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General Statistical Overview

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Report from the Commission

Monitoring the application of European Union law

2020 Annual Report

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I. WORKING WITH MEMBER STATES TO ENSURE PROPER IMPLEMENTATION OF EU LAW

The Member States¹ and the European Commission share responsibility for ensuring compliance with EU law. In line with the principle of sincere cooperation set out in Article 4(3) of the Treaty on European Union, they should ‘in full mutual respect, assist each other in carrying out tasks which flow from the Treaties’.

The ultimate purpose of the Commission’s enforcement actions is to ensure compliance with EU law, and in this sense infringement procedures are an option of last resort to achieve that purpose. In many cases, good cooperation and communication between the Commission and the Member States is more conducive to reaching compliance at an early stage than having to resort to infringement procedures. In its Communication ‘EU law: Better results through better application’², the Commission committed to strengthening its partnership with Member States.

In line with this approach, the Commission has developed a number of tools to help Member States transpose, apply and implement EU law correctly and on time. These include guidance documents, implementation plans, expert groups, explanatory documents, providing training, organising workshops and holding package meetings. Some of these tools are used to avoid (‘prevent’) breaches of EU law, while others are intended to be used in parallel with infringement procedures to resolve (‘correct’) breaches of EU law and to avoid having to refer the matter to the Court of Justice of the European Union. The Commission often uses a combination of these tools to address problems and promote compliance with EU law.

The Commission is committed to better explaining its role as guardian of the treaties and its work with Member States on issues concerning the application and implementation of EU law. Information provided in this section of the report goes beyond the dialogue engaged with the Member States during the formal infringement procedures. It gives a brief overview of other types of action taken by the Commission in 2020 to assist Member States in implementing and applying EU law.

1. Guidelines

The Commission often provides written guidance to Member States on how to implement and apply certain EU legal instruments. In 2020, the Commission issued guidelines on interpreting and implementing EU law in the following policy areas.

In the field of **agriculture**, the Commission has provided extensive guidance on most sectors of the common agricultural policy. This includes: product-specific guides to facilitate the submission of applications for registrations of geographical indications; several guidelines on organic farming, especially on the additional controls required for certain imports from specific non-EU States³; dedicated guidelines to ensure a pragmatic implementation of the exceptional measures adopted in 2020, either due the COVID-19 pandemic or Brexit, both in the fields of income support and rural development. Moreover, in view of the upcoming common agricultural policy reform, the Commission has proactively issued detailed recommendations to assist Member States in the preparation of the common agricultural policy strategic plans.

In the policy area of **communication networks, content and technology**, in particular the electronic communications networks, the Commission issued a Recommendation⁴ calling on Member States to boost investment in very high-capacity broadband connectivity infrastructure, including 5G. This Recommendation sets out guidance for developing best practices and for fostering connectivity in support of economic recovery from the COVID-19 crisis.

¹ On 1 February 2020, the Withdrawal Agreement setting out arrangements for the orderly withdrawal of the United Kingdom from the Union entered into force and the United Kingdom became formally a third country. The Withdrawal Agreement provided for a transition period which started on 1 February 2020 and ended on 31 December 2020. During that transition period, and unless otherwise provided, Union law continued to apply to and in the United Kingdom, including infringement procedures. Any reference to Member States should therefore be understood as including the United Kingdom.

² Communication ‘EU law: Better results through better application’, [C\(2016\)8600](#).

³ The Commission has sent more than 100 interpretation letters to Member States, the European Parliament, and stakeholders, in order to clarify the EU legislative framework on organic farming.

⁴ [C\(2020\)6270](#).

In the same policy sector the Commission also adopted a Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex-ante regulation⁵. It constitutes an important regulatory and harmonisation tool, which helps to focus ex-ante regulatory intervention to those product and geographic markets in which significant market failures persist while allowing lifting it where it is no longer needed.

In order to improve trust and fairness in doing business online, the Commission also adopted guidelines on ranking transparency provided by online platforms⁶.

In July 2020, the Commission issued guidelines on video sharing platforms. The guidelines aim to assist Member States in applying the rules of the revised Audiovisual Media Services Directive⁷ which extends certain rules to video sharing platforms, including audiovisual content shared on some social media services.

In the area of **environment** and in particular waste management, the Commission published several new studies, including one on the extended producer responsibility, separate waste collection, the end-of-waste and by-products criteria, the methodology for the reporting on the reuse of products, the definition of backfilling, the revision of the essential requirements for packaging, and another one on the assessment of environmental benefits associated with compostable packaging. The Commission has also issued guidance on separate collection of household hazardous waste and guidelines on the reporting and calculation of packaging recycling. It also issued two COVID-19 crisis related guidance documents, one on shipments of waste in the EU and another on waste management in the context of COVID-19⁸.

The Commission also published guidance on wind energy developments and Natura 2000⁹. It aims to help national authorities and stakeholders apply the Habitats and Birds Directives when considering wind energy developments. Eight training sessions have been organised to promote these and related guidance documents in 13 Member States. The Commission also completed the second habitat action plan for the conservation of the habitat type¹⁰, which provides comprehensive information on the status and trends of, and the pressures and threats to, the relevant species and habitats and the measures needed to address them in order to achieve the Nature Directives¹¹ objectives. Furthermore, the Commission prepared 'FAQ notes' on how the Nature Directives relate respectively to the Nitrates Directive and to the Invasive Alien Species Regulation and how coordination can be improved between these instruments following consultation with stakeholders¹².

On environmental impact assessments, the Commission departments updated a booklet explaining the rulings of the Court of Justice of the EU on the Environmental Impact Assessment and Strategic Environmental Assessment Directives¹³. This will help Member States apply the directives correctly as knowledge of EU case-law is necessary for the understanding of the directives.

The Commission issued a vademecum on environmental compliance assurance in rural areas. The Environmental Compliance and Governance Forum recommended wide use of the vademecum by all national, regional and local authorities involved in ensuring compliance with EU environmental law in rural areas. The vademecum can be used to help draft strategies and can be a source of information on specific methods for monitoring compliance.

⁵ Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive (EU) 2018/1972 of the European Parliament and of the Council establishing the European Electronic Communications Code, [C\(2020\)8750](#).

⁶ Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council, [C\(2020\)8579](#).

⁷ Directive (EU) [2018/1808](#).

⁸ https://ec.europa.eu/info/sites/info/files/waste_management_guidance_dg-env.pdf

⁹ Guidance document on wind energy developments and EU nature legislation, COM(2020)7730.

¹⁰ <https://ec.europa.eu/environment/nature/natura2000/management/pdf/EU%20HABITAT%20ACTION%20PLAN%2004030.pdf>

¹¹ Habitats Directive [92/43/EEC](#) and Birds Directive [2009/147/EC](#).

¹² https://ec.europa.eu/environment/nature/natura2000/management/docs/FAQ_IAS.pdf

https://ec.europa.eu/environment/nature/natura2000/management/docs/Web_Cover_Nature_Directives.pdf

¹³ Directives [2011/92/EU](#) and [2001/42/EC](#), respectively.

In the **employment** policy area, notably health and safety at work, the Commission, together with the European Agency for Safety and Health at Work, has prepared guidelines to help employers prevent COVID-19 in the workplace. These guidelines are available in all official EU languages and are regularly updated¹⁴. Moreover, to better implement the occupational safety and health legislation, a working party within the Advisory Committee on Safety and Health at Work completed draft non-binding guidelines on the Directive on safety and/or health signs at work¹⁵, which were adopted at the plenary meeting of the Advisory Committee in December 2020.

In the area of labour mobility, where free movement of people met with challenges in 2020 due to the COVID-19 pandemic, the Commission issued guidelines on free movement of workers¹⁶ and on seasonal workers¹⁷. The aim was to inform workers about the general rules applicable to their work contract, the potential measures that they may have to take regarding their health insurance and the social security coverage during this period. These documents provide general information and answers to most of the questions that frontier workers and other workers who reside in a Member State and work in another may have in relation to their situation.

Moreover, in July 2020, the Commission published a report on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights¹⁸.

In the area of **financial services**, the Commission published two Notices¹⁹ with answers to the questions submitted by Member States during the two transposition workshops to help them transpose the Bank Resolution and Recovery Directive²⁰ consistently and accurately.

To improve the application of **internal market** legislation, the Commission published the Communication 'Coordinated economic response to the COVID-19 Outbreak' in March 2020²¹. It provides guidance to Member States on how to put in place adequate control mechanisms to ensure security of supply across Europe. While Member States may under certain strict conditions adopt restrictive measures, any such measure must be justified by the protection of human health and must be suitable, necessary and proportionate to achieve such objective. In particular, any planned national measure restricting access to medical and protective equipment must be notified to the Commission in accordance to the Single Market Transparency Directive²², which in turn informs the other Member States. If Member States do not sufficiently adapt their rules to bring them in line with EU law, the guidance makes it clear that the Commission will take legal action. Some national measures prevent exports of essential supplies to non-EU countries, the ultimate objective being to preserve the viability of the EU's healthcare systems. Should exports to non-EU countries jeopardise the response capacity of the EU to the COVID-19 outbreak, the guidance clarifies that a system of authorisations for exports of certain products can be put in place, as was the case during 2020.

The Commission also published guidance on the Recommendation on conformity assessment and market surveillance procedures within the context of the COVID-19 threat²³.

In the area of **justice and consumers**, notably the data protection field, the Commission published guidance on the development of new apps that support the fight against coronavirus²⁴ to align it with the General Data

¹⁴ <https://osha.europa.eu/en/publications/COVID-19-back-workplace-adapting-workplaces-and-protecting-workers/view>

¹⁵ Directive [92/58/EEC](#).

¹⁶ Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak, [C\(2020\)2051](#).

¹⁷ Guidelines on seasonal workers in the EU in the context of the COVID-19 outbreak, [C\(2020\)4813](#).

¹⁸ [COM\(2018\)789](#).

¹⁹ Notice relating to the interpretation of certain legal provisions of the revised bank resolution framework in reply to questions raised by Member States' authorities, [C\(2020\)6417](#) and Notice relating to the interpretation of certain legal provisions of the revised bank resolution framework in reply to questions raised by Member States' authorities (second Commission Notice), [C\(2020\)8279](#).

²⁰ Directive (EU) [2019/879](#).

²¹ [COM\(2020\)112](#).

²² Directive (EU) [2015/1535](#).

²³ [C\(2020\)1712](#).

²⁴ Guidance on Apps supporting the fight against COVID 19 pandemic in relation to data protection, [C\(2020\)2523](#).

Protection Regulation²⁵. This guidance aims to offer the necessary framework to guarantee that citizens have sufficient protection of their personal data and limitation of intrusiveness while using such apps.

In 2020, the Commission continued to monitor the implementation of the General Data Protection Regulation in the Member States. It also actively contributed to the work of the European Data Protection Board on the preparation of guidelines and recommendations. In that context, the Commission prepared draft Standard Contractual Clauses (SCCs)²⁶ for controllers and processors located in the EU and draft modernised SCCs for transferring personal data to non-EU countries. Their purpose is to equip stakeholders with a consistent package of modern and user-friendly tools that facilitate compliance with the regulation. The draft SCCs were subject to a public consultation and discussion with stakeholders; they were also shared with the European Data Protection Board and the European Data Protection Supervisor for their joint opinion.

In the area of **migration and home affairs**, the Commission published guidelines²⁷ on implementing the Regulation on marketing and use of explosives precursors²⁸. These guidelines should help national authorities, economic operators and online marketplaces apply the rules on chemicals that can be misused to build homemade explosives. The Commission issued two guidelines in response to the COVID-19 pandemic: Guidance on the implementation of relevant EU provisions in the area of asylum and return procedures and on resettlement²⁹ and guidelines for border management measures to protect health and ensure the availability of goods and essential services³⁰.

The **transport** sector was heavily impacted by the COVID-19 outbreak. Several clarifications were needed, in particular for air transport, notably in the area of passenger rights³¹ and air safety³². For maritime transport, the Commission issued guidelines on protection of health, repatriation and travel arrangements for seafarers and other persons on board ships³³.

The Commission also published guidelines to facilitate the implementation of the recently adopted Mobility Package 1³⁴. This took the form of Q&A addressing the most pressing questions raised by the sector on the application of the social provisions on driving times and rest conditions of drivers.

In the area of **taxation**, and notably indirect taxation, the Commission published guidelines on value added tax (VAT)³⁵ and explanatory notes on the new VAT e-commerce rules³⁶. These documents provide extensive explanations and clarifications on the new rules and include practical examples on how they should be applied by a supplier or an electronic interface (e.g. marketplace, platform) involved in e-commerce transactions. These explanatory notes are meant to help online businesses and in particular SMEs to understand their VAT obligations arising from cross-border commerce to consumers in the EU.

To improve and simplify the application of the Commission Decision to temporarily suspend customs duties and VAT³⁷ and to help Member States affected by the COVID-19 pandemic, the Commission published guidelines³⁸ on how to implement the Decision as well as an indicative list of goods which may benefit from it.

²⁵ Regulation (EU) [2016/679](#).

²⁶ https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc_en

²⁷ [C\(2020\)3756](#).

²⁸ Regulation (EU) [2019/1148](#).

²⁹ [C\(2020\)516](#).

³⁰ [C\(2020\)1753](#).

³¹ Interpretative Guidelines on EU passenger rights regulations in the context of the developing situation with COVID-19 [C\(2020\)1830](#) and Commission Recommendation (EU) [2020/648](#).

³² The joint EASA-ECDC COVID-19 Aviation Health Protocol and its addendum the [Guidelines for COVID-19 testing and quarantine of air travellers](#).

³³ [C\(2020\)3100](#).

³⁴ https://ec.europa.eu/transport/modes/road/mobility-package-qa_en

³⁵ https://ec.europa.eu/taxation_customs/sites/taxation/files/guidelines-vat-committee-meetings_en.pdf

³⁶ https://ec.europa.eu/taxation_customs/sites/taxation/files/vatecommerceexplanatory_28102020_en.pdf

³⁷ [C\(2020\)2146](#).

³⁸ https://ec.europa.eu/taxation_customs/COVID-19-taxud-response_en

As for improving the application of **customs** legislation, the Commission published an update of the customs audit guide and guidelines on prioritising risks for customs controls and managing the impact of the common risk criteria and standards of COVID-19 related risks.

