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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
2018 Annual Report**

{COM(2019) 319 final} - {SWD(2019) 285 final} - {SWD(2019) 286 final}

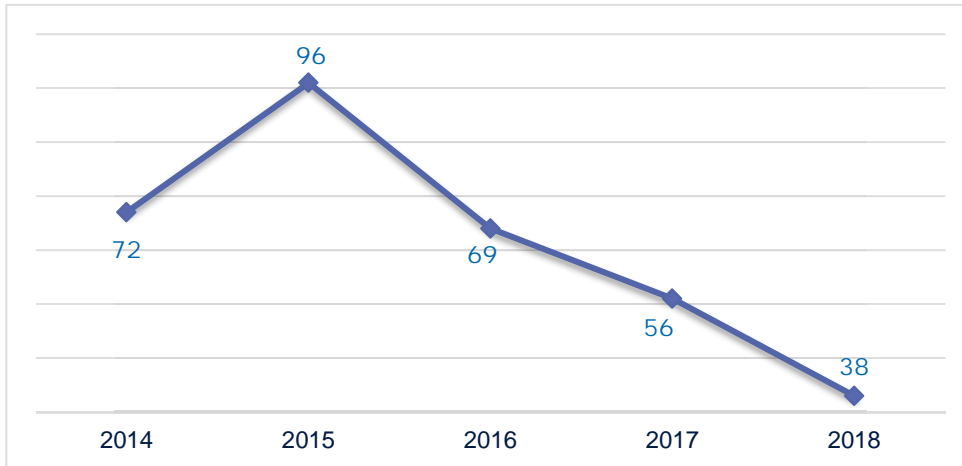
Monitoring the application of European Union law
2018 Annual Report

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Hungary

I. COMPLAINTS

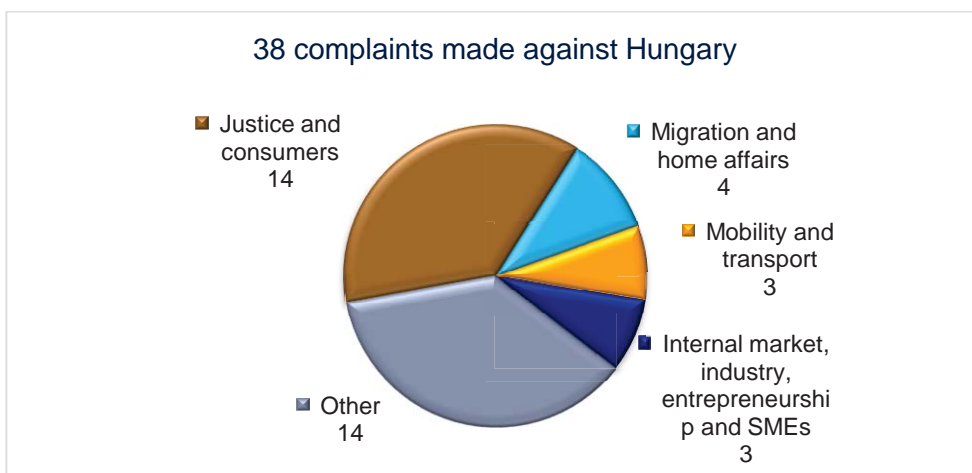
1. New complaints made against Hungary by members of the public (2014-2018)



2. Public complaints against Hungary open at year-end

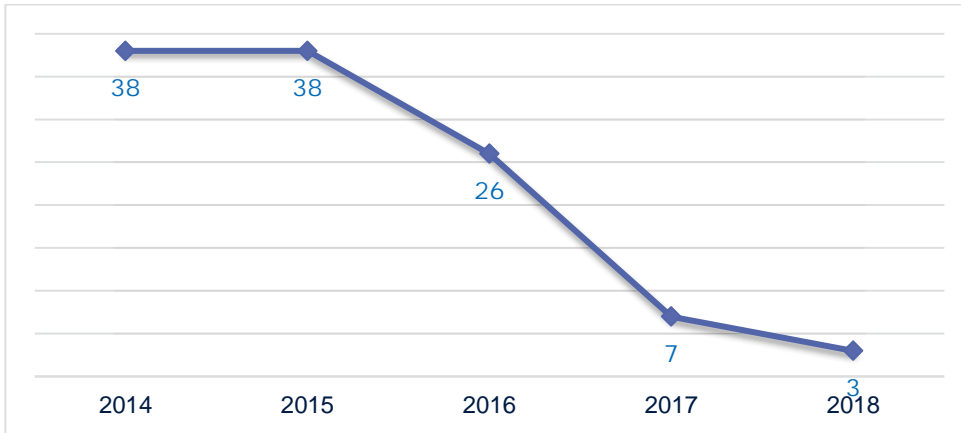
65	>	Complaints open at end-2017
38	>	New complaints registered in 2018
62	>	Complaints handled in 2018
= 41	>	Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

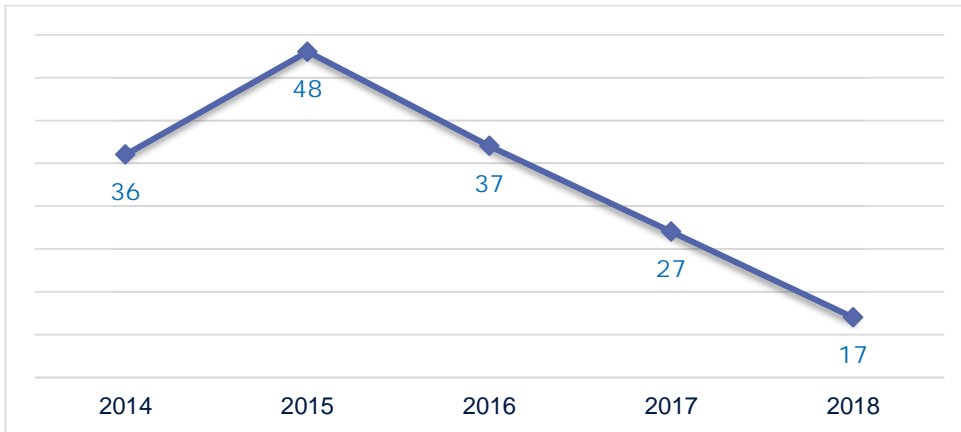


II. EU PILOT

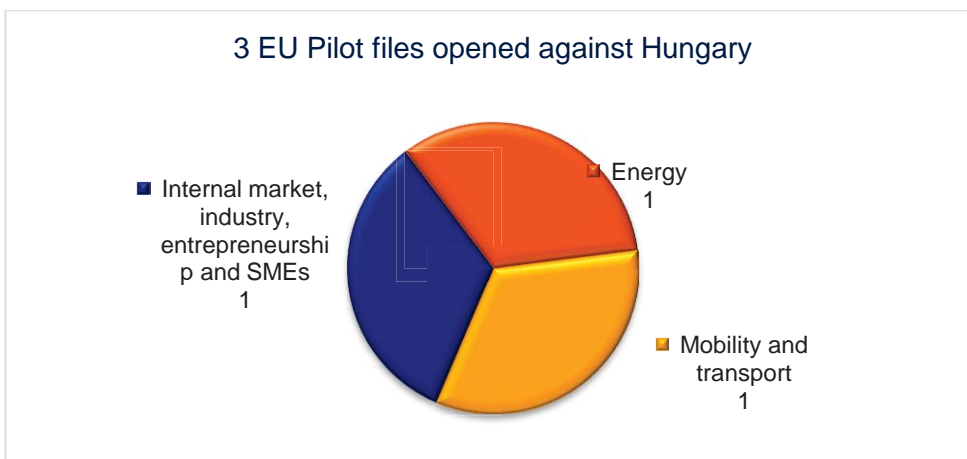
1. New EU Pilot files opened against Hungary (2014-2018)



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

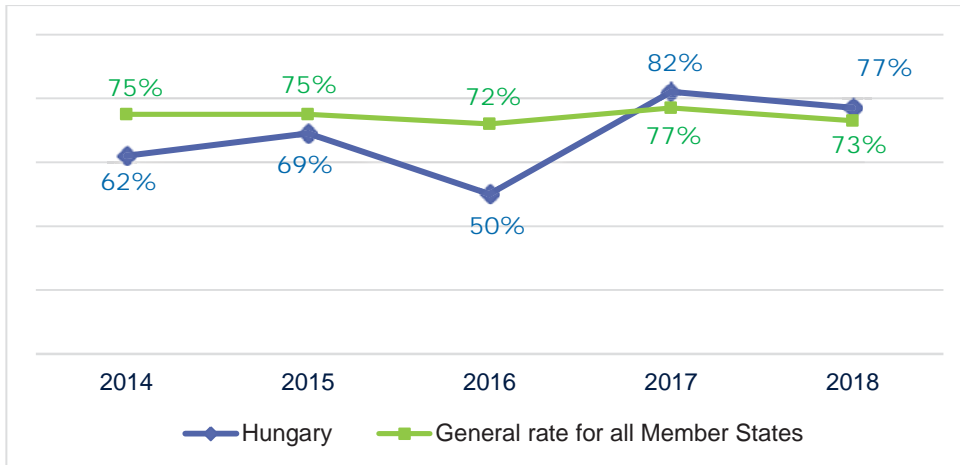


3. New EU Pilot files opened in 2018: policy areas



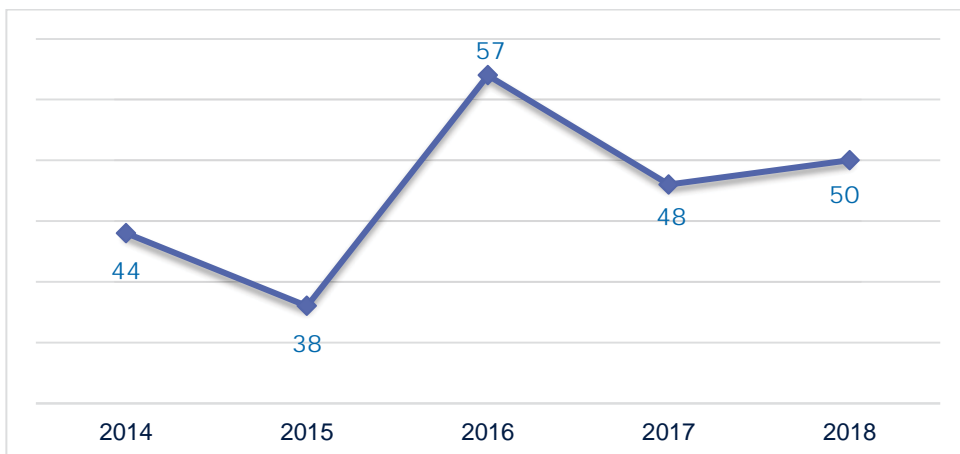
Hungary

4. EU Pilot files: Hungary's resolution rate in 2014-2018

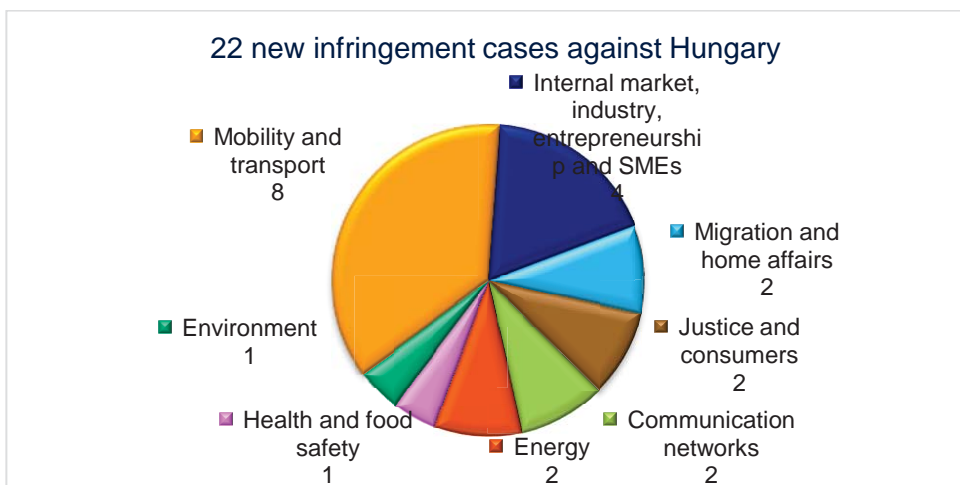


III. INFRINGEMENT CASES

1. Infringement cases against Hungary open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

- a) The Commission opened 22 new infringement cases against Hungary in 2018. These, and other major ongoing infringement cases, include:
- failure to verify compliance with air safety requirements¹;
 - failure to comply with EU legislation on Flag State requirements²;
 - non-compliance with the requirements of the Energy Efficiency Directive³;
 - failure to correctly transpose certain requirements of the Radioactive Waste Directive⁴;
 - failure to fulfil obligations under the Long-Term Residents Directive⁵ since Hungarian law precludes third country nationals who are long-term residents from access to employment or self-employed activities in the veterinary sector;
 - non-conformity of national transposition measures with the Directive on the recognition of professional qualifications⁶;
 - incompatibility of domestic legislation with the EU provisions on asylum and free movement, as well as the EU Charter of Fundamental Rights⁷;
 - non-communication of national measures transposing the
 - Directive on protective measures against the introduction into the Community of organisms harmful to plants⁸;
 - Directive on end-of life vehicles⁹;
 - Directive on security of network and information systems¹⁰;
 - Directive on the accessibility of the websites and mobile applications of public sector bodies¹¹.
- b) The Commission referred five cases to the Court under Article 258 TFEU. They concern
- the introduction of conditions on the transparency of organisations supported from abroad, in violation of the free movement of capital and the Charter of Fundamental Rights¹²;
 - non-compliance with the requirements of the Third Energy Package Directives (Electricity and Gas Directives)¹³;
 - exceedance of the PM₁₀¹⁴ limit values set by the Air Quality Directive¹⁵;
 - non-compliance of asylum and return legislation with EU law¹⁶;
 - amendments of the Hungarian Higher Education Act (CCIV), which violate EU law by restricting the operations of EU and non-EU higher education institutions¹⁷.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Regulation (EU) [965/2012](#), [MEMO/18/4486](#).

² Directive [2009/21/EC](#), [MEMO/18/4486](#).

³ Directive [2012/27/EU](#), [MEMO/18/6247](#).

⁴ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

⁵ Directive [2003/109/EC](#), [MEMO/18/4486](#).

⁶ Directive [2005/36/EC](#), [MEMO/18/4486](#).

⁷ [IP/18/4522](#).

⁸ Commission Implementing Directive [2017/1279/EU](#).

⁹ Directive [2017/2096/EU](#).

¹⁰ Directive [2016/1148/EU](#), [MEMO/18/4486](#).

¹¹ Directive [2016/2102/EU](#).

¹² Commission v Hungary, [C-78/18](#).

¹³ Directives [2009/72/EC](#) and [2009/73/EC](#), Commission v Hungary, [C-771/18](#); [IP/18/4487](#).

¹⁴ PM₁₀ is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometres. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: European Environment Agency).

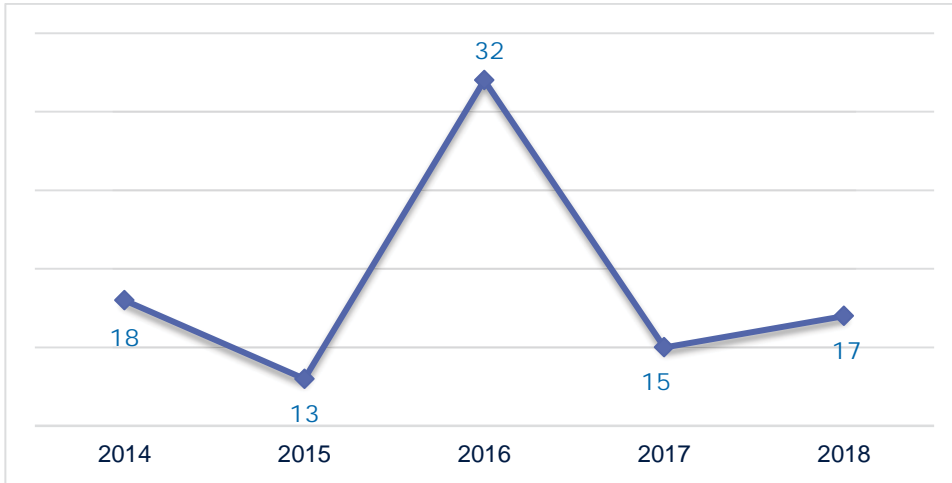
¹⁵ Directive [2008/50/EC](#), Commission v Hungary, [C-637/18](#); [IP/18/3450](#).

¹⁶ Commission v Hungary, [C-808/18](#).

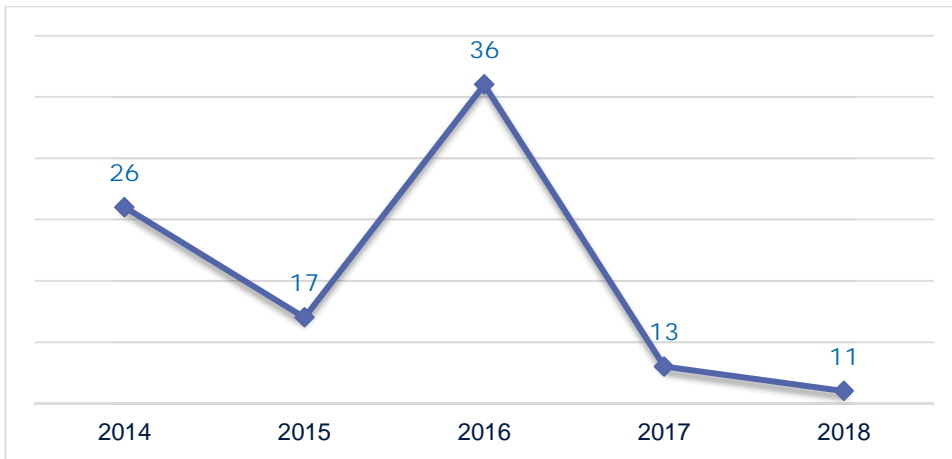
¹⁷ Commission v Hungary, [C-66/18](#).

IV. TRANSPOSITION OF DIRECTIVES

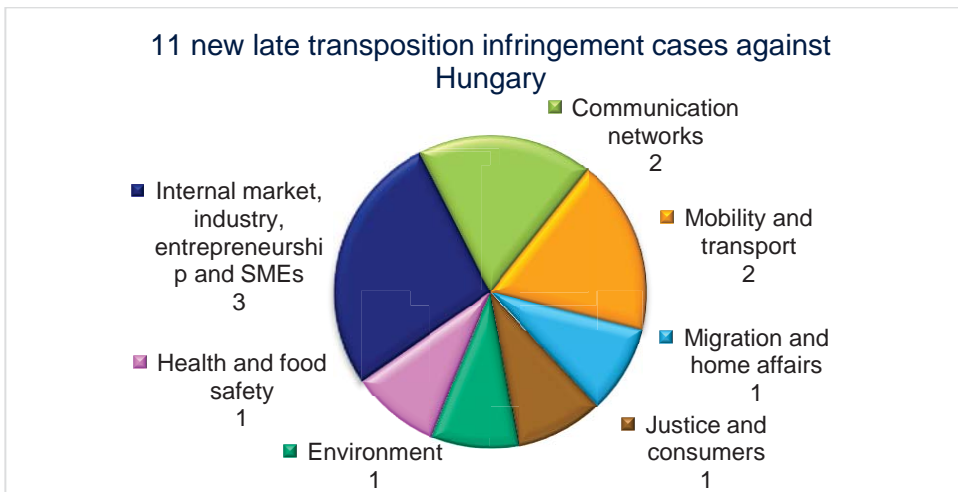
1. Late transposition infringement cases against Hungary open on 31 December (2014-2018)



2. New late transposition infringement cases against Hungary (2014-2018)



3. New late transposition infringement cases opened in 2018: 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 2018

These concerned:

- non-communication of national measures transposing the Directives on
 - tobacco products¹⁸;
 - protective measures against the introduction into the Community of organisms harmful to plants¹⁹;
 - the freezing and confiscation of instrumentalities and proceeds of crime²⁰;
- incorrect transposition of the Directive on the protection of the environment through criminal law²¹;
- incorrect transposition of the EU rules on maternity leave.

VI. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- *Hungary* breached its obligations under the Services Directive by adopting legislation creating a monopoly by a State-owned entity on the provision of mobile payments services for public parking and other activities²².

2. Preliminary rulings

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

- Recourse to a psychologist's expert report for the purpose of assessing the veracity of a claim made by an asylum seeker as to his sexual orientation constitutes an interference with that person's right to respect for his private life and is not consistent with EU law²³.
- Any decision to exclude a person from refugee status or subsidiary protection must be preceded by a full investigation into all the circumstances of his individual case and cannot be taken automatically. The penalty provided for a specific crime under the law of the particular Member State may not constitute the sole criterion to determine whether the person claiming subsidiary protection may be excluded from it²⁴.
- National legislation restricting usufructuary rights over agricultural land breaches the free movement of capital. The Court concluded that the claimants could enjoy the property in which they invested capital and the national legislation was potentially discriminatory as it favoured close family members of the landowners, who were mainly Hungarian citizens²⁵.

¹⁸ Directive [2014/40/EU](#).

¹⁹ Commission Implementing Directive [2017/1279/EU](#).

²⁰ Directive [2014/42/EU](#).

²¹ Directive [2008/99/EC](#).

²² Commission v Hungary, [C-171/17](#).

²³ F, [C-473/16](#).

²⁴ Ahmed, [C--369/17](#).

²⁵ SEGRO, [C-52/16](#).

Hungary

- The requirement of proportionality concerning the system of penalties applicable set out in the Directive on the charging of heavy goods vehicles for the use of certain infrastructures does not have direct effect²⁶.
- When businesses fulfil the conditions of the special exemption scheme for small enterprises, for the scheme to apply the taxable person must opt for its application. In the absence of doing so, the normal VAT obligations apply by default²⁷.
- The case concerns a national procedural rule which submits the possibility of asserting a claim under civil law in the event of an infringement of the rules governing public procurement and the award of public contracts to the condition that the infringement be definitively established by a court decision. The Court ruled that the rule can be considered compatible with EU legislation²⁸.
- The unfairness of an unclear contractual term which places the exchange rate risk on the borrower and does not reflect statutory provisions may be subject to judicial review²⁹.

²⁶ Directive [1999/62/EC](#), *Dooel Uvoz-Izvoz Skopje Link Logistic N&N v Budapest Rendőrőfőkapitánya*, [C-384/17](#).

²⁷ *Vámos*, [C-566/16](#).

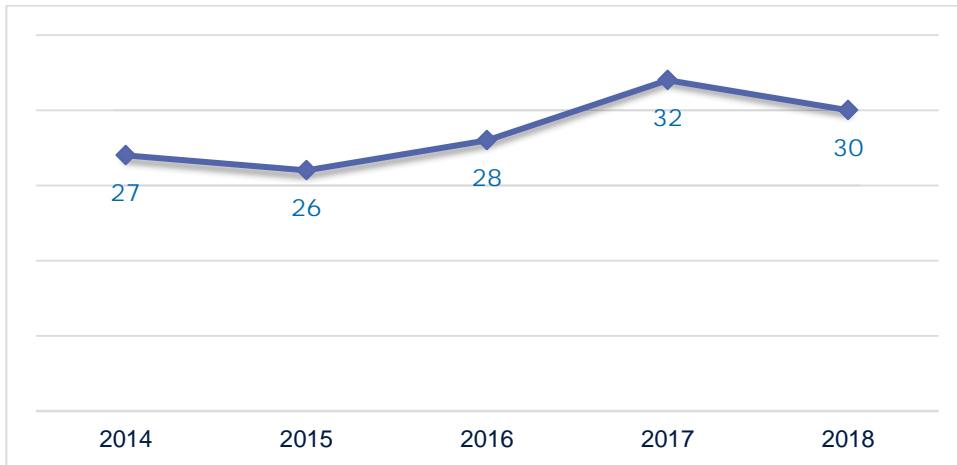
²⁸ *Hochtief*, [C-300/17](#).

²⁹ *OTP Bank and OTP Faktoring*, [C-51/17](#) and Court press release [No 137/18](#).

Malta

I. COMPLAINTS

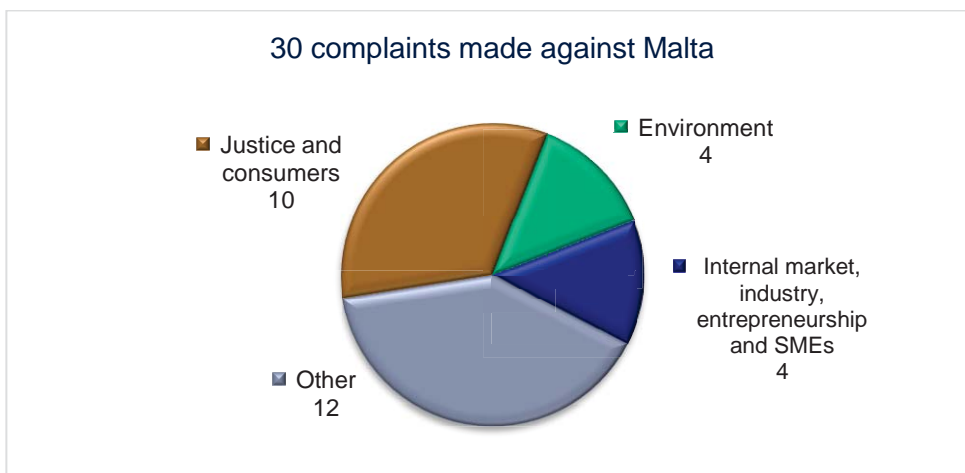
1. New complaints made against Malta by members of the public (2014-2018)



2. Public complaints against Malta open at year-end

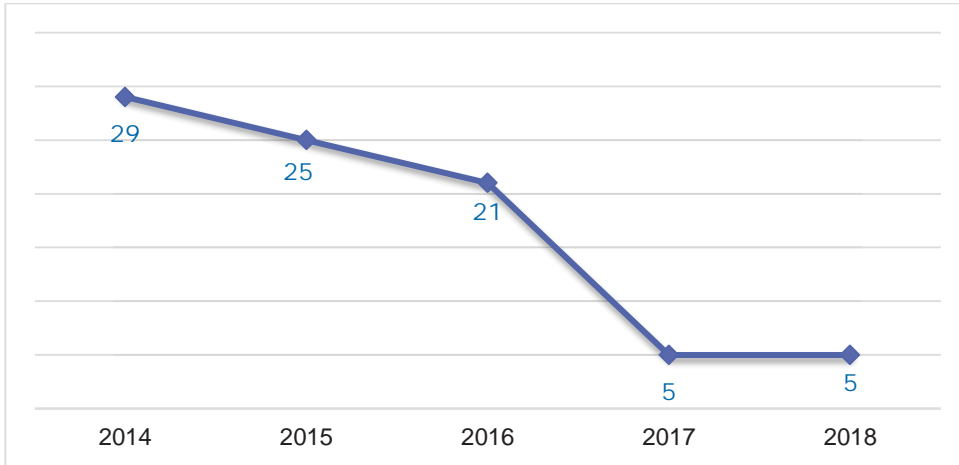
24	>	Complaints open at end-2017
30	>	New complaints registered in 2018
29	>	Complaints handled in 2018
= 25	>	Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

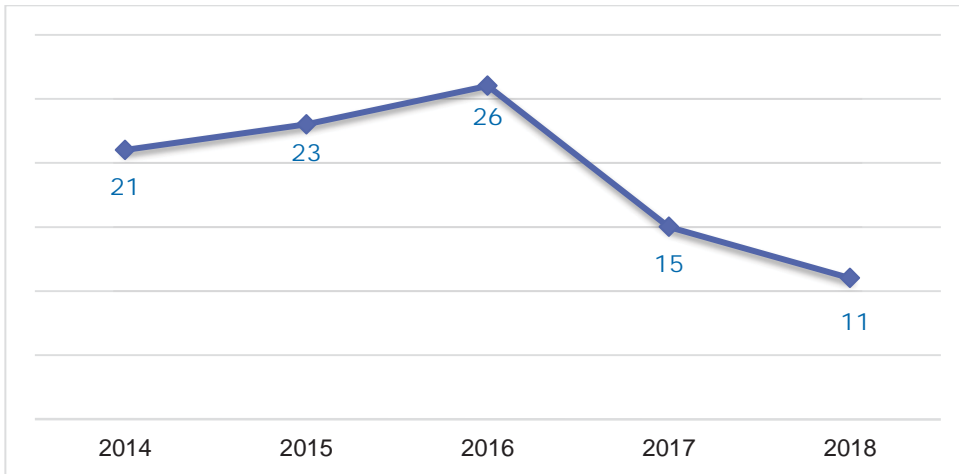


II. EU PILOT

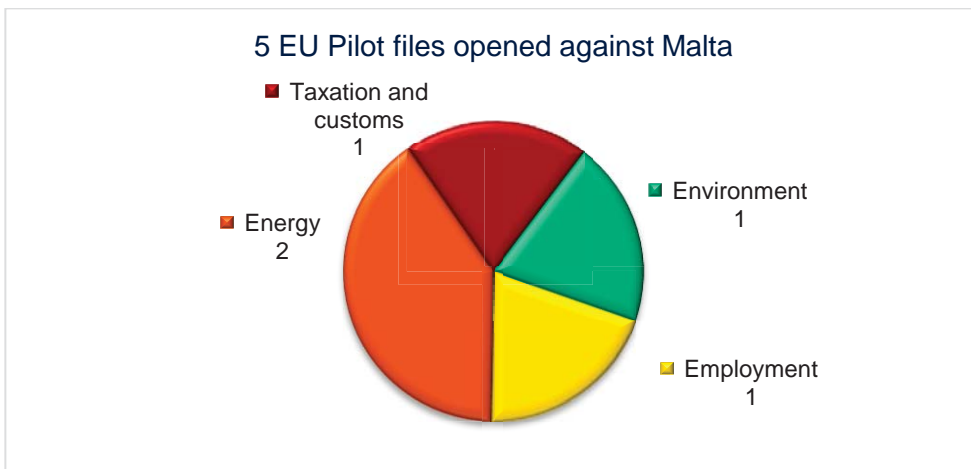
1. New EU Pilot files opened against Malta (2014-2018)



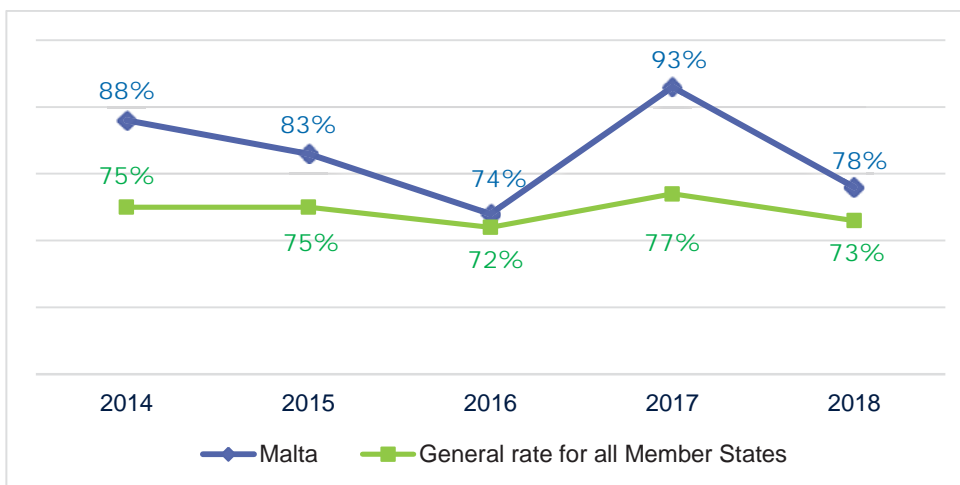
2. Files relating to Malta open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: main policy areas

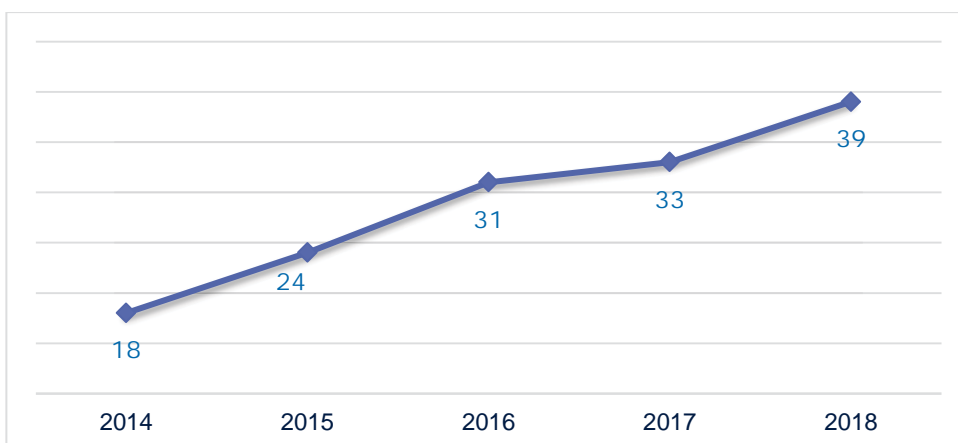


4. EU Pilot files: Malta's resolution rate in 2014-2018

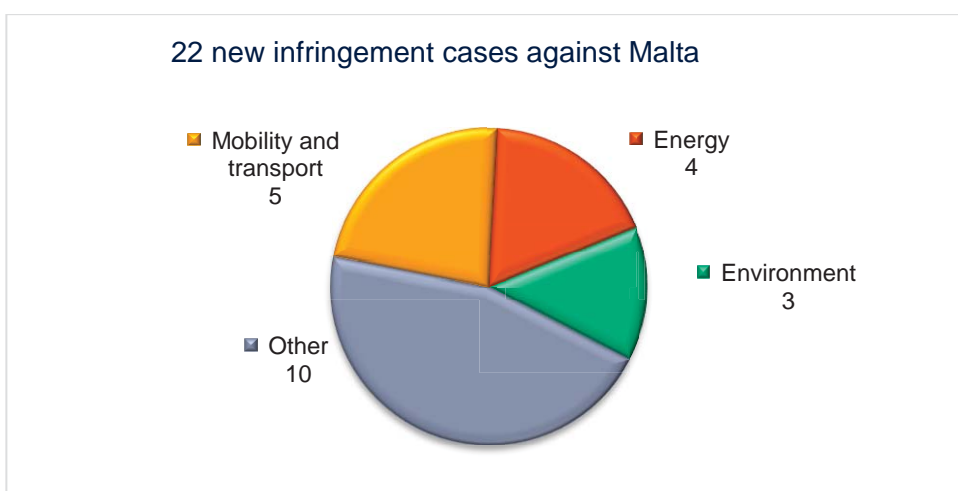


III. INFRINGEMENT CASES

1. Infringement cases against Malta open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

- a) The Commission opened 22 new infringement cases against Malta in 2018. These, and other major ongoing infringement cases, include:
- incorrect application of the VAT rules on the lease of yachts and the incorrect taxation of purchases of yachts¹;
 - non-conformity of national transposition measures with the Directive on the recognition of professional qualifications²;
 - non-compliance with the requirements of the Energy Efficiency Directive³;
 - failure to correctly transpose certain requirements of the Radioactive Waste Directive⁴;
 - failure to adopt a national programme for the implementation of spent fuel and radioactive waste management policy compliant with the requirements of the Radioactive Waste Directive⁵;
 - failure to notify the national policy framework as required under the Directive on the deployment of alternative fuels infrastructure⁶;
 - non-communication of national measures transposing the:
 - Payment Services Directive⁷;
 - Directive on protective measures against the introduction into the Community of organisms harmful to plants⁸;
 - Directive as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species⁹;
 - Directive on end-of life vehicles¹⁰;
 - Directive on the reduction of national emissions of certain atmospheric pollutants¹¹;
 - Directive on the accessibility of the websites and mobile applications of public sector bodies¹²;
 - Basic Safety Standards Directive¹³.
- 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 [IP/18/1451](#).

