



Brussels, 6.7.2017  
SWD(2017) 260 final

PART 1/2

**COMMISSION STAFF WORKING DOCUMENT**

**Part II: Member States**

*Accompanying the document*

**Monitoring the application of European Union law  
2016 Annual Report**

{COM(2017) 370 final}  
{SWD(2017) 259 final}

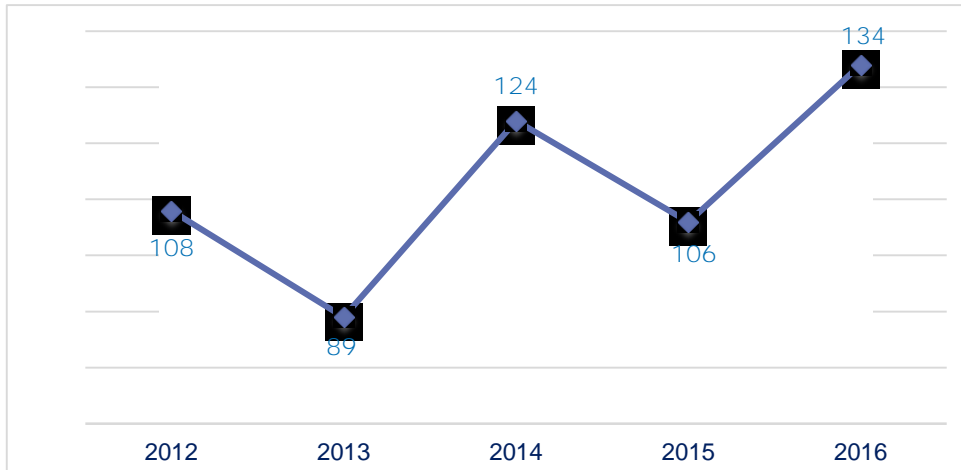
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| METHODOLOGY AND EXPLANATIONS..... | ERROR! BOOKMARK NOT DEFINED. |

Belgium

*New complaints against Belgium rose to the highest in 5 years, while new EU Pilot files increased only slightly. Open infringement cases also increased, to their highest level since 2012. New infringement cases for late transposition rose again after the previous year's dip, and are at a five-year peak.*

I. COMPLAINTS

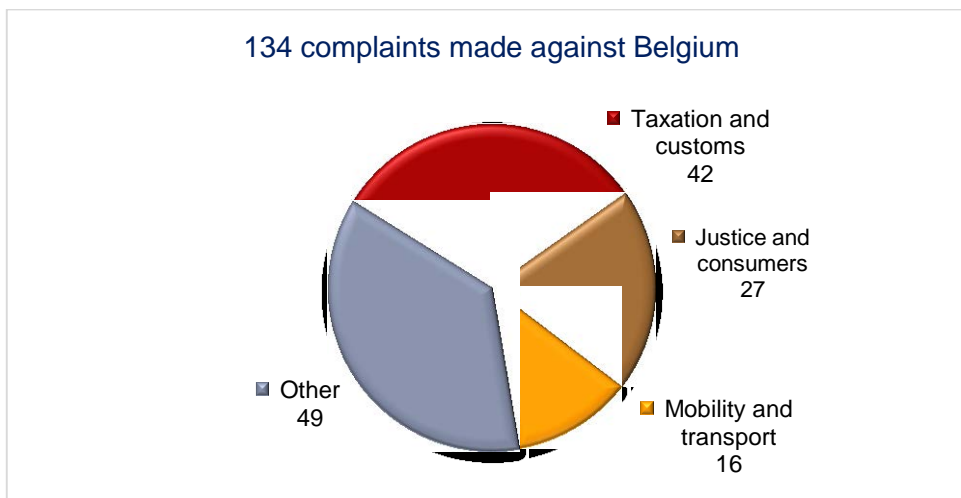
1. New complaints made against Belgium by members of the public (2012-2016)



2. Public complaints against Belgium open at year-end

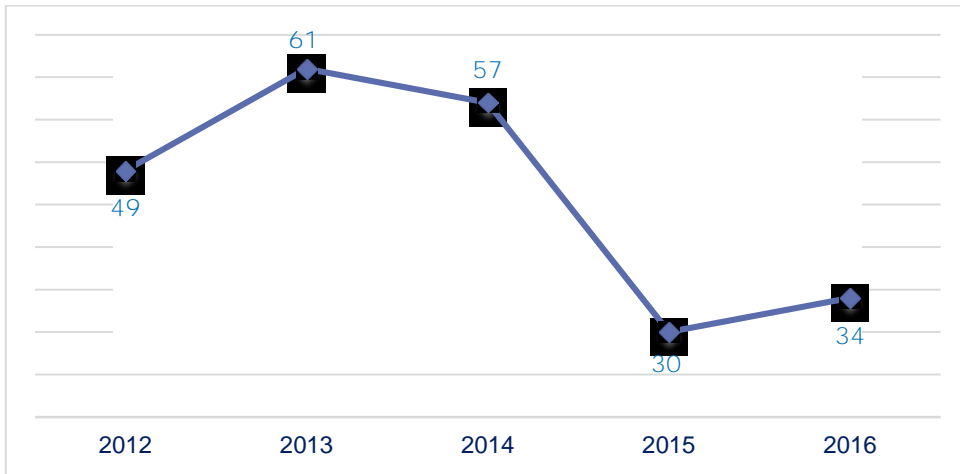
|              |   |                                    |
|--------------|---|------------------------------------|
| 92           | > | Complaints open at end-2015        |
| 134          | > | New complaints registered in 2016  |
| 110          | > | Complaints handled in 2016         |
| <b>= 116</b> | > | <b>Complaints open at end-2016</b> |

3. New complaints registered in 2016: main policy areas

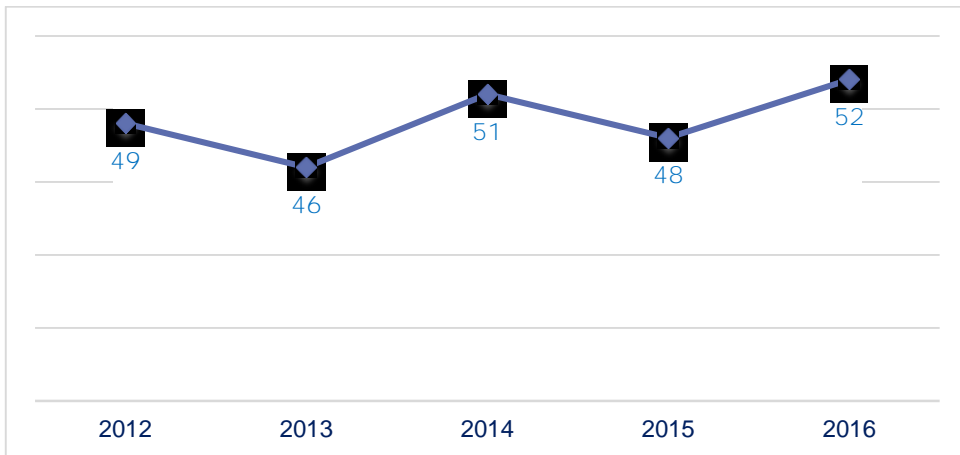


## II. EU PILOT

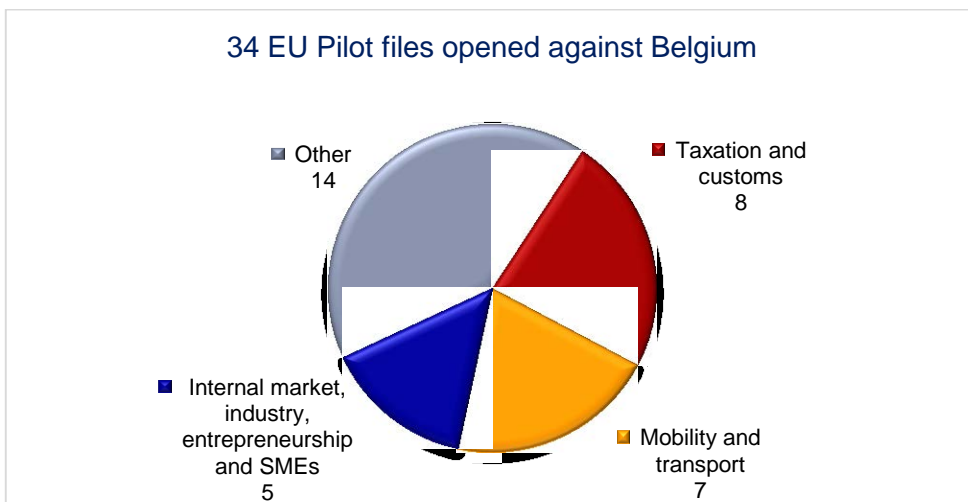
### 1. New EU Pilot files opened against Belgium (2012-2016)



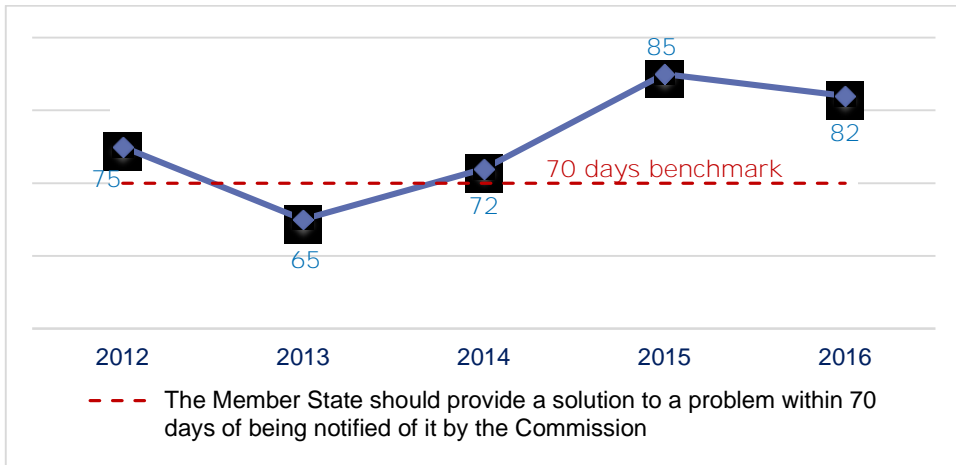
### 2. Files relating to Belgium open in EU Pilot at year-end



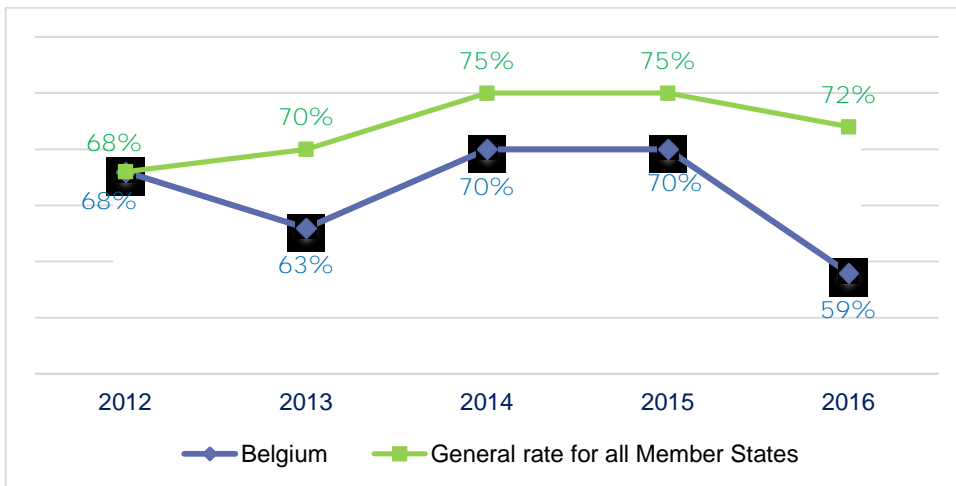
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Belgium's average response time in 2012-2016 (in days)

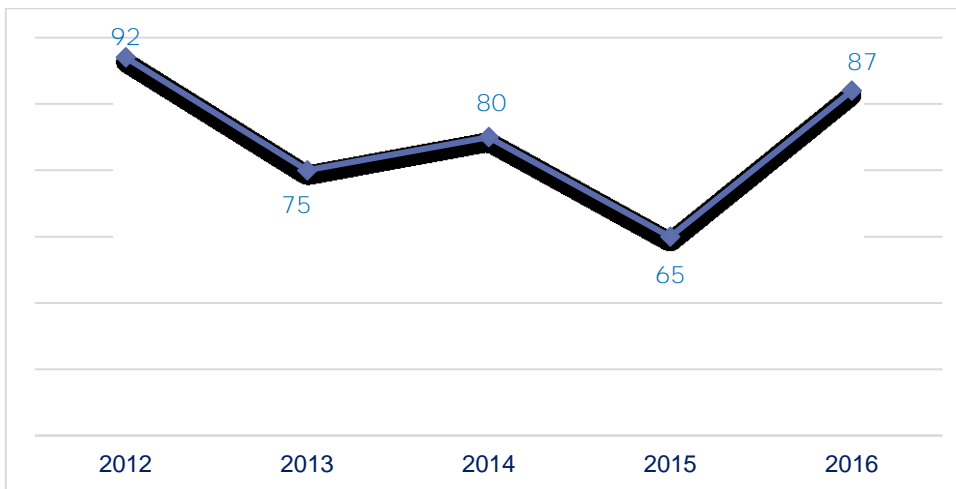


5. EU Pilot files: Belgium's resolution rate in 2012-2016

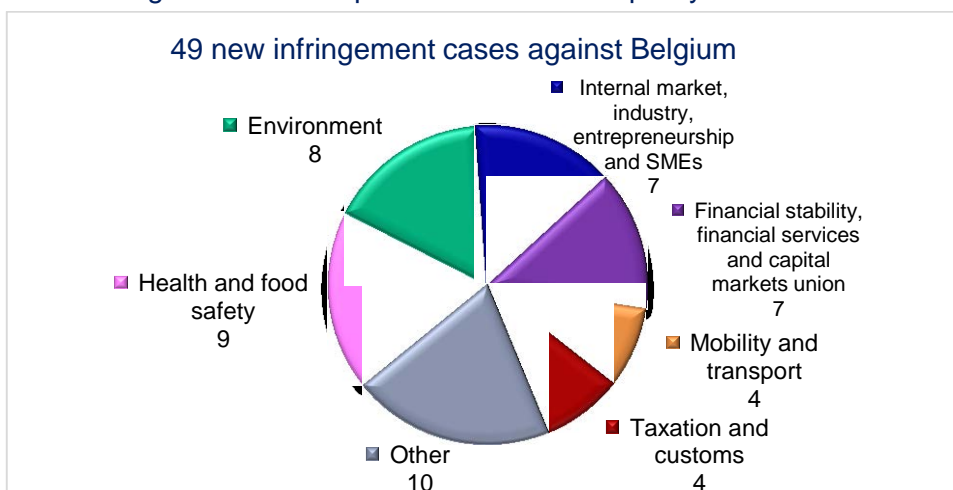


III. INFRINGEMENT CASES

1. Infringement cases against Belgium open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 49 new infringement cases against Belgium in 2016. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the Directive on attacks against information systems;<sup>1</sup>
  - non-communication of national measures transposing the European Protection Order Directive;<sup>2</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>3</sup>
  - inadequate urban waste water treatment;
  - non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>4</sup>
  - non-compliant transposition of the Environmental Liability Directive;<sup>5</sup>
  - failure to comply with the Third Internal Energy Market Package;<sup>6</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>7</sup>
  - failure to communicate all national measures transposing the Bank Recovery and Resolution Directive;<sup>8</sup>
  - failure to communicate all national measures transposing the Capital Requirements Directive;<sup>9</sup>
  - national restrictions on the acquisition of agricultural land which limit the free movement of capital and freedom of establishment by being discriminatory and/or disproportionate;<sup>10</sup>
  - restrictions on the freedom to provide port services and the freedom of establishment;
  - failure to correctly implement the Airport Charges Directive;<sup>11</sup>
  - incorrect implementation of the Directive on accident investigations;<sup>12</sup>

<sup>1</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).  
<sup>2</sup> Directive [2011/99/EU](#); [MEMO/16/2490](#).  
<sup>3</sup> Directive [2008/98/EC](#).  
<sup>4</sup> Directive [2008/50/EC](#).  
<sup>5</sup> Directive [2004/35/EC](#).  
<sup>6</sup> Directives [2009/72/EC](#) and [2009/73/EC](#).  
<sup>7</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).  
<sup>8</sup> Directive [2014/59/EU](#); [MEMO/16/1452](#).  
<sup>9</sup> Directive [2013/36/EU](#); [MEMO/16/1452](#).  
<sup>10</sup> [IP/16/1827](#) and [MEMO/16/1823](#).  
<sup>11</sup> Directive [2009/12/EC](#); [MEMO/16/319](#).  
<sup>12</sup> Directive [2009/18/EC](#).

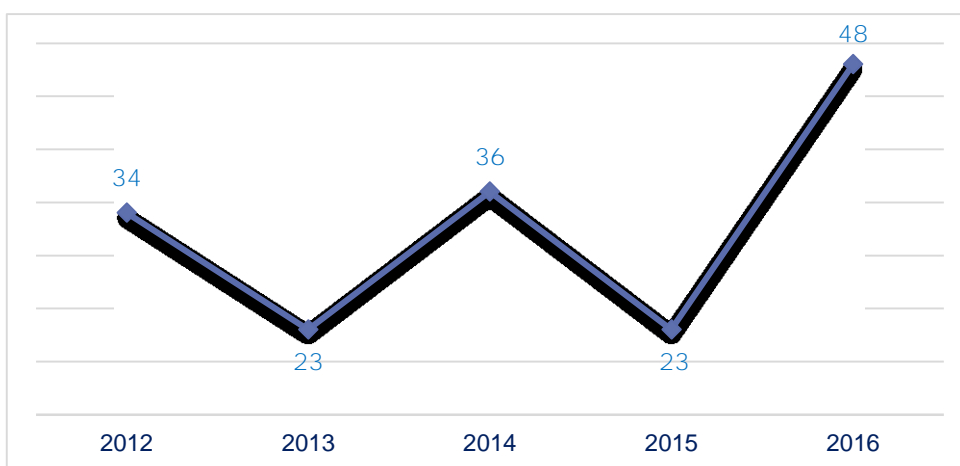
- incorrect implementation of the Regulation on the rights of passengers travelling by sea and inland waterway;<sup>13</sup>
- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>14</sup>
- failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>15</sup>

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

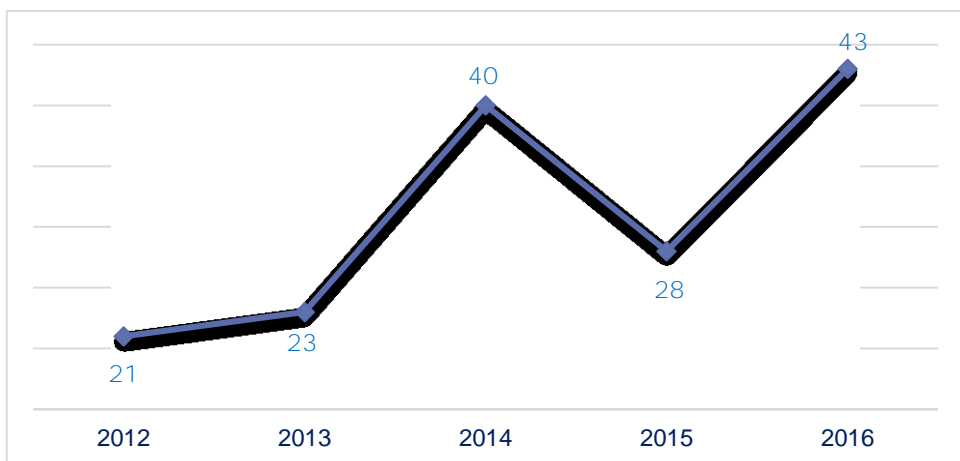
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Belgium open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Belgium (2012-2016)

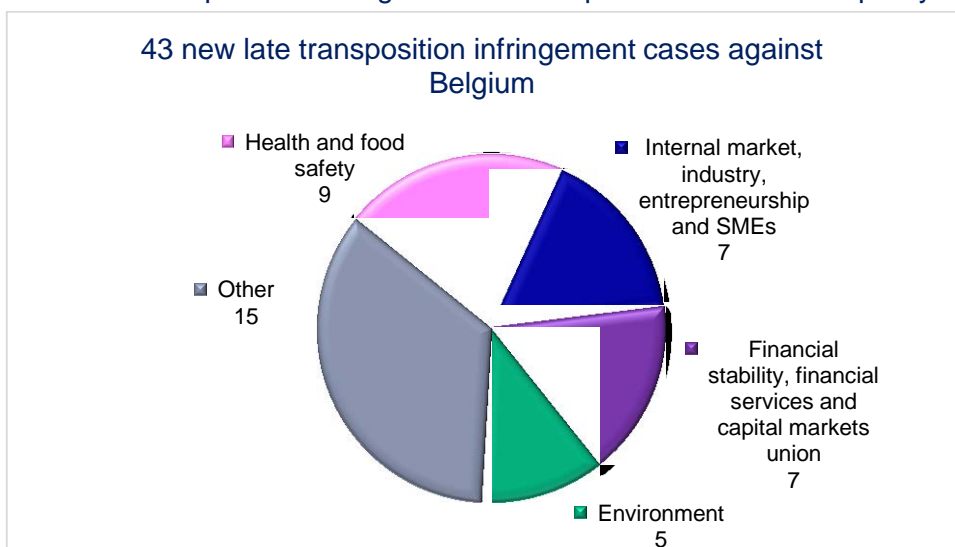


<sup>13</sup> Regulation (EU) No [1177/2010](#); [MEMO/16/1452](#).

<sup>14</sup> Directive [2006/123/EC](#).

<sup>15</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- refusal to register the double surname for children born to a parent of Belgian nationality and a parent with another EU nationality;
- non-communication of national measures transposing the Seveso III Directive;<sup>16</sup>
- incorrect implementation of the Regulation on the rights of passengers travelling by sea or inland waterway;<sup>17</sup>
- reduced rate for online newspapers and publications;
- tax treatment of oil pipelines.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>18</sup>

The Court ruled that:

- Belgium has failed to fulfil its obligations under the Protocol on the Privileges and Immunities of the European Union, by not exempting the EU institutions from the federal contributions in respect of the supply of electricity and gas.<sup>19</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the Belgian judiciary, the Court held that:

- under the Consumer Sales Directive,<sup>20</sup> the concept of 'seller' also covers a trader acting as an intermediary on behalf of a private individual if the trader has not duly informed the consumer of the fact that the owner of the goods sold is a private individual. The Court's clarifications on intermediaries seem relevant for other areas of consumer law as well;<sup>21</sup>
- the exemption of distribution charges limited to green electricity produced in Flanders is incompatible with EU law. It fails to achieve the objective of increasing the production of

<sup>16</sup> Directive [2012/18/EU](#).

<sup>17</sup> Regulation (EU) No [1177/2010](#), [MEMO/16/1452](#).

<sup>18</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>19</sup> Commission v Belgium, [C-163/14](#).

<sup>20</sup> Directive [1999/44/EC](#).

<sup>21</sup> Wathelet, [C-149/15](#).



the exemption of distribution charges limited to green electricity produced in Flanders is incompatible with EU law. It fails to achieve the objective of increasing the production of green electricity and is thus considered non-proportionate discrimination against imported electricity;<sup>22</sup>

- a person making a train journey while not in possession of a ticket for that purpose, and who fails to regularise his situation within the periods laid down in national provisions, may be deemed to not have a contractual relationship with the railway undertaking;<sup>23</sup>
- the Directive on the systems of chartering and pricing in national and international inland waterway transport<sup>24</sup> must be interpreted so that contracts are to be freely concluded between the parties concerned. National legislation may therefore determine that a person who does not correspond to the Directive's definition of 'carrier' may nevertheless conclude a contract of carriage as a carrier;<sup>25</sup>
- measures contained in a plan or project not directly connected with the management of a site of Community importance which, before the occurrence of adverse effects on a natural habitat type present on it, are providing for the future creation of an area of that type may not be taken into account in the assessment of the effects of the plan or project on the site when that assessment precedes the completion of the respective area. Qualifying such measures as 'compensatory measures' under the Habitats Directive is strictly subject to the conditions it lays down;<sup>26</sup>
- a regulatory order containing provisions on the installation of wind turbines which must be complied with when administrative consent is granted for the installation and operation of such installations comes within the notion of 'plans and programmes' under the Strategic Environmental Assessment Directive;<sup>27</sup>
- national legislation which prohibits retailers from selling tobacco products at a unit price lower than the price indicated by the manufacturer or importer on the revenue stamp affixed to those products, in so far as that price has been freely determined by the importer, is compatible with EU law;<sup>28</sup>
- national legislation by a federated entity of a Member State, which requires every undertaking that has its place of establishment within the territory of that entity to draw up all the details on invoices relating to cross-border transactions exclusively in the official language of that entity, failing which those invoices are to be declared null and void by the national courts of their own motion, is incompatible with EU law.<sup>29</sup>

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<sup>22</sup> Essent Belgium NV v Vlaams Gewest and Others, [C-492/14](#).

<sup>23</sup> Nationale Maatschappij der Belgische Spoorwegen NV v Gregory Demey, [C-261/15](#).

<sup>24</sup> Directive [96/75/EC](#).

<sup>25</sup> Sven Mathys v De Grave Antverpia NV, [C-92/15](#).

<sup>26</sup> Directive [92/43/EEC](#), Orleans and Others, joined cases [C-387/15](#) and [C-388/15](#).

<sup>27</sup> Directive [2001/42/EC](#), D'Oultremont and Others, [C-290/15](#).

<sup>28</sup> Etablissements Fr. Colruyt, [C-221/15](#).

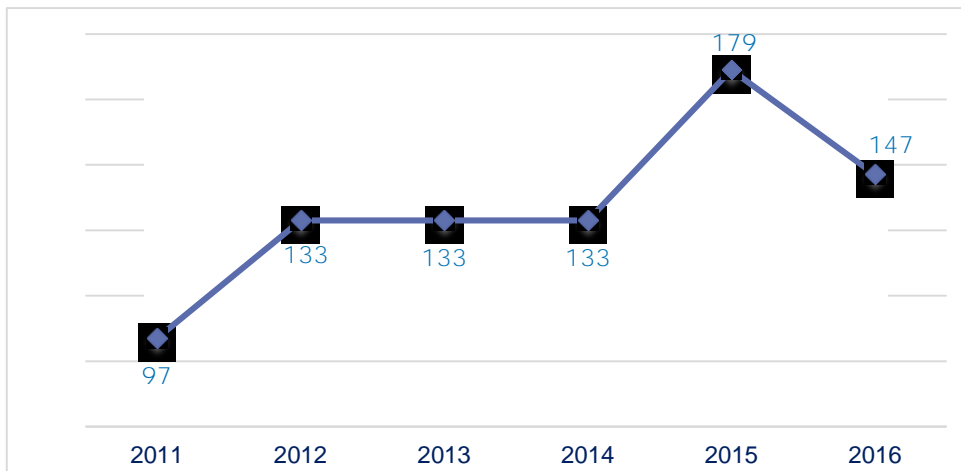
<sup>29</sup> [C-15/15](#), New Valmar BVBA, Court press release No [66/2016](#).

Bulgaria

*New complaints against Bulgaria decreased somewhat in 2016 after jumping in 2015. Fewer new EU Pilot files were opened than in the previous 4 years. However, the number of open infringement cases increased sharply to the highest level since 2012. This correlates with the significantly higher level of infringement cases for late transposition that were open at the end of 2016.*

I. COMPLAINTS

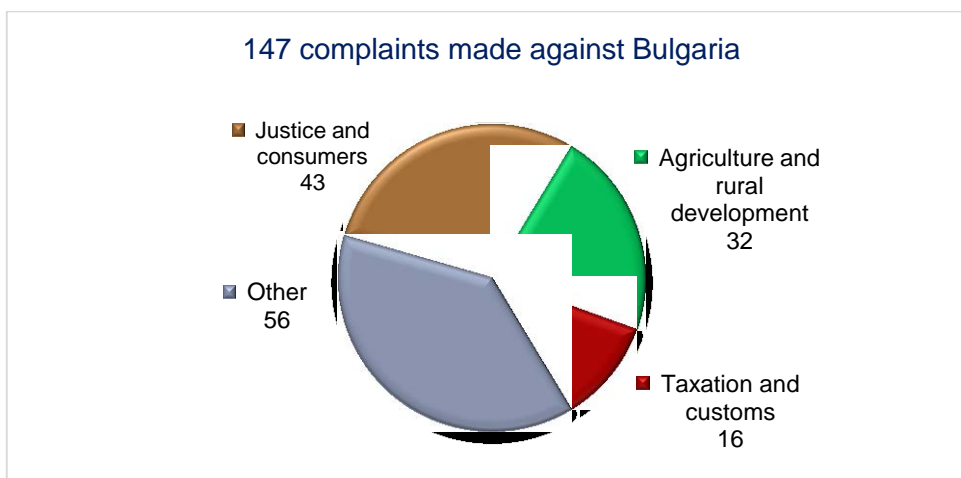
1. New complaints made against Bulgaria by members of the public (2012-2016)



1. Public complaints against Bulgaria open at year-end

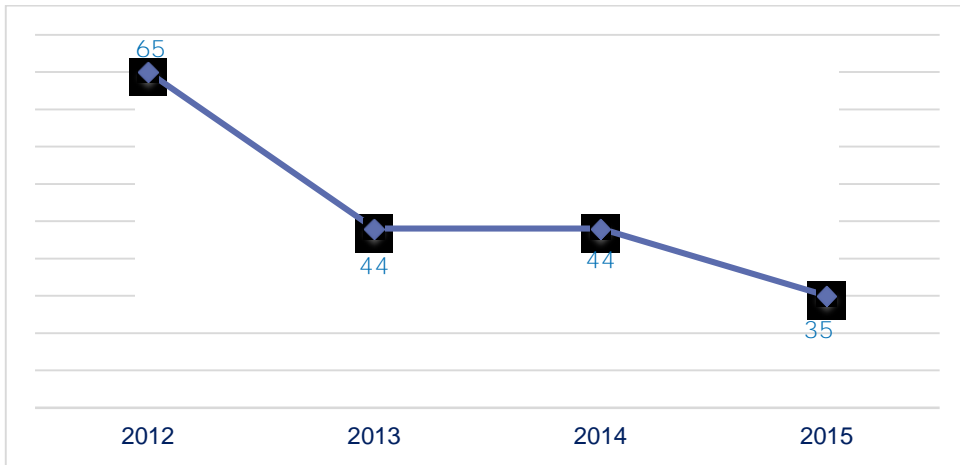
|       |   |                                   |
|-------|---|-----------------------------------|
| 165   | > | Complaints open at end-2015       |
| 147   | > | New complaints registered in 2016 |
| 171   | > | Complaints handled in 2016        |
| <hr/> |   |                                   |
| = 141 | > | Complaints open at end-2016       |

2. New complaints registered in 2016: main policy areas

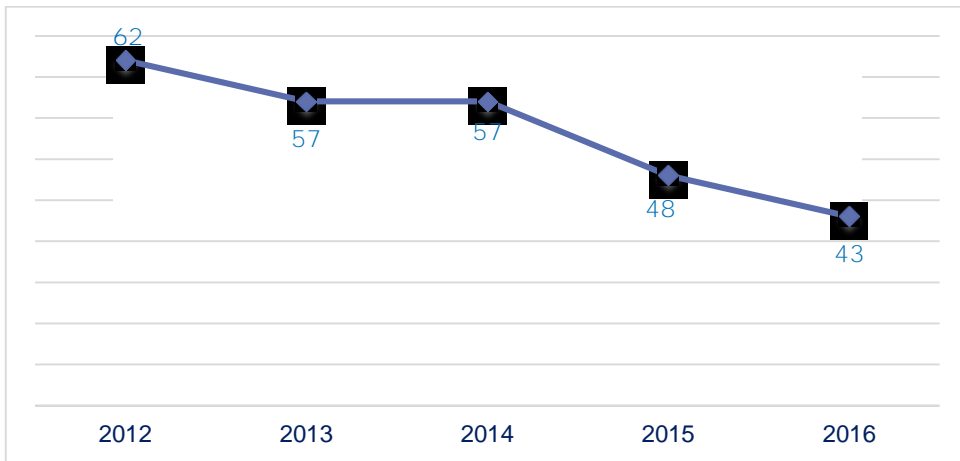


## II. EU PILOT

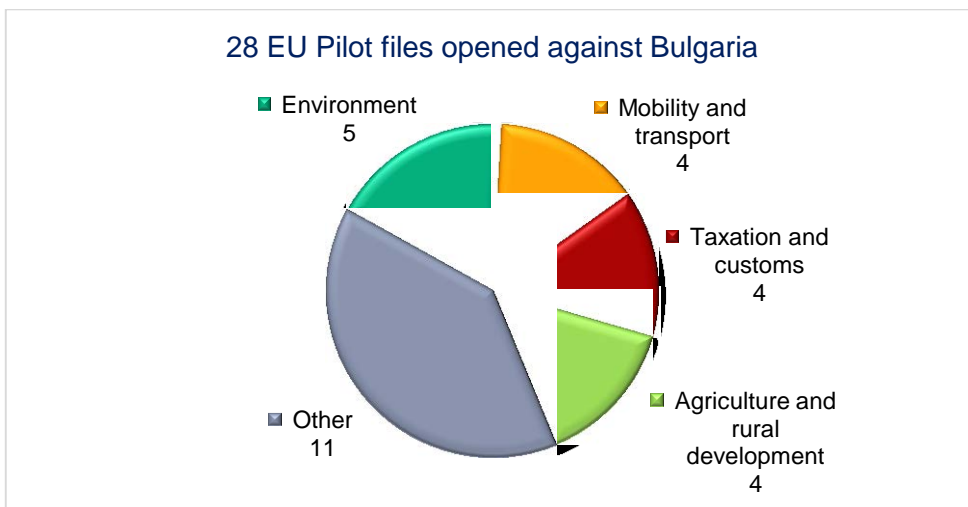
### 1. New EU Pilot files opened against Bulgaria (2012-2016)



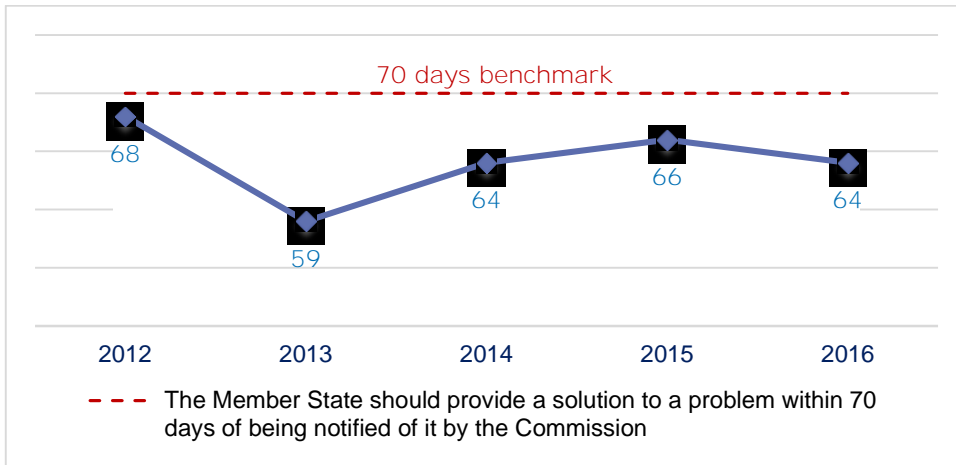
### 2. Files relating to Bulgaria open in EU Pilot at year-end



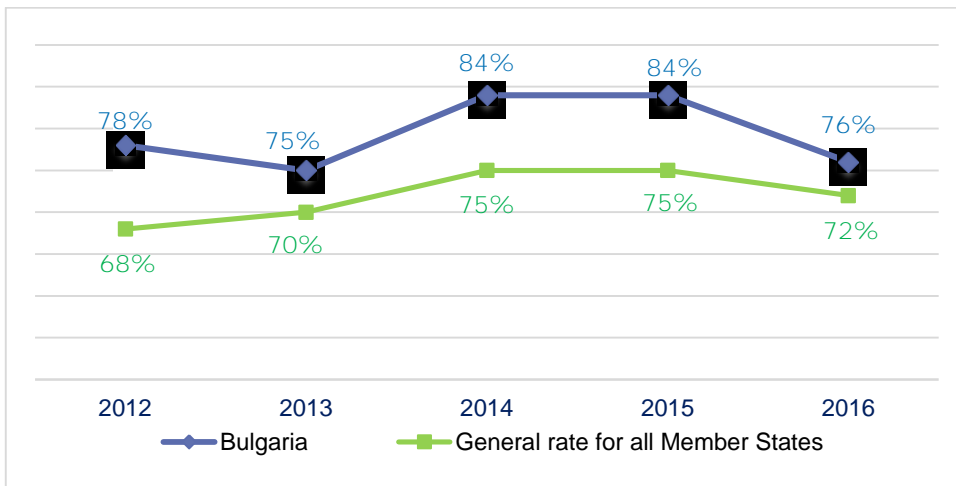
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Bulgaria's average response time in 2012-2016 (in days)

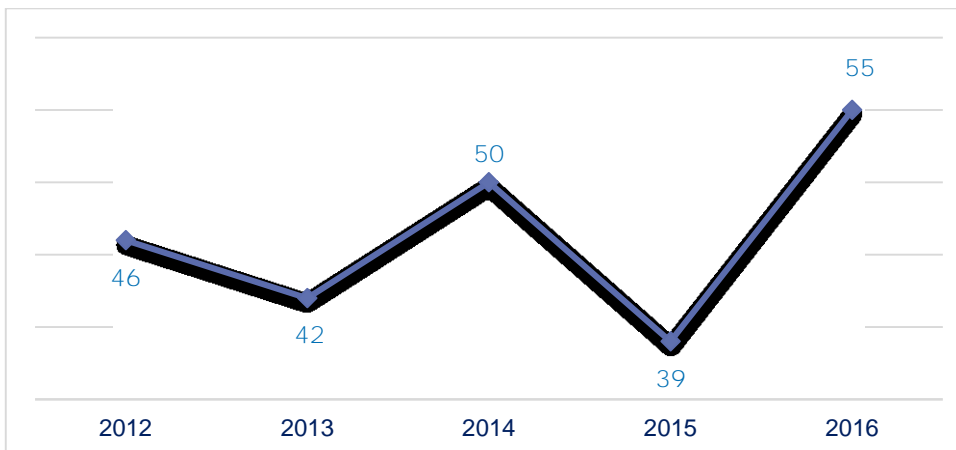


5. EU Pilot files: Bulgaria's resolution rate in 2012-2016

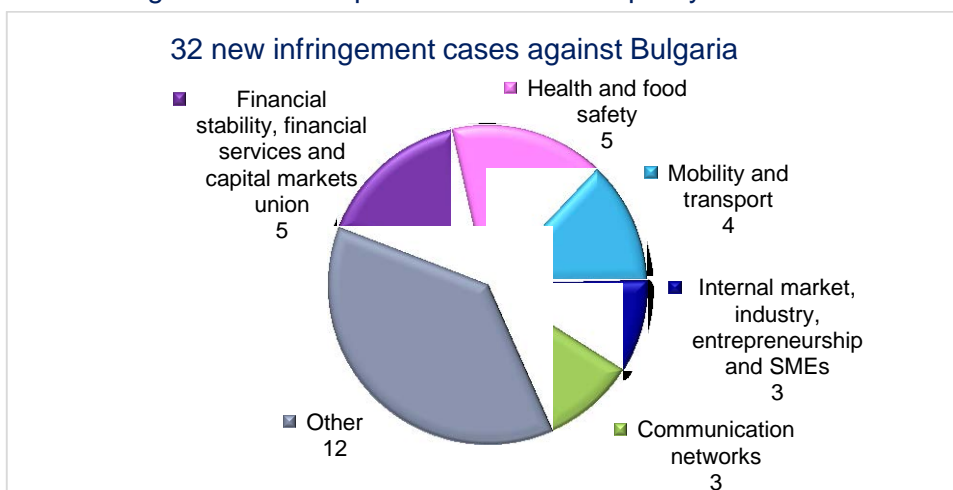


III. INFRINGEMENT CASES

1. Infringement cases against Bulgaria open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 32 new infringement cases against Bulgaria in 2016. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the Directive on attacks against information systems;<sup>1</sup>
  - incorrect implementation of the Directive on the status of third-country nationals who are long-term residents, by imposing disproportionate charges for resident permits;<sup>2</sup>
  - failure to fully transpose the Offshore Safety Directive;<sup>3</sup>
  - failure to comply with the Energy Performance of Buildings Directives;<sup>4</sup>
  - failure to fulfil obligations under the Directive on the protection of waters against pollution caused by nitrates from agricultural sources;<sup>5</sup>
  - failure to communicate all national measures transposing the Accounting Directive;<sup>6</sup>
  - failure to correctly implement the Airport Charges Directive;<sup>7</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>8</sup>
  - disproportionate fines for not declaring cash entered into the customs union;
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>9</sup>
  - national restrictions on the acquisition of agricultural land which limit the free movement of capital and freedom of establishment by being discriminatory and/or disproportionate.<sup>10</sup>
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).