2. Meeting-based compliance tools

The Commission deploys a wide range of meeting-based tools, such as committees, networks, expert groups and workshops, to promote the good implementation of EU law across policy areas.

2.1. Committees, networks, expert groups and workshops

Since the introduction of the **common agricultural policy**, the Commission has made intensive use of committees to ensure compliance with EU law. Beyond their institutional role in adopting implementing acts, the agricultural committees provide an important forum to discuss, explain, clarify and interpret the rules³⁹. The Commission has also helped Member States on the transposition of the Directive on unfair trading practices⁴⁰ and with the implementation of agricultural law, through discussions in experts groups, workshops, reports on implementation, formulating or updating guidelines, disseminating good practices and exchanging experience. In 2020, the Commission departments held 76 committee meetings and 66 meetings of the expert groups with Member States, mainly online. The Member States were also consulted on a number of draft implementing and delegated acts to maintain their level of involvement in the preparation of agricultural legislation despite the exceptional circumstances due to COVID-19.

In the policy area of **communication networks, content and technology**, in particular the electronic communications networks, the Communications Committee (COCOM)⁴¹ assists the Commission. COCOM is composed of Member States' representatives and its main role is to provide an opinion on the measures that the Commission intends to adopt. In 2020, four COCOM meetings took place and was involved in the adoption of three implementing regulations.

In the policy sector of audio-visual media services, the Contact Committee assists the Commission. The Contact Committee is composed of representatives of Member States' competent authorities and chaired by a representative of the Commission. Among their main tasks, the Contact Committee is entrusted to facilitate the effective implementation of the Audiovisual Media Services Directive⁴² through regular consultation on any practical problems arising from its application, as well as on any other matters deemed useful. In 2020, the Commission has consulted the Contact Committee on the Guidelines on Video Sharing Platforms and European works issued in July (mentioned under herein below). Additionally, a virtual meeting was held in September 2020 to discuss the status of national transpositions and to inform Member States how the Commission monitors the transposition and implementation of the directive. Furthermore, the committee discussed the setting up of the centralised database of the media service providers under Member States jurisdiction, foreseen by the Audiovisual Media Services Directive.

On copyright policy, the Copyright Contact Committee⁴³ assists the Commission. In 2020, three meetings of that committee took place, in which issues such as fair remuneration in exploitation contracts of authors and performers or the preparation of the Commission's guidance on the application of Article 17 of Directive 2019/790/EU on copyright and related rights in the Digital Single Market⁴⁴ were discussed.

³⁹ These Committees include notably: the Committee for the Common Organisation of the Agricultural Markets; the Rural Development Committee; the Committee on the Agricultural Funds; the Committee for Direct Payments; the Agricultural Product Quality Policy Committee; the Committee for Spirit Drinks; the Committee on Organic Production; the Committee on Agricultural Structures and Rural Development; and the Committee for the Farm Accountancy Data Network.

⁴⁰ Directive (EU) [2019/633](#).

⁴¹ <https://ec.europa.eu/digital-single-market/en/communications-committee>

⁴² Directive (EU) [2018/1808](#).

⁴³ <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail&groupDetail&groupID=1419>

⁴⁴ Directive [2019/790/EU](#).

The Expert Group on Voice Call Termination Rates in the EU⁴⁵, formed by representatives of national regulatory authorities held two meetings in 2020 and was consulted on the adoption of a delegated act setting EU wide a single maximum mobile and fixed voice termination rate⁴⁶.

The European Regulators Group for Audiovisual Media Services (ERGA) consists of the representatives of the independent national regulatory authorities of Member States' in the audiovisual sector and advises the Commission on the consistent implementation of the Audiovisual Media Services Directive and other matters related to audiovisual media services. In 2020, ERGA established a voluntary cooperation mechanism among its members for efficient enforcement of the applicable rules. ERGA also set up three main working groups, namely (i) on strengthening the Digital Single Market by enforcing European rules and values in the online environment, (ii) on disinformation and (iii) on ensuring prominence and non-discriminatory access of audiovisual media content to all platforms. In addition, in reaction to the pandemic, ERGA set-up an ad-hoc action group on the impact of the COVID-19 pandemic on the audiovisual media sector. Over the course of 2020, the various groups within ERGA held a total of 21 meetings and seven workshops with stakeholders and experts, on topics such as disinformation and questions regarding the regulation of bloggers.

In the area of **environment**, and in particular air quality, two expert group meetings with Member States were organised on the implementation of the Directive on the reduction of national emissions of certain atmospheric pollutants⁴⁷ and two expert group meetings on the implementation of the Air Quality Directives⁴⁸.

In the area of waste management, the Commission departments held 14 technical committee meetings and 22 expert group meetings as well as many other meetings with stakeholders. These meetings concerned both the preparation of new legislation and the implementation of existing directives and regulations. In the area of water protection, the Commission departments held 14 expert meetings to discuss the implementation of the water directives.

The Commission has also further supported the Natura 2000 biogeographical cooperation process that takes place between various stakeholders at the level of a biogeographical region. The Member States in which the region lies are involved in improving the implementation, management, monitoring, financing and reporting for the Natura 2000 network on the basis of agreed roadmaps. One Natura 2000 biogeographical seminar was organised in 2020 for the Alpine region.

The Commission has also organised one Member State and stakeholder meeting to exchange knowledge, information, good practices on licencing and inspection under the Zoo Directive⁴⁹.

In 2020, two expert group meetings were organised on the practical implementation of the Environmental Impact Assessment Directive⁵⁰ and Strategic Environmental Assessment Directive⁵¹.

On **health and food safety**, to help Member States implement the Directive on the sustainable use of pesticides⁵² (SUD), the Commission organised a series of initiatives through the SUD Working Group, audits, and the better training for safer food programme⁵³.

In the area of **employment**, notably working conditions, the expert group for the transposition of the key Directive on Transparent and Predictable Working Conditions⁵⁴ held four meetings in 2020.

⁴⁵ <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3699&news=1>

⁴⁶ <https://webgate.ec.europa.eu/regdel/#/delegatedActs/1206>

⁴⁷ Directive (EU) [2016/2284](#).

⁴⁸ Directives [2008/50/EC](#) and [2004/107/EC](#).

⁴⁹ Directive [1999/22/EC](#).

⁵⁰ Directive [2011/92/EU](#).

⁵¹ Directive [2001/42/EC](#).

⁵² Directive [2009/128/EC](#).

⁵³ https://ec.europa.eu/food/safety/btsf_en

⁵⁴ Directive (EU) [2019/1152](#).

The standing sub-group of Member States' Directors-General for industrial relations on working time met once in 2020, giving Member States and the Commission a forum to discuss the implementation of the directive in the light of recent case-law.

On health and safety at work, the cooperation between Member States, Commission and social partners to make the EU occupational safety and health legislative framework future-proof and ensure proper compliance and enforcement continued and was reinforced in the context of the COVID-19 pandemic. In particular exchanges took place within the tri-partite Advisory Committee for Safety and Health at Work and the Senior Labour Inspectors Committee.

The Commission also made regular use of committees and expert groups to discuss the proper implementation and application of the occupational safety and health legislation (OSH). In 2020, the Senior Labour Inspectors' Committee adopted two documents on 'Training of labour inspectors on OSH – with regard to work equipment' and on 'Basic training module for labour inspectors – with regard to chemical risks at the workplace'. It also adopted an opinion on 'Future EU OSH enforcement priorities contributing to a renewed EU OSH strategy'.

In light of the COVID-19 pandemic, the Commission has updated the Biological Agents Directive⁵⁵ to add the new SARS-CoV-2 virus to the list of biological agents. The Commission and the European Agency for Safety and Health at Work have also created guidelines to help employers prevent COVID-19 in the workplace and properly and fully apply the directive's measures on improving the safety and health of workers at work⁵⁶. This includes, in particular, assessing the risks and taking the appropriate risk management measures in line with the hierarchy of controls. The guidelines are available in all official EU languages and are regularly updated⁵⁷. To analyse the lessons learnt from this unprecedented pandemic and discuss appropriate means to improve preparedness in the future, a tri-partite Working Party on Pandemics of the Advisory Committee on Safety and Health at Work has been established.

On disability and inclusion, the Commission held four meetings with Member State representatives to help them with the transposition of the Directive on accessibility of products and services⁵⁸. Issues addressed included provisions for products and standards; electronic communications; audio visual services, e-commerce and copyright; and transport.

In the area of labour mobility, the expert group for the transposition of the Directive on the Posting of Workers⁵⁹ held one meeting in 2020.

On the coordination of social security systems, the Administrative Commission met four times (virtually) during 2020 for national authorities to share information on the application of the Regulation on the coordination of social security systems⁶⁰. They also discussed difficulties in applying the rules, including challenges connected to the COVID-19 pandemic and Withdrawal Agreement concluded between the European Union and the United Kingdom. The network of experts in social security also helped with the correct application of the regulation by developing information tools, ad hoc analyses and reports on specific issues, and organising seminars in Member States.

The Commission regularly discussed the implementation of the **energy** legislation with Member States in the relevant committees and expert groups. Topics discussed included governance of the Energy Union, energy efficiency, energy labelling, energy performance of buildings, the internal energy market, nuclear decommissioning and safety, oil coordination, biofuels, bioliquids and biomass.

For climate change and energy policies, the Commission organised one Technical Working Group meeting with experts from all Member States in July 2020, notably to discuss the links between the national energy and climate plans and the recovery and resilience plans as part of the Recovery and Resilience Facility.

⁵⁵ Directive [2000/54/EC](#).

⁵⁶ Directive [89/391/EEC](#).

⁵⁷ <https://osha.europa.eu/en/publications/COVID-19-back-workplace-adapting-workplaces-and-protecting-workers/view>

⁵⁸ Directive (EU) [2019/882](#).

⁵⁹ Directive (EU) [2018/957](#).

⁶⁰ Regulation (EC) [883/2004](#).

In May 2020, the Energy Union Committee held its first meeting where it discussed the draft implementing regulation on the EU renewable energy financing mechanism. A second meeting was held in July to continue the work and also prepare the revised draft implementing regulation.

In 2020, the Commission used the Concerted Action forum, which gathers representatives of Member States and other interested parties, to exchange best practices when applying specific EU instruments. Discussions were mainly on the implementation of the Energy Performance of Buildings Directive⁶¹, the Energy Efficiency Directive⁶² and the Renewable Energy Directive⁶³.

Furthermore, on nuclear safety and radioactive waste, the Commission held several meetings with the European Nuclear Safety Regulators Group, and on radiation protection it worked in cooperation with the group of health experts established under Article 31 of the Euratom Treaty.

In the area of **financial services**, the Commission organised transposition workshops to help Member States ensure compliance with the Capital Requirements Directive⁶⁴, the Bank Resolution and Recovery Directive⁶⁵, Covered Bond Directive⁶⁶, Investment Firms Directive⁶⁷. Afterwards, the Commission published two Notices⁶⁸ with the answers to the questions submitted by Member States during the workshops on the Bank Resolution and Recovery Directive.

In the area of **justice and consumers**, the Commission set up an expert group⁶⁹ comprising representatives of Member States' authorities responsible for the transposition of the Directive on the protection of persons who report breaches of Union law⁷⁰ to facilitate a timely and correct transposition. The directive aims to protect whistleblowers reporting breaches in 13 Union policy areas. The expert group met three times in 2020.

With regard to data protection, the Commission consulted the Multistakeholder group⁷¹ in view of preparing an evaluation report on two years of applying the General Data Protection Regulation. Moreover, the Commission organised a dedicated meeting with that expert group concerning the draft implementing decisions on (i) Standard Contractual Clauses (SCCs) between controllers and processors located in the EU and (ii) SCCs for transferring personal data to non-EU countries. The concrete feedback received from the group's members has been duly considered for the revision of the two draft SCCs.

On **internal market** policy, the Mutual Recognition Committee delivered its positive opinion by unanimity on the Draft Commission implementing regulation specifying the details and functions of the information and communication system to be used for the Regulation on the mutual recognition of goods lawfully marketed in another Member State⁷². The Commission implementing regulation was adopted and published on 11 November 2020⁷³ and the Mutual Recognition Expert Group was established on 7 December 2020.

In addition, a webinar with national authorities and stakeholders to discuss options for the setting up of the EU Observatory on payment delays in commercial transactions took place on 6 November 2020.

The Commission regularly exchanged information with Member States on the implementation of the **security and migration** legislation in various committee meetings, notably on legal migration, asset recovery,

⁶¹ Directive [2010/31/EU](#).

⁶² Directive [2012/27/EU](#).

⁶³ Directive [2009/28/EC](#).

⁶⁴ Directive (EU) [2019/878](#).

⁶⁵ Directive (EU) [2019/879](#).

⁶⁶ Directive (EU) [2019/2162](#).

⁶⁷ Directive (EU) [2019/2034](#).

⁶⁸ See footnote 15 above.

⁶⁹ <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3709>

⁷⁰ Directive [2019/1937](#).

⁷¹ <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail.groupDetail&groupID=3537>

⁷² Regulation (EU) [2019/515](#).

⁷³ Regulation (EU) [2020/1668](#).

explosive precursors, passenger name record data, document security, information systems for borders and security and the fight against child sexual abuse.

On the fight against child sexual abuse, the Commission organised three expert workshops on the implementation of the Child Sexual Abuse Directive⁷⁴. Topics explored during these workshops included technical solutions for the prevention of child sexual abuse.

In the **transport and mobility area**, the Commission has made intensive use of committees and expert groups to ensure compliance with EU law. No less than 16 meetings were held in 2020 to discuss cross-cutting maritime and aviation security issues, while eight meetings were held with National Enforcement Bodies to discuss passenger rights for all modes of transport (air, rail, waterborne and bus and coach). Two workshops were also organised to discuss aviation security issues.

In the road sector, five committee meetings on road transport, roadworthiness, transport of dangerous goods and 20 expert meetings on issues as diverse as smart tachograph, tunnels, transport of dangerous goods roadworthiness and training of professional drivers took place. They contributed to a better understanding and enforcement of the vast road sector rules. These meetings were followed by the first Digital Enforcement Workshop, held in October 2020.

In the rail sector, three meetings of the Rail Safety and Interoperability Committee took place, one of which with a dedicated agenda point on the transposition of the Fourth Railway Package's Technical Pillar.