² Directive [2005/36/EC](#), [MEMO/18/4486](#).

³ Directive [2012/27/EU](#), [MEMO/18/4486](#).

⁴ Directive [2011/70/Euratom](#), [MEMO/18/3986](#).

⁵ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

⁶ Directive [2014/94/EU](#), Commission v Malta, [IP/18/358](#), [MEMO/18/349](#).

⁷ Directive [2015/2366/EU](#).

⁸ Commission Implementing Directive [2017/1279/EU](#).

⁹ Commission Implementing Directive [2018/100/EU](#).

¹⁰ Directive [2017/2096/EU](#).

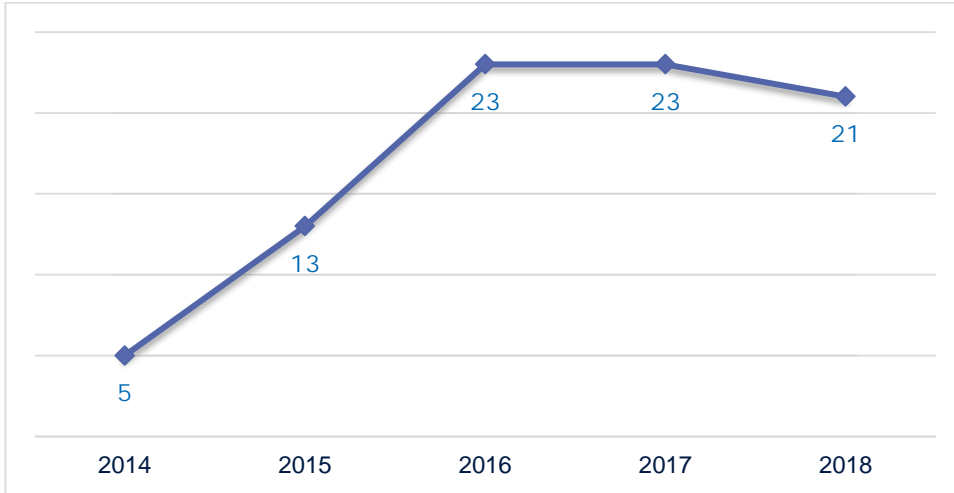
¹¹ Directive [2016/2284](#).

¹² Directive [2016/2102/EU](#).

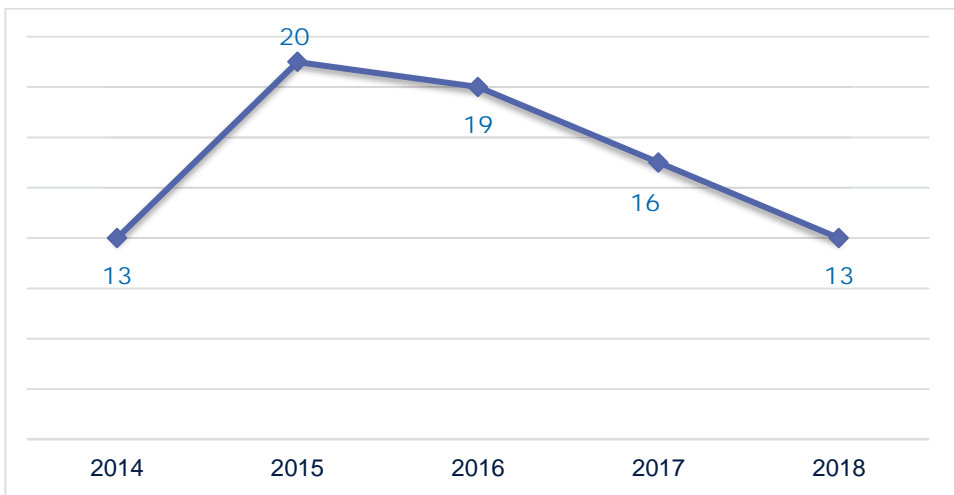
¹³ Directive [2013/59/Euratom](#), [MEMO/18/3446](#).

IV. TRANSPOSITION OF DIRECTIVES

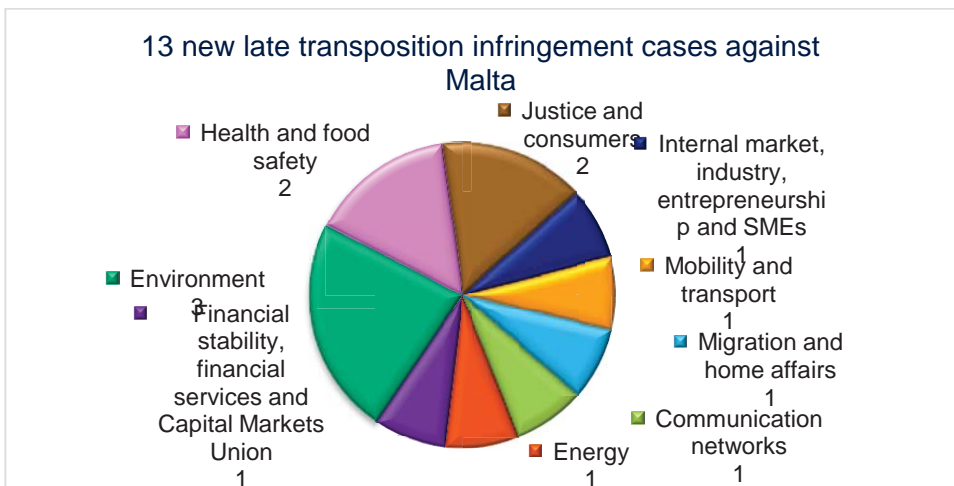
1. Late transposition infringement cases against Malta open on 31 December (2014-2018)



2. New late transposition infringement cases against Malta (2014-2018)



3. New late transposition infringement cases opened in 2018: 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 2018

These concerned non-communication of national measures transposing the Directives:

- concerning undertakings for collective investment in transferable securities¹⁴;
- on end-of-life vehicles¹⁵;
- on protective measures against the introduction into the Community of organisms harmful to plants¹⁶;
- on the deployment of alternative fuels infrastructure¹⁷;
- on the assessment of the effects of certain public and private projects on the environment¹⁸;
- Antitrust Damages Directive¹⁹;
- on fuel quality reporting requirements and calculation methods²⁰.

VI. IMPORTANT JUDGMENTS

1. Court ruling

The Court ruled that:

- *Malta* has failed to comply with the Birds Directive in adopting a certain derogation regime allowing the capture of seven species of wild birds²¹.

2. Preliminary rulings

No major preliminary rulings were addressed to the Maltese judiciary in 2018.

¹⁴ Directive [2014/91/EU](#).

¹⁵ Directive [2016/774/EU](#).

¹⁶ Commission Implementing Directive [2017/1279/EU](#).

¹⁷ Directive [2014/94/EU](#), [IP/18/358](#), [IP/18/358](#)

¹⁸ Directive [2014/52/EU](#).

¹⁹ Directive [2014/104/EU](#), [MEMO/18/1444](#).

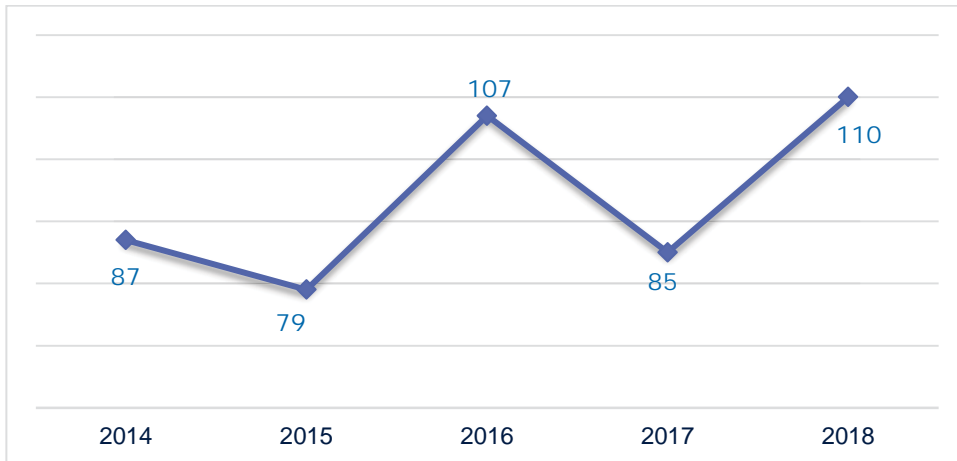
²⁰ Directive [652/2015/EC](#).

²¹ Directive [2009/147/EC](#), *Commission v Malta*, [C-557/15](#) and [Court press release No 90/18](#).

Netherlands

I. COMPLAINTS

1. New complaints made against the Netherlands by members of the public (2014-2018)



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

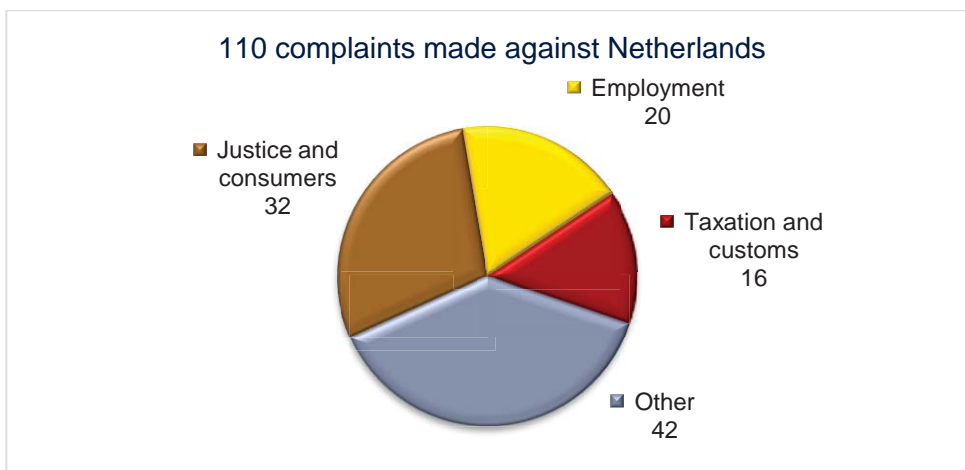
68 > Complaints open at end-2017

110 > New complaints registered in 2018

110 > Complaints handled in 2018

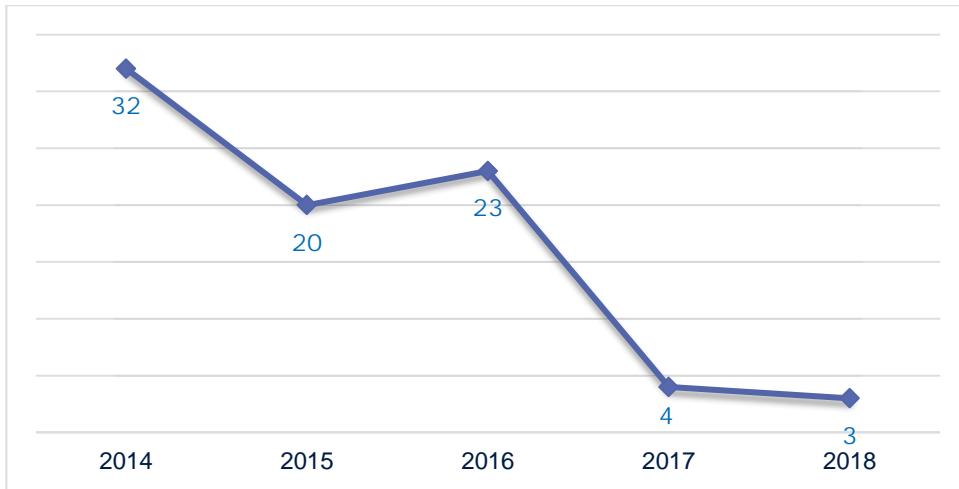
= 68 > Complaints open at end-2018

3. New complaints registered in 2018: main policy area

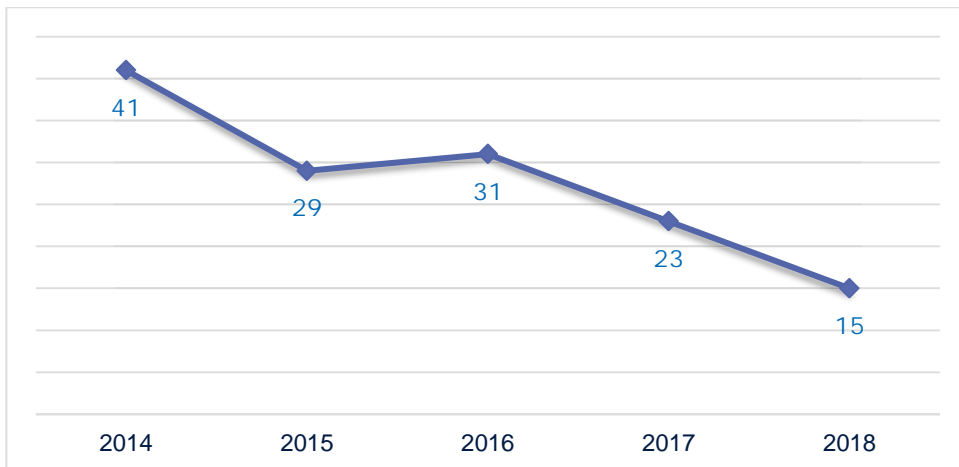


II. EU PILOT

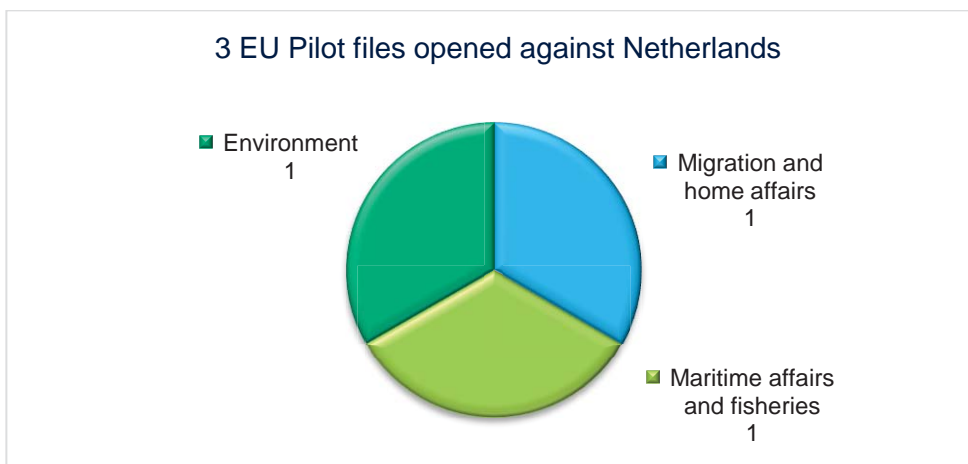
1. New EU Pilot files opened against the Netherlands (2014-2018)



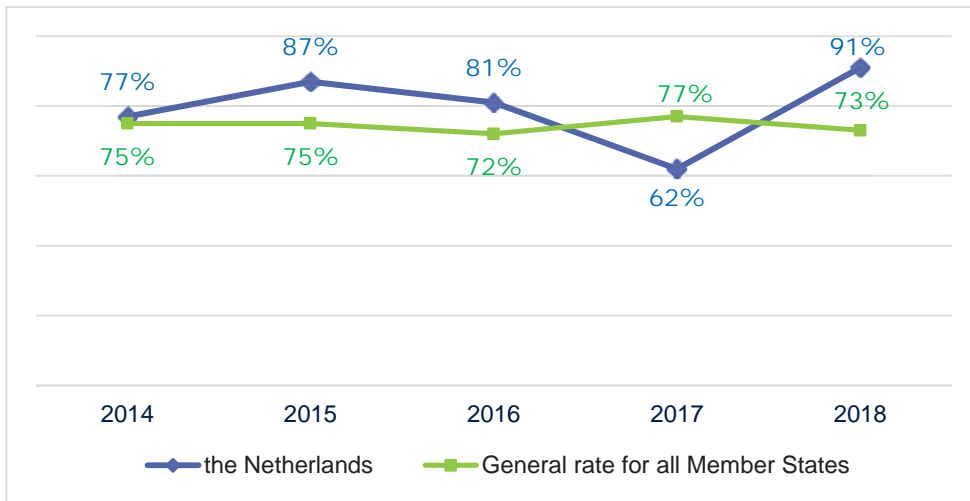
2. Files relating to the Netherlands open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: policy areas

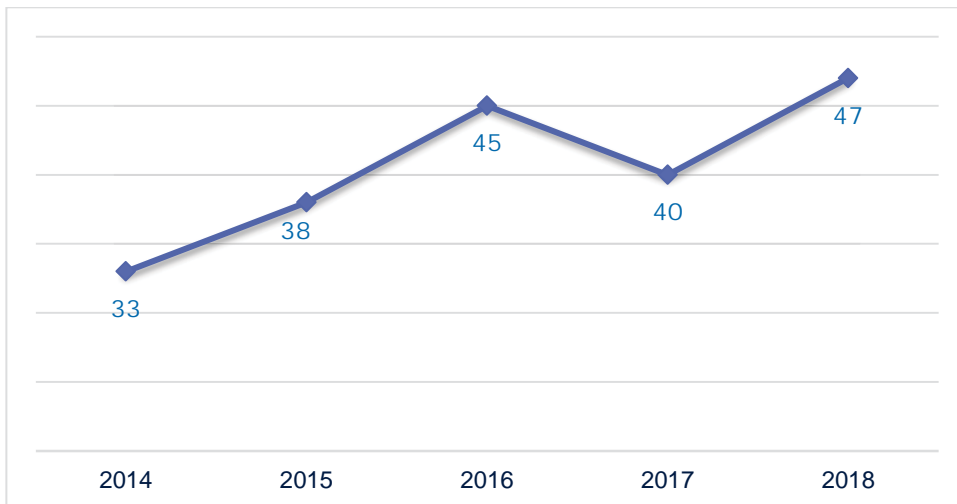


4. EU Pilot files: Netherlands' resolution rate in 2014-2018

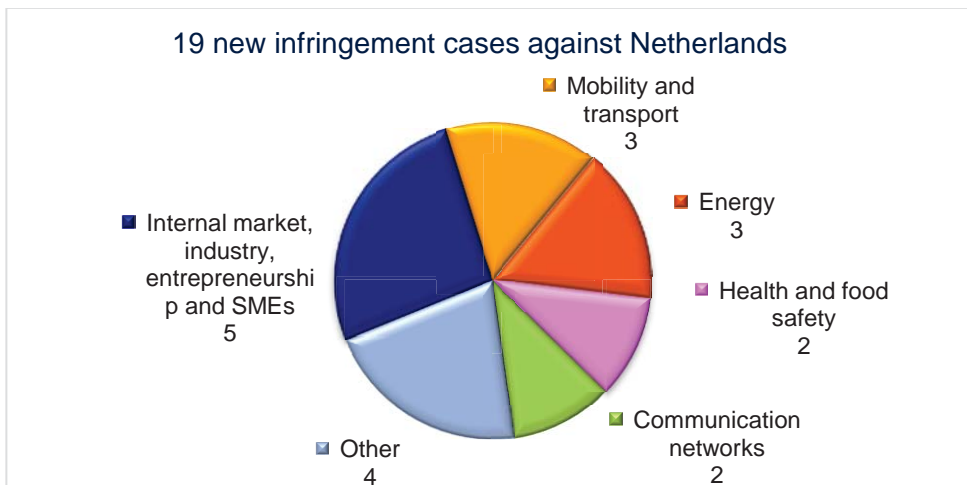


III. INFRINGEMENT CASES

1. Infringement cases against the Netherlands open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

- a) The Commission opened 19 new infringement cases against the Netherlands in 2018. These, and other major ongoing infringement cases, include:
- excessive fees for issuing resident permits¹;
 - non-conformity of national transposition measures with the Directive on the recognition of professional qualifications²;
 - non-compliance with the requirements of the:
 - Energy Efficiency Directive³;
 - Energy Performance of Buildings Directive⁴;
 - European radio spectrum rules⁵;
 - failure to adopt a national programme for the implementation of spent fuel and radioactive waste management policy compliant with the requirements of the Radioactive Waste Directive⁶;
 - failure to correctly transpose certain requirements of the Radioactive Waste Directive⁷;
 - unjustified offset requirements demanding compensation from non-national suppliers when purchasing defence equipment from them⁸;
 - non-communication of national measures transposing the :
 - Payment Services Directive⁹;
 - Directive as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species;¹⁰
 - Directive on security of network and information systems¹¹;
 - the Data Protection Law Enforcement Directive¹²;
- 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 Directives [2004/114/EC](#) and [2005/71/EC](#); [MEMO/18/3446](#).

² Directive [2005/36/EC](#), [MEMO/18/4486](#).

³ Directive [2012/27/EU](#), [MEMO/18/4486](#).

⁴ Directive [2010/31/EU](#), [MEMO/18/3446](#).

⁵ Decision [2017/899/EU](#).

⁶ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

⁷ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

⁸ [IP/18/357](#).

⁹ Directive [2015/2366/EU](#).

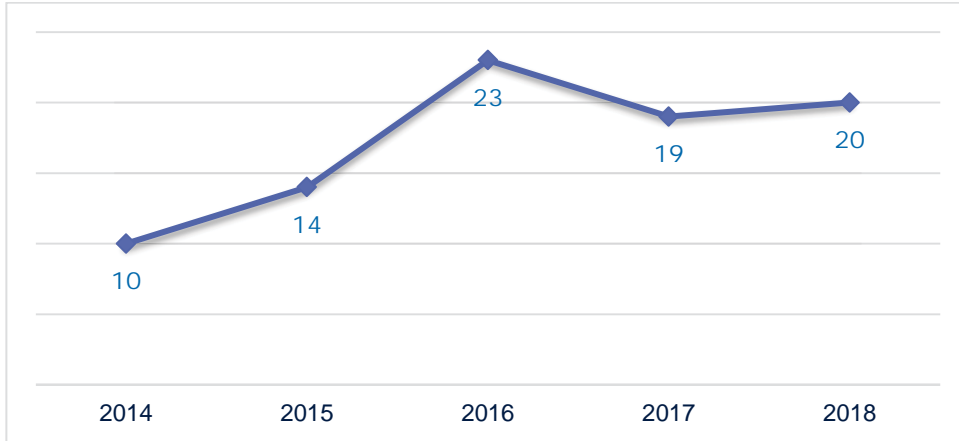
¹⁰ Commission Implementing Directive [2018/100/EU](#).

¹¹ Directive [2016/1148/EU](#); [MEMO/18/4486](#).

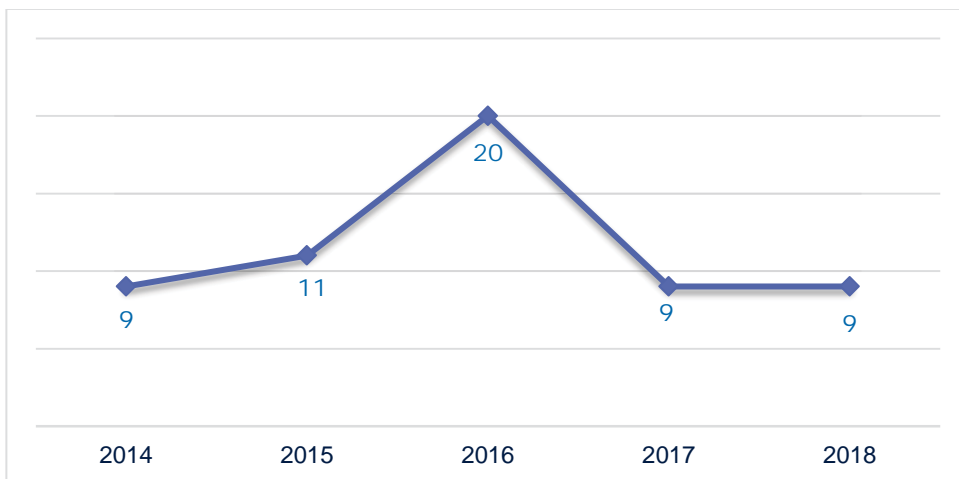
¹² Directive [2016/680/EU](#).

IV. TRANSPOSITION OF DIRECTIVES

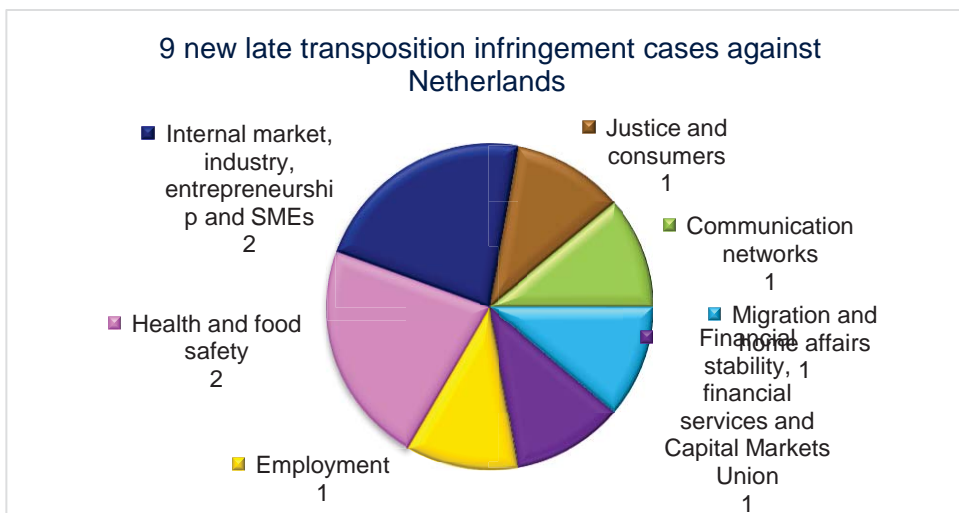
1. Late transposition infringement cases against the Netherlands open on 31 December (2014-2018)



2. New late transposition infringement cases against the Netherlands (2014-2018)



3. New late transposition infringement cases opened in 2018: 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 2018

These concerned:

- failure to stop ongoing deterioration of a Natura 2000 site at Westerschelde in breach of the Habitats Directive¹³;
- incorrect transposition of the Third Energy Package Directives¹⁴;
- the Antitrust Damages Directive¹⁵.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹⁶

There were no major Court rulings in 2018.

2. Preliminary rulings

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

- The taste of a food product can be protected by copyright if it can be classified as a 'work' within the meaning of the Directive on rights in the information society. Classification as a 'work' requires that the subject matter concerned is an original intellectual creation. Secondly, there must be an 'expression' of that original intellectual creation¹⁷.
- Retail is a service and falls within the scope of the Services Directive¹⁸. The provisions on the freedom of establishment apply also to situations where only one Member State is concerned; the Directive applies also to Member States which regulate the establishment of retail shops through planning rules. A zoning plan rule, such as to reserve a specific location for the sale of bulky items, does not amount to an economic needs test within the meaning of Article 14(5) of the Directive¹⁹.
- A decision rejecting refugee status on the grounds that there are serious reasons to believe that the applicant committed a war crime or a crime against humanity may fall within the scope of the concept of public policy or public security. However, a case-by-case assessment is necessary before a measure based on grounds of public policy or public security is adopted²⁰.
- The Member State in which a new application for international protection has been lodged is responsible for examining that application, when no take back request has been made within the periods laid down in the Dublin Regulation²¹.

¹³ Directive [92/43/EEC](#).

¹⁴ Directives [2009/72/EC](#) and [2009/73/EC](#).

¹⁵ Directive [2014/104/EU](#), [MEMO/18/1444](#).

