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

Encl.: SWD(2020) 147 final



Brussels, 31.7.2020
SWD(2020) 147 final

PART 4/4

COMMISSION STAFF WORKING DOCUMENT

Part III: Member States

Accompanying the document

Report from the Commission

Monitoring the application of European Union law

2019 Annual Report

{COM(2020) 350 final}

Lithuania	2
Luxembourg.....	8
Hungary	14
Malta	21
Netherlands	27
Austria.....	34
Poland.....	41
Portugal	49
Romania	56
Slovenia	63
Slovakia	69
Finland	74
Sweden.....	81
United Kingdom	86
Methodology and explanations.....	92

I. COMPLAINTS

1. New complaints made against Lithuania by members of the public (2015-2019)



2. Public complaints against Lithuania open at year-end

- 30 ▶ Complaints open at end-2018
- 32 ▶ New complaints registered in 2019
- 33 ▶ Complaints handled in 2019
- = 29 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

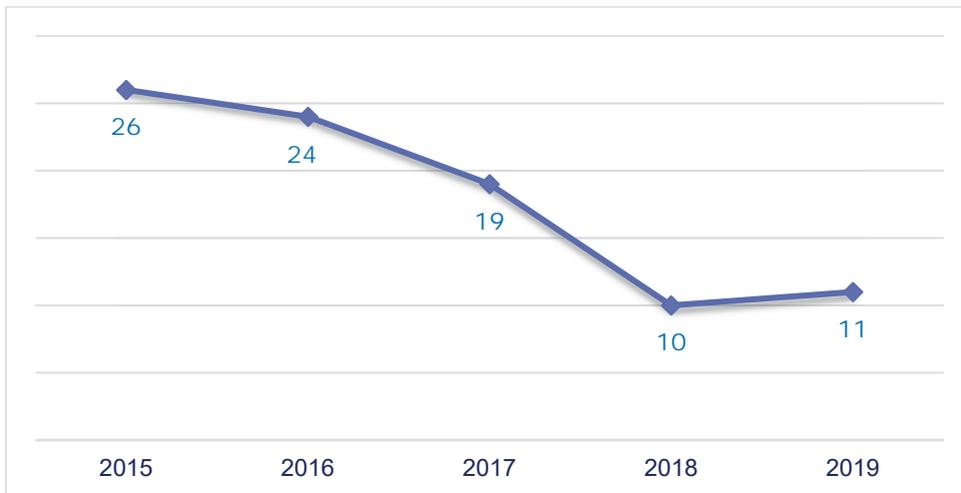


II. EU PILOT

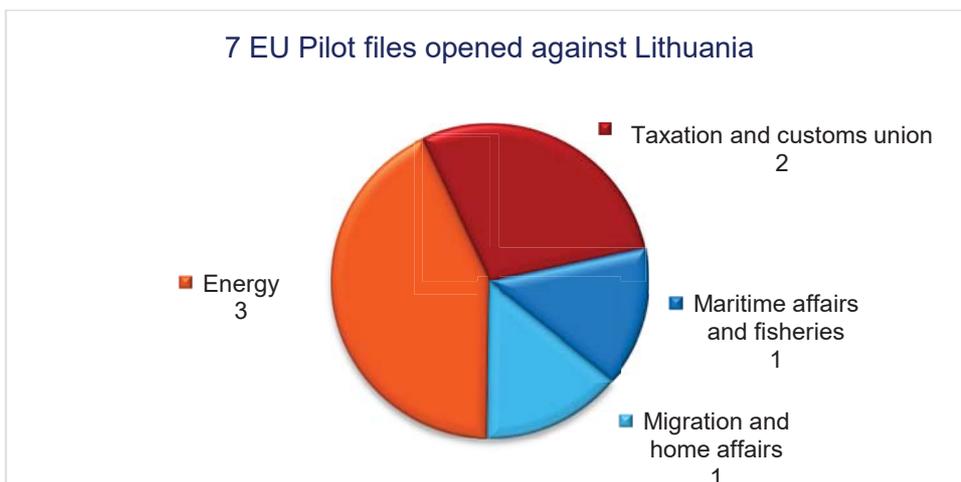
1. New EU Pilot files opened against Lithuania (2015-2019)



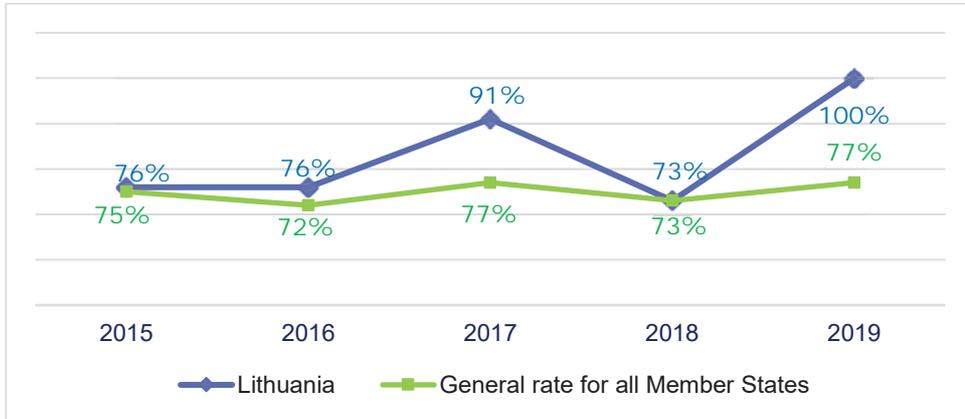
2. Files relating to Lithuania open in EU Pilot at year-end



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



4. EU Pilot files: Lithuania's resolution rate in 2015-2019

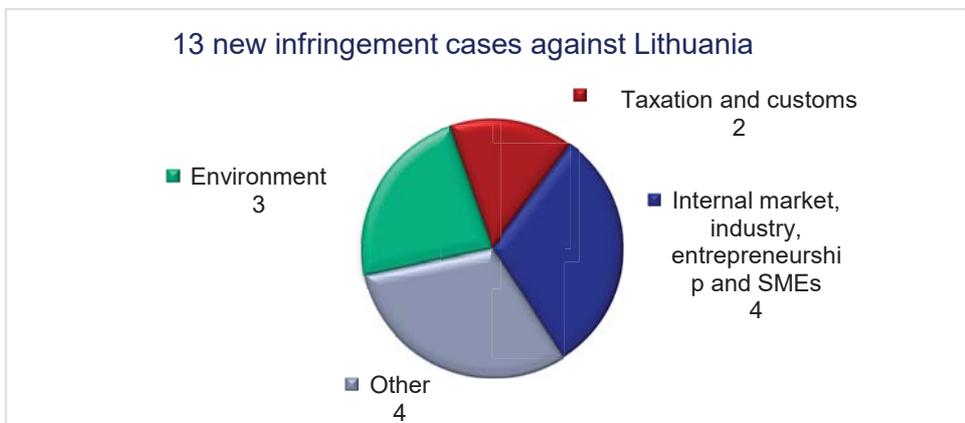


III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



3. Key infringement cases and referrals to the Court

- a. The Commission opened 13 new infringement cases against Lithuania in 2019. These, and other major ongoing infringement cases, include:

- failure to ensure that urban waste water is adequately collected and treated¹;
 - late reporting on the environmental status of marine waters under the Marine Strategy Framework Directive²;
 - incorrect transposition of the:
 - Directive on combating the sexual abuse and sexual exploitation of children³
 - EU rules on public procurement and concessions⁴
 - Energy Efficiency Directive⁵;
 - **non-communication of national measures transposing the:**
 - Reception Conditions Directive⁶
 - Bank Creditors Hierarchy Directive⁷.
- b. [The Commission did not refer any cases to the Court under Article 258 TFEU.]
- c. [The Commission did not refer any cases to the Court under Article 260(2) TFEU.]

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Lithuania open on 31 December (2015-2019)



2. New late transposition infringement cases against Lithuania (2015-2019)

¹ Directive [91/271/EEC](#), [MEMO/19/462](#).

² Directive [2008/56/EC](#), [INF/19/5950](#).

³ Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

⁴ [INF/19/5950](#); Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#).

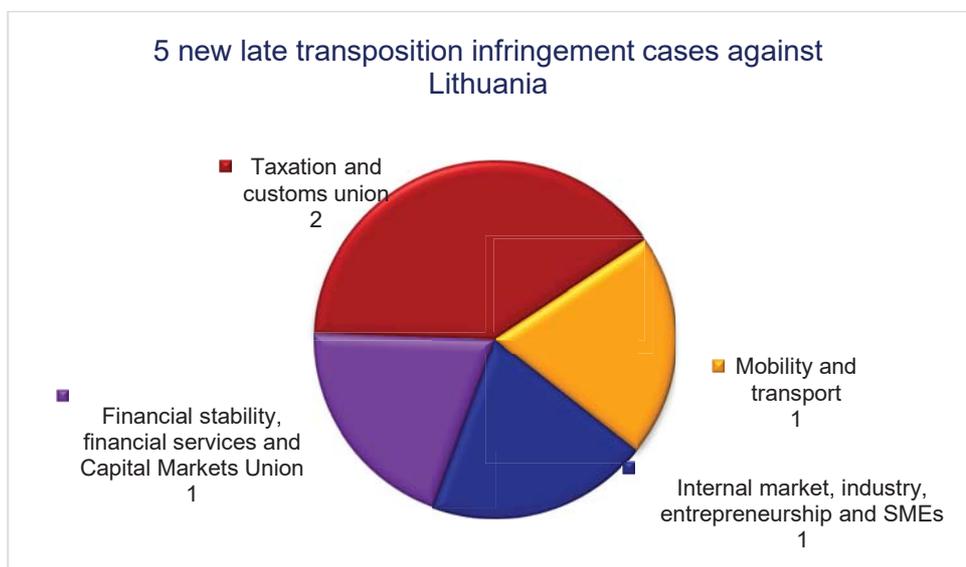
⁵ Directive [2012/27/EU](#), [MEMO/19/462](#).

⁶ Directive [2013/33/EU](#).

⁷ Directive [2017/2399/EU](#).



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- restrictions to the acquisition of agricultural land;
- failure to communicate national measures transposing the:
 - Asylum Procedures Directive⁸
 - Markets in Financial Instruments Directive (MiFID II)⁹
 - Council Directive on tax dispute resolution mechanisms in the European Union¹⁰.

⁸ Directive [2013/32/EU](#).

⁹ Directive [2014/65/EU](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings¹¹

There were no major Court rulings in 2019.

2. Preliminary rulings

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

- The Court clarified the conditions upon which *in-house* transactions concluded by public authorities are compatible with EU public procurement legislation¹².
- 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 packages¹³.
- 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 intervene¹⁴.
- National legislation 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 group¹⁵.
- 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 cigarettes¹⁶.
- 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 sales¹⁷.

¹⁰ Directive (EU) [2017/1852](#).

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

¹² *Irgita*, Case [C-285/18](#).

¹³ Baltic Media Alliance, case [C-622/17](#).

¹⁴ AW and Others, case [C-417/18](#).

¹⁵ Lietuvos Respublikos Seimo narių grupė, [C-2/18](#).

¹⁶ Skonis ir kvapas, [C-638/17](#).

¹⁷ Bene Factum, [C-567/17](#).

I. COMPLAINTS

1. New complaints made against Luxembourg by members of the public (2015-2019)



2. Public complaints against Luxembourg open at year-end

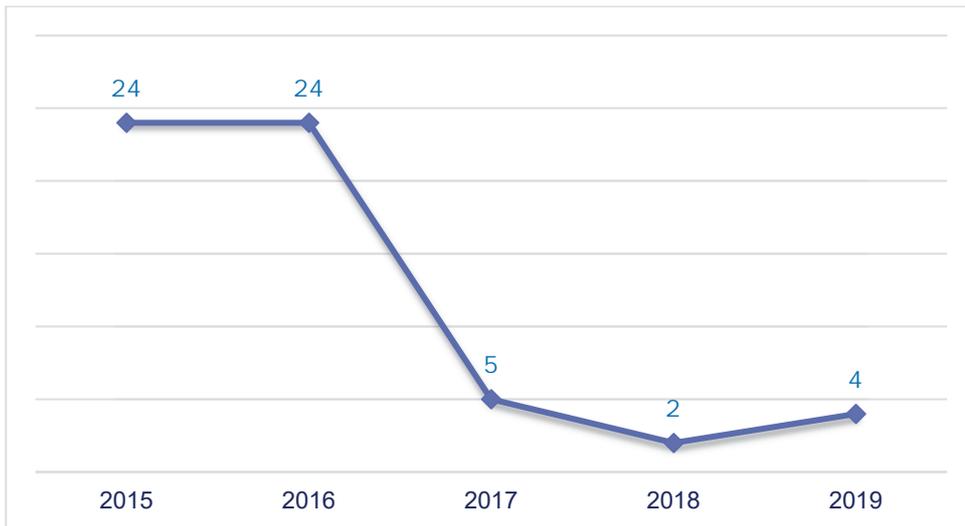
47	▶	Complaints open at end-2018
28	▶	New complaints registered in 2019
34	▶	Complaints handled in 2019
= 41	▶	Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

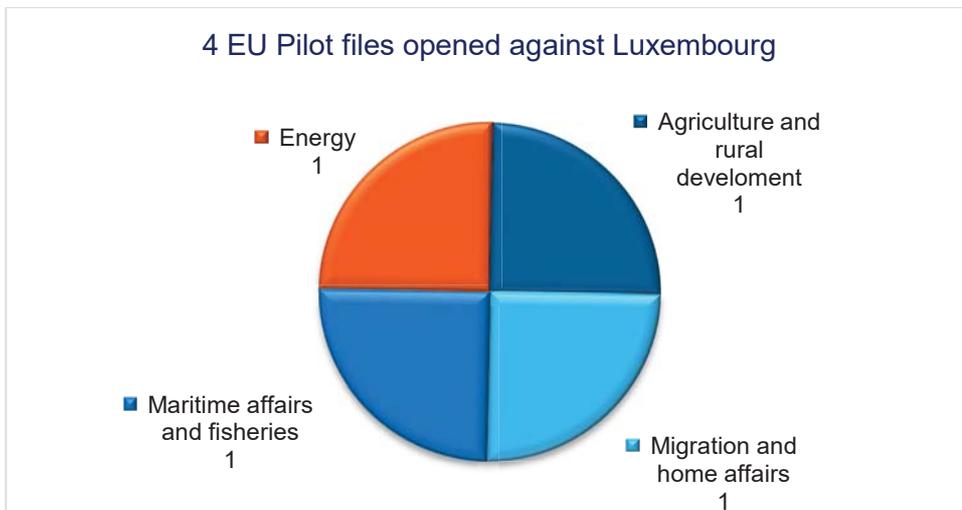


II. EU PILOT

1. New EU Pilot files opened against Luxembourg (2015-2019)

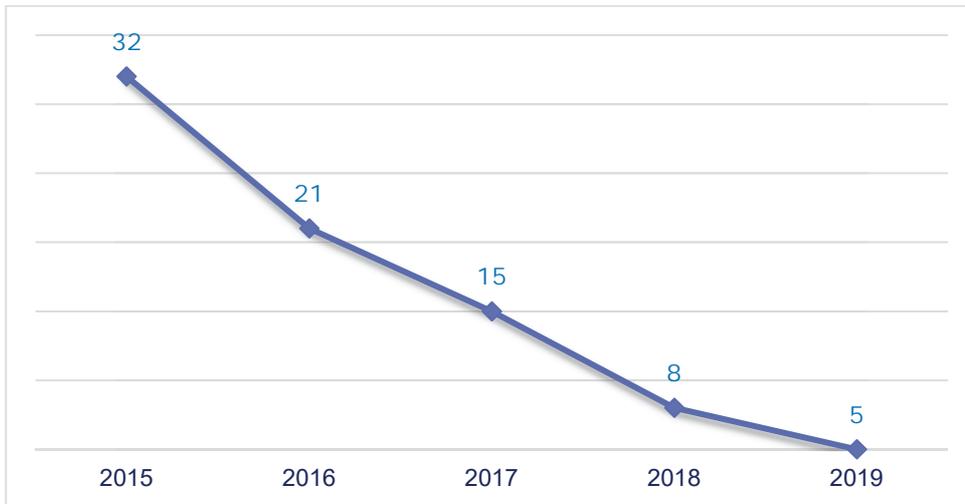


2. New EU Pilot files opened in 2019: main policy areas

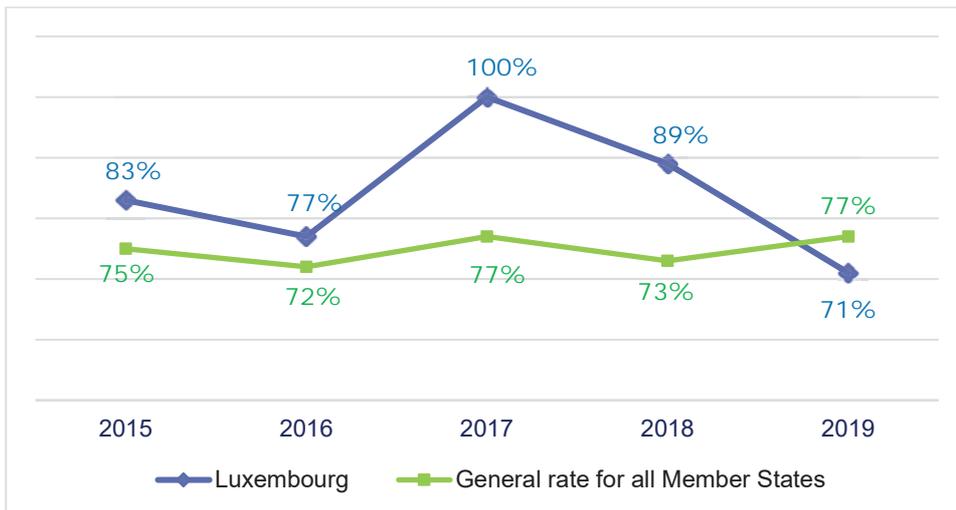


3. Files relating to Luxembourg open in EU Pilot at year-end

Luxembourg



4. EU Pilot files: Luxembourg's resolution rate in 2015-2019



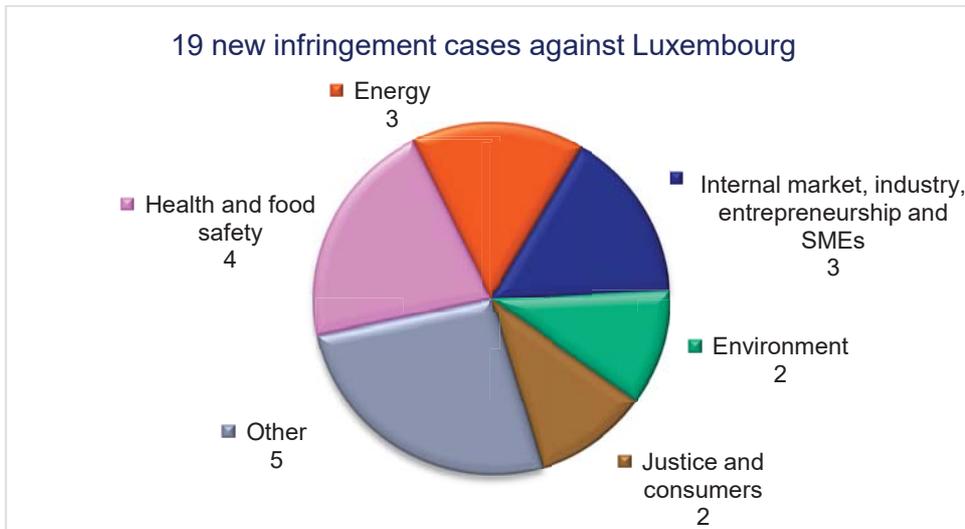
III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas

Luxembourg



3. Key infringement cases and referrals to the Court

- a. The Commission opened 32 new infringement cases against Luxembourg in 2019. These, and other major ongoing infringement cases, include:
- incorrect transposition of the:
 - Directive on combating the sexual abuse and sexual exploitation of children¹
 - Environmental Quality Standards Directive²
 - revised Environmental Impact Assessment Directive³;
 - non-compliance with the requirements of the Energy Efficiency Directive⁴;
 - non-communication of national measures transposing the:
 - Directive on combating terrorism⁵
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)⁶
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations⁷.
- b. The Commission did not refer any cases to the Court under Article 258 TFEU and Article 260(2) TFEU.

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Luxembourg open on 31 December (2015-2019)

¹ Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

² Directive [2008/105/EC](#), [INF/19/6304](#).

³ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [INF/19/5950](#).

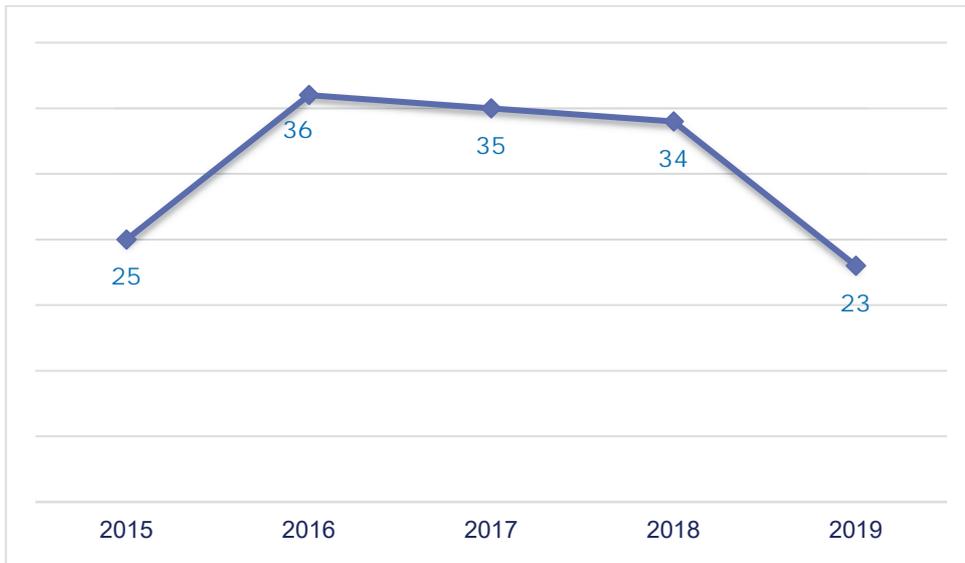
⁴ Directive [2012/27/EU](#), [MEMO/19/462](#).

⁵ Directive [\(EU\) 2017/541](#); [INF/19/4251](#).

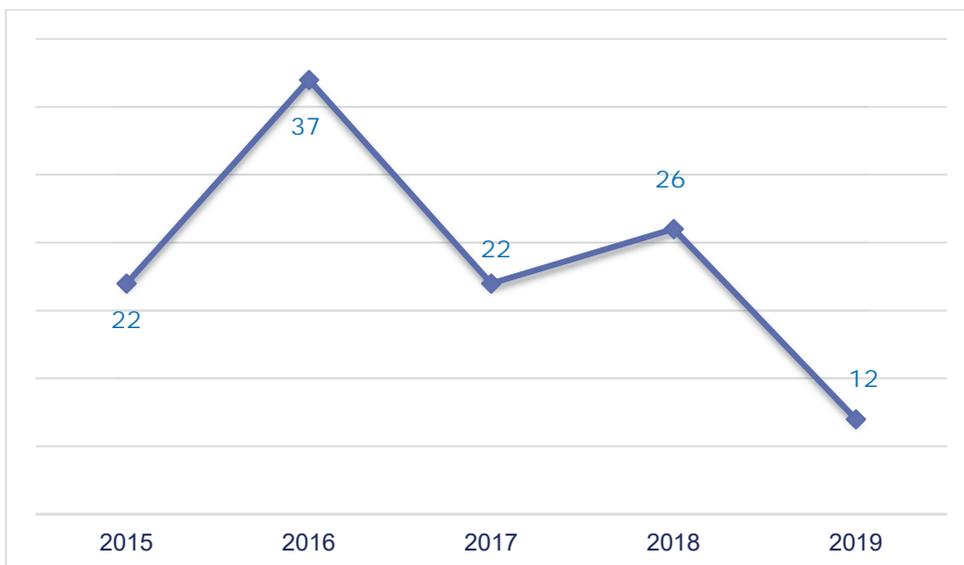
⁶ Directive [2016/2341/EU](#).

⁷ Directive (EU) [2018/1581](#).

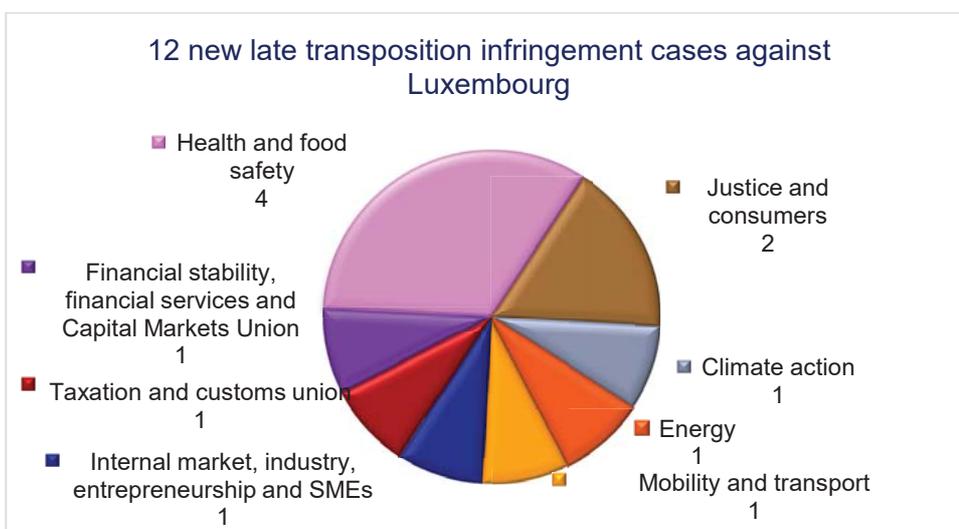
Monitoring the application of European Union law
2019 Annual Report
Luxembourg



2. New late transposition infringement cases against Luxembourg (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2019

These concerned:

- failure to submit their second cost-optimal report required by the Energy Performance of Buildings Directive⁸;

⁸ Directive [2010/31/EU](#), [MEMO/19/1472](#)

- failure to communicate national measures transposing the:
 - Commission Implementing Directive as regards isolation distances for Sorghum spp.⁹
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species¹⁰
 - Commission Implementing Directive on protective measures against the introduction into the Community of organisms harmful to plants
 - Reception Conditions Directive¹¹
 - Asylum Procedures Directive¹²
 - Markets in Financial Instruments Directive (MiFID II)¹³;
 - Directive on certain aspects of the organisation of working time in inland waterway transport¹⁴.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹⁵

There were no major Court rulings in 2019.

2. Preliminary rulings

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

- the French public prosecutor's office is regarded as an 'issuing judicial authority', since the independence of French public prosecutors is not called into question¹⁶.

⁹ Directive (EU) [2018/1027](#).

¹⁰ Directive (EU) [2018/100](#).

¹¹ Directive [2013/33/EU](#); [INF/19/4251](#).

¹² Directive [2013/32/EU](#).

¹³ Directive [2014/65/EU](#).

