on the deployment of alternative fuels²⁸.
- failure to adopt a national programme for spent fuel and radioactive waste management compliant with the requirements of the Radioactive Waste Directive²⁹;
- for incomplete transposition of the Directive on radioactive substances in water intended for human consumption³⁰.

VI. IMPORTANT JUDGMENTS

1. Court rulings³¹

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’ network³².

¹⁶ Directive (EU) [2015/2203](#).

¹⁷ Directive [2011/95/EU](#).

¹⁸ Directive [2013/55/EU](#).

¹⁹ Directive (EU) [2015/652](#).

²⁰ Directive [98/70/EC](#).

²¹ Directive [2014/29/EU](#).

²² Directive [2014/33/EU](#).

²³ Directive [2014/35/EU](#).

²⁴ Directive [2014/53/EU](#).

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

²⁶ Directive [2014/32/EU](#).

²⁷ Directive [2011/7/EU](#); [IP/17/239](#).

²⁸ Directive [2011/70/Euratom](#).

²⁹ Directive [2013/51/Euratom](#).

³⁰ 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 year³³. These rules were not in line with the Excise Duty Directive³⁴ 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 satisfied³⁵.
- 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 period³⁶.

³² Directive [2006/126/EC](#), Commission v Portugal, [C-665/15](#).

³³ Directive [2008/118/EC](#) and Commission v Portugal, [C-126/15](#).

³⁴ Directive [2008/118/EC](#).

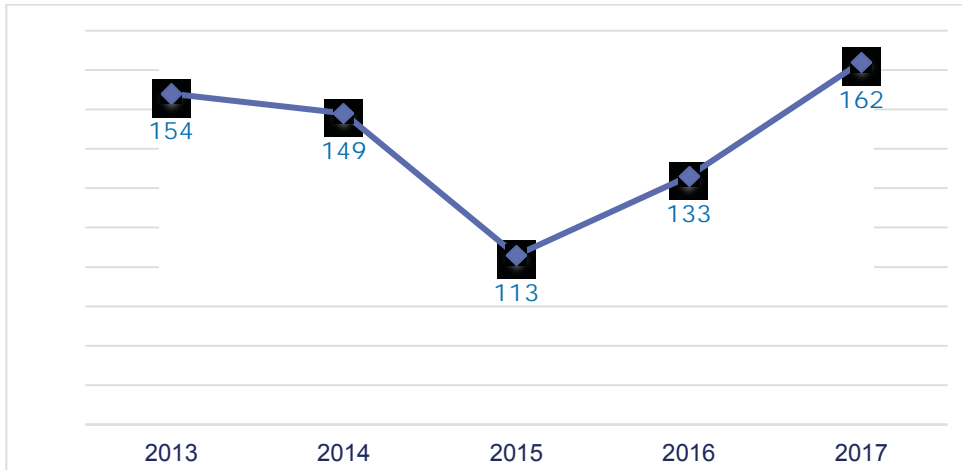
³⁵ Euro Tyre BV, [C-21/16](#).

³⁶ Maio Marques da Rosa, [C-306/16](#).

Romania

I. COMPLAINTS

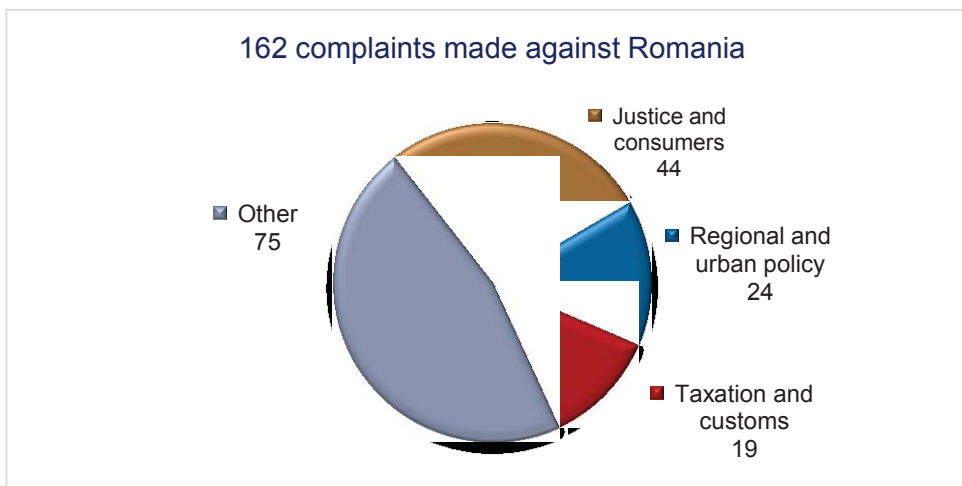
1. New complaints made against Romania by members of the public (2013-2017)



2. Public complaints against Romania open at year-end

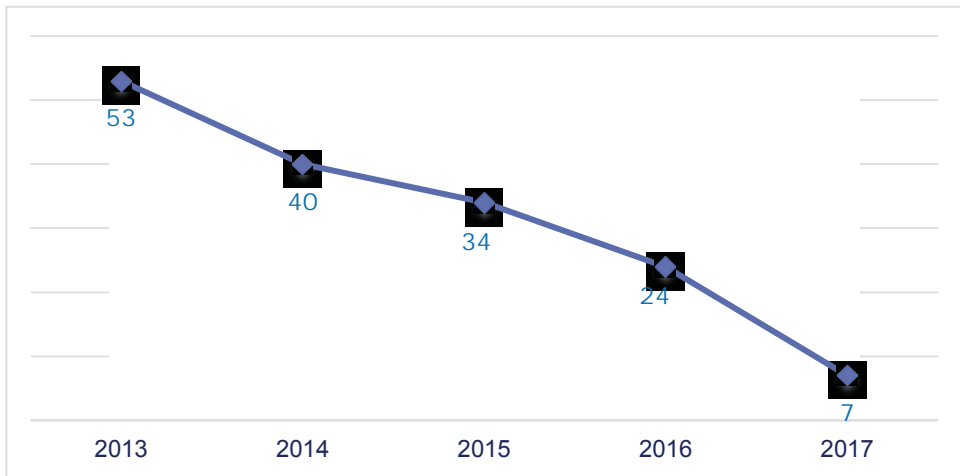
114	>	Complaints open at end-2016
162	>	New complaints registered in 2017
162	>	Complaints handled in 2017
= 114	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

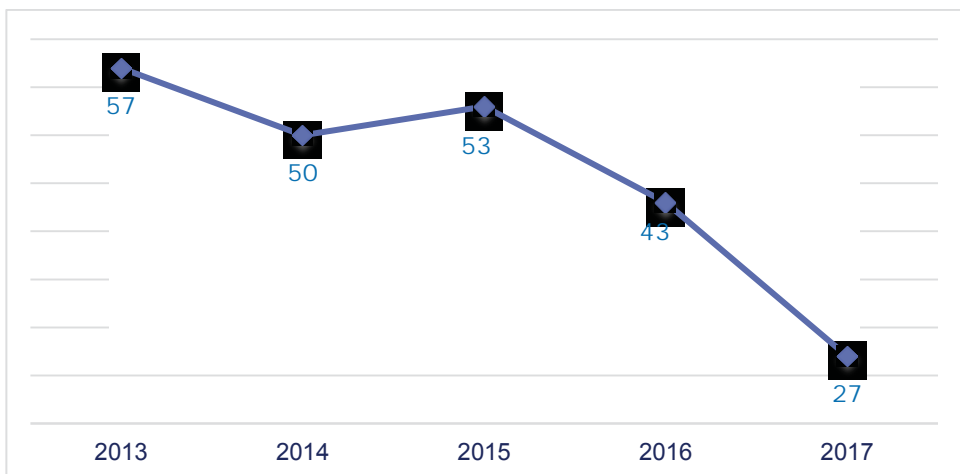


II. EU PILOT

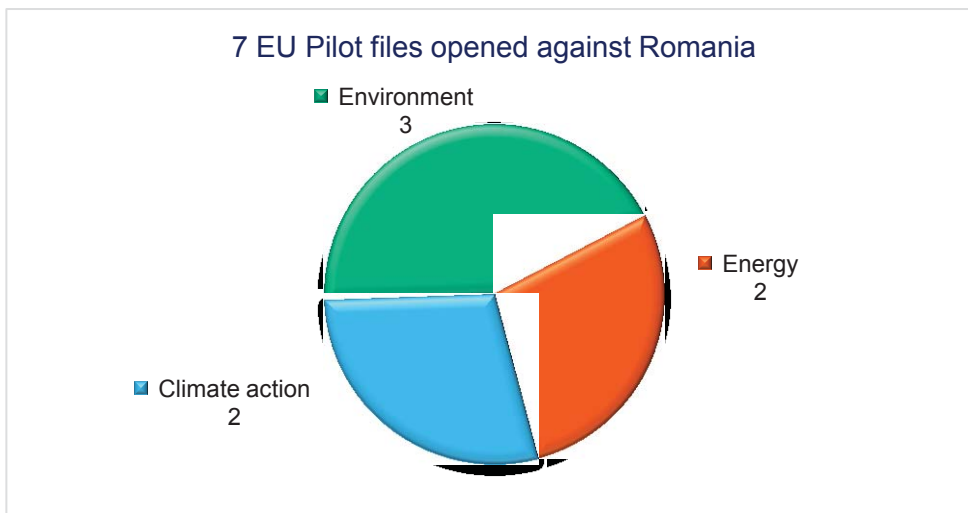
1. New EU Pilot files opened against Romania (2013-2017)



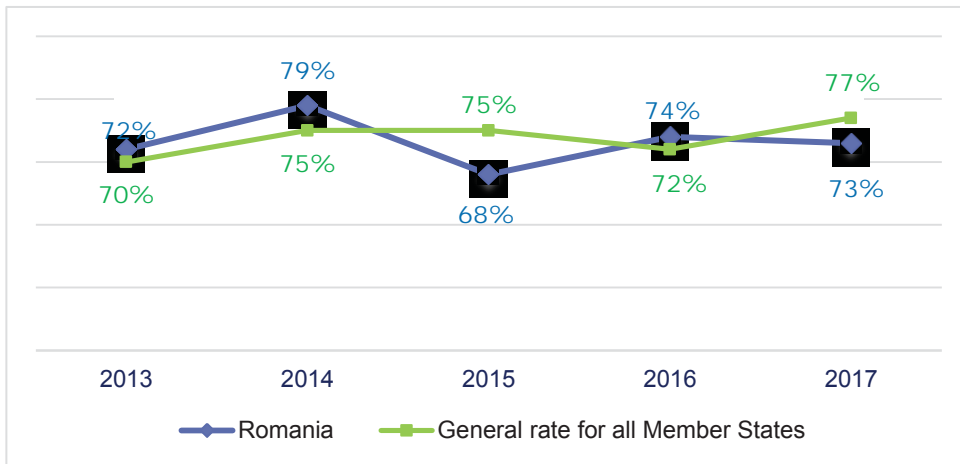
2. Files relating to Romania open in EU Pilot at year-end



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

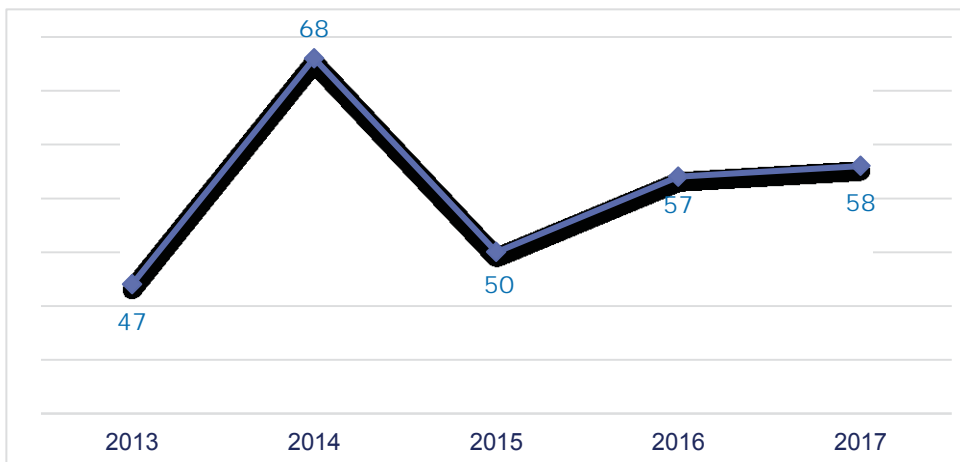


4. EU Pilot files: Romania's resolution rate in 2013-2017

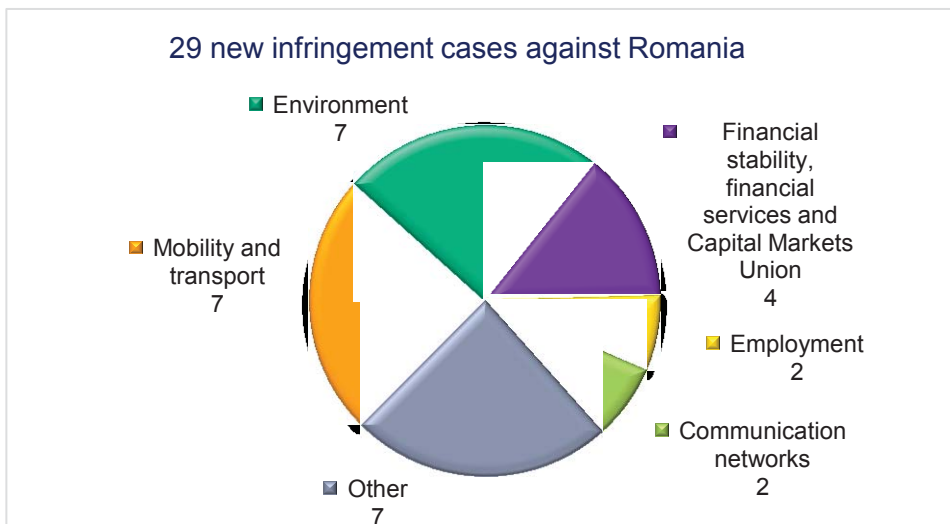


III. INFRINGEMENT CASES

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 time¹;
- non-compliance with the Collective Rights Management Directive²;
- 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 migration³;
- failure to adopt appropriate measures to ensure that waste from extractive industries is managed without endangering human health or harming the environment⁴;
- failure to comply with the principle of equal access to EU waters and resources⁵;
- failure to comply with reporting obligations under EU waste legislation⁶;
- failure to ensure proper monitoring of air quality throughout the whole territory⁷;
- failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive⁸;
- failure to establish strategic noise maps and action plans required by the Noise Directive⁹;
- failure to communicate measures to reduce emissions from petrol vapour according to EU rules on air quality¹⁰;
- incorrect transposition of the Directive establishing a single European railway area¹¹;
- non-compliance of the national rules on retail trade in agricultural and food products with EU law¹²;
- non-communication of national measures transposing the:
 - Directive on caseins and caseinates¹³;
 - Fourth Anti-Money Laundering Directive¹⁴;
 - Markets in Financial Instruments Directive (MiFID II) and Audit Directive;¹⁵
 - Payment Accounts Directive¹⁶;
 - Directive¹⁷ laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality¹⁸;
 - Directive on seafarers¹⁹;
 - Directive on the organisation of working time in inland waterway transport²⁰.

