



Council of the  
European Union

029630/EU XXVII.GP  
Eingelangt am 01/09/20

Brussels, 1 September 2020  
(OR. en)

10363/20  
ADD 2

JUR 391  
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## COVER NOTE

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| From:            | Secretary-General of the European Commission,<br>signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 31 July 2020                                                                                 |
| To:              | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council<br>of the European Union       |

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|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| No. Cion doc.: | SWD(2020) 147 final                                                                                                                                                                    |
| Subject:       | COMMISSION STAFF WORKING DOCUMENT Part II: Policy areas<br>Accompanying the document Report from the Commission Monitoring<br>the application of European Union law 2019 Annual Report |

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Delegations will find attached document SWD(2020) 147 final.

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Encl.: SWD(2020) 147 final



EUROPEAN  
COMMISSION

Brussels, 31.7.2020  
SWD(2020) 147 final

PART 2/4

## **COMMISSION STAFF WORKING DOCUMENT**

### **Part II: Policy areas**

#### *Accompanying the document*

#### **Report from the Commission**

#### **Monitoring the application of European Union law**

#### **2019 Annual Report**

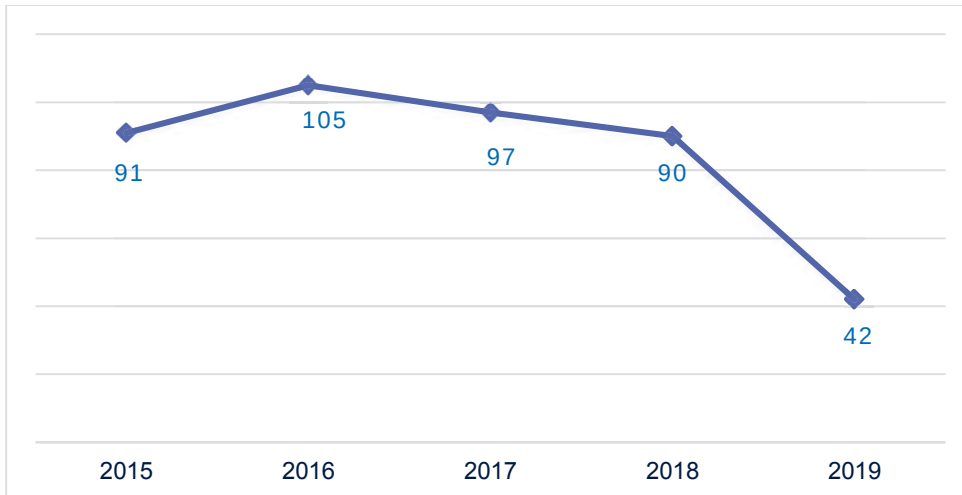
{COM(2020) 350 final}

|                                                                         |     |
|-------------------------------------------------------------------------|-----|
| AGRICULTURE AND RURAL DEVELOPMENT .....                                 | 2   |
| COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY.....                    | 6   |
| EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION .....                          | 13  |
| ENERGY .....                                                            | 19  |
| ENVIRONMENT .....                                                       | 29  |
| FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION ..... | 46  |
| HEALTH AND FOOD SAFETY .....                                            | 54  |
| INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES .....              | 61  |
| JUSTICE AND CONSUMERS.....                                              | 69  |
| MARITIME AFFAIRS AND FISHERIES .....                                    | 79  |
| MIGRATION AND HOME AFFAIRS.....                                         | 82  |
| MOBILITY AND TRANSPORT .....                                            | 92  |
| TAXATION AND CUSTOMS UNION.....                                         | 102 |

*This document provides an overview of the policy areas in which the most significant developments related to infringements of EU law took place in 2019.*

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

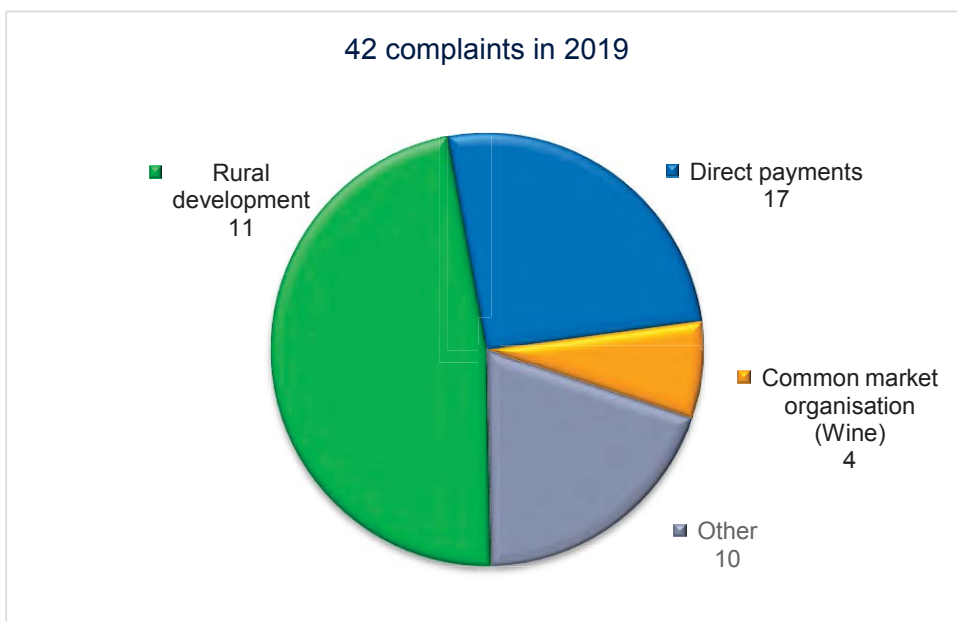
38 ► Complaints open at end-2018

42 ► New complaints registered in 2019

67 ► Complaints handled in 2019

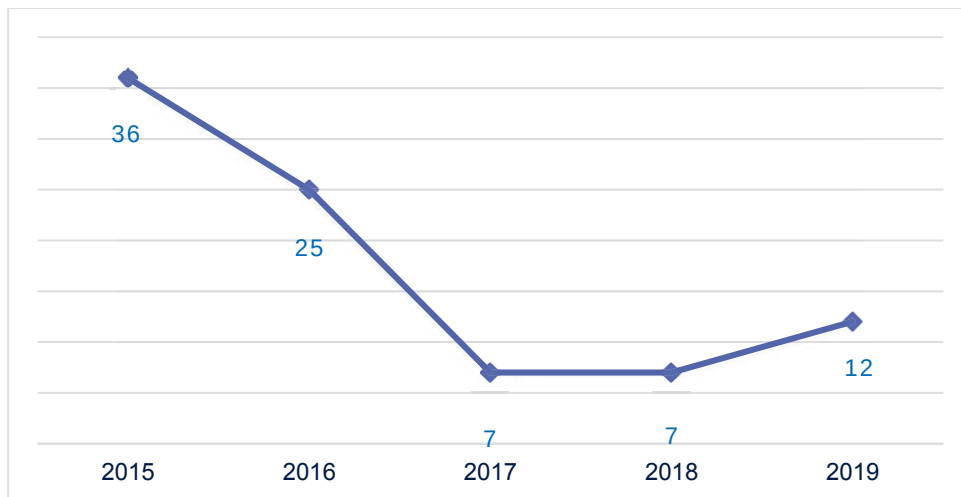
13 ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors



## II. EU PILOT

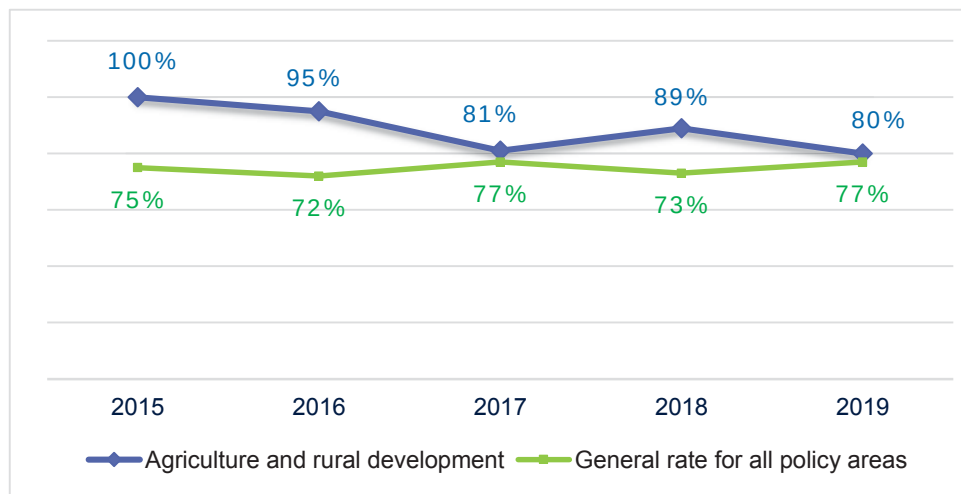
### 1. New EU Pilot files (2015-2019)



### 2. EU Pilot files open at year-end

At the end of 2019, 15 EU Pilot files remained open.

### 3. EU Pilot files: resolution rate for policies (2015-2019)



## III. OWN-INITIATIVE CASES

### New own-initiative infringement cases

In 2019, the Commission did not open own-initiative infringement cases in this area.

## IV. INFRINGEMENT CASES

### Key infringement cases and referrals to the Court

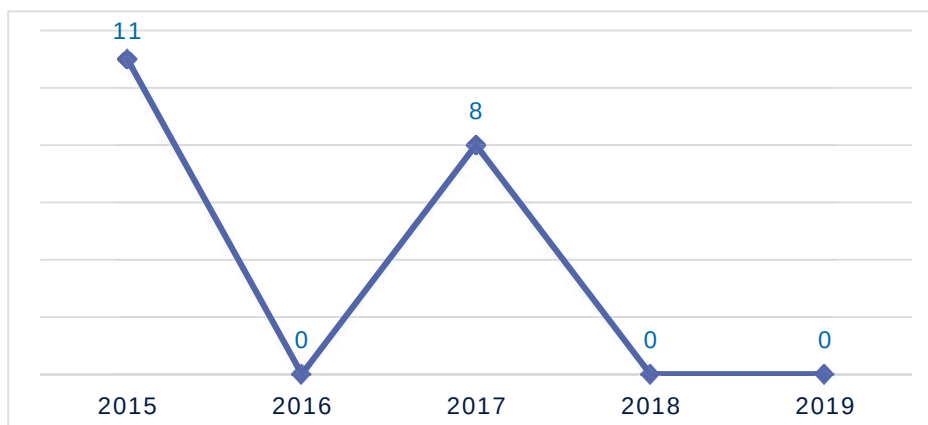
a) The Commission did not open new infringement cases in 2019 in this area.

Major ongoing infringement cases include the following:

- *Bulgaria*: maintaining a national framework on geographical indications, which is not compatible with the EU rules on quality schemes for agricultural products and foodstuffs<sup>1</sup>;
  - *Denmark*: unlawful use of the protected designation of origin 'Feta', in violation of the EU rules on quality schemes for agricultural products and foodstuffs<sup>2</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: main policy sectors

The Commission did not open any new late transposition infringement cases.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

There were no major cases closed without a Court judgment in 2019 in this area.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2019 in this area.

### 2. Preliminary rulings

The Court gave the following preliminary rulings:

- *Germany*: Where EU customs regulations require providing a specific indication of the country of origin for a product (in the present case, cultivated mushrooms that had been relocated during the growing process), the country of origin is that where the product was harvested and that indication as such cannot be regarded as misleading consumers. In such circumstances, no obligations may be imposed on the food business operators to

<sup>1</sup> Regulation (EU) No [1151/2012](#), [MEMO/19/462](#)

<sup>2</sup> Regulation (EU) No [1151/2012](#), [IP-19-6312](#)

provide information additional to the indication of the country of origin in order to prevent any alleged risk of misleading consumers<sup>3</sup>.

- *Germany*: The protection of the name 'Aceto Balsamico di Modena (PGI)', entered in the register of protected designations of origin and protected geographical indications, does not extend to the use of the individual non-geographical terms of that name, namely 'aceto' and 'balsamico'<sup>4</sup>.
- *Lithuania*: A national legislation aiming to combat unfair commercial practices may prohibit buyers of raw milk to pay a different purchase price to producers who, on the basis of the daily quantity of raw milk sold that is of identical composition and quality and delivered via the same method, must be regarded as belonging to the same group, in so far as those rules are appropriate to attain the objective pursued and do not go beyond what is necessary to achieve that objective<sup>5</sup>.
- *Spain*: Figurative signs may trigger directly in the consumer's mind the image of products whose designation of origin is protected, on account of their 'conceptual proximity' to such a designation. Consequently, a protected designation of origin, such as 'queso manchego', may be evoked through the use of figurative signs, including where such figurative signs are used by a producer established in the geographical area associated with the designation of origin, but whose products, similar or comparable to those protected by the designation of origin, are not covered by it<sup>6</sup>.

## VIII. OUTLOOK

Important implementation work in 2020 includes:

- focusing on infringements that challenge the application of important mechanisms of the common market organisation<sup>7</sup> or affect the correct application of the direct payments regime<sup>8</sup> or the implementation of the Organic and Quality Regulations<sup>9</sup>;
- monitoring compliance with recent rulings of the Court of Justice;
- continuing to use the clearance of accounts procedure in the agricultural sector to convince Member States to adapt their management and control systems if an infringement is detected through conformity audit mechanisms.
- preparing the transposition of the Unfair Trading Practices Directive<sup>10</sup>.

<sup>3</sup> Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main, [C-686/17](#).

<sup>4</sup> Consorzio Tutela Aceto Balsamico di Modena, [C-432/18](#) and [Court press release 150/19](#).

<sup>5</sup> Lietuvos Respublikos Seimo narių grupė, [C-2/18](#).

<sup>6</sup> Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego, [C-614/17](#) and [Court press release No 55/19](#).

<sup>7</sup> Regulation (EU) No [1308/2013](#).

<sup>8</sup> Regulation (EU) No [1307/2013](#).

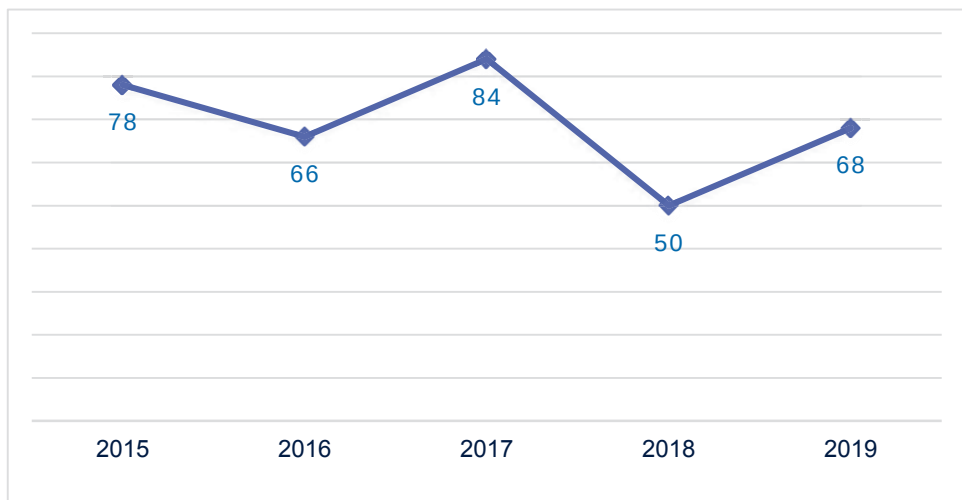
<sup>9</sup> Regulation (EU) No [834/2007](#) and Regulations (EU) No [1151/2012](#), (EC) No [110/2008](#) and (EU) No [251/2014](#) and Regulation (EU) [2019/34](#).

<sup>10</sup> Directive (EU) [2019/633](#).



## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

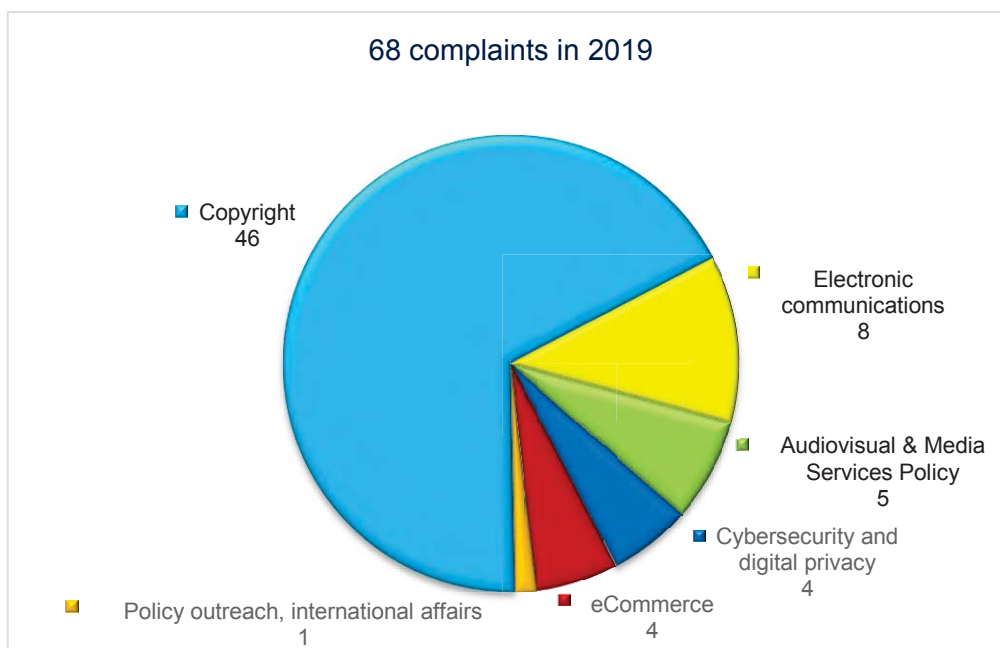
127 ► Complaints open at end-2018

68 ► New complaints registered in 2019

94 ► Complaints handled in 2019

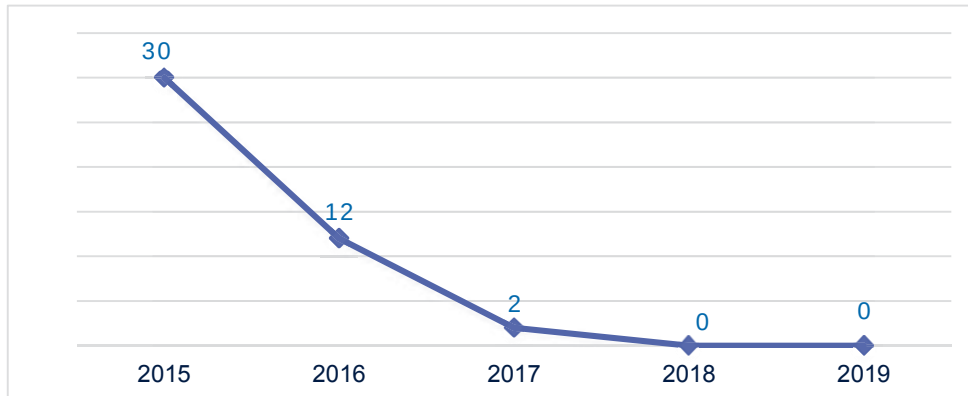
**= 101** ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors



## II. EU PILOT

### 1. New EU Pilot files (2015-2019)



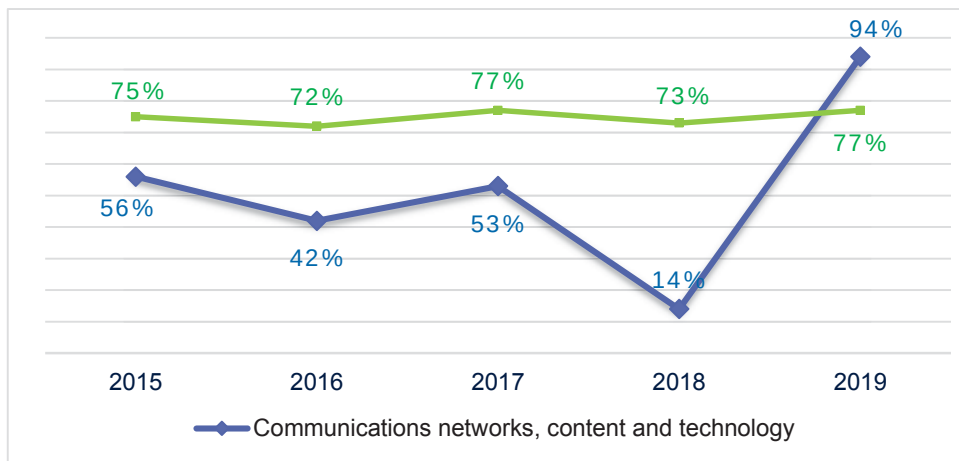
### 2. EU Pilot files open at year-end

At the end of 2019, 7 EU Pilot files remained open.

### 3. New EU Pilot files opened in 2019: main policy sectors

The Commission did not open new files in this area in 2019.

### 4. EU Pilot files: resolution rate for policies (2015-2019)



## III. OWN-INITIATIVE CASES

### New own-initiative infringement cases

In 2019, the Commission opened own-initiative infringement cases over:

- lack of compliance with the rules governing the European emergency number '112'<sup>11</sup>;
- the Geo-blocking Regulation<sup>12</sup>.

<sup>11</sup> Directive (EU) 2002/22.

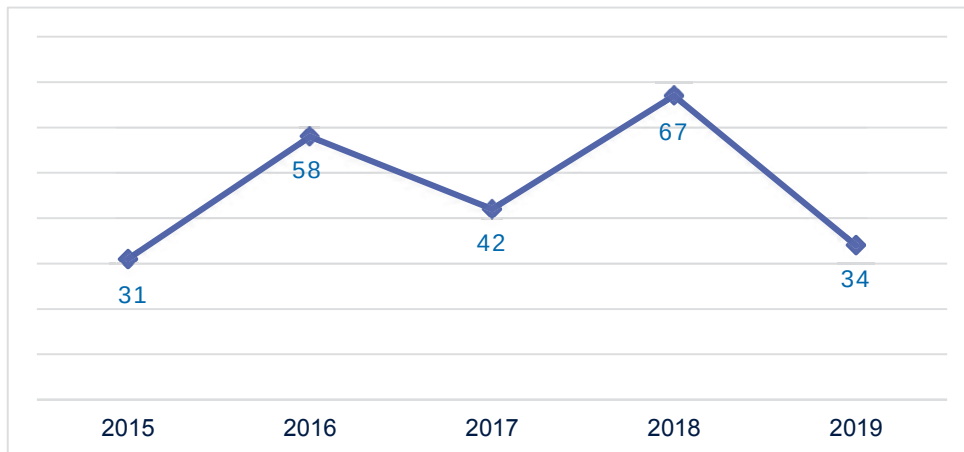
<sup>12</sup> Regulation (EU) 2018/302.

Communications networks, content and technology

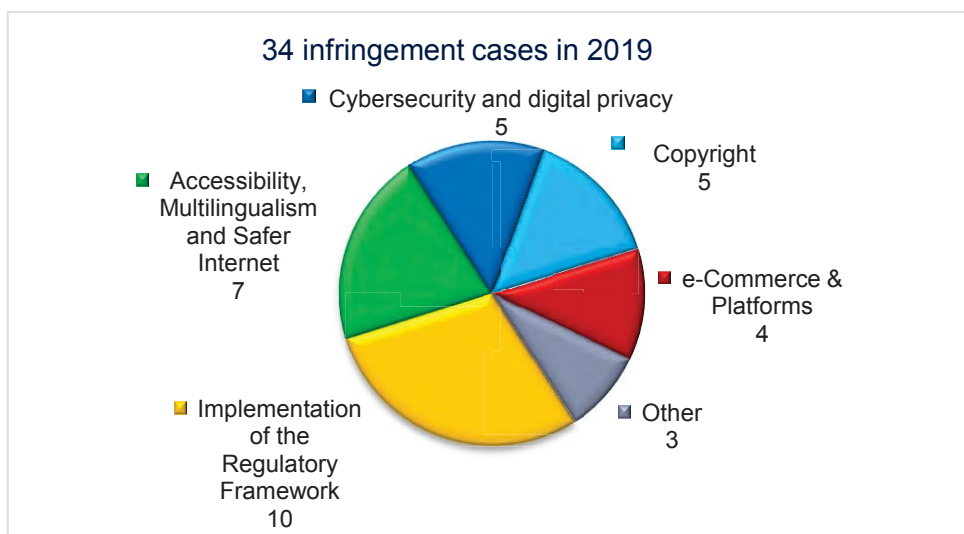
- failure to submit information about operators of essential services identified under the EU law on the security of network and information systems<sup>13</sup>.

#### IV. INFRINGEMENT CASES

##### 1. Infringement cases open on 31 December (2015-2019)



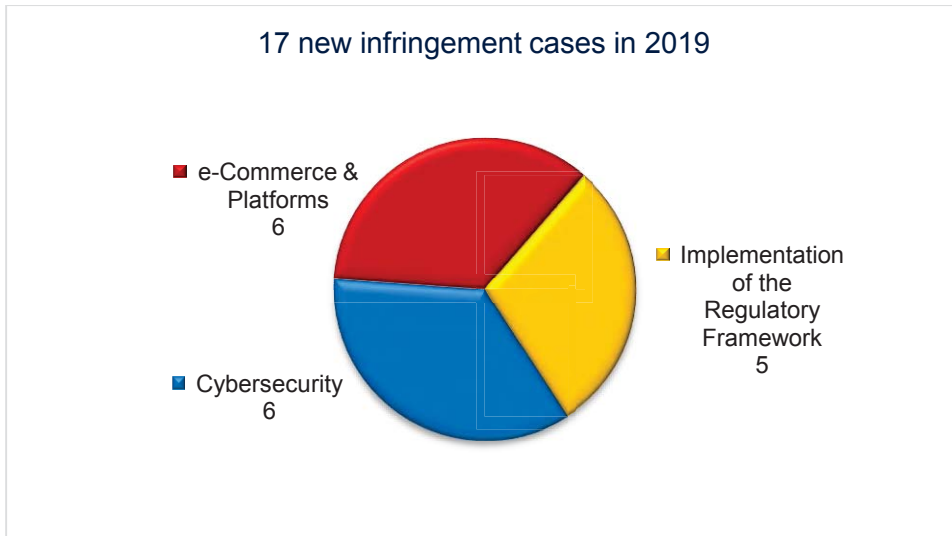
##### 2. Infringement cases open on 31 December 2019: main policy sectors



<sup>13</sup> Directive (EU) [2016/1148](#), [INF/19/4251](#).

Communications networks, content and technology

3. New infringement cases opened in 2019: main policy sectors

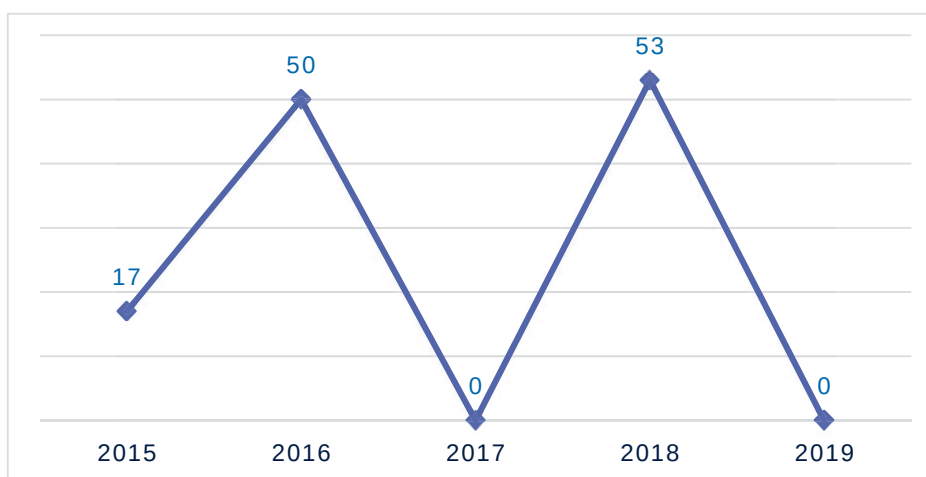


#### 4. Key infringement cases and referrals to the Court

- a) The Commission opened 17 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:
- *Czechia, Germany, Greece, Spain and Croatia* for failure to effectively implement the rules on the 112 emergency number, in particular by not ensuring equivalent access for disabled users<sup>14</sup>.
  - *France, Spain, Cyprus, Poland, Romania and Slovakia* for delays in the implementation of the Geo-blocking Regulation., by failing to provide for measures and mechanisms for consumer protection<sup>15</sup>.
  - *Belgium, Greece, Hungary, Austria, Romania and Slovenia*: failure to submit information about operators of essential services identified under the EU law on the security of network and information systems<sup>16</sup>.
- b) The Commission referred one case to the Court under Article 258 TFEU. This concerns:
- *Portugal*: failure to align its system of financing universal services to the Universal Service Directive<sup>17</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU..

### V. TRANSPOSITION OF DIRECTIVES

#### 1. New late transposition infringement cases (2015-2019)



#### 2. New late transposition infringement cases opened in 2019: main policy sectors

The Commission did not open any new late transposition infringement cases.

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

The Commission did not open any cases for late transposition in 2019 in this area.

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

<sup>14</sup> Directive (EU) [2002/22](#); [INF/19/4251](#).

<sup>15</sup> Regulation (EU) [2018/302](#) ; [INF/19/4251](#).

<sup>16</sup> Directive (EU) [2016/1148](#), [INF/19/4251](#).

<sup>17</sup> Case *Commission v Portugal*, [C-49/19](#).

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

There were no major cases closed without a Court judgment in 2019.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

The Court gave the following ruling:

- Belgium did not fulfil its obligations under EU law by notifying to the Commission only partial transposition measures for the Directive on measures to reduce the cost of deploying high-speed electronic communications networks<sup>18</sup> with respect to the region of Bruxelles-Capitale. The Court applied for the first time the sanction mechanism of Article 260(3) TFEU. This Treaty provision allows the Commission to request the Court to impose financial penalties if Member States fail to fulfil their obligation to notify measures transposing a directive adopted under a legislative procedure. In addition to clarifying that the sanction scheme of Article 260(3) TFEU may also be applied to cases of partial failure to adopt and communicate transposition measures, the Court held that, when notifying national transposition measures to the Commission, Member States must provide sufficiently clear and precise information and state, for each provision of the directive, the national provision(s) ensuring its transposition<sup>19</sup>.

### 2. Preliminary rulings

The Court gave the following preliminary rulings:

- *Belgium*: SkypeOut service should be considered an electronic communications service. As a result, SkypeOut is subject to telecoms legislation, in particular to the general authorisation regime. Services offered via software, such as SkypeOut, which allow calling numbers in a national numbering plan, constitute electronic communication services<sup>20</sup>.
- *Germany*: freedom of information and freedom of the press cannot justify a derogation from the author's exclusive rights of reproduction and of communication to the public going beyond the exceptions or limitations provided for in EU law<sup>21</sup>.
- *Germany*: a phonogram producer can prevent the use of a sound sample of his or her phonogram in another phonogram. However, such a sample can be used, if it is included in the phonogram in a modified form unrecognisable to the ear<sup>22</sup>.
- *Germany*: The Gmail service should not be considered as consisting wholly or mainly in the 'conveyance of signals'. As a result, Gmail is not an electronic communications service, and is therefore not subject to the general authorisation regime under the current EU telecoms legislation<sup>23</sup>.
- *France*: Airbnb provides an information society service separate from accommodation services to which it relates. Such a service does not aim only at providing immediate accommodation services, but rather it consists essentially of providing a tool for presenting and finding accommodation for rent, thereby facilitating the conclusion of future rental agreements. Therefore, that type of service is not merely ancillary to an overall accommodation service. Second, an intermediation service, such as the one provided by Airbnb Ireland, is in no way indispensable to the provision of accommodation services,

<sup>18</sup> Directive [2014/61/EU](#).

<sup>19</sup> Commission v Belgium, [C-2017/543](#), [C-2017/543](#).

<sup>20</sup> Skype Communication, case [C-142/18](#).

<sup>21</sup> Funke Medien NRW, case [C-469/17](#).

<sup>22</sup> Pelham and others, case [C-476/17](#).

<sup>23</sup> Google, case [C-193/18](#).

## Communications networks, content and technology

since the guests and hosts have a number of other channels in that respect, some of which are long-standing. Finally, there is no indication that Airbnb sets or caps the amount of the rents charged by the hosts using that platform<sup>24</sup>.

- *Lithuania*: A Member State may, on grounds of public policy, such as in the specific circumstances combating the incitement to hatred of the Baltic States based on nationality, impose a requirement to temporarily distribute or retransmit a television channel from another Member State only in pay-to-view packages<sup>25</sup>.
- *Lithuania*: Telecommunications companies are required to transmit location information for free to the 112 emergency call authorities, even if the call is received from a mobile phone which is not equipped with a SIM card. When determining accuracy and reliability criteria, Member States need to ensure that the location information is useful for emergency services to intervene<sup>26</sup>.
- *The Netherlands*: The sale of second-hand e-books through a website constitutes a communication to the public that is subject to authorisation by the author<sup>27</sup>.
- *Portugal*: Member States cannot add additional requirements (such as a specific, aesthetically significant visual effect) for granting copyright protection to designs, such as the clothing designs of jeans, which already meet the requirements for copyright protection under EU law<sup>28</sup>.

## VIII. OUTLOOK

Important implementation work in 2020 includes monitoring the complete and correct implementation of:

- the European Electronic Communications Code<sup>29</sup>;
- the Decision on the use of the 470-790 MHz frequency band in the Union<sup>30</sup> and the timely allocation of the spectrum by Member States beforehand, which is a precondition for the roll-out of 5G in the EU;
- the Audio Video Media Services Directive<sup>31</sup>;
- the Platforms-to-business Regulation<sup>32</sup>.

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<sup>24</sup> Airbnb Ireland, case [C – 390/18](#).

<sup>25</sup> Baltic Media Alliance, case [C-622/17](#).

<sup>26</sup> AW and Others, case [C- 417/18](#).

<sup>27</sup> Nederlands Uitgeversverbond and Groep Algemene Uitgevers, case [C-263/18](#).

<sup>28</sup> Cofemel, case [C-683/17](#).

<sup>29</sup> Directive (EU) [2019/1972](#).

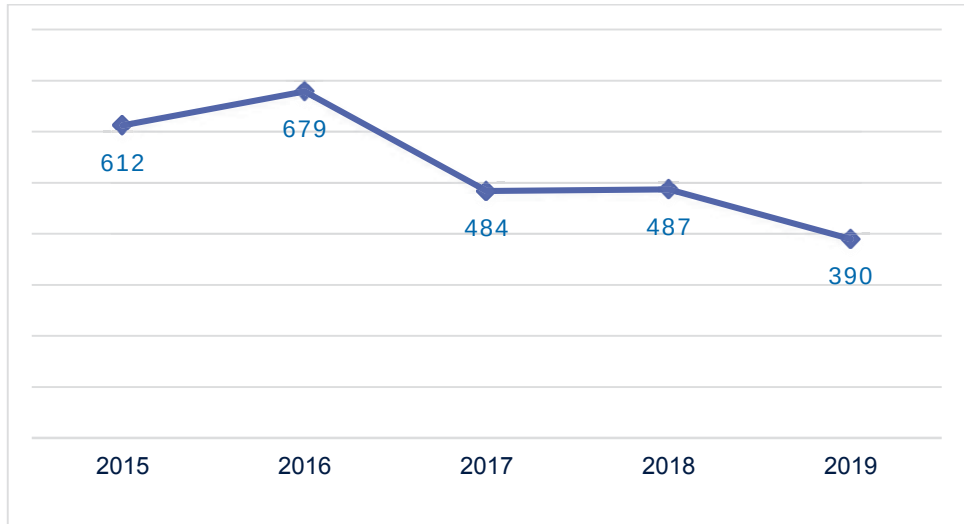
<sup>30</sup> Decision (EU) [2017/89](#).

<sup>31</sup> Directive (EU) [2018/1808](#).

<sup>32</sup> Regulation (EU) [2019/1150](#).

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

287 ► Complaints open at end-2018

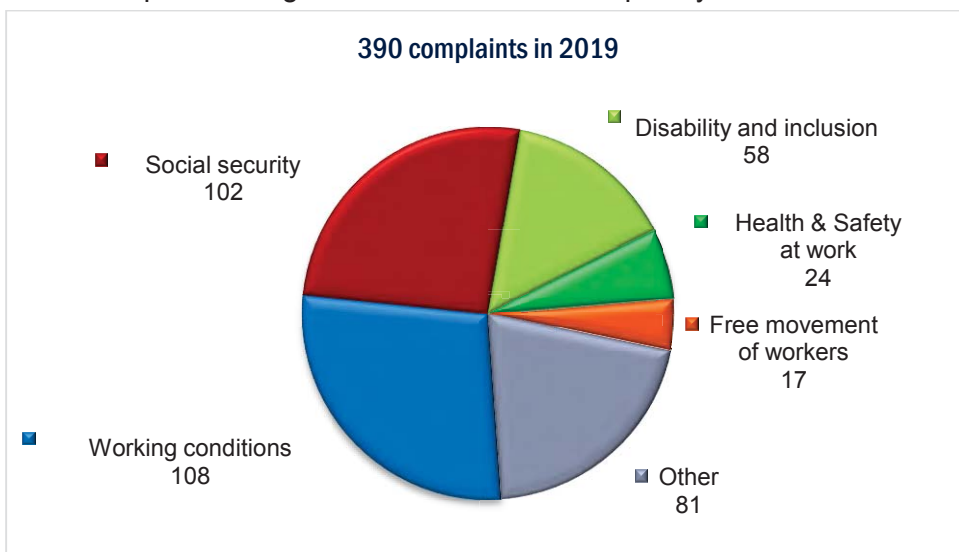
390 ► New complaints registered in 2019

442 ► Complaints handled in 2019

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= 235 ► Complaints open at end-2019

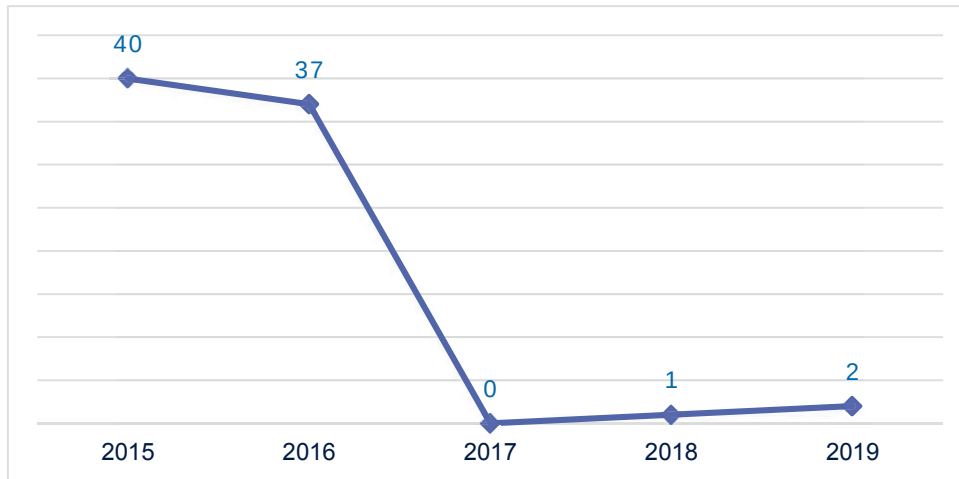
### 3. New complaints registered in 2019: main policy sectors





## II. EU PILOT

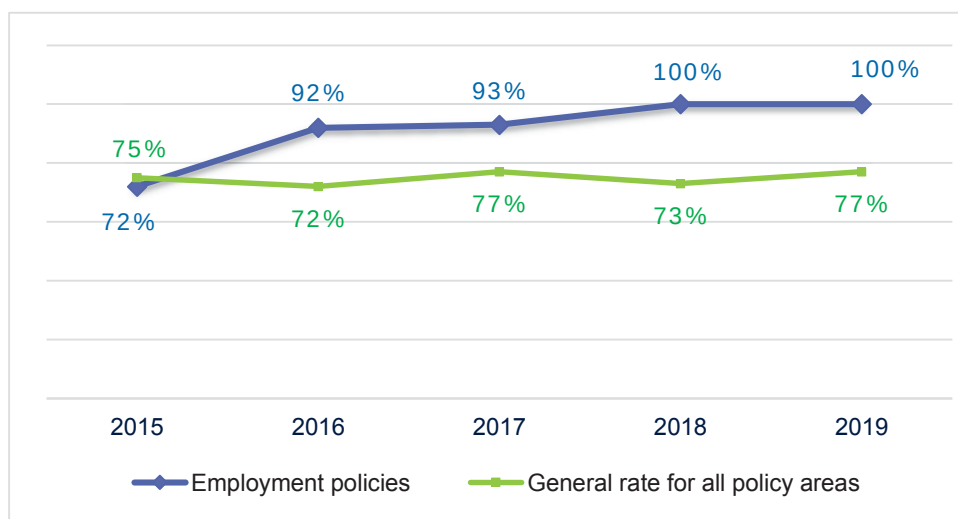
### 1. New EU Pilot cases (2015-2019)



### 2. EU Pilot files open at year-end

At the end of 2019, 12 EU Pilot files remained open.