<sup>2</sup> Directive [2003/109/EC](#).

<sup>3</sup> Directive [2013/30/EU](#), [MEMO/16/319](#), [MEMO/16/1452](#) and [MEMO/16/3644](#).

<sup>4</sup> Directive [2010/31/EU](#) and [MEMO/16/3644](#), [MEMO/16/319](#) and [MEMO/16/2490](#).

<sup>5</sup> Directive [91/676/EEC](#) and [MEMO/16/3125](#).

<sup>6</sup> Directive [2013/34/EU](#), and press releases [MEMO/16/2097](#) and [MEMO/16/3644](#).

<sup>7</sup> Directive [2009/12/EC](#), [MEMO/16/319](#).

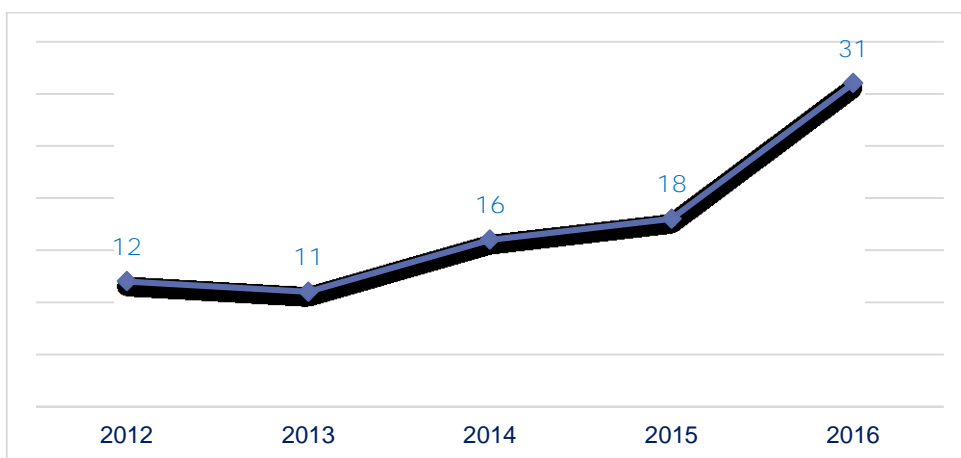
<sup>8</sup> Directive [2014/89/EU](#).

<sup>9</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

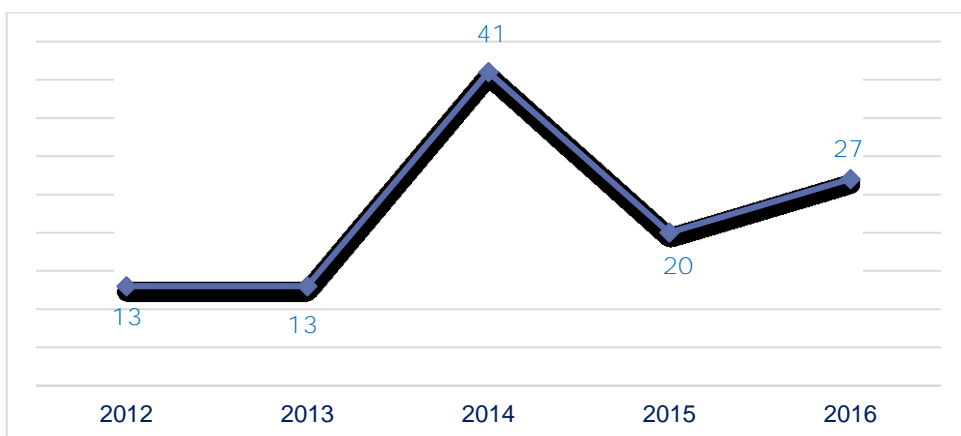
<sup>10</sup> Press releases [IP/16/1827](#) and [MEMO/16/1823](#).

#### IV. TRANSPOSITION OF DIRECTIVES

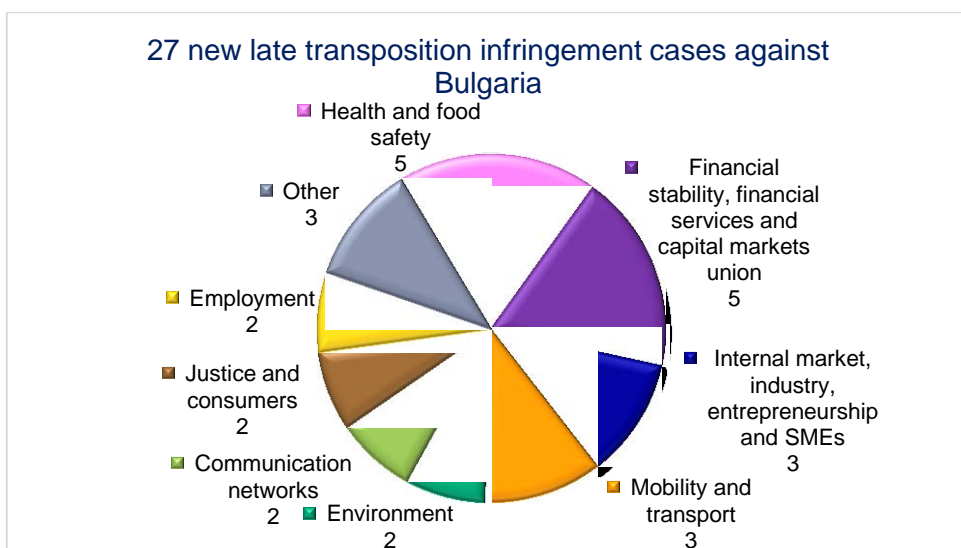
##### 1. Late transposition infringement cases against Bulgaria open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Bulgaria (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>11</sup>
- completing the notification of all national measures necessary to transpose the Capital Requirements Directive<sup>12</sup> and the Bank Resolution and Recovery Directive.<sup>13</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>14</sup>

The Court ruled that:

- has failed to protect unique habitats and endangered species in the Kaliakra region, in violation of the Birds Directive, the Habitats Directive and the Environmental Impact Assessment Directive.<sup>15</sup>

#### 2. Preliminary rulings

In a preliminary ruling addressed to the Bulgarian judiciary, the Court held that:

- the custodial sentence of a prisoner may not be reduced, when he is transferred from one Member State to another, by reason of time spent working in prison in the first Member State if that Member State has not, under its national law, granted such a reduction in sentence.<sup>16</sup>

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<sup>11</sup> Directive [2012/18/EU](#).

<sup>12</sup> Directive [2013/36/EU](#).

<sup>13</sup> Directive [2014/59/EU](#).

<sup>14</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>15</sup> Directives [2009/147/EC](#), [92/43/EEC](#) and [2011/92/EU](#), Commission v Bulgaria, [C-141/14](#).

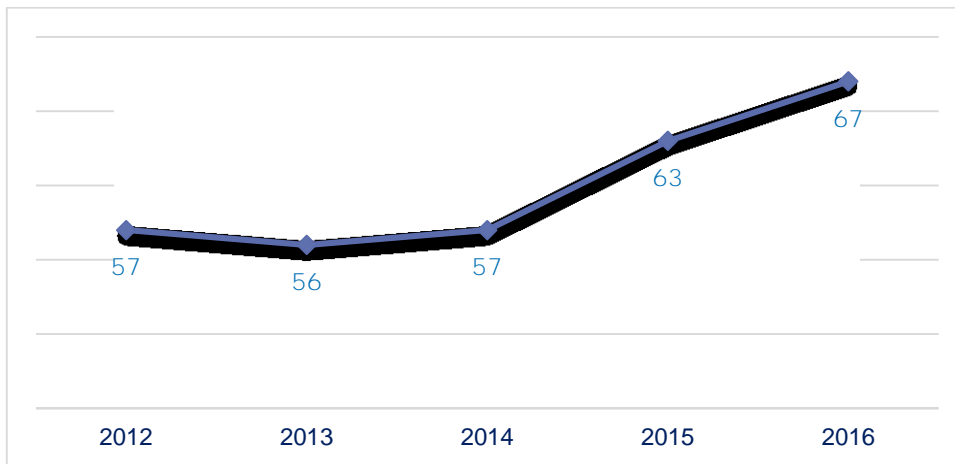
<sup>16</sup> Atanas Ognyanov v Sofiyska gradska prokuratura, [C-554/14](#) and Court press release No [117/16](#).

Czech Republic

*New complaints against the Czech Republic continued to increase in 2016, reaching their highest level in 5 years. Open infringement cases also continued their steady rise since 2013. New infringement cases for late transposition rose to almost double their 2015 level. By contrast, the number of new EU Pilot files continued falling from its 2013 peak, hitting its lowest point since 2012.*

I. COMPLAINTS

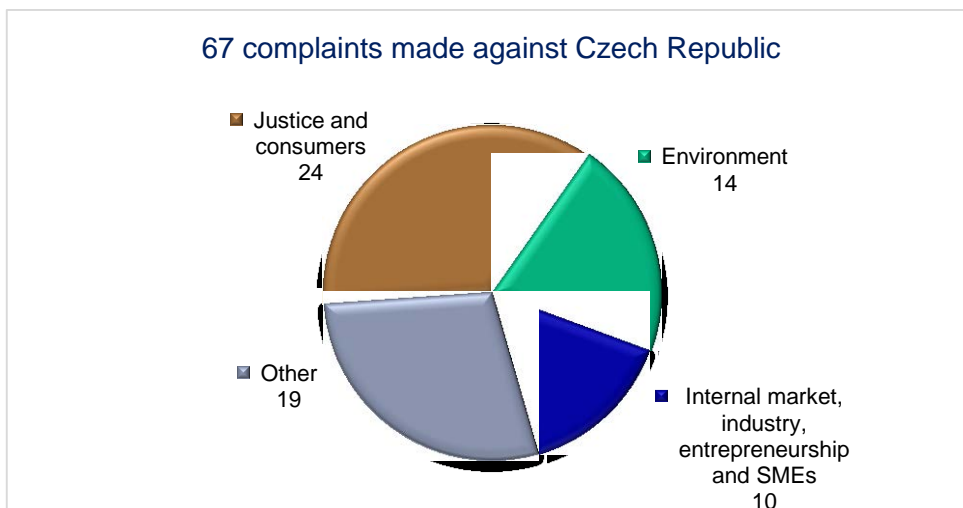
1. New complaints made against the Czech Republic by members of the public (2012-2016)



2. Public complaints against the Czech Republic open at year-end

|             |   |                                    |
|-------------|---|------------------------------------|
| 68          | > | Complaints open at end-2015        |
| 67          | > | New complaints registered in 2016  |
| 67          | > | Complaints handled in 2016         |
| <b>= 68</b> | > | <b>Complaints open at end-2016</b> |

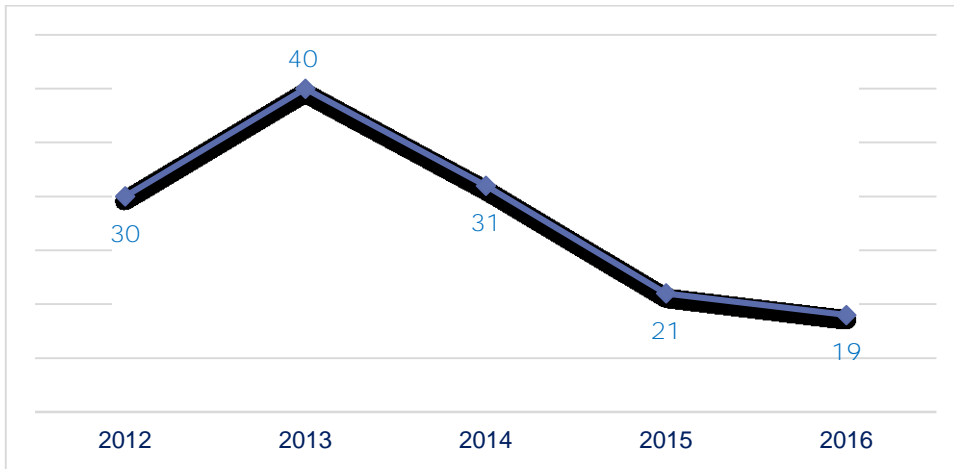
3. New complaints registered in 2016: main policy areas



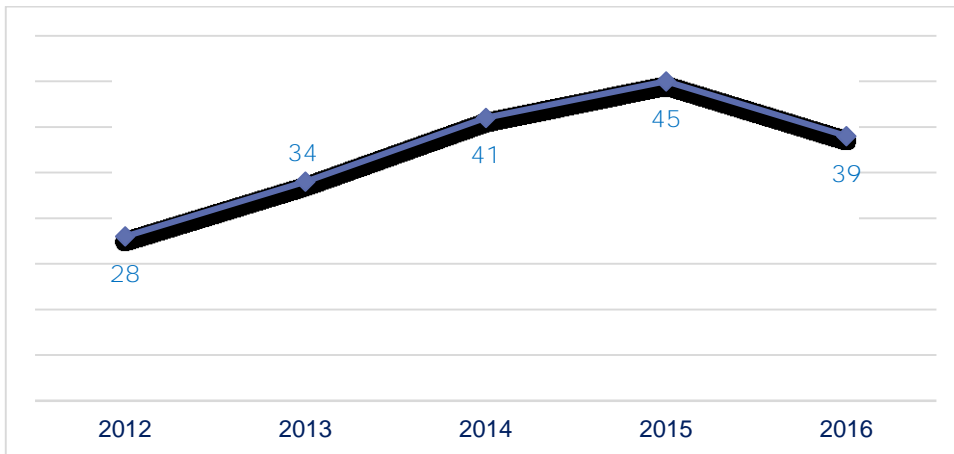


## II. EU PILOT

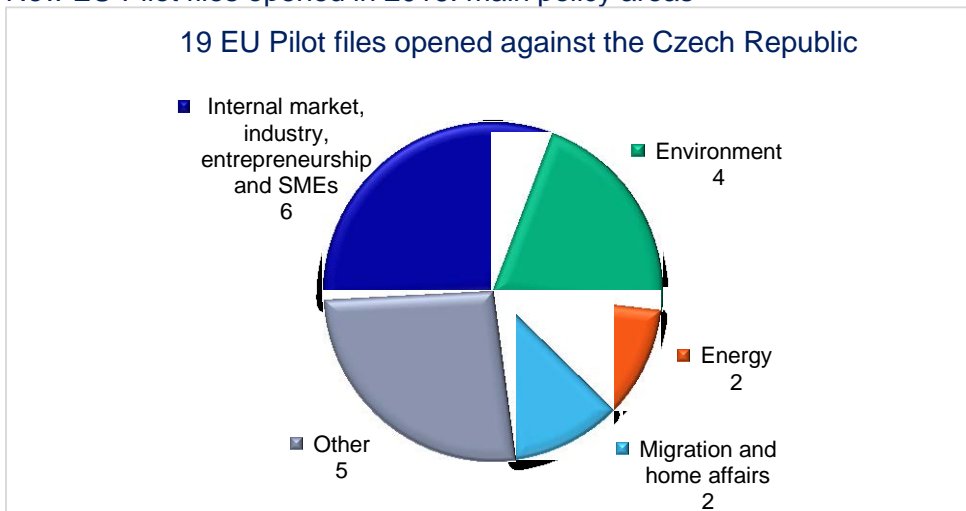
### 1. New EU Pilot files opened against the Czech Republic (2012-2016)



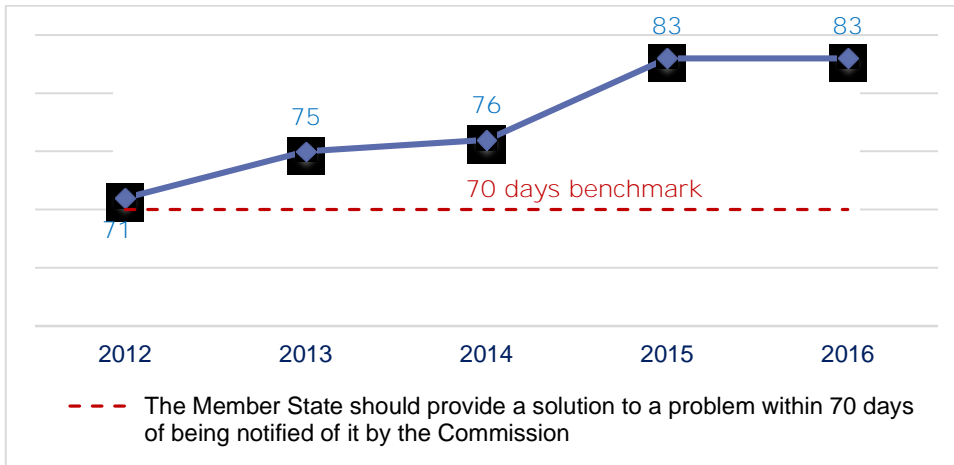
### 2. Files relating to the Czech Republic open in EU Pilot at year-end



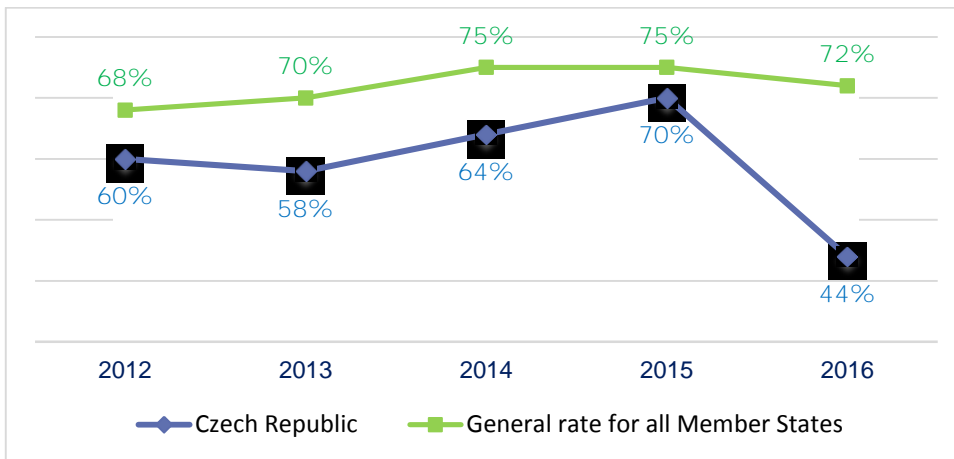
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Czech Republic's average response time in 2012-2016 (in days)

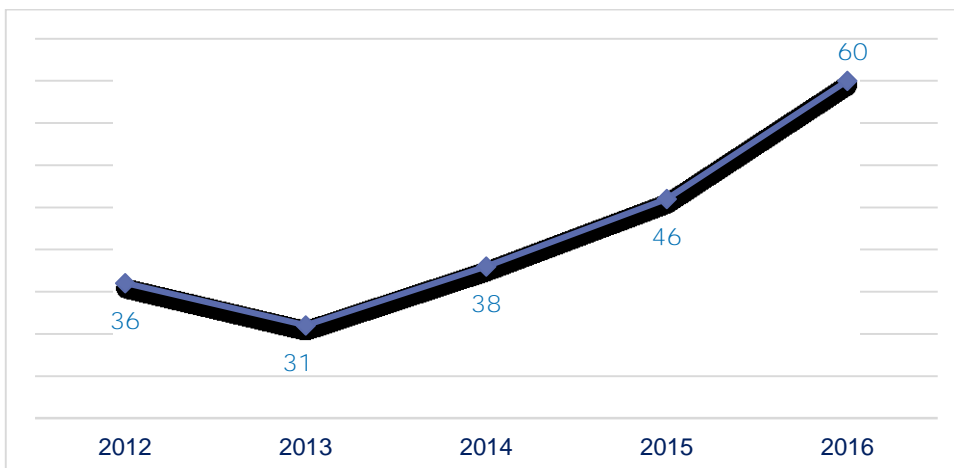


5. EU Pilot files: Czech Republic's resolution rate in 2012-2016

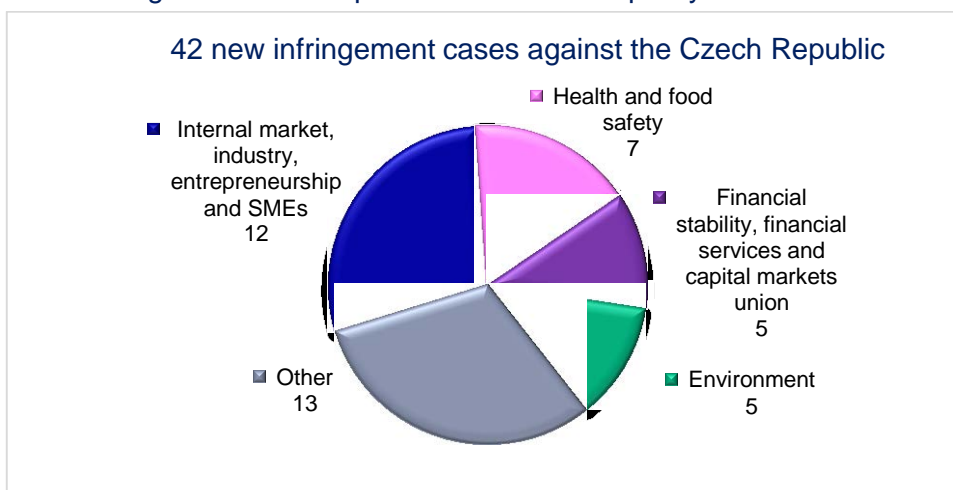


III. INFRINGEMENT CASES

1. Infringement cases against the Czech Republic open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 42 new infringement cases against the Czech Republic in 2016. These, and other major ongoing infringement cases, include:
- inadequate urban waste water treatment;
  - non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>1</sup>
  - non-compliant transposition of the Environmental Liability Directive;<sup>2</sup>
  - failure to comply with the Security of Gas Supply Regulation;<sup>3</sup>
  - incomplete natura 2000 network, contrary to the Directive on the conservation of natural habitats and of wild fauna and flora;<sup>4</sup>
  - failure to fully notify transposition measures for the Directive establishing a single European railway area;<sup>5</sup>
  - incorrect transposition of the Directive on the interoperability of the rail system within the Community;<sup>6</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions;<sup>7</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation.<sup>8</sup>
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
- failure to fulfil obligations under the Directive on driving licences;<sup>9</sup>
  - the condition of nationality laid down for the exercise of the profession of notary in the Czech legal system. This is discriminatory and constitutes a disproportionate restriction of the freedom of establishment.<sup>10</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2008/50/EC](#).

<sup>2</sup> Directive [2004/35/EC](#).

<sup>3</sup> Regulation [\(EU\) No 994/2010](#).

<sup>4</sup> Directive [92/43/EEC](#).

<sup>5</sup> Directive [2012/34/EU](#).

<sup>6</sup> Directive [2008/57/EC](#); [MEMO/16/319](#).

<sup>7</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

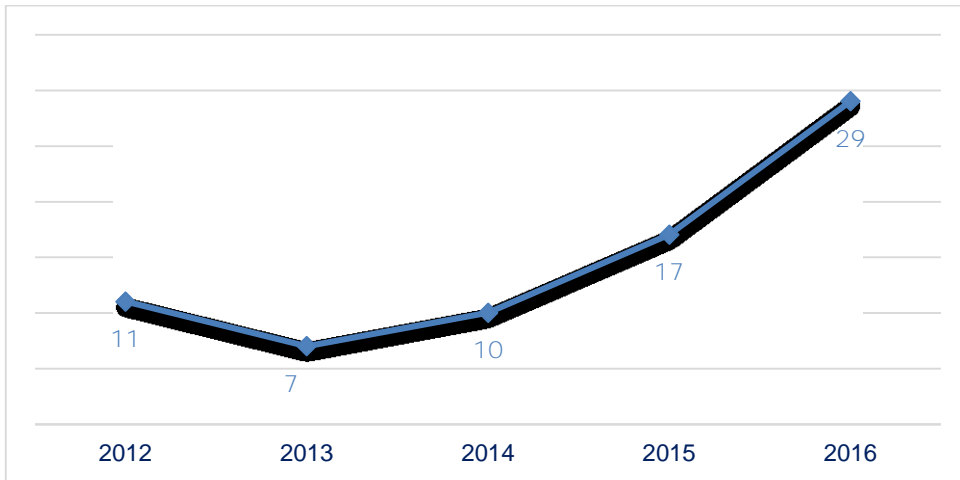
<sup>8</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#); [IP/16/4214](#).

<sup>9</sup> Directive [2006/126/EC](#), Commission v Czech Republic, [C-314/16](#); [IP/15/6013](#).

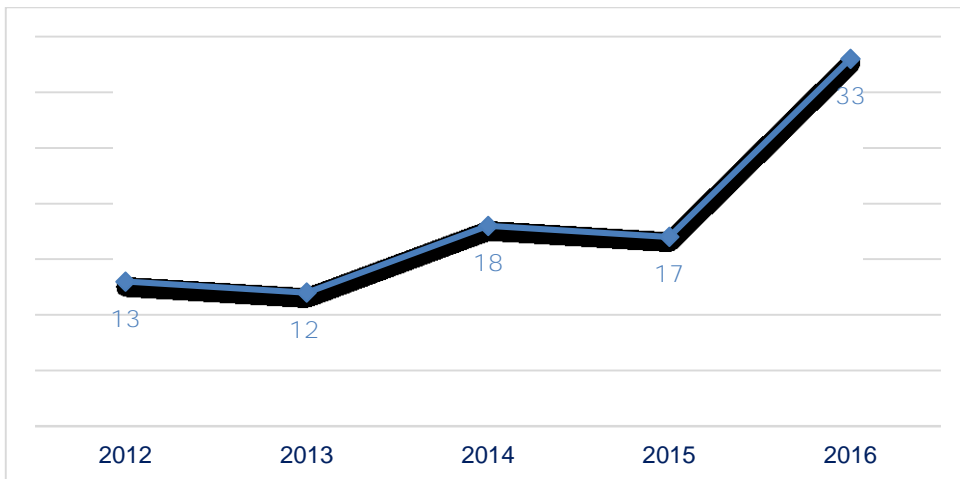
<sup>10</sup> Commission v Czech Republic [C-575/16](#); [IP/16/322](#) and [MEMO/16/319](#).

#### IV. TRANSPOSITION OF DIRECTIVES

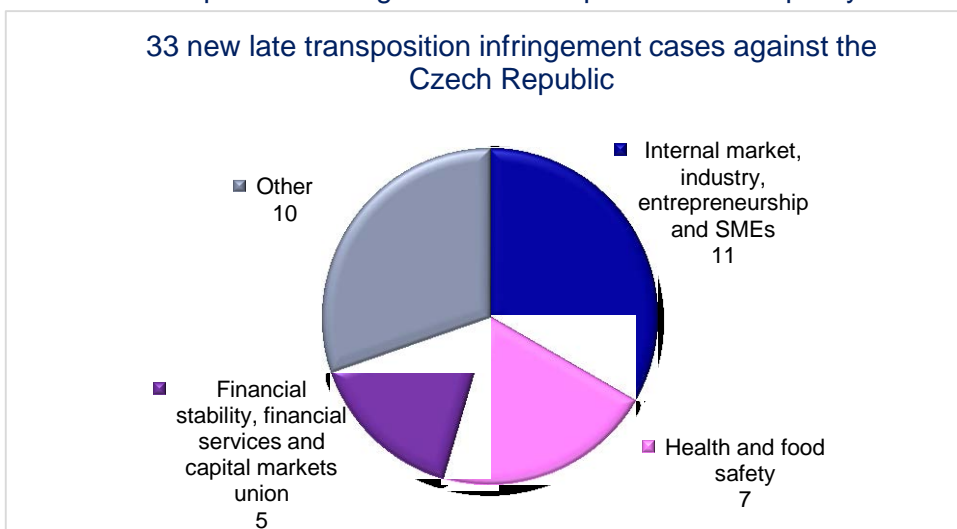
##### 1. Late transposition infringement cases against the Czech Republic open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against the Czech Republic (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- non-compliant transposition of the Waste Framework Directive;<sup>11</sup>
- incorrect transposition of the Groundwater Directive;<sup>12</sup>
- incorrect transposition of the Environmental Quality Standards Directive;<sup>13</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>14</sup>
- completing the notification of all national measures necessary to transpose:
  - the Bank Resolution and Recovery Directive;<sup>15</sup>
  - the Deposit Guarantee Schemes Directive;<sup>16</sup>
  - the Financial Conglomerates Directive;<sup>17</sup>
- failure to meet the obligation to interconnect a national electronic register of road transport undertakings;<sup>18</sup>
- non-ratification of or reservations against appendices to the Convention concerning International Carriage by Rail;
- incorrect implementation of the Directive on a European electronic toll service.<sup>19</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>20</sup>

The Court ruled that:

- the Czech Republic failed to fulfil its obligations concerning the free movement of goods by refusing to recognise the hallmarks of Waarborg Holland, the Netherlands' independent assay office for precious metals. Although in some cases the Member State is entitled not to recognise hallmarks affixed outside the EU by that assay office, a general and systematic refusal to recognise any of that office's hallmarks is a disproportionate measure.<sup>21</sup>

#### 2. Preliminary rulings

In a preliminary ruling addressed to the Czech judiciary, the Court held that:

- Directive 2003/95/EU does not preclude national legislation that requires individuals to complete periodic training of a specified duration as a condition for carrying out a driving activity in circumstances where the individuals concerned were exempted from the obligation laid down in the Directive to obtain an initial qualification.

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<sup>11</sup> Directive [2008/98/EC](#).

<sup>12</sup> Directive [2006/118/EC](#).

<sup>13</sup> Directive [2008/105/EC](#).

<sup>14</sup> Directive [2012/18/EU](#).

<sup>15</sup> Directive [2014/59/EU](#).

<sup>16</sup> Directive [2014/49/EU](#).

<sup>17</sup> Directive [2011/89/EU](#).

<sup>18</sup> Regulation [\(EC\) No 1071/2009](#).

<sup>19</sup> Directive [2004/52/EC](#).

<sup>20</sup> These rulings are almost exclusively handed down in infringement procedures.

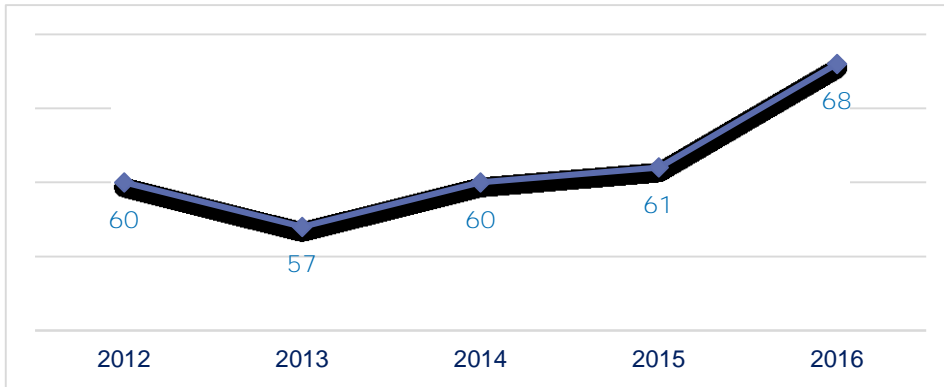
<sup>21</sup> Commission v Czech Republic, [C-525/14](#).

Denmark

All the main indicators for Denmark worsened in 2016. New complaints rose to their highest level since 2012, while the number of new EU Pilot files also increased after the sharp fall from its 2013 peak. Both open infringement cases and new cases for late transposition rose considerably, reaching five-year highs.