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

¹ Directive [2002/21/EC](#), [MEMO/17/3494](#).

² Directive [2014/26/EU](#), [MEMO/17/4767](#).

³ Directives [2004/114/EC](#), [2005/71/EC](#), [2009/50/EC](#), [2011/98/EU](#), [2003/109/EC](#) and [2003/86/EC](#);
[MEMO/17/4767](#).

⁴ [MEMO/17/1936](#).

⁵ [MEMO/17/234](#).

⁶ [MEMO/17/1281](#).

⁷ [MEMO/17/1577](#).

⁸ Directive [2008/56/EC](#).

⁹ Directive [2002/49/EC](#); [MEMO/17/3494](#).

¹⁰ Directive [2014/99/EU](#), [MEMO/17/3494](#).

¹¹ Directive [2012/34/EU](#), [MEMO/17/4767](#).

¹² [MEMO/17/234](#).

¹³ Directive (EU) [2015/2203](#).

¹⁴ [MEMO/17/4767](#); Directive [2015/849/EU](#).

¹⁵ Directives [2016/1034/EU](#) and [2014/56/EU](#).

¹⁶ Directive [2014/92/EU](#), [MEMO/17/1577](#).

¹⁷ Directive (EU) [2015/652](#).

¹⁸ Directive [98/70/EC](#).

¹⁹ Directive [2015/1794/EU](#).

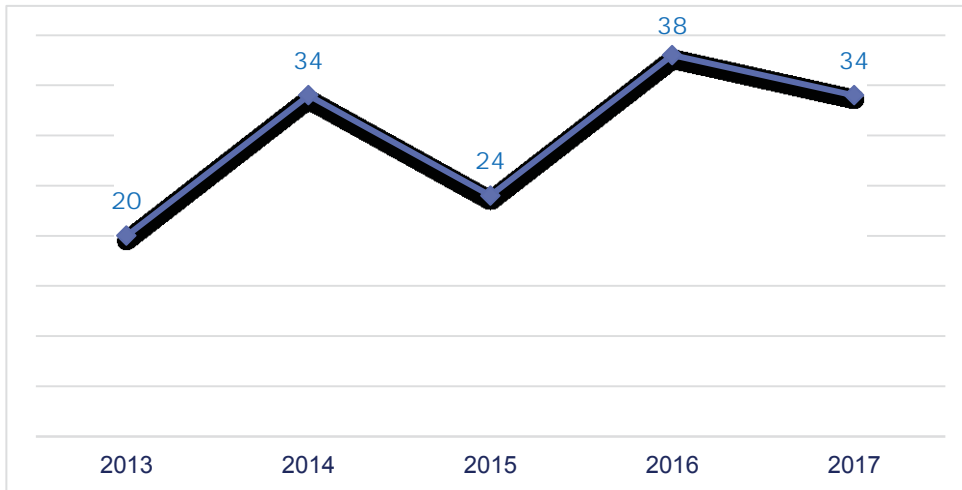
²⁰ Directive [2014/112/EU](#).

- failure to close and rehabilitate illegal landfills representing a serious risk for human health and the environment²¹.

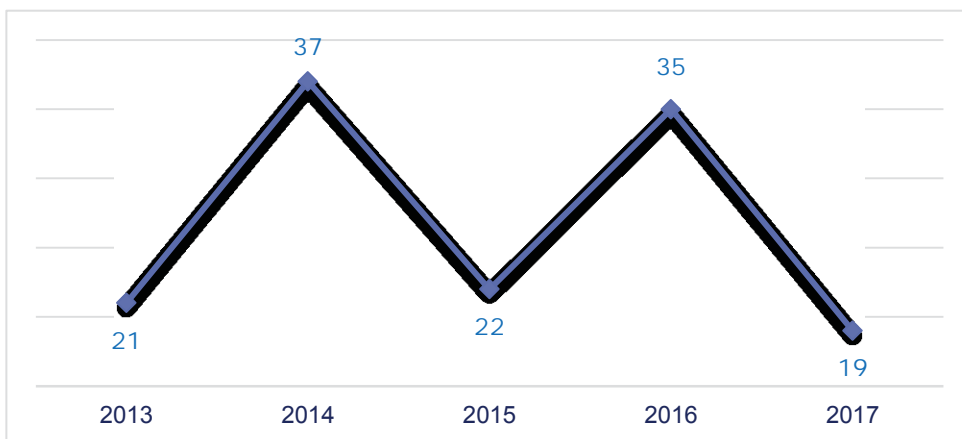
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

IV. TRANSPOSITION OF DIRECTIVES

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

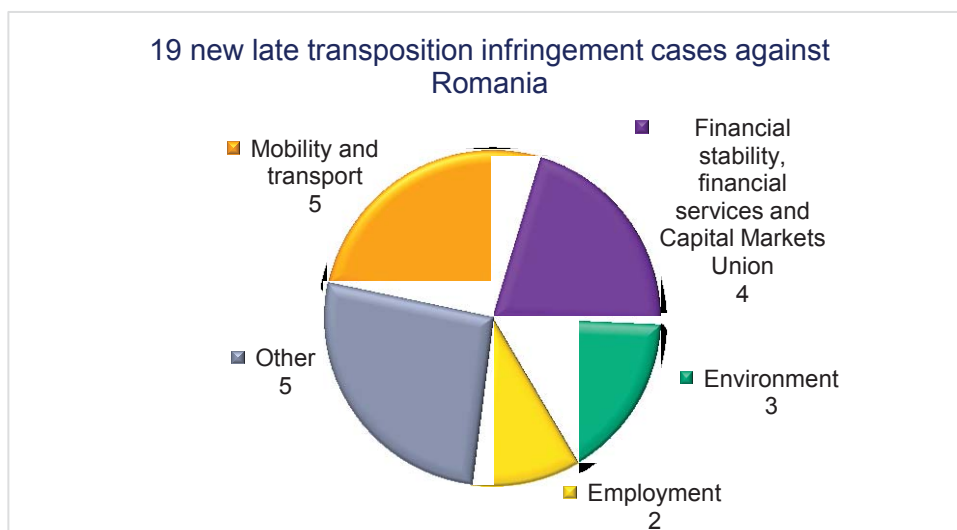


2. New late transposition infringement cases against Romania (2013-2017)



²¹ 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 Directive²²;
- non-compliance of national legislation on gambling with EU rules²³;
- non-communication of national measures transposing the:
 - Directive on caseins and caseinates²⁴;
 - Directive on seasonal workers²⁵;
 - 'Qualifications' Directive²⁶;
 - Public Procurement Directive²⁷;
 - Directive on the award of concession contracts²⁸;
 - Directive on procurement by entities operating in the water, energy, transport and postal services sectors²⁹;
 - Directive on the charging of heavy goods vehicles for the use of certain infrastructures³⁰;
 - Solvency II Directive³¹;
 - Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority³²;

²² Directive [2008/56/EC](#).

²³ [IP/17/5109](#).

²⁴ Directive (EU) [2015/2203](#).

²⁵ Directive [2014/36/EU](#).

²⁶ Directive [2011/95/EU](#).

²⁷ Directive [2014/24/EU](#).

²⁸ Directive [2014/23/EU](#).

²⁹ Directive [2014/25/EU](#).

³⁰ Directive [2011/76/EU](#).

³¹ Directive [2009/138/EC](#).

³² Directive [2014/51/EU](#).

- Accounting Directive³³;
- Directive on disclosure of non-financial and diversity information by certain large undertakings³⁴;
- Directive establishing a single European railway area³⁵.

VI. IMPORTANT JUDGMENTS

1. Court rulings³⁶

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 Court³⁷.

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 law³⁸.
- 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 obligations³⁹.

³³ Directive [2013/34/EU](#).

³⁴ Directive [2014/95/EU](#).

³⁵ Directive [2012/34/EU](#).

³⁶ These rulings are almost exclusively handed down in infringement procedures.

³⁷ Romania v Commission, [C-599/15](#).

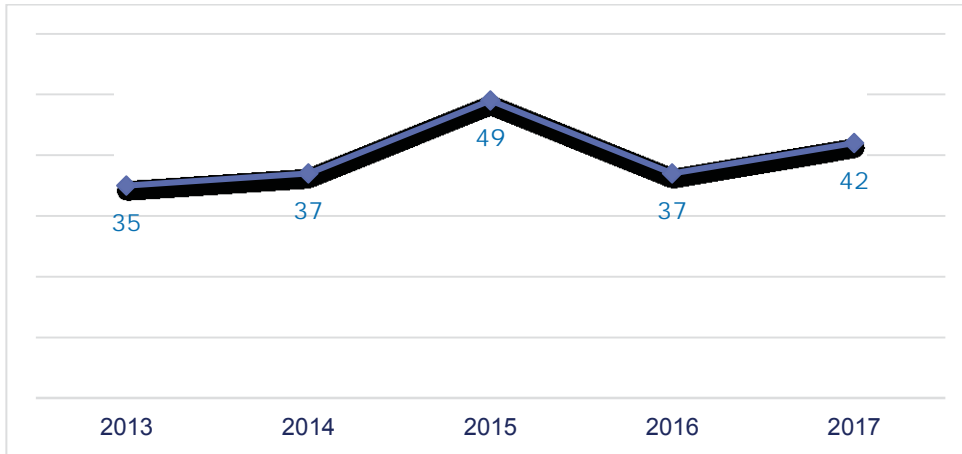
³⁸ Popescu, [C-632/15](#).

³⁹ 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

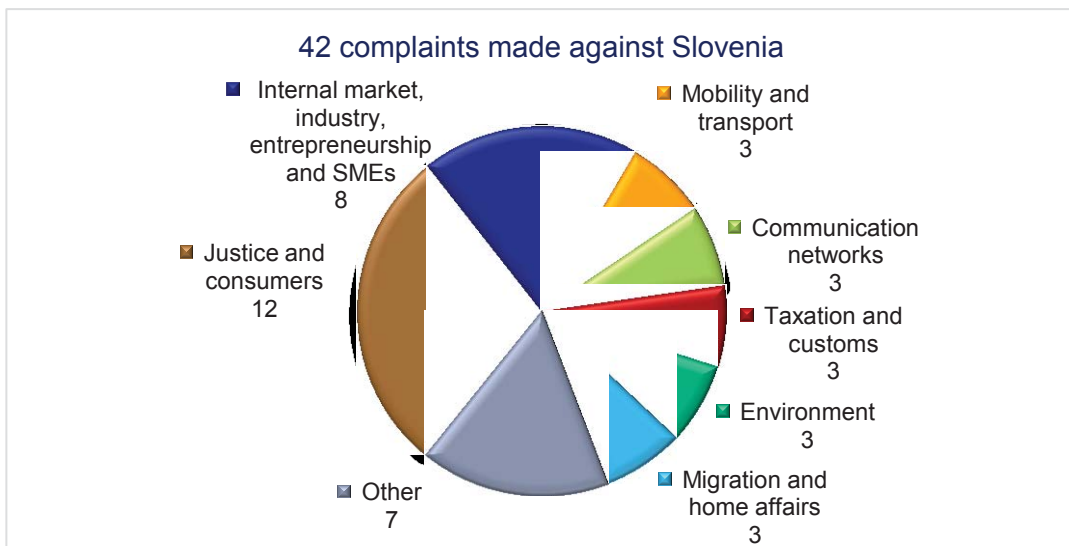
41 > Complaints open at end-2016

42 > New complaints registered in 2017

36 > Complaints handled in 2017

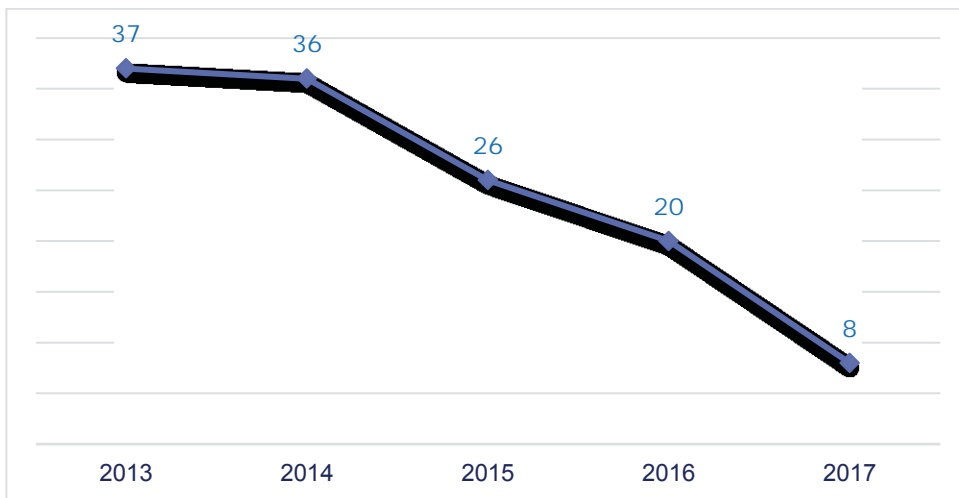
= 47 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

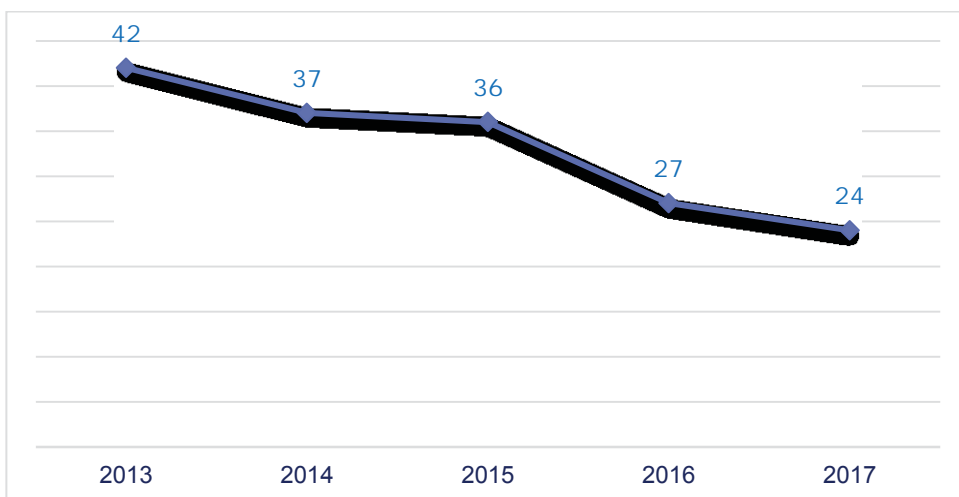


II. EU PILOT

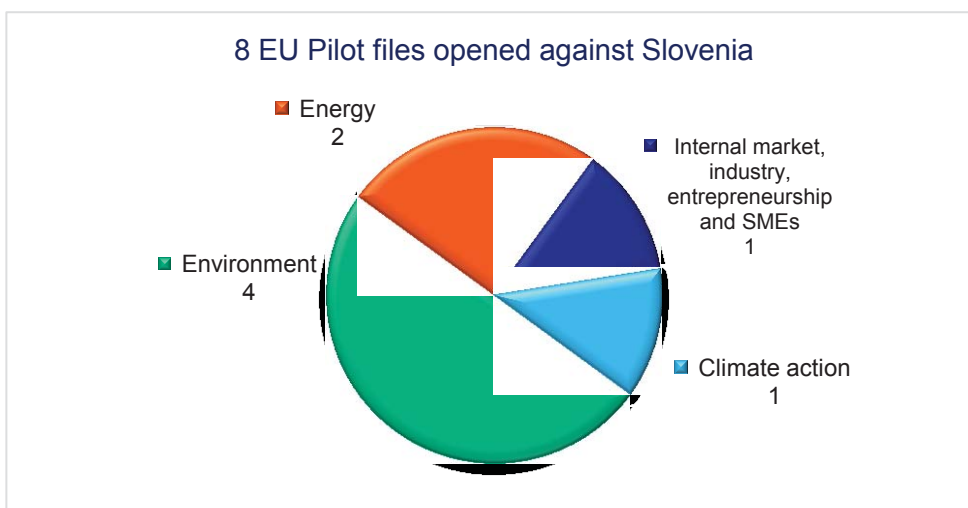
1. New EU Pilot files opened against Slovenia (2013-2017)