In the maritime and inland waterways sector, the Committee on Safe Seas and the Prevention of Pollution from Ships met twice in 2020. Over 50 expert group meetings were also organised that year on a broad range of issues, including the implementation of the European Maritime Single Window environment and of the Regulation on electronic freight transport information, passenger ship safety, ship-source pollution, governance of digital maritime system and services, marine equipment, inland waterways and European ports. A workshop on the development of the European Hull database was held in November 2020.

In the air sector, the Thessaloniki Forum⁷⁵ met three times in 2020, as did the Commission expert group on the Aviation Internal Market. On Single European Sky (SES) issues, the SES Committee met seven times, and several meetings were held by bodies including the National Supervisory Authority Coordination Platform, the Expert Group on the Human Dimension of the SES and the Industry Consultation Body. SESAR (Single European Sky Air Traffic Management Research), which is the technological pillar of the SES initiative, was discussed at over 50 meetings. The European Union Aviation Safety Agency Committee organised three meetings on aviation safety to discuss the application of common safety rules for civil aviation. The Air Safety Committee also organised three meetings to update the Air Safety List Regulation. Several expert group meetings took place, in particular to consult with Member States on the topic of drones. The European Network of Civil Aviation Safety Investigation Authorities met in February and in October. Finally, three meetings took place with EASA to synchronise potential Member State-related enforcement action.

In the policy area of **taxation and customs**, notably value added tax (VAT) policy, the VAT Committee⁷⁶ met twice and agreed guidelines establishing which Member State is entitled to tax the admission to events, clarified the scope of an exemption relevant for the financial sector and the application of the exemption for cross-border sales of goods⁷⁷.

With regard to excise duties policy, the Commission met regularly with the Member States in the framework of its Indirect Tax Expert Group, the Excise Duty Committee and the Fiscalis Project Group.

On customs policy, the Cash Controls Committee and the Expert Group prepared draft implementing acts for the Regulation on controls on cash entering or leaving the EU⁷⁸. The Cultural Goods Committee and Expert

⁷⁴ Directive [2011/93/EU](#).

⁷⁵ An expert group dealing with the implementation of the Airport Charges Directive [2009/12/EC](#).

⁷⁶ The VAT Committee consists of representatives of the Member States and of the Commission. It examines questions concerning the application of EU VAT provisions raised by the Commission or a Member State.

⁷⁷ These issues concerned Articles 53, 132(1)(f) and 138 of [Directive 2006/112/EC](#), respectively.

⁷⁸ Regulation (EU) [2018/1672](#).

Group on customs issues related to cultural goods also met to discuss and prepare an implementing act on the introduction and import of cultural goods⁷⁹.

2.2. Package meetings

On **internal market** policy, the Commission organised a series of meetings on enforcement⁸⁰ among other topics, notably to discuss the Professional Qualifications Directive with Bulgaria, Czechia, France, Greece, Italy, Poland and Spain. Meetings with the other Member States are scheduled for 2021.

In the policy area of **communication networks, content and technology**, the Commission held package meetings with Czechia, Greece, France and Poland to discuss open infringement cases and to find an early solution thereon.

2.3. Other compliance tools

In the area of the **common agricultural policy**, general enforcement practices are accompanied by tailored compliance tools, both to prevent and sanction violations of EU law. For example, on the protection of geographical indications, the Commission regularly audits Member States' official control systems (in 2020, only remote audits were possible due to the COVID-19 pandemic). To properly enforce legislation on organic farming, an Organic Farming Information System has been developed to ensure information exchange between Member States and the Commission, in particular to notify any suspicion of irregularity. The Commission monitors this system and evaluates the performance of the control bodies and non-EU countries.

On sustainability and income support, EU rules oblige Member States to notify the Commission of their policy decisions and provide data on annual implementation. The Commission uses these notifications to guide Member States towards more uniform implementation and issues annual reports on direct payments. The Commission also uses conformity audits to check whether the Member States have set up adequate control systems to make sure that payments from the EU funds to beneficiaries are made correctly. If there are weaknesses in the control systems, these audits can result in recommendations and financial corrections. Where systemic deficiencies are found, the Commission requests that remedial action plans be developed and ensures their follow-up. A suspension or reduction of payments to the Member State may follow if an action plan is not implemented. Sixteen actions plans on rural development were adopted in 2020, mainly addressing deficiencies in the implementation of public procurement, the lack of information exchange between the authorities implementing the measures, and the failure to achieve minimum control rates.

In the area **communication networks, content and technology**, the high-speed digital communications foster innovation and better services for the economy and for society as a whole. The development of Gigabit connectivity, fixed and mobile, as well as 5G are priorities for this Commission. A pro-investment regulatory framework is in place, the cornerstone of which is the European Electronic Communications Code (EECC), applicable as of 21 December 2020. Throughout the two-year transposition process for the EECC, the Commission provided technical assistance to the Member States with the view to facilitating the correct transposition of the new rules, closely monitored the assignment of the 5G pioneer bands and cooperated with Member States in their efforts to ensure their availability and assignment under conditions conducive to investment.

On the Geo-blocking Regulation⁸¹, the Commission published the first short-term review⁸². It included the overall findings on the first months of implementation of the regulation and an assessment of the implementation activities carried out by the Commission and by Member States since its adoption in February 2018.

⁷⁹ Regulation (EU) [2019/880](#).

⁸⁰ In line with Action 22 of the Communication 'Long term action plan for better implementation and enforcement of single market rules', [COM\(2020\)94](#).

⁸¹ Regulation (EU) [2018/302](#).

⁸² <https://ec.europa.eu/digital-single-market/en/news/commission-publishes-its-short-term-review-geo-blocking-regulation>

On the **environment**, particularly air quality, a capacity building contract was launched in 2020 to improve air pollutants emissions inventories under the NEC Directive, open to around 10 Member States. Another capacity building contract was launched for improving ecosystem monitoring of air pollution under the NEC Directive, open to around 10 Member States.

To encourage Member States to discuss key challenges in implementing the Nature Directives, three nature dialogues were organised in 2020. These dialogues have involved 24 Member States so far, and follow-up dialogues are still taking place to monitor the implementation of the agreed roadmaps. In each of these dialogues, the coordination between all authorities involved in the management of Natura 2000 sites was discussed and awareness was raised on the important links with agricultural, forestry and fisheries policies.

In the area of water protection, the Commission organised an online workshop on strengthening the economic knowledge base for the financing of the EU Water Framework Directive⁸³ and Floods Directive⁸⁴.

Also in the environment policy area, a pilot training was organised, covering all aspects of the Zoo Directive⁸⁵ for Member State authorities, zoos and their associations.

Regarding **employment**, and notably working conditions, the Interpretative Communication on the working time directive⁸⁶ is updated on the Commission's website⁸⁷ after each judgment of the Court.

On health and safety at work, the Commission continued cooperating with Member States and social partners to make the EU occupational safety and health legislative framework future-proof and ensure proper compliance and enforcement.

The Commission continues to support an initiative on the exchange of good practices, namely the 'roadmap on carcinogens', a joint action between the Commission and stakeholders. This is a voluntary scheme to raise awareness about the risks of exposure to carcinogens in the workplace and exchange good practices between companies and organisations.

In the field of **energy**, the Commission shared with Member States a voluntary correlation table to facilitate the notification of the transposition measures of the Energy Performance of Buildings Directive, the Energy Efficiency Directive, the Renewable Energy Directive and the Directive on the internal market for electricity.

Regarding radiation protection, the Commission finalised its technical exchanges with the Member States on issues related to the conformity of their transposition with the Euratom Drinking Water Directive.⁸⁸

On radioactive waste, the Commission continued its technical exchanges with the Member States on issues related to the conformity of their transposition with the Radioactive Waste Directive and the conformity of the national programs issued under the Directive.⁸⁹

In the area of **internal market**, the Commission continued to expand the Internal Market Information System - its default tool for administrative cooperation - and introduced a new module for the Consumer Protection Cooperation network. The Your Europe portal was upgraded in December 2020 to become the 'single digital gateway'⁹⁰. Greater availability of information on rights and obligations in the single market will enable the correct application of EU law.

The Commission monitors SOLVIT reports on single market-related difficulties identified by the SOLVIT network in order to gather more evidence on structural issues. In line with the single market enforcement

⁸³ Directive [2000/60/EC](#).

⁸⁴ Directive [2007/60/EC](#).

⁸⁵ Directive [1999/22/EC](#).

⁸⁶ [C\(2017\)2601](#).

⁸⁷ The relevant webpage can be accessed here:

<https://ec.europa.eu/social/main.jsp?catId=706&intPageId=5115&langId=en>

⁸⁸ Directive [2013/51/Euratom](#).

⁸⁹ Directive [2011/70/Euratom](#).

⁹⁰ Regulation [2018/1724](#).

action plan adopted in March 2020⁹¹, the Commission transferred relevant individual complaints to SOLVIT, the single market dispute resolution tool.

In the area of **justice and home affairs**, the EU has created the Schengen evaluation mechanism⁹² – a specific monitoring tool designed to verify that the EU's Schengen legislation is correctly applied. The relevant EU legislation covers borders, visas, returns, police cooperation, information systems and data protection. It aims to ensure that high uniform standards are applied in practice by the EU's Schengen area countries⁹³, which are characterised by having no internal border controls. The Schengen evaluation mechanism is a multi-layered tool involving the Commission, Member States (as well as the Schengen associated countries) and the European Parliament. Countries belonging to the Schengen area are subject to monitoring and evaluation according to an evaluation programme.

To enforce the EU's **maritime affairs and fisheries** legislation, the Commission relies heavily on a system of verifications, inspections and audits by Commission inspectors. In addition, the control action plans adopted by the Commission in close cooperation with the Member State concerned are a strong tool to ensure the correct enforcement of EU legislation and of the sanctioning system. In 2020, the Commission adopted new action plans for several Member States and actively monitored their implementation. On the common organisation of the markets in fishery and aquaculture products, the Commission ensures that Member States carry out regular checks on the proper implementation of the relevant EU legislation.⁹⁴

In the area of **health and food safety**, audits remained a key tool in the implementation and enforcement of the EU's extensive legal framework on food and feed safety, animal health, plant health and animal welfare and also an important element for maintaining quality control for pharmaceutical products and medical devices.

On **taxation and customs**, notably direct taxation, the Commission published a report⁹⁵ on the implementation of the Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market including hybrid mismatches with non-EU countries. The report is the first step in the evaluation of the impact of the Administrative Tax Avoidance Directive⁹⁶ and provides an overview of the implementation of its early applicable measures (interest limitation, general anti avoidance rule, controlled foreign company rule) across Member States.

In the customs area, the Commission manages six IT tools that help ensure the uniform and good implementation of the customs tariff policy. These IT tools are available to the public and receive over 100 million hits per year.

3. Explanatory documents

Explanatory documents play an essential role in allowing the Commission to understand how Member States transpose EU directives. They help to make monitoring compliance easier: without these documents, the Commission would need considerable resources and numerous contacts with national authorities to track the methods of transposition in all Member States. Often, transposing measures must fit into a complex legal framework. The resulting transposition exercise thus produces hundreds of measures that the Commission needs to examine.

In its judgment of 8 July 2019,⁹⁷ the Court of Justice clarified that, when notifying national transposition measures to the Commission, Member States must provide sufficiently clear and precise information, and identify, for each provision of the directive, the national provision(s) ensuring its transposition. If they fail to provide documents explaining the correlation between the provisions of a directive and the corresponding

⁹¹ [COM\(2020\)94](#).

⁹² Regulation (EU) [1053/2013](#).

⁹³ An area comprising 26 countries, 22 of which are EU Member States and four of which are non-EU countries associated to the Schengen area (Iceland, Norway, Switzerland and Liechtenstein).

⁹⁴ Regulation (EC) [1379/2013](#).

⁹⁵ [COM\(2020\)383](#).

⁹⁶ Directive (EU) [2017/952](#).

⁹⁷ Commission v Belgium, [C-543/17](#).

provisions of national law, the Commission will pursue the infringement procedures under Article 260(3) TFEU. This Treaty provision allows the Commission to request the Court to impose financial penalties if a Member State fails to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure. The Court's judgment did not impose an obligation on the Member States to notify explanatory documents to the Commission in the form of correlation tables. Member States remain free to choose the form of their explanatory documents.

Since then, the Court of Justice has confirmed this jurisprudence in further judgments.⁹⁸ Given that the requirement for Member States to provide sufficiently clear and precise information on the national provisions transposing a directive is now firmly established as a legal obligation for each directive and not merely optional, the Commission considers that it is no longer necessary to report on the numbers of explanatory documents notified by the Member States.

4. Implementation plans

The Commission prepares implementation plans for certain legislative proposals for directives and regulations. An implementation plan identifies the challenges that the Member States will face and which need to be taken into account when they prepare to transpose and implement the respective directive or regulation. The plans also provide for a wide range of tools to help Member States implement EU laws, such as guidance documents, expert groups and dedicated websites. Implementation plans could also include actions and monitoring arrangements by the Member States to track progress and report on their implementation.

In the policy area of **communication networks, content and technology**, and notably on the Geo-blocking Regulation⁹⁹, the Commission published the first short-term review¹⁰⁰ of that regulation. This report included the overall findings on the first months of implementation of the Regulation and an assessment of the implementation activities carried out by the Commission and by Member States as from its adoption in February 2018.

On **environment**, notably air quality, the Commission report on progress made in implementing the National Emissions Ceilings Directive¹⁰¹ includes assessments of the national air pollution control programmes and a related risk assessment for each Member State, together with recommendations to individual Member States.

In the area of **financial services**, the Commission prepared one implementation plan for the Directive on Cross-border distribution of investment funds¹⁰². Member States are required to adopt and publish the measures transposing this Directive into national law by 2 August 2021.

The directive's main objective is to harmonise rules applicable to all collective investment undertakings: Undertakings for the Collective Investment in Transferable Securities and alternative investment funds. It addresses the remaining barriers to cross-border distribution of investment funds with the aim of boosting the Capital Markets Union.

In the area of **taxation and customs**, the Commission provided Member States with an implementation plan on reporting requirements for payment service providers¹⁰³ and to combat VAT fraud¹⁰⁴.

⁹⁸ See judgments in Cases Commission v Romania, [C-549/18](#) and Commission v Ireland, [C-550/18](#).

⁹⁹ Regulation (EU) [2018/302](#).