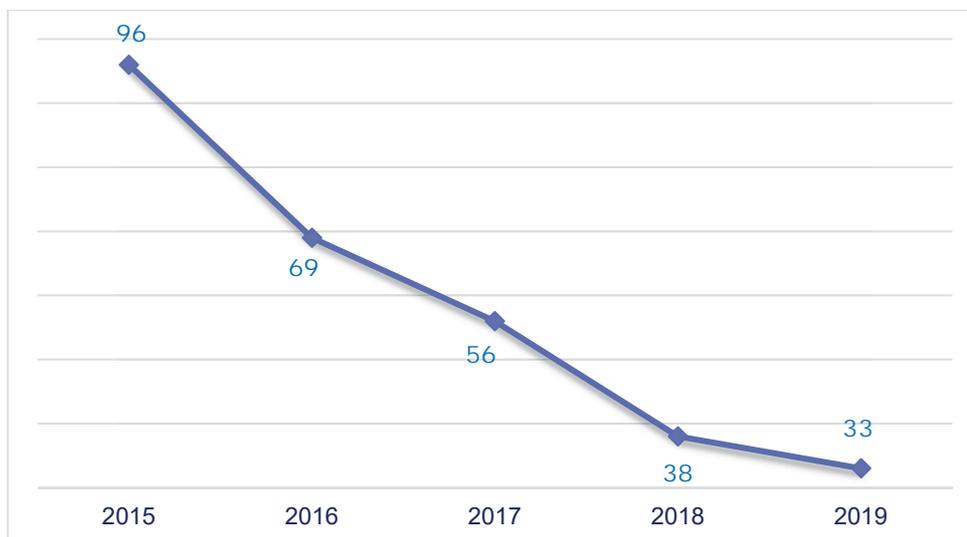
¹⁴ Directive [2014/112/EU](#).

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

¹⁶ JR and YC, [C-566/19 PPU](#) and [C-626/19 PPU](#).

I. COMPLAINTS

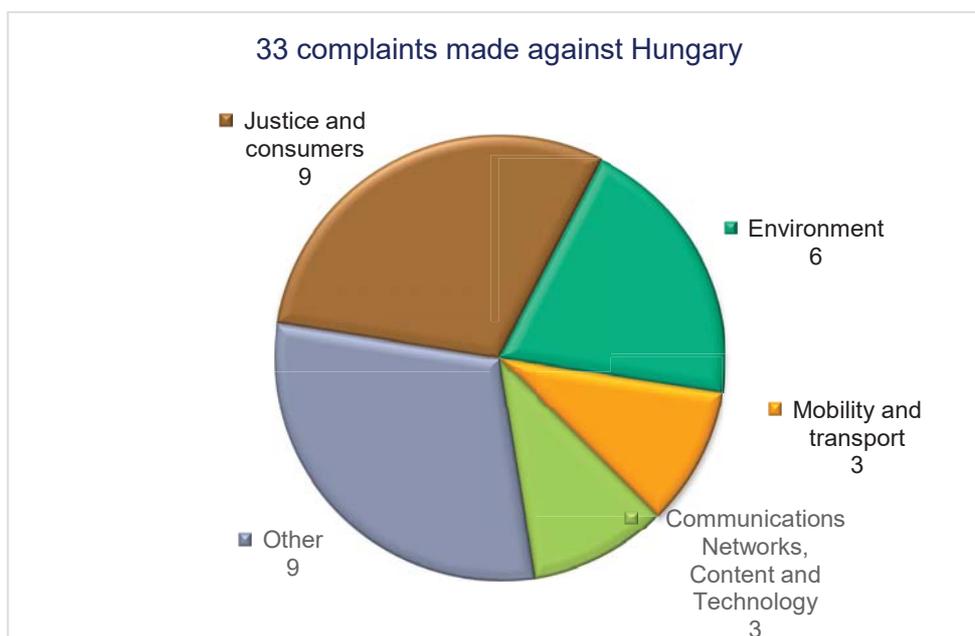
1. New complaints made against Hungary by members of the public (2015-2019)



2. Public complaints against Hungary open at year-end

40	>	Complaints open at end-2018
33	>	New complaints registered in 2019
36	>	Complaints handled in 2019
= 37	>	Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

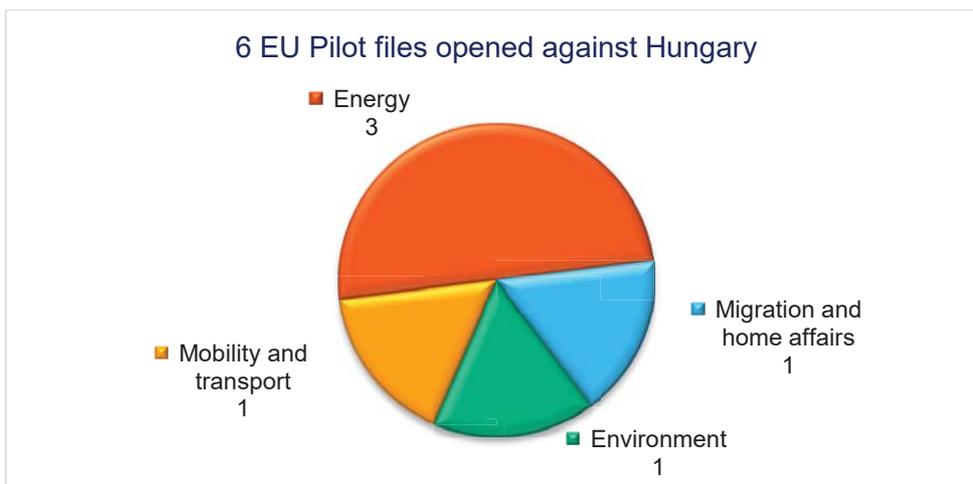


II. EU PILOT

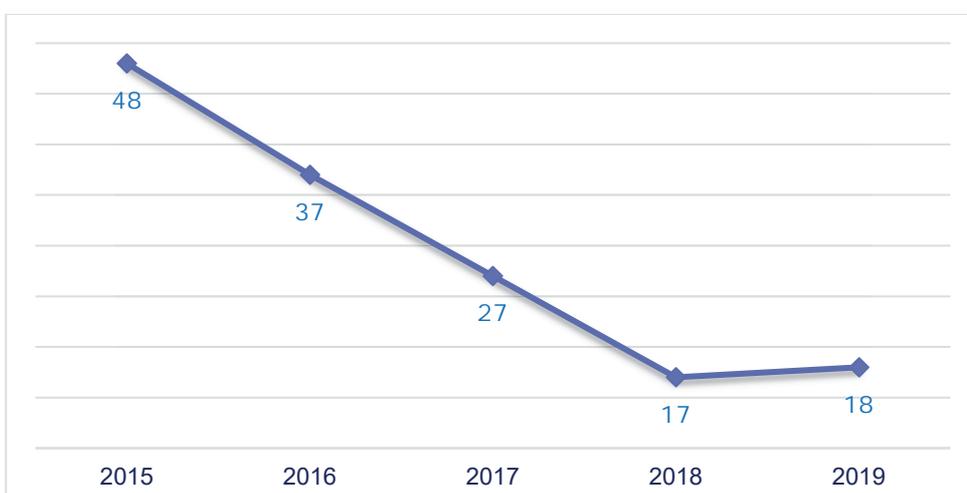
1. New EU Pilot files opened against Hungary (2015-2019)



2. New EU Pilot files opened in 2019: policy areas

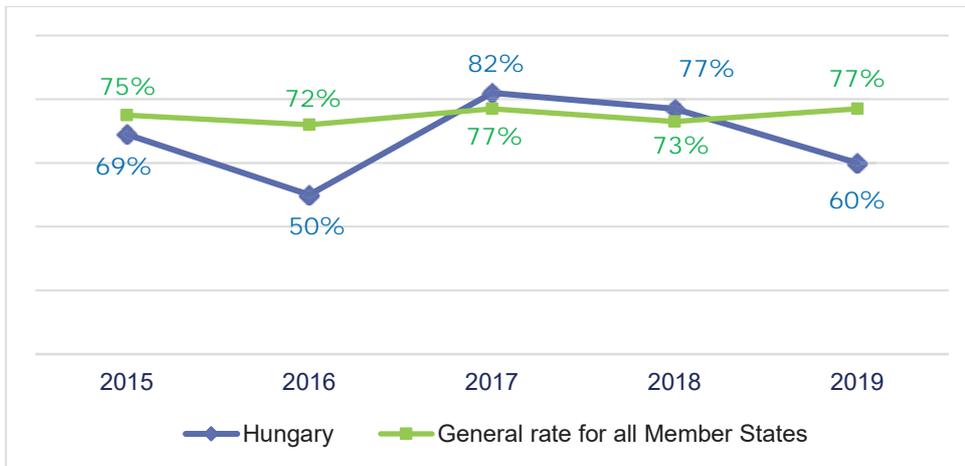


3. Files relating to Hungary open in EU Pilot at year-end



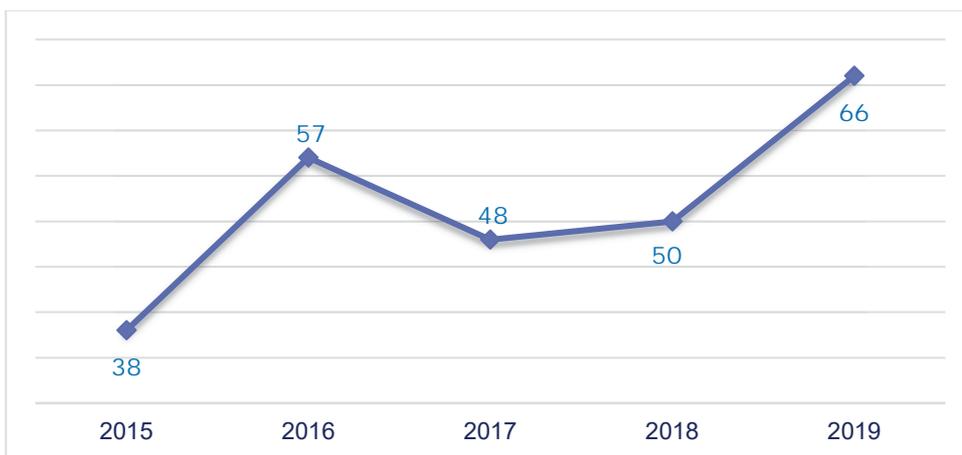
Hungary

4. EU Pilot files: Hungary's resolution rate in 2015-2019



III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



3. Key infringement cases and referrals to the Court

- a. The Commission opened 33 new infringement cases against Hungary in 2019. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
 - Indirect Land Use Change Directive¹⁷
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations¹⁸
 - Basic Safety Standards Directive¹⁹
 - Directive on standards for the qualification of third-country nationals as beneficiaries of international protection²⁰
 - Mortgage Credit Directive²¹;
 - failure to submit information about operators of essential services identified under the EU law on the security of network and information systems²²;
 - non-provision of food to persons held in the Hungarian transit zones at the border with Serbia, in breach of the Return Directive and the Charter of fundamental rights²³;
 - breach of the EU exclusive competence in the area of automated DNA, fingerprint and vehicle registration data exchange²⁴;
 - incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children²⁵;

¹⁷ Directive (EU) [2015/1513](#).

¹⁸ Directive (EU) [2018/1581](#).

¹⁹ Directive [2013/59/Euratom](#).

²⁰ Directive [2011/95/EU](#); [MEMO/19/462](#)

²¹ Directive [2014/17/EU](#).

²² Directive (EU) [2016/1148](#), [INF/19/4251](#).

²³ [IP/19/5994](#).

²⁴ [INF/19/5950](#).

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 services²⁶
 - incorrect transposition of the revised Environmental Impact Assessment Directive²⁷;
 - failure to put in place effective penalties for infringements related to the use of tachographs in road transport²⁸;
 - non-implementation of technical requirements and administrative procedures related to air operations²⁹;
 - non-conformity of national legislation with EU rules on public procurement and concessions³⁰
 - 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)³¹;
 - discriminatory tax treatment of foreign foundations³².
- b. The Commission referred four cases to the Court under Article 258 TFEU. These concern:
- obstacles to retailers of imported agricultural and food products in breach of EU law on the free movement of goods³³;
 - exclusion of non-EU nationals with long-term resident status from exercising the veterinary profession, in breach of EU legislation on long-term residence³⁴;
 - incorrect implementation of EU asylum rules by adopting legislation that criminalises activities in support of asylum applications and further restricts the right to request asylum³⁵;
 - 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 duty³⁶.
- c. The Commission did not refer any cases to the Court under Article 260(2) TFEU. |

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Hungary open on 31 December (2015-2019)

²⁵ Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

²⁶ Directive [2006/123/EC](#), [INF 19/4251](#).

²⁷ Directive [2011/92/EU](#), [INF/19/4251](#).

²⁸ Regulation (EU) [165/2014](#), [INF/19/4251](#).

²⁹ Regulation (EU) [965/2012](#), [INF/19/5950](#).

³⁰ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [MEMO/19/462](#).

³¹ Regulation (EU) [2016/480](#), [INF/19/6304](#).

³² [IP/19/1472](#).

³³ Case *Commission v Hungary*, [C-400/19](#).

³⁴ Case *Commission v Hungary*, [C-761/19](#); [IP/19/4260](#).

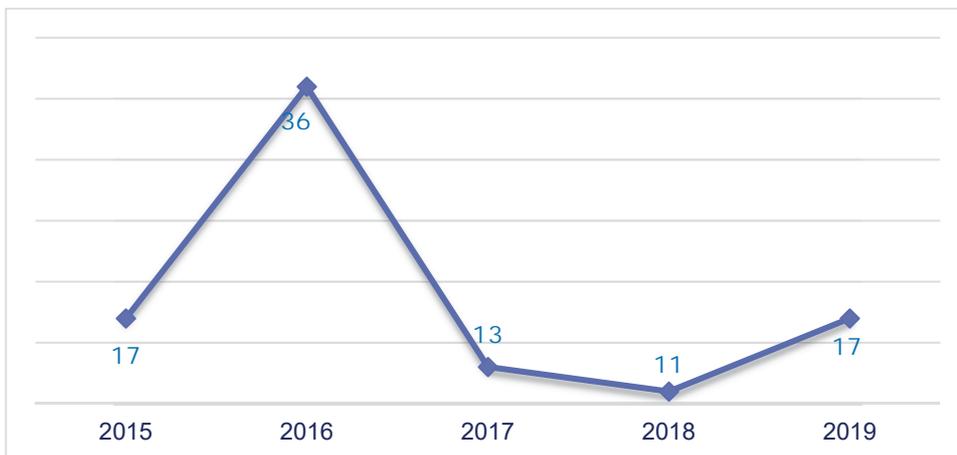
³⁵ Case *Commission v Hungary*, [C-821/19](#); [IP/19/4260](#).

³⁶ Case [C-856/19](#) *Commission v Hungary*.

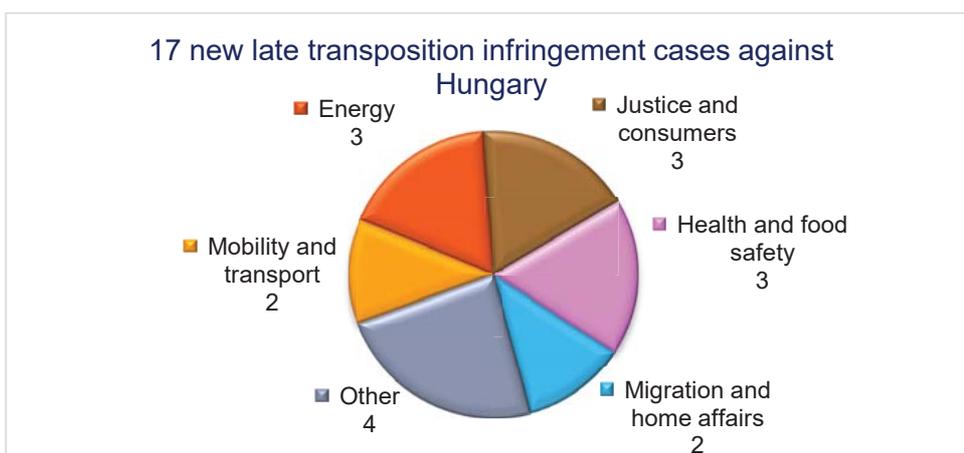
Hungary



2. New late transposition infringement cases against Hungary (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2019

These concerned:

Hungary

- 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 species³⁷
 - Commission Implementing Directive on protective measures against the introduction into the Community of organisms harmful to plants³⁸;
- discriminatory taxation of spirit drinks in violation of Article 110 of the Treaty by exempting from the public health tax fruit distillates (such as the national drink pálinka) and herbal drinks produced predominantly on its territory;
- incorrect transposition of the Directive on the protection of animals used for scientific purposes³⁹;
- 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 the rail system⁴⁰.

VI. IMPORTANT JUDGMENTS

1. Court rulings⁴¹

The Court ruled that:

- 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 law⁴².
- The Court concluded 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. A Member State seeking to justify a restriction of a fundamental freedom under the TFEU Treaty must also ensure compliance with the fundamental rights guaranteed by the Charter of Fundamental Rights⁴³.

2. Preliminary rulings

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

- 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

³⁷ Directive (EU) [2019/114](#).

³⁸ Directive (EU) [2019/523](#).

³⁹ Directive 2010/63/EU.

⁴⁰ Regulation (EU) [1300/2014](#) and Regulation (EU) [2015/995](#).

⁴¹ These rulings are almost exclusively handed down in infringement procedures.

⁴² *Hochtief*, Case [C-620/17](#).

⁴³ [C-235/17](#), *Commission v Hungary*.

Hungary

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 required⁴⁴.

- 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 health⁴⁵.
- 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 gravity⁴⁶.

⁴⁴ TB, Case [C-519/18](#).

⁴⁵ *VIPA*, Case [C-222/18](#).

⁴⁶ Regulation (EU)No [165/2014](#), UTEP 2006, [C-600/18](#).

I. COMPLAINTS

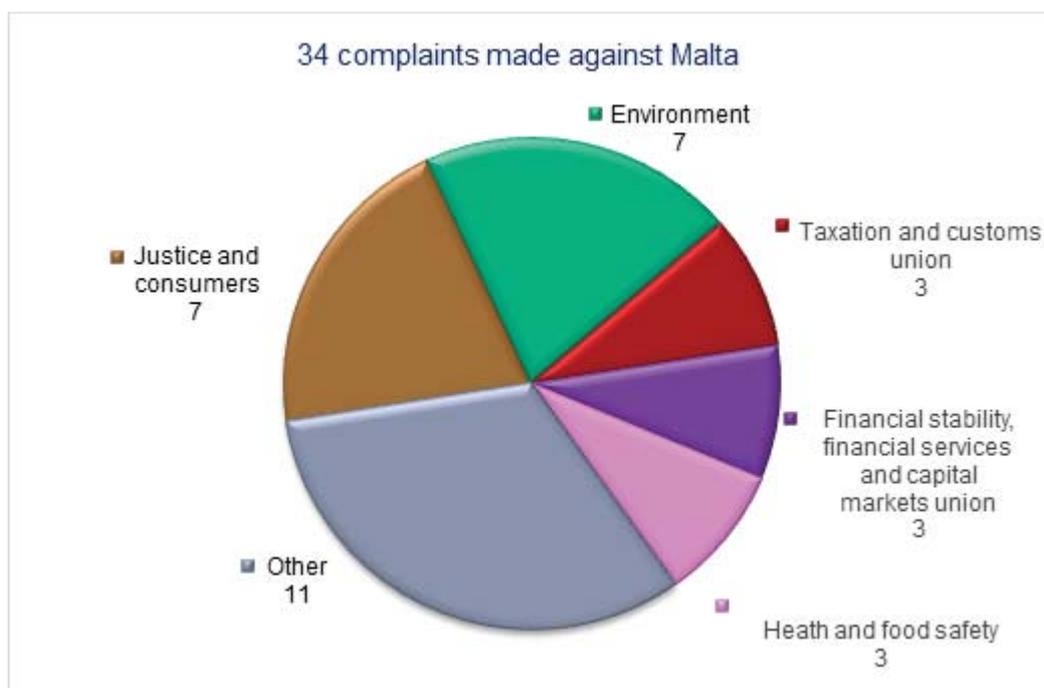
1. New complaints made against Malta by members of the public (2015-2019)



2. Public complaints against Malta open at year-end

24	>	Complaints open at end-2018
34	>	New complaints registered in 2019
29	>	Complaints handled in 2019
= 29	>	Complaints open at end-2019

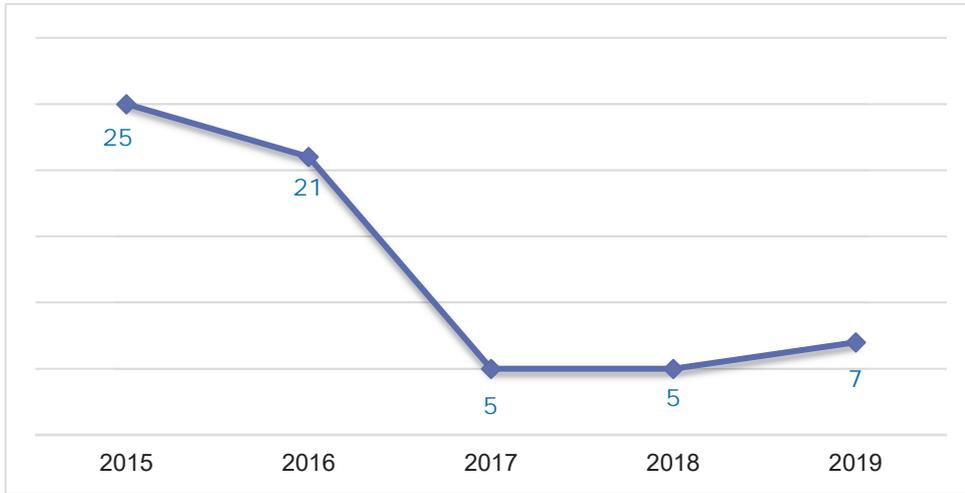
3. New complaints registered in 2019: main policy areas



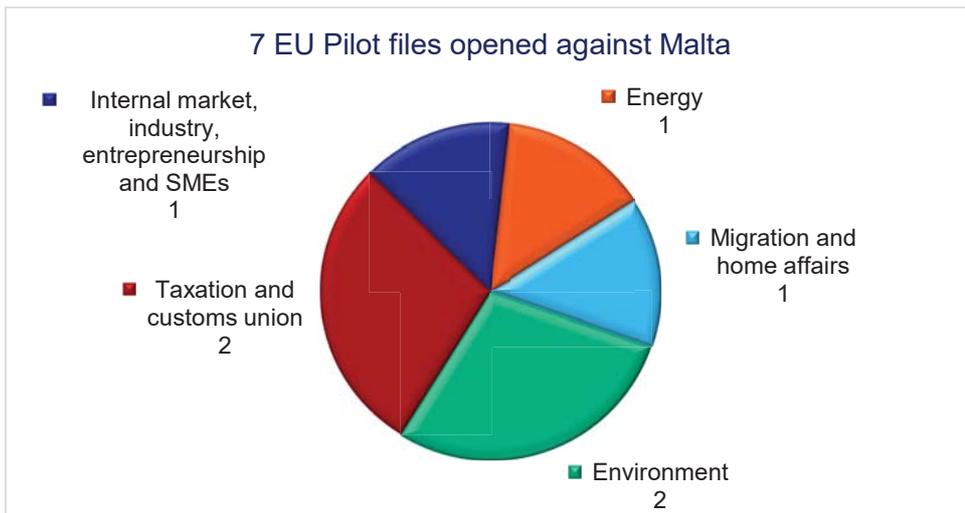
Malta

II. EU PILOT

1. New EU Pilot files opened against Malta (2015-2019)



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



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



4. EU Pilot files: Malta's resolution rate in 2015-2019

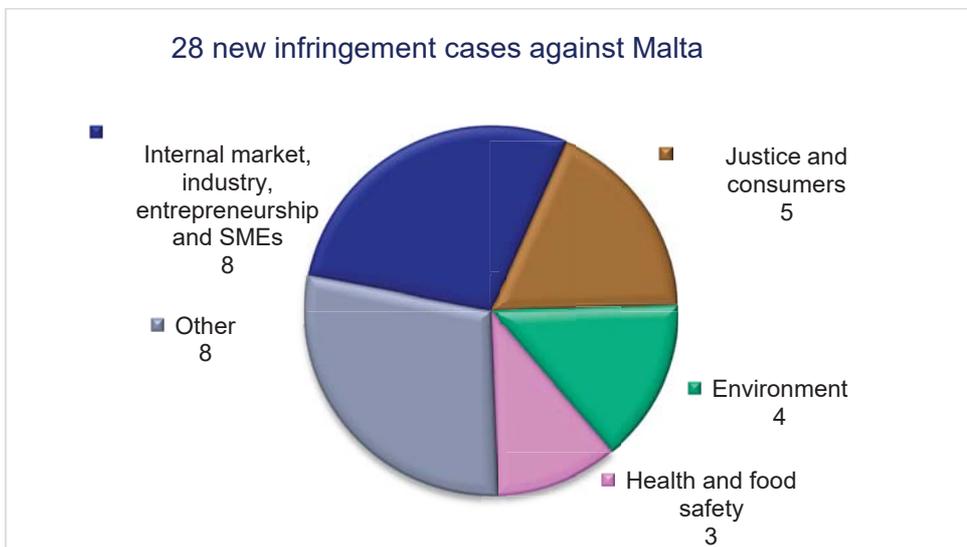


III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



Malta

3. Key infringement cases and referrals to the Court

- a. [The Commission opened 28 new infringement cases against Malta in 2019. These, and other major ongoing infringement cases, include:
- incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children¹;
 - incorrect transposition of the SEVESO III Directive²;
 - failure to comply with reporting obligations under EU waste legislation³;
 - failure to submit their second cost-optimal report required by the Energy Performance of Buildings Directive⁴;
 - incorrect transposition of the revised Environmental Impact Assessment Directive⁵;
 - late reporting on the environmental status of marine waters under the Marine Strategy Framework Directive⁶;
 - 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)⁷;
 - incorrect application of the Directive on marine equipment⁸;
 - non-communication of national measures transposing the:
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)⁹
 - Indirect Land Use Change Directive¹⁰
 - Basic Safety Standards Directive¹¹.
- b. [The Commission did not refer any cases to the Court under Article 258 TFEU.
- c. [The Commission did not refer any cases to the Court under Article 260(2) TFEU.]]

IV. TRANSPOSITION OF DIRECTIVES

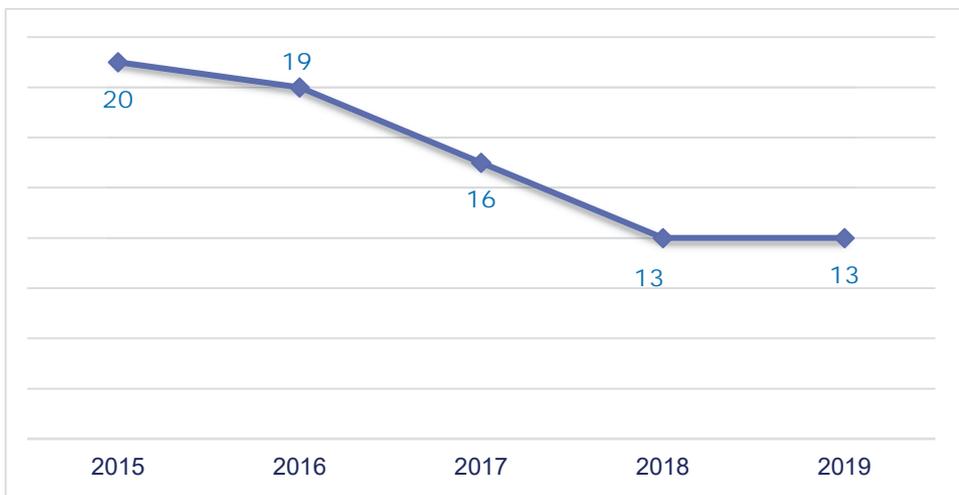
1. Late transposition infringement cases against Malta open on 31 December (2015-2019)

¹ Directive [2011/93/EU](#), [INF/19/4251](#).
² Directive [2012/18/EU](#).
³ Directive [2012/19/EU](#), Directive [2006/66/EC](#), [INF/19/5950](#).
⁴ Directive [2010/31/EU](#), [INF/19/4251](#).
⁵ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [INF/19/4251](#).
⁶ Directive [2008/56/EC](#), [INF/19/5950](#).
⁷ Regulation (EU) [2016/480](#), [INF/19/6304](#).
⁸ Directive [2014/90/EU](#), [INF/19/4251](#).
⁹ Directive [2016/2341/EU](#).
¹⁰ Directive (EU) [2015/1513](#), [INF/19/4251](#).
¹¹ Directive [2013/59/Euratom](#), [INF/19/6304](#).