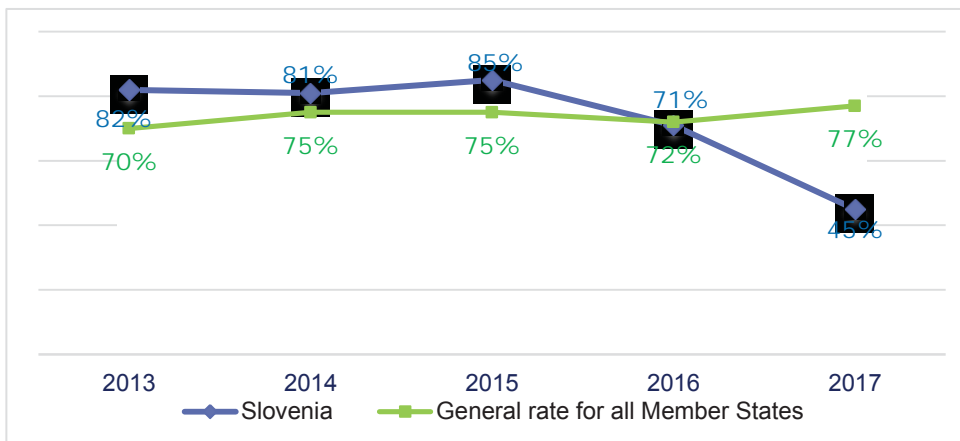
2. Files relating to Slovenia open in EU Pilot at year-end



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

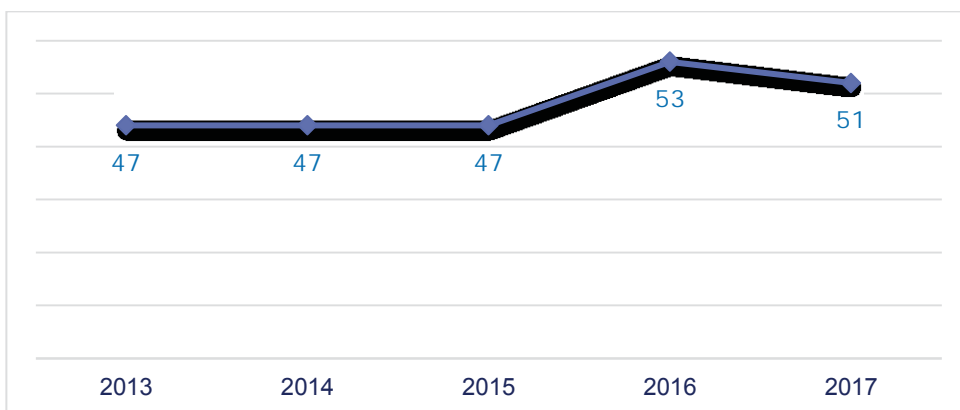


4. EU Pilot files: Slovenia's resolution rate in 2013-2017

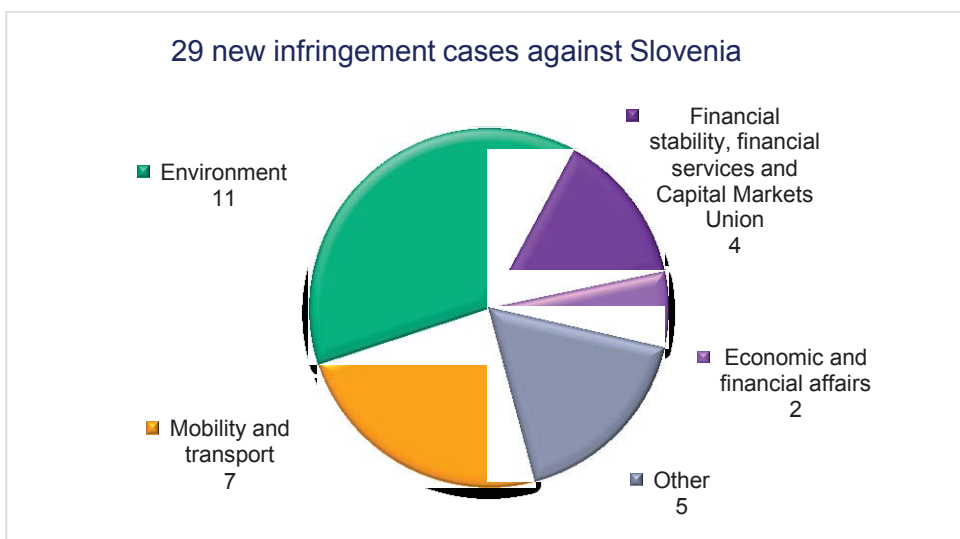


III. INFRINGEMENT CASES

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



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

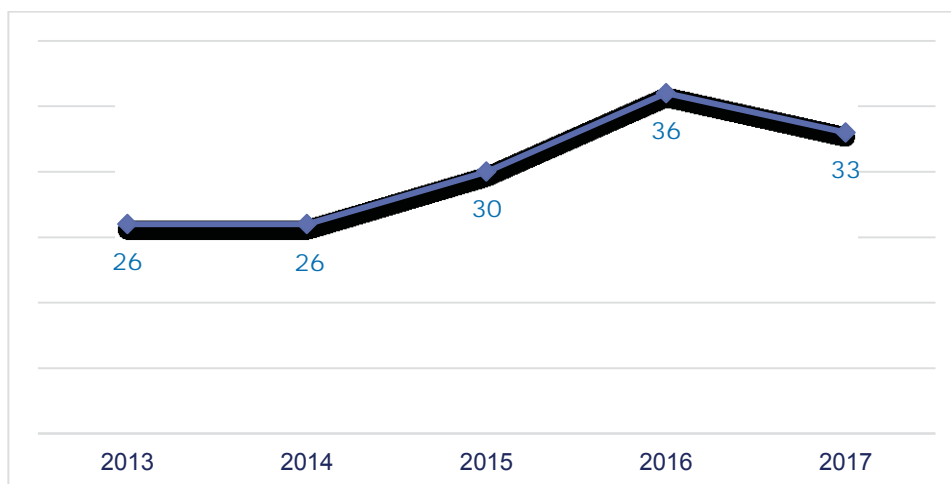


3. Key infringement cases and referrals to the Court

- 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 legislation¹;
 - non-conformity of national legislation with the Birds and Habitats Directives²;
 - failure to ensure that urban waste water is adequately treated;
 - non-reporting of flood risk management plans under the Floods Directive³;
 - failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive⁴;
 - failure to carry out analysis of the relevant telecom markets on time⁵;
 - failure to establish action plans required by the Noise Directive⁶;
 - 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 cooperation⁷;
 - non-communication of national measures transposing the:
 - Audit Directive⁸;
 - Markets in Financial Instruments Directive (MiFID II)⁹.
- 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 environment¹⁰.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

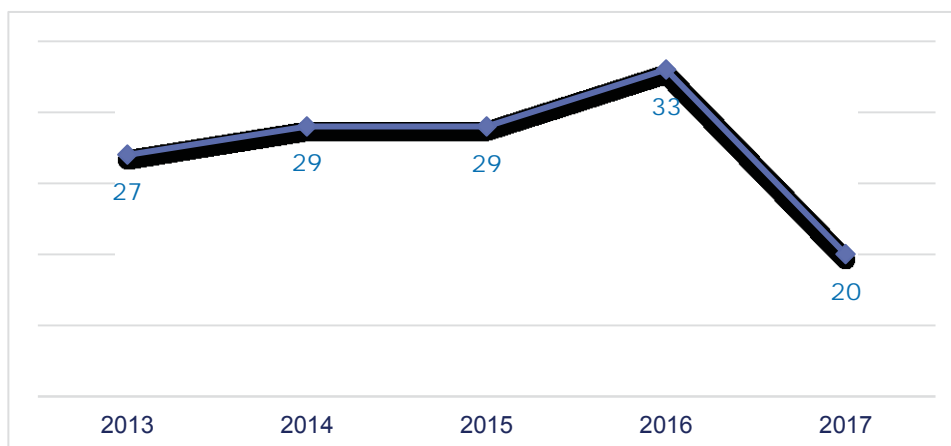
IV. TRANSPOSITION OF DIRECTIVES

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

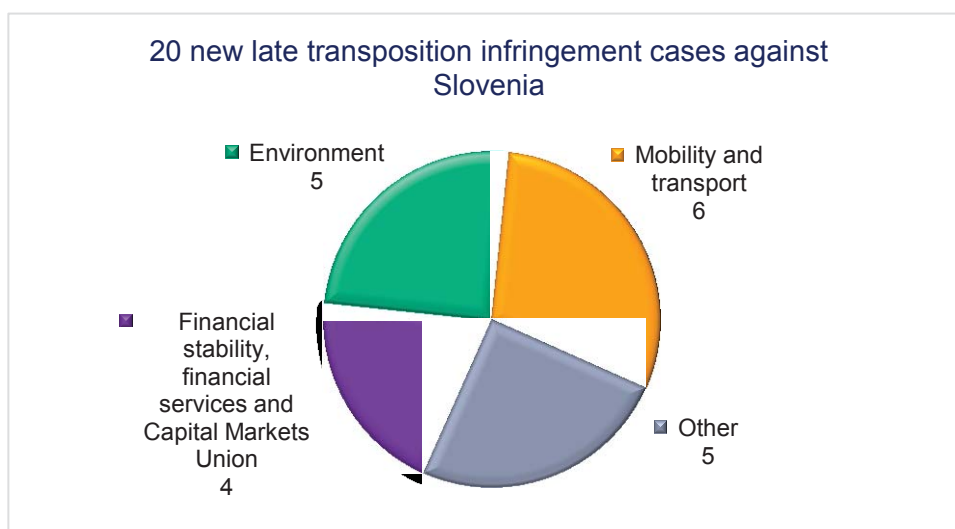


¹ [MEMO/17/1281](#).
² Directive [2009/147/EC](#) and Directive [92/43/EEC](#); [MEMO/17/3494](#).
³ Directive [2007/60/EC](#).
⁴ Directive [2008/56/EC](#).
⁵ Directive [2002/21/EC](#), [MEMO/17/3494](#).
⁶ Directive [2002/49/EC](#); [MEMO/17/3494](#).
⁷ Article 4(3) of the [TFEU](#).
⁸ Directive [2014/56/EU](#).
⁹ Directive [2014/65/EU](#).
¹⁰ 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 States¹¹.

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)¹²;
- lack of flood risk management plans required by the Floods Directive¹³;

¹¹ Council Directive [2011/85/EU](#) and Commission v Slovenia, [C-594/17](#); [IP/17/1956](#).

¹² Regulation [748/2012](#) and Regulation [1321/2014](#).

- failure to develop and report on the programmes of measures required by the Marine Strategy Framework Directive¹⁴;
- lack of resources to conduct duties attributed to the Civil Aviation Competent Authority¹⁵;
- non-communication of national measures transposing the:
 - Driving Licences Directive¹⁶;
 - Directive establishing a single European railway area (recast)¹⁷;
 - Directive as regards disclosure of non-financial and diversity information by certain large undertakings¹⁸;
 - Accounting Directive¹⁹;
 - Directive on port reception facilities for ship-generated waste and cargo residues²⁰;
 - Directive on undertakings for collective investment in transferable securities²¹;
 - Transparency Directive²²;
 - Directive on recognition of professional qualifications²³;
 - Commission Directive²⁴ amending the Groundwater Directive²⁵;
 - Deposit Guarantee Schemes Directive²⁶;
 - Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms²⁷;
 - amending Nuclear Safety Directive²⁸.

VI. IMPORTANT JUDGMENTS

1. Court ruling²⁹

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 waste³⁰.

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 treatment³¹.

¹³ Directive [2007/60/EC](#).

¹⁴ Directive [2008/56/EC](#).

¹⁵ Commission Regulations [748/2012](#) and [1321/2014](#).

¹⁶ Directive [2006/126/EC](#).

¹⁷ Directive [2012/34/EU](#).

¹⁸ Directive [2014/95/EU](#).

¹⁹ Directive [2013/34/EU](#).

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

²¹ Directive [2014/91/EU](#).

²² Directive [2013/50/EU](#).

²³ Directive [2005/36/EC](#).

²⁴ Directive [2014/80/EU](#).

²⁵ Directive [2006/118/EC](#).

²⁶ Directive [2014/49/EU](#).

²⁷ Directive [2013/36/EU](#).

²⁸ Directive [2014/87/Euratom](#).

²⁹ These rulings are almost exclusively handed down in infringement procedures.

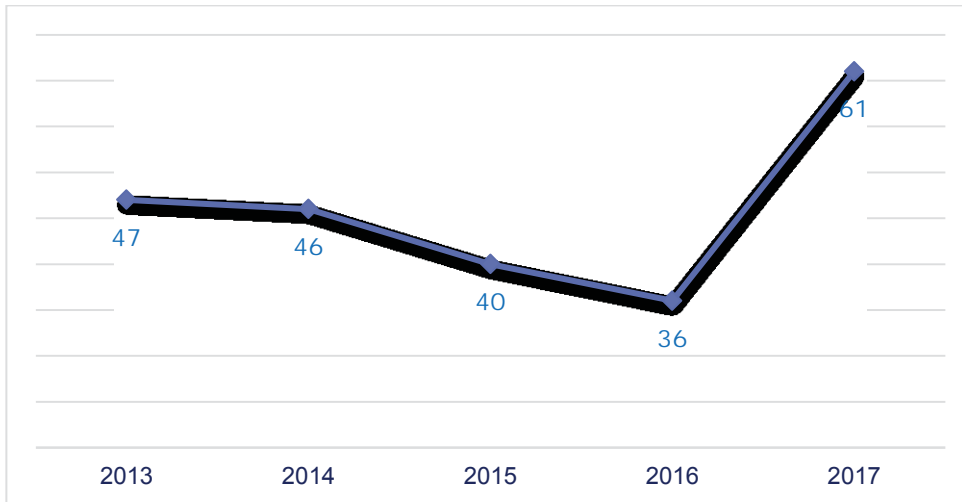
³⁰ Directives [1999/31/EC](#) and [2008/98/CE](#), and Commission v Slovenia, [C-153/16](#).