¹⁰⁰ <https://ec.europa.eu/digital-single-market/en/news/commission-publishes-its-short-term-review-geo-blocking-regulation>

¹⁰¹ [COM\(2020\)266](#).

¹⁰² Directive (EU) [2019/1160](#).

¹⁰³ Directive (EU) [2020/284](#).

¹⁰⁴ Regulation (EU) [2020/283](#).

II. INFRINGEMENT PROCEDURES – FROM DETECTING BREACHES TO PENALTIES

There are four main types of infringements of EU law:

- a) **failure to notify**: a Member State does not notify the Commission on time of its measures to transpose a directive;
- b) **non-conformity/non-compliance**: the Commission considers that a Member State's legislation is not in line with the requirements of EU directives;
- c) **infringement of the Treaties, regulations or decisions**: the Commission considers that a Member State's legislation is not in line with the requirements of the Treaties, EU regulations or decisions;
- d) **incorrect application**: EU law is not applied correctly, or not applied at all, by national authorities.

Infringements may be detected by the Commission's own investigations or brought to its attention by complaints or petitions from members of the public, businesses, NGOs or other organisations.

The Commission actively informs complainants of the decisions taken throughout all stages of the procedure.

The infringement procedure under Article 258 TFEU is divided into a **pre-litigation phase** and a **litigation phase**.

In the **pre-litigation phase**, the Commission first sends a **letter of formal notice** to the Member State requesting an explanation within a given time limit. If the Member State's reply is unsatisfactory or if the Member State does not reply at all, the Commission sends a **reasoned opinion** asking the Member State to comply within a given time limit.

Should the Member State not comply with the reasoned opinion, the Commission may open the **litigation procedure** by bringing the case to the Court of Justice under Article 258 TFEU.

When it brings a case before the Court against a Member State for failing to fulfil its obligations to notify measures transposing a directive adopted under a legislative procedure, the Commission may propose financial penalties under Article 260(3) TFEU.

The Court may agree with the Commission and rule that the Member State has breached its obligations under EU law. If the Court does so but the Member State still has not taken the steps needed to comply, the Commission may continue the infringement procedure under Article 260(2) TFEU. This involves referring the Member State to the Court again, after sending it a letter of formal notice under Article 260(2) TFEU. In such cases the Commission can propose, and the Court can impose, financial sanctions in the form of a lump sum and penalties per day or another specified period.

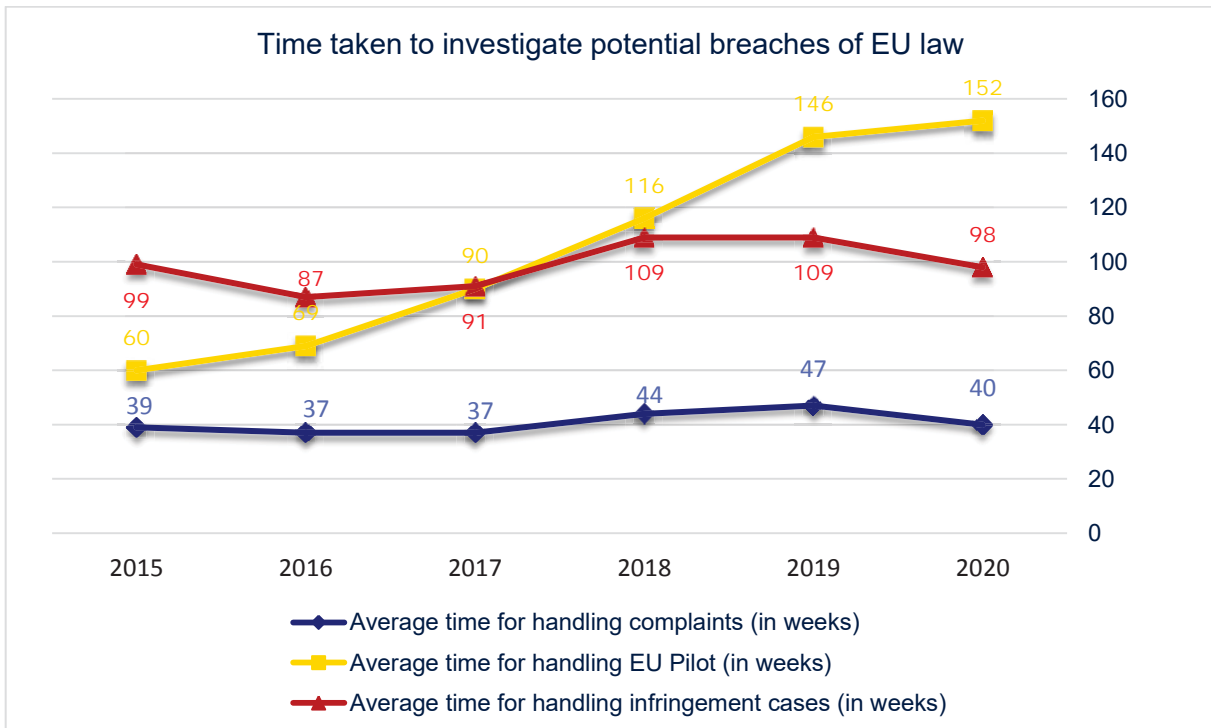
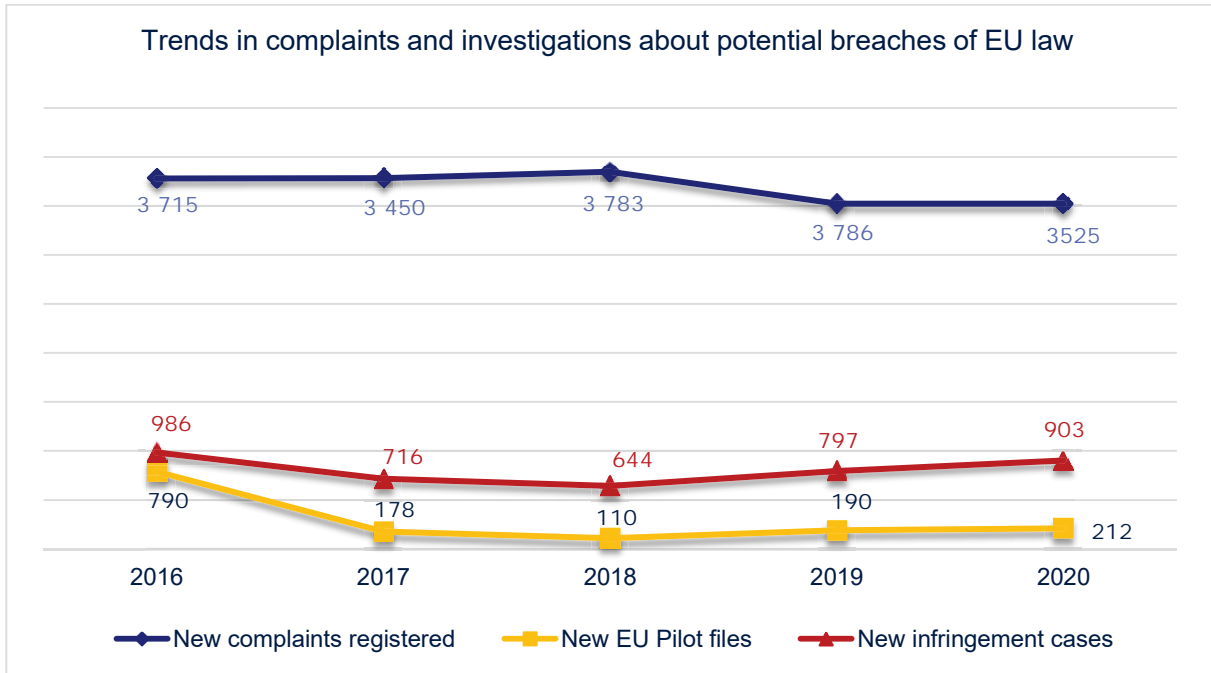
At the request of national courts, the Court of Justice may also issue preliminary rulings under Article 267 TFEU addressing issues of conformity of national laws with EU legislation. While preliminary rulings are distinct from infringement judgments, they give the Commission an additional opportunity to ensure that violations of EU law deriving from national legislation or its application are remedied. The Commission systematically follows up on preliminary rulings where the Court identifies situations of non-conformity of national legislation with EU law.

Over recent years, the Commission has taken concrete measures to improve the transparency of its monitoring activities and decisions on infringement procedures. It has set up a centralised platform for disseminating infringement-related information on the Europa portal¹⁰⁵. This provides detailed information on the decisions the Commission takes on infringement procedures, including press material on specific cases. Since 2017, the press material covers all formal steps of the infringement procedure.

¹⁰⁵ http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/?lang_code=en

In addition, every year the Commission provides information in its annual reports on monitoring the implementation of EU legislation, on the follow-up given to complaints and on parliamentary petitions and infringement procedures.

The Commission remains committed to improving the transparency of its enforcement action. At the same time, it has to give due account to the legitimate need for confidentiality with regard to the Member States in infringement procedures, as recognised by the Court of Justice.



1. Complaints

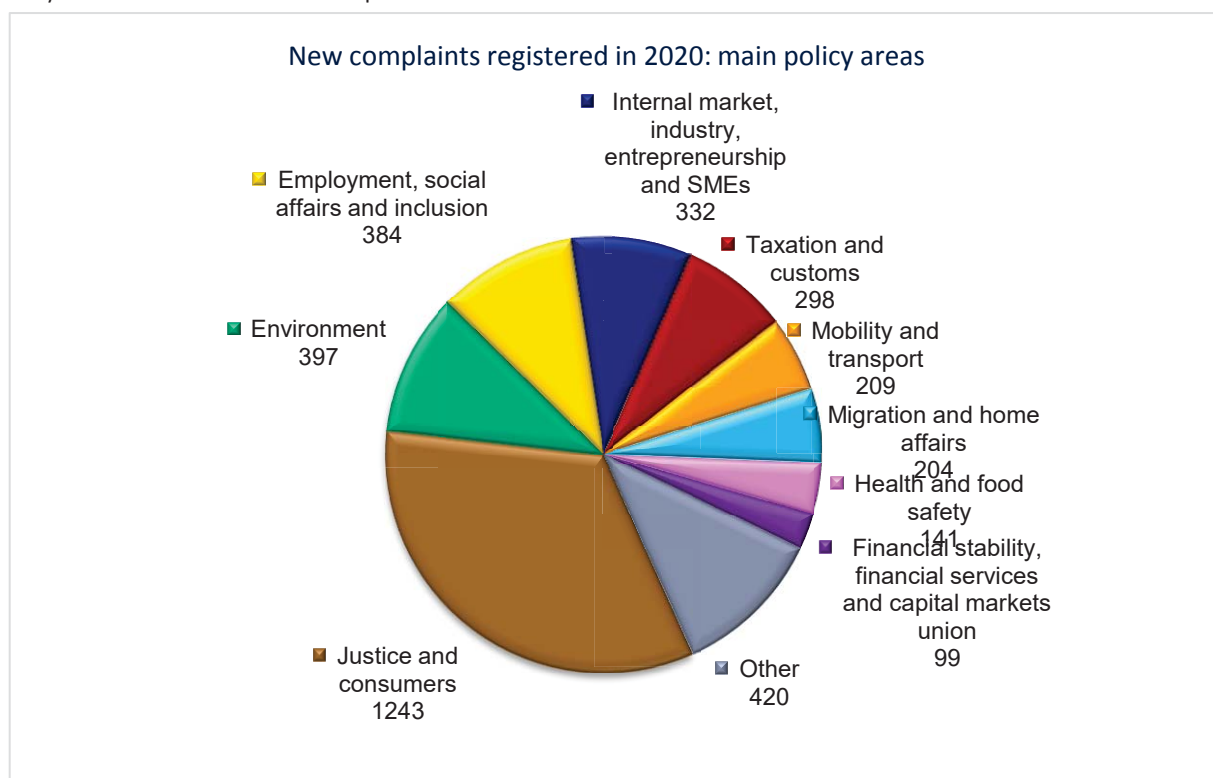
Public complaints open at year-end

3 308	>	Complaints open at end-2019
3 727	>	New complaints registered in 2020
3 207	>	Complaints handled in 2020
= 3 828	>	Complaints open at end-2020

The three Member States against which the Commission received the most complaints were Spain, Italy and France.

- **Spain:** 612 complaints, especially in connection with: justice and consumers (252 complaints); employment (91 complaints); and taxation and customs (50 complaints);
- **Italy:** 419 complaints, mainly related to: justice and consumers (109 complaints); employment (65 complaints); and industry, entrepreneurship and SMEs (55 complaints); and
- **France:** 362 complaints, most of them related to: justice and consumers (122 complaints); industry, entrepreneurship and SMEs (50 complaints); and taxation and customs (46 complaints).

The following chart shows the main policy areas for which new complaints were registered in 2020. Together they account for 89% of all complaints received in 2020.



The Commission handled 3 207 complaints in 2020. Once it has assessed complaints, the Commission may launch an investigation using the EU Pilot mechanism or through formal infringement procedures to clarify whether EU rules have been breached. Not all complaints in 2020 led to such investigations, because either no EU laws were breached (2 068 complaints) or the correspondence did not qualify as a complaint (859)¹⁰⁶. The Commission did not pursue 84 cases as the complainants withdrew their complaint. It also

¹⁰⁶ According to the conditions set out in point 3 of the Annex on administrative procedures for the handling of relations with the complainant regarding the application of European Union law to the Communication 'EU law: Better results through better application', [C\(2016\)8600](#).

transferred 6 complaints to other redress mechanisms, such as SOLVIT. The Commission therefore closed **3 017** complaints.

In 2020, the Commission pursued 190 complaints further by investigating in the EU Pilot mechanism or in the framework of an infringement procedure.



Complaints leading to investigations using the EU Pilot mechanism were most frequently related to taxation and the customs union, mobility and transport, and financial stability, financial services and the Capital Markets Union. These complaints mainly concerned Spain, France, Luxembourg, Poland and Austria.

In 2020, complaints leading to formal infringement procedures were most frequently related to taxation and the customs union; environment, the internal market, industry, entrepreneurship and SMEs, mobility and transport, and financial stability, financial services and the Capital Markets Union. These new infringement procedures mainly concerned Belgium, Bulgaria, Greece, Spain, France, Italy, Luxembourg and Sweden.