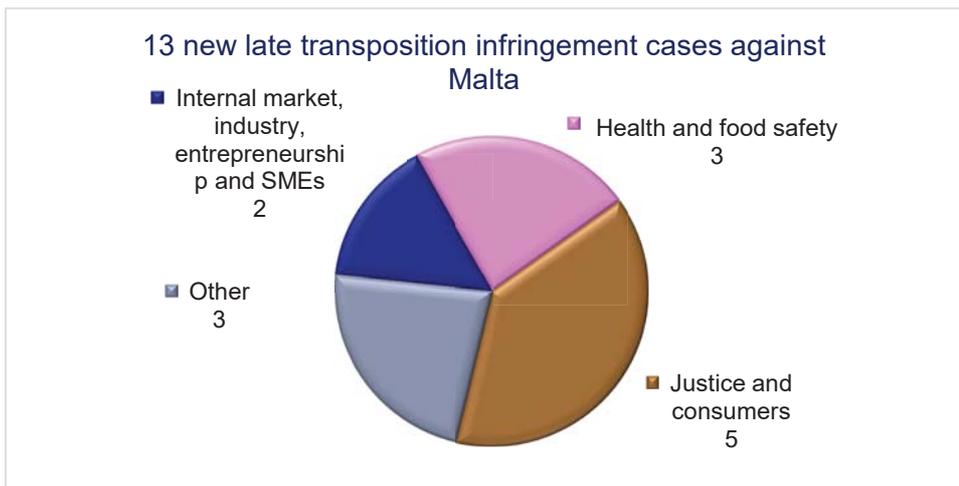
Monitoring the application of European Union law
2019 Annual Report



2. New late transposition infringement cases against Malta (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2019

These concerned:

- non-communication of national measures transposing the:
 - Mortgage Credit Directive¹²
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species¹³
 - 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 species¹⁴
 - Commission Implementing Directive on protective measures against the introduction into the Community of organisms harmful to plants¹⁵
 - Reception Conditions Directive¹⁶
 - Asylum Procedures Directive¹⁷;
- non-compliance with the Energy Performance of Buildings Directive¹⁸;
- failure to correctly transpose certain requirements of the Radioactive Waste Directive¹⁹;
- non-compliance with the Energy Efficiency Directive²⁰;
- incorrect application of the Directive on the minimum level of training of seafarers²¹.]

VI. IMPORTANT JUDGMENTS

1. Court ruling

[There were no major Court rulings in 2019.]

2. Preliminary rulings

[No major preliminary rulings were addressed to the Maltese judiciary in 2019.]]

¹² Directive [2014/17/EU](#).

¹³ Directive (EU) [2018/100](#).

¹⁴ Directive (EU) [2019/114](#).

¹⁵ Directive (EU) [2019/523](#).

¹⁶ Directive [2013/33/EU](#), [INF/19/4251](#).

¹⁷ Directive [2013/32/EU](#).

¹⁸ Directive [2010/31/EU](#).

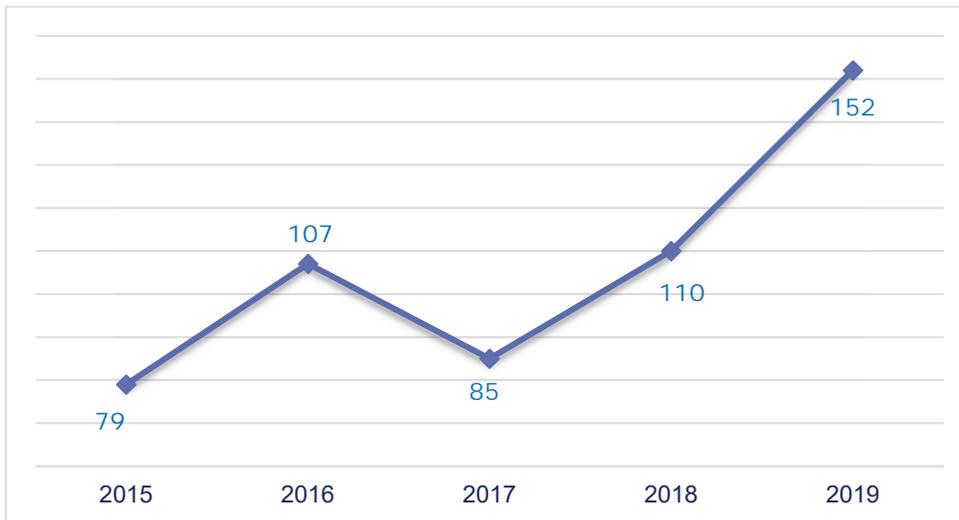
¹⁹ Directive [2011/70/Euratom](#).

²⁰ Directive [2012/27/EU](#).

²¹ Directive [2008/106/EC](#), as amended by Directive [2012/35/EU](#).

I. COMPLAINTS

1. New complaints made against the Netherlands by members of the public (2015-2019)



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

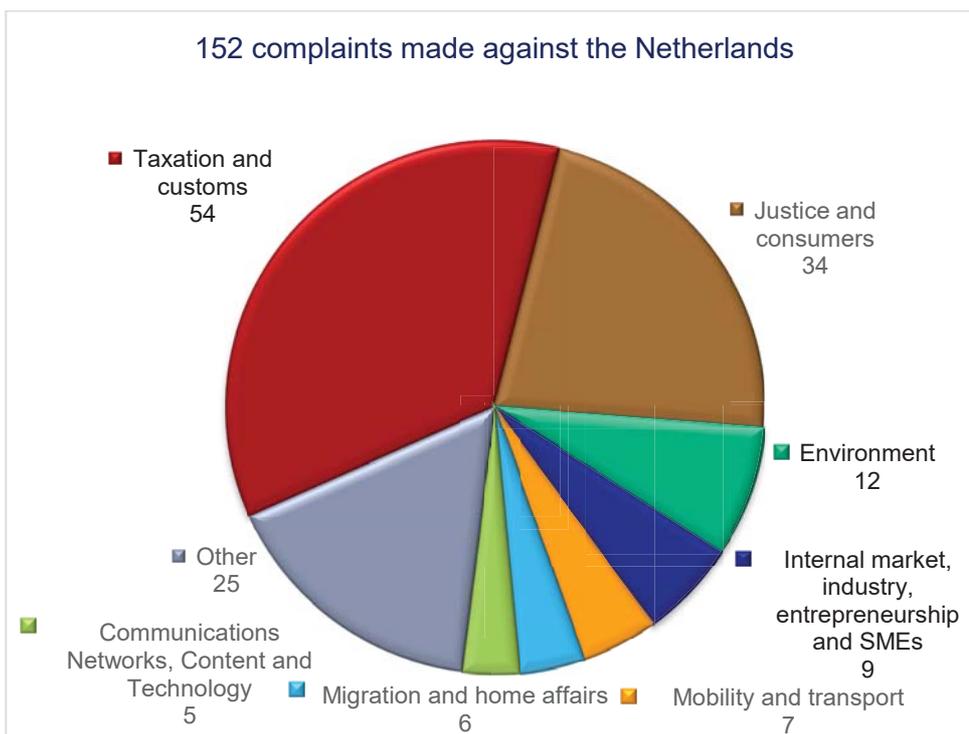
64 > Complaints open at end-2018

152 > New complaints registered in 2019

97 > Complaints handled in 2019

= 119 > Complaints open at end-2019

3. New complaints registered in 2019: main policy area

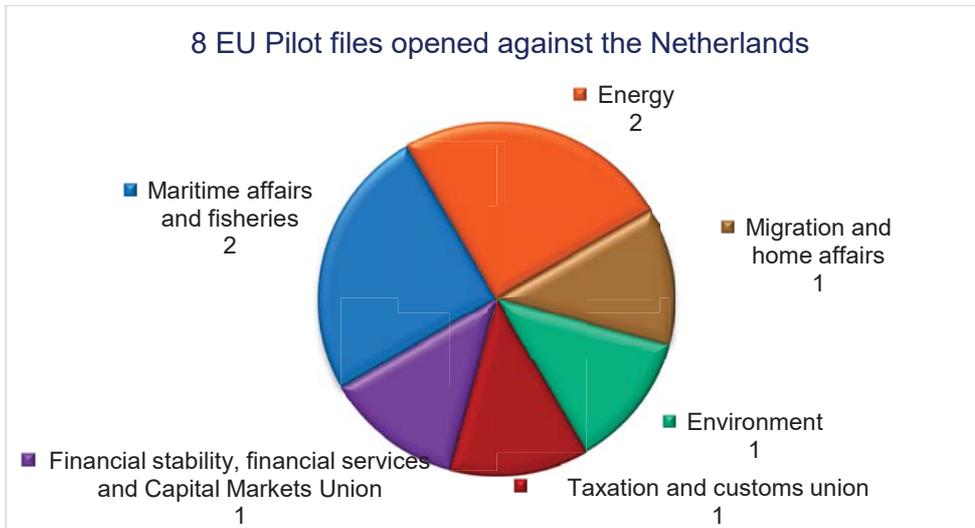


II. EU PILOT

1. New EU Pilot files opened against the Netherlands (2015-2019)



2. New EU Pilot files opened in 2019: policy areas

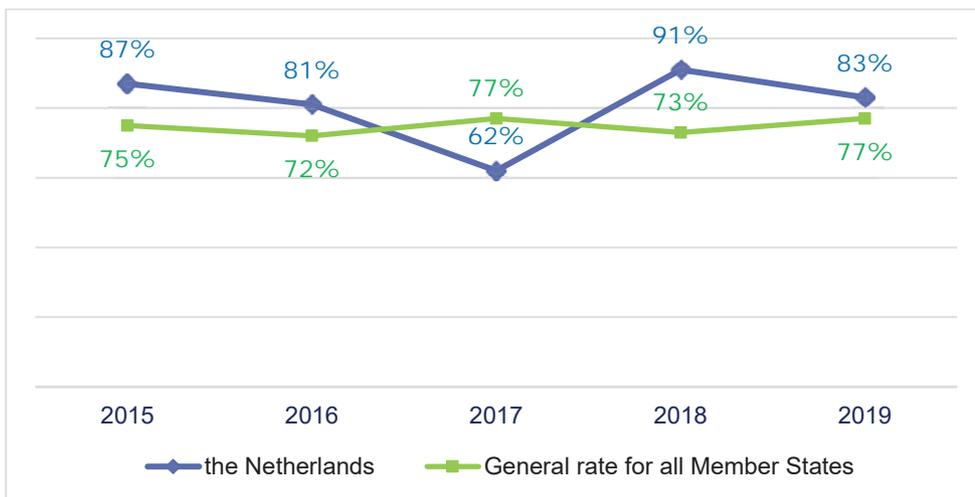


3. Files relating to the Netherlands open in EU Pilot at year-end

Monitoring the application of European Union law
2019 Annual Report
Netherlands

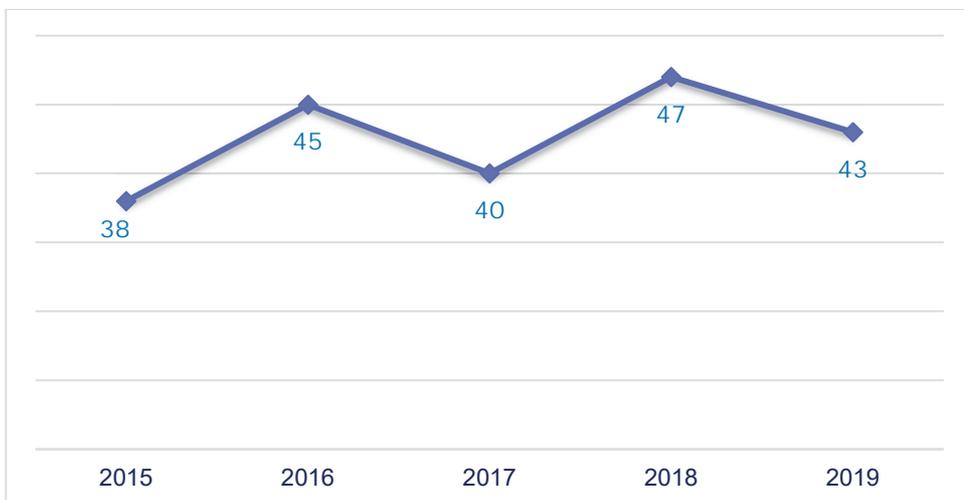


4. EU Pilot files: Netherlands' resolution rate in 2015-2019

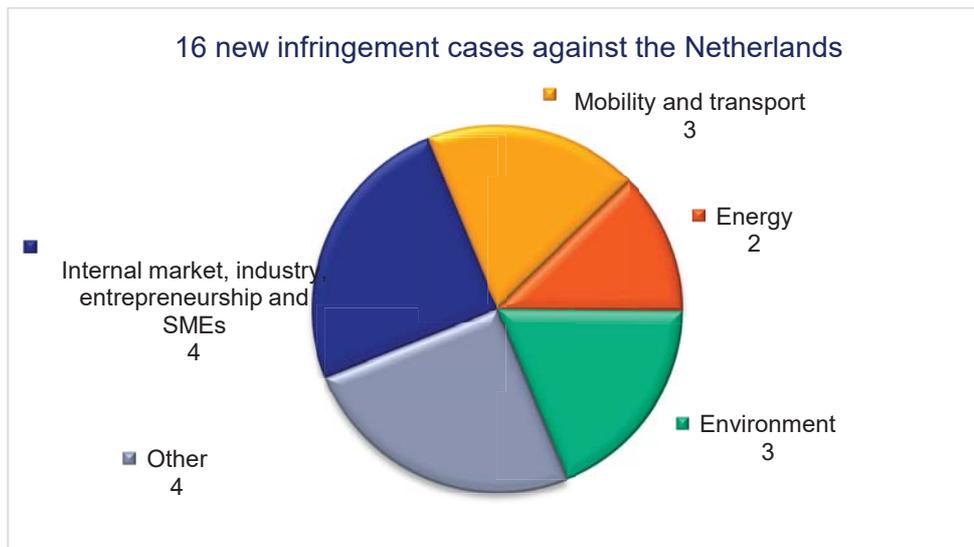


III. INFRINGEMENT CASES

1. Infringement cases against the Netherlands open on 31 December (2015-2019)



2. New infringement cases opened in 2019: main policy areas



3. Key infringement cases and referrals to the Court

- a. The Commission opened 16 new infringement cases against the Netherlands in 2019. These, and other major ongoing infringement cases, include:
- incorrect transposition of the:
 - Cross-border Health Directive¹
 - revised Environmental Impact Assessment Directive²
 - obligations under the EU rules establishing a single European railway area³;
 - Dutch housing authorities are in breach of EU public procurement rules, as they are not considered as contracting authorities⁴;
 - 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)⁵;
 - non-communication of national measures transposing the:
 - Directive on the use of passenger name records⁶
 - Directive on the activities and supervision of institutions for the occupational retirement provision (IORPs II Directive)⁷
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations⁸.
- b. The Commission did not refer any cases to the Court under Article 258 TFEU and Article 260(2) TFEU.

¹ Directive [2011/24/EU](#), [MEMO 19/462](#).

² Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [MEMO 19/1472](#).

³ Directive [2012/34/EU](#), [INF 19/4251](#).

⁴ Directives [2014/23/EU](#) and [2014/24/EU](#), [MEMO 19/462](#).

⁵ Regulation (EU) [2016/480](#), [INF 19/6304](#).

⁶ Directive [2016/681/EU](#); [MEMO 19/1472](#).

⁷ Directive [2016/2341/EU](#).

⁸ Directive [2018/1581/EU](#).

IV. TRANSPOSITION OF DIRECTIVES

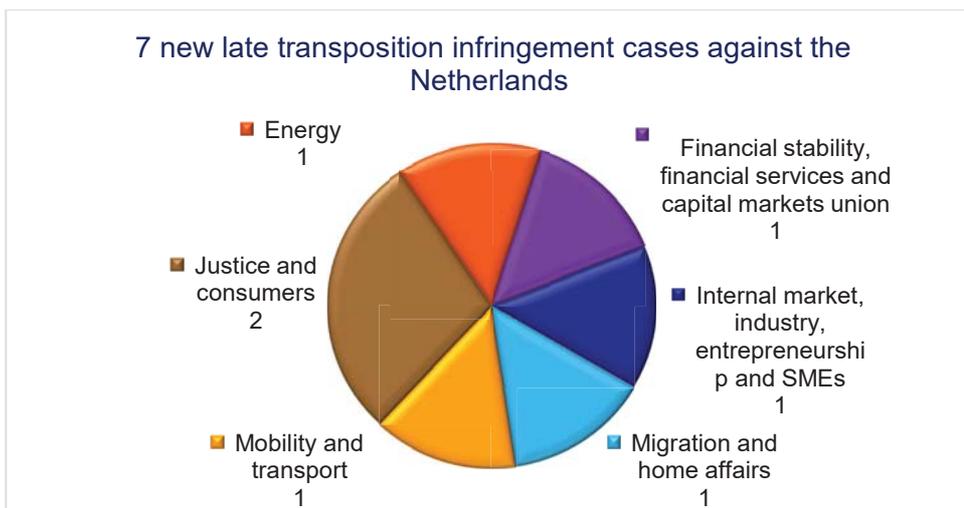
1. Late transposition infringement cases against the Netherlands open on 31 December (2015-2019)



2. New late transposition infringement cases against the Netherlands (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2019

These concerned:

- Incorrect transposition of the:
 - Energy Performance of Buildings Directive⁹
 - Driving Licences Directive¹⁰;
- disproportionate charges for the issuance of residence permits;

⁹ Directive [2010/31/EU](#).

¹⁰ Directive [2006/106/EC](#), as amended by Directive (EU) [2015/653](#).

- non-communication of national measures transposing the:
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species¹¹
 - Seasonal Workers Directive¹²
 - Mortgage Credit Directive¹³.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹⁴

There were no major Court rulings in 2019.

2. Preliminary rulings

[The Court addressed the following preliminary rulings to the Dutch judiciary:

- The sale of second-hand e-books through a website constitutes communication to the public that is subject to authorisation by the author¹⁵.
- 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 truck¹⁶.
- The French public prosecutor's office is regarded as an 'issuing judicial authority', since the independence of French public prosecutors is not called into question¹⁷.
- 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 origin¹⁸.
- 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 irrelevant¹⁹.
- 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 status²⁰.
- 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

¹¹ Directive (EU) 2018/100.

¹² Directive 2014/36/EU.

¹³ Directive 2014/17/EU.

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

¹⁵ *Nederlands Uitgeversverbond and Groep Algemene Uitgevers*, case [C-263/18](#).

¹⁶ *T. Boer & Zonen BV v Staatssecretaris van Economische Zaken*, [C-98/18](#).

¹⁷ *JR and YC*, [C-566/19 PPU](#) and [C-626/19 PPU](#).

¹⁸ *E*, Case [C-635/17](#)

¹⁹ *Y.Z. and Others*, Case [C-557/17](#)

²⁰ *M. Çoban*, Case

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 suspicions²¹.

- 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 assessment²².
- 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 States²³.
- 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 person²⁴.
- The shipment to a third country of a consignment of electrical and electronic appliances 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 damage²⁵.
- 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 carrier²⁶.

²¹ *EP*, Case [C-380/18](#)

²² *G.S. and V.G.*, Joined Cases [C-381/18 and C-382/18](#).

²³ *Balandin*, Case [C-477/17](#).

²⁴ *SF v Inspecteur van de Belastingdienst*, Case [C-631/17](#).

²⁵ Regulation (EC) No [1013/2006](#) and Directive [2008/98/EC](#), *Tronex*, [C-624/17](#).

²⁶ *Aegean Airlines*, [C-163/18 and press Court release No 91/2019](#).

I. COMPLAINTS

1. New complaints made against Austria by members of the public (2015-2019)



2. Public complaints against Austria open at year-end

103 > Complaints open at end-2018

104 > New complaints registered in 2019

107 > Complaints handled in 2019

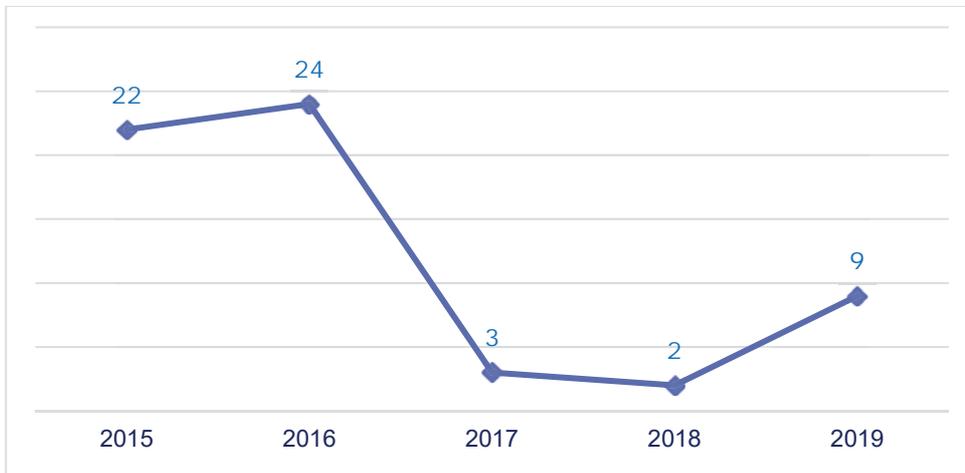
= 100 > Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

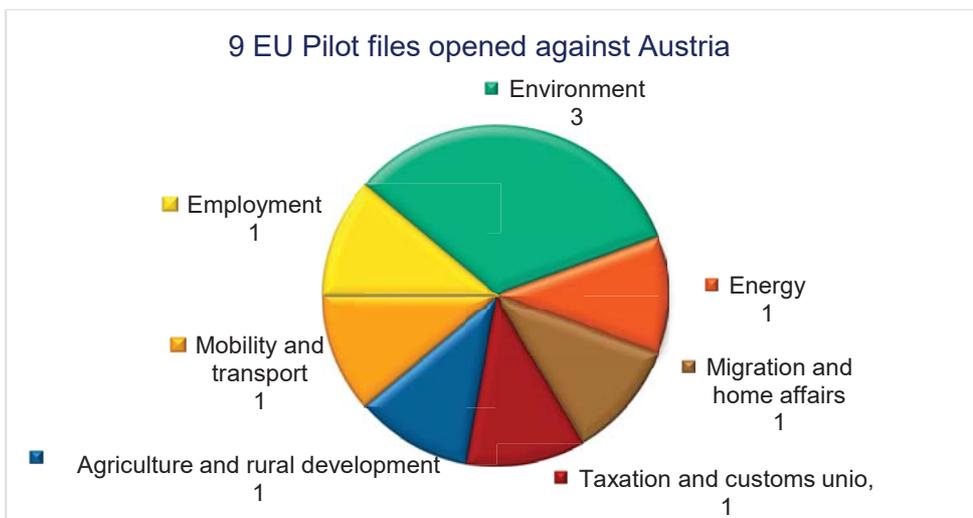


II. EU PILOT

1. New EU Pilot files opened against Austria (2015-2019)



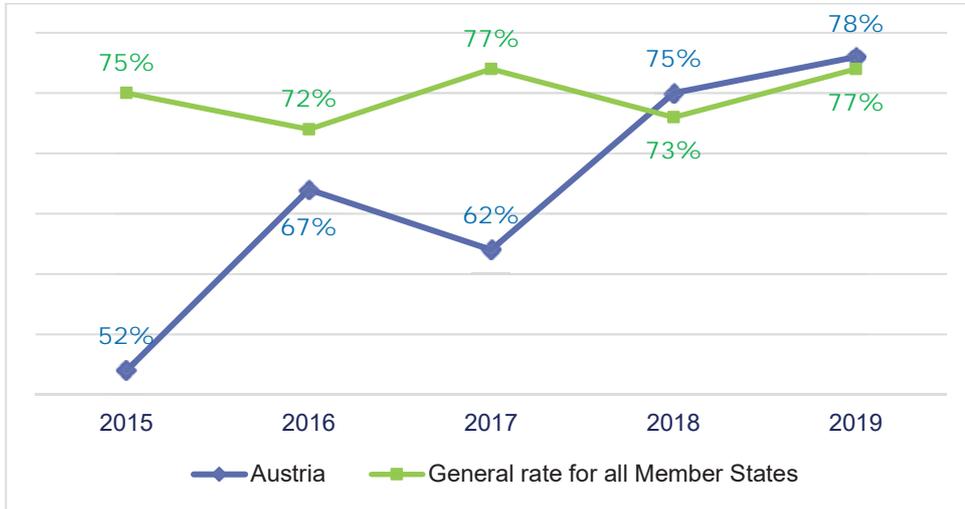
2. New EU Pilot files opened in 2019: policy areas



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



4. EU Pilot files: Austria's resolution rate in 2015-2019



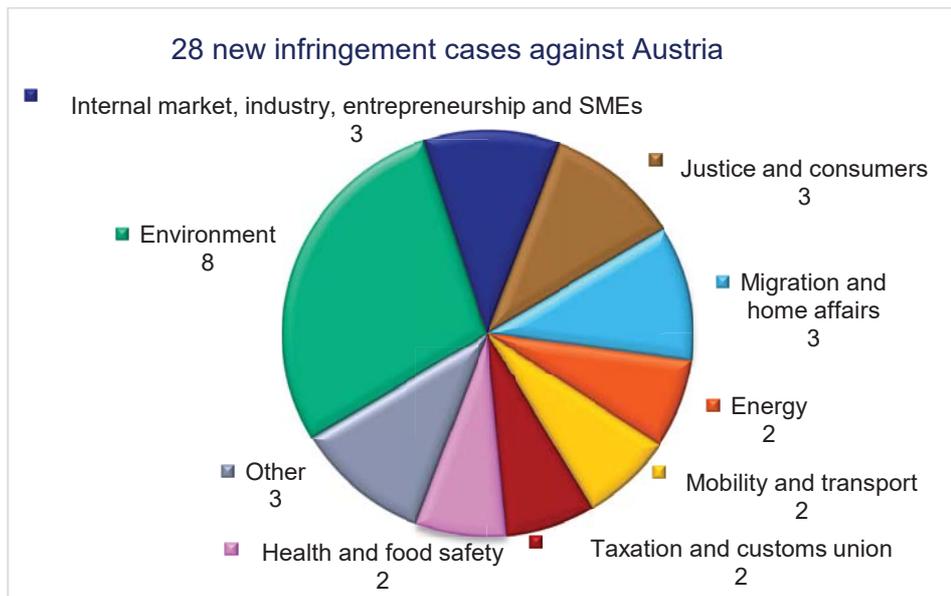
III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas

Austria



3. Key infringement cases and referrals to the Court

a. The Commission opened 28 new infringement cases against Austria in 2019. These, and other major ongoing infringement cases, include:

- non communication of national measures transposing the:
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations¹
 - Basic Safety Standards Directive²;
- failure to submit information about operators of essential services identified under the EU law on the security of network and information systems³;
- failure to award authorisations and concessions in the hydroelectric power sector in line with the Services Directive and public procurement rules⁴;
- incorrect transposition of the Cross-border Health Directive⁵;
- incorrect transposition of the Directive on criminal sanctions for market abuse⁶;
- breach of the EU's exclusive competence in the automated exchange of DNA, fingerprint and vehicle registration data⁷;
- incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children⁸;
- breach of the rules on the free movement of workers and social security by indexing the calculation of eligible family allowances, child tax credit and family tax deduction for children who are not permanently resident in Austria⁹;

¹ Directive (EU) [2018/1581](#).

² Directive [2013/59/Euratom](#).

³ Directive (EU) [2016/1148](#), [INF/19/4251](#).

⁴ [IP/19/1477](#); Directives [2006/123/EC](#) and [2014/23/EU](#).