³¹ 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

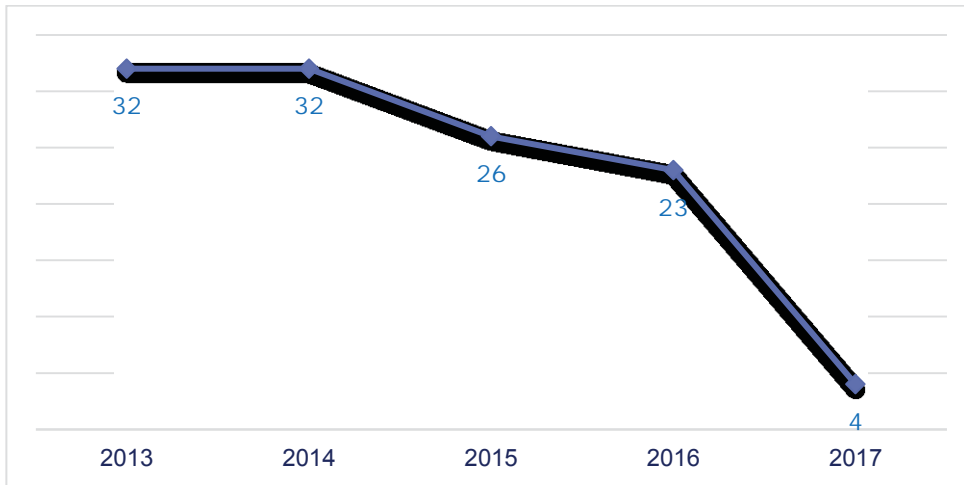
= 49 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

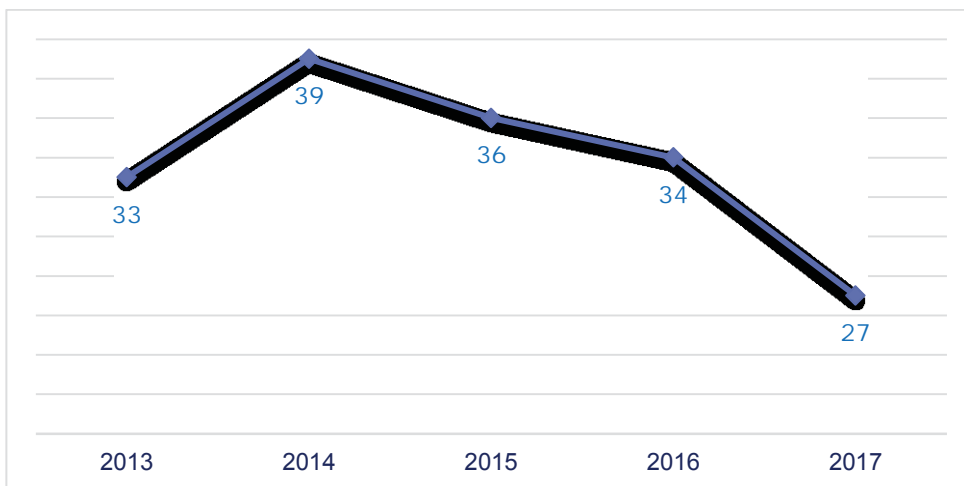


II. EU PILOT

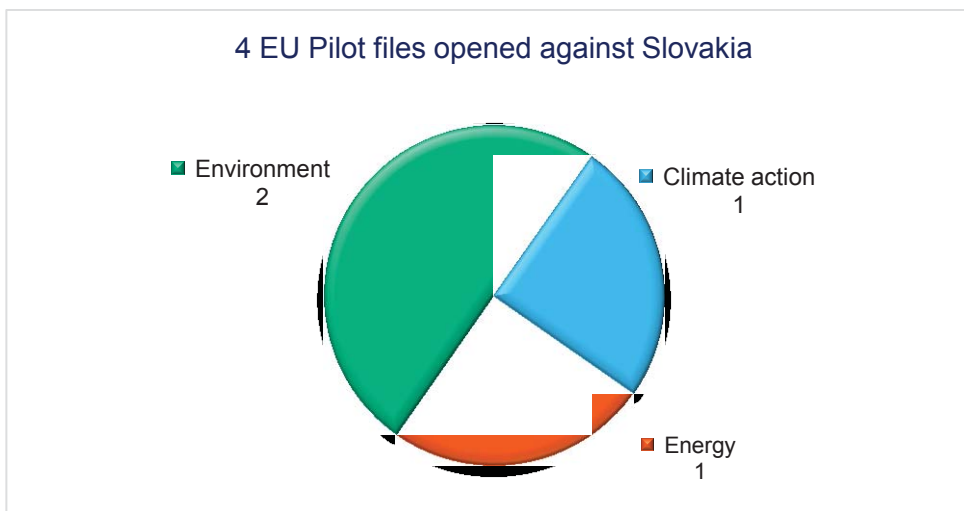
1. New EU Pilot files opened against Slovakia (2013-2017)



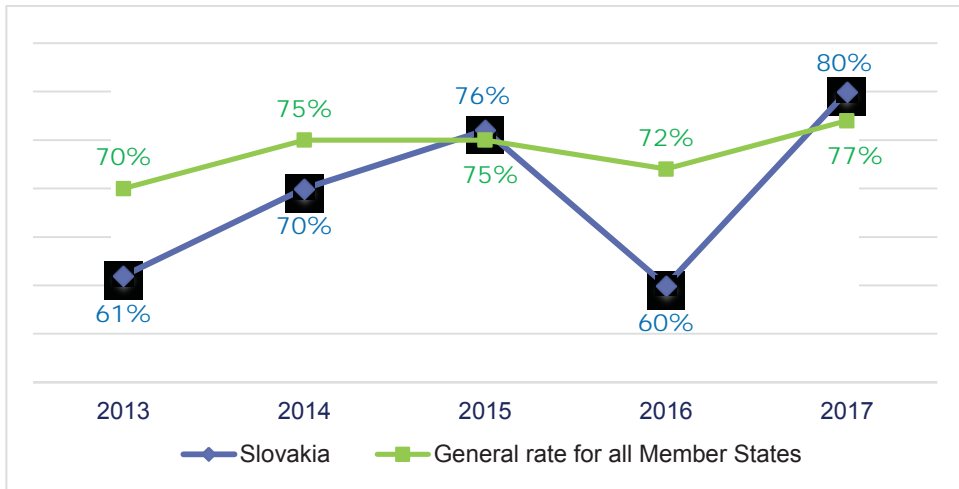
2. Files relating to Slovakia open in EU Pilot at year-end



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

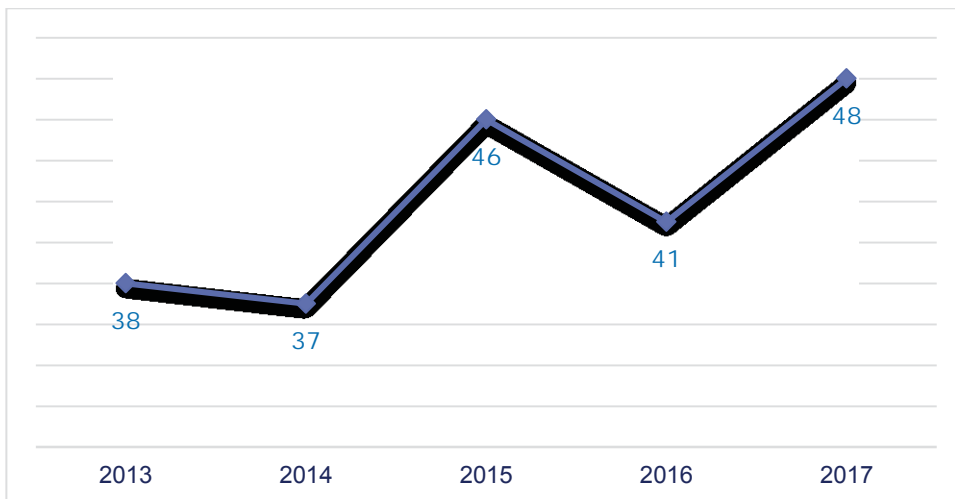


4. EU Pilot files: Slovakia's resolution rate in 2013-2017

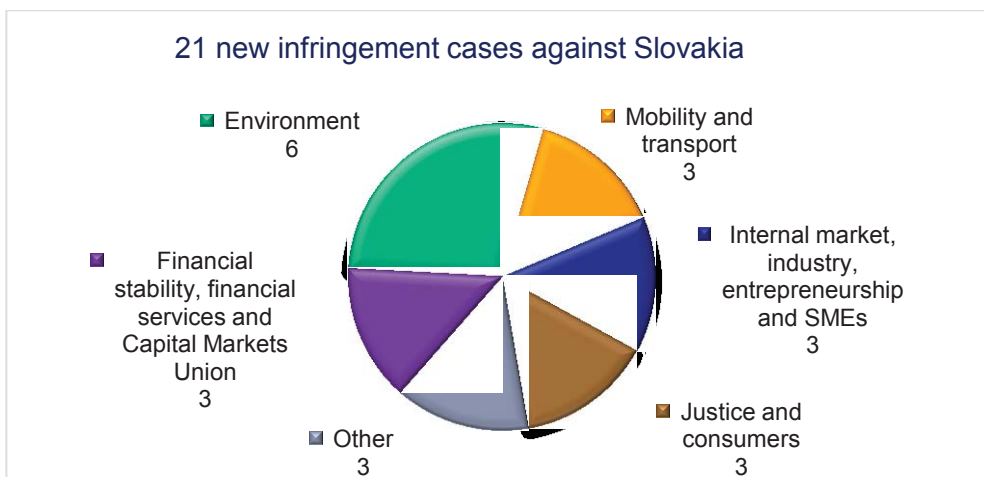


III. INFRINGEMENT CASES

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



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

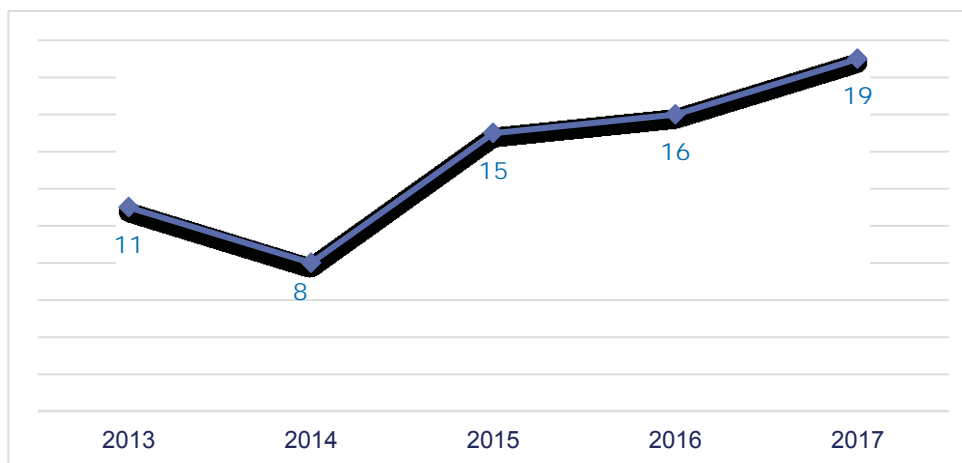


3. Key infringement cases and referrals to the Court

- 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)¹;
 - failure to ensure proper monitoring of air quality throughout the whole territory²;
 - failure to establish strategic noise maps and action plans required by the Noise Directive³;
 - non-communication of national measures transposing the:
 - Directive laying down calculation methods and reporting requirements⁴ pursuant to the Directive on fuels quality⁵;
 - Fourth Anti-Money Laundering Directive⁶;
 - Markets in Financial Instruments Directive (MiFID II)⁷;
- 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.

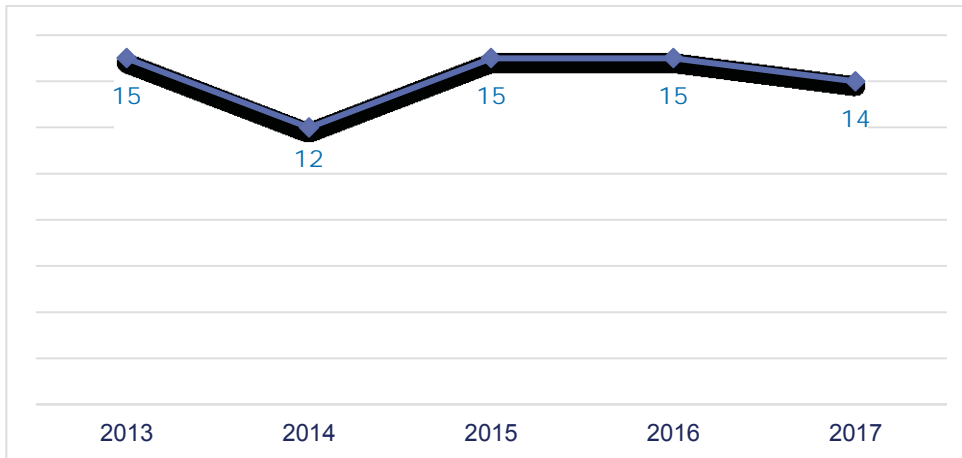
IV. TRANSPOSITION OF DIRECTIVES

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

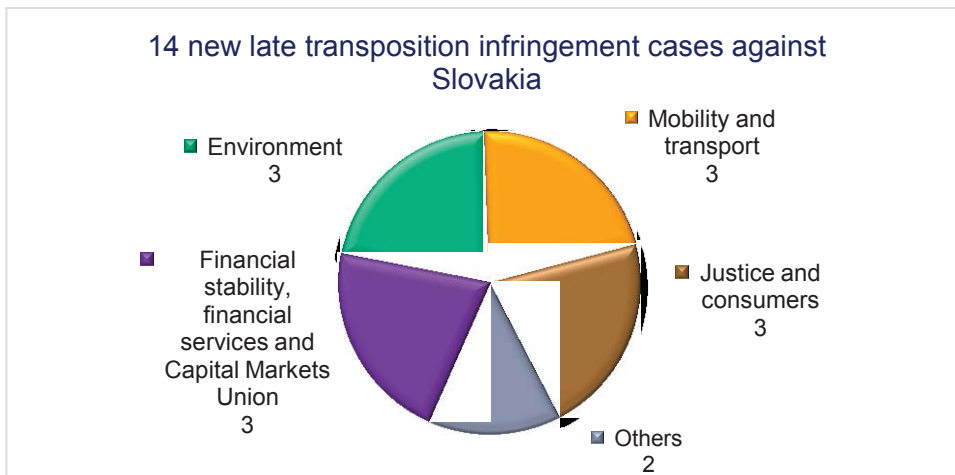


¹ Regulation [910/2014/EU](#), [MEMO/17/3494](#).
² [MEMO/17/3494](#).
³ Directive [2002/49/EC](#); [MEMO/17/1577](#).
⁴ Directive [2015/652/EU](#).
⁵ Directive [98/70/EC](#).
⁶ Directive [2015/849/EU](#).
⁷ Directive [2014/65/EU](#).

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 Directive⁸.

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 Directive⁹;
 - Solvency II Directive¹⁰;

⁸ Directive [2014/61/EU](#), Commission v Slovakia, [C-605/17](#); [IP/17/1937](#).