¹⁶ These rulings are almost exclusively handed down in infringement procedures.

¹⁷ Directive [2001/29/EC](#), Levola Hengelo, [C-310/17](#).

¹⁸ Directive [2006/123/EC](#).

¹⁹ joined cases: X, [C-360/15](#) and Visser Vastgoed Beleggingen, [C-31/16](#).

²⁰ Joint cases: K, [C-331/16](#) and H., [C-366/16](#).

²¹ X, [C-213/17](#), Regulation No [604/2013](#).

- For the purpose of family reunification of refugees, what counts is that the third country national is below 18 at the time of his or her entry into the territory of a Member State and of the introduction of his or her asylum application in that State²².
- An application for an autonomous residence permit, lodged by a third country national who has resided for over 5 years in a Member State by virtue of family reunification, may be rejected on the grounds that he has not shown that he has passed a civic integration test on the language and society²³.
- An application for family reunification lodged on behalf of a member of a refugee's family may be rejected on the grounds that that application was lodged more than 3 months after the sponsor was granted refugee status, whilst affording the possibility of lodging a fresh application under a different set of rules provided that certain conditions are met²⁴.

²² A and S, [C-550/16](#).

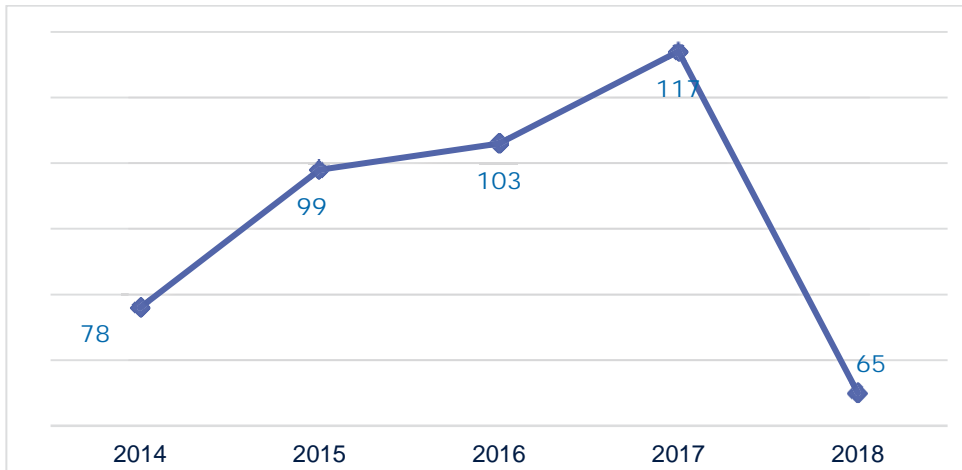
²³ C and A, [C-257/17](#) and K, [C-484/17](#).

²⁴ K and B, [C-380/17](#).

Austria

I. COMPLAINTS

1. New complaints made against Austria by members of the public (2014-2018)



2. Public complaints against Austria open at year-end

122 > Complaints open at end-2017

65 > New complaints registered in 2018

85 > Complaints handled in 2018

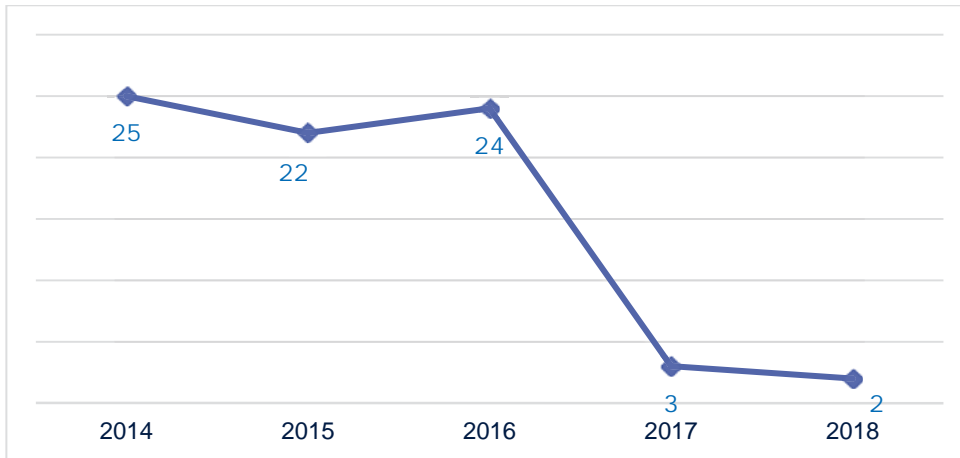
= 102 > Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

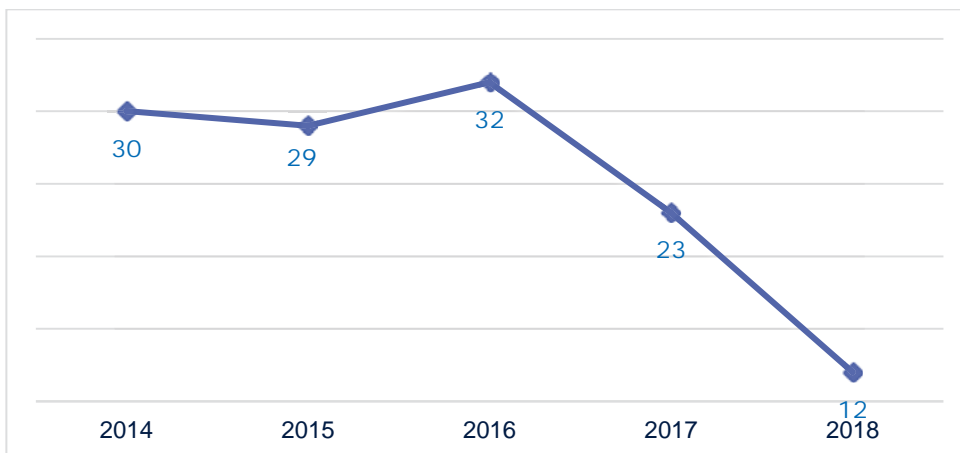


II. EU PILOT

1. New EU Pilot files opened against Austria (2014-2018)



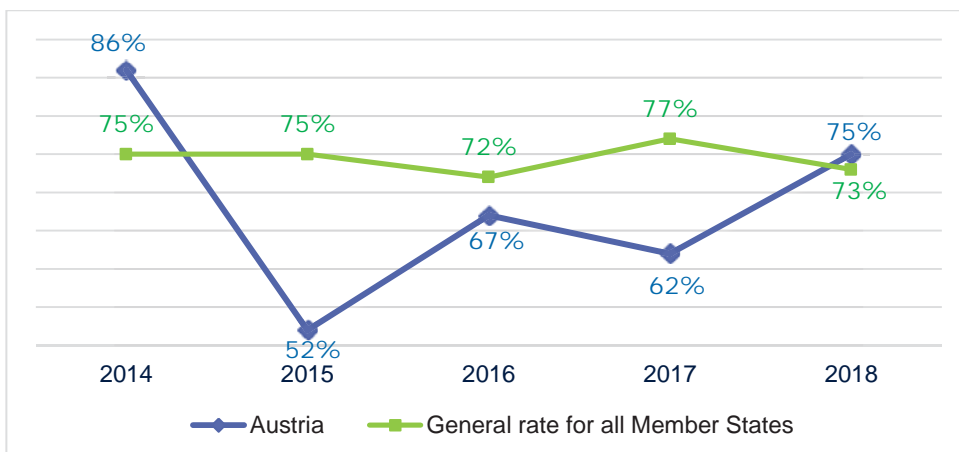
2. Files relating to Austria open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: policy areas

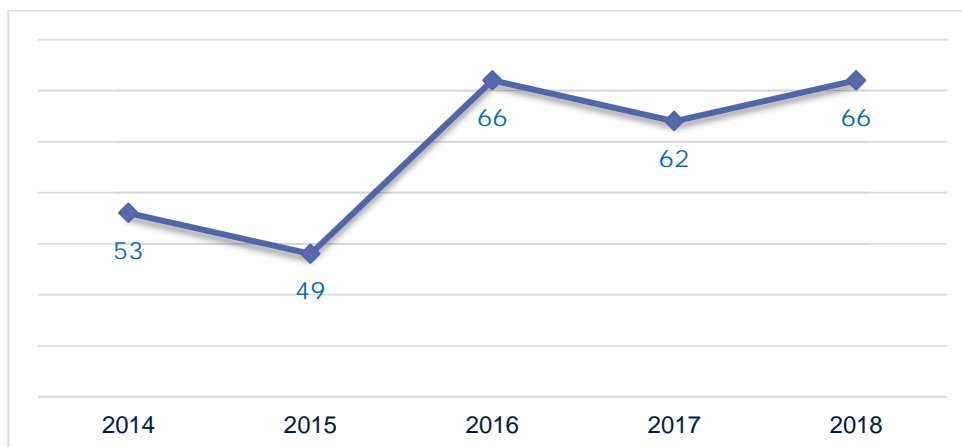
In 2018, the Commission opened two EU Pilot files against Austria: one in the area of energy and one in the area of environment.

4. EU Pilot files: Austria's resolution rate in 2014-2018

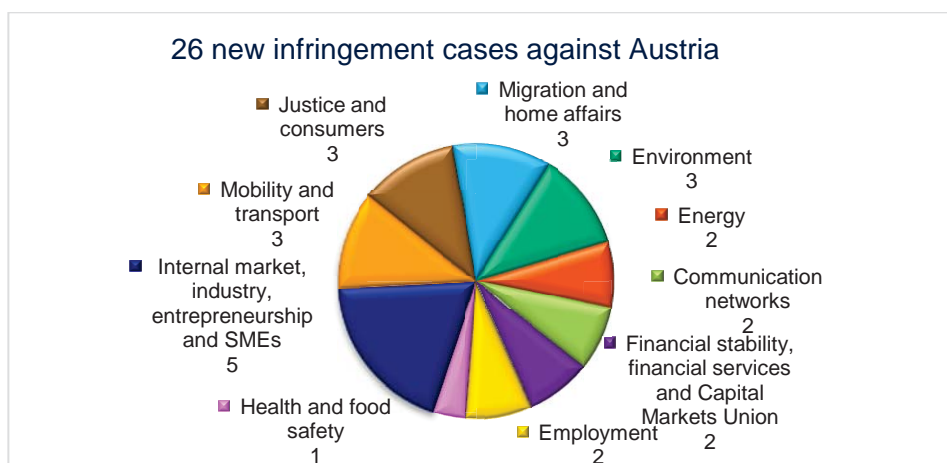


III. INFRINGEMENT CASES

1. Infringement cases against Austria open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

a) The Commission opened 26 new infringement cases against Austria in 2018. These, and other major ongoing infringement cases, include:

- non-conformity of national transposition measures with the Directive on the recognition of professional qualifications¹;
- failure to adopt and notify the long-term renovation strategy under the Energy Efficiency Directive²;
- non-compliance with the requirements of the Energy Efficiency Directive³;
- failure to correctly transpose certain requirements of the Radioactive Waste Directive⁴;
- lack of equal access for bidders to tender specifications (public procurement);
- non-conformity of national measures with the Directive on the assessment of the effects of certain public and private projects on the environment⁵;

¹ Directive [2005/36/EC](#), [MEMO/18/4486](#).

² Directive [2012/27/EU](#), [MEMO/18/1444](#).

³ Directive [2012/27/EU](#), [MEMO/18/6247](#).

⁴ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

- failure to submit a list of proposed sites under the Habitats Directive⁶;
 - incorrect application of the Habitats Directive in the authorisation procedure for a hydro power plant in Ferschnitz⁷;
 - non-communication of national measures transposing the:
 - Payment Services Directive⁸;
 - Insurance Distribution Directive⁹;
 - Directive on security of network and information systems¹⁰;
 - Directive on the accessibility of the websites and mobile applications of public sector bodies¹¹;
 - Directive on the limitation of emissions of certain pollutants into the air from medium combustion plants¹²;
 - Directive on the reduction of national emissions of certain atmospheric pollutants¹³.
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- failure to notify the national programme for the implementation of a spent fuel and radioactive waste management policy¹⁴;
 - incorrect application of the Services Directive¹⁵ by imposing unjustified requirements concerning the registered office, legal form and share capital ownership for companies in a number of professions – architects, engineers, patent attorneys and veterinarians¹⁶.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Austria open on 31 December (2014-2018)

⁵ Directive [2011/92/EU](#).

⁶ Directive [92/43/EEC](#).

⁷ Directive [92/43/EEC](#).

⁸ Directive [2015/2366/EU](#).

⁹ Directive [2016/97/EU](#).

¹⁰ Directive [2016/1148/EU](#).

¹¹ Directive [2016/2102/EU](#).

¹² Directive [2015/2193/EU](#).

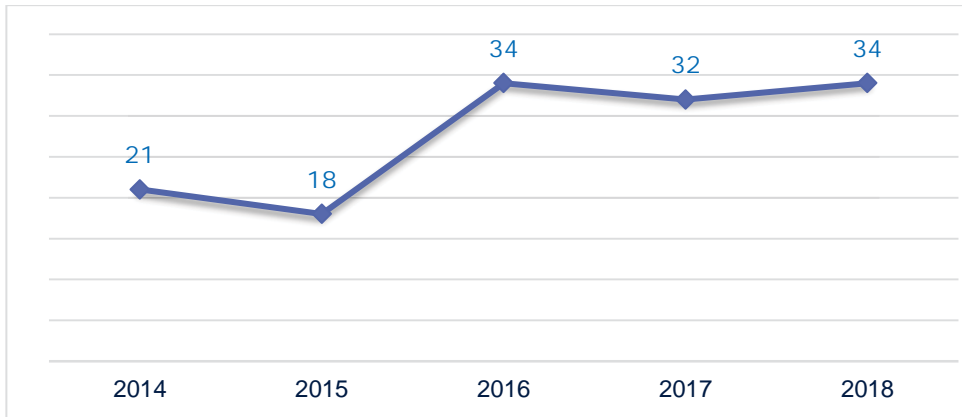
¹³ Directive [2016/2284](#).

¹⁴ Directive [2011/70/Euratom](#), Commission v Austria; [C-487/18](#), [MEMO/18/3446](#). Austria subsequently took the necessary steps to notify its national programme and the Commission has therefore withdrawn this case from the Court.

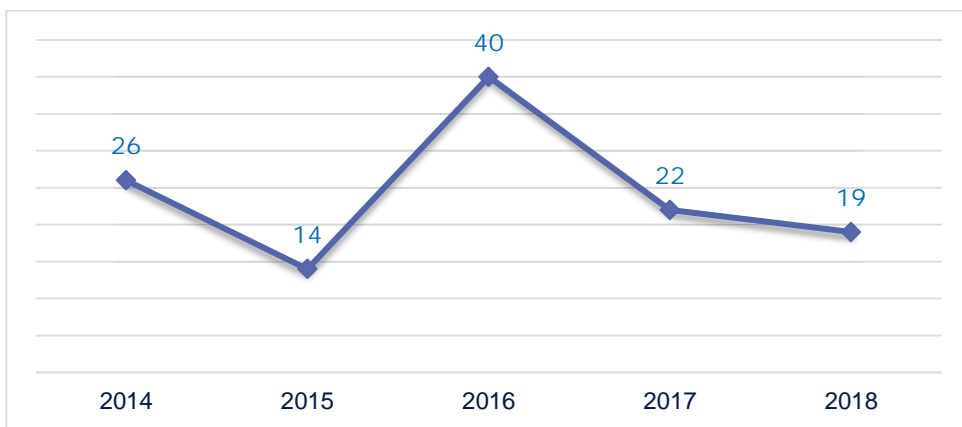
¹⁵ Directive [2006/123/EC](#).

¹⁶ Commission v Austria, [C-209/18](#).

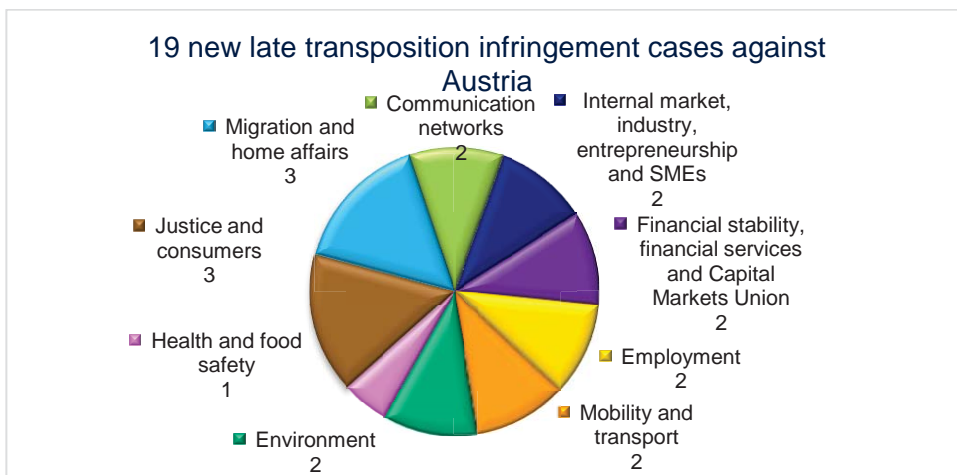
Monitoring the application of European Union law
2018 Annual Report
Austria



2. New late transposition infringement cases against Austria (2014-2018)



3. New late transposition infringement cases opened in 2018: main policy areas



4. Referrals to the Court

The Commission referred three cases to the Court under Articles 258 and 260(3) TFEU. They concern failure to communicate national measures transposing the Directives on

- the award of concession contracts¹⁷;

¹⁷ Commission v Austria, [C-79/18](#). Austria subsequently took the necessary measures and the case has been withdrawn from the Court; Directive [2014/23/EU](#).

- public procurement¹⁸;
- procurement by entities operating in the water, energy, transport and postal services sectors¹⁹.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2018

These concerned non-communication of national measures transposing the:

- Directive on fuel quality reporting requirements and calculation methods²⁰;
- Directive on seasonal workers²¹;
- Unfair Commercial Practices Directive;
- Directive on intra-corporate transfer²²; Antitrust Damages Directive²³;
- Nuclear Safety Directive²⁴.

VI. IMPORTANT JUDGMENTS

1. Court rulings

The Court gave two rulings:

- *Austria* breached its obligations under the EU directives on public procurement by awarding service contracts for the production of identity documents and other official documents without holding an EU-wide call for tenders²⁵.
- *Austria* levies VAT on the royalties paid to the author of an original artistic work upon its resale, within the framework of the resale right. However, the royalty depends entirely on the price paid in the resale, the amount of which cannot be influenced by the author. The author (or his heirs) is entitled to the royalty without having to, or even being able to, undertake any service, either by action or by inaction. The Court decided that the resale right is not subject to VAT.²⁶

2. Preliminary rulings

The Court addressed the following preliminary rulings to the Austrian judiciary:

- A worker posted by an employer to carry out work in another Member State and who is sent to replace a worker posted by a different employer cannot remain subject to the social security legislation of the Member States in which his employer usually carries on its activities²⁷.
- The obligation to provide prior information laid down in the Regulation on public passenger transport services by rail and by road also applies to contracts for public

¹⁸ Commission v Austria, [C-77/18](#). Austria subsequently took the necessary measures and the case has been withdrawn from the Court. Directive [2014/24/EU](#).

¹⁹ Commission v Austria, [C-76/18](#). Austria subsequently took the necessary measures and the case has been withdrawn from the Court. Directive [2014/25/EU](#).

²⁰ Directive [652/2015/EC](#).

²¹ Directive [2014/36/EU](#).

²² Directive [2014/66/EU](#).

²³ [MEMO/18/1444](#).

²⁴ Directive [2014/87/Euratom](#).

²⁵ Commission v Austria, [C-187/16](#).

²⁶ Commission v Austria, [C-51/18](#).

²⁷ Alpenrind and Others, [C-527/16](#).

transport services by bus. However, an infringement of that obligation does not always entail the annulment of the call for tenders concerned²⁸.

- In the case of two successive supplies giving rise to only one intra-Community transport, only one of the two supplies can give rise to the intra-Community transport and be exempted from VAT²⁹.
- The owner of an internet connection used for copyright infringements through file-sharing cannot be held liable to pay damages if he can name at least one family member who might have had access to that connection, without providing further details as to when and how the internet was used by that family member³⁰.
- A recipient of services can be ordered to suspend payments and pay a security to guarantee payment of a possible fine which might be imposed by the host Member State on a provider of services established in another Member State. The ruling concerned the application of the Services Directive in matters related to labour law³¹.
- national legislation which provides that refugees with a temporary right of residence in a Member State are to be granted social security benefits which are less than those received by nationals of that Member State and refugees who have a permanent right of residence in that Member State is contrary to EU legislation³².

²⁸ Regulation [\(EC\) No 1370/2007](#), Directive [2014/24/EU](#) and Directive [2014/25/EU](#), Stefan Rudigier, [C-518/17](#).

²⁹ Kreuzmayr, [C-628/16](#).

³⁰ Bastei Lübbe, [C-149/17](#).

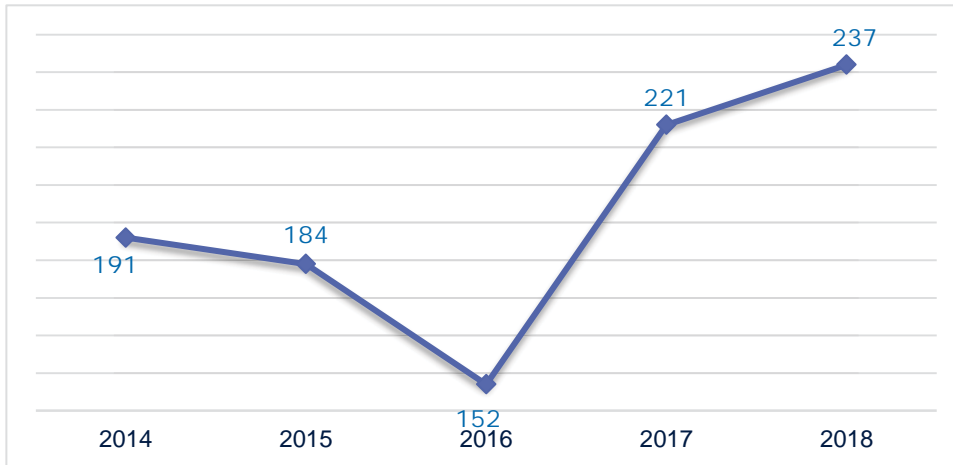
³¹ Čepelnik, [C-33/17](#).

³² Ayubi, [C-713/17](#).

Poland

I. COMPLAINTS

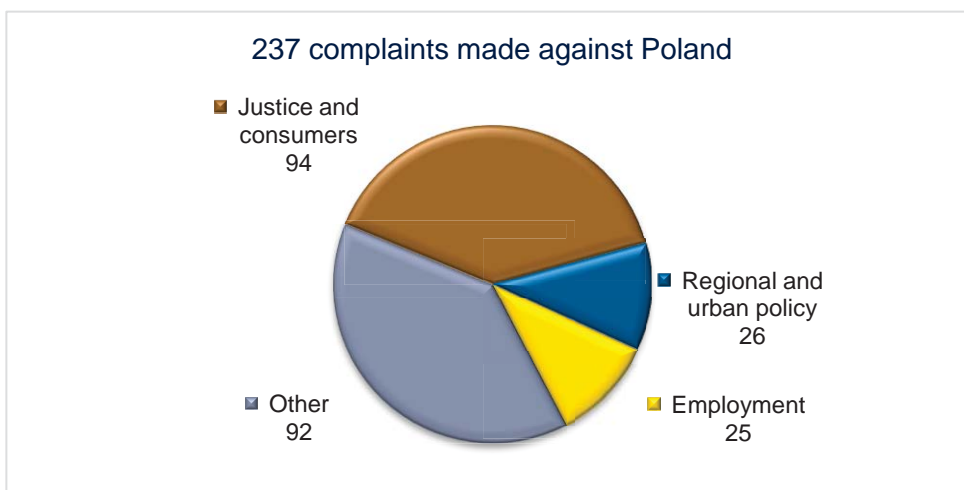
1. New complaints made against Poland by members of the public (2014-2018)



2. Public complaints against Poland open at year-end

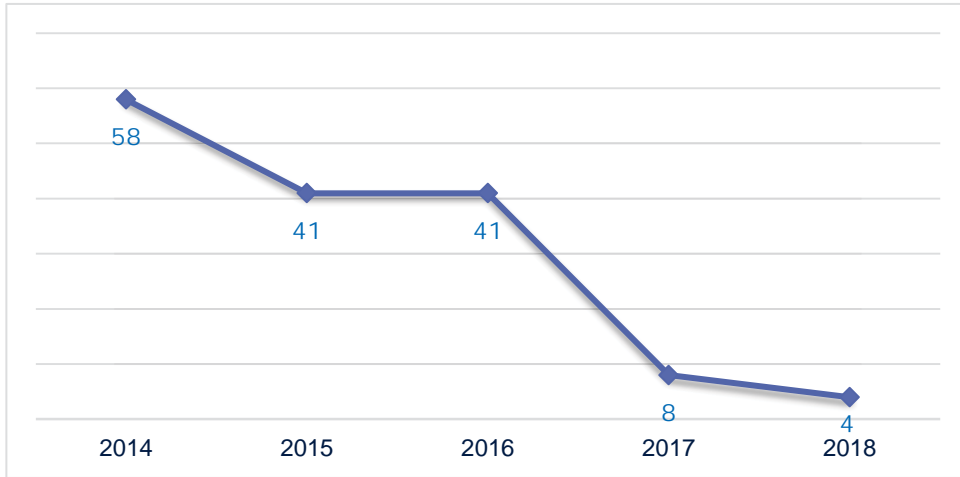
170	>	Complaints open at end-2017
237	>	New complaints registered in 2018
243	>	Complaints handled in 2018
= 164	>	Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

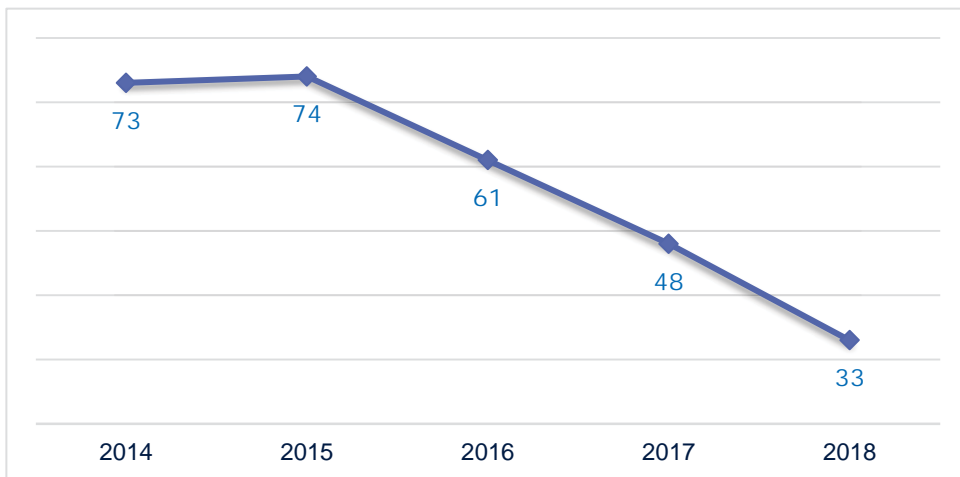


II. EU PILOT

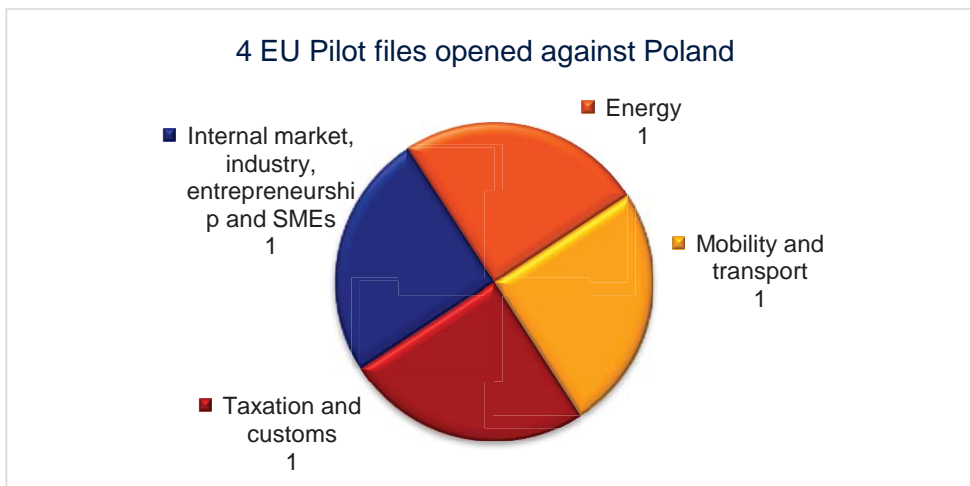
1. New EU Pilot files opened against Poland (2014-2018)



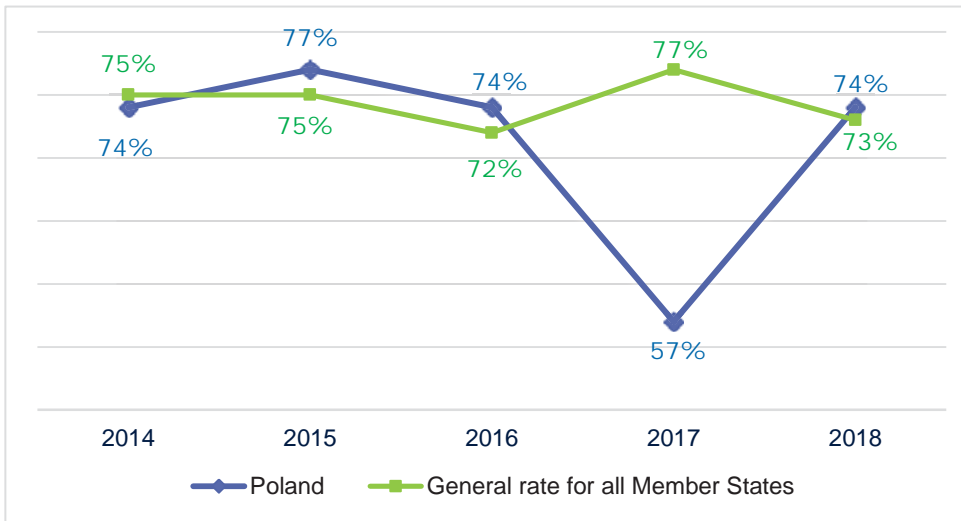
2. Files relating to Poland open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: policy areas

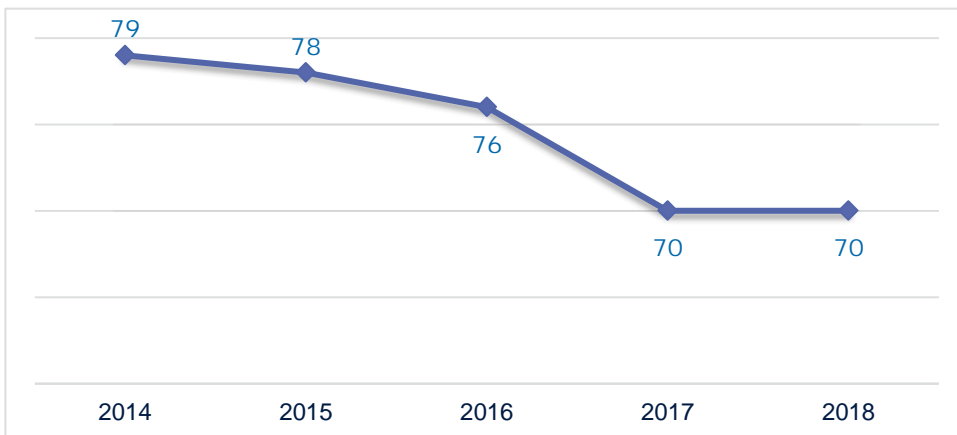


4. EU Pilot files: Poland's resolution rate in 2014-2018

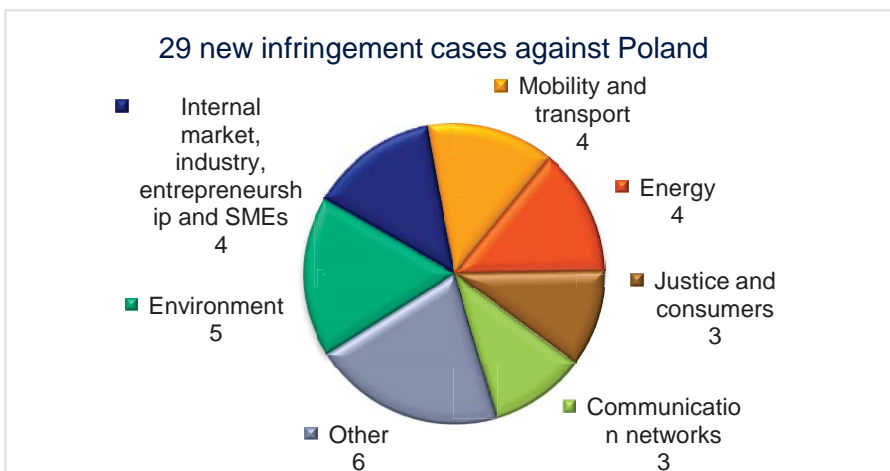


III. INFRINGEMENT CASES

1. Infringement cases against Poland open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

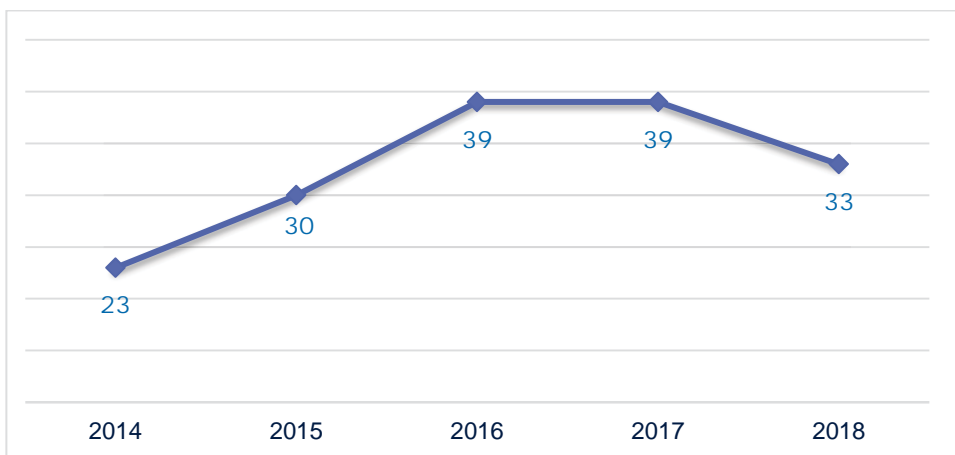
- a) The Commission opened 29 new infringement cases against Poland in 2018. These, and other major ongoing infringement cases, include:
- non-conformity of national transposition measures with the Directive on the recognition of professional qualifications¹;
 - failure to comply with the EU requirements on the security of gas supply²;
 - failure to adopt a national programme for the implementation of spent fuel and radioactive waste management policy compliant with the Radioactive Waste Directive³;
 - failure to correctly transpose certain requirements of the Radioactive Waste Directive⁴;
 - failure to ensure that urban waste water is adequately treated⁵;
 - direct award of a number of defence contracts to national suppliers in breach of the Defence Procurement Directive⁶;
 - non-compliance with the Consumer Rights Directive;
 - failure to ensure that vehicles are dismantled and recycled in an environmentally friendly way when they reach the end of their useful life, in accordance with the Directive on end-of-life vehicles⁷;
 - failure to comply with the EU legislation on the environmental impact assessment of certain public and private projects⁸;
 - non-communication of national measures transposing the :
 - Payment Services Directive⁹;
 - revised Markets in Financial Instruments Directive¹⁰;
 - Commission Directive amending the Directive on quality system standards and specifications for blood establishments¹¹;
 - the Nuclear Safety Directive¹²;
 - Directive on security of network and information systems¹³;
 - Directive on the accessibility of the websites and mobile applications of public sector bodies¹⁴;
 - Directive on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled¹⁵.