### 3. EU Pilot files: resolution rate for policies (2015-2019)



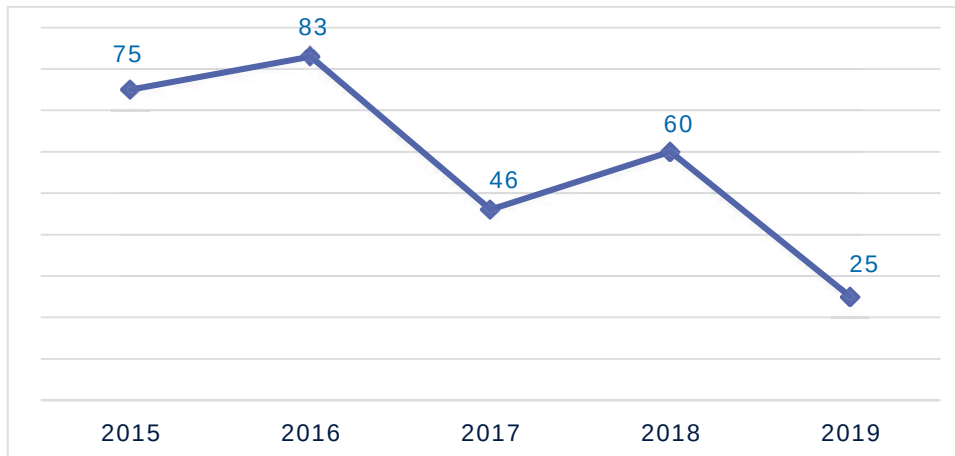
## III. OWN-INITIATIVE CASES

New own-initiative infringement cases

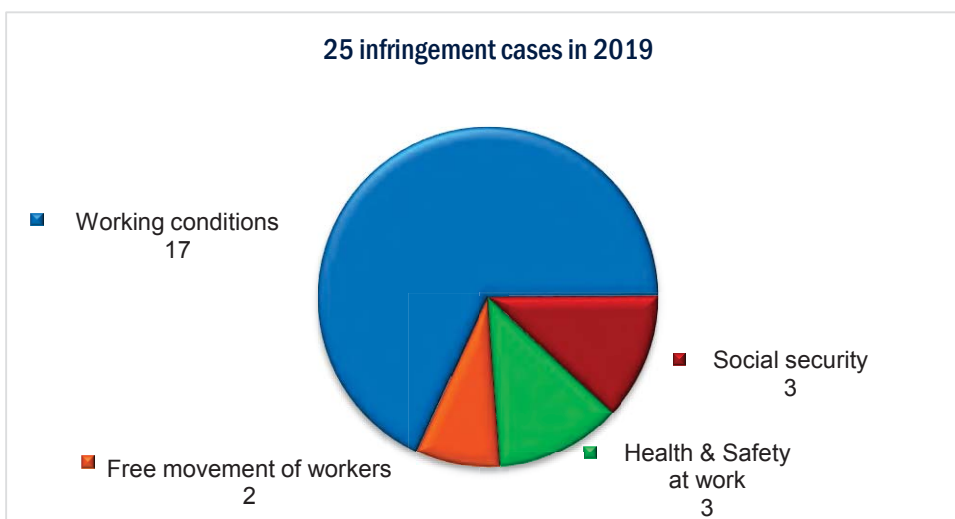
In 2019, the Commission opened an own-initiative infringement case concerning the indexation of family benefits<sup>33</sup>.

#### IV. INFRINGEMENT CASES

##### 1. Infringement cases open on 31 December (2015-2019)

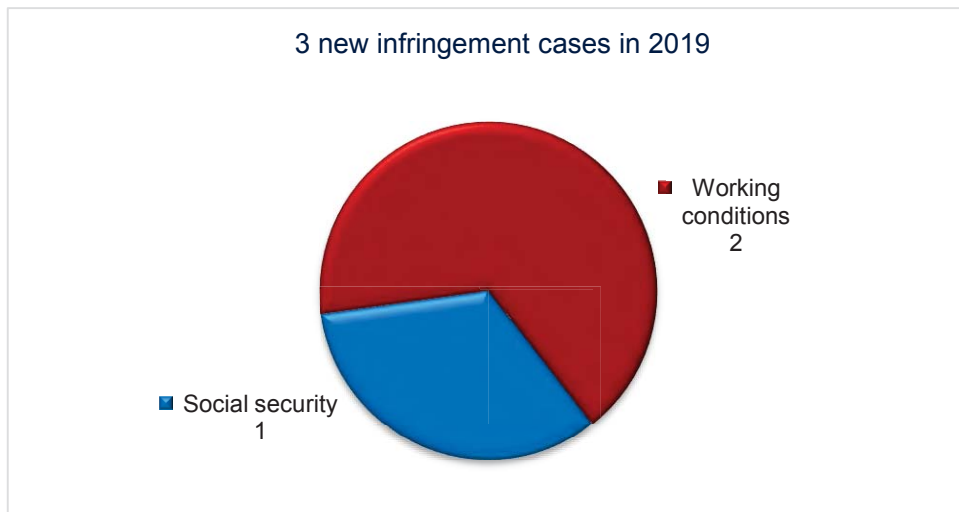


##### 2. Infringement cases open on 31 December 2019: main policy sectors



<sup>33</sup> Regulation (EU) [492/2011](#).

### 3. New infringement cases opened in 2019: main policy sectors



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

The Commission opened three new infringement cases in 2019.

*These concerned the following:*

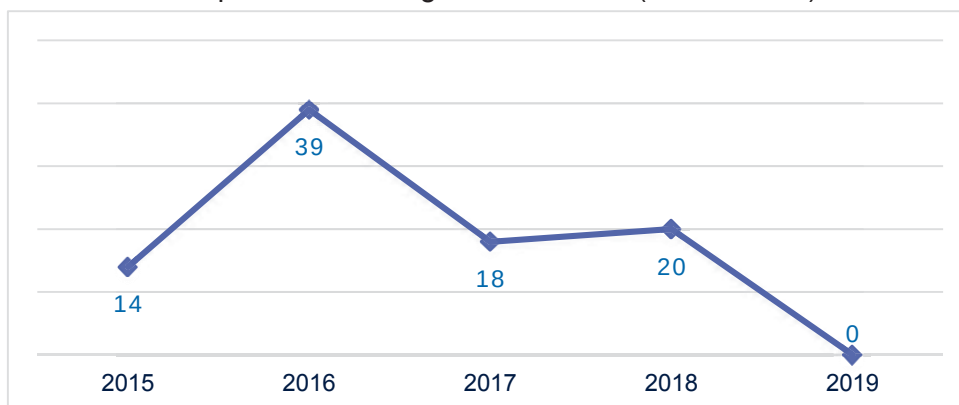
- *Austria*: breach of the rules on the free movement of workers and social security by indexing the amount of eligible family allowances, child tax credit and family tax deduction for children who are not permanently resident in Austria<sup>34</sup>.
- *Spain*: incompatibility of national rules on paid annual leave with EU labour legislation<sup>35</sup>.
- *Italy*: insufficient protection of public sector workers against abusive successive fixed-term contracts and discrimination as required under EU rules<sup>36</sup>.

The Commission did not refer any cases to the Court under Article 258 TFEU.

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

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



<sup>34</sup> Regulation (EC) [883/2004](#), Regulation (EU) [492/2011](#), [IP/19/463](#).

<sup>35</sup> Directive [2003/88/EC](#), [INF/19/4251](#).

<sup>36</sup> Directive [1999/70/EC](#), [INF/19/4251](#).

2. New late transposition infringement cases opened in 2019: main policy sectors

The Commission did not open any new late transposition infringement cases in 2019.

3. Key infringement cases and referrals to the Court

The Commission did not open any cases for late transposition in 2019 in this area.

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

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

1. Major cases closed without a Court judgment in 2019

*These concerned:*

- *Ireland, France, Cyprus and Romania:* non-communication of measures on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights<sup>37</sup>.
- *Bulgaria, Czechia, Germany, Estonia, Luxembourg, Poland, Romania and Finland:* non-communication of measures on working time in inland waterway transport<sup>38</sup>.
- *Ireland, Greece, Croatia, Italy, Poland, Portugal and Romania:* non-communication of measures on labour rights for seafarers<sup>39</sup>.

## VII. IMPORTANT JUDGMENTS

1. Court rulings

There were no major Court rulings in 2019 in this area.

2. Preliminary rulings

The Court gave the following preliminary rulings:

- *Italy:* the Court of Justice confirmed that Member States are obliged, under the Fixed-Term Work Directive, to provide effective measures designed to prevent and punish the misuse of successive fixed-term employment contracts.<sup>40</sup>
- *Belgium:* the Court of Justice ruled that the circumstance that the transferee has a choice whether to dismiss employees goes against the objective of the Directive on transfer of undertakings, which provides that dismissals due to the transfer are prohibited<sup>41</sup>.
- *Slovenia:* the Court of Justice clarified that a transfer of financial instruments and other client assets between stock exchange intermediaries may constitute a transfer within the meaning of the Directive on transfer of undertakings where there is a transfer of clients<sup>42</sup>.
- *Greece:* the Court of Justice concluded that the Directive on transfer of undertakings may, under certain conditions, apply in a situation where the transferor, the transferee or both envisage not only the pursuit of the activity transferred, but also the future liquidation of the transferee itself<sup>43</sup>.

<sup>37</sup> Directive [2014/50/EU](#).

<sup>38</sup> Directive [2014/112/EU](#).

<sup>39</sup> Directive (EU) [2015/1794](#).

<sup>40</sup> Case [C-494/17](#) *Rossato*.

<sup>41</sup> Case [C-509/17](#) *Plessers*.

<sup>42</sup> Case [C-194/18](#) *Dodič*.

<sup>43</sup> Case [C-664/17](#) *Ellinika Nafpigeia*.

## Employment, social affairs and inclusion

- *Germany*: the Court of Justice stated that, in case of insolvency of the employer, a reduction in a former employee's old-age benefits must be regarded as being manifestly disproportionate if that person is living, or would have to live, below the at-risk-of-poverty threshold determined by Eurostat for the Member State concerned<sup>44</sup>.
- *Spain*: the Court of Justice ruled that, on the basis of the Working Time Directive and in the light of the Charter of Fundamental Rights of the EU, the Member States must require employers to set up an objective, reliable and accessible system enabling the duration of time worked each day by each worker to be measured<sup>45</sup>.
- *Spain*: calculating the length of service of a part-time worker whose working hours are 'distributed vertically' over the whole year (a vertical cyclical part-time worker) solely on the basis of periods actually worked when it comes to the right to pay rise and promotion, while not doing the same for comparable full-time workers, may be discriminatory and therefore breach the Framework Agreement on Part-Time Work and the Equal Treatment Directive<sup>46</sup>.
- *Austria*: the Court of Justice stated that the limitation on the recognition of previous periods of professionally relevant experience completed in another Member State for determining the entry salary for the migrant worker is possible only if the limitation applies equally to national and migrant workers and the work-related experience from another Member State is not fully comparable with the new employment position<sup>47</sup>.
- *Austria*: the fact that part-time workers, who would otherwise have been employed on open-ended contracts, could be employed on fixed-term contracts for longer periods of time than comparable full-time workers, could be contrary to the Framework Agreement on Part-Time Work (principle of non-discrimination). Such a situation may also constitute an indirect discrimination based on sex, to the extent that women are substantially overrepresented in the group of part-time workers on a fixed term contract under the Equal Treatment Directive<sup>48</sup>.
- *The Netherlands*: The Court of Justice concluded that third-country nationals legally staying (but not residing) and working in a Member State are to be issued A1 certificates for their posting in other Member States<sup>49</sup>.
- *The Netherlands*: the Court of Justice clarified in its judgment that a person residing in his/her own Member State, employed in another Member State but working in international waters falls under the applicable legislation of the Member State of residence of that person<sup>50</sup>.
- *Ireland*: The Court of Justice clarified that it is not necessary for a person to pursue an activity as an employed person in a Member State in order to be entitled to family benefits if his or her children are living in another Member State<sup>51</sup>.

## VIII. OUTLOOK

Important implementation work in 2020 includes:

- In relation to occupational safety and health legislation, monitoring the complete transposition of and performing conformity checks on the Directive on the protection of workers from the risks

<sup>44</sup> Case [C-168/18](#) *Pensions-Sicherungs-Verein*.

<sup>45</sup> Case [C-55/18](#) *CCOO*.

<sup>46</sup> Joined cases [C-439/18](#) and [C-472/18](#), *OH/ER v AEAT*.

<sup>47</sup> Case [C-703/17](#) *Krah*.

<sup>48</sup> Case [C-274/18](#), *Schuch-Ghannadan*.

<sup>49</sup> Case [C-477/17](#) *Balandin*.

<sup>50</sup> Case [C-631/17](#) *SF v Inspecteur van de Belastingdienst*.

<sup>51</sup> Case [C-322/17](#) *Bogatu*.

Employment, social affairs and inclusion

related to exposure to carcinogens or mutagens at work<sup>52</sup> and performing conformity checks on the Directive establishing a fourth list of indicative occupational exposure limit values<sup>53</sup>.

- Finalising and adopting a report on the application of the Directive on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights<sup>54</sup>.
- Monitoring the timely and complete transposition of the Directive concerning the posting of workers in the framework of the provision of services<sup>55</sup>.
- Monitoring the compliance of national legislation and administrative practices concerning the EU free movement of workers.<sup>56</sup>

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<sup>52</sup> Directive [2017/2398/EU](#).

<sup>53</sup> Directive [2017/164/EU](#).

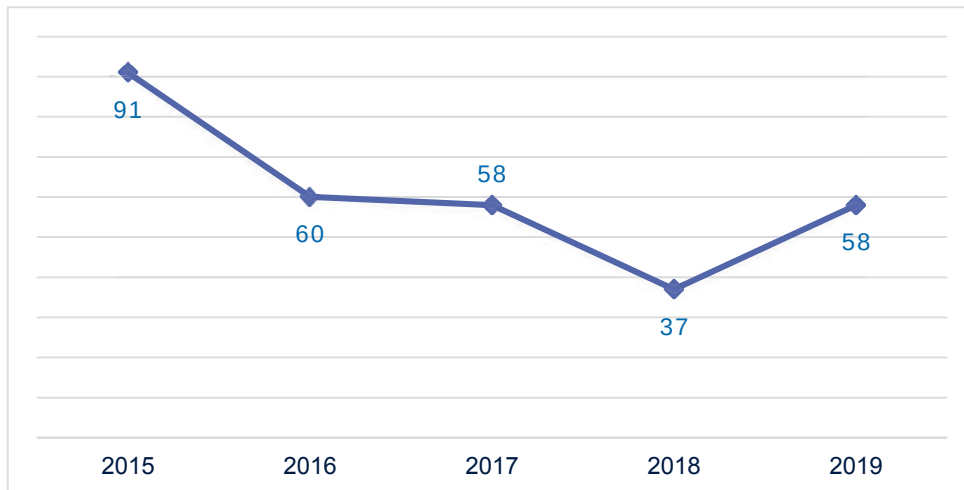
<sup>54</sup> Directive [2014/50/EU](#).

<sup>55</sup> Directive [2018/957/EU](#).

<sup>56</sup> Regulation (EU) [492/2011](#).

## I. COMPLAINTS

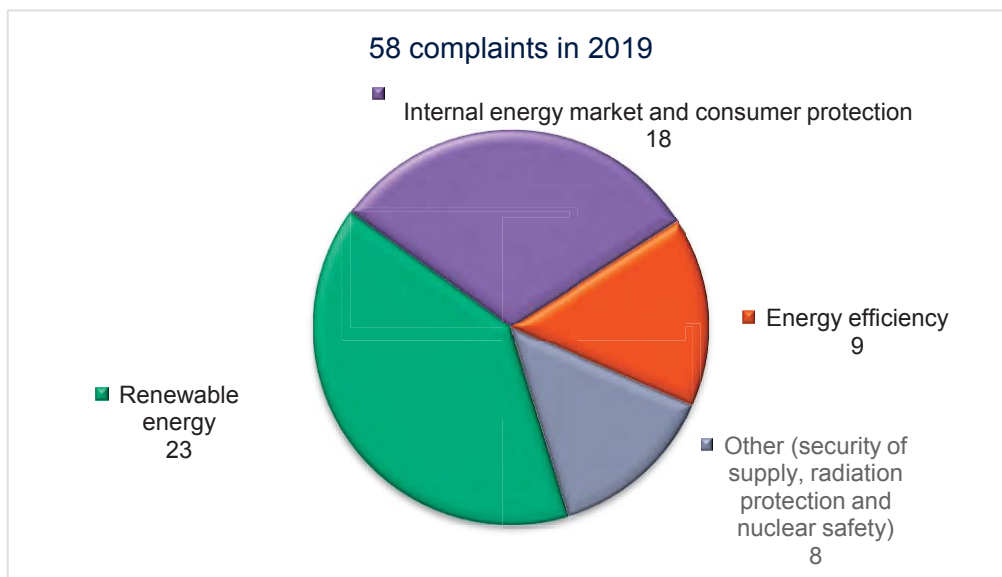
### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

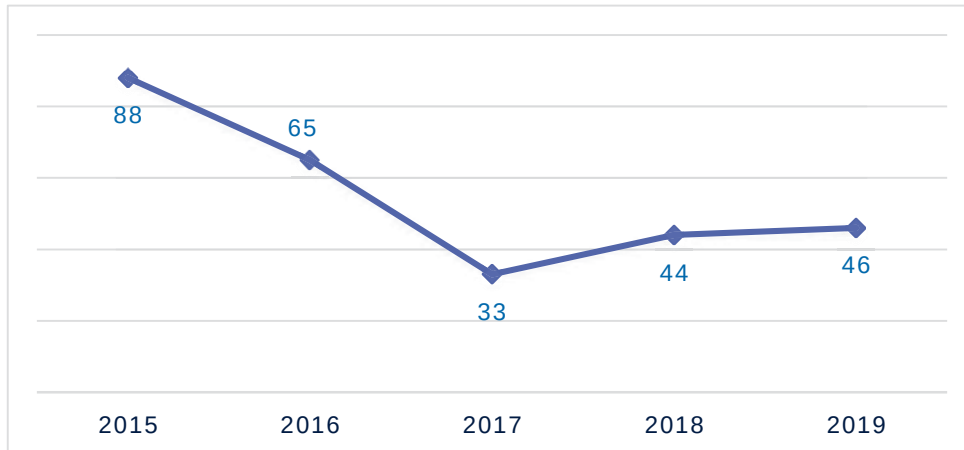
- 82 ► Complaints open at end-2018
- 58 ► New complaints registered in 2019
- 43 ► Complaints handled in 2019
- = 97 ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors



## II. EU PILOT

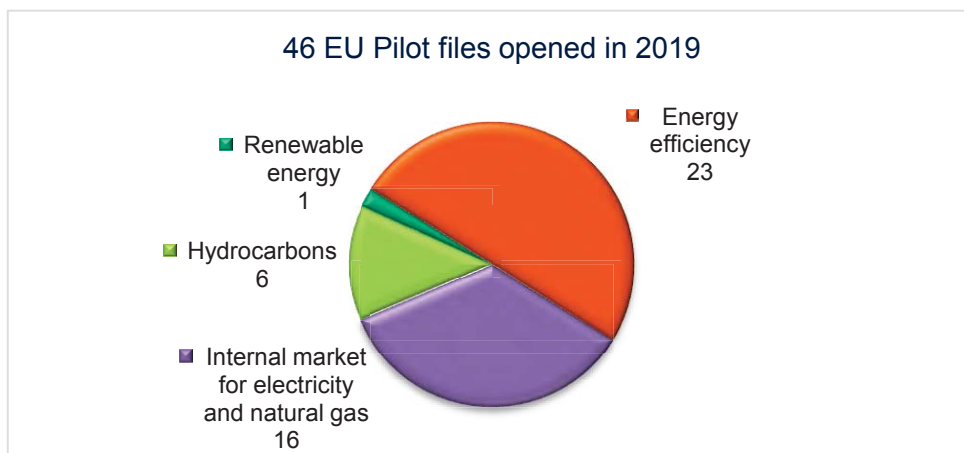
### 1. New EU Pilot files (2015-2019)



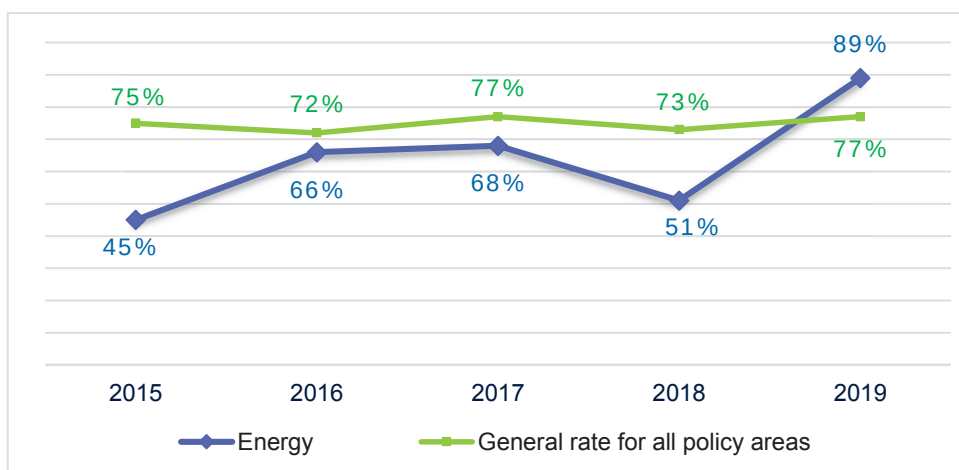
### 2. EU Pilot files open at year-end

At the end of 2019, 50 EU Pilot files remained open.

### 3. New EU Pilot files opened in 2019: main policy sectors



### 4. EU Pilot files: resolution rate for policies (2015-2019)





### III. OWN-INITIATIVE CASES

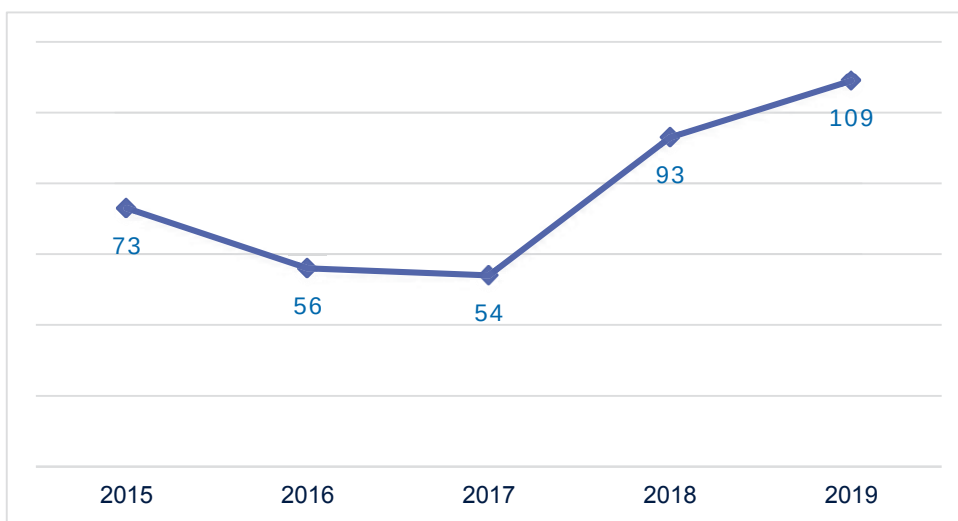
#### New own-initiative infringement cases

In 2019, the Commission opened own-initiative infringement cases over:

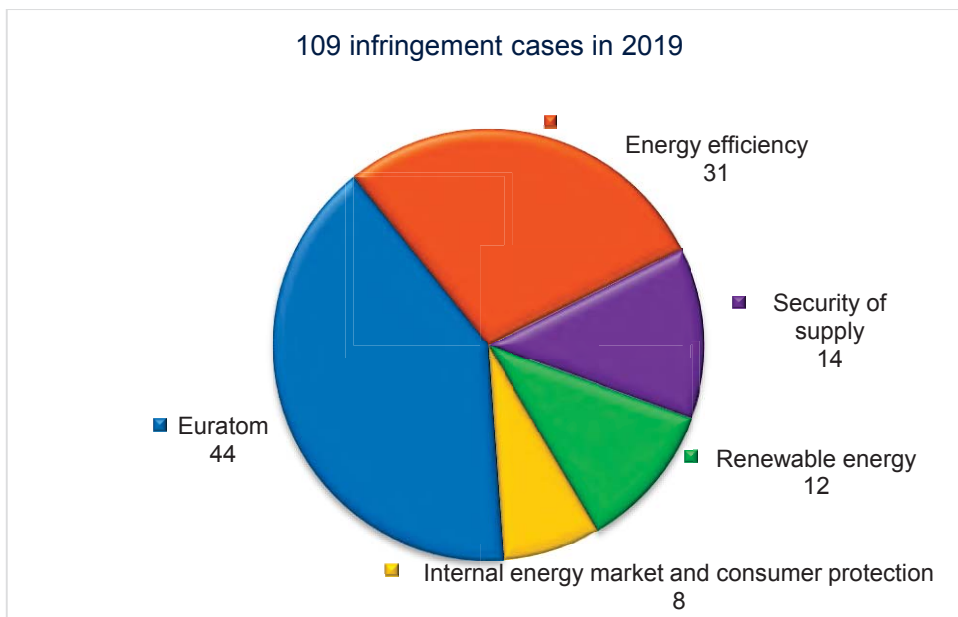
- energy efficiency;
- energy performance of buildings;
- internal energy market and consumer protection;
- radioactive waste.

### IV. INFRINGEMENT CASES

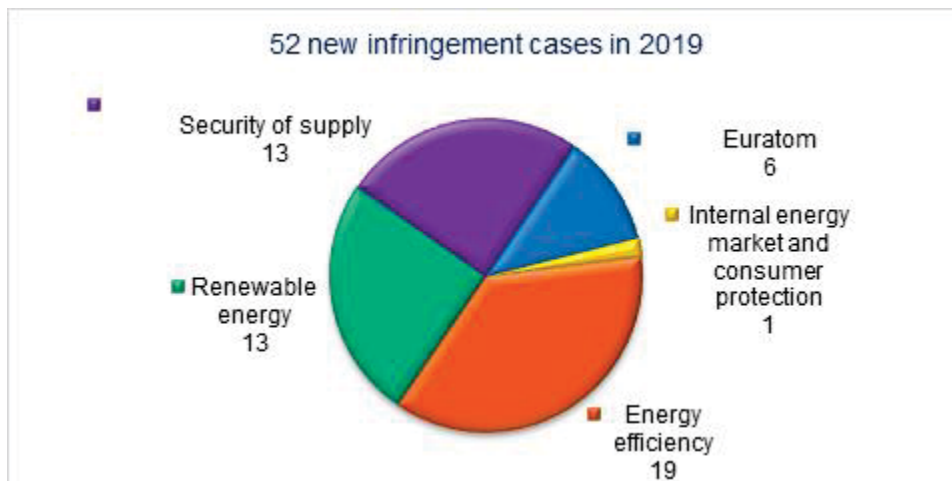
#### 1. Infringement cases open on 31 December (2015-2019)



#### 2. Infringement cases open on 31 December 2019: main policy sectors



### 3. New infringement cases opened in 2019: main policy sectors



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

a) The Commission opened 52 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:

- Croatia, Italy, Greece, Belgium, Bulgaria, Czechia, Estonia, France, Lithuania, Luxembourg, Latvia, Poland, Denmark and Portugal: non-compliance with the requirements of the Energy Efficiency Directive<sup>57</sup>;
- Croatia, Luxembourg, Malta, Portugal and Romania: failure to submit their second cost-optimal report required by the Energy Performance of Buildings Directive<sup>58</sup>;
- Romania: failure to correctly implement certain requirements of the Third Energy Package (the Gas Directive) and the Security of Gas Supply Regulation<sup>59</sup>;
- Romania: non-compliance of national measures restricting the export of natural gas with the requirements of the Third Energy Package (the Gas Directive) and Articles 35 and 36 TFEU<sup>60</sup>;
- Poland: failure to comply with the EU requirements on the security of gas supply<sup>61</sup>;
- Latvia: failure to correctly transpose certain requirements of the Radioactive Waste Directive<sup>62</sup>;
- Belgium and Spain: failure to adopt a national programme for the implementation of a spent fuel and radioactive waste management policy that is compliant with the requirements of the Radioactive Waste Directive<sup>63</sup>.

b) The Commission referred five cases to the Court under Article 258 TFEU. They concern:

- Belgium: incorrect transposition of the Third Energy Package Directives (Electricity and Gas Directives)<sup>64</sup>;

<sup>57</sup> Directive [2012/27/EU](#), [MEMO/19/462](#).

<sup>58</sup> Directive [2010/31/EU](#), [MEMO/19/462](#), [MEMO/19/1472](#) and [INF/19/4251](#).

<sup>59</sup> Directive [2009/73/EC](#), Regulation (EU) [2017/1938](#), [MEMO/19/1472](#).

<sup>60</sup> Directive [2009/73/EC](#), [INF/19/4251](#).

<sup>61</sup> Regulation (EU) [2017/1938](#), [INF/19/6304](#).

<sup>62</sup> Council Directive [2011/70/Euratom](#), [MEMO/19/462](#).

<sup>63</sup> Council Directive [2011/70/Euratom](#), [INF/19/6304](#).

<sup>64</sup> Directives [2009/72/EC](#) and [2009/73/EC](#), Commission v Belgium, [C-767/19](#); [IP/19/4254](#).

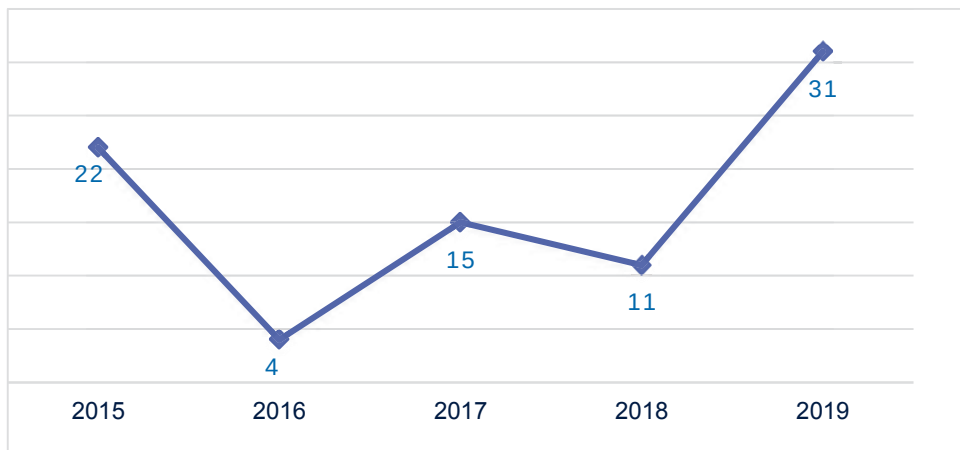
## Energy

- *Czechia and Slovenia: incorrect transposition and application of certain provisions of the Energy Performance of Buildings Directive<sup>65</sup>;*
- *Spain: failure to comply with the requirements on individual metering in multi-apartment and multi-purpose buildings laid down in the Energy Efficiency Directive<sup>66</sup>;*
- *Italy: failure to notify transposition measures under the Basic Safety Standards Directive<sup>67</sup>.*

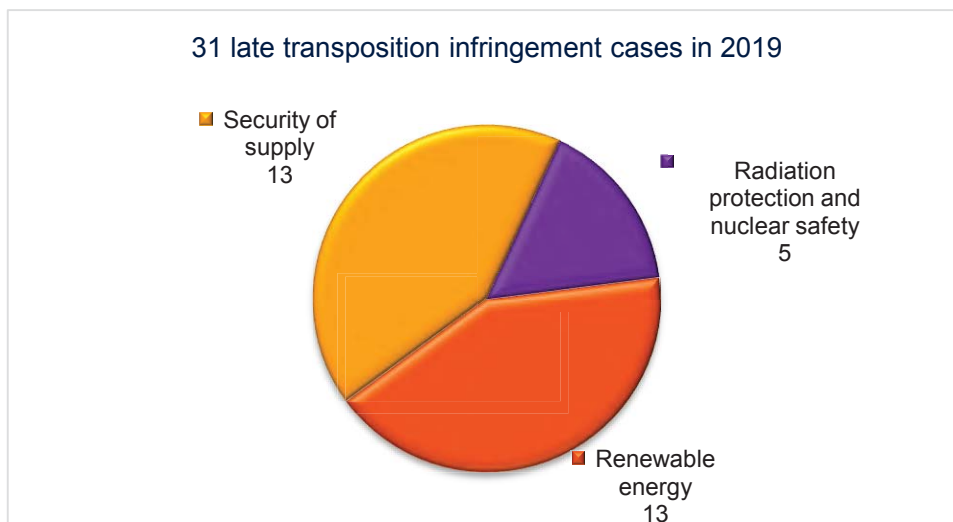
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: main policy sectors



<sup>65</sup> Directive [2010/31/EU](#), Commission v Czechia, [C-305/19](#) and Commission v Slovenia, [C-413/19](#); [IP/19/464](#). Slovenia subsequently took the necessary steps to ensure compliance with EU law, and the Commission has therefore withdrawn this case from the Court.

<sup>66</sup> Directive [2012/27/EU](#), Commission v Spain, [C-347/19](#); [IP/19/1473](#).

<sup>67</sup> Directive [2013/59/Euratom](#), Commission v Italy, [C-744/19](#).

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

The Commission opened 31 cases for late transposition in 2019.

They concern the:

- Indirect Land Use Change Directive<sup>68</sup>
- amendment to the Oil Stocks Directive as regards the methods for calculating stockholding obligations<sup>69</sup>
- Basic Safety Standards Directive<sup>70</sup>.
- The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019.

These concerned:

- *Greece, Ireland, Latvia, Malta, the Netherlands and Slovenia*: non-compliance with the Energy Performance of Buildings Directive<sup>71</sup>;
- *Luxembourg and Romania*: failure to submit their second cost-optimal report required by the Energy Performance of Buildings Directive<sup>72</sup>;
- *Czechia, Ireland and Malta*: failure to correctly transpose certain requirements of the Radioactive Waste Directive<sup>73</sup>;
- *Croatia*: failure to notify the national programme for the implementation of a spent fuel and radioactive waste management policy<sup>74</sup>;
- *Bulgaria, Cyprus, Estonia, Spain and Sweden*: incorrect transposition of the Third Energy Package Directives<sup>75</sup>;
- *Spain and Poland*: non-communication of national measures transposing the Offshore Safety Directive<sup>76</sup>;
- *Romania*: non-compliance with the Oil Stocks Directive<sup>77</sup>;
- *Austria, Bulgaria, Cyprus, Denmark, Finland, Germany, Greece, Ireland, Italy, France, Portugal and Romania*: failure to adopt all transposition measures for the Indirect Land Use Change Directive<sup>78</sup>;
- *Finland and Malta*: non-compliance with the Energy Efficiency Directive<sup>79</sup>;
- *Belgium, Poland and Spain*: failure to adopt all transposition measures for the Nuclear Safety Directive<sup>80</sup>.

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<sup>68</sup> Directive (EU) [2015/1513](#).

<sup>69</sup> Directive (EU) [2018/1581](#).

<sup>70</sup> Directive [2013/59/Euratom](#).

<sup>71</sup> Directive [2010/31/EU](#).

<sup>72</sup> Directive [2010/31/EU](#).

<sup>73</sup> Directive [2011/70/Euratom](#).

<sup>74</sup> Directive [2011/70/Euratom](#).

<sup>75</sup> Directives [2009/72/EC](#) and [2009/73/EC](#).

<sup>76</sup> Directive [2013/30/EU](#).

<sup>77</sup> Directive [2009/119/EC](#).

<sup>78</sup> Directive (EU) [2015/1513](#).

<sup>79</sup> Directive [2012/27/EU](#).

<sup>80</sup> Directive [2014/87/Euratom](#).

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

The Court gave the following rulings:

- Italy has failed to comply with the Radioactive Waste Directive since it has not notified a final adopted national programme for radioactive waste and spent fuel management<sup>81</sup>.
- The General Court annulled a 2016 Commission decision amending the conditions for an exemption granted by an earlier decision to the gas pipeline Ostseepipeline-Anbindungsleitung from the rules on third-party access and unbundling set out in the Gas Directive. The Court found that the Commission had failed to examine the impact of the revised exemption conditions on energy solidarity to determine whether they could negatively impact the interests of other Member States or the Union<sup>82</sup>.
- The General Court annulled on procedural grounds the decision of the European Agency for the Cooperation of Energy Regulators (ACER) on the capacity calculation regions which led to the split of the German-Austrian bidding zone, based on the reason that the Austrian regulatory authority had asked for an amendment of the proposal for the capacity calculation regions before the expiry of the six-month period during which the national regulatory authorities may approve the proposal<sup>83</sup>.

### 2. Preliminary rulings

The Court gave the following preliminary rulings:

- *Bulgaria*: National legislation obliging apartment owners in buildings in co-ownership to pay for the thermal energy used by the common parts and the internal installation of the building is compatible with EU law, even though the owners do not use that thermal energy in their own apartments. In such buildings, the bills for thermal energy consumption by the internal installation are calculated for each property owner in the building in proportion to the heated volume of their apartment<sup>84</sup>.
- *Bulgaria*: The Court gave guidance as to the relevant criteria under the Electricity Directive to distinguish between transmission and distribution systems<sup>85</sup>.
- *Finland*: The Energy Efficiency Directive does not prevent energy companies from giving customers discounts to encourage the uptake of electronic billing delivery methods<sup>86</sup>.
- *France*: The Gas Directive allows a regulatory authority settling a dispute between energy companies to extend the effects of its decision to the situation of the parties before the emergence of that dispute, by requiring one party to bring a contract for the transmission of natural gas in line with EU law for the entire contractual period<sup>87</sup>.
- *Italy*: National legislation under which the amount of royalties payable by holders of licences for the extraction of natural gas is calculated on the basis of an index based on the prices of oil and other fuels in the medium and long term and not an index that reflects the short-term market price of natural gas is not incompatible with EU law<sup>88</sup>.

<sup>81</sup> Directive [2011/70/Euratom](#), Commission v Italy, [C-434/18](#),

<sup>82</sup> Directive [2009/73/EC](#), Poland v Commission, [T-883/16](#) and Court press release No 107/2019.

<sup>83</sup> E-Control v ACER, [T-332/17](#).

<sup>84</sup> Joined cases: EVN Bulgaria Toplofikatsia, [C-708/17](#) and Toplofikatsia Sofia, [C-725/17](#).

<sup>85</sup> Directive [2009/72/EC](#), Elektrorazpredelenie Yug, [C-31/18](#).

<sup>86</sup> Directive [2012/27/EU](#), Oulun Sähkömyynti, [C-294/18](#).

<sup>87</sup> Directive [2009/73/EC](#), GRDF, [C-236/18](#).

<sup>88</sup> Directive [94/22/EC](#), joined cases: Eni, [C-364/18](#) and Shell Italia, [C-365/18](#).

## Energy

- *Spain*: A financial contribution imposed on certain electricity generating undertakings to finance savings and energy efficiency plans managed by a public authority does not constitute a public service obligation under the Electricity Directive<sup>89</sup>.
- *Spain*: National legislation may set taxes on the production and storage of nuclear fuel and waste which apply only to electricity-generating undertakings using nuclear energy and whose main objective is to increase the amount of revenue for the electricity financial system. Such legislation does not violate the principle of non-discrimination provided for by the Electricity Directive<sup>90</sup>.
- *Spain*: EU law does not prohibit a tax on the use of inland waters for the production of electricity which does not incentivise the efficient use of water, nor establish mechanisms for the preservation and protection of public water resources, as it is focused solely and exclusively on the income-generating capacity of hydroelectricity producers. A tax on the use of inland waters to produce electricity which exclusively affects hydroelectricity generators operating in river basins encompassing more than one autonomous community and not those operating in river basins encompassing a single autonomous community is not considered discriminatory<sup>91</sup>.