I. COMPLAINTS

1. New complaints made against Denmark by members of the public (2012-2016)



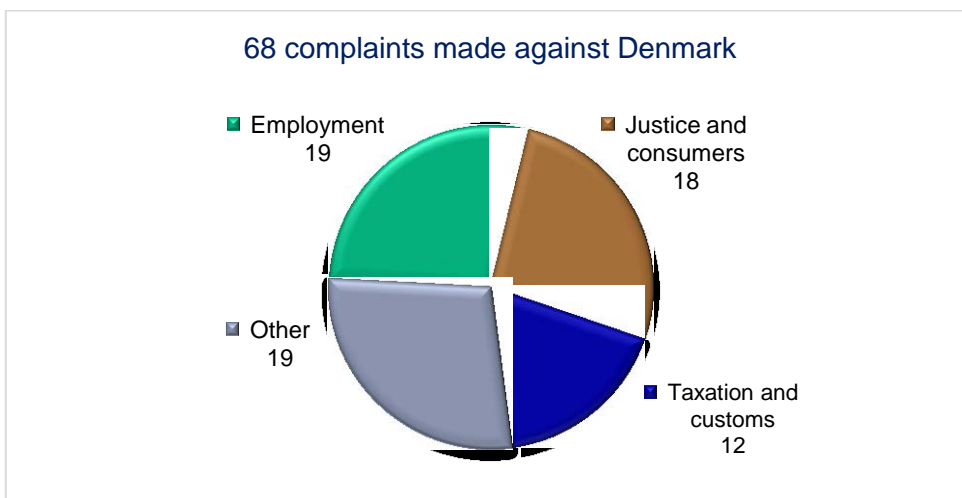
2. Public complaints against Denmark open at year-end

- 52 > Complaints open at end-2015
- 68 > New complaints registered in 2016
- 74 > Complaints handled in 2016

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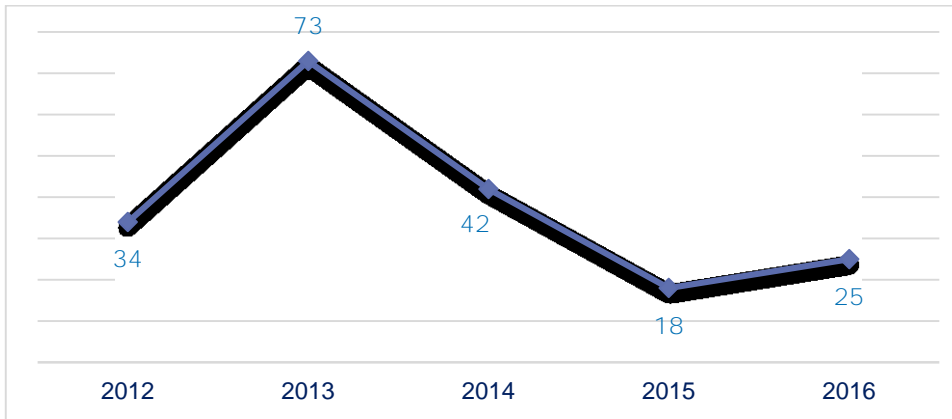
- = 46 > Complaints open at end-2016

3. New complaints registered in 2016: main policy areas

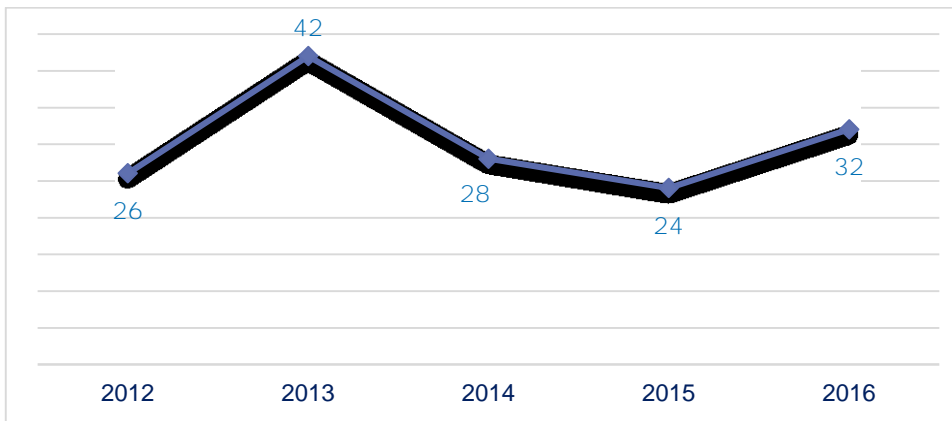


## II. EU PILOT

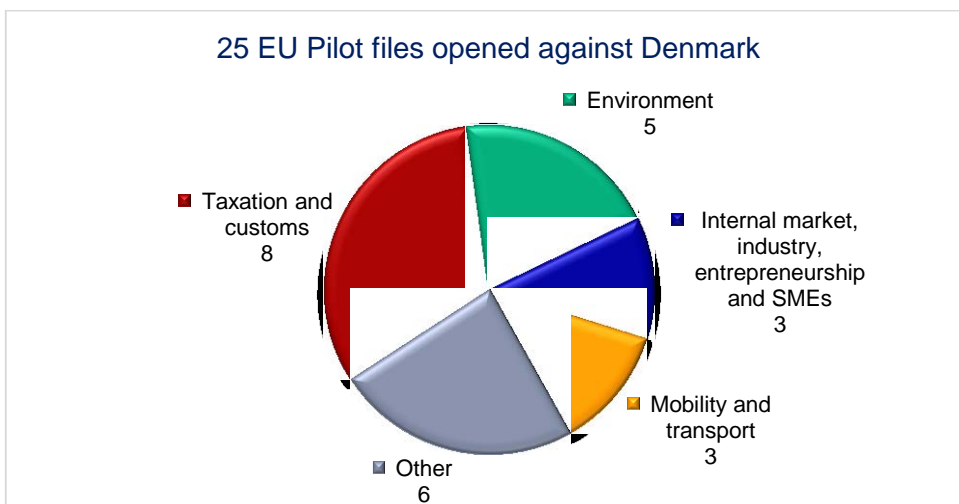
### 1. New EU Pilot files opened against Denmark (2012-2016)



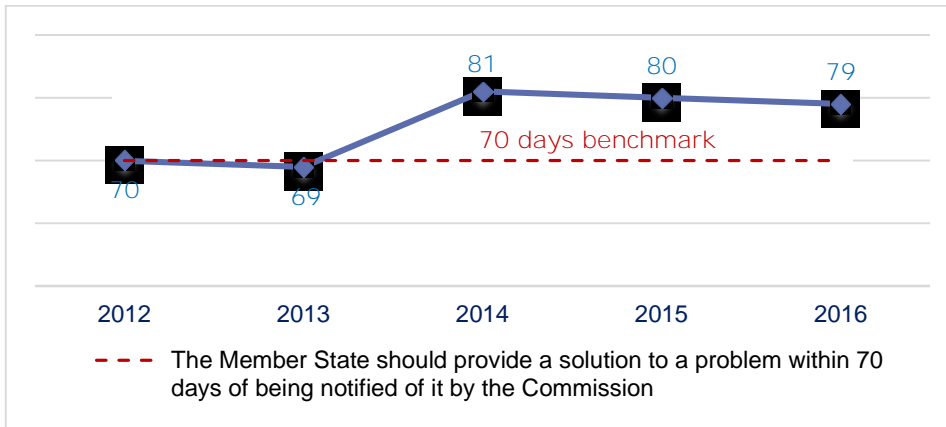
### 2. Files relating to Denmark open in EU Pilot at year-end



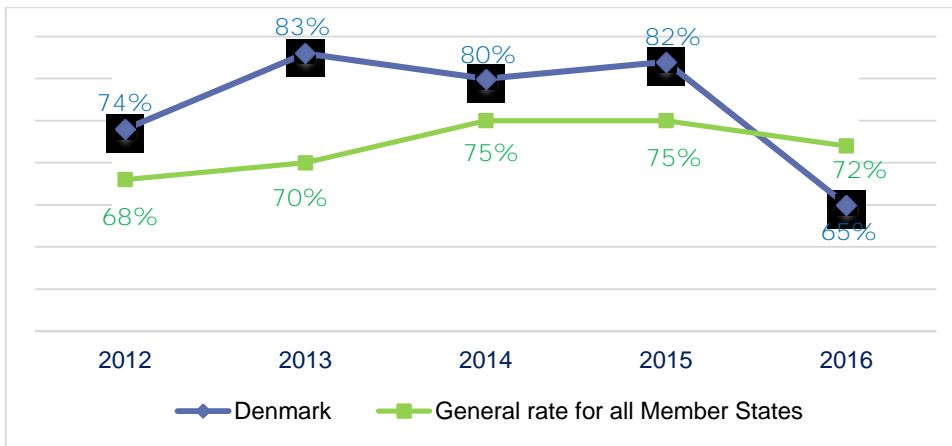
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Denmark's average response time in 2012-2016 (in days)

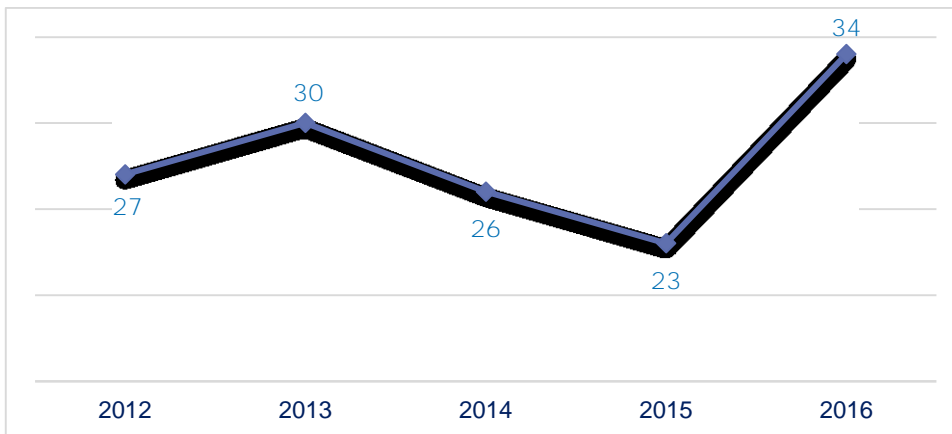


5. EU Pilot files: Denmark's resolution rate in 2012-2016



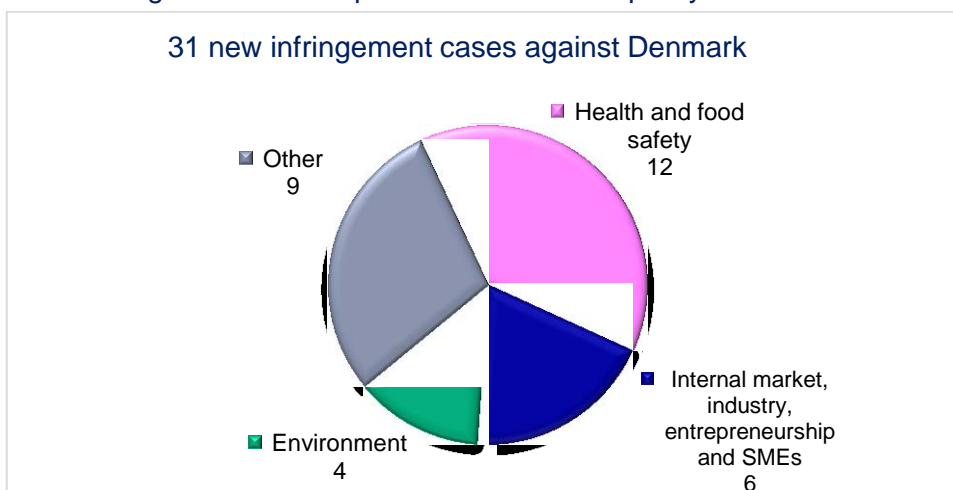
III. INFRINGEMENT CASES

1. Infringement cases against Denmark open on 31 December (2012-2016)





## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 31 new infringement cases against Denmark in 2016. These, and other major ongoing infringement cases, include:
- non-respect of NO<sub>2</sub> limit values set by the Air Quality Directive;<sup>1</sup>
  - non-compliant transposition of the Environmental Liability Directive;<sup>2</sup>
  - failure to fully transpose the Energy Efficiency Directive;<sup>3</sup>
  - failure to correctly transpose the Directive on driving licences;<sup>4</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive.<sup>5</sup>
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- failure to comply with cabotage rules as laid down in the Regulation on access to the international road haulage market.<sup>6</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2008/50/EC](#).

<sup>2</sup> Directive [2004/35/EC](#).

<sup>3</sup> Directive [2012/27/EU](#), [MEMO/16/3125](#) and [MEMO/16/1452](#).

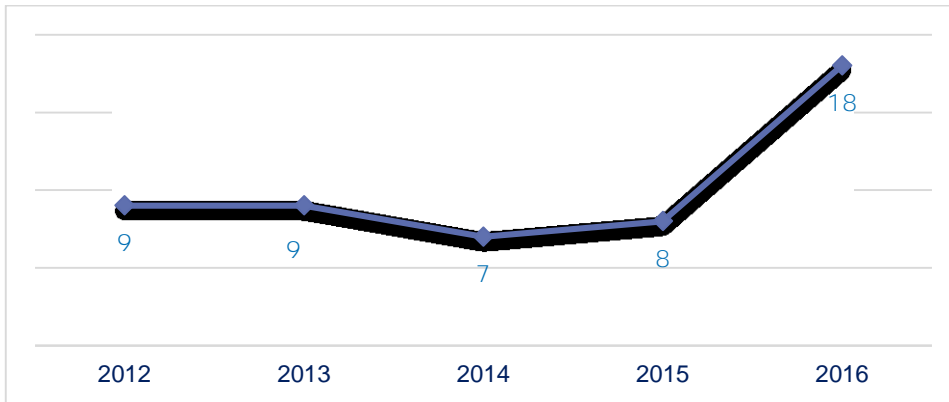
<sup>4</sup> Directive [2006/126/EC](#), [MEMO/16/2097](#).

<sup>5</sup> Directive [2006/123/EC](#), [IP/16/3646](#), [MEMO/16/3644](#).

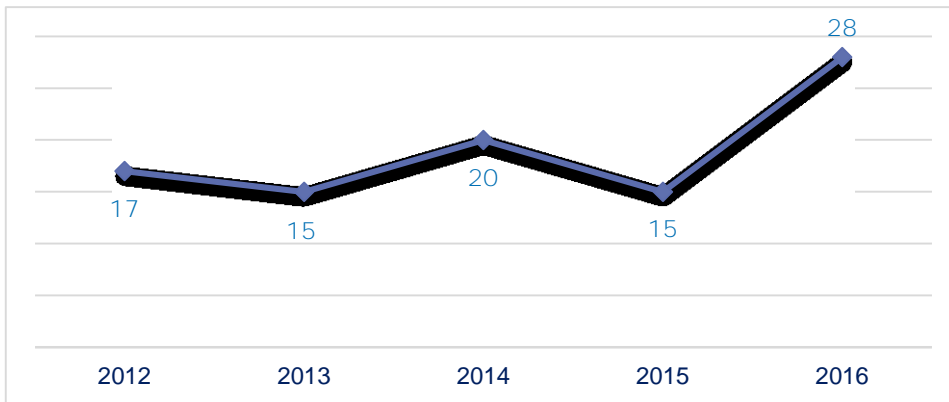
<sup>6</sup> Regulation (EC) [1072/2009](#), Commission v Denmark, [C-541/16](#), [MEMO/16/2097](#).

#### IV. TRANSPOSITION OF DIRECTIVES

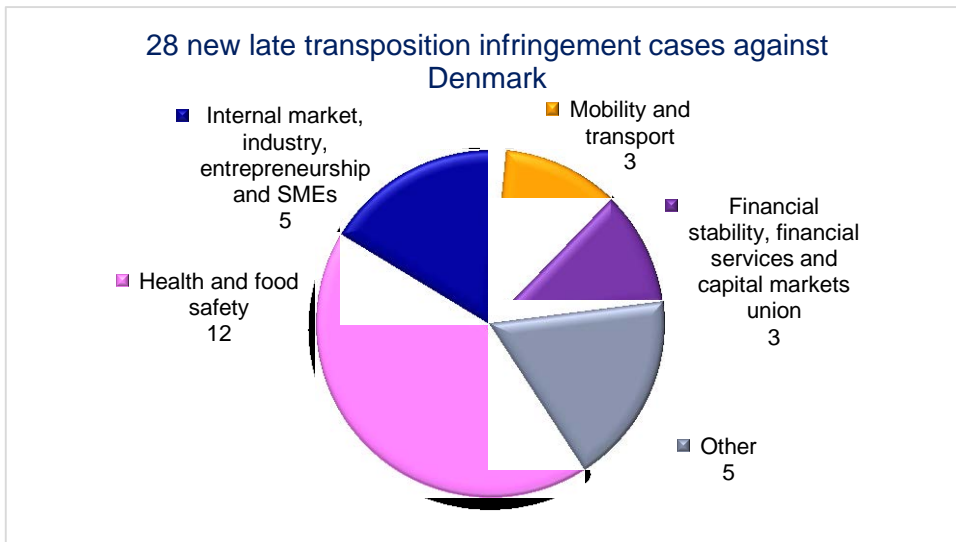
##### 1. Late transposition infringement cases against Denmark open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Denmark (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>7</sup>
- collective agreements in the municipal education sector which excluded part-time staff from a number of benefits if they worked less than 8 hours per week or were employed for less than 1 month.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>8</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In preliminary rulings addressed to the Danish judiciary, the Court held that:

- the Universal Service Directive<sup>9</sup> must be interpreted as precluding national legislation under which an undertaking designated as the provider of additional mandatory services is entitled to compensation from the Member State for the net cost of providing those services only if that cost constitutes an unfair burden on that undertaking;<sup>10</sup>
- the objective of ensuring the successful integration of non-EU nationals in the Member State concerned may constitute an overriding reason in the public interest which Member States can legitimately invoke to justify new restrictions on the rights of residence of Turkish citizens and their family members in relation to the standstill clauses of the EU-Turkey association law, provided that they are proportionate to the objectives pursued.<sup>11</sup>

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<sup>7</sup> Directive [2012/18/EU](#).

<sup>8</sup> These rulings are almost exclusively handed down on infringement procedures.

<sup>9</sup> Directive [2002/22/EC](#).

<sup>10</sup> TDC A/S v Teleklagenævnet and Erhvervsog Vækstministeriet, [C-327/15](#).

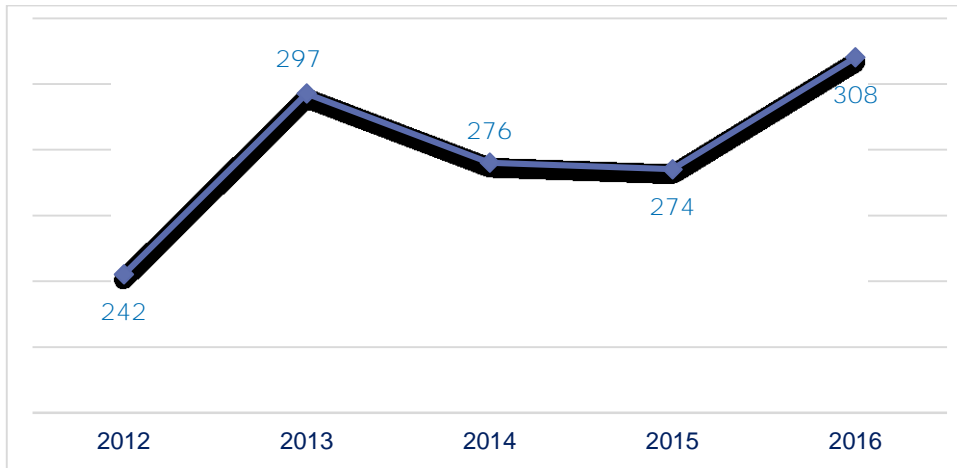
<sup>11</sup> Genc, [C-561/14](#).

Germany

*New complaints against Germany in 2016 increased to a five-year peak, but new EU Pilot files reached a five-year low after falling sharply from 2015's already low level. The number of infringement cases pending at the end of the year rose slightly. New infringement cases for late transposition remained at the 2015 level but were still above the 2012-2013 levels.*

I. COMPLAINTS

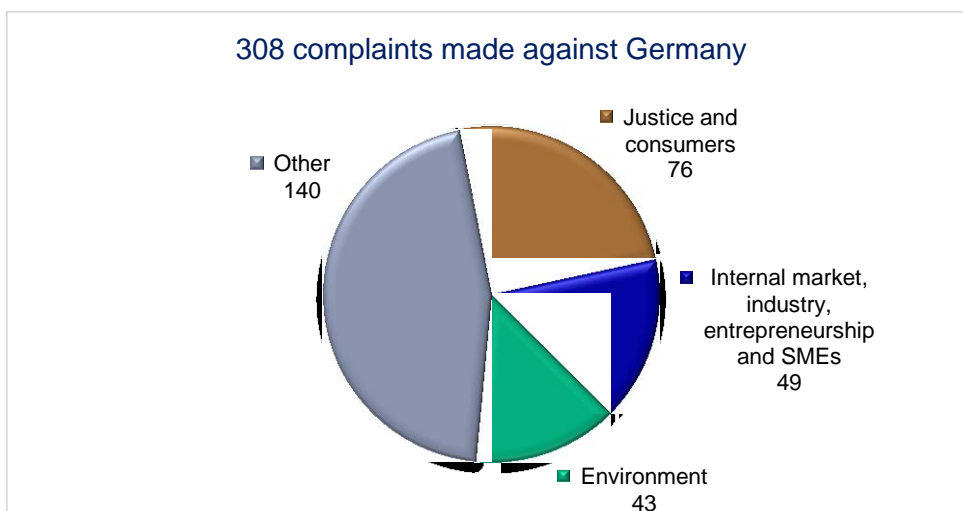
1. New complaints made against Germany by members of the public (2012-2016)



2. Public complaints against Germany open at year-end

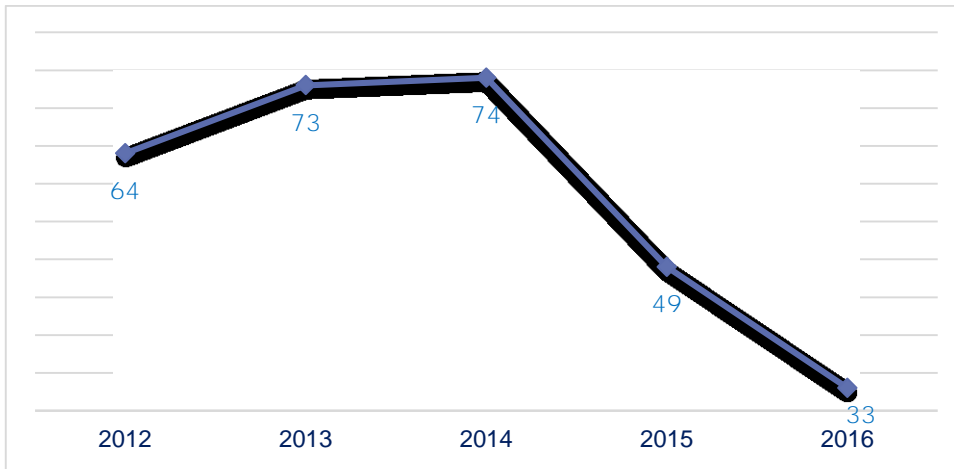
|              |   |                                   |
|--------------|---|-----------------------------------|
| 235          | > | Complaints open at end-2015       |
| 308          | > | New complaints registered in 2016 |
| 289          | > | Complaints handled in 2016        |
| <b>= 254</b> | > | Complaints open at end-2016       |

3. New complaints registered in 2016: main policy areas

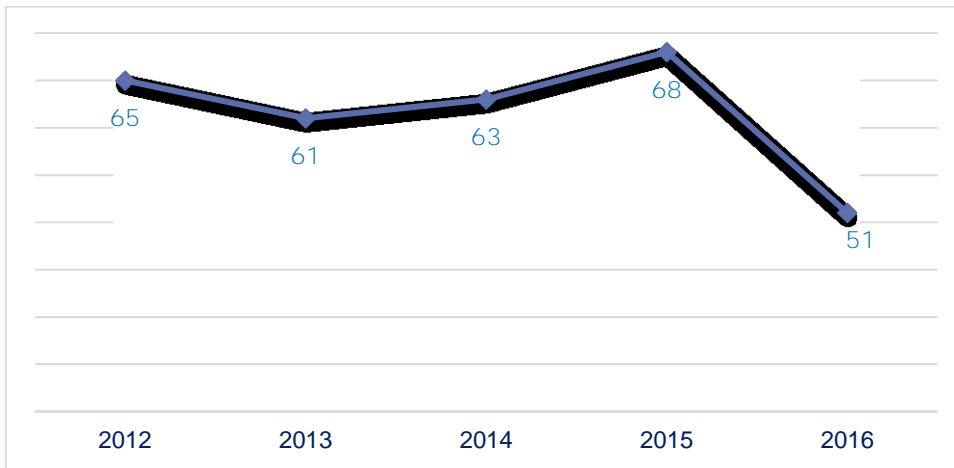


## II. EU PILOT

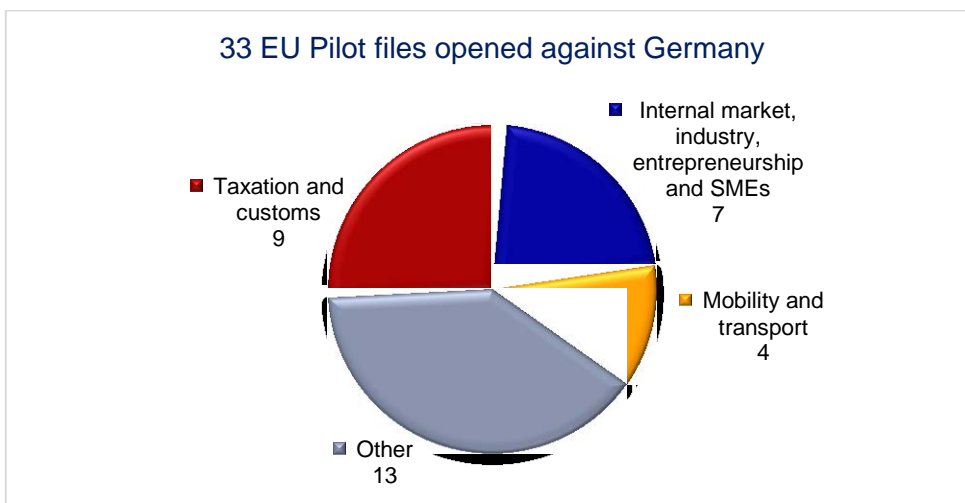
### 1. New EU Pilot files opened against Germany (2012-2016)



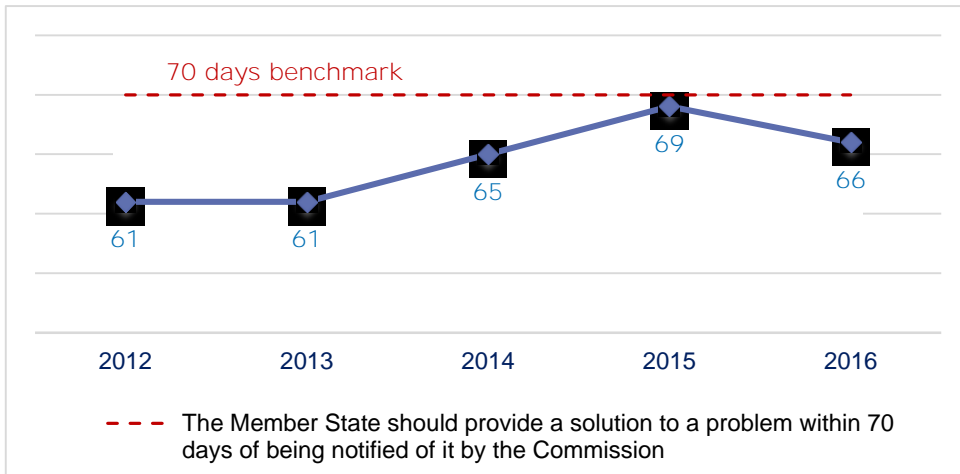
### 2. Files relating to Germany open in EU Pilot at year-end



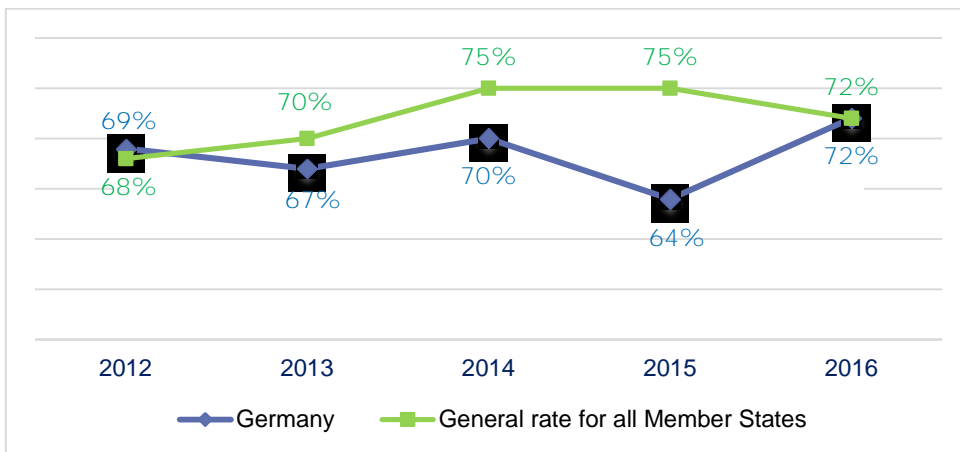
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Germany's average response time in 2012-2016 (in days)

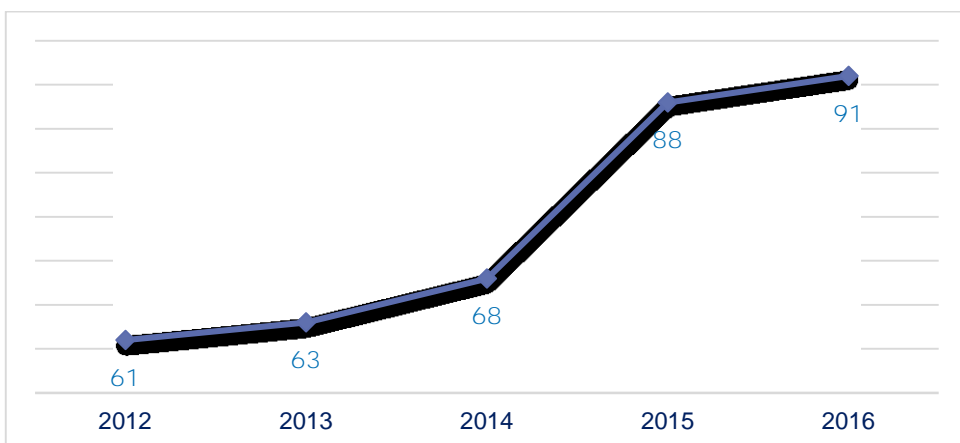


5. EU Pilot files: Germany's resolution rate in 2012-2016

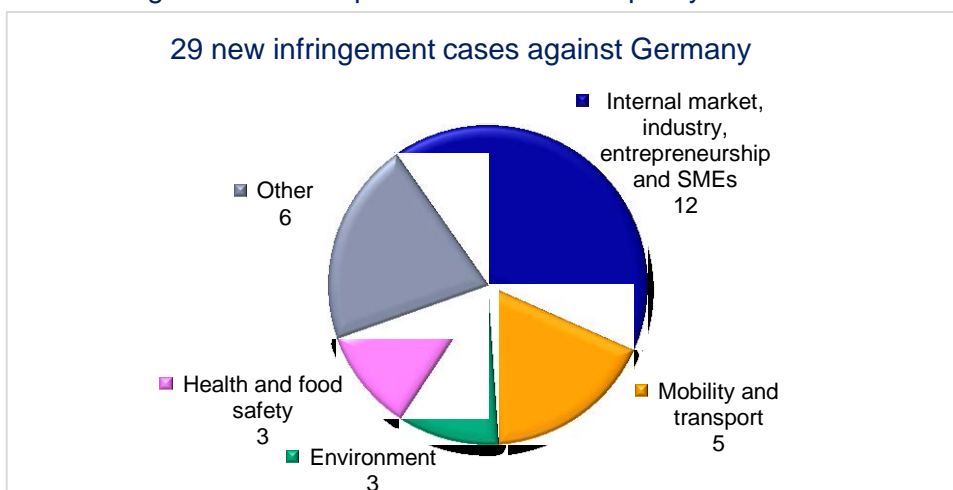


III. INFRINGEMENT CASES

1. Infringement cases against Germany open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 29 new infringement cases against Germany in 2016. These, and other major ongoing infringement cases, include:
- non-communication of national measures transposing the Directives on asylum procedures and reception conditions;<sup>1</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System
  - lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>2</sup>
  - failure to communicate measures transposing the Seveso III Directive;<sup>3</sup>
  - late transposition of the Directive<sup>4</sup> aligning various rules to the Regulation<sup>5</sup> on classification, labelling and packaging of substances and mixtures;
  - failure to fully transpose the Offshore Safety Directive;<sup>6</sup>
  - failure to comply with the Third Internal Energy Market Package;<sup>7</sup>
  - failure to fulfil air safety oversight obligations regarding initial and continuous airworthiness;<sup>8</sup>
  - restrictions on the provision of transport services and free movement of goods;<sup>9</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>10</sup>
  - limitation of approval of certain motor vehicles to two specific technical testing centres, contrary to the Services Directive;<sup>11</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation.<sup>12</sup>

<sup>1</sup> Directives [2013/32/EU](#) and [2013/33/EU](#).

<sup>2</sup> Directive [2002/49/EC](#).

<sup>3</sup> Directive [2012/18/EU](#) and [MEMO/16/1452](#).

<sup>4</sup> Directive [2014/27/EU](#).

<sup>5</sup> Regulation (EC) No [1272/2008](#).

<sup>6</sup> Directive [2013/30/EU](#), [MEMO/16/319](#), [MEMO/16/1452](#) and [MEMO/16/3644](#).

<sup>7</sup> Directives [2009/72/EC](#) and [2009/73/EC](#), [MEMO/16/1452](#).

<sup>8</sup> Regulation (EU) No [748/2012](#) and Regulation (EC) No [1321/2014](#).

<sup>9</sup> [IP/16/2101](#), [IP/16/1456](#).

<sup>10</sup> Directive [2006/123/EC](#), [IP/16/323](#) and [MEMO/16/319](#), [IP/16/3646](#), [MEMO/16/3644](#).

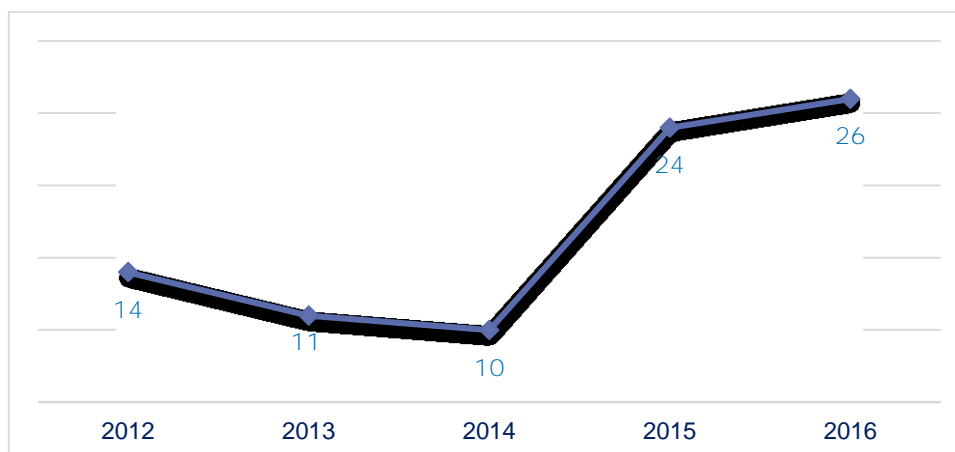
<sup>11</sup> Directive [2006/123/EC](#).

<sup>12</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#), [IP/16/4214](#).

- b) The Commission referred six cases to the Court under Article 258 TFEU. They concern:
- failure to correctly apply the requirements of the Habitats Directive in relation to the authorisation of a coal power plant in Hamburg/Moorburg;<sup>13</sup>
  - failure to take sufficient measures to combat water pollution caused by nitrates from agricultural sources;<sup>14</sup>
  - failure to fulfil the duty of sincere cooperation at the 25th session of the Revision Committee of the Intergovernmental Organisation for International Carriage by Rail;<sup>15</sup>
  - failure to fully implement, in North Rhine-Westphalia, the Directive on enhancing port security;<sup>16</sup>
  - failure to correctly transpose EU rules on driving licences;<sup>17</sup>
  - exclusion of travel services used by taxable persons for their business from the special scheme for travel agents (which allows travel agents to determine on a flat-rate basis the tax assessment base for groups of services and for each taxable period).<sup>18</sup>
- 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 (2012-2016)



<sup>13</sup> Directive [92/43/EEC](#), Commission v Germany, [C-142/16](#); [IP/15/4669](#).

<sup>14</sup> Commission v Germany, [C-543/16](#); [IP/16/1453](#).

<sup>15</sup> [IP/16/2104](#) and [MEMO/16/2097](#).

<sup>16</sup> Directive [2005/65/EC](#), Commission v Germany, [C-58/16](#), [IP/15/5659](#), [MEMO/15/5657](#).

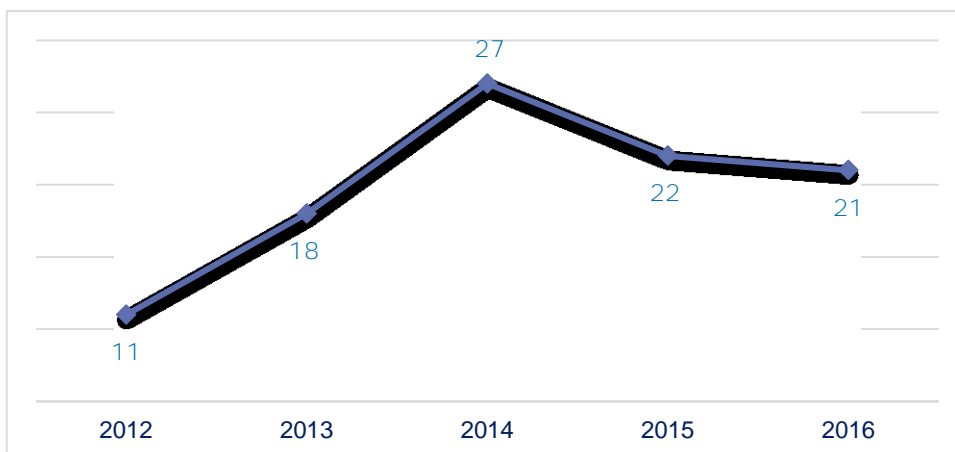
<sup>17</sup> Directive [2006/126/EC](#), Commission v Germany, [C-30/16](#), [IP/15/6229](#), [MEMO/15/6223](#).

<sup>18</sup> Commission v Germany [C-380/16](#) [IP/16/1461](#).