⁹ Directive [2014/66/EU](#); [MEMO/17/3494](#).

¹⁰ 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 Authority¹¹;
- incorrect transposition of the Environmental Impact Assessment Directive¹².

VI. IMPORTANT JUDGMENTS

1. Court rulings¹³

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 Italy¹⁴. The Court dismissed the actions for annulment brought by Hungary and Slovakia¹⁵.
- 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 Court¹⁶.

2. Preliminary rulings

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

- Under the EU social security coordination rules¹⁷, 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 legislation¹⁸.

¹¹ Directive [2014/51/EU](#).

¹² Directive [2011/92/EU](#).

¹³ These rulings are almost exclusively handed down on infringement procedures.

¹⁴ Council Decisions (EU) [2015/1523](#) and [2015/1601](#); [IP/17/5002](#).

¹⁵ Slovakia v. Council, [C-643/15](#) and Court press release [No 91/17](#).

¹⁶ Joint cases [C-593/15](#) and [C-594/15](#), Slovakia v Commission.

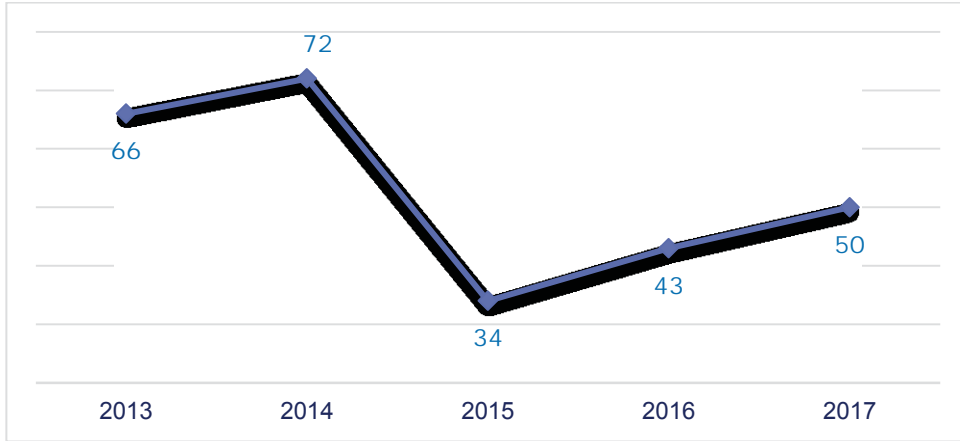
¹⁷ Regulation (EC) No [883/2004](#).

¹⁸ Szoja, [C-89/16](#).

Finland

I. COMPLAINTS

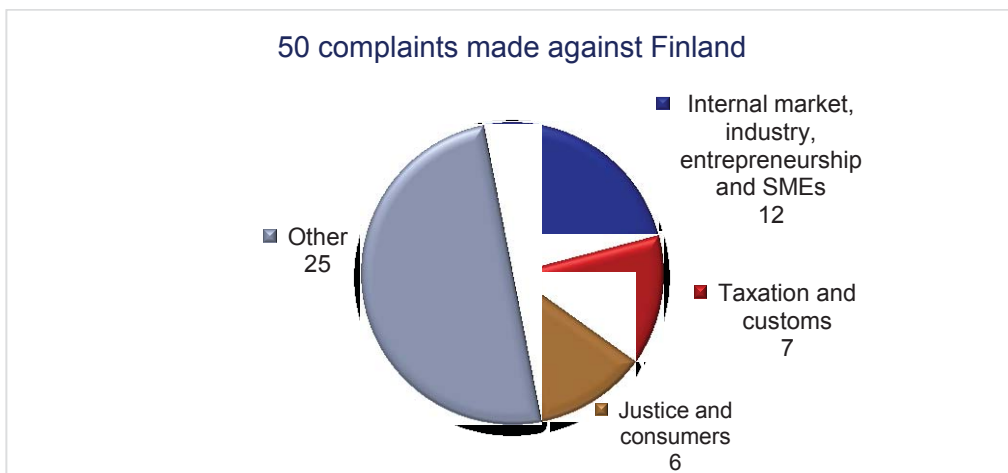
1. New complaints made against Finland by members of the public (2013-2017)



2. Public complaints against Finland open at year-end

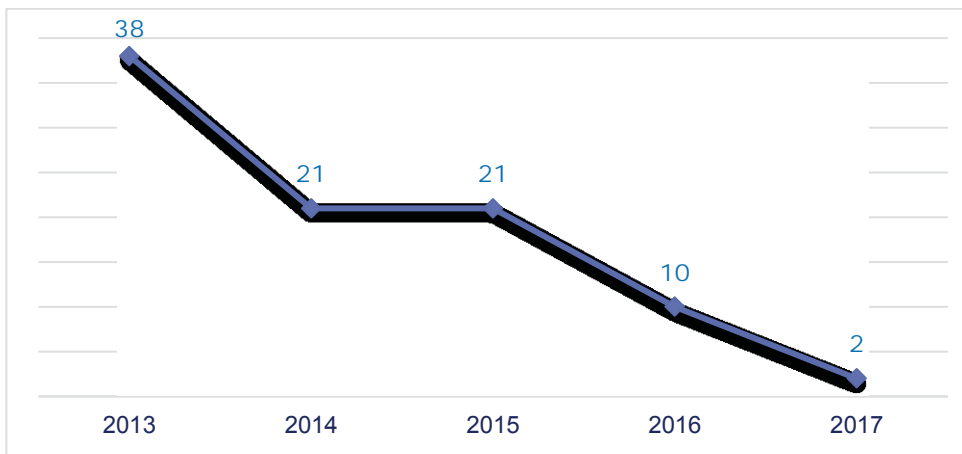
37	>	Complaints open at end-2016
50	>	New complaints registered in 2017
46	>	Complaints handled in 2017
= 41	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

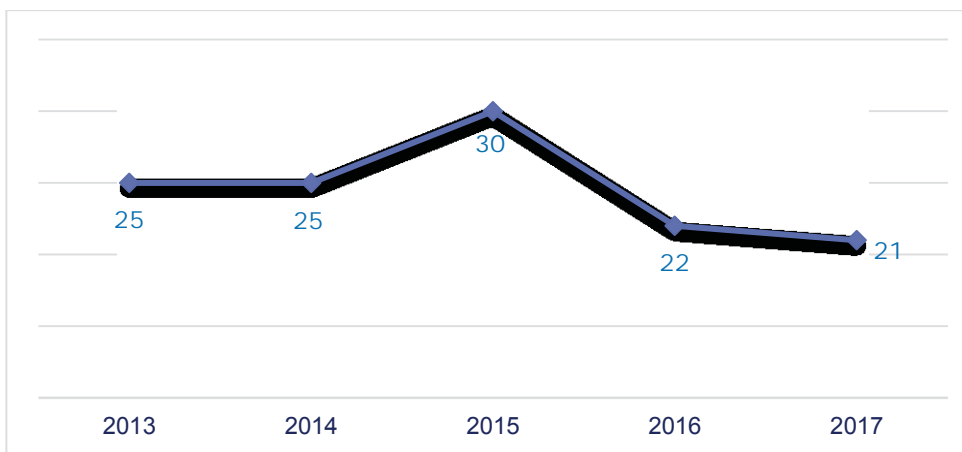


II. EU PILOT

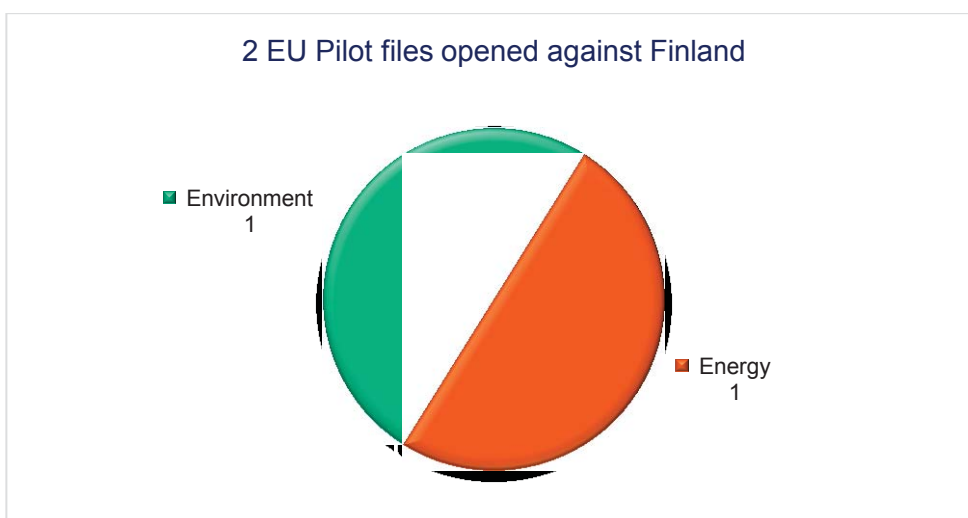
1. New EU Pilot files opened against Finland (2013-2017)



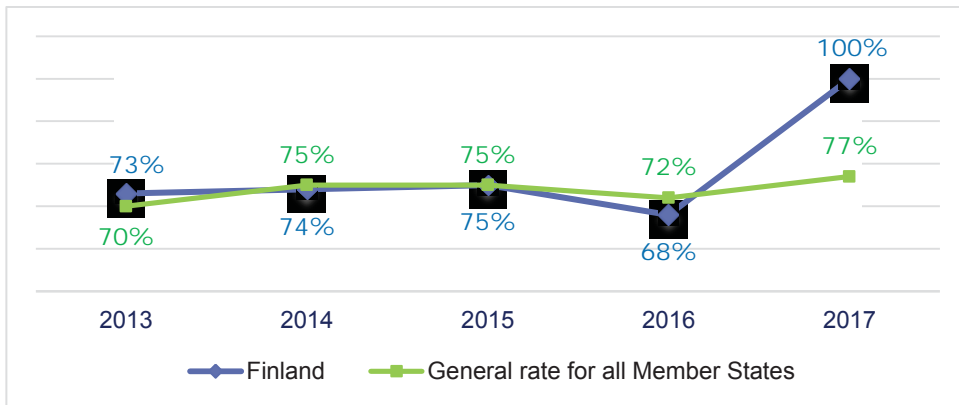
2. Files relating to Finland open in EU Pilot at year-end



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

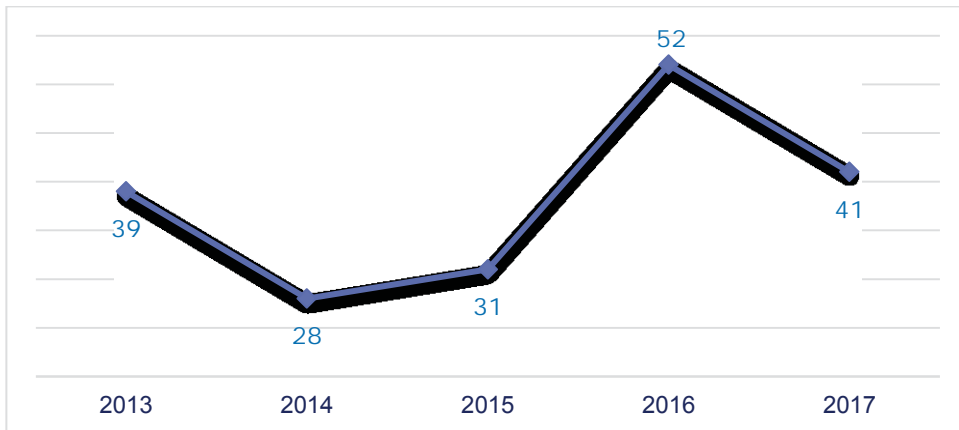


4. EU Pilot files: Finland's resolution rate in 2013-2017

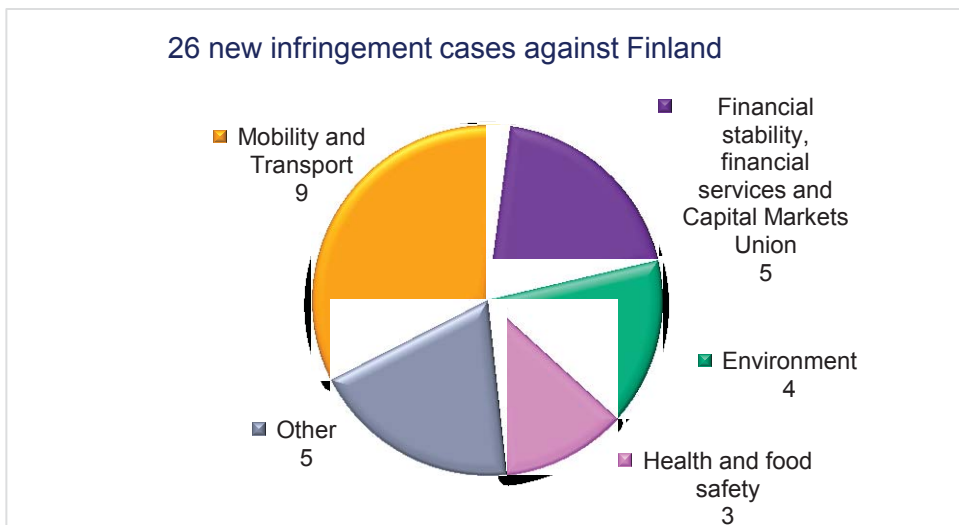


III. INFRINGEMENT CASES

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



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

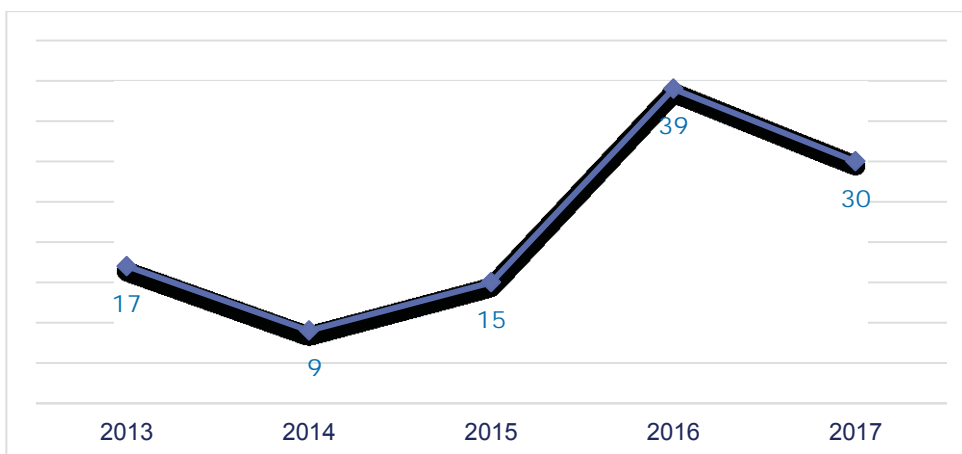


3. Key infringement cases and referrals to the Court

- 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)¹;
 - Directive on caseins and caseinates²;
 - Maritime Spatial Planning Directive³;
 - Directive on the organisation of working time in inland waterway transport⁴;
 - Fourth Anti-Money Laundering Directive⁵;
 - Directive⁶ laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality⁷;
 - Intra-Corporate Transfers Directive⁸;
 - Seasonal Workers Directive⁹.
- 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.