## VIII. OUTLOOK

Important implementation work in 2020 includes:

- assessing the national energy and climate plans adopted by the Member States pursuant to the Governance Regulation<sup>92</sup>;
- taking legal action to ensure correct and complete transposition of the Electricity and Gas Directives<sup>93</sup>, the Indirect Land Use Change Directive<sup>94</sup>, the Energy Efficiency Directive<sup>95</sup>, the Energy Performance of Buildings Directive<sup>96</sup>, the Oil Stocks Directive<sup>97</sup>, the Radioactive Waste Directive<sup>98</sup>, the Nuclear Safety Directive<sup>99</sup>, the Basic Safety Standards Directive<sup>100</sup>, the Euratom Drinking Water Directive<sup>101</sup>;
- assessing the Member States reports on the implementation of the Nuclear Safety Directive, due to be submitted to the Commission by 22 July 2020;
- taking legal action to ensure the correct application of the Governance Regulation<sup>102</sup>, the Ecodesign and Energy Labelling Regulations, the Risk Preparedness Regulation<sup>103</sup>, the Electricity Regulation<sup>104</sup>, the Network Codes<sup>105</sup> and the Security of Gas Supply Regulation<sup>106</sup>.

<sup>89</sup> Directive [2009/72/EC](#), Engie Cartagena, [C-523/18](#).

<sup>90</sup> Directive [2009/72/EC](#), joined cases: UNESA, [C-80/18](#), Endesa Generación, [C-81/18](#), Endesa Generación, [C-82/18](#) and Iberdrola Generación Nuclear, [C-83/18](#).

<sup>91</sup> Joined cases: UNESA, [C-105/18](#), Engasa, [C-106/18](#), Duerocanto, [C-107/18](#), Acciona, [C-108/18](#), Associació de Productors i Usuaris d'Energia Elèctrica, [C-109/18](#), Burgos Pérez and Guinea Bueno, [C-110/18](#), Endesa Generación, [C-111/18](#), APPA, [C-112/18](#), Parc del Segre and Others, [C-113/18](#).

<sup>92</sup> Regulation (EU) [2018/1999](#).

<sup>93</sup> Directives [2009/72/EC](#) and [2009/73/EC](#).

<sup>94</sup> Directive (EU) [2015/1513](#).

<sup>95</sup> Directive [2012/27/EU](#) as amended by (EU) [2018/2002](#).

<sup>96</sup> Directive [2010/31/EU](#) as amended by Directive (EU) [2018/844](#).

<sup>97</sup> Directive (EU) [2018/1581](#).

<sup>98</sup> Directive [2011/70/Euratom](#).

<sup>99</sup> Directive [2009/71/Euratom](#), as amended by [2014/87/Euratom](#).

<sup>100</sup> Directive [2013/59/Euratom](#).

<sup>101</sup> Directive [2013/51/Euratom](#).

<sup>102</sup> Regulation (EU) [2018/1999](#).

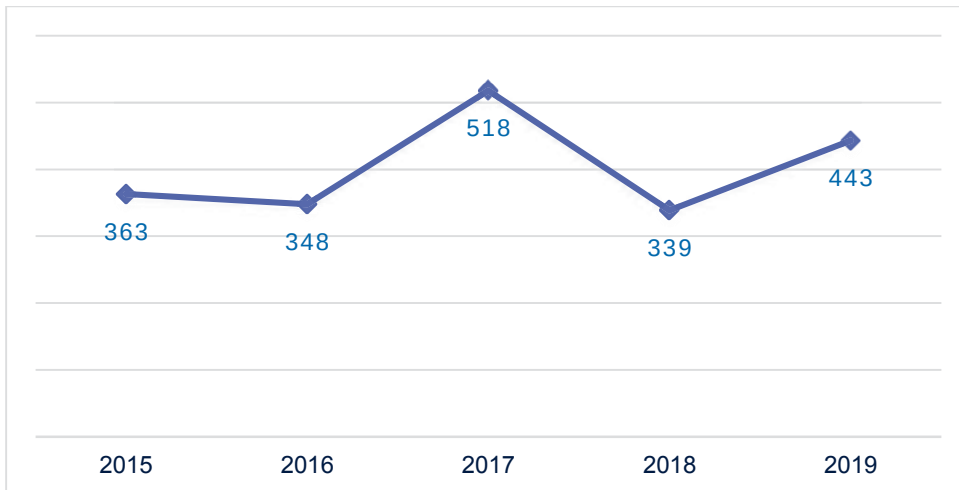
<sup>103</sup> Regulation (EU) [2019/941](#).

<sup>104</sup> Regulation (EU) [2019/943](#).

<sup>105</sup> Regulation (EU) [2015/1222](#).

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

- 546 ► Complaints open at end-2018
- 443 ► New complaints registered in 2019
- 422 ► Complaints handled in 2019
- = 567 ► Complaints open at end-2019

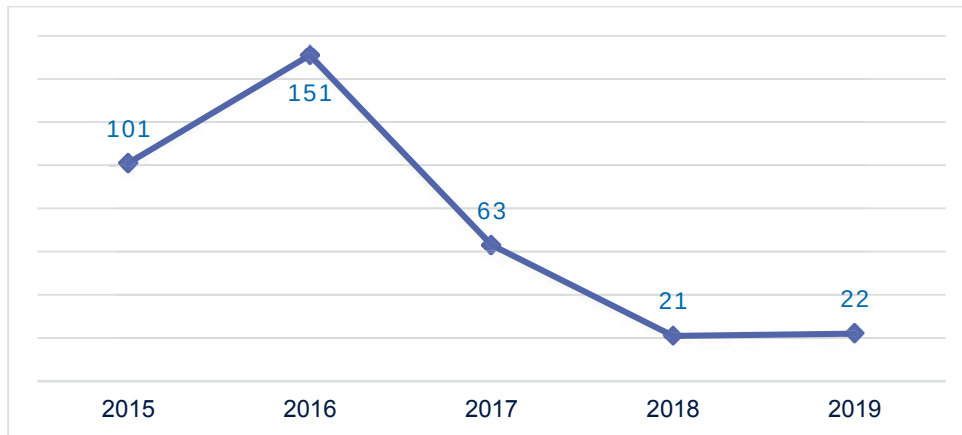
### 3. New complaints registered in 2019: main policy sectors



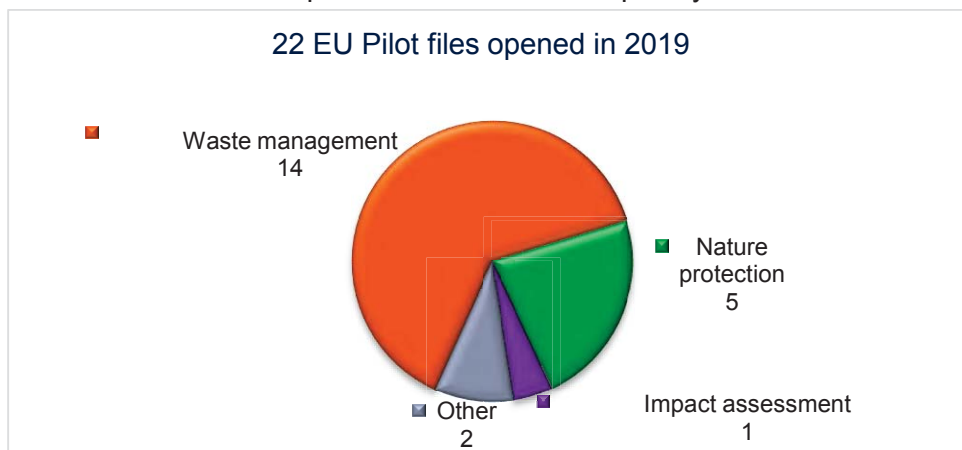
<sup>106</sup> Regulation (EU) [2017/1938](#).

## II. EU PILOT

### 1. New EU Pilot files (2015-2019)



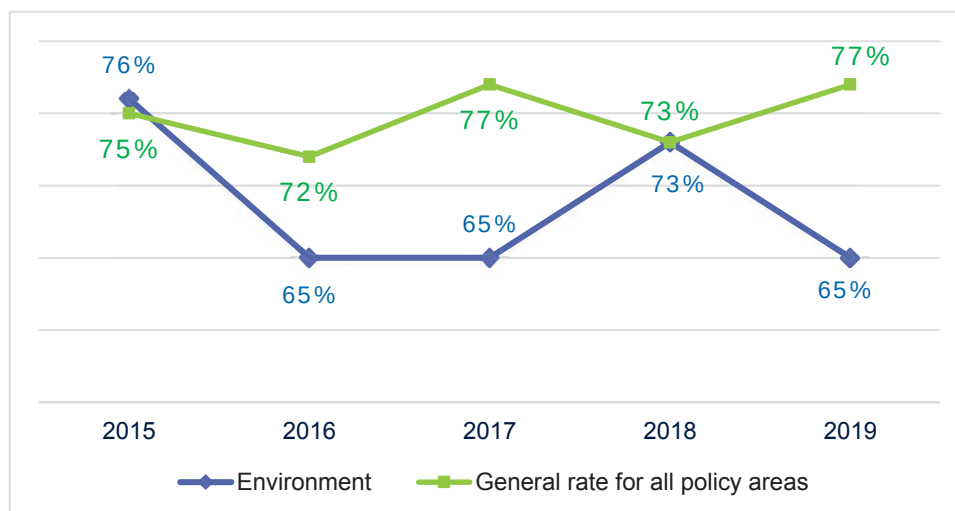
### 2. New EU Pilot files opened in 2019: main policy sectors



### 3. EU Pilot files open at year-end

At the end of 2019, 128 EU Pilot files remained open.

### 4. EU Pilot files: resolution rate for policies (2015-2019)





### III. OWN-INITIATIVE CASES

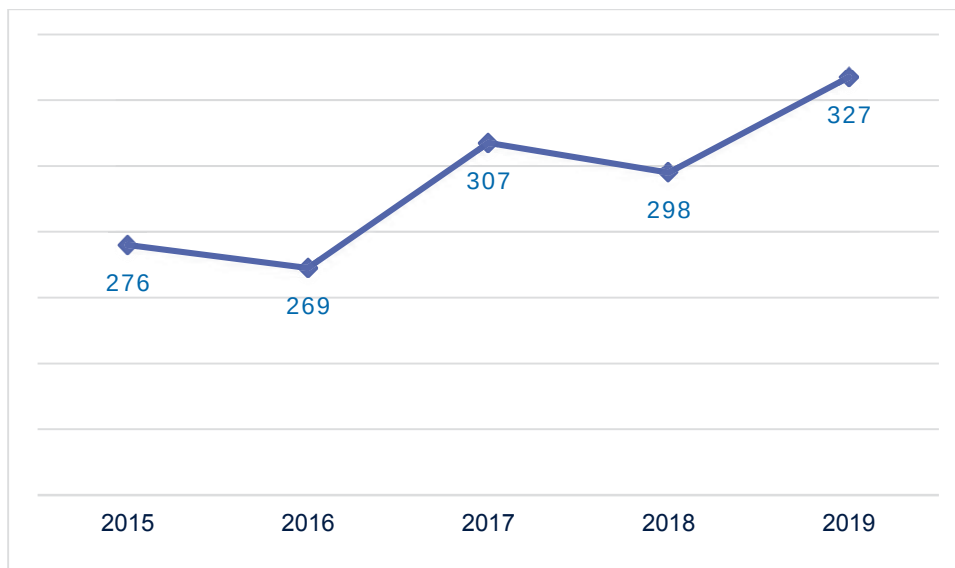
#### New own-initiative infringement cases

In 2019, the Commission opened own-initiative infringement cases over:

- incorrect transposition of the revised Environmental Impact Assessment Directive<sup>107</sup>;
- failure to complete the Natura 2000 network and to ensure protection of this network;
- incorrect transposition of the Waste Electrical and Electronic Equipment Directive<sup>108</sup>;
- incorrect transposition of the SEVESO III Directive<sup>109</sup>;
- failure to share spatial information, in line with the INSPIRE Directive<sup>110</sup>;
- non-compliance with the Industrial Emissions Directive<sup>111</sup>;
- incorrect transposition of the Directive on the protection of animals used for scientific purposes<sup>112</sup>;
- failure to ensure adequate protection of certain bird species and of certain natural habitats;
- bad application of the Birds Directive in relation to the hunting of certain bird species<sup>113</sup>;
- failure to set dissuasive penalties and to adopt specific lists of invasive alien species for outermost regions, in breach of the Invasive Alien Species Regulation<sup>114</sup>;
- non-compliance with reporting obligations under EU waste legislation.

### IV. INFRINGEMENT CASES

#### 1. Infringement cases open on 31 December (2015-2019)



<sup>107</sup> Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#).

<sup>108</sup> Directive [2012/19/EU](#).

<sup>109</sup> Directive [2012/18/EU](#).

<sup>110</sup> Directive [2007/2/EC](#).

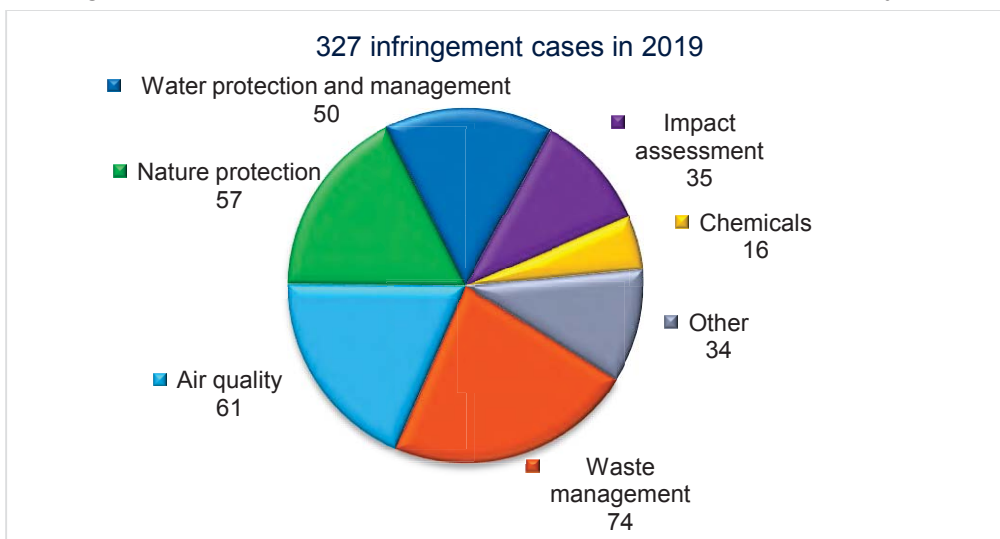
<sup>111</sup> Directive [2010/75/EU](#).

<sup>112</sup> Directive [2010/63/EU](#).

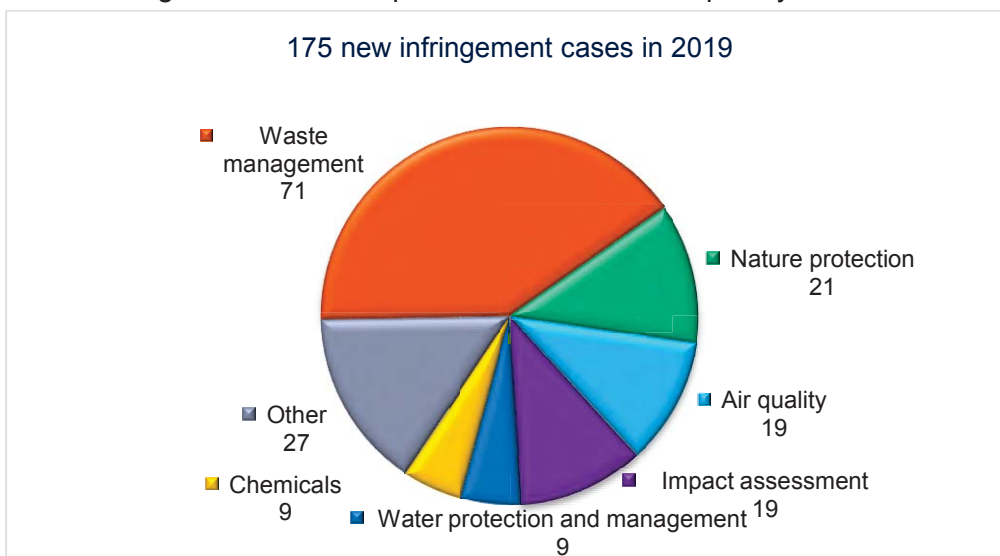
<sup>113</sup> Directive [2009/147/EC](#).

<sup>114</sup> Regulation (EU) [1143/2014](#).

## 2. Infringement cases open on 31 December 2019: main policy sectors



## 3. New infringement cases opened in 2019: main policy sectors



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

a) The Commission opened 175 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:

- *United Kingdom: failure to comply with a Court judgment finding that the United Kingdom had breached its obligations under EU law as regards collection and treatment of urban waste water in London and Whitburn*<sup>115</sup>;
- *Italy, Latvia, Lithuania, Slovakia and Spain: failure to ensure that urban waste water is adequately collected and treated*<sup>116</sup>;
- *Poland and Slovakia: failure to comply with EU rules on landfills*<sup>117</sup>;
- *Greece: lack of measures to address waste problems on the island of Corfu*<sup>118</sup>;

<sup>115</sup> Directive [91/271/EEC](#), [MEMO/19/462](#), Commission v United Kingdom, [C-301/10](#).

<sup>116</sup> Directive [91/271/EEC](#), [INF/19/4251](#), [MEMO/19/462](#) and [INF/19/6304](#).

<sup>117</sup> Directive [1999/31/EC](#), [MEMO/19/1472](#).

Environment

- *Germany: failure to comply with a Court judgment finding that Germany was in breach of its obligations under the Nitrates Directive by failing to revise an action programme whose measures had proved insufficient*<sup>119</sup>;
- *Belgium: failure to protect waters from nitrates pollution*<sup>120</sup>;
- *Belgium and Poland: non-compliance with key provisions of the Noise Directive*<sup>121</sup>;
- *Czechia, Latvia, Slovakia, Poland, Portugal and Romania: failure to ensure adequate protection of habitats and species of EU interest by designating nature protection areas to complete the NATURA 2000 network*<sup>122</sup>;
- *Slovenia: incorrect transposition of the Habitats and Birds Directives*<sup>123</sup>;
- *Cyprus: general and persistent failure to ensure that plans and projects undergo an appropriate assessment of their implications on Natura 2000 sites, as required by the Habitats Directive*<sup>124</sup>;
- *Slovakia: failure to provide for an appropriate assessment of the effects that projects within Natura 2000 sites, such as forest logging activities, may have on the protected areas, which resulted in a significant fall in bird numbers*<sup>125</sup>;
- *Bulgaria, Italy and Germany: failure to establish Special Areas of Conservation, as well as conservation objectives and measures to maintain or restore the protected species and habitats to a favourable condition, as required by the Habitats Directive*<sup>126</sup>;
- *France: authorisation of non-selective hunting practices which are not in line with the Birds Directive*<sup>127</sup>;
- *France and Spain: failure to take the necessary measures to enhance protection of the species of the Turtle dove as required by the Birds Directive*<sup>128</sup>;
- *Germany and Slovenia: failure to ensure adequate protection of grasslands, as required by the Habitats Directive*<sup>129</sup>;
- *Poland: failure to establish adequate safeguards to protect forests and its plant and animal species, as required under the Birds and Habitats Directives. Also, failure to provide access to justice with regard to forest management plans*<sup>130</sup>;
- *Austria, Denmark, Finland, Latvia, Germany, Slovenia and Poland: incorrect transposition of the Directive on the protection of animals used for scientific purposes*<sup>131</sup>;
- *Greece: incorrect transposition of the Industrial Emissions Directive and failure to protect citizens from noxious air pollution from several power plants, as required by the said Directive*<sup>132</sup>;
- *Romania: failure to ensure that installations under the Industrial Emissions Directive operate with appropriate permits*<sup>133</sup>;

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<sup>118</sup> [MEMO/19/1472](#).

<sup>119</sup> Directive [91/676/EC](#), [INF/19/4251](#), Commission v Germany, [C-543/16](#).

<sup>120</sup> Directive [91/676/EC](#), [INF/19/6304](#).

<sup>121</sup> Directive [2002/49/EC](#), [INF/19/4251](#) and [MEMO/19/462](#).

<sup>122</sup> [INF/19/6304](#) and [INF/19/4251](#).

<sup>123</sup> Directives [92/43/EEC](#) and [2009/147/EC](#), [INF/19/4251](#).

<sup>124</sup> Directive [92/43/EEC](#), [INF/19/6304](#).

<sup>125</sup> [MEMO/19/462](#).

<sup>126</sup> Directive [92/43/EEC](#), [MEMO/19/462](#).

<sup>127</sup> Directive [2009/147/EC](#), [INF/19/4251](#).

<sup>128</sup> Directive [2009/147/EC](#), [INF/19/4251](#).

<sup>129</sup> Directive [92/43/EEC](#), [INF/19/4251](#).

<sup>130</sup> Directives [92/43/EEC](#) and [2009/147/EC](#), [INF/19/4251](#).

<sup>131</sup> Directive [2010/63/EU](#), [INF/19/5950](#) and [INF/19/4251](#).

<sup>132</sup> Directive [2010/75/EU](#), [INF/19/4251](#).

Environment

- *Poland: failure to comply with a Court judgment finding that Poland had breached its obligations under the Ambient Air Quality Directive*<sup>134</sup>;
- *Greece: failure to comply with the nitrogen dioxide (NO<sub>2</sub>) limit values set by the Air Quality Directive, failure to put in place adequate sampling points to properly monitor NO<sub>2</sub> concentrations and failure to make available a complete air quality report*<sup>135</sup>;
- *Romania: systemic failure to monitor air pollution as required by EU legislation on ambient air quality*<sup>136</sup>;
- *France: non-conformity of national legislation with the Directive on public access to environmental information*<sup>137</sup>;
- *Croatia: non-conformity of the Croatian Water Act with the Environmental Impact Assessment Directive, the Habitats Directive and the Water Framework Directive*<sup>138</sup>;
- *Austria: failure to provide for a strategic environmental assessment of plans in the energy sector as required by the Strategic Environmental Assessments Directive*<sup>139</sup>;
- *Austria, Bulgaria, Croatia, Denmark, Estonia, Finland, France, Greece, Hungary, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovenia, Slovakia and Sweden: incorrect transposition of the revised Environmental Impact Assessment Directive*<sup>140</sup>;
- *Austria: restrictions regarding access to justice in environmental procedures, not in line with the Environmental Impact Assessment Directive*<sup>141</sup>;
- *Poland: failure to fully comply with the EU rules on reviewing environmental decisions*<sup>142</sup>;
- *Ireland: failure to apply the Environmental Impact Assessment Directive to peat extraction operations*<sup>143</sup>;
- *Croatia: non-conformity of national legislation with the Groundwater Directive*<sup>144</sup>;
- *Croatia: non-conformity of national legislation with the Drinking Water Directive*<sup>145</sup>;
- *Luxembourg: incorrect transposition of the Environmental Quality Standards Directive*<sup>146</sup>;
- *France: failure to comply with the Water Framework Directive concerning the ecological continuity of the Rhine River*<sup>147</sup>;
- *Bulgaria, Cyprus, Ireland, Lithuania and Malta: late reporting on the environmental status of marine waters under the Marine Strategy Framework Directive*<sup>148</sup>;
- *Ireland: incorrect transposition of the Water Framework Directive*<sup>149</sup>.

b) The Commission referred nine cases to the Court under Article 258 TFEU. They concern:

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<sup>133</sup> Directive [2010/75/EU](#), [INF/19/4251](#).

<sup>134</sup> Directive [2008/50/EC](#), [INF/19/4251](#), Commission v Poland, [C-336/16](#).

<sup>135</sup> Directive [2008/50/EC](#), [MEMO/19/462](#).

<sup>136</sup> Directives [2004/107/EC](#) and [2008/50/EC](#), [INF/19/4251](#).

<sup>137</sup> Directive [2003/4/EC](#), [MEMO/19/462](#).

<sup>138</sup> Directives [2011/92/EU](#), [92/43/EEC](#) and [2000/60/EC](#).

<sup>139</sup> Directive [2001/42/EU](#), [INF/19/4251](#).

<sup>140</sup> Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#); [INF/19/5950](#), [MEMO/19/1472](#), [INF/19/4251](#) and [INF/19/6304](#).

<sup>141</sup> Directive [2011/92/EU](#), [INF/19/4251](#).

<sup>142</sup> Directive [2011/92/EU](#), [MEMO/19/1472](#).

<sup>143</sup> Directive [2011/92/EU](#), [INF/19/4251](#).

<sup>144</sup> Directive [2006/118/EC](#), [MEMO/19/1472](#).

<sup>145</sup> Council Directive [98/83/EC](#), [MEMO/19/1472](#).

<sup>146</sup> Directive [2008/105/EC](#), [INF/19/6304](#).

<sup>147</sup> Directive [2000/60/EC](#), [INF/19/4251](#).

<sup>148</sup> Directive [2008/56/EC](#), [INF/19/5950](#).

<sup>149</sup> Directive [2000/60/EC](#), [MEMO/19/462](#).

Environment

- *Bulgaria: exceedance of sulphur dioxide (SO<sub>2</sub>) limit values set by the Air Quality Directive<sup>150</sup>;*
  - *Greece: failure to establish the necessary conservation measures and objectives for all sites designated as Special Areas of Conservation under the Habitats Directive<sup>151</sup>;*
  - *Spain: failure to take adequate measures to protect the groundwater bodies that feed the Doñana wetlands and to prevent the deterioration of protected habitats in these wetlands, in violation of the Water Framework Directive and the Habitats Directive<sup>152</sup>;*
  - *Spain: absence of flood risk management plans, required under the Floods Directive, for all seven river basin districts in the Canary Islands<sup>153</sup>;*
  - *Italy: failure to ensure that all agglomerations with a population of more than 2,000 are provided with collecting systems for urban waste water and that urban waste water entering collecting systems is adequately treated before discharge, as required by the Urban Waste Water Treatment Directive<sup>154</sup>;*
  - *Cyprus: lack of proper collection and treatment of urban waste waters of various agglomerations in breach of the Urban Waste Water Directive<sup>155</sup>;*
  - *Italy: exceedance of nitrogen dioxide (NO<sub>2</sub>) limit values set by the Air Quality Directive<sup>156</sup>;*
  - *Finland: illegal spring hunting of male eiders in the province of Åland, in violation of the Birds Directive<sup>157</sup>;*
  - *Austria: hunting of woodcock during its reproductive period in the Land of Lower Austria, in breach of the Birds Directive<sup>158</sup>.*
- c) The Commission referred one case to the Court under Article 260(2) TFEU. It concerns
- *Greece: failure to comply with a Court judgment establishing that Greece had failed to protect its waters against pollution caused by nitrates from agricultural sources<sup>159</sup>.*

<sup>150</sup> Directive [2008/50/EC](#), Commission v Bulgaria, [C-730/19](#), [IP/19/4256](#).

<sup>151</sup> Directive [92/43/EEC](#), Commission v Greece, [C-849/19](#), [IP/19/4257](#).

<sup>152</sup> Directives [2000/60/EC](#) and [92/43/EEC](#), Commission v Spain, [C-559/19](#), [IP/19/466](#).

<sup>153</sup> Directive [2007/60/EC](#), Commission v Spain, [C-384/19](#), [IP/19/465](#).

<sup>154</sup> Directive [91/271/EEC](#), Commission v Italy, [C-668/19](#), [IP/19/1475](#).

<sup>155</sup> Directive [91/271/EEC](#), Commission v Cyprus, [C-248/19](#), [IP/19/1474](#).

<sup>156</sup> Directive [2008/50/EC](#), Commission v Italy, [C-573/19](#), [IP/19/1475](#).

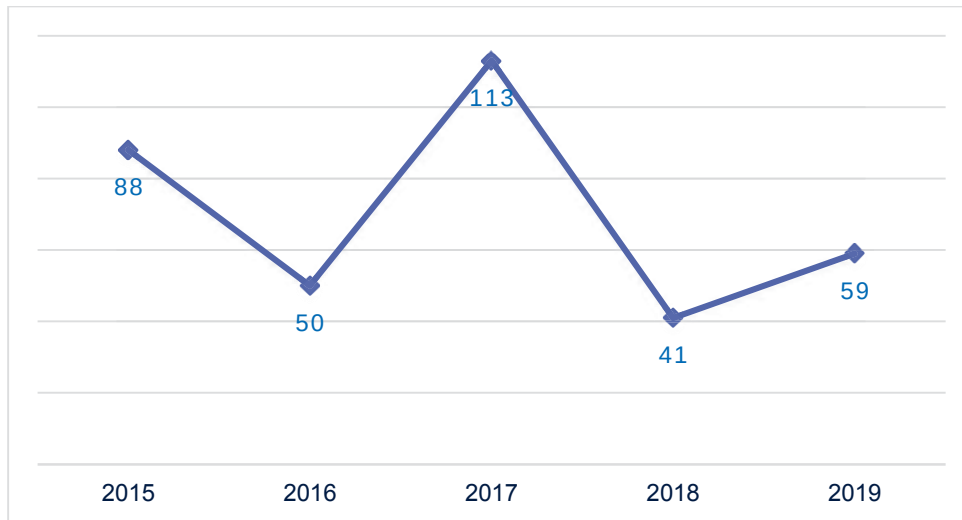
<sup>157</sup> Directive [2009/147/EC](#), Commission v Finland, [C-217/19](#), [IP/18/1446](#).

<sup>158</sup> Directive [2009/147/EC](#), Commission v Austria, [C-161/19](#), [IP/18/3449](#).

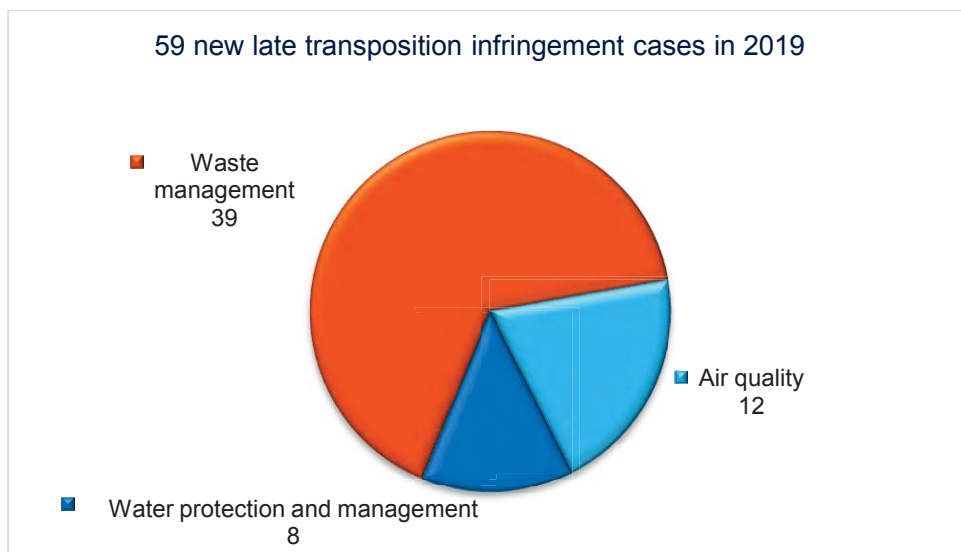
<sup>159</sup> Commission v Greece, [C-298/19](#), [MEMO/19/1472](#).

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: main policy sectors



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

a) The Commission opened 59 cases for late transposition in 2019. They included the:

- *Directive concerning the indicative lists of elements to be taken into account for the preparation of marine strategies*<sup>160</sup>
- *Directive establishing common noise assessment methods*<sup>161</sup>.

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

<sup>160</sup> Directive (EU) [2017/845](#).

<sup>161</sup> Directive (EU) [2015/996](#).

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

*These concerned mainly:*

- *Belgium*: bad application of the Timber Regulation<sup>162</sup> by not carrying out a significant number of verifications;
- *Denmark*: exceedances of the nitrogen dioxide (NO<sub>2</sub>) limit values set by the Air Quality Directive<sup>163</sup>;
- *Greece*: failure to establish a general system for the protection of wild birds, prohibiting, in particular, their deliberate killing through poison baits;
- *Spain*: trapping of five species of wild finches beyond the strict conditions set by EU rules on the conservation of wild birds<sup>164</sup>;
- *Croatia*: incorrect transposition of the Habitats Directive<sup>165</sup>;
- *Croatia*: incorrect transposition of the Birds Directive<sup>166</sup>;
- *Estonia, Hungary and Spain*: incorrect transposition of the Directive on the protection of animals used for scientific purposes<sup>167</sup>;
- *Austria*: incomplete Natura 2000 network;
- *Poland*: incorrect application of the Habitats Directive by authorising and commencing the construction of a coal mine near Natura 2000 sites<sup>168</sup>;
- *Slovenia*: incorrect transposition of the *Environmental Impact Assessment* (EIA) Directive<sup>169</sup>;
- *Slovakia*: incorrect transposition and implementation of the Nitrates Directive<sup>170</sup>.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

*The Court gave the following rulings:*

- *Ireland* has failed to comply with an earlier Court judgment<sup>171</sup> requiring a remedial environmental impact assessment to be carried out for a large windfarm development in Derrybrien. The Court ordered Ireland to pay a lump sum of €5,000,000 and a periodic penalty payment of €15,000 for every day of delay until compliance is achieved<sup>172</sup>.
- *Ireland* has not complied with the requirements of the Urban Waste Water Treatment Directive in multiple agglomerations as it had failed to put in place compliant waste water collecting systems to tackle excessive spills from storm water overflows and failed to provide adequate treatment of urban waste waters<sup>173</sup>.
- *Spain* has not adopted on time, as required by the Water Framework Directive, the second round of river basin management plans for Lanzarote, Fuerteventura, Gran Canaria, Tenerife, La Gomera, La Palma and El Hierro<sup>174</sup>.

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<sup>162</sup> Regulation (EU) n° [995/2010](#).

<sup>163</sup> Directive [2008/50/EC](#).

<sup>164</sup> Directive [2009/147/EC](#).

<sup>165</sup> Directive [92/43/EEC](#).

<sup>166</sup> Directive [2009/147/EC](#).

<sup>167</sup> Directive [2010/63/EU](#).

<sup>168</sup> Directive [92/43/EEC](#).

<sup>169</sup> Directive [2011/92/EU](#).

<sup>170</sup> Council Directive [91/676/EEC](#).

<sup>171</sup> Commission v Ireland, [C-215/06](#).

<sup>172</sup> Commission v Ireland, [C-261/18](#) and Court press release No 142/2019.

<sup>173</sup> Directive [91/271/EEC](#), Commission v Ireland, [C-427/17](#).

<sup>174</sup> Commission v Spain, [C-556/18](#).



- *France* has systematically and persistently exceeded the limit values for nitrogen dioxide (NO<sub>2</sub>) since 2010 in 12 agglomerations and air quality zones. It has also failed to take the appropriate measures to keep the exceedance period as short as possible<sup>175</sup>.
- *Croatia* has breached the Waste Framework Directive as it did not classify as waste a large amount of stone-like material deposited in Biljane Donje, it did not take the necessary measures to ensure that waste management is carried out without endangering human health and harming the environment, and it did not ensure that the waste is properly treated by the waste holder<sup>176</sup>.
- *Italy* has not fulfilled its obligations under the Landfill Directive as regards 44 landfills, by having failed to adopt all measures necessary to close or to bring those landfill sites into line with the Directive<sup>177</sup>.
- *Portugal* has failed to fulfil its obligations under the Habitats Directive as it had not designated its Sites of Community Interest as Special Areas of Conservation and it had not established the necessary conservation measures for these zones<sup>178</sup>.
- The Court dismissed the Commission's action against *Czechia* concerning its refusal to ensure the take-back of 20,000 tonnes of a mixture called TPS-NOLO (Geobal) shipped from Czechia to Poland. The Court found that the Commission did not provide sufficient evidence that the respective mixture constitutes waste and, thus, that its shipment constitutes a shipment of waste<sup>179</sup>.
- The Court dismissed the Commission's action against *Spain* concerning the adoption and/or revision of waste management plans. The Court found that the Commission had prematurely opened the pre-litigation stage of the infringement procedure and, consequently, dismissed the action as inadmissible<sup>180</sup>.

## 2. Preliminary rulings

*The Court gave the following preliminary rulings:*

- *Belgium*: A decree by which a body of a Member State establishes, at regional level for its Natura 2000 network, conservation objectives which have an indicative value whereas the conservation objectives at site level have a statutory value is not a 'plan or programme', within the meaning of the Strategic Environmental Assessment Directive, for which an assessment under this Directive is mandatory<sup>181</sup>.
- *Belgium*: A decree whereby a Member State designates a Special Area of Conservation and makes provision for conservation objectives and certain preventive measures is not a 'plan or programme', within the meaning of the Strategic Environmental Assessment Directive, for which an assessment under this Directive is required<sup>182</sup>.
- *Belgium*: National courts have jurisdiction to review the choice of location of air quality measuring stations and to take all necessary measures against the national authority concerned. In assessing whether limit values have been complied with, the pollution level at each sampling point must be taken into account individually<sup>183</sup>.
- *Belgium*: The Belgian law extending the operating life of nuclear power stations Doel 1 and Doel 2 was adopted without the required environmental assessments being carried out first. However, it is not excluded that the effects of the law on extension may provisionally

<sup>175</sup> Commission v France, [C-636/18](#) and Court press release [No 132/2019](#).

<sup>176</sup> Directive [2008/98/EC](#), Commission v Croatia, [C-250/18](#).

<sup>177</sup> Directive [1999/31/EC](#), Commission v Italy, [C-498/17](#) and Court press release No 37/2019.

<sup>178</sup> Commission v Portugal, [C-290/18](#).

<sup>179</sup> Commission v Czech Republic, [C-399/17](#) and Court press release No 29/19.

<sup>180</sup> Commission v Spain, [C-642/18](#).

<sup>181</sup> Directive [2001/42/EC](#), Terre wallonne, [C-321/18](#).

<sup>182</sup> Directive [2001/42/EC](#), CFE, [C-43/18](#).

<sup>183</sup> Craeynest and Others, [C-723/17](#) and Court press release No 82/2019.



be maintained where there is a genuine and serious threat of an interruption to electricity supply<sup>184</sup>.

- *Estonia*: In the absence of criteria set at EU level to determine end-of-waste status for a specific type of waste, such end status depends on the existence of criteria laid down in a generally applicable national legal act concerning that type of waste<sup>185</sup>.
- *Germany*: The coercive detention of a person at the head of the Land of Bavaria for the purpose of enjoining them to adopt measures to improve ambient air quality in Munich can be ordered only if a national legal basis, which is sufficiently accessible, precise and foreseeable in its application, exists and if the detention is proportionate<sup>186</sup>.
- *Germany*: Residues in the form of scrap metal and fire-extinguishing water mixed with sludge and cargo residues, attributable to damage occurring on board a ship at sea, must be regarded as waste generated on board ships, within the meaning of the Regulation on shipments of waste. Such waste is, therefore, excluded from the said Regulation's scope until it is offloaded in order to be recovered or disposed of<sup>187</sup>.
- *Greece*: When the public is not put in a position to actually participate in the environmental impact assessment for a project, a time limit cannot be imposed on the public to bring proceedings against the decision granting consent for the project<sup>188</sup>.
- *Italy*: The Waste Framework Directive<sup>189</sup> and the Directive on the promotion of the use of energy from renewable sources<sup>190</sup> do not prevent national legislation which refuses the replacement of methane, as a power source for an electric power plant producing atmospheric emissions, with a substance derived from the chemical treatment of used vegetable oils, on the ground that the respective substance is not included in the list of categories of biomass fuels authorised for that purpose<sup>191</sup>.
- *Italy*: National legislation which classifies waste incineration facilities as 'strategic infrastructure and installations of major national importance' is compatible with the 'waste hierarchy' principle under the Waste Framework Directive<sup>192</sup> as long as that legislation is compatible with the other provisions of that Directive which lay down more specific obligations. National legislation which revises upwards the capacity of existing waste incineration facilities and provides for the construction of new installations of that kind constitutes, within the meaning of the Strategic Environmental Assessment Directive<sup>193</sup>, a 'plan or programme' likely to have significant environmental effects and must, consequently, be subject to a prior environmental assessment<sup>194</sup>.
- *The Netherlands*: The shipment to a third country of a consignment of electrical and electronic appliances, initially intended for retail sale but returned by the consumer or sent back by the retailer to its supplier, constitutes a 'shipment of waste' within the meaning of the Regulation on shipments of waste read in conjunction with the Waste Framework Directive, where that consignment contains appliances whose good working condition has not been previously ascertained or which are not adequately protected from transport damage. Such goods, which have become redundant in the seller's product range and

<sup>184</sup> Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen, [C-411/17](#) and Court press release No 100/2019.

<sup>185</sup> Tallinna Vesi, [C-60/18](#).

<sup>186</sup> Deutsche Umwelthilfe, [C-752/18](#) and Court press release No 164/2019.

<sup>187</sup> Regulation (EC) No [1013/2006](#), Conti 11. Container Schifffahrt, [C-689/17](#).

<sup>188</sup> Flausch and Others, [C-280/18](#) and Court press release No 137/2019.

<sup>189</sup> Directive [2008/98/EC](#).

<sup>190</sup> Directive [2009/28/EC](#).

<sup>191</sup> Prato Nevoso Termo Energy, [C-212/18](#).

<sup>192</sup> Directive [2008/98/EC](#).

<sup>193</sup> Directive [2001/42/EC](#).