2. Petitions

Through petitions and questions, the European Parliament alerted the Commission to shortcomings in the way some Member States were implementing and applying certain EU laws in 2020. The Commission systematically ensures follow-up to the petitions received. However, not all petitions lead to investigations about breaches of EU law, because either no EU laws were breached or the Commission had no power to act. In many cases, the situation presented in a petition is already being investigated by the Commission through EU Pilot or a formal infringement procedure.

This section provides an overview of the follow-up the Commission gave to petitions in 2020 in the policy areas most concerned.

On the **common agricultural policy**, the Commission dealt with 17 petitions in 2020. These petitions mainly concerned income support to farmers and alleged breaches of EU agricultural legislation.

In the policy area of **communication networks, content and technology**, the Commission dealt with eight petitions, which related to issues such as geo-blocking, net neutrality or telecommunications.

Regarding the **environment**, the Commission received 120 petitions in 2020. Many of those petitions were linked to complaints or to structural infringements that were already being investigated. A number of petitions raised individual complaints of incorrect application, which are in general no longer pursued by the Commission in line with the December 2016 Communication, and therefore did not lead to investigations.

In the area of **employment**, and particularly working conditions, the Commission continued to handle petitions, notably concerning the abuse of fixed-term work contracts and discriminatory employment conditions.

On health and safety at work, the Commission continued to handle petitions, for example on exposure to asbestos at work, and on personal protective equipment and work equipment. It also handled petitions in related fields, such as the use of pesticides, where occupational safety and health aspects were raised in addition to public health issues. In this field, the Commission handled three new petitions in 2020 and provided information to the European Parliament. However, these petitions did not lead to new investigations on breaches of EU law on health and safety at work.

The Commission received four petitions regarding disability and inclusion. However, they did not merit further investigation because they did not fall under EU competence or because competent national authorities were better placed to assess the facts and assist the petitioners.

Ten petitions were received in the area of social security coordination. Their analysis led to a conclusion that there was no breach of EU law.

In the area of **financial services**, the Commission received one petition concerning restitution of properties falling under Article 63 of the Treaty on the Functioning of the European Union on free movement of capital.

In the area of **migration and home affairs**, the Commission received 29 petitions.

On **maritime affairs and fisheries**, the Commission followed up on four petitions concerning the implementation and application of EU law. The issues raised were already covered by ongoing investigations.

In the **transport** field, a petition on air passengers' rights to reimbursement or compensation¹⁰⁷ for flight cancellation in COVID-19 times reinforced the Commission's determination to monitor the evolution of the situation not only in the Member State that gave rise to the petition, but in all other Member States. This monitoring led to the opening of infringement proceedings against Italy and Greece.

On **customs and taxation**, the Commission received 23 petitions on the implementation and application of EU law. The petitions concerned cases already opened by the Commission.

3. EU Pilot

The EU Pilot dialogue between the Commission and Member States was set up to quickly resolve potential breaches of EU law at an early stage in appropriate cases. However, the recourse to EU Pilot should not add a lengthy step to the infringement process, which in itself is a means to enter into a problem-solving dialogue with a Member State. The Commission thus uses the EU Pilot for cases where a quick solution within a short period appears attainable¹⁰⁸.

The Commission opened 212 new EU Pilot files in 2020. Of these, 58 were triggered by complaints and 154 were opened by the Commission on its own initiative.

EU Pilot files open at year-end

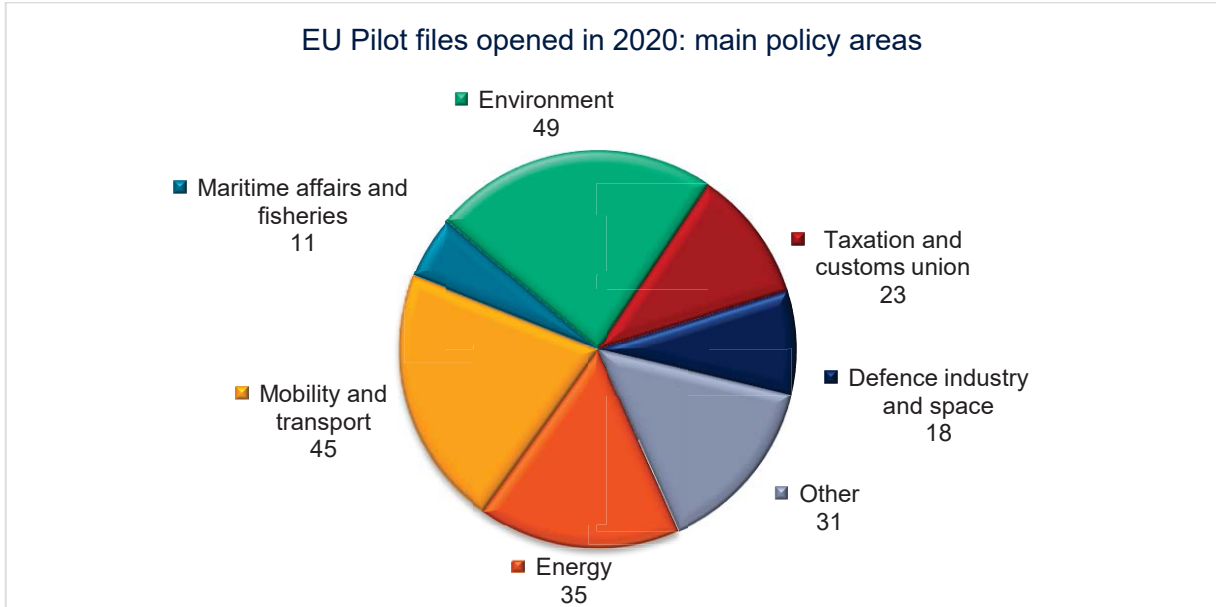
499	>	EU Pilot files open at end-2019
212	>	New EU Pilot files registered in 2020
171	>	EU Pilot files handled in 2020

¹⁰⁷ Regulation (EC) [261/2004](#).

¹⁰⁸ Communication 'Long term action plan for better implementation and enforcement of single market rules', [COM\(2020\)94](#).

= 540 > EU Pilot files open at end-2020

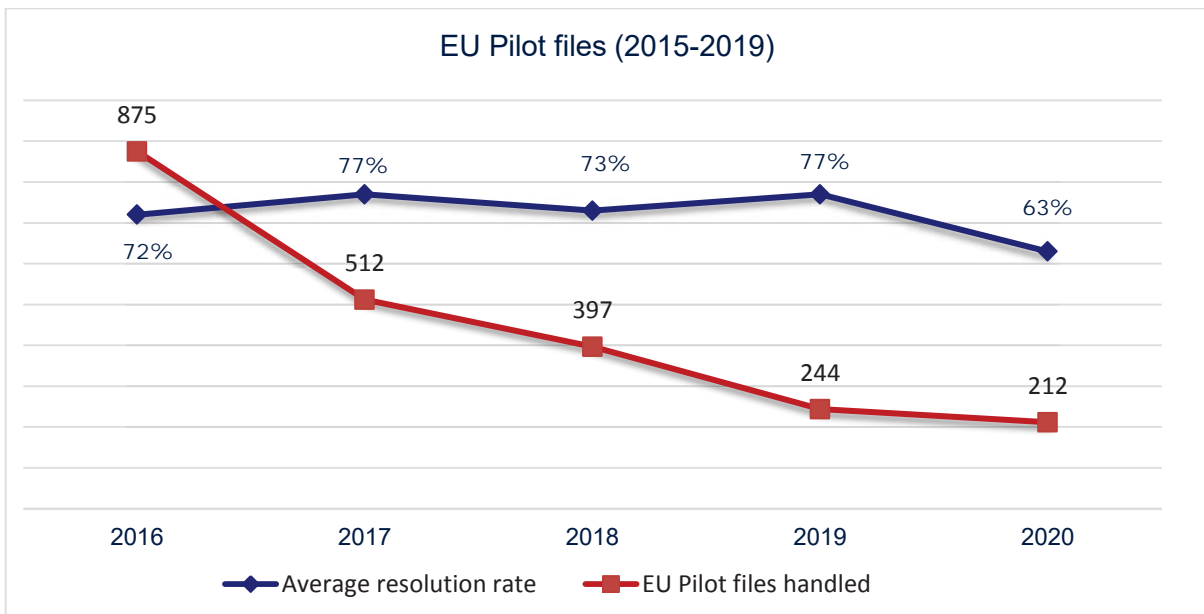
The following pie chart shows the policy areas in which the Commission opened the most new EU Pilot files in 2020:



The Commission handled 171 EU Pilot files in 2020. It closed 108 of these after receiving satisfactory answers from the Member States concerned. This gives a resolution rate of **63%**, which is below the 2019 level.

Altogether, **41 EU Pilot files** were followed up by formal infringement procedures. While 9 of these procedures were based on complaints, the Commission launched the remaining 32 on its own initiative.

Most EU Pilot files which led to formal infringement procedures concerned the policy areas of energy and environment policy areas (15 and 14 cases respectively). Romania and France had the highest number of files in EU Pilot that were pursued further through infringement procedures (5 and 4 files, respectively), followed by Malta, Latvia and Greece (3 files each).

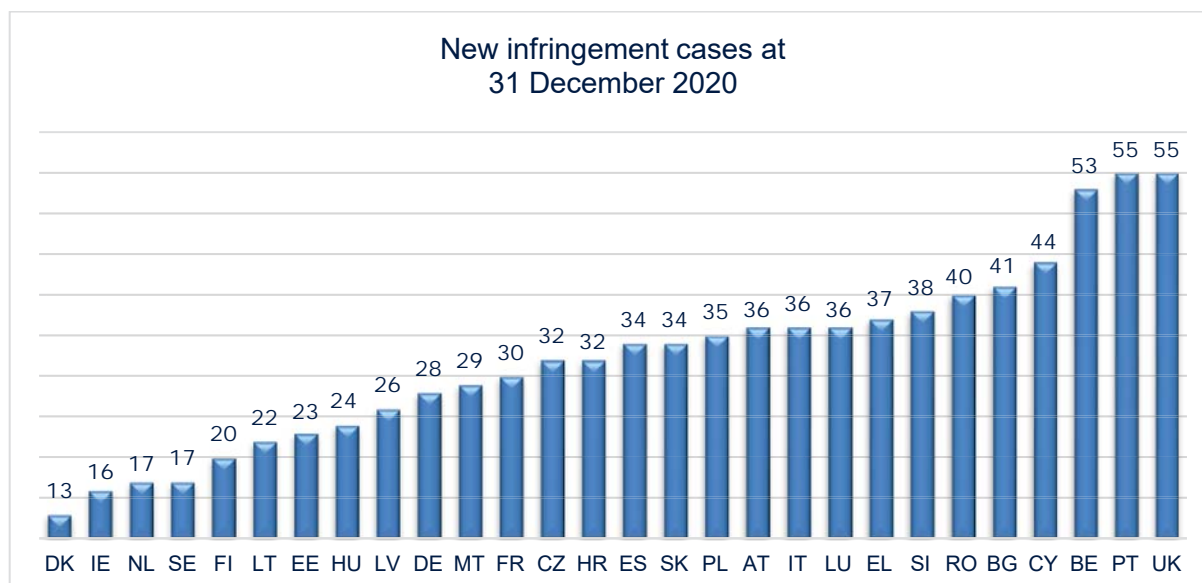


At the end of 2020, 540 EU Pilot files were open. The main Member States concerned were Italy (46), Poland (35) and Germany (33). The main policy area concerned continued to be environment (136 open files), followed by justice and fundamental rights (59), migration and home affairs (56) and mobility and transport (56).

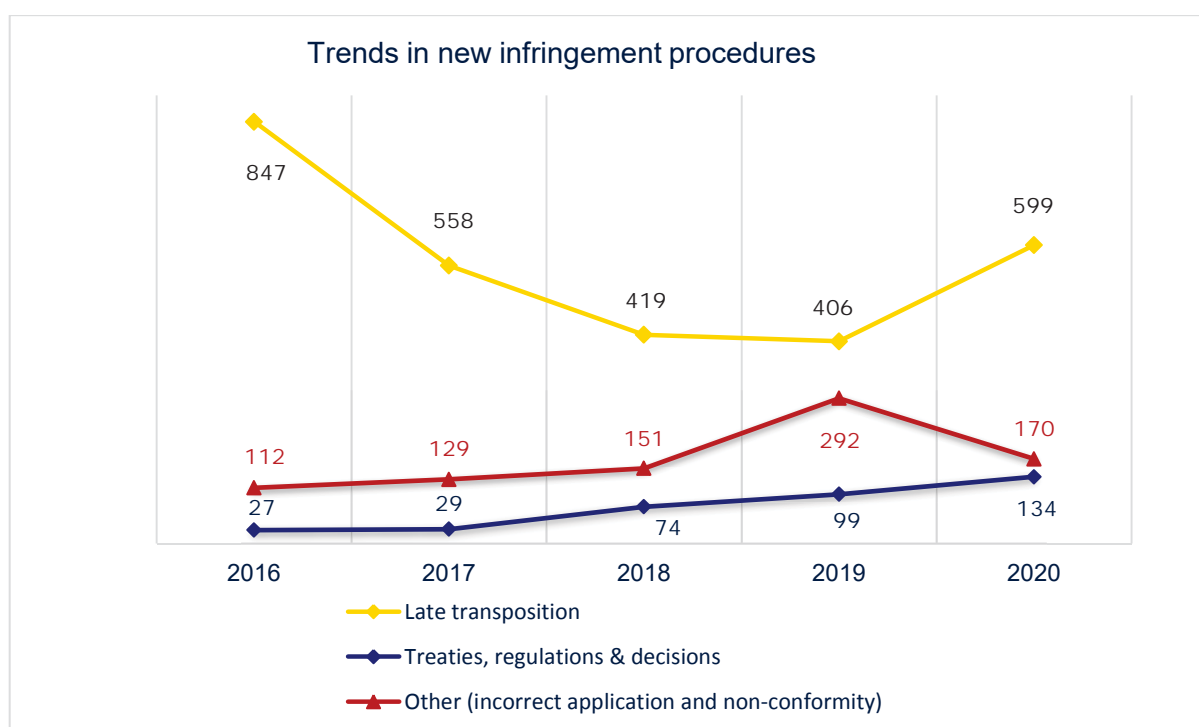
4. Pre-litigation phase

The Commission launched **903** new procedures by sending a letter of formal notice in 2020. Out of these, the Commission launched procedures on its own initiative in **306** cases.