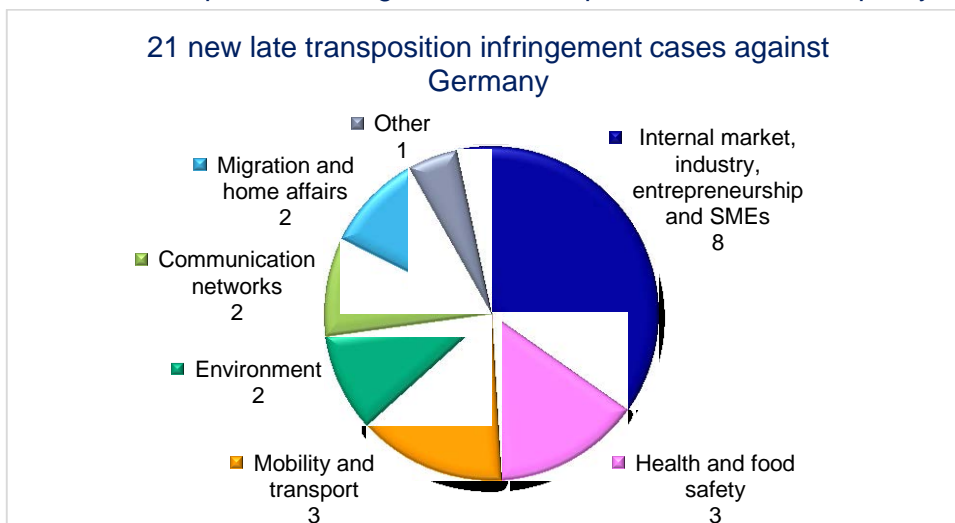


Germany

2. New late transposition infringement cases against Germany (2012-2016)



3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- inadequate application of EU aviation security legislation.<sup>19</sup>

VI. IMPORTANT JUDGMENTS

1. Court rulings<sup>20</sup>

The Court ruled that:

- Germany failed to fulfil its obligations under the Directive on the placing on the market of pyrotechnic articles<sup>21</sup>. This was because Germany provided, over and above the requirements of the Directive and notwithstanding a previous conformity assessment of pyrotechnic articles, that (i) those articles are to be subject to a specific national procedure ('the SprengV') before being placed on the market; and that (ii) pursuant to

<sup>19</sup> Regulations (EC) No [300/2008](#) and (EU) No [18/2010](#).

<sup>20</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>21</sup> Directive [2007/23/EC](#).

the SprengV, a national body is to have the power to review and, where required, to modify their instructions for use.<sup>22</sup>

## 2. Preliminary rulings

In preliminary rulings addressed to the German judiciary, the Court held that:

- nationals of other Member States may be excluded from social assistance during the first 3 months of residence without the individual situation of the person concerned being assessed;<sup>23</sup>
- the recognition of freely chosen forenames and the surname (acquired legally in another Member State) may be refused in order to ensure equality before the law;<sup>24</sup>
- the execution of a European arrest warrant must be deferred if there is a real risk of inhuman or degrading treatment due to the detention conditions in the Member State where the warrant was issued;<sup>25</sup>
- under the Qualification Directive,<sup>26</sup> beneficiaries of subsidiary protection status may be subjected to a residence condition to promote their integration where they are not in a comparable situation to non-EU citizens;<sup>27</sup>
- when a person provides access to somebody else's content through open internet access, the person whose rights are breached cannot claim compensation from the access provider for that breach by a third party. However, it can claim compensation from the access provider if the infringement continues;<sup>28</sup>
- a civil servant of a Member State who leaves his post voluntarily in order to be employed in another Member State should not lose his pension rights under the retirement scheme for civil servants;<sup>29</sup>
- the EU poultry meat labelling rules are compatible with the Charter of Fundamental Rights' freedom to conduct a business and do not discriminate by requiring the indication of the total price and the price per weight unit on the pre-packaging or on the attached label;<sup>30</sup>
- the labelling, presentation and advertising of foodstuffs Directive<sup>31</sup> must be interpreted as meaning that each of the individual portions of honey presented in the form of portion-cups closed by an aluminium seal and packed in cartons supplied to mass caterers constitutes a 'pre-packaged foodstuff' where the mass caterers sell those portions separately or offer them for sale to the ultimate consumer as part of pre-prepared meals for an all-inclusive price;<sup>32</sup>
- Regulation (EC) No 258/97 concerning novel foods and novel food ingredients, must be interpreted as meaning that the expression 'new primary molecular structure' relates to foods or food ingredients which were not used for human consumption in the territory of the European Union before 15 May 1997;<sup>33</sup>
- the subcontracting rules in the Regulation on public passenger transport services by rail and by road<sup>34</sup> apply to contracts awarded for public passenger transport by bus. Also, a subcontracting limitation of 30 % of the transport services remains within the discretion of the competent authorities;<sup>35</sup>

<sup>22</sup> Commission v Germany, [C-220/15](#).

<sup>23</sup> Jovanna García-Nieto, [C-299/14](#).

<sup>24</sup> Bogendorff von Wolffersdorff, [C-438/14](#) and Court press release No [119/16](#).

<sup>25</sup> Aranyosi and Căldăraru, Joined Cases [C-404/15](#) and [C-659/15 PPU](#) and Court press release No [36/16](#).

<sup>26</sup> Directive [2011/95/EU](#).

<sup>27</sup> Kreis Warendorf v. Ibrahim Alo and Amira Osso v. Hannover Region, Joined Cases [C-443/14](#) and [C-444/14](#).

<sup>28</sup> Tobias Mc Fadden v Sony Music Entertainment Germany GmbH, Court press release No [99/16](#), [C-484/14](#).

<sup>29</sup> Pöpperl, [C-187/15](#).

<sup>30</sup> Regulation (EC) No [543/2008](#), Lidl, [C-134/15](#).

<sup>31</sup> Directive [2000/13/EC](#).

<sup>32</sup> Breitsamer, [C-113/15](#).

<sup>33</sup> Davitas, [C-448/14](#).

<sup>34</sup> Regulation (EC) No [1370/2007](#).

<sup>35</sup> Hörmann Reisen GmbH v Stadt Augsburg, Landkreis Augsburg, [C-292/15](#).

Germany

- the Court provided an interpretation of the terms ‘ticket’ and ‘price of the ticket’ under the Air Passenger Rights Regulation,<sup>36</sup> in the context of downgrading;<sup>37</sup>
- inheritance rules obliging financial institutions (including their branches) to notify the tax authorities about a client's assets upon his death do not restrict the freedom of establishment. Thus, German banks’ branches in another Member State must also notify such information, even if inheritance tax is not levied in the other Member State and even if notification would breach the other Member State’s banking secrecy rules;<sup>38</sup>
- under the EU-Switzerland agreement on free movement of persons, the income of German resident nationals paid by a legal person governed by public law established in Switzerland must be granted the same tax exemptions as those granted to incomes paid by a legal person governed by public law established in Germany;<sup>39</sup>
- the Inheritance Tax Act’s restriction on the free movement of capital by affording tax reduction only if a multiple inheritance occurred under German rules (thus inheritance taxes paid to other Member States cannot be taken into account) could be justified by the need to safeguard the coherence of the tax system;<sup>40</sup>
- for the purposes of customs rules,<sup>41</sup> remunerated helicopter-flight training, if an instructor and the trainee pilot are present in the cockpit, is not commercial use of the aircraft;<sup>42</sup>
- when a plan indirectly connected with the management of a nature site was authorised following a study that is not compliant with the Habitats Directive, and before including this site in the list of sites of Community importance, a subsequent review shall be carried out if that is the only proper step to prevent significant deterioration of the habitat due to implementation of the plan;<sup>43</sup>
- a project aiming at stretching a road by less than 10 km is not, in itself, subject to a systematic environmental impact assessment, even though it widens an existing road with four or more lanes. The term ‘express road’ does not have to form part of the network of main international traffic arteries or to be located in urban areas. The term ‘construction’ covers the carrying-out of works not previously existing or the physical alteration of existing installations;<sup>44</sup>
- the Temporary Agency Work Directive<sup>45</sup> applies to members of non-profit associations working in an undertaking in so far as they are paid by the association and the association receives compensation in return for their work;<sup>46</sup>
- imposing fixed prices for the sale of prescription-only medicines by pharmacies restricts the free movement of goods due to its impact on pharmacies in other Member States. Imposing such price-fixing on foreign pharmacies cannot be justified as it is not an appropriate way to achieve the objective of protecting human health and life by ensuring a safe and high-quality supply of medicinal products.<sup>47</sup>

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<sup>36</sup> Regulation (EC) [No 261/2004](#).

<sup>37</sup> *Steeff Mennens v Emirates* Direktion für Deutschland, [C-255/15](#).

<sup>38</sup> *Sparkasse Allgäu*, [C-522/14](#).

<sup>39</sup> *Radgen*, [C-478/15](#).

<sup>40</sup> *Feilen*, [C-123/15](#).

<sup>41</sup> Commission Regulation (EEC) [No 2454/93](#).

<sup>42</sup> *Robert Fuchs*, [C-80/15](#).

<sup>43</sup> Directive [92/43/EEC](#), *Grüne Liga Sachsen and Others*, [C-399/14](#).

<sup>44</sup> *Bund Naturschutz in Bayern*, [C-645/15](#).

<sup>45</sup> Directive [2008/104/EC](#).

<sup>46</sup> *Betriebsrat der Ruhrlandklinik*, [C-216/15](#).

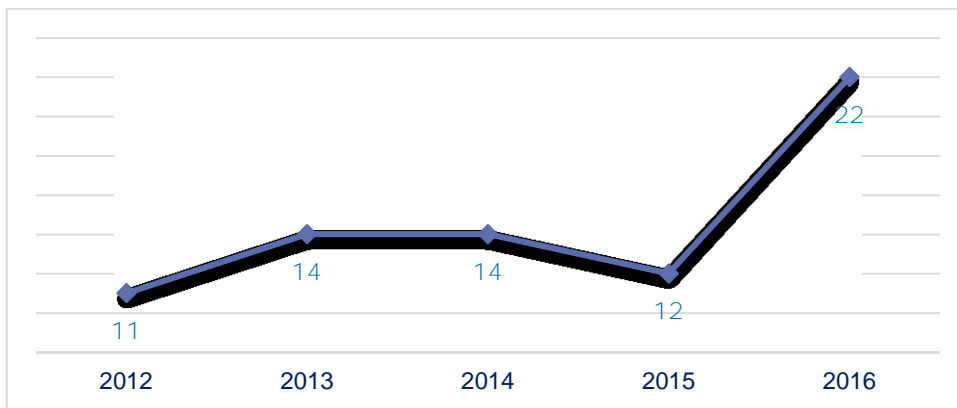
<sup>47</sup> *Deutsche Parkinson Vereinigung*, [C-148/15](#), Court press release No [113/2016](#).

Estonia

All the main indicators for Estonia worsened in 2016. New complaints reached their highest level since 2012, while the number of new EU Pilot files increased after dropping for 2 consecutive years. Open infringement cases and new cases for late transposition both rose to their highest levels in 5 years.

I. COMPLAINTS

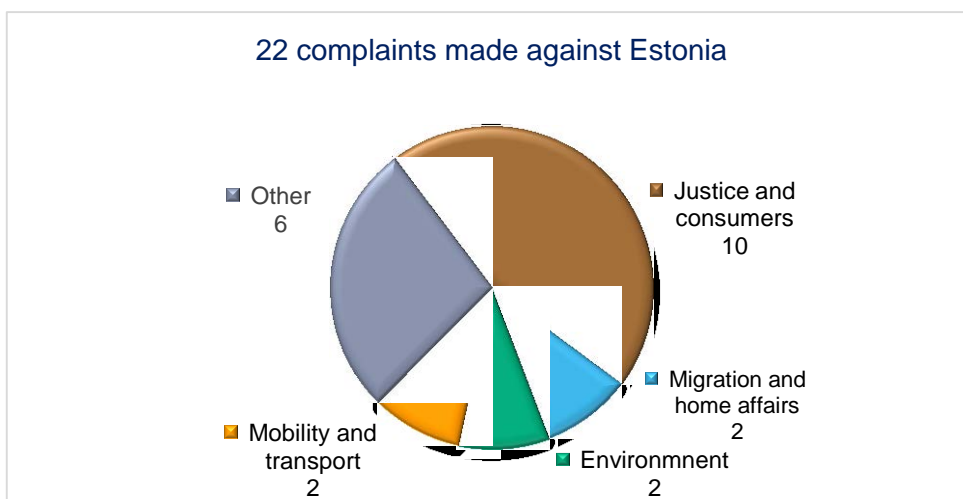
1. New complaints made against Estonia by members of the public (2012-2016)



2. Public complaints against Estonia open at year-end

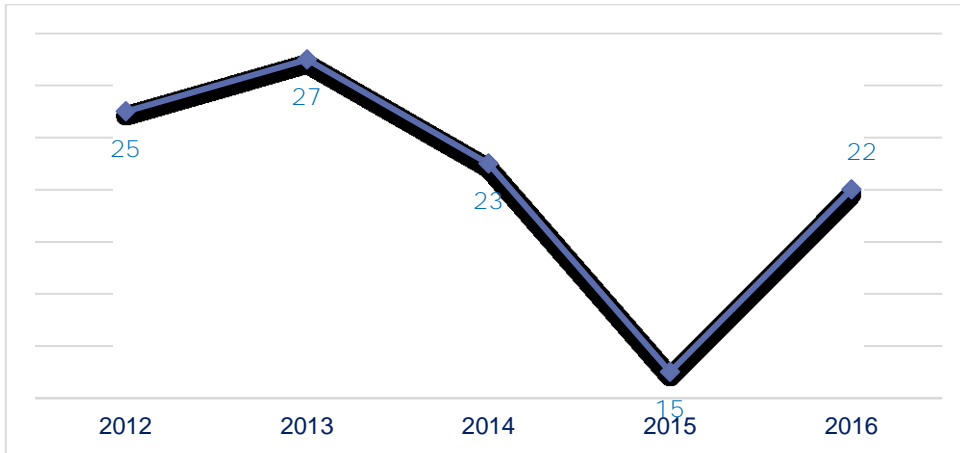
|             |   |                                    |
|-------------|---|------------------------------------|
| 13          | > | Complaints open at end-2015        |
| 22          | > | New complaints registered in 2016  |
| 18          | > | Complaints handled in 2016         |
| <b>= 17</b> | > | <b>Complaints open at end-2016</b> |

3. New complaints registered in 2016: main policy areas

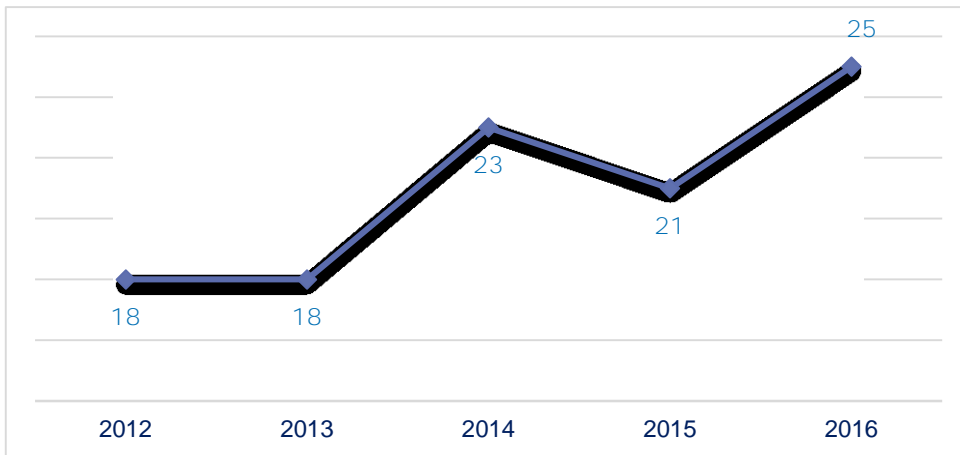


## II. EU PILOT

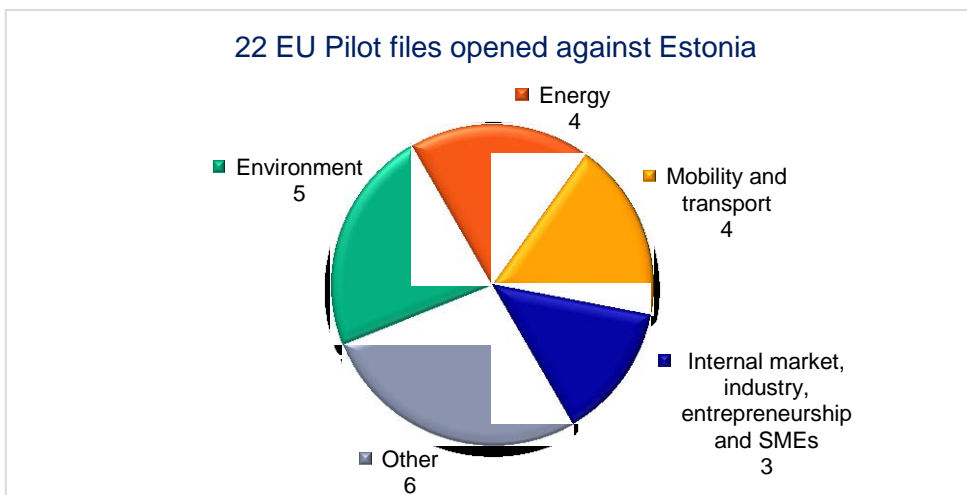
### 1. New EU Pilot files opened against Estonia (2012-2016)



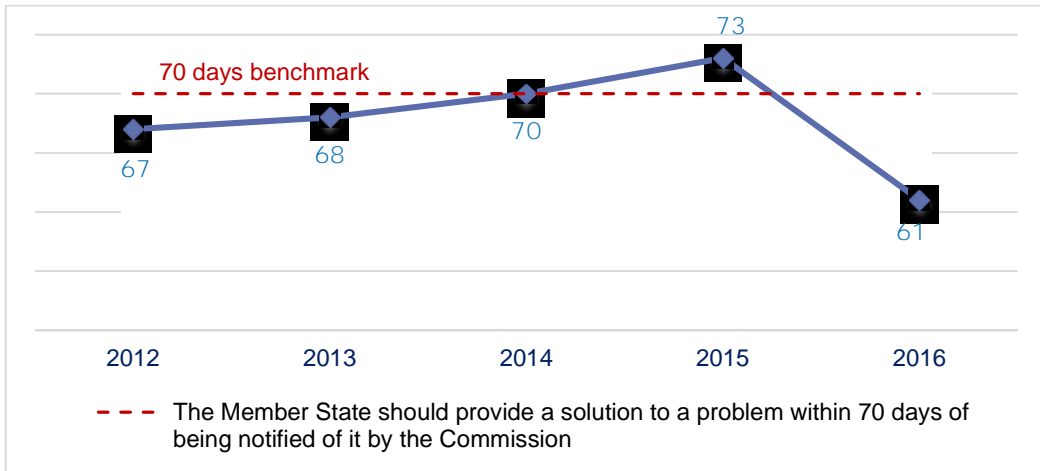
### 2. Files relating to Estonia open in EU Pilot at year-end



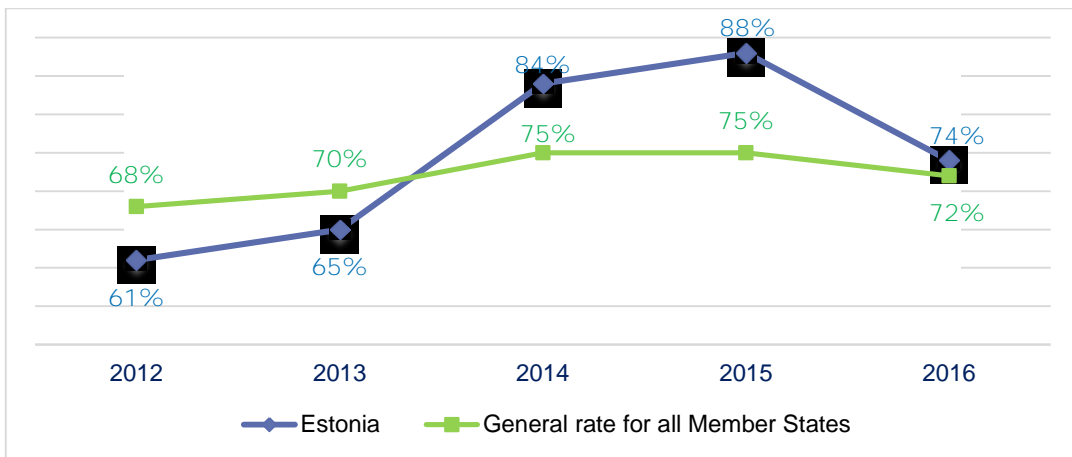
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Estonia's average response time in 2012-2016 (in days)

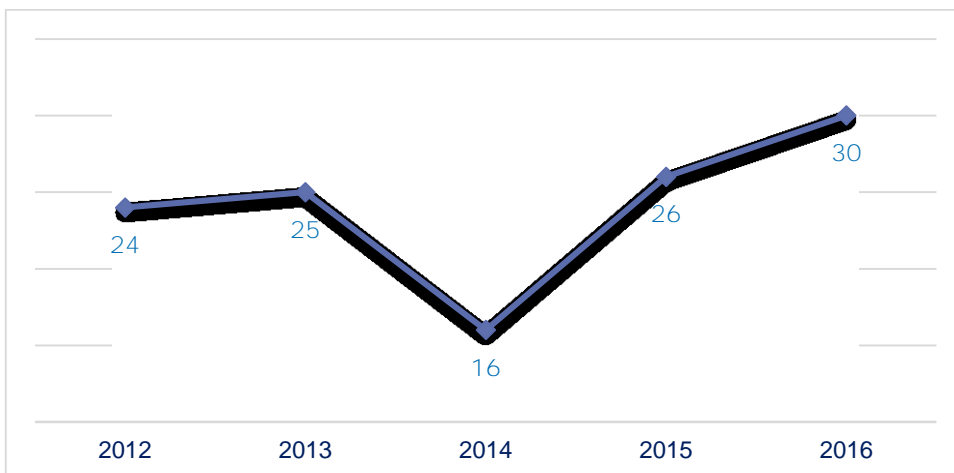


5. EU Pilot files: Estonia's resolution rate in 2012-2016

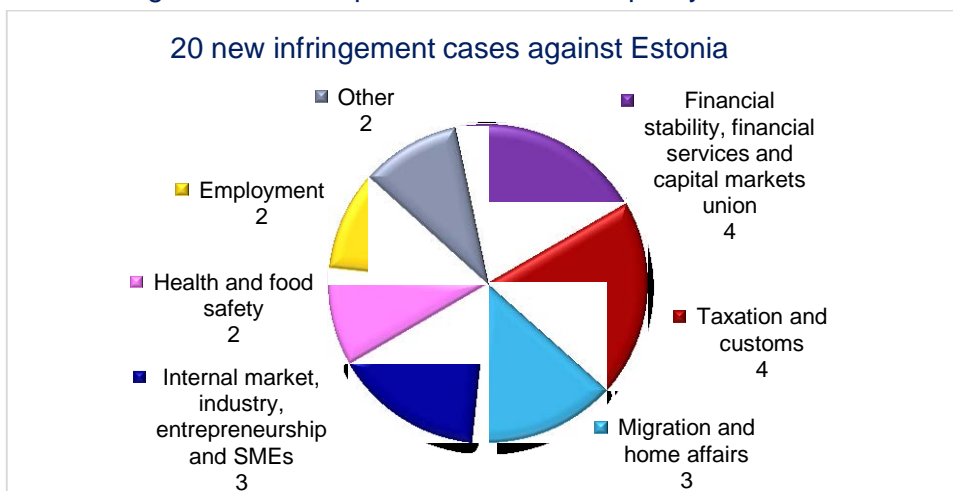


III. INFRINGEMENT CASES

1. Infringement cases against Estonia open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 20 new infringement cases against Estonia in 2016. These, and other major ongoing infringement cases, include:
- inadequate urban waste water treatment;
  - failure to take measures to combat water pollution caused by nitrates from agricultural sources;<sup>1</sup>
  - failure to fully transpose the Energy Efficiency Directive;<sup>2</sup>
  - incomplete transposition of the Directive on administrative cooperation on taxation<sup>3</sup> through a general provision broadly referring to the application of EU law in the relevant matters;
  - breach of the rules on the separation of accounts under the First Railway Package;<sup>4</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>5</sup>
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [91/676/EEC](#), [MEMO/16/319](#)..

<sup>2</sup> Directive [2012/27/EU](#), [MEMO/16/3125](#) and [MEMO/16/1452](#).

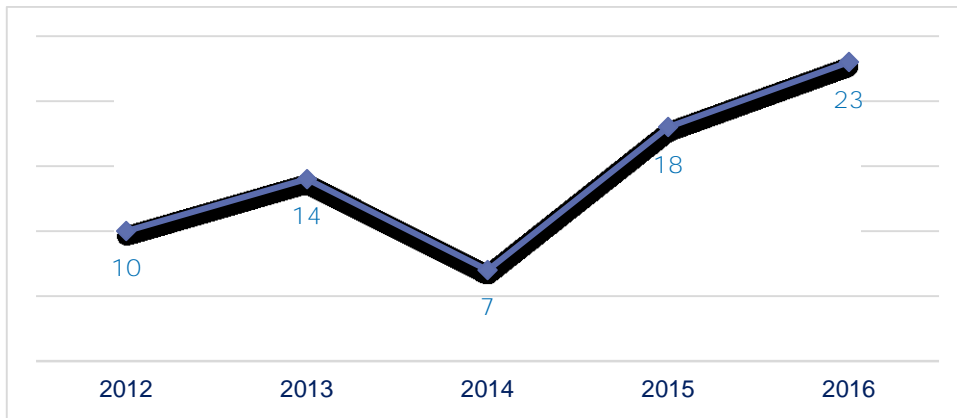
<sup>3</sup> Directive [2011/16/EU](#).

<sup>4</sup> Directives [2001/12/EC](#), [2001/13/EC](#) and [2001/14/EC](#).

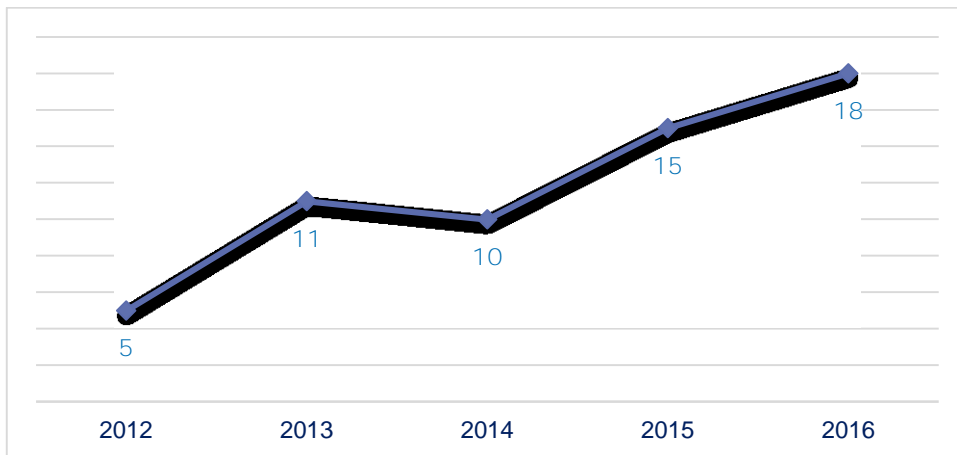
<sup>5</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#), [MEMO/16/1823](#).

#### IV. TRANSPOSITION OF DIRECTIVES

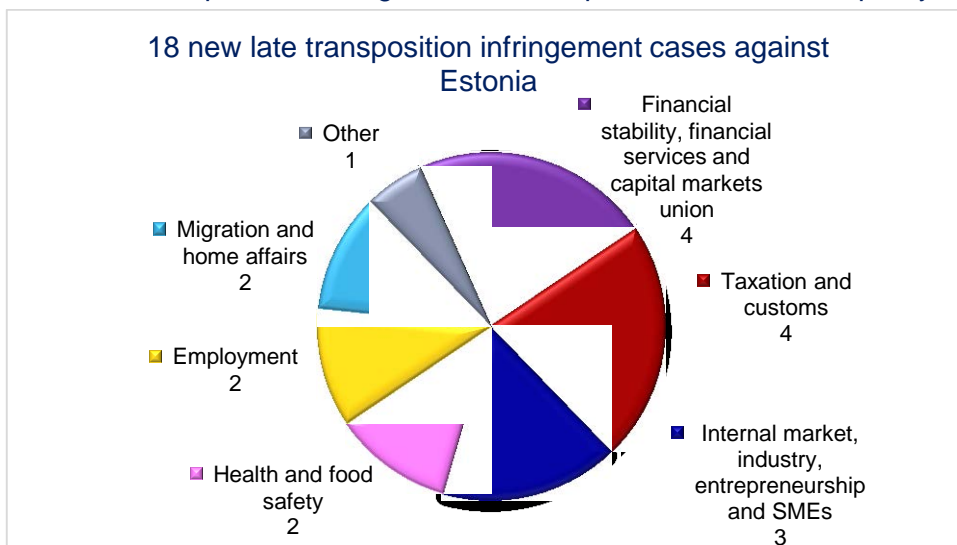
##### 1. Late transposition infringement cases against Estonia open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Estonia (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>6</sup>
- completing the notification of all national measures necessary to transpose
  - the Capital Requirements Directive;<sup>7</sup>
  - the Bank Resolution and Recovery Directive;<sup>8</sup>
  - the Deposit Guarantee Schemes Directive;<sup>9</sup>
  - the Directive on over-reliance on credit ratings;<sup>10</sup>
  - the Directive on alternative investment fund managers;<sup>11</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>12</sup>
- failure to meet the requirements of the Regulation on the investigation and prevention of accidents and incidents in civil aviation.<sup>13</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>14</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

No major preliminary rulings were addressed to the Estonian judiciary in 2016.

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<sup>6</sup> Directive [2012/18/EU](#).

<sup>7</sup> Directive [2013/36/EU](#).

<sup>8</sup> Directive [2014/59/EU](#).

<sup>9</sup> Directive [2014/49/EU](#).

<sup>10</sup> Directive [2013/14/EU](#).

<sup>11</sup> Directive [2011/61/EU](#).

<sup>12</sup> Directive [2006/126/EC](#).

<sup>13</sup> Regulation (EU) No [996/2010](#).

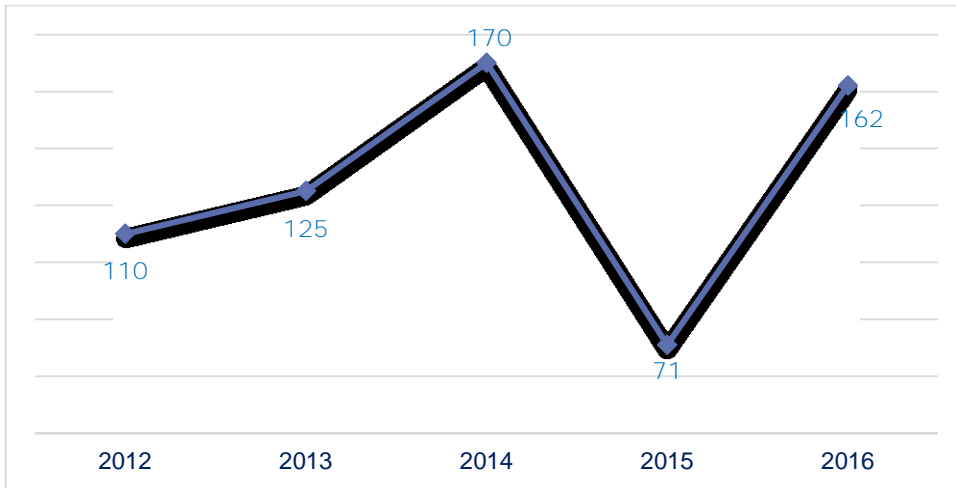
<sup>14</sup> These rulings are almost exclusively handed down in infringement procedures.

Ireland

*New complaints against Ireland more than doubled in 2016 and open infringement cases at year-end jumped to a five-year high. New infringement cases for late transposition of directives also more than doubled to the highest level for 5 years. On a more positive note, the number of new EU Pilot files fell to a five-year low.*

I. COMPLAINTS

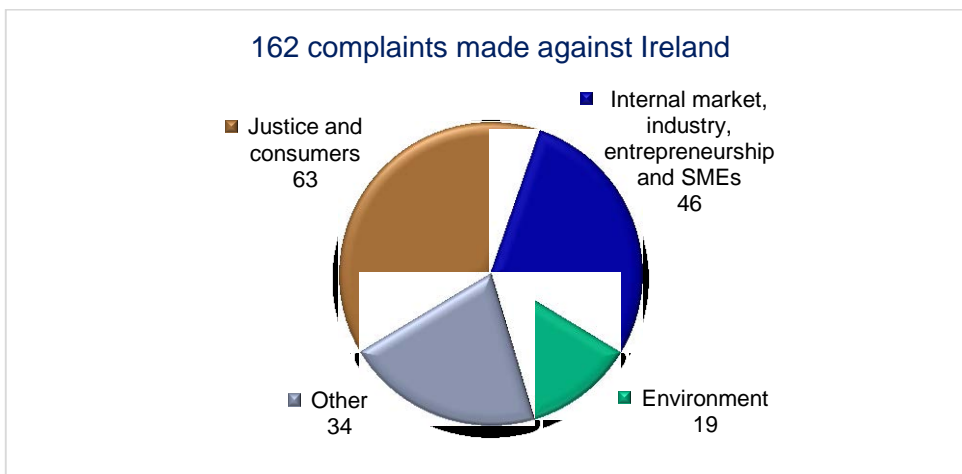
1. New complaints made against Ireland by members of the public (2012-2016)



2. Public complaints against Ireland open at year-end

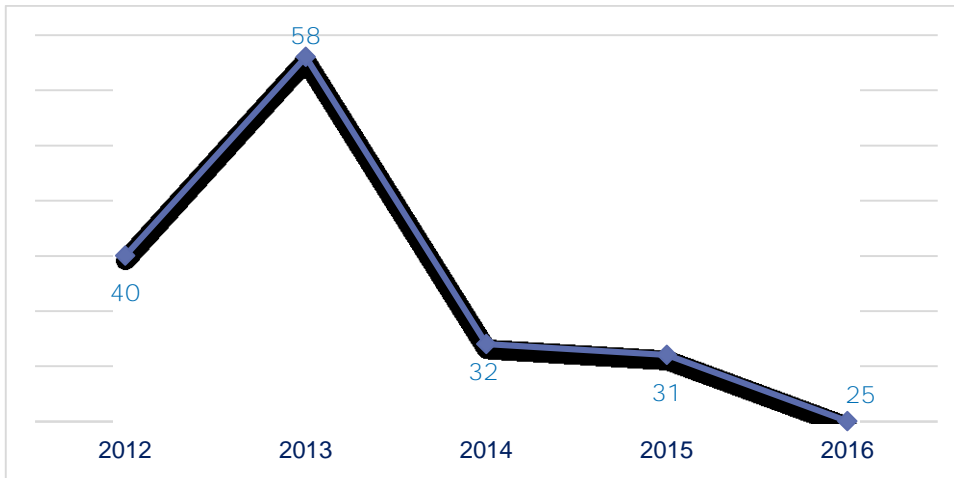
|              |   |                                    |
|--------------|---|------------------------------------|
| 168          | > | Complaints open at end-2015        |
| 162          | > | New complaints registered in 2016  |
| 76           | > | Complaints handled in 2016         |
| <b>= 254</b> | > | <b>Complaints open at end-2016</b> |

3. New complaints registered in 2016: main policy areas

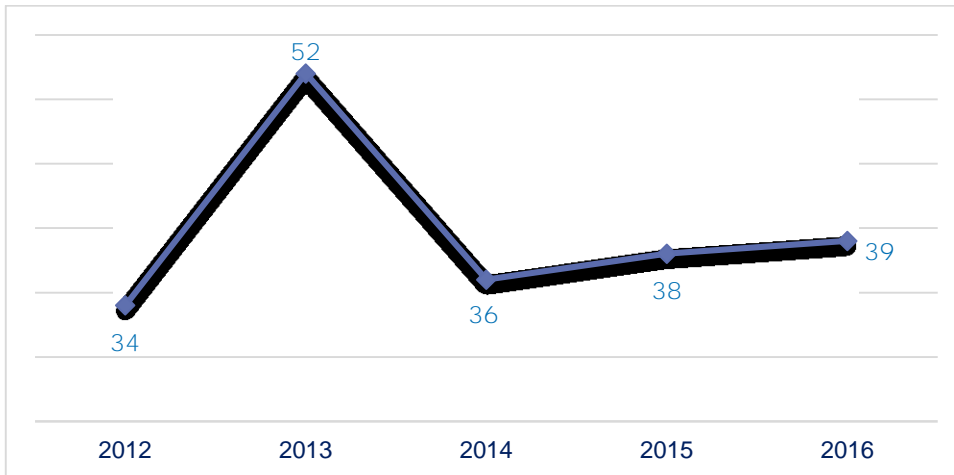


## II. EU PILOT

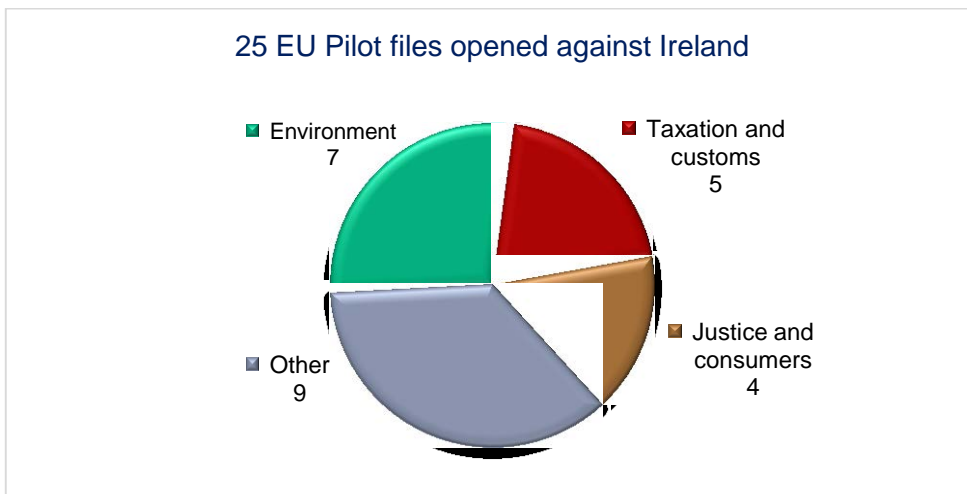
### 1. New EU Pilot files opened against Ireland (2012-2016)