<sup>194</sup> Associazione "Verdi Ambiente e Società - Aps Onlus" and Others, [C-305/18](#).

## Environment

which are in their unopened original packaging, must not, unless otherwise indicated, be regarded as waste<sup>195</sup>.

- *Austria*: Natural and legal persons directly concerned by the pollution of groundwaters can rely, before national courts, on certain provisions of the Nitrates Directive<sup>196</sup>.
- *Finland*: Wolf hunting for population management purposes, the objective of which is to combat poaching, is not compliant with the Habitats Directive where the strict conditions for derogations from the protection system are not fulfilled. There are very strict limitations to the use of derogations for the hunting of wolves and other large carnivores, and the possibility to use hunting as a management tool for wolf conservation is very limited<sup>197</sup>.

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<sup>195</sup> Regulation (EC) No [1013/2006](#) and Directive 2008/98/EC, Tronex, [C-624/17](#).

<sup>196</sup> Directive [91/676/EEC](#), Wasserleitungsverband Nördliches Burgenland and Others, [C-197/18](#).

<sup>197</sup> Directive [92/43/EEC](#), Luonnonsuojeluyhdistys Tapiola, [C-674/17](#).

## VIII. OUTLOOK

Important implementation work in 2020 includes:

- continuing enforcement action to ensure full compliance with the Air Quality Directive<sup>198</sup> as regards PM<sub>10</sub> and nitrogen dioxide (NO<sub>2</sub>) limit values, addressing non-compliance in relation to other pollutants, especially fine particulate matter (PM<sub>2.5</sub>) and benzo(a)pyrene, and continuing to address shortcomings in monitoring and reporting under the Ambient Air Quality Directives<sup>199</sup>.
- enhancing enforcement action addressing non-conformity with and bad application of the National Emission Ceilings Directive<sup>200</sup>;
- giving follow up to the assessment of the second river basin management plans under the Water Framework Directive to ensure good status for all water bodies by 2027 at the latest<sup>201</sup>;
- action to ensure finalisation of the Natura 2000 network, by designating new protected areas and adopting the necessary conservation objectives and measures;
- legal action to ensure that strategic noise maps and action plans pursuant to the Noise Directive cover all agglomerations, major roads, major railways and major airports<sup>202</sup>;
- continuing action to ensure correct transposition of the revised Environmental Impact Assessment<sup>203</sup>;
- pursuing cases concerning illegal landfills of waste;
- legal action to address incorrect transposition of the SEVESO III Directive<sup>204</sup> and the Industrial Emissions Directive<sup>205</sup>.

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<sup>198</sup> Directive [2008/50/EC](#).

<sup>199</sup> Directives [2008/50/EC](#) and [2004/107/EC](#).

<sup>200</sup> Directive (EU) [2016/2284](#).

<sup>201</sup> Directive [2000/60/EC](#).

<sup>202</sup> Directive [2002/49/EC](#).

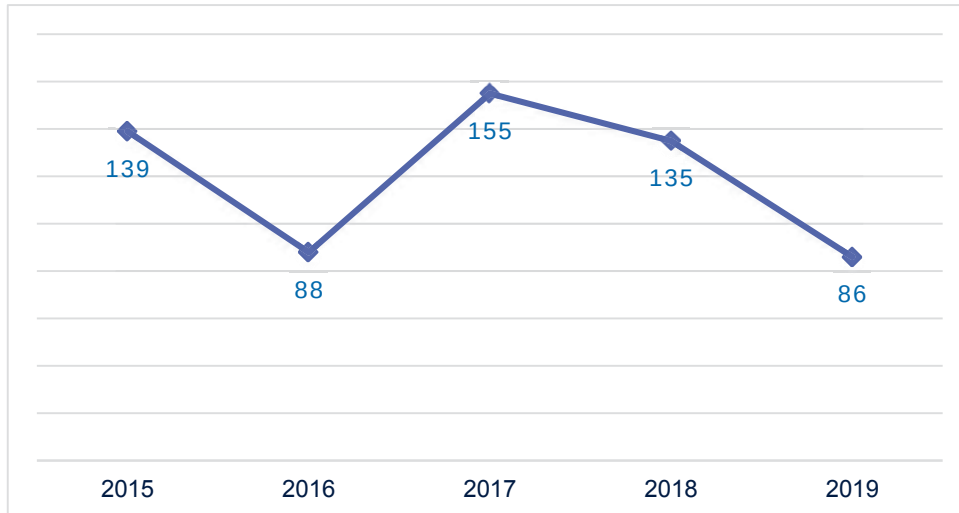
<sup>203</sup> Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#).

<sup>204</sup> Directive [2012/18/EU](#).

<sup>205</sup> Directive [2010/75/EU](#).

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

110 ► Complaints open at end-2018

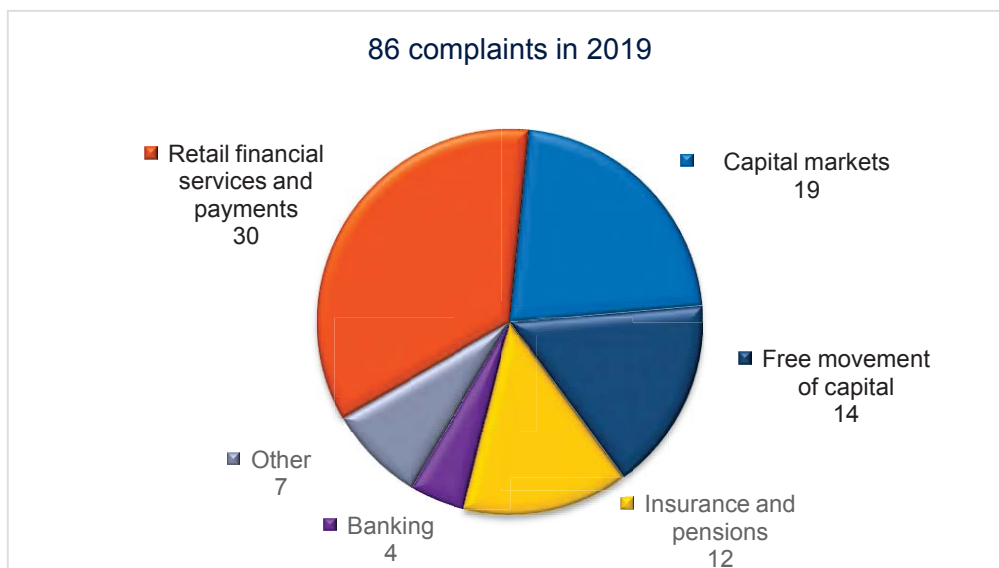
86 ► New complaints registered in 2019

86 ► Complaints handled in 2019

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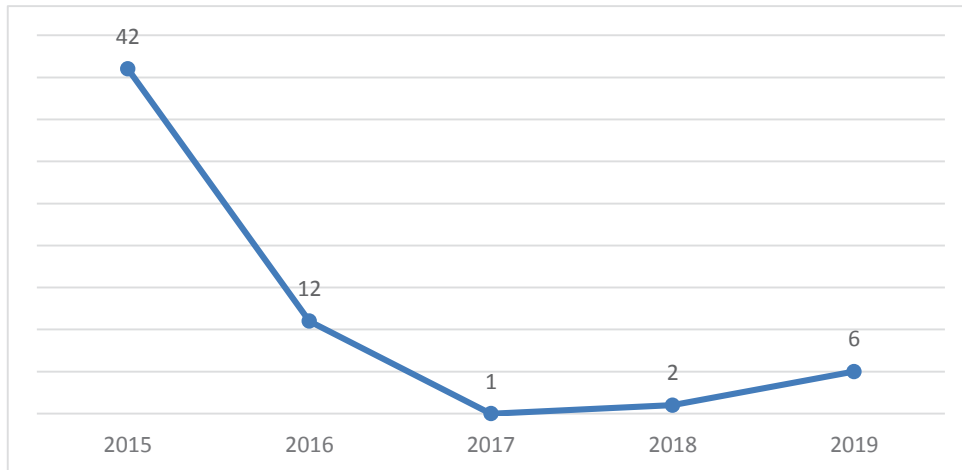
= 110 ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors

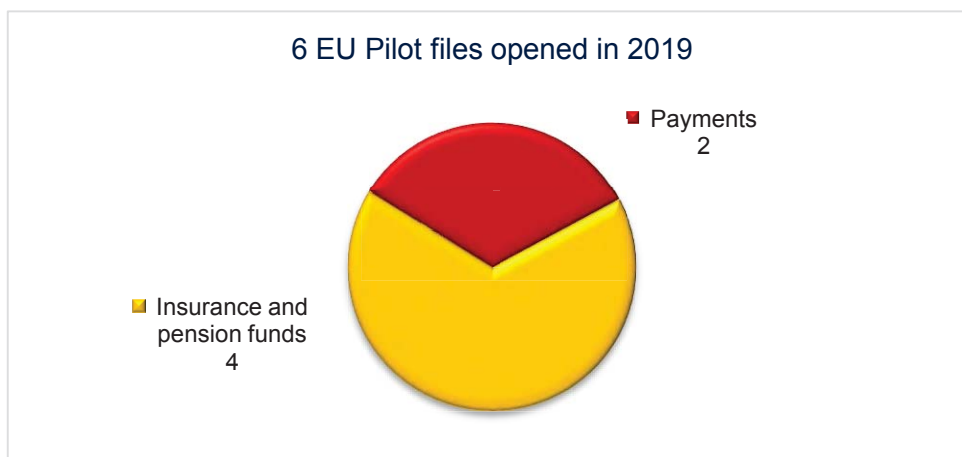


## II. EU PILOT

### 1. New EU Pilot files (2015-2019)



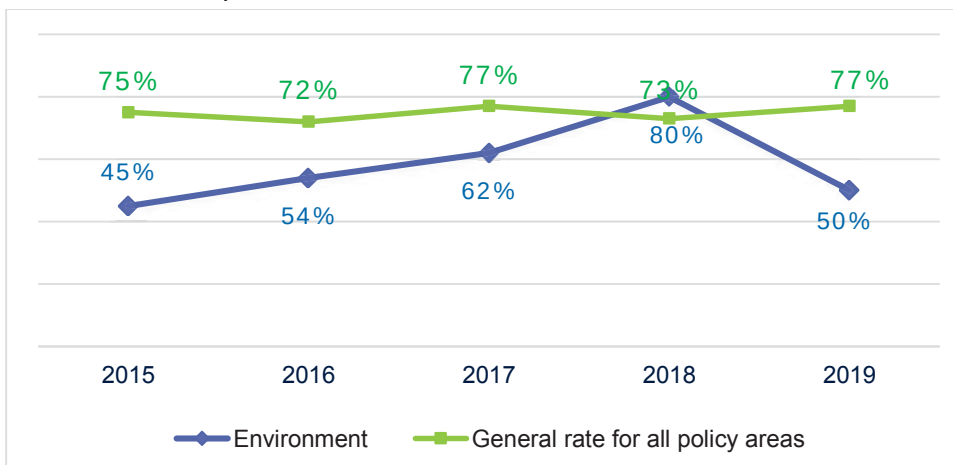
### 2. New EU Pilot files opened in 2019: main policy sectors



### 3. EU Pilot files open at year-end

There were 10 EU Pilot files open at end-2019.

### 4. EU Pilot files: policies' combined resolution rate in 2015-2019



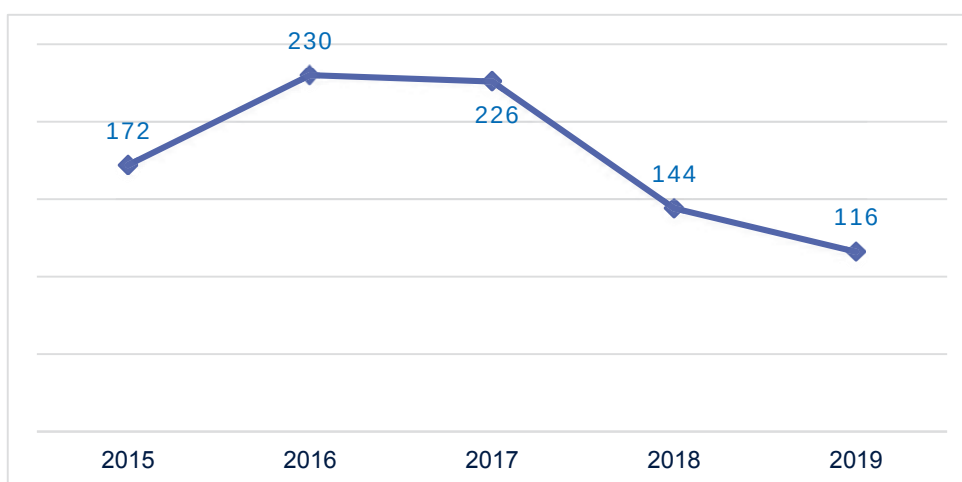
### III. OWN-INITIATIVE CASES

#### New own-initiative infringement cases

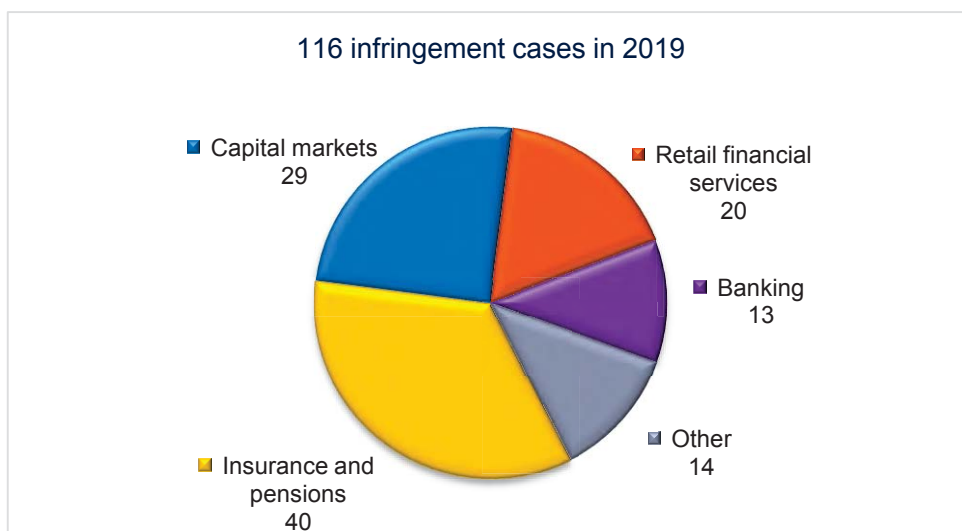
In 2019, the Commission opened own-initiative infringement cases over the incorrect transposition of the Solvency II Directive<sup>206</sup>.

### IV. INFRINGEMENT CASES

#### 1. Infringement cases open on 31 December (2015-2019)

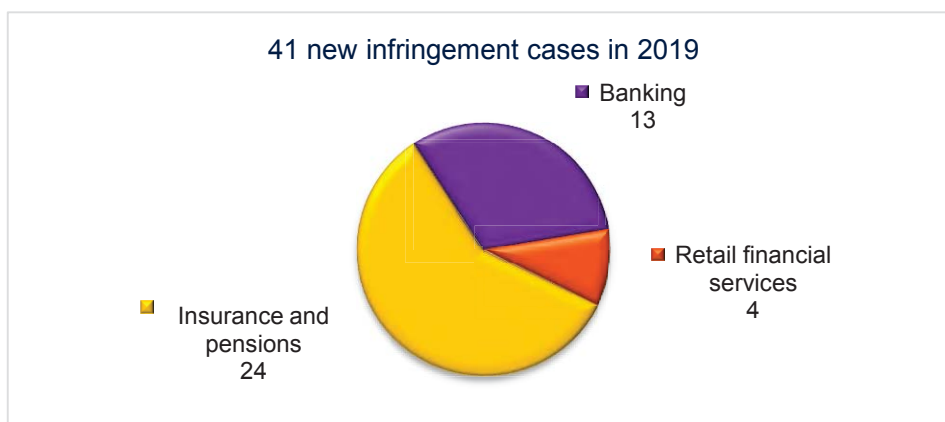


#### 2. Infringement cases open on 31 December 2019: main policy sectors



<sup>206</sup> Directive [2009/138/EC](#), [INF/19/4251](#).

### 3. New infringement cases opened in 2019: main policy sectors



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

- a) The Commission opened 41 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:
- *Bulgaria, Czechia, Germany, Ireland, Greece, Spain, France, Cyprus, Latvia, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Sweden and Slovenia: non-communication of national measures transposing the Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)*<sup>207</sup>;
  - *Bulgaria, Ireland, Spain, France, Croatia, Cyprus, Latvia, Lithuania, Poland, Portugal, Romania and Slovenia: non-communication of national measures transposing the Bank Creditors Hierarchy Directive*<sup>208</sup>;
  - *Belgium, Croatia, Poland, Estonia and Sweden: the incorrect transposition of the Solvency II Directive*<sup>209</sup>;
  - *Poland, Greece and Latvia: incorrect implementation of the SEPA Regulation*<sup>210</sup>;
  - *Cyprus: incorrect application of the Investor Compensation Scheme Directive*<sup>211</sup>;
  - *Romania: A national law sets limitations for the distribution of insurance products in Romania by insurance distributors from other Member States, which is contrary to the freedom to provide services*<sup>212</sup>.
  - *Hungary: non-communication of transposition measures for the Mortgage Credit Directive*<sup>213</sup>;
  - *Greece: non-conformity of certain provisions with the third Motor Insurance Directive*<sup>214</sup>.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>207</sup> Directive [2016/2341/EU](#).

<sup>208</sup> Directive [2017/2399/EU](#).

<sup>209</sup> Directive [2009/138/EC](#), [INF/19/4251](#).

<sup>210</sup> Regulation (EU) [260/2012](#), [MEMO/19/1472](#).

<sup>211</sup> Directive [97/9/EC](#), [MEMO/19/1472](#).

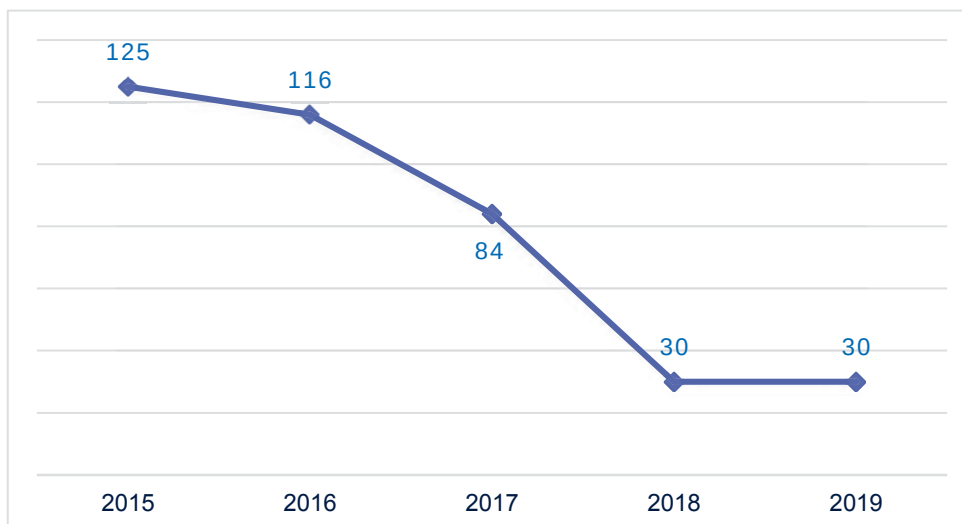
<sup>212</sup> [INF/19/5950](#).

<sup>213</sup> Directive [2014/17/EU](#), [INF/19/4251](#).

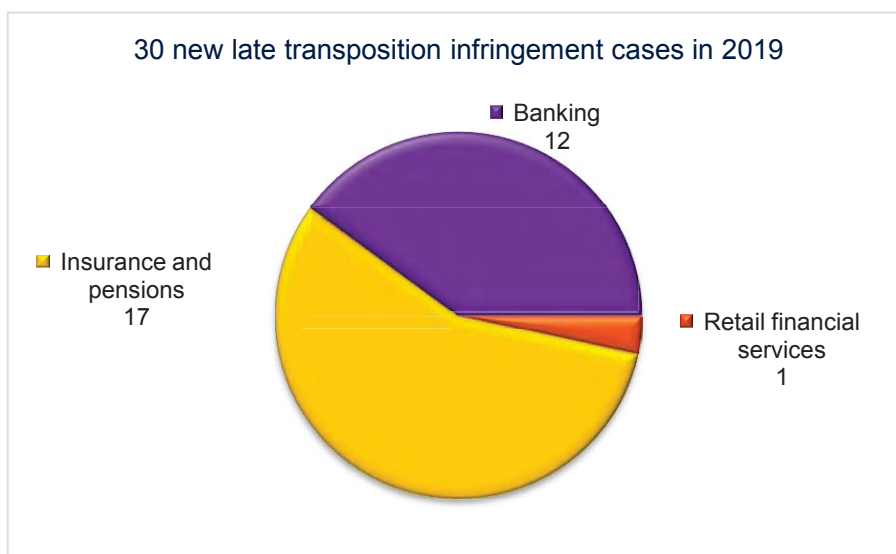
<sup>214</sup> Directive [2009/103/EC](#).

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: main policy sectors



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

- a) The Commission opened 30 cases for late transposition in 2019. Most of these concern the:
  - *Bank Creditors Hierarchy Directive*<sup>215</sup>
  - *IORPs II Directive*<sup>216</sup>.
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

<sup>215</sup> Directive [2017/2399/EU](#).

<sup>216</sup> Directive [2016/2341/EU](#).



## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019<sup>217</sup>

*Some of the most important cases concerned:*

- Bulgaria, Estonia, Greece, Spain, France, Croatia, Lithuania, Luxembourg, Romania, Sweden and Slovakia: failure to communicate national measures transposing the Markets in Financial Instruments Directive (MiFID II)<sup>218</sup> ;
- Croatia: national law on the privatisation of Industrija Nafta d.d. (INA): A law granting special powers to the Croatian State in INA<sup>219</sup>.
- Slovakia and Lithuania: national legislation on the acquisition of agricultural land that violated the free movement of capital and freedom of establishment<sup>220</sup>.
- Belgium, Spain, Cyprus, Malta, the Netherlands, Portugal and Slovenia: failure to communicate national measures transposing the Mortgage Credit Directive<sup>221</sup>;
- Austria, Belgium, Czechia and Croatia: incorrect transposition of the Solvency II Directive<sup>222</sup>.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

*The Court gave the following ruling:*

*Hungary:* The Court ruled that by cancelling the rights of usufruct over agricultural land in its territory that are held, directly or indirectly, by nationals of other Member States, Hungary has failed to fulfil its obligations arising from the principle of the free movement of capital and the right to property guaranteed by the Charter of Fundamental Rights. A Member State seeking to justify a restriction of a fundamental freedom under the TFEU must also ensure compliance with the fundamental rights guaranteed by the Charter of Fundamental Rights<sup>223</sup>.

### 2. Preliminary rulings

There were no major preliminary rulings in 2019 in this area.

## VIII. OUTLOOK

Important implementation work in 2020 includes:

- Monitoring the timely implementation of the fifth Anti-Money Laundering Directive<sup>224</sup>.
- Assessing the conformity of national transposition measures (or implementing measures in case of Regulations) with a number of financial services directives and regulations. These include the IORPs 2 Directive<sup>225</sup>, the Bank Creditors Hierarchy Directive<sup>226</sup>; the Payment Services Directive<sup>227</sup>, the Insurance Distribution Directive<sup>228</sup>, the 4th Anti-Money Laundering Directive<sup>229</sup>, the Prospectus Regulation<sup>230</sup> and the Securitisation Regulation<sup>231</sup>.

<sup>217</sup> Infringement cases related to the non-communication of the national measures of transposition of the 4th Anti-Money Laundering Directive fell under the Directorate-General for Justice and Consumers until the end of 2019 and can be found under its chapter. As of 2020, they have moved to the Directorate-General for Financial Stability, Financial Services and Capital Markets Union.

<sup>218</sup> Directive [2014/65/EU](#).

<sup>219</sup> [IP/17/1949](#).

<sup>220</sup> [MEMO/16/1823](#).

<sup>221</sup> Directive [2014/17/EU](#).

<sup>222</sup> [Directive 2009/138/EC](#).

<sup>223</sup> Case *Commission v Hungary*, [C-235/17](#), EU:C:2019:432.

<sup>224</sup> Directive [2018/843/EU](#).

<sup>225</sup> Directive [2016/2341/EU](#).

<sup>226</sup> Directive [2017/2399/EU](#).

<sup>227</sup> Directive [2015/2366/EU](#).

Financial stability, financial services and Capital Markets Union

- Ensuring that Member States take appropriate measures to implement the Achmea ruling<sup>232</sup>. In 2020, the Member States are expected to terminate all their intra-EU bilateral investment treaties, either by signing the plurilateral treaty for the termination of intra-EU bilateral investment treaties or by terminating those treaties bilaterally.

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<sup>228</sup> Directive [2016/97/EU](#).

<sup>229</sup> Directive [2015/849/EU](#).

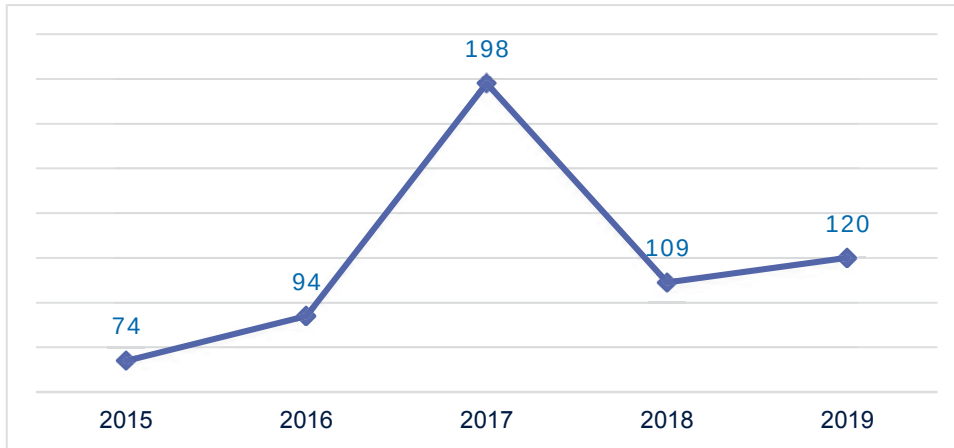
<sup>230</sup> Regulation (EU) [2017/1129](#).

<sup>231</sup> Regulation (EU) [2017/2402](#).

<sup>232</sup> Case Achmea, [C-284/16](#).

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

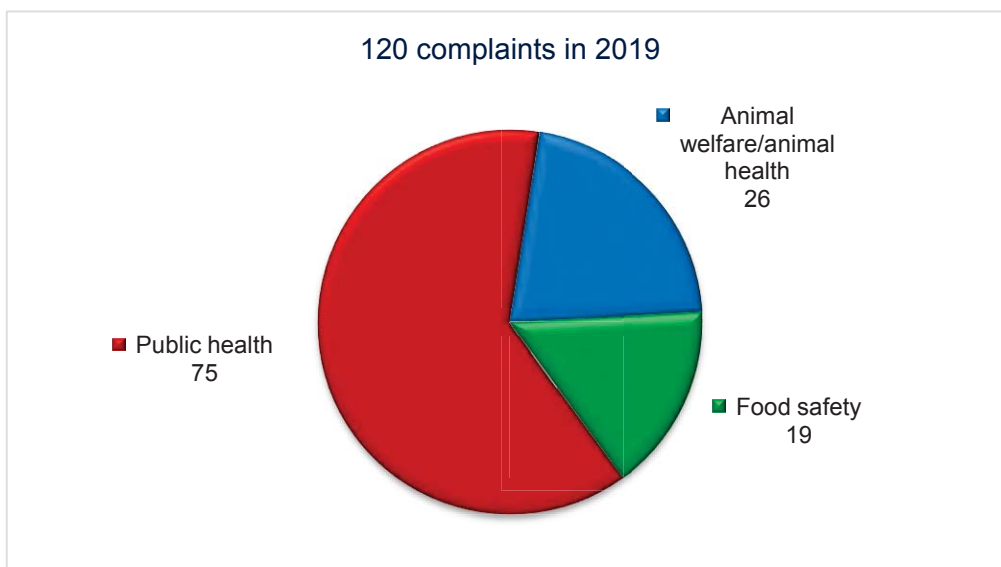
73 ► Complaints open at end-2018

120 ► New complaints registered in 2019

107 ► Complaints handled in 2019

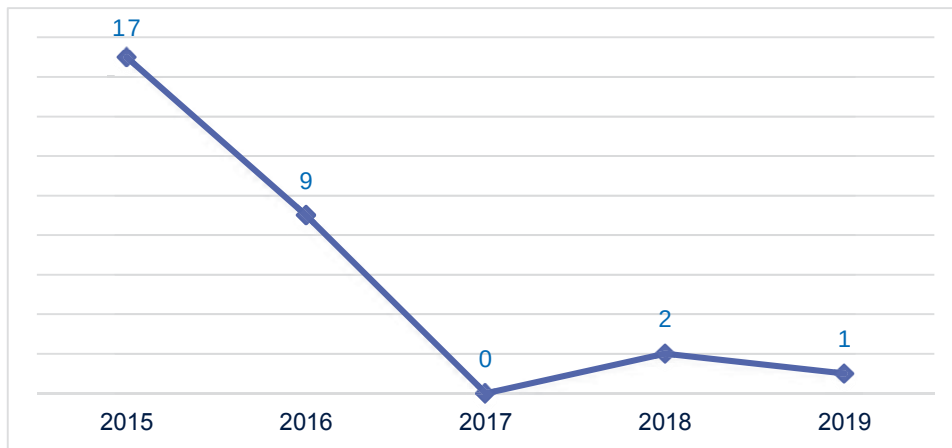
86 ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors



## II. EU PILOT

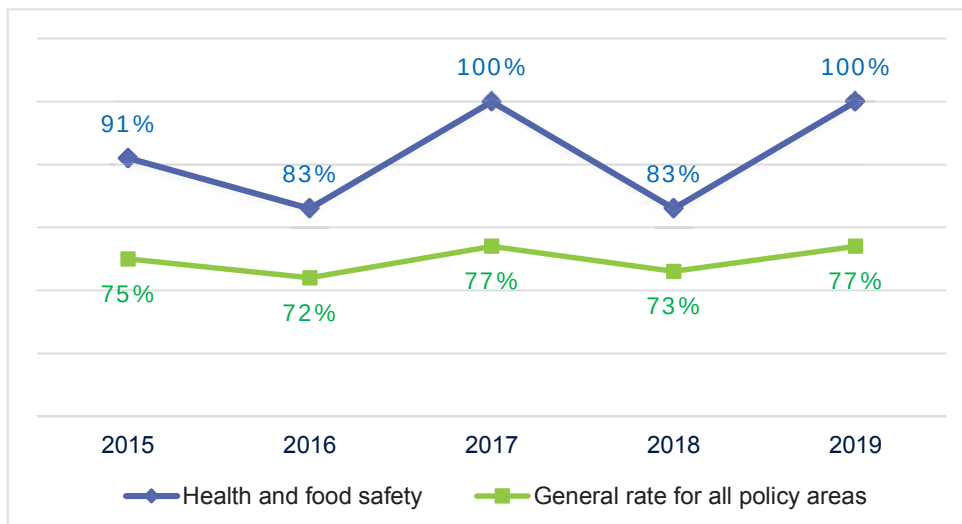
### 1. New EU Pilot files (2015-2019)



### 2. EU Pilot open at year-end

At the end of 2019, 10 EU Pilot files remained open.

### 3. EU Pilot files: resolution rate for policies (2015-2019)



## III. OWN-INITIATIVE CASES

### New own-initiative infringement cases

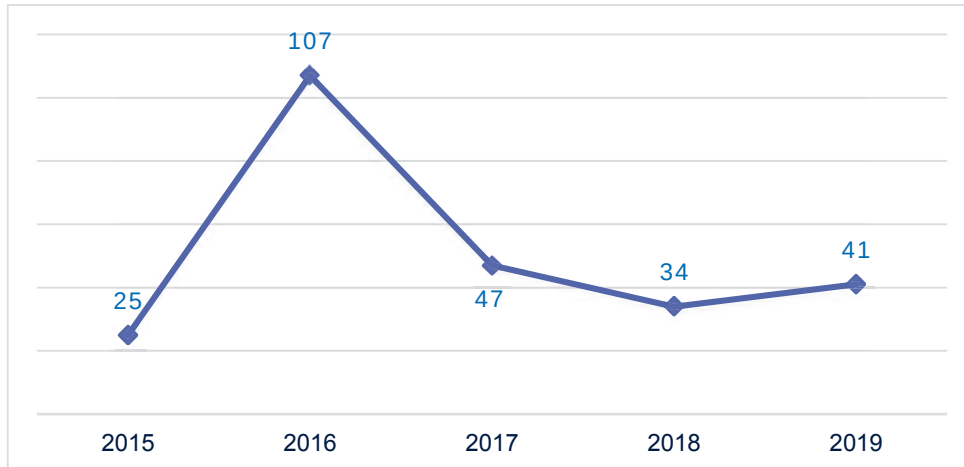
In 2019 the Commission opened own-initiative infringement cases over:

- patient rights under the Cross-border Health Directive<sup>233</sup>.

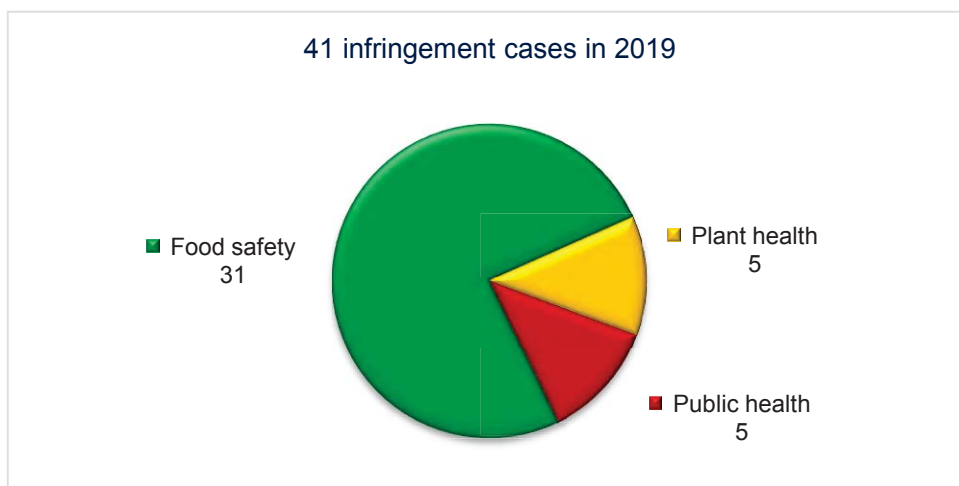
<sup>233</sup> Directive [2011/24/EU](#).

#### IV. INFRINGEMENT CASES

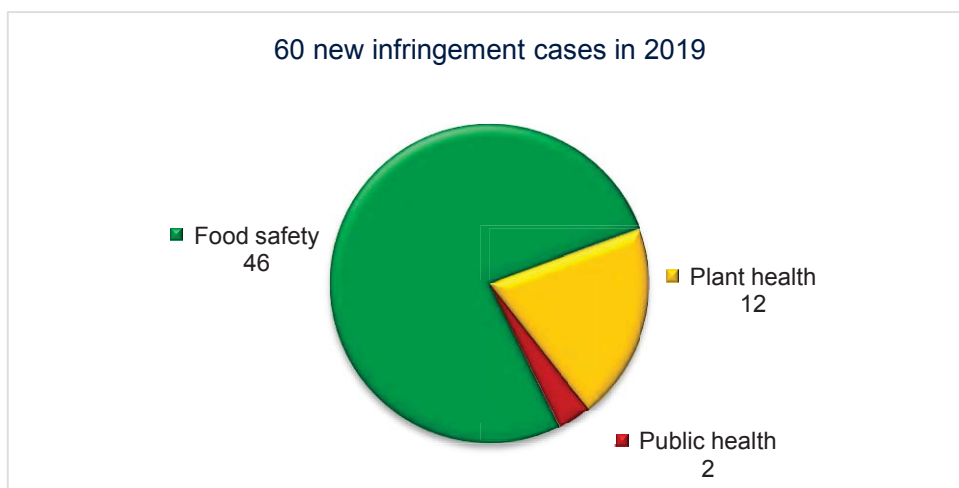
##### 1. Infringement cases open on 31 December (2015-2019)



##### 2. Infringement cases open on 31 December 2019: main policy sectors



##### 3. New infringement cases opened in 2019: main policy sectors

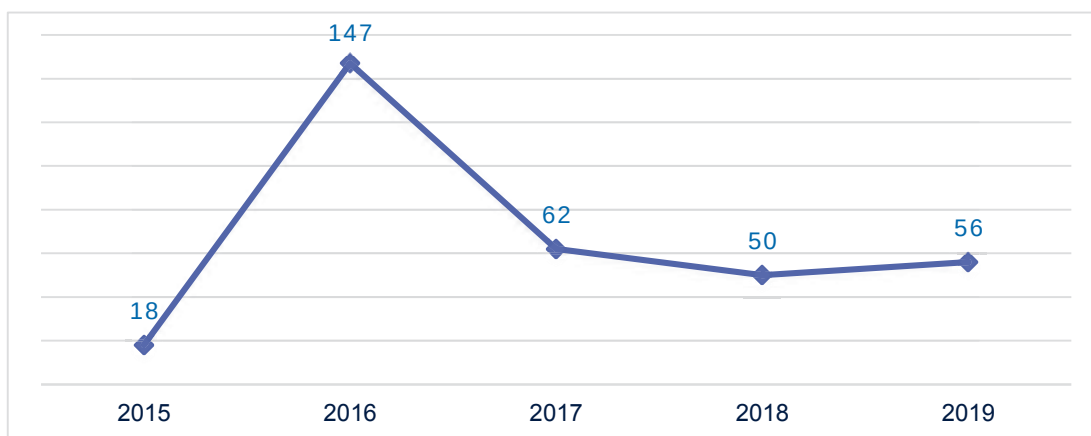


#### 4. Key infringement cases and referrals to the Court

- a) The Commission opened 60 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:
- *The Netherlands and Austria: incorrect transposition of the Cross-border Health Directive<sup>234</sup>; as these countries do not appear to reimburse patients who seek healthcare in another Member State to the same level of the costs, if the healthcare had been provided in these countries<sup>235</sup>;*
  - *Czechia: systematic official controls targeting certain foodstuffs coming from another Member State each time such foodstuffs enter Czechia, in breach of EU rules on ensuring compliance with feed and food law, animal health and animal welfare rules<sup>236</sup>;*
  - *Ireland: non-communication of national measures transposing the Directives on human tissues and cells<sup>237</sup>;*
  - *Romania: failure to adopt fees for the processing of applications on biocidal products, as required by EU rules. As a result, applications for the national authorisation of biocidal products could not be processed<sup>238</sup>. [*
- b) The Commission did not refer any cases to the Court under Article 258 TFEU and under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: main policy sectors

There are 56 new late transposition cases, all concerning directives on food safety.

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

The Commission opened 56 cases for late transposition in 2019. Most concern the:

- Directive on the environmental risk assessment of genetically modified organisms<sup>239</sup>

<sup>234</sup> Directive [2011/24/EU](#).

<sup>235</sup> Directive [2011/24/EU](#), [MEMO-19-462](#).

<sup>236</sup> Regulation (EC) No [882/2004](#), [MEMO-19-462](#), [INF-19-4251](#).

<sup>237</sup> Directive (EU) [2015/565](#) and Commission Directive (EU) [2015/566](#), [MEMO-19-462](#).

<sup>238</sup> Regulation (EU) No [528/2012](#), [MEMO-19-462](#).

- Directive on the establishment of harmonised risk indicators on sustainable use of pesticides<sup>240</sup>
- Directive on protective measures against the introduction into the Community of organisms harmful to plants<sup>241</sup>
- Directive setting out implementing measures 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<sup>242</sup>.

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

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

*These concerned:*

- Belgium and the United Kingdom: non-communication of national measures transposing the Directive on extraction solvents used in the production of foodstuffs<sup>243</sup>;
- Belgium, Cyprus, Latvia, Luxembourg, Portugal, Slovakia and the United Kingdom: non-communication of national measures transposing the Commission Implementing Directive as regards isolation distances for Sorghum spp.<sup>244</sup> ;
- Bulgaria, Ireland, Cyprus, Luxembourg, Malta, the Netherlands, Romania; Slovakia and the United Kingdom: non-communication of national measures transposing the Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species<sup>245</sup>;
- Czechia, Croatia, Spain and Sweden: non-communication of national measures transposing the Directive on tobacco products<sup>246</sup>;
- Czechia, Denmark, Ireland, Hungary, Malta and Portugal: non-communication of national measures transposing the Commission Implementing Directive on characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species<sup>247</sup>;
- Czechia, Denmark, Ireland, Italy, Luxembourg, Hungary, Malta and Portugal: non-communication of national measures transposing the Commission Implementing Directive on protective measures against the introduction into the Community of organisms harmful to plants<sup>248</sup>;
- Ireland: non-communication of national measures transposing the Directives on human tissues and cells<sup>249</sup>;
- Greece: shortage of staff assigned to the services responsible for veterinary controls;
- Portugal: measures to prevent the spread within the Union of the pine wood nematode.