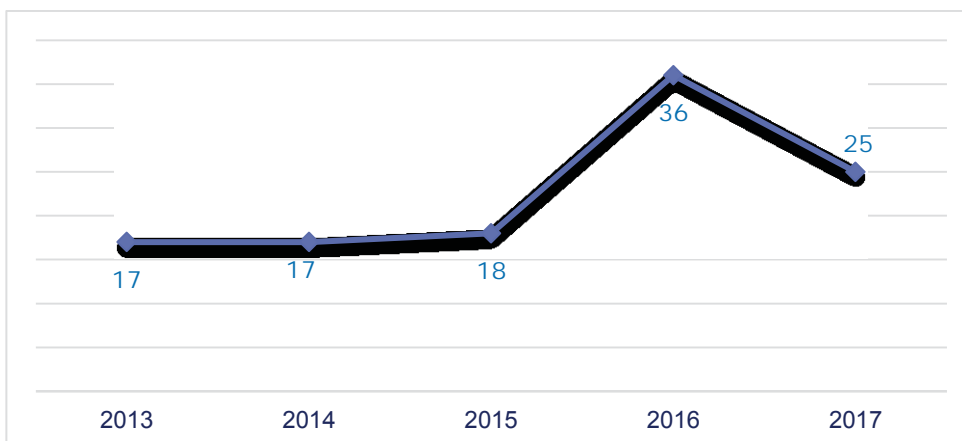
IV. TRANSPOSITION OF DIRECTIVES

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

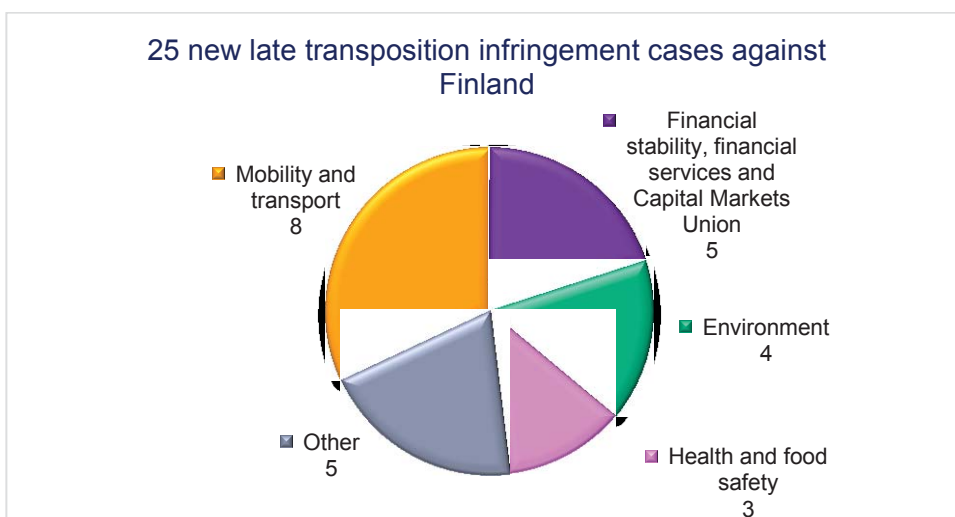


¹ Directive [2014/65/EU](#).
² Directive (EU) [2015/2203](#).
³ Directive [2014/89/EU](#); [MEMO/17/1935](#).
⁴ Directive [2014/112/EU](#).
⁵ Directive [2015/849/EU](#).
⁶ Directive (EU) [2015/652](#).
⁷ Directive [98/70/EC](#).
⁸ Directive [2014/66/EU](#); [MEMO/17/3494](#).
⁹ Directive [2014/36/EU](#); [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 caseinates¹⁰;
 - Seveso III Directive¹¹;
 - Directive on recognition of professional qualifications¹²;
 - 'Qualifications' Directive¹³;

¹⁰ Directive (EU) [2015/2203](#).

¹¹ Directive [2012/18/EU](#).

¹² Directive [2013/55/EU](#).

- Accounting Directive¹⁴;
- Directive on undertakings for collective investment in transferable securities¹⁵;
- Directive on disclosure of non-financial and diversity information by certain large undertakings¹⁶;
- Directive relating to the making available on the market of simple pressure vessels¹⁷;
- Directive on lifts¹⁸;
- Low Voltage Directive¹⁹;
- Directive relating to the making available on the market of measuring instruments²⁰;
- Directive on the return of unlawfully removed cultural goods²¹;
- Directive relating to the making available on the market of non-automatic weighing instruments²²;
- Directive on port reception facilities for ship-generated waste and cargo residues²³;
- Directive on recreational craft and personal watercraft²⁴;
- disproportionate taxing of vehicles leased or rented in other Member States when their limited duration of use in Finland is precisely known²⁵;
- failure to notify a national policy framework under the Directive on the deployment of alternative fuels²⁶.

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 'ers' are applicable to 'relief parents'²⁷ unless their working time as a whole is not measured or predetermined or may be determined by the worker himself²⁸.
- 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 Directive²⁹.

¹³ Directive [2011/95/EU](#).

¹⁴ Directive [2013/34/EU](#).

¹⁵ Directive [2014/91/EU](#).

¹⁶ Directive [2014/95/EU](#).

¹⁷ Directive [2014/29/EU](#).

¹⁸ Directive [2014/33/EU](#).

¹⁹ Directive [2014/35/EU](#).

²⁰ Directive [2014/32/EU](#).

²¹ Directive [2014/60/EU](#).

²² Directive [2014/31/EU](#).

²³ Directive [2015/2087/EU](#) amending Directive [2000/59/EC](#).

²⁴ Directive [2013/53/EU](#).

²⁵ [MEMO/17/1577](#).

²⁶ Directive [2014/94/EU](#).

²⁷ Persons caring for children in a family-like environment (in SOS Children's villages, for example).

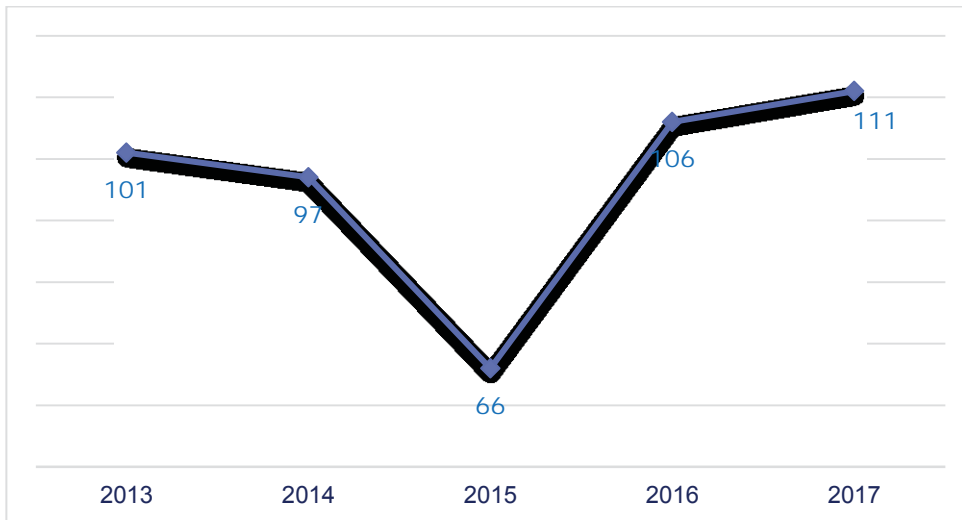
²⁸ Hälvä, [C-175/16](#).

²⁹ Ilves Jakelu, [C-368/15](#).

Sweden

I. COMPLAINTS

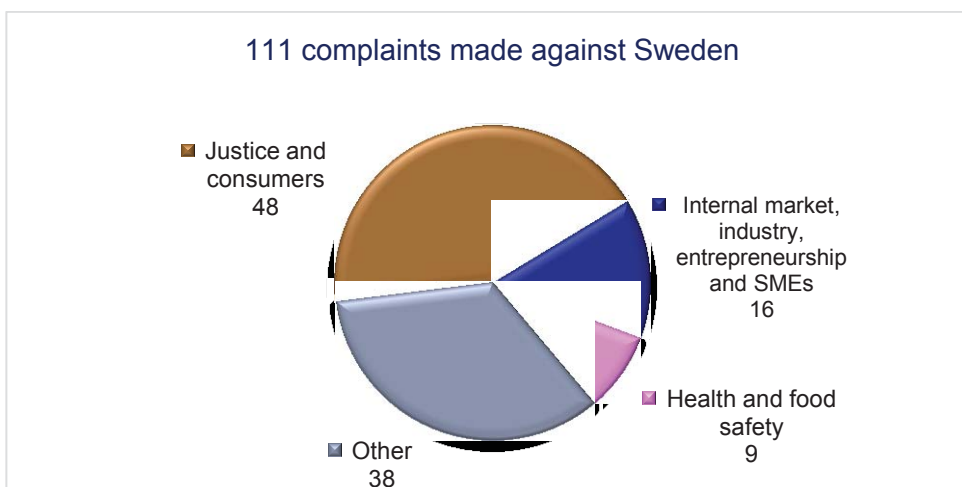
1. New complaints made against Sweden by members of the public (2013-2017)



2. Public complaints against Sweden open at year-end

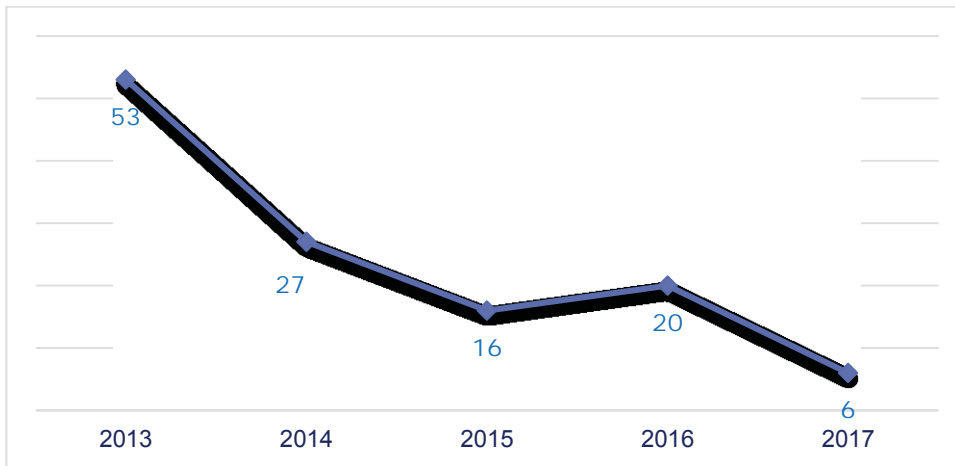
89	>	Complaints open at end-2016
111	>	New complaints registered in 2017
85	>	Complaints handled in 2017
= 115	>	Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

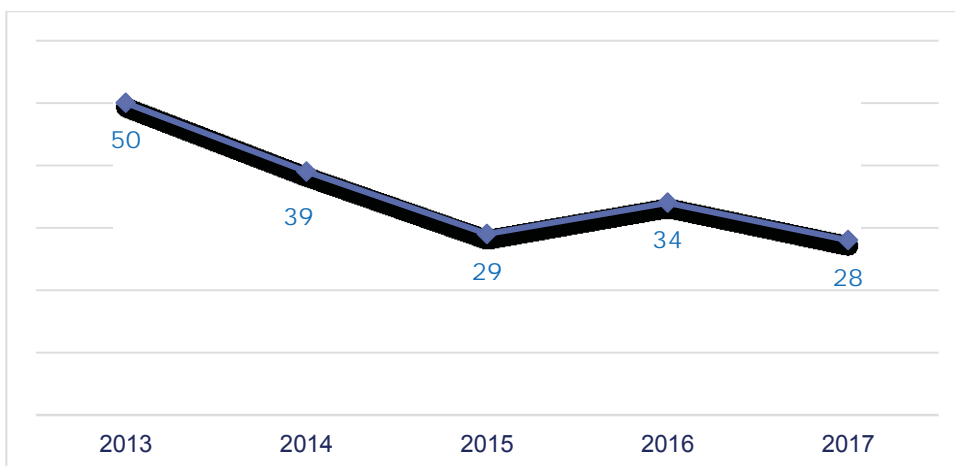


II. EU PILOT

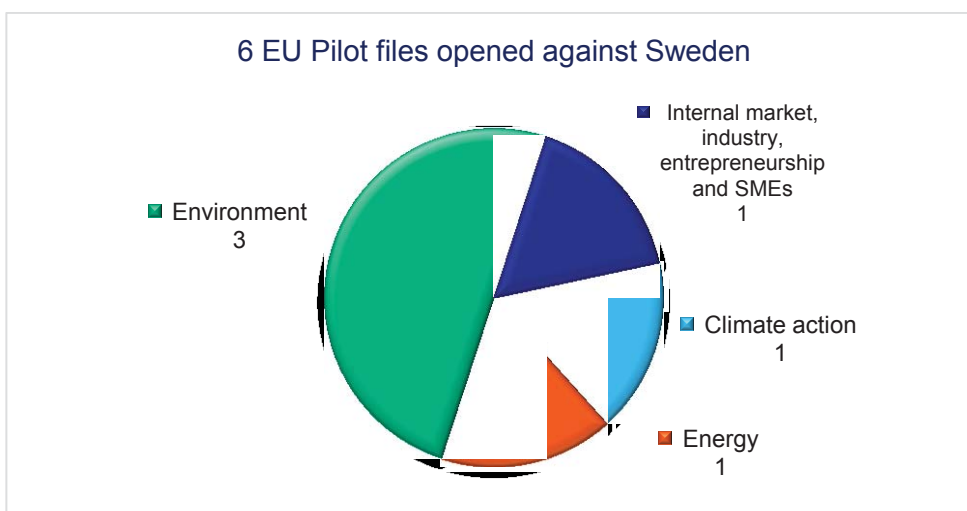
1. New EU Pilot files opened against Sweden (2013-2017)



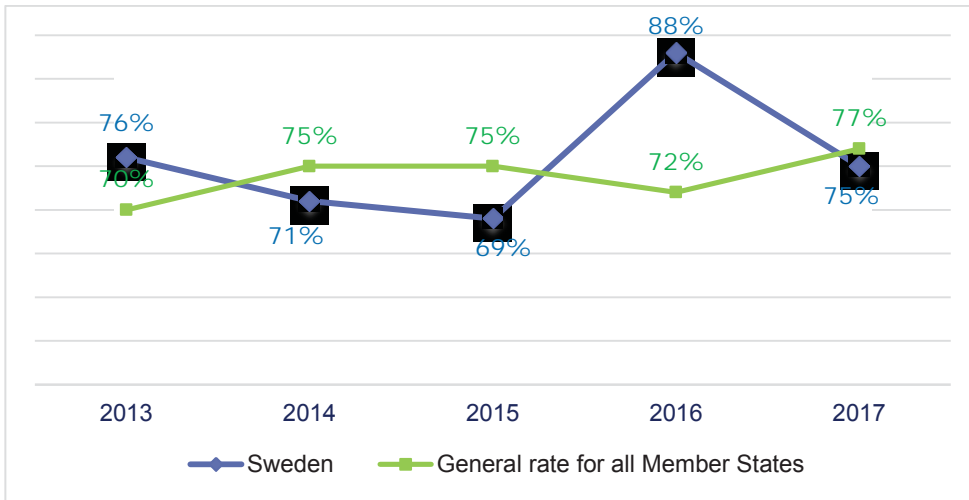
2. Files relating to Sweden open in EU Pilot at year-end



