



Council of the
European Union

Brussels, 1 September 2020
(OR. en)

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JUR 391
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COVER NOTE

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

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|----------------|--|
| No. Cion doc.: | SWD(2020) 147 final |
| Subject: | 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 |

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

Encl.: SWD(2020) 147 final



Brussels, 31.7.2020
SWD(2020) 147 final

PART 3/4

COMMISSION STAFF WORKING DOCUMENT

Part III: Member States

Accompanying the document

Report from the Commission

Monitoring the application of European Union law

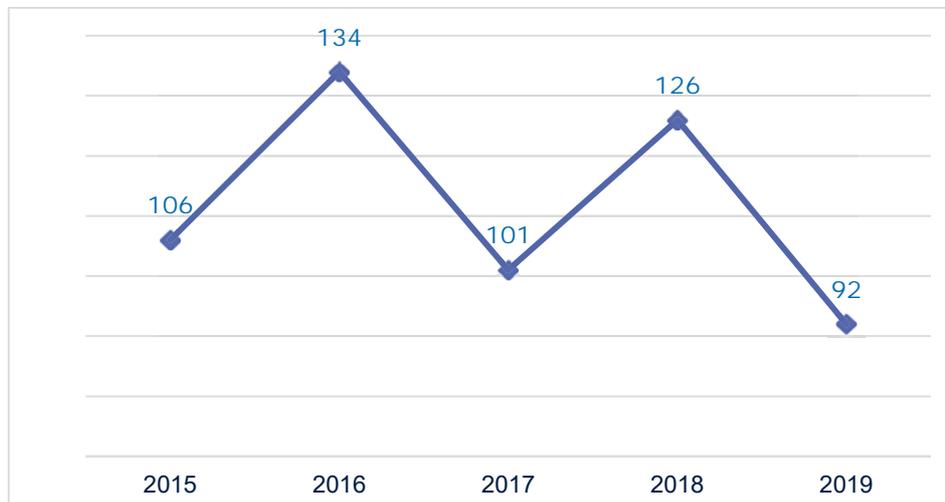
2019 Annual Report

{COM(2020) 350 final}

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I. COMPLAINTS

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



2. Public complaints against Belgium open at year-end

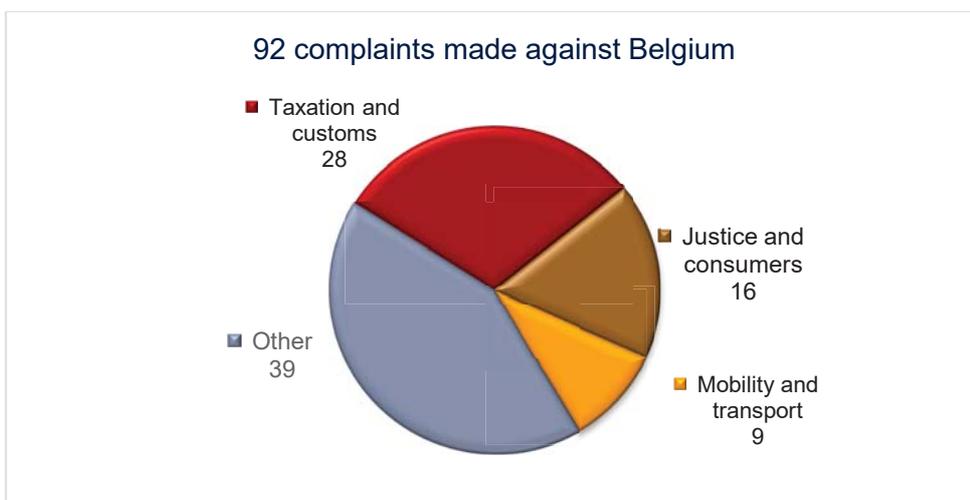
125 ▶ Complaints open at end-2018

92 ▶ New complaints registered in 2019

116 ▶ Complaints handled in 2019

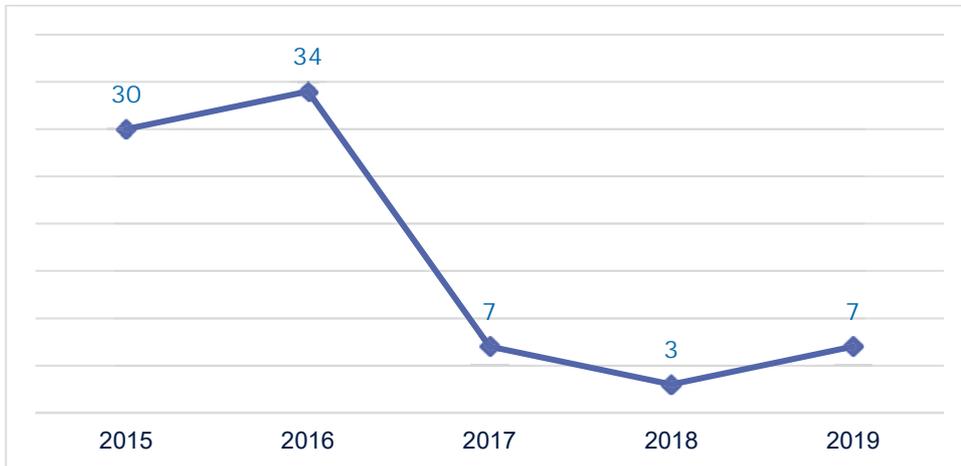
= 101 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

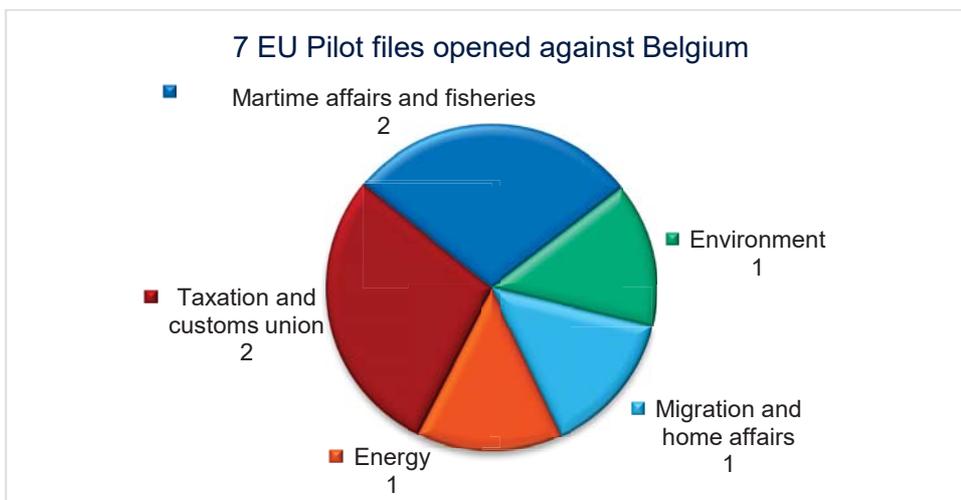


II. EU PILOT

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



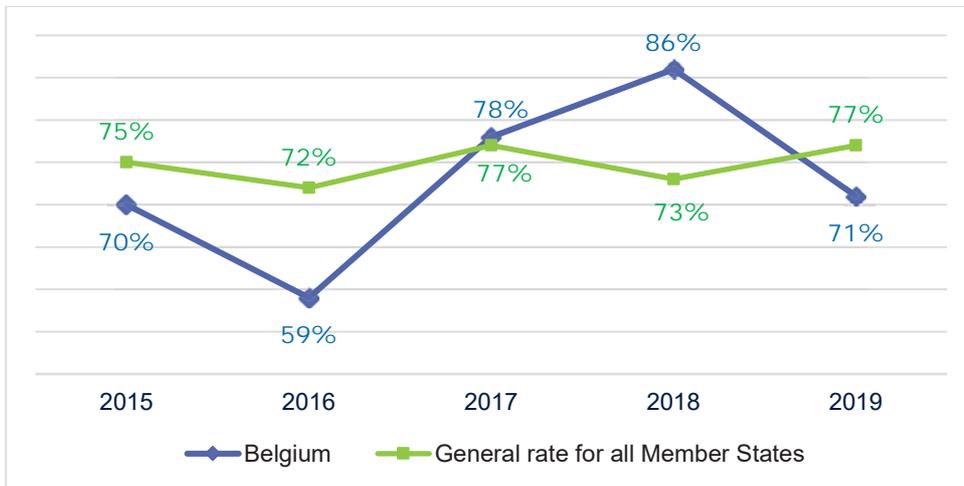
2. New EU Pilot files opened in 2019: policy areas



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

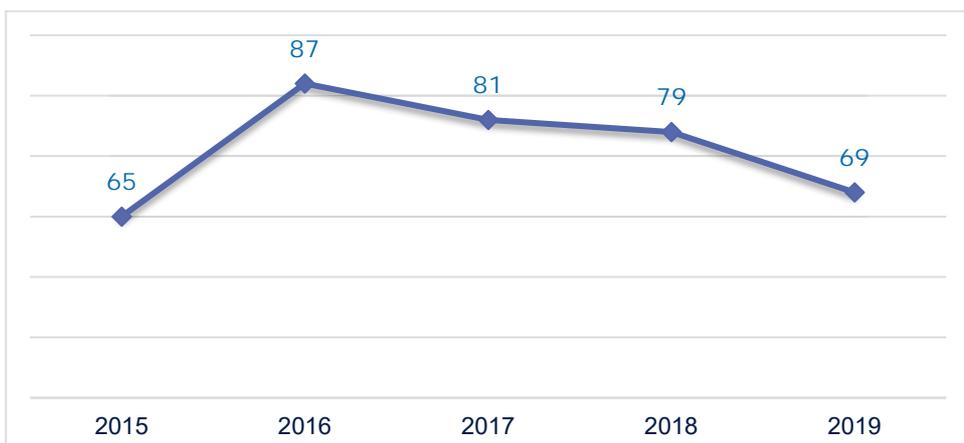


4. EU Pilot files: Belgium's resolution rate in 2015-2019

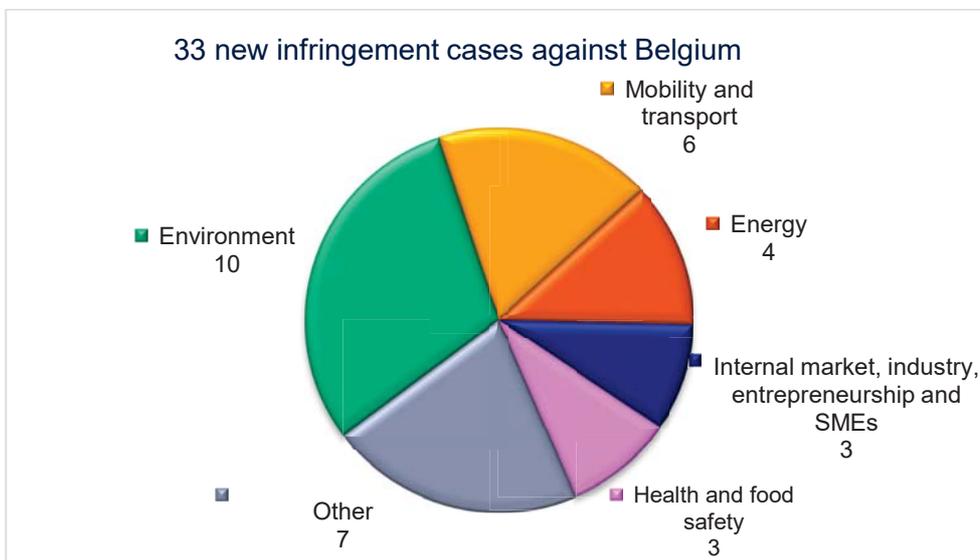


III. INFRINGEMENT CASES

1. Infringement cases against Belgium 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 Belgium 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
 - Solvency II Directive²
 - Directive on driving licences³
 - Airspace Regulation and the Regulation on common rules for the flexible use of airspace⁴
 - Directive on the minimum level of training of seafarers⁵;
 - non-compliance with key provisions of the Noise Directive⁶;
 - failure to protect waters from nitrates pollution⁷;
 - failure to submit information about operators of essential services identified under the EU law on the security of network and information systems⁸;
 - non-compliance with the requirements of the Energy Efficiency Directive⁹;
 - failure to adopt a national programme for the implementation of spent fuel and radioactive waste management policy that is compliant with the requirements of the Radioactive Waste 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;
 - failure to comply with minimum safety requirements for tunnels in the trans-European road network¹²;
 - non-communication of national measures transposing the
 - Directive on conditions of entry and residence of third-country nationals for research and studies¹³
 - Indirect Land Use Change Directive¹⁴
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations¹⁵
 - Basic Safety Standards Directive¹⁶.

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

² Directive [2009/138/EC](#), [INF/19/4251](#).

³ Directive [2006/126/EC](#), [INF/19/5950](#).

⁴ Regulation (EC) No [2150/2005](#), Regulation (EC) No [551/2004](#), [MEMO/19/1472](#).

⁵ Directive [2008/106/EC](#), [INF/19/4251](#).

⁶ Directive [2002/49/EC](#), [INF/19/4251](#).

⁷ Directive [91/676/EC](#), [INF/19/6304](#).

⁸ Directive (EU) [2016/1148](#), [INF/19/4251](#).

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

¹⁰ Directive [2011/70/Euratom](#), [INF/19/6304](#).

¹¹ Regulation (EU) [2016/480](#), [INF/19/6304](#).

¹² Directive [2004/54/EC](#), [INF/19/5950](#).

¹³ Directive [2016/801/EU](#), [INF/19/4251](#).

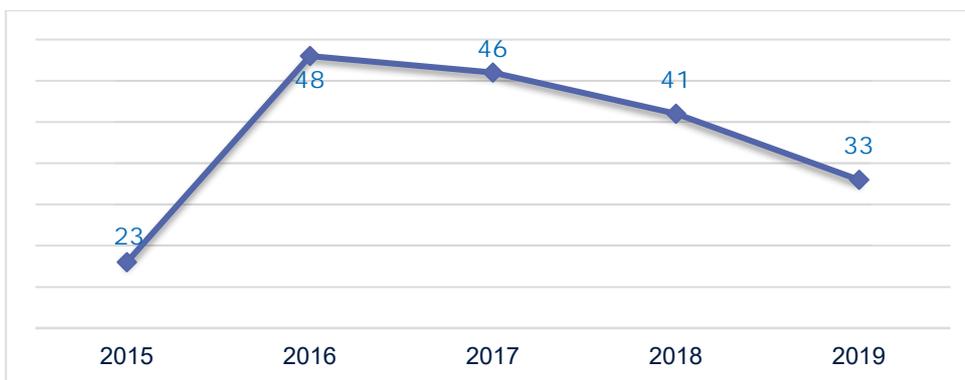
¹⁴ Directive (EU) [2015/1513](#), [INF/19/6304](#).

¹⁵ Directive (EU) [2018/1581](#).

- b. The Commission referred one case to the Court under Article 258 TFEU. It concerns
 - incorrect transposition of the Third Energy Package Directives (Electricity and Gas Directives)¹⁷.
- c. The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
 - Failure to comply with a judgment of the Court of Justice, which found that Belgian provisions for rental income are in breach of EU law¹⁸.

IV. TRANSPOSITION OF DIRECTIVES

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



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

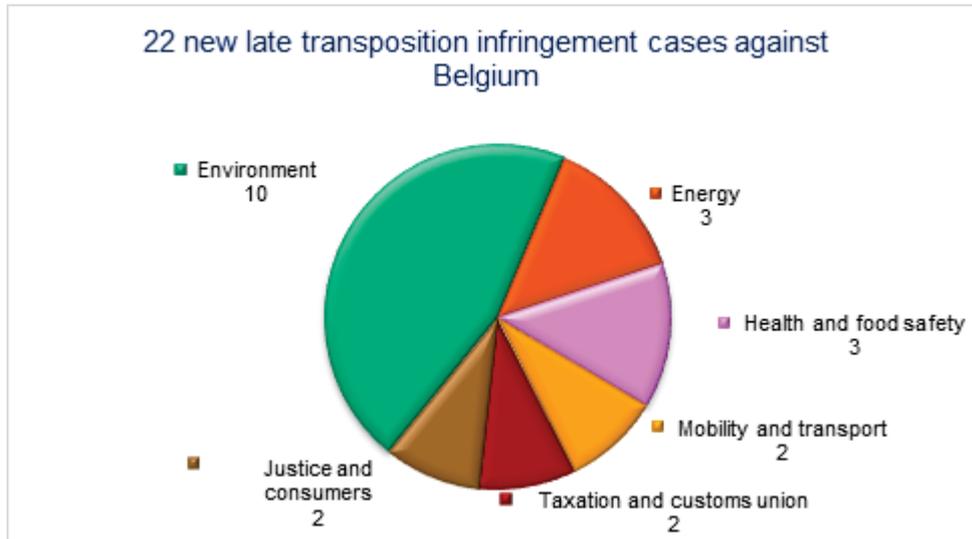


3. New late transposition infringement cases opened in 2019: main policy areas

¹⁶ Council Directive [2013/59/Euratom](#), [INF/19/6304](#).

¹⁷ *Commission v Belgium*, [C-767/19](#); Directives [2009/72/EC](#) and [2009/73/EC](#), [IP/19/4254](#).

¹⁸ *Commission v Belgium*, [C-842/19](#).



V. REFERRALS TO THE COURT

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

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- incorrect transposition of the Solvency II Directive¹⁹
- incorrect application of EU rules concerning civil judicial cooperation and requiring review procedures for the recognition of other Member States' executive measures²⁰;
- incorrect application of the Timber Regulation²¹ by not carrying out a significant number of verifications;
- taxation of redistributed income in the form of dividends;
- incorrect application of the provisions on access to the groundhandling market at EU airports²².
- non-communication of national measures transposing the:
 - Seasonal Workers Directive²³
 - Reception Conditions Directive²⁴
 - Asylum Procedures Directive²⁵
 - Directive on extraction solvents used in the production of foodstuffs²⁶
 - Commission Implementing Directive as regards isolation distances for Sorghum spp.²⁷
 - Mortgage Credit Directive²⁸
 - Anti-Tax Avoidance Directive (ATAD1)²⁹
 - Single Permit Directive³⁰
 - Nuclear Safety Directive³¹.

VII. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- *Belgium* did not fulfil its obligations under EU law by notifying to the Commission only partial transposition measures for the Directive on measures to reduce the cost of deploying high-speed electronic communications networks³² with respect to the region

¹⁹ Directive [2009/138/EC](#).

²⁰ Regulations (EC) No [805/2004](#), (EC) No [1896/2006](#) and (EC) No [4/2009](#).

²¹ Regulation (EU) No [995/2010](#).

²² Directive [96/67/EC](#).

²³ Directive [2014/36/EU](#).

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

²⁵ Directive [2013/32/EU](#).

²⁶ Directive (EU) [2016/1855](#).

²⁷ Directive (EU) [2018/1027](#).

²⁸ Directive [2014/17/EU](#).

²⁹ Directive (EU) [2016/1164](#).

³⁰ Directive [2011/98/EU](#).

³¹ Directive [2014/87/Euratom](#).

³² Directive [2014/61/EU](#).

of Bruxelles-Capitale. The Court applied for the first time the sanction mechanism of Article 260(3) TFEU. This Treaty provision allows the Commission to request the Court to impose financial penalties if Member States fail to fulfil their obligation to notify measures transposing a directive adopted under a legislative procedure. In addition to clarifying that the sanction scheme of Article 260(3) TFEU may also be applied to cases of partial failure to adopt and communicate transposition measures, the Court held that, when notifying national transposition measures to the Commission, Member States must provide sufficiently clear and precise information and state, for each provision of the directive, the national provision(s) ensuring its transposition³³.

2. Preliminary rulings

The Court addressed the following preliminary rulings to the Belgian judiciary: |

- SkypeOut service should be considered an electronic communications service. As a result, SkypeOut is subject to telecoms legislation, in particular to the general authorisation regime. Services offered via software, such as SkypeOut, which allow calling numbers in a national numbering plan, constitute electronic communication services³⁴.
- If, within 6 months, national authorities have not decided on the application for family reunification, they cannot automatically issue a residence permit to the applicant as it must be established whether the applicant meets the requirements for residence in the host Member State in accordance with EU law³⁵.
- In case of serious breaches of the rules of the accommodation centres, as well as violent behaviour by an applicant, a Member State cannot provide for a sanction consisting in the withdrawal, even temporary, of material reception conditions, relating to housing, food or clothing in so far as it would have the effect of depriving the applicant of the possibility of meeting his or her most basic needs³⁶.
- The formal recognition of the status of refugee implies that the refugee concerned is a beneficiary of international protection for the purpose of the Qualification Directive so that he is entitled to all the rights and benefits provided for in this Directive. This Directive contains both rights equivalent to those set out in the Geneva Convention and rights providing greater protection which have no equivalent in that Convention³⁷.
- The closure of an airport runway due to petrol spillage constitutes an 'extraordinary circumstance' when the petrol in question does not originate from an aircraft of the carrier operating that flight. It is a circumstance that could not have been avoided even if all reasonable measures had been taken³⁸.

³³ *Commission v Belgium*, [C-543/17](#).

³⁴ *Skype Communication*, [C-142/18](#).

³⁵ *X*, [C-706/18](#).

³⁶ *Zubair Haqbin*, [C-233/18](#).

³⁷ *Joined cases M and Others*, [C-391/16](#), [C-77/17](#) and [C-78/17](#).

³⁸ *Moens*, [C-159/18](#). Regulation (EC) No [261/2004](#).

- When a passenger boards a train without a ticket, he concludes a contract with the carrier. This covers the situation where access to the train is free³⁹.
- The circumstance that the transferee has a choice whether to dismiss employees goes against the objective of the Directive on transfer of undertakings, which provides that dismissals due to the transfer are prohibited⁴⁰.
- A decree by which a body of a Member State establishes, at regional level for its Natura 2000 network, conservation objectives which have an indicative value, whereas the conservation objectives at site level have a statutory value, is not a 'plan or programme', within the meaning of the Strategic Environmental Assessment Directive, for which an assessment under this Directive is mandatory⁴¹.
- A decree whereby a Member State designates a Special Area of Conservation and makes provision for conservation objectives and certain preventive measures is not a 'plan or programme', within the meaning of the Strategic Environmental Assessment Directive, for which an assessment under this Directive is required⁴².
- National courts have jurisdiction to review the choice of location of air quality measuring stations and to take all necessary measures against the national authority concerned. In assessing whether limit values have been complied with, the pollution level at each sampling point must be taken into account individually⁴³.
- The Belgian law extending the operating life of nuclear power stations Doel 1 and Doel 2 was adopted without the required environmental assessments being carried out first. It is not, however, excluded that the effects of the law on extension may provisionally be maintained where there is a genuine and serious threat of an interruption to electricity supply⁴⁴.

³⁹ joined cases: *Kanyeba*, [C-349/18](#), *Nijs*, [C-350/18](#), *Dedroog*, [C-351/18](#), Regulation (EC) No [1371/2007](#), Court press release No [136/2019](#).

⁴⁰ *Plessers*, [C-509/17](#).

⁴¹ *Terre wallonne*, [C-321/18](#), Directive [2001/42/EC](#).

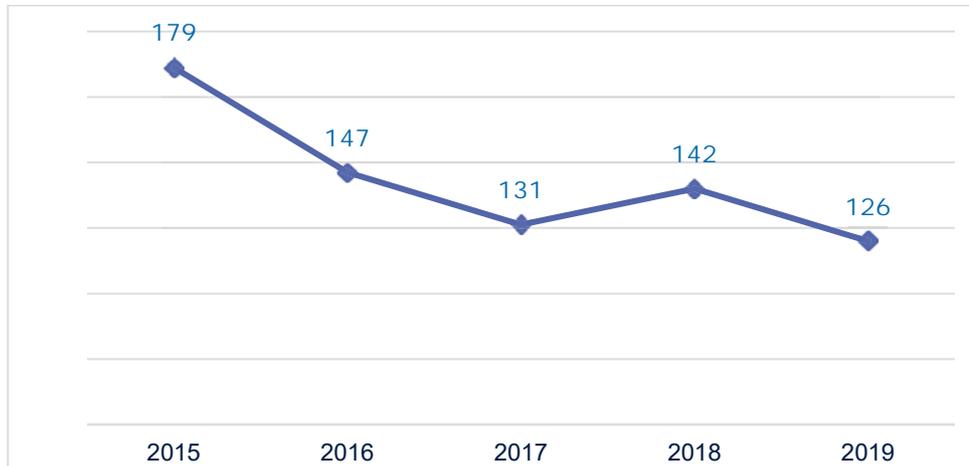
⁴² *CFE*, [C-43/18](#), Directive [2001/42/EC](#).

⁴³ *Craeynest and Others*, [C-723/17](#) and Court press release No [82/2019](#).

⁴⁴ *Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen*, [C-411/17](#) and Court press release No 100/2019.

I. COMPLAINTS

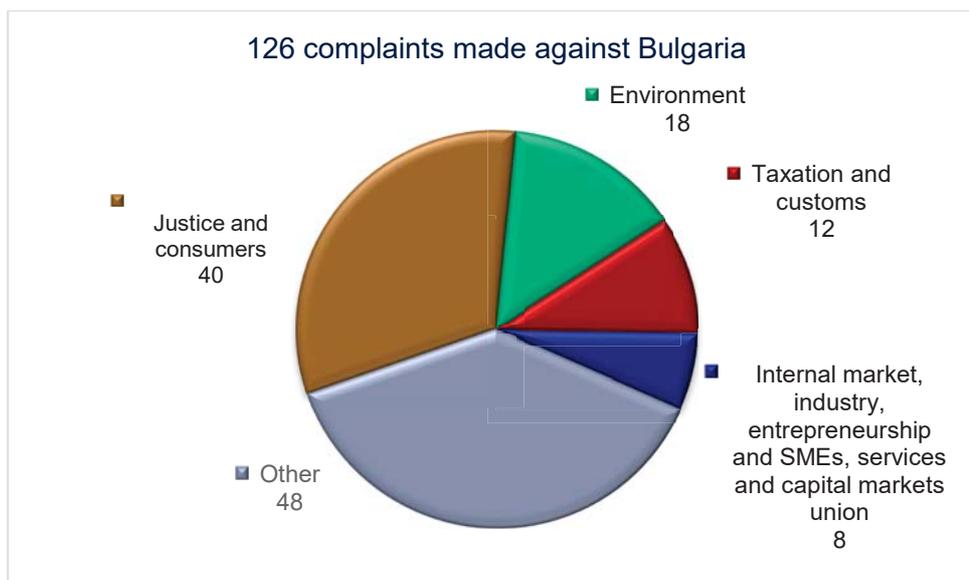
1. New complaints made against Bulgaria by members of the public (2015-2019)



2. Public complaints against Bulgaria open at year-end

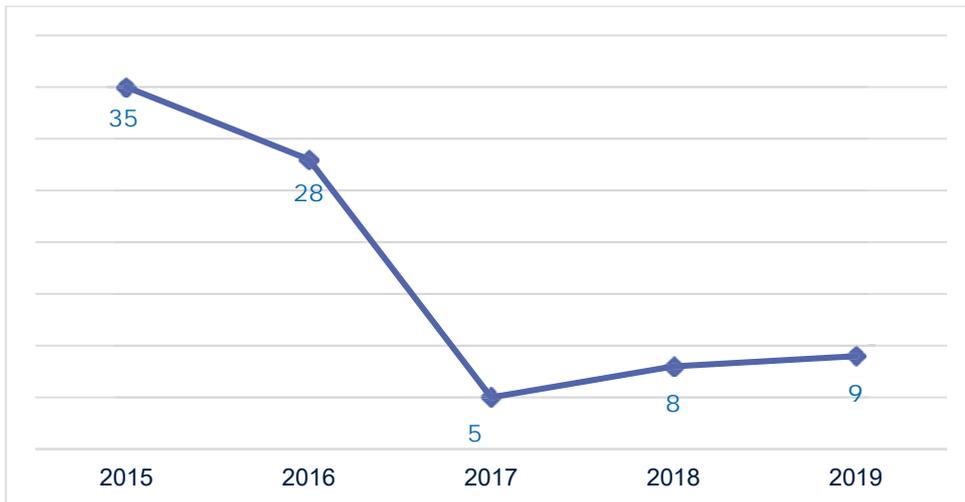
- 114 ▶ Complaints open at end-2018
- 126 ▶ New complaints registered in 2019
- 141 ▶ Complaints handled in 2019
- = 99 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

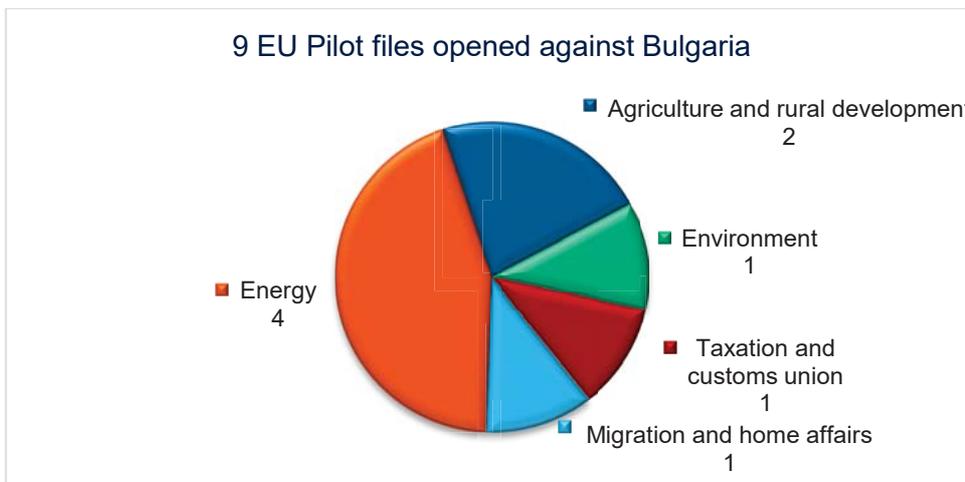


II. EU PILOT

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

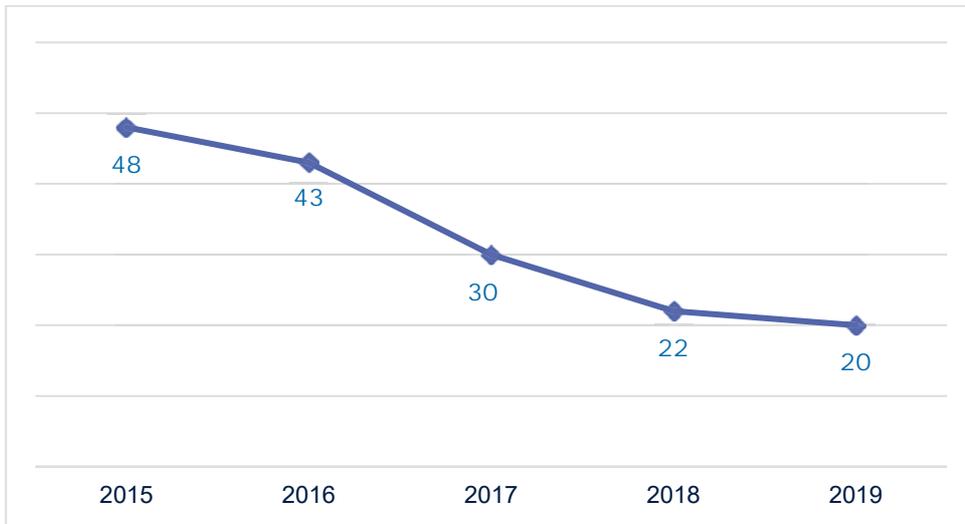


2. New EU Pilot files opened in 2019: main policy areas

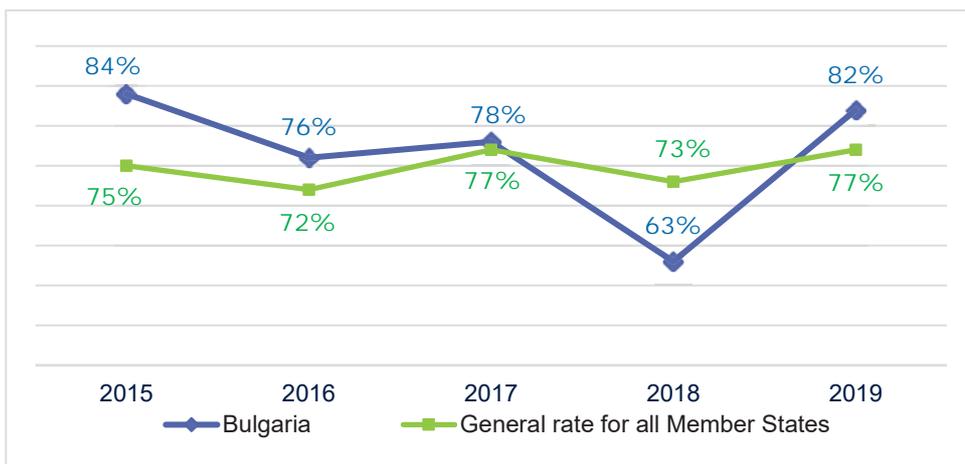


3. Files relating to Bulgaria open in EU Pilot at year-end

Bulgaria



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

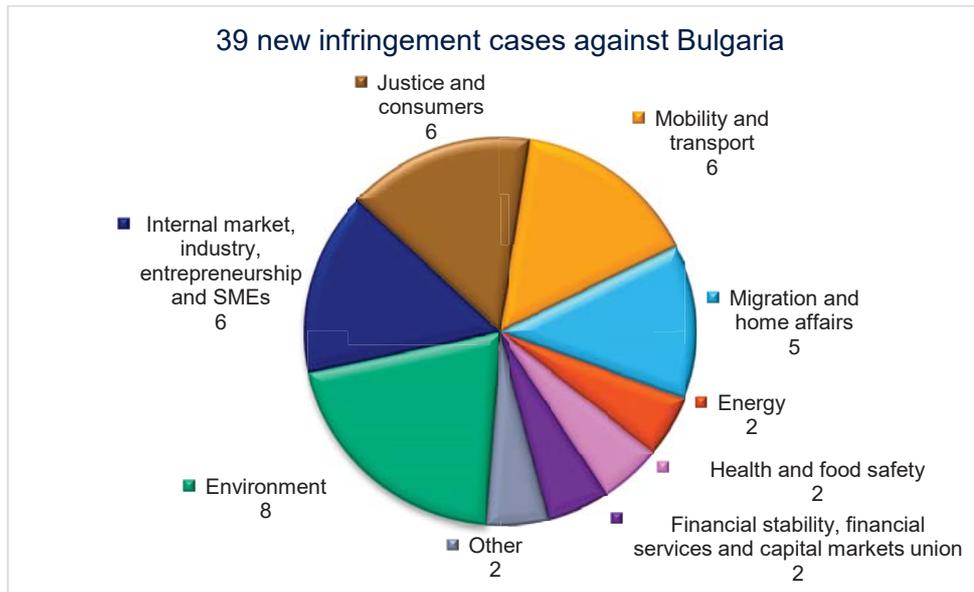


III. INFRINGEMENT CASES

5. Infringement cases against Bulgaria open on 31 December (2015-2019)



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



7. Key infringement cases and referrals to the Court

- a. The Commission opened 39 new infringement cases against Bulgaria in 2019. These, and other major ongoing infringement cases, include:
- inadequate protection of consumers against unfair terms in contracts, in particular in payment order proceedings; certain creditors can obtain orders for immediate enforcement quasi automatically, with very limited possibilities for the consumers to prevent or challenge the enforcement based on unfair contract terms⁴⁵;
 - incorrect transposition of the Directive on criminal sanctions for market abuse⁴⁶;
 - breach of the EU's exclusive competence in the area of automated DNA, fingerprint and vehicle registration data exchange⁴⁷;
 - non-conformity of national legislation with EU rules on public procurement and concessions⁴⁸;
 - incorrect implementation of the Directive on Attacks against Information Systems⁴⁹;
 - incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children⁵⁰;
 - a national law provision that defines the duration for the temporary cross-border provision of services⁵¹;
 - restrictions on the temporary cross-border provision of private security services⁵²

⁴⁵ [MEMO/19/462](#).