⁵ Directive [2011/24/EU](#), [MEMO-19-462](#).

⁶ Directive [2014/57/EU](#); [INF/19/4251](#).

⁷ [INF/19/5950](#).

⁸ Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

⁹ Regulation (EC) [883/2004](#), Regulation (EU) [492/2011](#), [IP/19/463](#).

Austria

- incorrect transposition of the Directive on the protection of animals used for scientific purposes¹⁰;
 - failure to provide for a strategic environmental assessment of plans in the energy sector as required by the Strategic Environmental Assessments Directive¹¹;
 - restrictions regarding access to justice in environmental procedures, not in line with the Environmental Impact Assessment Directive¹²;
 - incorrect transposition of the revised Environmental Impact Assessment Directive¹³;
 - non-compliance with the requirements of the Energy Efficiency Directive¹⁴.
- b. The Commission referred four cases to the Court under Article 258 TFEU. They involve the following infringements:
- breach of EU public procurement rules due to construction without prior competition¹⁵;
 - failure to correctly apply the special VAT scheme for travel agents¹⁶;
 - hunting of woodcock during its reproductive period in the Land of Lower Austria, in breach of the Birds Directive¹⁷;
 - failure to comply with several provisions of the Train Drivers' Directive¹⁸.
- c. The Commission did not refer any cases to the Court under Article 260(2) TFEU.]

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Austria open on 31 December (2015-2019)

¹⁰ Directive [2010/63/EU](#), [INF/19/5950](#).

¹¹ Directive [2001/42/EU](#), [INF/19/4251](#).

¹² Directive [2011/92/EU](#), [INF/19/4251](#).

¹³ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [INF/19/5950](#).

¹⁴ Directive [2012/27/EU](#), [MEMO/19/462](#).

¹⁵ Case *Commission v Austria*, [C-537/19](#).

¹⁶ Case [C-787/19](#) *Commission v Austria*.

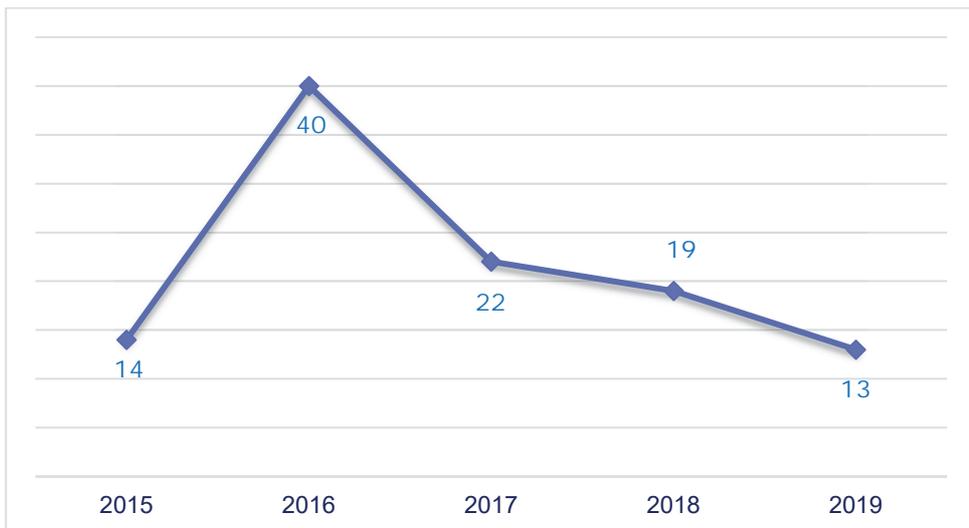
¹⁷ Directive [2009/147/EC](#), *Commission v Austria*, [C-161/19](#), [IP/18/3449](#).

¹⁸ Directive [2007/59/EC](#), *Commission v Austria*, [C-796/19](#), [IP/19/4262](#).

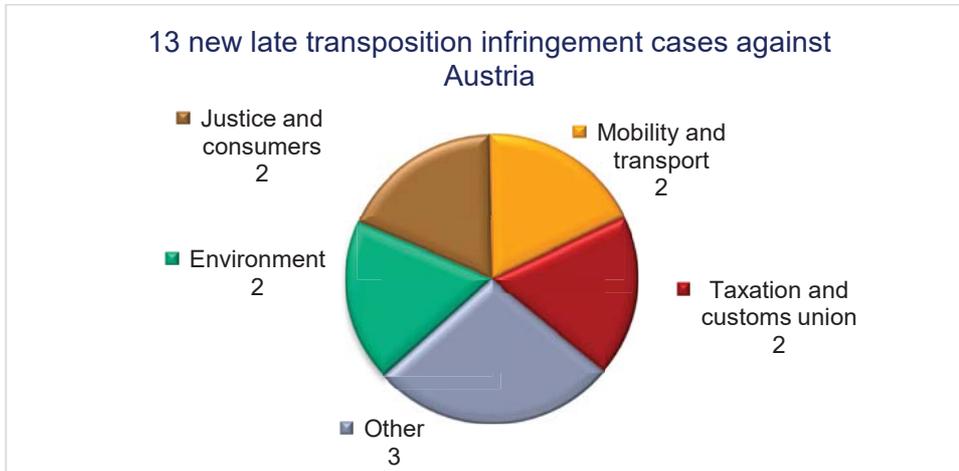
Austria



2. New late transposition infringement cases against Austria (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- incorrect transposition of the Consumer Rights Directive¹⁹;
- non communication of national measures transposing the:
 - Long Term Residents Directive²⁰
 - Reception Conditions Directive²¹;
- incorrect transposition of the Solvency II Directive²²;
- incompatibility of the national legislation with the Remedies Directive²³
- failure to adopt all transposition measures for the Indirect Land Use Change Directive²⁴;
- incomplete Natura 2000 network; |

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁵

The Court gave the following rulings:

¹⁹ Directive [2011/83/EU](#).

²⁰ Directive [2011/51/EU](#).

²¹ Directive [2013/33/EU](#); [INF/19/4251](#).

²² Directive [2009/138/EC](#), [MEMO/18/349](#).

²³ Directive [89/665](#).

²⁴ Directive (EU) [2015/1513](#).

²⁵ These rulings are almost exclusively handed down in infringement procedures.

Austria

- Austria failed to fulfil its obligations under EU law by setting restrictions on the location of the seat, legal form and shareholding requirements for professional companies of architects, engineers, patent attorneys, veterinarians²⁶.

²⁶ *Commission v Austria*, Case [C-209/18](#).

2. Preliminary rulings

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

- 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 irrelevant²⁷.
- 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 position²⁸.
- Natural and legal persons directly concerned by the pollution of groundwaters can rely, before national courts, on certain provisions of the Nitrates Directive²⁹.
- 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 flight³⁰.
- 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 there³¹.
- 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 operators³².
- 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 Directive³³.
- |

²⁷ *Mohammed Bilali*, [C-720/17](#), Directive [2006/123/EC](#).

²⁸ *Krah*, [C-703/17](#).

²⁹ Directive [91/676/EEC](#), *Wasserleitungsverband Nördliches Burgenland and Others*, [C-197/18](#).

³⁰ *Niki Luftfahrt*, [C-532/18](#) and Court press release 163/2019.

³¹ Directive [96/71/EC](#), *Dobersberger*, [C-16/18](#).

³² Directive [2012/34/EU](#), *WESTbahn Management*, [C-210/18](#).

³³ *Schuch-Ghannadan*, Case [C-274/18](#).

I. COMPLAINTS

1. New complaints made against Poland by members of the public (2015-2019)



2. Public complaints against Poland open at year-end

169	>	Complaints open at end-2018
203	>	New complaints registered in 2019
214	>	Complaints handled in 2019
= 158	>	Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

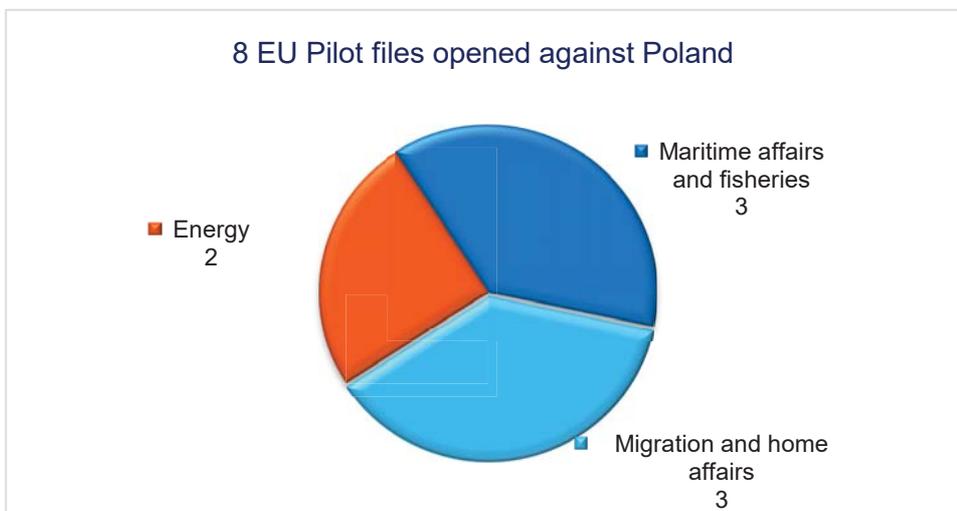


II. EU PILOT

1. New EU Pilot files opened against Poland (2015-2019)



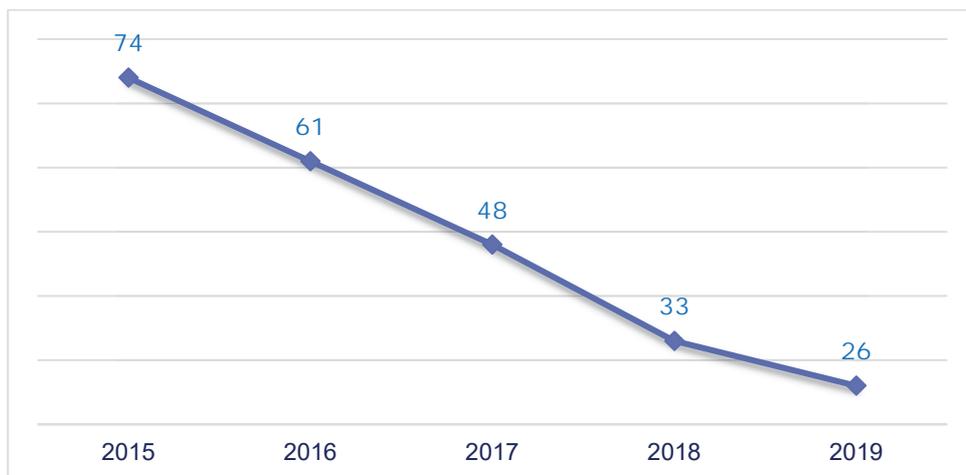
2. New EU Pilot files opened in 2019: policy areas



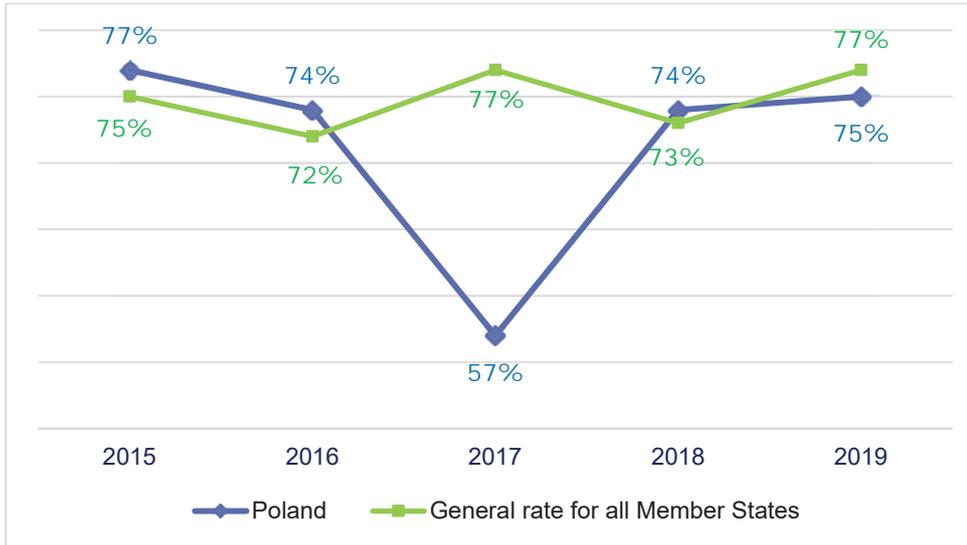
3. Files relating to Poland open in EU Pilot at year-end

Monitoring the application of European Union law
2019 Annual Report

Poland



4. EU Pilot files: Poland's resolution rate in 2015-2019



III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



3. Key infringement cases and referrals to the Court

- a. The Commission opened 37 new infringement cases against Poland in 2019. These, and other major ongoing infringement cases, include:
- incorrect transposition of the:
 - Directive on combating the sexual abuse and sexual exploitation of children¹
 - EU rules on public procurement and concessions²
 - Solvency II Directive³
 - SEPA Regulation⁴
 - common rules for access to the international market for coach and bus services⁵
 - revised Environmental Impact Assessment Directive⁶
 - Directive on the protection of animals used for scientific purposes⁷
 - obligations establishing a single European railway area⁸
 - Energy Efficiency Directive⁹;
 - delays in the implementation of the Geo-blocking Regulation, by failing to provide for measures and mechanisms for consumer protection¹⁰;
 - the new disciplinary regime for judges in Poland which undermines the judicial independence of Polish judges by not offering necessary guarantees to protect

¹ Directive [2011/93/EU](#), [MEMO/19/462](#) INF/19/4251 and INF/19/5950.

² Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), INF/19/6304.

³ Directive [2009/138/EC](#), INF/19/4251.

⁴ Regulation (EU) [260/2012](#), [MEMO/19/1472](#).

⁵ Regulation (EC) No [2009/1073](#), [MEMO/19/462](#).

⁶ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [MEMO/19/1472](#).

⁷ Directive [2010/63/EU](#), INF/19/4251.

⁸ Directive [2012/34/EU](#), INF/19/4251.

⁹ Directive [2012/27/EU](#), [MEMO/19/462](#).

¹⁰ Regulation (EU) [2018/302](#); INF/19/4251.

them from political control, as required by the Court of Justice of the European Union¹¹;

- failure to award authorisations and concessions in the hydroelectric power sector in line with the Services Directive and public procurement rules¹²
 - failure to comply with EU rules on landfills¹³;
 - bad application of the Inspire Directive¹⁴;
 - failure to establish penalties in accordance with the Invasive Alien Species Regulation¹⁵;
 - failure to ensure adequate protection of habitats and species of EU interest by designating nature protection areas to complete the NATURA 2000 network¹⁶;
 - 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 plans¹⁷;
 - failure to comply with a Court judgment finding that Poland had breached its obligations under the Ambient Air Quality Directive¹⁸;
 - failure to fully comply with EU rules on reviewing environmental decisions¹⁹;
 - non-compliance with key provisions of the Noise Directive²⁰;
 - failure to comply with EU requirements on the security of gas supply²¹;
 - **non-communication of national measures transposing the:**
 - Directive on standards for the qualification of third-country nationals as beneficiaries of international protection²²
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)²³
 - Indirect Land Use Change Directive²⁴
 - Bank Creditors Hierarchy Directive²⁵.
- b. [The Commission referred two cases to the Court under Article 258 TFEU. They involve the following infringements:
- exemption from energy taxes for highly polluting industries on the ground that they are covered by the European Emission Trading Scheme;
 - violation of the Rule of Law principles and Article 19 TFEU by the new disciplinary regime for judges in Poland²⁶.

¹¹ [IP/19/1957](#).

¹² Directives [2006/123/EC](#) and [2014/23/EU](#), [IP/19/1477](#).

¹³ Council Directive [1999/31/EC](#), [MEMO/19/1472](#).

¹⁴ Directive [2007/2/EC](#), [MEMO/19/1472](#).

¹⁵ Regulation (EU) No [1143/2014](#), [INF/19/6304](#).

¹⁶ [INF/19/4251](#).

¹⁷ Directives [92/43/EEC](#) and [2009/147/EC](#), [INF/19/4251](#).

¹⁸ Directive [2008/50/EC](#), [INF/19/4251](#), *Commission v Poland*, [C-336/16](#).

¹⁹ Directive [2011/92/EU](#), [MEMO/19/1472](#).

²⁰ Directive [2002/49/EC](#), [MEMO/19/462](#).

²¹ Regulation (EU) [2017/1938](#), [INF/19/6304](#).

²² Directive [2011/95/EU](#); [MEMO/19/462](#).

²³ Directive [2016/2341/EU](#).

²⁴ Directive (EU) [2015/1513](#) amending Directive [98/70/EC](#) and amending Directive [2009/28/EC](#).

²⁵ Directive [2017/2399/EU](#).

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

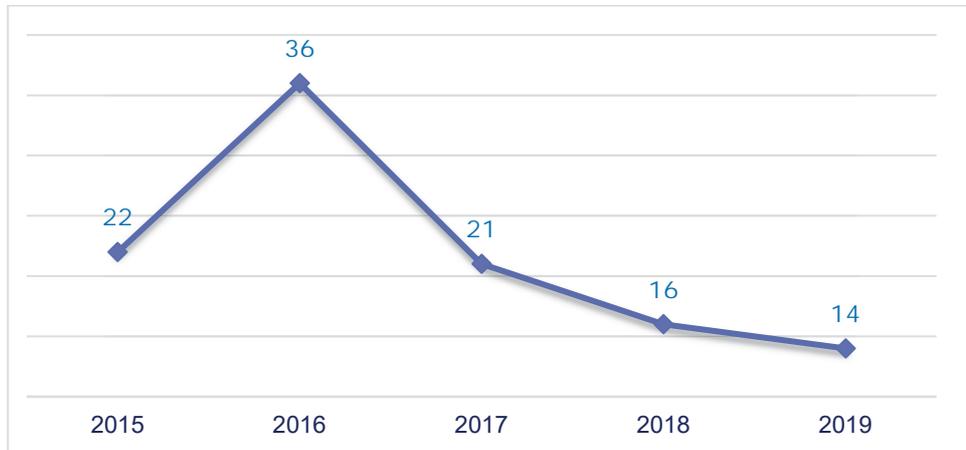
IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Poland open on 31 December (2015-2019)

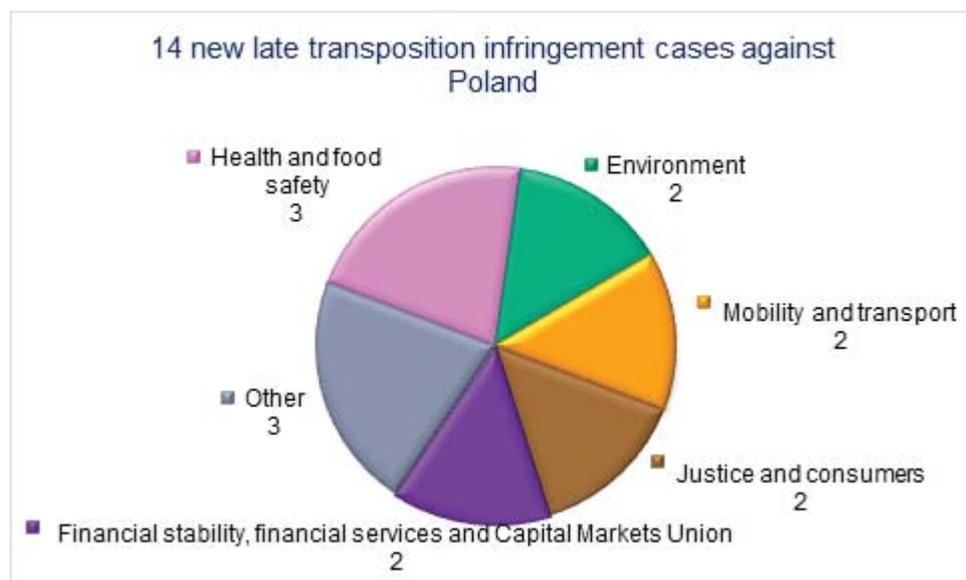


²⁶ *Commission v Poland*, [C-791/19](#), [IP/19/6033](#).

2. New late transposition infringement cases against Poland (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- incorrect transposition of the Consumer Rights Directive²⁷;
- incorrect application of the Habitats Directive by authorisation and commencing the construction of a coal mine near Natura 2000 sites²⁸;

²⁷ Directive [2011/83/EU](#).

²⁸ Directive [92/43/EEC](#).

- failure to ensure the effective application of obligations under the Directive on end-of-life vehicles²⁹;
- application of EU defence procurement rules³⁰
- non-communication of national measures transposing the:
 - Seasonal Workers Directive³¹
 - Directive on conditions of entry and residence of third-country nationals for research and studies³²
 - Directive on standards for the qualification of third-country nationals as beneficiaries of international protection³³
 - Reception Conditions Directive³⁴
 - Asylum Procedures Directive³⁵
 - labour rights for seafarers³⁶
 - Directive on Antitrust Damages Actions³⁷
 - Anti-Tax Avoidance Directive (ATAD1)³⁸
 - Directive as regards access to anti-money laundering information (DAC5)³⁹
 - Offshore Safety Directive⁴⁰
 - Nuclear Safety Directive⁴¹
 - Directive on certain aspects of the organisation of working time in inland waterway transport⁴².

VI. IMPORTANT JUDGMENTS

1. Court rulings⁴³

The Court ruled that/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 judges⁴⁴.

²⁹ https://ec.europa.eu/commission/presscorner/detail/EN/INF_19_6304.

³⁰ Directive [2009/81/EC](#).

³¹ Directive [2014/36/EU](#).

³² Directive [2016/801/EU](#).

³³ Directive [2011/95/EU](#); [INF/19/4251](#).

³⁴ Directive [2013/33/EU](#); [INF/19/4251](#).

³⁵ Directive [2013/32/EU](#).

³⁶ Directive (EU) [2015/1794](#).

³⁷ Directive [2014/104/EU](#).

³⁸ Directive (EU) [2016/1164](#).

³⁹ Directive [2016/2258/EU](#).

⁴⁰ Directive [2013/30/EU](#).

⁴¹ Directive [2014/87/Euratom](#).

⁴² Directive [2014/112/EU](#).

⁴³ These rulings are almost exclusively handed down in infringement procedures.

⁴⁴ *Commission v Poland*, [C-192/18](#), Court press release [No 134/19](#).

- *Poland* failed to fulfil its obligations under EU law by lowering the retirement age of judges of the Supreme Court⁴⁵.
- *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 for vehicles complying with the maximum axle weights laid down in the Directive are not justified⁴⁶.

2. Preliminary rulings

[The Court addressed the following preliminary rulings to the Polish judiciary:

- National legislation cannot exempt commercial transactions financed with EU funds from the scope of the Late Payments Directive⁴⁷.
- The issuance of a parallel import license cannot be conditional upon the imported medicine and domestic reference products sharing the same 'registration status'. 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, then the imported product may be granted a parallel import license⁴⁸.
- 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 contract⁴⁹.
- The lack of transparency of a contract term is an important element in assessing 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 this⁵⁰.
- 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'⁵¹.

⁴⁵ *Commission v Poland*, [C-619/18](#); Court press release [No 81/19](#).

⁴⁶ Directive [96/53/EC](#), *Commission v Poland*, [C-127/17](#).

⁴⁷ *KROL*, Case [C-722/18](#).

⁴⁸ *Delfarma*, Case [C-387/18](#).

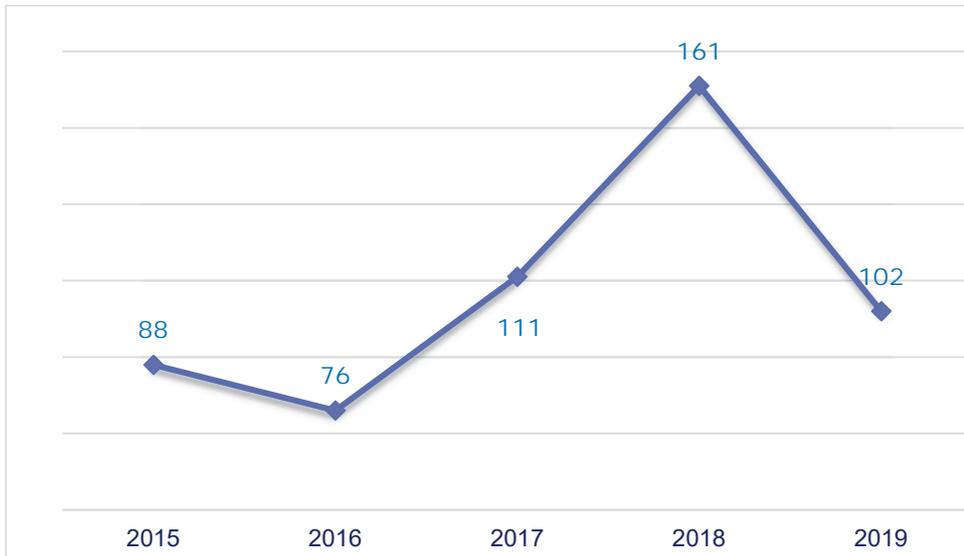
⁴⁹ *Dziubak*, [C-260/18](#).

⁵⁰ *Profi Credit Polska*, [C-419/18](#) and [C-483/18](#).

⁵¹ *WB*, [C-658/17](#).