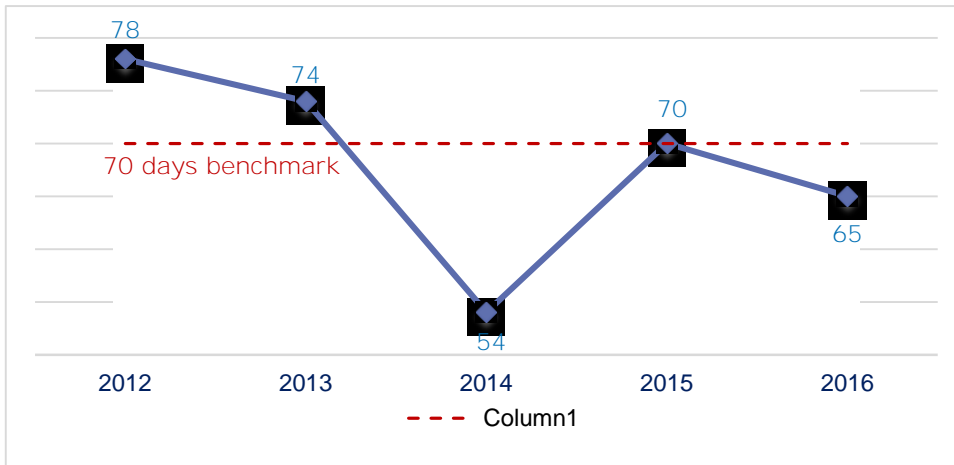
### 2. Files relating to Ireland open in EU Pilot at year-end



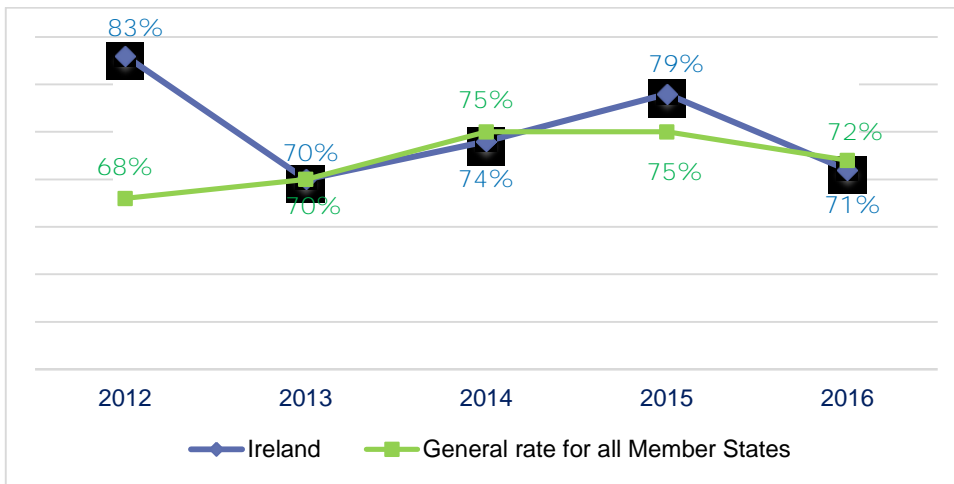
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Ireland's average response time in 2012-2016 (in days)

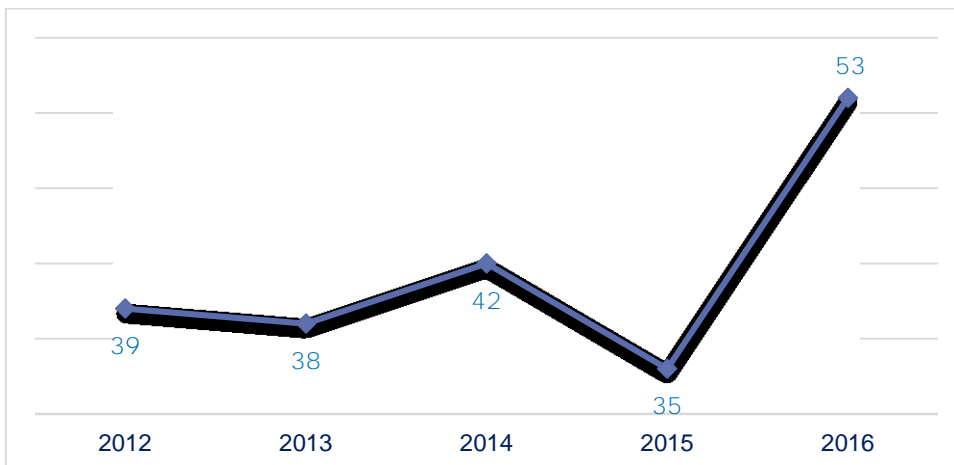


5. EU Pilot files: Ireland's resolution rate in 2012-2016

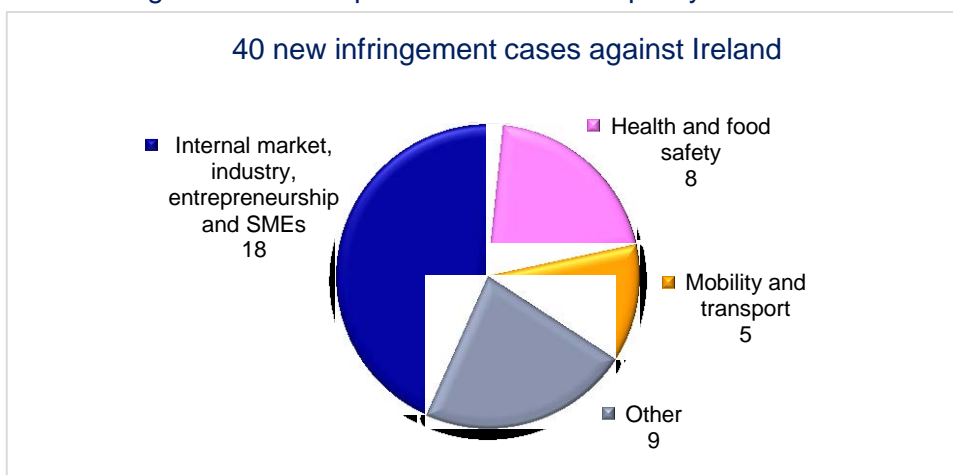


III. INFRINGEMENT CASES

1. Infringement cases against Ireland open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 40 new infringement cases against Ireland in 2016. These, and other major ongoing infringement cases, include:
- non-compliance of the national food safety control system as regards the production and marketing of live bivalve molluscs with the EU health standards;<sup>1</sup>
  - incorrect implementation of the Directive on attacks against information systems;<sup>2</sup>
  - non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>3</sup>
  - bad application of the Habitats Directive as regards designation of special areas of conservation and establishment of the necessary conservation measures;<sup>4</sup>
  - inadequate urban waste water treatment;<sup>5</sup>
  - failure to communicate all national measures transposing the Transparency Directive;<sup>6</sup>
  - failure to communicate all national measures transposing the Accounting Directive;<sup>7</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;
  - incorrect implementation of the Directive on accident investigations;<sup>8</sup>
  - failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>9</sup>
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Regulation No [853/2004](#) and Regulation No [854/2004](#).

<sup>2</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).

<sup>3</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>4</sup> Directive [92/43/EEC](#), [MEMO/16/1452](#).

<sup>5</sup> [MEMO/16/3125](#).

<sup>6</sup> Directive [2013/50/EU](#); [MEMO/16/3644](#).

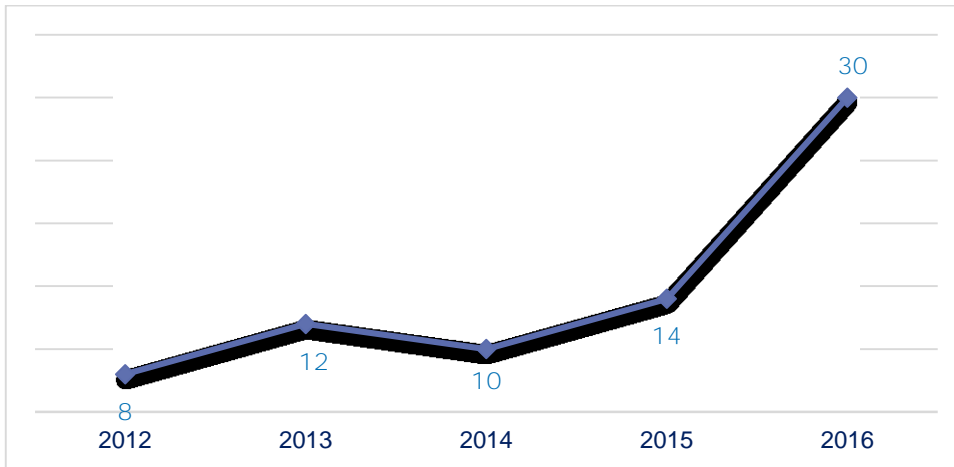
<sup>7</sup> Directive [2013/34/EU](#), and press releases [MEMO/16/2097](#) and [MEMO/16/3644](#).

<sup>8</sup> Directive [2009/18/EC](#).

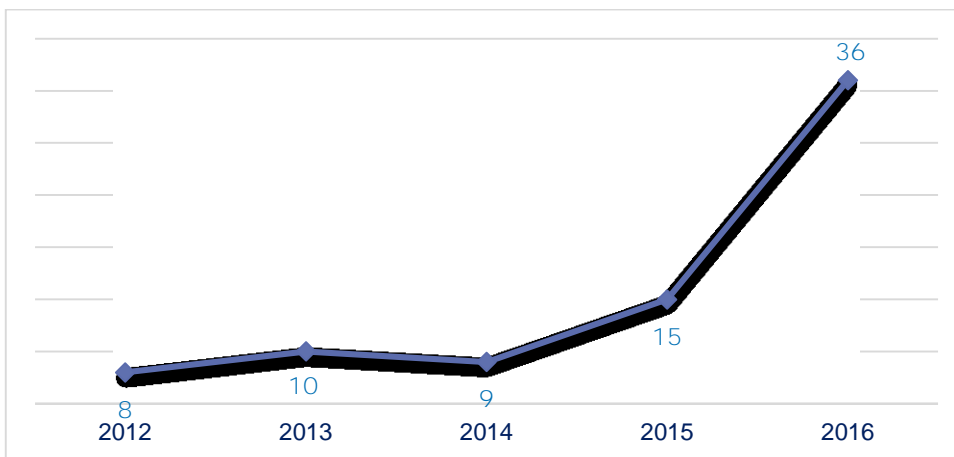
<sup>9</sup> Directives [2014/24/EU](#), [2014/25/EU](#).

#### IV. TRANSPOSITION OF DIRECTIVES

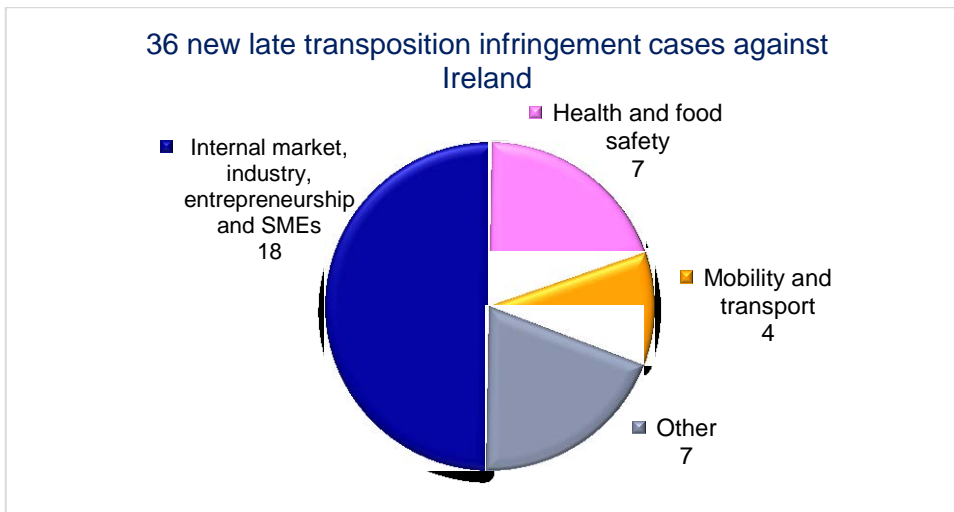
##### 1. Late transposition infringement cases against Ireland open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Ireland (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- completing the notification of all national measures necessary to transpose:
  - the Capital Requirements Directive;<sup>10</sup>
  - the Bank Resolution and Recovery Directive;<sup>11</sup>
  - the Deposit Guarantee Schemes Directive;<sup>12</sup>
- non-ratification of or reservations against appendices to the Convention concerning International Carriage by Rail.

## VI. IMPORTANT JUDGMENTS

### 1. Court ruling<sup>13</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In preliminary ruling addressed to the Irish judiciary, the Court held that:

- the principle of effectiveness must be interpreted as precluding a national procedural rule which requires an application for subsidiary protection status to be made within 15 working days of notification, by the competent authority, that an applicant whose asylum application has been rejected may make an application for subsidiary protection.<sup>14</sup>

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<sup>10</sup> Directive [2013/36/EU](#).

<sup>11</sup> Directive [2014/59/EU](#).

<sup>12</sup> Directive [2014/49/EU](#).

<sup>13</sup> These rulings are almost exclusively handed down in infringement procedures.

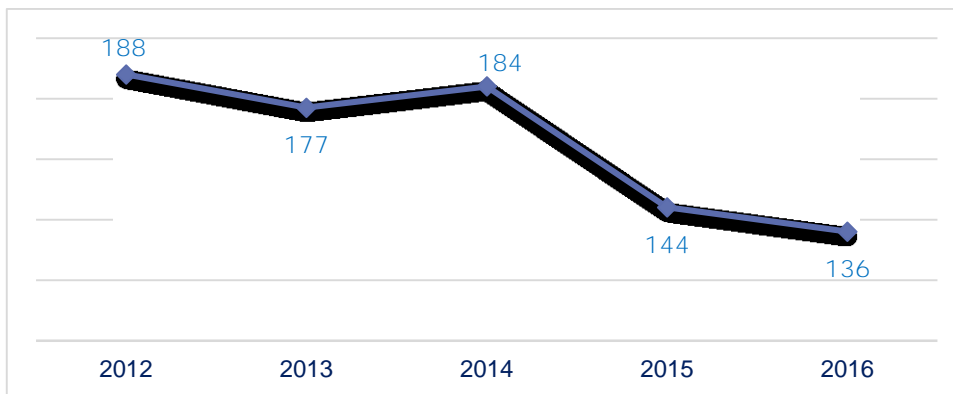
<sup>14</sup> Danqua, [C-429/15](#).

Greece

Both new complaints and new EU Pilot files against Greece continued to drop in 2016, reaching their lowest level in recent years. The number of infringement cases open at the end of 2016 was only slightly higher than the previous year, confirming the relatively stable trend registered since 2012. The number of new infringement cases for late transposition also rose slightly.

I. COMPLAINTS

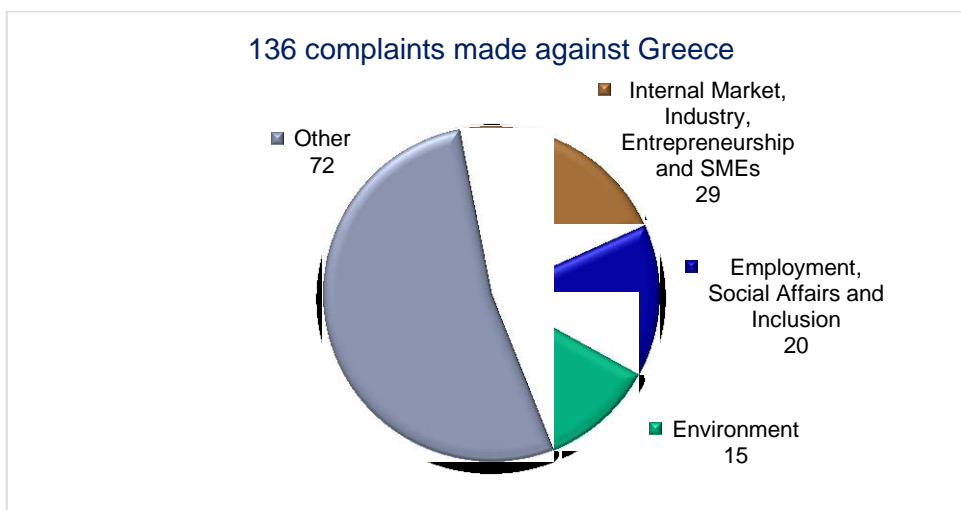
1. New complaints made against Greece by members of the public (2012-2016)



2. Public complaints against Greece open at year-end

|              |   |                                    |
|--------------|---|------------------------------------|
| 108          | > | Complaints open at end-2015        |
| 136          | > | New complaints registered in 2016  |
| 132          | > | Complaints handled in 2016         |
| <b>= 112</b> | > | <b>Complaints open at end-2016</b> |

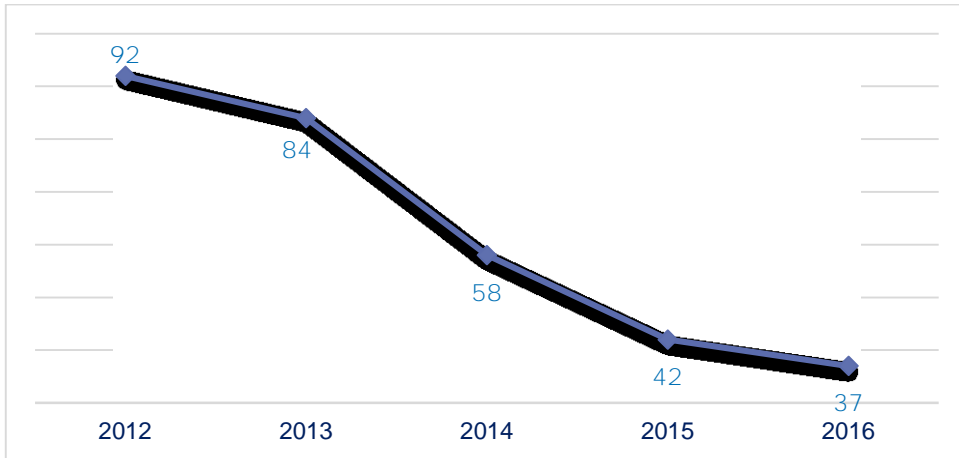
3. New complaints registered in 2016: main policy areas



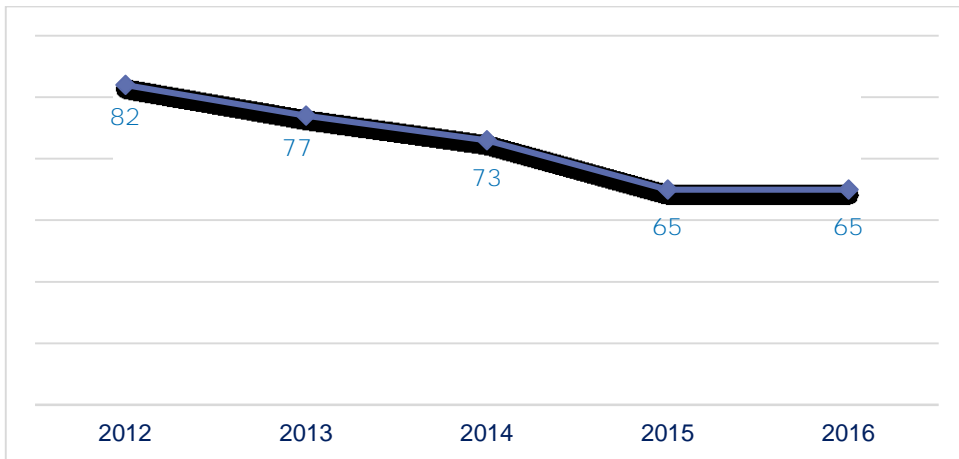


## II. EU PILOT

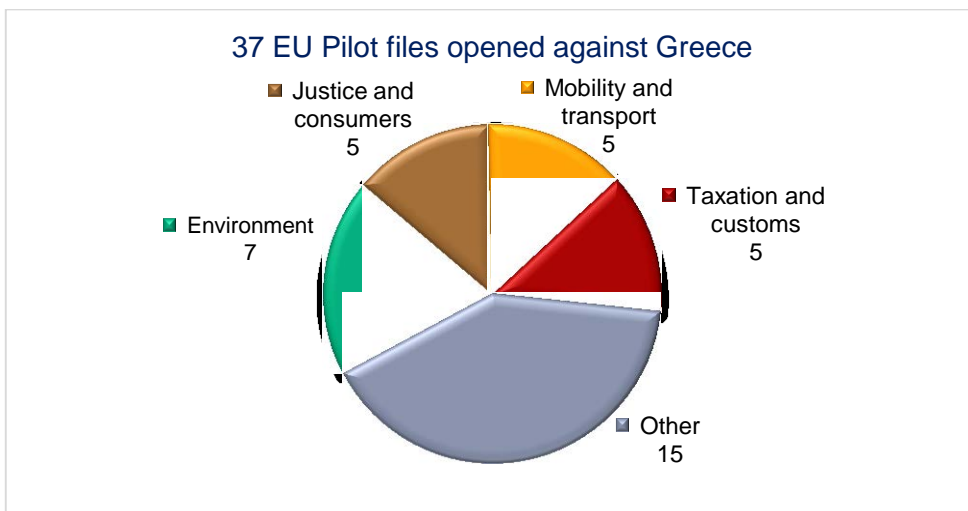
### 1. New EU Pilot files opened against Greece (2012-2016)



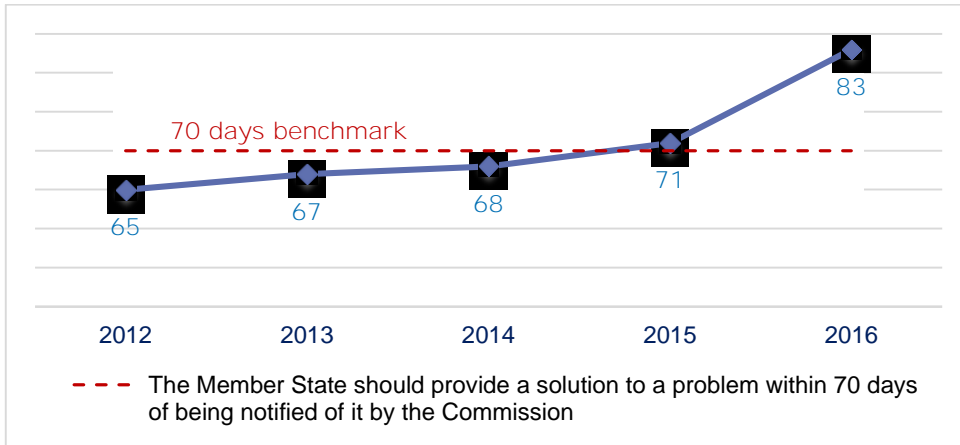
### 2. Files relating to Greece open in EU Pilot at year-end



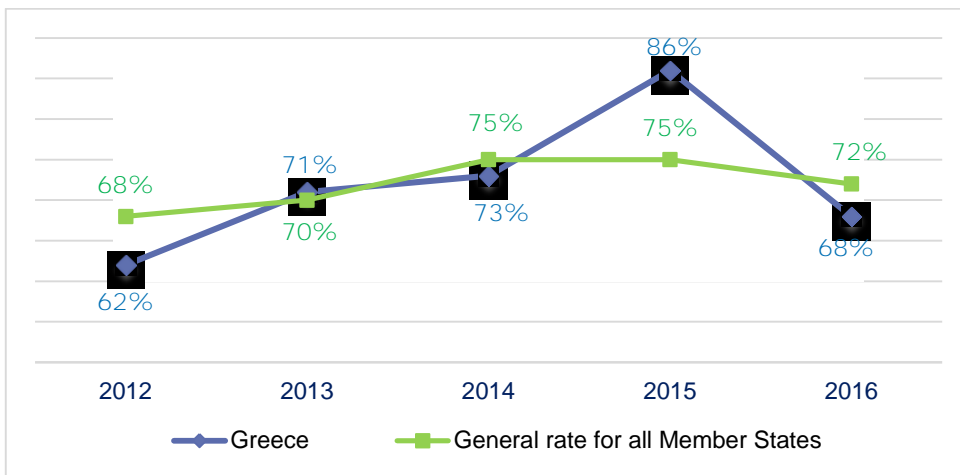
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Greece's average response time in 2012-2016 (in days)

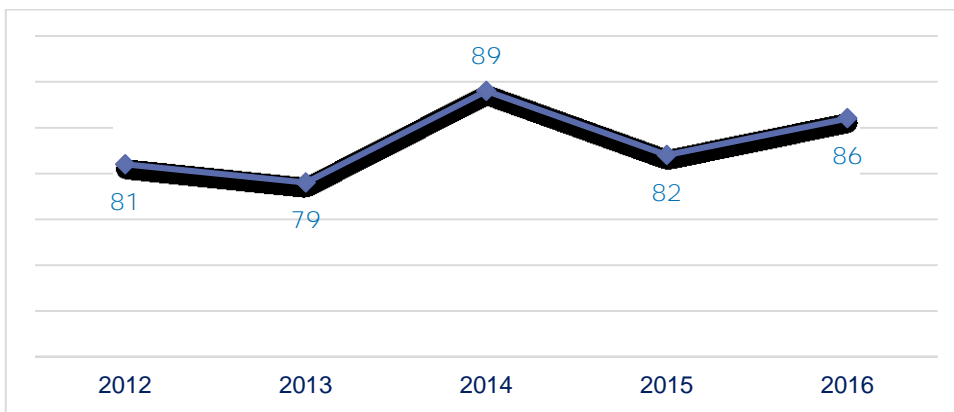


5. EU Pilot files: Greece's resolution rate in 2012-2016

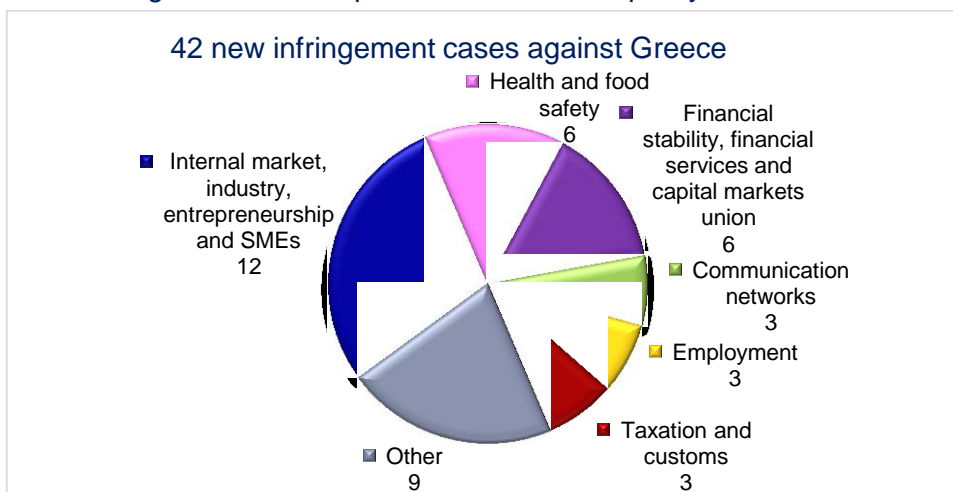


III. INFRINGEMENT CASES

1. Infringement cases against Greece open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 42 new infringement cases against Greece in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>1</sup>
  - non-communication of national measures transposing the Directives on asylum procedures and reception conditions;<sup>2</sup>
  - non-conformity of national legislation with the Return Directive;<sup>3</sup>
  - non-compliance with the rules under the Authorisation and Framework Directives as regards the independence of the national regulatory authority and rules on digital terrestrial television broadcasting;<sup>4</sup>
  - bad application of the Habitats Directive as regards designation of special areas of conservation and establishment of the necessary conservation measures;<sup>5</sup>
  - illegal poisoning of birds, in breach of the Birds Directive;<sup>6</sup>
  - failure to notify flood hazard and risk maps required under the Floods Directive;<sup>7</sup>
  - failure to fully transpose the Offshore Safety Directive;<sup>8</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>9</sup>
  - failure to communicate all national measures transposing the Audit Directive;<sup>10</sup>
  - the prohibition placed on individual wine growers on the island of Samos from producing and marketing wine products;<sup>11</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>12</sup>
  - incorrect application of the Regulation on the rights of passengers travelling by sea or inland waterways;<sup>13</sup>

<sup>1</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>2</sup> Directives [2013/32/EU](#) and [2013/33/EU](#).

<sup>3</sup> Directive [2008/115/EC](#).

<sup>4</sup> Directives [2002/20/EC](#) and [2002/21/EC](#).

<sup>5</sup> Directive [92/43/EEC](#); [MEMO/16/319](#).

<sup>6</sup> Directive [2009/147/EC](#); [MEMO/16/3125](#).

<sup>7</sup> Directive [2007/60/EC](#); [MEMO/16/3644](#).

<sup>8</sup> Directive [2013/30/EU](#); [MEMO/16/319](#).

<sup>9</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

<sup>10</sup> Directive [2014/56/EU](#); [MEMO/16/3644](#).

<sup>11</sup> [MEMO/16/2490](#).

<sup>12</sup> Directive [2014/89/EU](#).

<sup>13</sup> Regulation (EU) No [1177/2010](#).

- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>14</sup>
  - excessive delays in the examination of applications for recognition of qualifications from other Member States;<sup>15</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>16</sup>
  - failure to fulfil the obligations under EU vehicle type approval legislation;<sup>17</sup>
  - failure to ensure the adequate protection of Lake Koroneia in conformity with the Habitats Directive and the Urban Waste Water Treatment Directive.<sup>18</sup>
- b) The Commission referred four cases to the Court under Article 258 TFEU. They concern:
- poor management of the Temploni waste landfill on the island of Corfu;<sup>19</sup>
  - non-compliance with the obligation to calculate the cost-optimal levels of minimum energy performance requirements for buildings;<sup>20</sup>
  - national rules allowing service stations at its land borders with Kipi (Turkey), Kakkayia (Albania) and Evzoni (FYROM) to sell fuel without the payment of excise duties. Under the Horizontal Excise Duty Directive<sup>21</sup>, excise duties should be charged on the sale of such fuel.<sup>22</sup>
  - legacies bestowed on certain non-profit entities established in Greece which are treated more favourably than those bestowed on similar entities established in other EU Member States. For Greek non-profit entities, a preferential tax rate of 0.5 % is automatically available. However, similar non-profit entities from other Member States are taxed at a rate of 20 to 40 % unless their Member State also affords preferential tax treatment to Greek non-profit entities.<sup>23</sup>
- c) The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
- failure to implement a judgment of the Court of Justice that Greece was failing to adequately collect and treat waste water discharged into the Gulf of Elefsina. The Commission proposed to the Court to impose a lump sum payment of EUR 15 943 620 and a daily penalty payment of EUR 34 974 until full compliance with EU law is ensured.<sup>24</sup>

<sup>14</sup> Directive [2006/123/EC](#); [IP/16/323](#) and [MEMO/16/319](#).

<sup>15</sup> Directive [2005/36/EC](#).

<sup>16</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

<sup>17</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#); [IP/16/4214](#).

<sup>18</sup> Directives [92/43/EEC](#) and [91/271/EEC](#).

<sup>19</sup> Commission v Greece, [C-202/16](#); [IP/15/6224](#).

<sup>20</sup> Directive [2010/31/EU](#), Commission v Greece, [C-160/16](#); [IP/15/6007](#).

<sup>21</sup> Directive [2008/118](#)

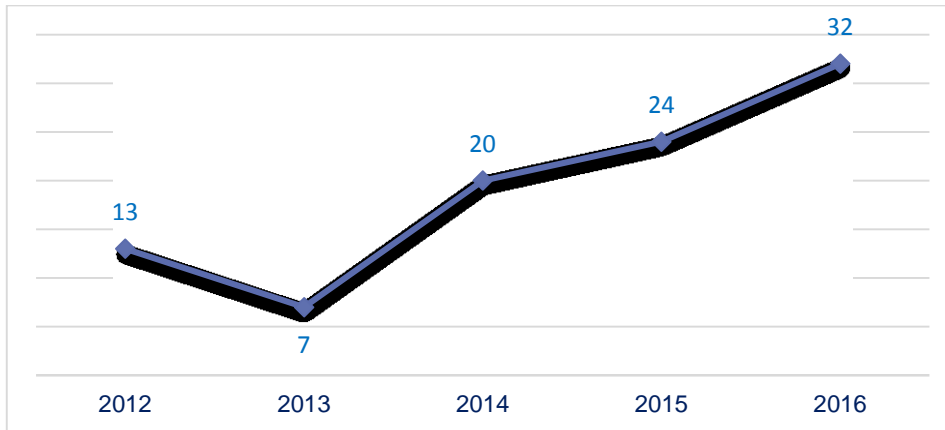
<sup>22</sup> Commission v Greece, [C-590/16](#).

<sup>23</sup> Commission v Greece, [C-98/16](#); [IP/15/4674](#).

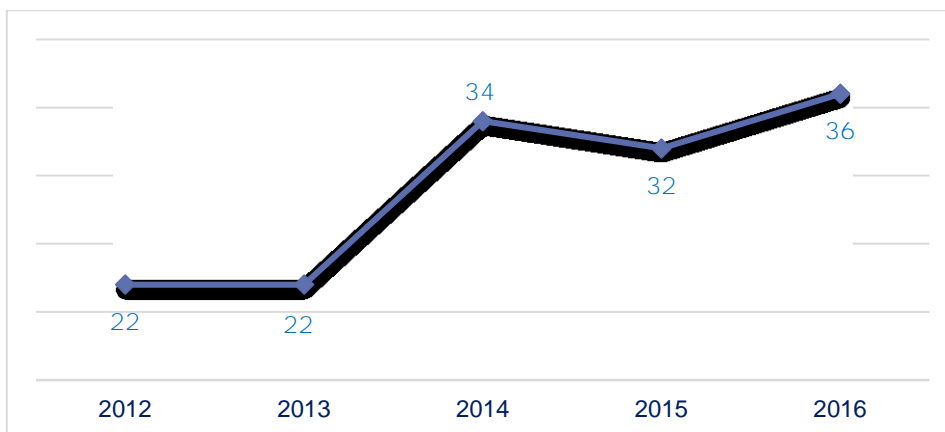
<sup>24</sup> Commission v Greece, [C-328/16](#); [IP/15/6009](#).

#### IV. TRANSPOSITION OF DIRECTIVES

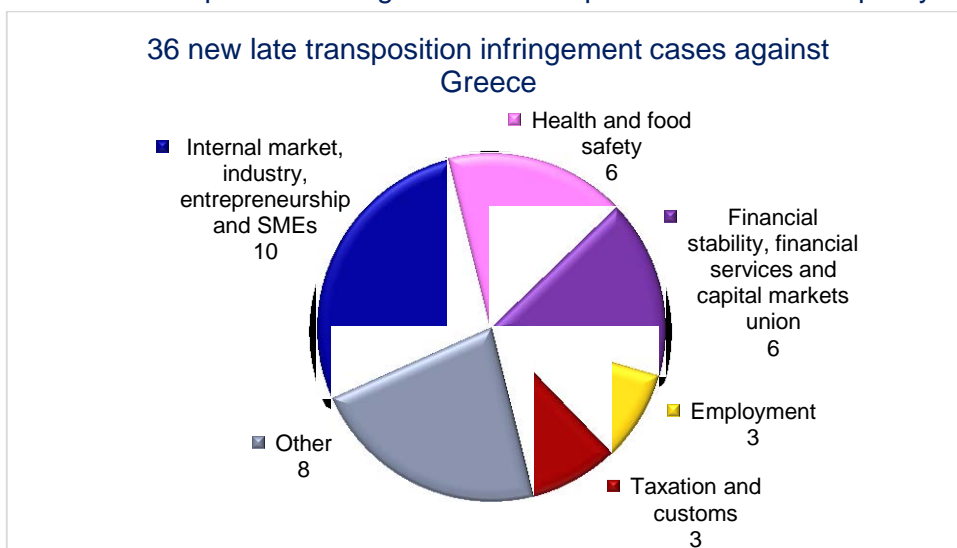
##### 1. Late transposition infringement cases against Greece open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Greece (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- failure to implement the Eurodac Regulation, which sets up an EU asylum fingerprint database;<sup>25</sup>
- non-communication of national measures transposing the Directive on attacks against information systems;<sup>26</sup>
- operation of the landfill of Mesolonghi in breach of the Landfill Directive and the Waste Framework Directive;<sup>27</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>28</sup>
- the notification of all national measures necessary to transpose:
  - the Bank Resolution and Recovery Directive;<sup>29</sup>
  - the Deposit Guarantee Schemes Directive;<sup>30</sup>
  - the Directive on over-reliance on credit ratings;<sup>31</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>32</sup>
- failure to transpose in full the three Directives on public procurement and concessions;<sup>33</sup>
- failure to meet the obligation to interconnect a national electronic register of road transport undertakings;<sup>34</sup>
- failure to establish a registration procedure for the European electronic toll service providers and a toll domain statement;
- non-compliance with the Airport Charges Directive.<sup>35</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>36</sup>

The Court ruled that:

- Greece has failed to comply with the Habitats Directive by not providing adequate protection for the endangered sea turtle *Caretta caretta* in the Bay of Kyparissia;<sup>37</sup>
- Greece has failed to take all the necessary measures to comply with the Court's 2009 judgment finding that Greece was not ensuring adequate management of hazardous waste. The Court ordered Greece to pay a lump sum of EUR 10 million and a daily penalty payment of EUR 30 000;<sup>38</sup>
- it is a restriction on the freedom to provide services to levy the full amount of car registration tax (as provided for under its national legislation) at the time of registration of a vehicle hired or leased by a Greek customer from a supplier established in another Member State, if the duration of the hire or lease contract and the duration of the vehicle's use in Greek territory is not taken into consideration;<sup>39</sup>
- national rules exempting the primary residence from inheritance tax only for nationals of EU Member States who are resident in Greece restricts the free movement of capital;<sup>40</sup>

<sup>25</sup> Regulation (EU) [603/2013](#); [MEMO/16/4211](#).