⁴⁶ Directive [2014/57/EU](#); [INF/19/4251](#),

⁴⁷ [INF/19/5950](#).

⁴⁸ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [INF/19/6304](#).

⁴⁹ Directive [2013/40/EU](#), [INF/19/5950](#).

⁵⁰ Directive [2011/93/EU](#), [MEMO/19/462](#), [INF/19/4251](#) and [INF/19/5950](#).

⁵¹ [INF 19/4251](#), Directive [2006/123/EC](#) and [Article 56 TFEU](#).

⁵² [INF 19/4251](#), [Article 56 TFEU](#).

- non communication of national measures transposing **the**:
 - Asylum Procedures Directive⁵³
 - Directive on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union⁵⁴
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)⁵⁵
 - Bank Creditors Hierarchy Directive⁵⁶
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations⁵⁷;
 - maintaining a national framework on geographical indications, which is not compatible with the EU rules on quality schemes for agricultural products and foodstuffs⁵⁸;
 - incorrect transposition of the revised Environmental Impact Assessment Directive⁵⁹;
 - late reporting on the environmental status of marine waters under the Marine Strategy Framework Directive⁶⁰;
 - non-conform transposition of the Industrial Emissions Directive⁶¹;
 - incorrect implementation of the INSPIRE Directive⁶²;
 - failure to establish Special Areas of Conservation, as well as conservation objectives and measures to maintain or restore the protected species and habitats to a favourable condition, as required by the Habitats Directive⁶³;
 - non-compliance with the requirements of the Energy Efficiency Directive⁶⁴;
 - incorrect application of the Directive on Marine Equipment⁶⁵;
 - failure to comply with minimum safety requirements for tunnels in the trans-European road network⁶⁶;
 - incorrect application of the Directive on Marine Equipment⁶⁷.
- b. The Commission referred two case(s) to the Court under Article 258 TFEU.
They involve the following infringements:
- failure to transpose and comply with EU rules on railway safety as regards the independence of the investigating body⁶⁸;

⁵³ Directive [2013/32/EU](#); [INF/19/4251](#)

⁵⁴ Directive [2014/42/EU](#).

⁵⁵ Directive [2016/2341/EU](#).

⁵⁶ Directive [2017/2399/EU](#).

⁵⁷ Directive (EU) [2018/1581](#).

⁵⁸ Regulation (EU) [1151/2012](#), [MEMO/19/462](#).

⁵⁹ Directive [2011/92/EU](#), [MEMO/19/1472](#).

⁶⁰ Directive [2008/56/EC](#), [INF/19/5950](#).

⁶¹ Directive [2010/75/EU](#).

⁶² Directive [2007/2/EC](#), [MEMO/19/1472](#).

⁶³ Directive [92/43/EEC](#), [MEMO/19/462](#).

⁶⁴ Directive [2012/27/EU](#), [MEMO/19/462](#).

⁶⁵ Directive [2014/90/EU](#), [INF/19/5950](#).

⁶⁶ Directive [2004/54/EC](#), [INF/19/4251](#).

⁶⁷ Directive [2014/90/EU](#), [INF/19/5950](#).

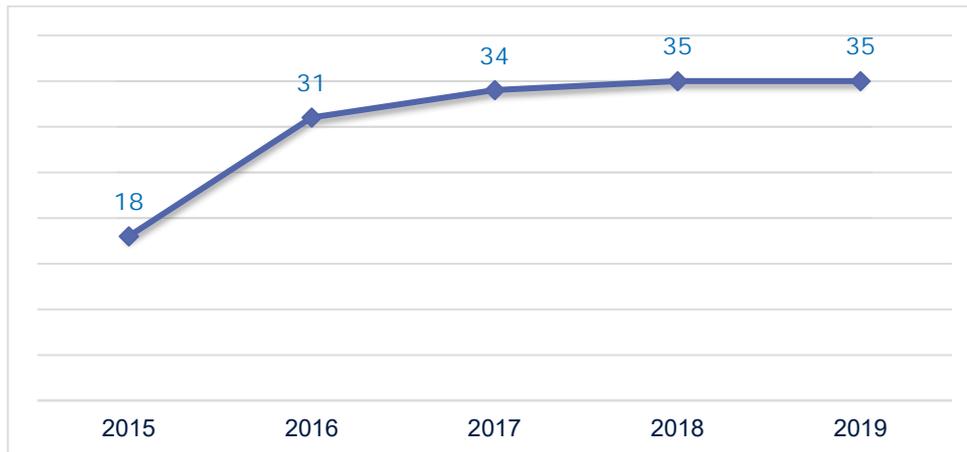
⁶⁸ *Commission v Bulgaria*, Case [C-33/19](#), Directive [2004/49/EC](#), [IP/18/6252](#).

- exceedance of sulphur dioxide (SO₂) limit values set by the Air Quality Directive⁶⁹.

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 Bulgaria open on 31 December (2015-2019)

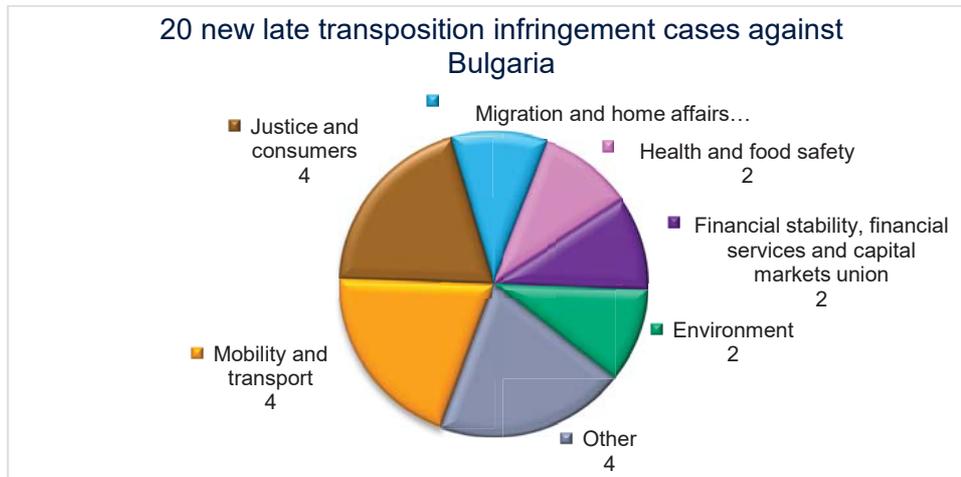


2. New late transposition infringement cases against Bulgaria (2015-2019)



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

⁶⁹ *Commission v Bulgaria* Case [C-730/19](#), Directive [2008/50/EC](#), [IP/19/4256](#).



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:
 - Reception Conditions Directive⁷⁰
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species⁷¹
 - Directive on standards for the qualification of third-country nationals as beneficiaries of international protection⁷²
 - Reception Conditions Directive⁷³
 - Asylum Procedures Directive⁷⁴
 - Markets in Financial Instruments Directive (MiFID II)⁷⁵
 - Directive on antitrust damages actions⁷⁶;
 - Directive on certain aspects of the organisation of working time in inland waterway transport⁷⁷.
- customs duty relief for certain US goods in breach of the Community system of reliefs from customs duty⁷⁸;
- Proportionality of sanctions for not declaring the movement of cash in breach of controls of cash entering or leaving the Community⁷⁹;

⁷⁰ Directive [2013/33/EU](#), [INF/19/4251](#).

⁷¹ Directive (EU) [2018/100](#).

⁷² Directive [2011/95/EU](#); [INF/19/4251](#).

⁷³ Directive [2013/33/EU](#); [INF/19/4251](#).

⁷⁴ Directive [2013/32/EU](#).

⁷⁵ Directive [2014/65/EU](#).

⁷⁶ Directive [2014/104/EU](#).

⁷⁷ Directive [2014/112/EU](#).

⁷⁸ Regulation (EC) [1186/2009](#).

- incorrect transposition of the Third Energy Package Directives⁸⁰;
- failure to adopt all transposition measures for the Indirect Land Use Change Directive⁸¹.

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 Bulgarian judiciary:

- The Procedural Rights Directives⁸² apply to judicial proceedings leading to compulsory medical internment of persons having committed acts representing a danger to society. Because of their mental state, these persons are to be considered vulnerable persons for the purpose of these Directives⁸³.
- National legislation obliging apartment owners in buildings in co-ownership to pay for the thermal energy used by the common parts and the internal installation of the building is compatible with EU law, even if the owners do not use that thermal energy in their own apartments. In such buildings, the bills for thermal energy consumption by the internal installation are calculated for each property owner in the building in proportion to the heated volume of their apartment⁸⁴.
- The Court gave guidance as to the relevant criteria under the Electricity Directive to distinguish between transmission and distribution systems⁸⁵.

⁷⁹ Regulation (EC) [1889/2005](#).

⁸⁰ Directives [2009/72/EC](#) and [2009/73/EC](#).

⁸¹ Directive (EU) [2015/1513](#).

⁸² Directives [2012/13/EU](#), [2013/48/EU](#) and [2016/343/EU](#).

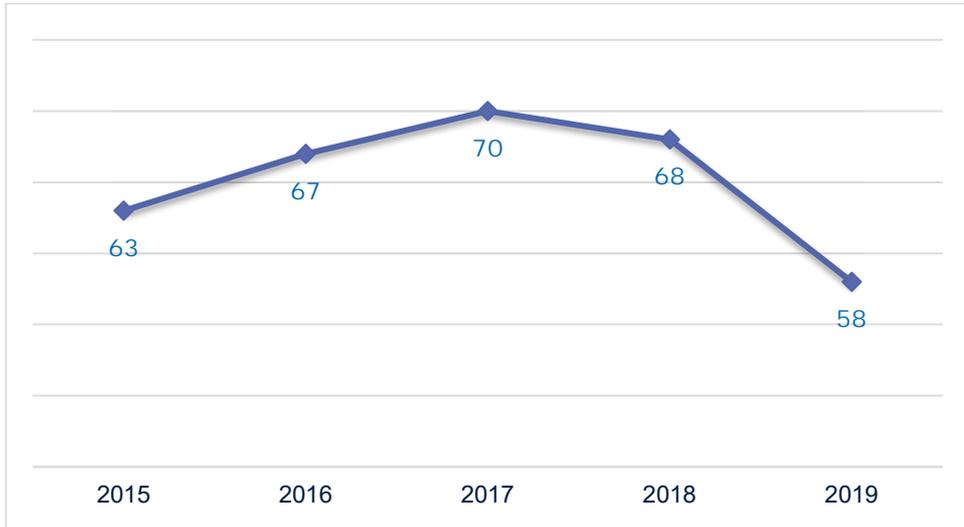
⁸³ EP Case [C-467/18](#).

⁸⁴ Joined cases [C-708/17](#) and [C-725/17](#) *EVN Bulgaria Toplofikatsia and Toplofikatsia Sofia*.

⁸⁵ *Elektrorazpredelenie Yug* Case [C-31/18](#), Directive [2009/72/EC](#).

I. COMPLAINTS

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



2. Public complaints against Czechia open at year-end

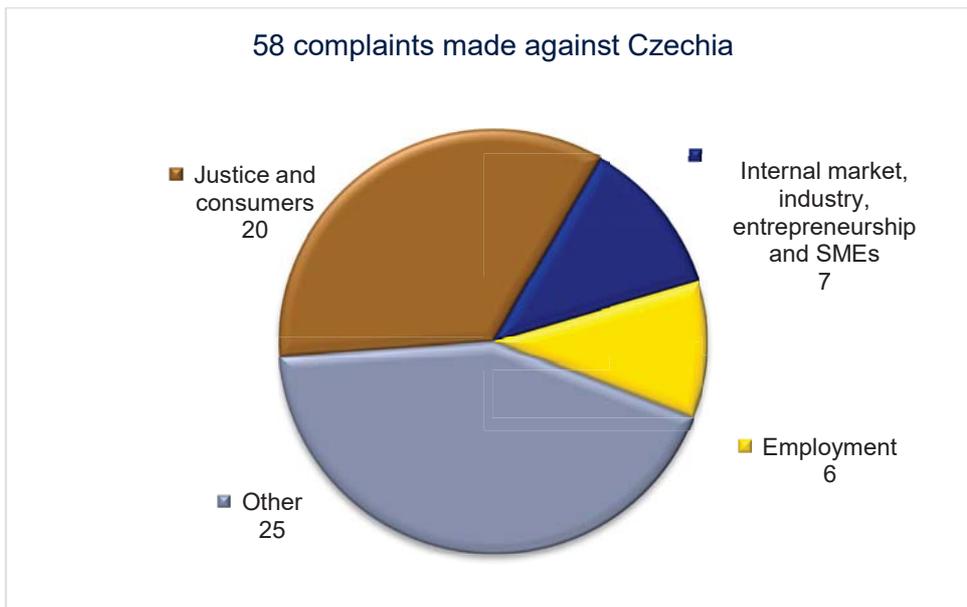
49 ▶ Complaints open at end-2018

58 ▶ New complaints registered in 2019

50 ▶ Complaints handled in 2019

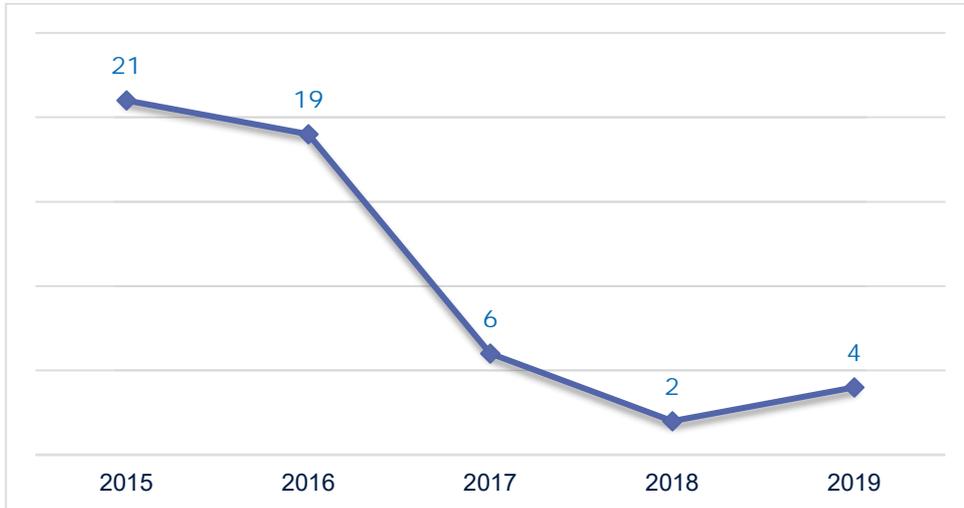
= 57 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

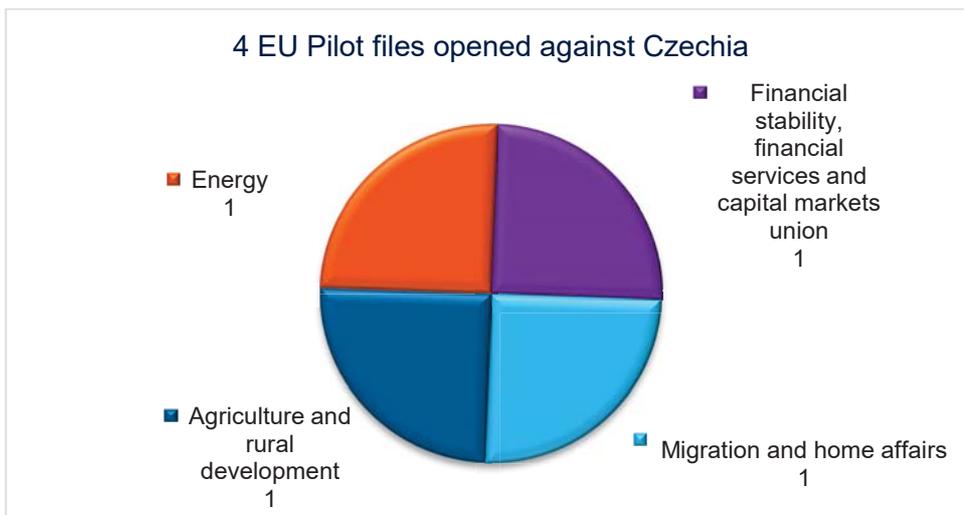


II. EU PILOT

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



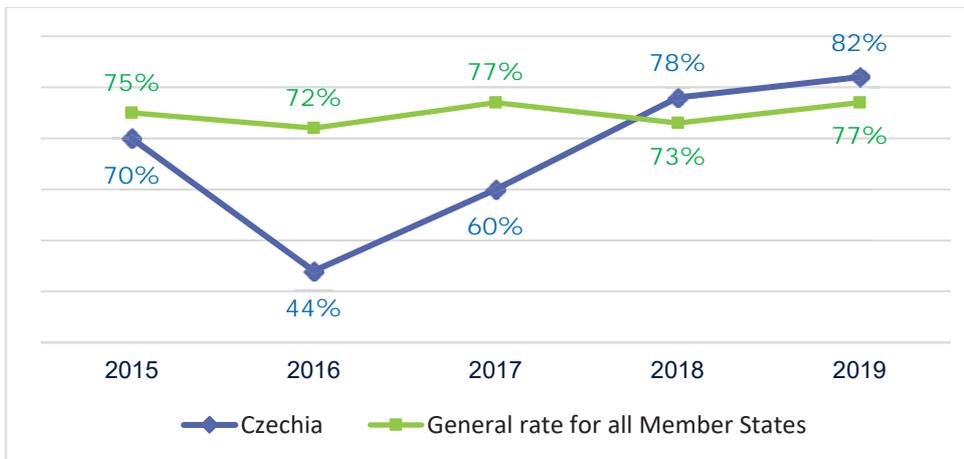
2. New EU Pilot files opened in 2019: main policy areas



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

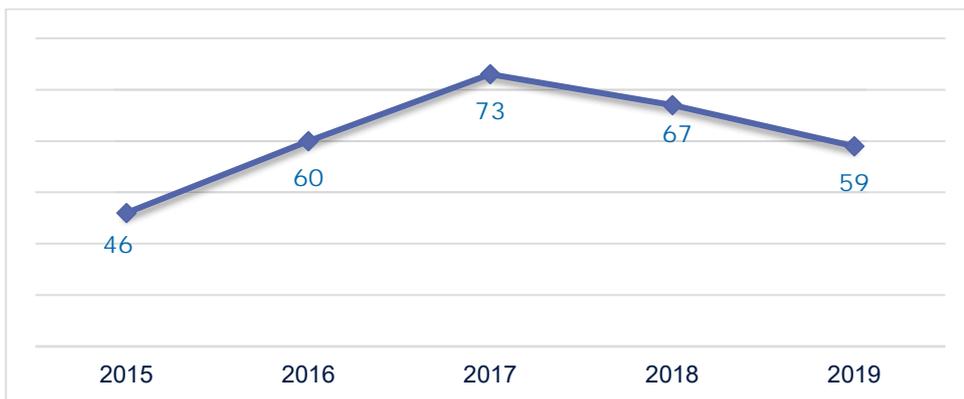


4. EU Pilot files: Czechia's resolution rate in 2015-2019

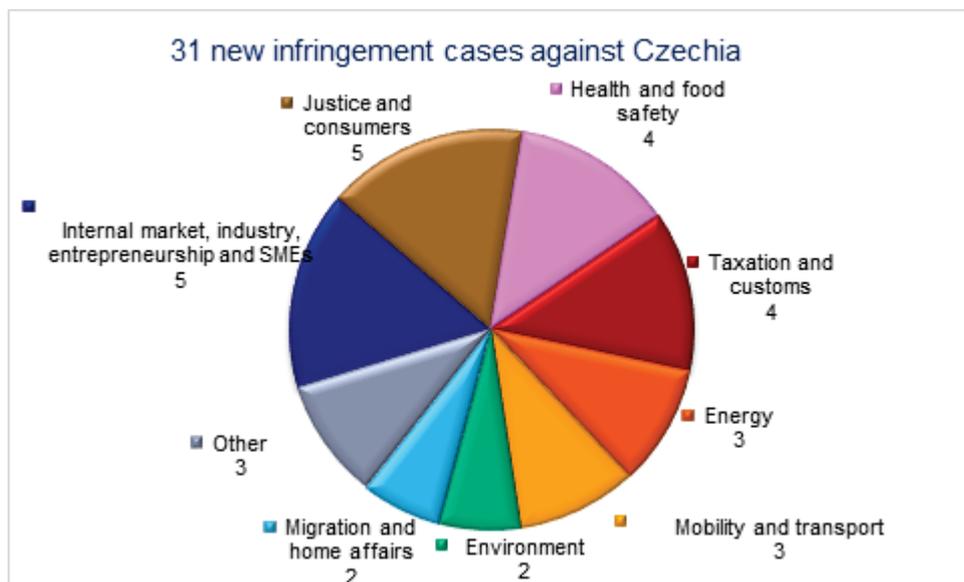


III. INFRINGEMENT CASES

1. Infringement cases against Czechia 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 31 new infringement cases against Czechia in 2019. These, and other major ongoing infringement cases, include:
- non communication of national measures transposing **the**:
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)¹
 - Indirect Land Use Change Directive²
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations³;
 - failure to effectively implement the rules on the 112 emergency number, in particular by not ensuring equivalent access for disabled users⁴;
 - non-conformity of national legislation with EU rules on public procurement and concessions⁵;
 - systematic official controls targeting certain foodstuffs coming from another Member State each time such foodstuffs enter Czechia, in breach of EU rules on ensuring compliance with feed and food law, animal health and animal welfare rules⁶;
 - 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;
 - 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)⁹;
 - failure to establish penalties in accordance with the Invasive Alien Species Regulation¹⁰;
 - non-compliance with the requirements of the Energy Efficiency Directive¹¹.
- b. The Commission referred one case to the Court under Article 258 TFEU. It involves the following infringement:
- incorrect transposition and application of certain provisions of the Energy Performance of Buildings Directive¹²;
- c. The Commission did not refer any cases to the Court under Article 260(2) TFEU.

¹ Directive [2016/2341/EU](#).

² Directive (EU) [2015/1513](#).

³ Directive (EU) [2018/1581](#).

⁴ Directive (EU) [2002/22](#); [INF/19/4251](#).

⁵ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [INF/19/6304](#).

⁶ Regulation (EC) [882/2004](#), [MEMO/19/462](#), [INF/19/4251](#).

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

⁸ Directive [92/43/EEC](#), [INF/19/6304](#).

⁹ Regulation (EU) [2016/480](#), [INF/19/6304](#).

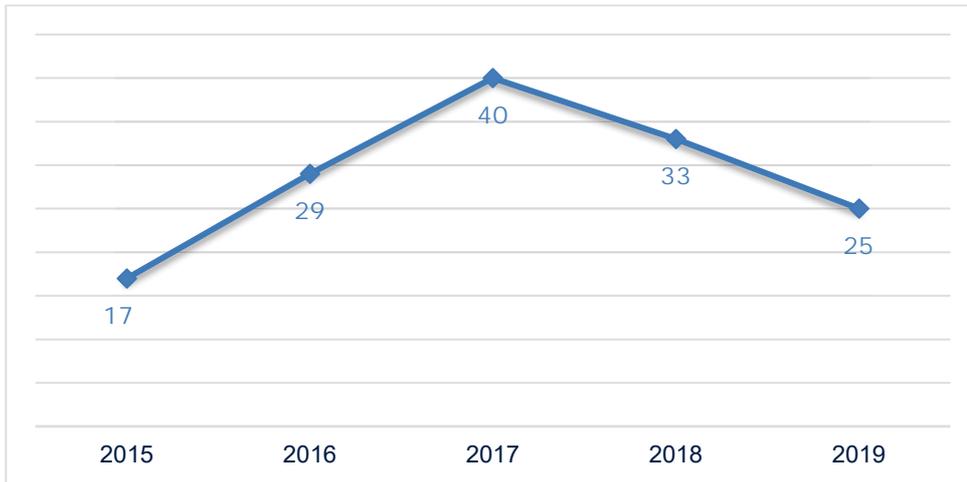
¹⁰ Regulation (EU) [1143/2014](#), [INF/19/6304](#).

¹¹ Directive [2012/27/EU](#), [MEMO/19/462](#).

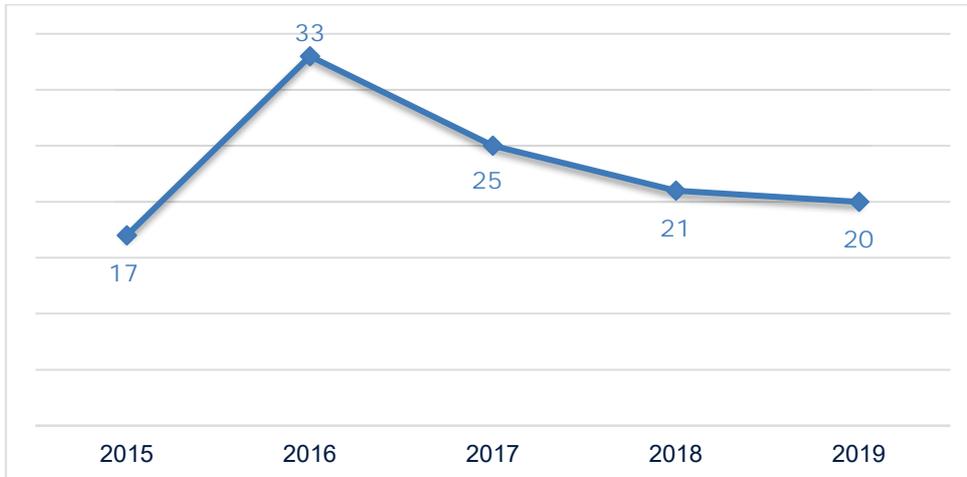
¹² Directive [2010/31/EU](#), *Commission v Czechia*, [C-305/19](#).

IV. TRANSPOSITION OF DIRECTIVES

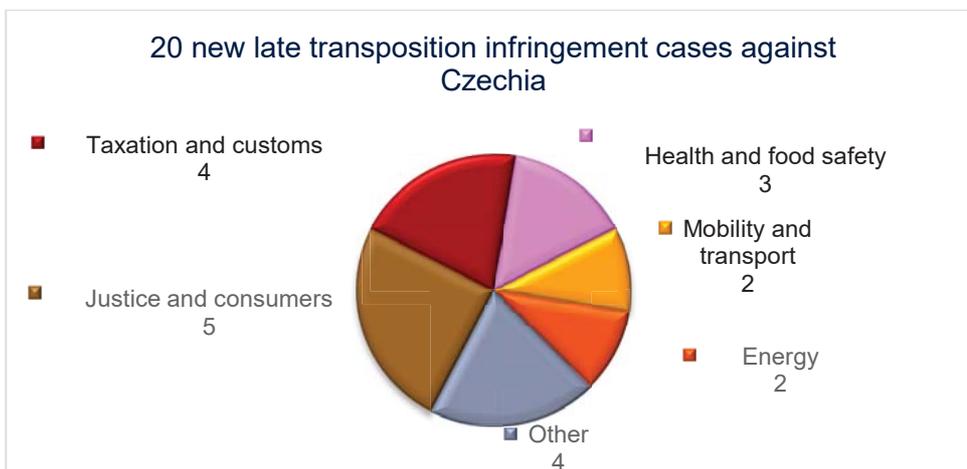
1. Late transposition infringement cases against Czechia open on 31 December (2015-2019)



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



3. New late transposition infringement cases opened in 2019: 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:
 - Reception Conditions Directive¹³
 - Commission Implementing Directive on 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
 - Directive on tobacco products¹⁶
 - the Seasonal Workers Directive¹⁷
 - Asylum Procedures Directive¹⁸
 - Anti-Tax Avoidance Directive (ATAD1)¹⁹
 - Directive on certain aspects of the organisation of working time in inland waterway transport²⁰.

- Directive as regards access to anti-money laundering information (DAC5)²¹;
- non-conform implementation of the Directive as regards the mandatory automatic exchange of information in the field of taxation (DAC2)²²;
- failure to correctly transpose certain requirements of the Radioactive Waste Directive²³;
- non-compliance of national legislation with the provisions of the Train Drivers Directive²⁴;
- non-conformity of national legislation with the Professional Qualifications Directive²⁵;
- failure to provide the required quality management system for operational parts of the flag State-related activities²⁶.

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁷

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

¹⁴ Directive (EU) [2018/100](#).

¹⁵ Directive (EU) [2019/523](#).

¹⁶ Directive [2014/40/EU](#).

¹⁷ Directive [2014/36/EU](#).

¹⁸ Directive [2013/32/EU](#).

¹⁹ Directive (EU) [2016/1164](#).

²⁰ Directive [2014/112/EU](#).

²¹ Directive [2016/2258/EU](#).

²² Directive [2011/16/EU](#).

²³ Council Directive [2011/70/Euratom](#).

²⁴ Directive [2007/59/EC](#).

²⁵ Directive [2005/36/EC](#).

²⁶ Directive [2009/21/EC](#).

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

The Court:

- dismissed the Commission's action against *Czechia* concerning its refusal to ensure the take-back of 20 000 tonnes of a mixture called TPS-NOLO (Geobal) shipped from Czechia to Poland. The Court found that the Commission did not provide sufficient evidence that the respective mixture constitutes waste and, thus, that its shipment constitutes a shipment of waste²⁸.

2. Preliminary rulings

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

- The formal recognition of the status of refugee implies that the refugee concerned is a beneficiary of international protection for the purpose of the Qualification Directive so that he is entitled to all the rights and benefits provided for in this Directive. This Directive contains both rights equivalent to those set out in the Geneva Convention and rights providing greater protection which have no equivalent in that Convention²⁹;
- Connecting flights that are the subject of a single reservation departing from a Member State to a non-Member State via another non-Member State: the air carrier of the first flight is, in principle, liable to pay compensation to passengers who suffered a long delay in the arrival of the second flight performed by a non-Community air carrier³⁰.]

²⁸ *Commission v Czech Republic*, Case [C-399/17](#) and Court press release [29/19](#).

²⁹ *M and Others*, joined cases [C-391/16](#), [C-77/17](#) and [C-78/17](#).

³⁰ *České aerolinie*, Case [C-502/18](#) and Court press release [95/2019](#).

I. COMPLAINTS

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



2. Public complaints against Denmark open at year-end

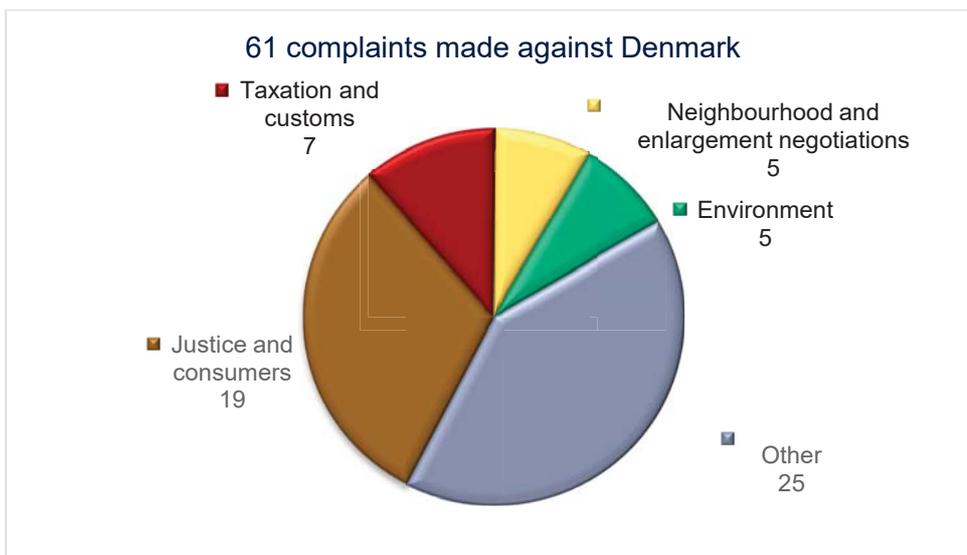
40 ▶ Complaints open at end-2018

61 ▶ New complaints registered in 2019

58 ▶ Complaints handled in 2019

= 43 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas



II. EU PILOT

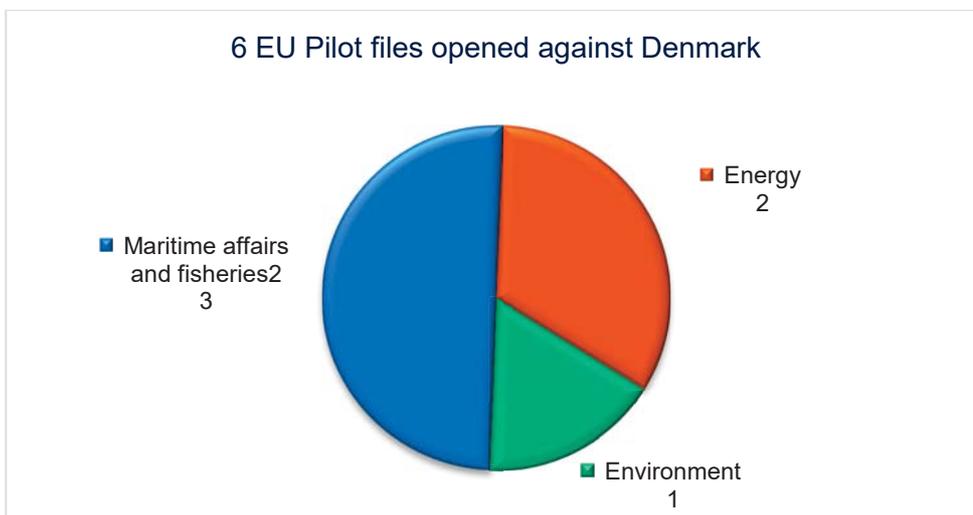
1. New EU Pilot files opened against Denmark (2015-2019)



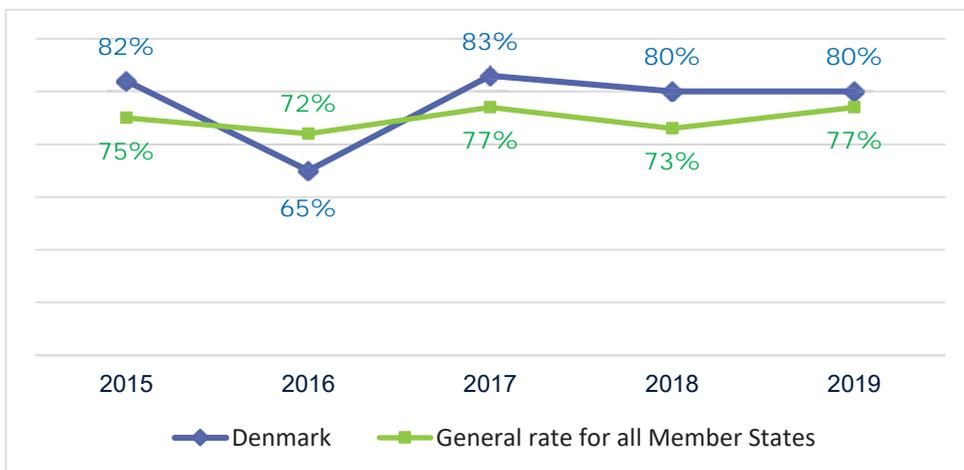
2. Files relating to Denmark open in EU Pilot at year-end



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

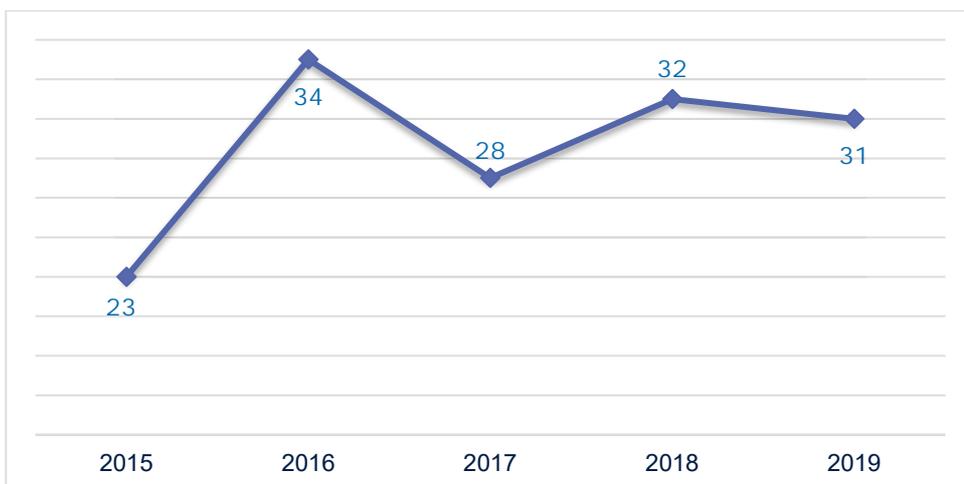


4. EU Pilot files: Denmark's resolution rate in 2015-2019

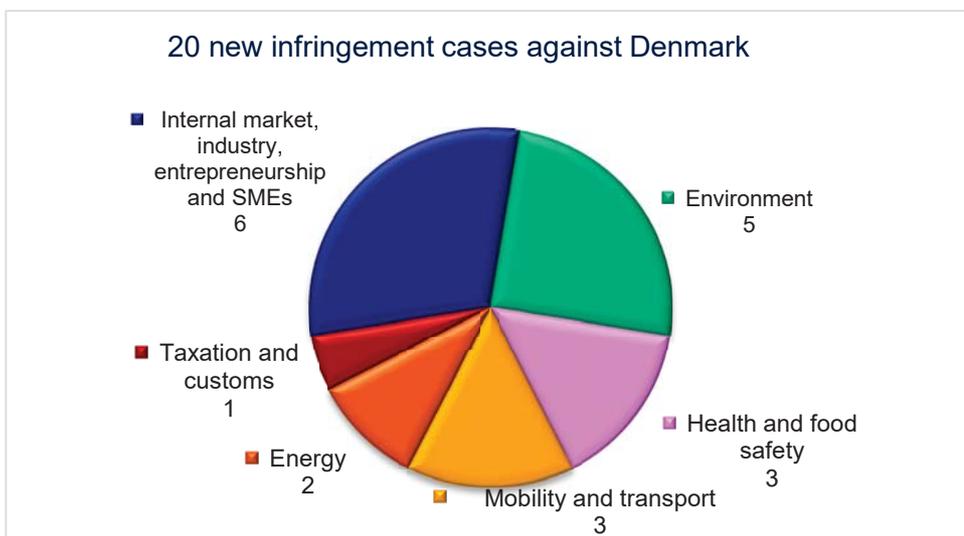


III. INFRINGEMENT CASES

1. Infringement cases against Denmark 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 Denmark in 2019. These, and other major ongoing infringement cases, include:
- unlawful use of the protected designation of origin 'Feta', in violation of the EU rules on quality schemes for agricultural products and foodstuffs¹;
 - failure to enforce several provisions of the EU Control Regulation².
 - non-conformity of national legislation with EU rules on public procurement and concessions³;
 - incorrect transposition of the:
 - Directive on the protection of animals used for scientific purposes⁴
 - revised Environmental Impact Assessment Directive⁵
 - Energy Efficiency 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;
 - failure to fulfil the obligations under the EU rules establishing a single European railway area⁸.
- b. [The Commission did not refer any cases to the Court under Article 258 TFEU.]
- c. [The Commission did not refer any cases to the Court under Article 260(2) TFEU.]