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<sup>239</sup> Directive (EU) [2018/350](#).

<sup>240</sup> Directive (EU) [2019/782](#).

<sup>241</sup> Directive (EU) [2019/523](#).

<sup>242</sup> Directive (EU) [2019/114](#).

<sup>243</sup> Directive (EU) [2016/1855](#).

<sup>244</sup> Directive (EU) [2018/1027](#).

<sup>245</sup> Directive (EU) [2018/100](#).

<sup>246</sup> Directive [2014/40/EU](#).

<sup>247</sup> Directive (EU) [2019/114](#).

<sup>248</sup> Directive (EU) [2019/523](#).

<sup>249</sup> Directive (EU) [2015/565](#) and Directive (EU) [2015/566](#).

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

*The Court gave the following rulings:*

- Italy failed to fulfil its obligations under the EU Directive on testing of human tissues and cells by failing to adopt the required national transposition measures<sup>250</sup>;
- Italy failed to adequately prevent further spread of the quarantined harmful organism *Xylella fastidiosa* in Apulia<sup>251</sup>;

### 2. Preliminary rulings

*The Court gave the following preliminary rulings:*

- *France*: the Court held that the procedural rules applicable to the authorisation of plant protection products, in particular products containing glyphosate, are valid; therefore, there are no grounds to question the validity of the regulation on the placing of plant protection products on the market<sup>252</sup>;
- *France*: The organic production logo of the EU cannot be placed on products derived from animals that have been slaughtered in accordance with religious rites without first being stunned. The organic logo of the EU aims to reassure consumers that products bearing it have been obtained in observance of the highest standards, in particular in the area of animal welfare<sup>253</sup>.
- *Germany*: the EU Regulation on shipments of waste<sup>254</sup> does not apply to shipment mixtures of animal by-products and other substances transported between Member States<sup>255</sup>;
- *The Netherlands*: the meat after slaughter must be chilled in the slaughterhouse until it has reached a temperature throughout of 7 °C before being loaded into a refrigerated truck<sup>256</sup>;
- *United Kingdom*: the marketing authorisation relied on in support of an application for a supplementary protection certificate concerning a new formulation of an old active ingredient, cannot be regarded as being the first marketing authorisation for the product concerned as a medicinal product. This is the case where that active ingredient has already been the subject of a marketing authorisation as an active ingredient.<sup>257</sup>

## VIII. OUTLOOK

Important implementation work in 2020 includes:

#### a) Monitoring the timely and correct implementation of Directives on:

- the manufacture, presentation and sale of tobacco and related products<sup>258</sup>;
- the application of patients' rights in cross-border healthcare<sup>259</sup>;

#### b) Following up on enforcement by national authorities of EU rules in the plant health sector, in particular the monitoring of cases of *Xylella fastidiosa*;

<sup>250</sup> Commission v Italy, [C-481/18](#).

<sup>251</sup> Commission v Italy, [C-443/18](#).

<sup>252</sup> Procureur de la République v Blaise and Others, [C-616/17](#).

<sup>253</sup> Oeuvre d'assistance aux bêtes d'abattoirs, [C-497/17](#) and Court press release [15/19](#).

<sup>254</sup> Regulation (EC) No [1013/2006](#).

<sup>255</sup> ReFood GmbH & Co. KG v Landwirtschaftskammer Niedersachsen, [C-634/17](#).

<sup>256</sup> T. Boer & Zonen BV v Staatssecretaris van Economische Zaken, [C-98/18](#).

<sup>257</sup> Abraxis Bioscience, [C-443/17](#).

<sup>258</sup> Directive [2014/40/EU](#).

<sup>259</sup> Directive [2011/24/EU](#).



- c) Following up on enforcement by national authorities of EU rules on pesticides and their sustainable use<sup>260</sup> and on animal welfare issues.

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)

The Commission received 382 complaints from members of the public concerning the internal market, industry, entrepreneurship and SMEs in 2019, compared with 627 in 2018 and 476 in 2017.

### 2. Public complaints open at year-end

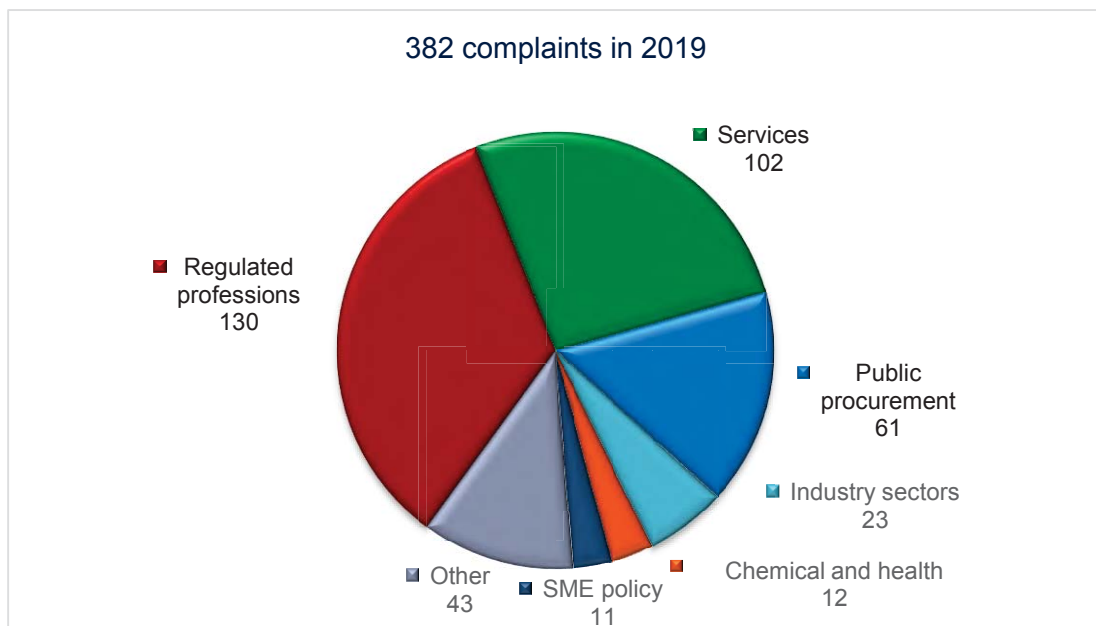
733 ► Complaints open at end-2018

382 ► New complaints registered in 2019

682 ► Complaints handled in 2019

            
= 433 ► Complaints open at end-2019

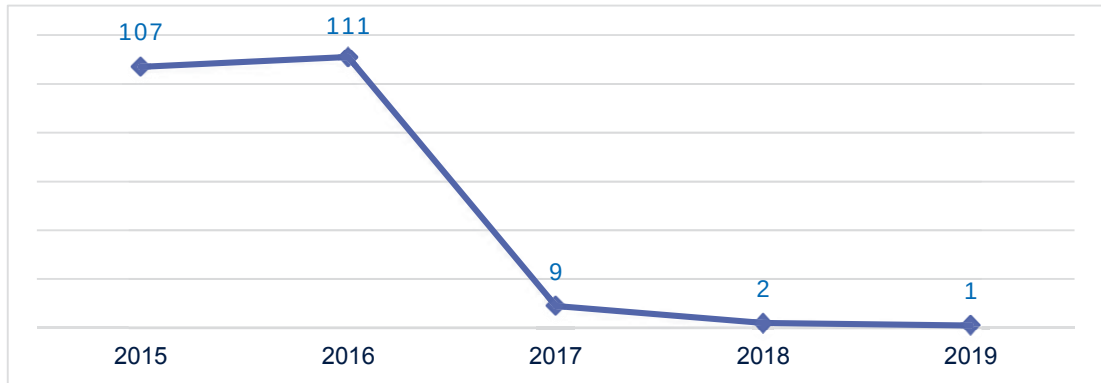
### 3. New complaints register in 2019: main policy sectors



<sup>260</sup> Directive [2009/128/EC](#).

## II. EU PILOT

### 1. New EU Pilot files (2015-2019)



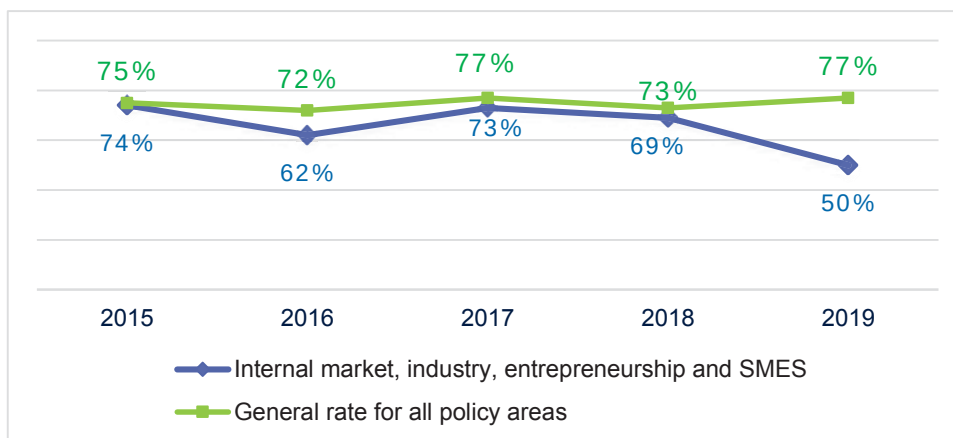
### 2. EU Pilot files open at year-end

At the end of 2019, 34 EU Pilot files remained open.

### 3. New EU Pilot files opened in 2019: main policy sectors

In 2019, the Commission opened one EU Pilot file in the area of services.

### 4. EU Pilot files: resolution rate for policies (2015-2019)



## III. OWN-INITIATIVE CASES

### New own-initiative infringement cases

In 2019 the Commission opened own-initiative infringement cases over:

- points of single contact in services<sup>261</sup>.
- recognition of professional qualifications<sup>262</sup>.
- public procurement and concessions<sup>263</sup>.

<sup>261</sup> Directive [2006/123/EC](#) and Directive [2005/36/EC](#), as amended by Directive [2013/55/EU](#).

<sup>262</sup> Directive [2005/36/EC](#), as amended by Directive [2013/55/EU](#).

<sup>263</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#).

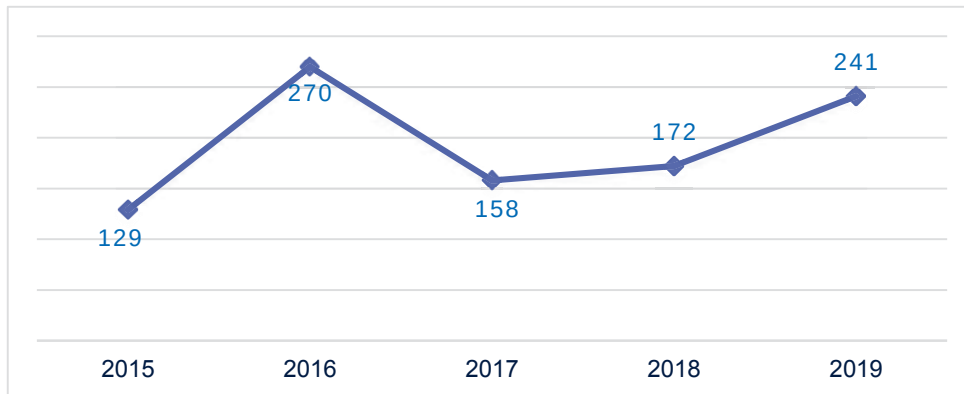
- Penalty systems for industry sectors<sup>264</sup>.

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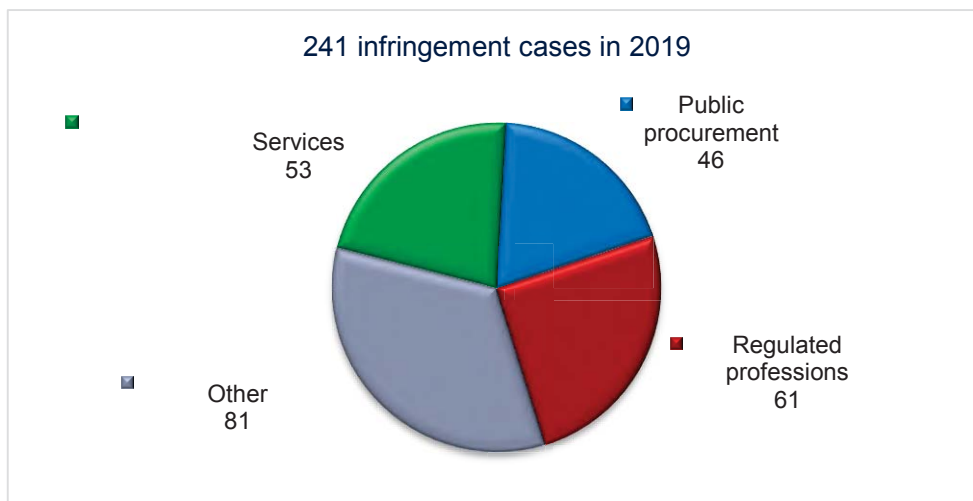
<sup>264</sup> Regulations [2016/424](#), [2016/425](#) and [2016/426](#).

#### IV. INFRINGEMENT CASES

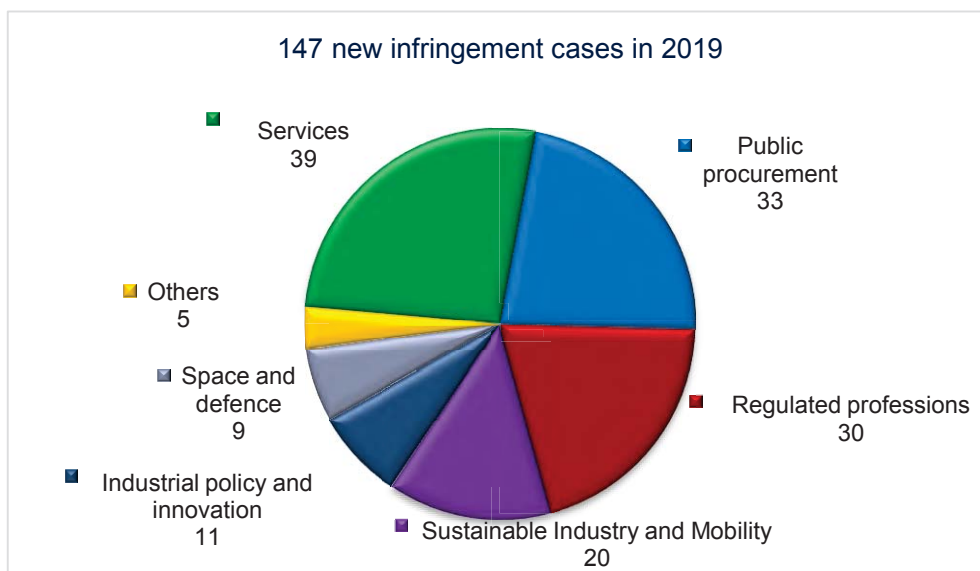
##### 1. Infringement cases open on 31 December 2019



##### 2. Infringement cases open on 31 December 2019: main policy sectors



##### 3. New infringement cases opened in 2019: main policy sectors



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

a) The Commission opened 147 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:

- *Bulgaria, Czechia, Denmark, Finland, Germany, Croatia, Italy, Cyprus, Hungary, Poland, Romania, and Sweden: non-conformity of national legislation with EU rules on public procurement and concessions*<sup>265</sup>;
- *Estonia, Latvia, Lithuania, and Portugal: non-conformity of national legislation with EU rules on public procurement and concessions*<sup>266</sup>;
- *Germany, France, Italy, Poland, Portugal, Austria, Sweden and the United Kingdom: failure to award authorisations and concessions in the hydroelectric power sector in line with the Services Directive and public procurement rules*<sup>267</sup>;
- *Bulgaria: a national law provision that defines the duration for the temporary cross-border provision of services*<sup>268</sup>;
- *Bulgaria: restrictions on the temporary cross-border provision of private security services*<sup>269</sup>;
- *Germany: rules on fixed prices for prescription medicines negatively affect the sale of products by pharmacies established in other EU Member States in violation of Articles 34 and 36 TFEU* <sup>270</sup>;
- *Germany: restrictions on the import of coffee in violation of the principle of the free movement of goods*<sup>271</sup>;
- *Germany: non-conformity of national law with EU public procurement rules, forbidding health insurance funds to use procurement procedures to obtain assistive medical devices*<sup>272</sup>;
- *Germany: Application of the Directive on Mobile Air-Conditioning*;<sup>273</sup>
- *Greece: national legislation and administrative practice not complying with EU rules on recognition of professional qualifications* <sup>274</sup>.
- *Greece: the duration of the process for recognition of qualifications from other Member States*<sup>275</sup>.
- *Croatia: restrictions for lawyers to provide multidisciplinary services, advertising restrictions and limitations on the right to practice*<sup>276</sup>;
- *France: unjustified restrictions on providers of services related to energy efficiency, in breach of the Services Directive*<sup>277</sup>;
- *Cyprus: specific rules concerning the access to activities of engineers and architects*<sup>278</sup>;
- *The Netherlands: Dutch housing authorities are in breach of EU public procurement rules, as they are not considered as contracting authorities*<sup>279</sup>;

<sup>265</sup> [INF/19/6304](#), [MEMO/19/462](#); Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#).

<sup>266</sup> [INF/19/5950](#); Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#).

<sup>267</sup> [IP/19/1477](#); Directives [2006/123/EC](#) and [2014/23/EU](#).

<sup>268</sup> [INF 19/4251](#), Directive [2006/123/EC](#) and Article [56](#) TFEU.

<sup>269</sup> [INF 19/4251](#), Article [56](#) TFEU.

<sup>270</sup> [MEMO/19/1472](#); Articles 34-36 [TFEU](#) and [C-148/15](#).

<sup>271</sup> [MEMO/19/462](#).

<sup>272</sup> [INF/19/4251](#); Directive [2014/24/EU](#).

<sup>273</sup> [INF 19/4251](#), Directive [2006/40/EC](#).

<sup>274</sup> [INF 19/4251](#); Directive [2005/36/EC](#), as amended by Directive [2013/55/EU](#).

<sup>275</sup> [INF 19/4251](#); Directive [2005/36/EC](#), as amended by Directive [2013/55/EU](#).

<sup>276</sup> [IP 19/467](#), Directive [98/5/EC](#).

<sup>277</sup> Directives [2006/123/EC](#), [2009/28/EC](#) and [2012/27/EU](#).

<sup>278</sup> [IP 19/467](#), Directive [2013/55/EU](#).

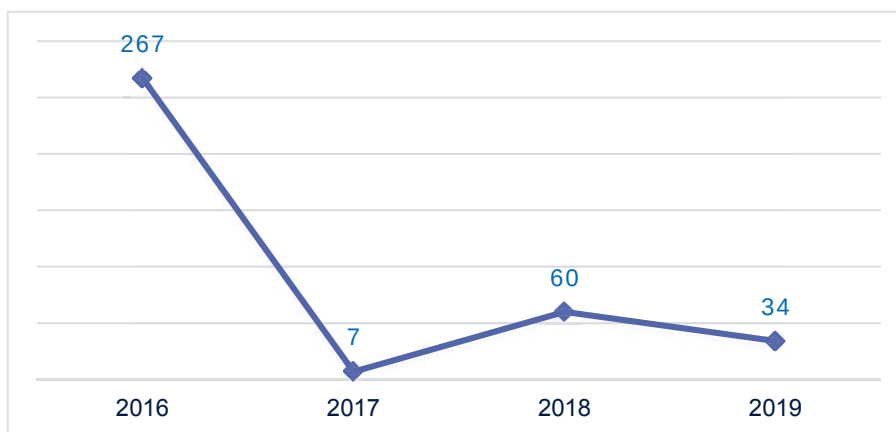
<sup>279</sup> [MEMO/19/462](#); Directives [2014/23/EU](#) and [2014/24/EU](#).

Internal market, industry, entrepreneurship and SMEs

- *Hungary: failure to comply with a judgment of the Court of Justice, in which the Court ruled that Hungarian legislation on the provision of mobile payment services did not comply with the principles of the freedom of establishment and the freedom to provide services*<sup>280</sup>;
- b) Portugal: non-conformity of rules concerning the acquired rights of engineers<sup>281</sup>; The Commission referred 2 cases to the Court under Article 258 TFEU. They concern:
  - *Hungary: obstacles to retailers of imported agricultural and food products in breach of EU law on the free movement of goods*<sup>282</sup>;
  - *Austria: breach of EU public procurement rules due to construction without prior competition*<sup>283</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2016-2019)



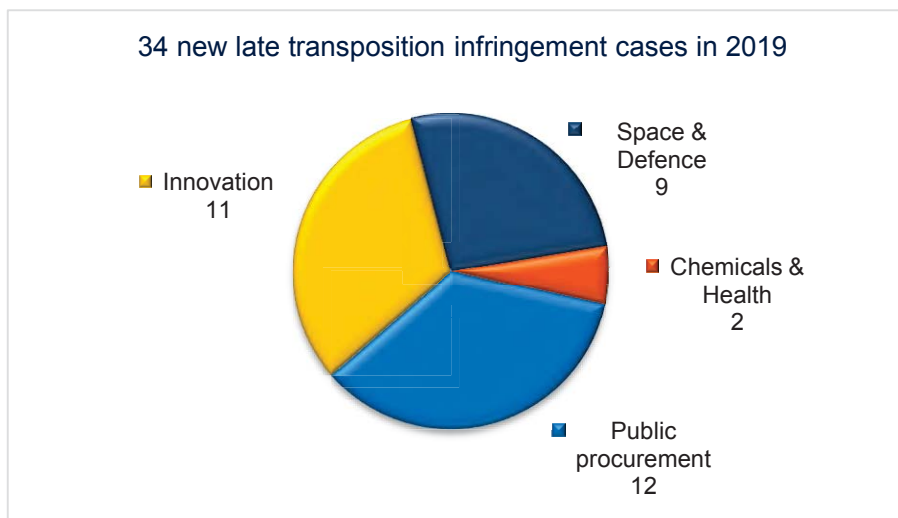
<sup>280</sup> [INF 19/4251](#), Directive [2006/123/EC](#).

<sup>281</sup> [IP 19/467](#), Directive [2005/36/EC](#).

<sup>282</sup> Case *Commission v Hungary*, [C-400/19](#).

<sup>283</sup> Case *Commission v Austria*, [C-537/19](#).

## 2. New late transposition infringement cases opened in 2019: main policy sectors



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

The Commission opened 34 cases for late transposition in 2019. They included the:

- Directive on electronic invoicing in public procurement<sup>284</sup>
- Directive on Trademarks<sup>285</sup>
- Directive on the list of defence-related products<sup>286</sup>.

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

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

*These concerned mainly:*

- Belgium: incorrect application of EU rules concerning quantitative restrictions, by refusing German commercial plates for trucks transiting via Belgium to other Member States<sup>287</sup>.
- Belgium: incompatibility of Belgian advertising legislation in the health sector with EU advertising rules<sup>288</sup>.
- Germany: incorrect application of the freedom of establishment and of the free provision of services of other service providers due to reservation of certain approval services for some types of motor vehicles in favour of certain technical testing centres<sup>289</sup>.
- Germany: incompatibility of national legislation with EU rules on national accreditation bodies<sup>290</sup>.

<sup>284</sup> Directive [2014/55/EU](#).

<sup>285</sup> Directive [2015/2436/EU](#).

<sup>286</sup> Directive [2019/514/EU](#) amending Directive [2009/43/EC](#).

<sup>287</sup> Article 34 [TFEU](#).

<sup>288</sup> Directive [2000/31/EC](#).

<sup>289</sup> Directive [2007/46/EC](#).

<sup>290</sup> Regulation (EU) [765/2008](#).

- Spain: obstacles to the free movement of food supplements<sup>291</sup>.
- Croatia: unjustified requirements imposed on the activities of driving schools<sup>292</sup>.
- Latvia: restrictions to registration of right hand drive cars<sup>293</sup>.
- Czechia: non-conformity of national legislation with the Professional Qualifications Directive<sup>294</sup>;
- Austria: incompatibility of the national legislation with the Remedies Directive<sup>295</sup>;
- Poland: application of EU defence procurement rules<sup>296</sup>;
- Portugal: application of EU defence procurement rules<sup>297</sup>.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

- *Germany*: the Court ruled against Germany, which was in breach of EU law by maintaining fixed tariffs for the planning services of architects and engineers<sup>298</sup>.
- *Germany*: restricted the free movement of goods by introducing both an infrastructure-use charge and relief from a motor vehicle tax for vehicles registered in Germany<sup>299</sup>.
- *Greece* introduced illegal additional requirements to the training of mediators, in breach of EU rules<sup>300</sup>.
- *Italy*: failed to publish a notice on the extension of a motorway concession, thus breaching public procurement legislation<sup>301</sup>.
- *Austria*<sup>302</sup> failed to fulfil its obligations under EU law by setting restrictions on the location of seat, legal form and shareholding requirements for professional companies of architects, engineers, patent attorneys, veterinarians<sup>303</sup>.

### 2. Preliminary rulings

The Court gave the following preliminary rulings:

- *Germany* breached EU law by prohibiting commercial providers of search engines and commercial service providers which edit content of online press products, from making press products or parts of them available to the public<sup>304</sup>.
- *Greece*: Greek legislation prohibiting a monk who has the status of lawyer in another Member State from registering at the bar, on account of the incompatibility between the status of monk and the profession of lawyer, is contrary to EU law<sup>305</sup>.
- *Lithuania*: the Court clarified the conditions upon which in-house transactions concluded by public authorities are compatible with EU public procurement legislation<sup>306</sup>.

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<sup>291</sup> Article 34 [TFEU](#).

<sup>292</sup> Directive [2006/123/EC](#).

<sup>293</sup> Directive [2007/46/EC](#).

<sup>294</sup> Directive [2005/36/EC](#).

<sup>295</sup> Directive [89/665](#).

<sup>296</sup> Directive [2009/81/EC](#).

<sup>297</sup> Directive [2009/81/EC](#).

<sup>298</sup> *Commission v Germany*, Case [C-377/17](#).

<sup>299</sup> *Austria v Germany*, Case [C-591/17](#).

<sup>300</sup> *Commission v Greece*, Case [C-729/17](#).

<sup>301</sup> *Commission v Italy*, Case [C-526/17](#).

<sup>302</sup> *Commission v Austria*, Case [C-209/18](#).

<sup>303</sup> Directive [2006/123/EC](#).

<sup>304</sup> *VG Media*, Case [C-299/17](#).

<sup>305</sup> *Monachos Eirinaios*, Case [C-431/17](#) and Court press release No [56/2019](#).

<sup>306</sup> *Irgita*, Case [C-285/18](#).



- *Hungary*<sup>307</sup>: EU law does not require a national court to set aside domestic rules of procedure conferring finality on a judgment, even if to do so would make it possible to remedy a domestic situation which is incompatible with EU law.
- *Hungary*: Minor restrictive effects, provided they are neither too indirect nor too uncertain, suffice to show the existence of a measure having equivalent effect within Article 35 TFEU. Such a measure needs to be justified on grounds relating to the protection of public health, and dispensing medicinal products on the basis of order forms other than nominative medical prescriptions may undermine public health<sup>308</sup>.
- *Poland*: National legislation cannot exempt commercial transactions financed with EU funds from the scope of the Late Payments Directive<sup>309</sup>.
- *Poland*: The issuance of a parallel import license cannot be conditional upon the imported medicine and domestic reference products sharing the same 'registration status', whether as reference or generic medicinal products. If the Member State of import can establish that the imported medicine and domestic reference product, 'without being totally identical', are manufactured with the same formulation, using the same active substance and have the same therapeutic effects, then the imported product may be granted a parallel import license on the basis of existing national marketing authorisation<sup>310</sup>.

## VIII. OUTLOOK

Important implementation work in 2020 includes:

- The Commission will continue to monitor the implementation of EU rules in the hydropower sector.
- Building on the work already launched in 2019, the Commission will keep assessing compliance of the measures adopted by the Member States to transpose the 2014 Public Procurement and Concessions Directives. It should be noted that Spain still has to complete transposition for both the Concessions and Utilities Directives (cases still pending before the Court) and that the compliance check for the Concessions Directive for Slovenia, which was delayed due to late transposition, still has to be completed.

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<sup>307</sup> *Hochtief*, Case [C-620/17](#).

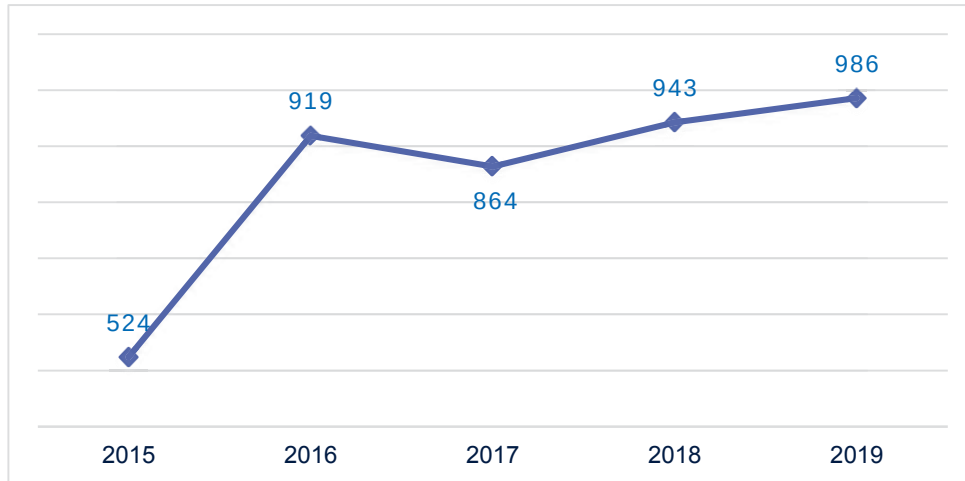
<sup>308</sup> *VIPA*, Case [C-222/18](#).

<sup>309</sup> *KROL*, Case [C-722/18](#).

<sup>310</sup> *Delfarma*, Case [C-387/18](#).

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

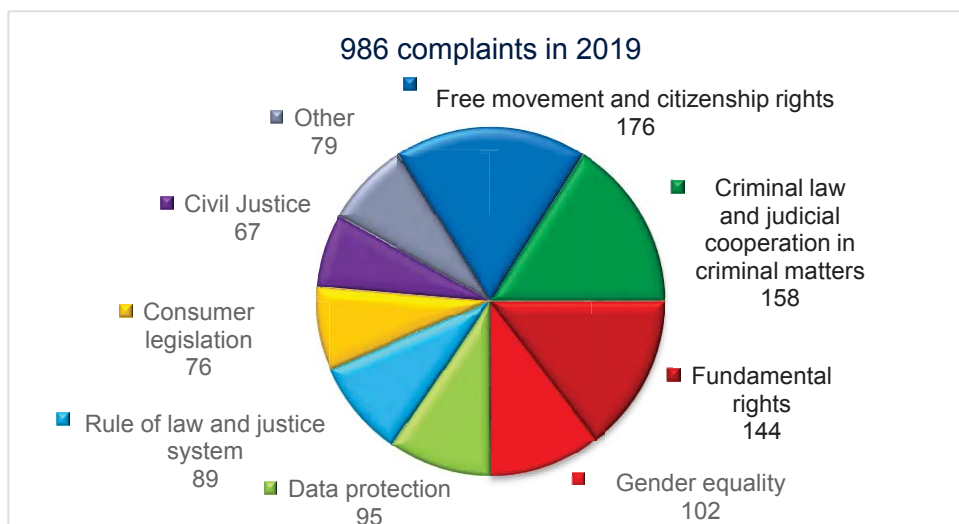
689 ► Complaints open at end-2018

986 ► New complaints registered in 2019

932 ► Complaints handled in 2019

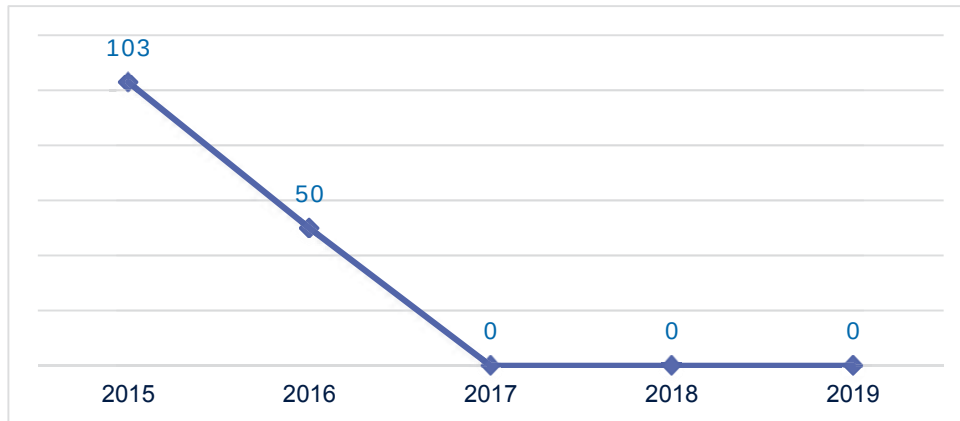
          
= 743 ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors



## II. EU PILOT

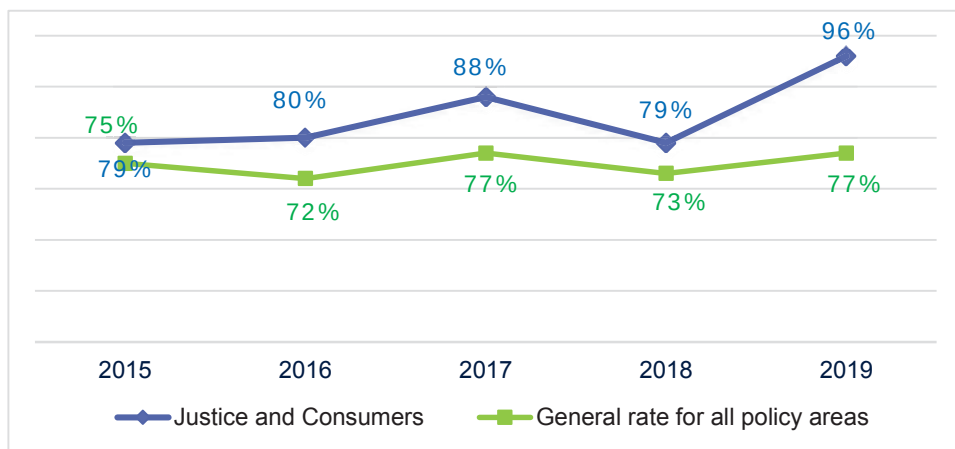
### 1. New EU Pilot files (2015-2019)



### 2. EU Pilot files open at year-end

At the end of 2019, 61 EU Pilot files remained open.

### 3. EU Pilot files: resolution rate for policies (2015-2019)



## III. OWN-INITIATIVE CASES

### New own-initiative infringement cases

In 2019, the Commission opened own-initiative infringement cases over:

- The incorrect transposition of the Directive on criminal sanctions for market abuse<sup>311</sup>;
- The violation of rule of law by the new disciplinary regime for judges in Poland;
- The non-compliance with obligations set by the Regulation establishing a European Account Preservation Order procedure<sup>312</sup>;

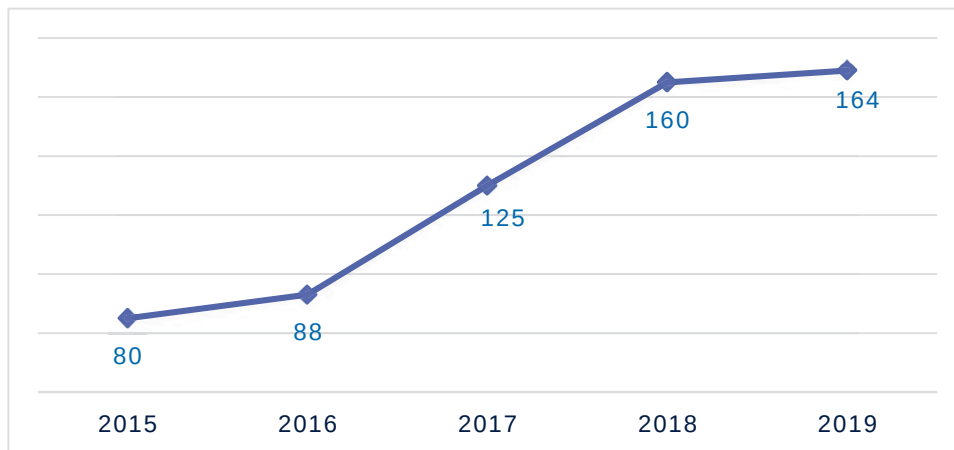
<sup>311</sup> Directive [2014/57/EU](#).

<sup>312</sup> Regulation (EU) [No 655/2014](#).

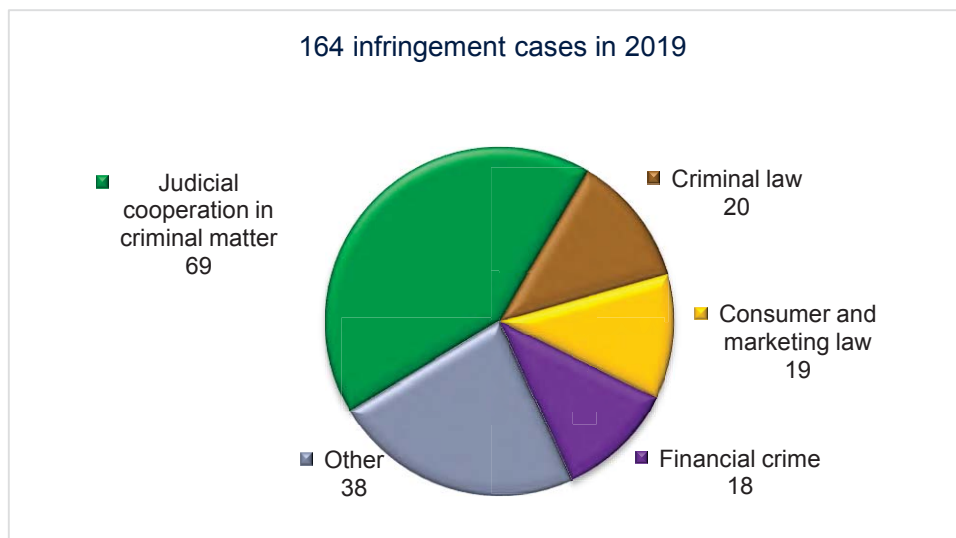
- The violation of free movement rights as regards the delivery of residence documents and the rights of family members;
- Partial non-communication of the national measures of transposition of the 4<sup>th</sup> Anti-Money Laundering Directive<sup>313</sup>.

#### IV. INFRINGEMENT CASES

##### 1. Infringement cases open on 31 December (2015-2019)

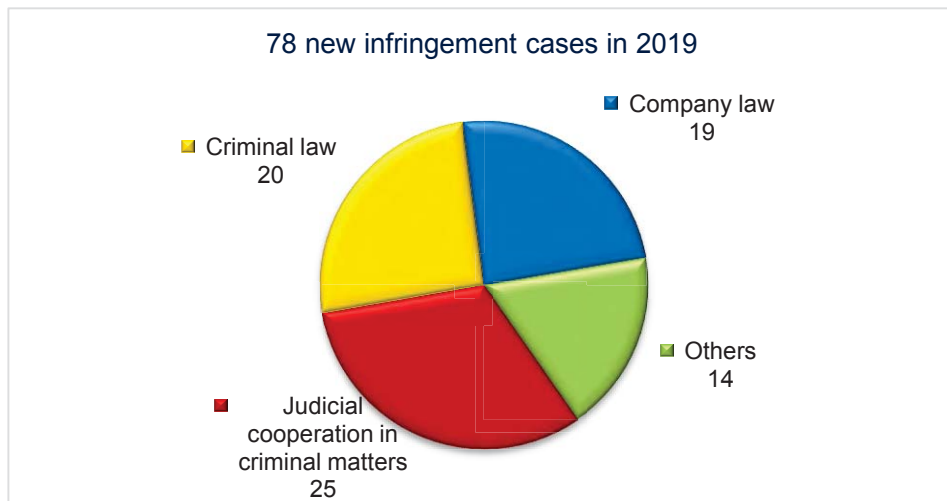


##### 2. Infringement cases open on 31 December 2019: main policy sectors



<sup>313</sup> Directive [2015/849/EU](#).

### 3. New infringement cases opened in 2019: main policy sectors



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

The Commission opened 28 new infringement cases in 2019.