I. COMPLAINTS

1. New complaints made against Portugal by members of the public (2015-2019)



2. Public complaints against Portugal open at year-end

76 > Complaints open at end-2018

102 > New complaints registered in 2019

100 > Complaints handled in 2019

= 78 > Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

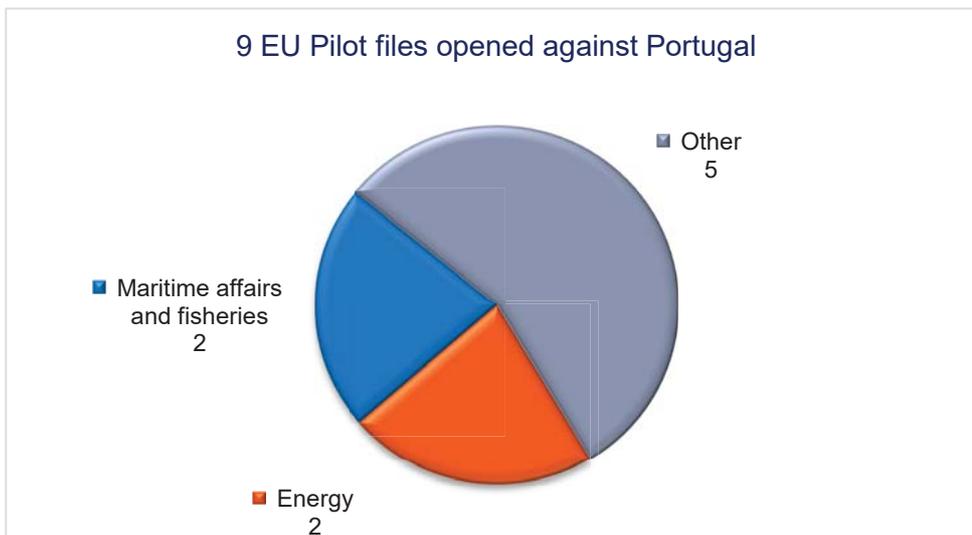


II. EU PILOT

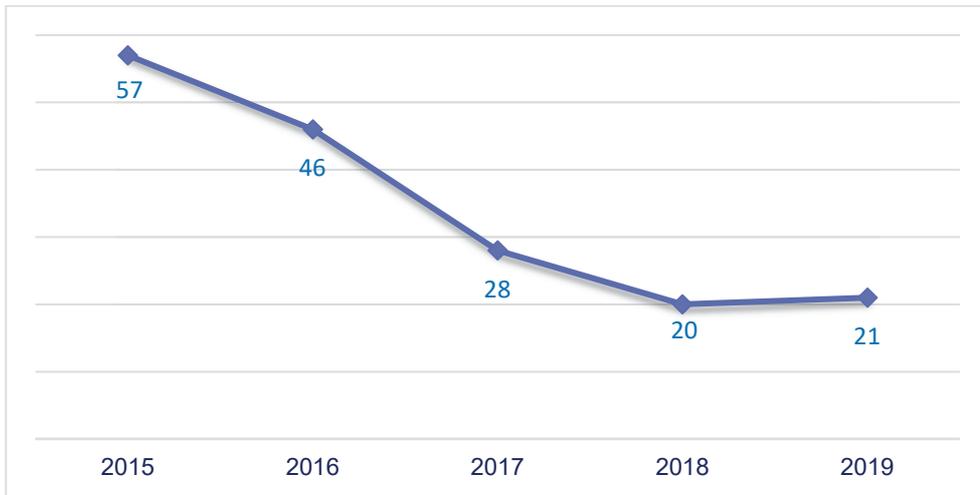
1. New EU Pilot files opened against Portugal (2015-2019)



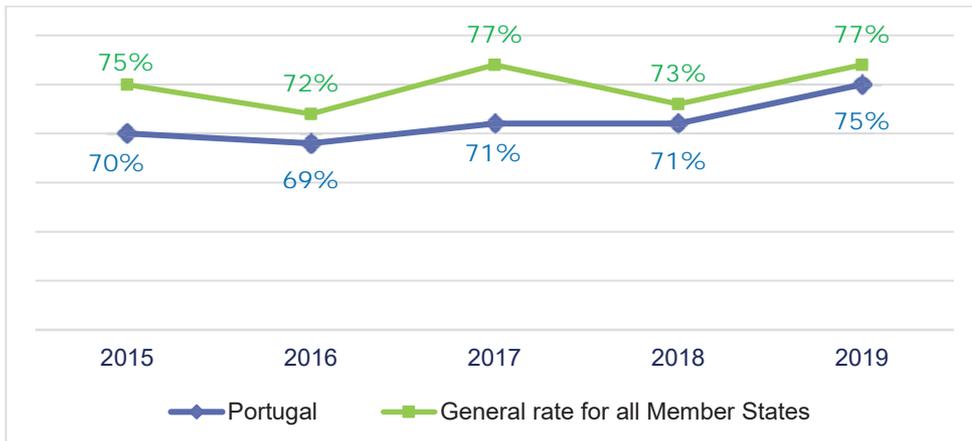
2. New EU Pilot files opened in 2019: main policy areas



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



4. EU Pilot files: Portugal's resolution rate in 2015-2019

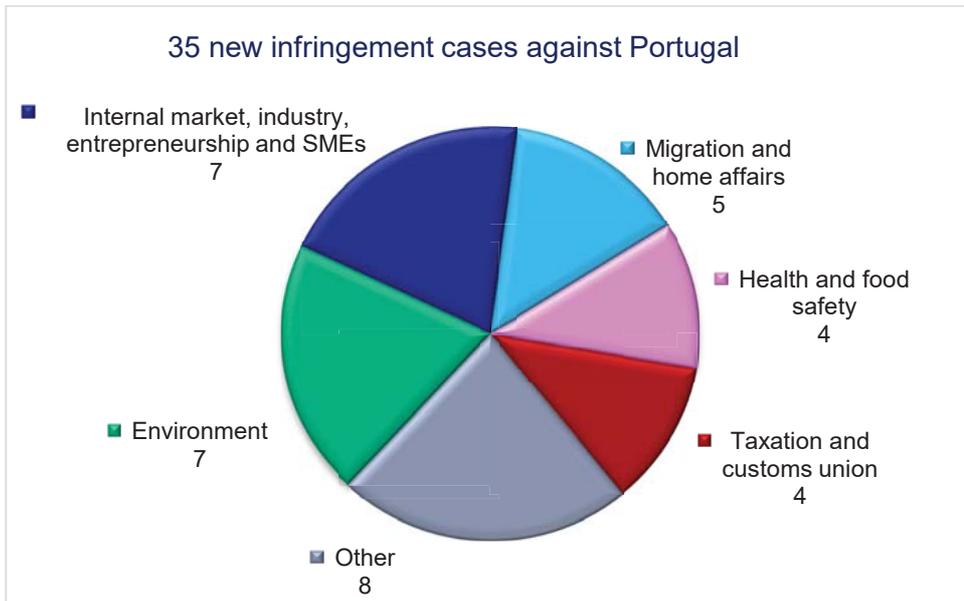


III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



3. Key infringement cases and referrals to the Court

- a. The Commission opened 35 new infringement cases against Portugal in 2019. These, and other major ongoing infringement cases, include:
- incorrect transposition of the:
 - Directive on Attacks against Information Systems⁵²
 - Directive on combating the sexual abuse and sexual exploitation of children⁵³
 - EU rules on public procurement and concessions⁵⁴
 - revised Environmental Impact Assessment Directive⁵⁵
 - Energy Efficiency Directive⁵⁶;
 - 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)⁵⁷;
 - failure to submit their second cost-optimal report required by the Energy Performance of Buildings Directive⁵⁸;
 - failure to ensure adequate protection of habitats and species of EU interest by designating nature protection areas to complete the NATURA 2000 network⁵⁹;
 - failure to award authorisations and concessions in the hydroelectric power sector in line with the Services Directive and public procurement rules⁶⁰.
 - failure to comply with Article 63 of TFEU and the EEA as regards tax rules for the sale of real estate by non-residents⁶¹;
 - non-conformity of rules concerning the acquired rights of engineers⁶²
 - excessive and disproportionate fees for issuing residence permits⁶³;
 - Non-communication of national measures transposing the:
 - Basic Safety Standards Directive⁶⁴
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)⁶⁵
 - Bank Creditors Hierarchy Directive⁶⁶.

⁵² Directive [2013/40/EU](#), [INF/19/5950](#).

⁵³ Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

⁵⁴ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [INF/19/5950](#).

⁵⁵ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [INF/19/5950](#).

⁵⁶ Directive [2012/27/EU](#), [MEMO/19/462](#).

⁵⁷ Regulation (EU) [2016/480](#), [INF/19/6304](#).

⁵⁸ Directive [2010/31/EU](#), [MEMO/19/1472](#).

⁵⁹ Directive [2003/109/EC](#), [INF/19/4251](#).

⁶⁰ Directives [2006/123/EC](#) and [2014/23/EU](#), [IP/19/1477](#).

⁶¹ [IP/19/462](#).

⁶² Directive [2005/36/EC](#),. [IP 19/467](#).

⁶³ [INF/19/4251](#).

⁶⁴ Directive [2013/59/Euratom](#).

⁶⁵ Directive [2016/2341/EU](#).

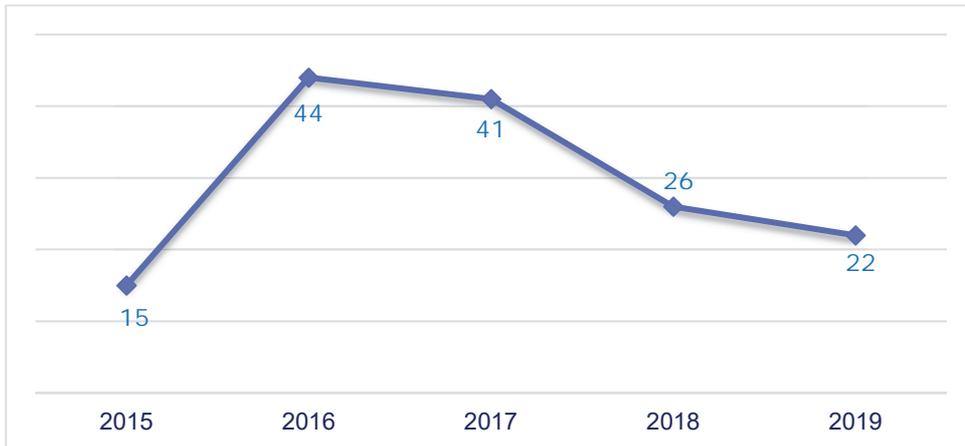
⁶⁶ Directive [2017/2399/EU](#).

- b. The Commission referred one case to the Court under Article 258 TFEU. This concerns a failure to align the system of financing universal services to the Universal Service Directive⁶⁷.
- c. The Commission did not refer any cases to the Court under Article 260(2) TFEU. |

⁶⁷ Case *Commission v Portugal*, [C-49/19](#).

IV. TRANSPOSITION OF DIRECTIVES

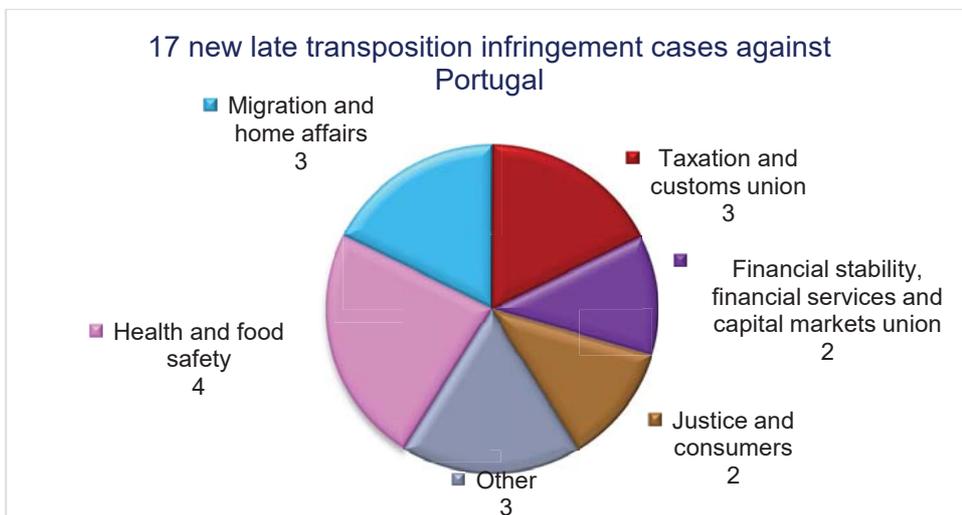
1. Late transposition infringement cases against Portugal open on 31 December (2015-2019)



2. New late transposition infringement cases against Portugal (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2019

These concerned:

- incorrect transposition of the:
 - Directive on unfair commercial practices⁶⁸
 - Indirect Land Use Change Directive⁶⁹
 - EU legislation on the investigation of accidents in the maritime sector⁷⁰;
- measures to prevent the spread of the pine wood nematode;
- failure to meet the EU obligations on stepping up cross-border cooperation, particularly in combating terrorism and cross-border crime⁷¹;
- application of EU defence procurement rules⁷²
- failure to communicate national measures transposing the:
 - Commission Implementing Directive as regards isolation distances for Sorghum spp.⁷³
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species⁷⁴
 - Commission Implementing Directive on characteristics to be covered as a minimum by the examination and minimum conditions for examining certain varieties of agricultural plant species⁷⁵
 - Commission Implementing Directive on protective measures against the introduction into the Community of organisms harmful to plants⁷⁶
 - Seasonal Workers Directive⁷⁷
 - Seafarers Directive⁷⁸
 - Mortgage Credit Directive⁷⁹
 - Anti-tax avoidance Directive.]

⁶⁸ Directive [2005/29/EC](#).

⁶⁹ Directive (EU) [2015/1513](#).

⁷⁰ Directive [2009/18/EC](#).

⁷¹ Decisions [2008/615/JHA](#) and [2008/616/JHA](#).

⁷² Directive [2009/81/EC](#).

⁷³ Directive (EU) [2018/1027](#).

⁷⁴ Directive (EU) [2018/100](#).

⁷⁵ Directive (EU) [2019/114](#).

⁷⁶ Directive (EU) [2019/523](#).

⁷⁷ Directive [2014/36/EU](#).

⁷⁸ Directive (EU) [2015/1794](#).

⁷⁹ Directive [2014/17/EU](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings

[The Court ruled that/gave the following rulings:

- 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 zones⁸⁰.]

2. Preliminary rulings

[The Court addressed the following preliminary rulings to the Portuguese judiciary:

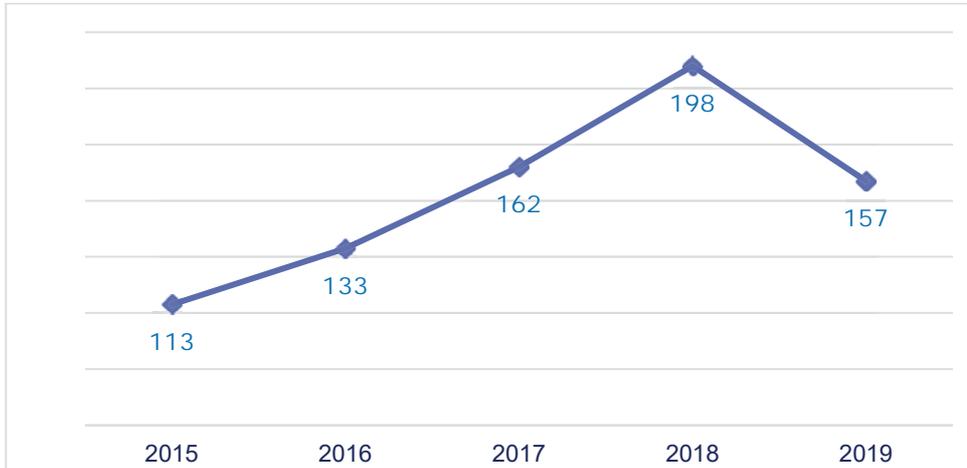
- Member States cannot add additional requirements for granting copyright protection to designs, such as the clothing designs of jeans, which already meet the requirements for copyright protection under EU law⁸¹

⁸⁰ *Commission v Portugal*, [C-290/18](#).

⁸¹ *Cofemel*, case [C-683/17](#).

I. COMPLAINTS

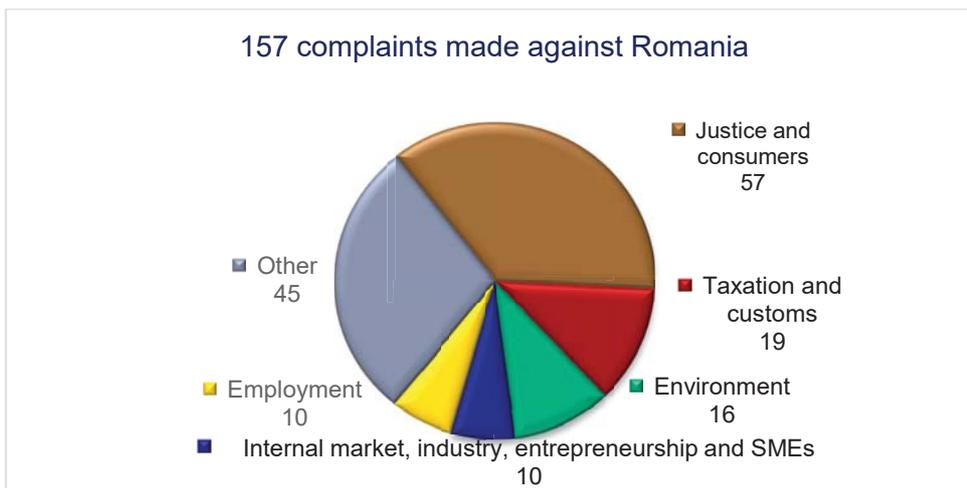
1. New complaints made against Romania by members of the public (2015-2019)



2. Public complaints against Romania open at year-end

139	>	Complaints open at end-2018
157	>	New complaints registered in 2019
203	>	Complaints handled in 2019
= 93	>	Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

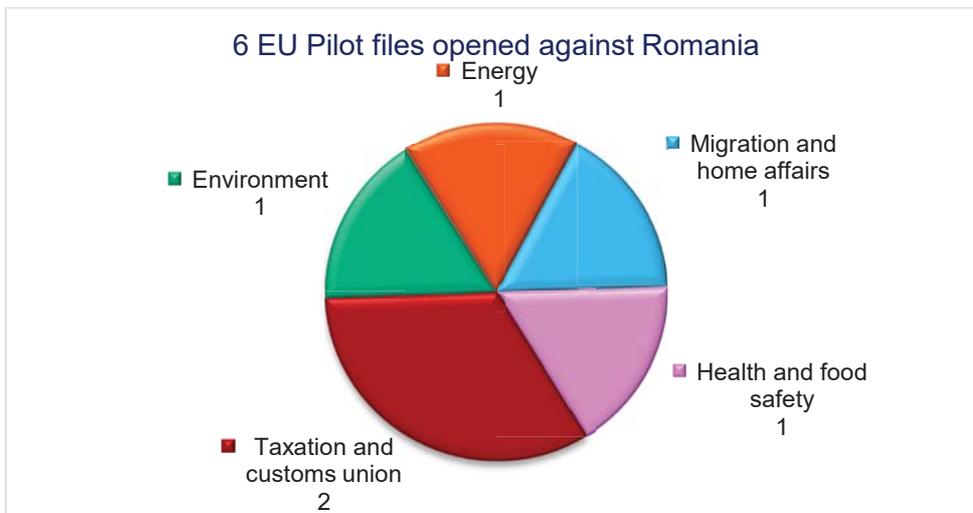


II. EU PILOT

1. New EU Pilot files opened against Romania (2015-2019)



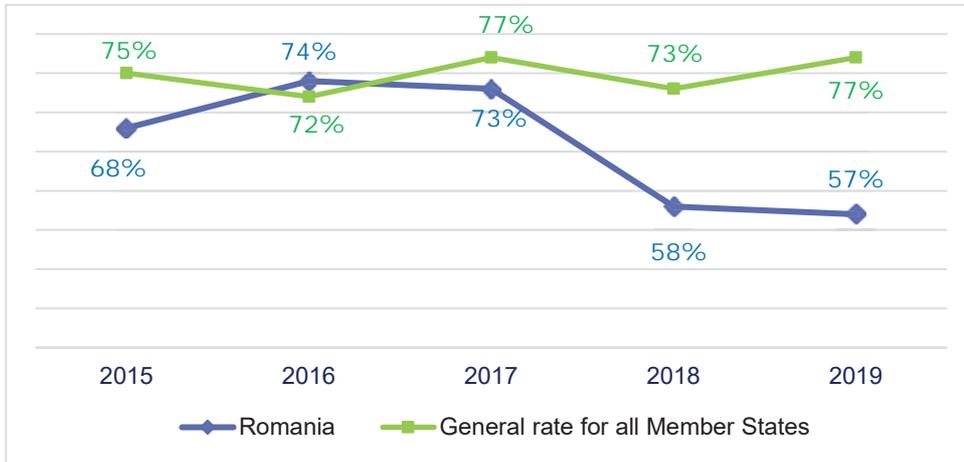
2. New EU Pilot files opened in 2019: policy areas



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



4. EU Pilot files: Romania's resolution rate in 2015-2019

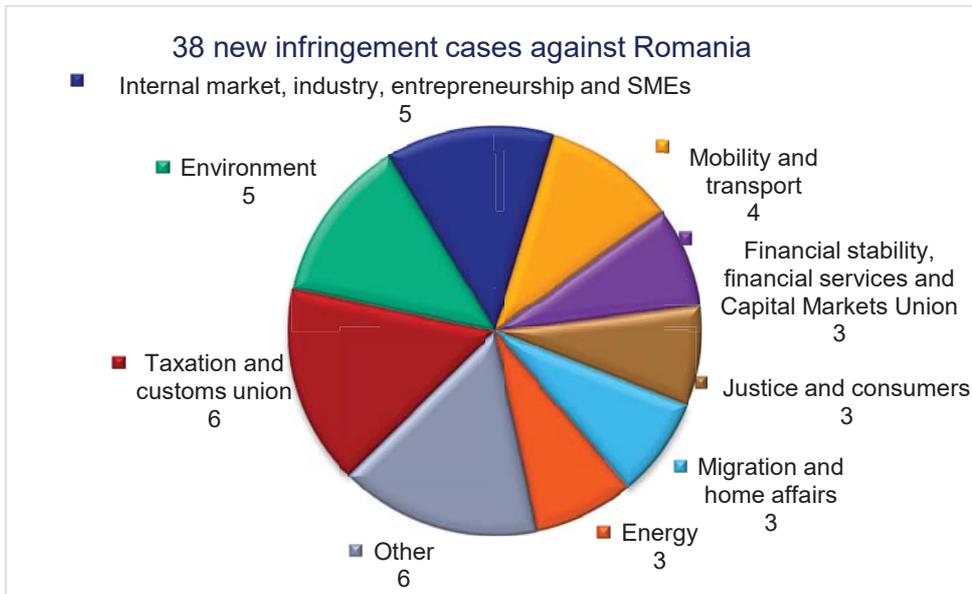


III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



3. Key infringement cases and referrals to the Court

- a. The Commission opened 38 new infringement cases against Romania in 2019. These, and other major ongoing infringement cases, include:
- delays in the implementation of the Geo-blocking Regulation, by failing to provide for measures and mechanisms for consumer protection¹;
 - failure to submit information about operators of essential services identified under the EU law on the security of network and information systems²;
 - failure to adopt fees for the processing of applications on biocidal products, as required by EU rules. As a result, applications for national authorisation of biocidal products could not be processed³;
 - 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 migration⁴;
 - non-conformity of national legislation with EU rules on public procurement and concessions⁵
 - breach of the EU's exclusive competence in the automated exchange of DNA, fingerprint and vehicle registration data⁶;
 - incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children⁷;
 - failure to ensure adequate protection of habitats and species of EU interest by designating nature protection areas to complete the NATURA 2000 network⁸;

¹ Regulation (EU) [2018/302](#); [INF/19/4251](#).

² Directive (EU) [2016/1148](#), [INF/19/4251](#).

³ Regulation (EU) [528/2012](#), [MEMO-19-462](#).

⁴ [INF/19/4251](#).

⁵ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [MEMO/19/462](#);

⁶ [INF/19/5950](#).

⁷ Directive [2011/93/EU](#), [MEMO/19/462](#), [INF/19/4251](#) and [INF/19/5950](#).

⁸ [INF/19/4251](#).

- failure to ensure that installations under the Industrial Emissions Directive operate with appropriate permits⁹;
 - systemic failure to monitor air pollution as required by EU legislation on ambient air quality¹⁰;
 - a national law setting limitations for the distribution of insurance products in Romania by insurance distributors from other Member States, in breach of the freedom to provide services¹¹;
 - failure to correctly implement certain requirements of the Third Energy Package (the Gas Directive) and the Security of Gas Supply Regulation¹²;
 - 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 TFEU¹³;
 - failure to submit their second cost-optimal report required by the Energy Performance of Buildings Directive¹⁴;
 - 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)¹⁵;
 - failure to adopt measures on penalties for infringements of the Regulation on fluorinated greenhouse gases¹⁶;
 - time limit for the notification of customs debts;
 - non-communication of national measures transposing the:
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)¹⁷
 - Bank Creditors Hierarchy Directive¹⁸
 - Directive on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union¹⁹
 - Directive on certain aspects of the organisation of working time in inland waterway transport²⁰.
- 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.]

⁹ Directive [2010/75/EU](#), [INF/19/4251](#).

¹⁰ Directives [2004/107/EC](#) and [2008/50/EC](#), [INF/19/4251](#).

¹¹ [INF/19/5950](#).

¹² Directive [2009/73/EC](#), Regulation (EU) [2017/1938](#), [MEMO/19/1472](#).

¹³ Directive [2009/73/EC](#), [INF/19/4251](#).

¹⁴ Directive [2010/31/EU](#), [MEMO/19/462](#).

¹⁵ Regulation (EU) [2016/480](#), [INF/19/4251](#).

¹⁶ Regulation (EU) [517/2014](#).

¹⁷ Directive [2016/2341/EU](#).

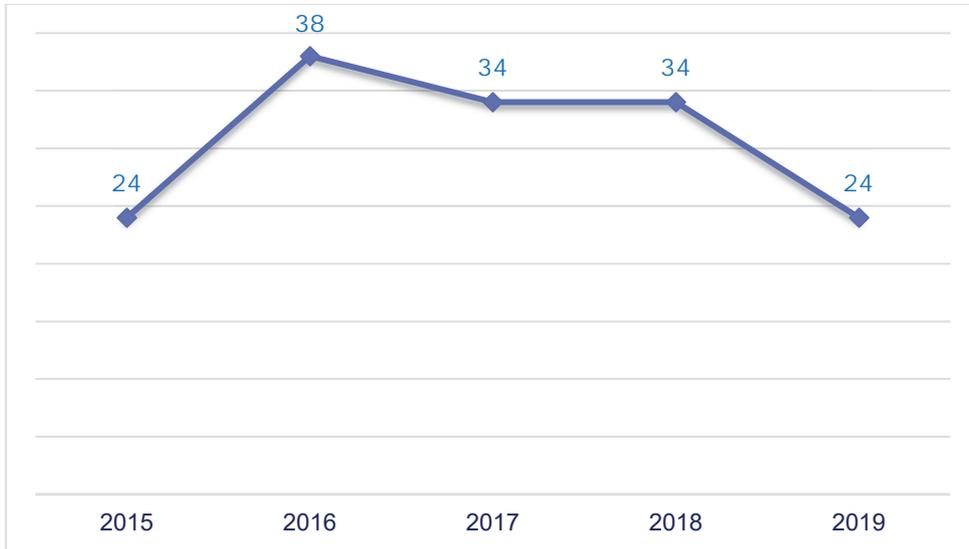
¹⁸ Directive [2017/2399/EU](#).

¹⁹ Directive [2014/42/EU](#).

²⁰ Directive [2014/112/EU](#).

IV. TRANSPOSITION OF DIRECTIVES

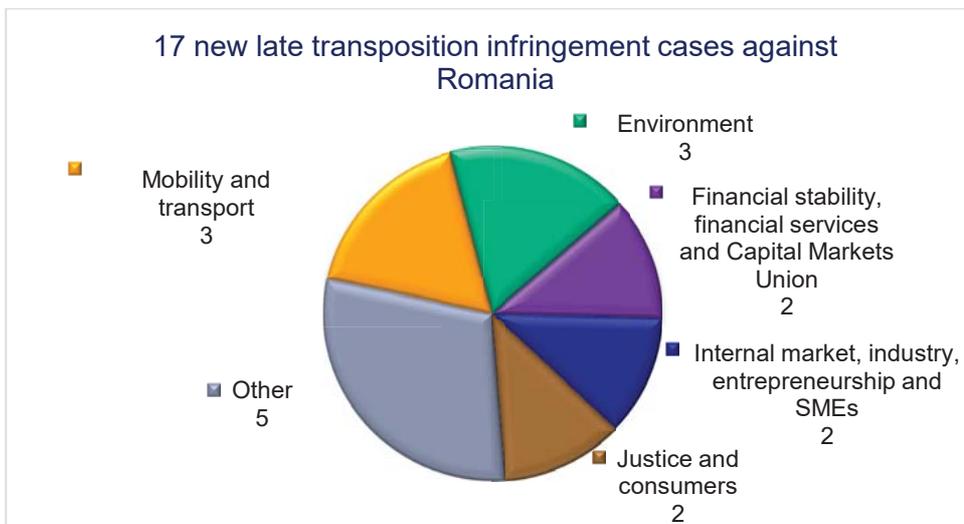
1. Late transposition infringement cases against Romania open on 31 December (2015-2019)



2. New late transposition infringement cases against Romania (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2019

These concerned:

- non-compliance with the Oil Stocks Directive²¹;
- failure to submit their second cost-optimal report required by the Energy Performance of Buildings Directive²²;

²¹ Directive [2009/119/EC](#).

²² Directive [2010/31/EU](#).

- non-communication of national measures transposing the:
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species²³
 - Reception Conditions Directive²⁴
 - Asylum Procedures Directive²⁵
 - labour rights for seafarers²⁶
 - minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights²⁷
 - Markets in Financial Instruments Directive (MiFID II)²⁸
 - Indirect Land Use Change Directive²⁹
 - Directive on administrative cooperation in tax matters³⁰.