<sup>26</sup> Directive [2013/40/EU](#); [MEMO/16/4211](#).

<sup>27</sup> Directives [1999/31/EC](#) and [2008/98/EC](#).

<sup>28</sup> Directive [2012/18/EU](#).

<sup>29</sup> Directive [2014/59/EU](#).

<sup>30</sup> Directive [2014/49/EU](#).

<sup>31</sup> Directive [2013/14/EU](#).

<sup>32</sup> Directive [2006/126/EC](#).

<sup>33</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/1823](#).

<sup>34</sup> Regulation (EC) No [1071/2009](#).

<sup>35</sup> Directive [2009/12/EC](#).

<sup>36</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>37</sup> Directive [92/43/EEC](#), Commission v Greece, [C-504/14](#).

<sup>38</sup> Commission v Greece, [C-584/14](#) and Court press release No [87/16](#).

<sup>39</sup> Commission v Greece, [C-66/15](#).

<sup>40</sup> Commission v Greece, [C-244/15](#).

- Greece infringed Article 106 in conjunction with Article 102 TFEU by granting the public undertaking Dimosia Epicheirisi Ilektrismou AE privileged access to lignite. This maintained or reinforced its dominant position on Greece's wholesale electricity market.<sup>41</sup>

## 2. Preliminary rulings

In preliminary rulings addressed to the Greek judiciary, the Court held that:

- in principle, EU law allows national authorities to prohibit collective redundancies. However, these rules must strike a fair balance between the protection of workers and employers' freedom to conduct a business. The legal criteria on the basis of which the authorities may oppose planned collective redundancies must therefore be formulated in specific and precise terms. Thus a national authorisation regime for collective redundancies would be incompatible with the Collective Redundancies Directive<sup>42</sup> if it deprived the Directive of its practical effect.<sup>43</sup>

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<sup>41</sup> DEI v Commission, cases [T-169/08](#) RENV and [T-421/09](#) RENV.

<sup>42</sup> Directive [98/59/EC](#).

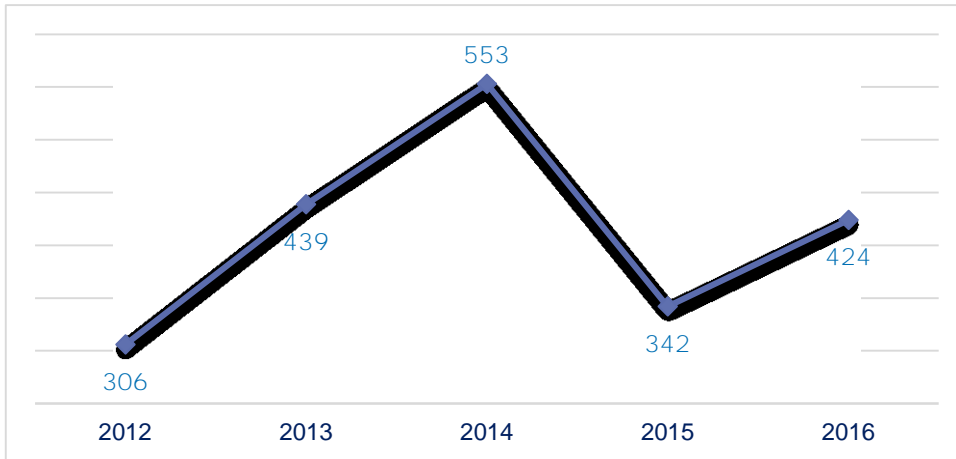
<sup>43</sup> AGET Iraklis, [C-201/15](#) and Court press release No [143/2016](#).

Spain

All the main indicators for Spain worsened in 2016. New complaints increased significantly after a sharp drop the previous year. New infringement cases for late transposition more than doubled. New EU Pilot files and open infringement cases both started to rise, reversing the downward trend seen since 2012.

I. COMPLAINTS

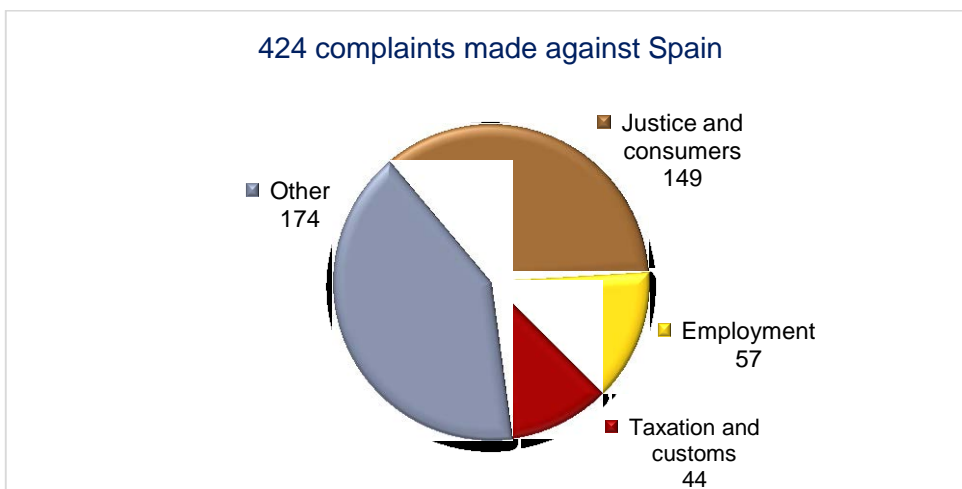
1. New complaints made against Spain by members of the public (2012-2016)



2. Public complaints against Spain open at year-end

|              |   |                                    |
|--------------|---|------------------------------------|
| 276          | > | Complaints open at end-2015        |
| 424          | > | New complaints registered in 2016  |
| 344          | > | Complaints handled in 2016         |
| <b>= 356</b> | > | <b>Complaints open at end-2016</b> |

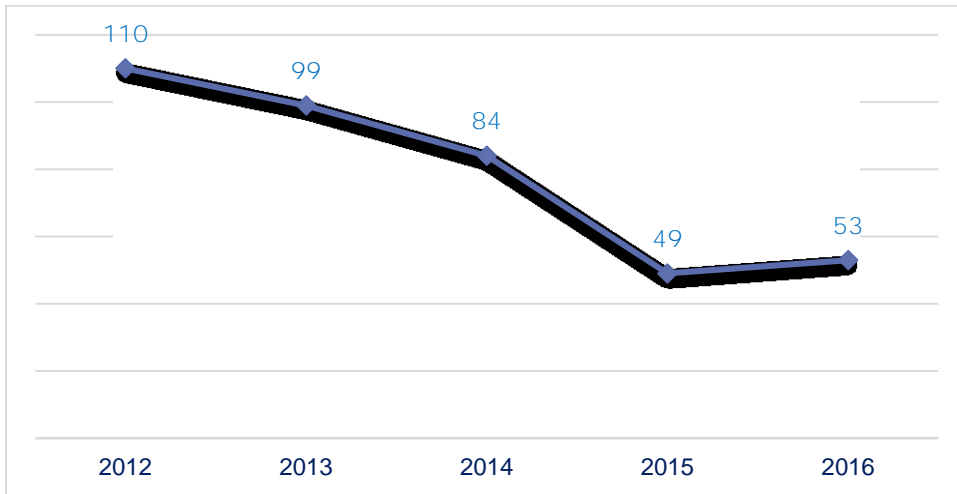
3. New complaints registered in 2016: main policy areas



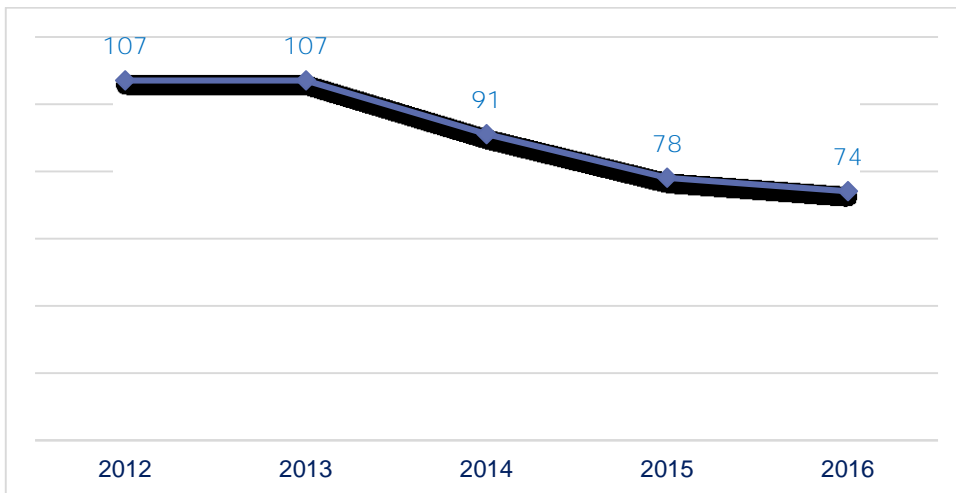


## II. EU PILOT

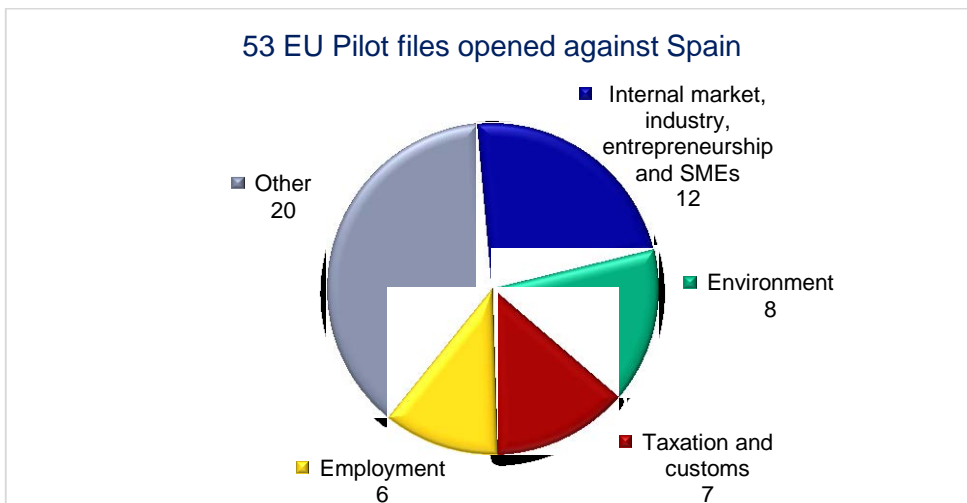
### 1. New EU Pilot files opened against Spain (2011-2016)



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

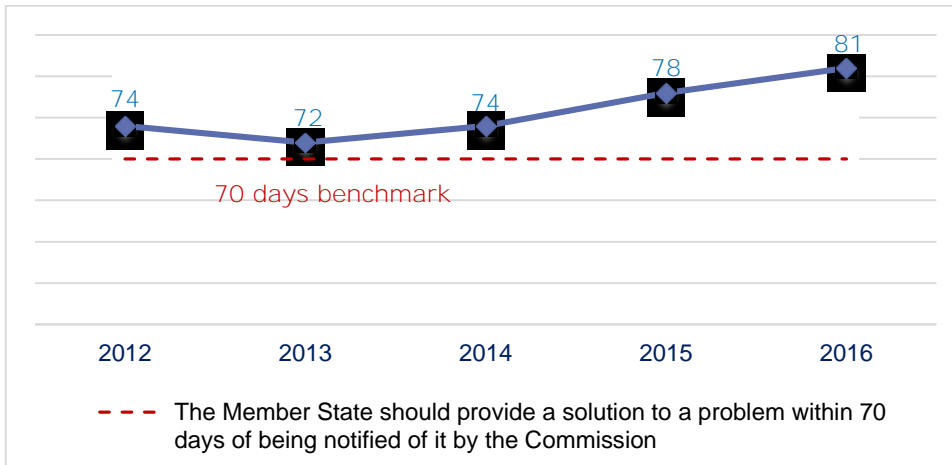


### 3. New EU Pilot files opened in 2016: main policy areas

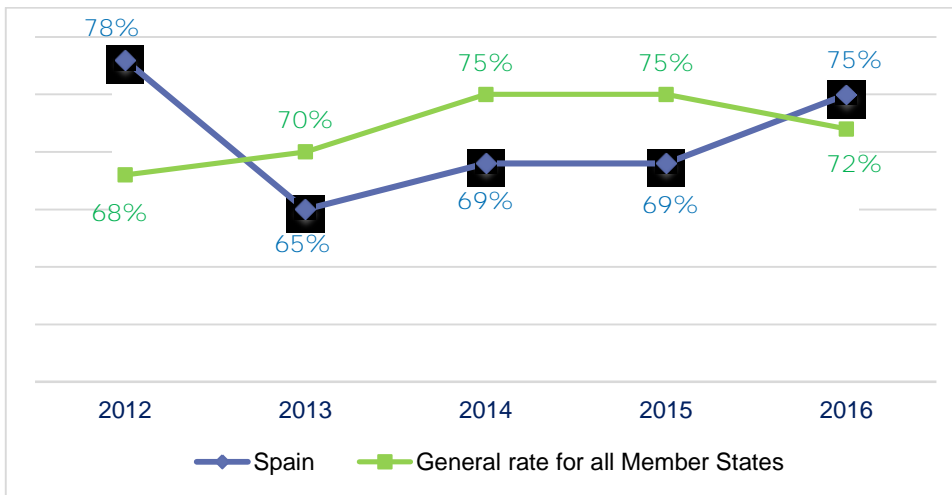


Spain

4. EU Pilot files: Spain's average response time in 2012-2016 (in days)

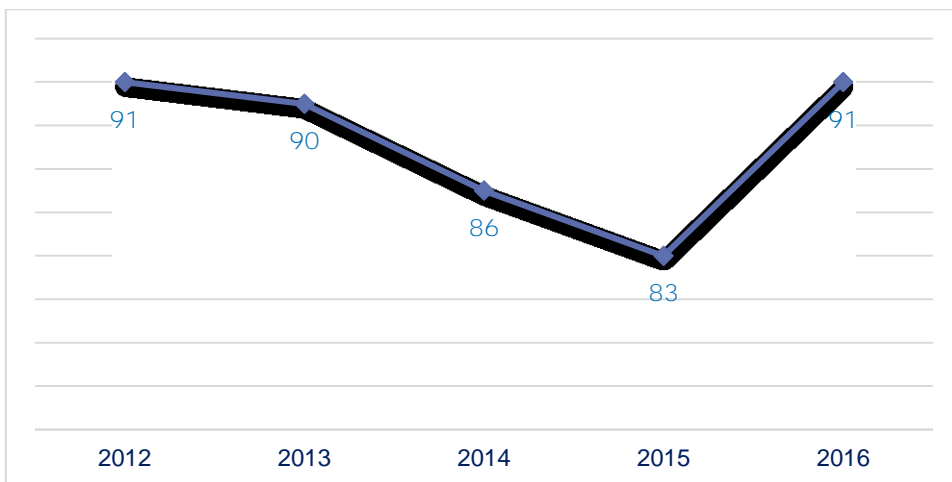


5. EU Pilot files: Spain's resolution rate in 2012-2016

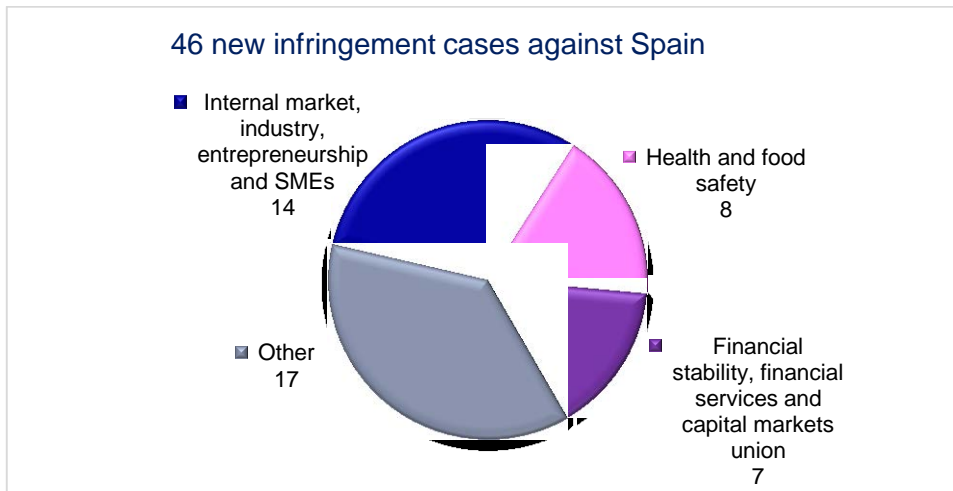


III. INFRINGEMENT CASES

1. Infringement cases against Spain open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 46 new infringement cases against Spain in 2016. These, and other major ongoing infringement cases, include:
- non-compliance of the national rules and the case law of the Spanish Supreme Court on mortgage enforcement with the Directive on unfair terms in consumer contracts;<sup>1</sup>
  - non-compliance with the Regulation on the marketing and use of explosives precursors;<sup>2</sup>
  - non-conformity of national legislation with the Return Directive;<sup>3</sup>
  - failure to notify measures transposing the Tobacco Directive;<sup>4</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>5</sup>
  - failure to ensure that waste landfills operate in compliance with EU standards;
  - failure to ensure adequate protection of natural habitats and sustainable management of water resources in the area of the Doñana national park;<sup>6</sup>
  - less favourable treatment of fixed-term staff in the public sector, which raises concerns under the Fixed-Term Work Directive;<sup>7</sup>
  - inadequate urban waste water treatment;
  - lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>8</sup>
  - trapping of finches in breach of the requirements of the Birds Directive;<sup>9</sup>
  - failure to fully transpose the Offshore Safety Directive;<sup>10</sup>
  - failure to comply with the Energy Performance of Buildings Directive;<sup>11</sup>
  - failure to comply with the Third Internal Energy Market Package;<sup>12</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>13</sup>

<sup>1</sup> Directive [93/13/EEC](#); [MEMO/16/1452](#).

<sup>2</sup> Regulation [\(EU\) No 98/2013](#); [MEMO/16/3125](#).

<sup>3</sup> Directive [2008/115/EC](#); [MEMO/16/3125](#).

<sup>4</sup> Directive [2014/40/EU](#); [MEMO/16/4211](#).

<sup>5</sup> Directive [2008/98/EC](#).

<sup>6</sup> [MEMO/16/1452](#).

<sup>7</sup> Directive [1999/70/EC](#).

<sup>8</sup> Directive [2002/49/EC](#).

<sup>9</sup> Directive [2009/147/EC](#).

<sup>10</sup> Directive [2013/30/EU](#); [MEMO/16/3644](#).

<sup>11</sup> Directive [2010/31/EU](#); [MEMO/16/319](#).

<sup>12</sup> Directives [2009/72/EC](#) and [2009/73/EC](#); [MEMO/16/3125](#).

<sup>13</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

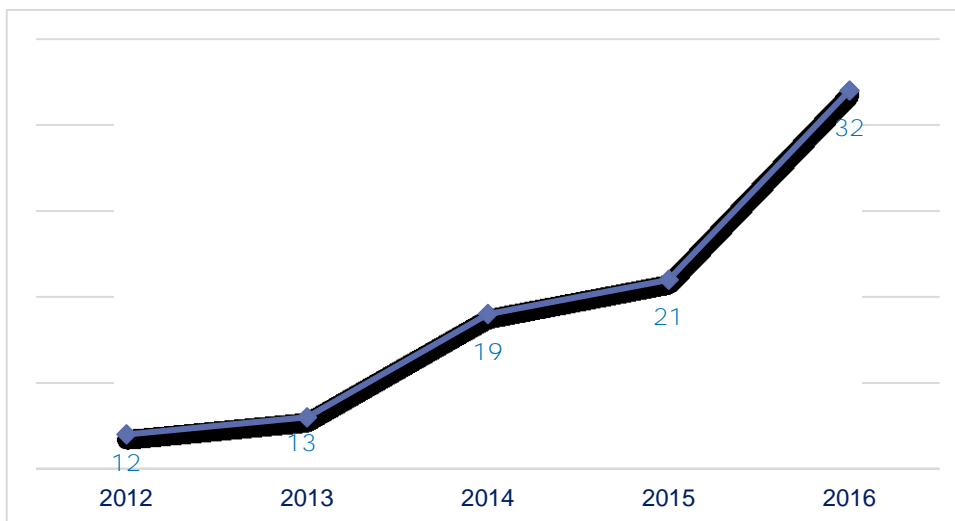
Spain

- failure to communicate all national measures transposing the Transparency Directive;<sup>14</sup>
- incorrect application of the Regulation on passenger rights;<sup>15</sup>
- failure to comply with EU rules on access to the occupation of road transport operator;<sup>16</sup>
- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>17</sup>
- failure to transpose in full the three Directives on public procurement and concessions;<sup>18</sup>
- failure to fulfil the obligations under EU vehicle type approval legislation;<sup>19</sup>
- failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>20</sup>
- non-communication of national measures transposing the Maritime Spatial Planning Directive.<sup>21</sup>

- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
- failure to comply with a previous judgment of the Court concerning freedom of establishment at Spanish ports.<sup>22</sup>

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Spain open on 31 December (2012-2016)



<sup>14</sup> Directive [2013/50/EU](#); [MEMO/16/3644](#).

<sup>15</sup> Regulation [\(EU\) No 1177/2010](#).

<sup>16</sup> Regulation [\(EC\) No 1071/2009](#); [MEMO/16/319](#).

<sup>17</sup> Directive [2006/123/EC](#); [IP/16/3646](#) and [MEMO/16/3644](#).

<sup>18</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/4211](#).

<sup>19</sup> Directive [2007/46/EC](#) and Regulation [2007/715/EC](#); [IP/16/4214](#).

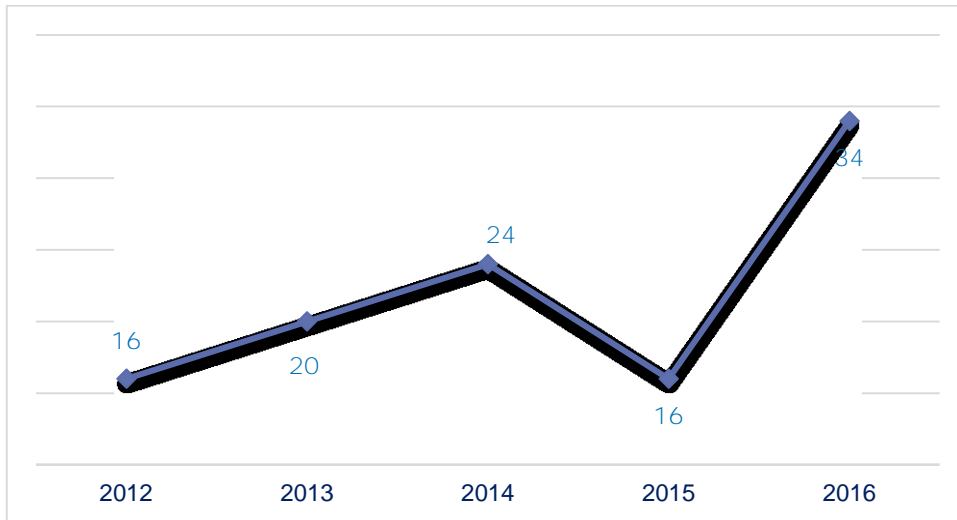
<sup>20</sup> Directive [2013/55/EU](#); [MEMO/16/3125](#).

<sup>21</sup> Directive [2014/89/EU](#).

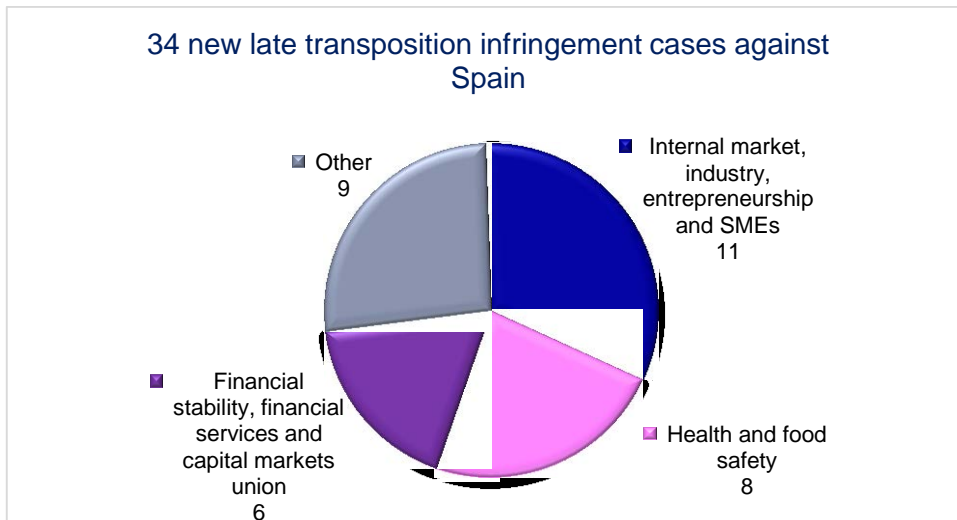
<sup>22</sup> Commission v Spain, [C-388/16](#); [IP/16/1455](#) and [MEMO/16/1452](#).

Spain

2. New late transposition infringement cases against Spain (2012-2016)



3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- breach of EU citizens' right to stand as candidates in local and European elections in the Member State of residence due to restrictions on their involvement in political parties;
- incorrect transposition of the Environmental Impact Assessment Directive by the Tourism Act in the Balearic Islands;<sup>23</sup>
- non-communication of national measures transposing the Seveso III Directive;<sup>24</sup>
- the notification of all national measures necessary to transpose the Bank Resolution and Recovery Directive;<sup>25</sup>

<sup>23</sup> Directive [2011/92/EU](#).

<sup>24</sup> Directive [2012/18/EU](#).

<sup>25</sup> Directive [2014/59/EU](#).

Spain

- two cases related to the incompatibility of national law on the *Guardia Civil* with the Working Time Directive as regards maximum working time, minimum rest periods and the protective provisions concerning night work;
- notification of all national measures necessary to transpose the Deposit Guarantee Schemes Directive<sup>26</sup> and the Directive on alternative investment fund managers;<sup>27</sup>
- non-compliance with the Mediterranean Regulation regarding the obligation to adopt management plans for fisheries conducted by dredges;<sup>28</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>29</sup>
- incorrect implementation of the Regulation on the rights of passengers travelling by sea and inland waterway;<sup>30</sup>
- non-compliance with the Airport Charges Directive;<sup>31</sup>
- non-compliance with the Railway Safety Directive.<sup>32</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>33</sup>

The Court ruled that:

- Spain has failed to ensure the adequate treatment of urban waste water from four agglomerations discharging into sensitive areas;<sup>34</sup>
- Spain has not fulfilled its obligations under the Birds Directive and the Habitats Directive in relation to a project for the building of a high-speed railway line between Seville and Almeria;<sup>35</sup>
- Spain has infringed the Landfill Directive by not taking the necessary measures to ensure that non-compliant landfills do not continue to operate unless they satisfy the requirements of the Directive;<sup>36</sup>
- the Commission's appeals are unfounded in relation to the General Court's rulings to annul the Commission's decisions on the reduction of the EU contribution to various projects (due to irregularities in public procurements) because the Commission had not adopted its decision within the six-month deadline indicated in the General Structural Fund Regulation.<sup>37</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the Spanish judiciary, the Court held that:

- National case-law cannot temporally limit the restitutory effects connected with a finding of unfairness by a court, in respect of a clause contained in a contract concluded between a consumer and a seller or supplier, to amounts overpaid under such a clause after the delivery of the decision in which the finding of unfairness is made. The case concerned a decision by the Spanish Supreme Court of 2013 which had found so-called floor clauses in loan contracts concluded by consumers to be unfair, but had ruled that this finding would have effect only from the date of its judgment, thereby excluding restitution claims by consumers for overpayments made in the past;<sup>38</sup>
- Member States' may adopt or retain in force stricter measures to prevent money laundering and terrorist financing than the rules laid down in the Directive on the

<sup>26</sup> Directive [2014/49/EU](#).

<sup>27</sup> Directive [2011/61/EU](#).

<sup>28</sup> Regulation [\(EC\) No 1967/2006](#).

<sup>29</sup> Directive [2006/126/EC](#).

<sup>30</sup> Regulation [\(EU\) No 1177/2010](#).

<sup>31</sup> Directive [2009/12/EC](#).

<sup>32</sup> Directive [2004/49/EC](#).

<sup>33</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>34</sup> Directive [91/271/EEC](#), Commission v Spain, [C-38/15](#).

<sup>35</sup> Directives [2009/147/EC](#) and [92/43/EEC](#), Commission v Spain, [C-461/14](#).

<sup>36</sup> Directive [1999/31/EC](#), Commission v Spain, [C-454/14](#).

<sup>37</sup> Regulation [\(EC\) No 1083/2006](#), Commission v Spain, [C-139/15 P](#) and [C-140/15 P](#).

<sup>38</sup> Gutiérrez Naranjo, joined cases [C-154/15](#), [C-307/15](#) and [C-308/15](#).

Spain

prevention of the use of the financial system for money laundering and terrorist financing.<sup>39</sup> These measures, however, must be justified by the level of risk and must be proportionate;<sup>40</sup>

- a national of a non-EU country who has the sole care of an EU citizen who is a minor cannot be automatically refused a residence permit or expelled from the territory of the European Union on the sole ground that he has a criminal record. To be capable of being adopted, an expulsion measure must be proportionate and founded on the personal conduct of the national of a non-EU country. Moreover, that conduct must constitute a genuine, present and sufficiently serious threat adversely affecting one of the fundamental interests of the society of the host Member State.<sup>41</sup>
- a Member State may refuse an application for family reunification if the sponsor does not have sufficient, stable and regular resources to maintain himself and the members of his family without recourse to the social assistance system of that Member State. Such a decision could be based on the prospective assessment of the likelihood of the sponsor retaining, or failing to retain, the necessary stable and regular resources in the year following the date of submission of the application for family reunification. The assessment is based on the pattern of the sponsor's income in the 6 months preceding the date of the application;<sup>42</sup>
- the Framework Directive<sup>43</sup> on electronic communications networks and services does not preclude the possibility for national regulatory authorities to merge into one multisectoral authority provided that, in performing those tasks, that body meets the requirements of competence, independence, impartiality and transparency laid down by the Directive. In addition, an effective right of appeal to an independent body must be available against its decisions, which is a matter to be determined by the national court;<sup>44</sup>
- the Commission's decisions on remission of import duties, addressed to one or more Member States, are not of direct and individual concern to the operators concerned; thus they are not challengeable by way of direct action under Article 263 TFEU, fourth paragraph, but by way of indirect action before a national court via the preliminary ruling procedure set out in Article 267 TFEU.<sup>45</sup>

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<sup>39</sup> Directive [2005/60/EC](#).

<sup>40</sup> *Safe Interenvios, SA v Liberbank, SA and Others*, [C-235/14](#).

<sup>41</sup> *Rendón Marín and CS*, joined cases [C-165/14](#) and [C-304/14](#) and Court press release [No 95/16](#).

<sup>42</sup> *Mimoun Khachab*, [C-558/14](#).

<sup>43</sup> Directive [2002/21/EC](#).

<sup>44</sup> *Ormaetxea Garai and Lorenzo Almendros*, [C-424/15](#).

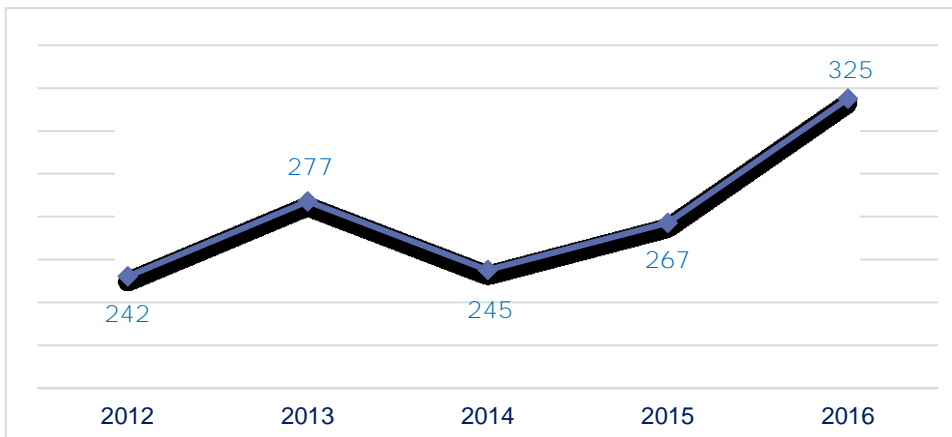
<sup>45</sup> *Makro autoservicio mayorista SA and Vestel Iberia SL v European Commission*, [C-264/15 P](#) and [C-265/15 P](#).