¹ Directive [2005/36/EC](#), [MEMO/18/4486](#).
² Regulation (EU) No [994/2010](#), [MEMO/18/1444](#).
³ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).
⁴ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).
⁵ Directive [91/271/EEC](#), [MEMO/18/349](#).
⁶ [IP/18/357](#).
⁷ Directive [2000/53/EC](#).
⁸ Directive [2011/92/EU](#).
⁹ Directive [2015/2366/EU](#).
¹⁰ Directive [2014/65/EU](#); [MEMO/18/349](#).
¹¹ Commission Directive [2016/1214/EU](#).
¹² Directive [2014/87/Euratom](#), [MEMO/18/3986](#).
¹³ Directive [2016/1148/EU](#); [MEMO/18/4486](#).
¹⁴ Directive [2016/2102/EU](#).
¹⁵ Directive [2017/1564/EU](#).

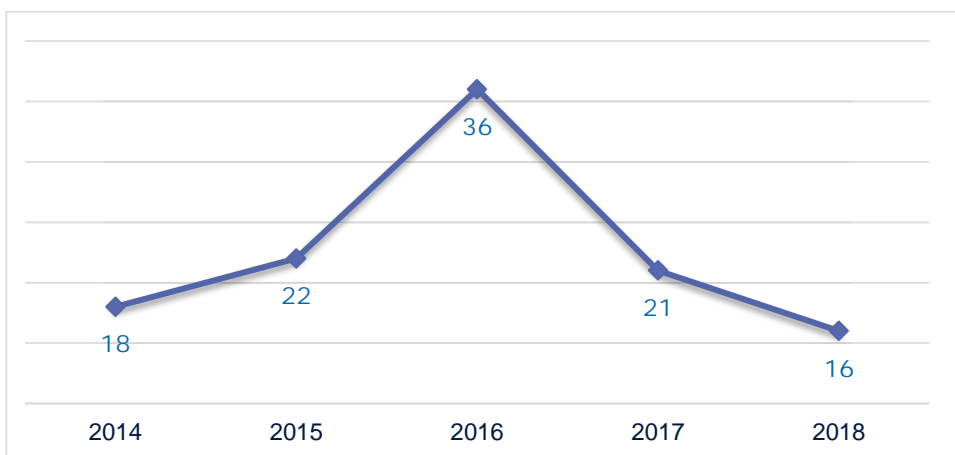
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- the adoption of provisions in the Ordinary Courts Organisation law adversely affecting the independence of the Polish judiciary and of provisions which are incompatible with the EU legislation on non-discrimination¹⁶;
 - the national law on the Supreme Court in relation in particular to the retirement regime, in breach of the principle of judicial independence, including the irremovability of judges¹⁷.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Poland open on 31 December (2014-2018)



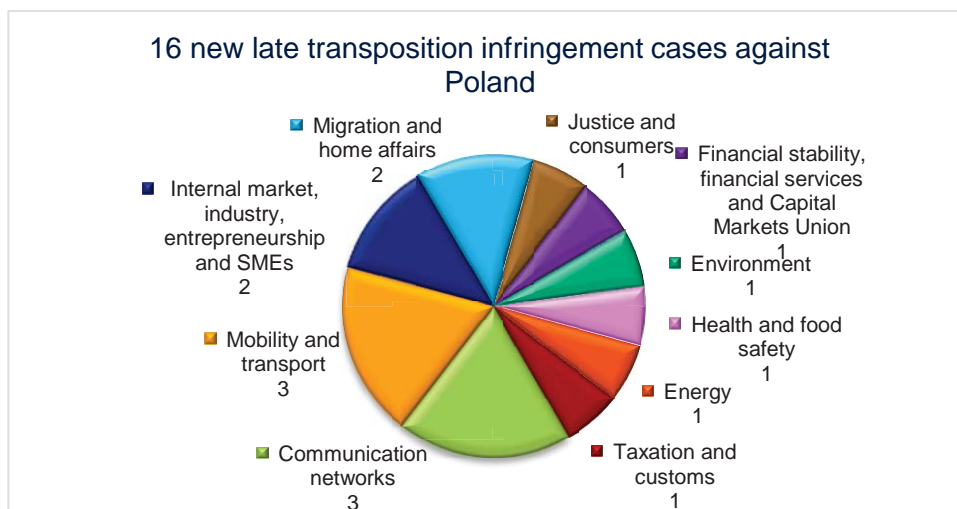
2. New late transposition infringement cases against Poland (2014-2018)



¹⁶ Commission v Poland (Indépendance des juridictions de droit commun), [C-192/18](#).

¹⁷ Commission v Poland, [C-619/18](#).

3. New late transposition infringement cases opened in 2018: main policy areas



4. Referrals to the Court

The Commission referred one case to the Court under Articles 258 and 260(3) TFEU. It concern

- non-communication of national measures transposing the Directive on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market¹⁸.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2018

These concerned:

- incorrect application of the Nitrates Directive through insufficient designation of nitrate vulnerable zones and shortcomings in the action plans¹⁹;
- parallel imports of medicines²⁰;
- failure to communicate national measures transposing the
 - Alternative Investment Fund Managers Directive²¹;
 - Directive on intra-corporate transfer²²;
 - Directive concerning undertakings for collective investment in transferable securities²³;
 - Directive on quality system standards and specifications for blood establishments²⁴;
 - Antitrust Damages Directive²⁵;
 - Data Protection Law Enforcement Directive²⁶;

¹⁸ Commission v. Poland, [C-206/18](#). Poland subsequently took the necessary steps to ensure compliance with EU law and the Commission has therefore withdrawn this case from the Court.

¹⁹ Directive [91/676/EEC](#).

²⁰ [IP/18/3459](#).

²¹ Directive [2011/61/EU](#), [MEMO/18/349](#).

²² Directive [2014/66/EU](#).

²³ Directive [2014/91/EU](#).

²⁴ Commission Directive [2016/1214/EU](#).

²⁵ [MEMO/18/1444](#).

²⁶ Directive [2016/680/EU](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁷

The Court gave the following rulings.

- Poland failed to ensure that the investigating body is independent of railway undertakings and rail infrastructure managers controlled by the minister of transport²⁸.
- Poland has been persistently exceeding the EU air quality limit values for particulate matter (PM₁₀²⁹) in several zones and agglomerations throughout the whole country. Furthermore, Poland has failed to incorporate in its air quality programmes appropriate measures to ensure that the exceedance period is kept as short as possible³⁰.
- Poland has incorrectly transposed into national legislation the requirements of the Environmental Impact Assessment Directive on exploratory drilling. The national legislation found to be non-compliant excludes exploratory works for shale gas carried out at a depth of up to 5 000 m, with the exception of drilling to a depth of at least 1 000 m for projects in 'sensitive' areas, such as nature protection zones or water protection zones³¹.
- Poland has failed to fulfil its obligations under the Habitats and Birds Directives regarding management of the Białowieża Forest. The operations at issue resulted in the loss of a part of the respective Natura 2000 site and therefore could not constitute conservation measures³².

2. Preliminary rulings

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

- In Poland, to determine the basis for assessing flavoured beers according to the Plato scale, the dry extract of the finished product including aromatic substances and sugar syrup added after the completion of the fermentation process is taken into consideration. However, the Court decided that in such cases the dry extract of the original wort must be taken into consideration but not the aromatic substances or sugar syrup added after the completion of fermentation³³.
- The Court confirmed its case law on effective remedies against unfair contract terms. In relation to payment order proceedings, it found that national rules that prevent national courts from assessing of their own motion whether the relevant contract terms are unfair before issuing the payment order do not comply with the Directive on unfair terms in consumer contracts³⁴.

²⁷ These rulings are almost exclusively handed down in infringement procedures.

²⁸ Directive [2004/49/EC](#) *nc* [2004/49/EC](#), Commission v Republic of Poland, [C-530/16](#).

²⁹ PM₁₀ is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometres. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: European Environment Agency).

³⁰ Commission v Poland, [C-336/16](#) and Court press release [No 19/18](#).

³¹ Commission v Poland, [C-526/16](#).

³² Commission v Poland, [C-441/17](#) and Court press release [No 48/18](#).

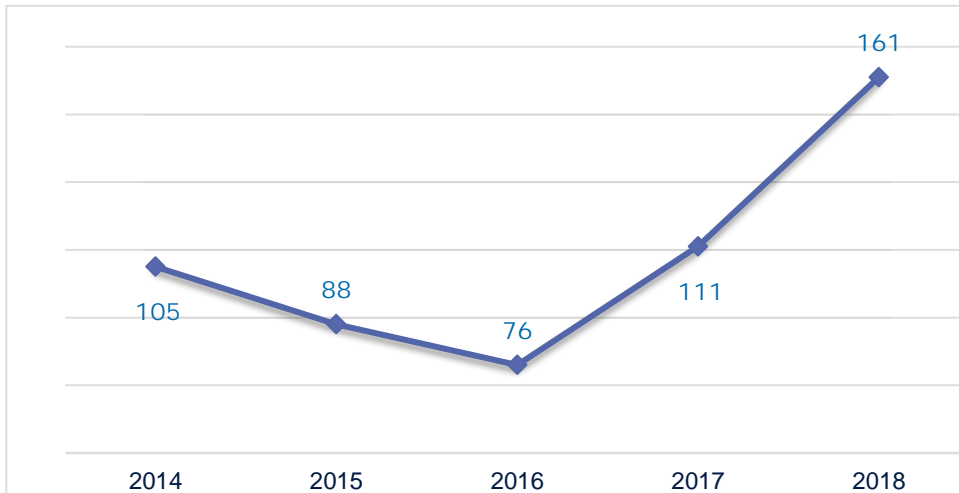
³³ Kompania Pivowarska, [C-30/17](#).

³⁴ Profi Credit Polska [C-176/17](#) and PKO Bank Polski, [C-632/17](#).

Portugal

I. COMPLAINTS

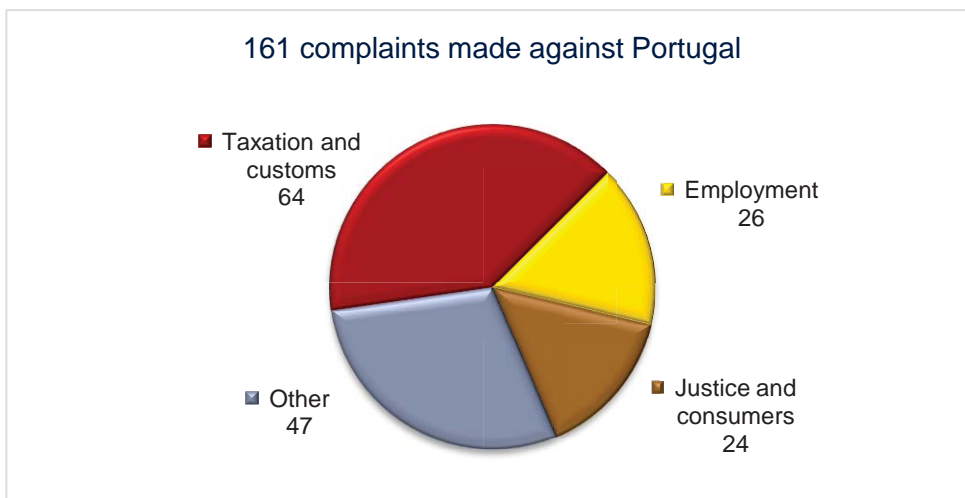
1. New complaints made against Portugal by members of the public (2014-2018)



2. Public complaints against Portugal open at year-end

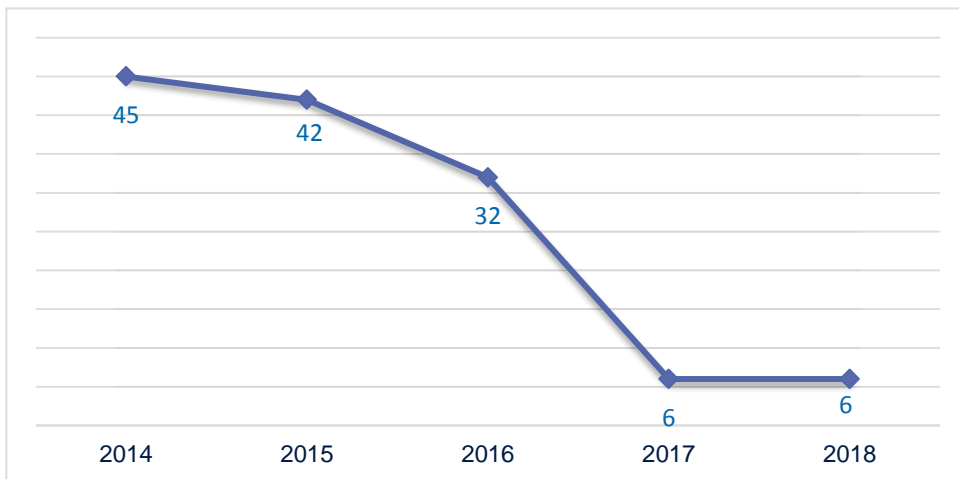
86	>	Complaints open at end-2017
161	>	New complaints registered in 2018
169	>	Complaints handled in 2018
= 78	>	Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

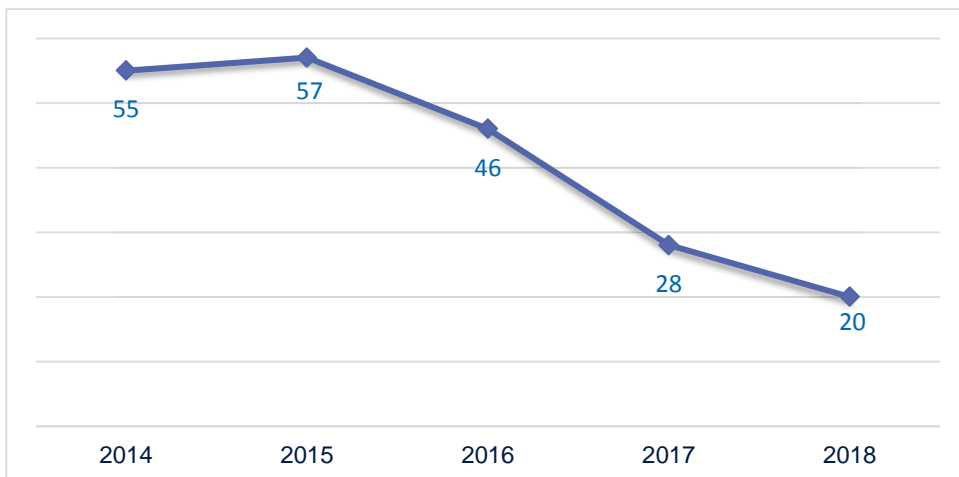


II. EU PILOT

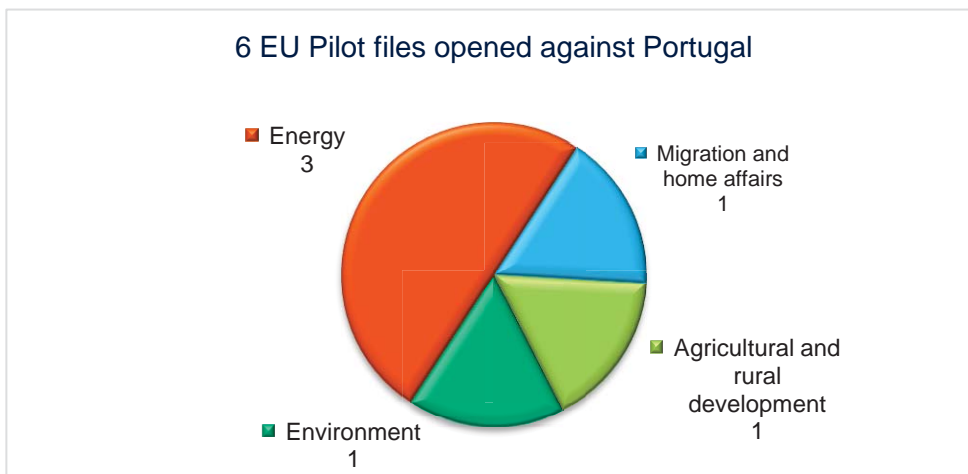
1. New EU Pilot files opened against Portugal (2014-2018)



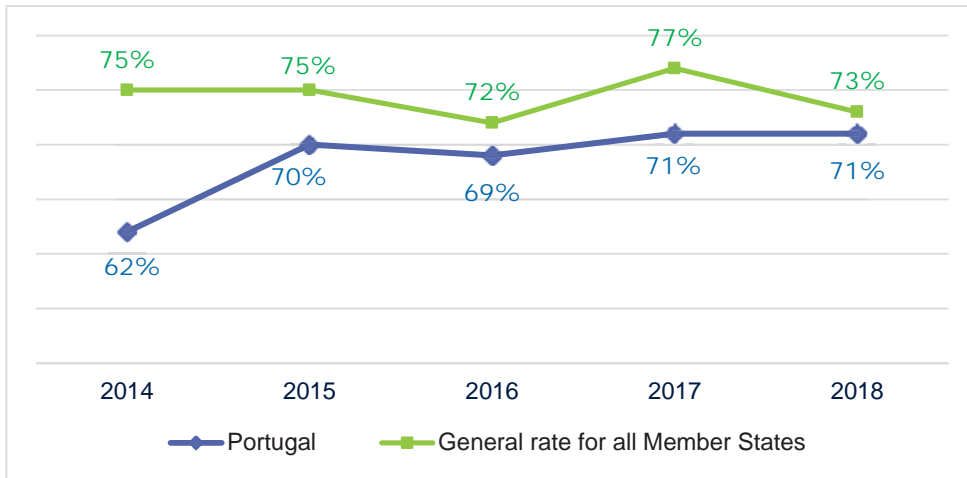
2. Files relating to Portugal open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: policy areas

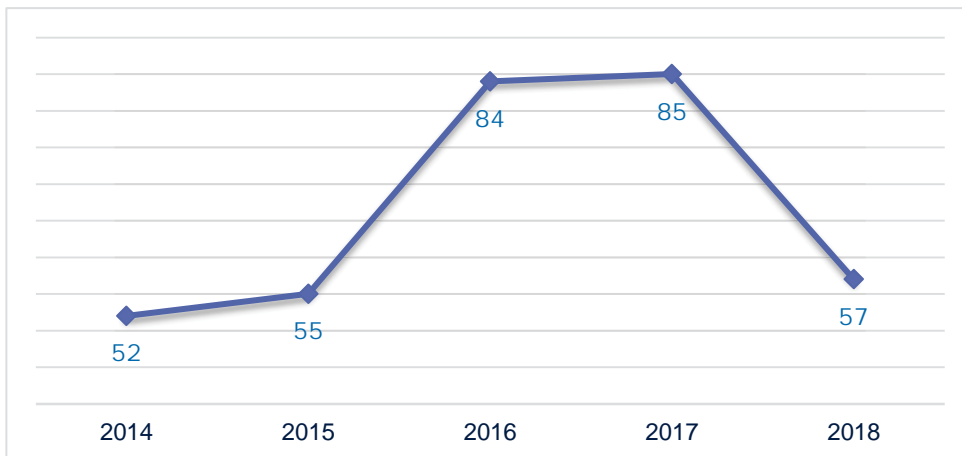


4. EU Pilot files: Portugal's resolution rate in 2014-2018

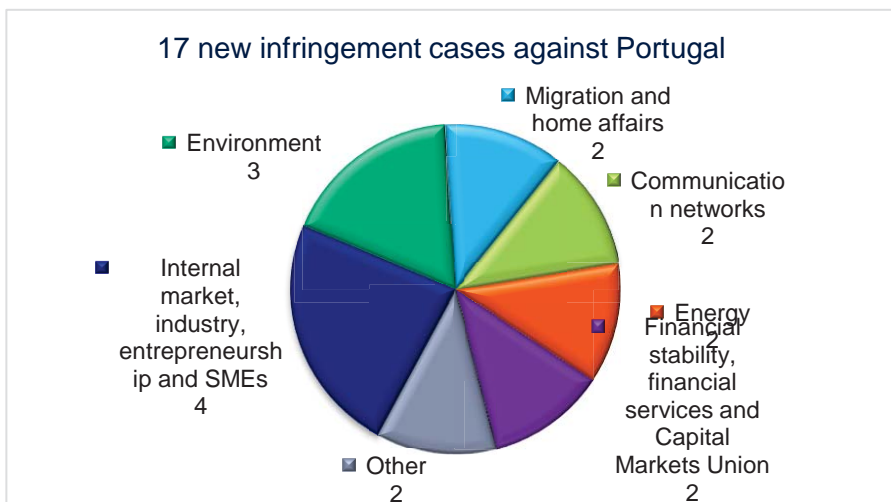


III. INFRINGEMENT CASES

1. Infringement cases against Portugal open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

- a) The Commission opened 17 new infringement cases against Portugal in 2018. These, and other major ongoing infringement cases, include the following.
- Incorrect transposition of the:
 - Directive on the protection of animals used for scientific purposes¹;
 - Radioactive Waste Directive².
 - Non-conformity of national transposition measures with the Directive on the recognition of professional qualifications³.
 - Direct award of a number of defence contracts to national suppliers in breach of the Defence Procurement Directive⁴.
 - Non-respect of the EU's exclusive competence for the conservation of marine biological resources. Portugal undertook direct démarches towards the North East Atlantic Fisheries Commission (NEAFC) and the International Council for the Exploration of the Sea in the context of an ongoing process at NEAFC aiming to prevent significant impacts of bottom fishing activities on vulnerable marine ecosystems⁵.
 - Non-communication of national measures transposing the
 - Directive on working conditions of seafarers⁶;
 - Payment Services Directive⁷;
 - Insurance Distribution Directive⁸;
 - revised Markets in Financial Instruments Directive⁹;
 - Basic Safety Standards Directive¹⁰;
 - Directive on the limitation of emissions of certain pollutants into the air from medium combustion plants¹¹;
 - Directive on the reduction of national emissions of certain atmospheric pollutants¹²;
 - Directive on security of network and information systems¹³;
 - Directive on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled¹⁴;
 - Data Protection Law Enforcement Directive¹⁵.
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns
- failure to establish Special Areas of Conservation for the protection of natural habitats and species, and to establish the necessary conservation measures for these sites, as required by the Habitats Directive¹⁶.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Directive [2010/63/EU](#), [MEMO/18/4486](#).

² Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

³ Directive [2005/36/EC](#), [MEMO/18/4486](#).

⁴ [IP/18/357](#)

⁵ [MEMO/18/349](#).

⁶ Directive [2015/1794/EU](#); [MEMO/18/3446](#).

⁷ Directive [2015/2366/EU](#).

⁸ Directive [2016/97/EU](#).

⁹ Directive [2014/65/EU](#); [MEMO/18/349](#).

¹⁰ Directive [2013/59/Euratom](#), [MEMO/18/3446](#).

¹¹ Directive [2015/2193/EU](#).

¹² Directive [2016/2284/EU](#).

¹³ Directive [2016/1148/EU](#); [MEMO/18/4486](#).

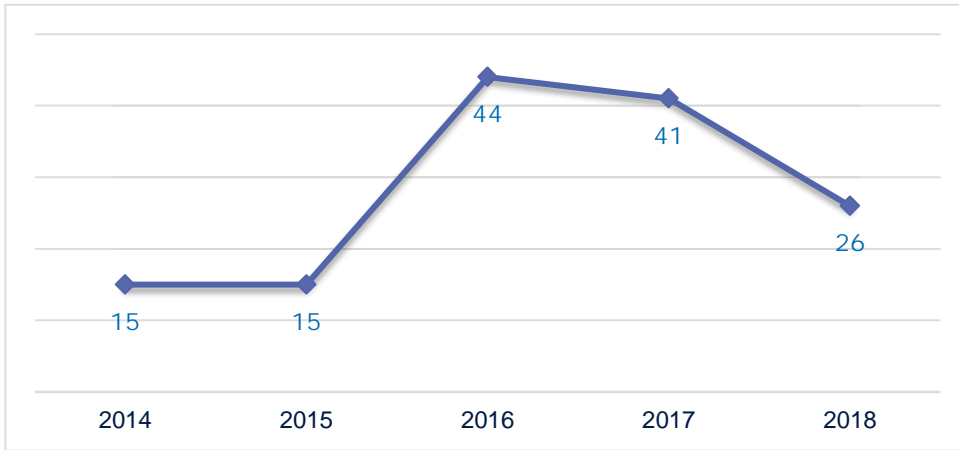
¹⁴ Directive [2017/1564/EU](#).

¹⁵ Directive [2016/680/EU](#).

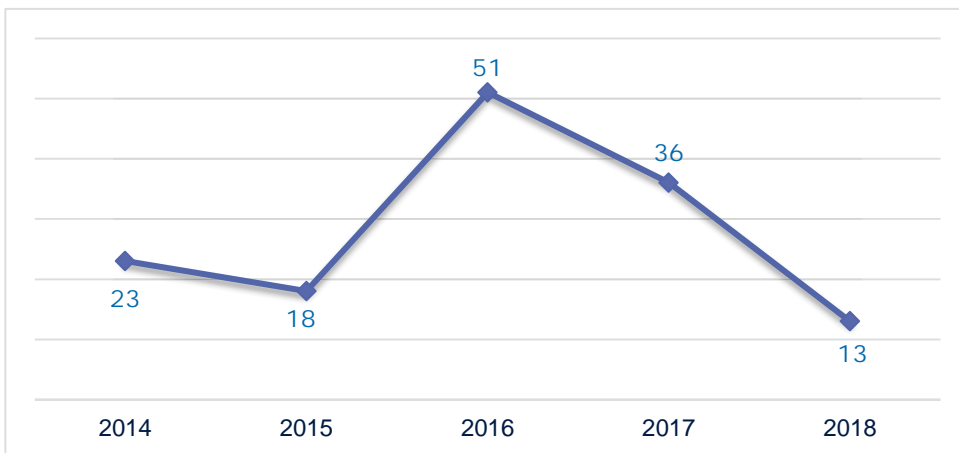
¹⁶ Directive [92/43/EEC](#), Commission v Portugal, [C-290/18](#); [IP/18/356](#).

IV. TRANSPOSITION OF DIRECTIVES

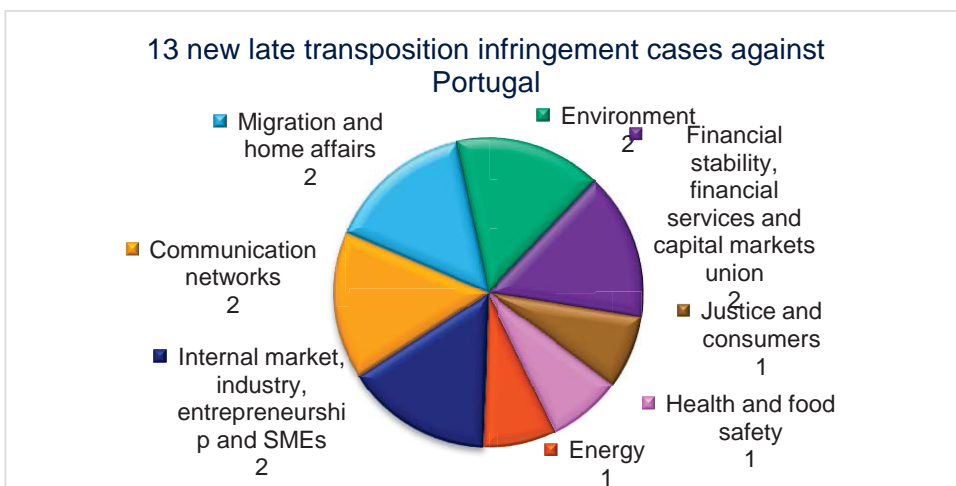
1. Late transposition infringement cases against Portugal open on 31 December (2014-2018)



2. New late transposition infringement cases against Portugal (2014-2018)



3. New late transposition infringement cases opened in 2018: 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 2018

These concerned:

- operation of the Port State Control system¹⁷;
- restricted access to the groundhandling market at Porto, Lisbon and Faro airports¹⁸;
- lack of a quality management system for the maritime administration's Flag States-related activities¹⁹;
- incorrect transposition of the Third Energy Package Directives²⁰;
- obligation to notify the export of medicines;
- failure to communicate national measures transposing the:
 - Solvency II Directive²¹;
 - Directive on intra-corporate transfer²²;
 - Directive concerning undertakings for collective investment in transferable securities²³;
 - Directive on reducing the consumption of lightweight plastic carrier bags²⁴;
 - revised Environmental Impact Assessment Directive²⁵;
 - Commission Directive²⁶ amending the Drinking Water Directive²⁷.

VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no major Court rulings in 2018.

2. Preliminary rulings

No major preliminary rulings were addressed to the Portuguese judiciary in 2018.

¹⁷ Directive [2009/16/EC](#).

¹⁸ Directive [1996/67/EC](#).

¹⁹ Directive [2009/21/EC](#).

²⁰ Directives [2009/72/EC](#) and [2009/73/EC](#).

²¹ Directive [2009/138/EC](#), [MEMO/18/349](#).

²² Directive [2014/66/EU](#).

²³ Directive [2014/91/EU](#).

²⁴ Directive [2015/720/EU](#).

²⁵ Directive [2014/52/EU](#).

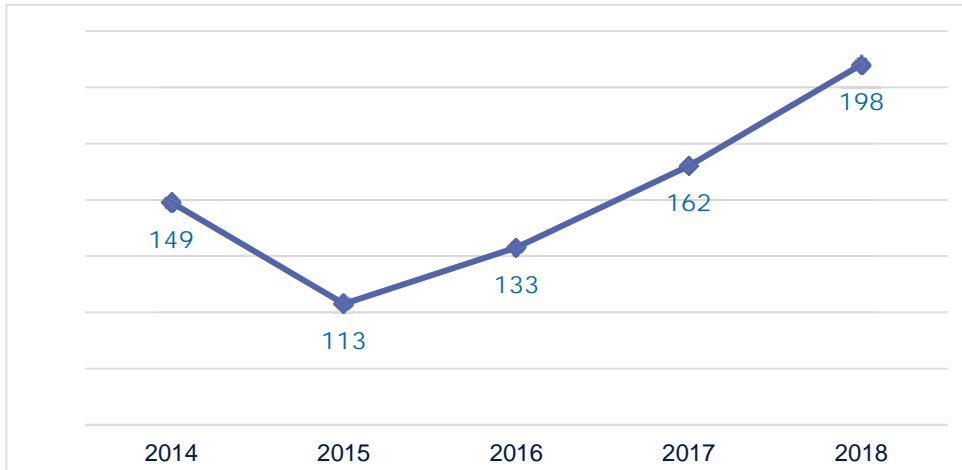
²⁶ Commission Directive [2015/1787/EU](#).

²⁷ Directive [98/83/EC](#).

Romania

I. COMPLAINTS

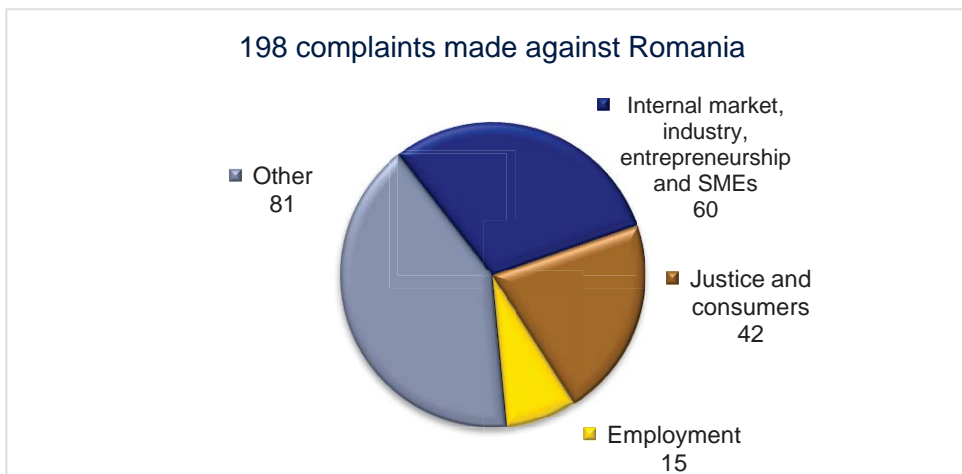
1. New complaints made against Romania by members of the public (2014-2018)



2. Public complaints against Romania open at year-end

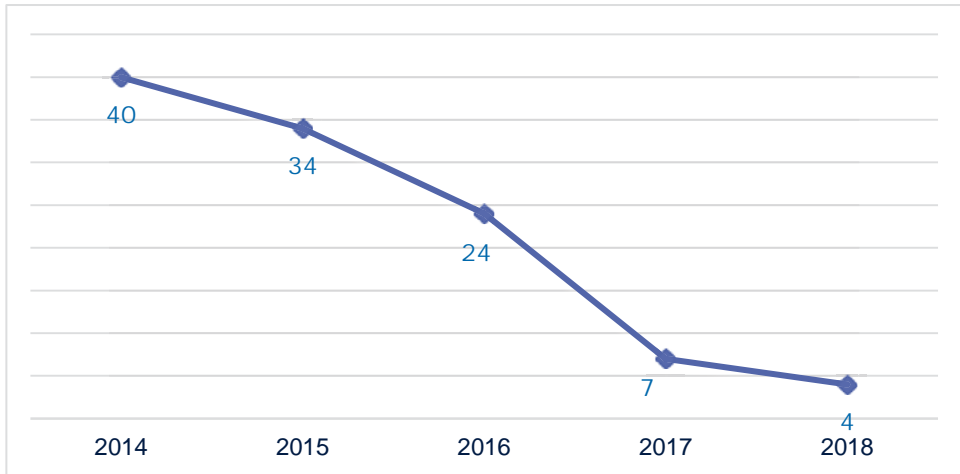
114	>	Complaints open at end-2017
198	>	New complaints registered in 2018
172	>	Complaints handled in 2018
= 140	>	Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

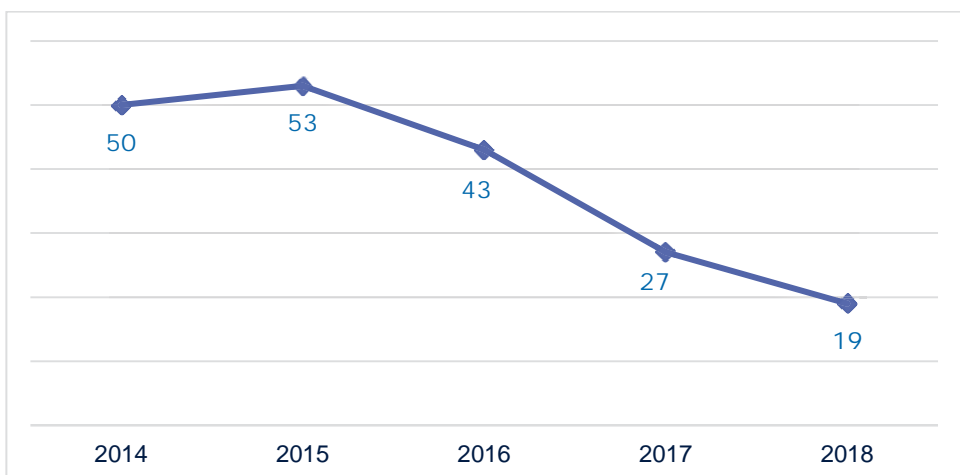


II. EU PILOT

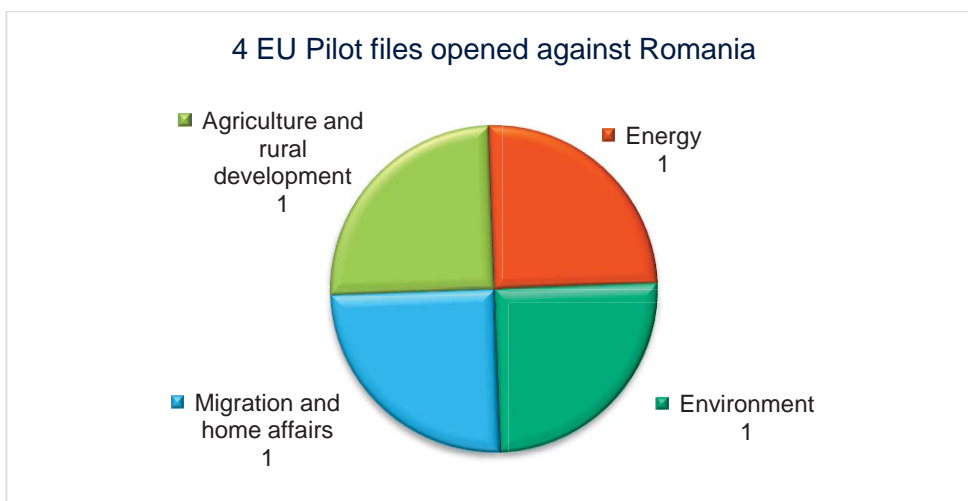
1. New EU Pilot files opened against Romania (2014-2018)



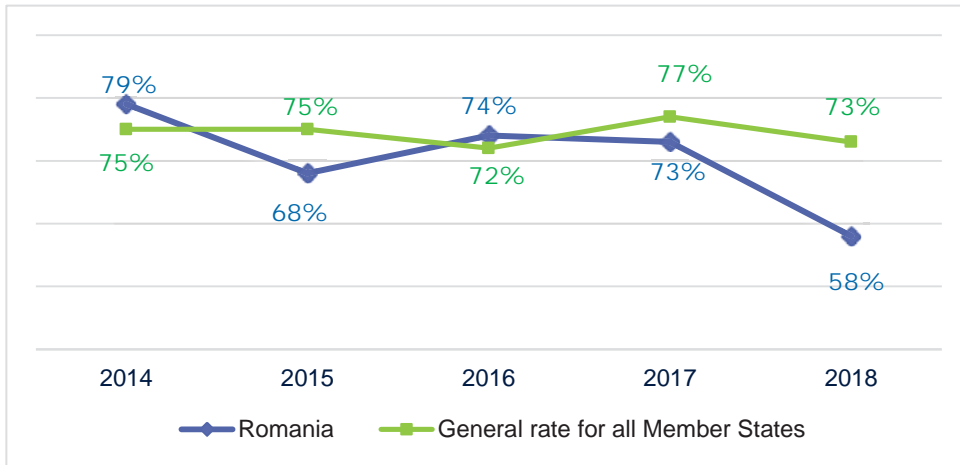
2. Files relating to Romania open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: policy areas

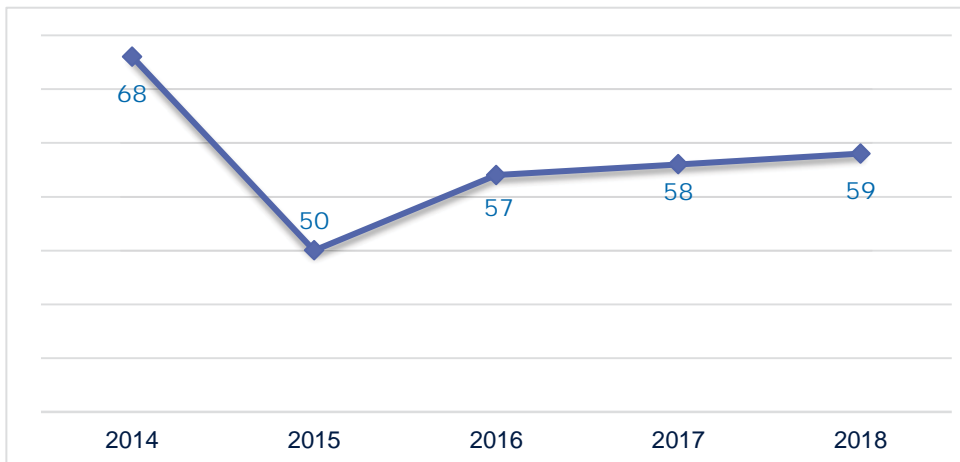


4. EU Pilot files: Romania's resolution rate in 2014-2018

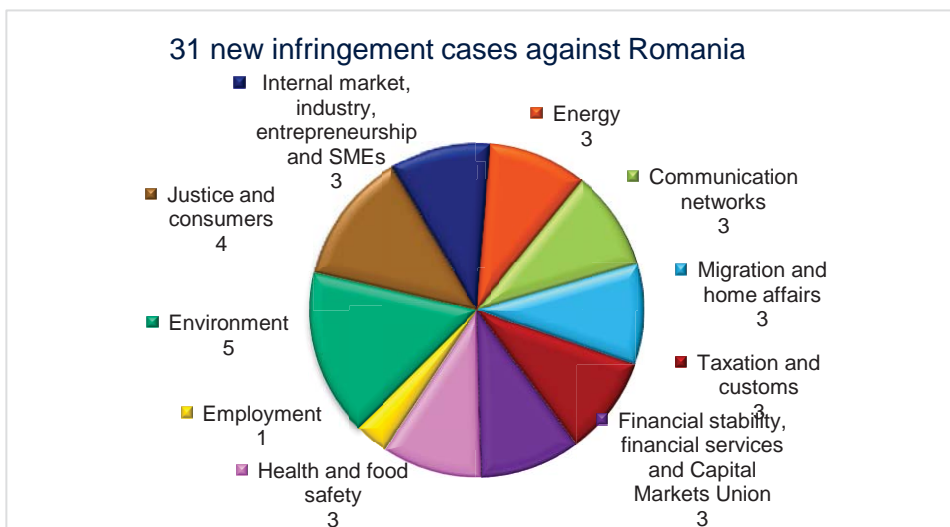


III. INFRINGEMENT CASES

1. Infringement cases against Romania open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

a) The Commission opened 31 new infringement cases against Romania in 2018. These, and other major ongoing infringement cases, include:

- application of a split-payment mechanism for VAT in breach of EU rules¹;
- failure to control emissions of sulphur dioxide from two large combustion plants²;
- failure to ensure that urban waste water is adequately treated³;
- non-conformity of certain provisions of domestic legislation on motor third-party liability insurance with the provisions of the Solvency II and Motor Insurance Directives⁴;
- non-conformity of national transposition measures with the Directive on the recognition of professional qualifications⁵;
- failure to adopt a national programme for the implementation of spent fuel and radioactive waste management policy compliant with the requirements of the Radioactive Waste Directive⁶;
- failure to correctly transpose certain requirements of the Radioactive Waste Directive⁷;
- non-compliance with the requirements of the
 - Energy Efficiency Directive⁸;
 - Oil Stocks Directive⁹;
- incorrect transposition of the Directive on the protection of animals used for scientific purposes¹⁰;
- non-communication of national measures transposing the:
 - Directive on the limitation of emissions of certain pollutants into the air from medium combustion plants;¹¹
 - Directive on security of network and information systems;¹²
 - Directive on the accessibility of the websites and mobile applications of public sector bodies¹³;
 - Directive as regards quality system standards and specifications for blood establishments;¹⁴
 - Directive on protective measures against the introduction into the Community of organisms harmful to plants;¹⁵
 - Payment Services Directive¹⁶;
 - Insurance Distribution Directive¹⁷;
 - revised Markets in Financial Instruments Directive;¹⁸

¹ [MEMO/18/6247](#).

² Directive [2010/75/EU](#); [MEMO/18/4486](#).

³ Directive [91/271/EEC](#), [MEMO/18/3986](#).

⁴ Directives [2009/138/EC](#) and [2009/103/EC](#); [MEMO/18/4486](#).

⁵ Directive [2005/36/EC](#), [MEMO/18/4486](#).

⁶ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

⁷ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

⁸ Directive [2012/27/EU](#), [MEMO/18/6247](#).

⁹ Directive [2009/119/EC](#), [MEMO/18/349](#).

¹⁰ Directive [2010/63/EU](#), [MEMO/18/4486](#).

¹¹ Directive [2015/2193/EU](#); [MEMO/18/4486](#).

¹² Directive [2016/1148/EU](#); [MEMO/18/4486](#).

¹³ Directive [2016/2102/EU](#).

¹⁴ Commission Directive [2016/1214/EU](#).

¹⁵ Commission Implementing Directive [2017/1279/EU](#).

¹⁶ Directive [2015/2366/EU](#).

¹⁷ Directive [2016/97/EU](#).

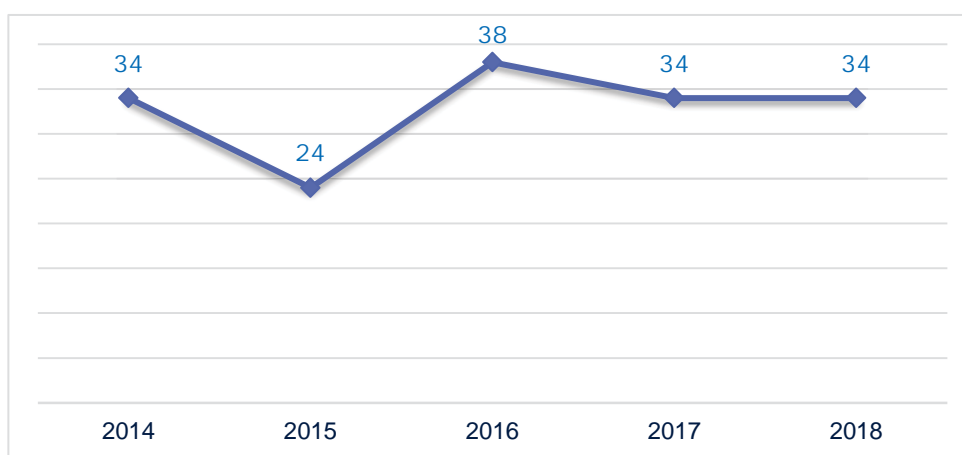
¹⁸ Directive [2014/65/EU](#); [MEMO/18/349](#).

Romania

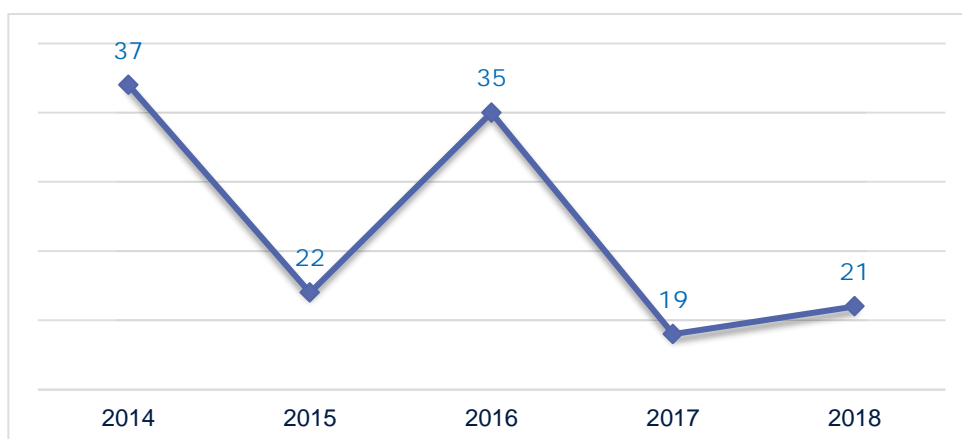
- Directive on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled¹⁹;
 - Directive on the freezing and confiscation of instrumentalities and proceeds of crime²⁰;
 - Package Travel Directive.²¹
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns
- exceedance of the PM₁₀²² limit values set by the Air Quality Directive²³.
- 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 (2014-2018)



2. New late transposition infringement cases against Romania (2014-2018)



¹⁹ Directive [2017/1564/EU](#).

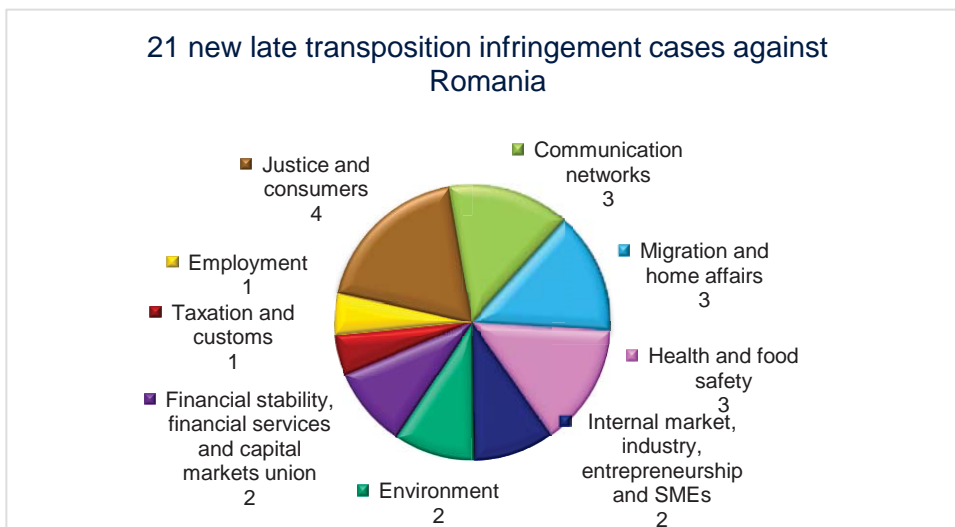
²⁰ Directive [2014/42/EU](#).

²¹ Directive [2015/2302/EU](#).

²² PM₁₀ is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometres. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: European Environment Agency)

²³ Directive [2008/50/EC](#), Commission v Romania, [C-638/18](#); [IP/18/3450](#).

3. New late transposition infringement cases opened in 2018: main policy areas



4. Referrals to the Court

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

- failure to communicate national measures transposing the Directive on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use²⁴;
- failure to communicate national measures transposing the Fourth Anti-Money Laundering Directive²⁵.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2018

These concerned the following:

- failure to comply with the Waste Framework Directive regarding the adoption of waste management plans and waste prevention programmes²⁶;
- failure to notify the national policy framework as required by EU legislation on the deployment of alternative fuels infrastructure²⁷;
- unjustified restrictions on veterinary pharmacies;
- obstacles to the marketing of LPG fuel stations;
- parallel imports of medicines²⁸;
- failure to communicate national measures transposing the
 - Antitrust Damages Directive²⁹;
 - Directive on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations³⁰;

²⁴ Commission v Romania, [C-116/18](#) -. Romania subsequently took the necessary steps to ensure compliance with EU law and the Commission has therefore withdrawn this case from the Court.

²⁵ Commission v Romania, [C-549/18](#), [IP/18/4491](#).

²⁶ Directive [2008/98/EC](#).

²⁷ Directive [2014/94/EU](#), [IP/18/358](#), [IP/18/358](#)

²⁸ [IP/18/3459](#).

²⁹ Directive [2014/104/EU](#); [MEMO/18/1444](#).

³⁰ Directive [2014/99/EU](#).

Romania

- Directive on quality system standards and specifications for blood establishments³¹;
- Directive on protective measures against the introduction into the Community of organisms harmful to plants³²;
- Directive concerning undertakings for collective investment in transferable securities³³;
- Offshore Safety Directive³⁴.

VI. IMPORTANT JUDGMENTS

1. Court rulings³⁵

The Court ruled that:

- Romania has breached the Landfill Directive by failing to close down 68 landfills which had not received authorisation to continue operating³⁶.

2. Preliminary rulings

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

- The work performed by a foster parent under an employment contract with a public authority is not covered by the provisions of the Working Time Directive³⁷.
- The term 'spouse' in the Free Movement Directive also applies to a person of the same sex as the EU citizen to whom he or she is married. The obligation for a Member State to recognise a same-sex marriage concluded in another Member State, for the sole purpose of granting a right of residence to a non-EU national, does not undermine the institution of marriage in the first Member State³⁸.
- A worker on parental leave does not accrue the right to paid annual leave under the provisions of the Working Time Directive³⁹.

³¹ Commission Directive [2016/1214/EU](#).

³² Commission Implementing Directive [2017/1279/EU](#).

³³ Directive [2014/91/EU](#).

³⁴ Directive [2013/30/EU](#).

³⁵ These rulings are almost exclusively handed down in infringement procedures.

³⁶ Directive [1999/31/EC](#), Commission v Romania, [C-301/17](#).

³⁷ Sindicatul Familia Constanța and Others, [C-147/17](#).

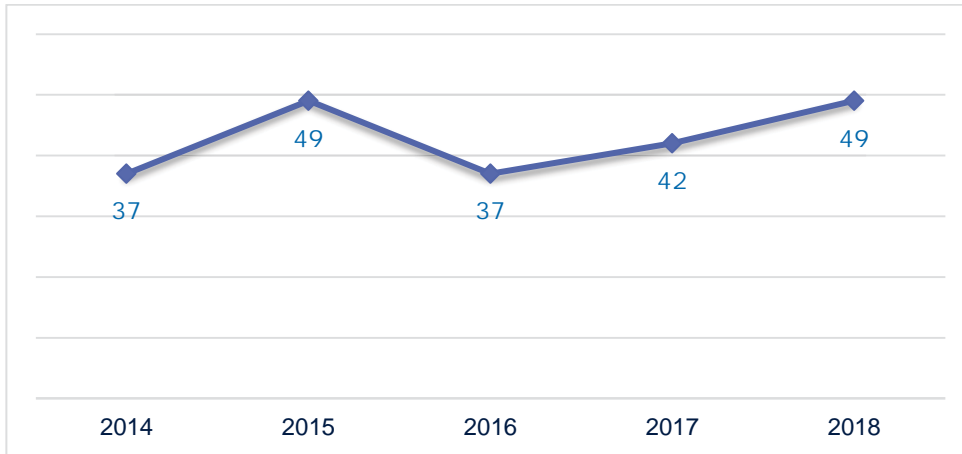
³⁸ Coman, [C-673/16](#).

³⁹ Dicu, [C-12/17](#).

Slovenia

I. COMPLAINTS

1. New complaints made against Slovenia by members of the public (2014-2018)



2. Public complaints against Slovenia open at year-end

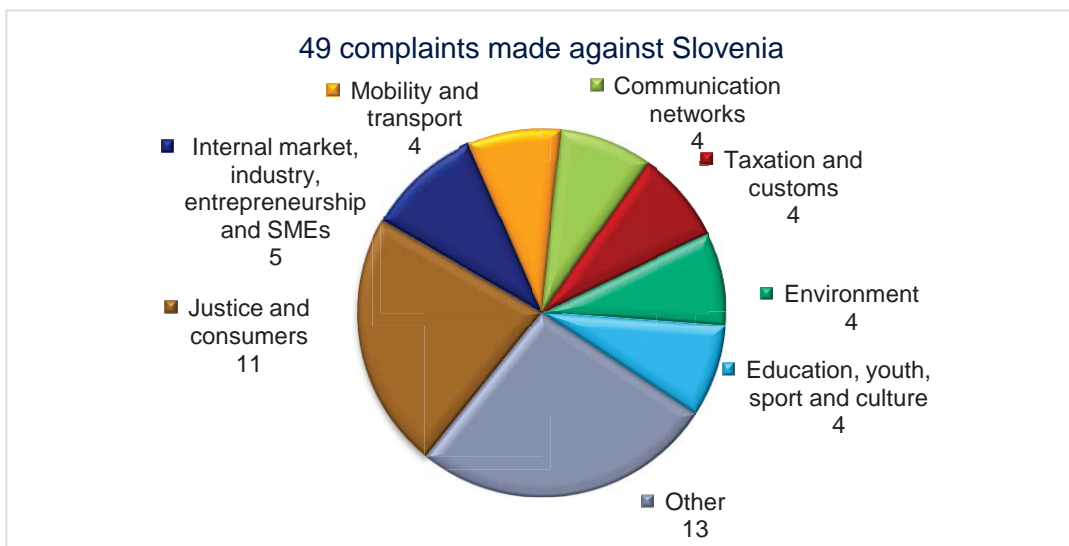
47 > Complaints open at end-2017

49 > New complaints registered in 2018

51 > Complaints handled in 2018

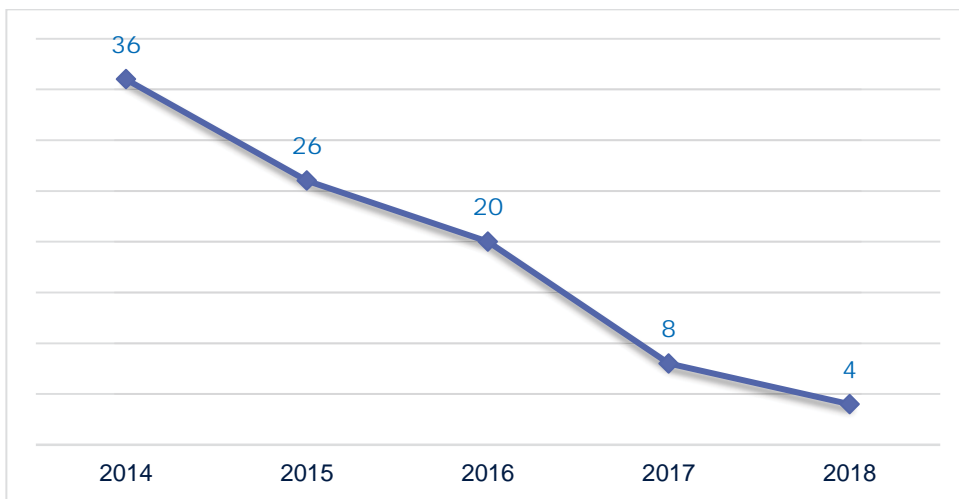
= 45 > Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

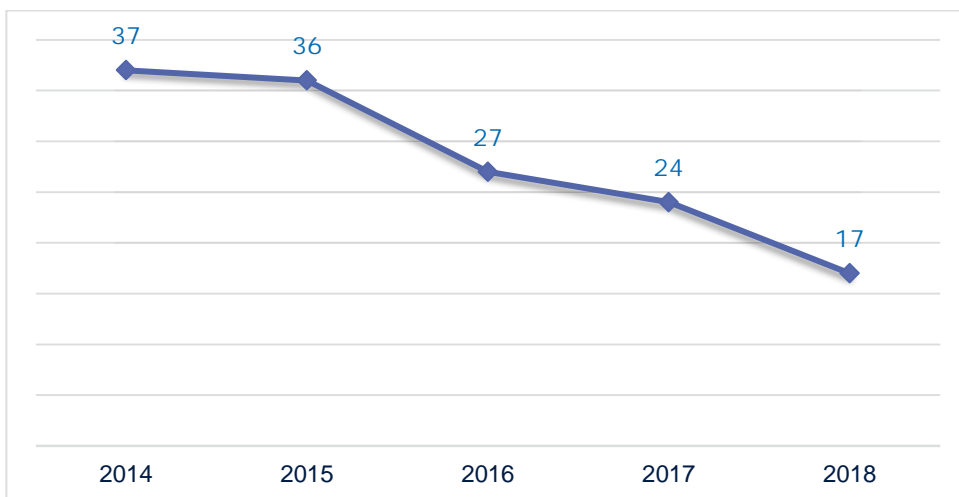


II. EU PILOT

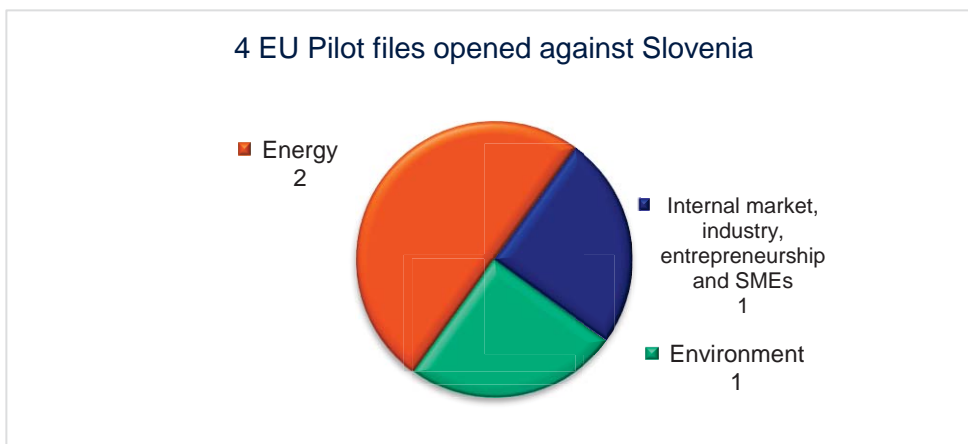
1. New EU Pilot files opened against Slovenia (2014-2018)