IV. TRANSPOSITION OF DIRECTIVES

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



¹ Regulation (EU) No [1151/2012](#), [IP-19-6312](#).

² [MEMO/19/462](#), Regulation (EC) No [1224/2009](#).

³ [INF/19/6304](#), [MEMO/19/462](#); Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#).

⁴ Directive [2010/63/EU](#), [INF/19/5950](#).

⁵ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [INF/19/5950](#).

⁶ Directive [2012/27/EU](#), [MEMO/19/462](#).

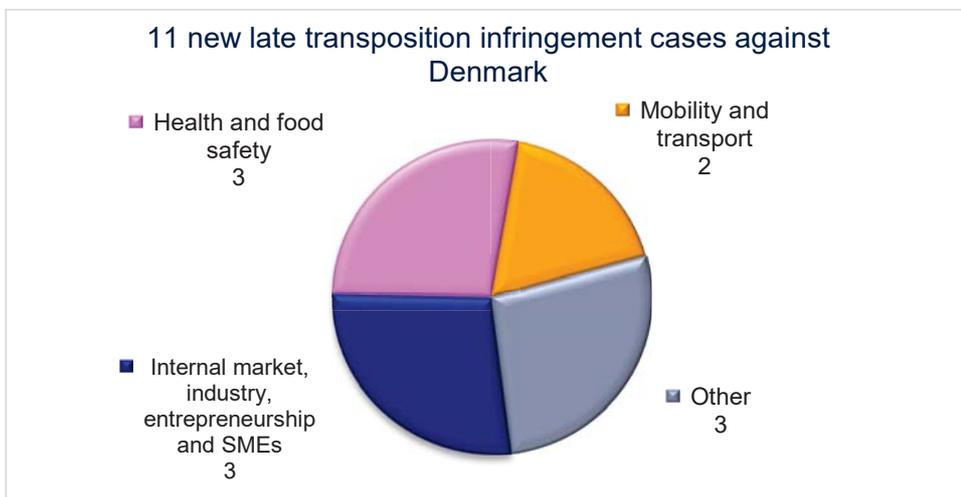
⁷ Regulation (EU) [2016/480](#), [INF/19/6304](#).

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

2. New late transposition infringement cases against Denmark (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 concerning Denmark 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:
 - 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 species⁹
 - Commission Implementing Directive on protective measures against the introduction into the Community of organisms harmful to plants¹⁰
 - Indirect Land Use Change Directive¹¹;

⁹ Directive (EU) [2019/114](#).

¹⁰ Directive (EU) [2019/523](#).

- exceedances of the nitrogen dioxide (NO₂) limit values set by the Air Quality Directive¹²;
- incorrect implementation of the Combined Transport Directive¹³.

VI. IMPORTANT JUDGMENTS

1. Court rulings¹⁴

There were no major Court rulings in 2019.

2. Preliminary rulings

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

- EU law cannot be relied on for abusive or fraudulent objectives. In such cases, national authorities and courts must refuse a taxpayer the exemption from withholding tax on profits distributed by a subsidiary to its parent company, even if there are no domestic or agreement-based provisions providing for such a refusal¹⁵.

¹¹ Directive (EU) [2015/1513](#).

¹² Directive [2008/50/EC](#).

¹³ Directive [92/106/EEC](#).

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

¹⁵ *Skatteministeriet v T Danmark and Y Denmark Aps*, joined cases [C-116/16 and C-117/16](#).

I. COMPLAINTS

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



2. Public complaints against Germany open at year-end

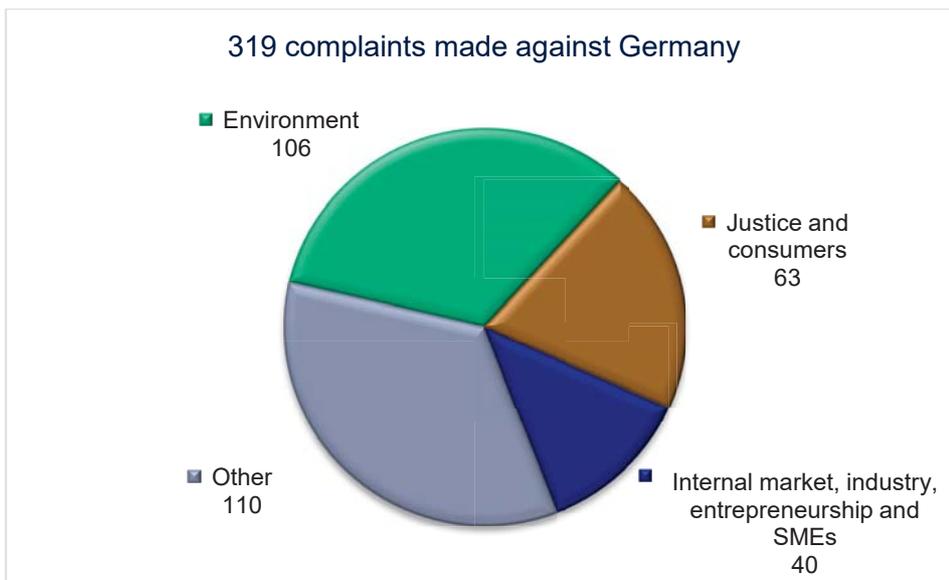
274 ▶ Complaints open at end-2018

319 ▶ New complaints registered in 2019

227 ▶ Complaints handled in 2019

= 366 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

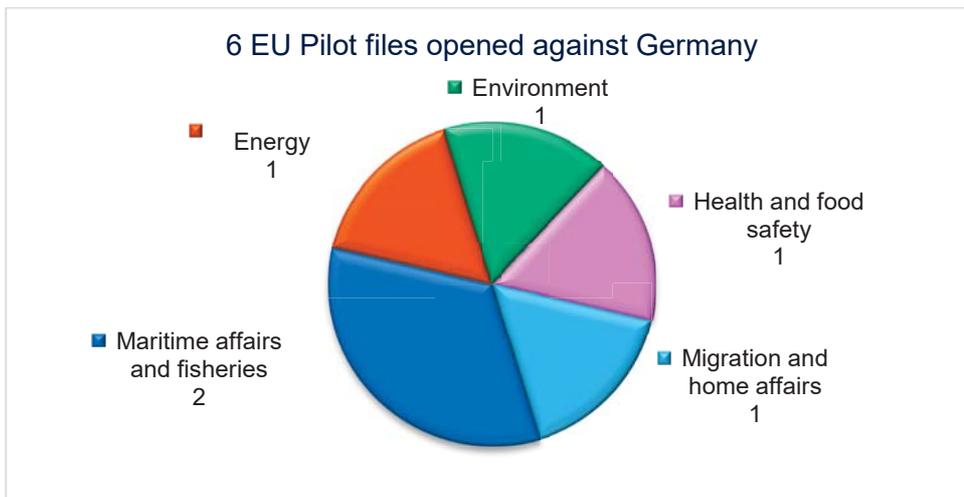


II. EU PILOT

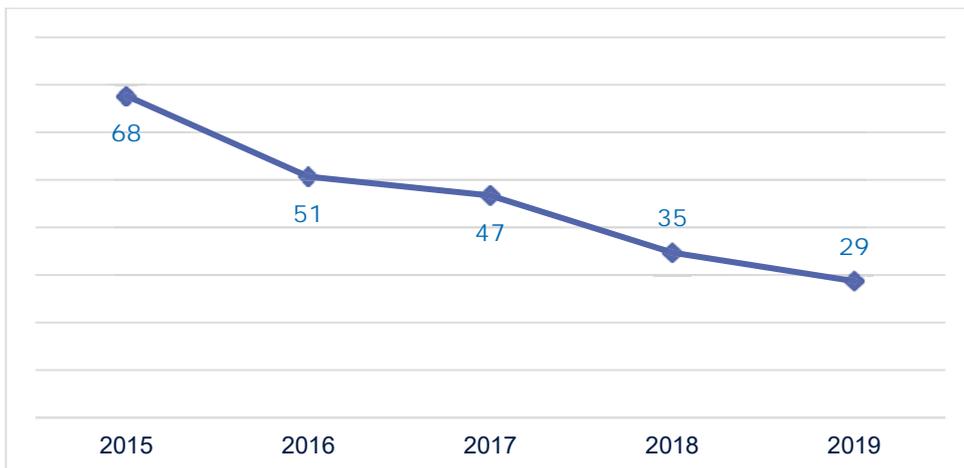
1. New EU Pilot files opened against Germany (2015-2019)



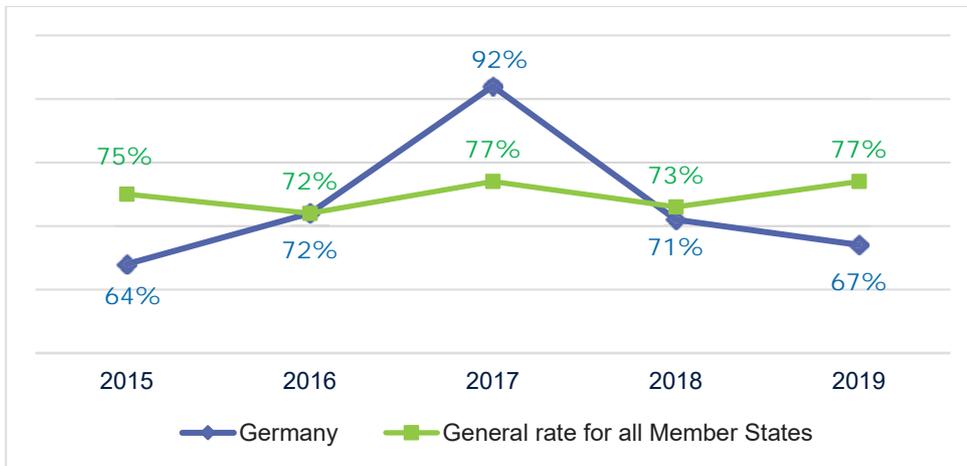
2. New EU Pilot files opened in 2019: main policy areas



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



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

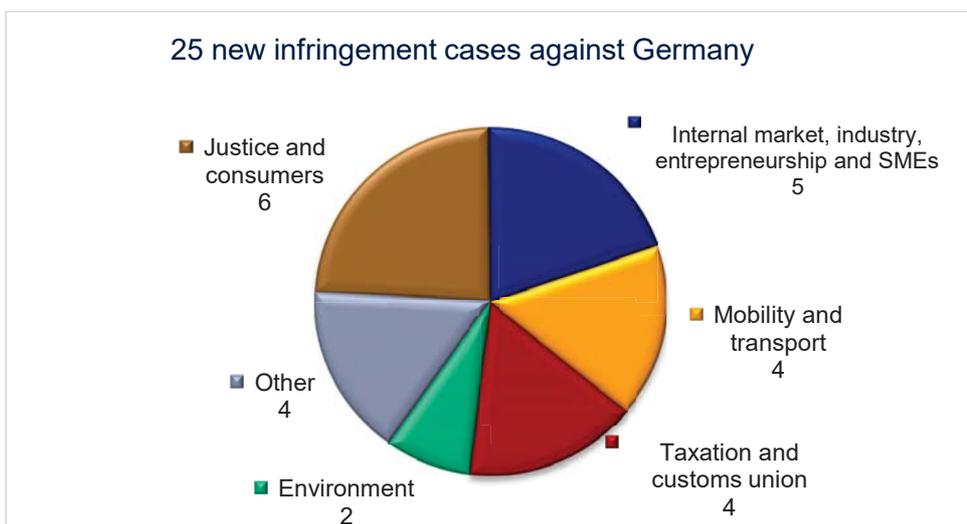


III. INFRINGEMENT CASES

1. Infringement cases against Germany 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 25 new infringement cases against Germany in 2019. These, and other major ongoing infringement cases, include:
- non communication of national measures transposing **the**:
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)¹
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations²;
 - rules on fixed prices for prescription medicines negatively affecting the sale of products by pharmacies established in other EU Member States in violation of Articles 34 and 36 TFEU³;
 - failure to award authorisations and concessions in the hydroelectric power sector in line with the Services Directive and public procurement rules⁴;
 - restrictions on the import of coffee in violation of the principle of the free movement of goods⁵;
 - non-conformity of national legislation with EU rules on public procurement and concessions⁶;
 - non-conformity of national law with EU public procurement rules, forbidding health insurance funds to use procurement procedures to obtain assistive medical devices⁷;
 - failure to effectively implement the rules on the 112 emergency number, in particular by not ensuring equivalent access for disabled users⁸;
 - incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children⁹;
 - Germany's national rules on VAT for distance sales of goods sold through digital marketplaces¹⁰;
 - impossibility to fulfil formal requirements for qualifying as a group company for German tax consolidation purposes¹¹;
 - failure to ensure adequate protection of grasslands, as required by the Habitats Directive¹²;
 - incorrect transposition of the Directive on the protection of animals used for scientific purposes¹³;

¹ Directive [2016/2341/EU](#).

² Directive (EU) [2018/1581](#).

³ [MEMO/19/1472](#) and [C-148/15](#).

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

⁵ [MEMO/19/462](#).

⁶ [MEMO/19/462](#); Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#).

⁷ Directive [2014/24/EU](#), [INF/19/4251](#).

⁸ Directive (EU) [2002/22](#); [INF/19/4251](#).

⁹ Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

¹⁰ [IP/19/5950](#).

¹¹ [IP/19/4251](#).

¹² Directive [92/43/EEC](#), [INF/19/4251](#).

Germany

- application of the Directive on Mobile Air-Conditioning;¹⁴
 - failure to comply with the principles of fair and non-discriminatory remuneration for European Electronic Toll Service providers¹⁵;
 - 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)¹⁶;
 - failure to fulfil the obligations under the EU rules establishing a single European railway area¹⁷;
 - failure to comply with a Court judgment finding that Germany was in breach of its obligations under the Nitrates Directive by failing to revise an action programme whose measures had proved insufficient¹⁸;
 - failure to establish Special Areas of Conservation, as well as conservation objectives and measures to maintain or restore the protected species and habitats to a favourable condition, as required by the Habitats Directive¹⁹;
 - non-compliance with the requirements of the Energy Efficiency Directive²⁰.
- b. The Commission referred one case to the Court under Article 258 TFEU. It involves the following infringement:
- Rejections of certain applications for VAT refunds for businesses in other Member States²¹.
- 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 Germany open on 31 December (2015-2019)

¹³ Directive [2010/63/EU](#), [INF/19/4251](#).

¹⁴ [INF 19/4251](#), Directive [2006/40/EC](#).

¹⁵ Commission Decision [2009/750/EC](#), [INF/19/4251](#).

¹⁶ Regulation (EU) [2016/480](#), [INF/19/5950](#).

¹⁷ Directive [2012/34/EU](#), [INF/19/5950](#).

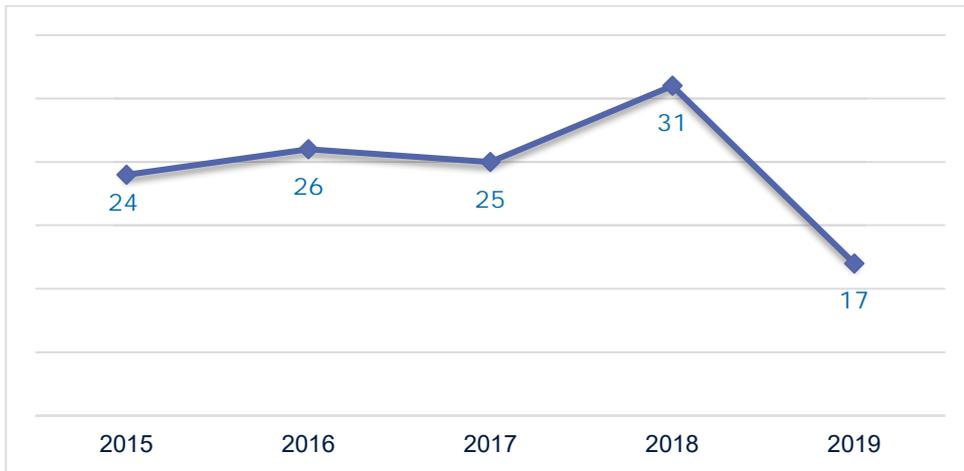
¹⁸ Directive [91/676/EC](#), [INF/19/4251](#), [C-543/16](#) *Commission v Germany*.

¹⁹ Directive [92/43/EEC](#), [MEMO-19-462](#).

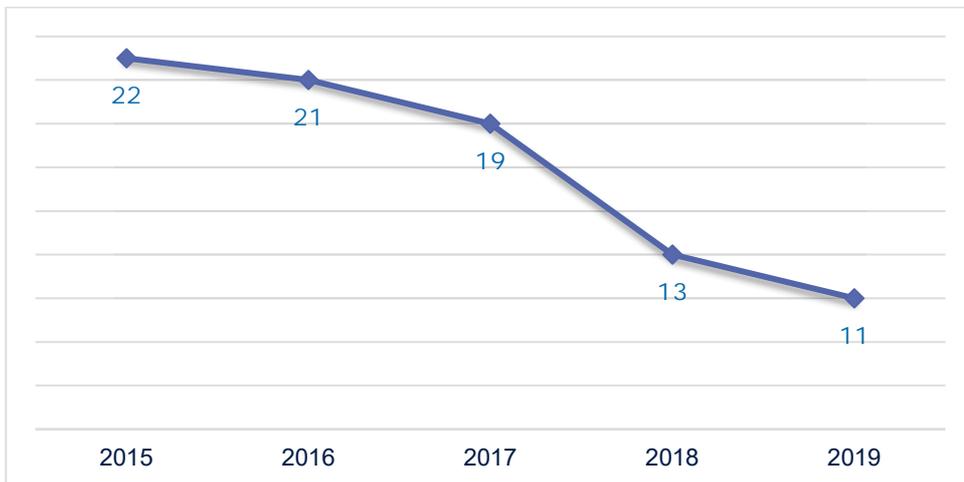
²⁰ Directive [2012/27/EU](#), [MEMO-19-462](#).

²¹ Case [C-371/19](#) *Commission v Germany*.

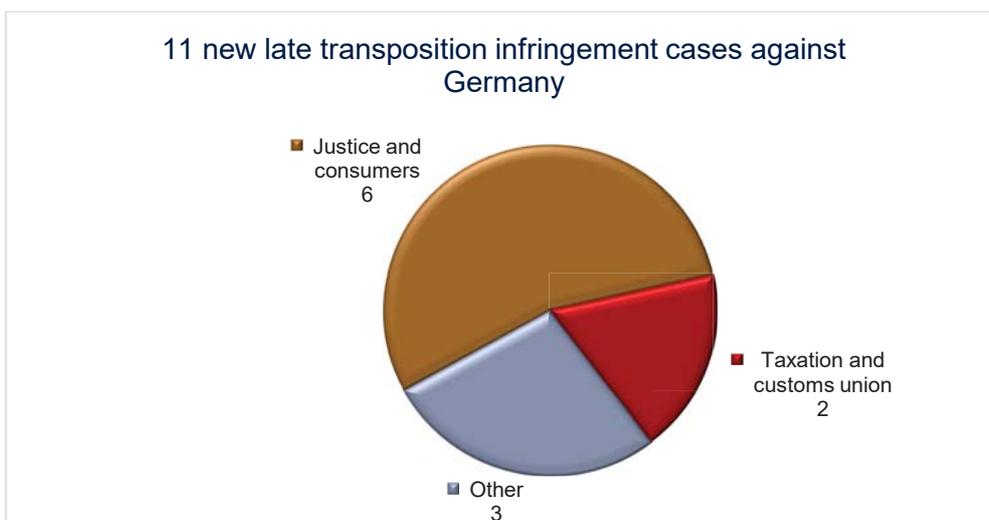
Monitoring the application of European Union law
2019 Annual Report
Germany



2. New late transposition infringement cases against Germany (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 case 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:
 - Seasonal Workers Directive²²
 - Reception Conditions Directive²³
 - Asylum Procedures Directive²⁴;
 - Directive on certain aspects of the organisation of working time in inland waterway transport²⁵.
- incorrect application of the freedom of establishment due to the reservation of certain approval services for some types of motor vehicles in favour of certain technical testing centres²⁶
- failure to adopt all transposition measures for the Indirect Land Use Change Directive²⁷;
- incorrect transposition of the Driving Licences Directive²⁸;

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁹

The Court ruled that:

- Germany breached EU law by maintaining fixed tariffs for the planning services of architects and engineers³⁰;
- Germany restricted the free movement of goods by introducing an infrastructure use charge and simultaneous relief from motor vehicle tax for vehicles registered in Germany³¹;
- Germany failed to fulfil its obligations under EU law, at the 25th session of the Revision Committee of the Intergovernmental Organisation for International Carriage by Rail, by having voted against the position of the EU, and having publicly opposed that position and the arrangements for the exercise of voting rights³²;

2. Preliminary rulings

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

²² Directive [2014/36/EU](#).

²³ Directive [2013/33/EU](#); [INF/19/4251](#).

²⁴ Directive [2013/32/EU](#).

²⁵ Directive [2014/112/EU](#).

²⁶ Directive [2007/46/EC](#).

²⁷ Directive (EU) [2015/1513](#).

²⁸ Directive [2006/106/EC](#).

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

³⁰ *Commission v Germany*, Case [C-377/17](#).

³¹ *Austria v Germany*, Case [C-591/17](#).

³² *Commission v Germany*, Case [C-620/16](#), Decision [2014/699/EU](#).

Germany

- prohibiting commercial providers of search engines and commercial service providers, which edit content of online press products, from making press products or parts of them available to the public is a breach of EU law³³;
- freedom of information and freedom of the press cannot justify a derogation from the author's exclusive rights of reproduction and of communication to the public going beyond the exceptions or limitations provided for in EU law³⁴;
- a phonogram producer can prevent the use of a sound sample of his or her phonogram in another phonogram. However, such sample can be used if it is included in the phonogram in a modified form unrecognisable to the ear³⁵;
- the Gmail service should not be considered as consisting wholly or mainly in the "conveyance of signals". As a result, Gmail is not an electronic communications service, and is therefore not subject to the general authorisation regime under the current EU telecoms legislation³⁶;
- the EU Regulation on shipments of waste³⁷ does not apply to shipment mixtures of animal by-products and other substances transported between Member States³⁸;
- the Austrian system of issuing an European arrest warrant, in which both public prosecutor's offices and courts are involved, is compatible with EU law³⁹;
- EU law does not designate directly, or by analogy, the law applicable to the third-party effects of the assignment of claims⁴⁰;
- the operator of a website that features a Facebook 'Like' button can be a controller jointly with Facebook in respect of the collection and transmission to Facebook of the personal data of visitors to its website⁴¹;
- a pre-ticked box cannot be considered as valid consent to the processing of personal data. The information that the service provider must give to a user includes the duration of the operation of cookies and whether or not third parties may have access to those cookies⁴²;
- in case of insolvency of the employer, a reduction in a former employee's old-age benefits must be regarded as being manifestly disproportionate if that person is living, or would have to live, below the at-risk-of-poverty threshold determined by Eurostat for the Member State concerned⁴³;
- an applicant 'absconds' within the meaning of the Dublin Regulation if he deliberately evades the reach of the national authorities in order to prevent the transfer. It may be presumed that that is the case if the transfer cannot be carried out due to the fact that

³³ *VG Media*, Case [C-299/17](#).

³⁴ *Funke Medien NRW*, Case [C-469/17](#).

³⁵ *Pelham and others*, Case [C-476/17](#).

³⁶ *Google*, Case [C-193/18](#).

³⁷ Regulation (EC) No [1013/2006](#).

³⁸ *ReFood GmbH & Co. KG v Landwirtschaftskammer Niedersachsen*, Case [C-634/17](#).

³⁹ *NJ*, Case [C-489/19 PPU](#).

⁴⁰ *BNP Paribas*, [C-548/18](#).

⁴¹ *Fashion ID*, Case [C-40/17](#).

⁴² *Planet 49*, Case [C-673/17](#).

⁴³ *Pensions-Sicherungs-Verein*, Case [C-168/18](#).

Germany

the applicant has left the accommodation allocated to him without informing the competent national authorities, provided that he has been informed of his obligations in that regard⁴⁴;

- the VAT exemption for school and university education does not cover driving school tuition provided by a driving school for the purpose of acquiring driving licences for vehicles in categories B and C1, even if the objective of such tuition is not purely recreational, since possession of such licences is liable to meet, among other things, professional needs⁴⁵;
- the customs authorities may require that an applicant for the status of an 'authorised economic operator' provide them with the tax identification numbers concerning solely the natural persons who are in charge of the applicant or who exercise control over its management and those who are in charge of the applicant's customs matters, and the details of the tax offices responsible for the taxation of all those persons⁴⁶;
- the legislation of a Member State which effectively taxes dividends paid to foreign pension funds at a higher rate than dividends paid to domestic pension funds is contrary to the free movement of capital as established by Article 63 TFEU⁴⁷;
- where EU customs regulations require providing a specific indication of the country of origin for a product (in this case, cultivated mushrooms that had been relocated during the growing process), the country of origin is that where the product was harvested, and that indication as such cannot be regarded as misleading consumers. In such circumstances, no obligations may be imposed on the food business operators to provide information additional to the indication of the country of origin in order to prevent any alleged risk of misleading consumers⁴⁸;
- the protection of the name 'Aceto Balsamico di Modena (PGI)', entered in the register of protected designations of origin and protected geographical indications, does not extend to the use of the individual non-geographical terms of that name, namely 'aceto' and 'balsamico'⁴⁹;
- in relation to the greenhouse gas emission allowance trading system (EU ETS), the Court of Justice confirmed the literal interpretation of an 'electricity generator', which includes an industrial plant even if the main activity of that plant does not fall under the scope of the EU ETS, the plant produces electricity mainly for its own use, and the amount of electricity sold to third parties is minimal⁵⁰;
- an exception from the use of tachographs does not apply to vehicles used for the carriage of live animals directly from farms to local slaughterhouses⁵¹;
- A Member State may refuse to recognise a driving licence which has been issued by another Member State, without a test of fitness to drive, on the basis of a driving

⁴⁴ *Abubacarr Jawo*, Case [C-163/17](#).

⁴⁵ *A & G Fahrschul-Akademie*, Case [C-449/17](#).

⁴⁶ *Deutsche Post AG v Hauptzollamt Köln*, Case [C-496/17](#).

⁴⁷ *College Pension Plan of British Columbia*, Case [C-641/17](#).

⁴⁸ *Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main*, Case [C-686/17](#).

⁴⁹ *Consorzio Tutela Aceto Balsamico di Modena*, Case [C-432/18](#) and Court press release [150/19](#).

⁵⁰ *ExxonMobil Production Deutschland*, Case [C-682/17](#).

⁵¹ *NK*, [C-231/18](#), Regulation (EC) No [561/2006](#), Regulation (EU) No [165/2014](#).

- licence issued by another Member State based on the exchange of a driving licence issued by a third country⁵²;
- the direct award of contracts for public passenger transport services by bus that do not take the form of service concessions is not subject to the Regulation on public passenger transport services by rail and road⁵³;
 - an air carrier is only required to compensate passengers for a long delay caused by damage to an aircraft tyre if it fails to prove that it deployed all means at its disposal for limiting the delay of the flight⁵⁴;
 - the system of airport charges is to be approved by an independent supervisory authority and must be mandatory for all airport users⁵⁵;
 - exception from the application of certain social legislation covers only vehicles that are used exclusively, during a particular transport operation, for the purpose of delivering items as part of the universal postal service⁵⁶;
 - the coercive detention of a person at the head of the Land of Bavaria for the purpose of enjoining them to adopt measures to improve ambient air quality in Munich can be ordered only if a national legal basis, which is sufficiently accessible, precise and foreseeable in its application, exists and if the detention is proportionate⁵⁷;
 - residues in the form of scrap metal and fire-extinguishing water mixed with sludge and cargo residues, attributable to damage occurring on board a ship at sea, must be regarded as waste generated on board ships, within the meaning of the Regulation on shipments of waste. Such waste is, therefore, excluded from the said Regulation's scope until it is offloaded in order to be recovered or disposed of⁵⁸.

⁵² *Meyn*, [C-9/18](#), Directive [2006/126/EC](#).

⁵³ Joined cases: [C-266/17](#) and [C-267/17](#) *Verkehrsbetrieb Hüttebräucker and BVR Busverkehr Rheinland*, Court press release [46/2019](#), Regulation (EC) [1370/2007](#).

⁵⁴ *Germanwings*, Case [C-501/17](#), Court press release [45/2019](#), Regulation (EC) [261/2004](#).

⁵⁵ *Deutsche Lufthansa*, Case [C-379/18](#), Directive [2009/12/EC](#).

⁵⁶ Joined cases *Deutsche Post and Leymann* and *UPS Deutschland and Others* [C-203/18](#) and [C-374/18](#), Regulation (EC) [561/2006](#).

⁵⁷ *Deutsche Umwelthilfe*, Case [C-752/18](#) and Court press release [164/2019](#).

⁵⁸ *Conti 11. Container Schifffahrt*, Case [C-689/17](#), Regulation (EC) [1013/2006](#).