VI. IMPORTANT JUDGMENTS

1. Court rulings³¹

There were no major Court rulings in 2019.

2. Preliminary rulings

[The Court addressed the following preliminary ruling to the Romanian judiciary:

- 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 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 effect³².

²³ Directive (EU) [2018/100](#).

²⁴ Directive [2013/33/EU](#); [INF/19/4251](#).

²⁵ Directive [2013/32/EU](#).

²⁶ Directive (EU) [2015/1794](#).

²⁷ Directive [2014/50/EU](#).

²⁸ Directive [2014/65/EU](#).

²⁹ Directive (EU) [2015/1513](#).

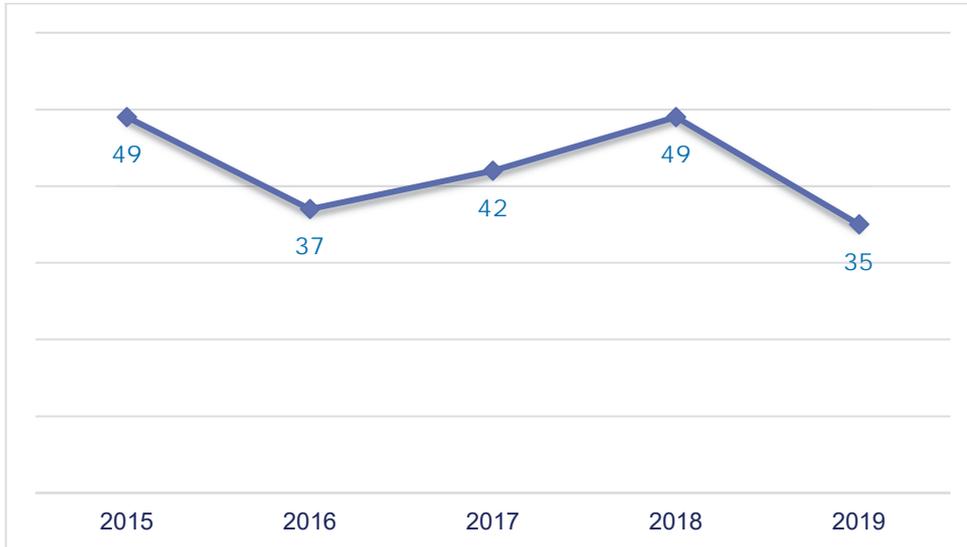
³⁰ Directive [2016/2258/EU](#).

³¹ These rulings are almost exclusively handed down in infringement procedures.

³² Regulation (EC) No [261/2004](#), Rusu, [C-354/18](#).

I. COMPLAINTS

1. New complaints made against Slovenia by members of the public (2015-2019)



2. Public complaints against Slovenia open at year-end

45 > Complaints open at end-2018

35 > New complaints registered in 2019

37 > Complaints handled in 2019

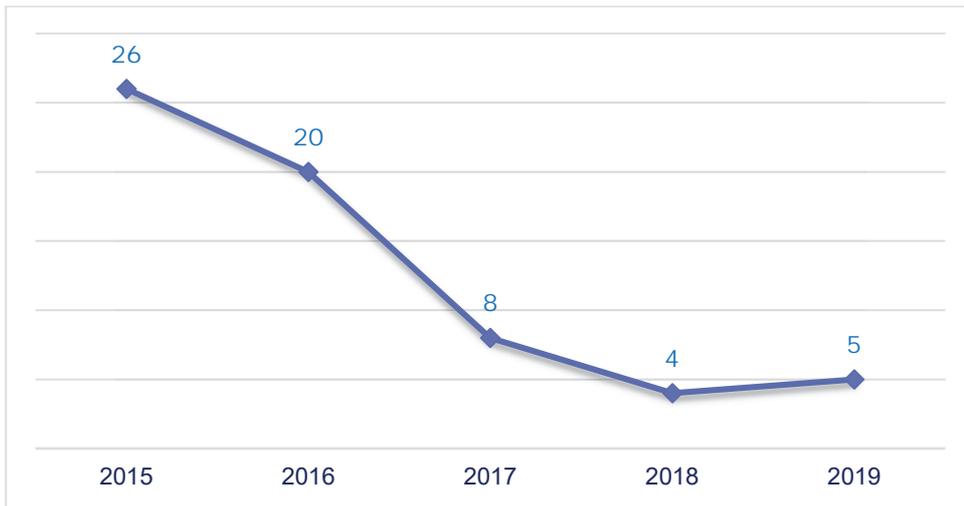
= 43 > Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

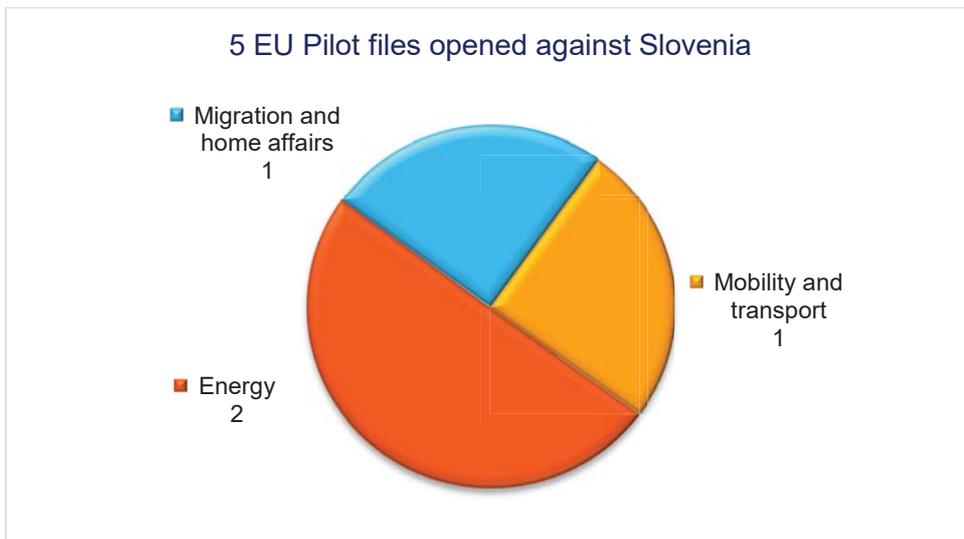


II. EU PILOT

1. New EU Pilot files opened against Slovenia (2015-2019)

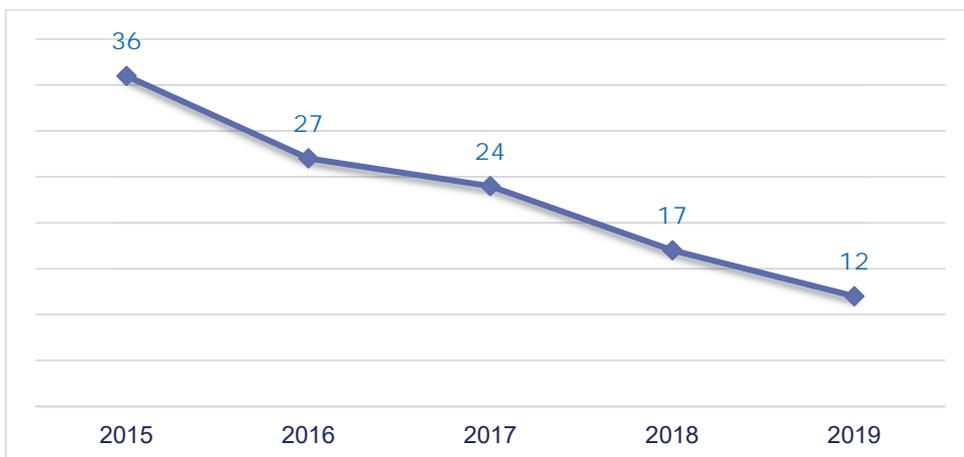


2. New EU Pilot files opened in 2019: policy areas

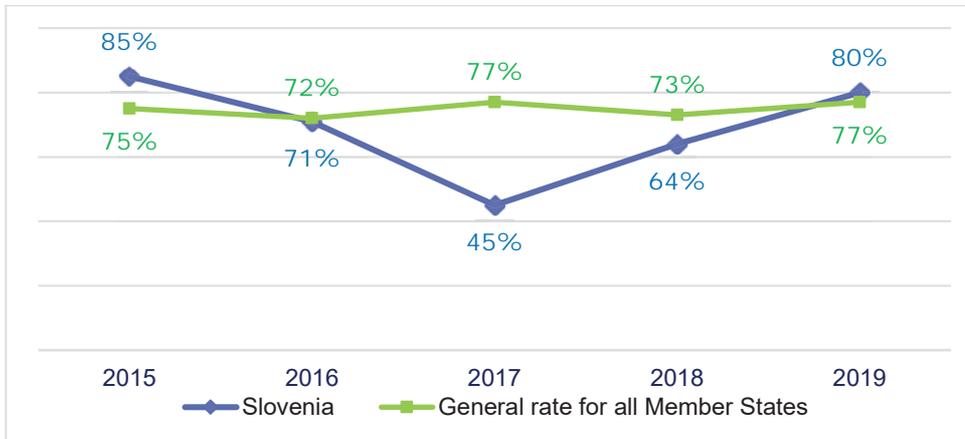


3. Files relating to Slovenia open in EU Pilot at year-end

Slovenia



4. EU Pilot files: Slovenia's resolution rate in 2015-2019

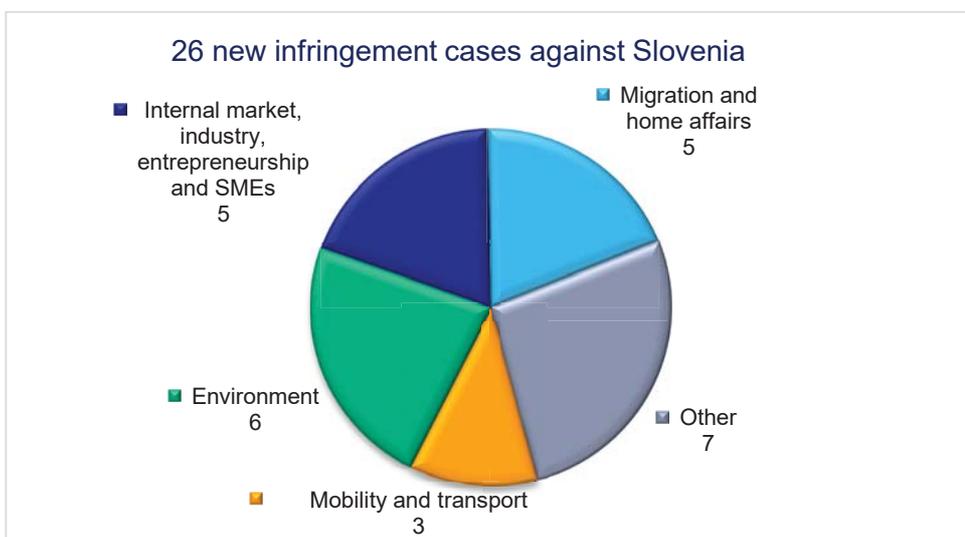


III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



3. Key infringement cases and referrals to the Court

- a. The Commission opened 26 new infringement cases against Slovenia in 2019. These, and other major ongoing infringement cases, include:
- failure to submit information about operators of essential services identified under the EU law on the security of network and information systems¹;
 - incorrect implementation of the Directive on Attacks against Information Systems²;
 - incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children³;
 - non-communication of national measures transposing the:
 - Directive on conditions of entry and residence of third-country nationals for research and studies⁴
 - Directive on standards for the qualification of third-country nationals as beneficiaries of international protection⁵
 - Reception Conditions Directive⁶
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)⁷
 - Bank Creditors Hierarchy Directive⁸
 - Directive establishing common noise assessment methods⁹;
 - failure to ensure adequate protection of grasslands, as required by the Habitats Directive¹⁰;
 - incorrect transposition of the revised Environmental Impact Assessment Directive¹¹;
 - late reporting on updates under the Marine Strategy Framework Directive¹²;
 - failure to fulfil obligations under the Ship Recycling Regulation¹³;
 - incorrect application of the Directive on urban waste water treatment (UWWT)¹⁴;
 - incorrect transposition of the Habitats and Birds Directives¹⁵.
 - incorrect transposition of the Directive on the protection of animals used for scientific purposes¹⁶.

¹ Directive (EU) [2016/1148](#), [INF/19/4251](#).

² Directive [2013/40/EU](#), [INF/19/4251](#).

³ Directive [2011/93/EU](#), [MEMO/19/462](#), [INF/19/4251](#) and [INF/19/5950](#).

⁴ Directive [2016/801/EU](#), [INF/19/4251](#).

⁵ Directive [2011/95/EU](#); [MEMO/19/462](#).

⁶ Directive [2013/33/EU](#).

⁷ Directive [2016/2341/EU](#).

⁸ Directive [2017/2399/EU](#).

⁹ Directive (EU) [2015/996](#).

¹⁰ Directive [92/43/EEC](#), [INF/19/4251](#).

¹¹ Directive [2011/92/EU](#), [INF/19/5950](#).

¹² Directive [2008/56/EC](#), [MEMO/19/1472](#).

¹³ Regulation (EU) [1257/2013](#), [MEMO/19/2772](#).

¹⁴ Directive [91/271/EEC](#), [MEMO/19/1472](#).

¹⁵ Directives [92/43/EEC](#) and [2009/147/EC](#), [INF/19/4251](#).

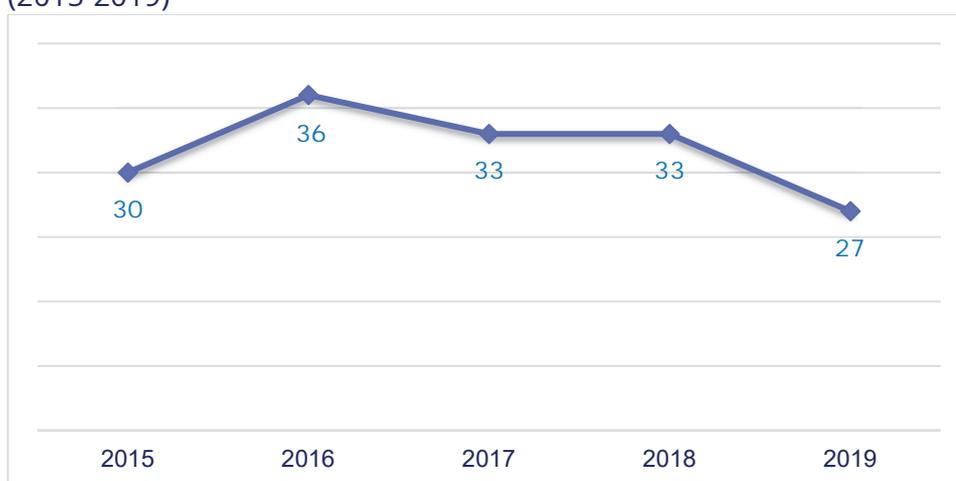
¹⁶ Directive [2010/63/EU](#), [INF/19/5950](#).

Slovenia

- b. The Commission referred two cases to the Court under Article 258 TFEU. They involve the following infringements:
- violation of Protocol No 7 on the Privileges and Immunities as regards the documents of the European Central Bank¹⁷
 - incorrect transposition and application of certain provisions of the Energy Performance of Buildings Directive¹⁸.
- c. [The Commission did not refer any cases to the Court under Article 260(2) TFEU.]

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Slovenia open on 31 December (2015-2019)



2. New late transposition infringement cases against Slovenia (2015-2019)

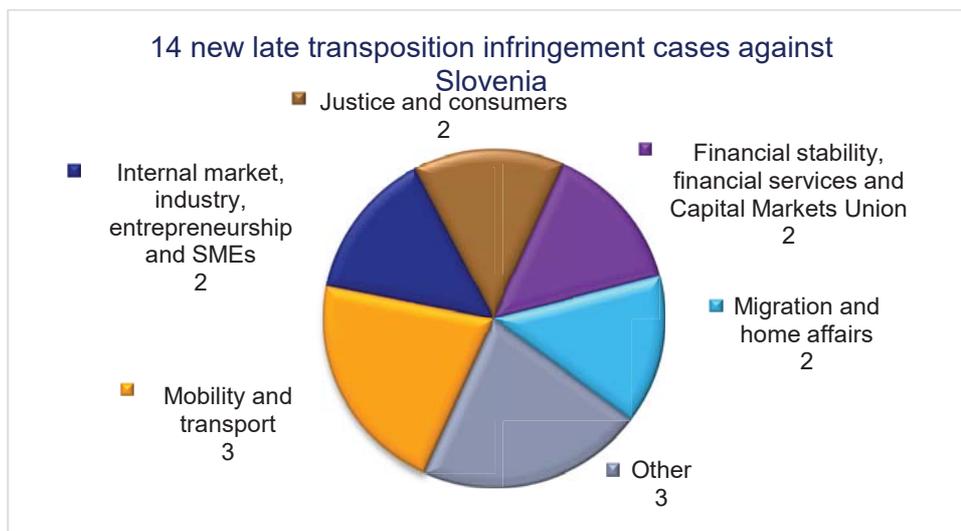


3. New late transposition infringement cases opened in 2019: main policy areas

¹⁷ Case [C-316/19](#) *Commission v Slovenia*.

¹⁸ Case [C-413/19](#) *Commission v Slovenia*, Directive [2010/31/EU](#), [IP/19/464](#).

Slovenia



4. Referral to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2019

[These concerned:

- failure to communicate national measures transposing the:
 - Seasonal Workers Directive¹⁹
 - Directive on standards for the qualification of third-country nationals as beneficiaries of international protection²⁰
 - Long Term Residents Directive²¹
 - Asylum Procedures Directive²²
 - Mortgage Credit Directive²³;
- incorrect transposition of the EIA Directive²⁴;
- non-compliance with the Energy Performance of Buildings Directive²⁵.

VI. IMPORTANT JUDGMENTS

1. Court ruling²⁶

There were no major Court rulings in 2019.

2. Preliminary rulings

¹⁹ Directive [2014/36/EU](#).

²⁰ Directive [2011/95/EU](#); [MEMO/19/462](#).

²¹ Directive [2011/51/EU](#).

²² Directive [2013/32/EU](#).

²³ Directive [2014/17/EU](#).

²⁴ Directive [2011/92/EU](#).

²⁵ Directive [2010/31/EU](#).

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

[The Court addressed the following preliminary rulings to the Slovenian judiciary:

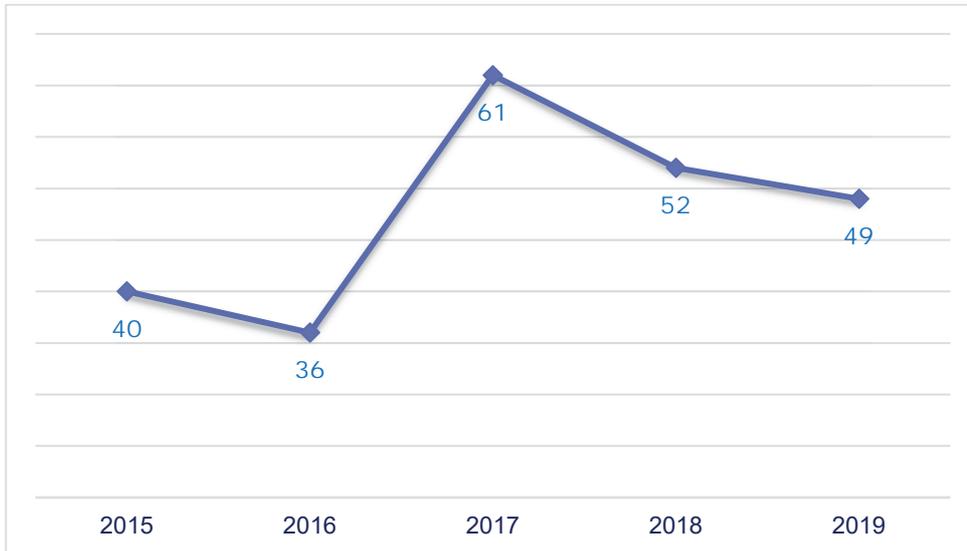
- When enforcing mortgages based on a directly enforceable notarial instrument, the preventive checks by notaries cannot replace effective judicial protection. Obstacles for effective remedies against such enforcement can be, for instance, costs for legal representation, the absence of legal aid or strict conditions for the suspension of the enforcement²⁷.
- 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 clients²⁸.]

²⁷ Case [C-407/18](#), *Kuhar*.

²⁸ Case [C-194/18](#), *Dodiri*.

I. COMPLAINTS

1. New complaints made against Slovakia by members of the public (2015-2019)



2. Public complaints against Slovakia open at year-end

45 > Complaints open at end-2018

49 > New complaints registered in 2019

46 > Complaints handled in 2019

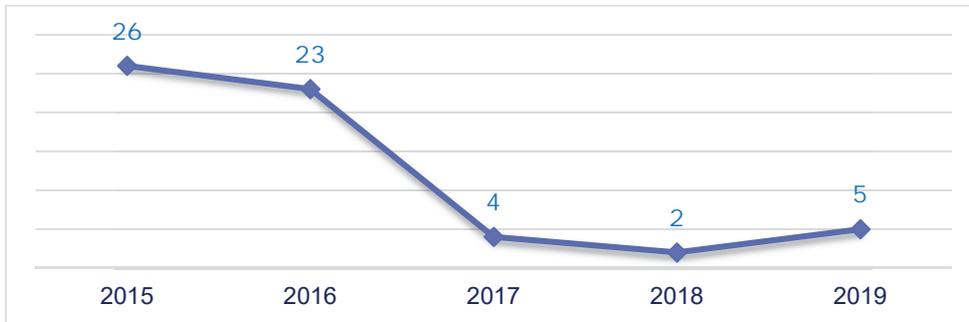
= 48 > Complaints open at end-2019

3. New complaints registered in 2019: main policy areas



II. EU PILOT

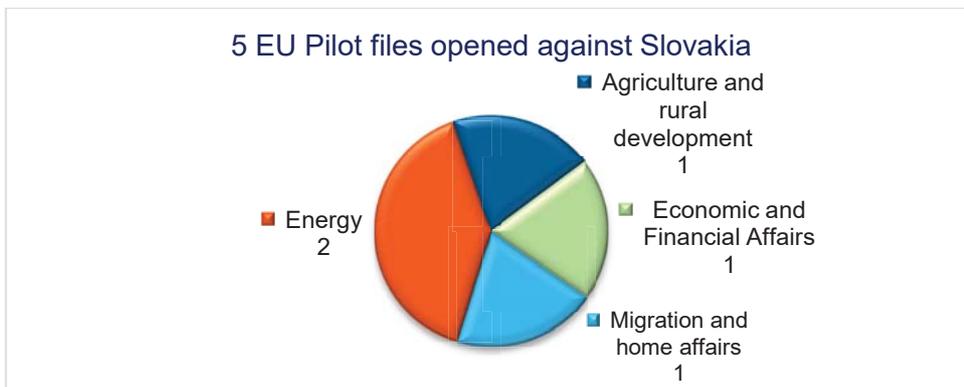
1. New EU Pilot files opened against Slovakia (2015-2019)



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

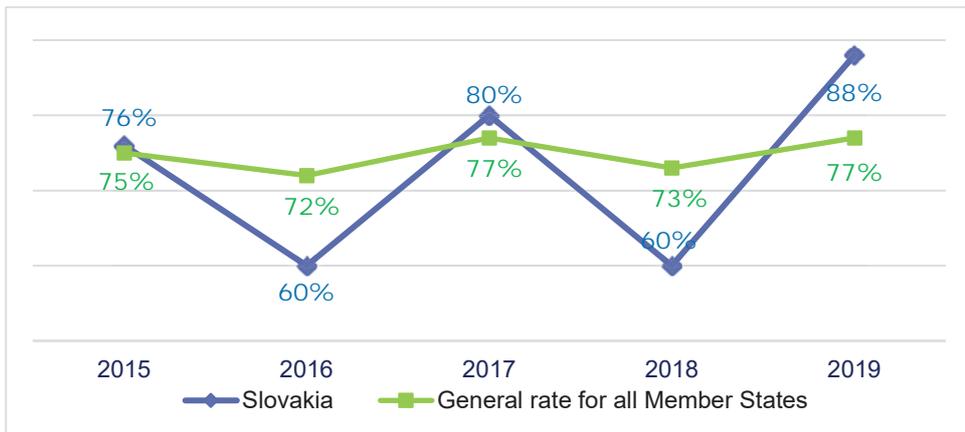


3. New EU Pilot files opened in 2019: main policy areas



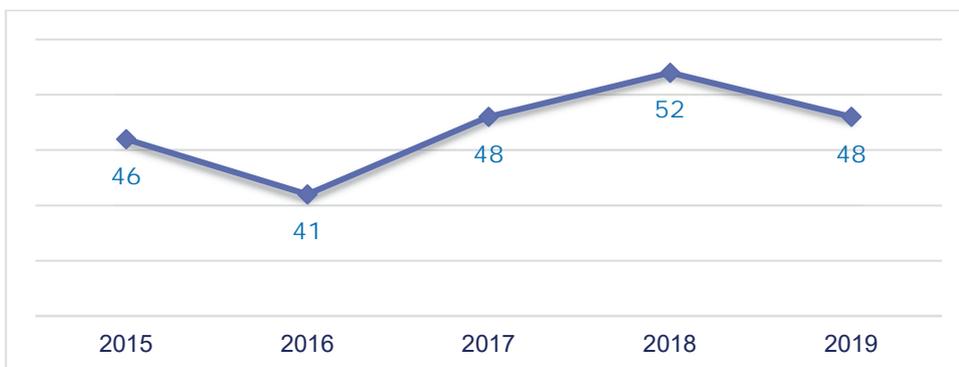
4. EU Pilot files: Slovakia's resolution rate in 2015-2019

Finland

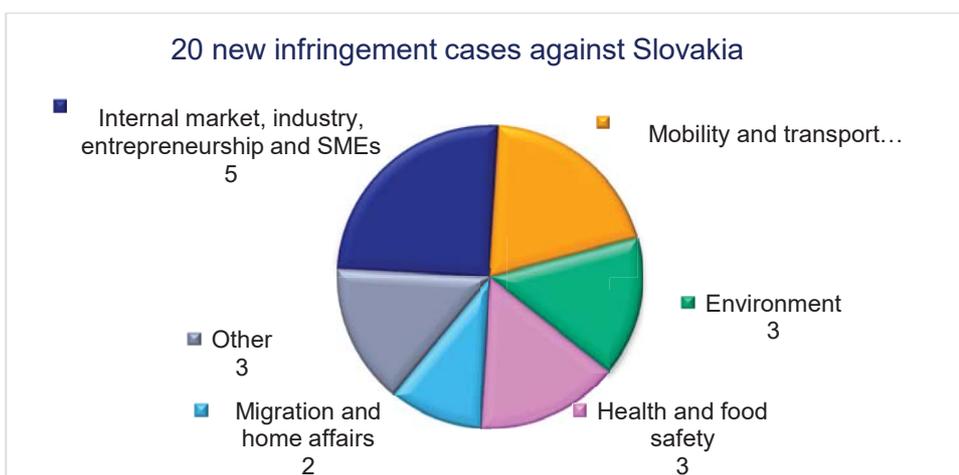


III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



3. Key infringement cases and referrals to the Court

- a. The Commission opened 20 new infringement cases against Slovakia in 2019. These, and other major ongoing infringement cases, include:

Finland

- delays in the implementation of the Geo-blocking Regulation, by failing to provide for measures and mechanisms for consumer protection¹;
- Racial discrimination against Roma children in education in violation of the Racial Equality Directive²;
- incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children³;
- failure to ensure adequate protection of habitats and species of EU interest by designating nature protection areas to complete the NATURA 2000 network⁴;
- Designation of Special Areas of Conservation in Slovakia⁵;
- 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 numbers⁶;
- incorrect transposition of the revised Environmental Impact Assessment Directive⁷;
- failure to ensure that urban waste water is adequately collected and treated⁸;
- failure to comply with EU rules on landfills⁹;
- non-compliance with the requirements of the Energy Efficiency Directive¹⁰;
- 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)¹¹;
- Non-communication of national measures transposing the Indirect Land Use Change Directive¹².