France

*All the main indicators for France worsened in 2016. New complaints continued their upward trend, reaching their highest level in 5 years. The number of new EU Pilot files also rose, reversing a continuous fall since 2012. Continuing the trend seen since 2012, the number of open infringement cases rose slightly. New infringement cases for late transposition showed a more marked increase, hitting their highest level in 5 years.*

I. COMPLAINTS

1. New complaints made against France by members of the public (2012-2016)



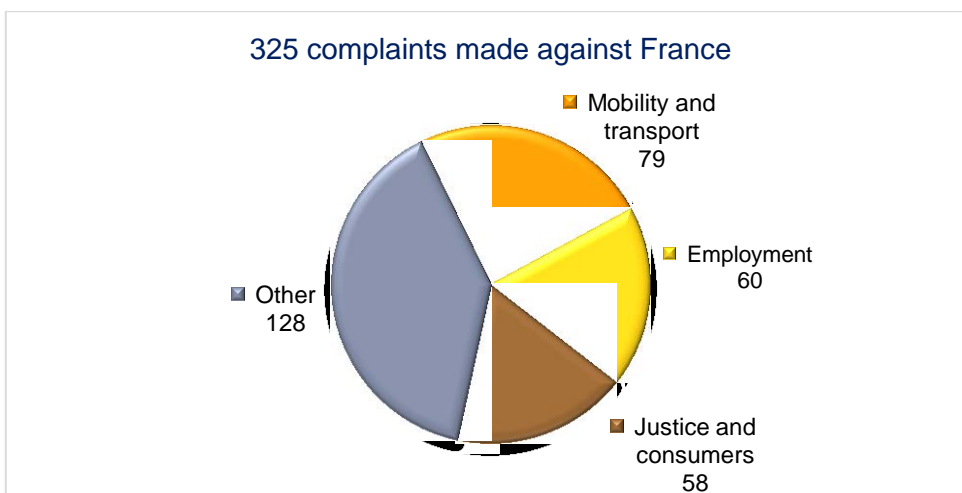
2. Public complaints against France open at year-end

- 260 > Complaints open at end-2015
- 325 > New complaints registered in 2016
- 319 > Complaints handled in 2016

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- = 266 > Complaints open at end-2016

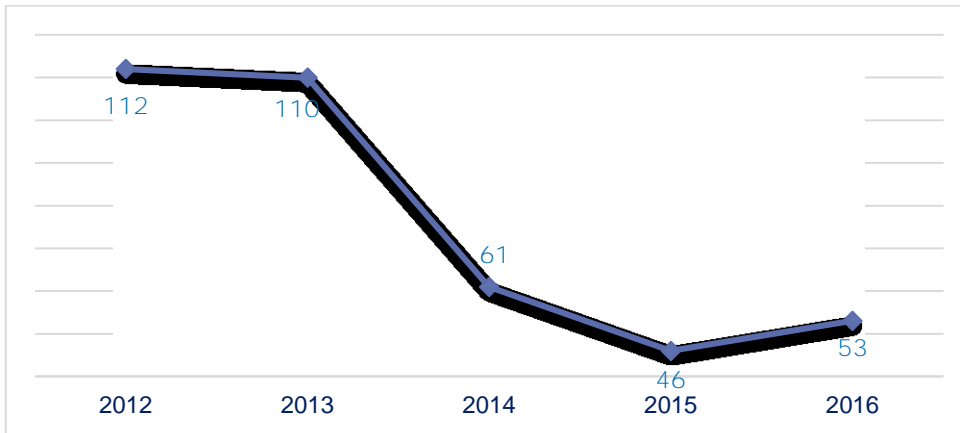
3. New complaints registered in 2016: main policy areas



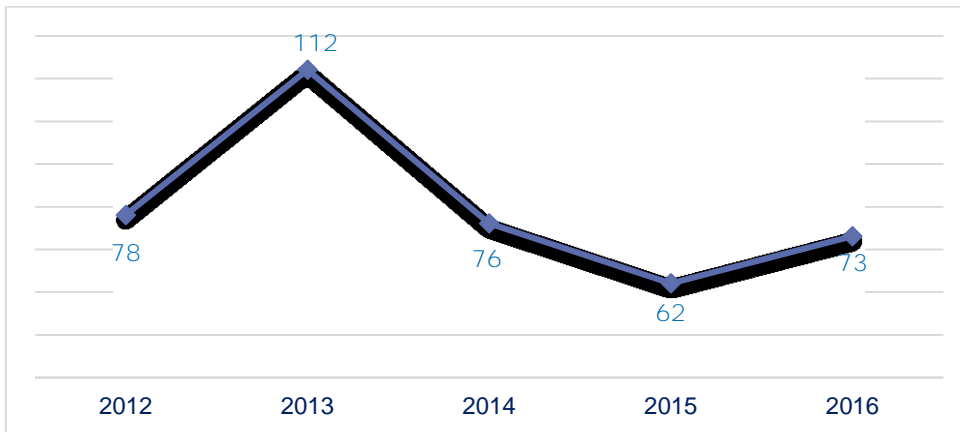


## II. EU PILOT

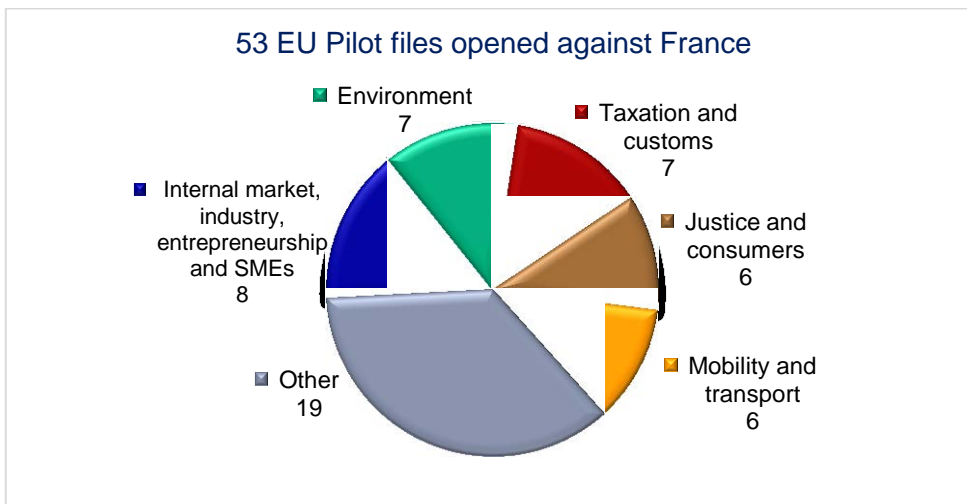
### 1. New EU Pilot files opened against France (2012-2016)



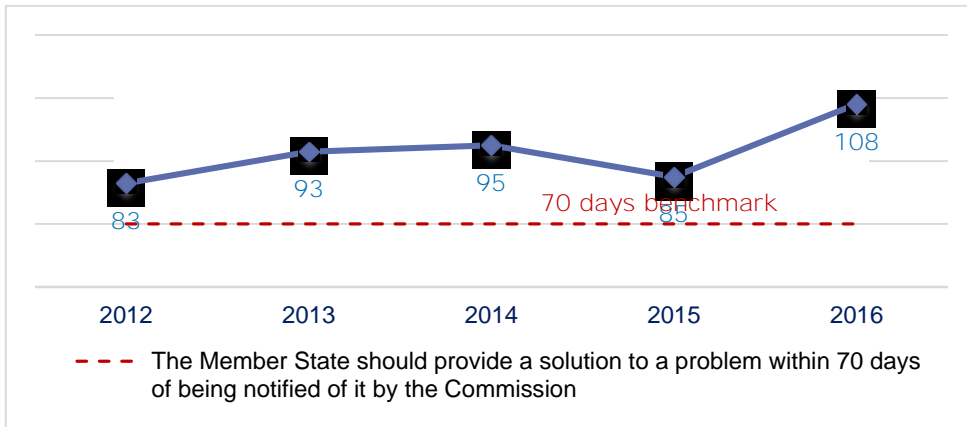
### 2. Files relating to France open in EU Pilot at year-end



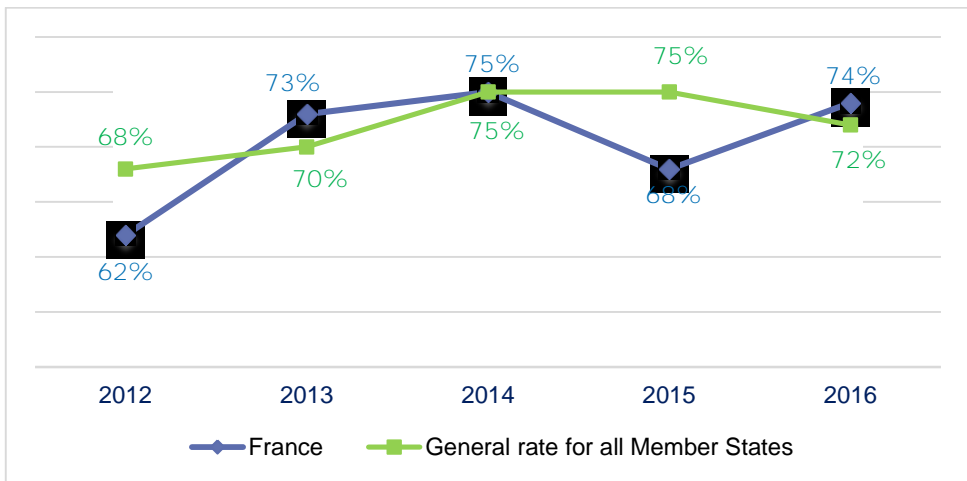
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: France's average response time in 2012-2016 (in days)

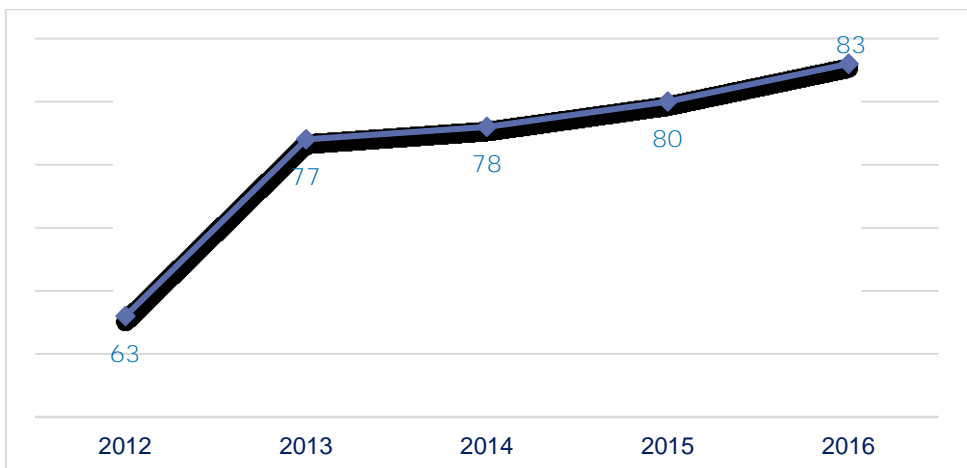


5. EU Pilot files: France's resolution rate in 2012-2016

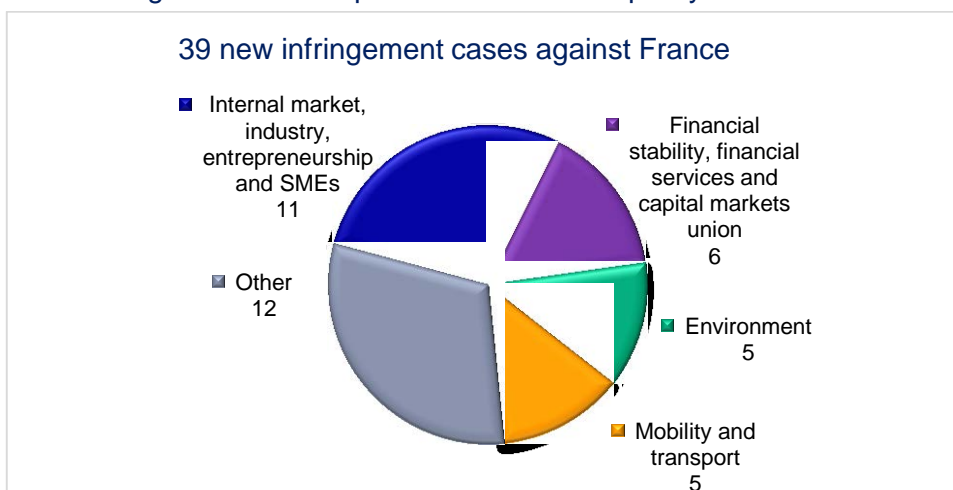


III. INFRINGEMENT CASES

1. Infringement cases against France open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



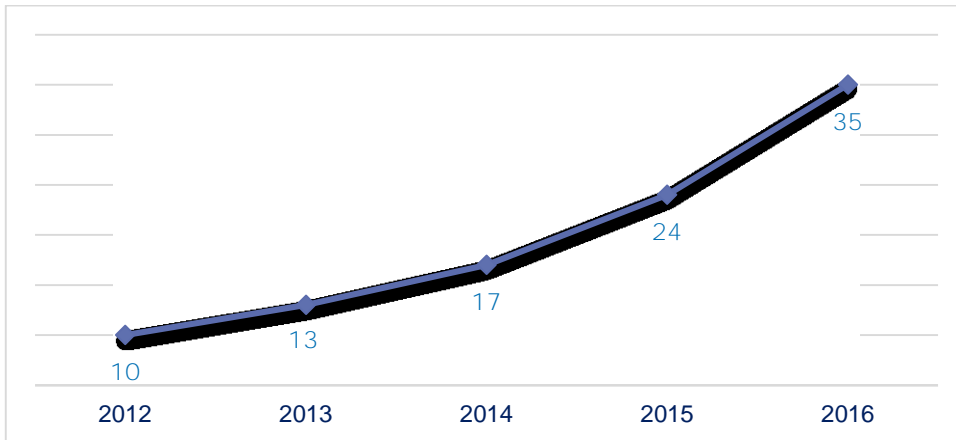
## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 39 new infringement cases against France in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Regulation on the marketing and use of explosives precursors;<sup>1</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>2</sup>
  - illegal poaching and killing of ortolan buntings;<sup>3</sup>
  - non-compliant transposition of the Mining Waste Directive;<sup>4</sup>
  - failure to comply with the Third Internal Energy Market Package;<sup>5</sup>
  - breach of the rules on the separation of accounts under the Directive establishing a single European railway area;<sup>6</sup>
  - restrictions on the provision of transport services and free movement of goods;<sup>7</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>8</sup>
  - non-communication of national measures transposing the Directive on priority substances in the field of water policy;<sup>9</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Professional Qualifications Directive;<sup>10</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System.<sup>11</sup>
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

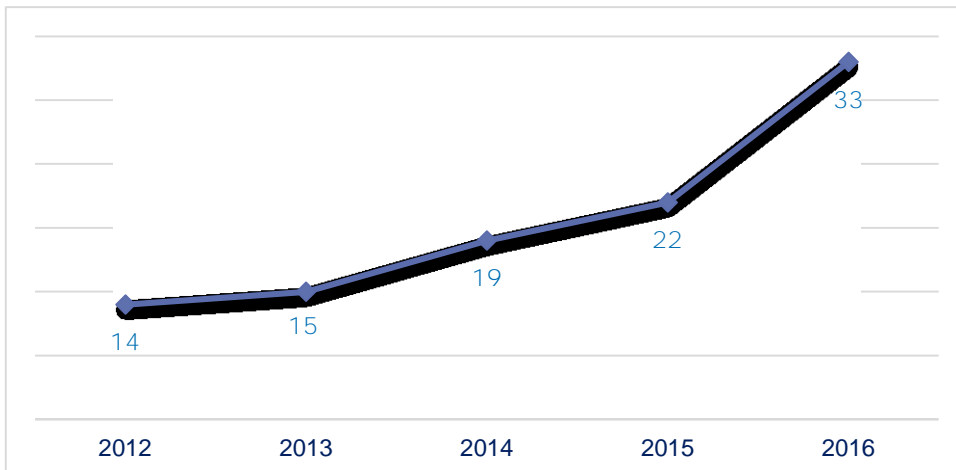
<sup>1</sup> Regulation (EU) No [98/2013](#).  
<sup>2</sup> Directive [2008/98/EC](#); [MEMO/16/3644](#).  
<sup>3</sup> [MEMO/16/209](#) and [IP/16/4213](#).  
<sup>4</sup> Directive [2006/21/EC](#).  
<sup>5</sup> Directives [2009/72/EC](#) and [2009/73/EC](#); [MEMO/16/2490](#).  
<sup>6</sup> Directive [2012/34/EC](#).  
<sup>7</sup> [IP/16/2101](#).  
<sup>8</sup> Directive [2014/89/EU](#).  
<sup>9</sup> Directive [2013/39/EU](#), [MEMO/16/1452](#).  
<sup>10</sup> Directive [2005/36/EC](#).  
<sup>11</sup> Directive [2013/55/EU](#), [MEMO/16/3125](#).

#### IV. TRANSPOSITION OF DIRECTIVES

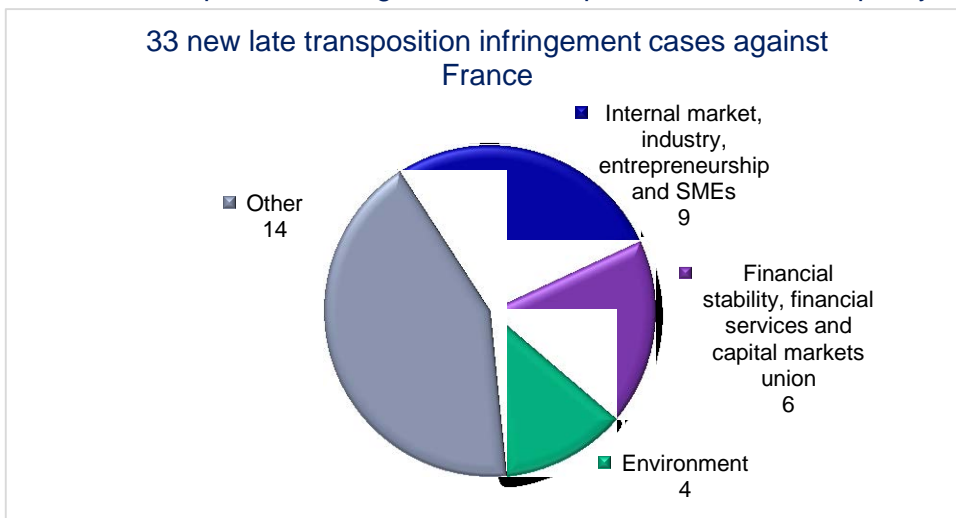
##### 1. Late transposition infringement cases against France open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against France (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- completing the notification of all national measures necessary to transpose:
  - the Capital Requirements Directive;<sup>12</sup>
  - the Bank Resolution and Recovery Directive;<sup>13</sup>
  - the Deposit Guarantee Schemes Directive;<sup>14</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>15</sup>
- non-compliance with the First Railway Package;
- enactment of administrative provisions respecting the proportionality requirements as regards the 3 % tax on properties in France owned by foreign companies.

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>16</sup>

The Court ruled that:

- France has failed to provide adequate treatment of urban waste water in several smaller agglomerations.<sup>17</sup>

### 2. Preliminary rulings

In preliminary rulings addressed to the French judiciary, the Court held that:

- security of supply and territorial cohesion might be objectives in the general economic interest which may justify state intervention in fixing the price of supply of natural gas to household customers. However, such intervention would be compatible with the Gas Directive<sup>18</sup> only if strict requirements were met, including proportionality and non-discrimination;<sup>19</sup>
- roll cores in the form of rolls, tubes or cylinders, around which flexible material is wound and sold to consumers, constitute 'packaging' under the Packaging Directive;<sup>20</sup>
- a national court may, exceptionally and on a case-by-case basis, limit in time the effects of a declaration of the illegality of a national provision adopted in disregard of the Strategic Environmental Assessment Directive, provided that such a limitation is dictated by an overriding consideration linked to environmental protection and having regard to the specific circumstances of the case. However, this power may be exercised only if the following conditions are satisfied:
  - the contested national provision is a measure correctly transposing EU environmental law;
  - a new national provision would not avoid damage to the environment arising from annulment of the contested provision;
  - annulment of the contested provision would create a legal vacuum in the transposition of EU environmental law which would be more damaging to the environment; and
  - the effects of the contested provision are maintained only for the period strictly necessary to adopt the measures remedying the irregularity.<sup>21</sup>

<sup>12</sup> Directive [2013/36/EU](#).

<sup>13</sup> Directive [2014/59/EU](#).

<sup>14</sup> Directive [2014/49/EU](#).

<sup>15</sup> Directive [2006/126/EC](#).

<sup>16</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>17</sup> Directive [91/271/EEC](#); *Commission v France*, [C-314/15](#).

<sup>18</sup> Directive [2009/73/EC](#).

<sup>19</sup> *Association nationale des opérateurs détaillants en énergie (ANODE) v Premier ministre and Others*, [C-121/15](#), Court Press Release No [88/2016](#).

<sup>20</sup> Directive [94/62/EC](#); *Eco-Emballages*, joined cases [C-313/15](#) and [C-530/15](#).

<sup>21</sup> Directive [2001/42/EC](#); *Association France Nature Environnement*, [C-379/15](#).

France

- A commercial practice consisting of the sale of a computer equipped with pre-installed software without any option for the consumer to purchase the same model of computer not equipped with pre-installed software does not in itself constitute an unfair commercial practice within the meaning of Article 5(2) of the Unfair Commercial Practices Directive,<sup>22</sup> unless such a practice is contrary to the requirements of professional diligence and materially distorts or is likely to materially distort the economic behaviour of the average consumer with regard to the product, a matter which is for the national court to determine by taking account of the specific circumstances of the case in the main proceedings. In the context of a combined offer consisting of the sale of a computer equipped with pre-installed software, the failure to indicate the price of each of those items of pre-installed software does not constitute a misleading commercial practice within the meaning of the Unfair Commercial Practices Directive.<sup>23</sup>

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<sup>22</sup> Directive [2005/29/EC](#).

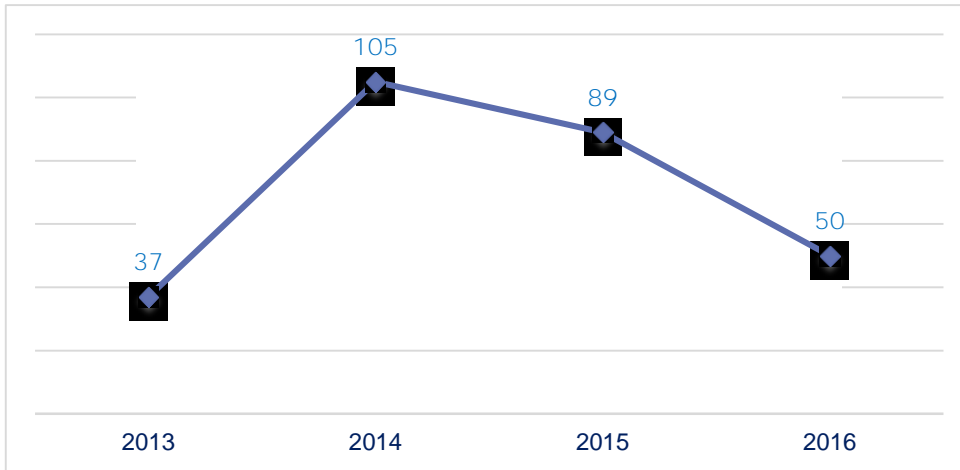
<sup>23</sup> Deroo-Blanquart, [C-310/15](#).

Croatia

*New complaints against Croatia continued to drop in 2016, to less than half their 2014 peak. The number of new EU Pilot files also fell slightly. In contrast, infringement cases open at the end of the year doubled. New infringement cases for late transposition also reached a new peak.*

I. COMPLAINTS

1. New complaints made against Croatia by members of the public (2013-2016)<sup>1</sup>



2. Public complaints against Croatia open at year-end

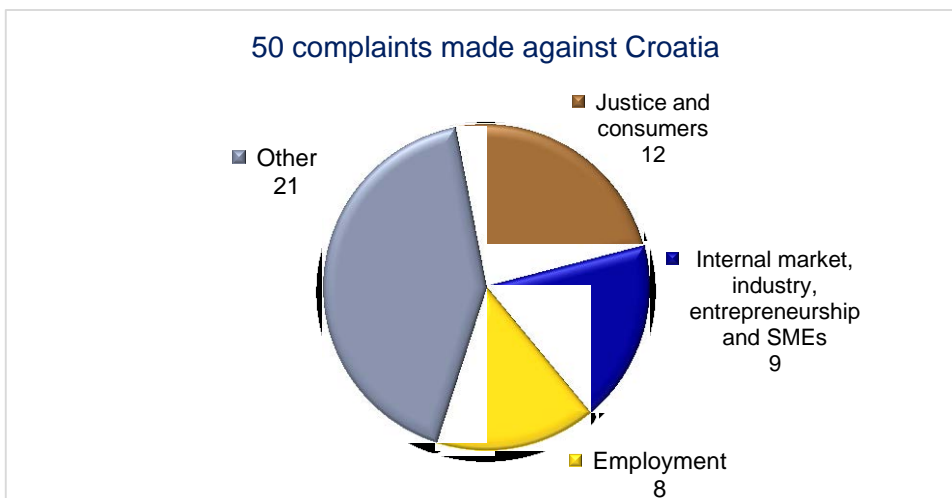
67 > Complaints open at end-2015

50 > New complaints registered in 2016

40 > Complaints handled in 2016

**= 77** > Complaints open at end-2016

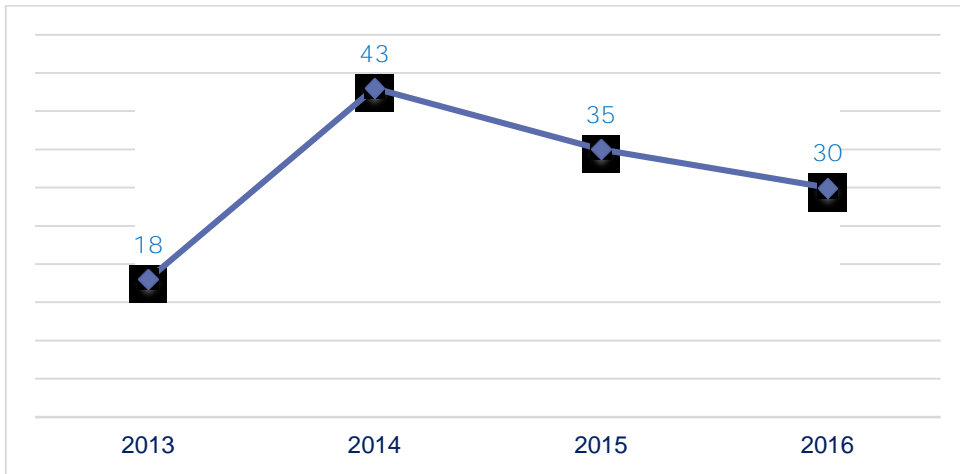
3. New complaints registered in 2016: main policy areas



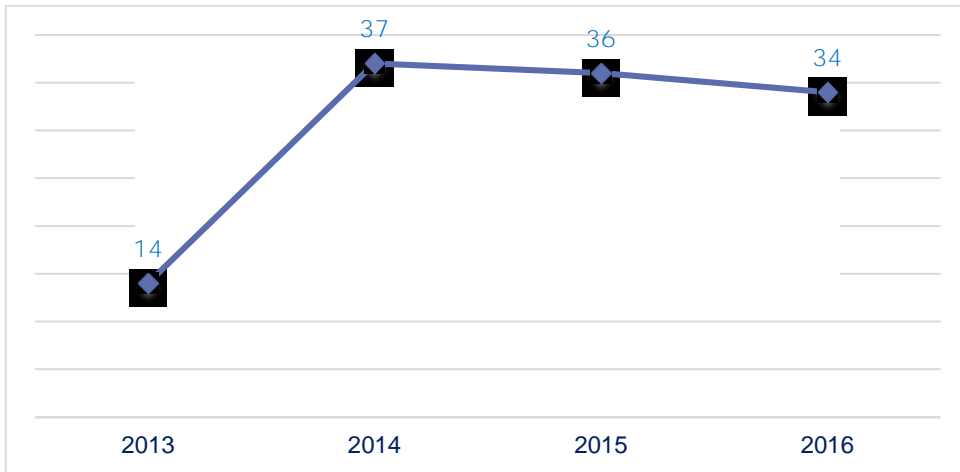
<sup>1</sup> Croatia joined the EU on 1 July 2013.

## II. EU PILOT

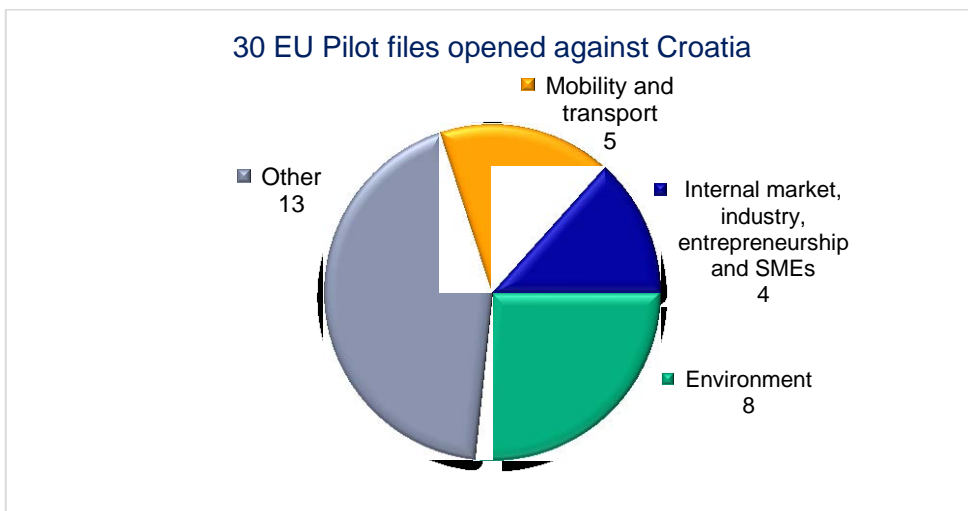
### 1. New EU Pilot files opened against Croatia (2013-2016)



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

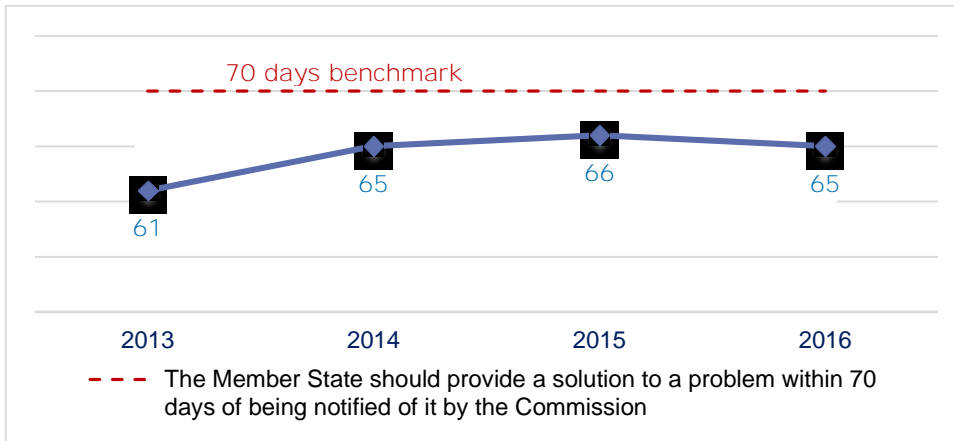


### 3. New EU Pilot files opened in 2016: main policy areas

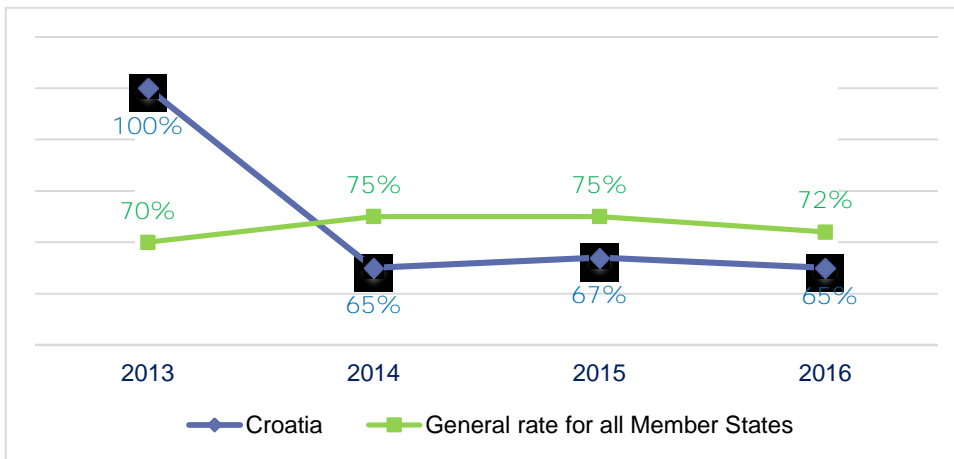




4. EU Pilot files: Croatia's average response time in 2013-2016 (in days)<sup>2</sup>

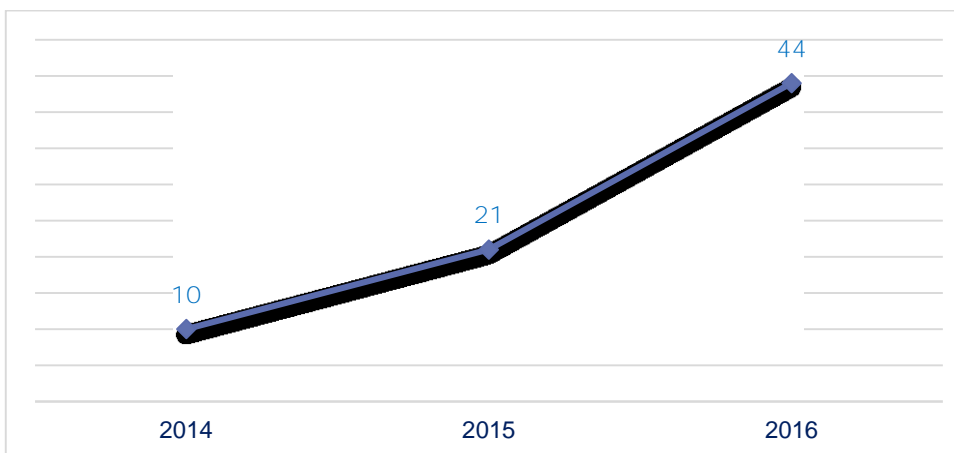


5. EU Pilot files: Croatia's resolution rate in 2013-2016<sup>3</sup>



III. INFRINGEMENT CASES

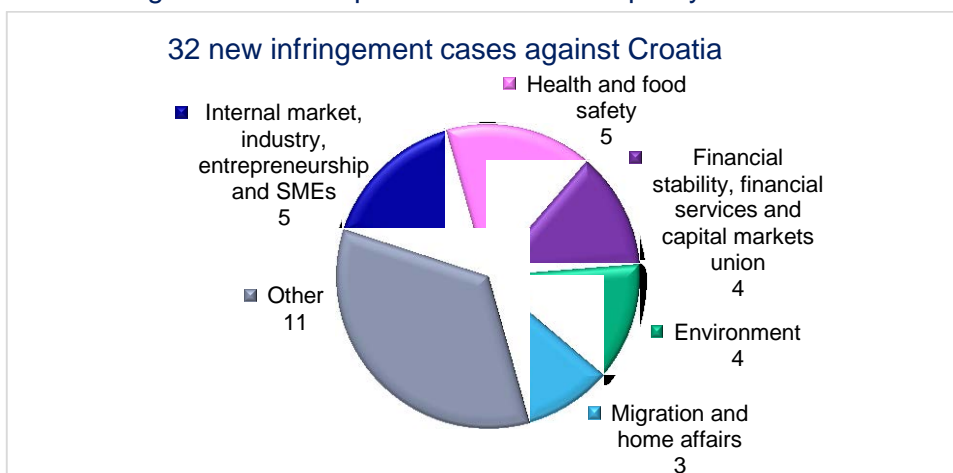
1. Infringement cases against Croatia open on 31 December (2014-2016)



<sup>2</sup> Croatia joined the EU Pilot system in July 2013.

<sup>3</sup> Croatia joined the EU Pilot system in July 2013.

## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 32 new infringement cases against Croatia in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>4</sup>
  - failure to notify transposition measures for the Tobacco Directive;<sup>5</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>6</sup>
  - non-compliant transposition of the Waste Framework Directive;<sup>7</sup>
  - non-compliant transposition of the Environmental Impact Assessment Directive;<sup>8</sup>
  - inadequate waste management in Biljane Donje;<sup>9</sup>
  - failure to comply with the free movement of goods and the EU internal energy market rules;<sup>10</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>11</sup>
  - the special powers reserved for the state in the main energy company, INA (Industrija Nafta d.d.), following its privatisation. These may restrict the free movement of capital and freedom of establishment under the TFEU;<sup>12</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>13</sup>
  - the reduced excise duty rate for small producers of ethyl alcohol. This seems to be incompatible with the Excise Duty Directive on alcohol and alcoholic beverages;<sup>14</sup>
  - failure to transpose in full the three Directives on public procurement and concessions;<sup>15</sup>
  - the discriminatory framework for the purchase of sport fishing licences to the disadvantage of non-residents, in breach of the Services Directive;<sup>16</sup>

<sup>4</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>5</sup> Directive [2014/40/EU](#); [MEMO/16/4211](#).

<sup>6</sup> Directive [2008/98/EC](#); [MEMO/16/1452](#).

<sup>7</sup> Directive [2008/98/EC](#); [MEMO/16/2490](#).

<sup>8</sup> Directive [2011/92/EU](#).

<sup>9</sup> Directive [2008/98/EC](#); [MEMO/16/3644](#).

<sup>10</sup> Directive [2009/73/EC](#) and Regulation (EC) No 715/2009; [MEMO/16/319](#).

<sup>11</sup> Directive [2014/17/EU](#); [MEMO/16/3644](#).

<sup>12</sup> [MEMO/16/4211](#).

<sup>13</sup> Directive [2014/89/EU](#).

<sup>14</sup> Directive [92/83/EEC](#); [MEMO/16/4211](#).

<sup>15</sup> Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#); [MEMO/16/4211](#).

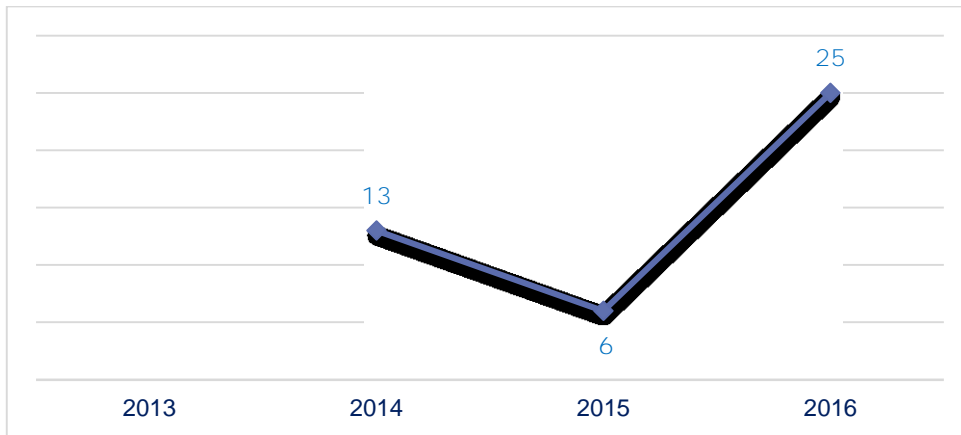
<sup>16</sup> Directive [2006/123/EC](#); [MEMO/16/3125](#).

- failure to correctly transpose and implement the EU rules on driving licences;<sup>17</sup>
- non-ratification of the Protocol of Accession to the Eurocontrol International Convention.<sup>18</sup>

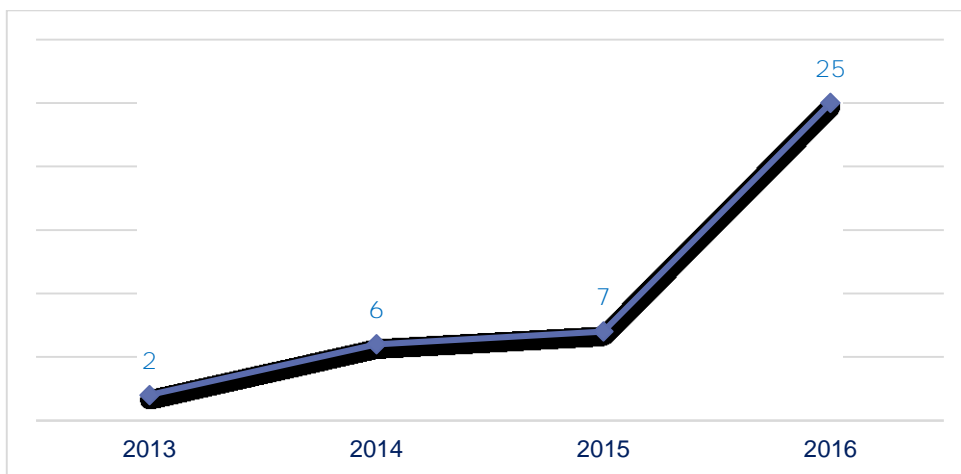
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.  
c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Croatia open on 31 December (2013-2016)



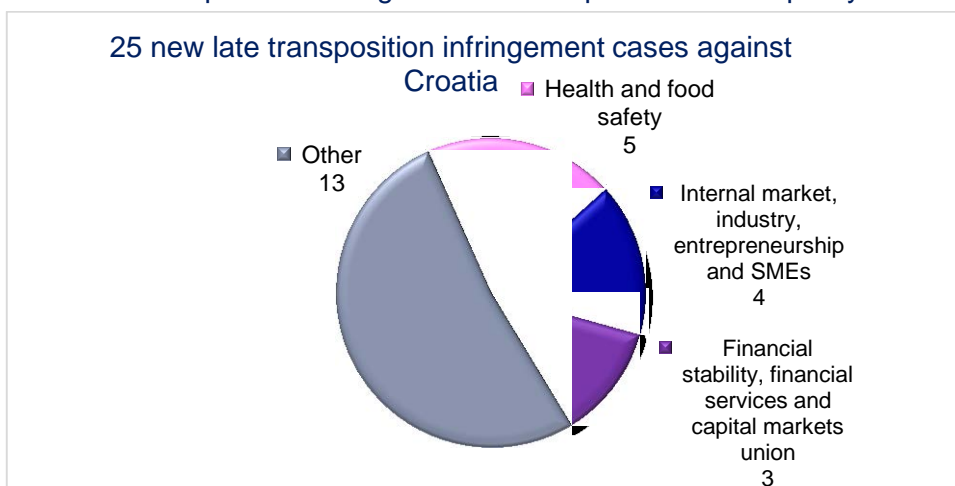
##### 2. New late transposition infringement cases against Croatia (2013-2016)



<sup>17</sup> Directive [2006/126/EC](#); [MEMO/16/2097](#).