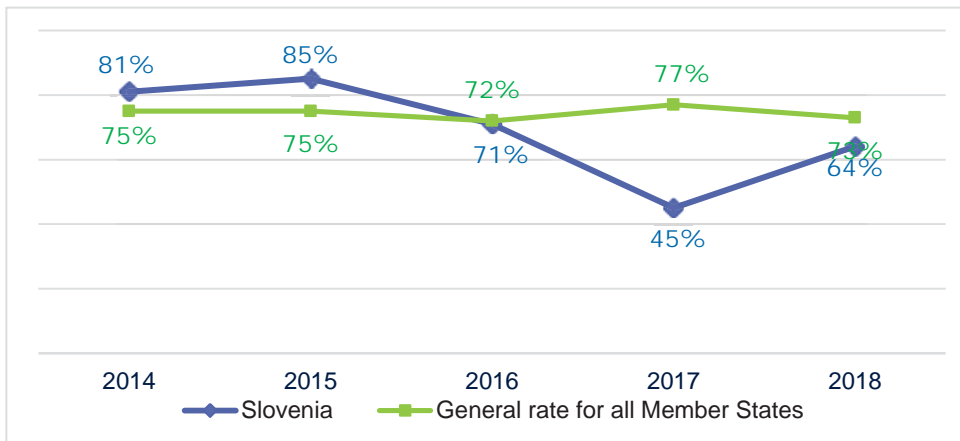
2. Files relating to Slovenia open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: policy areas

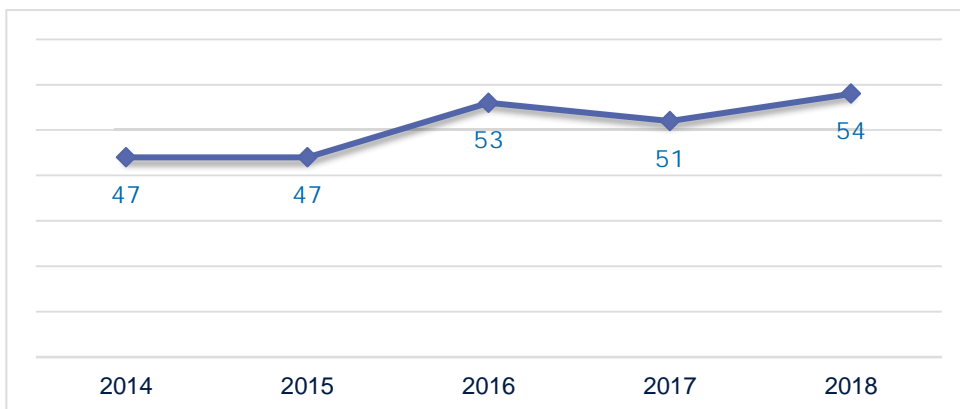


4. EU Pilot files: Slovenia's resolution rate in 2014-2018

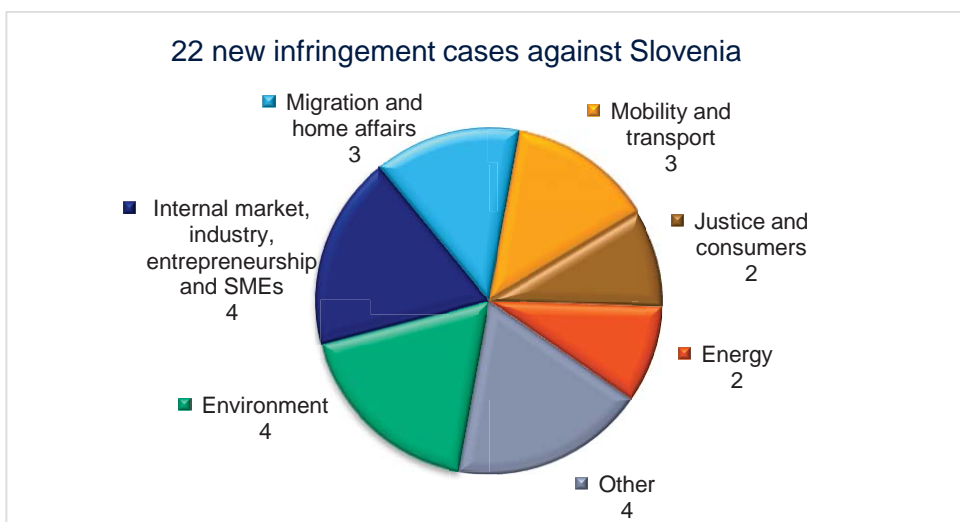


III. INFRINGEMENT CASES

1. Infringement cases against Slovenia open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

- a) The Commission opened 22 new infringement cases against Slovenia in 2018. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
 - Insurance Distribution Directive¹;
 - revised Markets in Financial Instruments Directive²;
 - Commission Directive amending the Directive on quality system standards and specifications for blood establishments³;
 - Directive on the limitation of emissions of certain pollutants into the air from medium combustion plants⁴;
 - Directive on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled⁵;
 - Package Travel Directive⁶;
 - Data Protection Law Enforcement Directive⁷.
 - failure to comply with the judgment of the Court of Justice and rehabilitate an illegal landfill in Bukovžlak, Celje⁸;
 - failure to adopt a national programme for the implementation of spent fuel and radioactive waste management policy compliant with the requirements of the Radioactive Waste Directive⁹;
 - non-compliance with the requirements of the
 - Energy Efficiency Directive¹⁰;
 - Energy Performance of Buildings Directive¹¹;
 - non-conformity of national transposition measures with the Directive on the recognition of professional qualifications¹².
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- failure to communicate national measures transposing the Delegated Directive implementing the Markets in Financial Instruments Directive¹³.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Directive [2016/97/EU](#).

² Directive [2014/65/EU](#); [MEMO/18/349](#).

³ Commission Directive [2016/1214/EU](#).

⁴ Directive [2015/2193/EU](#).

⁵ Directive [2017/1564/EU](#).

⁶ Directive [2015/2302/EU](#).

⁷ Directive [2016/680/EU](#).

⁸ Commission v Slovenia, [C-140/14](#), [MEMO/18/3986](#).

⁹ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

¹⁰ Directive [2012/27/EU](#), [MEMO/18/4486](#).

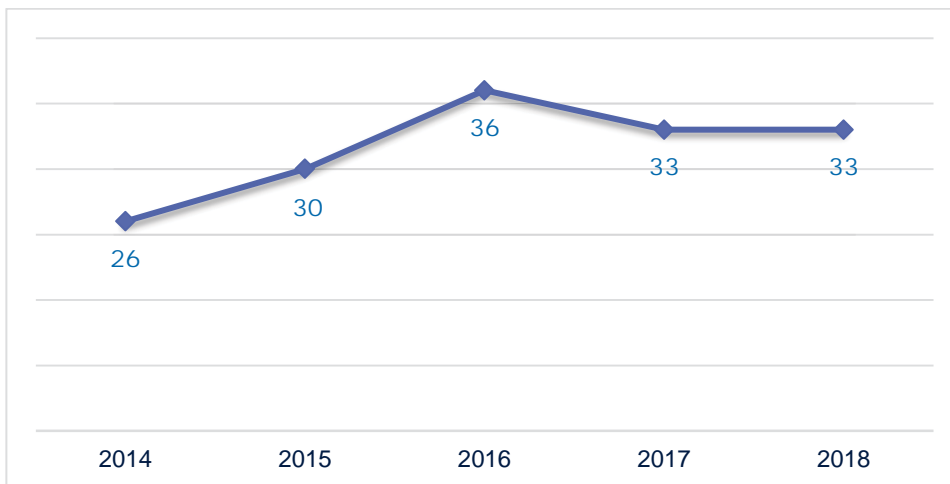
¹¹ Directive [2010/31/EU](#), [MEMO/18/349](#).

¹² Directive [2005/36/EC](#); [MEMO/18/4486](#).

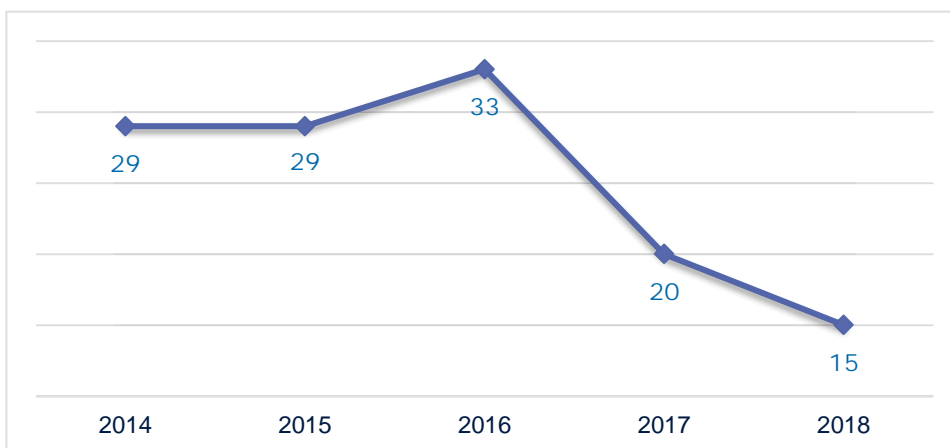
¹³ Commission v Slovenia, [C-631/18](#); Directive [2017/593EU](#).

IV. TRANSPOSITION OF DIRECTIVES

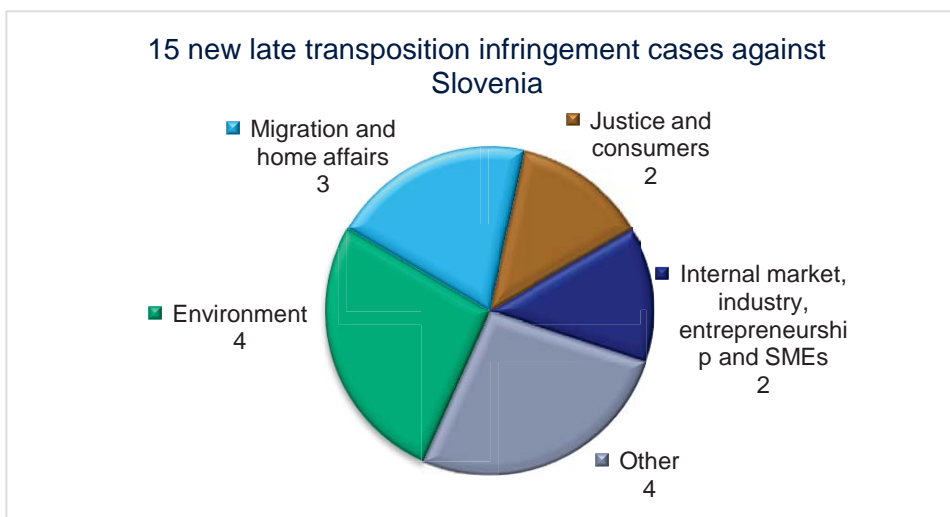
1. Late transposition infringement cases against Slovenia open on 31 December (2014-2018)



2. New late transposition infringement cases against Slovenia (2014-2018)



3. New late transposition infringement cases opened in 2018: main policy areas



4. Referral to the Court

The Commission referred three cases to the Court under Articles 258 and 260(3) TFEU. They concern failure to communicate national measures transposing the

- revised Markets in Financial Instruments Directive¹⁴;
- Audit Directive¹⁵;
- Directive on the award of concession contracts¹⁶.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2018

These concerned:

- incorrect application of the Directive on environmental noise due to the lack of noise action plans¹⁷;
- incorrect transposition of the Strategic Environmental Assessment Directive and the Environmental Impact Assessment Directive as regards public participation and access to justice in spatial planning¹⁸;
- non-communication of national measures transposing the
 - Commission Directive amending the Directive on quality system standards and specifications for blood establishments¹⁹;
 - Directive on the freezing and confiscation of instrumentalities and proceeds of crime²⁰;
 - Antitrust Damages Directive²¹;
 - Directive on the limitation of emissions of certain pollutants into the air from medium combustion plants²²;
 - Directive²³ amending the Environmental Impact Assessment Directive;
 - Directive on requirements for budgetary frameworks of the Member States²⁴;
 - Directive on intra-corporate transfer²⁵;
 - Nuclear Safety Directive²⁶.

VI. IMPORTANT JUDGMENTS

1. Court ruling²⁷

The Court ruled that

- Slovenia has failed to fulfil its obligations under the Landfill Directive. Twenty landfills which had not been granted authorisation to continue operation have not been closed

¹⁴ Commission v Slovenia [C-628/18](#); Directive [2014/65/EU](#); [IP/18/4530](#).

¹⁵ Commission v Slovenia [C-69/18](#); [Directive 2014/56/EU](#).

¹⁶ Commission v Slovenia, [C-188/18](#); [Directive 2014/23/EU](#).

¹⁷ [Directive 2002/49/EC](#).

¹⁸ [Directives 2001/42/EC and 2011/92/EU](#).

¹⁹ [Commission Directive 2016/1214/EU](#).

²⁰ [Directive 2014/42/EU](#).

²¹ [Directive 2014/104/EU](#); [MEMO/18/1444](#).

²² [Directive 2015/2193/EU](#).

²³ [Directive 2014/52/EU](#).

²⁴ [Directive 2011/85/EU](#).

²⁵ [Directive 2014/66/EU](#).

²⁶ [Directive 2014/87/Euratom](#).

²⁷ These rulings are almost exclusively handed down in infringement procedures.

and rehabilitated, and another landfill has not been brought into compliance with the requirements of the Directive²⁸.

2. Preliminary rulings

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

- Subsidiary protection status, granted under the legislation of a Member State, does not offer the 'same rights and benefits as those offered by the refugee status under Union and national law'²⁹.

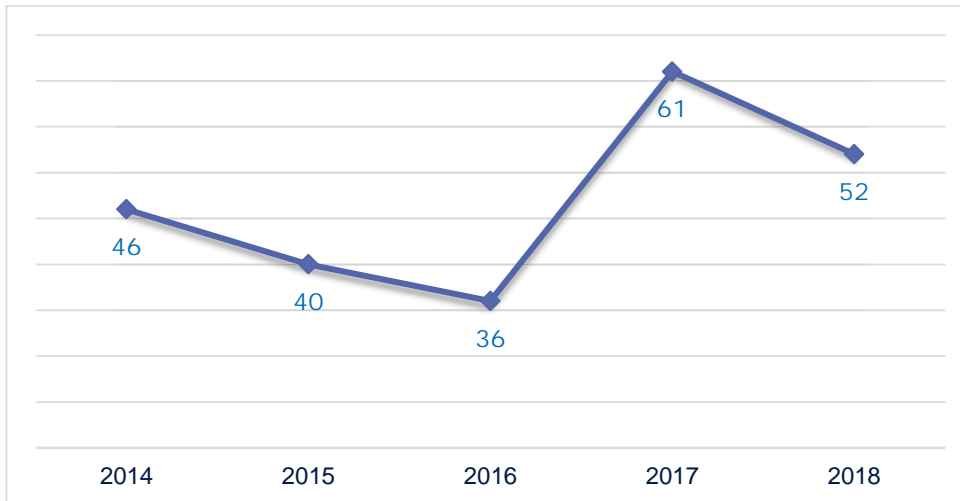
²⁸ Directive [1999/31/EC](#), Commission v Slovenia, [C-506/17](#).

²⁹ E.G. v Republika Slovenija, [C-662/17](#).

Slovakia

I. COMPLAINTS

1. New complaints made against Slovakia by members of the public (2014-2018)



2. Public complaints against Slovakia open at year-end

49 > Complaints open at end-2017

52 > New complaints registered in 2018

56 > Complaints handled in 2018

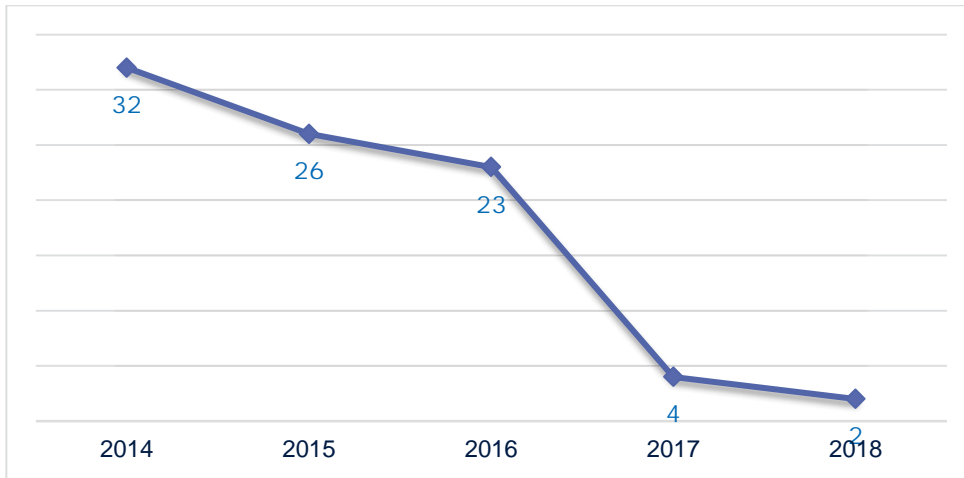
= 45 > Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

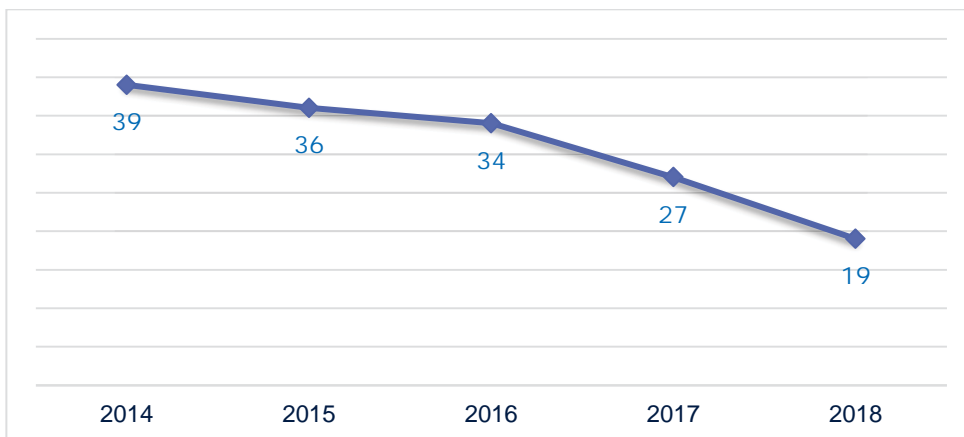


II. EU PILOT

1. New EU Pilot files opened against Slovakia (2014-2018)



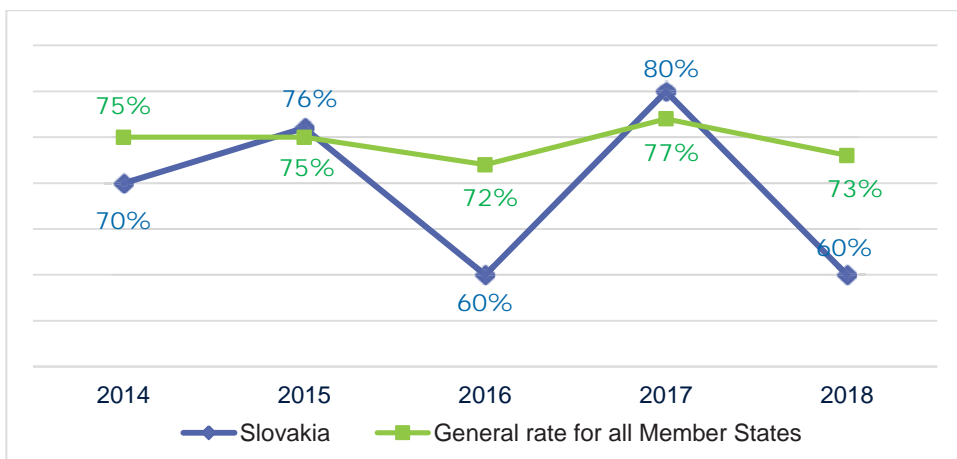
2. Files relating to Slovakia open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: main policy areas

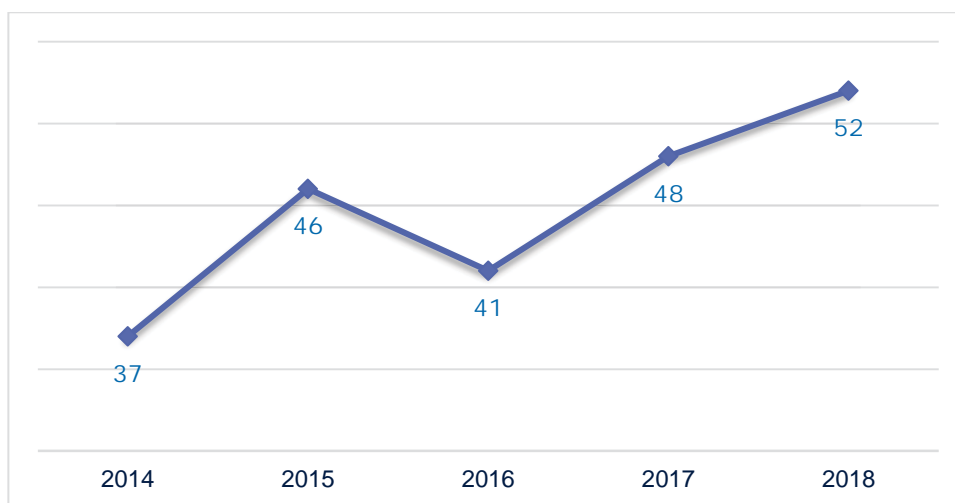
In 2018, the Commission opened two EU Pilot files against Slovakia: one in the area of environment and one in the area of migration and home affairs.

4. EU Pilot files: Slovakia's resolution rate in 2014-2018

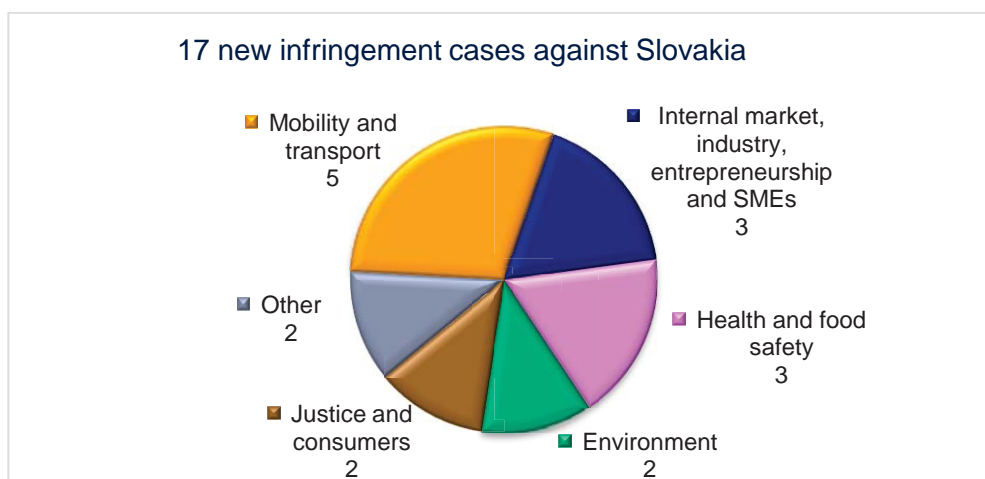


III. INFRINGEMENT CASES

1. Infringement cases against Slovakia open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

- a) The Commission opened 17 new infringement cases against Slovakia in 2018. These, and other major ongoing infringement cases, include:
- non-conformity of national transposition measures with the Directive on the recognition of professional qualifications¹;
 - non-compliance with the requirements of the Energy Efficiency Directive²;
 - incorrect transposition of the Directive on the protection of animals used for scientific purposes³;
 - non-conformity of domestic legislation with the Habitats Directive and incorrect application of the Habitats Directive and the Birds Directive⁴;
 - non-communication of national measures transposing the

¹ Directive [2005/36/EC](#), [MEMO/18/4486](#).

² Directive [2012/27/EU](#), [MEMO/18/6247](#).

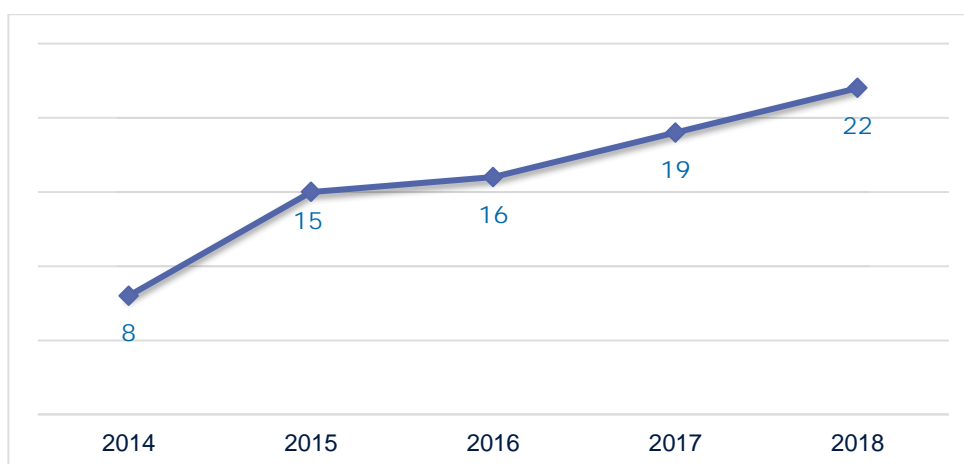
³ Directive [2010/63/EU](#), [MEMO/18/4486](#).

⁴ Directives [92/43/EEC](#) and [2009/147/EC](#).

- Directive on the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species⁵;
 - Directive on protective measures against the introduction into the Community of organisms harmful to plants⁶;
 - Directive on the accessibility of the websites and mobile applications of public sector bodies⁷;
 - Package Travel Directive⁸;
 - Directive on the presumption of innocence⁹.
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns
- lack of proper judicial remedies against refusals, annulments or revocation of visas¹⁰.
- 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 (2014-2018)



⁵ Commission Implementing Directive [2018/100/EU](#).

⁶ Commission Implementing Directive [2017/1279/EU](#).

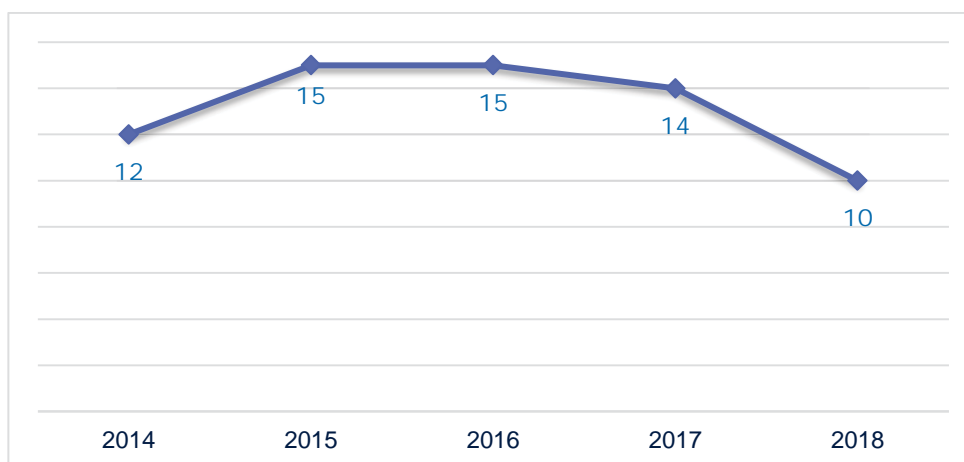
⁷ Directive [2016/2102/EU](#).

⁸ Directive [2015/2302/EU](#).

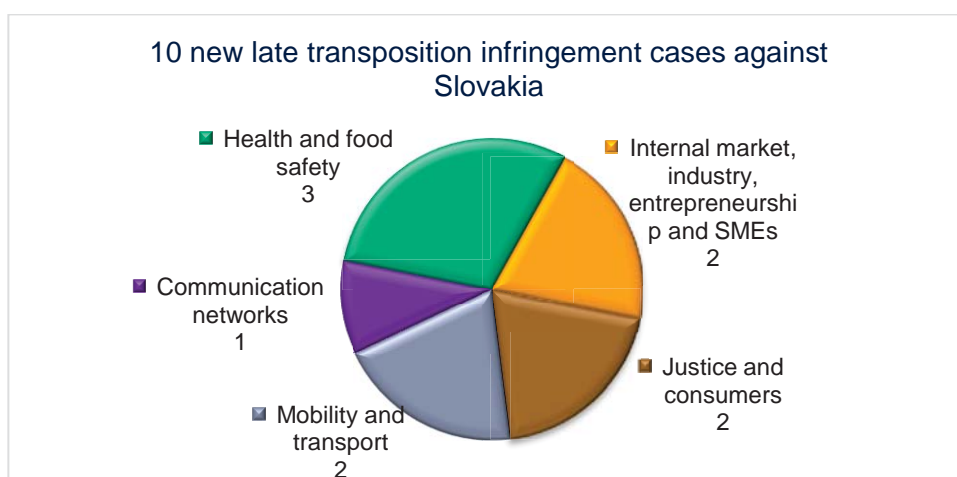
⁹ Directive [2016/343/EU](#).

¹⁰ Commission v Slovakia, [C-614/18](#).

2. New late transposition infringement cases against Slovakia (2014-2018)



3. New late transposition infringement cases opened in 2018: 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 2018

These concerned

- parallel imports of medicines¹¹;
- registration of right-hand drive vehicles;
- non-communication of national measures transposing the Directives on
 - protective measures against the introduction into the Community of organisms harmful to plants¹²;
 - the freezing and confiscation of instrumentalities and proceeds of crime¹³.

¹¹ [IP/18/3459](#).

¹² Commission Implementing Directive [2017/1279/EU](#).

¹³ Directive [2014/42/EU](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings¹⁴

The Court ruled that

- *Slovakia* has failed to comply with an earlier Court judgment¹⁵ that it had failed to fulfil its obligations under the Landfill Directive by authorising the operation of the Žilina-Považský Chlmec landfill site without a site-conditioning plan and in the absence of a definite decision on its continued operation on the basis of an approved site-conditioning plan. The Court ordered Slovakia to pay a lump sum of EUR 1 000 000 and a daily penalty of EUR 5 000 until full compliance is achieved¹⁶.

2. Preliminary rulings

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

- Member States may not impose a charge on the export of electricity generated in their own territory¹⁷.

¹⁴ These rulings are almost exclusively handed down on infringement procedures.

¹⁵ *Commission v Slovakia*, [C-331/11](#).