*These, and other major ongoing infringement cases, include the following:*

- *Bulgaria*: inadequate protection of consumers against unfair terms in contracts, in particular in payment order proceedings; certain creditors can obtain orders for immediate enforcement quasi automatically, with very limited possibilities for the consumers to prevent or challenge the enforcement based on unfair contract terms<sup>314</sup>;
- *France*: the incorrect transposition of the free movement Directive<sup>315</sup> as regards the delivery of residence documents<sup>316</sup>;
- *Austria, Bulgaria, Greece, Spain, Italy and France*: incorrect transposition of the Directive on criminal sanctions for market abuse<sup>317</sup>;
- *Poland*: the new disciplinary regime for judges in Poland, which undermines the judicial independence of Polish judges by not offering necessary guarantees to protect them from political control<sup>318</sup>;
- *Slovakia*: Racial discrimination against Roma children in education<sup>319</sup>.

The Commission referred one case to the Court under Article 258 TFEU.

The case concerned the violation of the rule of law principles and Article 19 TFEU by the new disciplinary regime for judges in *Poland*<sup>320</sup>.

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

<sup>314</sup> [MEMO/19/462](#).

<sup>315</sup> Directive [2004/38/EC](#).

<sup>316</sup> [INF/19/4251](#).

<sup>317</sup> Directive [2014/57/EU](#); [INF/19/4251](#),

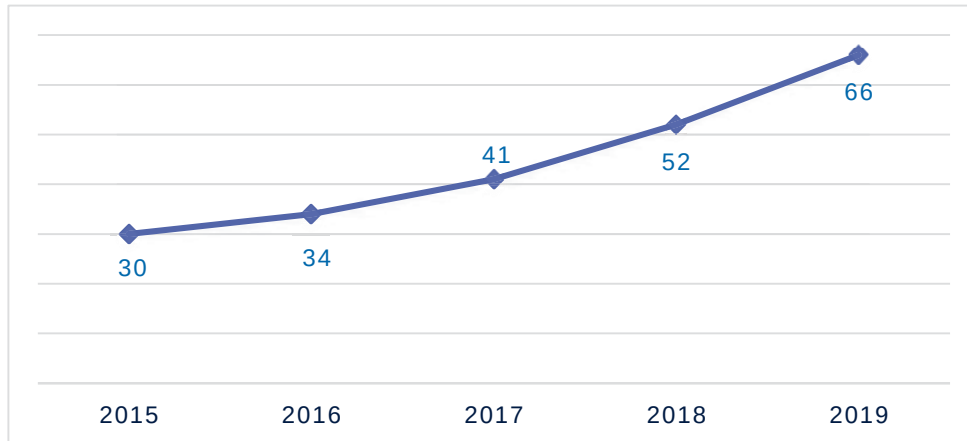
<sup>318</sup> [IP/19/1957](#).

<sup>319</sup> [INF/19/5950](#).

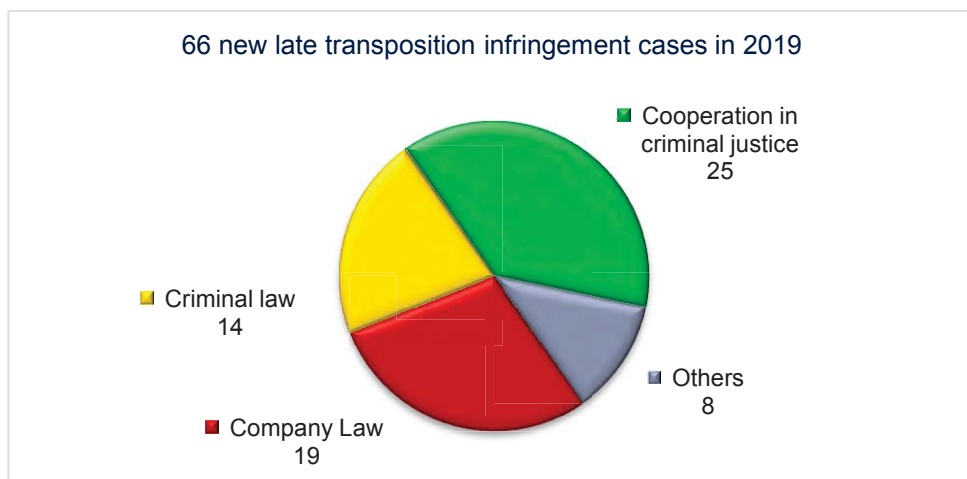
<sup>320</sup> Commission v Poland, [C-791/19](#), [IP/19/6033](#).

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: main policy sectors



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

The Commission opened 66 cases for late transposition in 2019. Among the directives concerned were the:

- Directive on shareholders' rights<sup>321</sup>;
- Directive on the fight against fraud to the Union's financial interests by means of criminal law<sup>322</sup>;
- Directive on victims' rights<sup>323</sup>;
- Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings<sup>324</sup>;

<sup>321</sup> Directive [2017/828/EU](#).

<sup>322</sup> Directive [1371/2017/EU](#).

<sup>323</sup> Directive [2012/29/EU](#).

<sup>324</sup> Directive [2016/800/EU](#).

- Data Protection Law Enforcement Directive<sup>325</sup>.

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

The case concerned the failure to transpose the Data Protection Law Enforcement Directive<sup>326</sup> by *Spain*.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- Croatia, Italy, Portugal, Slovakia and Sweden: incorrect transposition of the Directive on unfair commercial practices<sup>327</sup>;
- Spain: incompatibility of the Spanish procedural law with the Directive on unfair contract terms and breach of Article 47 of the EU Charter of Fundamental Rights (NIF 2015/2200)<sup>328</sup>;
- Austria and Poland: incorrect transposition of the Consumer Rights Directive<sup>329</sup>;
- Belgium: incorrect application of EU rules concerning civil judicial cooperation and requiring review procedures for the recognition of other Member States' executive measures<sup>330</sup>;
- *Croatia, Cyprus, Estonia, Germany, Greece, Luxembourg, Malta, Poland, Portugal, Slovenia, and Spain*: partial non-communication of the national measures of transposition of the 4<sup>th</sup> Anti-Money Laundering Directive<sup>331</sup>.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

The Court gave the following rulings:

- *Poland* failed to fulfil its obligations under EU law, first, by establishing a different retirement age for men and women who were judges or public prosecutors in Poland and, second, by lowering the retirement age of judges of the ordinary courts while conferring on the Minister for Justice the power to extend the period of active service of those judges<sup>332</sup>.
- *Poland* failed to fulfil its obligations under EU law by lowering the retirement age of judges of the Supreme Court<sup>333</sup>.

### 2. Preliminary rulings

The Court gave the following preliminary rulings:

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<sup>325</sup> Directive [2016/680/EU](#).

<sup>326</sup> *Commission v Spain*, [C-658/19](#), [IP/19/4261](#). The Commission has decided to refer Spain and ask both for the payment of a daily penalty (EUR 89 548.20 per day) and a lump sum: EUR 21 321.00 per day, with a minimum of EUR 5 290 000.

<sup>327</sup> Directive [2005/29/EC](#).

<sup>328</sup> Directive [93/13/EEC](#).

<sup>329</sup> Directive [2011/83/EU](#).

<sup>330</sup> Regulations (EC) No [805/2004](#), (EC) No [1896/2006](#) and (EC) No [4/2009](#).

<sup>331</sup> Directive [2015/849/EU](#). Infringement cases related to the non-communication of the national measures of transposition of the 4<sup>th</sup> Anti-Money Laundering Directive fell under the Directorate-General for Justice and Consumers until the end of 2019. As of 2020, they have moved to the Directorate-General for Financial Stability, Financial Services and Capital Markets Union.

<sup>332</sup> *Commission v Poland*, [C-192/18](#), Court press release [No 134/19](#).

<sup>333</sup> *Commission v Poland*, [C-619/18](#); Court press release [No 81/19](#).

- *Bulgaria*: the Procedural Rights Directives<sup>334</sup> apply to judicial proceedings leading to compulsory medical internment of persons having committed acts representing a danger to society. Because of their mental state, these persons are to be considered vulnerable persons for the purpose of the Directives. Persons suspected of having committed a criminal offence must be informed of their rights as soon as possible upon deprivation of liberty and, at the latest, before their first questioning by the police. A Member State's national legislation cannot prevent the exercise of the right to an effective remedy in case of violation of the procedural rights protected by the Directives<sup>335</sup>.
- *Germany*: the Austrian system of issuing a European arrest warrant, in which both the public prosecutor's offices and the courts are involved, is compatible with EU law<sup>336</sup>.
- *Germany*: EU law does not designate directly, or by analogy, the law applicable to the third-party effects of the assignment of claims<sup>337</sup>.
- *Germany*: the operator of a website that features a Facebook 'Like' button can be a controller jointly with Facebook in respect of the collection and transmission to Facebook of the personal data of visitors to its website<sup>338</sup>.
- *Germany*: a pre-ticked box cannot be considered valid consent to the processing of personal data. The information that the service provider must give to a user includes the duration of the operation of cookies and whether or not third parties may have access to those cookies<sup>339</sup>.
- *Ireland*: although a third-country national who is married to a Union citizen may lose a right of residence in a Member State following the departure of the Union citizen from the host Member State, the procedural safeguards laid down in the Free Movement Directive apply to the expulsion of that third-country national from the host Member State<sup>340</sup>.
- *Ireland*: an EU citizen who acquired in another Member State the status of worker for the activity he pursued there for a period of 2 weeks before becoming involuntarily unemployed retains this status for a further period of no less than 6 months. The citizen must register as a jobseeker with the relevant employment office. Any entitlement under national law to social security benefits or social assistance may be conditional upon a specified period of employment, if the same condition is applicable to nationals of the Member State concerned<sup>341</sup>.
- *Ireland*: the public prosecutor's offices of a Member State, such as those of Germany, which may be subject, directly or indirectly, to directions or instructions from the executive, such as a Minister for Justice, in the issuing a European arrest warrant cannot be regarded as an 'issuing judicial authority'<sup>342</sup>.
- *Ireland*: the Prosecutor General of a Member State, such as that of Lithuania, whose legal position affords him or her a guarantee of independence from the executive when issuing a European arrest warrant, is an 'issuing judicial authority'. When the competent issuing judicial authority under national law is not itself a court, the decision

<sup>334</sup> Directive [2012/13/EU](#), [2013/48/EU](#) and [2016/343/EU](#).

<sup>335</sup> EP, [C-467/18](#).

<sup>336</sup> NJ, [C-489/19 PPU](#).

<sup>337</sup> BNP Paribas, [C-548/18](#).

<sup>338</sup> Fashion ID, [C-40/17](#).

<sup>339</sup> Planet 49, [C-673/17](#).

<sup>340</sup> Directive [2004/38/EC](#); *Nalini Chenchooliah v Minister for Justice and Equality*, [C-94/18](#).

<sup>341</sup> *Neculai Tarola v Minister for Social Protection*, [C-483/17](#).

<sup>342</sup> OG and PI, [C-508/18](#) and [C-82/19](#).



to issue such a European arrest warrant must be subject to court proceedings, which meet the requirements of effective judicial protection<sup>343</sup>.

- *Spain*: the requirements stemming from the principles of effectiveness and ex officio review of unfair contract terms apply also to proceedings for a European payment order. Therefore, the courts seized with a request to issue a European order for payment must request from the creditor additional information on the contract terms in order to assess the possible unfairness of such terms<sup>344</sup>.
- *Spain*: immunity implies lifting the pre-trial detention measure imposed prior to the election of the person concerned as member of the European Parliament, allowing him or her to take part in the inaugural session of the European Parliament. However, if the competent national court considers that the detention measure should be maintained after that person has become member of the European Parliament, it must, as soon as possible, request that the European Parliament waive that immunity<sup>345</sup>.
- *France*: mortgage loans reserved for employees of an undertaking and granted for private purposes fall within the scope of the Directive on unfair terms in consumer contracts<sup>346</sup>. The Court confirmed that the notion of 'seller or supplier' has to be interpreted broadly, and it is not necessary that the contract reflect a person's main activity<sup>347</sup>.
- *France*: the prohibition on processing certain categories of sensitive personal data applies also to operators of search engines. The search engine operator has in principle the obligation to de-reference, if asked by the person concerned. To this end, the search engine operator must carry out a case-by-case assessment to verify if the publication of the 'sensitive' data and personal data on criminal convictions is strictly necessary to protect the freedom of information of internet users potentially interested in accessing this web page by means of such a search<sup>348</sup>.
- *France*: the right to be forgotten applies within the EU. Search engine operators have to take sufficiently effective measures to ensure the effective protection of this right, which does not necessarily apply outside the EU<sup>349</sup>.
- *Latvia*: the recording of a video of police officers in a police station while a statement is being made, and the publication of that video on a video website on which users can send, watch and share videos, are covered by the EU rules on data protection. Further, such recording and such publication on a video website may constitute a processing of personal data solely for journalistic purposes<sup>350</sup>.
- *Luxembourg and the Netherlands*: the French public prosecutor's office is regarded as an 'issuing judicial authority', since the independence of French public prosecutors is not called into question<sup>351</sup>.
- *Poland*: In a case concerning loan contracts concluded in Poland and indexed to a foreign currency, the unfair contract terms relating to the difference in exchange rates cannot be replaced by general provisions of Polish civil law in order to preserve the validity of the contract<sup>352</sup>.

<sup>343</sup> PF, [C-509/19](#).

<sup>344</sup> Bondora, [C-453/18](#) and [C-494/18](#).

<sup>345</sup> Junqueras Vies, [C-502/19](#).

<sup>346</sup> Directive [93/13/EEC](#).

<sup>347</sup> Pouvin Dijoux, [C-590/17](#).

<sup>348</sup> Google 2, [C-136/17](#).

<sup>349</sup> Google 3, [C-507/17](#).

<sup>350</sup> Buivids, [C-345/17](#).

<sup>351</sup> JR and YC, [C-566/19 PPU](#) and [C-626/19 PPU](#).

<sup>352</sup> Dziubak, [C-260/18](#).

- *Poland*: the lack of transparency of a contract term is an important element in the assessment of its unfairness. The national courts must examine the unfairness of contract terms. Thus, in payment order proceedings based on a promissory note, national courts need to assess the promissory note agreement, even where national law or case law does not permit this<sup>353</sup>.
- *Poland*: a notary who draws up a certificate of succession at the unanimous request of all the parties to the procedure conducted by the notary does not constitute a 'court', and consequently, such a deed does not constitute a 'decision' but an 'authentic instrument'<sup>354</sup>.
- *Slovenia*: when enforcing mortgages based on a directly enforceable notarial instrument, the preventive checks by notaries cannot replace effective judicial protection. Obstacles for effective remedies against such enforcement can be, for instance, costs for legal representation, the absence of legal aid or strict conditions for suspending the enforcement<sup>355</sup>.
- *The United Kingdom*: In assessing whether a Union citizen who is a minor has sufficient resources not to become an unreasonable burden on the social assistance system of the host Member State during his period of residence account is to be taken of resources placed at his or her disposal stemming from income obtained from the employment of his third-country national parent following the expiry of his residence or work permit<sup>356</sup>.
- *The United Kingdom*: the concept of a 'direct descendant' of a citizen of the Union does not include a minor who has been placed in permanent legal guardianship under the Algerian kafala system, because that placement does not create any parent-child relationship between them. However, where the EU citizen has exercised his/her right to free movement to a Member State other than the one of which he/ she is a national, the citizen's Member State of residence must facilitate the minor's entry to and residence in its territory as one of the 'other family members' pursuant to the Free Movement Directive<sup>357</sup>.

## VIII. OUTLOOK

Important implementation work in 2020 includes:

- closely monitoring the application of the:
  - *General Data Protection Regulation (GDPR)* <sup>358</sup> and *evaluation of the application of the GDPR (Article 97 GDPR)*;
  - *Rule of law, notably Article 19(1) second subparagraph TEU and Article 267(2) and (3) TFEU*;
  - *Framework Decision on European arrest warrant*<sup>359</sup>.
- closely monitoring that Member States complete transposition of the:
  - *Directive on victims' rights*<sup>360</sup>;
  - *Directives related to procedural rights in the context of criminal justice*<sup>361</sup>;

<sup>353</sup> Profi Credit Polska, [C-419/18 and C-483/18](#).

<sup>354</sup> WB, [C-658/17](#).

<sup>355</sup> Kuhar, [C-407/18](#).

<sup>356</sup> Bajratari, [C-93/18](#).

<sup>357</sup> Directive [2004/38/EC](#); SM v Entry Clearance Officer, UK Visa Section, [C-129/18](#).

<sup>358</sup> Regulation (EU) [No 2016/679](#).

<sup>359</sup> Council Framework Decision, [2002/584/JHA](#).

<sup>360</sup> Directive [2012/29/EC](#).

- *Directive on shareholders' rights*<sup>362</sup>.
- assessing that Member States correctly transpose the:
  - *Directive on criminal sanctions for market abuse*<sup>363</sup>;
  - *Directive on the fight against fraud to the Union's financial interests by means of criminal law*<sup>364</sup>;
  - *Directive on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries*<sup>365</sup>;
  - *Data Protection Law Enforcement Directive*<sup>366</sup>;
  - *Directives on procedural rights in the context of criminal procedures*<sup>367</sup>;
  - *Directive on the interconnection of central, commercial and companies registers and the Implementing Regulation*<sup>368</sup>;
  - *Directive on package travel and linked travel arrangements*<sup>369</sup>.
- ensuring appropriate follow-up to the Court's preliminary rulings on the:
  - *Directive on unfair terms in consumer contracts*<sup>370</sup>.

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<sup>361</sup> Germany, Greece, Croatia, Malta.

<sup>362</sup> Directive [2017/828/EU](#).

<sup>363</sup> Directive [2014/57/EU](#).

<sup>364</sup> Directive [1371/2017/EU](#).

<sup>365</sup> Directive [2015/637/EU](#).

<sup>366</sup> Directive [2016/680/EU](#).

<sup>367</sup> Directive [2010/64/EU](#), [2012/13/EU](#) and [2013/48/EU](#).

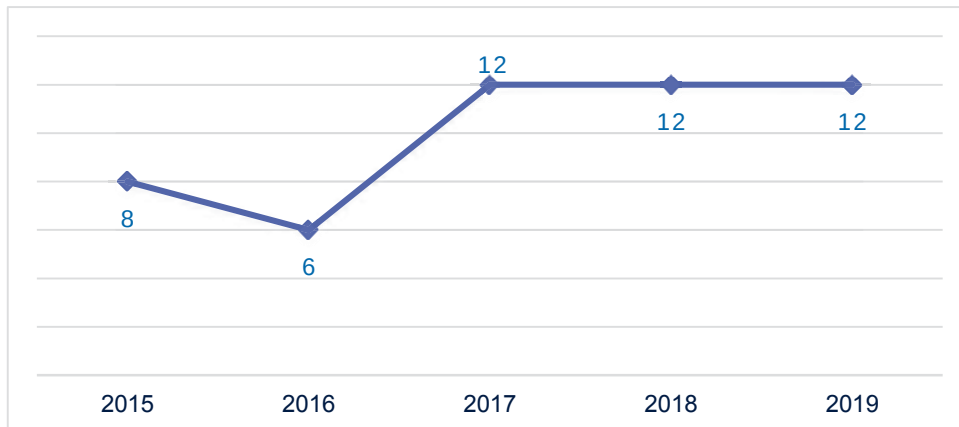
<sup>368</sup> Directive [2012/17/EU](#) and Regulation (EU) [No 2015/884](#).

<sup>369</sup> Directive [2015/2302/EU](#).

<sup>370</sup> Directive [93/13/EEC](#).

## I. COMPLAINTS

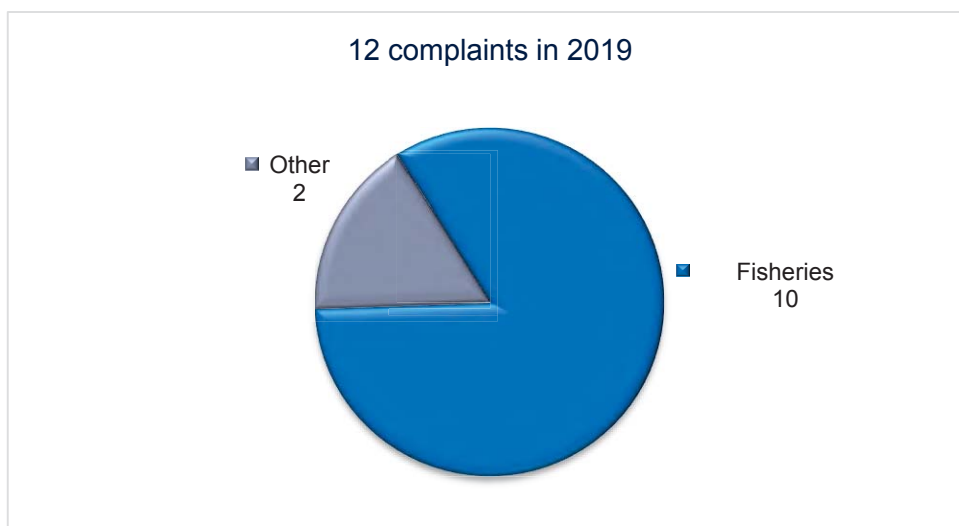
### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

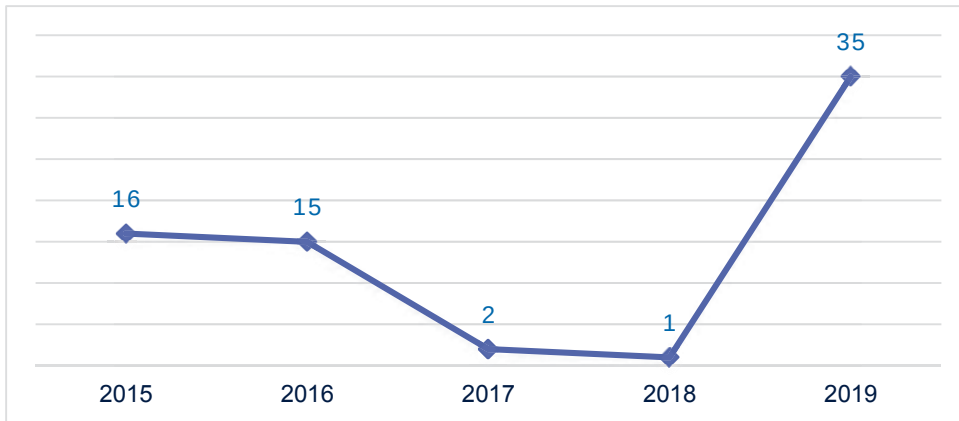
|       |   |                                   |
|-------|---|-----------------------------------|
| 8     | ► | Complaints open at end-2018       |
| 12    | ► | New complaints registered in 2019 |
| 14    | ► | Complaints handled in 2019        |
| <hr/> |   |                                   |
| = 6   | ► | Complaints open at end-2019       |

### 3. New complaints registered in 2019: main policy sectors

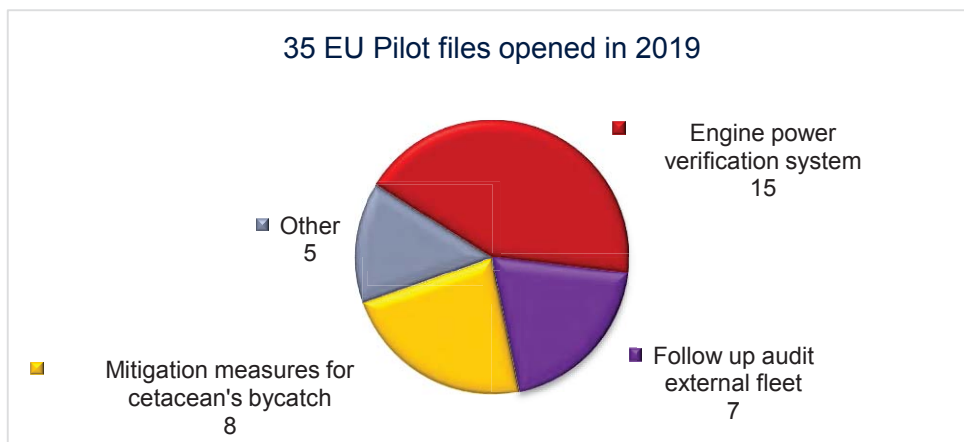


## II. EU PILOT

### 1. New EU-Pilot files (2017-2019)



### 2. New EU Pilot files opened in 2019: main policy sectors

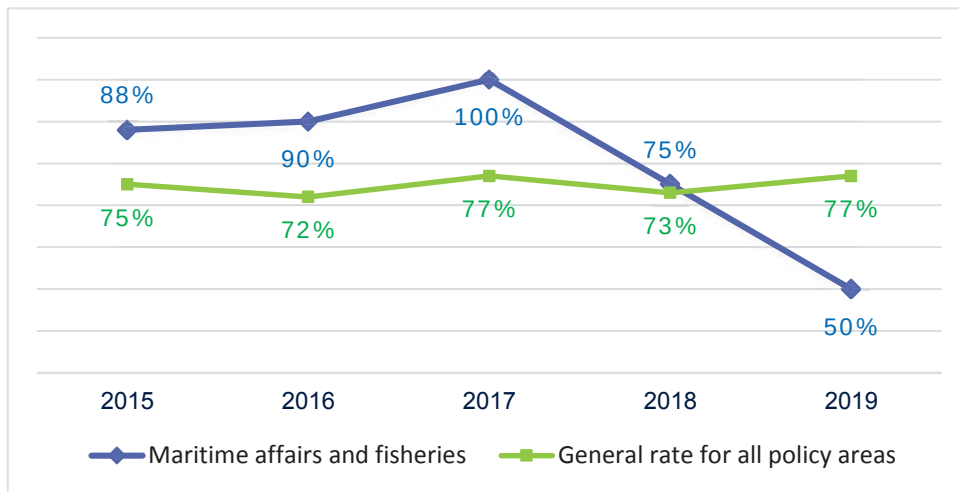


### 3. EU Pilot files open at year-end

At the end of 2019, 36 EU Pilot files remained open.

Maritime affairs and fisheries

4. EU Pilot files: policies' combined resolution rate in 2015-2019



III. OWN-INITIATIVE CASES

New own-initiative infringement cases.

In 2019, the Commission did not open own-initiative infringement cases in this area.

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

The Commission did not open new infringement cases in 2019 in this area.

Major ongoing infringement cases include the following:

- Denmark: failure to enforce several important provisions of the EU Control Regulation<sup>371</sup>. The Commission considers that Denmark fails to ensure that all fishery products are weighed at landing and that mandatory catch registration documents record the quantities of each species present, including industrial by-catches. The most serious issues concern fisheries for industrial purposes. These deficiencies significantly undermine the accuracy of catch registration documents, which are necessary for quota deduction purposes and to prevent overfishing. In addition, Denmark does not ensure that the Commission is notified of the quantities of stocks actually landed, with a consequent risk to the sustainability objectives of the common fisheries policy<sup>372</sup>.

The Commission did not refer any cases to the Court under Article 258 TFEU.

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

They were no major cases closed without a Court judgment in 2019 in this area.

<sup>371</sup> Regulation (EC) No [1224/2009](#).

<sup>372</sup> [MEMO/19/462](#).

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in 2019 in this area.

### 2. Preliminary rulings

There were no major Court preliminary rulings in 2019 in this area.

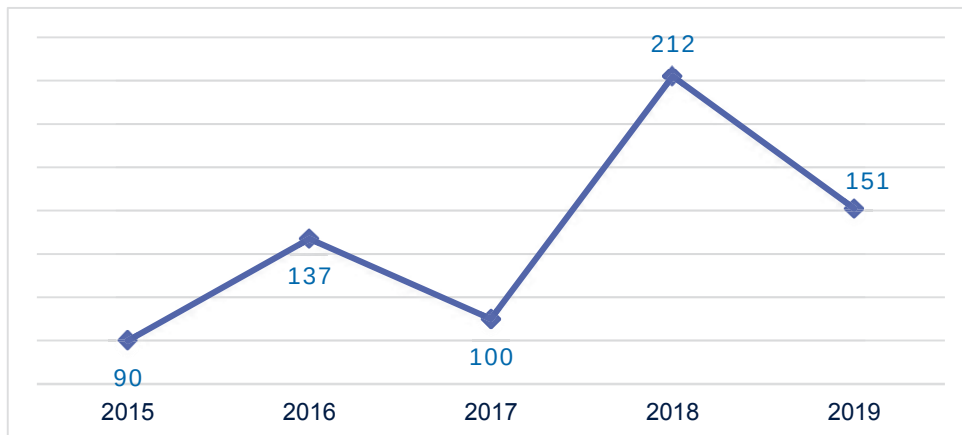
## VII. OUTLOOK

Important implementation work in 2020 includes:

- following up on EU Pilot dialogues;
- following up on audits and investigations performed under the EU Control Regulation<sup>373</sup>, including addressing through action plans certain systemic irregularities in Member States' fisheries control systems, where appropriate; monitoring the implementation of existing action plans;
- following up on the implementation of the constituent components of the common fisheries policy, such as the application of the landing obligation set out in the Common Fisheries Policy Regulation<sup>374</sup>;
- taking action to ensure the correct transposition by the Member States of the Maritime Spatial Planning Directive<sup>375</sup>.

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

156 ► Complaints open at end-2018

151 ► New complaints registered in 2019

<sup>373</sup> Regulation (EC) No [1224/2009](#).

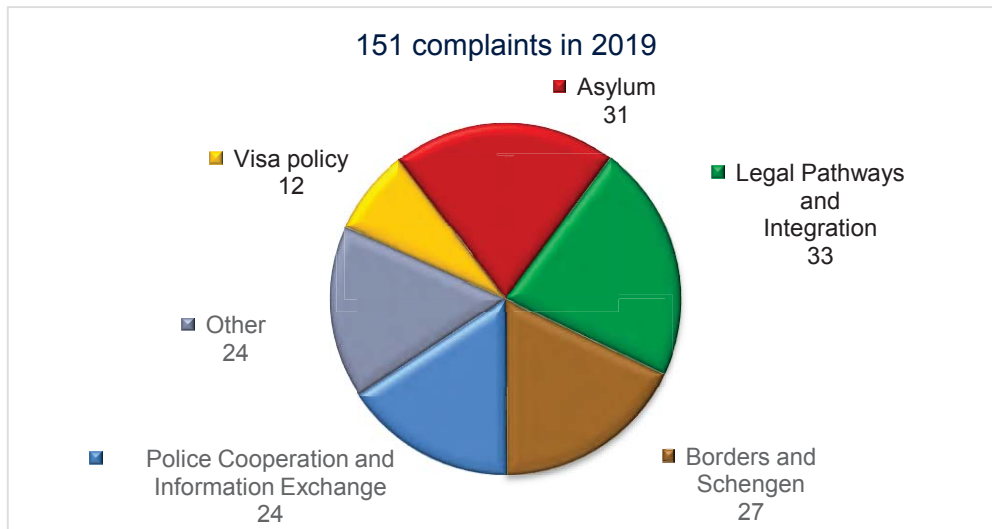
<sup>374</sup> Regulation (EU) No [1380/2013](#).

<sup>375</sup> Directive [2014/89/EU](#).

196 ► Complaints handled in 2019

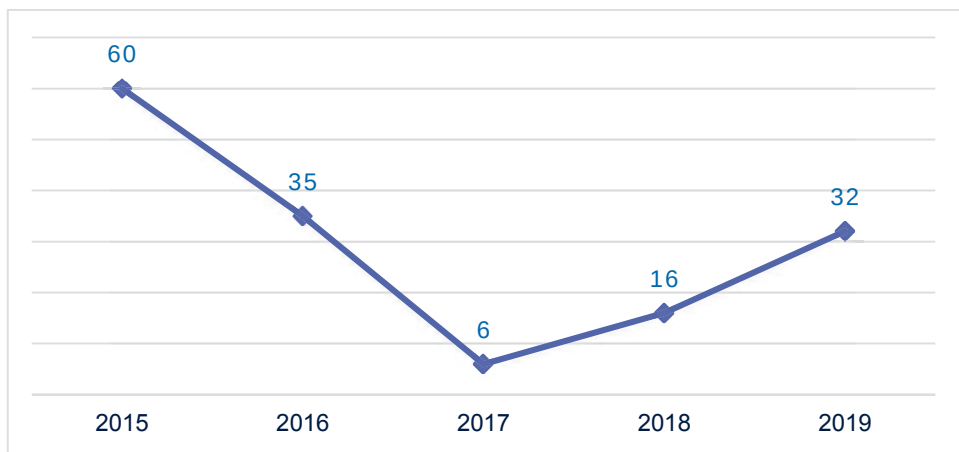
= 111 ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors



## II. EU PILOT

### 1. New EU Pilot files (2015-2019)



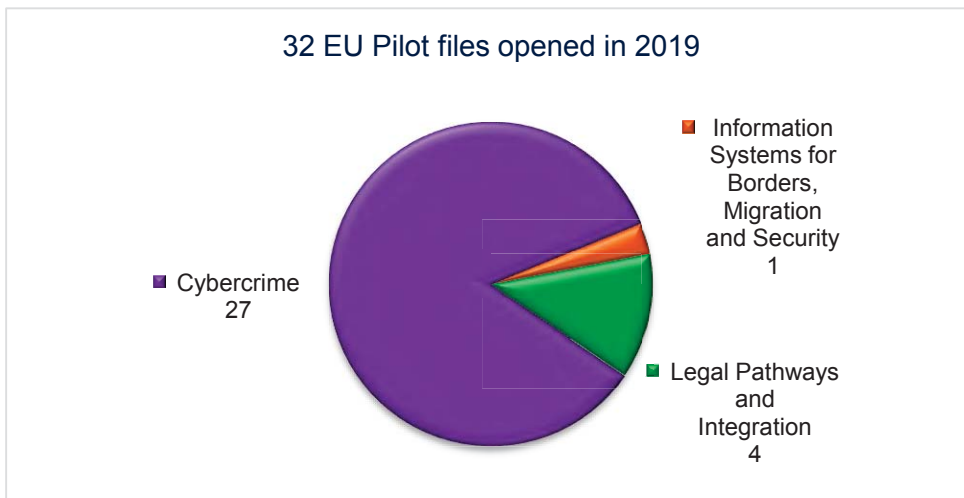
### 2. EU Pilot files open at year-end

At the end of 2019, 60 EU Pilot files remained open.

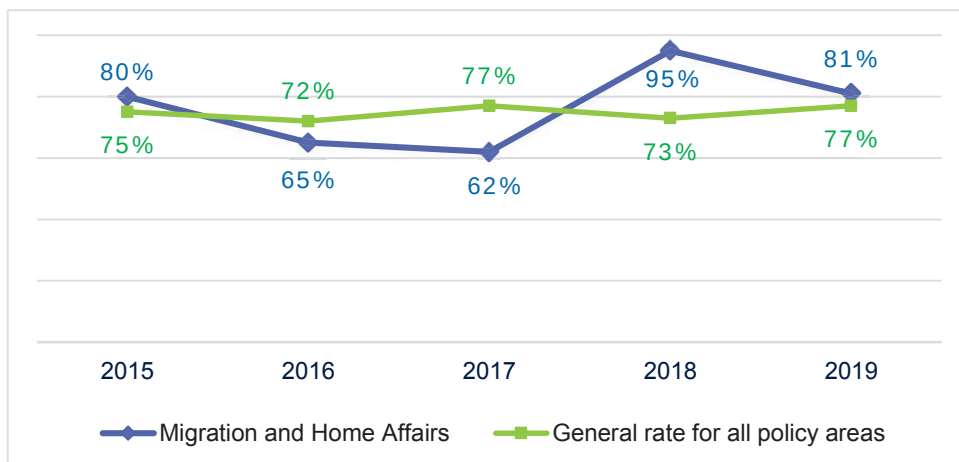


## Migration and home affairs

### 3. New EU Pilot files opened in 2019: main policy sectors



### 4. EU Pilot files: resolution rate for policies (2015-2019)



## III. OWN-INITIATIVE CASES

### New own-initiative infringement cases

In 2019, the Commission opened own-initiative infringement cases regarding the:

- Directive on combating the sexual abuse and sexual exploitation of children<sup>376</sup>;
- Directive on attacks against information systems<sup>377</sup>;
- Single Permit Directive<sup>378</sup>;
- Violation of the EU external exclusive competence;
- Return Directive<sup>379</sup>;
- Asylum Procedures Directive<sup>380</sup>;

<sup>376</sup> Directive [2011/93/EU](#).

<sup>377</sup> Directive [2013/40/EU](#).

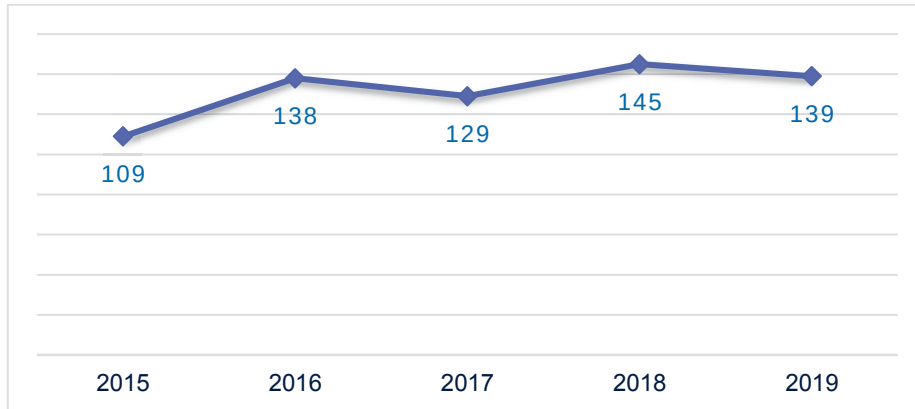
<sup>378</sup> Directive [2011/98/EU](#).

<sup>379</sup> Directive [2008/115/EC](#).

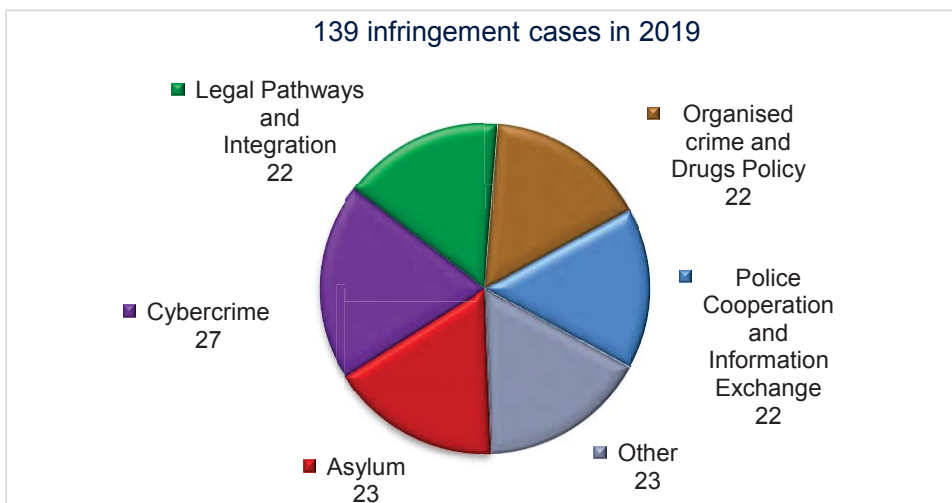
- Accreditation of forensic service providers<sup>381</sup>.

#### IV. INFRINGEMENT CASES

##### 1. Infringement cases open on 31 December (2015-2019)



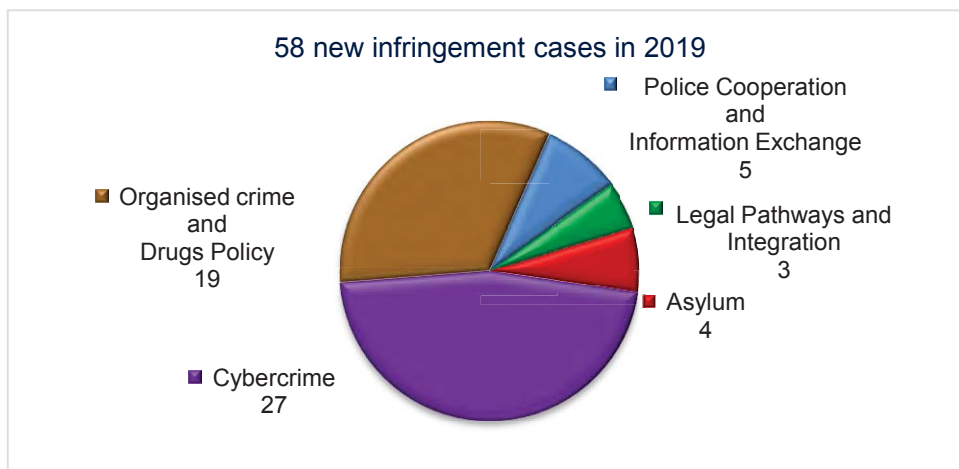
##### 2. Infringement cases open on 31 December 2019: main policy sector



<sup>359</sup> Directive [2013/32/EU](#).

<sup>381</sup> Framework Decision [2009/905/JHA](#).