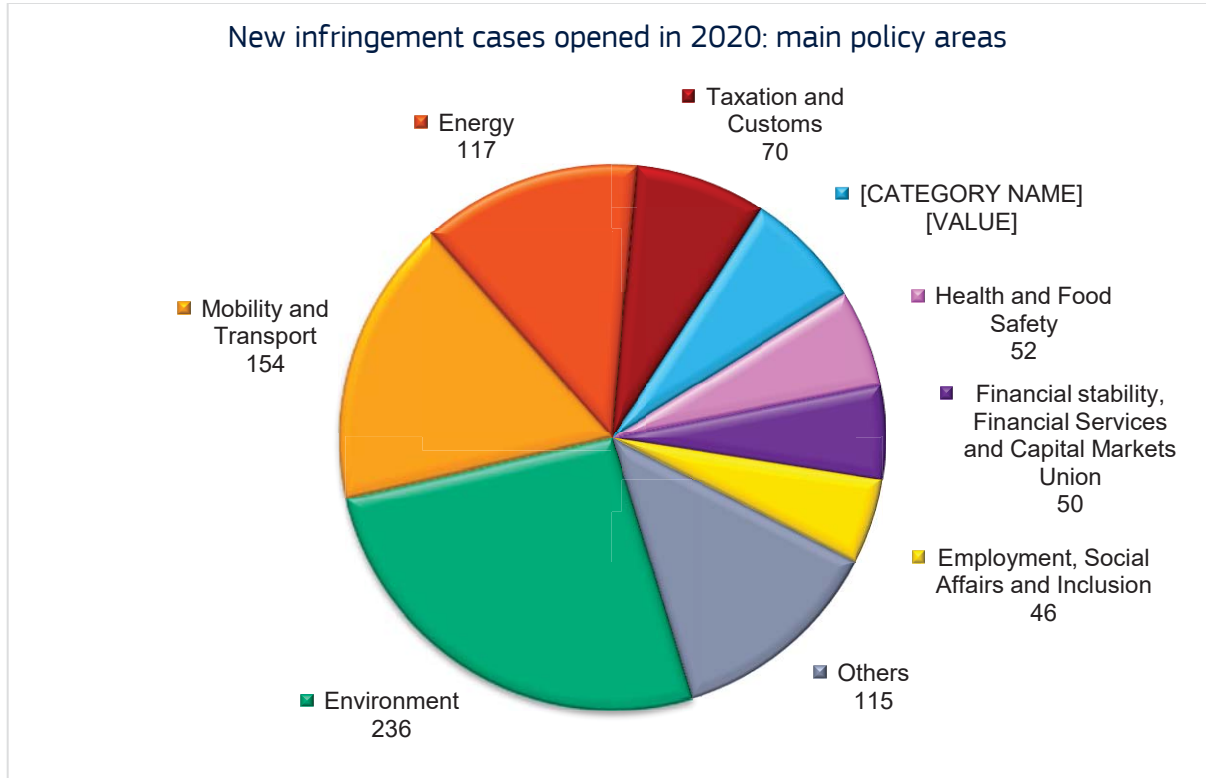
The following chart gives the breakdown by Member State.



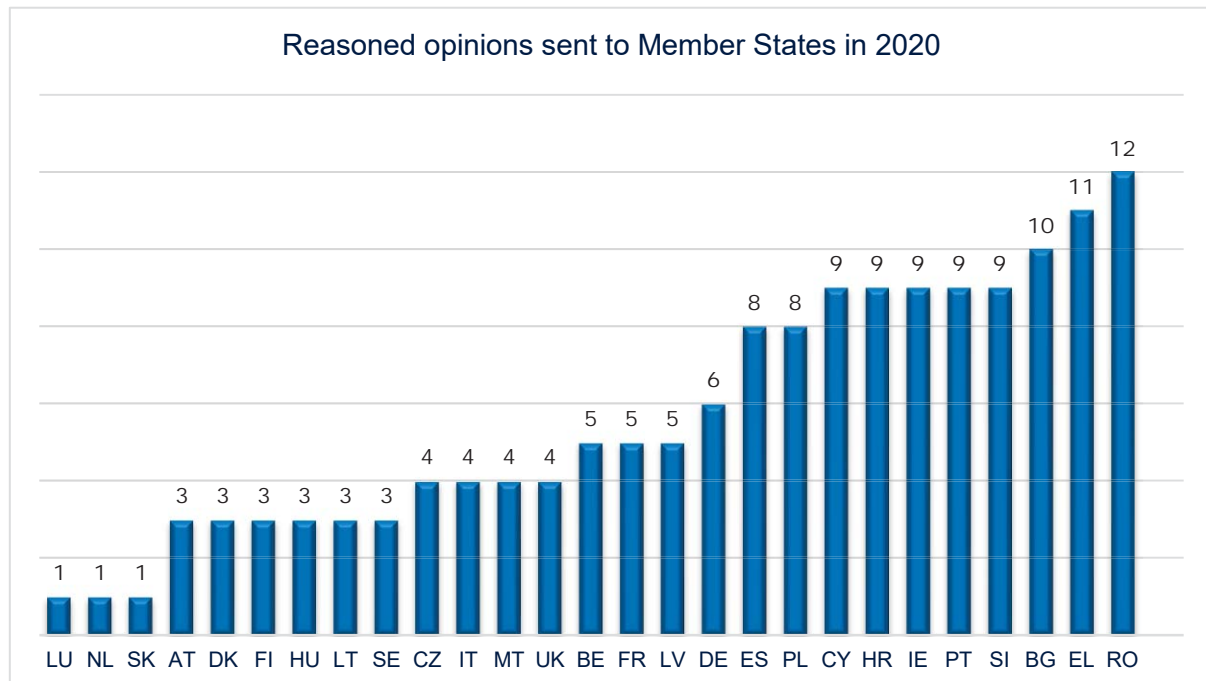
Most new infringement cases are for late transposition of EU directives.



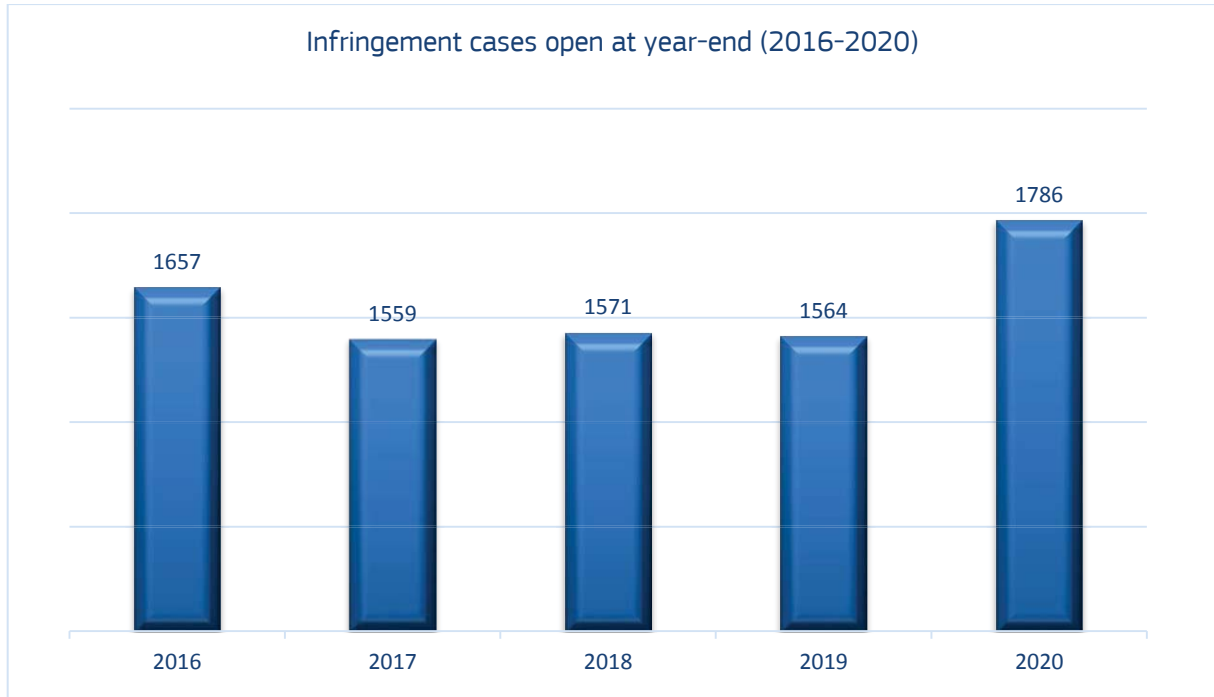
The following chart shows the main policy areas in which new procedures were opened.



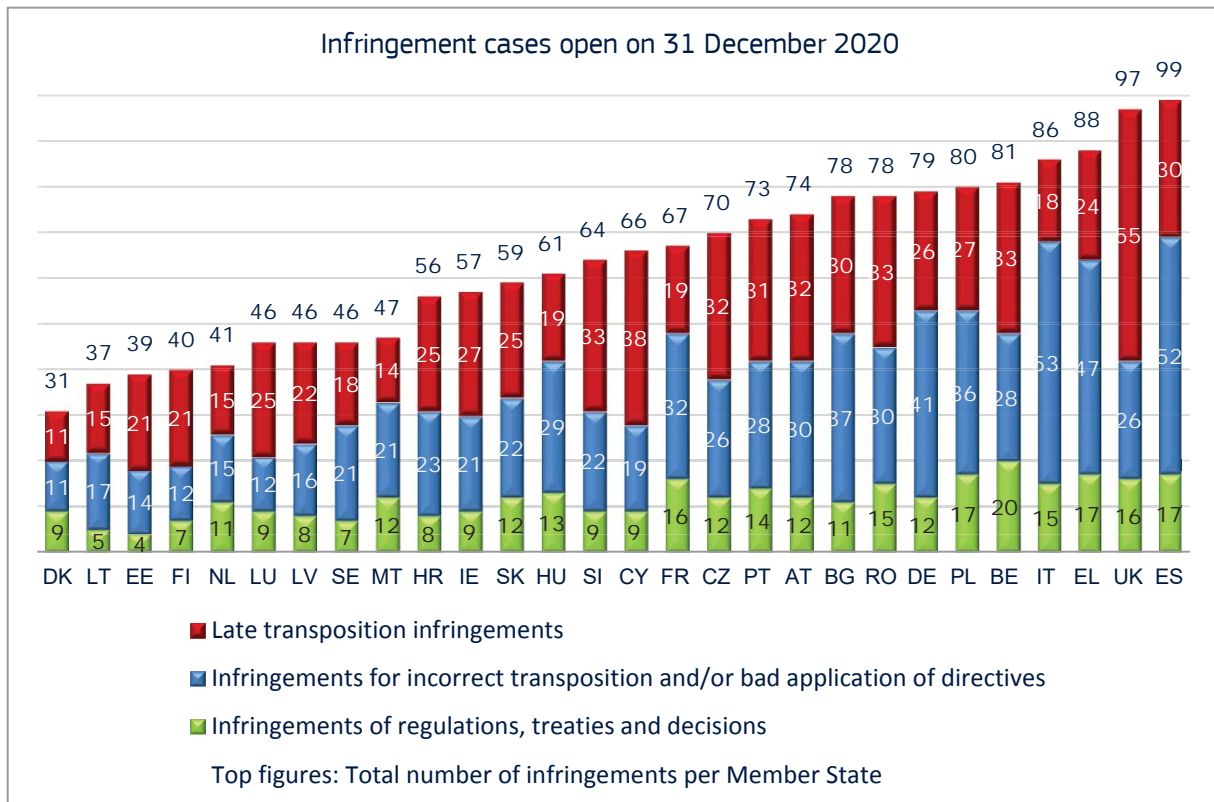
The Commission also sent **152** reasoned opinions to Member States in 2020. The main policy areas concerned were environment (37), mobility and transport (26), justice and consumers (25) and energy (20).



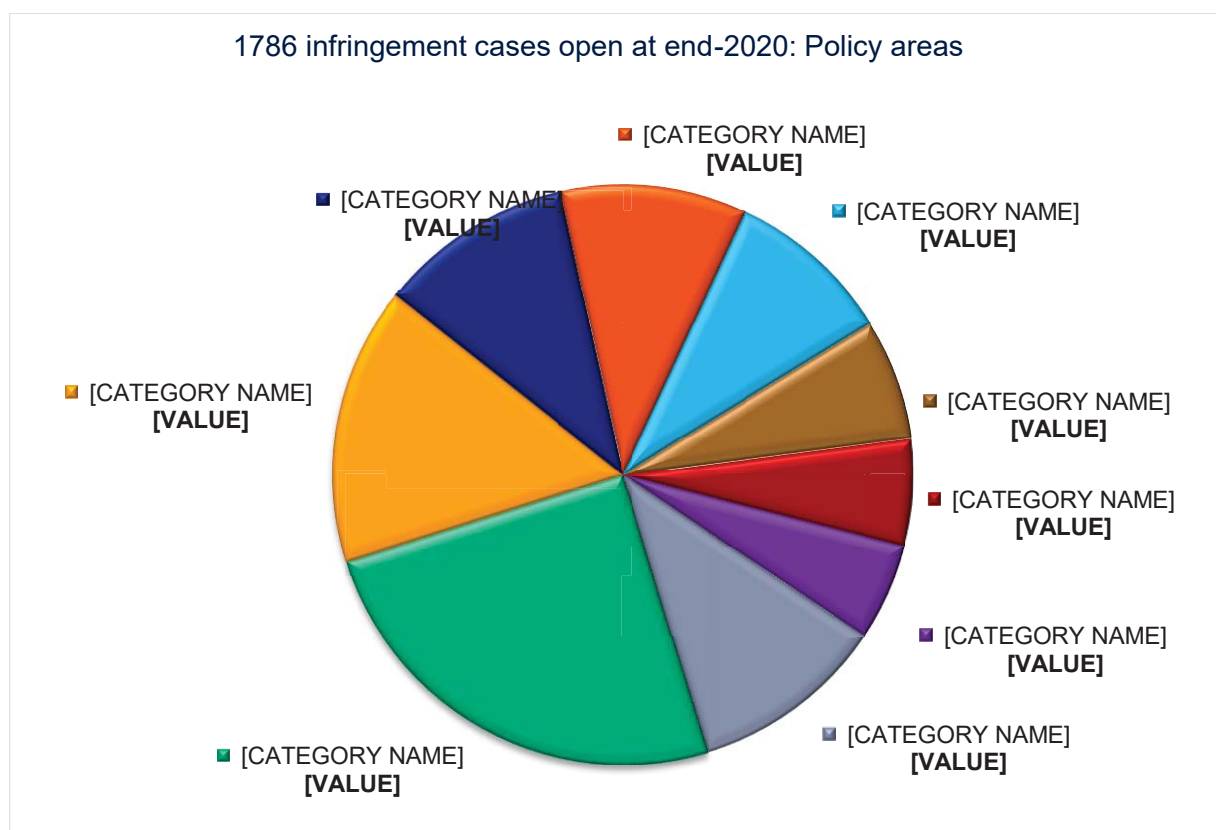
At the end of 2020, **1 786** infringement cases remained open. This is an increase from the previous year, as the following chart shows.