I. COMPLAINTS

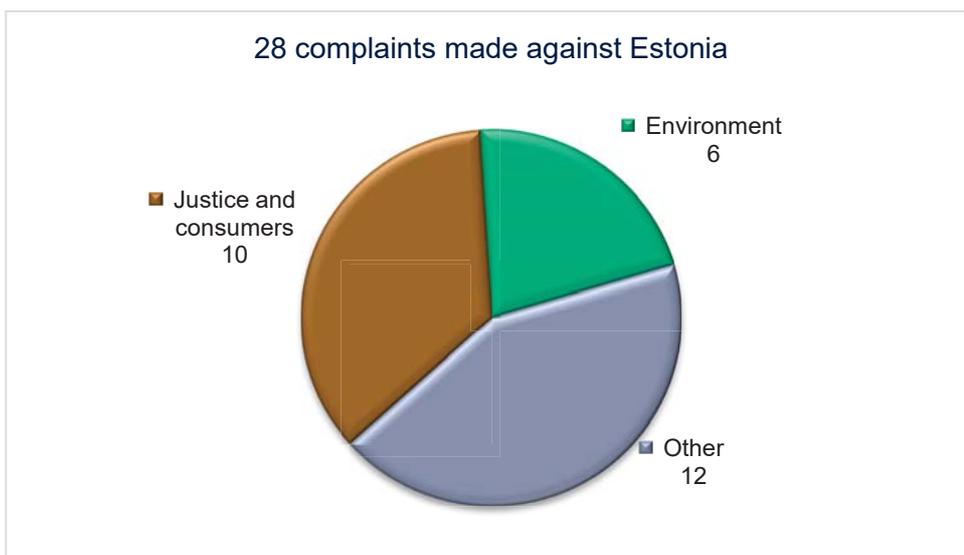
1. New complaints made against Estonia by members of the public (2015-2019)



2. Public complaints against Estonia open at year-end



3. New complaints registered in 2019: main policy areas



II. EU PILOT

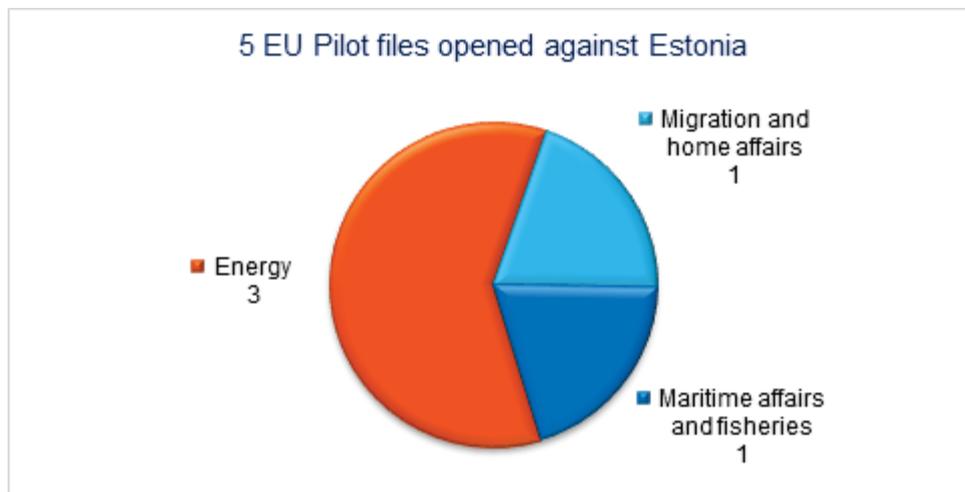
1. New EU Pilot files opened against Estonia (2015-2019)



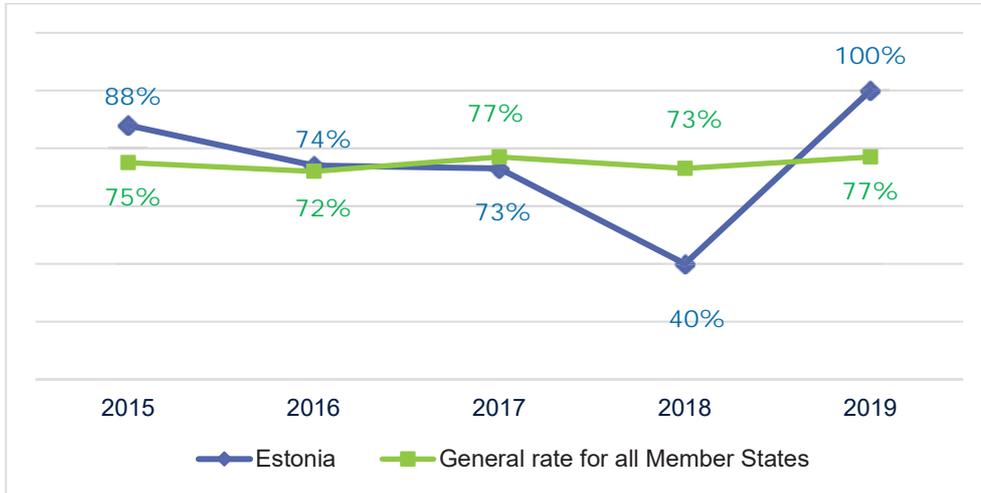
2. Files relating to Estonia open in EU Pilot at year-end



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

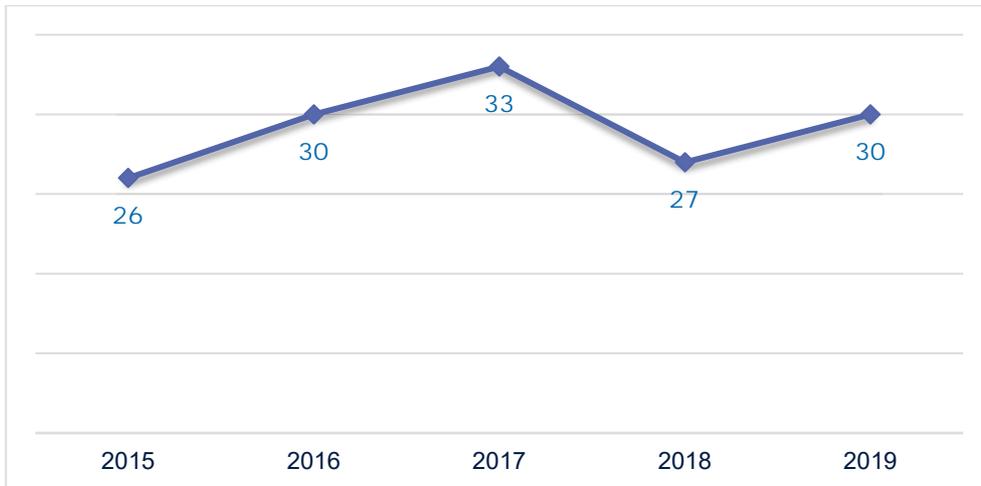


4. EU Pilot files: Estonia's resolution rate in 2015-2019

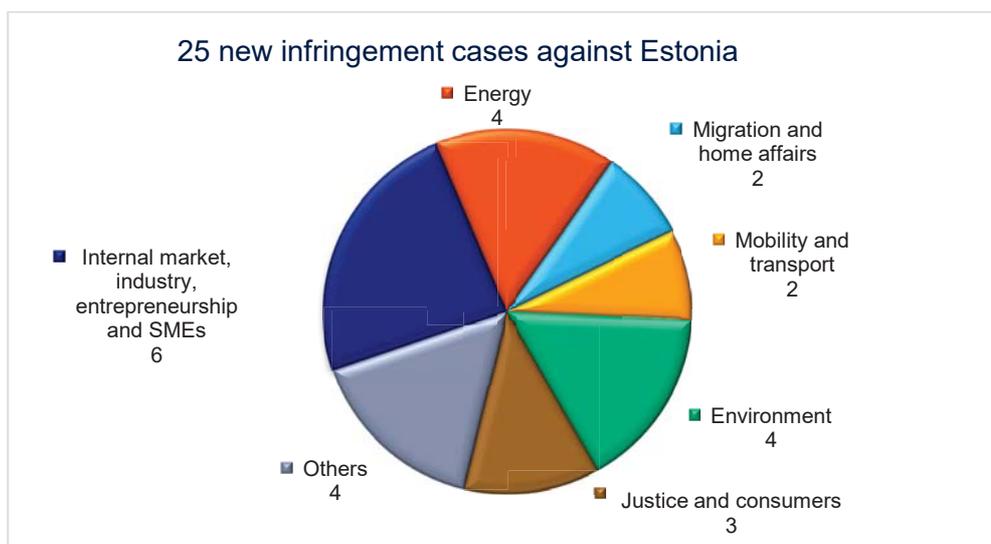


III. INFRINGEMENT CASES

1. Infringement cases against Estonia 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 25 new infringement cases against Estonia in 2019. These, and other major ongoing infringement cases, include:
- imposition of additional obligations on persons crossing the external EU border, in breach of the Schengen Borders Code¹;
 - incorrect transposition of the :
 - Directive on combating the sexual abuse and sexual exploitation of children²
 - EU rules on public procurement and concessions³
 - Solvency II Directive⁴
 - revised Environmental Impact Assessment Directive⁵
 - Energy Efficiency 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;
 - non-compliance with the requirements of the Energy Efficiency Directive⁸;
 - non-communication of national measures transposing the:
 - Indirect Land Use Change Directive⁹
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations¹⁰
 - Basic Safety Standards Directive¹¹.

¹ Regulation (EU) [2016/399](#) ; [MEMO/19/462](#).

² Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

³ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [INF/19/5950](#).

⁴ Directive [2009/138/EC](#), [INF/19/4251](#).

⁵ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [INF/19/4251](#).

⁶ Directive [2012/27/EU](#), [MEMO/19/462](#).

⁷ Regulation (EU) [2016/480](#), [INF/19/4251](#).

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

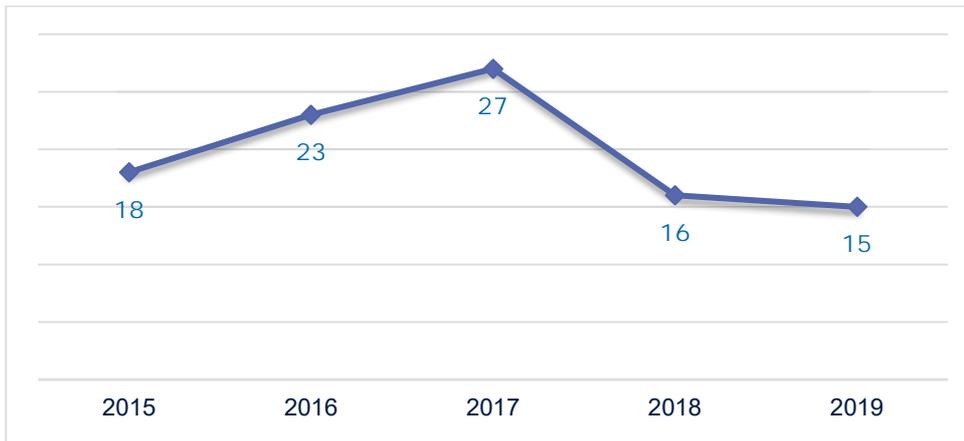
⁹ Directive (EU) [2015/1513](#).

¹⁰ Directive (EU) [2018/1581](#).

- 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 Estonia open on 31 December (2015-2019)

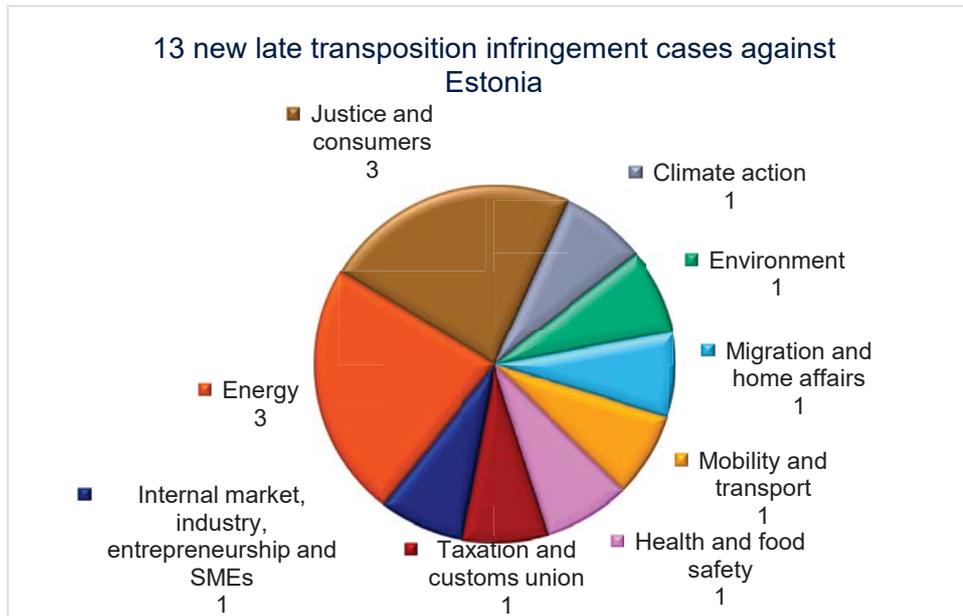


2. New late transposition infringement cases against Estonia (2015-2019)



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

¹¹ Council Directive [2013/59/Euratom](#).



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:
 - Reception Conditions Directive¹²
 - Asylum Procedures Directive¹³
 - Markets in Financial Instruments Directive (MiFID II)¹⁴;
 - Directive on certain aspects of the organisation of working time in inland waterway transport¹⁵.
- incorrect transposition of the:
 - Third Energy Package Directives¹⁶
 - Directive on the protection of animals used for scientific purposes¹⁷
 - Directive on administrative cooperation in the field of taxation (DAC1)¹⁸.

VI. IMPORTANT JUDGMENTS

1. Court rulings

¹² Directive [2013/33/EU](#); [INF/19/4251](#).

¹³ Directive [2013/32/EU](#).

¹⁴ Directive [2014/65/EU](#).

¹⁵ Directive [2014/112/EU](#).

¹⁶ Directives [2009/72/EC](#) and [2009/73/EC](#).

¹⁷ Directive [2010/63/EU](#).

¹⁸ Directive [2014/107/EU](#).

There were no major Court rulings in 2019.

2. Preliminary rulings

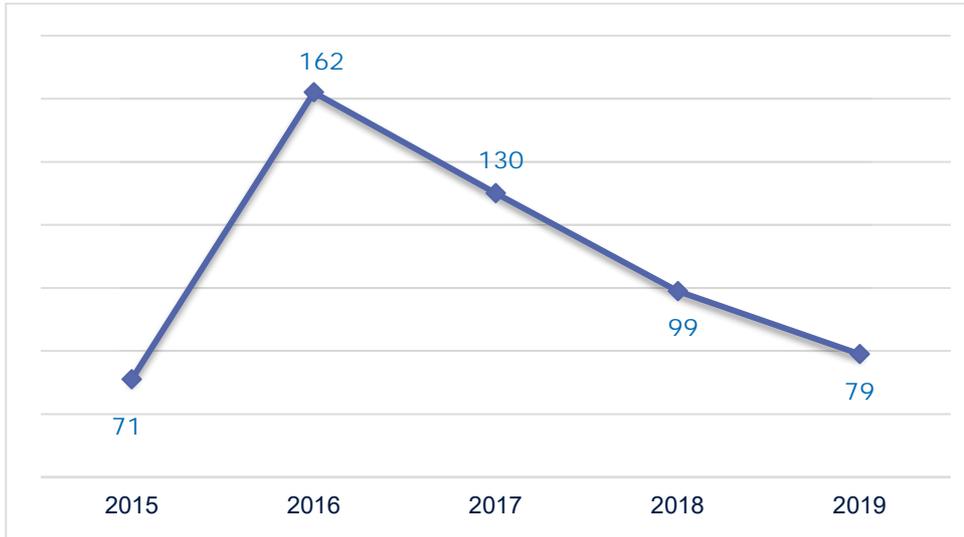
The Court addressed the following preliminary ruling to the Estonian judiciary:

- In the absence of criteria set at EU level to determine the end-of-waste status of a specific type of waste, such end status depends on the existence of criteria laid down in a generally applicable national legal act concerning that type of waste¹⁹.

¹⁹ *Tallinna Veski*, [C-60/18](#).

I. COMPLAINTS

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



2. Public complaints against Ireland open at year-end

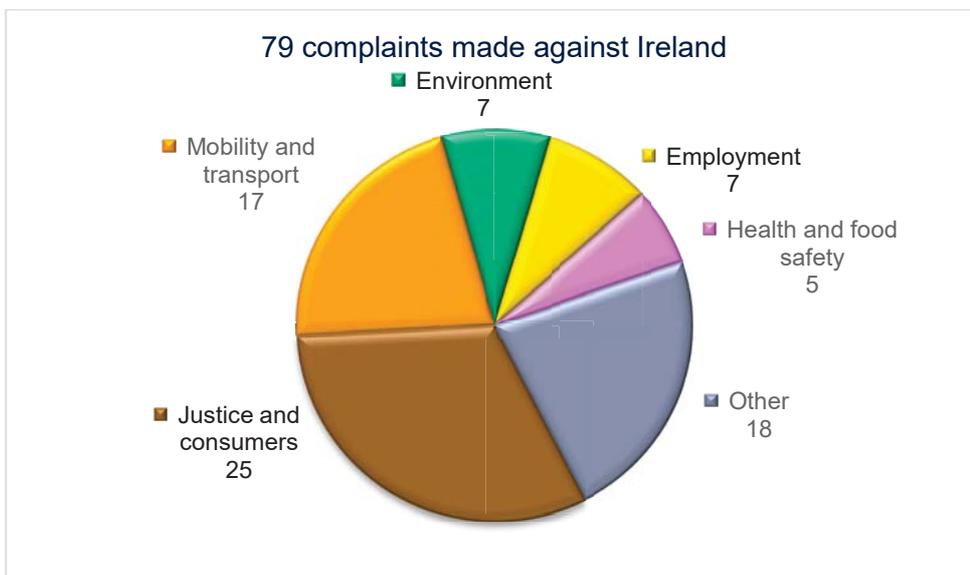
178 ▶ Complaints open at end-2018

79 ▶ New complaints registered in 2019

100 ▶ Complaints handled in 2019

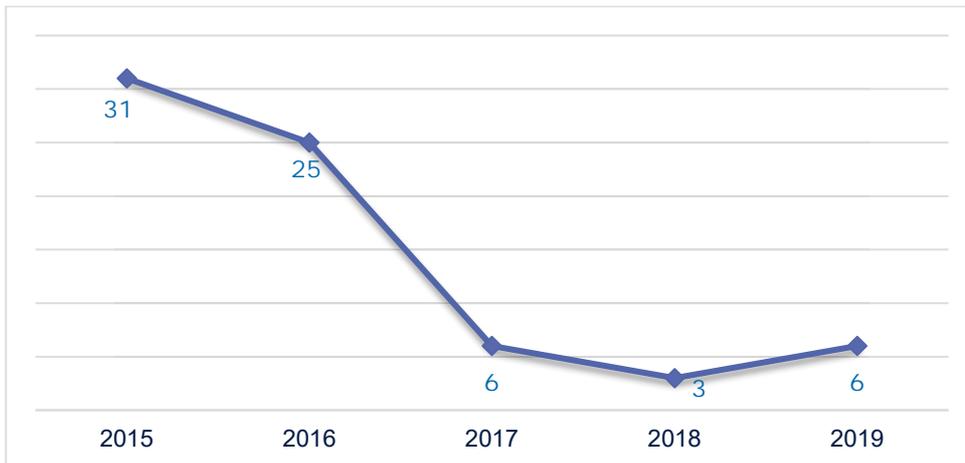
= 157 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

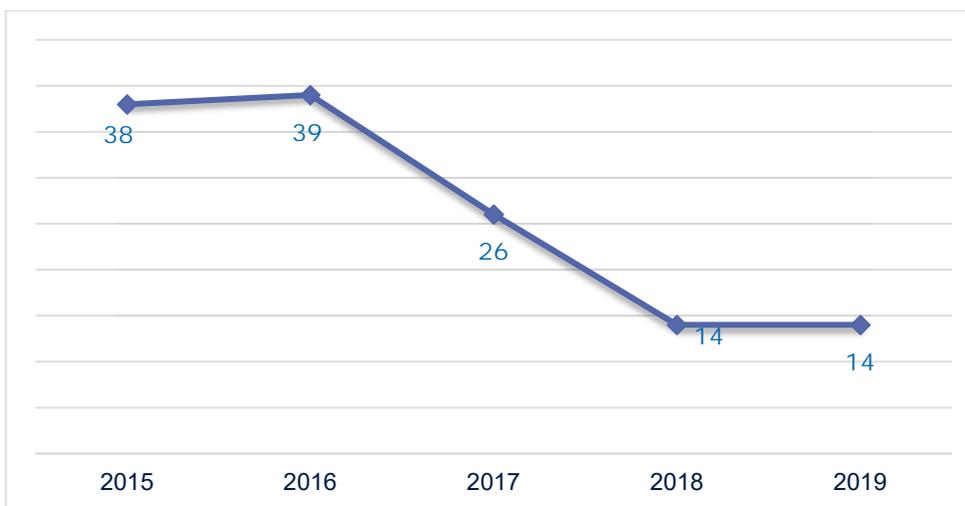


II. EU PILOT

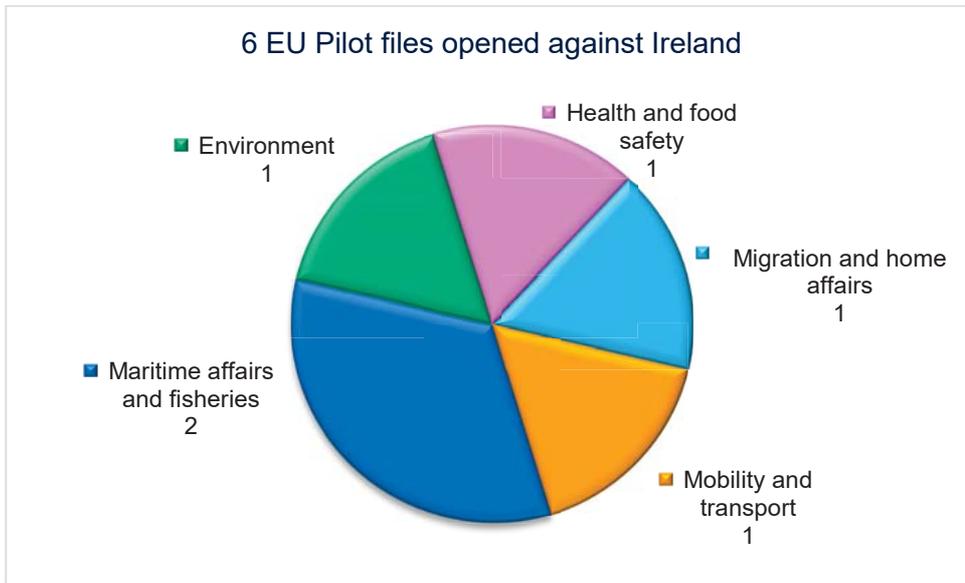
1. New EU Pilot files opened against Ireland (2015-2019)



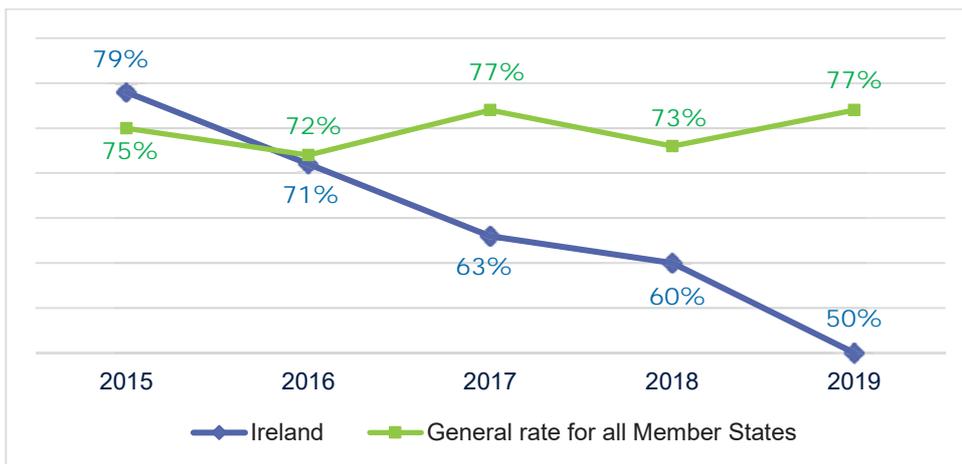
2. Files relating to Ireland open in EU Pilot at year-end



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

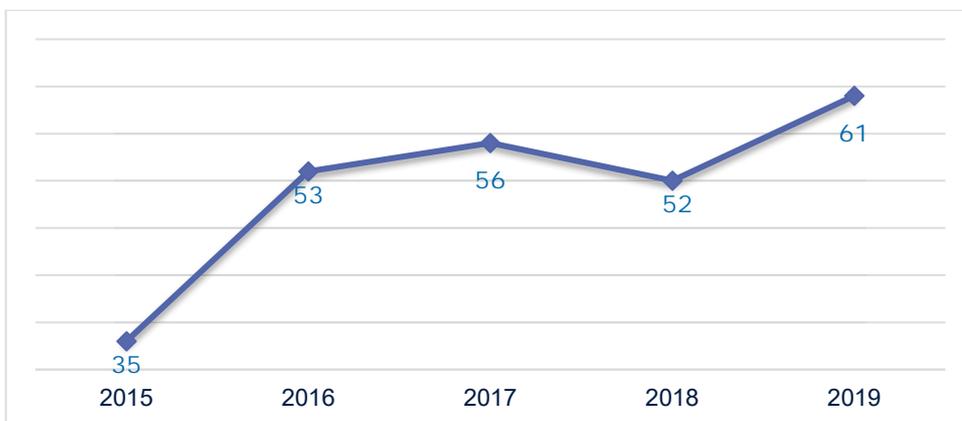


4. EU Pilot files: Ireland's resolution rate in 2015-2019

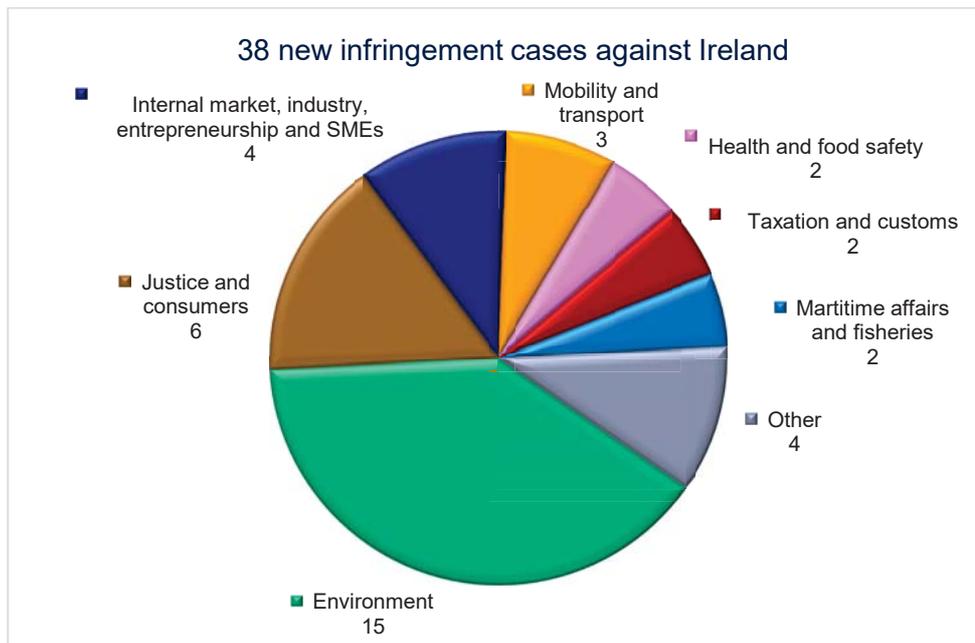


III. INFRINGEMENT CASES

1. Infringement cases against Ireland 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 Ireland in 2019. These, and other major ongoing infringement cases, include:
- failure to apply the Environmental Impact Assessment Directive to peat extraction operations²⁰;
 - incorrect transposition of the Water Framework Directive²¹;
 - late reporting on the environmental status of marine waters under the Marine Strategy Framework Directive²²;
 - failure to fulfil the obligations under the EU rules establishing a single European railway area²³;
 - failure to establish penalties in accordance with the Invasive Alien Species Regulation²⁴;
 - non-communication of national measures transposing the:
 - Directives on human tissues and cells²⁵
 - Basic Safety Standards Directive²⁶
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)²⁷
 - Bank Creditors Hierarchy Directive²⁸.

²⁰ Directive [2011/92/EU](#), [INF/19/4251](#).

²¹ Directive [2000/60/EC](#), [MEMO/19/462](#).

²² Directive [2008/56/EC](#), [INF/19/5950](#).

²³ Directive [2012/34/EU](#), [INF/19/4251](#).

²⁴ Regulation (EU) No [1143/2014](#), [INF/19/6304](#).

²⁵ Directive (EU) [2015/565](#) and Directive (EU) [2015/566](#), [MEMO/19/462](#).

²⁶ Directive [2013/59/Euratom](#), [MEMO/19/1472](#).

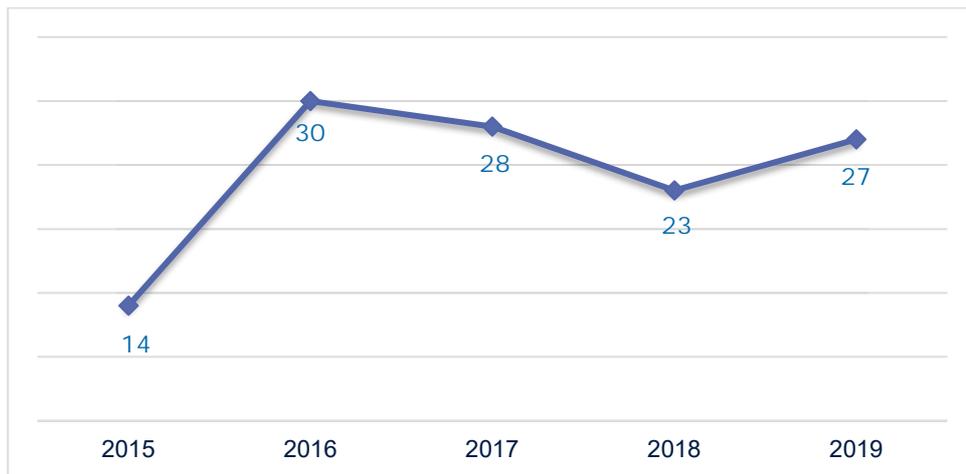
²⁷ Directive [2016/2341/EU](#).

²⁸ Directive [2017/2399/EU](#).

- b. [The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- failure to correctly implement EU law establishing the fundamental principles governing the investigation of accidents in the maritime transport sector²⁹.
- c. [The Commission did not refer any cases to the Court under Article 260(2) TFEU.]

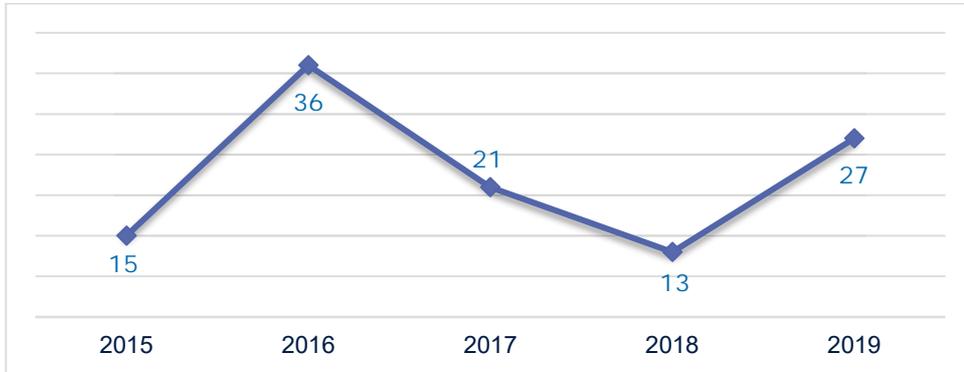
IV. TRANSPOSITION OF DIRECTIVES

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

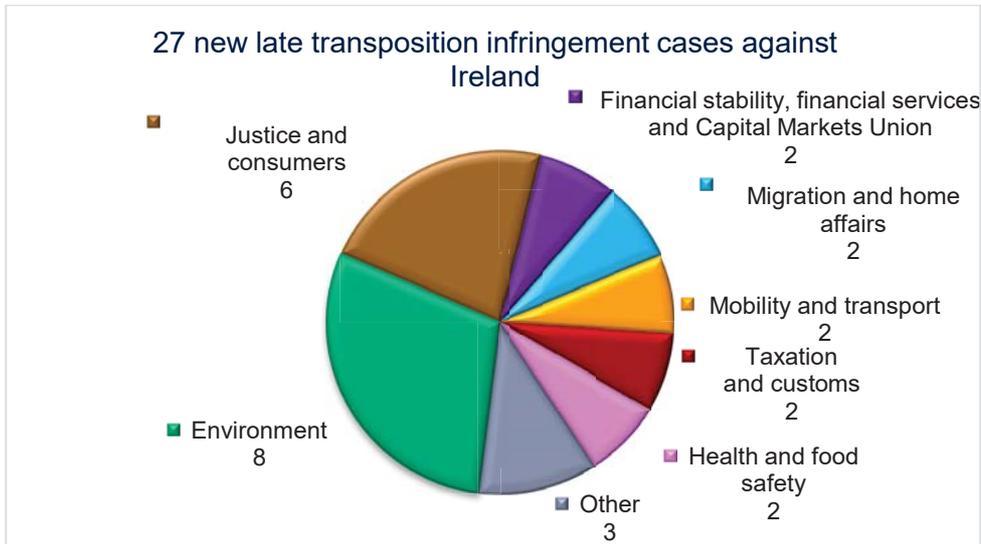


²⁹ Directive [2009/18/EC](#), *Commission v Ireland*, [C-257/19](#), [IP/18/4492](#).

2. New late transposition infringement cases against Ireland (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 Energy Performance of Buildings Directive³⁰;
- failure to correctly transpose certain requirements of the Radioactive Waste Directive³¹;
- non-communication of national measures transposing the:
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species³²

³⁰ Directive [2010/31/EU](#).

³¹ Directive [2011/70/Euratom](#).

- 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 species³³
- Commission Implementing Directive on protective measures against the introduction into the Community of organisms harmful to plants³⁴
- Directives on human tissues and cells³⁵
- minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights³⁶
- labour rights for seafarers³⁷
- Indirect Land Use Change Directive³⁸.

VI. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- Ireland has failed to comply with an earlier Court judgment³⁹, which required that a remedial environmental impact assessment be carried out for a large windfarm development in Derrybrien. The Court ordered Ireland to pay a lump sum of EUR 5 000 000 and a periodic penalty payment of EUR 15 000 for every day of delay until compliance is achieved⁴⁰.
- Ireland has not complied with the requirements of the Urban Waste Water Treatment Directive in multiple agglomerations as it had failed to put in place compliant waste water collecting systems to tackle excessive spills from storm water overflows and failed to provide adequate treatment of urban waste waters⁴¹.

2. Preliminary rulings

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

- Although a third-country national who is married to a Union citizen may lose a right of residence in a Member State following the departure of the Union citizen from the host Member State, the procedural safeguards laid down in the Free Movement Directive apply to the expulsion of that third-country national from the host Member State⁴².
- An EU citizen who acquired in another Member State the status of worker for the activity he pursued there for a period of 2 weeks before becoming involuntarily

³² Directive (EU) [2018/100](#).

³³ Directive (EU) [2019/114](#).

³⁴ Directive (EU) [2019/523](#).

³⁵ Directive (EU) [2015/565](#) and Directive (EU) [2015/566](#).

³⁶ Directive [2014/50/EU](#).

³⁷ Directive (EU) [2015/1794](#).

³⁸ Directive (EU) [2015/1513](#).

³⁹ *Commission v Ireland*, [C-215/06](#).

⁴⁰ *Commission v Ireland*, [C-261/18](#) and Court press release No [142/2019](#).

⁴¹ *Commission v Ireland*, [C-427/17](#), Directive [91/271/EEC](#)

⁴² *Nalini Chenchooliah v Minister for Justice and Equality*, [C-94/18](#), Directive [2004/38/EC](#).

unemployed retains this status for a further period of no less than 6 months. The citizen must register as a jobseeker with the relevant employment office. Any entitlement under national law to social security benefits or social assistance may be conditional upon a specified period of employment if the same condition is applicable to nationals of the Member State concerned⁴³.

- The public prosecutor's offices of a Member State, such as those of Germany, which may be subject, directly or indirectly, to directions or instructions from the executive, such as a Minister for Justice, in the issuing a European arrest warrant cannot be regarded as an 'issuing judicial authority'⁴⁴.
- The Prosecutor General of a Member State, such as that of Lithuania, whose legal position affords him a guarantee of independence from the executive when issuing a European arrest warrant is an 'issuing judicial authority'. When the competent issuing judicial authority under national law is not itself a court, the decision to issue such a European arrest warrant must be subject to court proceedings, which meet the requirements of effective judicial protection⁴⁵.
- The fact that a Member State, designated as responsible for the examination of an application for international protection pursuant to the rules set out in the Dublin Regulation, has notified its intention to withdraw from the European Union in accordance with Article 50 TEU does not oblige the Member State with which the application was lodged to itself examine the application⁴⁶.
- It is not necessary for a person to pursue an activity as an employed person in a Member State in order to be entitled to family benefits if his or her children are living in another Member State⁴⁷.