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

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Slovakia open on 31 December (2015-2019)

¹ Regulation (EU) [2018/302](#) ; [INF/19/4251](#).

² Directive [2000/43/EC](#), [INF/19/5950](#).

³ Directive [2011/93/EU](#), [MEMO/19/462](#), [INF/19/4251](#) and [INF/19/5950](#).

⁴ [INF/19/4251](#).

⁵ [INF/19/4251](#).

⁶ [MEMO/19/462](#).

⁷ Directive [2011/92/EU](#), [INF/19/5950](#).

⁸ Directive [91/271/EEC](#), [INF/19/6304](#).

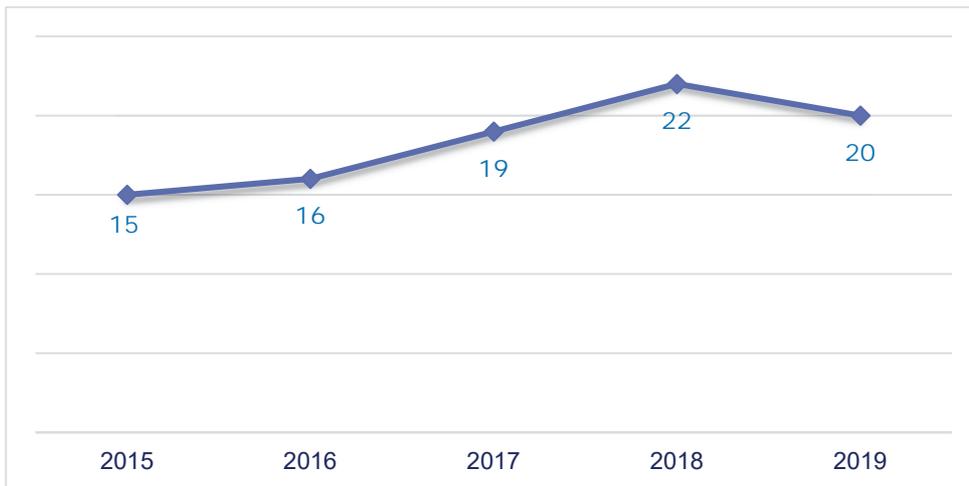
⁹ Directive [1999/31/EC](#), [MEMO/19/1472](#).

¹⁰ Directive [2012/27/EU](#), [INF/19/4251](#).

¹¹ Regulation (EU) [2016/480](#), [INF/19/4251](#).

¹² Directive (EU) [2015/1513](#).

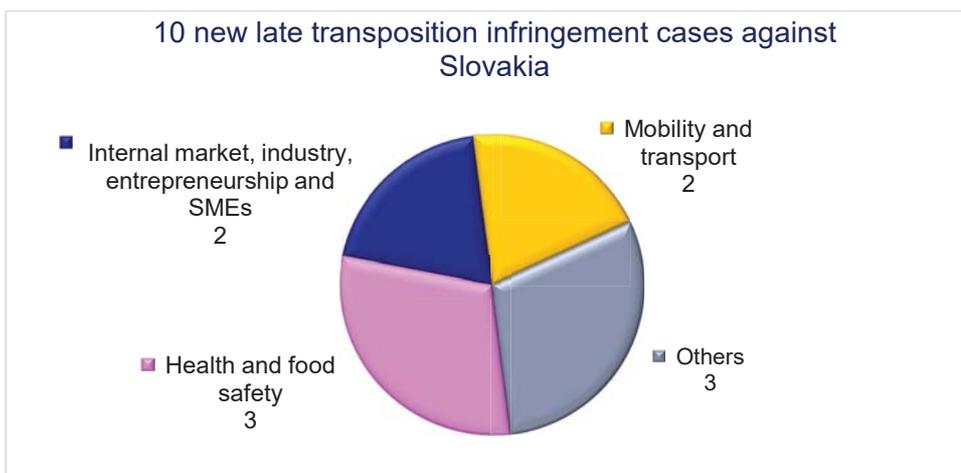
Finland



2. New late transposition infringement cases against Slovakia (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

Finland

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- failure to communicate national measures transposing the:
 - Commission Implementing Directive as regards isolation distances for Sorghum spp¹³
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species¹⁴
 - Seasonal Workers Directive¹⁵
 - Markets in Financial Instruments Directive (MiFID II)¹⁶;
- incorrect transposition of the Directive on unfair commercial practices¹⁷;
- incorrect transposition and implementation of the Nitrates Directive¹⁸;
- National legislation on the acquisition of agricultural land in violation of the free movement of capital and freedom of establishment¹⁹.

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁰

[There were no major Court rulings in 2019.]

2. Preliminary rulings

No major preliminary rulings were addressed to the Slovak judiciary in 2019

I. COMPLAINTS

1. New complaints made against Finland by members of the public (2015-2019)

¹³ Directive (EU) [2018/1027](#).

¹⁴ Directive (EU) [2018/100](#).

¹⁵ Directive [2014/36/EU](#).

¹⁶ Directive [2014/65/EU](#).

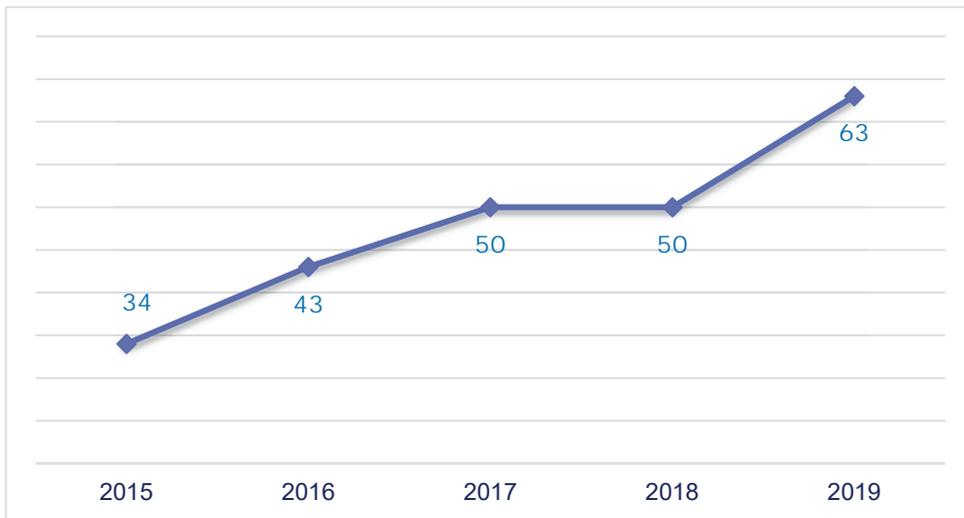
¹⁷ Directive [2005/29/EC](#).

¹⁸ Directive [91/676/EEC](#).

¹⁹ [MEMO/16/1823](#).

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

Finland



2. Public complaints against Finland open at year-end

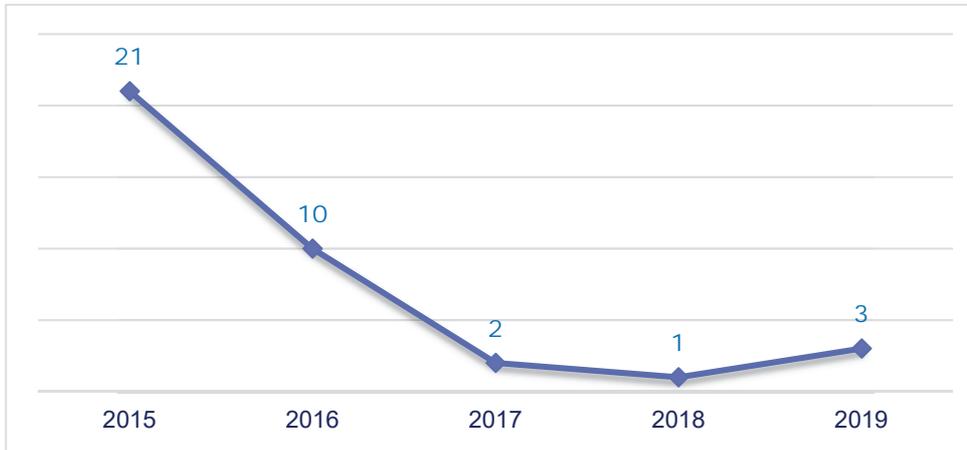
- 40 > Complaints open at end-2018
- 63 > New complaints registered in 2019
- 53 > Complaints handled in 2019
- = 50 > Complaints open at end-2019

3. New complaints registered in 2019: main policy areas



II. EU PILOT

1. New EU Pilot files opened against Finland (2015-2019)

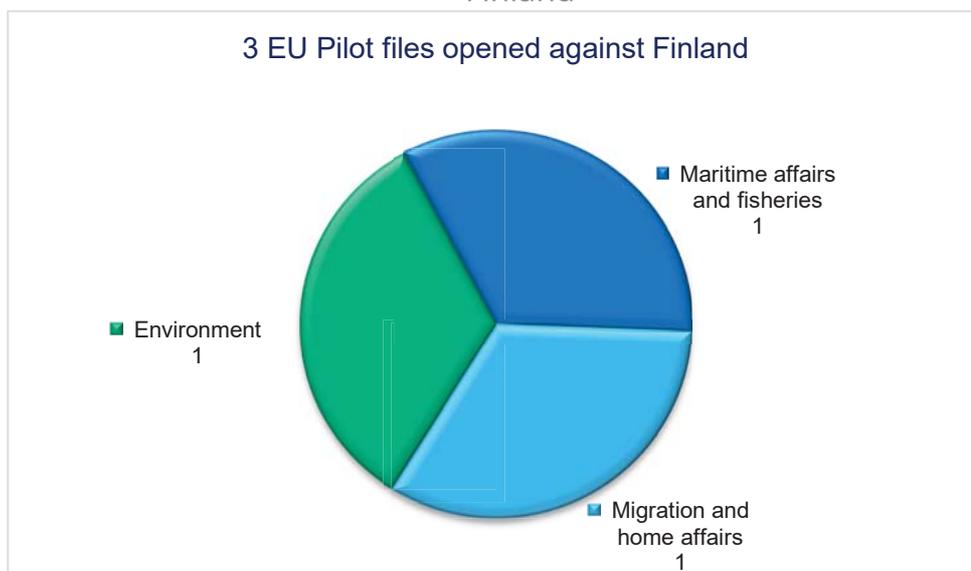


2. Files relating to Finland open in EU Pilot at year-end



3. New EU Pilot files opened in 2019: policy areas

Finland



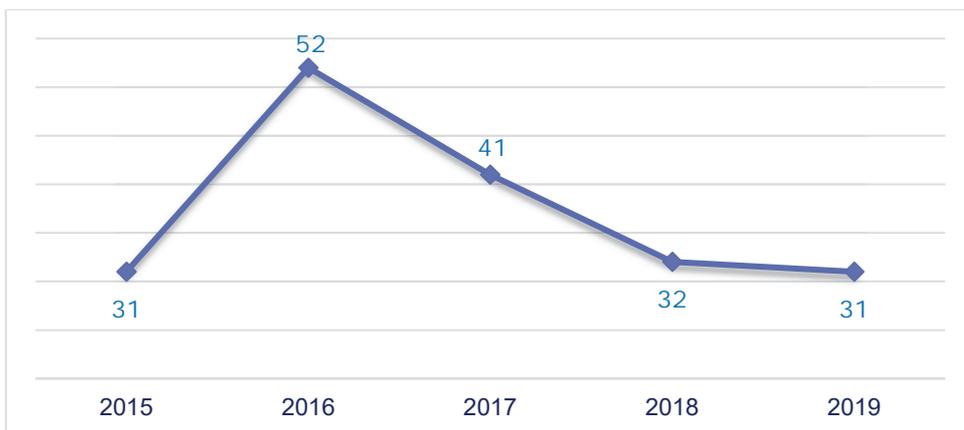
Finland

4. EU Pilot files: Finland's resolution rate in 2015-2019



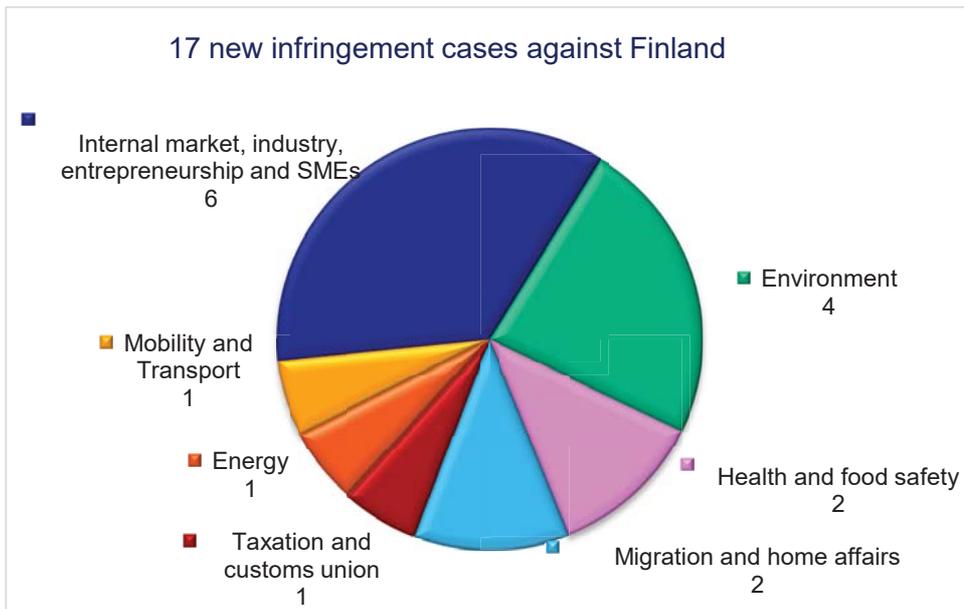
III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas

Finland



3. Key infringement cases and referrals to the Court

- a. [The Commission opened 17 new infringement cases against Finland in 2019. These, and other major ongoing infringement cases, include:
- legislation on the tax deductibility of group contributions between affiliated domestic companies in breach of freedom of establishment²¹;
 - non-conformity of national legislation with EU rules on public procurement and concessions²²;
 - 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)²³;
 - incorrect transposition of the:
 - Directive on combating the sexual abuse and sexual exploitation of children²⁴
 - Directive on the protection of animals used for scientific purposes²⁵
 - revised Environmental Impact Assessment Directive²⁶
 - Marine Strategy Framework Directive²⁷
 - non-communication of national measures transposing the Directive on the use of passenger name records²⁸.
- b. [The Commission referred one case to the Court under Article 258 TFEU. They involve the following infringements:
- illegal spring hunting of male eiders in the province of Åland, in violation of the Birds Directive²⁹.
- c. [The Commission did not refer any cases to the Court under Article 260(2) TFEU.]]

²¹ [MEMO/19/1472](#).

²² Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [MEMO/19/462](#).

²³ Regulation (EU) [2016/480](#), [INF/19/4251](#).

²⁴ Directive [2011/93/EU](#), [MEMO/19/462](#), [INF/19/4251](#) and [INF/19/5950](#).

²⁵ Directive [2010/63/EU](#), [INF/19/5950](#).

²⁶ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [INF/19/6304](#).

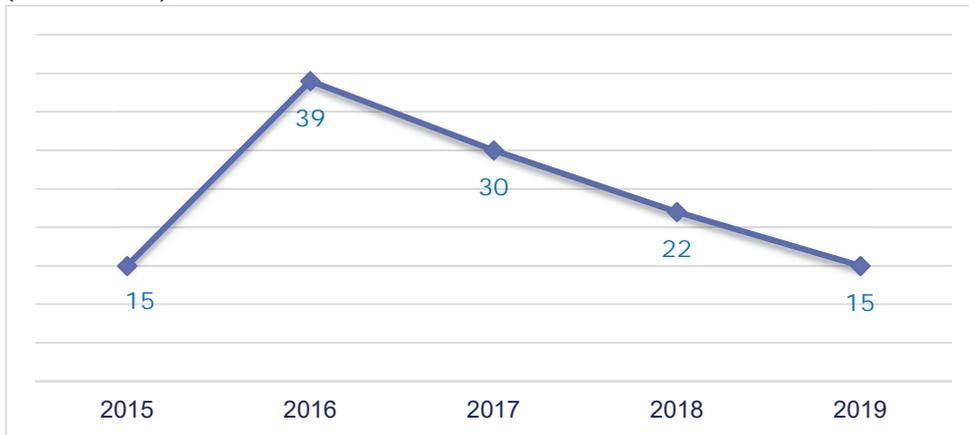
²⁷ Directive [2008/56/EC](#).

²⁸ Directive (EU) [2016/681](#); [MEMO/19/1472](#).

²⁹ Directive [2009/147/EC](#), Commission v Finland, [C-217/19](#), [IP/18/1446](#).

IV. TRANSPOSITION OF DIRECTIVES

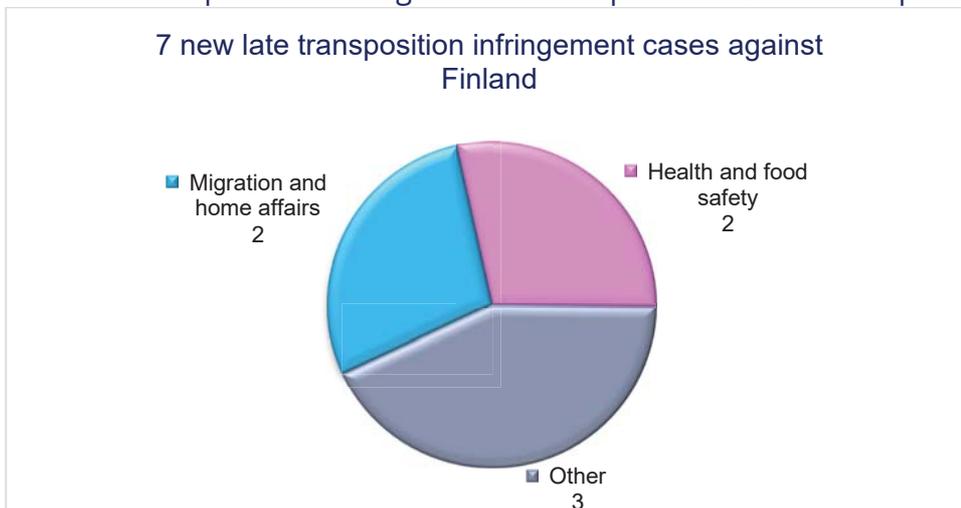
1. Late transposition infringement cases against Finland open on 31 December (2015-2019)



2. New late transposition infringement cases against Finland (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



Finland

4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- Non-conform transposition of the Waste Framework Directive (case 2016/2139)
- non-communication of national measures transposing the:
 - Indirect Land Use Change Directive³⁰
 - Directive on the assessment of the effects of certain private and public projects on the environment³¹
 - Directive on certain aspects of the organisation of working time in inland waterway transport³².
- non-compliance with the Energy Efficiency Directive³³.

VI. IMPORTANT JUDGMENTS

1. Court rulings

[There were no major Court rulings in 2019.]

2. Preliminary rulings

[The Court addressed the following preliminary rulings to the Finnish judiciary:

- 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 limited³⁴.
- The Energy Efficiency Directive does not prevent energy companies from giving customers discounts to encourage the uptake of electronic billing delivery methods³⁵.

³⁰ Directive (EU) [2015/1513](#).

³¹ Directive [2014/52/EU](#).

³² Directive [2014/112/EU](#).

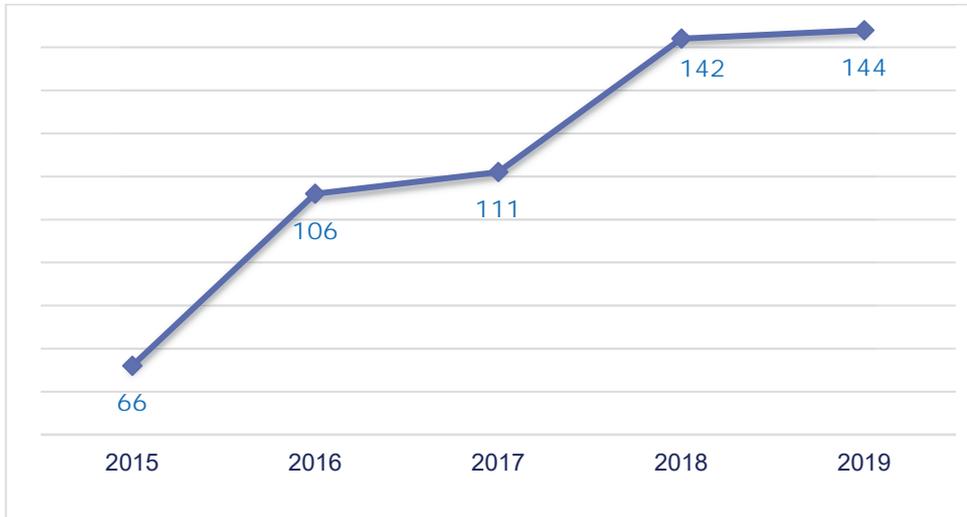
³³ Directive [2012/27/EU](#).

³⁴ Directive [92/43/EEC](#), Luonnonsuojeluyhdistys Tapiola, [C-674/17](#).

³⁵ Directive [2012/27/EU](#), Oulun Sähköyhtiö, [C-294/18](#).

I. COMPLAINTS

1. New complaints made against Sweden by members of the public (2015-2019)



2. Public complaints against Sweden open at year-end

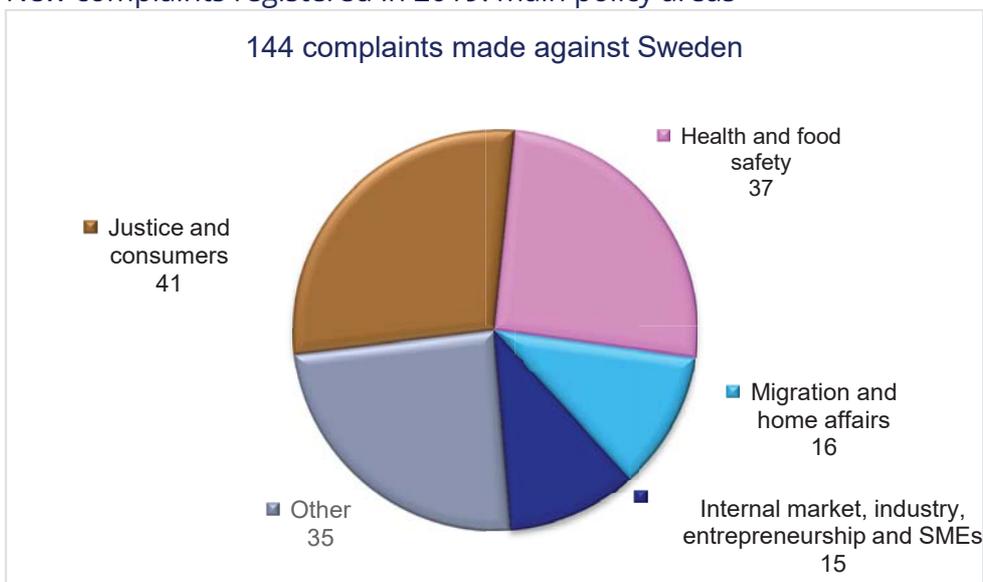
139 > Complaints open at end-2018

144 > New complaints registered in 2019

163 > Complaints handled in 2019

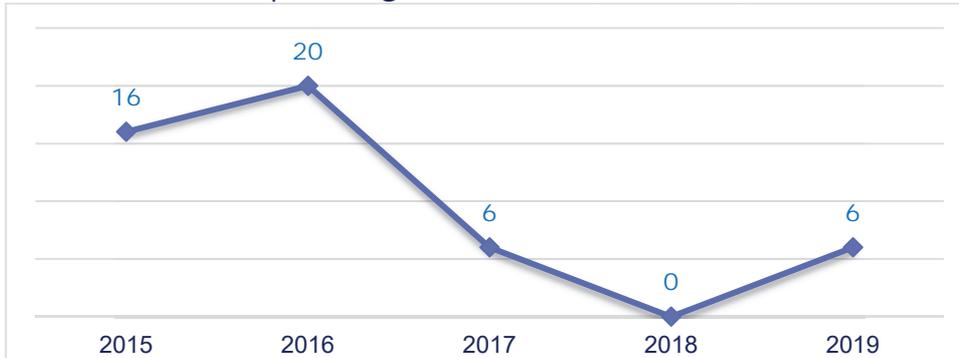
= 120 > Complaints open at end-2019

3. New complaints registered in 2019: main policy areas



II. EU PILOT

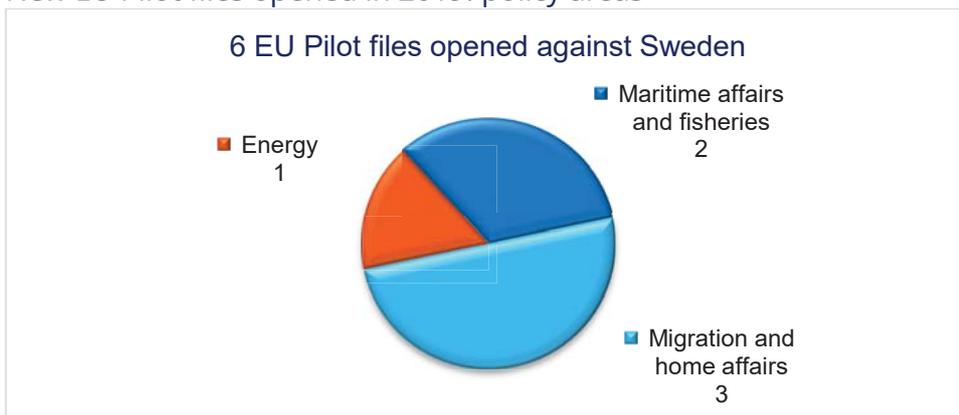
1. New EU Pilot files opened against Sweden (2015-2019)



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

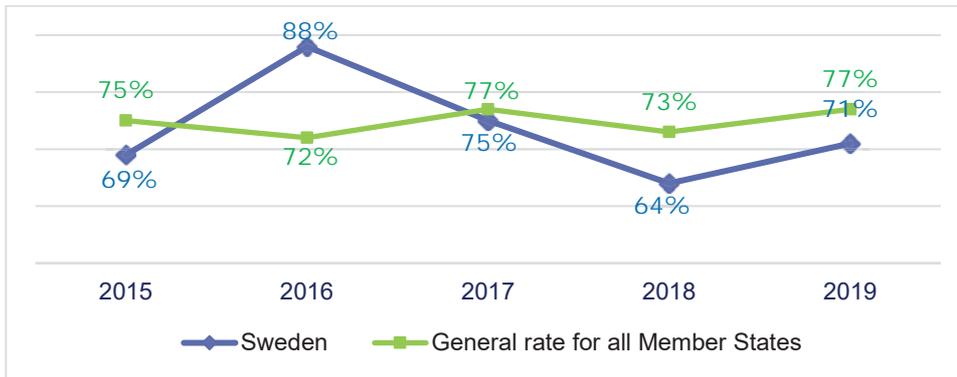


3. New EU Pilot files opened in 2019: policy areas



4. EU Pilot files: Sweden's resolution rate in 2015-2019

Monitoring the application of European Union law
2019 Annual Report
Sweden

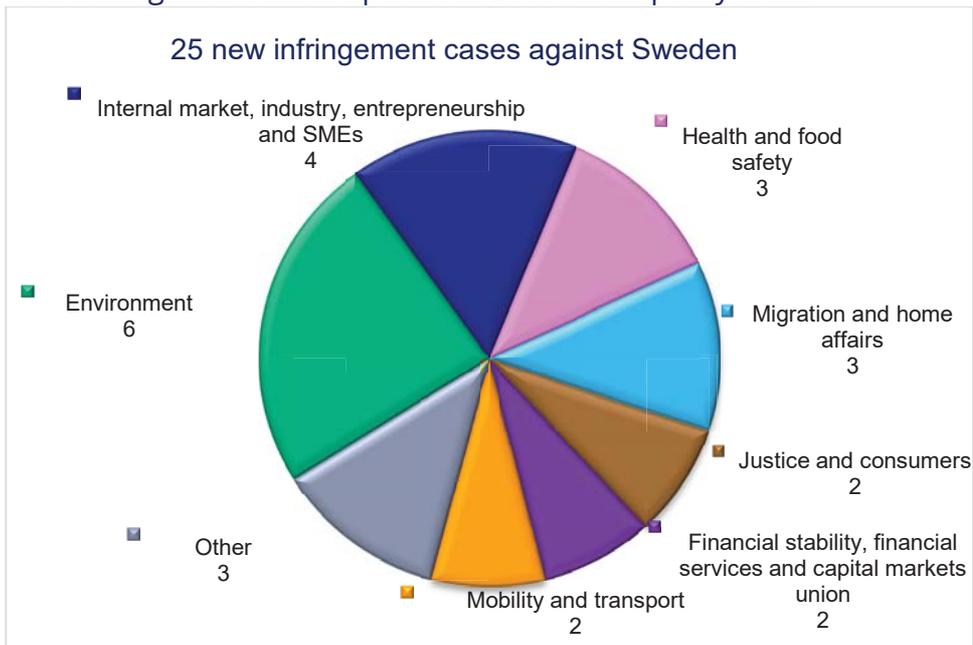


III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: main policy areas



4. Key infringement cases and referrals to the Court

- a. [The Commission opened 25 new infringement cases against Sweden in 2019. These, and other major ongoing infringement cases, include:
- failure to award authorisations and concessions in the hydroelectric power sector in line with the Services Directive and public procurement rules¹;
 - incorrect transposition of several directives in the field of legal migration², in particular as regards the processing applications for permits, as well as restrictions to equal treatment of certain categories of non-EU nationals³;
 - non-conformity of national legislation with EU rules on public procurement and concessions⁴
 - incorrect transposition of the:
 - Directive on combating the sexual abuse and sexual exploitation of children⁵
 - Solvency II Directive⁶
 - revised Environmental Impact Assessment Directive⁷
 - Energy Efficiency Directive⁸;
 - non-communication of national measures transposing the:
 - Directive on conditions of entry and residence of third-country nationals for research and studies⁹
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)¹⁰;
- b. [The Commission referred one case to the Court under Article 258 TFEU. This concerns:
- urban waste water treatment in certain large and small agglomerations in Sweden (2009/2310)¹¹.