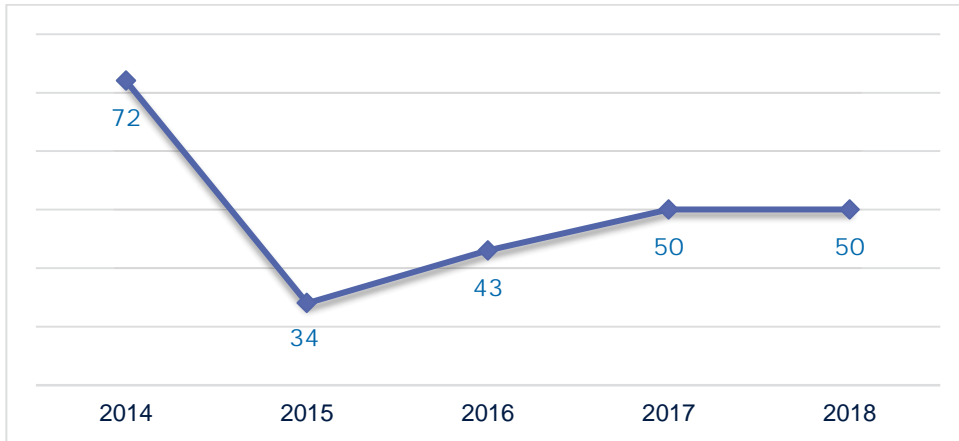
¹⁶ Directive [1999/31/EC](#), *Commission v Slovakia*, [C-626/16](#) and Court press release [No 99/18](#).

¹⁷ *FENS*, [C-305/17](#) and Court press release [No 189/18](#).

Finland

I. COMPLAINTS

1. New complaints made against Finland by members of the public (2014-2018)

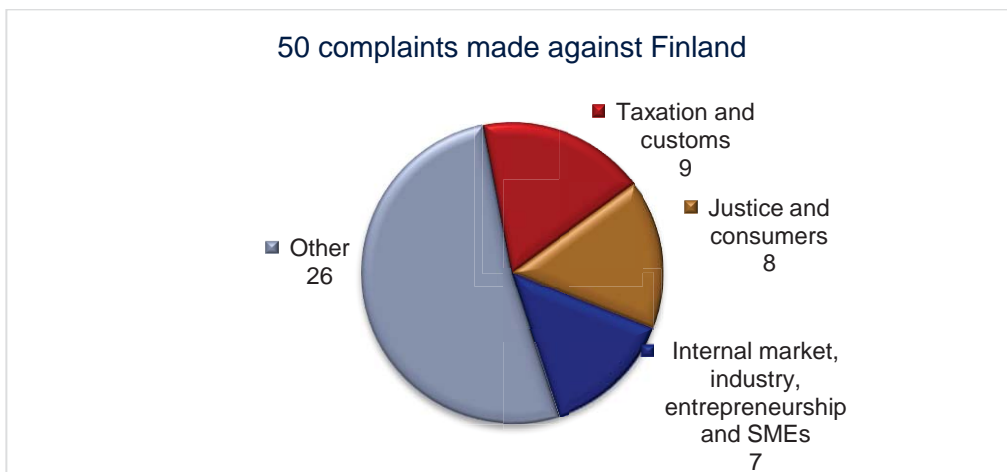


2. Public complaints against Finland open at year-end

- 41 > Complaints open at end-2017
- 50 > New complaints registered in 2018
- 51 > Complaints handled in 2018

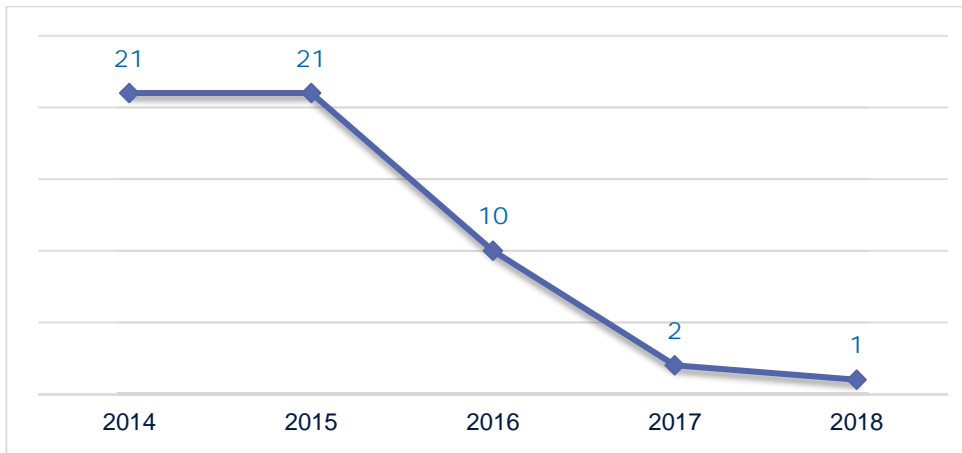
- = 40 > Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

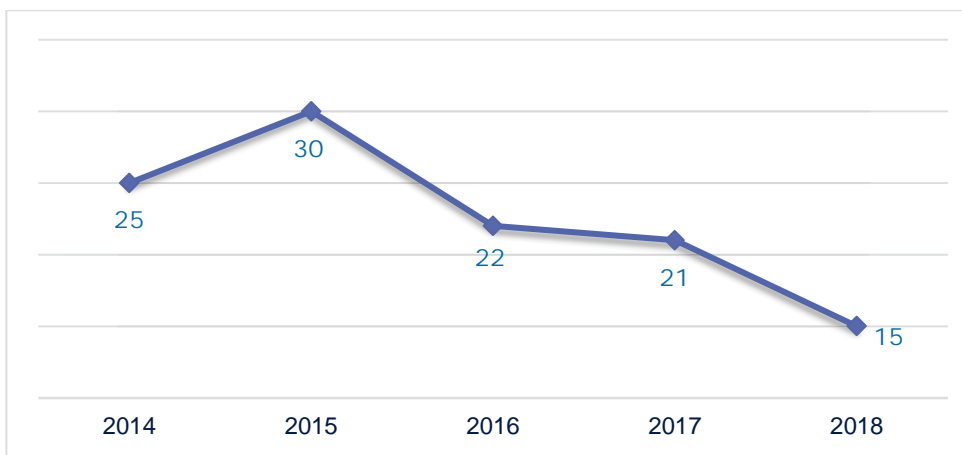


II. EU PILOT

1. New EU Pilot files opened against Finland (2014-2018)



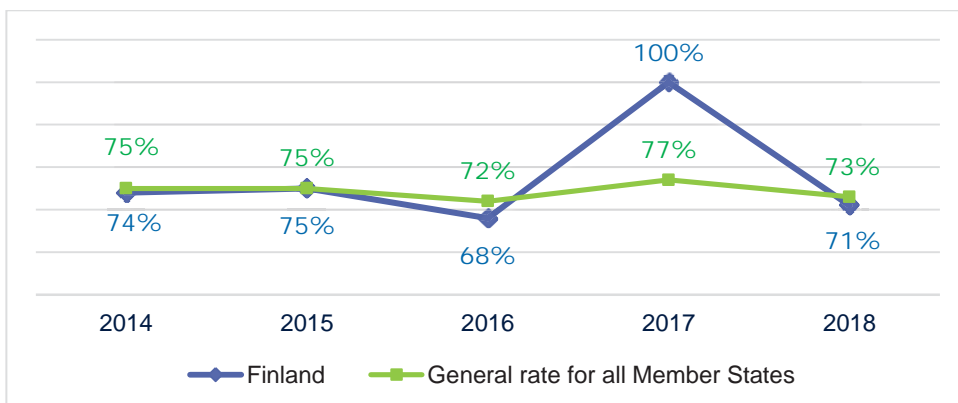
2. Files relating to Finland open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: policy areas

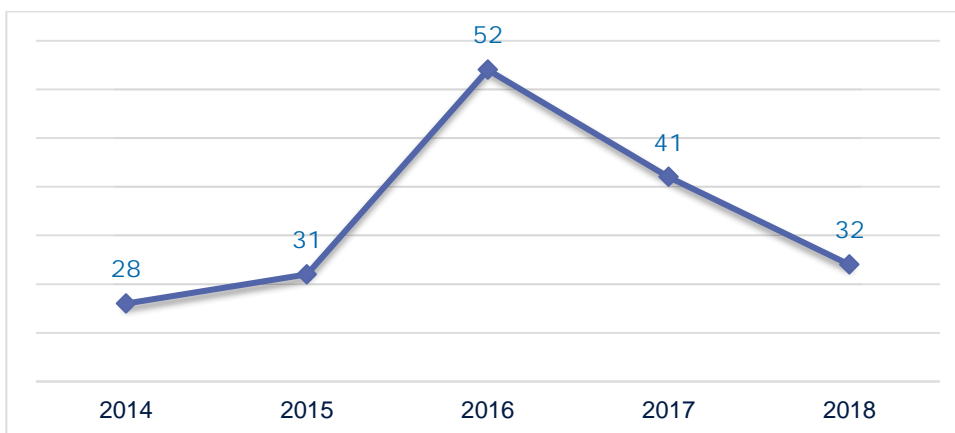
In 2018, the Commission opened one EU Pilot files against Finland in the area of energy.

4. EU Pilot files: Finland's resolution rate in 2014-2018

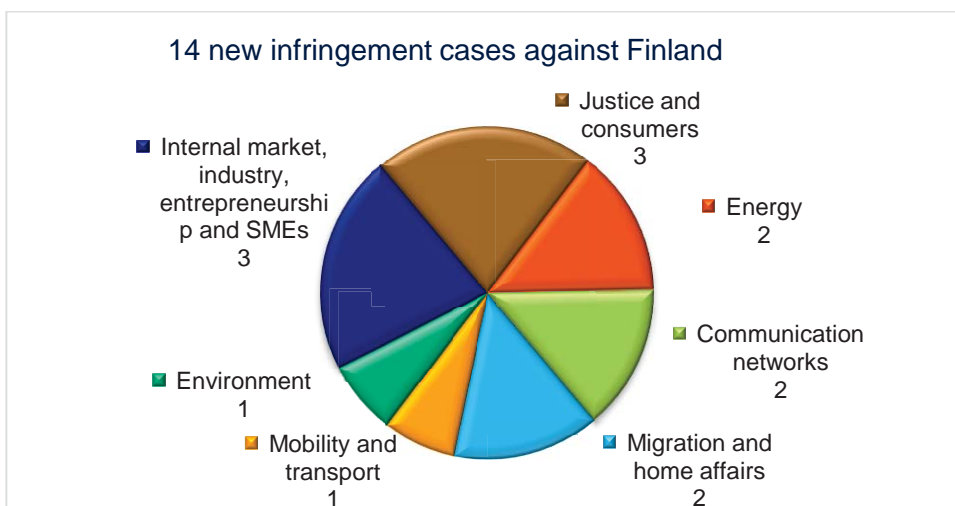


III. INFRINGEMENT CASES

1. Infringement cases against Finland open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

a) The Commission opened 14 new infringement cases against Finland in 2018. These, and other major ongoing infringement cases, include:

- non-compliance with the requirements of the Energy Efficiency Directive¹;
- hunting of wild birds in breach of the Birds Directive²;
- non-compliance with the Consumer Rights Directive³;
- non-conformity of national transposition measures with the Directive on the recognition of professional qualifications⁴;
- non-communication of national measures transposing the:
 - Basic Safety Standards Directive⁵;
 - Directive on the reduction of national emissions of certain atmospheric pollutants⁶;

¹ Directive [2012/27/EU](#), [MEMO/18/6247](#).

² Directive [2009/147/EC](#), [IP/18/1446](#).

³ Directive [2011/83/EU](#).

⁴ Directive [2005/36/EC](#), [MEMO/18/4486](#).

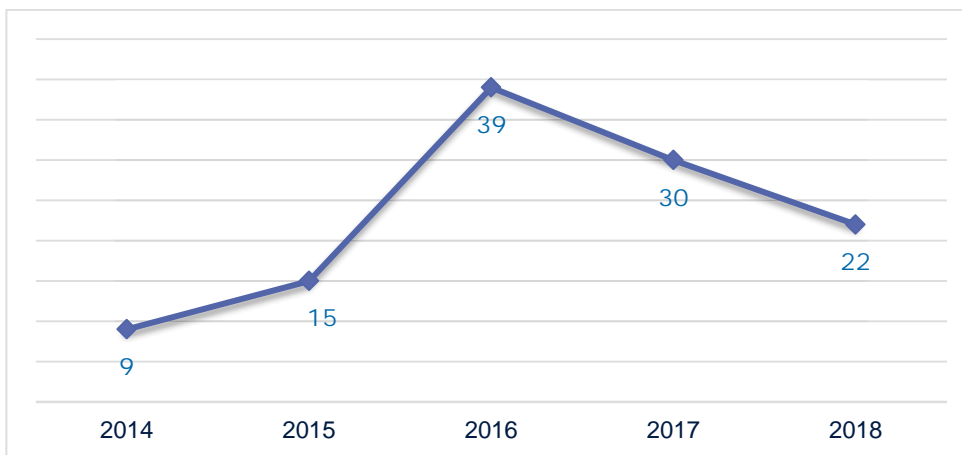
⁵ Directive [2013/59/Euratom](#), [MEMO/18/3446](#).

Finland

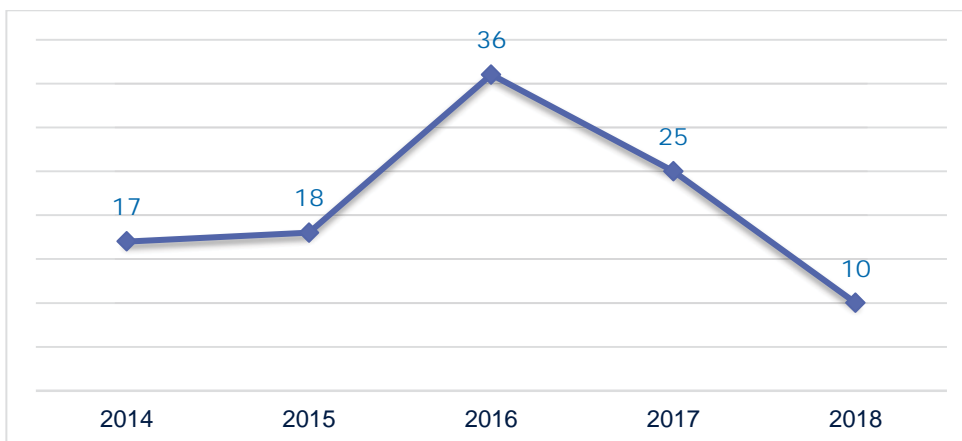
- Directive on the accessibility of the websites and mobile applications of public sector bodies⁷;
 - Directive on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled⁸;
 - Data Protection Law Enforcement 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 (2014-2018)



2. New late transposition infringement cases against Finland (2014-2018)



⁶ Directive [2016/2284/EU](#).

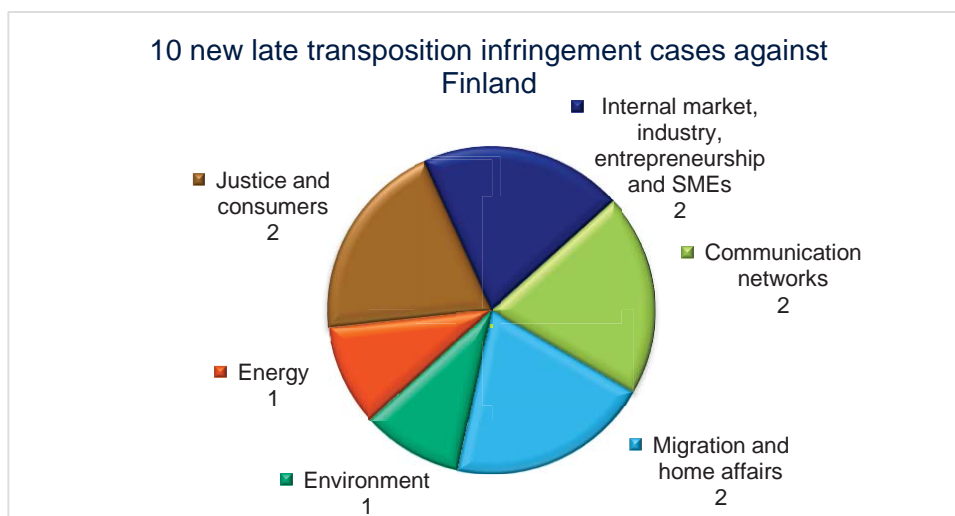
⁷ Directive [2016/2102/EU](#).

⁸ Directive [2017/1564/EU](#).

⁹ Directive [2016/680/EU](#).

Finland

3. New late transposition infringement cases opened in 2018: 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 2018

These concerned:

- non-compliant transposition of the
 - Directive on public access to environmental information¹⁰;
 - Unfair Commercial Practices Directive¹¹;
- incorrect application of the Airport Charges Directive¹²;
- failure to communicate national measures transposing the:
 - Mortgage Credit Directive;¹³
 - Directive on tobacco products;¹⁴
 - Directive on seasonal workers¹⁵;
 - Directive on intra-corporate transfer¹⁶.

VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no major Court rulings in 2018.

2. Preliminary rulings

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

¹⁰ Directive [2003/4/EC](#).
¹¹ Directive [2005/29/EC](#).
¹² Directive [2009/12/EC](#).
¹³ Directive [2014/17/EU](#), [MEMO/18/1444](#).
¹⁴ Directive [2014/40/EU](#).
¹⁵ Directive [2014/36/EU](#).
¹⁶ Directive [2014/66/EU](#).

Finland

- Complaints against an air carrier under Article 31 of the Montreal Convention must be made in writing¹⁷.
- The case concerned a situation where an extradition request has been made by a third country for an EU citizen who has exercised his/her right to free movement. The Court ruled that the requested Member State is required to ensure that that EU citizen, provided that he resides permanently in its territory, receives the same treatment as that accorded to its own nationals in relation to extradition¹⁸.
- A return decision accompanied by an entry ban may be enforced against a person holding a residence permit from another Member State, even though the consultation procedure with the latter Member State is ongoing, if the third country national is regarded by the Member State issuing the alert as a threat to public order or national security, without prejudice to that person's entitlement to rely on the rights he derives from that residence permit, after a reasonable time from the initiation of the consultation procedure and in the absence of a response from the Member State consulted, the Member State issuing the alert for the purposes of refusing entry must withdraw it and, if necessary, put the third-country national on its national list of alerts¹⁹.
- Data protection legislation covers a set of personal data collected in the course of door-to-door preaching. A religious community is a controller, jointly with its members who engage in preaching, of the processing of personal data carried out by the latter through door-to-door preaching²⁰.

¹⁷ Convention for the Unification of Certain Rules for International Carriage by Air, concluded at Montreal on 28 May 1999 and approved on behalf of the European Community by Council Decision [2001/539/EC](#), *Finnair Oyj v Keskinäinen Vakuutusyhtiö Fennia*, [C-258/16](#).

¹⁸ *Raugevicius*, [C-247/17](#).

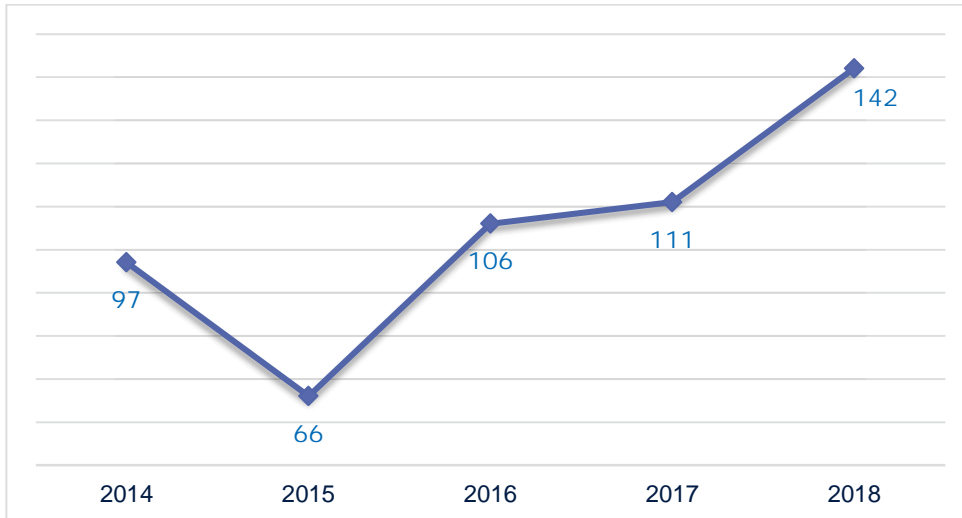
¹⁹ *E*, [C-240/17](#).

²⁰ *Jehovan todistajat*, [C-25/17](#).

Sweden

I. COMPLAINTS

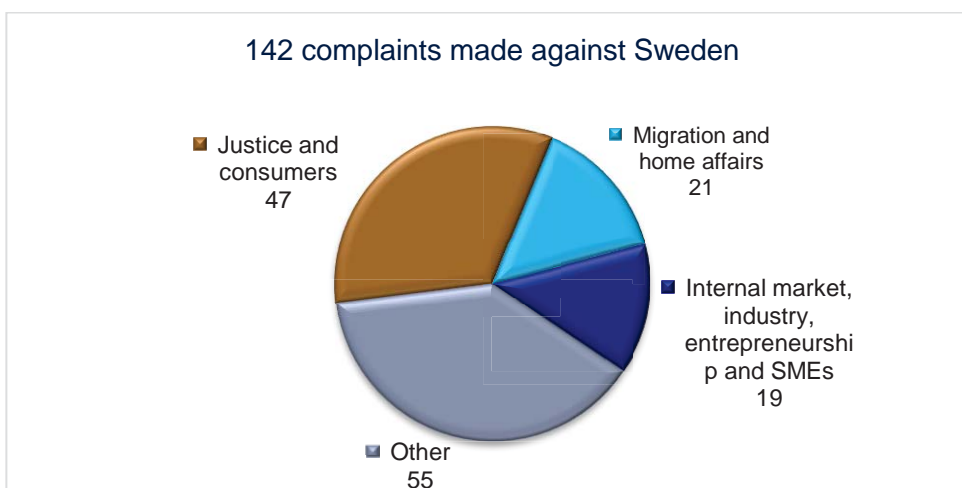
1. New complaints made against Sweden by members of the public (2014-2018)



2. Public complaints against Sweden open at year-end

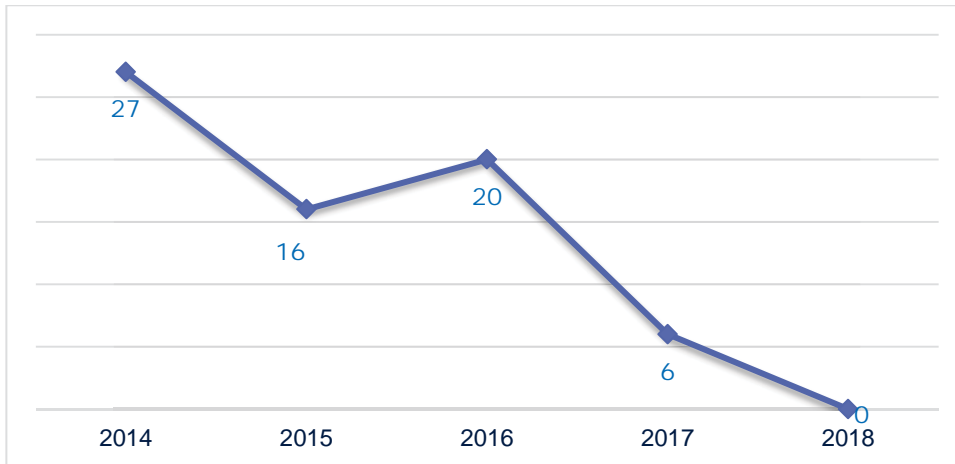
115	>	Complaints open at end-2017
142	>	New complaints registered in 2018
114	>	Complaints handled in 2018
= 143	>	Complaints open at end-2018

3. New complaints registered in 2018: main policy areas

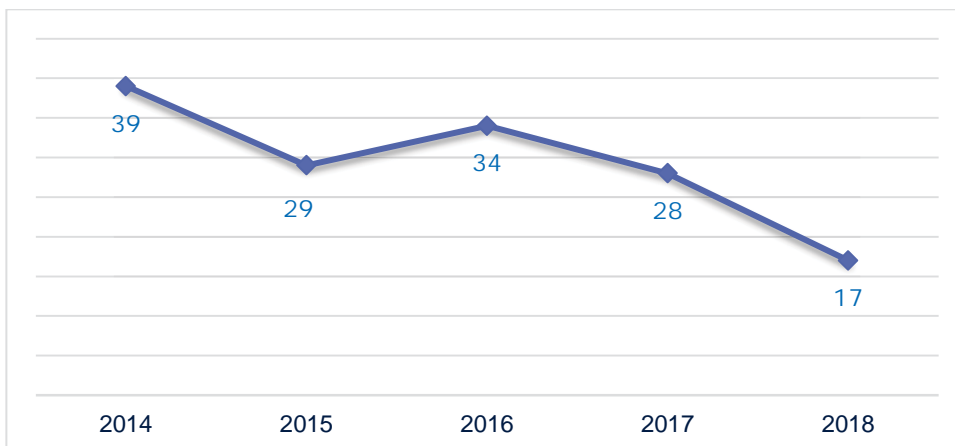


II. EU PILOT

1. New EU Pilot files opened against Sweden (2014-2018)



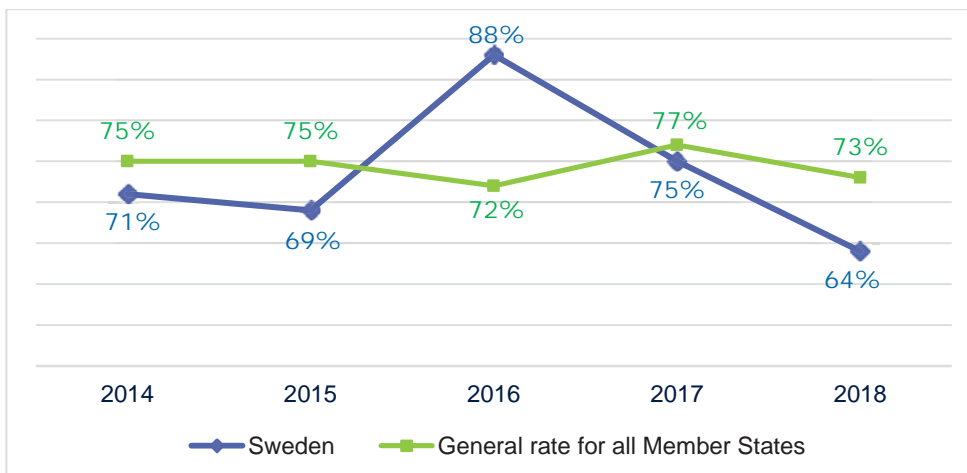
2. Files relating to Sweden open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: policy areas

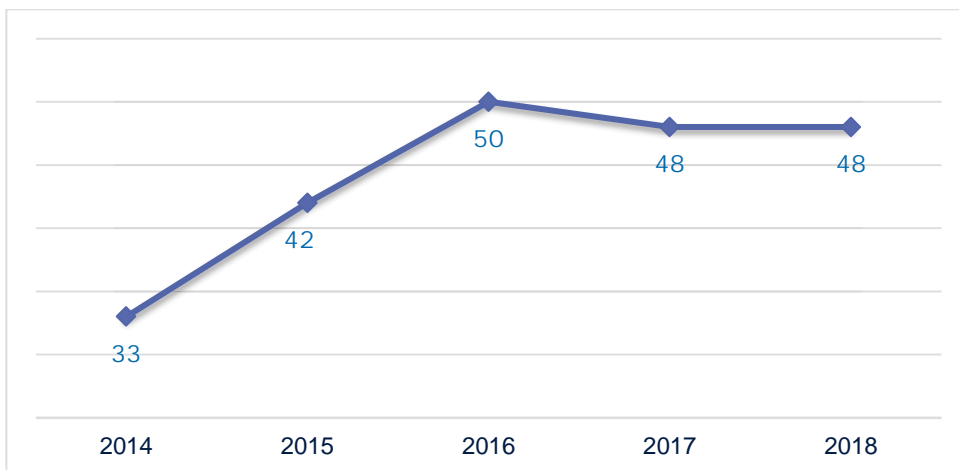
In 2018 the Commission did not open any new EU Pilot files against Sweden.

4. EU Pilot files: Sweden's resolution rate in 2014-2018

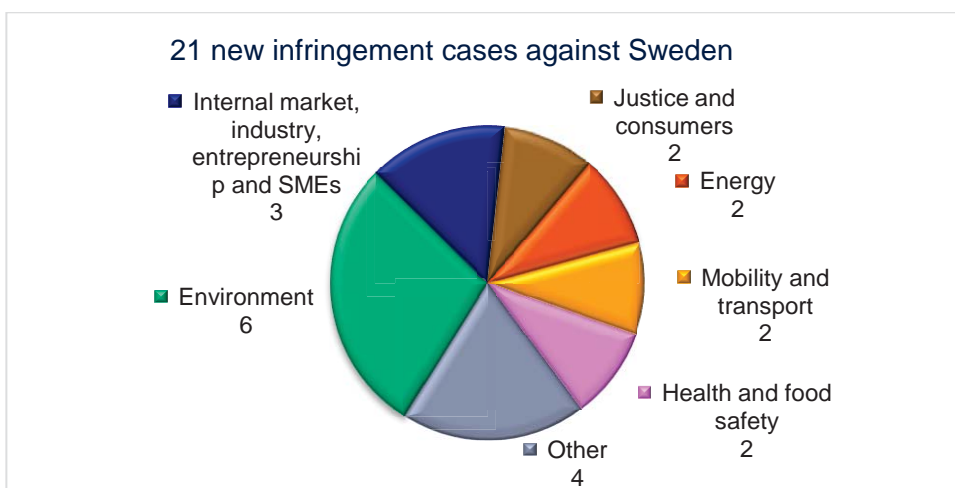


III. INFRINGEMENT CASES

1. Infringement cases against Sweden open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

- a) The Commission opened 21 new infringement cases against Sweden in 2018. These, and other major ongoing infringement cases, include:
- failure to comply with the requirements of the Urban Waste Water Treatment Directive in 20 agglomerations¹;
 - non-conformity of national legislation with the
 - Water Framework Directive²;
 - Environmental Liability Directive,³
 - Unfair Commercial Practices Directive⁴;
 - Directive on the recognition of professional qualifications⁵;

¹ Directive [91/271/EEC](#); [MEMO/18/6247](#).

² Directive [2000/60/EC](#); [MEMO/18/349](#).

³ Directive [2004/35/EC](#), [MEMO/18/4486](#).

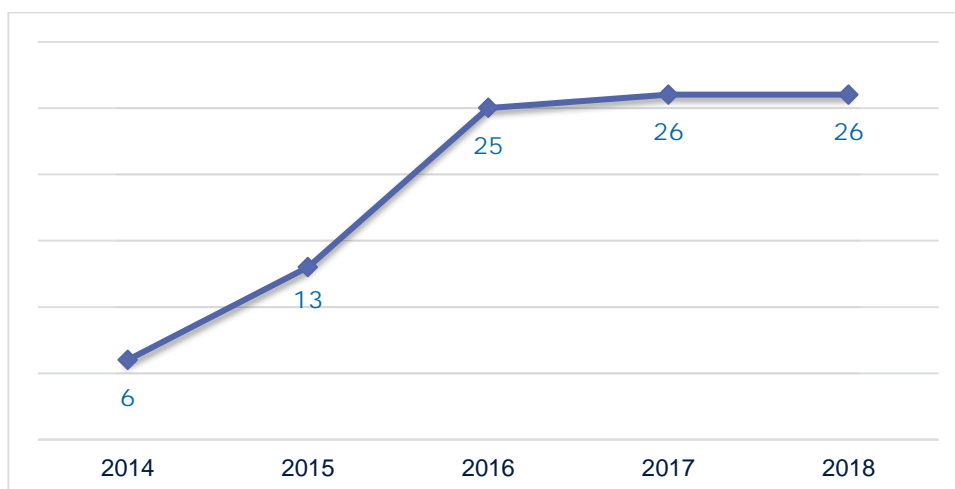
⁴ Directive [2005/29/EU](#).