### 3. New infringement cases opened in 2019: main policy sectors



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

- a) The Commission opened 58 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:
- *Hungary: non-provision of food to persons held in the Hungarian transit zones at the border with Serbia, in breach of the Charter of Fundamental Rights*<sup>382</sup>;
  - *Estonia: imposition of additional obligations on persons crossing the external EU border, in breach of the Schengen Borders Code*<sup>383</sup>;
  - *Romania: incorrect implementation of provisions relating to the rejection of applications for residence permits and the obligation to justify the reasons for refusal under the EU Directives on legal migration*<sup>384</sup>;
  - *Portugal: excessive and disproportionate fees for issuing residence permits*<sup>385</sup>;
  - *Sweden: incorrect transposition of several directives in the field of legal migration*<sup>386</sup>, in particular as regards the processing applications for permits, as well as restrictions to equal treatment of certain categories of non-EU nationals<sup>387</sup>;
  - *Spain*<sup>388</sup>, *Finland and the Netherlands*<sup>389</sup>: *non-communication of national measures transposing the Directive on the use of passenger name records*<sup>390</sup>;
  - *Greece*<sup>391</sup>, *Belgium, France, Sweden and Slovenia*<sup>392</sup>: *non-communication of national measures transposing the Directive on conditions of entry and residence of third-country nationals for research and studies*<sup>393</sup>;

<sup>382</sup> [IP/19/5994](#).

<sup>383</sup> Regulation (EU) [2016/399](#) ; [MEMO/19/462](#).

<sup>384</sup> [INF/19/4251](#).

<sup>385</sup> [INF/19/4251](#).

<sup>386</sup> Directive [2011/98/EU](#); Directive [2003/86/EC](#), Directive [2003/109/EC](#), Directive [2009/50/EC](#), Directive [2014/36/EU](#), Directive [2014/66/EU](#).

<sup>387</sup> [INF/19/4251](#).

<sup>388</sup> [MEMO/19/462](#).

<sup>389</sup> [MEMO/19/1472](#).

<sup>390</sup> Directive (EU) [2016/681](#).

<sup>391</sup> [MEMO/19/462](#).

<sup>392</sup> [INF/19/4251](#).

<sup>393</sup> Directive [2016/801/EU](#).

Migration and home affairs

- *Greece and Luxembourg: non-communication of national measures transposing the Directive on combating terrorism<sup>394</sup>;*
- *Austria, Bulgaria, Hungary and Romania: breach of the EU's exclusive competence in the automated exchange of DNA, fingerprint and vehicle registration data<sup>395</sup>;*
- *Italy, Slovenia<sup>396</sup>, Bulgaria and Portugal<sup>397</sup>: incorrect implementation of the Directive on Attacks against Information Systems<sup>398</sup>;*
- *Hungary, Poland and Slovenia: non-communication of national measures transposing the Directive on standards for the qualification of third-country nationals as beneficiaries of international protection<sup>399</sup>;*
- *Bulgaria and Spain: non-communication of national measures transposing the Asylum Procedures Directive<sup>400</sup>;*
- *Lithuania<sup>401</sup> and Slovenia<sup>402</sup>: non-communication of national measures transposing the Reception Conditions Directive<sup>403</sup>;*
- *Bulgaria, Belgium, Czechia, France, Croatia, Germany, Spain, Portugal, Italy, Malta, Lithuania, Sweden, Slovakia, Romania, Austria, Estonia, Greece, Finland, Hungary, Luxembourg, Latvia, Poland and Slovenia: incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children<sup>404</sup>.*

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<sup>394</sup> Directive (EU) [2017/541](#); [INF/19/4251](#).

<sup>395</sup> [INF/19/5950](#).

<sup>396</sup> [INF/19/4251](#).

<sup>397</sup> [INF/19/5950](#).

<sup>398</sup> Directive [2013/40/EU](#).

<sup>399</sup> Directive [2011/95/EU](#); [MEMO/19/462](#)

<sup>400</sup> Directive [2013/32/EU](#); [INF/19/4251](#)

<sup>401</sup> [INF/19/4251](#)

<sup>402</sup> [INF/19/5950](#)

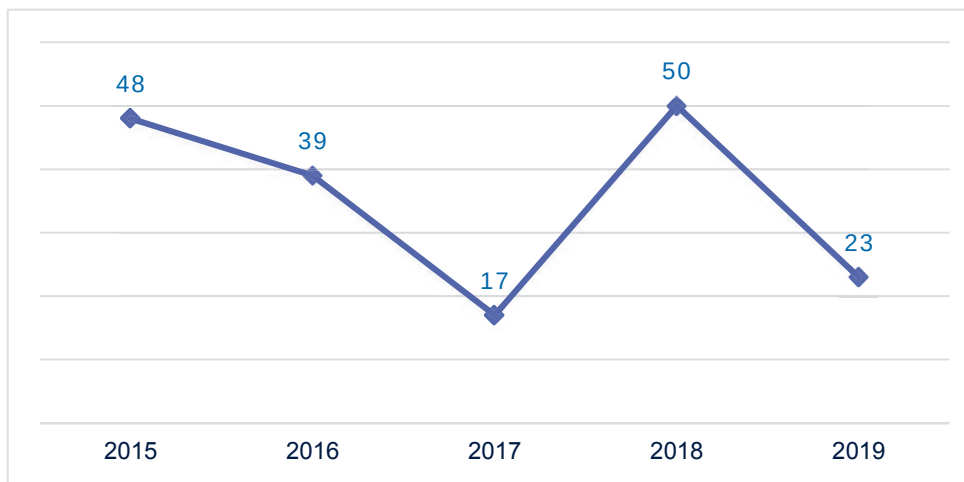
<sup>403</sup> Directive [2013/33/EU](#).

<sup>404</sup> Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

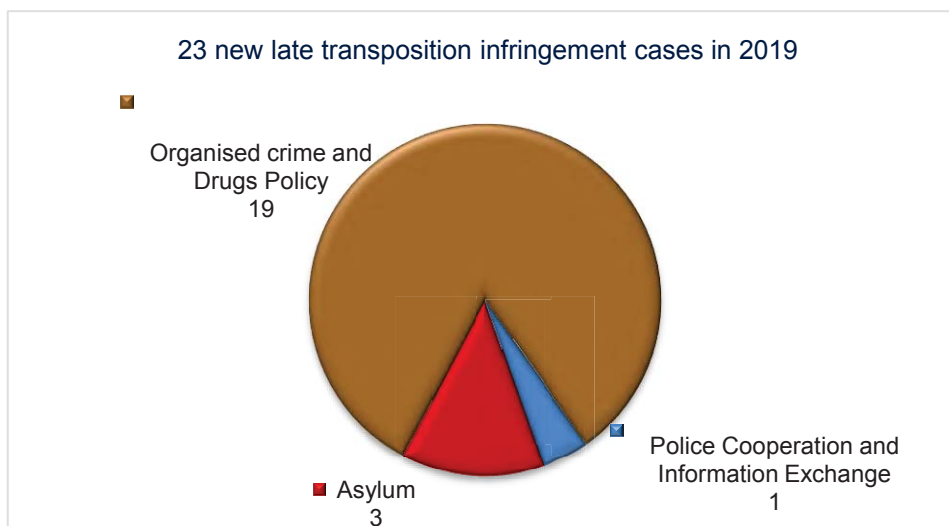
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- *Hungary: exclusion of non-EU nationals with long-term resident status from exercising the veterinary profession, in breach of EU legislation on long-term residence*<sup>405</sup>;
  - *Hungary: incorrect implementation of EU asylum rules by adopting legislation that criminalises activities in support of asylum applications and further restricts the right to request asylum*<sup>406</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: policy sectors



<sup>405</sup> Case *Commission v Hungary*, [C-761/19](#); [IP/19/4260](#).

<sup>406</sup> Case *Commission v Hungary*, [C-821/19](#); [IP/19/4260](#).

Migration and home affairs

3. Key infringement cases and referrals to the Court

- a) The Commission opened 23 cases for late transposition in 2019. They concern the:
- *Psychoactive Substances Directive (EU)*<sup>407</sup>;
  - *Illicit Drugs Directive*<sup>408</sup>;
  - *Directive on standards for the qualification of third-country nationals as beneficiaries of international protection*<sup>409</sup>;
  - *Asylum Procedures Directive*<sup>410</sup>;
  - *Accreditation of Forensic Laboratories Framework Decision*<sup>411</sup>.
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- Belgium, Czechia, Germany, the Netherlands, Poland, Portugal, Slovenia and Slovakia: non-communication of national measures transposing the Seasonal Workers Directive<sup>412</sup>;
- Greece and the Netherlands: disproportionate charges for the issuance of residence permits;
- Poland and Slovenia: non-communication of national measures transposing the Directive on standards for the qualification of third-country nationals as beneficiaries of international protection<sup>413</sup>;
- Cyprus, Spain and Poland: non-communication of national measures transposing the Directive on conditions of entry and residence of third-country nationals for research and studies<sup>414</sup>;
- Greece, Slovenia and Austria: non-communication of national measures transposing the Long-Term Residents Directive<sup>415</sup>;
- Bulgaria, Spain, France, Poland and Slovenia: non-communication of national measures transposing the Directive on standards for the qualification of third-country nationals as beneficiaries of international protection<sup>416</sup>;
- Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Germany, Estonia, Greece, Spain, France, Luxembourg, Latvia, Malta, Poland, Romania and Sweden: non-communication of national measures transposing the Reception Conditions Directive<sup>417</sup>;
- Belgium, Cyprus, Czechia, Germany, Estonia, Greece, France, Lithuania, Luxembourg, Latvia, Malta, Poland, Romania, Sweden, Slovenia, Bulgaria, Germany and Latvia: non-communication of national measures transposing the Asylum Procedures Directive<sup>418</sup>;

<sup>407</sup> Directive (EU) [2019/369](#).

<sup>408</sup> Directive (EU) [2017/2103](#).

<sup>409</sup> Directive [2011/95/EU](#).

<sup>410</sup> Directive [2013/32/EU](#).

<sup>411</sup> Framework Decision [2009/905/JHA](#).

<sup>412</sup> Directive [2014/36/EU](#).

<sup>413</sup> Directive [2011/95/EU](#) ; [MEMO/19/462](#)

<sup>414</sup> Directive [2016/801/EU](#).

<sup>415</sup> Directive [2011/51/EU](#).

<sup>416</sup> Directive [2011/95/EU](#); [INF/19/4251](#).

<sup>417</sup> Directive [2013/33/EU](#); [INF/19/4251](#).

<sup>418</sup> Directive [2013/32/EU](#).

- Portugal and Croatia: failure to meet EU obligations on stepping up cross-border cooperation, particularly in combating terrorism and cross-border crime<sup>419</sup>.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>420</sup>

There were no major Court rulings in 2019 in this area.

### 2. Preliminary rulings

The Court gave the following preliminary rulings:

- *Belgium*: if within 6 months the national authorities have not decided on the application for family reunification, they cannot automatically issue a residence permit to the applicant as they have to establish whether the applicant meets the requirements for residence in the host Member State in accordance with EU law<sup>421</sup>.
- *Belgium*: in case of serious breaches of the rules of the accommodation centres, as well as violent behaviour by an applicant, a Member State cannot provide for a sanction consisting in the withdrawal, even temporary, of material reception conditions relating to housing, food or clothing in so far as it would have the effect of depriving the applicant of the possibility of meeting his or her most basic needs<sup>422</sup>.
- *Czechia and Belgium*: The formal recognition of the status of refugee implies that the refugee concerned is a beneficiary of international protection for the purpose of the Qualification Directive so that he is entitled to all the rights and benefits provided for in this Directive. This Directive contains both rights equivalent to those set out in the Geneva Convention and rights providing greater protection which have no equivalent in that Convention<sup>423</sup>.
- *Germany*: an applicant 'absconds' within the meaning of the Dublin Regulation if he deliberately evades the reach of the national authorities in order to prevent the transfer. It may be presumed that that is the case if the transfer cannot be carried out due to the fact that the applicant has left the accommodation allocated to him without informing the competent national authorities, provided that he has been informed of his obligations in that regard<sup>424</sup>.
- *Ireland*: the fact that a Member State, designated as responsible for the examination of an application for international protection pursuant to the rules set out in the Dublin Regulation, has notified its intention to withdraw from the European Union in accordance with Article 50 TEU does not oblige the Member State with which the application was lodged to itself examine the application.<sup>425</sup>
- *Hungary*: Member States may authorise the family reunification of a refugee's sister only if she is, on account of her state of health, unable to provide for her own needs, provided that that inability is assessed having regard to the special situation of refugees and at the end of a case-by-case examination taking into account all the relevant factors, and that the refugee is providing the material support required<sup>426</sup>.

<sup>419</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#).

<sup>420</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>421</sup> X, Case [C-706/18](#)

<sup>422</sup> Zubair Haqbin, Case [C-233/18](#)

<sup>423</sup> M and Others, Joined cases [C-391/16](#), [C-77/17](#) et [C-78/17](#)

<sup>424</sup> Abubacarr Jawo, Case [C-163/17](#)

<sup>425</sup> M.A. and Others, Case [C-661/17](#)

<sup>426</sup> TB, Case [C-519/18](#)

Migration and home affairs

- *The Netherlands*: the Member State can withdraw residence permits from family members of a third-country national who have obtained their permits further to submitting falsified documents. The fact that the beneficiaries of those permits were unaware of the fraud is irrelevant<sup>427</sup>.
- *The Netherlands*: an EU country may withdraw the supplementary benefit to a Turkish national who returns to Turkey and who holds, at the date of his departure from the host EU country, long-term resident status<sup>428</sup>.
- *The Netherlands*: applications for family reunification by a beneficiary of international protection cannot be rejected solely on the ground of the fact that the sponsor has not provided official documentary evidence of the death of the minor's biological parents and, consequently, that the sponsor has an actual family relationship with the minor, without taking into consideration the specific circumstances of the sponsor and the minor and the particular difficulties they have encountered before and after fleeing their country of origin<sup>429</sup>.
- *The Netherlands*: the competent authorities may, on grounds of public policy, reject an application for entry and residence on the basis of a criminal conviction imposed during a previous stay on the territory of that Member State concerned; in addition, they could withdraw a residence permit or refuse to renew it where a sentence sufficiently severe in comparison with the duration of the stay has been imposed on the applicant provided that the offence which warranted the criminal conviction is sufficiently serious to establish that it is necessary to rule out residence of that applicant and that those authorities carry out an individual assessment<sup>430</sup>.
- *The Netherlands*: national authorities may issue a return decision to a third-country national not subject to a visa requirement, who is present on the territory of the Member States for a short stay; such a decision could be justified if that national is considered to be a threat to public policy because he or she is suspected of having committed a criminal offence, provided that the offence is sufficiently serious in the light of its nature and of the punishment which may be imposed, to justify that national's stay on the territory of the Member States being brought to an immediate end and, second, those authorities have consistent, objective and specific evidence to support their suspicions<sup>431</sup>.
- *Austria*: a Member State which granted subsidiary protection status when the conditions for granting it were not met based on incorrect facts must revoke it; the fact that the person concerned cannot be accused of having misled the Member State is irrelevant<sup>432</sup>.
- *The United Kingdom*: a third-country national who in the past has been tortured by the authorities of his or her country of origin but 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 the case if there is a real risk of this person being intentionally deprived, in his or her country of origin, of appropriate care for the physical and mental after-effects of that torture<sup>433</sup>.

<sup>427</sup> Y.Z. and Others, Case [C-557/17](#)

<sup>428</sup> M. Çoban, Case [C-677/17](#)

<sup>429</sup> E, Case [C-635/17](#)

<sup>430</sup> G.S. and V.G., Joined Cases [C-381/18 and C-382/18](#).

<sup>431</sup> EP, Case [C-380/18](#).

<sup>432</sup> Mohammed Bilali, Case [C-720/17](#)

<sup>433</sup> MP, Case [C-353/16](#).



## VIII. OUTLOOK

Important implementation work in 2020 includes:

- closely monitoring that Member States transpose on time the:
  - Directive on combating money laundering by criminal law<sup>434</sup>;
- assessing that Member States correctly and completely transpose and implement the:
  - *Directives on seasonal workers and on intra-corporate transfer*<sup>435</sup>;
  - *Directives on asylum procedures and on reception conditions*<sup>436</sup>;
  - *Directive against trafficking in human beings*<sup>437</sup>;
  - *Directive on standards for the qualification of third-country nationals as beneficiaries of international protection*<sup>438</sup>;
  - *Directive on the freezing of proceeds of crime and confiscation of assets*<sup>439</sup>;
  - *Directive against sexual exploitation of children*<sup>440</sup>;
  - *Directive on attacks against information systems*<sup>441</sup>;
  - *Directive on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing*<sup>442</sup>;
  - *Directive on the use of passenger name record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime*<sup>443</sup>;
  - *Directive on combating terrorism*<sup>444</sup>;
  - *Directive on new psychoactive substances*<sup>445</sup>.
- ensuring appropriate follow-up to the Court's preliminary rulings on, among other things, data retention<sup>446</sup>.

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<sup>434</sup> [Directive \(EU\) 2018/1673](#).

<sup>435</sup> Directives [2014/36/EU](#) and [2014/66/EU](#).

<sup>436</sup> Directives [2013/32/EU](#) and [2013/33/EU](#).

<sup>437</sup> Directive [2011/36/EU](#).

<sup>438</sup> Directive [2011/95/EU](#).

<sup>439</sup> Directive [2014/42/EU](#).

<sup>440</sup> Directive [2011/93/EU](#).

<sup>441</sup> Directive [2013/40/EU](#).

<sup>442</sup> Directive [2016/801/EU](#).

<sup>443</sup> Directive [2016/681/EU](#).

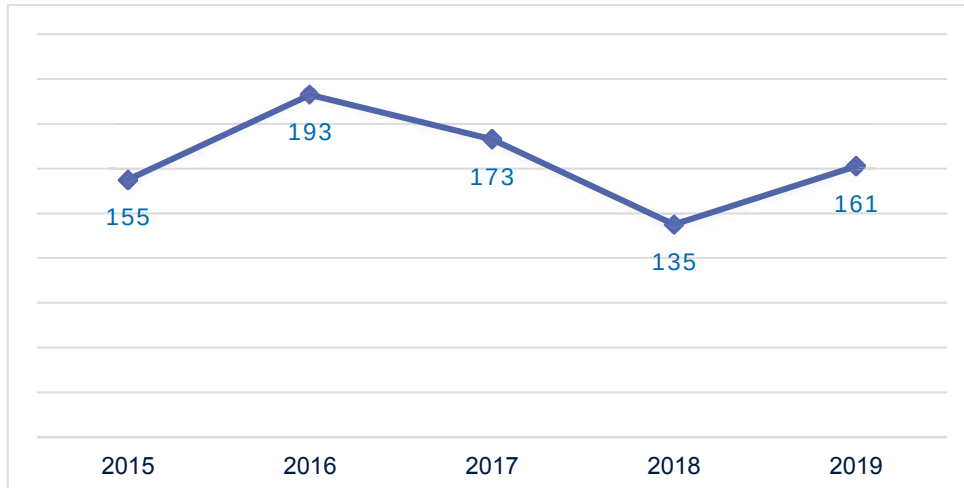
<sup>444</sup> Directive [2017/541/EU](#).

<sup>445</sup> Directive (EU) [2017/2103](#).

<sup>446</sup> Tele2 Sverige, [C-203/15](#) and [C-698/15](#).

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

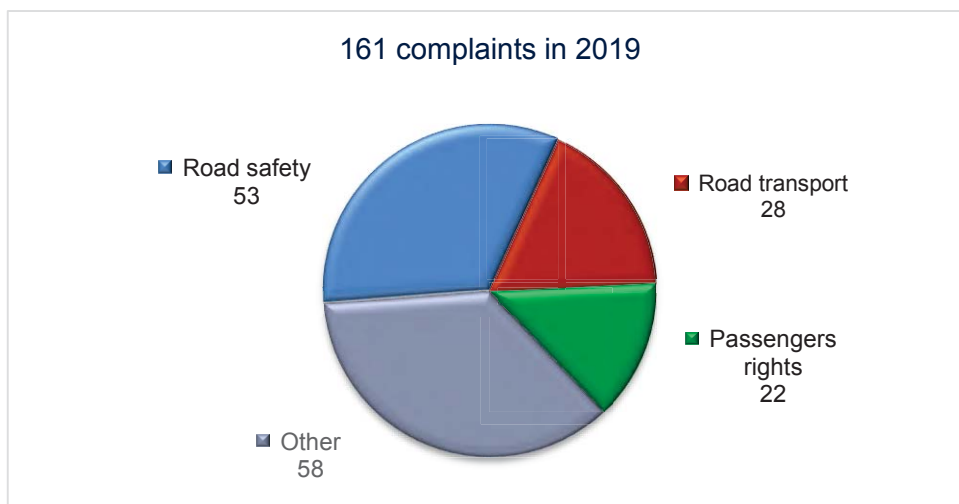
93 ► Complaints open at end-2018

161 ► New complaints registered in 2019

86 ► Complaints handled in 2019

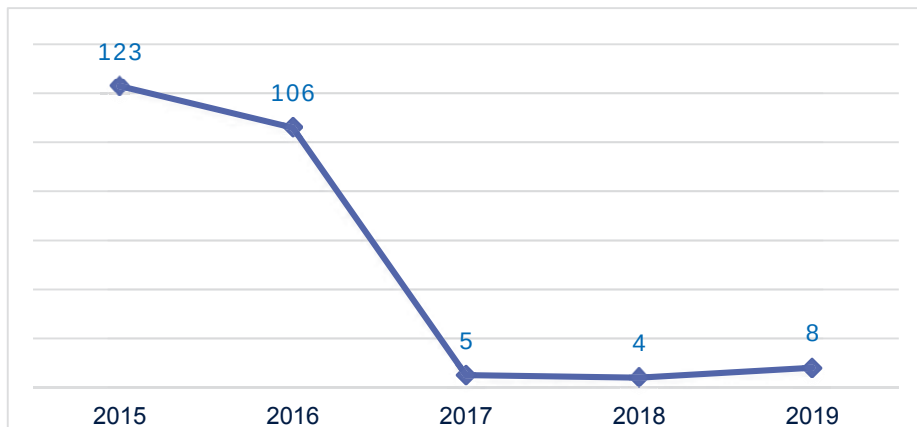
161 = 168 ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors



## II. EU PILOT

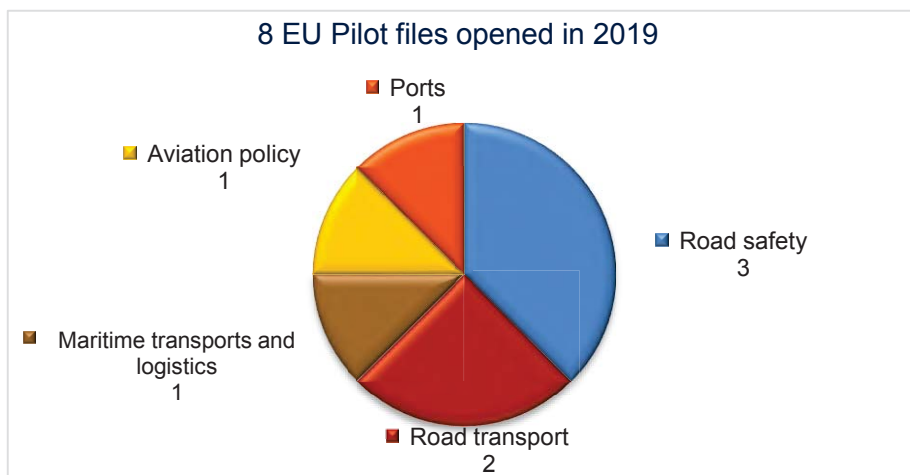
### 1. New EU Pilot files (2015-2019)



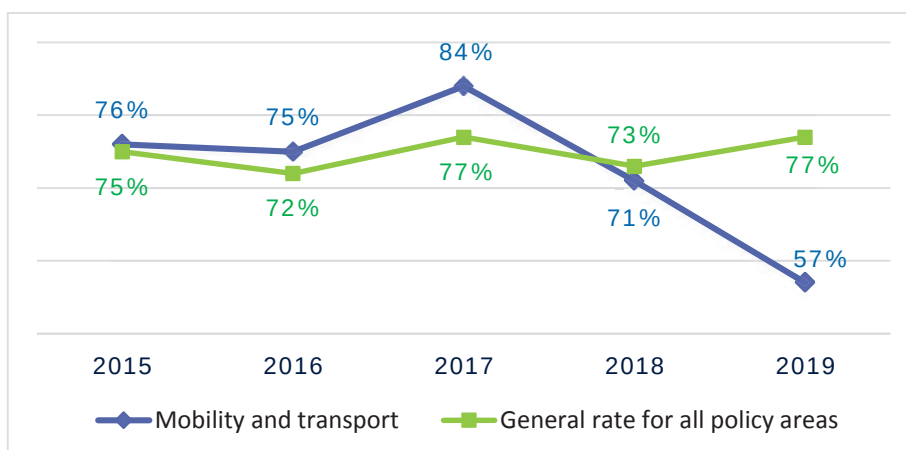
### 2. EU Pilot files open at year-end

At the end of 2019, 18 EU Pilot files remained open.

### 3. New EU Pilot files opened in 2019: main policy sectors



### 4. EU Pilot files: resolution rate for policies (2015-2019)



### III. OWN-INITIATIVE CASES

#### New own-initiative infringement cases

*In 2019, the Commission opened own-initiative infringement cases over:*

- Sustainable transport:
  - *Deployment of the interoperable EU-wide e-Call service*<sup>447</sup>;
  - *Information services for safe and secure parking places for trucks and commercial vehicles*<sup>448</sup>.
- Road sector:
  - *Interconnection of the national electronic registers to the European Registers of Road Transport Undertakings (ERRU) messaging system*<sup>449</sup>;
  - *Tachographs in road transport*<sup>450</sup>;
  - *European Electronic Toll Service (EETS) and its technical elements*<sup>451</sup>;
  - *Minimum requirements for controlling compliance by drivers and road transport operators regarding driving and resting times and on the use of tachographs*<sup>452</sup>.
- Road safety:
  - *Incorrect implementation of the Directive on minimum safety requirements for tunnels in the trans-European road network*<sup>453</sup>;
  - *Failure to submit the comprehensive report as provided by the Directive on cross-border exchange of information on road safety-related traffic offences*<sup>454</sup>.
- Rail sector:
  - *Non-compliance with the Directive establishing a single European railway area*<sup>455</sup>;
  - *Incorrect implementation of EU legislation on railway safety*<sup>456</sup>;
  - *Lack of submission of national implementation plans on the technical specifications for interoperability of the rail system*<sup>457</sup>.
- Maritime sector:
  - *Training of seafarers*<sup>458</sup>;
  - *Marine equipment*<sup>459</sup>.

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<sup>447</sup> Decision [585/2014/EU](#).

<sup>448</sup> Commission Delegated Regulation (EU) No [885/2013](#).

<sup>449</sup> Commission Implementing Regulation (EU) [2016/480](#).

<sup>450</sup> Regulation (EU) No [165/2014](#).

<sup>451</sup> Commission Decision [2009/750/EC](#).

<sup>452</sup> Directive [2006/22/EC](#).

<sup>453</sup> Directive [2004/54/EC](#).

<sup>454</sup> Directive [2015/413/EU](#).

<sup>455</sup> Directive [2012/34/EU](#).

<sup>456</sup> Directive [2004/49/EC](#), Commission Regulation (EU) No [1158/2010](#), Commission Regulation (EU) [1077/2012](#).

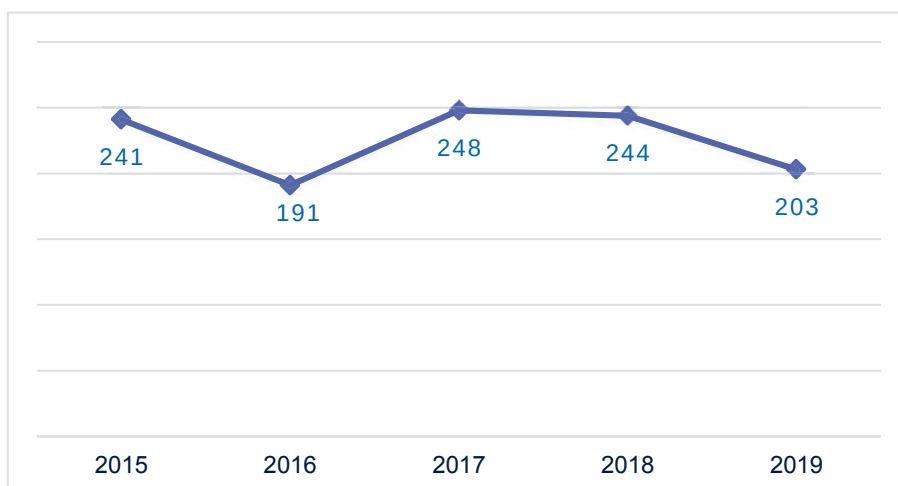
<sup>457</sup> Commission Regulation (EU) No [1300/2014](#), Commission Regulation (EU) [2015/995](#).

<sup>458</sup> Directive [2008/106/EC](#).

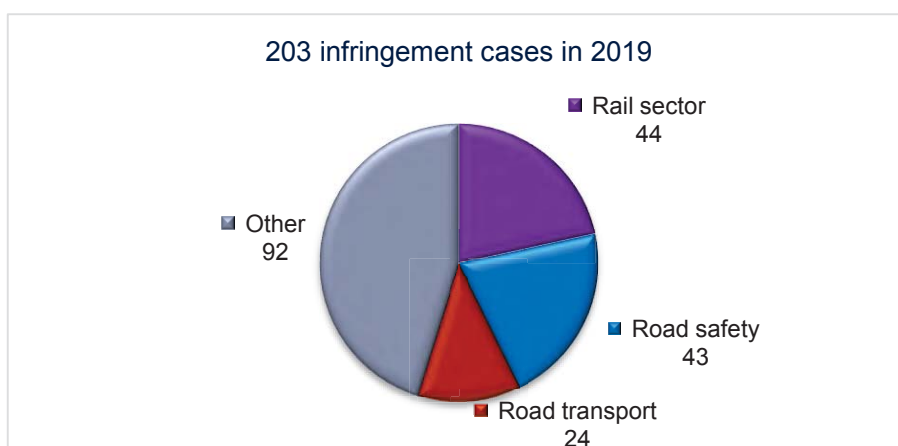
<sup>459</sup> Directive [2014/90/EC](#).

#### IV. INFRINGEMENT CASES

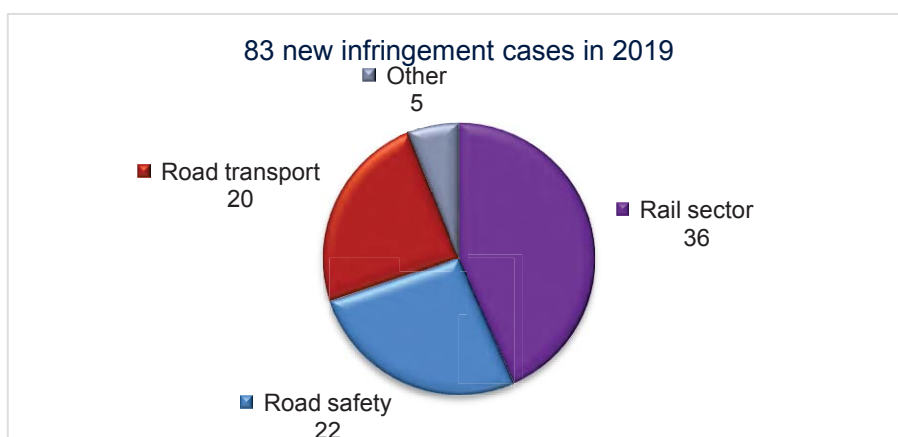
##### 1. Infringement cases open on 31 December (2015-2019)



##### 2. Infringement cases open on 31 December 2019: main policy sectors



##### 3. New infringement cases opened in 2019: main policy sectors



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

- a) The Commission opened 83 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:

## Mobility and transport

- *Belgium, Cyprus, Czechia, Germany, Denmark, Estonia, Finland, Hungary, Italy, Malta, the Netherlands, Portugal, Romania, Slovakia, Spain and the United Kingdom: failure to upgrade the connection of their national electronic registers on road hauliers to the new version of European Registers of Road Transport Undertakings (ERRU)*<sup>460</sup>;
  - *Belgium, Bulgaria, Croatia, Italy and Spain: failure to comply with minimum safety requirements for tunnels in the trans-European road network*<sup>461</sup>;
  - *Bulgaria and Malta: incorrect application of the Directive on marine equipment*<sup>462</sup>;
  - *Denmark, France, Germany, Ireland, the Netherlands, Poland and Spain: failure to fulfil the obligations under the EU rules establishing a single European railway area*<sup>463</sup>;
  - *Belgium: failure to comply with the Directive on the minimum level of training of seafarers*<sup>464</sup>;
  - *Belgium: incorrect implementation of the Airspace Regulation and the Regulation on common rules for the flexible use of airspace*<sup>465</sup>;
  - *Belgium: incorrect implementation of the Directive on driving licences*<sup>466</sup>;
  - *Germany: failure to comply with the principles of fair and non-discriminatory remuneration for European Electronic Toll Service providers*<sup>467</sup>;
  - *Greece: failure to comply with the minimum requirements of control on driving and resting times, and on the use of tachographs*<sup>468</sup>;
  - *Spain: incorrect implementation of EU legislation on railway safety*<sup>469</sup>;
  - *Hungary: failure to put in place effective penalties for infringements related to the use of tachographs in road transport*<sup>470</sup>;
  - *Hungary: non-implementation of technical requirements and administrative procedures related to air operations*<sup>471</sup>;
  - *Poland: incorrect application of common rules for access to the international market for coach and bus services*<sup>472</sup>;
- b) The Commission referred three cases to the Court under Article 258 TFEU. They concern:
- *Bulgaria: failure to transpose and comply with EU rules on railway safety as regards the independence of the investigating body*<sup>473</sup>;
  - *Austria: failure to comply with several provisions of the Train Drivers Directive*<sup>474</sup>;
  - *Ireland: failure to correctly implement EU law establishing the fundamental principles governing the investigation of accidents in the maritime transport sector*<sup>475</sup>.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>460</sup> Regulation (EU) [2016/480](#), [INF/19/4251](#), [INF/19/5950](#), [INF/19/6304](#).

<sup>461</sup> Directive [2004/54/EC](#), [INF/19/5950](#).

<sup>462</sup> Directive [2014/90/EU](#), [INF/19/4251](#) and [INF/19/5950](#).

<sup>463</sup> Directive [2012/34/EU](#), [INF/19/5950](#), [MEMO/19/462](#), [INF/19/4251](#).

<sup>464</sup> Directive [2008/106/EC](#), [INF/19/4251](#).

<sup>465</sup> Regulation (EC) No [2150/2005](#), Regulation (EC) No [551/2004](#), [MEMO/19/1472](#).

<sup>466</sup> Directive [2006/126/EC](#), [INF/19/5950](#).

<sup>467</sup> Commission Decision [2009/750/EC](#), [INF/19/4251](#).

<sup>468</sup> Directive [2006/22/EC](#), Regulation (EC) No [561/2006](#), Regulation (EU) [165/2014](#), [MEMO/19/1472](#).

<sup>469</sup> Directive [2004/49/EC](#), [MEMO/19/462](#).

<sup>470</sup> Regulation (EU) No [165/2014](#), [INF/19/4251](#).

<sup>471</sup> Commission Regulation (EU) N° [965/2012](#), [INF/19/5950](#).

<sup>472</sup> Regulation (EC) No [2009/1073](#), [MEMO/19/462](#).

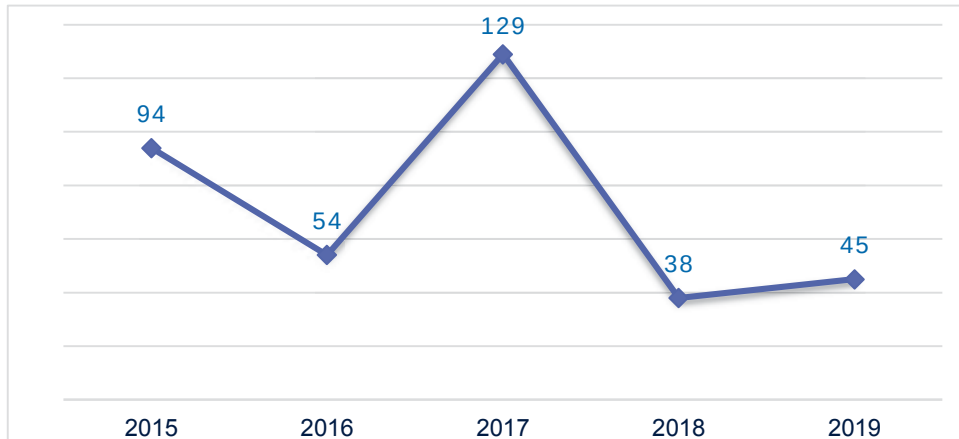
<sup>473</sup> Directive [2004/49/EC](#), Commission v Bulgaria, [C-33/19](#), [IP/18/6252](#).

<sup>474</sup> Directive [2007/59/EC](#), Commission v Austria, [C-796/19](#), [IP/19/4262](#).

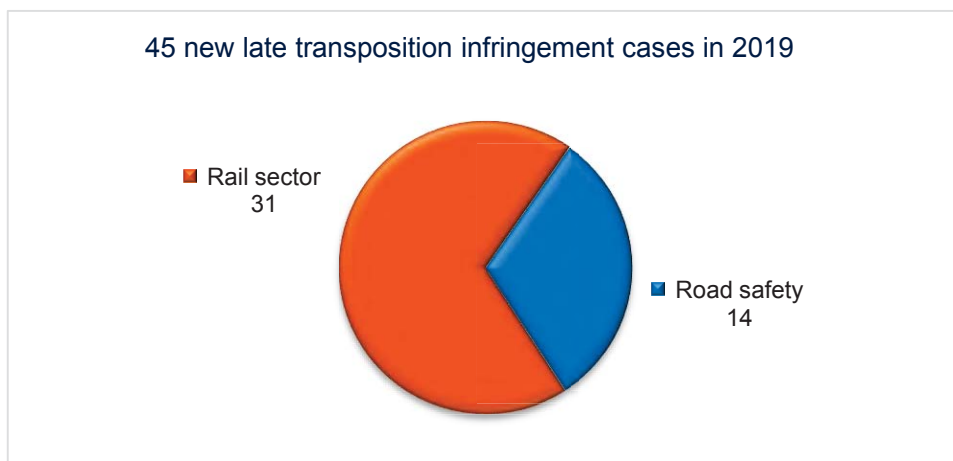
<sup>475</sup> Directive [2009/18/EC](#), Commission v Ireland, [C-257/19](#), [IP/18/4492](#).

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: main policy sectors



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

a) The Commission opened 45 cases for late transposition in 2019. They concerned the:

- *amending Directive concerning the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure*<sup>476</sup>
- *Single European Railway Area Directive*<sup>477</sup>
- *Directive on the interoperability of the rail system within the European Union*<sup>478</sup>
- *Railway Safety Directive*<sup>479</sup>
- *directives amending the Directive on inland transport of dangerous goods*<sup>480</sup>.

<sup>476</sup> Directive (EU) [2016/2370](#).

<sup>477</sup> Directive [2012/34/EU](#).

<sup>478</sup> Directive (EU) [2016/797](#).

<sup>479</sup> Directive (EU) [2016/798](#).

<sup>480</sup> Commission Directive (EU) [2018/217](#), Commission Directive (EU) [2018/1846](#).

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

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

*These included the following:*

- *Croatia, Cyprus, Czechia and the United Kingdom*: failure to provide the required quality management system for operational parts of the flag State-related activities<sup>481</sup>;
- *Germany and the Netherlands*: incorrect transposition of the Driving Licences Directive<sup>482</sup>;
- *Belgium and Sweden*: incorrect application of the provisions on access to the groundhandling market at EU airports<sup>483</sup>.
- *Italy and Malta*: incorrect application of the Directive on the minimum level of training of seafarers<sup>484</sup>;
- *Czechia*: non-compliance of national legislation with the provisions of the Train Drivers Directive<sup>485</sup>;
- *Denmark*: incorrect implementation of the Combined Transport Directive<sup>486</sup>;
- *Greece*: incorrect implementation of EU rules on civil aviation security<sup>487</sup>;
- *Hungary*: failure to submit the national implementation plans required by EU legislation on the technical specifications concerning accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility, and the operation and traffic management of rail systems<sup>488</sup>;
- *Portugal*: incorrect implementation of EU legislation on the investigation of accidents in the maritime sector<sup>489</sup>;

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

*The Court gave the following rulings:*

- *Germany*: failed to fulfil its obligations under EU law, at the 25th session of the Revision Committee of the Intergovernmental Organisation for International Carriage by Rail, by having voted against the position of the EU, and having publicly opposed that position and the arrangements for the exercise of voting rights<sup>490</sup>.
- *Poland*: failed to fulfil its obligations under the Directive on weights and dimensions in national and international traffic. The restrictions set on access to the Polish road network

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<sup>481</sup> Directive [2009/21/EC](#).