⁴³ *Neculai Tarola v Minister for Social Protection*, [C-483/17](#).

⁴⁴ *OG and PI*, [C-508/18](#) and [C-82/19](#).

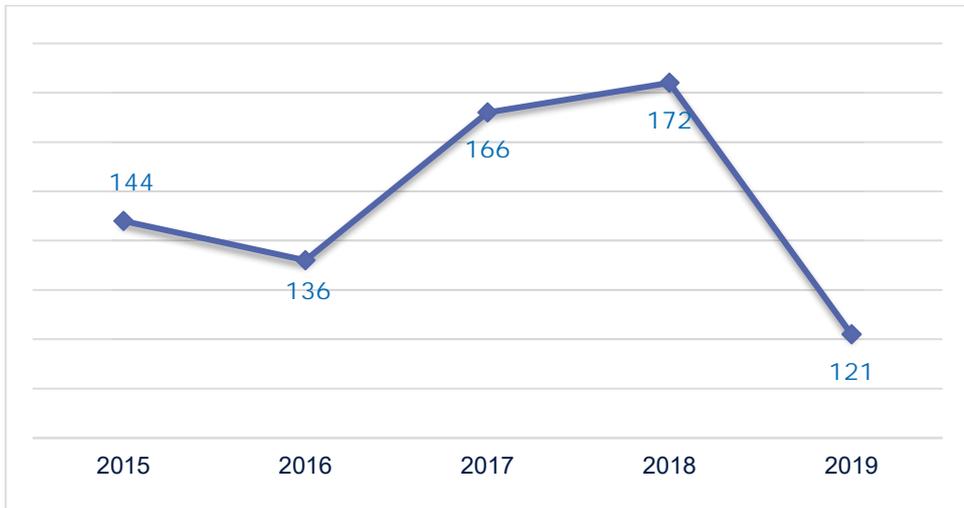
⁴⁵ *PF*, [C-509/19](#).

⁴⁶ *M.A. and Others*, Case [C-661/17](#).

⁴⁷ *Bogatu*, [C-322/17](#).

I. COMPLAINTS

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



2. Public complaints against Greece open at year-end

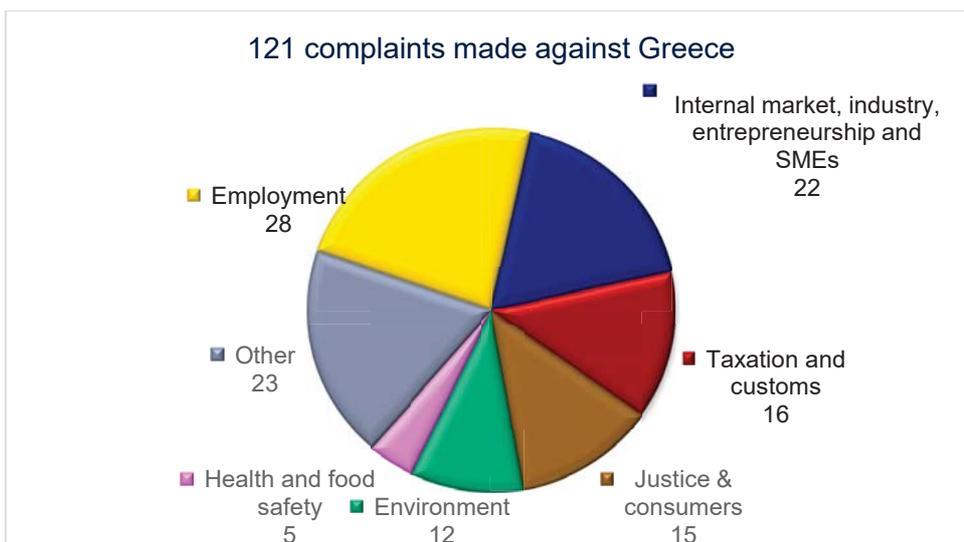
121 ▶ Complaints open at end-2018

121 ▶ New complaints registered in 2019

139 ▶ Complaints handled in 2019

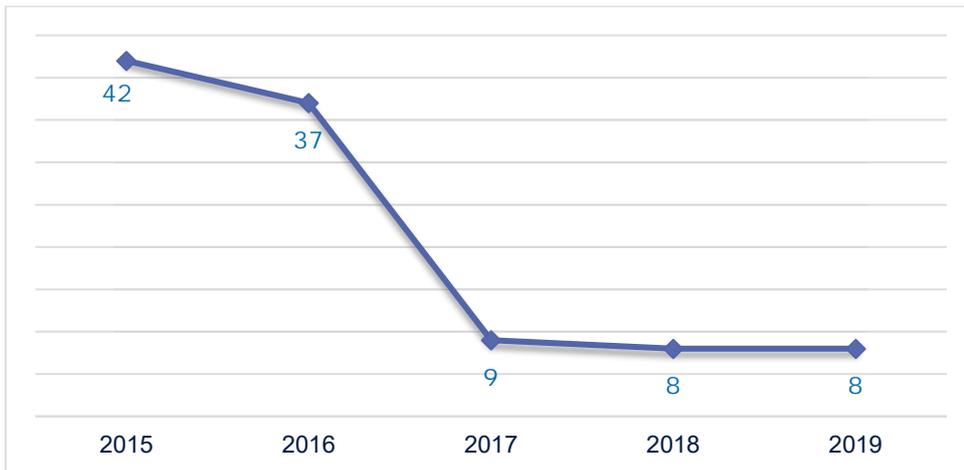
= 103 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

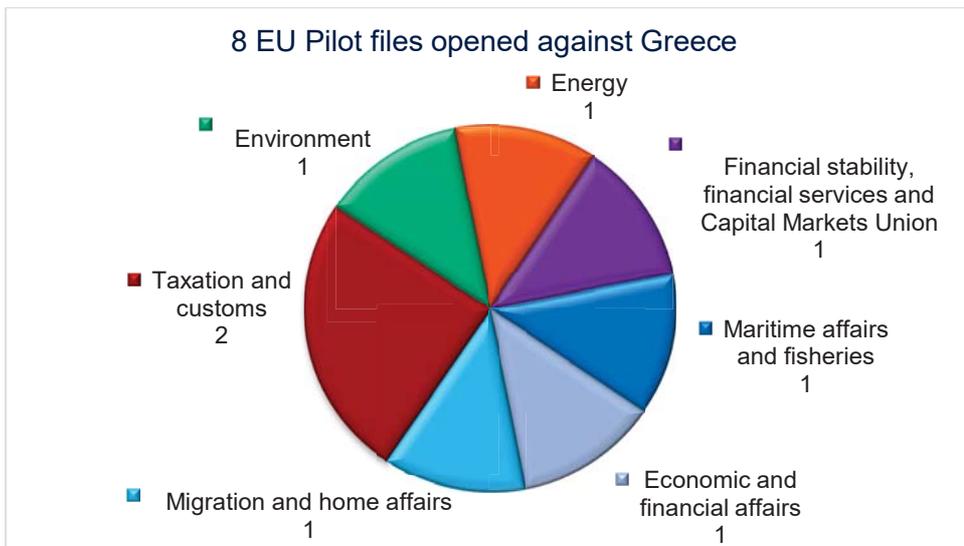


II. EU PILOT

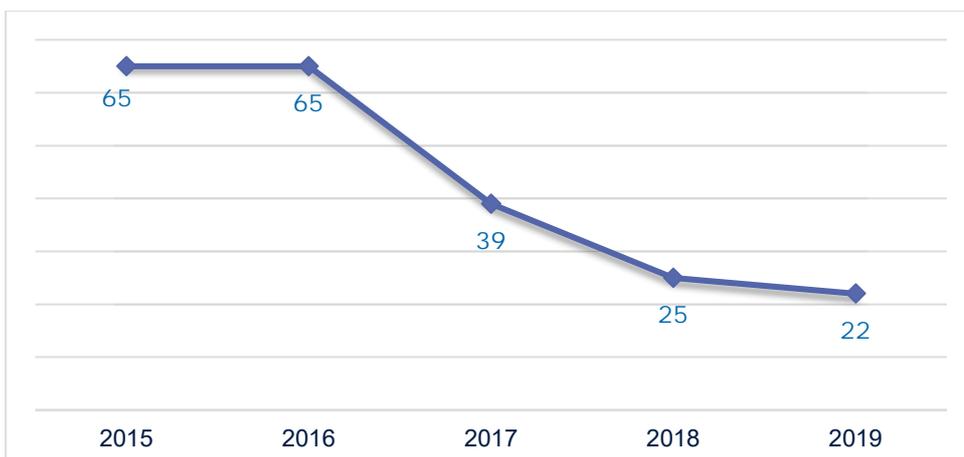
1. New EU Pilot files opened against Greece (2015-2019)



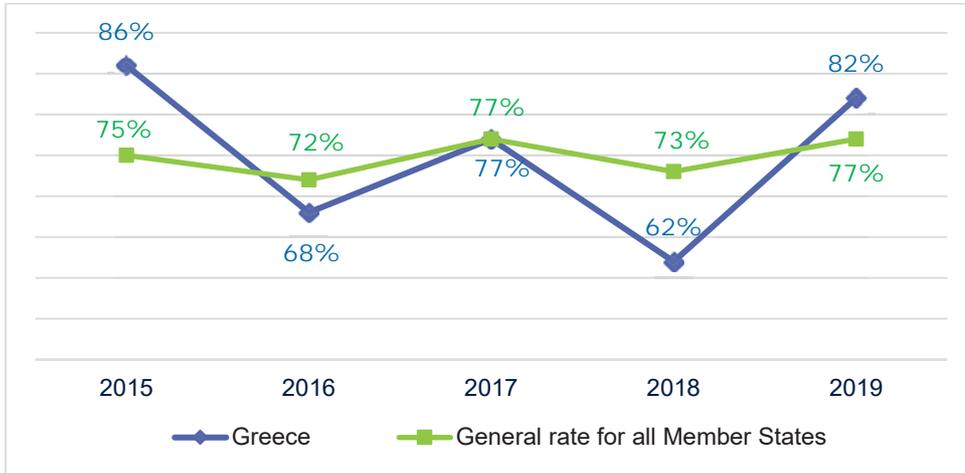
2. New EU Pilot files opened in 2019: policy areas



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

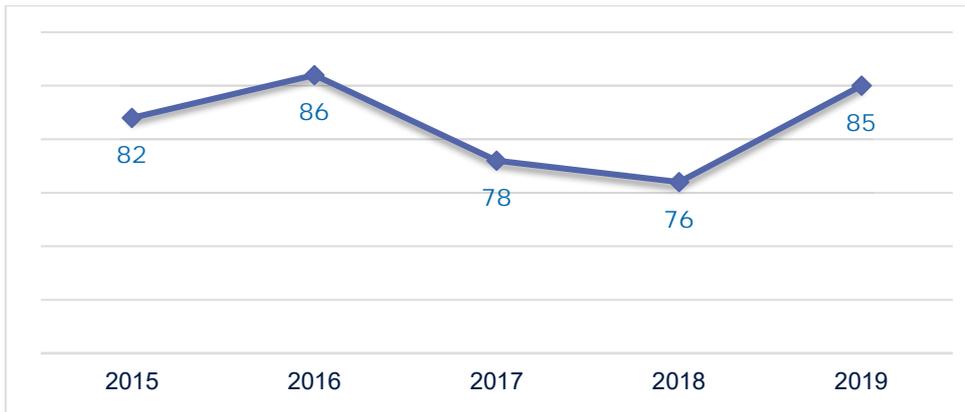


4. EU Pilot files: Greece's resolution rate in 2015-2019



III. INFRINGEMENT CASES

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



2. New infringement cases opened in 2019: policy areas

Greece



3. Key infringement cases and referrals to the Court

- a. The Commission opened 39 new infringement cases against Greece in 2019. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the:
 - Directive on conditions of entry and residence of third-country nationals for research and studies¹
 - Directive on combating terrorism²
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)³
 - Basic Safety Standards Directive⁴
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations⁵;
 - failure to effectively implement the rules on the 112 emergency number, in particular by not ensuring equivalent access for disabled users⁶;
 - failure to submit information about operators of essential services identified under the EU law on the security of network and information systems⁷;
 - incorrect transposition of the Directive on criminal sanctions for market abuse⁸;
 - incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children⁹;

¹ Directive [2016/801/EU](#), [MEMO/19/462](#).

² Directive [\(EU\) 2017/541](#), [INF/19/4251](#).

³ Directive [2016/2341/EU](#), [INF/19/5950](#).

⁴ Directive [2013/59/Euratom](#), [INF/19/6304](#).

⁵ Directive (EU) [2018/1581](#).

⁶ Directive (EU) [2002/22](#), [INF/19/4251](#).

⁷ Directive (EU) [2016/1148](#), [INF/19/4251](#).

⁸ Directive [2014/57/EU](#), [INF/19/4251](#).

⁹ Directive [2011/93/EU](#), [INF/19/5950](#).

- obstacles to the recognition of professional qualifications¹⁰;
 - incorrect implementation of the SEPA Regulation¹¹;
 - non-conformity of certain provisions with the third Motor Insurance Directive¹²;
 - lack of measures to address waste problems in Corfu Island¹³;
 - incorrect transposition of the Industrial Emissions Directive and failure to protect citizens from noxious air pollution from several power plants, as required by the said Directive¹⁴;
 - failure to comply with the nitrogen dioxide (NO₂) limit values set by the Air Quality Directive, to put in place adequate sampling points to properly monitor NO₂ concentrations and to make available a complete air quality report¹⁵;
 - incorrect transposition of the revised Environmental Impact Assessment Directive¹⁶;
 - failure to comply with the minimum requirements of control on driving and resting times, and on the use of tachographs¹⁷;
 - non-compliance with the requirements of the Energy Efficiency Directive¹⁸;
 - failure to establish penalties in accordance with the Invasive Alien Species Regulation¹⁹.
- b. [The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- failure to establish the necessary conservation measures and objectives for all sites designated as Special Areas of Conservation under the Habitats Directive²⁰.
- c. [The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
- failure to comply with a Court judgment establishing that Greece had failed to protect its waters against pollution caused by nitrates from agricultural sources²¹.]

IV. TRANSPOSITION OF DIRECTIVES

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

¹⁰ Directive [2005/36/EC](#), as amended by Directive [2013/55/EU](#) and [TFEU, INF/19/4251](#).

¹¹ Regulation (EU) [260/2012](#), [MEMO/19/1472](#).

¹² Directive [2009/103/EC](#).

¹³ [MEMO/19/1472](#).

¹⁴ Directive [2010/75/EU](#), [INF/19/4251](#).

¹⁵ Directive [2008/50/EC](#), [MEMO/19/462](#).

¹⁶ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [INF/19/5950](#).

¹⁷ Directive [2006/22/EC](#), Regulation (EC) No [561/2006](#), Regulation (EU) [165/2014](#), [MEMO/19/1472](#).

¹⁸ Directive [2012/27/EU](#), [MEMO/19/462](#).

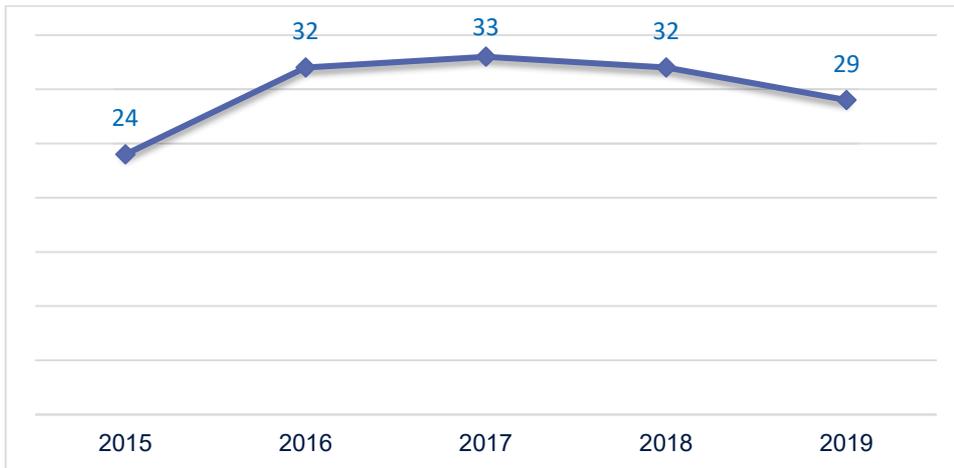
¹⁹ Regulation (EU) No [1143/2014](#), [INF/19/6304](#).

²⁰ Directive [92/43/EEC](#), Commission v Greece, [C-849/19](#), [IP/19/4257](#).

²¹ Commission v Greece, [C-298/19](#), [MEMO/19/1472](#).

Monitoring the application of European Union law
2019 Annual Report

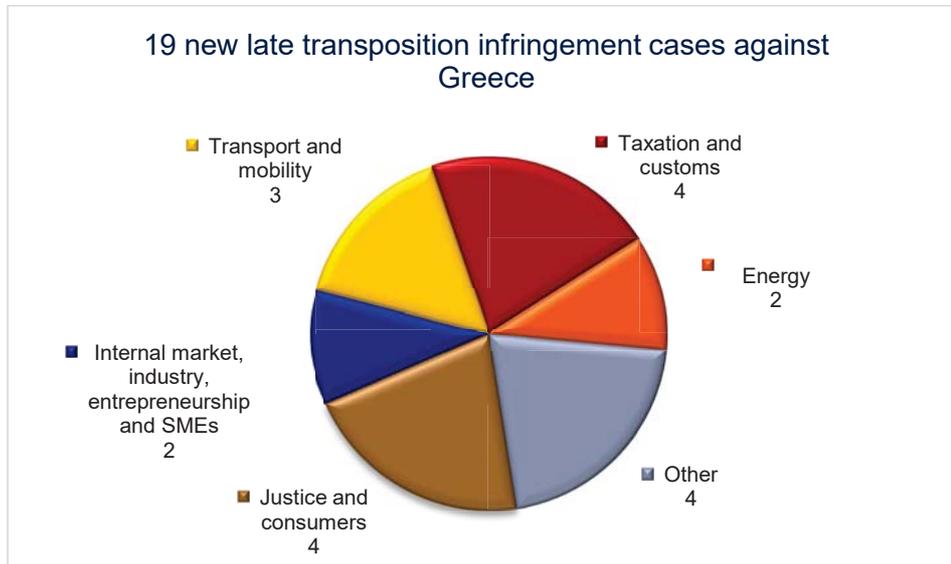
Greece



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



3. New late transposition infringement cases opened in 2019: 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:
 - Long Term Residents Directive²²
 - Reception Conditions Directive²³
 - Asylum Procedures Directive²⁴
 - labour rights for seafarers²⁵
 - Markets in Financial Instruments Directive (MiFID II)²⁶
 - Anti-Tax Avoidance Directive (ATAD1)²⁷
 - Directive as regards access to anti-money laundering information (DAC5)²⁸
 - Directive on antitrust damages actions²⁹
 - Indirect Land Use Change Directive³⁰;

²² Directive [2011/51/EU](#).

²³ Directive [2013/33/EU](#), [INF/19/4251](#).

²⁴ Directive [2013/32/EU](#).

²⁵ Directive (EU) [2015/1794](#).

²⁶ Directive [2014/65/EU](#).

²⁷ Directive (EU) [2016/1164](#).

²⁸ Directive [2016/2258/EU](#).

²⁹ Directive [2014/104/EU](#).

³⁰ Directive (EU) [2015/1513](#).

- disproportionate charges for issuance of residence permits;
- failure to establish a general system for the protection of wild birds, prohibiting, in particular, their deliberate killing through poison baits;
- shortage of staff assigned to the services responsible for veterinary controls;
- non-compliance with the Energy Performance of Buildings Directive³¹;
- incorrect implementation of EU rules on civil aviation security³².

VI. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- Greece introduced illegal additional requirements to the training of mediators, in breach of EU rules³³.
- Greece's application of a reduced excise duty rate on the spirit drinks, Tsipouro and Tsikoudia, produced by systematic distilleries, and the application of a super-reduced rate to those spirits produced by small occasional distillers are both incompatible with EU law³⁴.

2. Preliminary rulings

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

- The Directive on the transfer of undertakings may, under certain conditions, apply in a situation where the transferor, the transferee or both envisage not only the pursuit of the activity transferred, but also the future liquidation of the transferee itself³⁵.
- When the public is not put in a position to actually participate in the environmental impact assessment for a project, a time limit cannot be imposed on the public to bring proceedings against the decision granting consent for the project³⁶.
- Greek legislation prohibiting a monk who has the status of lawyer in another Member State from registering at the bar, on account of the incompatibility between the status of monk and the profession of lawyer, is contrary to EU law³⁷.

³¹ Directive [2010/31/EU](#).

³² Regulation (EC) No [300/2008](#).

³³ Commission v Greece, [C-729/17](#).

³⁴ Commission v Greece, [C-91/18](#).

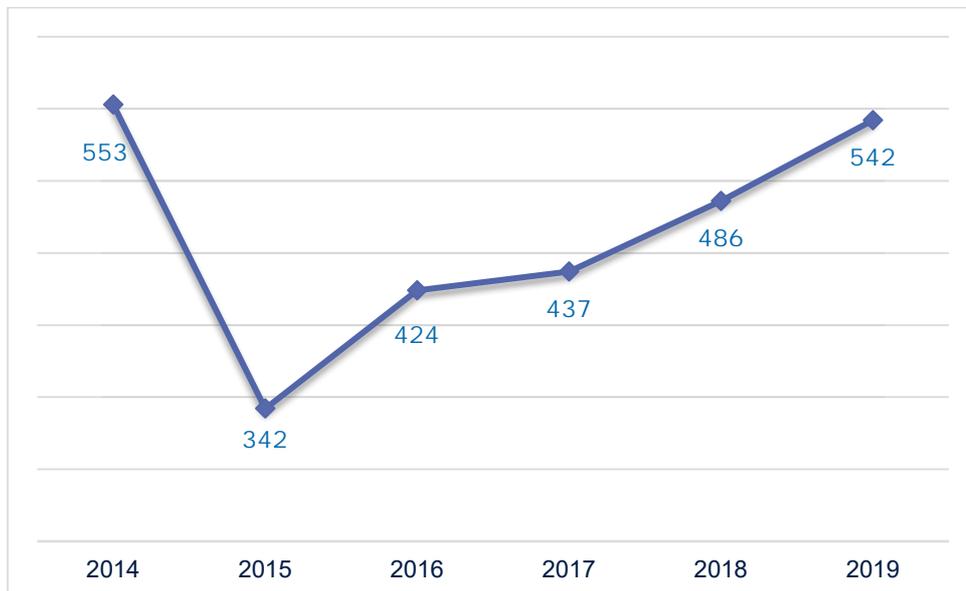
³⁵ Ellinika Nafpigeia, [C-664/17](#).

³⁶ Flausch and Others, [C-280/18](#) and Court press release No 137/2019.

³⁷ Monachos Eirinaios, [C-431/17](#) and Court press release No 56/2019.

I. COMPLAINTS

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



2. Public complaints against Spain open at year-end

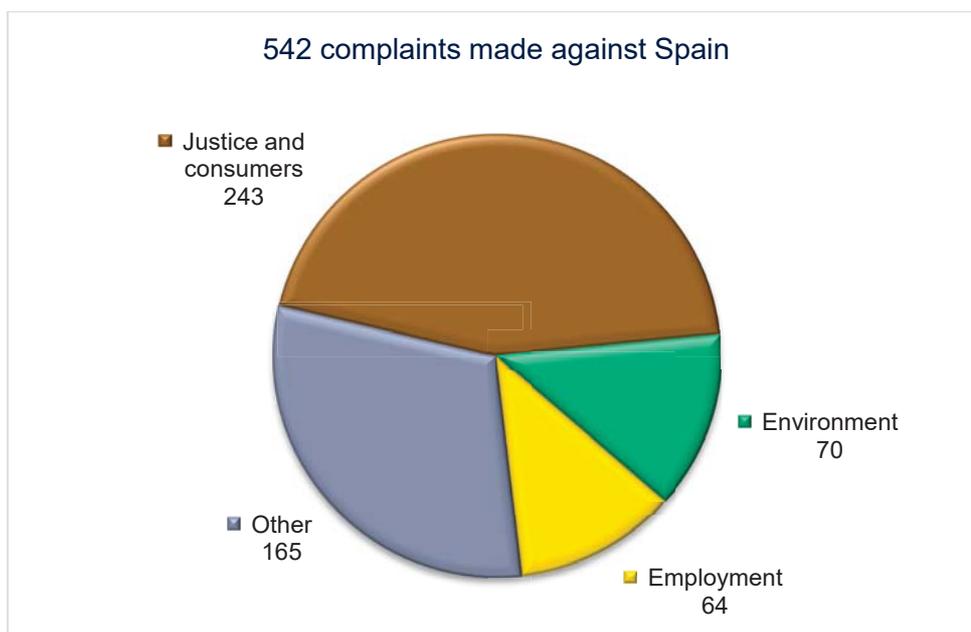
395 ▶ Complaints open at end-2018

542 ▶ New complaints registered in 2019

537 ▶ Complaints handled in 2019

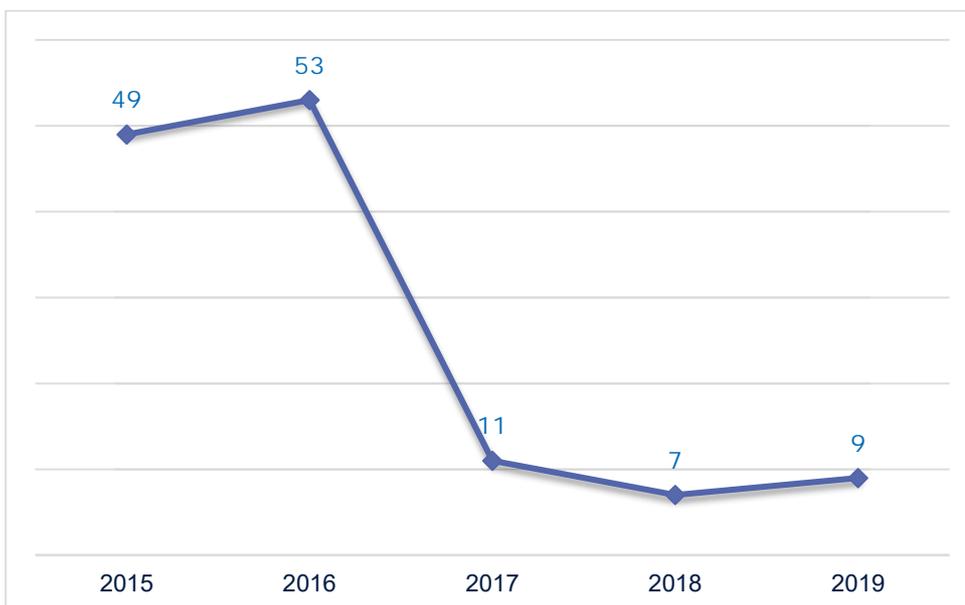
= 400 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

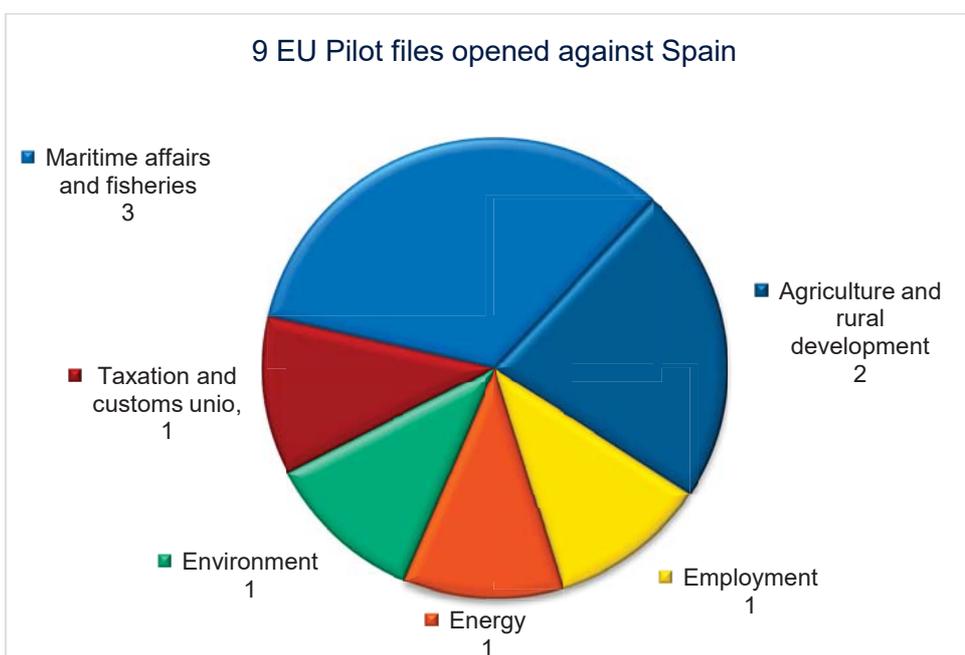


II. EU PILOT

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

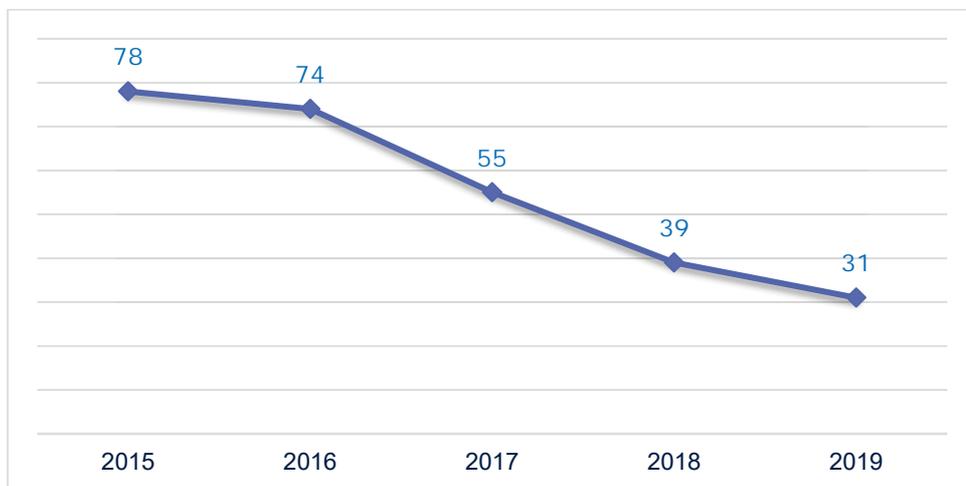


2. New EU Pilot files opened in 2019: main policy areas

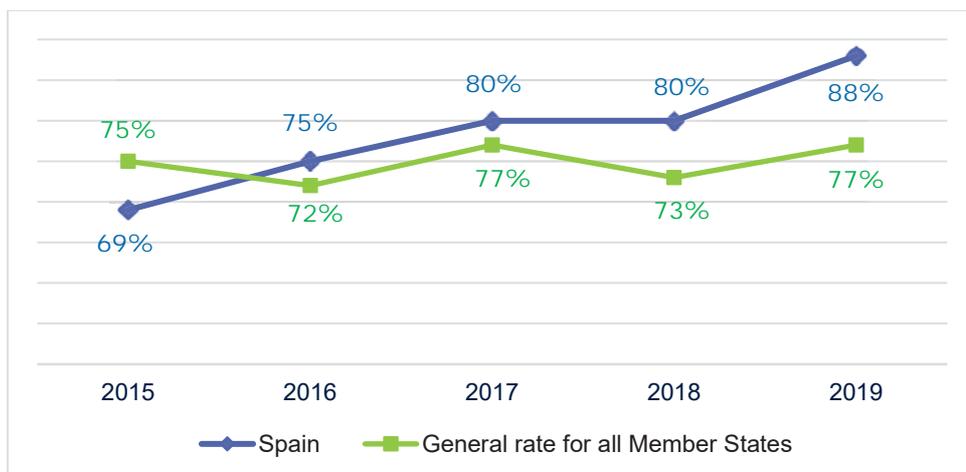


Spain

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

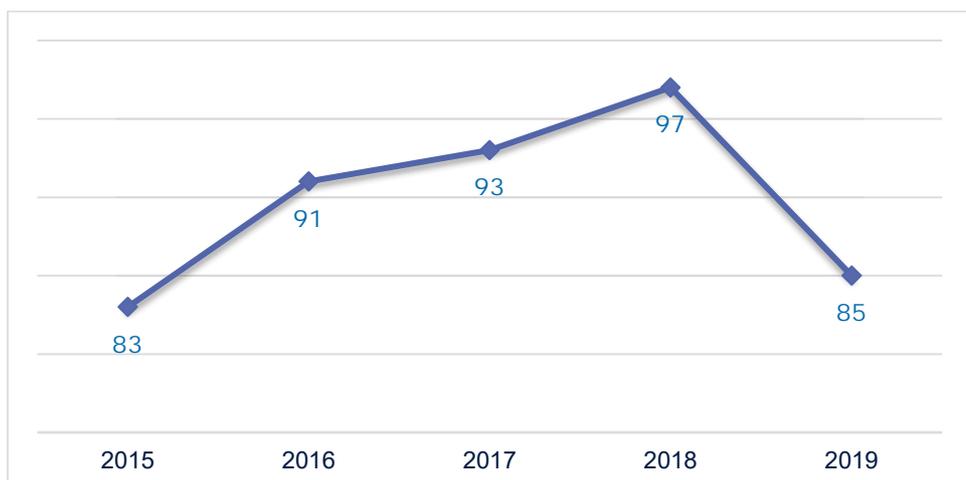


4. EU Pilot files: Spain's resolution rate in 2015-2019



III. INFRINGEMENT CASES

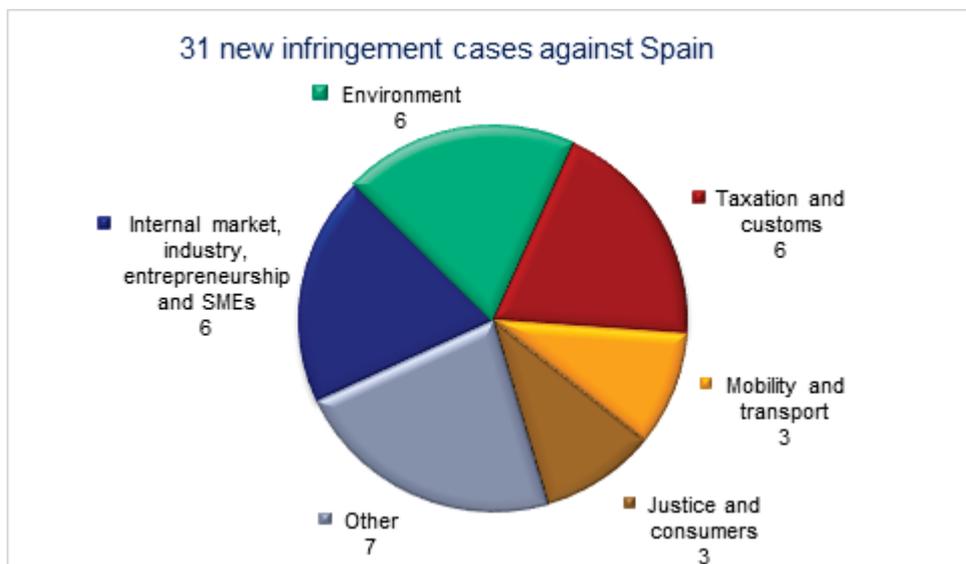
1. Infringement cases against Spain open on 31 December (2015-2019)



Monitoring the application of European Union Law
2019 Annual Report

Spain

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



3. Key infringement cases and referrals to the Court

a. The Commission opened 31 new infringement cases against Spain in 2019.