The following chart shows the number and type of open infringement cases for the Member State at the end of 2020:



The following chart shows the breakdown of the infringement cases open at the end of 2020, by policy area:



Even after it has launched an infringement procedure, the Commission continues its dialogue with the Member State in order to seek compliance. Statistics confirm that Member States make serious efforts to settle their infringements before the Court hands down its ruling.

In 2020, the Commission closed:

- 510 infringements after sending letters of formal notice¹⁰⁹;
- 144 cases after sending reasoned opinions;
- Nine cases after deciding to refer the case to the Court but before submitting the application and 13 cases following a Court judgment. In addition, the Commission withdrew five cases from the Court before the latter handed down its ruling. The Commission withdrew these cases as the Member States concerned took the necessary measures to comply with EU law.

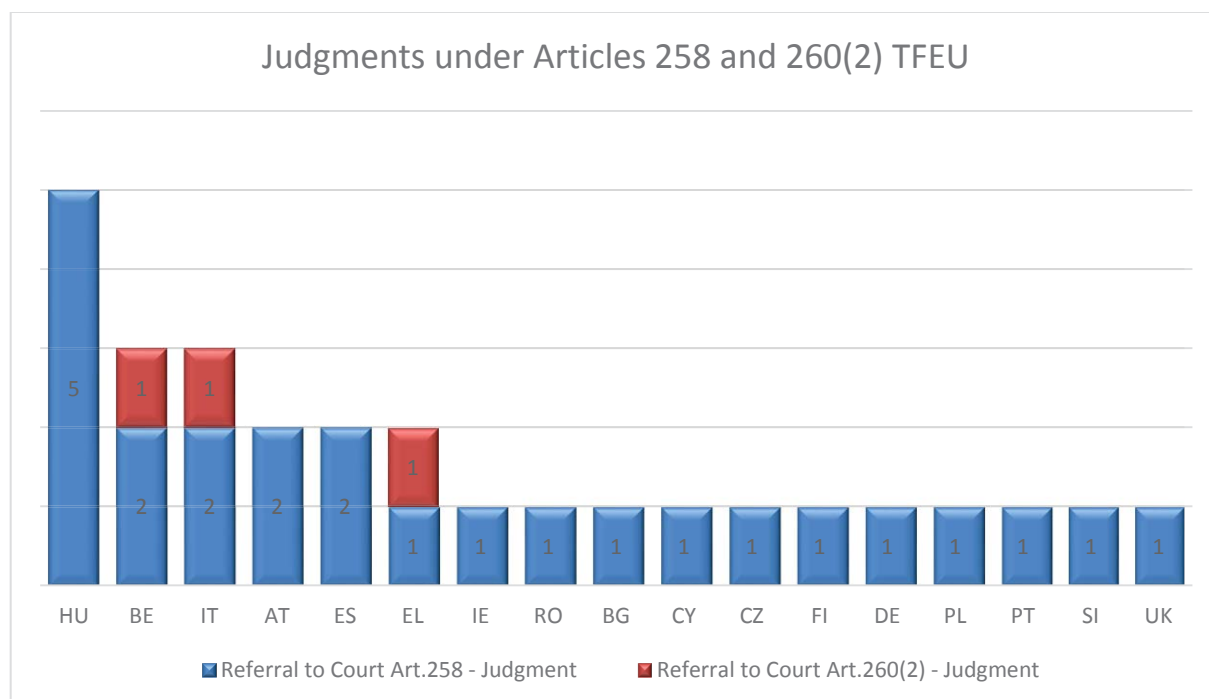
5. Referrals and judgments of the Court of Justice under Articles 258 and 260(2) TFEU

In 2020, the Commission referred 11 cases to the Court under Article 258 TFEU and one case under Article 260(2) TFEU.

In 2020, the Court issued 25 judgments under Article 258 TFEU and three judgments under Article 260(2) TFEU. Of these, 27 were in the Commission's favour and one was in the Member State's favour¹¹⁰. Hungary (five), Belgium, Spain, Italy and Austria (two each) were the subject of the most Court judgments under Article 258 TFEU in 2020.

¹⁰⁹ This includes two letters of formal notice under Article 260 TFEU and one letter of formal notice under Article 106 TFEU.

¹¹⁰ Commission v. Portugal, [C-49/19](#).



Member States frequently take the measures needed to comply with a Court judgment promptly. However, at the end of the year, **112** infringement procedures were still open after a Court ruling because the Commission considered that the judgments under Article 258 TFEU had not yet been complied with. This concerned mainly Greece (18) Italy (16), Spain and the United Kingdom (each eight) and Germany (seven) The main policy areas concerned were the environment (52), transport and mobility (14), and the internal market, industry, entrepreneurship and SMEs (11).

Of these **112** cases, the Commission referred two cases to the Court for the second time. When the Court imposes financial penalties under Article 260(2) TFEU, the defaulting Member State must pay the lump sum immediately and continue to pay the periodic penalty until it complies fully with the first and second Court judgments. In 2020, the Court delivered three judgments under Article 260(2) TFEU. It imposed penalty payments on Italy, Greece and Belgium¹¹¹. At the end of 2020, 11 infringement procedures were still open after a Court ruling under Article 260(2) TFEU.

In addition, the Court imposed penalties in four judgments handed down under Article 260(2) TFEU in the area of competition¹¹².

III. TRANSPOSITION OF DIRECTIVES

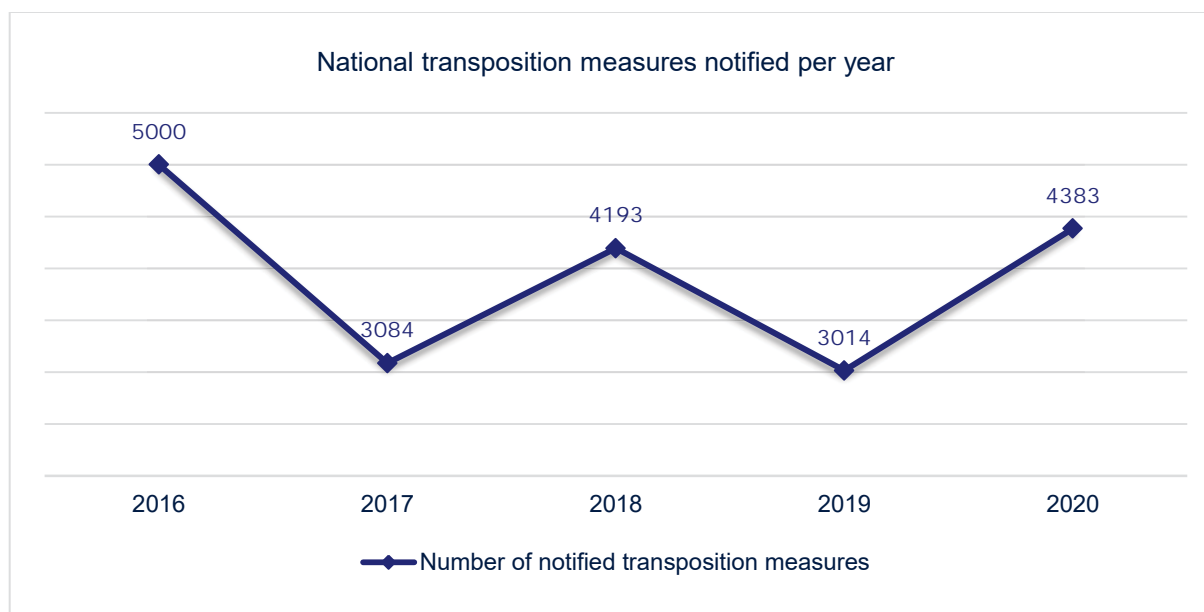
1. EU directives to be transposed in 2016-2020

In 2020, the Parliament and the Council adopted 22 directives. Most of these directives modify existing laws. There were no base directives and only one codifying directive (which does not impose a new transposition deadline). The main policy areas concerned were: environment (8), taxation (5), mobility and transport (3) and employment (2).

At the same time, **47** directives had to be transposed in 2020, which is more than in 2019 (42). For these directives, Member States notified **4383** national transposition measures to the Commission by the end of 2020¹¹³. On average, Member States notified **93 measures** per directive.

¹¹¹ Commission v. Italy, [C-576/18](#); Commission v. Greece, [C-149/14](#); Commission v Belgium, [C-110/17](#).

¹¹² These are cases in which the Commission's first course of action is a letter of formal notice under Article 260(2) TFEU.



In 2020, the highest number of notifications were submitted by **Czechia (475)**, followed by **Hungary (398)**, and **France (397)**. The lowest number of notifications were submitted by **Portugal (42)**, **Luxembourg (44)** and **Spain (46)**.

The transposition of the Directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing triggered the highest number of notifications (**509**)¹¹⁴. The two directives with the second and third highest number of notifications were triggered by the Directive on the energy performance of buildings and on energy efficiency (**359**)¹¹⁵ and the Directive on pests of plants on seeds and other plant reproductive material (**258**)¹¹⁶.

2. Transposition deadlines

Of the 47 directives to be transposed in 2020, **14 directives** had a transposition deadline that was shorter than 1 year from the time of their publication (5 more than in 2019).

The average period to transpose directives was **31 months**. The directive with the longest transposition period and deadline in 2020 (**53 months**) was the Directive on railway safety¹¹⁷.

A short transposition period usually resulted in an increased number of infringements for late transposition. All 4 directives to be transposed in 2020 with a transposition period of less than 5 months triggered a higher number of late transposition infringement cases¹¹⁸.

3. Transparency

¹¹³ There is a difference between the number of all measures notified by the Member States to the Commission and the number of measures visible on EUR-Lex. Not all measures notified by the Member State are visible on the EUR-Lex website: the explanatory documents and administrative provisions that are not public in the Member States are not sent for publication. Given a transition to a new IT system in early December, the notifications reported in this annual report cover the period from 1 January 2020 until 4 December 2020.

¹¹⁴ Directive (EU) [2015/849](#).

¹¹⁵ Directive [2018/844/EU](#).

¹¹⁶ Directive [2020/177/EU](#).

¹¹⁷ Directive [2016/798/EU](#).

¹¹⁸ 14 infringement cases for Directives (EU) [2020/362](#) and Directive (EU) [2020/363](#), 13 infringement cases for Directive (EU) [2020/177](#) and 12 infringement cases for Directive (EU) [2020/432](#).

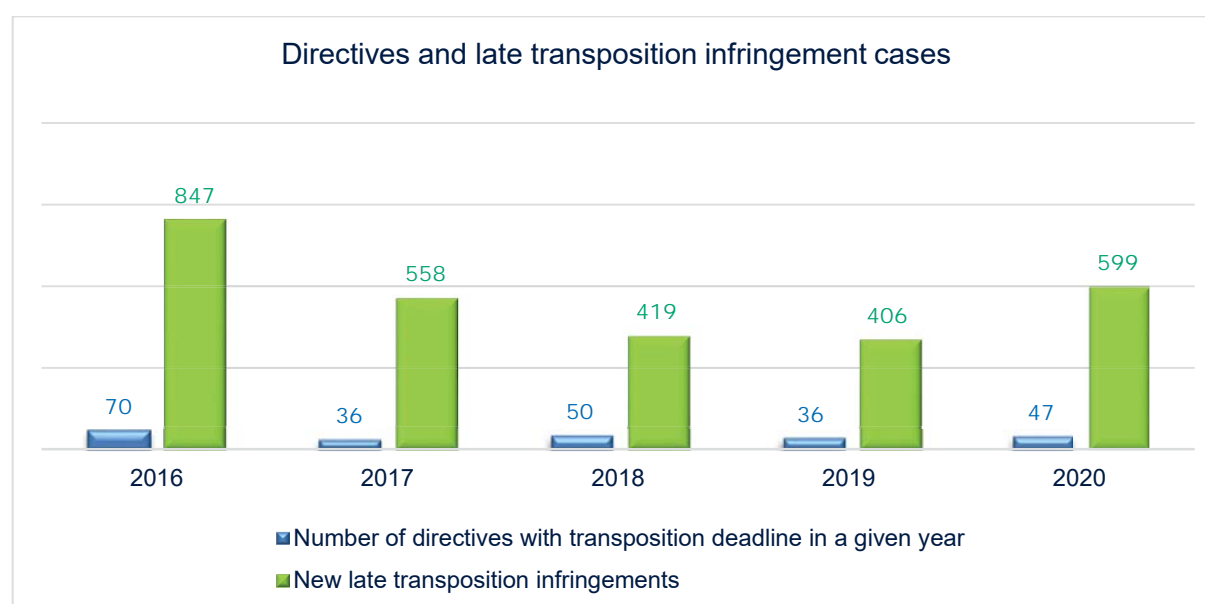
To further encourage Member States to be more transparent with the national measures transposing EU directives, the Commission invited Member States to agree to the publication of the text of these measures on EUR-Lex. To date, 12 Member States have agreed to do so: Austria, Czechia, Cyprus, Estonia, France, Greece, Malta, Latvia, Luxembourg, Slovakia, Spain and Poland. The Commission also invited Member States to make their declaration of transposition public on EUR-Lex, which accompanies the national transposition measures notified to the Commission. Only Greece has so far agreed to do so.

In line with the commitments taken in the Inter-Institutional Agreement on Better Law-making, the Commission encouraged Member States to identify which provisions stem from an EU directive and which are in no way related to that Union legislation. Members of the public have an interest in knowing which national transposition measures go beyond the requirements of EU directives. Up to now, only two Member States provided this information to the Commission¹¹⁹.