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

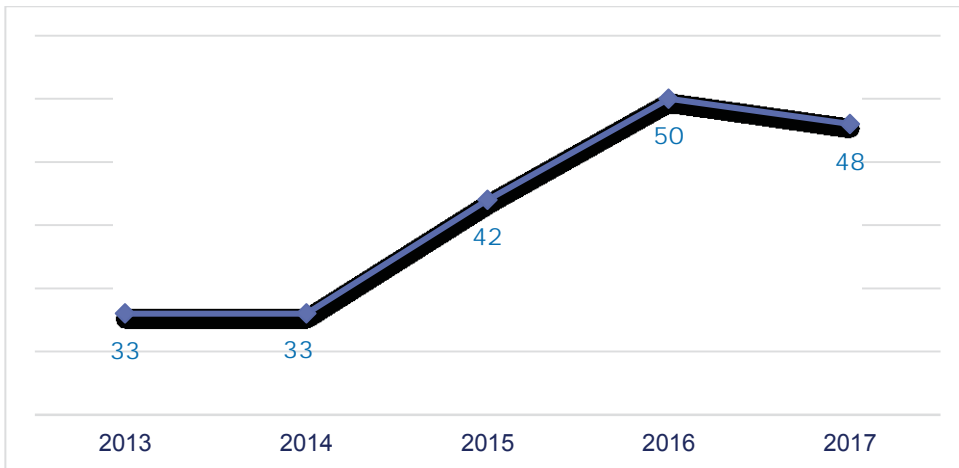


4. EU Pilot files: Sweden's resolution rate in 2013-2017

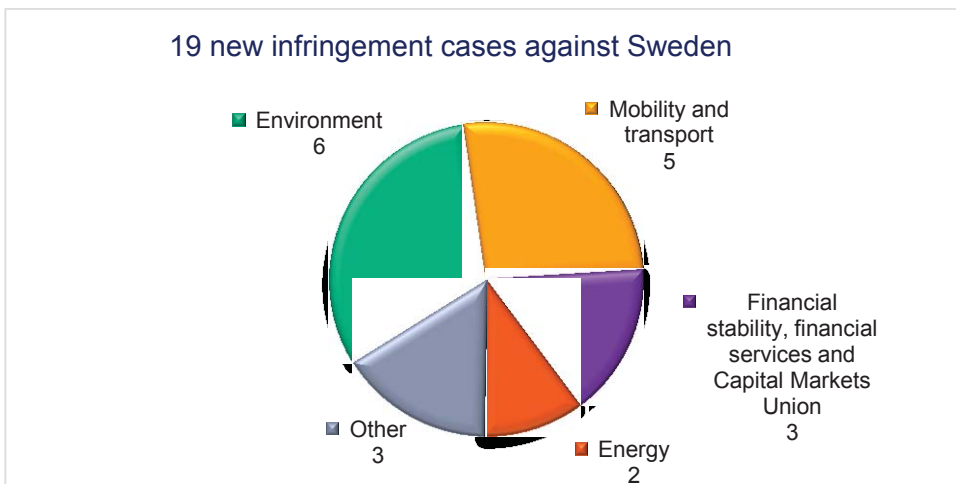


III. INFRINGEMENT CASES

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



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

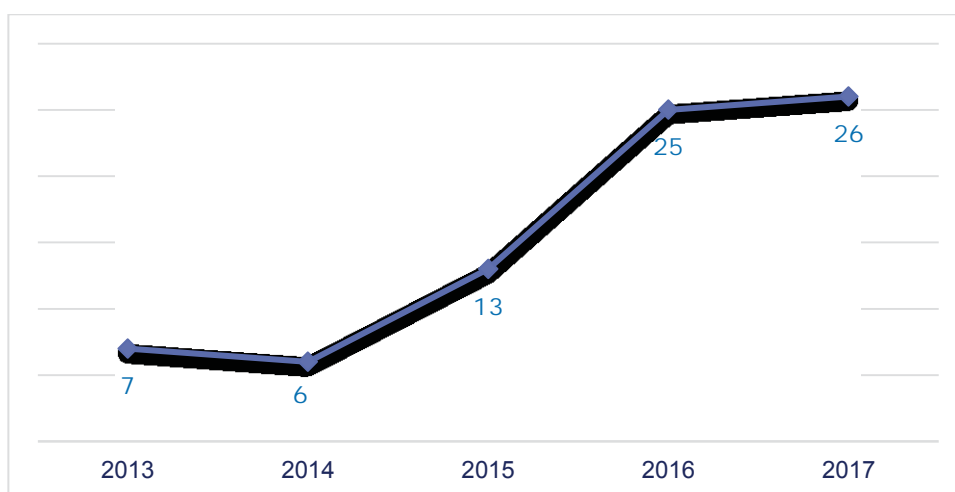


3. Key infringement cases and referrals to the Court

- 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 legislation¹;
 - incorrect transposition and implementation of the Third Energy Package Directives (Electricity and Gas Directives)²;
 - failure to ensure that urban waste water is adequately treated;
 - non-communication of national measures transposing the:
 - Markets in Financial Instruments Directive (MiFID II)³;
 - Directive⁴ laying down calculation methods and reporting requirements pursuant to the Directive on fuels quality⁵;
 - Directive on intra-corporate transfers and on seasonal workers⁶.
- 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)



¹ [MEMO/17/1281](#).

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

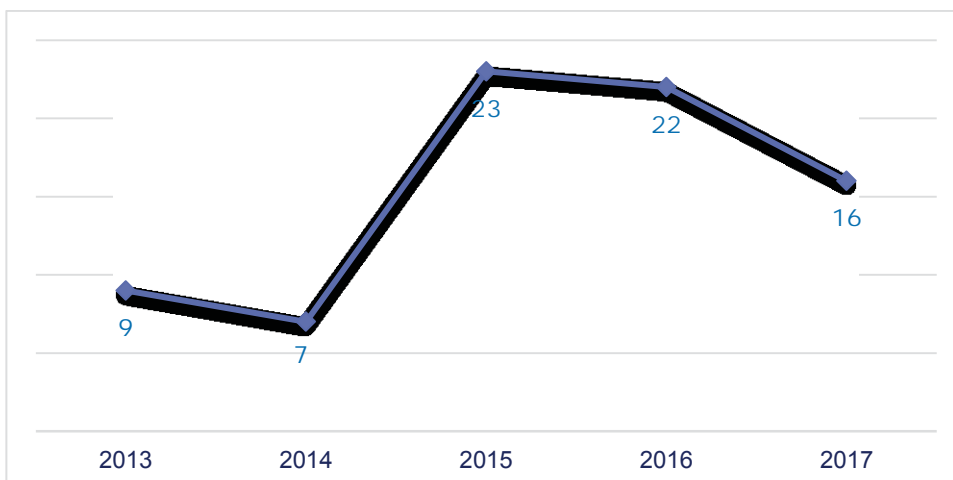
³ Directive [2014/65/EU](#).

⁴ Directive (EU) [2015/652](#).

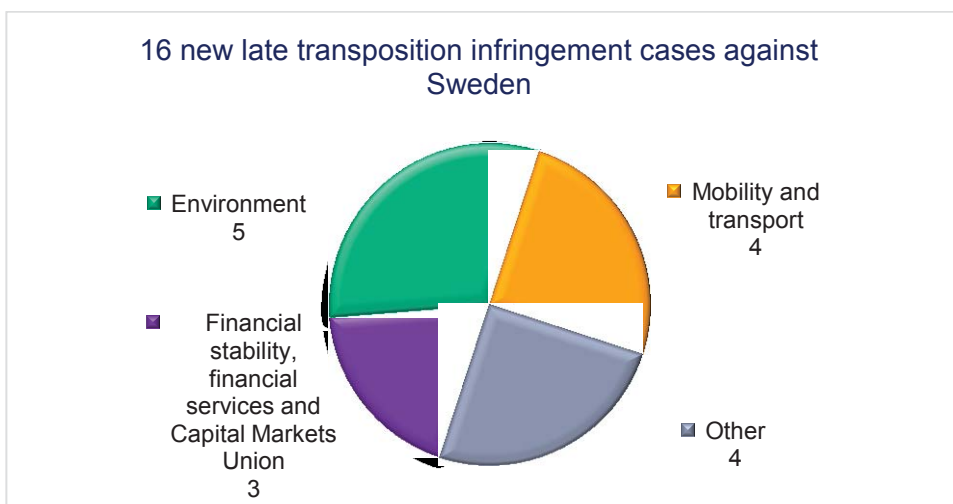
⁵ Directive [98/70/EC](#).

⁶ 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 buildings⁷;
- non-compliance of national legislation on gambling with EU rules⁸;
- non-communication of national measures transposing the:

⁷ Directive [2010/31/EU](#).
⁸ [IP/17/5109](#).

- Directive on maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic⁹;
- Transparency Directive, Deposit Guarantee Schemes Directive, Banking Resolution Directive, Directive on undertakings for collective investment in transferable securities, and Accounting Directive¹⁰.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹¹

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 crime¹².
- 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 networks¹³;

⁹ Directive [2015/719/EU](#) amending Council Directive [96/53/EC](#).

¹⁰ Directives [2013/50/EU](#), [2014/49/EU](#), [2014/59/EU](#), [2014/91/EU](#) and [2013/34/EU](#).

¹¹ These rulings are almost exclusively handed down on infringement procedures.

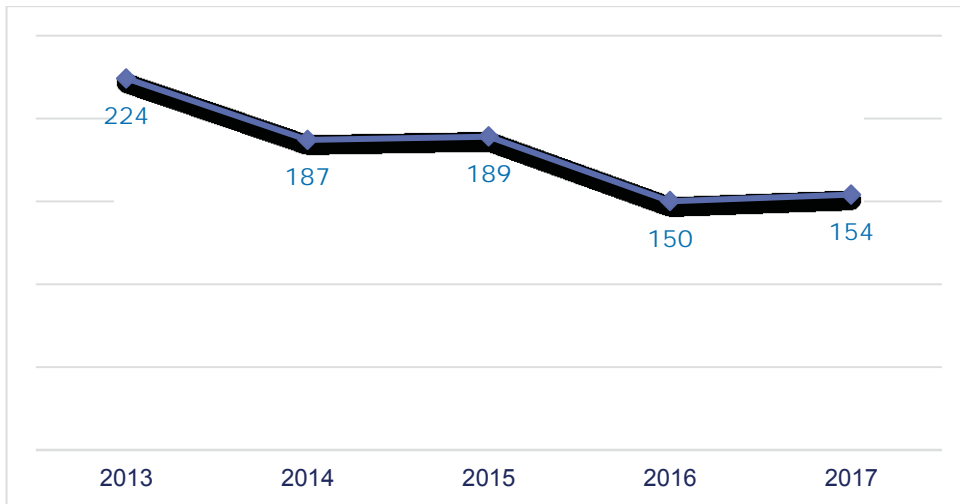
¹² Tele2 Sverige and Watson and Others, [C-203/15](#) and [C-698/15](#).