These, and other major ongoing infringement cases, include:

- incorrect transposition of the:
 - Directive on criminal sanctions for market abuse¹
 - Directive on combating the sexual abuse and sexual exploitation of children²
 - Energy Efficiency Directive³
 - EU legislation on railway safety⁴
 - Directive on minimum safety requirements for tunnels in the trans-European road network⁵
 - Universal Service Directive, in particular by not ensuring equivalent access for disabled users to the 112 emergency number⁶;
- incompatibility of national rules on paid annual leave with EU labour legislation⁷;
- delays in the implementation of the Geo-blocking Regulation, by failing to provide for measures and mechanisms for consumer protection⁸;
- failure to ensure that urban waste water is adequately collected and treated⁹;
- incorrect application of the Merger Directive¹⁰;

¹ Directive [2014/57/EU](#); [INF/19/4251](#),

² Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

³ Directive [2012/27/EU](#), [INF/19/4251](#).

⁴ Directive [2004/49/EC](#), [MEMO/19/462](#).

⁵ Directive [2004/54/EC](#), [INF/19/5950](#).

⁶ Directive (EU) [2002/22](#); [INF/19/4251](#).

⁷ Directive [2003/88/EC](#), [INF/19/4251](#).

⁸ Regulation (EU) [2018/302](#); [INF/19/4251](#).

⁹ Directive [91/271/EEC](#), [INF/19/6304](#).

Spain

- failure to take the necessary measures to enhance protection of the species of the turtle dove as required by the Birds Directive¹¹;
 - failure to adopt a national programme for the implementation of a spent fuel and radioactive waste management policy that is compliant with the requirements of the Radioactive Waste Directive¹²;
 - discrimination on the taxation of rental income of non-resident individuals in breach of Article 63 TFEU¹³;
 - obligation to appoint a fiscal representative in Spain in violation of Articles 45, 49 and 56 of TFEU¹⁴;
 - 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 fulfil the obligations under the EU rules establishing a single European railway area¹⁶;
 - non-communication of national measures transposing the:
 - Directive on the use of passenger name records¹⁷
 - Asylum Procedures Directive¹⁸
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)¹⁹
 - Bank Creditors Hierarchy Directive²⁰
 - the Basic Safety Standards Directive²¹.
- b. The Commission referred four case(s) to the Court under Article 258 TFEU.
They involve the following infringements:
- failure to take adequate measures to protect the groundwater bodies that feed the Doñana wetlands and to prevent the deterioration of protected habitats in these wetlands, in violation of the Water Framework Directive and the Habitats Directive²²;
 - absence of flood risk management plans, required under the Floods Directive, for all seven river basin districts in the Canary Islands²³;
 - failure to comply with the requirements on individual metering in multi-apartment and multi-purpose buildings laid down in the Energy Efficiency Directive²⁴;

¹⁰ Directive [90/434/EEC](#), [IP/19/462](#).

¹¹ Directive [2009/147/EC](#), [INF/19/4251](#).

¹² Directive [2011/70/Euratom](#), [INF/19/6304](#).

¹³ [IP/19/1472](#).

¹⁴ [IP/19/4251](#).

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

¹⁶ Directive [2012/34/EU](#), [INF/19/5950](#).

¹⁷ Directive (EU) [2016/681](#); [MEMO/19/462](#).

¹⁸ Directive [2013/32/EU](#); [INF/19/4251](#).

¹⁹ Directive [2016/2341/EU](#).

²⁰ Directive [2017/2399/EU](#).

²¹ Council Directive [2013/59/Euratom](#).

²² Directives [2000/60/EC](#) and [92/43/EEC](#), Commission v Spain, [C-559/19](#), [IP/19/466](#).

²³ Directive [2007/60/EC](#), Commission v Spain, [C-384/19](#), [IP/19/465](#).

Spain

- failure to fulfil obligations under Articles 21, 45, 56 and 63 TFEU, and Articles 28, 31, 36 and 40 of the EEA Agreement as regards certain features of the obligation to provide information on assets located abroad (Modelo 720)²⁵.
- c. The Commission did not refer any cases to the Court under Article 260(2) TFEU.

²⁴ Directive [2012/27/EU](#), Commission v Spain, [C-347/19](#); [IP/19/1473](#).

²⁵ Case [C-788/19](#) Commission v Spain, [IP/19/2774](#).

IV. TRANSPOSITION OF DIRECTIVES

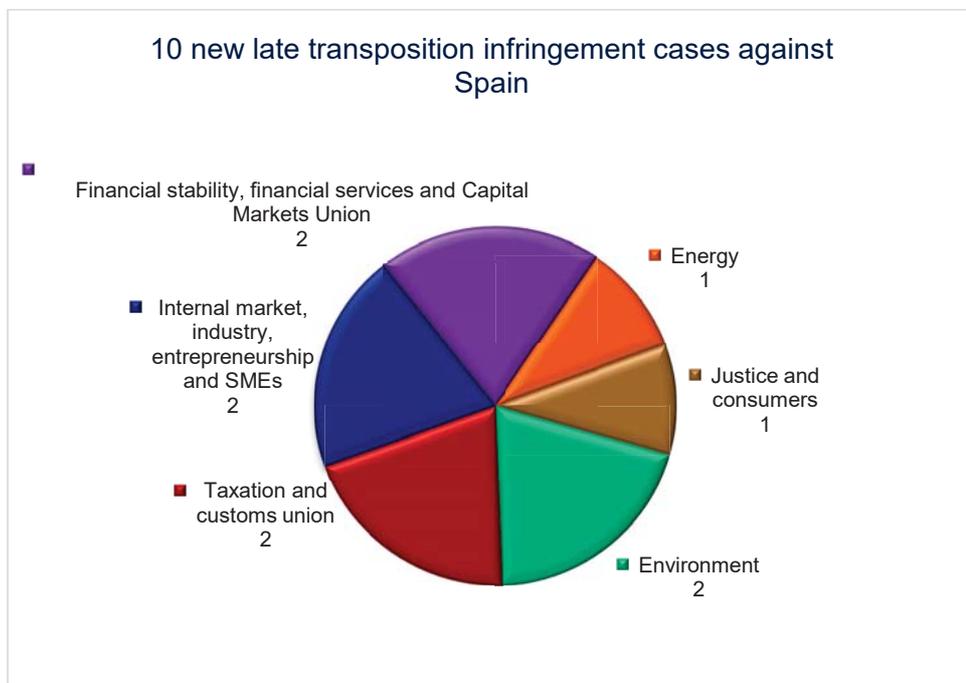
1. Late transposition infringement cases against Spain open on 31 December (2015-2019)



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



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



V. REFERRALS TO THE COURT

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

- concerned a failure to transpose the Data Protection Law Enforcement Directive²⁶.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2019

These concerned:

- incorrect transposition of the Third Energy Package Directives²⁷;
- incompatibility of the Spanish procedural law with the Directive on unfair contract terms and breach of Article 47 of the EU Charter of Fundamental Rights²⁸;
- obstacles to the free movement of food supplements²⁹;
- trapping of five species of wild finches beyond the strict conditions set by the Directive on the conservation of wild birds³⁰;
- incorrect transposition of the Directive on the protection of animals used for scientific purposes³¹;

²⁶ *Commission v Spain*, [C-658/19](#), [IP/19/4261](#). The Commission has decided to refer Spain and ask both for the payment of a daily penalty (EUR 89 548.20 per day) and a lump-sum: EUR 21 321.00 per day, with a minimum of EUR 5 290 000.

²⁷ Directives [2009/72/EC](#) and [2009/73/EC](#).

²⁸ Directive [93/13/EEC](#).

²⁹ Article 34 [TFEU](#).

³⁰ Directive [2009/147/EC](#).

³¹ Directive [2010/63/EU](#).

- failure to communicate national measures transposing the:
 - Directive on tobacco products³²
 - Directive on conditions of entry and residence of third-country nationals for research and studies³³
 - Directive on standards for the qualification of third-country nationals as beneficiaries of international protection³⁴
 - Reception Conditions Directive³⁵
 - Markets in Financial Instruments Directive (MiFID II)³⁶
 - Mortgage Credit Directive³⁷
 - Offshore Safety Directive³⁸
 - Nuclear Safety Directive³⁹.

VII. IMPORTANT JUDGMENTS

1. Court rulings⁴⁰

The Court ruled the following:

- *Spain* has not adopted on time, as required by the Water Framework Directive, the second round of river basin management plans for Lanzarote, Fuerteventura, Gran Canaria, Tenerife, La Gomera, La Palma and El Hierro⁴¹.
- The Court dismissed the Commission's action against *Spain* concerning the adoption and/or revision of waste management plans. The Court found that the Commission had prematurely opened the pre-litigation stage of the infringement procedure and, consequently, dismissed the action as inadmissible⁴².

2. Preliminary rulings

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

- The requirements stemming from the principles of effectiveness and ex officio review of unfair contract terms apply also to proceedings for a European payment order. Therefore, the courts seized with a request to issue a European order for payment must be able to request from the creditor additional information on contract terms, in order to assess the possible unfairness of such terms⁴³.
- Figurative signs may trigger directly in the consumer's mind the image of products whose designation of origin is protected, on account of their 'conceptual proximity' to

³² Directive [2014/40/EU](#).

³³ Directive [2016/801/EU](#).

³⁴ Directive [2011/95/EU](#); [INF/19/4251](#).

³⁵ Directive [2013/33/EU](#); [INF/19/4251](#).

³⁶ Directive [2014/65/EU](#).

³⁷ Directive [2014/17/EU](#).

³⁸ Directive [2013/30/EU](#).

³⁹ Directive [2014/87/Euratom](#).

⁴⁰ These rulings are almost exclusively handed down in infringement procedures.

⁴¹ *Commission v Spain*, [C-556/18](#).

⁴² *Commission v Spain*, [C-642/18](#).

⁴³ *Bondora*, [C-453/18](#) and [C-494/18](#).

Spain

such a designation. Consequently, a protected designation of origin, such as 'queso manchego', may be evoked through the use of figurative signs, including where such figurative signs are used by a producer established in the geographical area associated with the designation of origin, but whose products, similar or comparable to those protected by the designation of origin, are not covered by it⁴⁴.

- On the basis of the Working Time Directive and in light of the Charter of Fundamental Rights of the EU, the Member States must require employers to set up an objective, reliable and accessible system enabling the duration of time worked each day by each worker to be measured⁴⁵.
- A financial contribution imposed on certain electricity generating undertakings to finance savings and energy efficiency plans managed by a public authority does not constitute a public service obligation under the Electricity Directive⁴⁶.
- National legislation may set taxes on the production and storage of nuclear fuel and waste which apply only to electricity-generating undertakings using nuclear energy and whose main objective is to increase the amount of revenue for the electricity financial system. Such legislation does not violate the principle of non-discrimination provided for by the Electricity Directive⁴⁷.
- EU law does not prohibit a tax on the use of inland waters for the production of electricity which does not incentivise the efficient use of water, nor establish mechanisms for the preservation and protection of public water resources, as it is focused solely and exclusively on the income-generating capacity of hydroelectricity producers. A tax on the use of inland waters to produce electricity which exclusively affects hydroelectricity generators operating in river basins encompassing more than one autonomous community and not those operating in river basins encompassing a single autonomous community is not considered discriminatory⁴⁸.
- Immunity implies lifting the pre-trial detention measure imposed prior to the election of the person concerned as member of the European Parliament, allowing him or her to take part in the inaugural session of the European Parliament. However, if the competent national court considers that the detention measure should be maintained after that person has become member of the European Parliament, it must, as soon as possible, request that the European Parliament waive that immunity⁴⁹.
- Calculating the length of service of a part-time worker whose working hours are 'distributed vertically' over the whole year (a vertical cyclical part-time worker) solely on

⁴⁴ *Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego*, [C-614/17](#) and Court press release [No 55/19](#).

⁴⁵ *CCOO*, [C-55/18](#).

⁴⁶ Directive [2009/72/EC](#), *Engie Cartagena*, [C-523/18](#).

⁴⁷ Directive [2009/72/EC](#), joined cases: *UNESA*, [C-80/18](#), *Endesa Generación*, [C-81/18](#), *Endesa Generación*, [C-82/18](#) and *Iberdrola Generación Nuclear*, [C-83/18](#).

⁴⁸ Joined cases: *UNESA*, [C-105/18](#), *Engasa*, [C-106/18](#), *Duerocanto*, [C-107/18](#), *Acciona*, [C-108/18](#), *Associació de Productors i Usuaris d'Energia Elèctrica*, [C-109/18](#), *Burgos Pérez and Guinea Bueno*, [C-110/18](#), *Endesa Generación*, [C-111/18](#), *APPA*, [C-112/18](#), *Parc del Segre and Others*, [C-113/18](#).

⁴⁹ *Junqueras Vies*, [C-502/19](#).

Spain

the basis of periods actually worked when it comes to the right to pay rise and promotion, while not doing the same for comparable full-time workers, may be discriminatory and therefore breach the Framework Agreement on Part-Time Work and the Equal Treatment Directive⁵⁰.

⁵⁰ *OH/ER v AEAT*, joined cases [C-439/18](#) and C-472/18.

France

I. COMPLAINTS

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



2. Public complaints against France open at year-end

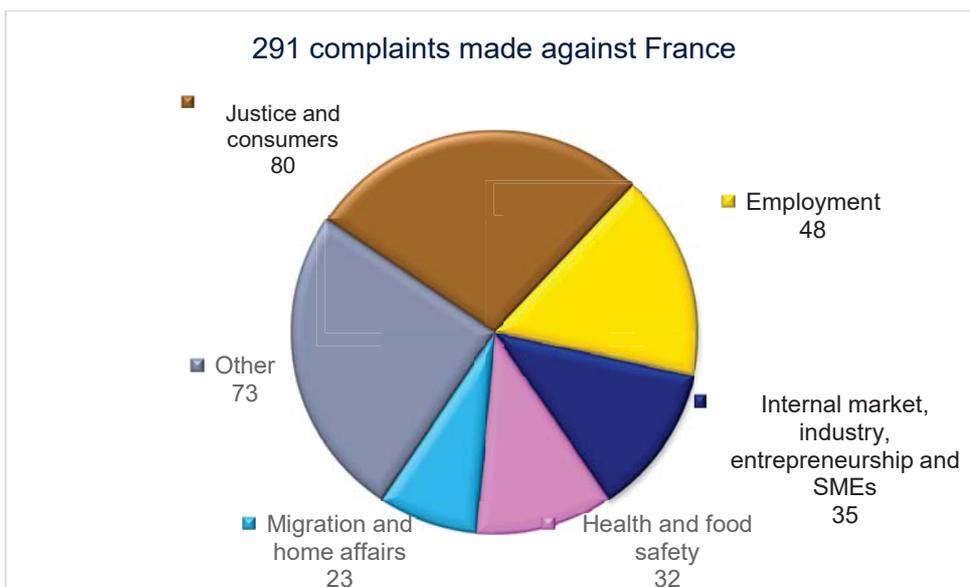
280 ▶ Complaints open at end-2018

291 ▶ New complaints registered in 2019

331 ▶ Complaints handled in 2019

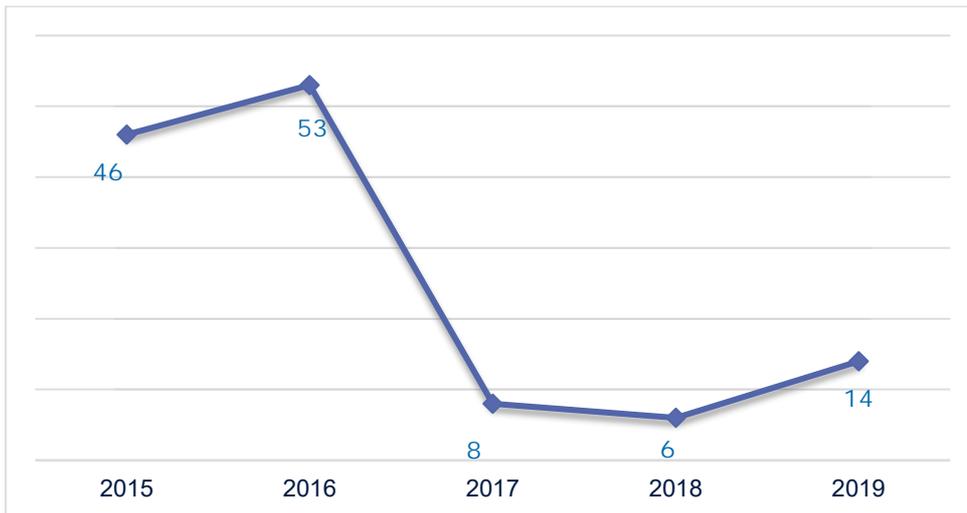
= 240 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

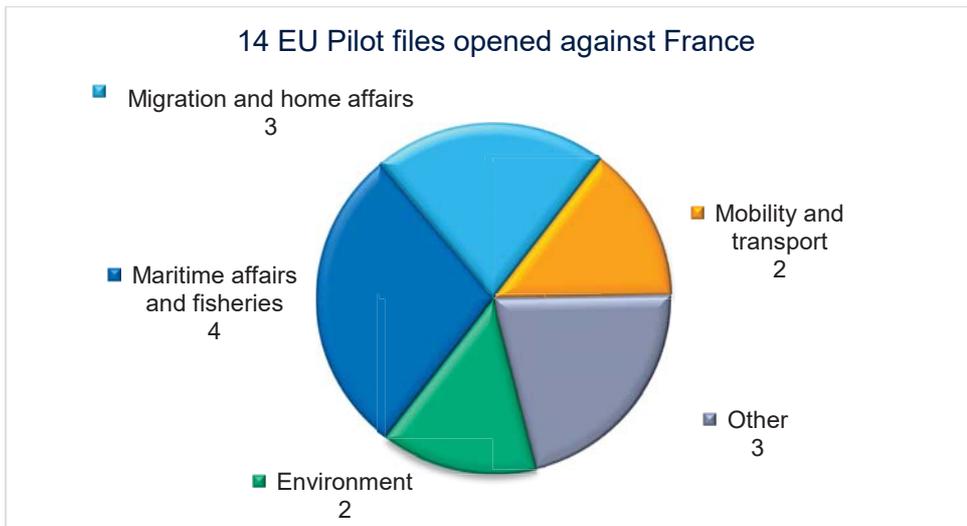


II. EU PILOT

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



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

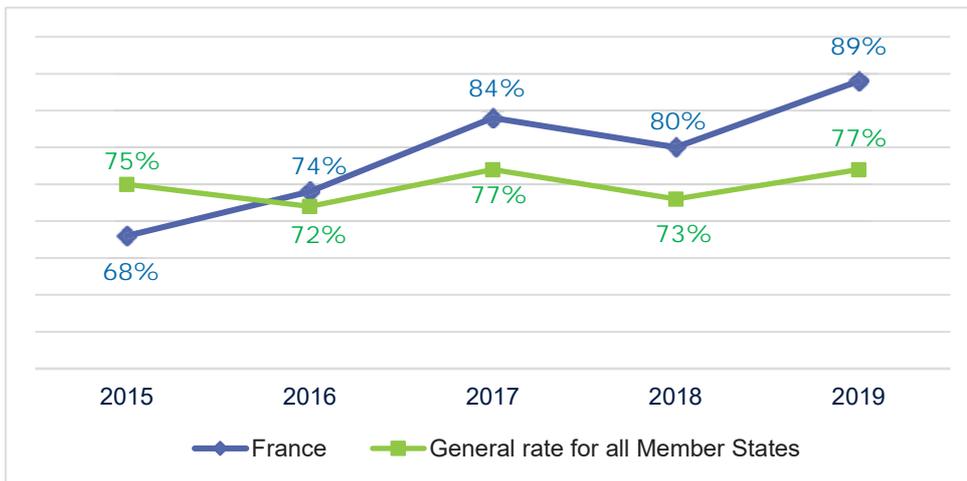


3. Files relating to France open in EU Pilot at year-end

France

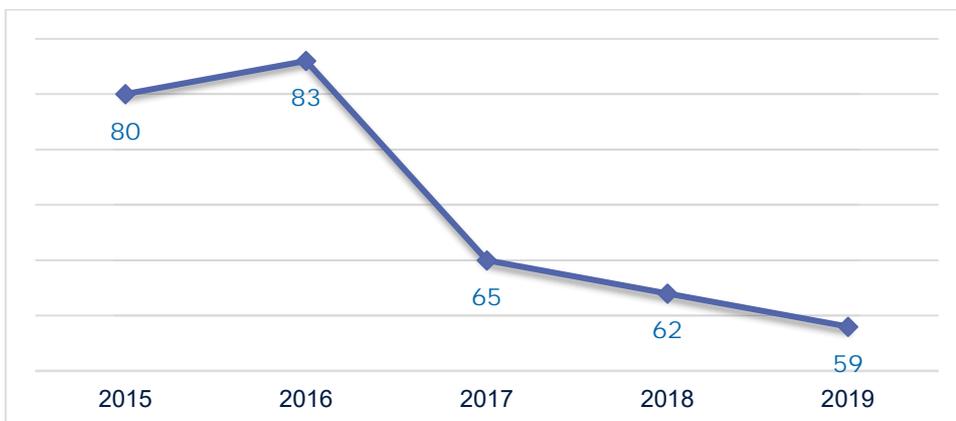


4. EU Pilot files: France's resolution rate in 2015-2019



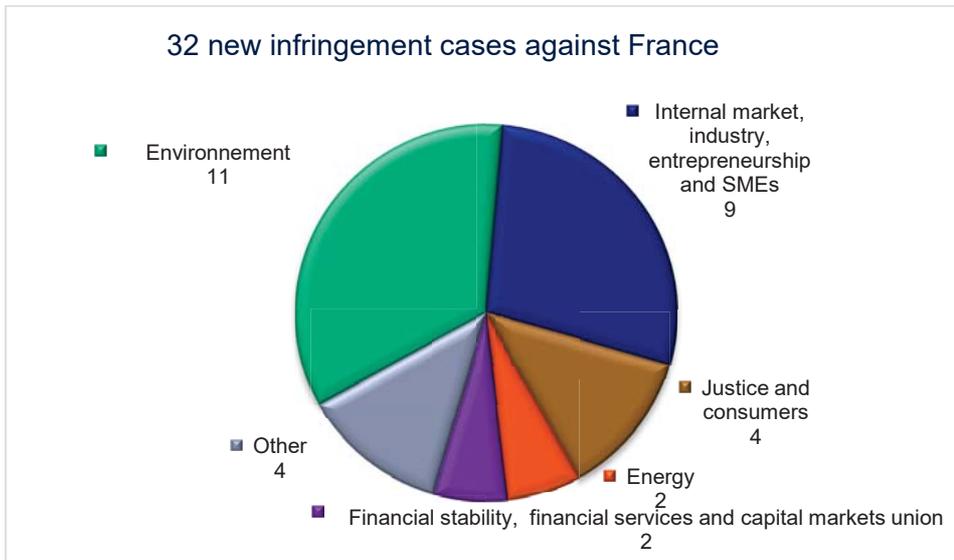
III. INFRINGEMENT CASES

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



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

France



3. Key infringement cases and referrals to the Court

- a. The Commission opened 32 new infringement cases against France 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;
 - unjustified restrictions on providers of services related to energy efficiency, in breach of the Services Directive²;
 - delays in the implementation of the Geo-blocking Regulation, by failing to provide for measures and mechanisms for consumer protection³;
 - incorrect transposition of the Free movement Directive⁴ as regards the delivery of residence documents⁵;
 - authorisation of non-selective hunting practices which are not in line with the Birds Directive⁶;
 - failure to take the necessary measures to enhance protection of the species of the turtle dove as required by the Birds Directive⁷;
 - failure to comply with the Water Framework Directive concerning the ecological continuity of the Rhine River⁸;
 - failure to fulfil the obligations under the EU rules establishing a single European railway area⁹;
 - tax disadvantages related to personal care and 'help at home' services concerning some resident and non-resident taxpayers¹⁰;
 - incorrect transposition of the:
 - Directive on criminal sanctions for market abuse¹¹
 - Directive on combating the sexual abuse and sexual exploitation of children¹²
 - Directive on public access to environmental information¹³
 - revised Environmental Impact Assessment Directive¹⁴;
 - non-communication of national measures transposing the:
 - Directive on conditions of entry and residence of third-country nationals for research and studies¹⁵
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)¹⁶

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

² Directives [2006/123/EC](#), [2009/28/EC](#) and [2012/27/EU](#).

³ Regulation (EU) [2018/302](#); [INF/19/4251](#).

⁴ Directive [2004/38/EC](#).

⁵ [INF/19/4251](#).

⁶ Directive [2009/147/EC](#), [INF/19/4251](#).

⁷ Directive [2009/147/EC](#), [INF/19/4251](#).

⁸ Directive [2000/60/EC](#), [INF/19/4251](#).

⁹ Directive [2012/34/EU](#), [MEMO/19/462](#),

¹⁰ [IP/19/462](#).

¹¹ Directive [2014/57/EU](#); [INF/19/4251](#),

¹² Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

¹³ Directive [2003/4/EC](#), [MEMO/19/462](#).

¹⁴ Directive [2011/92/EU](#), as amended by Directive [2014/52/EU](#), [MEMO/19/1472](#).

¹⁵ Directive [2016/801/EU](#), [INF/19/4251](#).

France

- o Bank Creditors Hierarchy Directive¹⁷
- o Energy Efficiency Directive¹⁸.
- 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 France open on 31 December (2015-2019)



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



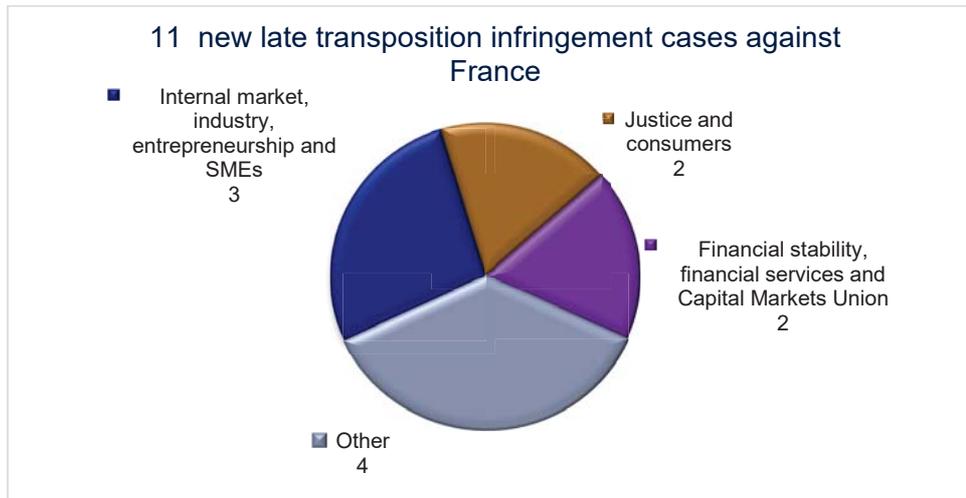
3. New late transposition infringement cases opened in 2019: main policy areas

¹⁶ Directive [2016/2341/EU](#).

¹⁷ Directive [2017/2399/EU](#).

¹⁸ Directive [2012/27/EU](#), [MEMO/19/462](#).

France



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 standards for the qualification of third-country nationals as beneficiaries of international protection¹⁹
 - Reception Conditions Directive²⁰
 - Asylum Procedures Directive²¹
 - minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights²²
 - Markets in Financial Instruments Directive (MiFID II)²³
 - Anti-Tax Avoidance Directive (ATAD1)²⁴
 - Indirect Land Use Change Directive²⁵.

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁶

The Court ruled that:

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

²⁰ Directive [2013/33/EU](#); [INF/19/4251](#).

²¹ Directive [2013/32/EU](#).

²² Directive [2014/50/EU](#).

²³ Directive [2014/65/EU](#).

²⁴ Directive (EU) [2016/1164](#).

²⁵ Directive (EU) [2015/1513](#).

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

- France has systematically and persistently exceeded the limit values for nitrogen dioxide (NO₂) since 2010 in 12 agglomerations and air quality zones. It has also failed to take the appropriate measures to keep the exceedance period as short as possible²⁷.

2. Preliminary rulings

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

- Airbnb provides an information society service separate from accommodation services to which it relates. Such a service does not aim only at providing immediate accommodation services, but rather it consists essentially of providing a tool for presenting and finding accommodation for rent, thereby facilitating the conclusion of future rental agreements. Therefore, that type of service is not merely ancillary to an overall accommodation service. Second, an intermediation service, such as the one provided by Airbnb Ireland, is in no way indispensable to the provision of accommodation services, since the guests and hosts have a number of other channels in that respect, some of which are long-standing. Finally, there is no indication that Airbnb sets or caps the amount of the rents charged by the hosts using that platform²⁸.
- The procedural rules applicable to the authorisation of plant protection products, in particular products containing glyphosate, are valid; therefore, there are no grounds to question the validity of the regulation on placing plant protection products on the market.²⁹
- The organic production logo of the EU cannot be placed on products derived from animals that have been slaughtered in accordance with religious rites without first being stunned. The organic logo of the EU aims to reassure consumers that products bearing it have been obtained in observance of the highest standards, in particular in the area of animal welfare³⁰.
- Mortgage loans reserved for employees of an undertaking and granted for private purposes fall within the scope of the Directive on unfair terms in consumer contracts³¹. The Court confirmed that the notion of 'seller or supplier' has to be interpreted broadly, and it is not necessary that the contract reflect a person's main activity³².
- The prohibition on processing certain categories of sensitive personal data applies also to operators of search engines. The search engine operator has, in principle, the obligation to de-reference, if asked by the person concerned. To this end, the search engine operator must carry out a case-by-case assessment to verify if the publication of the 'sensitive' data and personal data on criminal convictions is strictly necessary to

²⁷ Commission v France, [C-636/18](#) and Court press release [No 132/2019](#).

²⁸ Airbnb Ireland, case [C - 390/18](#).

²⁹ Procureur de la République v Blaise and Others, [C-616/17](#).

³⁰ Oeuvre d'assistance aux bêtes d'abattoirs, [C-497/17](#) and Court press release [15/19](#)

³¹ Directive [93/13/EEC](#).

³² Pouvin Dijoux, [C-590/17](#).

protect the freedom of information of internet users potentially interested in accessing this web page by means of such a search³³.

- The right to be forgotten applies within the EU. Search engine operators have to take sufficiently effective measures to ensure the effective protection of this right, which does not necessarily apply outside of the EU³⁴.
- The Gas Directive allows a decision of a regulatory authority settling a dispute between energy companies to extend its effects to the situation of the parties before the emergence of that dispute, by requiring one party to bring a contract for the transmission of natural gas in line with EU law for the entire contractual period³⁵.

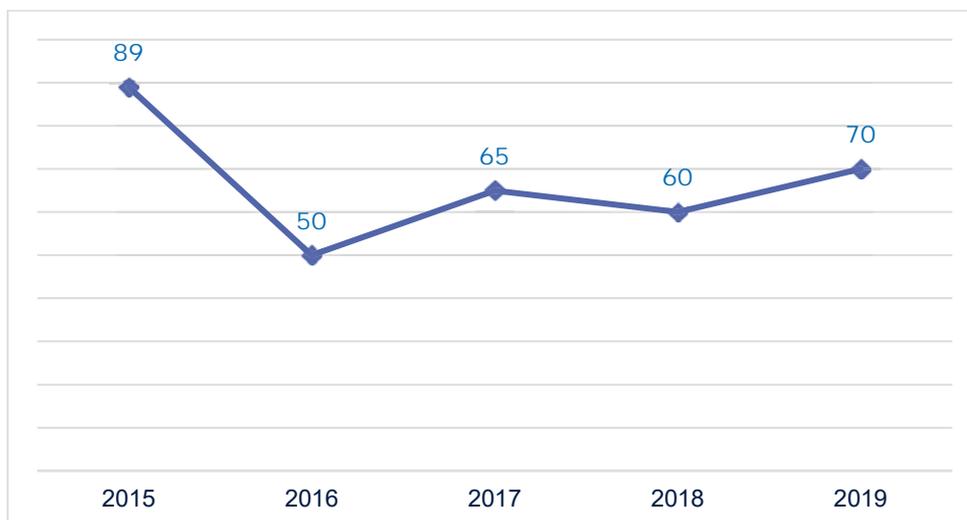
³³ Google 2, [C-136/17](#).

³⁴ Google 3, [C-507/17](#).

³⁵ Directive 2009/73/EC, GRDF, [C-236/18](#).

I. COMPLAINTS

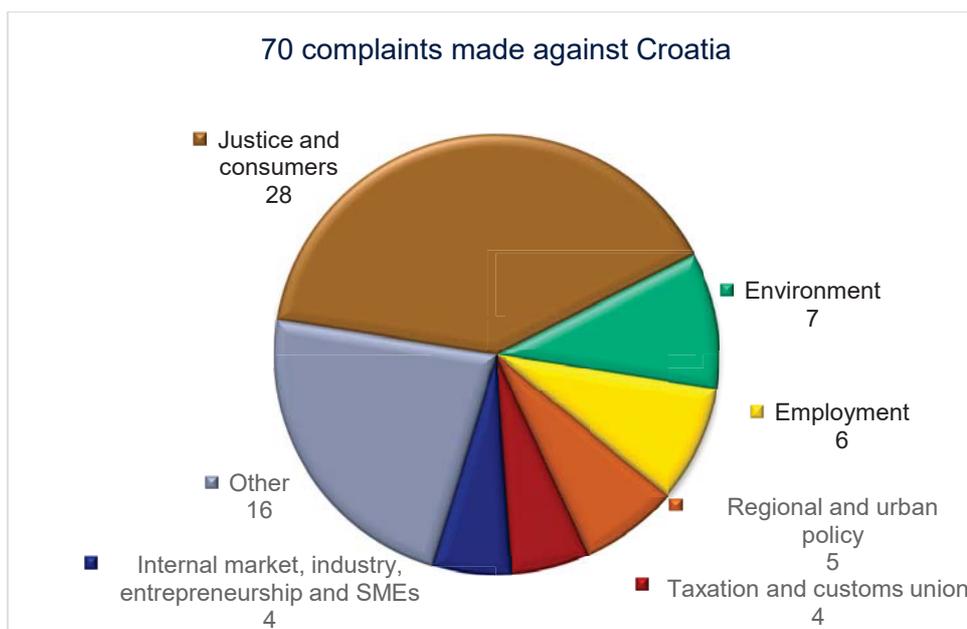
1. New complaints made against Croatia by members of the public (2015-2019)¹



2. Public complaints against Croatia open at year-end

| | | |
|-------------|---|------------------------------------|
| 51 | ▶ | Complaints open at end-2018 |
| 70 | ▶ | New complaints registered in 2019 |
| 64 | ▶ | Complaints handled in 2019 |
| = 57 | ▶ | Complaints open at end-2019 |

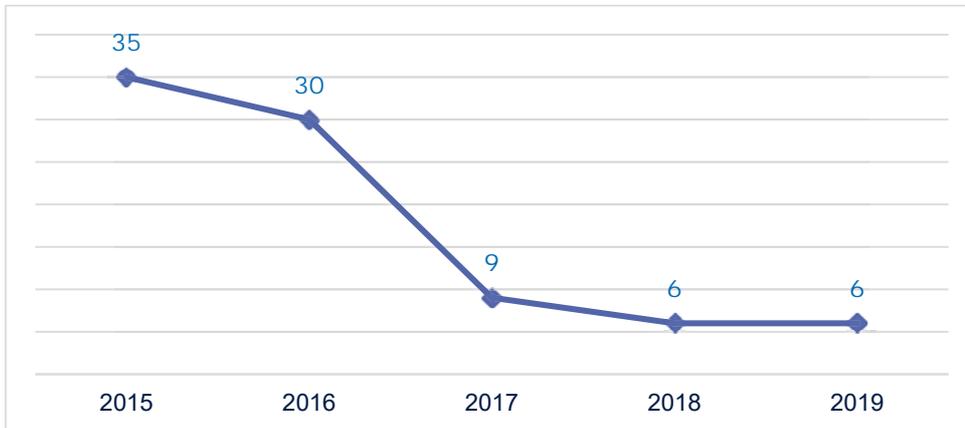
3. New complaints registered in 2019: main policy areas



¹ Croatia joined the EU on 1 July 2013.