<sup>482</sup> Directive [2006/106/EC](#), as amended by Directive (EU) [2015/653](#).

<sup>483</sup> Directive [96/67/EC](#).

<sup>484</sup> Directive [2008/106/EC](#), as amended by Directive [2012/35/EU](#).

<sup>485</sup> Directive [2007/59/EC](#).

<sup>486</sup> Directive [92/106/EEC](#).

<sup>487</sup> Regulation (EC) No [300/2008](#).

<sup>488</sup> Regulations (EU) No [1300/2014](#) and (EU) No [2015/995](#).

<sup>489</sup> Directive [2009/18/EC](#).

<sup>490</sup> Decision [2014/699/EU](#), Commission v Germany, [C-620/16](#).



Mobility and transport

for vehicles complying with the maximum axle weights laid down in the Directive are not justified<sup>491</sup>.

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<sup>491</sup> Directive [96/53/EC](#), Commission v Poland, [C-127/17](#).

## 2. Preliminary rulings

The Court gave the following preliminary rulings:

- *Belgium*: The closure of an airport runway due to petrol spillage constitutes an 'extraordinary circumstance' when the petrol in question does not originate from an aircraft of the carrier operating that flight. It is a circumstance that could not have been avoided even if all reasonable measures had been taken<sup>492</sup>.
- *Belgium*: When a passenger boards a train without a ticket, he concludes a contract with the carrier. This covers the situation where access to the train is free<sup>493</sup>.
- *Czechia*: Connecting flights that are the subject of a single reservation departing from a Member State to a non-Member State via another non-Member State: the air carrier of the first flight is, in principle, liable to pay compensation to passengers who suffered a long delay in the arrival of the second flight performed by a non-Community air carrier<sup>494</sup>.
- *Germany*: An exception from the use of tachographs does not apply to vehicles used for the carriage of live animals directly from farms to local slaughterhouses<sup>495</sup>.
- *Germany*: A Member State may refuse to recognise a driving licence which has been issued by another Member State, without a test of fitness to drive, on the basis of a driving licence issued by another Member State based on the exchange of a driving licence issued by a third country<sup>496</sup>.
- *Germany*: The direct award of contracts for public passenger transport services by bus that do not take the form of service concessions is not subject to the Regulation on public passenger transport services by rail and road<sup>497</sup>.
- *Germany*: An air carrier is only required to compensate passengers for a long delay caused by damage to an aircraft tyre if it fails to prove that it deployed all means at its disposal for limiting the delay of the flight<sup>498</sup>.
- *Germany*: The system of airport charges is to be approved by an independent supervisory authority and must be mandatory for all airport users<sup>499</sup>.
- *Germany*: Exception from the application of certain social legislation covers only vehicles that are used exclusively, during a particular transport operation, for the purpose of delivering items as part of the universal postal service<sup>500</sup>.
- *Italy*: The provisions of the Regulation on public passenger transport services by rail and road, which govern the award of public service contracts, do not apply to award procedures carried out before 3 December 2019<sup>501</sup>.

<sup>492</sup> Regulation (EC) No [261/2004](#), Moens, [C-159/18](#).

<sup>493</sup> Regulation (EC) No [1371/2007](#), joined cases: Kanyeba, [C-349/18](#), Nijs, C-350/18, Dedroog, C-351/18 and Court press release No 136/2019.

<sup>494</sup> České aerolinie, [C-502/18](#) and Court press release No 95/2019.

<sup>495</sup> Regulation (EC) No [561/2006](#), Regulation (EU) No [165/2014](#), NK, [C-231/18](#).

<sup>496</sup> Directive [2006/126/EC](#), Meyn, [C-9/18](#).

<sup>497</sup> Regulation (EC) No [1370/2007](#), joined cases: Verkehrsbetrieb Hüttebräucker and BVR Busverkehr Rheinland, [C-266/17](#) and [Rhenus Veniro](#), [C-267/17](#), Court press release No 46/2019.

<sup>498</sup> Regulation (EC) No [261/2004](#), Germanwings, [C-501/17](#) and Court press release No 45/2019.

<sup>499</sup> Directive [2009/12/EC](#), Deutsche Lufthansa, [C-379/18](#).

<sup>500</sup> Regulation (EC) No [561/2006](#), joined cases: Deutsche Post and Leymann, [C-203/18](#) and UPS Deutschland and Others, [C-374/18](#).

<sup>501</sup> Regulation (EC) No [1370/2007](#), joined cases: Mobit, [C-350/17](#) and Autolinee Toscane, [C-351/17](#).

## Mobility and transport

- *Italy*: The jurisdiction of a Member State court with respect to rights of passengers in the event of denied boarding and of cancellation or a long delay of flights must be assessed in light of the Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters<sup>502</sup>.
- *Italy*: National legislation providing for the automatic termination of the employment relationship at the age of 60 for aircraft pilots engaged in activities associated with protecting the national security of a Member State is compatible with EU law if it is necessary for public security and does not go beyond what is necessary to achieve this objective<sup>503</sup>.
- *Italy*: National authorities which intend directly to award a public service contract for the transport of passengers by rail are not required to publish or communicate to any interested economic operators all the information necessary in order to enable them to submit a sufficiently detailed offer which may be subject to a comparative assessment, or to carry out such an assessment of all bids that may have been received following publication of that information<sup>504</sup>.
- *Hungary*: A Member State is acting in breach of EU law if it imposes lesser penalties to resident road transport enterprises than to non-resident road transport enterprises for infringements to the rules on the use of tachographs that have the same degree of gravity<sup>505</sup>.
- *The Netherlands*: Passengers who have the right to hold their tour organiser liable for reimbursement of the cost of their air tickets cannot also claim reimbursement of the cost of those tickets from the air carrier<sup>506</sup>.
- *Austria*: An airline is liable for the harm caused by a spilt cup of hot coffee. It is not necessary for that accident to relate to a hazard typically associated with flight<sup>507</sup>.
- *Austria*: Workers providing services on board international trains, pursuant to a contract concluded between their employer and an undertaking established in another Member State, are not posted workers if they carry out a significant part of the work inherent to those services in the Member State where their employer is established and if they begin or end their shifts there<sup>508</sup>.
- *Austria*: The use of passenger platforms is part of the 'minimum access package' under the Single European Railway Directive, and infrastructure managers are required to make them available to all train operators<sup>509</sup>.
- *Romania*: The amount of the compensation provided by EU rules for cases of denied boarding or cancellation of a flight is not intended to compensate for damage such as loss of earnings, and that damage may be the subject of further compensation. In case of denied boarding, it is the responsibility of the operating air carrier to provide complete

<sup>502</sup> Regulation (EU) No 1215/2012, Guaitoli, [C-213/18](#).

<sup>503</sup> Regulation (EU) No 1178/2011, Directive 2000/78/EC, Cafaro, [C-396/18](#).

<sup>504</sup> Regulation (EC) No 1370/2007, Autorità Garante della Concorrenza e del Mercato, [C-515/18](#).

<sup>505</sup> Regulation (EU) No 165/2014, UTEP 2006, [C-600/18](#).

<sup>506</sup> Aegean Airlines, [C-163/18](#) and [press Court release](#) No 91/2019.

<sup>507</sup> Niki Luftfahrt, [C-532/18](#) and [Court press release](#) No 163/2019.

<sup>508</sup> Directive 96/71/EC, Dobersberger, [C-16/18](#).

<sup>509</sup> Directive 2012/34/EU, WESTbahn Management, [C-210/18](#).

Mobility and transport

information to passengers on their right to reimbursement or re-routing. The passengers have no obligation to actively contribute to the search for information to that effect<sup>510</sup>.

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<sup>510</sup> Regulation (EC) No [261/2004](#), Rusu, [C-354/18](#).

## VIII. OUTLOOK

Important implementation work in 2020 includes:

- Monitoring and assessing national measures transposing the Directives on:
  - railway safety<sup>511</sup>;
  - the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure<sup>512</sup>;
  - the rail sector<sup>513</sup>;
  - safety rules and standards for passenger ships<sup>514</sup>;
  - registration of persons sailing on board passenger ships and reporting formalities for ships<sup>515</sup>;
  - inspections for the safe operation of roll-on roll-off passenger ships and high-speed passenger craft<sup>516</sup>.
- Closely monitoring restrictions to market access and development of sustainable transport and safety and security in all modes of transport.

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<sup>511</sup> Directive [2016/798](#).

<sup>512</sup> Directive [2016/2370](#).

<sup>513</sup> Directives [2012/34/EC](#) and [2016/2370/EU](#).

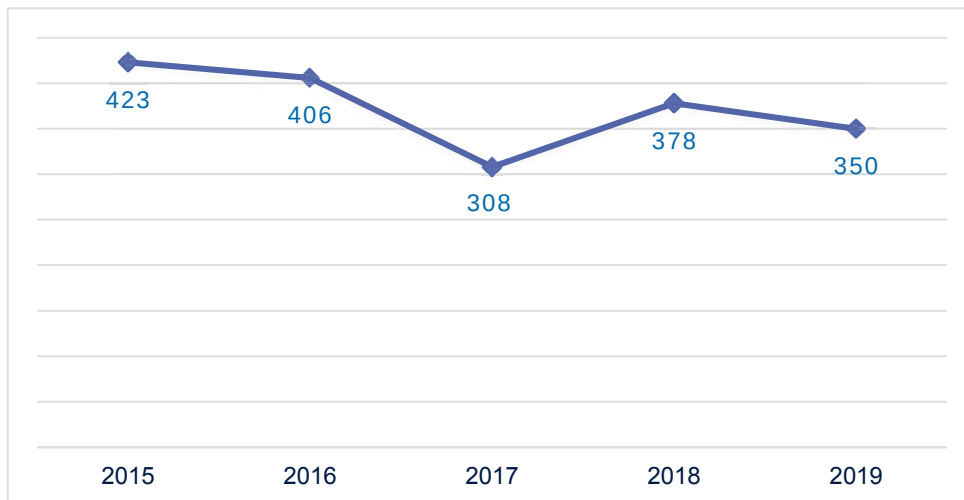
<sup>514</sup> Directive (EU) [2017/2108](#).

<sup>515</sup> Directive (EU) [2017/2109](#).

<sup>516</sup> Directive (EU) [2017/2110](#).

## I. COMPLAINTS

### 1. New complaints received from members of the public (2015-2019)



### 2. Public complaints open at year-end

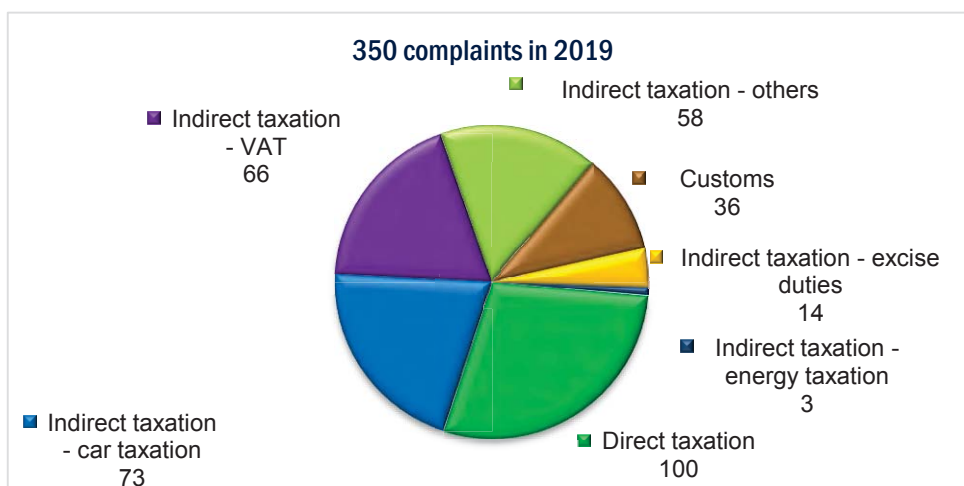
331 ► Complaints open at end-2018

350 ► New complaints registered in 2019

321 ► Complaints handled in 2019

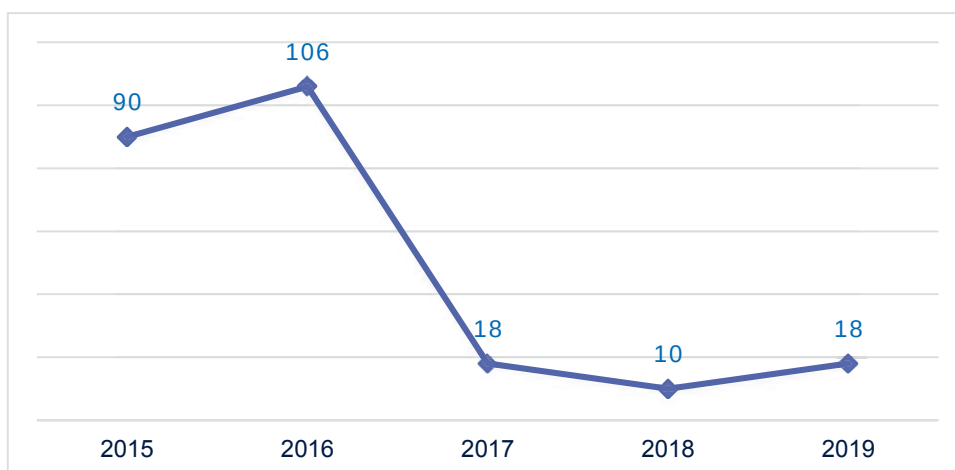
331 + 350 - 321 = 360 ► Complaints open at end-2019

### 3. New complaints registered in 2019: main policy sectors



## II. EU PILOT

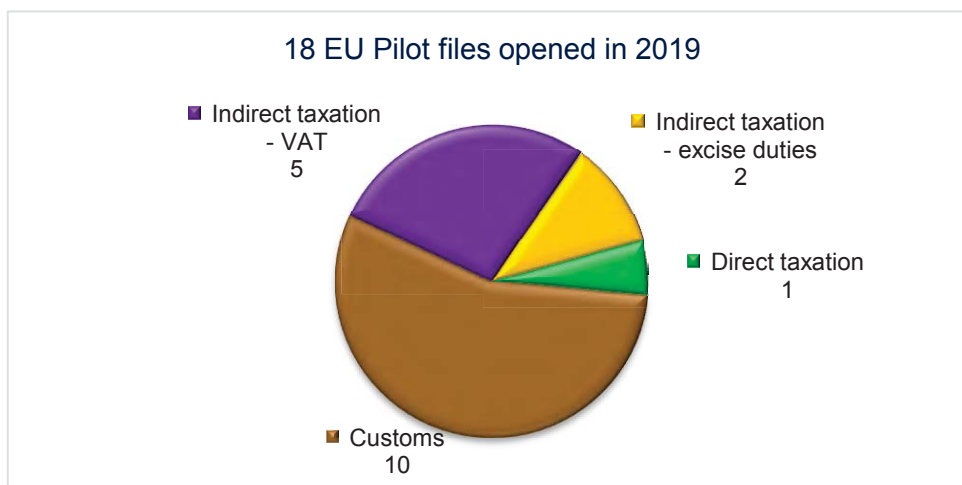
### 1. New EU Pilot files (2015-2019)



### 2. EU Pilot files open at year-end

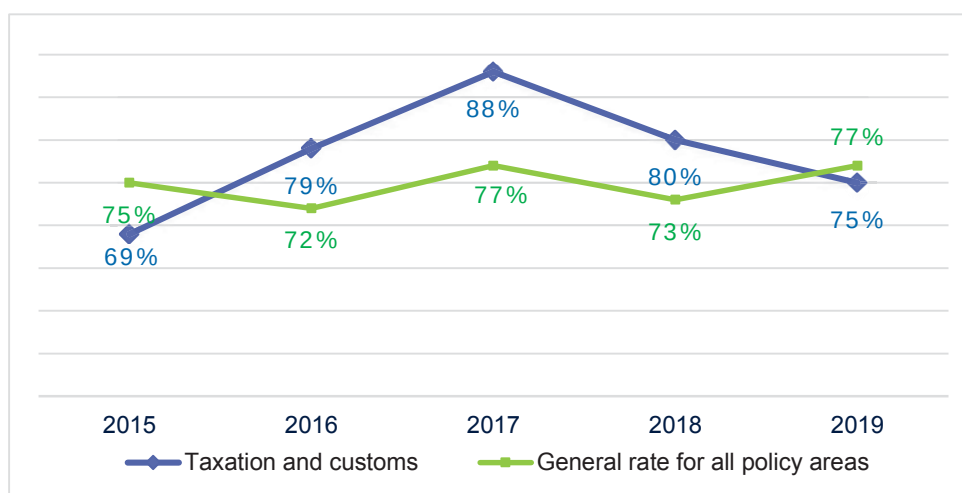
At the end of 2019, 35 EU Pilot files remained open.

### 3. New EU Pilot files opened in 2019: main policy sectors



## Taxation and customs union

### 4. EU Pilot files: resolution rate for policies (2015-2019)



## III. OWN-INITIATIVE CASES

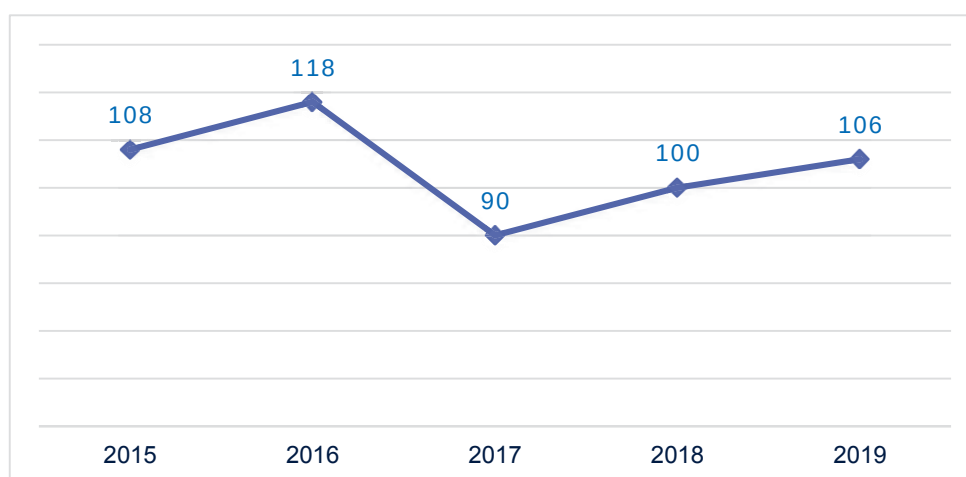
### New own-initiative infringement cases

In 2019, the Commission opened own-initiative infringement cases on the:

- Directive on tax dispute resolution mechanisms in the European Union<sup>517</sup>;
- Anti-Tax Avoidance Directive (ATAD1)<sup>518</sup>;
- Directive on value-added tax obligations for supplies of services and distance sales of goods<sup>519</sup>;
- Directive on the treatment of vouchers<sup>520</sup>.

## IV. INFRINGEMENT CASES

### 1. Infringement cases open on 31 December (2015-2019)



<sup>517</sup> Directive (EU) [2017/1852](#).

<sup>518</sup> Directive (EU) [2016/1164](#).

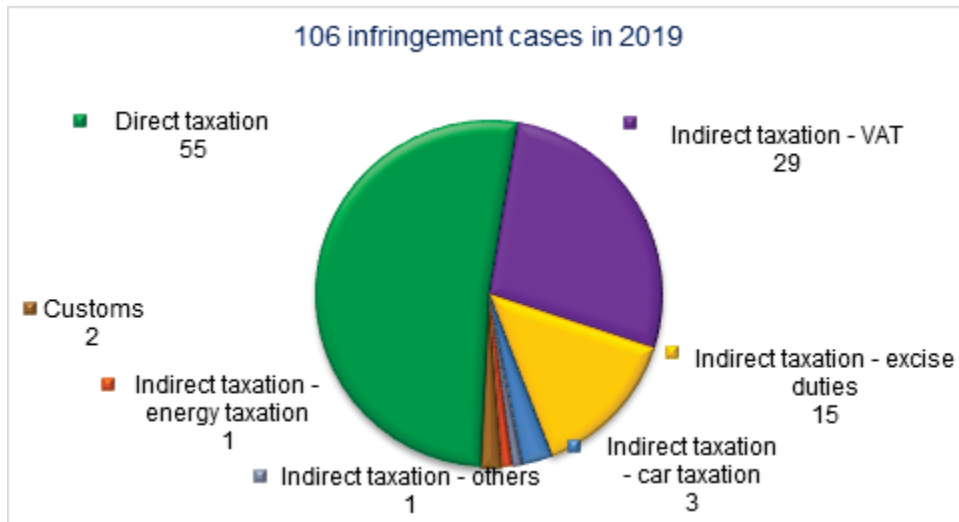
<sup>519</sup> Directive (EU) [2017/2455](#).

<sup>520</sup> Directive (EU) [2016/1065](#).

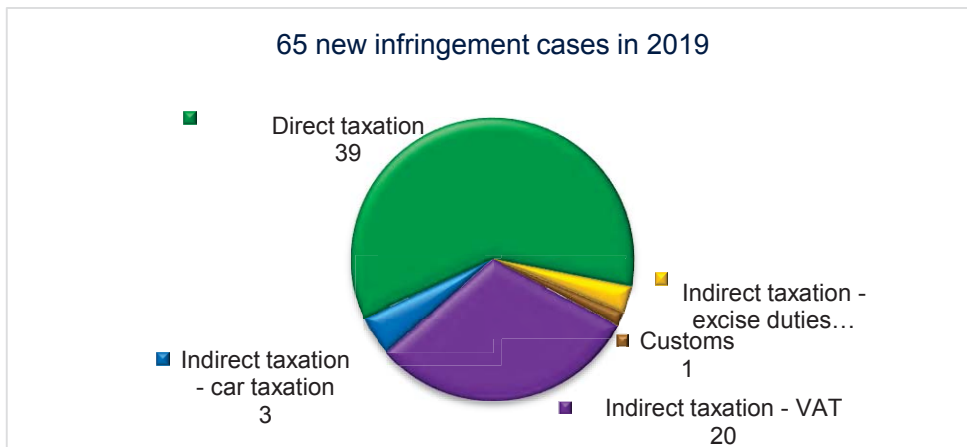


## Taxation and customs union

### 2. Infringement cases open on 31 December 2019: main policy sectors



### 3. New infringement cases opened in 2019: main policy sectors



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

a) The Commission opened 65 new infringement cases in 2019. These, and other major ongoing infringement cases, include the following:

- *Germany: national rules on VAT for distance sales of goods sold through digital marketplaces*<sup>521</sup>;
- *Germany: Impossibility to fulfil formal requirements for qualifying as a group company for German tax consolidation purposes*<sup>522</sup>;
- *Greece: Payment of a fee by importers of medical devices, which has an equivalent effect to a customs duty pursuant to Article 30 TFEU*;
- *Spain: Obligation to appoint a fiscal representative in Spain*<sup>523</sup>;
- *Spain: Incorrect application of the Merger Directive*<sup>524</sup>;

<sup>521</sup> [IP/19/5950](#).

<sup>522</sup> [IP/19/4251](#).

<sup>523</sup> [IP/19/4251](#).

<sup>524</sup> [IP/19/462](#).

## Taxation and customs union

- *Italy: Preferential taxation on property for Italians abroad*<sup>525</sup>;
  - *Hungary: Discriminatory tax treatment of foreign foundations*<sup>526</sup>;
  - *Portugal: heavier taxation on used cars imported from other Member States than on used cars purchased on the national market in breach of Article 110 TFEU*<sup>527</sup>;
  - *Romania: time limit for the notification of customs debts*;
  - *Finland: legislation on tax deductibility of group contributions between affiliated domestic companies in breach of freedom of establishment*<sup>528</sup>.
- b) The Commission referred six cases to the Court under Article 258 TFEU, namely the following:
- *Spain: failure to fulfil obligations under Articles 21, 45, 56 and 63 TFEU, and Articles 28, 31, 36 and 40 of the EEA Agreement as regards certain features of the obligation to provide information on assets located abroad (Modelo 720)*<sup>529</sup>;
  - *Germany: rejecting certain applications for VAT refunds for businesses in other Member States*<sup>530</sup>.
  - *Italy: failure to comply with the rules on the taxation of energy products and electricity by applying in regional legislation a reduction to excise duty for petrol and gas oil used as motor fuel*<sup>531</sup>.
  - *Hungary: failure to apply an excise duty on cigarettes below the minimum EU threshold of 60% of the applicable weighted average retail price, despite the end of the transitional period allowed for the gradual increase of that duty*<sup>532</sup>;
  - *Austria: failure to correctly apply the special VAT scheme for travel agents*<sup>533</sup>;
  - *United Kingdom: extending the scope of a VAT derogation for certain commodity markets*<sup>534</sup>;
- c) The Commission referred one case to the Court under Article 260(2) TFEU.
- *Belgium: failure to comply with a judgment of the Court of Justice in which the Court had found that Belgian provisions for rental income are in breach of EU law*<sup>535</sup>.

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<sup>525</sup> [IP/19/462](#).

<sup>526</sup> [IP/19/1472](#).

<sup>527</sup> [INF/19/6304](#).

<sup>528</sup> [IP/19/1472](#).

<sup>529</sup> Case [C-788/19](#) *Commission v Spain*, [IP/19/2774](#).

<sup>530</sup> Case [C-371/19](#) *Commission v Germany*.

<sup>531</sup> Case [C-63/19](#) *Commission v Italy*.

<sup>532</sup> Case [C-856/19](#) *Commission v Hungary*.

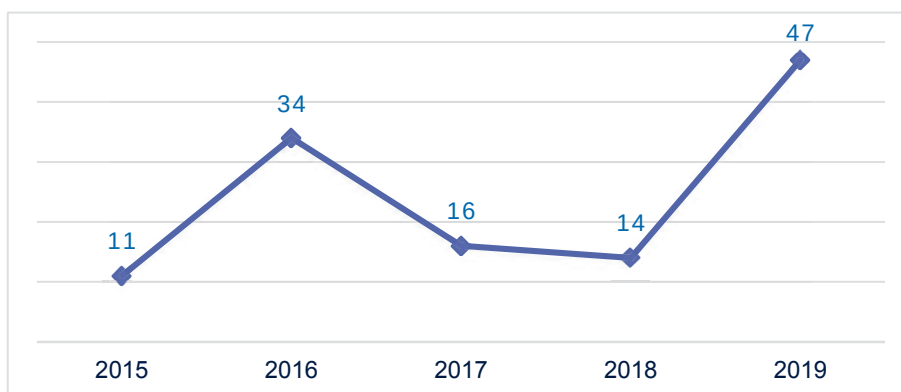
<sup>533</sup> Case [C-787/19](#) *Commission v Austria*.

<sup>534</sup> Case [C-276/19](#) *Commission v United Kingdom*.

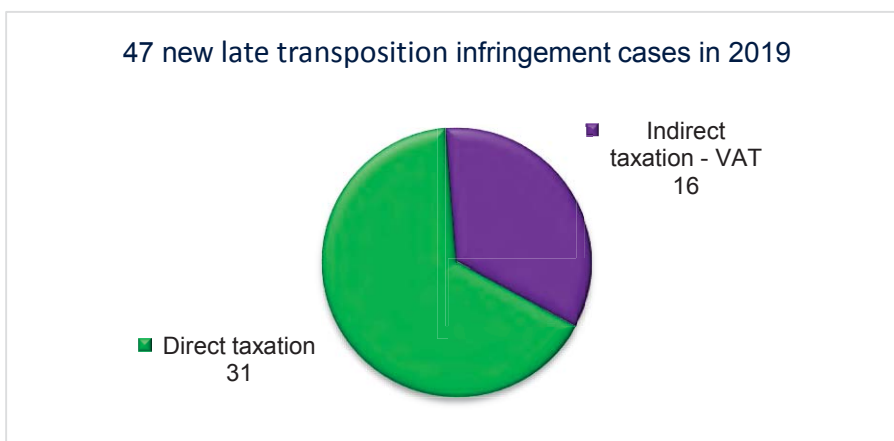
<sup>535</sup> Case [C-842/19](#) *Commission v Belgium*.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2015-2019)



### 2. New late transposition infringement cases opened in 2019: main policy sectors



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

The Commission opened 47 cases for late transposition in 2019. They included the:

- Directive on value-added tax obligations for supplies of services and distance sales of goods<sup>536</sup>;
- Anti-Tax Avoidance Directive (ATAD1)<sup>537</sup>;
- Directive on tax dispute resolution mechanisms in the European Union<sup>538</sup>;
- Directive on the treatment of vouchers<sup>539</sup>.

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

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

<sup>536</sup> Directive (EU) [2017/2455](#).

<sup>537</sup> Directive (EU) [2016/1164](#).

<sup>538</sup> Directive (EU) [2017/1852](#).

<sup>539</sup> Directive (EU) [2016/1065](#).

## Taxation and customs union

These concerned the following:

- *Belgium, Czechia, Greece, France, Cyprus, Latvia, Portugal and the United Kingdom*: Non-communication of national measures transposing the Anti-Tax Avoidance Directive (ATAD1)<sup>540</sup>;
- *Czechia, Greece, Poland and Romania*: Non-communication of national measures transposing the Directive as regards access to anti-money laundering information (DAC5)<sup>541</sup>;
- *Belgium*: Taxation of redistributed income in the form of dividends;
- *Bulgaria*: Customs duty relief for certain US goods in breach of the Community system of reliefs from customs duty<sup>542</sup>;
- *Bulgaria*: Proportionality of sanctions for not declaring the movement of cash in breach of controls of cash entering or leaving the Community<sup>543</sup>;
- *Czechia*: Non-conform implementation of the Directive as regards mandatory automatic exchange of information in the field of taxation (DAC2)<sup>544</sup>;
- *Estonia*: Non-conform implementation of the Directive on administrative cooperation in the field of taxation (DAC1)<sup>545</sup>;
- *Italy*: Fast Customs Corridors regarding compliance with Articles 139, 144 and 148(5) of the Union Customs Code<sup>546</sup>;
- *Latvia*: Discriminatory taxation of real estate in Riga City;
- *Lithuania*: Non-communication of national measures transposing the Directive on tax dispute resolution mechanisms in the European Union<sup>547</sup>.
- *Hungary*: Discriminatory taxation of spirit drinks in violation of Article 110 TFEU by exempting from the public health tax fruit distillates and herbal drinks produced predominantly on its territory;

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

*The Court gave the following ruling:*

- *Greece*: The Court of Justice ruled that Greece's application of a reduced excise duty rate on the spirit drinks, Tsipouro and Tsikoudia, produced by systematic distilleries, as well as the application of a super-reduced rate to those spirits produced by small occasional distillers, are both incompatible with EU law<sup>548</sup>.

### 2. Preliminary rulings

*The Court gave the following preliminary rulings:*

- *Denmark*: The Court of Justice clarified that EU law cannot be relied on for abusive or fraudulent objectives. In such cases, national authorities and courts must refuse a taxpayer the exemption from withholding tax on profits distributed by a subsidiary to its parent

<sup>540</sup> Directive (EU) [2016/1164](#).

<sup>541</sup> Directive [2016/2258/EU](#).

<sup>542</sup> Regulation (EC) [1186/2009](#).

<sup>543</sup> Regulation (EC) [1889/2005](#).

<sup>544</sup> Directive [2011/16/EU](#).

<sup>545</sup> Directive [2014/107/EU](#).

<sup>546</sup> Regulation (EU) [952/2013](#).

<sup>547</sup> Directive [2017/1852/EU](#).

<sup>548</sup> Case [C-91/18](#) *Commission v Greece*, EU:C:2019:600.

## Taxation and customs union

company, even if there are no domestic or agreement-based provisions providing for such a refusal<sup>549</sup>.

- *Germany*: the Court of Justice clarified that the VAT exemption for school and university education does not cover driving school tuition provided by a driving school for the purpose of acquiring driving licences for vehicles in categories B and C1, even if the objective of such tuition is not purely recreational, since possession of such licences is liable to meet, among other things, professional needs<sup>550</sup>.
- *Germany*: The Court of Justice clarified that customs authorities may require that an applicant for the status of an 'authorised economic operator' provide them with the tax identification numbers concerning solely the natural persons who are in charge of the applicant or who exercise control over its management and those who are in charge of the applicant's customs matters, and the details of the tax offices responsible for the taxation of all those persons<sup>551</sup>.
- *Germany*: The Court of Justice clarified that legislation of a Member State which effectively taxes dividends paid to foreign pension funds at a higher rate than dividends paid to domestic pension funds is contrary to the free movement of capital as established by Article 63 TFEU<sup>552</sup>.
- *Germany*: Where EU customs regulations require providing a specific indication of the country of origin for a product (in this case, cultivated mushrooms that had been relocated during the growing process), the country of origin is that where the product was harvested and that indication as such cannot be regarded as misleading consumers. In such circumstances, no obligations may be imposed on the food business operators to provide information additional to the indication of the country of origin in order to prevent any alleged risk of misleading consumers<sup>553</sup>.
- *Latvia*: The Court of Justice clarified that where the customs value of goods, such as the medicinal products at issue in the dispute in the main proceedings, is calculated by applying the deductive method (this is one of the methods used for calculating the customs value), the competent national customs administration must, in order to identify 'similar goods', take into account any relevant element.<sup>554</sup>
- *Lithuania*: The Court of Justice clarified that the exemption from excise duty applies to denatured ethyl alcohol contained in cosmetics or mouthwashes which are nevertheless consumed as alcoholic beverages, although not intended for human consumption, even if the importer of products from another Member State labelled them with a view to increasing the sales<sup>555</sup>.
- *Lithuania*: The Court of Justice held that Member States should tax as cigars or cigarillos tobacco products with an outer wrapper of natural tobacco partially covered, at the filter, by an additional paper layer, which may make them visually similar to cigarettes<sup>556</sup>.

## VIII. OUTLOOK

Important implementation work in 2020 includes:

Indirect taxation:

<sup>549</sup> Joined cases [C-116/16 and C-117/16](#) Skatteministeriet v T Danmark and Y Denmark Aps, EU:C:2019:135

<sup>550</sup> Case [C-449/17](#) A & G Fahrschul-Akademie, EU:C:2019:202.

<sup>551</sup> Case [C-496/17](#) Deutsche Post AG v Hauptzollamt Köln, EU:C:2019:26.

<sup>552</sup> Case [C-641/17](#) College Pension Plan of British Columbia, EU:C:2019:960.

<sup>553</sup> Case [C-686/17](#) Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main, EU:C:2019:659.

<sup>554</sup> Case [C-1/18](#) SIA Oribalt Rīga v Valsts ieņēmumu dienests, EU:C:2019:519.

<sup>555</sup> Case [C-567/17](#) Bene Factum, EU:C:2019:158.

<sup>556</sup> Case [C-638/17](#) Skonis ir kvapas, EU:C:2019:316.

## Taxation and customs union

- focus on infringements with a strong impact on ensuring fair and effective taxation and the climate and health objectives of the EU;
- monitoring cases affecting the economic situation of businesses or aiming at removing distortions of competition in the internal market.

### Direct taxation:

- assess the conformity of national measures with EU rules on exchange of information on taxation. This will concern in particular the Directives on:
  - the automatic exchange within the EU of information relative to financial income, including dividends and capital gains, and account balances<sup>557</sup>;
  - the mandatory automatic exchange of information in the field of taxation<sup>558</sup>;
  - country-by-country reporting of information by multinationals to tax authorities<sup>559</sup>;
  - access to anti-money laundering information<sup>560</sup>;
  - mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements<sup>561</sup>.
- assess the conformity of national rules against tax avoidance and practices that directly affect the functioning of the internal market<sup>562</sup>;
- assess the conformity of national rules on tax dispute resolution mechanisms in the EU<sup>563</sup>.

### Customs:

- carry out a series of monitoring activities in cooperation with the Member States to help them implement the Union Customs Code, which now has been applicable for more than 3 years;
- focus on cases and subject matters where there is a significant financial impact and where it is considered that our exclusive competence in the area of customs needs to be defended.

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<sup>557</sup> Directive [2014/107/EU](#).

<sup>558</sup> Directive [2015/2376/EU](#).

<sup>559</sup> Directive [2016/881/EU](#).

<sup>560</sup> Directive [2016/2258/EU](#).

<sup>561</sup> Directive [2018/0822/EU](#).

<sup>562</sup> Directive [2016/1164/EU](#).

<sup>563</sup> Directive [2017/1852/EU](#).

## I. METHODOLOGY AND EXPLANATIONS

### ANNEX I — POLICY AREAS

#### 1. Complaints

*First chart:* New complaints received from members of the public (2015-2019)

This shows the number of public complaints the Commission registered in the given policy field in 2015-2019.

*Second chart:* Public complaints open at year-end

This starts with the number of open complaints at the end of 2018 (first line)<sup>564</sup>. The second line shows the number of new complaints registered in 2019. The third line shows the number of complaints on which the Commission took a decision in 2019. The fourth line shows the number of complaints open at the end of 2019 (calculated by taking the first figure, adding the second and subtracting the third).

*Third chart:* New complaints registered in 2019: main policy sectors

The number of registered complaints for the current reporting year is broken down by policy sector. In general, this breakdown shows the three policy sectors in which the most complaints were received in 2019. Four (or more) policy sectors are mentioned if two (or more) policy sectors attracted the third highest number of complaints. The number of sectors covered varies according to the breadth of each policy area.

#### 2. EU PILOT

*First chart:* New EU Pilot files (2015-2019)

This shows the number of EU Pilot files the Commission opened in the given policy area in 2015-2019.

*Second chart:* New EU Pilot files opened in 2019: main policy sectors

The number of new EU Pilot files opened in the current reporting year is broken down by policy sector. This breakdown shows the three policy sectors in which the most EU Pilot files were opened in 2019.

*Third chart:* EU Pilot files: resolution rate for policies in 2015-2019

The resolution rate in the given policy field is the percentage of EU Pilot files handled in that field for which the Commission accepted the Member States' responses. The chart shows the resolution rate for the last 5 years.

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<sup>564</sup> In some instances a difference between the figures from the preceding annual report may be due to delayed, double or erroneous registration at the moment of extracting statistical data.



### 3. OWN-INITIATIVE CASES

#### New own-initiative cases

This section contains a list of the most important infringement cases the Commission launched in the given policy area in 2019. The list is not exhaustive.

### 4. INFRINGEMENT CASES

#### *First chart:* Infringement cases opened on 31 December (2015-2019)

These figures include all procedures the Commission initiated in the policy area by sending a letter of formal notice under Article 258 TFEU. It covers letters sent in 2019 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, this number includes all cases that, on 31 December of the years 2014 to 2019:

- *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.*

This figure does *not* include, for example, open EU Pilot files in the policy area. It also does 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:* Infringement cases open on 31 December 2019: main policy sectors

This shows, for the given policy area, the sectors in which the most infringement cases were still open on 31 December 2019. The number of sectors shown varies according to the breadth of each policy area.

#### *Third chart:* New infringement cases opened in 2019: main policy sectors

This shows, for the given policy area, the sectors in which the most infringement cases were launched in 2019.

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

This section has three parts:

Part a) shows the number of new infringement cases launched in the policy area in 2019 and lists the most important new cases under Article 258 TFEU.



Part b) lists the cases which the Commission referred to the Court *solely* under Article 258 TFEU by 31 December 2019. 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) contains the cases which the Commission referred to the Court under Article 260(2) TFEU by 31 December 2019.

## 5. TRANSPOSITION OF DIRECTIVES

*First chart:* New late transposition infringement cases (2015-2019)

This shows the number of letters of formal notice sent to Member States under Article 258 TFEU for missing or partial notification of national measures transposing directives in the given policy area. This figure is already included in the total number of new infringement cases initiated in the policy area in 2019, so it should *not* be added to the figure shown in the first 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 2019. For example, if the Commission opened a late transposition infringement procedure in March 2019 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 2019 as a result of the Member State notifying complete transposition.

*Second chart:* New late transposition infringement cases opened in 2019: main policy sectors

This shows the policy sectors in which the most late transposition procedures were launched in 2019.

Key infringement cases and referrals to the Court

This section has two parts:

Part a) lists, for the given policy area, the most important directive(s) over which the Commission had to launch infringement procedures against a relatively high number of Member States.

Part b) lists the cases which the Commission referred to the Court under Article 258 TFEU and Article 260(3) by 31 December 2019.

## 6. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

This section contains a list of the most important infringement cases the Commission closed in the given policy area in 2019 without a Court judgment. The list is not exhaustive.

## 7. IMPORTANT JUDGMENTS

This section contains two lists:

- *The first list contains the Court’s most important judgments in the given policy area in 2019. These judgments are almost exclusively handed down under Article 258 or Articles 260(2) TFEU.*

- *The second list contains the most important preliminary rulings that the Court issued to the Member State's judiciary in the given policy area.*

These lists are not necessarily exhaustive.