¹³ 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

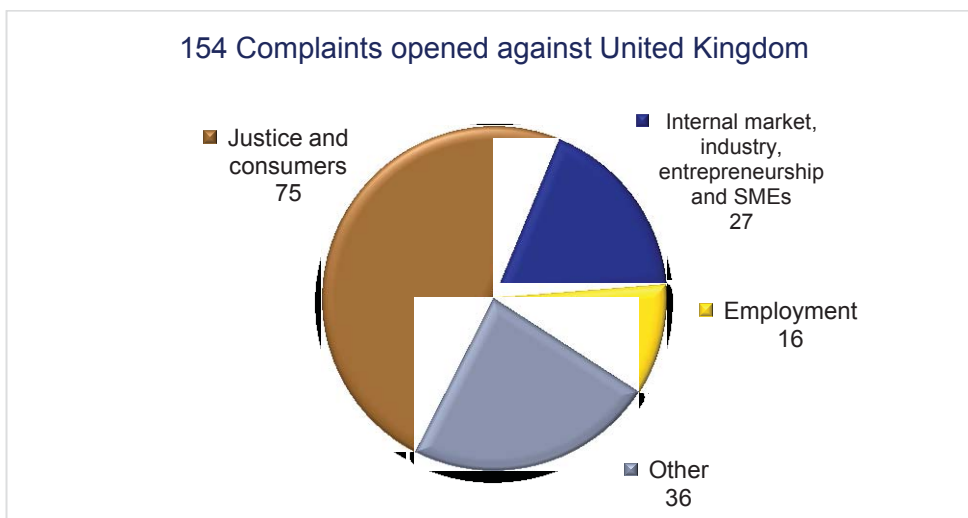
172 > Complaints open at end-2016

154 > New complaints registered in 2017

138 > Complaints handled in 2017

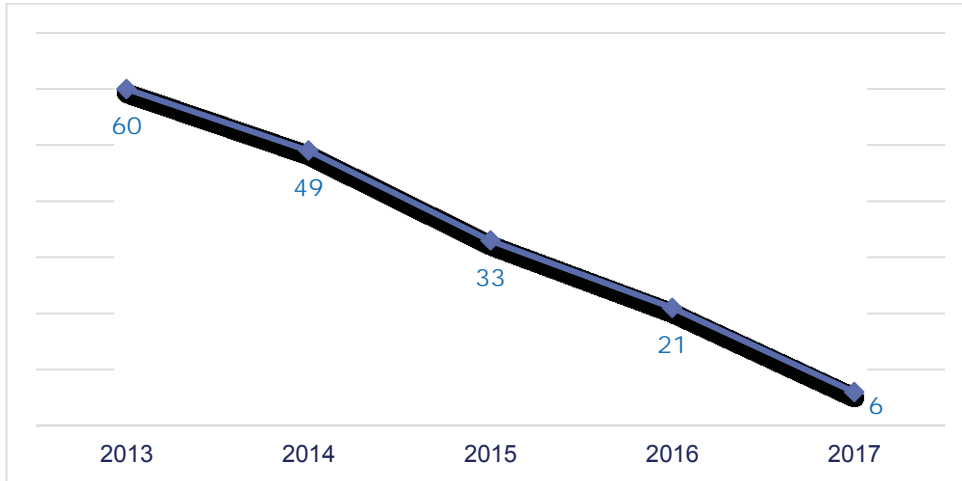
154
= 188 > Complaints open at end-2017

3. New complaints registered in 2017: main policy areas

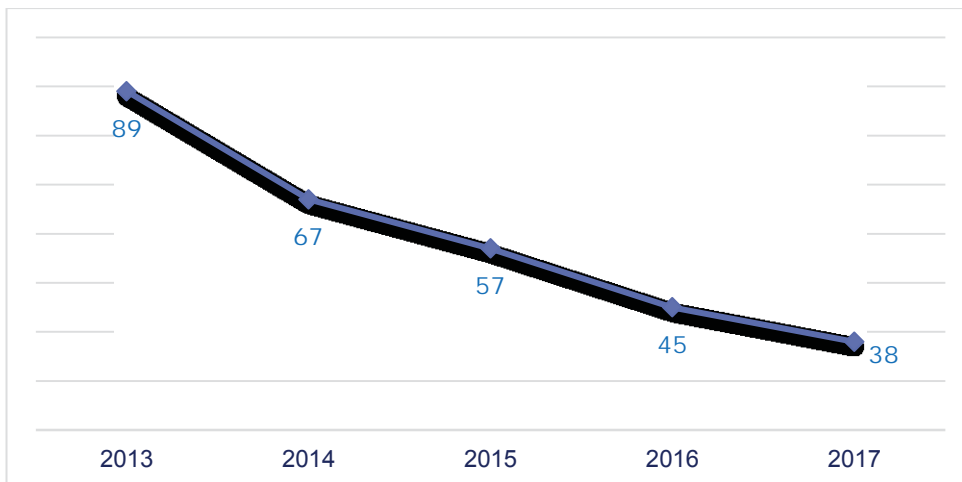


II. EU PILOT

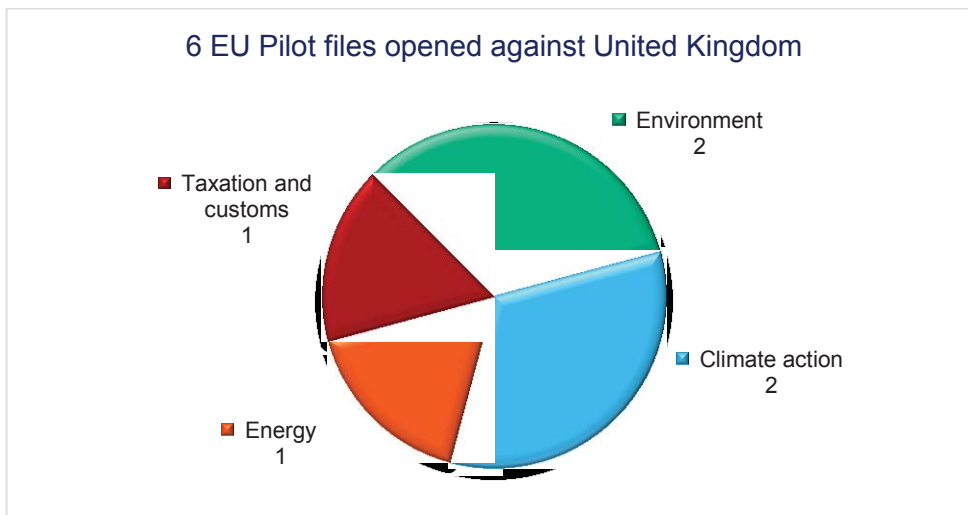
1. New EU Pilot files opened against the United Kingdom (2013-2017)



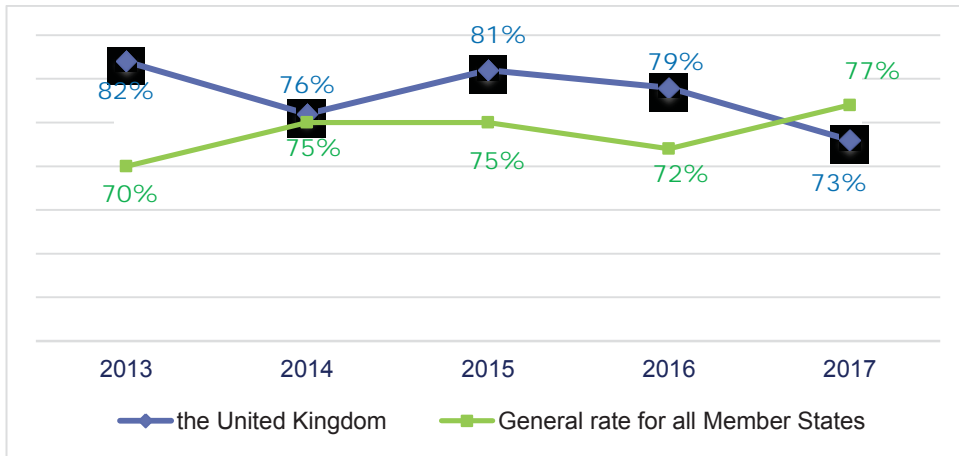
2. Files relating to the United Kingdom open in EU Pilot at year-end



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

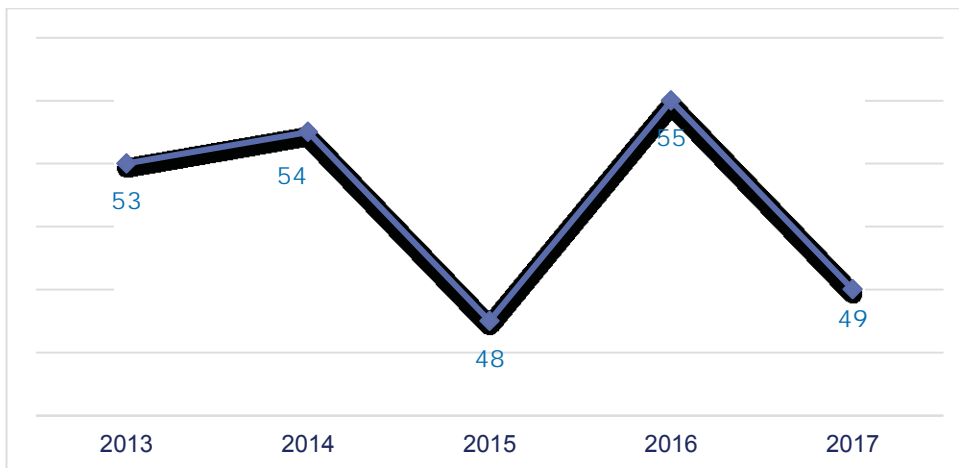


4. EU Pilot files: United Kingdom's resolution rate in 2013-2017

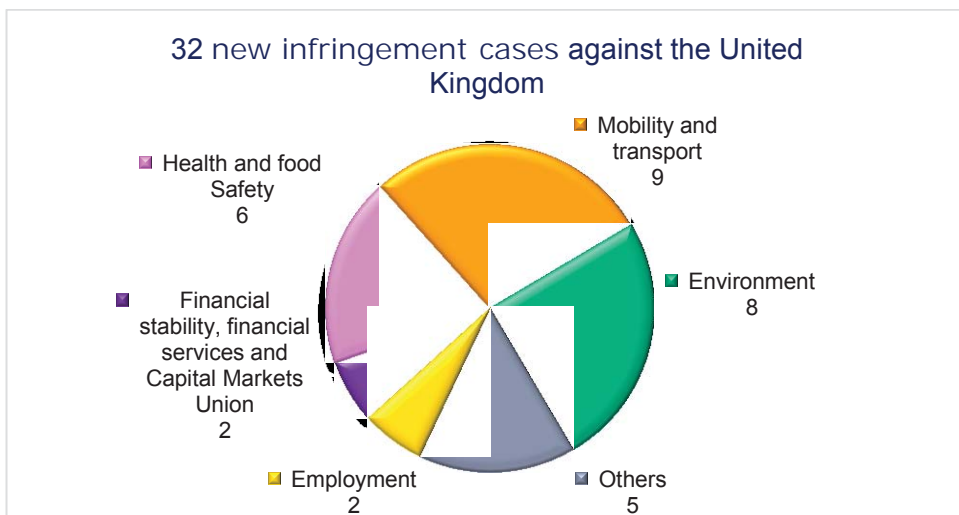


III. INFRINGEMENT CASES

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 NO₂ limit values set by the Air Quality Directive¹;
 - non-communication of national measures transposing the:
 - Directive on seafarers²;
 - Directive laying down calculation methods and reporting requirements³ pursuant to a Directive relating to the quality of petrol and diesel fuels⁴;
 - Directive on the organisation of working time in inland waterway transport⁵;
 - Directive on caseins and caseinates⁶;
- 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)⁷.
 - Failure to protect the harbour porpoise (*Phocoena phocoena*)⁸.
 - Failure to properly apply the EU rules on fiscal marking of fuel⁹. 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 States¹⁰.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Directive [2008/50/EC](#) and [IP/17/238](#).

² Directive [2015/1794/EU](#).

³ Directive [2015/652/EU](#).

⁴ Directive [98/70/EC](#).

⁵ Directive [2014/112/EU](#).

⁶ Directive [2015/2203](#).

⁷ Directive [1552/89](#), Commission v United Kingdom, [C-391/17](#) and [MEMO/16/3125](#).

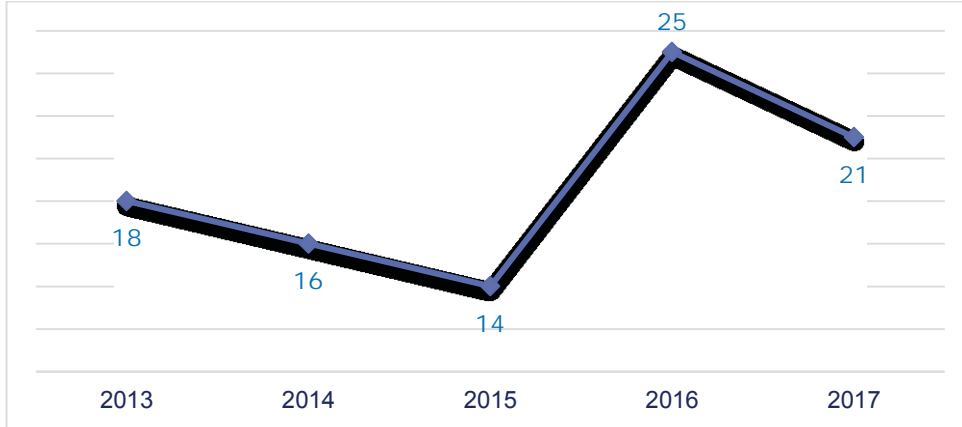
⁸ Directive [92/43/CEE](#), Commission v United Kingdom, [C-669/16](#); [IP/16/3128](#).

⁹ The fuel that may benefit from a reduced tax rate has to be marked by coloured dye.

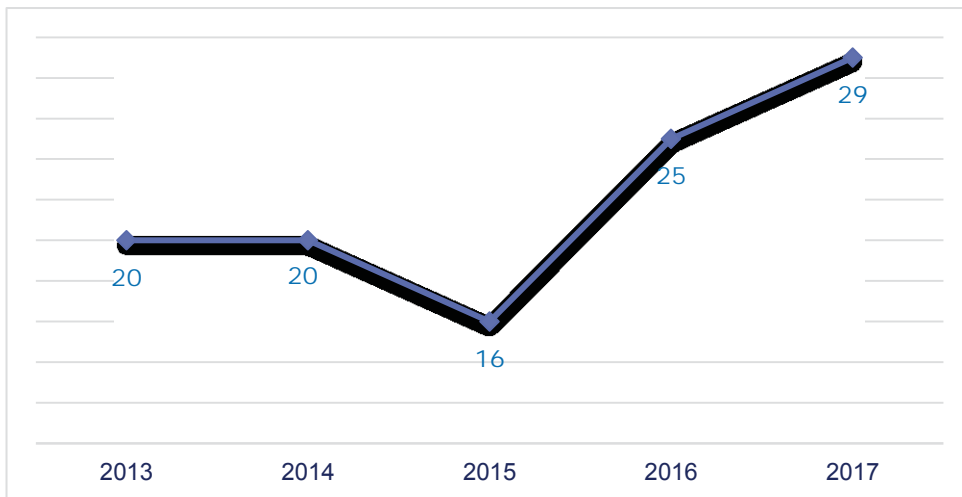
¹⁰ Directive [95/60/EC](#), Commission v United Kingdom, [C-503/17](#), [IP/14/810](#).

IV. TRANSPOSITION OF DIRECTIVES

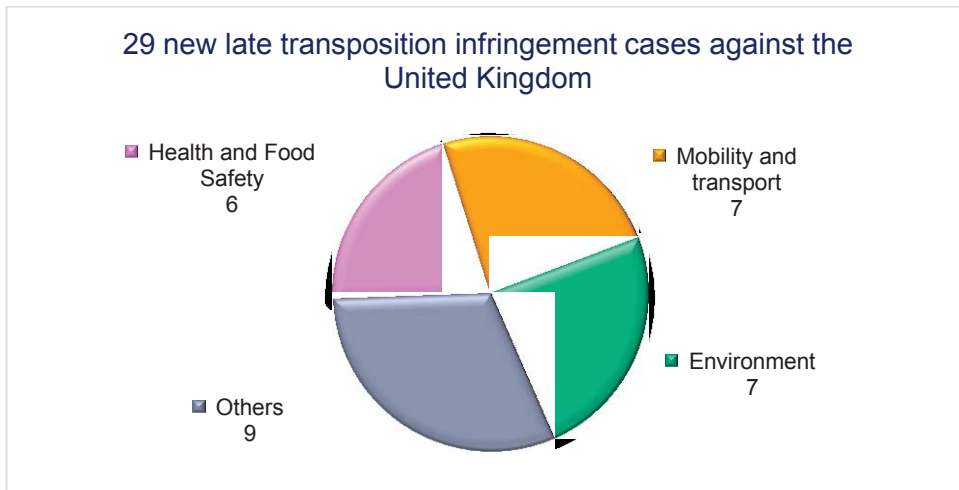
1. Late transposition infringement cases against the United Kingdom open on 31 December (2013-2017)



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 acts¹¹;
- failure to adopt a national policy framework for the development and deployment of alternative fuels infrastructure¹²;
- 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 qualifications¹³;
 - Directive on the deployment of alternative fuels¹⁴;
 - Omnibus II Directive in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority¹⁵;
 - Banking Recovery and Resolution Directive¹⁶;
 - Driving Licences Directive¹⁷;
 - Directive establishing a single European railway area (recast)¹⁸.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹⁹

The Court ruled that:

- The United Kingdom has failed to ensure adequate treatment of urban waste water in several agglomerations, some discharging into sensitive areas²⁰.

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/her²¹. 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/her²².

¹¹ Directive [2001/29/EC](#).

¹² Directive [2014/94/EU](#).

¹³ Directive [2005/36/EC](#).

¹⁴ Directive [2014/94/EU](#).

¹⁵ Directive [2014/51/EU](#).

¹⁶ Directive [2014/59/EU](#).

¹⁷ Directive [2006/126/EC](#).

¹⁸ Directive [2012/34/EU](#).

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

²⁰ Directive [91/271/EEC](#) and Commission v United Kingdom, [C-502/15](#).

²¹ Directive [2004/38/EC](#).

²² 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 States²³.
- The TFEU Treaty cannot be invoked between the United Kingdom and Gibraltar regarding the UK tax regime on the provision of gambling services²⁴.
- 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 full²⁵.
- Under the Working Time Directive²⁶, 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 leave²⁷.

²³ Trustees of the P Panayi Accumulation & Maintenance Settlements, [C-646/15](#).

²⁴ The Gibraltar Betting and Gaming Association Limited and The Queen, [C-591/15](#).

²⁵ Mercedes-Benz Financial Services UK, [C-164/16](#).

²⁶ Directive [2003/88/EC](#).

²⁷ 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.