II. EU PILOT

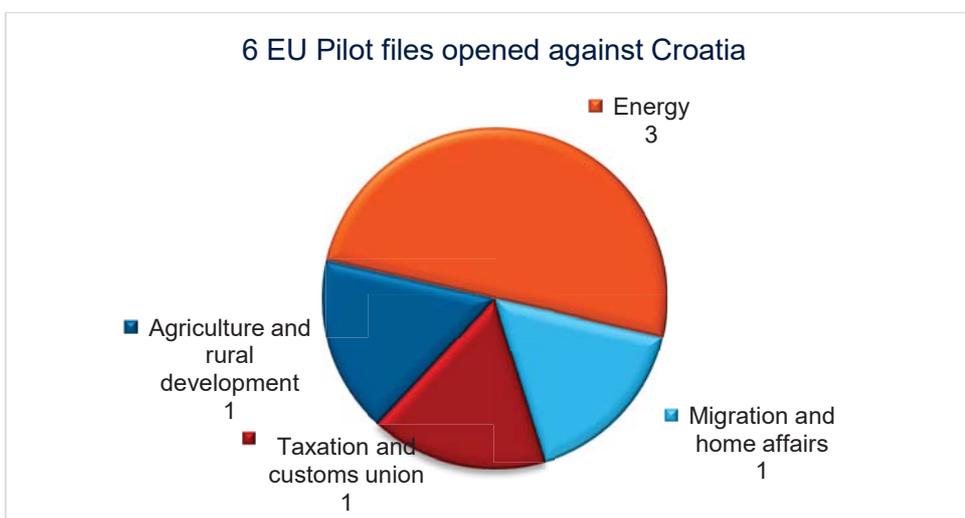
1. New EU Pilot files opened against Croatia (2015-2019)



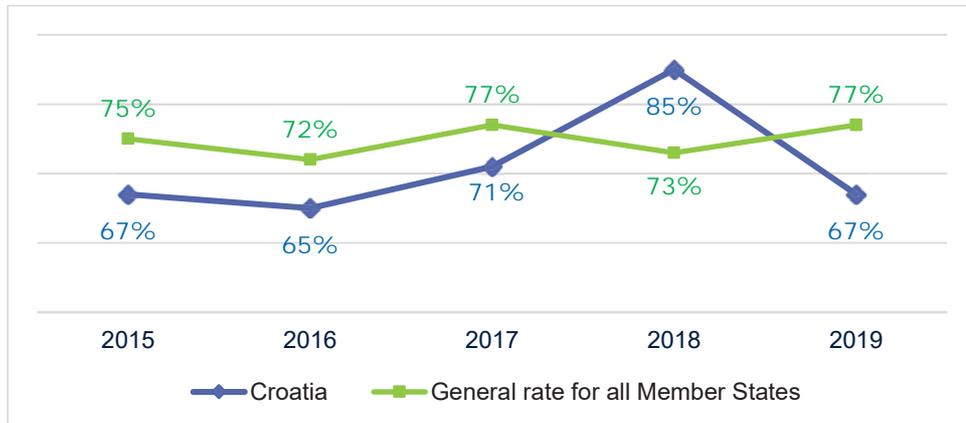
2. Files relating to Croatia open in EU Pilot at year-end



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

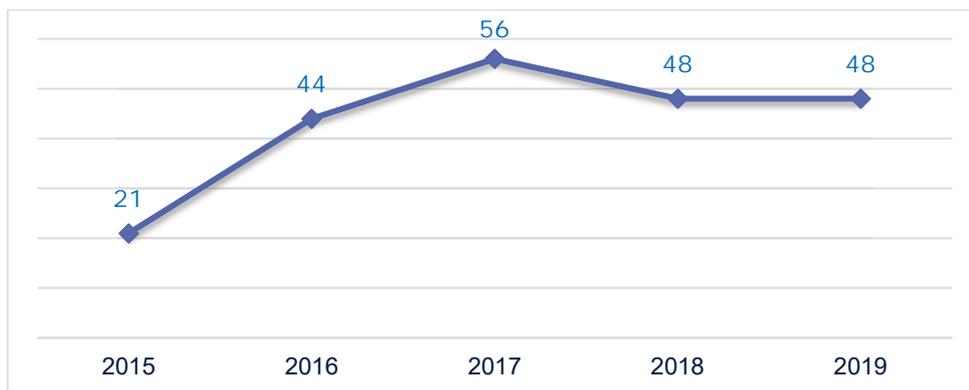


4. EU Pilot files: Croatia's resolution rate in 2015-2019²



III. INFRINGEMENT CASES

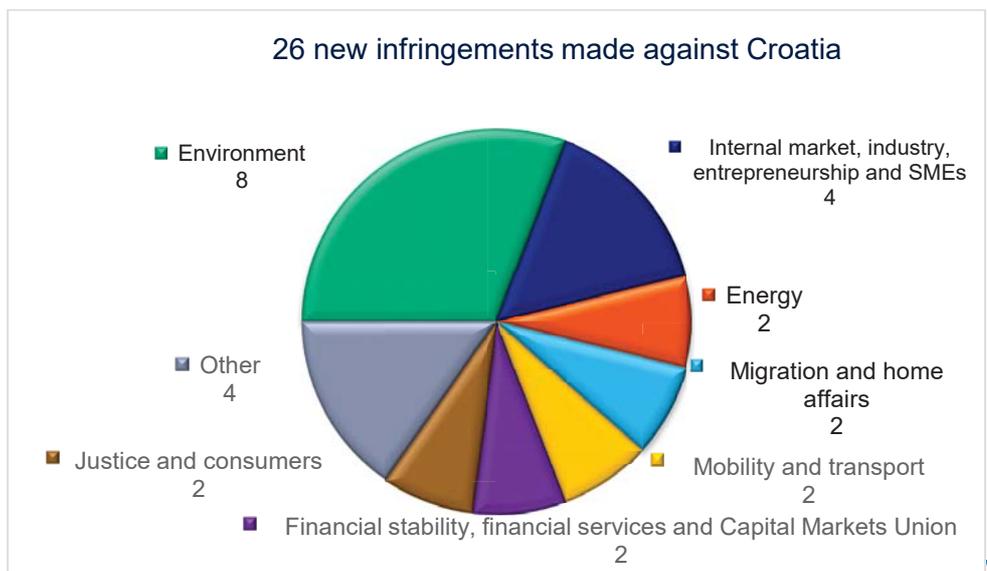
1. Infringement cases against Croatia open on 31 December (2015-2019)



2. New infringement cases opened in 2019: policy areas

² Croatia joined the EU Pilot system in July 2015.

Croatia



3. Key infringement cases and referrals to the Court

- a. The Commission opened 26 new infringement cases against Croatia in 2019. These, and other major ongoing infringement cases, include:
- failure to effectively implement the rules on the 112 emergency number, in particular by not ensuring equivalent access for disabled users³;
 - incorrect transposition of the Directive on combating the sexual abuse and sexual exploitation of children⁴;
 - non-communication of national measures transposing the Bank Creditors Hierarchy Directive⁵;
 - the incorrect transposition of the Solvency II Directive⁶;
 - non-compliance with the requirements of the Energy Efficiency Directive⁷;
 - failure to submit Croatia's second cost-optimal report required by the Energy Performance of Buildings Directive⁸;
 - non-conformity of the Croatian Water Act with the Environmental Impact Assessment Directive, the Habitats Directive and the Water Framework Directive⁹;
 - incorrect transposition of the revised Environmental Impact Assessment Directive¹⁰;
 - non-conformity of national legislation with the Groundwater Directive¹¹;
 - non-conformity of national legislation with the Drinking Water Directive¹²;

³ Directive (EU) 2002/22, INF/19/4251.

⁴ Directive 2011/93/EU, INF/19/5950.

⁵ Directive 2017/2399/EU.

⁶ Directive 2009/138/EC, INF/19/4251.

⁷ Directive 2012/27/EU, MEMO/19/462.

⁸ Directive 2010/31/EU, MEMO/19/462.

⁹ Directives 2011/92/EU, 92/43/EEC and 2000/60/EC.

¹⁰ Directive 2011/92/EU, as amended by Directive 2014/52/EU, MEMO/19/1472.

¹¹ Directive 2006/118/EC, MEMO/19/1472.

¹² Directive 98/83/EC, MEMO/19/1472.

Croatia

- non-conformity of Croatian legislation with the amended Ambient Air Quality Directive¹³;
 - non-conformity of national legislation with EU rules on public procurement and concessions¹⁴;
incorrect transposition of the SEVESO III Directive¹⁵;
 - late reporting on the environmental status of marine waters under the Marine Strategy Framework Directive¹⁶;
 - failure to fulfil obligations under the Ship Recycling Regulation¹⁷;
 - restrictions for lawyers to provide multidisciplinary services, advertising restrictions and limitations on the right to practice¹⁸;
 - failure to comply with minimum safety requirements for tunnels in the trans-European road network¹⁹.
- 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.]

¹³ Directive [2008/50/EC](#), as amended by Directive (EU) [2015/1480](#), [INF/19/4251](#).

¹⁴ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [MEMO/19/462](#);

¹⁵ Directive [2012/18/EU](#).

¹⁶ Directive [2008/56/EC](#), [MEMO/19/1472](#).

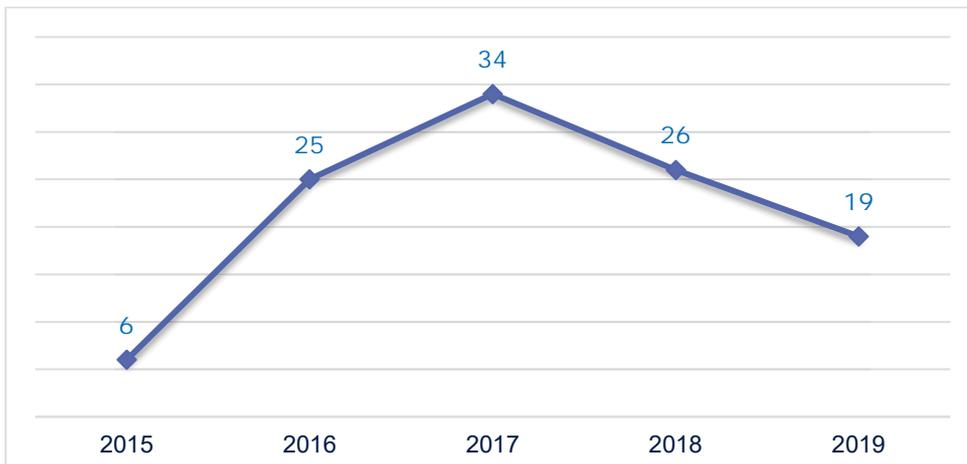
¹⁷ Regulation (EU) No [1257/2013](#), [MEMO/19/2772](#).

¹⁸ IP [19/467](#), Directive [98/5/EC](#).

¹⁹ Directive [2004/54/EC](#), [INF/19/5950](#).

IV. TRANSPOSITION OF DIRECTIVES

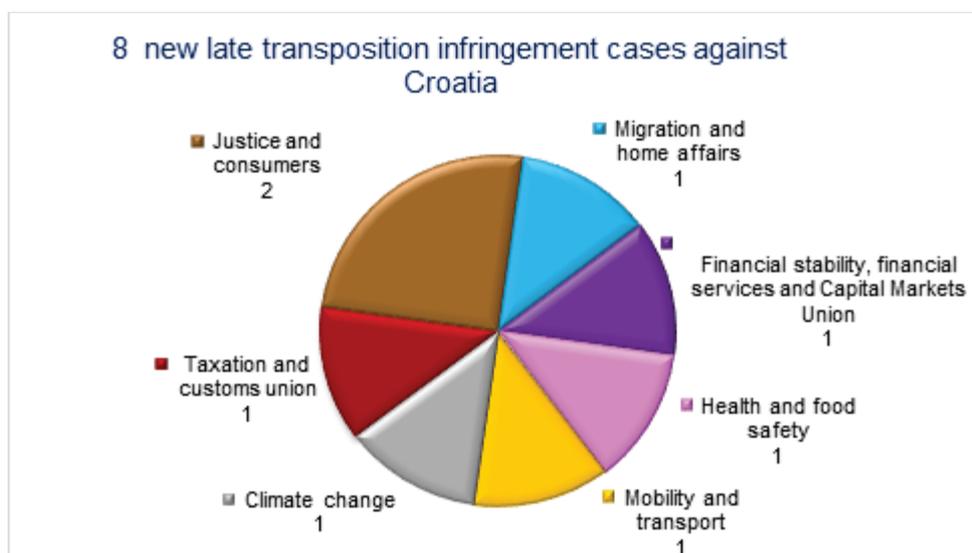
1. Late transposition infringement cases against Croatia open on 31 December (2015-2019)



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



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



4. Referrals to the Court

[The Commission did not refer any cases¹⁹ 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 tobacco products²⁰
 - labour rights for seafarers²¹
 - Markets in Financial Instruments Directive (MiFID II)²²;
- unjustified requirements imposed on the activities of driving schools²³;
- incorrect transposition of the Directive on unfair commercial practices²⁴;
- failure to meet EU obligations on stepping up cross-border cooperation, particularly in combating terrorism and cross-border crime²⁵;
- the national law on the privatisation of Industrija Nafta d.d. (INA), which granted special powers to the Croatian State in INA in violation of Articles 49 and 63 TFEU²⁶;
- incorrect transposition of the Solvency II Directive²⁷;
- incorrect transposition of the Habitats Directive²⁸;
- incorrect transposition of the Birds Directive²⁹;
- failure to notify the national programme for the implementation of a spent fuel and radioactive waste management policy³⁰;
- failure to provide the required quality management system for operational parts of the flag State-related activities³¹.]

VI. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- Croatia has breached the Waste Framework Directive as it did not classify as waste a large amount of stone-like material deposited in Biljane Donje, it did not take the necessary measures to ensure that waste management is carried out without

²⁰ Directive [2014/40/EU](#).

²¹ Directive (EU) [2015/1794](#).

²² Directive [2014/65/EU](#).

²³ Directive [2006/123/EC](#)

²⁴ Directive [2005/29/EC](#)

²⁵ Decisions [2008/615/JHA](#) and [2008/616/JHA](#).

²⁶ [IP/17/1949](#).

²⁷ Directive [2009/138/EC](#).

²⁸ Directive [92/43/EEC](#).

²⁹ Directive [2009/147/EC](#).

³⁰ Directive [2011/70/Euratom](#).

³¹ Directive [2009/21/EC](#).

Croatia

endangering human health and harming the environment, and it did not ensure that the waste is properly treated by the waste holder³².

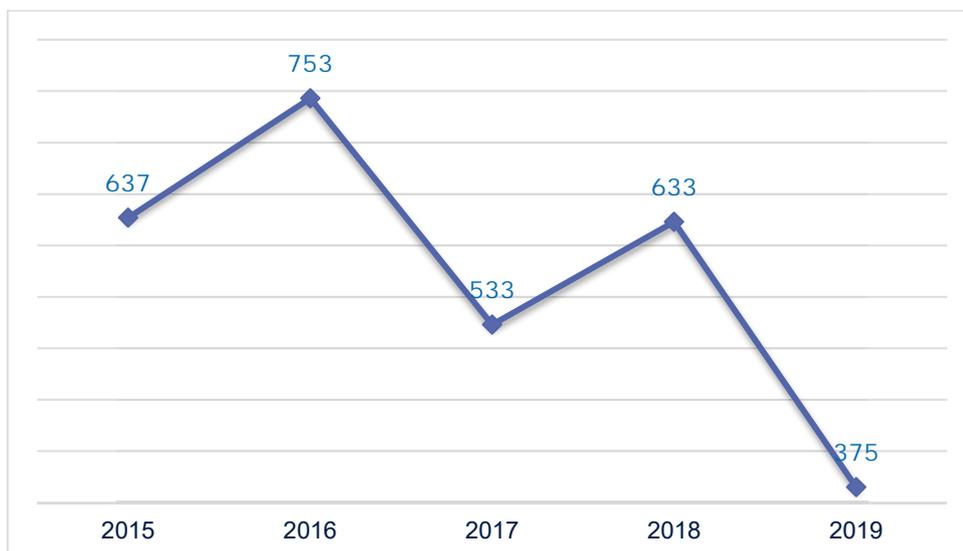
2. Preliminary rulings

No major preliminary rulings were addressed to the Croatian judiciary in 2019. |

³² Directive [2008/98/EC](#), Commission v Croatia, [C-250/18](#).

I. COMPLAINTS

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



2. Public complaints against Italy open at year-end

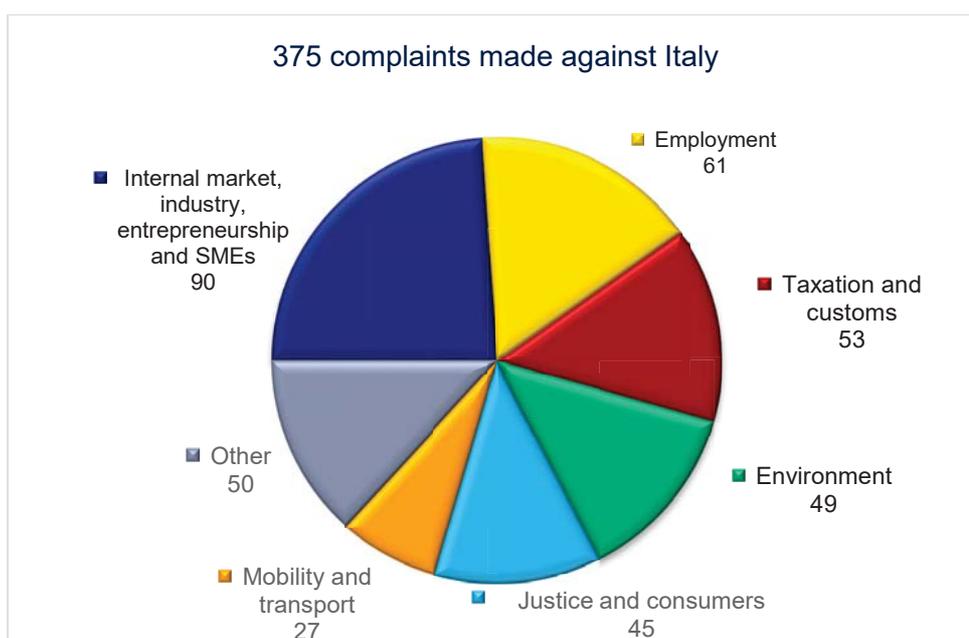
732 ▶ Complaints open at end-2018

375 ▶ New complaints registered in 2019

679 ▶ Complaints handled in 2019

= 428 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas

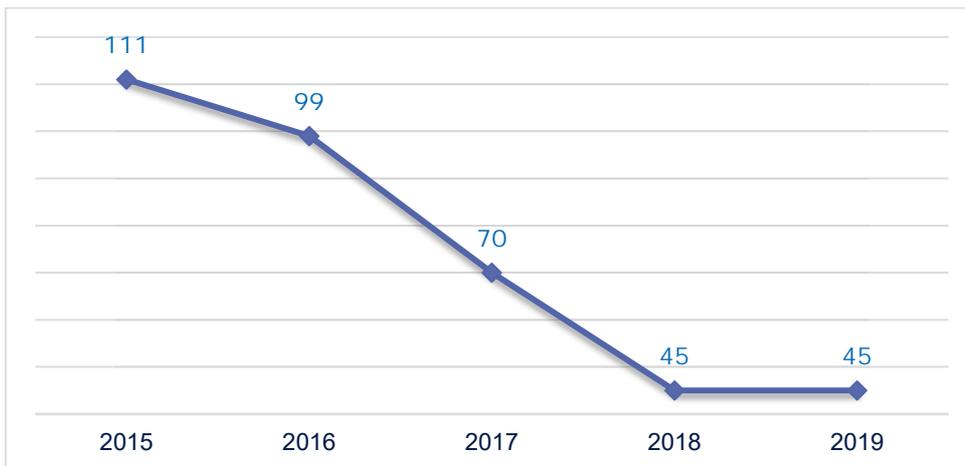


II. EU PILOT

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

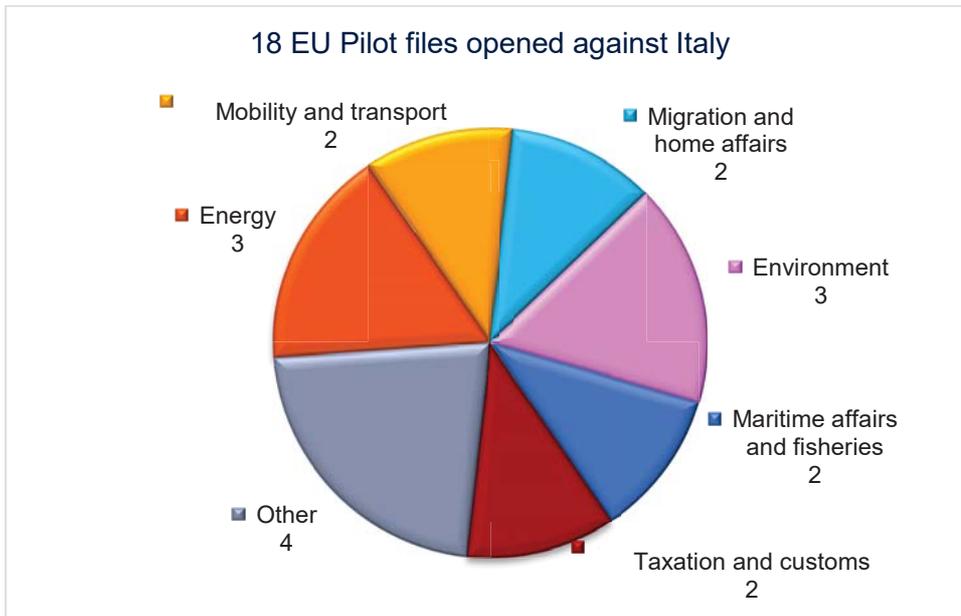


2. Files relating to Italy open in EU Pilot at year-end

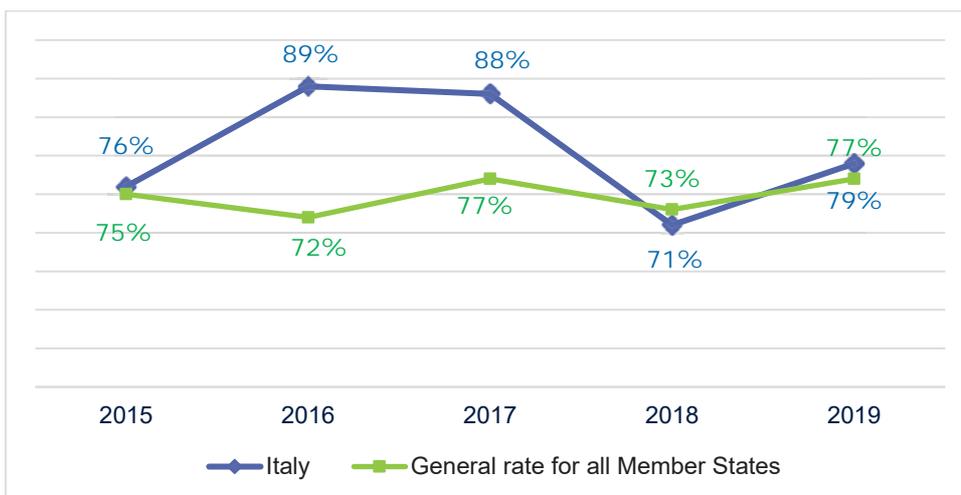


3. New EU Pilot files opened in 2019: main policy areas

Italy

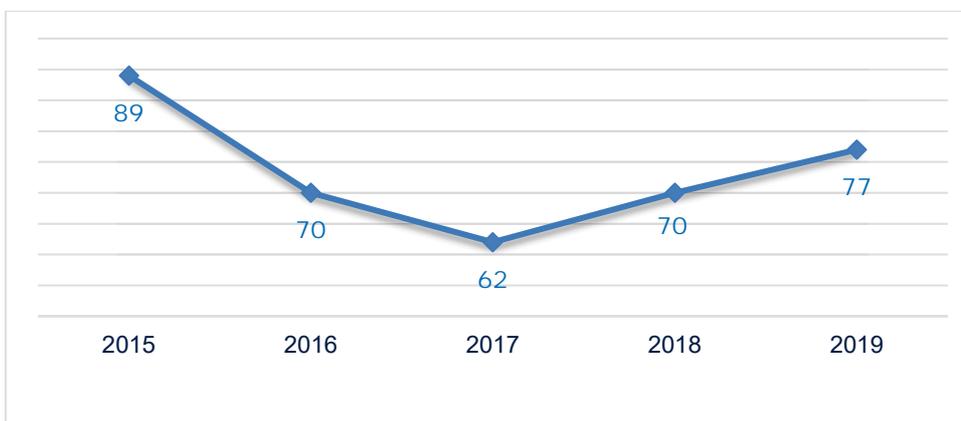


4. EU Pilot files: Italy's resolution rate in 2015-2019



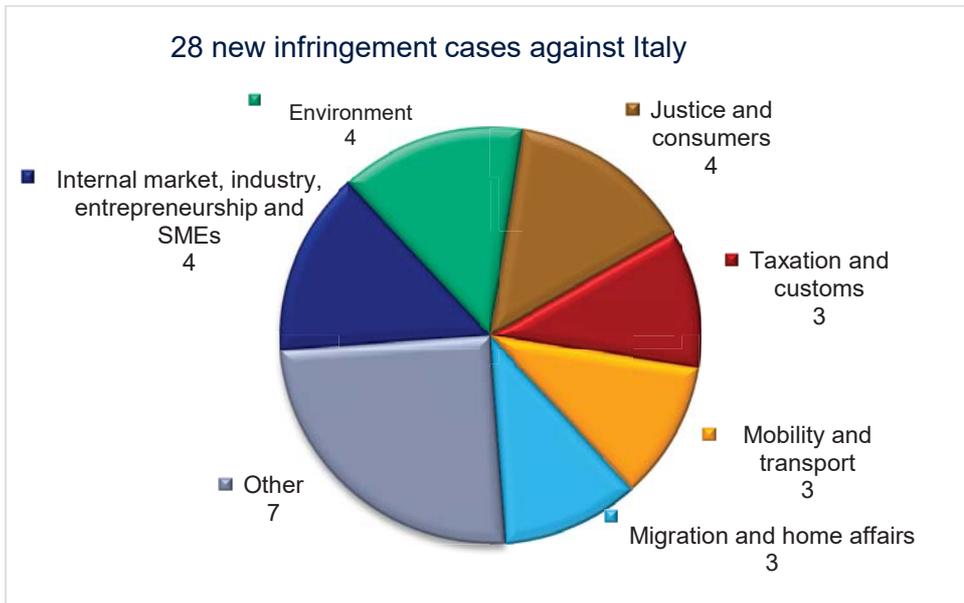
III. INFRINGEMENT CASES

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



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

Monitoring the application of European Union law
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Italy



3. Key infringement cases and referrals to the Court

- a. The Commission opened 28 new infringement cases against Italy in 2019. These, and other major ongoing infringement cases, include:
- incorrect transposition of the:
 - Directive on criminal sanctions for market abuse¹
 - Directive on combating the sexual abuse and sexual exploitation of children²
 - Directive on Attacks against Information Systems³
 - EU rules on public procurement and concessions⁴
 - Energy Efficiency Directive⁵
 - Fixed-term Work Directive⁶
 - Road Tunnel Safety Directive⁷;
 - failure to award authorisations and concessions in the hydroelectric power sector in line with the Services Directive and public procurement rules⁸;
 - failure to establish Special Areas of Conservation, as well as conservation objectives and measures to maintain or restore the protected species and habitats to a favourable condition, as required by the Habitats Directive⁹;
 - failure to upgrade the connection of national electronic registers on road hauliers to the new version of European Registers of Road Transport Undertakings (ERRU)¹⁰;
 - preferential taxation on property on Italian soil for Italians living abroad¹¹;
 - failure to adopt measures on penalties for infringements of the Regulation on fluorinated greenhouse gases¹²;
 - failure to ensure that urban waste water is adequately collected and treated¹³;
 - Non-communication of the:
 - Seafarers Directive¹⁴
 - Basic Safety Standards Directive¹⁵.
- b. The Commission referred four cases to the Court under Article 258 TFEU. They involve the following infringements:

¹ Directive [2014/57/EU](#); [INF/19/4251](#),

² Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

³ Directive [2013/40/EU](#), [INF/19/4251](#).

⁴ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [INF/19/6304](#).

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

⁶ Directive [1999/70/EC](#), [INF/19/4251](#).

⁷ Directive [2004/54/EC](#), [INF/19/5950](#).

⁸ Directives [2006/123/EC](#) and [2014/23/EU](#), [IP/19/1477](#).

⁹ Directive [92/43/EEC](#), [MEMO/19/462](#).

¹⁰ Regulation (EU) [2016/480](#), [INF/19/4251](#).

¹¹ [IP/19/462](#).

¹² Regulation (EU) [517/2014](#).

¹³ Directive [91/271/EEC](#), [INF/19/4251](#), [MEMO/19/462](#) and [INF/19/6304](#).

¹⁴ Directive (EU) [2015/1794](#).

¹⁵ Directive [2013/59/Euratom](#), *Commission v Italy*, [C-744/19](#).

Italy

- failure to ensure that all agglomerations with a population of more than 2 000 are provided with collecting systems for urban waste water and that urban waste water entering collecting systems is adequately treated before discharge, as required by the Urban Waste Water Treatment Directive¹⁶;
- exceedance of nitrogen dioxide (NO₂) limit values set by the Air Quality Directive¹⁷;
- failure to comply with the rules on the taxation of energy products and electricity by applying a reduction to excise duty for petrol and gas oil used as motor fuel in regional legislation¹⁸;
- failure to notify transposition measures under the Basic Safety Standards Directive¹⁹.

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 Italy open on 31 December (2015-2019)



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

¹⁶ Directive [91/271/EEC](#), *Commission v Italy*, [C-668/19](#), [IP/19/1475](#).

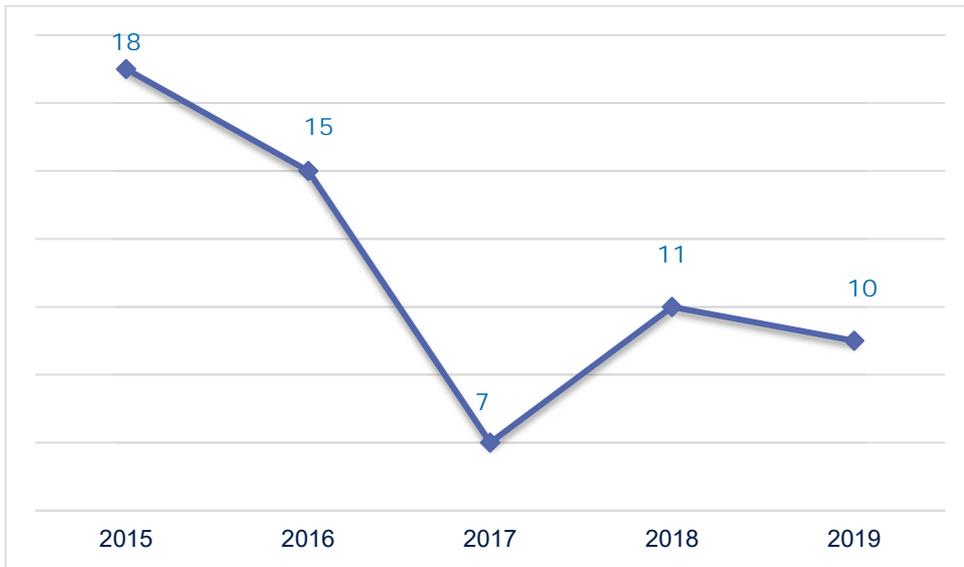
¹⁷ Directive [2008/50/EC](#), *Commission v Italy*, [C-573/19](#), [IP/19/1475](#).

¹⁸ Case [C-63/19](#) *Commission v Italy*, [IP/19/4265](#).

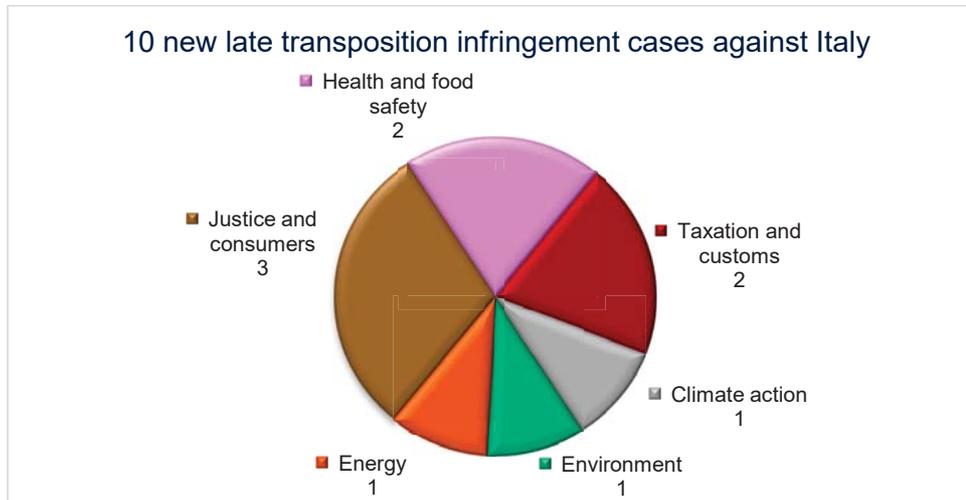
¹⁹ Directive [2013/59/Euratom](#), *Commission v Italy*, [C-744/19](#).

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2019 Annual Report

Italy



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 adopt all transposition measures for the Indirect Land Use Change Directive²⁰;
- failure to comply with Articles 139, 144 and 148(5) of the Union Customs Code regarding Fast Customs Corridors²¹;
- incorrect transposition of the Directive on unfair commercial practices²²;
- incorrect application of the Directive on the minimum level of training of seafarers²³;
- Non-communication of national measures transposing the:
 - Commission Implementing Directive on protective measures against the introduction of organisms harmful to plants²⁴
 - Seafarers Directive²⁵.

VI. IMPORTANT JUDGMENTS

1. Court rulings²⁶

The Court ruled that Italy:

²⁰ Directive (EU) [2015/1513](#).

²¹ Regulation (EU) [952/2013](#).

²² Directive [2005/29/EC](#).