4. Late transposition infringements

Combating late transposition is a long-established priority for the Commission. The Commission therefore proposes financial sanctions whenever it refers a Member State to the Court of Justice under Articles 258 and 260(3) TFEU for not having communicated on time its measures to transpose a directive adopted under a legislative procedure (see details in subsection V.4).

The number of new late transposition infringements increased from 406 in 2019 to 599 in 2020¹²⁰.



At the end of 2020, **719 late transposition infringement cases were still open**, a 20% increase from the 599 cases open at the end of 2019.

599 > Late transposition cases open at end-2019

599 > New late transposition cases registered in 2020

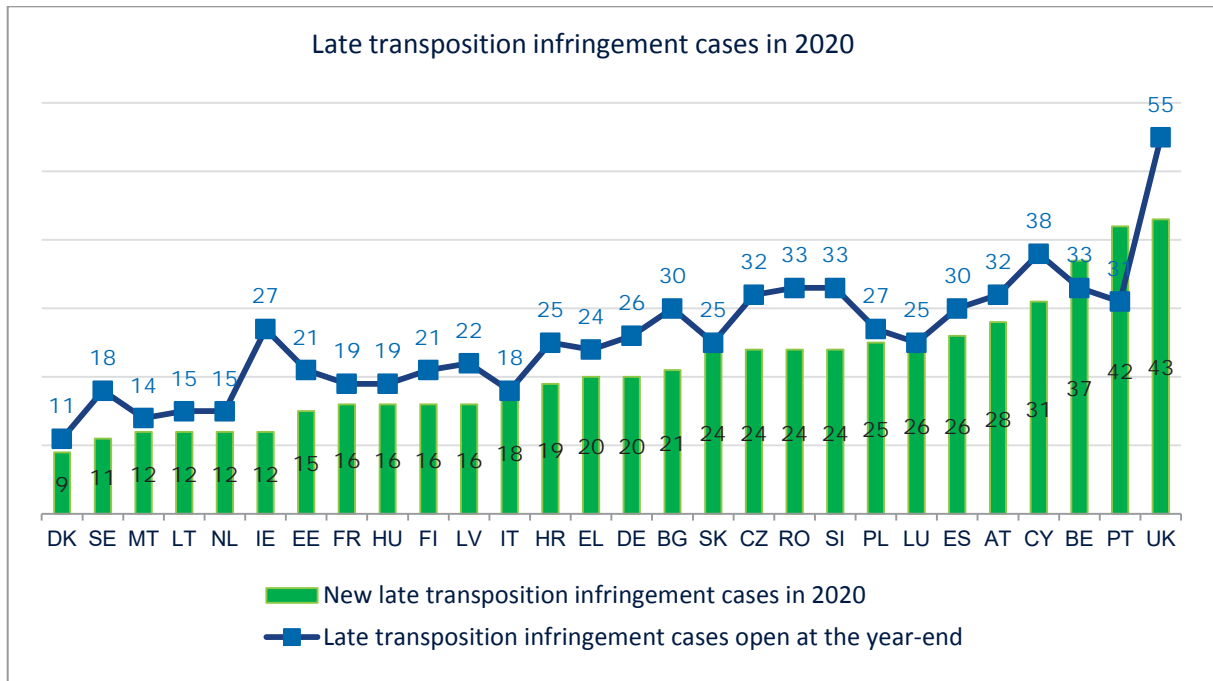
479 > Late transposition cases closed in 2020

= 719 > Late transposition cases open at end-2020

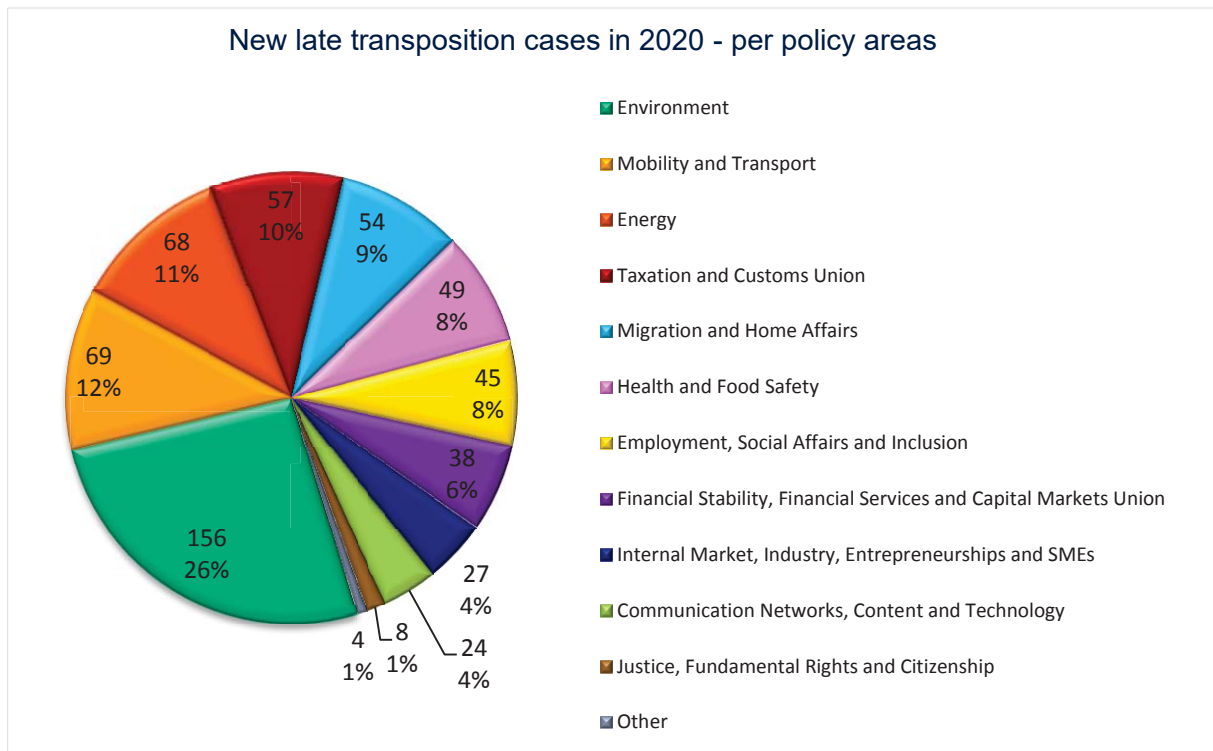
¹¹⁹ Belgium for Directive [2010/63/EU](#) and the United Kingdom for Directives [2016/680/EU](#) and [2016/681/EU](#).

¹²⁰ The current annual report does not cover the late transposition infringement cases opened for directives that had a transposition deadline in November and December 2020 (7 directives). The Commission launched these cases in January 2021. They will be included in the next annual report.

The following chart shows the number of late transposition infringement cases open at the end of 2020 (719 in total) for each Member State, irrespective of the year in which the case was opened and the new late transposition infringement cases (599 in total) opened in 2020.



The policy areas in which the new cases were launched in 2020 are shown in the following chart:



5. Referrals and judgments of the Court of Justice under Articles 258 and 260(3) TFEU

Under Article 260(3) TFEU, the Commission may propose financial penalties even when it refers a case for the first time to the Court of Justice under Article 258 TFEU on the ground that a Member State has failed to transpose a legislative Directive. This innovation, introduced in the Treaty of Lisbon, aims to incentivise the Member States to transpose directives on time. The Commission proposes the level of financial penalty to the Court in line with the policy laid down in its Communications on the implementation of Article 260(3) TFEU and on the calculation method for lump sum payments and daily penalty payments¹²¹.

In 2020, the Commission did not bring any late transposition infringement case to the Court of Justice with a request for daily penalties under Article 260(3) TFEU.

In 2020, the Court of Justice rendered two judgments, namely against Ireland and Romania,¹²² in which it fully confirmed its findings on the requirements imposed on Member States when notifying transposition measures¹²³ and the sanction scheme of Article 260(3) TFEU. Even though both Romania and Ireland notified complete transposition measures in the course of the procedure before the Court, the Court found that an application to impose a lump sum cannot be dismissed as disproportionate only because the infringement was resolved in the course of the proceedings. In view of the specific objective of the lump sum, it does not lose its purpose when an established infringement comes to an end.

¹²¹ [SEC\(2010\)1371](#).

¹²² Commission v Ireland, [C-550/18](#); Commission v Romania, [C-549/18](#)

¹²³ See also section on explanatory documents of this report.

IV. METHODOLOGY AND EXPLANATIONS

Infringement procedures – from breach to penalties

First chart: Trends in complaints and investigations about potential breaches of EU law

This chart shows aggregated data over a five-year period covering new complaints registered, new EU Pilot files and new infringement cases.

Second chart: Time taken to investigate potential breaches of EU law

This shows the average time in weeks needed before taking a decision to close complaints, EU Pilot and infringement cases. This means that certain files are potentially counted in all three categories, for example if an initial complaint becomes an infringement case.

Complaints

First table: Public complaints open at year-end

This starts with the number of open complaints at the end of 2019 (first line)¹²⁴. The second line shows the number of new complaints registered in 2020. The third line shows the number of complaints for which the Commission took a decision in 2020. The fourth line shows the number of complaints open at the end of 2020 (calculated by taking the first figure, adding the second and subtracting the third).

First chart: New complaints registered in 2020 (main policy areas)¹²⁵

This shows the main policy areas for which new complaints were registered in 2020.

Second chart: Complaints leading to investigations

This shows the number of complaints which the Commission pursued further by launching an investigation about breaches of EU law (via the EU Pilot mechanism or launching a formal infringement procedure).

EU Pilot

First table: EU Pilot files open at year-end

This starts with the number of open EU Pilot files at the end of 2019 (first line). The second line shows the number of new EU Pilot files opened in 2020. The third line shows the number of files on which the Commission took a decision in 2020. The fourth line shows the number of EU Pilot files open at the end of 2020 (calculated by taking the first figure, adding the second and subtracting the third).

First chart: EU Pilot files opened in 2020 (main policy areas)

This shows the policy areas in which the new EU Pilot files were opened in 2020.

¹²⁴ In some instances a difference between the figures from the preceding annual report may be due to delayed, double or erroneous registration at the moment of extracting statistical data.

¹²⁵ The data on policy areas referred to in the main report and in the sections on the Member States is based on information provided by the European Commission's Directorates-General. The policy areas are referred to as follows: agriculture and rural development; budget; climate action; communication networks, content and technology; competition; education and culture; economic and financial affairs; financial stability and Capital Markets Union; neighbourhood and enlargement negotiations; employment; energy; environment; migration and home affairs; justice and consumers; maritime affairs and fisheries; internal market, industry, entrepreneurship and SMEs; mobility and transport; regional policy; health and food safety; taxation and customs; trade.

Second chart: EU Pilot files (2016-2020)

This shows the number of EU Pilot files processed in a given year and the resolution rate in that year. The resolution rate is the percentage of EU Pilot files handled for which the Commission accepted the Member States' responses.

Pre-litigation phase

First chart: New infringement cases at 31 December 2020

This shows the number of new infringement cases opened in 2020, by Member State.

Second chart: Trends in new infringement procedures

This shows comparison — over a five-year period — between different types of infringement cases originating as late transposition cases, breaches of regulations and treaties and incorrect application or non-conformity with directives.

Third chart: New infringement cases opened in 2020 (main policy areas)

This shows the main policy areas in which the new infringement cases were opened in 2020.

Fourth chart: Reasoned opinions sent to Member States in 2020

This shows the number of reasoned opinions sent to Member States in 2020.

Fifth chart: Infringement cases open at year-end (2016-2020)

This shows the number of infringements that remained open on 31 December of each year from 2016 to 2020.

Sixth chart: Infringement cases open on 31 December 2020

These figures show all procedures that the Commission has started against each Member State by sending a letter of formal notice under Article 258 TFEU. It covers letters sent in 2020 or before, irrespective of the stages the cases have reached. Only cases which have not yet been closed by a formal decision are shown. For each Member State, the chart distinguishes between infringements for incorrect transposition and/or incorrect application of EU law, late transposition infringements and breaches of regulations and treaties.

Accordingly, the numbers include all cases that, on 31 December 2020:

- were in the pre-litigation phase (letter of formal notice, reasoned opinion or decision on referral to the Court under Article 258 TFEU);
- were pending before the Court under Article 258 TFEU or Article 260(3) TFEU;
- the Court had ruled on but where the Commission could not yet confirm that the Member State had implemented the judgment correctly;
- were in the second pre-litigation procedure (letter of formal notice or referral decision under Article 260(2) TFEU);
- were pending before the Court due to a second referral; or
- the Court had ruled on for the second time but where the Commission could not yet confirm that the Member State had implemented the second judgment correctly.

This figure does *not* include, for example, open EU Pilot files. It also does not include EU Pilot files for which the Commission rejected the Member State's response but had not yet sent a letter of formal notice under Article 258 TFEU.

Seventh chart: Infringement cases open at end-2020: policy areas

This shows the breakdown, by policy area, of the infringement cases open on 31 December 2020.

[Referrals and judgments of the Court of Justice under Articles 258 and 260\(2\) TFEU](#)

First chart: Court of Justice judgments under Article 258 and 260(2) TFEU in 2020

This shows the total number of Court of Justice judgments and the number of judgments in favour of the Commission and the Member States.

[Transposition of directives](#)

Second chart: National transposition measures notified per year

This shows the total number of national transposition measures submitted by Member States to the Commission in a given year.

Second chart: Directives and late transposition infringement cases

This shows how many directives had to be transposed in the years 2016-2020 and how many new infringement cases for late transposition were opened in that period.

First table: Late transposition infringement cases open at year-end

This starts with the number of late transposition infringements at the end of 2019 (first line). The second line shows the number of new late transposition infringements registered in 2020. The third line shows the number of infringement cases on which the Commission took a decision in 2020. The fourth line shows the number of late transposition infringements open at the end of 2020 (calculated by taking the first figure, adding the second and subtracting the third).

Third chart: Late transposition infringement cases in 2020

This shows the number of late transposition infringements open at year-end for each Member State, irrespective of the year in which the infringement was opened. In addition, it also shows new late transposition infringement cases opened in 2020 for each Member State.

Fourth chart: New late transposition infringement cases opened in 2020 (main policy areas)

This shows the main policy areas in which the procedures for late transposition were launched in 2020.