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against Sweden open on 31 December (2015-2019)

¹ [IP/19/1477](#); Directives [2006/123/EC](#) and [2014/23/EU](#).

² Directives [2011/98/EU](#), [2003/86/EC](#), [2003/109/EC](#), [2009/50/EC](#), [2014/36/EU](#) and [2014/66/EU](#).

³ [INF/19/4251](#).

⁴ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [MEMO/19/462](#).

⁵ Directive [2011/93/EU](#), [MEMO/19/462](#), [INF/19/4251](#) and [INF/19/5950](#).

⁶ Directive [2009/138/EC](#), [INF/19/4251](#).

⁷ Directive [2011/92/EU](#), [INF/19/5950](#).

⁸ Directive [2012/27/EU](#), [MEMO-19-462](#).

⁹ Directive [2016/801/EU](#), [INF/19/4251](#).

¹⁰ Directive [2016/2341/EU](#).

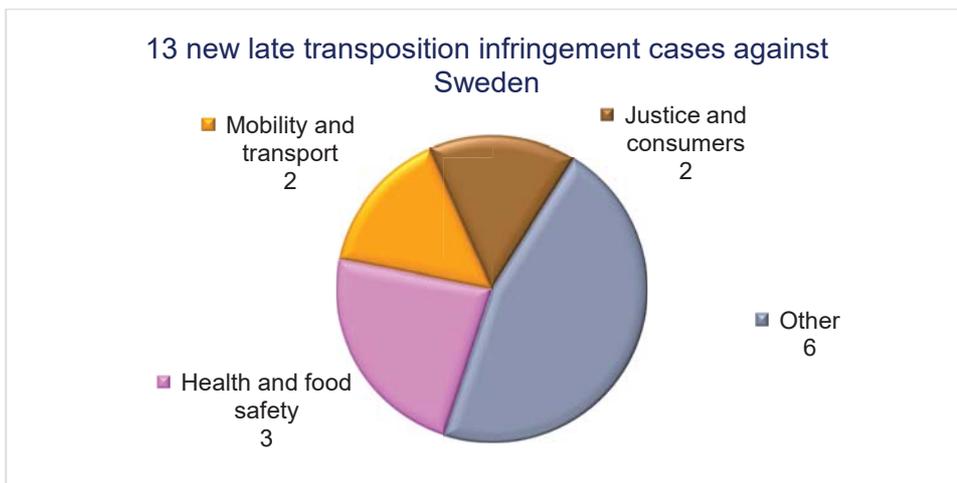
¹¹ [IP/19/4258](#).



2. New late transposition infringement cases against Sweden (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- failure to communicate national measures transposing the:

- Directive on tobacco products¹²
- Reception Conditions Directive¹³
- Asylum Procedures Directive¹⁴
- Markets in Financial Instruments Directive (MiFID II)¹⁵;
- incorrect transposition of the:
 - Directive on unfair commercial practices¹⁶
 - Third Energy Package Directives¹⁷;
- incorrect application of the provisions on access to the groundhandling market at EU airports¹⁸.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹⁹

[There were no major Court rulings in 2019.]

2. Preliminary rulings

[No major preliminary rulings were addressed to the Swedish judiciary in 2019.]

¹² Directive [2014/40/EU](#).

¹³ Directive [2013/33/EU](#); [INF/19/4251](#).

¹⁴ Directive [2013/32/EU](#).

¹⁵ Directive [2014/65/EU](#).

¹⁶ Directive [2005/29/EC](#).

¹⁷ Directives [2009/72/EC](#) and [2009/73/EC](#).

¹⁸ Directive [96/67/EC](#).

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

I. COMPLAINTS

1. New complaints made against the United Kingdom by members of the public (2015-2019)



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

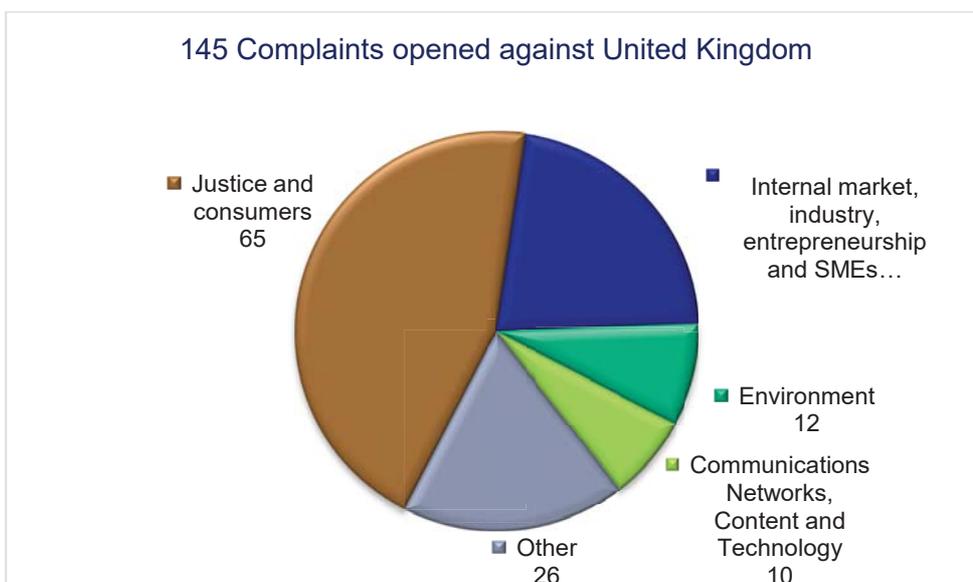
184 > Complaints open at end-2018

145 > New complaints registered in 2019

132 > Complaints handled in 2019

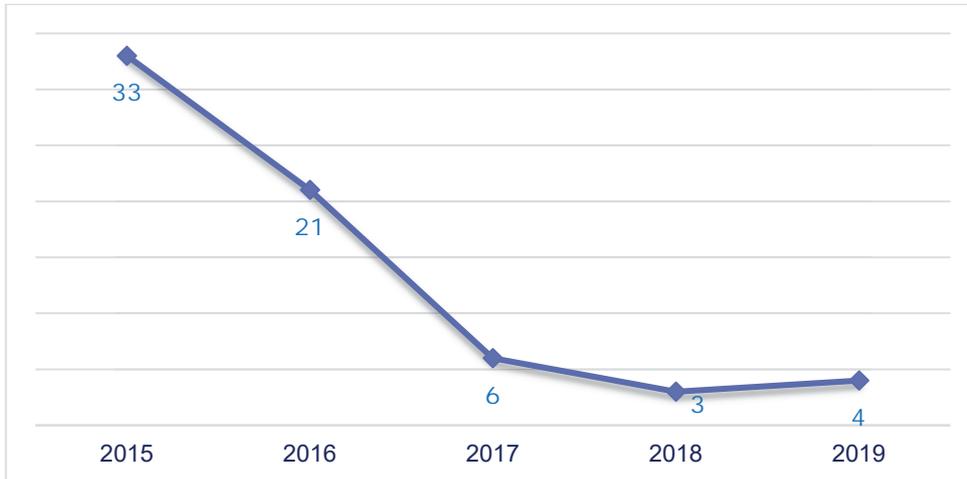
= 197 > Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

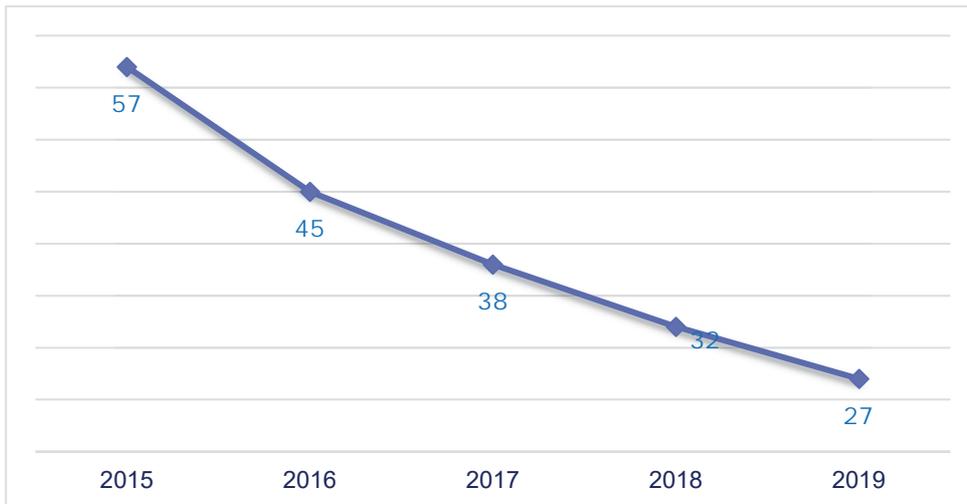


II. EU PILOT

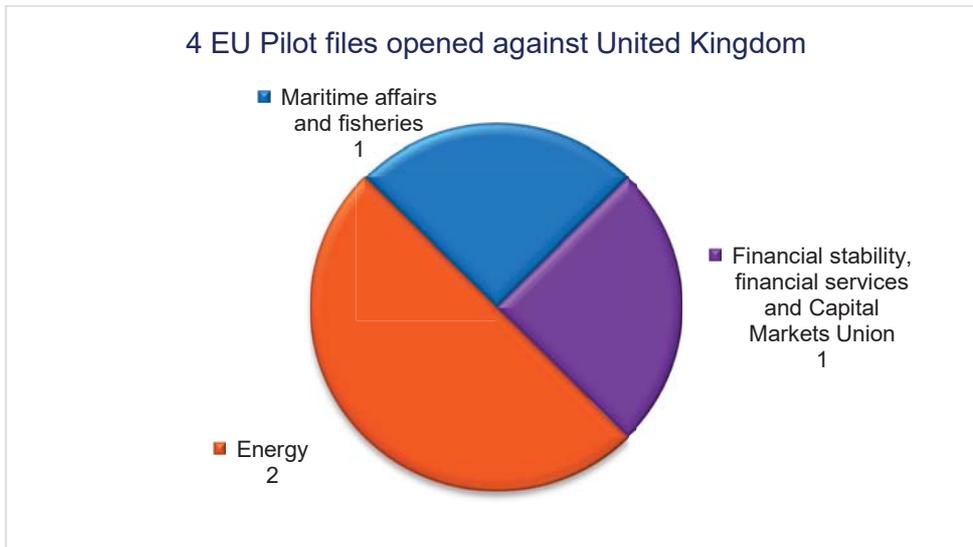
1. New EU Pilot files opened against the United Kingdom (2015-2019)



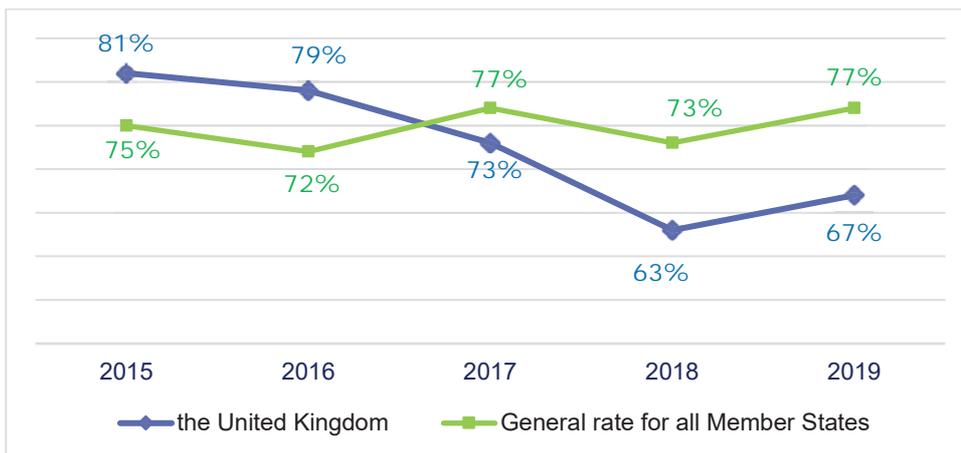
2. Files relating to the United Kingdom open in EU Pilot at year-end



3. New EU Pilot files opened in 2019: policy areas

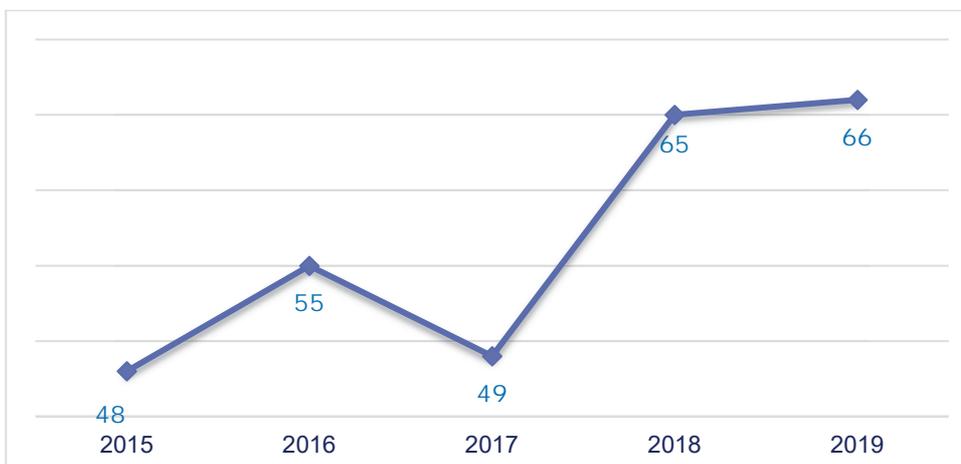


4. EU Pilot files: United Kingdom's resolution rate in 2015-2019



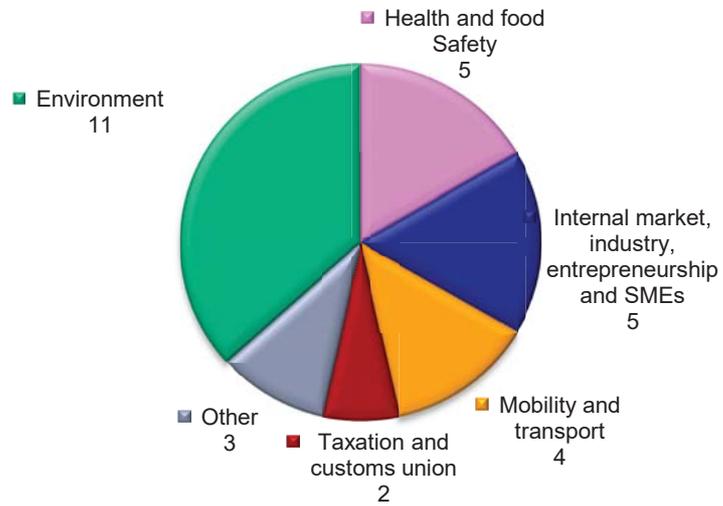
III. INFRINGEMENT CASES

1. Infringement cases against the United Kingdom open on 31 December (2015-2019)



2. New infringement cases opened in 2019: main policy areas

30 new infringement cases against the United Kingdom



3. Key infringement cases and referrals to the Court

- a. [The Commission opened 30 new infringement cases against the United Kingdom in 2019. These, and other major ongoing infringement cases, include:
- failure to award authorisations and concessions in the hydroelectric power sector in line with the Services Directive and public procurement rules¹;
 - 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 Whitburn²;
 - 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)³;
 - United Kingdom (2017/2109) (IP/19/470): VAT - Derogations related to certain terminal markets;
 - United Kingdom (2018/4046) (IP/19/462): Income tax relief for losses on disposal of shares;
 - United Kingdom (2018/4047) (IP/19/462): Relief for loans for traders;
 - Late reporting under the Marine Strategy Framework Directive⁴.
 - non-compliance with the requirements of the Energy Efficiency Directive⁵;
- b. [The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- extending the scope of a VAT derogations for certain commodity markets⁶;
 - losses to the Union budget caused by failure to enter into the accounts the correct amounts of customs duties and to make available the correct amount of traditional own resources and VAT-based own resources in respect of certain imports of goods⁷.
- c. [The Commission did not refer any cases to the Court under Article 260(2) TFEU.]

IV. TRANSPOSITION OF DIRECTIVES

1. Late transposition infringement cases against the United Kingdom open on 31 December (2015-2019)

¹ Directives [2006/123/EC](#) and [2014/23/EU](#), [IP/19/1477](#).

² Directive [91/271/EEC](#), [MEMO/19/462](#), Commission v United Kingdom, [C-301/10](#).

³ Regulation (EU) [2016/480](#), [INF/19/6304](#).

⁴ [MEMO/19/1472](#)

⁵ Directive [2012/27/EU](#), [INF/19/4251](#).

⁶ Commission v United Kingdom, [C-276/19](#).

⁷ Commission v United Kingdom, [C-213/19](#), [IP/18/5807](#).

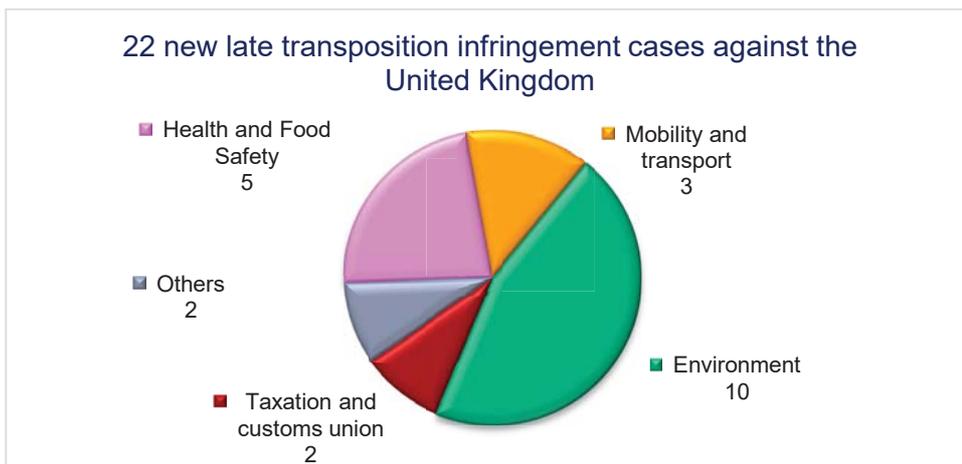
Monitoring the application of European Union law
2019 Annual Report
United Kingdom



2. New late transposition infringement cases against the United Kingdom (2015-2019)



3. New late transposition infringement cases opened in 2019: main policy areas



4. Referrals to the Court

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

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- non-communication of national measures transposing the:
 - Directive on extraction solvents used in the production of foodstuffs⁸
 - Commission Implementing Directive as regards isolation distances for *Sorghum* spp.⁹
 - Directive on minimum conditions for examining certain varieties of agricultural plant species¹⁰

⁸ Directive (EU) [2016/1855](#).

⁹ Directive (EU) [2018/1027](#).

- Anti-Tax Avoidance Directive (ATAD1)¹¹.
- failure to provide the required quality management system for operational parts of the flag State-related activities¹².

¹⁰ Directive (EU) [2018/100](#).

¹¹ Directive (EU) [2016/1164](#).

¹² Directive [2009/21/EC](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- Member States which have special relations with the overseas countries and territories (OCT) are obliged to compensate the loss of EU own resources caused by the wrongful issue of export certificates by the local authorities of those OCTs based on the principle of sincere cooperation as laid down in Article 4(3) TEU (2013/2103 and 2013/2165)¹³.

2. Preliminary rulings

The Court addressed the following preliminary rulings to the United Kingdom judiciary:

- 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 Directive¹⁴.
- 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 permit¹⁵.
- 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 torture¹⁶.
- 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.¹⁷

¹³ Cases [C-391/17](#), *Commission v United Kingdom* and [C-395/17](#), *Commission v Netherlands*.

¹⁴ Directive [2004/38/EC](#), *SM v Entry Clearance Officer, UK Visa Section*, [C-129/18](#).

¹⁵ *Bajratari*, [C-93/18](#).

¹⁶ *MP*, [C-353/16](#).

¹⁷ *Abraxis Bioscience*, [C-443/17](#).

- The court clarified that, when adopting a tariff classification regulation, the Commission cannot be bound by a judgment of a court of a Member State, including a supreme court. It is settled case law that such a regulation is adopted by the Commission, following the opinion of the Customs Code Committee, when the classification in the combined nomenclature of a particular product is such as to give rise to difficulty or to be a matter for dispute, since such a situation of legal uncertainty may in particular exist in the event of case law or administrative divergences between the Member States concerning the tariff classification of the same product.¹⁸

¹⁸ Amoena Ltd v Commissioners for Her Majesty's Revenue and Customs, [C-677-18](#).

ANNEX II — MEMBER STATES

COMPLAINTS

First chart: New complaints made against the Member State by members of the public (2015-2019)

This shows the number of public complaints the Commission registered against the Member State for the years 2015-2019.

Second chart: Public complaints against the Member State open at year-end

This starts with the number of open complaints against the Member State at the end of 2018 (first column) ³⁵⁷. The second column shows the number of new complaints registered in 2019. The third column shows the number of complaints on which the Commission took a decision in 2019. The fourth column shows the number of complaints against the Member State that were 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 areas

The number of complaints registered in 2019 is broken down by policy area. Generally, this breakdown shows the three policy areas which attracted the most complaints. However, four (or more) policy areas are mentioned if two (or more) policy areas tied for the third highest number of complaints.

EU PILOT

First chart: New EU Pilot files opened against the Member State (2015-2019)

This analyses the number of EU Pilot files the Commission opened against the Member State for the years 2015-2019.

Second chart: EU Pilot files relating to the Member State open at year-end

This analyses the number of EU Pilot files still pending at year-end against the Member State for the years 2015-2019.

Third chart: New EU Pilot files opened in 2019: main policy areas

The figure for the number of new EU Pilot files opened against the Member State in 2019 is broken down by policy area. Generally, this breakdown shows the three policy areas in which the most EU Pilot files were opened in 2019.

Fourth chart: EU Pilot files: Member State's resolution rate in 2015-2019

The resolution rate per Member State is the percentage of EU Pilot files handled for which the Commission accepted that Member State's response. The chart shows the resolution rate for the last 5 years.

³⁵⁷ 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.

INFRINGEMENT CASES

First chart: Infringement cases against the Member State open on 31 December (2015-2019)

These figures include all procedures the Commission initiated against the Member State by sending a letter of formal notice under Article 258 TFEU. It covers letters sent in 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, these numbers include all cases that, on 31 December of the years 2015 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.

These figures do *not* include, for example, open EU Pilot files in the policy area. They also do not include EU Pilot files for which the Commission had already rejected a Member State's response but had not yet sent a letter of formal notice under Article 258 TFEU.

Second chart: New infringement cases opened in 2019: main policy areas

As a rule, this chart shows the three policy areas in which the most infringements were open on 31 December 2019. Four (or more) policies are mentioned if two (or more) policies tied for the third highest number of open infringements. Only two policies are highlighted if too many policies tied for the third highest number, or if this would make the chart very fragmented (this might occur in Member States with relatively few infringements).

Key infringement cases and referrals to the Court

This section has three parts:

Part a) shows the number of new infringement cases opened against the Member State in 2019 and lists the major new and ongoing infringement cases at the stage of letters of formal notice or reasoned opinions (under Article 258 TFEU).

Part b) lists the cases which the Commission referred to the Court solely under Article 258 TFEU by 31 December 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) lists the cases which the Commission referred to the Court under Article 260(2) TFEU by 31 December 2019.

TRANSPOSITION OF DIRECTIVES

First chart: Late transposition infringement cases against the Member State open on 31 December (2015-2019)

This shows the number of letters of formal notice sent to the Member State under Article 258 TFEU for missing or partial notification of national transposition measures. It covers letters sent in 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, the number includes all cases that, on 31 December of the years 2015 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 and Article 260(3) TFEU);
- were pending before the Court under Article 258 TFEU and Article 260(3) TFEU.

This figure is already included in the total number of infringement cases open against the Member State in 2019. It should therefore *not* be added to the figure shown in the first chart of the general statistics section.

Second chart: New late transposition infringement cases against the Member State (2015-2019)

This shows the number of new letters of formal notice sent in 2019 to the Member State under Article 258 TFEU for missing or partial notifications of national transposition measures. This figure is already included in the total number of new infringement cases initiated against the Member State in 2019. It should therefore *not* be added to the figure shown in the second chart of the general statistics section.

Please note that not all of these new infringement cases for late transposition were necessarily still open on 31 December 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.

Third chart: New late transposition infringement cases opened in 2019: main policy areas

As a rule, this chart shows the three policy areas in which the most infringement procedures for late transposition were launched in 2019. Four (or more) policies are mentioned if two (or more) policies tied for the third highest number of open infringements. Only two policy areas are highlighted if too many policy areas tied for the third highest number, or if this would make the chart very fragmented (this might occur in Member States with relatively few infringements).

Referrals to the Court

This section contains the cases which the Commission referred to the Court under Article 258 TFEU and Article 260(3) by 31 December 2019.

EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

Methodology and explanations

This section contains a list of the major infringement cases the Commission closed in 2019 without a Court judgment. The list is not exhaustive.

IMPORTANT JUDGMENTS

This section contains two lists:

The first list contains the Court's most important judgments against the Member State in 2019. These judgments are almost exclusively handed down under Article 258 or Article 260(2) TFEU.

The second list contains the most important preliminary rulings the Court has issued to the Member State's judiciary. These lists are not necessarily exhaustive.