²³ Directive [2008/106/EC](#), as amended by Directive [2012/35/EU](#).

²⁴ Directive (EU) [2019/523](#).

²⁵ Directive (EU) [2015/1794](#).

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

Italy

- failed to fulfill its obligations under the Directive on testing of human tissues and cells by failing to adopt the required national transposition measures²⁷;
- failed to adequately prevent further spread of the quarantine harmful organism *Xylella fastidiosa* in Apulia²⁸;
- failed to comply with the Radioactive Waste Directive, since it has not notified a final adopted national programme for radioactive waste and spent fuel management²⁹;
- had not fulfilled its obligations under the Landfill Directive as regards 44 landfills, by having failed to adopt all measures necessary to close or to bring those landfill sites into line with the Directive³⁰;
- failed to fulfil its obligations under Article 8 of the Decision on the system of own resources and Articles 6, 10, 12 and 13 of the Regulation on making own resources available³¹;
- failed to publish a notice on the extension of a motorway concession, thus breaching public procurement legislation³².

2. Preliminary rulings

The Court addressed the following preliminary rulings to the Italian judiciary: |

- Member States are obliged, under the Fixed-Term Work Directive, to provide effective measures designed to prevent and punish the misuse of successive fixed-term employment contracts³³.
- National legislation under which the amount of royalties payable by holders of licences for the extraction of natural gas is calculated on the basis of an index based on the long- and medium-term market prices of oil and other fuels rather than short-term market prices is not incompatible with EU law³⁴.
- The Waste Framework Directive³⁵ and the Renewable Energy Directive³⁶ do not prevent national legislation from refusing the replacement of methane with a substance derived from the chemical treatment of used vegetable oils, as a power source for an electric power plant producing atmospheric emissions, on the ground that the respective substance is not included in the list of categories of biomass fuels authorised for that purpose³⁷.
- National legislation which classifies waste incineration facilities as 'strategic infrastructure and installations of major national importance' is compatible with the

²⁷ *Commission v Italy*, [C-481/18](#).

²⁸ *Commission v Italy*, [C-443/18](#).

²⁹ Council Directive [2011/70/Euratom](#), *Commission v Italy*, [C-434/18](#),

³⁰ Directive [1999/31/EC](#), *Commission v Italy*, [C-498/17](#) and Court press release No 37/2019.

³¹ Decision [2014/335/EU](#), Euratom Regulation (EU, Euratom) [609/2014](#), Case *Commission v Italy*, [C-304/18](#).

³² *Commission v Italy*, Case [C-526/17](#).

³³ *Rossato*, [C-494/17](#).

³⁴ Directive [94/22/EC](#), joined cases: *Eni*, [C-364/18](#) and *Shell Italia*, [C-365/18](#).

³⁵ Directive [2008/98/EC](#).

³⁶ Directive [2009/28/EC](#).

³⁷ *Prato Nevoso Termo Energy*, [C-212/18](#).

'waste hierarchy' principle under the Waste Framework Directive³⁸ as long as that legislation is compatible with the other provisions of that Directive which lay down more specific obligations. National legislation which revises upwards the capacity of existing waste incineration facilities and provides for the construction of new installations of that kind constitutes a 'plan or programme', within the meaning of the Strategic Environmental Assessment Directive³⁹, likely to have significant environmental effects and must, consequently, be subject to a prior environmental assessment⁴⁰.

- The provisions of the Regulation on public passenger transport services by rail and road which govern the award of public service contracts do not apply to award procedures carried out before 3 December 2019⁴¹.
- The jurisdiction of a Member State court with respect to passenger rights in the event of denied boarding and of cancellation or long delay of flights must be assessed in light of the Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters⁴².
- National legislation providing for the automatic termination of employment at the age of 60 for aircraft pilots engaged in activities associated with protecting the national security of a Member State is compatible with EU law if it is necessary for public security and does not go beyond what is necessary to achieve this objective⁴³.
- National authorities which intend directly to award a public service contract for the transport of passengers by rail are not required to publish or communicate to any interested economic operators all the information necessary⁴⁴.

³⁸ Directive [2008/98/EC](#).

³⁹ Directive [2001/42/EC](#).

⁴⁰ *Associazione "Verdi Ambiente e Società - Aps Onlus" and Others*, [C-305/18](#).

⁴¹ Regulation (EC) No [1370/2007](#), joined cases: *Mobit*, [C-350/17](#) and *Autolinee Toscane*, [C-351/17](#).

⁴² Regulation (EU) No [1215/2012](#), *Guaitoli*, [C-213/18](#).

⁴³ Regulation (EU) No [1178/2011](#), Directive [2000/78/EC](#), *Cafaro*, [C-396/18](#).

⁴⁴ Regulation (EC) No [1370/2007](#), *Autorità Garante della Concorrenza e del Mercato*, [C-515/18](#).

I. COMPLAINTS

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



2. Public complaints against Cyprus open at year-end

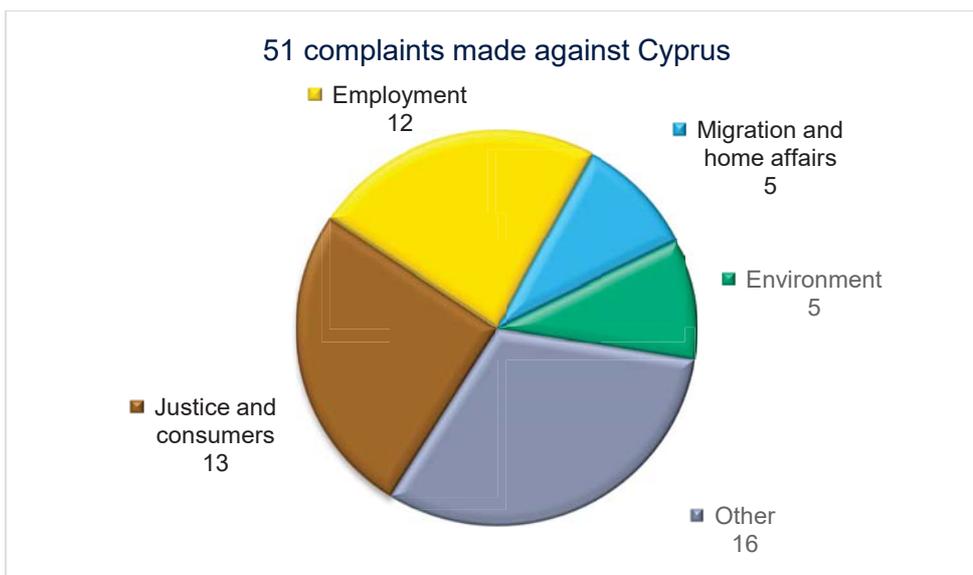
54 ▶ Complaints open at end-2018

51 ▶ New complaints registered in 2019

40 ▶ Complaints handled in 2019

= 65 ▶ Complaints open at end-2019

3. New complaints registered in 2019: main policy areas



II. EU PILOT

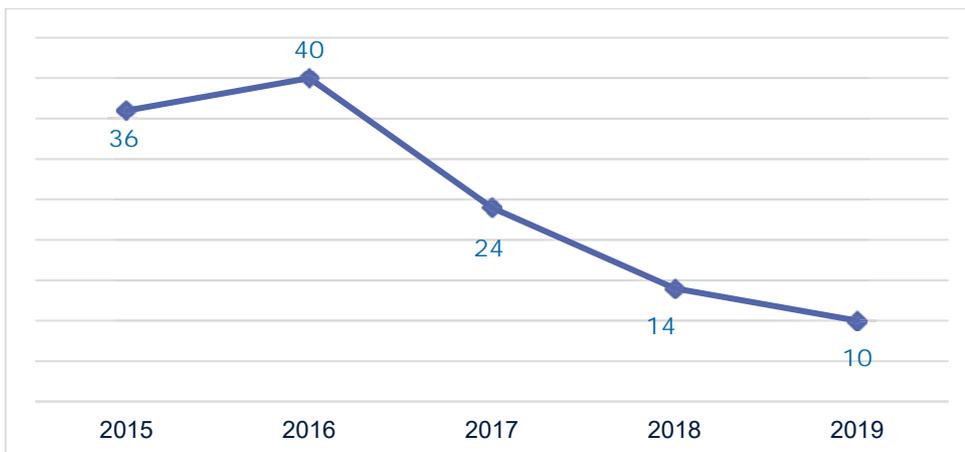
1. New EU Pilot files opened against Cyprus (2015-2019)



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

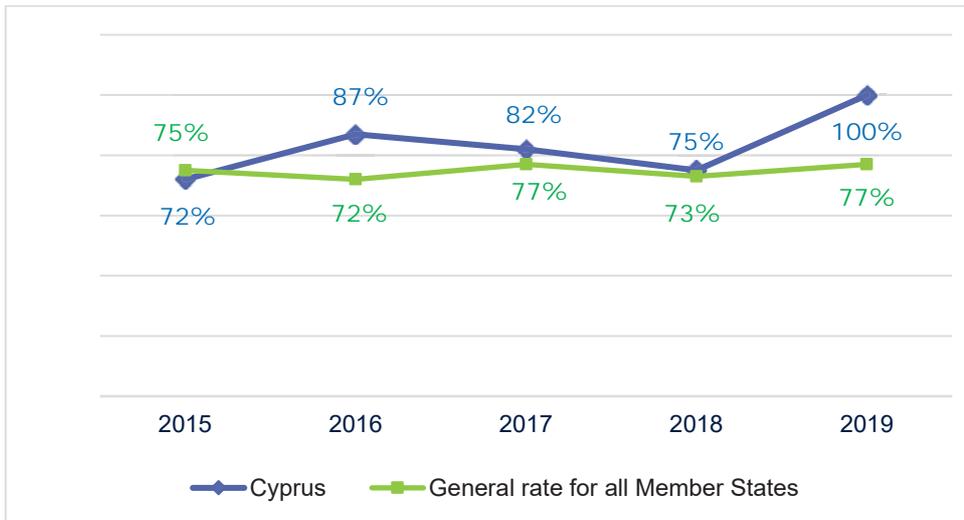
One new EU Pilot file opened in 2019, in the area of energy.

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



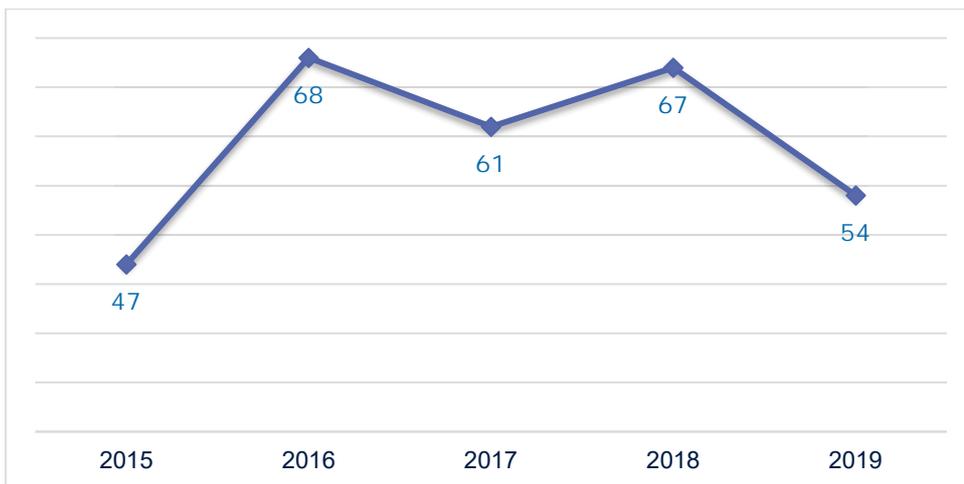
4. EU Pilot files: Cyprus's resolution rate in 2015-2019

Cyprus

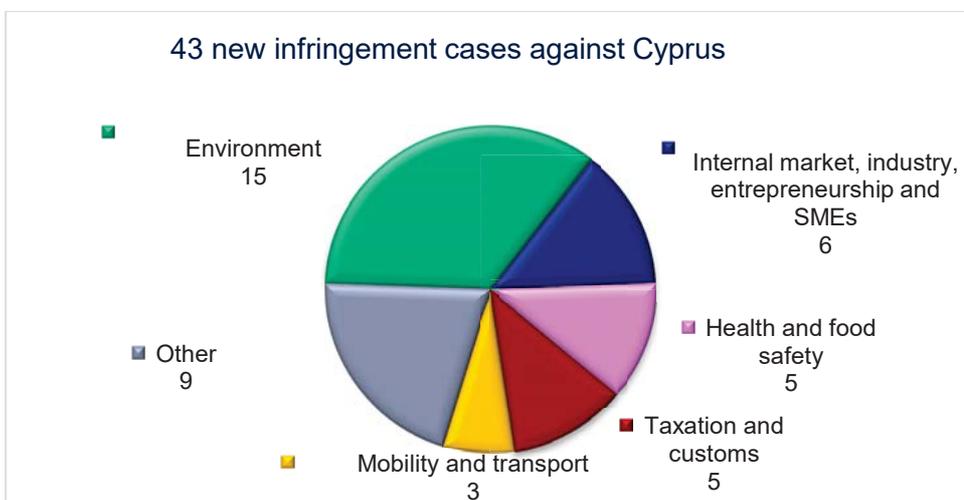


III. INFRINGEMENT CASES

1. Infringement cases against Cyprus 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

Cyprus

- a. [The Commission opened 43 new infringement cases against Cyprus 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;
 - incorrect application of the Investor Compensation Scheme Directive²;
 - general and persistent failure to ensure that plans and projects undergo an appropriate assessment of their implications on Natura 2000 sites, as required by the Habitats Directive³;
 - late reporting on the environmental status of marine waters under the Marine Strategy Framework Directive⁴;
 - 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-compliance with the requirements of the Energy Efficiency Directive⁶;
 - incorrect application of the VAT rules on the lease of yachts⁷;
 - non-conformity of national legislation with EU rules on public procurement and concessions⁸;
 - specific rules concerning the access to activities of engineers and architects⁹;
 - non-communication of national measures transposing the:
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)¹⁰
 - Bank Creditors Hierarchy Directive¹¹
 - Directive amending the Oil Stocks Directive as regards the methods for calculating stockholding obligations¹²
 - Basic Safety Standards Directive¹³.
- b. [The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- lack of proper collection and treatment of urban waste waters of various agglomerations in breach of the Urban Waste Water Directive¹⁴.
- c. [The Commission did not refer any cases to the Court under Article 260(2) TFEU.]

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

² Directive [97/9/EC](#), [MEMO/19/1472](#).

³ Directive [92/43/EEC](#), [INF/19/6304](#).

⁴ Directive [2008/56/EC](#), [INF/19/5950](#).

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

⁶ Directive [2012/27/EU](#), [MEMO/19/462](#).

⁷ [IP/19/4265](#).

⁸ Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#), [MEMO/19/462](#);

⁹ IP [19/467](#), Directive [2013/55/EU](#).

¹⁰ Directive [2016/2341/EU](#).

¹¹ Directive [2017/2399/EU](#).

¹² Directive (EU) [2018/1581](#).

¹³ Directive [2013/59/Euratom](#), [INF/19/6304](#).

¹⁴ Directive [91/271/EEC](#), *Commission v Cyprus*, C-248/19, [IP/19/1474](#).

Cyprus

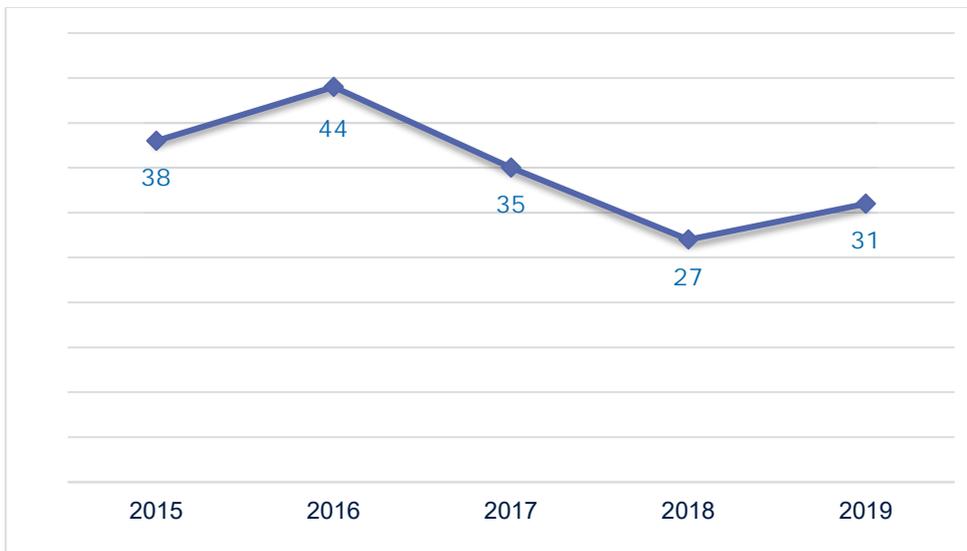
IV. TRANSPOSITION OF DIRECTIVES

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

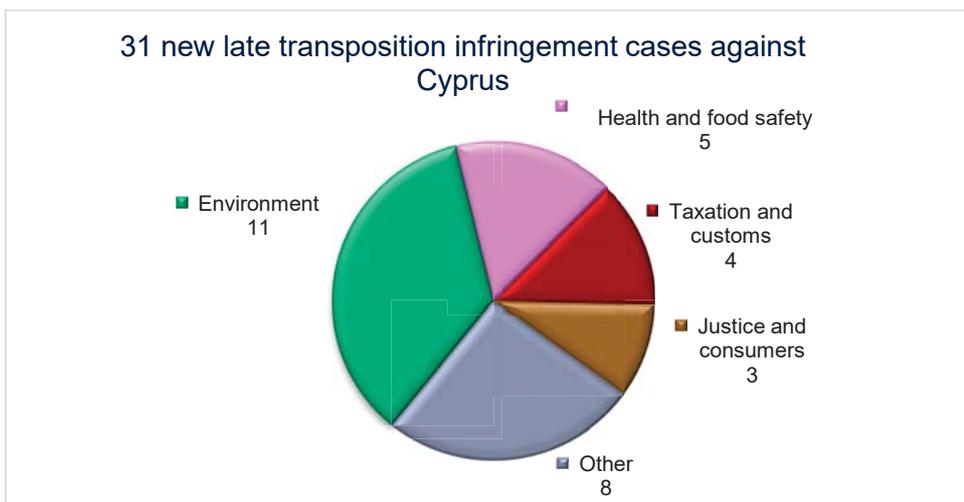


Cyprus

2. New late transposition infringement cases against Cyprus (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:
 - Commission Implementing Directive as regards isolation distances for Sorghum spp.¹⁵
 - Commission Implementing Directive on minimum conditions for examining certain varieties of agricultural plant species¹⁶

¹⁵ Directive (EU) [2018/1027](#).

- Directive on conditions of entry and residence of third-country nationals for research and studies¹⁷
- Reception Conditions Directive¹⁸
- Asylum Procedures Directive¹⁹
- minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights²⁰
- Indirect Land Use Change Directive²¹
- Mortgage Credit Directive²²
- Anti-Tax Avoidance Directive (ATAD1)²³;
- incorrect transposition of the Third Energy Package Directives²⁴;
- failure to provide the required quality management system for operational parts of the flag State-related activities²⁵.

VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no major Court rulings in 2019.

2. Preliminary rulings

No major preliminary rulings were addressed to the Cyprus judiciary in 2019. |

¹⁶ Directive (EU) [2018/100](#).

¹⁷ Directive [2016/801/EU](#).

¹⁸ Directive [2013/33/EU](#); [INF/19/4251](#).

¹⁹ Directive [2013/32/EU](#).

²⁰ Directive [2014/50/EU](#).

²¹ Directive (EU) [2015/1513](#).

²² Directive [2014/17/EU](#).

²³ Directive (EU) [2016/1164](#).

²⁴ Directives [2009/72/EC](#) and [2009/73/EC](#).

²⁵ Directive [2009/21/EC](#).

I. COMPLAINTS

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



2. Public complaints against Latvia open at year-end

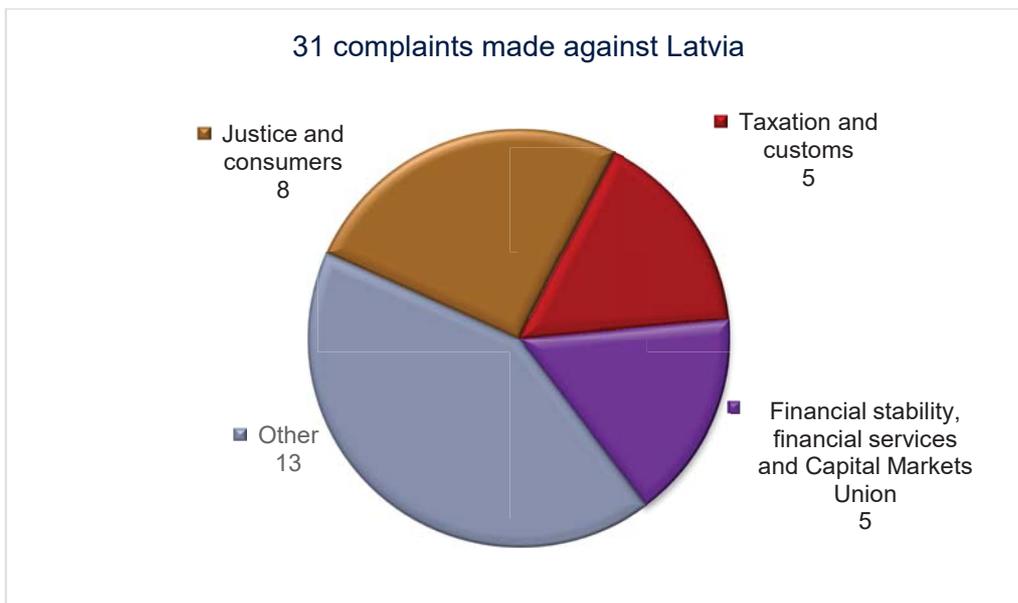
20 ► Complaints open at end-2018

31 ► New complaints registered in 2019

27 ► Complaints handled in 2019

24 ► Complaints open at end 2019

3. New complaints registered in 2019: main policy areas



I. EU PILOT

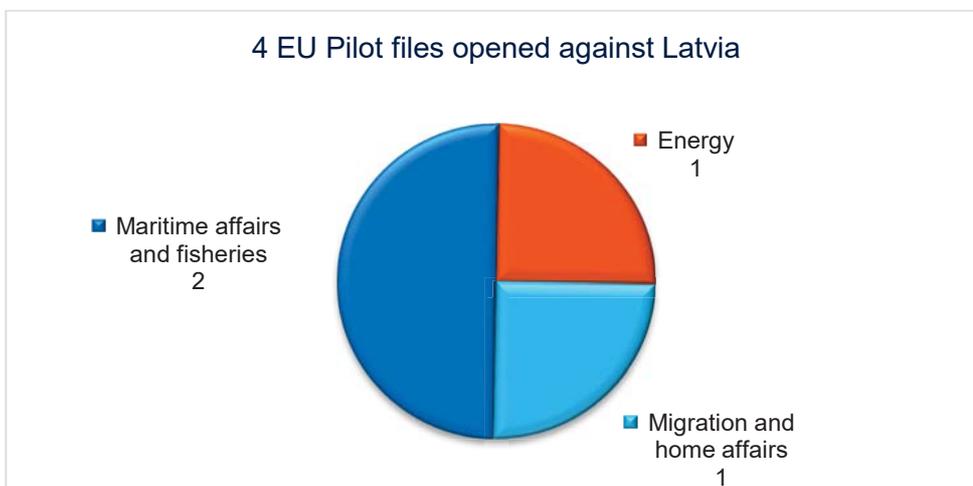
1. New EU Pilot files opened against Latvia (2015-2019)



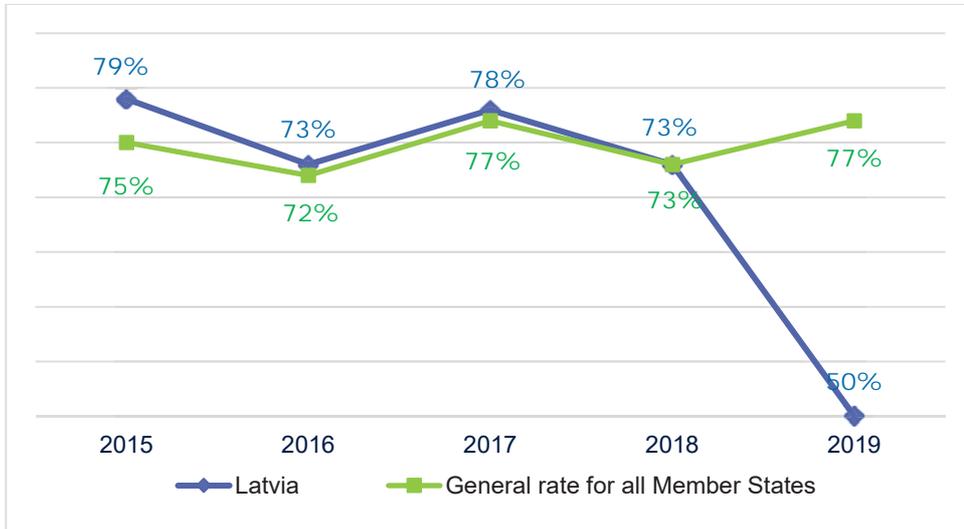
2. Files relating to Latvia open in EU Pilot at year-end



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

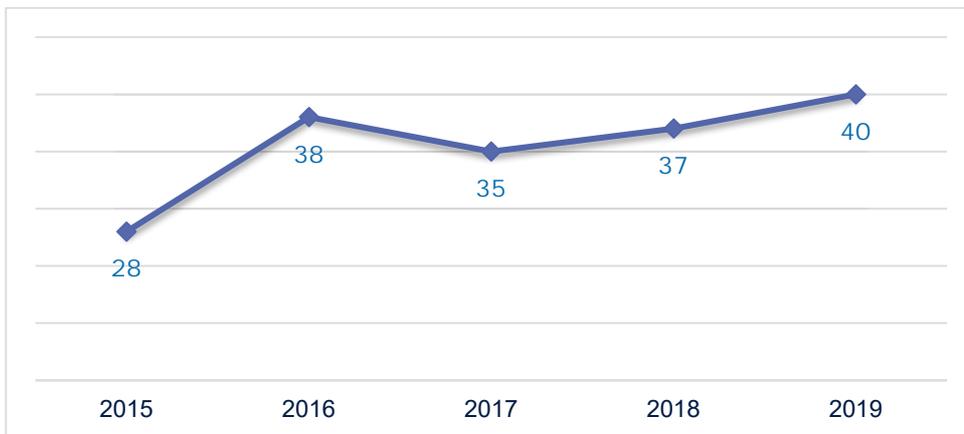


4. EU Pilot files: Latvia's resolution rate in 2015-2019



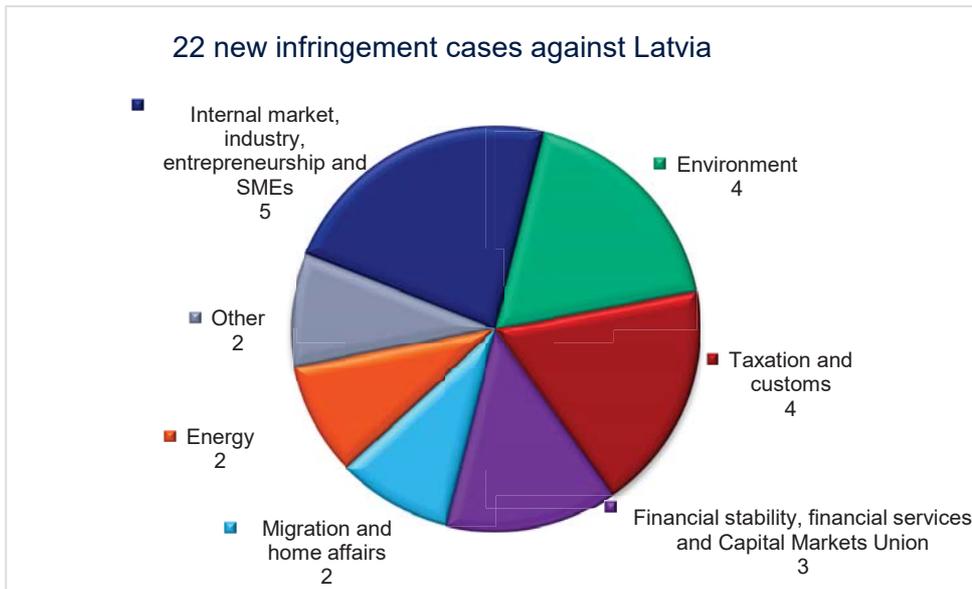
II. INFRINGEMENT CASES

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



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

Latvia



3. Key infringement cases and referrals to the Court

- a. [The Commission opened 22 new infringement cases against Latvia in 2019. These, and other major ongoing infringement cases, include:
- failure to ensure adequate protection of habitats and species of EU interest by designating nature protection areas to complete the NATURA 2000 network¹
 - failure to ensure that urban waste water is adequately collected and treated²
 - incorrect implementation of the SEPA Regulation³;
 - incorrect transposition of the:
 - Directive on combating the sexual abuse and sexual exploitation of children⁴
 - EU rules on public procurement and concessions⁵
 - Directive on the protection of animals used for scientific purposes⁶
 - Energy Efficiency Directive⁷
 - Radioactive Waste Directive⁸;
 - non-communication of national measures transposing the:
 - Directive on the activities and supervision of institutions for occupational retirement provision (IORPs II Directive)⁹
 - Bank Creditors Hierarchy Directive¹⁰.
- b. [The Commission did not refer any cases to the Court under Article 258 TFEU.]

¹ [INF/19/6304](#).

² Directive [91/271/EEC](#), [MEMO/19/462](#).

³ Regulation (EU) [260/2012](#), [MEMO/19/1472](#).

⁴ Directive [2011/93/EU](#), [MEMO/19/462](#) [INF/19/4251](#) and [INF/19/5950](#).

⁵ [INF/19/5950](#); Directives [2014/24/EU](#), [2014/25/EU](#) and [2014/23/EU](#).

⁶ Directive [2010/63/EU](#), [INF/19/5950](#).

⁷ Directive [2012/27/EU](#), [MEMO/19/462](#).

⁸ Directive [2011/70/Euratom](#), [MEMO/19/462](#).

⁹ Directive [2016/2341/EU](#).

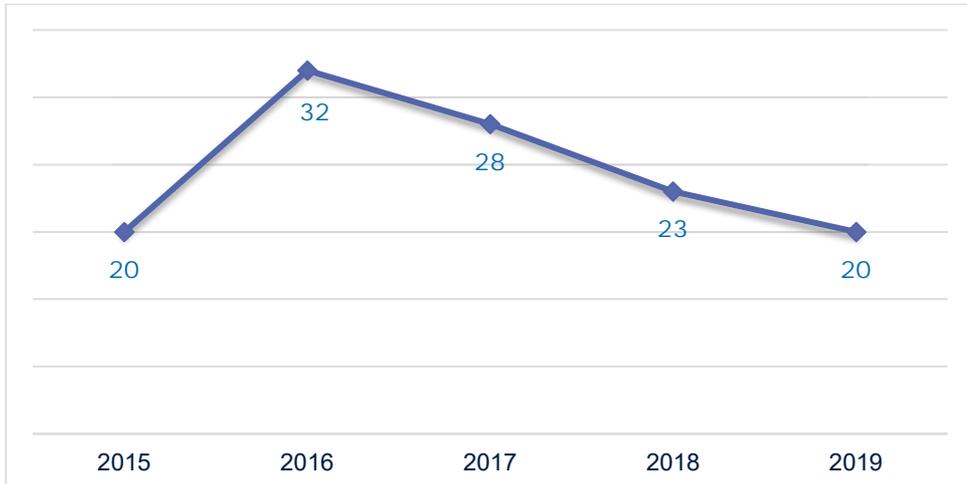
¹⁰ Directive [2017/2399/EU](#).

Latvia

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

III. TRANSPOSITION OF DIRECTIVES

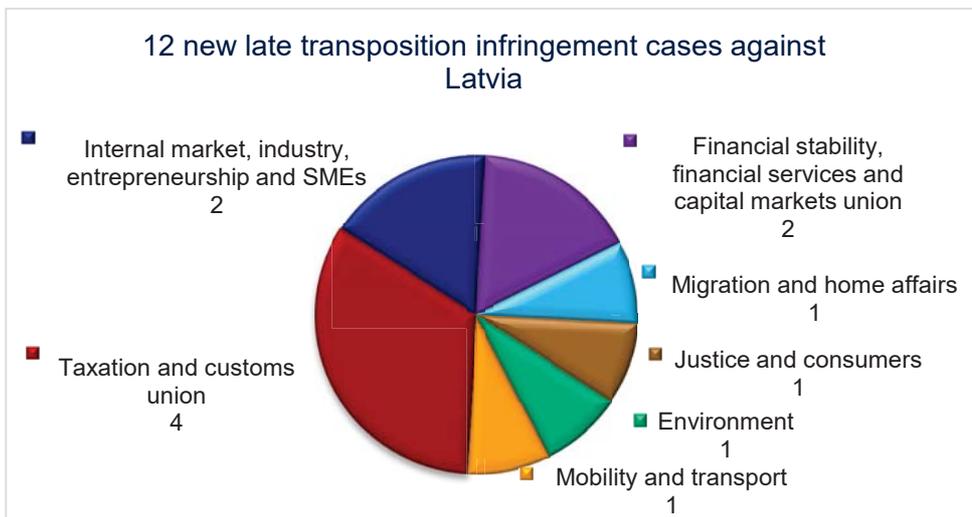
1. Late transposition infringement cases against Latvia open on 31 December (2015-2019)



2. New late transposition infringement cases against Latvia (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.]

IV. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2019

These concerned:

- restrictions to registration of right hand drive cars¹¹;
- discriminatory taxation of real estate in Riga City;
- non-compliance with the Energy Performance of Buildings Directive¹²;
- non-communication of national measures transposing the:
 - Commission Implementing Directive as regards isolation distances for Sorghum spp.¹³

¹¹ Directive [2007/46/EC](#).

¹² Directive [2010/31/EU](#).

¹³ Directive (EU) [2018/1027](#).

Latvia

- Reception Conditions Directive¹⁴
- Asylum Procedures Directive¹⁵
- Anti-tax avoidance Directive¹⁶.]

¹⁴ Directive [2013/33/EU](#); [INF/19/4251](#).

¹⁵ Directive [2013/32/EU](#).

¹⁶ Directive (EU) [2016/1164](#).

V. IMPORTANT JUDGMENTS

1. Court rulings¹⁷

There were no major Court rulings in 2019.

2. Preliminary rulings

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

- recording of a video of police officers in a police station, while a statement is being made, and the publication of that video on a video website, on which users can send, watch and share videos, are covered by the EU rules on data protection. Further, such recording and such publication on a video website may constitute a processing of personal data solely for journalistic purposes¹⁸.
- where the customs value of goods such as medicinal products is calculated by applying the deductive method (this is one of the methods used for calculating the customs value), the competent national customs administration must, in order to identify 'similar goods', take into account any relevant element. Such elements could be the respective composition of these goods, their substitutability with regard to their effects and their commercial interchangeability¹⁹.

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

¹⁸ *Buivids*, [C-345/17](#).

¹⁹ *SIA Oribalt Rīga v Valsts ieņēmumu dienests*, [C-1/18](#).