⁵ Directive [2005/36/EC](#), [MEMO/18/4486](#).

- non-compliance with the requirements of the Energy Efficiency Directive⁶;
 - failure to communicate national measures transposing the
 - Directive on the limitation of emissions of certain pollutants into the air from medium combustion plants⁷;
 - Commission Directive amending the Directive on quality system standards and specifications for blood establishments⁸;
 - Directive on protective measures against the introduction into the Community of organisms harmful to plants⁹;
 - Payment Services Directive¹⁰;
 - revised Markets in Financial Instruments Directive;¹¹
 - Basic Safety Standards Directive¹²;
 - Directive on the accessibility of the websites and mobile applications of public sector bodies¹³;
 - Package Travel Directive¹⁴;
 - Directive on the presumption of innocence¹⁵.
- 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 (2014-2018)



⁶ Directive [2012/27/EU](#), [MEMO/18/4486](#).

⁷ Directive [2015/2193/EU](#).

⁸ Directive [2016/1214/EU](#).

⁹ Commission Implementing Directive [2017/1279/EU](#).

¹⁰ Directive [2015/2366/EU](#).

¹¹ Directive [2014/65/EU](#); [MEMO/18/349](#).

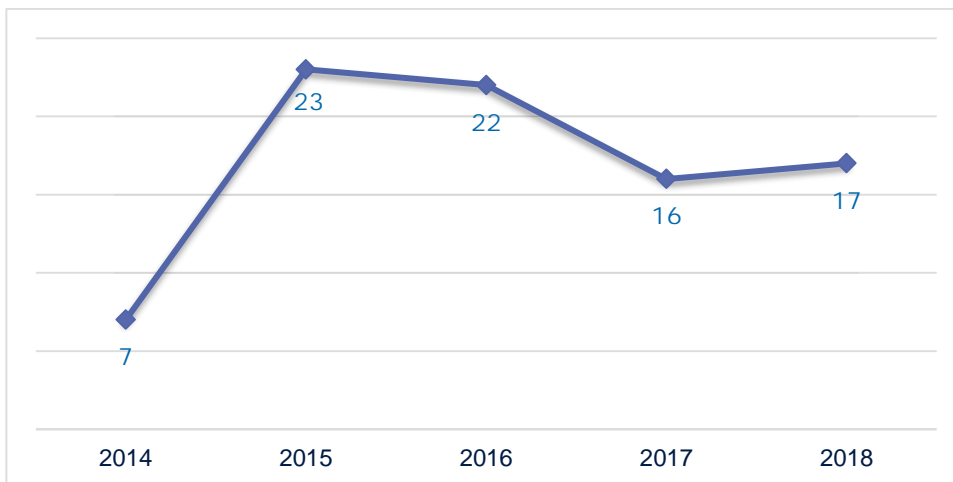
¹² Directive [2013/59/Euratom](#), [MEMO/18/3446](#).

¹³ Directive [2016/2102/EU](#).

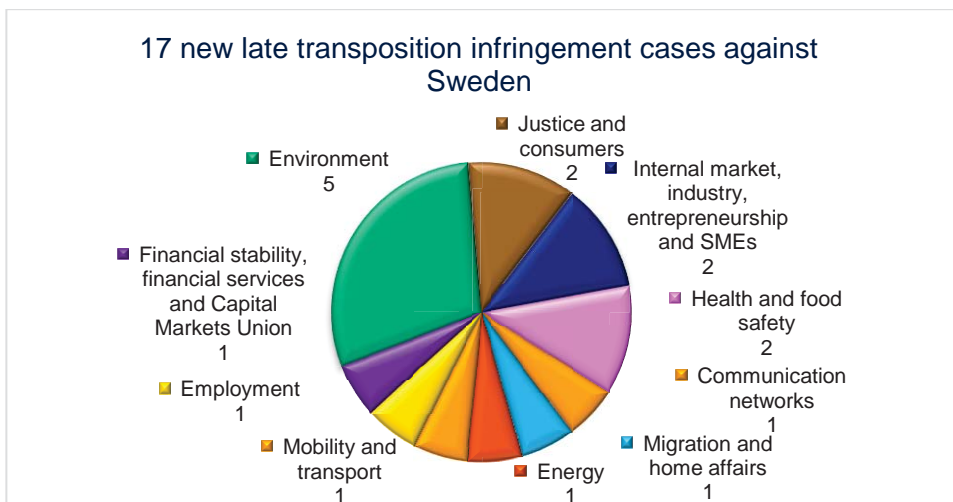
¹⁴ Directive [2015/2302/EU](#).

¹⁵ Directive [2016/343/EU](#).

2. New late transposition infringement cases against Sweden (2014-2018)



3. New late transposition infringement cases opened in 2018: 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 2018

These concerned:

- incorrect implementation of the Free Movement Directive;
- non-communication of national measures transposing the
 - Directive amending the Environmental Impact Assessment Directive¹⁶;
 - Directive on intra-corporate transfer¹⁷;
 - Directive on fuel quality reporting requirements and calculation methods¹⁸;

¹⁶ Directive [2014/52/EU](#).

¹⁷ Directive [2014/66/EU](#).

- Commission Directive amending the Directive on quality system standards and specifications for blood establishments¹⁹;
- Directive on protective measures against the introduction into the Community of organisms harmful to plants²⁰;
- Directive on seasonal workers²¹.

VI. IMPORTANT JUDGMENTS

1. Court rulings²²

There were no major Court rulings in 2018.

2. Preliminary rulings

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

- An application for international protection must not be regarded as manifestly unfounded when, firstly, it is apparent from the information on the applicant's country of origin that acceptable protection can be ensured for him in that country and, secondly, the applicant has provided insufficient information to justify the grant of international protection²³.

¹⁸ Directive [652/2015/EC](#).

¹⁹ Directive [2016/1214/EU](#).

²⁰ Commission Implementing Directive [2017/1279/EU](#).

²¹ Directive [2014/36/EU](#).

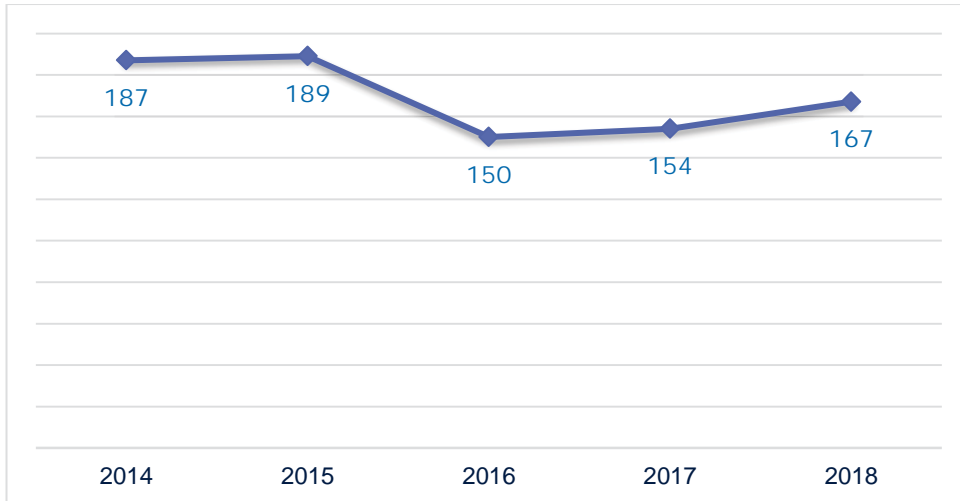
²² These rulings are almost exclusively handed down in infringement procedures.

²³ A v Migrationsverket, [C-404/17](#).

United Kingdom

I. COMPLAINTS

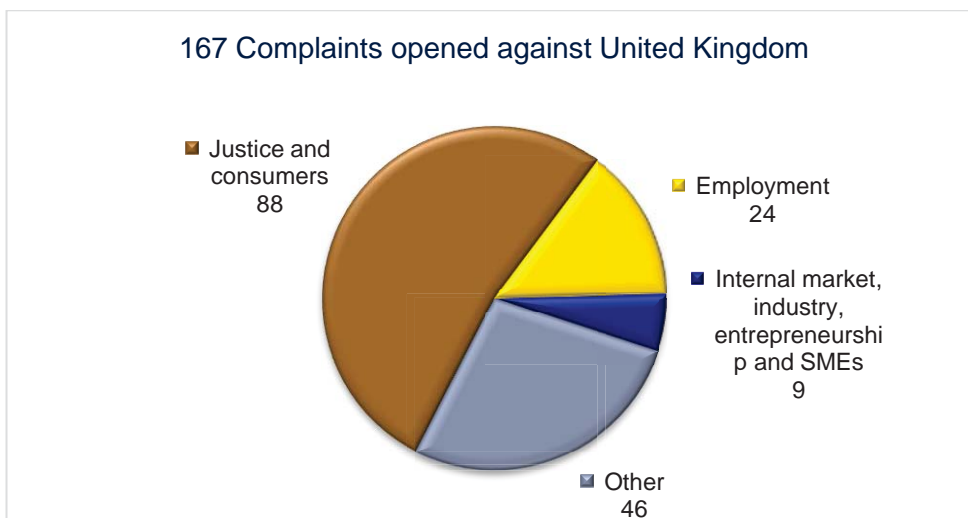
1. New complaints made against the United Kingdom by members of the public (2014-2018)



2. Public complaints against the United Kingdom open at year-end

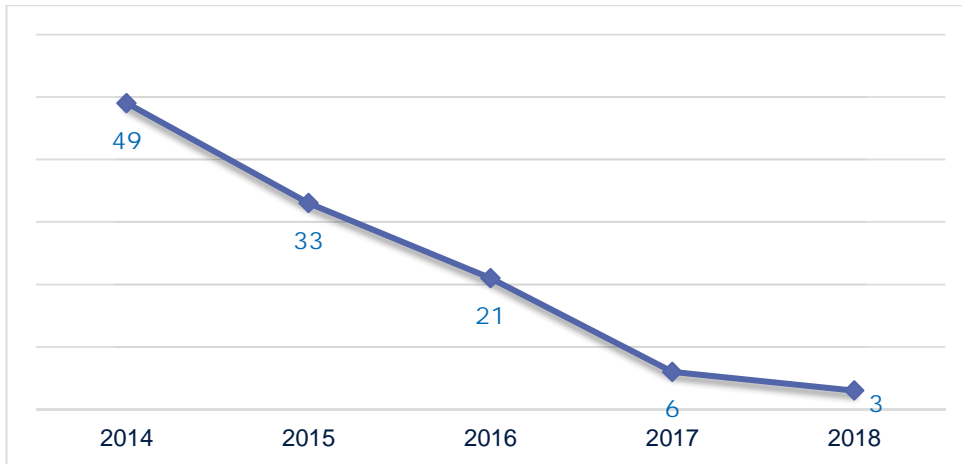
188	>	Complaints open at end-2017
167	>	New complaints registered in 2018
168	>	Complaints handled in 2018
<u>168</u>	>	Complaints open at end-2018
= 187	>	

3. New complaints registered in 2018: main policy areas

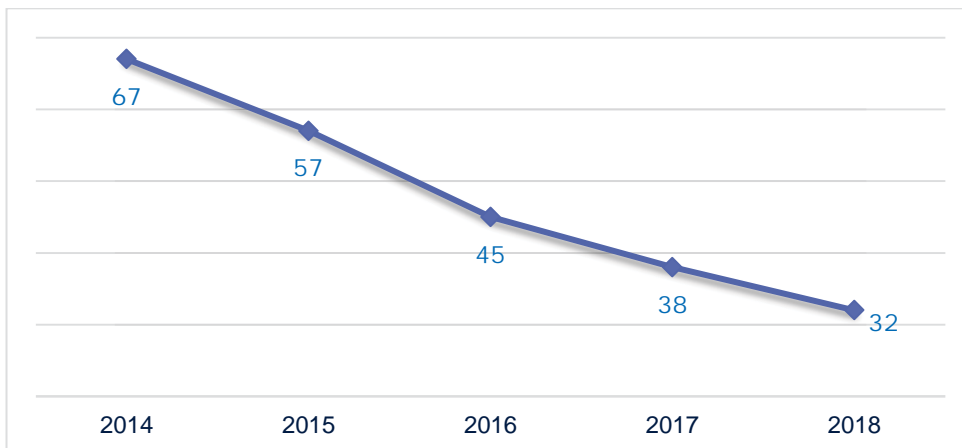


II. EU PILOT

1. New EU Pilot files opened against the United Kingdom (2014-2018)



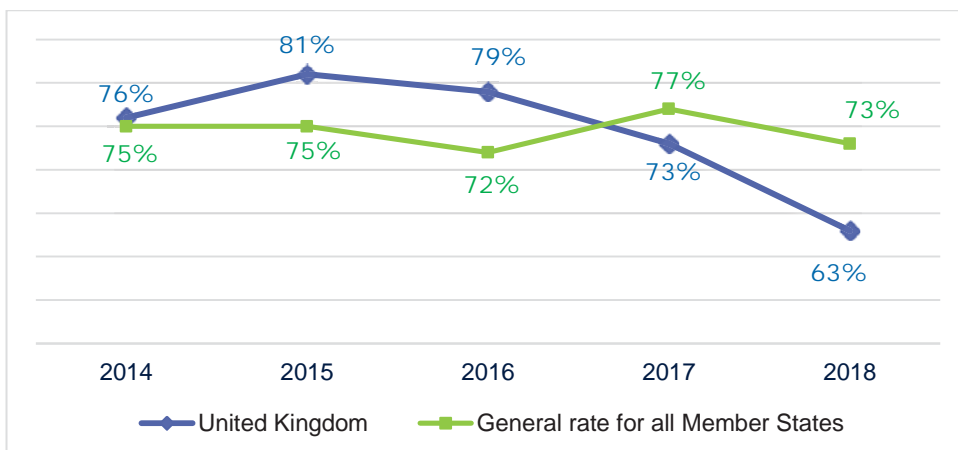
2. Files relating to the United Kingdom open in EU Pilot at year-end



3. New EU Pilot files opened in 2018: main policy areas

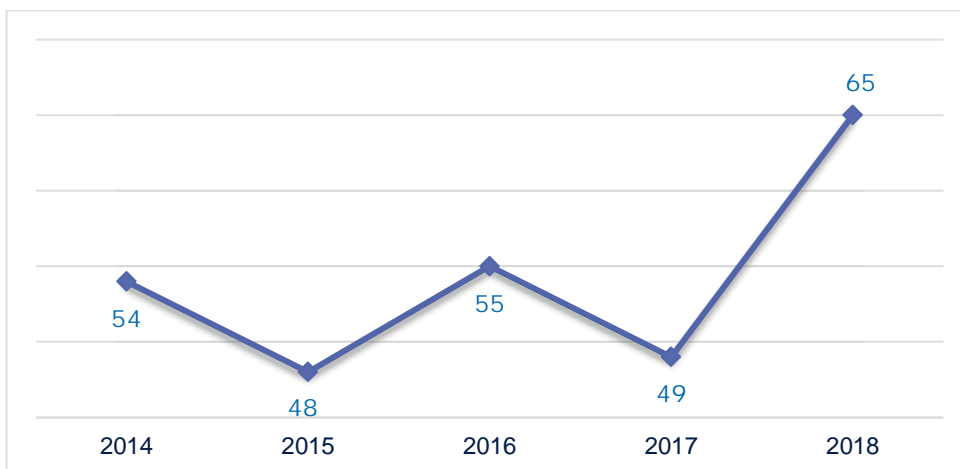
In 2018, the Commission opened three EU Pilot files against United Kingdom: two in the area of energy and one in the area of migration and home affairs.

4. EU Pilot files: United Kingdom's resolution rate in 2014-2018

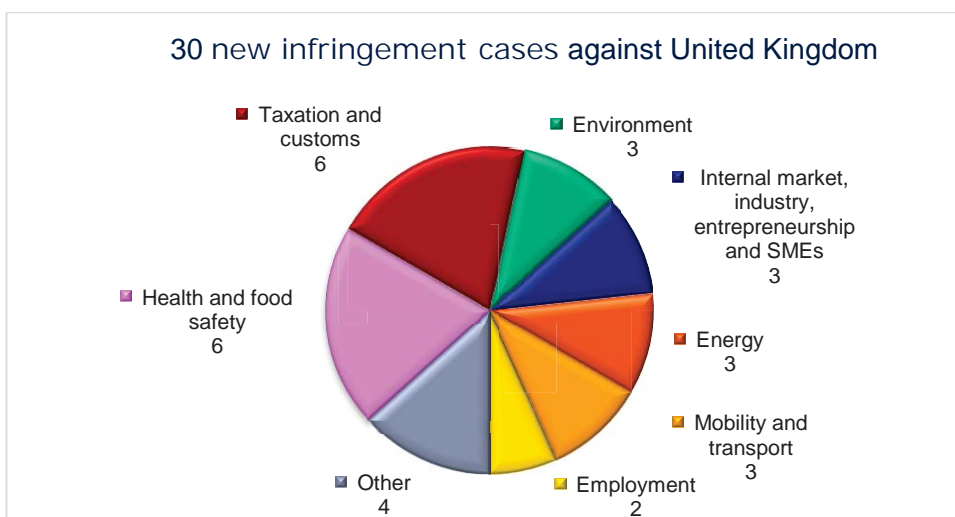


III. INFRINGEMENT CASES

1. Infringement cases against the United Kingdom open on 31 December (2014-2018)



2. New infringement cases opened in 2018: main policy areas



3. Key infringement cases and referrals to the Court

- a) The Commission opened 30 new infringement cases against the United Kingdom in 2018. These, and other major ongoing infringement cases, include the following.
- Discrimination on the grounds of nationality between workers from EU Member States.¹ The United Kingdom's rules on housing benefit treat beneficiaries who temporarily leave their home but stay within Great Britain (England, Scotland and Wales) more favourably than those who leave those areas during a temporary absence leave those areas. These rules therefore disadvantage workers from other Member States since they are more likely than workers of UK nationality to leave the United Kingdom temporarily².
 - Abusive VAT practices in the Isle of Man in the supply and leasing of aircraft³.

¹ Article 45 TFEU and Regulation (EU) No [492/2011](#).

² [MEMO/18/6247](#).

³ [IP/18/6265](#).

- Failure to comply with a Court of Justice judgment and control excessive spills from waste water collection systems in London, Whitburn, Llanelli and Gowerton⁴.
 - Failure to comply with a Court of Justice judgment and failure to provide waste water treatment in Gibraltar⁵.
 - Failure to comply with EU legislation on Flag State requirements⁶.
 - Failure to carry out appropriate checks and ensure compliance with the conditions for recognition of fishery producer organisations under the Regulation on the common organisation of the markets in fishery and aquaculture products⁷.
 - Non-compliance with the requirements of the Energy Efficiency Directive⁸.
 - Failure to correctly transpose certain requirements of the Radioactive Waste Directive⁹.
 - Failure to make available to the EU budget own resources lost due to undervalued imports¹⁰.
 - Non-conformity of national transposition measures with the Directive on the recognition of professional qualifications¹¹.
 - Non-communication of national measures transposing the
 - Commission Directive amending the Directive on quality system standards and specifications for blood establishments¹²;
 - Directive on protective measures against the introduction into the Community of organisms harmful to plants¹³;
 - Directive as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species¹⁴;
 - Commission Directive¹⁵ establishing a fourth list of indicative occupational exposure limit values to protect workers from risks arising from exposure to hazardous chemicals;
 - Directive on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled¹⁶.
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns
- exceedance of the nitrogen dioxide (NO₂) limit values set by the Air Quality Directive¹⁷.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

⁴ Commission v United Kingdom, [C-301/10](#).

⁵ Commission v United Kingdom, [C-502/15](#).

⁶ Directive [2009/21/EC](#); [MEMO/18/4486](#).

⁷ Regulation (EU) No 1379/2013, [MEMO/18/3446](#), [MEMO/18/6247](#).

⁸ Directive [2012/27/EU](#), [MEMO/18/4486](#).

⁹ Directive [2011/70/Euratom](#), [MEMO/18/3446](#).

¹⁰ [MEMO/18/1444](#), [IP/18/5807](#); [C-213/19](#).

¹¹ Directive [2005/36/EC](#), [MEMO/18/4486](#).

¹² Commission Directive [2016/1214/EU](#).

¹³ Commission Implementing Directive [2017/1279/EU](#).

¹⁴ Commission Implementing Directive [2018/100/EU](#).

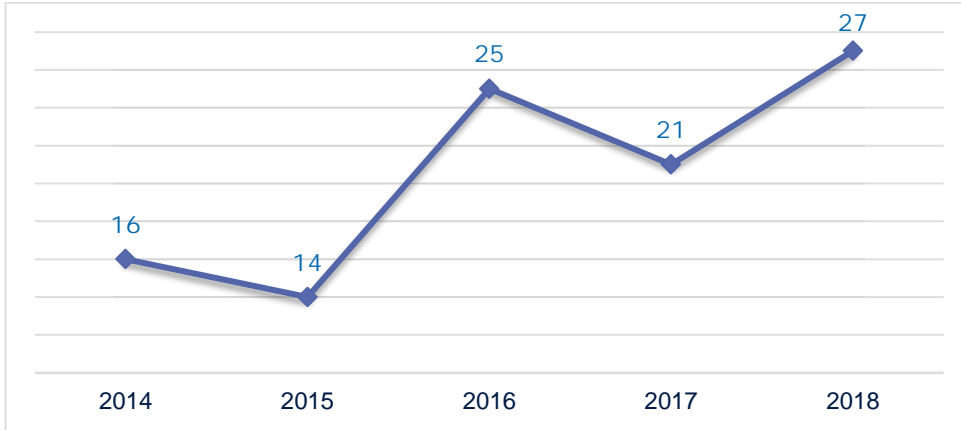
¹⁵ Commission Directive [2017/164](#).

¹⁶ Directive [2017/1564/EU](#).

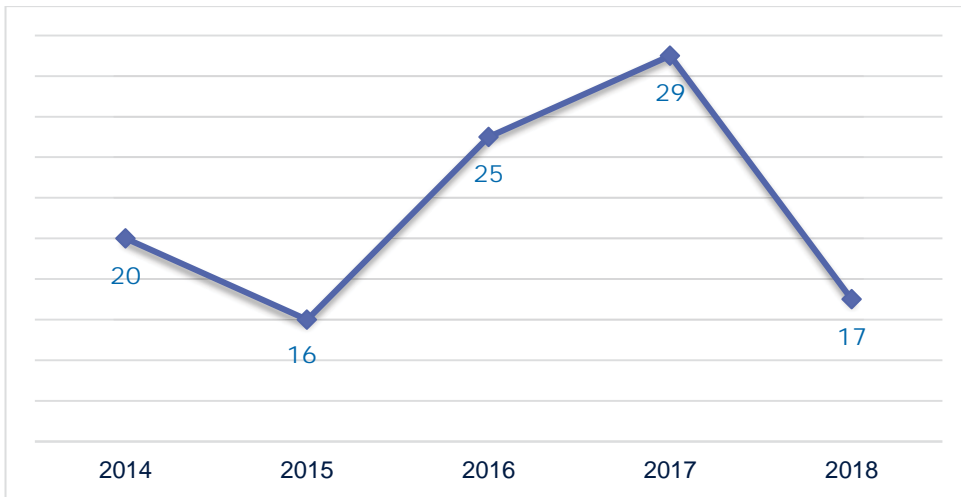
¹⁷ Directive [2008/50/EC](#), Commission v United Kingdom, [C-664/18](#); [IP/18/3450](#).

IV. TRANSPOSITION OF DIRECTIVES

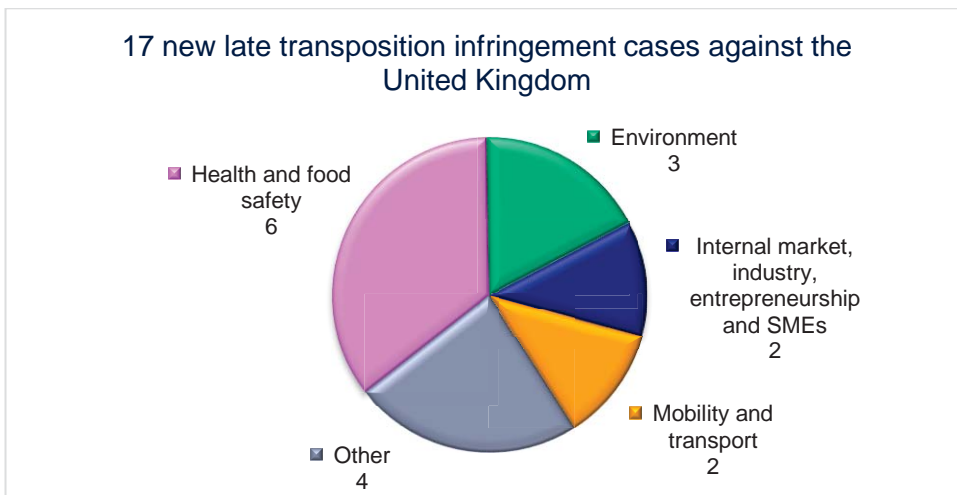
1. Late transposition infringement cases against the United Kingdom open on 31 December (2014-2018)



2. New late transposition infringement cases against the United Kingdom (2014-2018)



3. New late transposition infringement cases opened in 2018: 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 2018

These concerned:

- breaches of the Large Combustion Plant Directive at the Aberthaw coal-fired power station in Wales¹⁸;
- failure to correctly transpose and apply the Strategic Environmental Assessment Directive regarding decided on by Parliament¹⁹;
- non-communication of national measures transposing the
 - Commission Directive amending the Directive on quality system standards and specifications for blood establishments²⁰;
 - Directive on caseins and caseinates²¹;
 - Directive on fuel quality reporting requirements and calculation methods²².

VI. IMPORTANT JUDGMENTS

1. Court rulings²³

The Court ruled that

- The United Kingdom has not proposed a sufficient number of Sites of Community Importance under the Habitats Directive for the species harbour porpoise. It has thereby failed to contribute to the creation of the Natura 2000 network in proportion to the representation of the habitats of that species within its territory²⁴.
- The United Kingdom has not properly applied the EU rules on fiscal marking of fuels. The Court found that the UK has failed to ensure that fuel is marked only when it is subject to an exemption from or reduction in excise duty²⁵.

2. Preliminary rulings

The Court addressed the following preliminary rulings to the UK judiciary:

- When a Member State has notified the European Council of its intention to withdraw from the European Union, as the UK has done, that Member State is free to revoke unilaterally that notification. That possibility exists for as long as a withdrawal agreement concluded between the EU and that Member State has not entered into force or, if no such agreement has been concluded, for as long as the two-year period from the date of the notification of the intention to withdraw from the EU, and any possible extension, has not expired.²⁶

¹⁸ Directive [2001/80/EC](#).

¹⁹ Directive [2001/42/EC](#).

²⁰ Directive [2016/1214/EU](#).

²¹ Directive [2015/2203/EU](#).

²² Directive [652/2015/EC](#).

²³ These rulings are almost exclusively handed down in infringement procedures.

²⁴ Directive [92/43/EEC](#), *Commission v United Kingdom*, [C-669/16](#).

²⁵ *Commission v. United Kingdom*, [C-503/17](#).

²⁶ *Wightman and Others*, [C-621/18](#).

- A prohibition on placing on the market tobacco products for oral use is intended not to restrict the right to health but, on the contrary, to give expression to that right and, consequently, to ensure a high level of protection of health for all consumers²⁷.
- A product composed of several active ingredients with a combined effect is 'protected by a basic patent in force', even if the combination of active ingredients of which that product is composed is not expressly mentioned in the claims of the basic patent²⁸.
- A supplementary protection certificate for medicinal products is to be interpreted as meaning that an end of procedure notice issued by the reference Member State before the expiry of the basic patent may not be treated as equivalent to a marketing authorisation. Consequently, a supplementary protection certificate may not be obtained on the basis of such a notice²⁹.
- The fisheries agreement concluded between the EU and Morocco is valid in so far as it is not applicable to Western Sahara and its adjacent waters³⁰.
- Extended family members of EU citizens who return to the Member State of nationality from another Member State can, like other family members, such as spouses, also avail themselves of the protection of EU law on free movement of EU citizens and can apply to have their entry and residence facilitated in accordance with national law³¹.
- A third country national who in the past has been tortured by the authorities of his country of origin and no longer faces a risk of being tortured if returned to that country, but whose physical and psychological health could, if so returned, seriously deteriorate, leading to a serious risk of him committing suicide on account of trauma resulting from the torture he was subjected to, is eligible for subsidiary protection. This is conditional on a real risk of him being intentionally deprived, in his country of origin, of appropriate care for the physical and mental after-effects of that torture, that being a matter for the national court to determine³².
- A national law that requires transgender persons to be unmarried is contrary to EU rules on sex equality provisions in relation to social security³³.

²⁷ Swedish Match, [C-151/17](#) and [press release](#).

²⁸ Teva UK and Others, [C-121/17](#).

²⁹ Merck Sharp, [C-567/16](#).

³⁰ Western Sahara Campaign UK, [C-266/16](#) and Court press release [No 21/18](#).

³¹ Banger, [C-89/17](#).

³² MP (Protection subsidiaire d'une victime de tortures passées), [C-353/16](#).

³³ MB (Changement de sexe et pension de retraite), [C-451/16](#).

Methodology and explanations

ANNEX II — MEMBER STATES

1. COMPLAINTS

First chart: New complaints made against the Member State by members of the public (2014-2018)

This shows the number of public complaints the Commission registered against the Member State for the years 2014-2018.

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 2017 (first column). The second column shows the number of new complaints registered in 2018. The third column shows the number of complaints on which the Commission took a decision in 2018. The fourth column shows the number of complaints against the Member State that were open at the end of 2018 (calculated by taking the first figure, adding the second and subtracting the third).

Third chart: New complaints registered in 2018: main policy areas

The number of complaints registered in 2018 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 (2014-2018)

This analyses the number of EU Pilot files the Commission opened against the Member State for the years 2014-2018.

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 2014-2018.

Third chart: New EU Pilot files opened in 2018: main policy areas

The figure for the number of new EU Pilot files opened against the Member State in 2018 is broken down by policy area. Generally, this breakdown shows the three policy areas in which the most EU Pilot files were opened in 2018. 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 2014-2018

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 (2014-2018)

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 2018 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 2014 to 2018:

- 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 2018: main policy areas

As a rule, this chart shows the three policy areas in which the most infringements were open on 31 December 2018. 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 2018 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 2018. 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 2018.

4. TRANSPOSITION OF DIRECTIVES

First chart: Late transposition infringement cases against the Member State open on 31 December (2014-2018)

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 2018 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 2014 to 2018:

- 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 2018. 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 (2014-2018)

This shows the number of new letters of formal notice sent in 2018 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 2018. 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 2018. For example, if the Commission opened a late transposition infringement procedure in March 2018 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 2018 as a result of the Member State notifying complete transposition.

Third chart: New late transposition infringement cases opened in 2018: 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 2018. 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 2018.

5. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2018

This section contains a list of the major infringement cases the Commission closed in 2018 without a Court judgment. The list is not exhaustive.

6. IMPORTANT JUDGMENTS

This section contains two lists, neither of which are necessarily exhaustive.

The first list contains the Court's most important judgments against the Member State in 2018. 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.