<sup>18</sup> [MEMO/16/1452](#).

### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- completing the notification of all national measures necessary to transpose the Bank Resolution and Recovery Directive<sup>19</sup> and the Financial Conglomerates Directive;<sup>20</sup>
- non-compliance with the rules on maritime cabotage;<sup>21</sup>
- non-compliance with the Railway Safety Directive.<sup>22</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>23</sup>

There were no major Court rulings in 2016.

### 2. Preliminary rulings

In a preliminary ruling addressed to the Croatian judiciary, the Court held that:

- national legislation which provides that the price of water services invoiced to the consumer includes not only a variable component calculated according to the volume of water actually consumed by the person concerned, but also a fixed component not connected with that volume, is compatible with the Water Framework Directive.<sup>24</sup>

<sup>19</sup> Directive [2014/59/EU](#).

<sup>20</sup> Directive [2011/89/EU](#).

<sup>21</sup> Regulation [\(EEC\) No 3577/92](#).

<sup>22</sup> Directive [2004/49/EC](#).

<sup>23</sup> These rulings are almost exclusively handed down in infringement procedures.

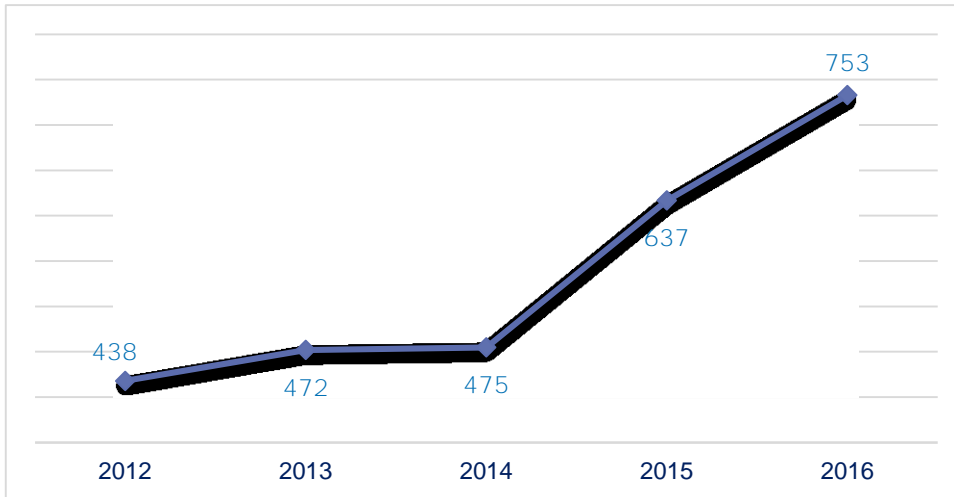
<sup>24</sup> Directive [2000/60/EC](#), Vodoopskrba i odvodnja, [C-686/15](#).

Italy

*New complaints against Italy jumped again in 2016, by approximately 20 % from the 2015 level and by around 50 % from the 2012-2014 levels. By contrast, the numbers of new EU Pilot files and of open infringement cases at year-end were down. New infringement cases for late transposition fell again to a five-year low.*

I. COMPLAINTS

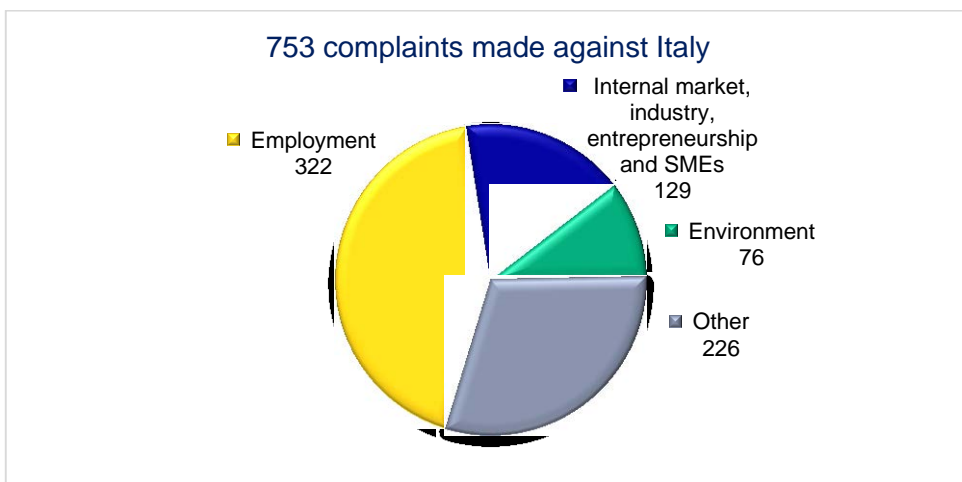
1. New complaints made against Italy by members of the public (2012-2016)



2. Public complaints against Italy open at year-end

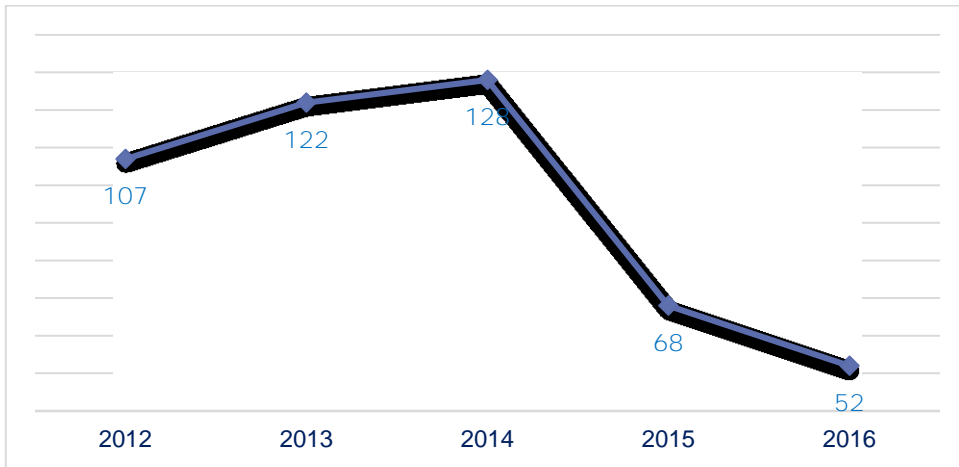
|              |   |                                   |
|--------------|---|-----------------------------------|
| 508          | > | Complaints open at end-2015       |
| 753          | > | New complaints registered in 2016 |
| 592          | > | Complaints handled in 2016        |
| <b>= 669</b> | > | Complaints open at end-2016       |

3. New complaints registered in 2016: main policy areas

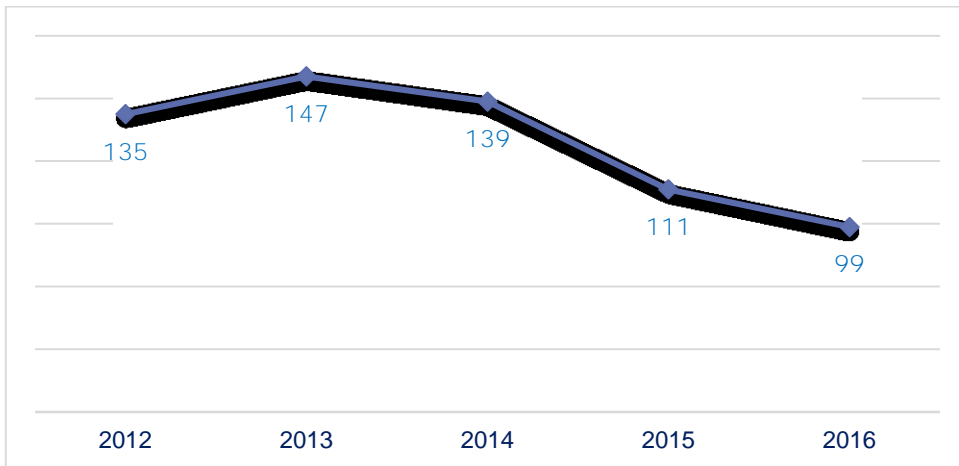


## II. EU PILOT

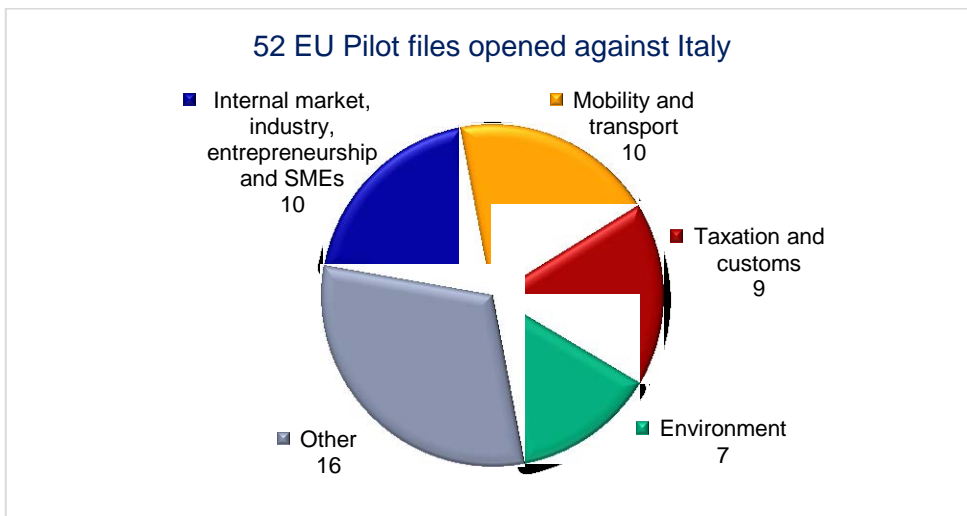
### 1. New EU Pilot files opened against Italy (2012-2016)



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

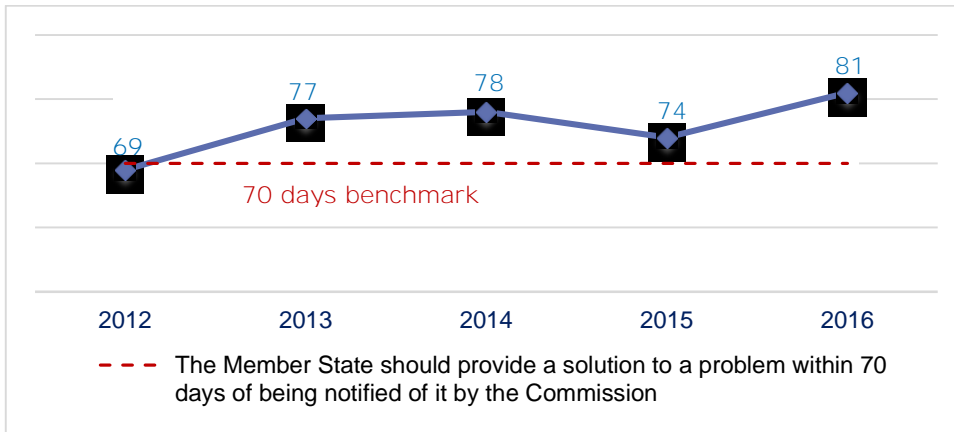


### 3. New EU Pilot files opened in 2016: main policy areas

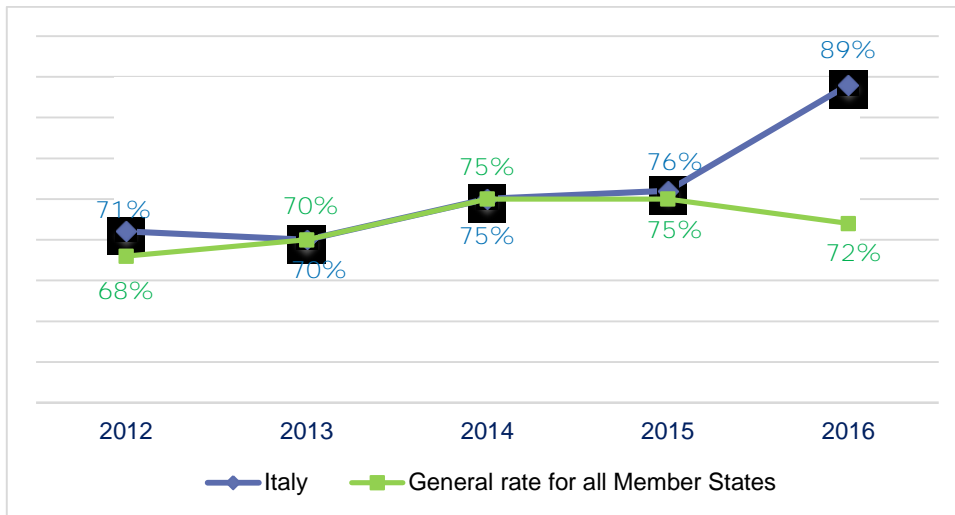


Italy

4. EU Pilot files: Italy's average response time in 2012-2016 (in days)

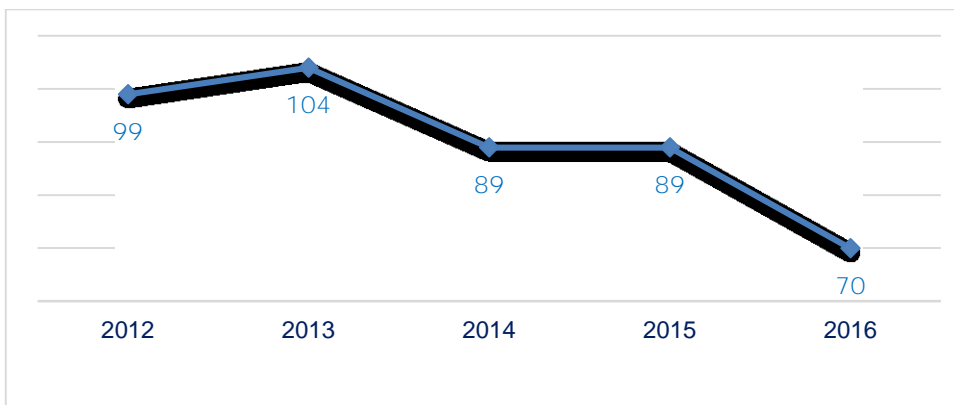


5. EU Pilot files: Italy's resolution rate in 2012-2016



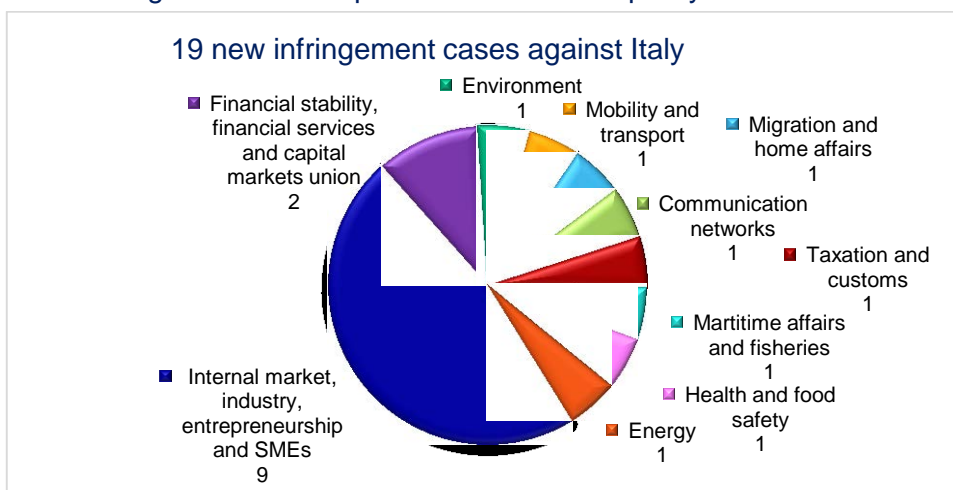
III. INFRINGEMENT CASES

1. Infringement cases against Italy open on 31 December (2012-2016)



Italy

## 2. New infringement cases opened in 2016: main policy areas



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

a) The Commission opened 19 new infringement cases against Italy in 2016. These, and other major ongoing infringement cases, include:

- non-compliance with the Commission's Decision<sup>1</sup> on measures to prevent the introduction into and the spread within the EU of the plant bacterium *Xylella fastidiosa*;<sup>2</sup>
- non-compliance with the Prüm Decisions on information-sharing to combat terrorism and serious crime;<sup>3</sup>
- non-conformity of national legislation with the Return Directive;<sup>4</sup>
- non-communication of national measures transposing the Long-Term Residents Directive;<sup>5</sup>
- non-respect of the PM<sub>10</sub><sup>6</sup> limit values set by the Air Quality Directive;<sup>7</sup>
- lack of strategic noise maps and/or action plans required by the Environmental Noise Directive;<sup>8</sup>
- incorrect transposition of the Directive on the protection of animals used for scientific purposes;<sup>9</sup>
- breach of the rules on the separation of accounts under the First Railway Package;<sup>10</sup>
- failure to correctly implement the Airport Charges Directive;<sup>11</sup>
- fishing activities of Italian-flagged vessels in the waters under the jurisdiction of Guinea-Bissau and the Gambia in violation of the EU provisions and the fisheries partnership agreements;
- excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive.<sup>12</sup>

<sup>1</sup> Commission Implementing [Decision \(EU\) 2015/789](#).

<sup>2</sup> *Xylella fastidiosa* is one of the most dangerous plant bacteria worldwide, causing a variety of diseases, with huge economic impact for agriculture; [MEMO/16/2490](#).

<sup>3</sup> Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#); [MEMO/16/3125](#).

<sup>4</sup> Directive [2008/115/EC](#).

<sup>5</sup> Directive [2011/51/EU](#).

<sup>6</sup> PM<sub>10</sub> is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometres. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: <http://www.eea.europa.eu/themes/air/air-quality/resources/glossary/pm10>).

<sup>7</sup> Directive [2008/50/EC](#).

<sup>8</sup> Directive [2002/49/EC](#).

<sup>9</sup> Directive [2010/63/EU](#).

<sup>10</sup> Directives [2001/12/EC](#), [2001/13/EC](#) and [2001/14/EC](#).

<sup>11</sup> Directive [2009/12/EC](#), [MEMO/16/319](#).

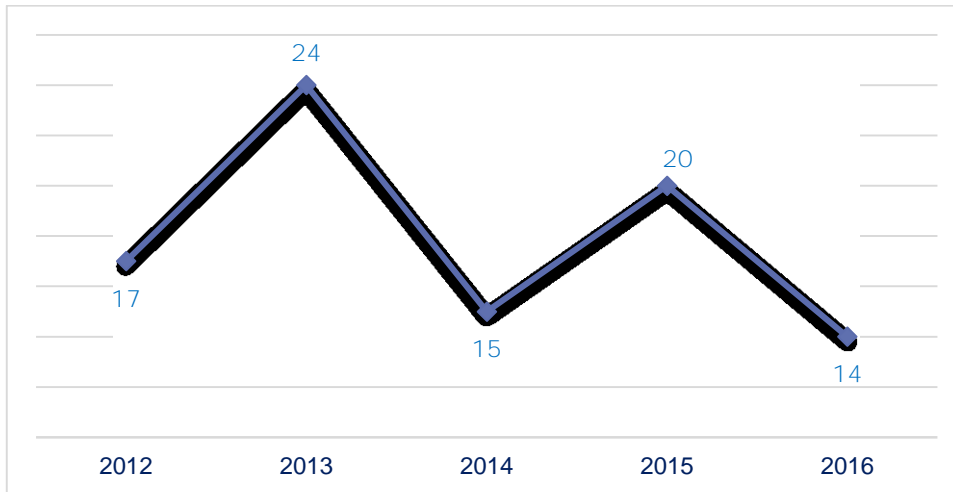


Italy

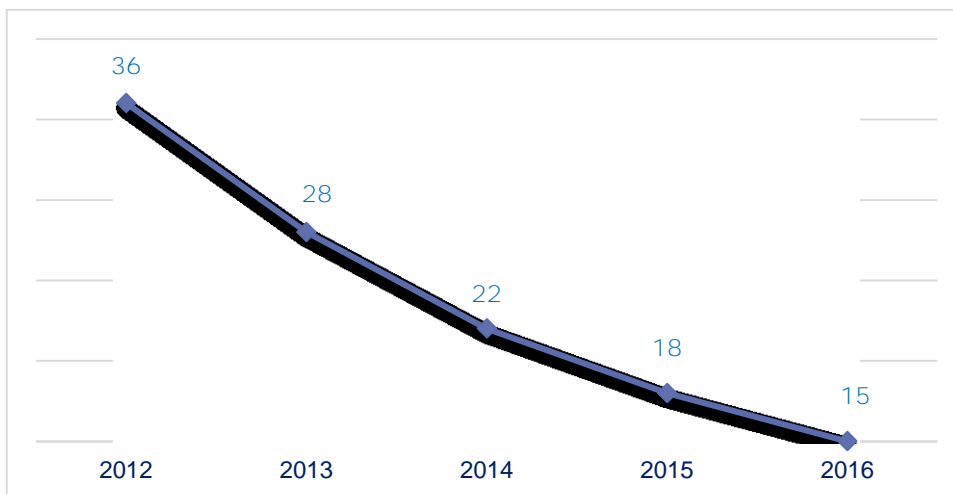
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

#### IV. TRANSPOSITION OF DIRECTIVES

##### 1. Late transposition infringement cases against Italy open on 31 December (2012-2016)

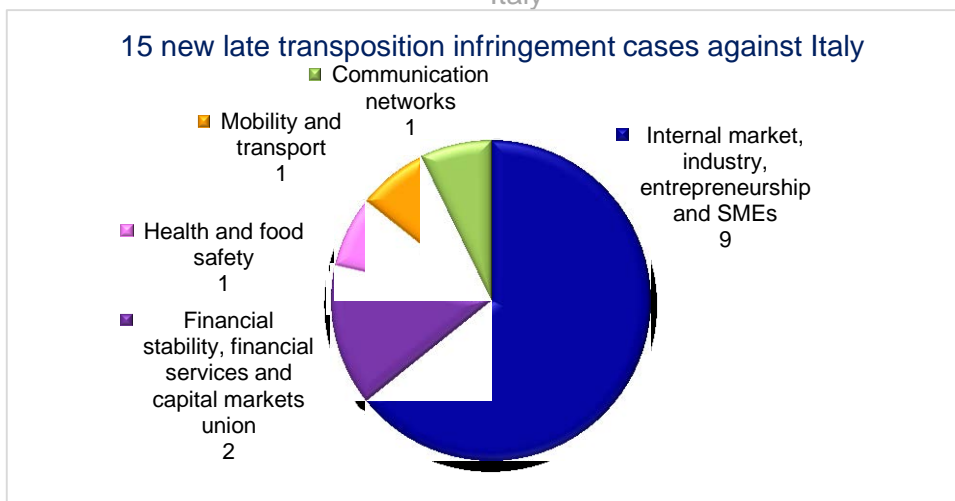


##### 2. New late transposition infringement cases against Italy (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: main policy areas

<sup>12</sup> Directive [2006/123/EC](#), [MEMO/16/3644](#).



#### 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 2016

These concerned:

- failure to implement the Eurodac Regulation, which sets up an EU asylum fingerprint database;<sup>13</sup>
- bad application of the Birds Directive in relation to the trapping of live decoys using nets;<sup>14</sup>
- non-communication of national measures transposing the new Batteries Directive;<sup>15</sup>
- completing the notification of all national measures necessary to transpose the Capital Requirements Directive<sup>16</sup> and the Directive on alternative investment fund managers;<sup>17</sup>
- failure to fulfil obligations under the Directive on driving licences;<sup>18</sup>
- incorrect implementation of the principles governing the investigation of accidents in the maritime transport sector;<sup>19</sup>
- non-compliance with the rules on maritime cabotage.<sup>20</sup>

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings<sup>21</sup>

The Court ruled that:

- Italy has failed to fulfil its obligations under EU law by failing to guarantee just and appropriate compensation for victims of all violent intentional crimes committed in cross-border situations. The Directive on compensation to victims of crime<sup>22</sup> requires that all violent intentional crimes, as defined in the national legislation of each Member State, should give access to compensation from the state. Member States may not

<sup>13</sup> Regulation (EU) [603/2013](#); [MEMO/16/4211](#).

<sup>14</sup> Directive [2009/147/EC](#).

<sup>15</sup> Directive [2013/56/EU](#).

<sup>16</sup> Directive [2013/36/EU](#).

<sup>17</sup> Directive [2011/61/EU](#).

<sup>18</sup> Directive [2006/126/EC](#).

<sup>19</sup> Directive [2009/18/EC](#).

<sup>20</sup> Regulation (EEC) No [3577/92](#).

<sup>21</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>22</sup> Directive [2004/80/EC](#).

limit the scope of the compensation scheme for victims to only certain violent intentional crimes. The Court also confirmed that the principle of the prohibition of discrimination on the basis of nationality should be observed as regards access to compensation for the victims of crime in cross-border situations.<sup>23</sup>

## 2. Preliminary rulings

In preliminary rulings addressed to the Italian judiciary, the Court held that:

- the Commission may require Member States to remove all plants capable of being infected by the *Xylella fastidiosa* bacterium, even when there are no symptoms of infection, when such plants are in the vicinity of plants already affected by that bacterium. That measure is proportionate to the objective of protecting plant health in the European Union and is justified by the precautionary principle, taking into consideration the scientific evidence available to the Commission when the measure was adopted;<sup>24</sup>
- the Mining Waste Directive does not have the effect of making subject to the requirements of the Landfill Directive an operation which entails the backfilling of a quarry with waste other than extractive waste, if that operation does not amount to a disposal but to a recovery of waste;<sup>25</sup>
- the term 'small areas at local level', under the Strategic Environmental Assessment Directive, refers to areas under the territorial jurisdiction of the local authority preparing and/or adopting the plan or programme concerned, and which are small in size relative to that territorial jurisdiction;<sup>26</sup>
- the Services Directive<sup>27</sup> is also applicable to maritime concessions.<sup>28</sup>

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<sup>23</sup> Commission v Italy, [C-601/14](#) and Court press release No [109/16](#).

<sup>24</sup> Joined Cases [C-78/16](#), Pesce and Others.

<sup>25</sup> Directives [2006/21/EC](#) and [1999/31/EC](#), Edilizia Mastrodonato, [C-147/15](#).

<sup>26</sup> Directive [2001/42/EC](#), Associazione Italia Nostra Onlus, [C-444/15](#).

<sup>27</sup> Directive [2006/123/EC](#).

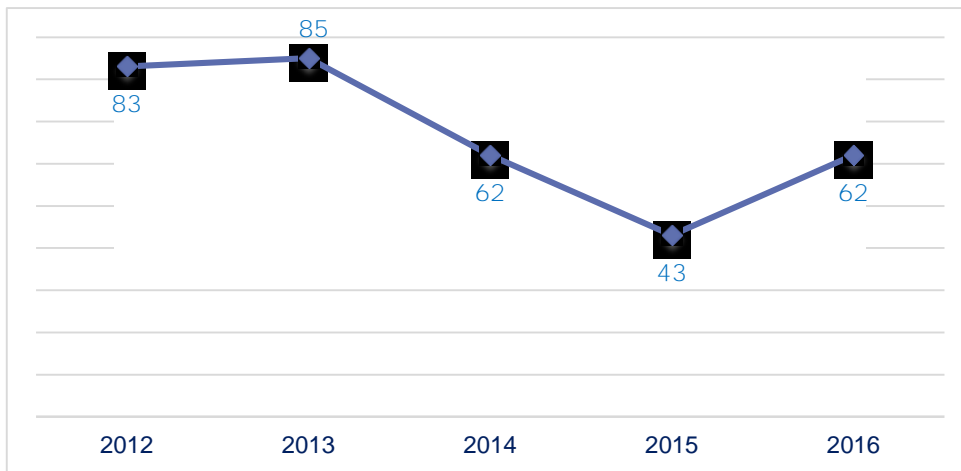
<sup>28</sup> Joined cases [C-458/14](#) and [C-67/15](#), Promoimpresa /Comune di Loiri, Court press release No [77/2016](#).

## Cyprus

*New complaints against Cyprus increased in 2016, equalling their 2014 level. The number of infringement cases open at the end of the year rose sharply to a new peak. The rising trend in new infringement cases for late transposition seen since 2012 continued, although the number remained below the 2011 level. In contrast, the number of new EU Pilot files against Cyprus dropped further.*

### I. COMPLAINTS

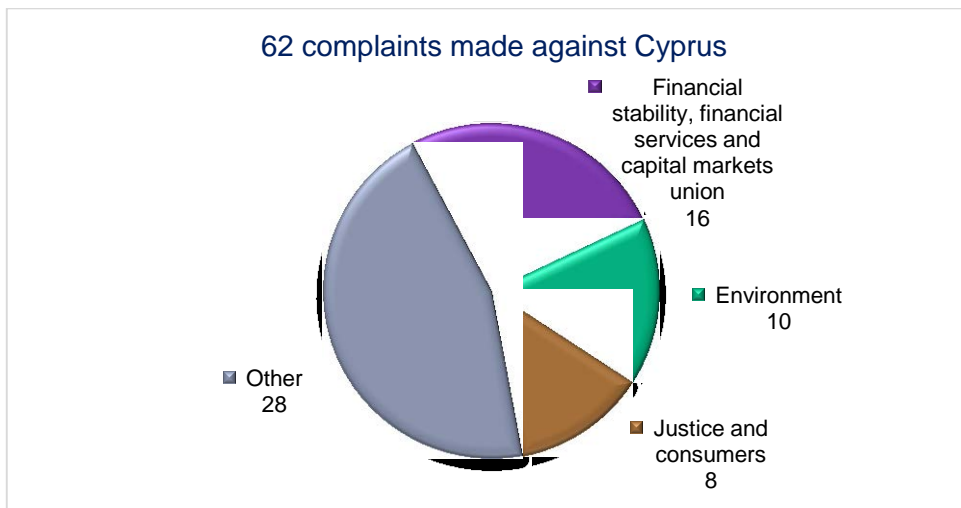
#### 1. New complaints made against Cyprus by members of the public (2012-2016)



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

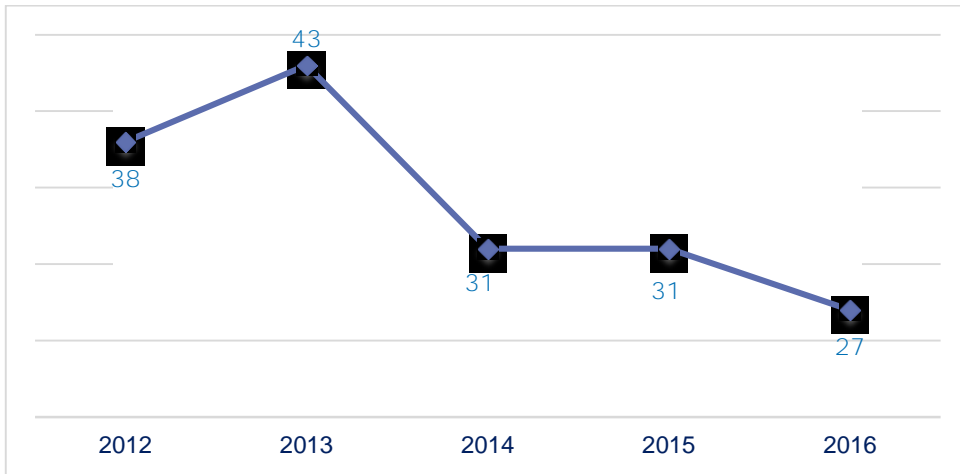
|             |   |                                    |
|-------------|---|------------------------------------|
| 45          | > | Complaints open at end-2015        |
| 62          | > | New complaints registered in 2016  |
| 70          | > | Complaints handled in 2016         |
| <b>= 37</b> | > | <b>Complaints open at end-2016</b> |

#### 3. New complaints registered in 2016: main policy areas

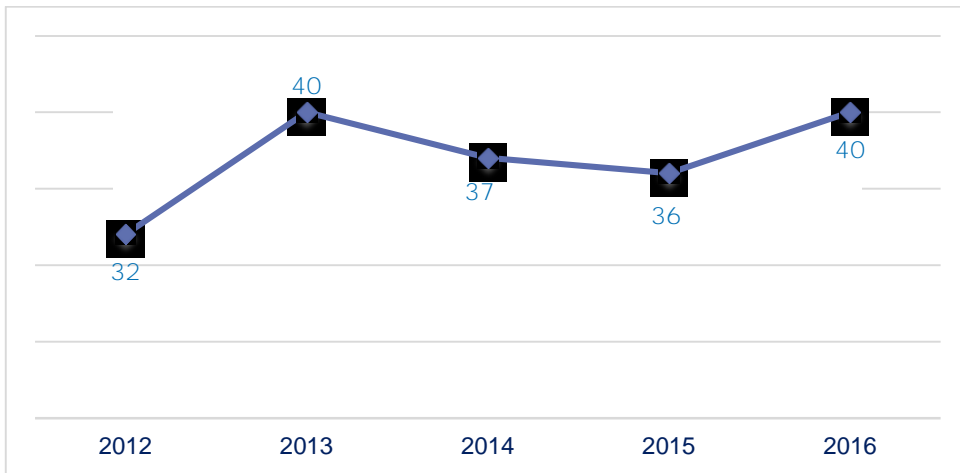


## II. EU PILOT

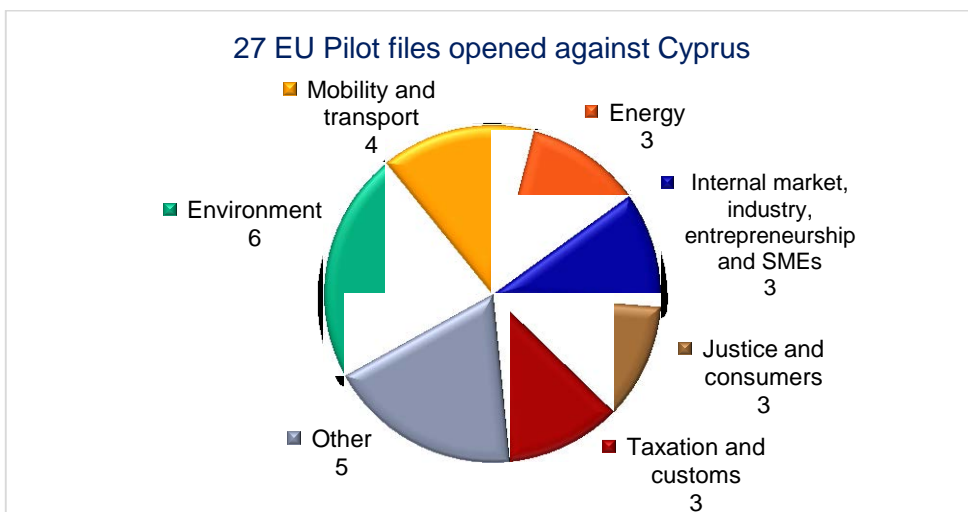
### 1. New EU Pilot files opened against Cyprus (2012-2016)



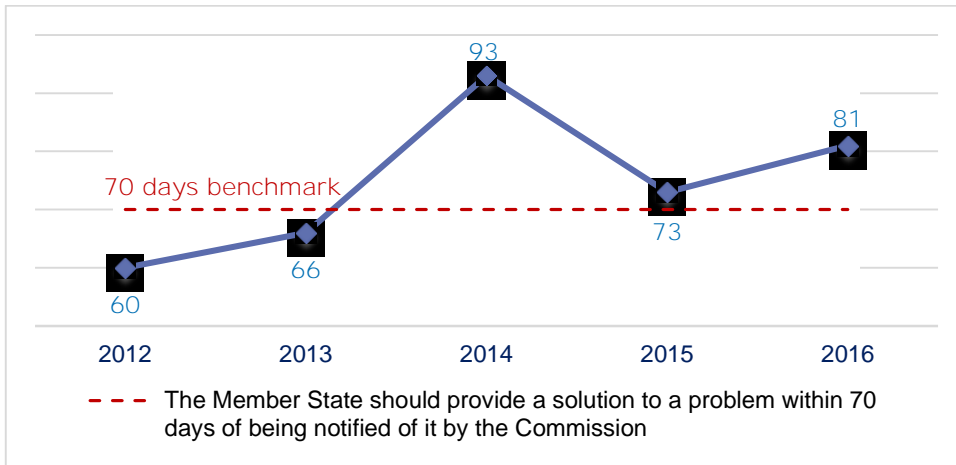
### 2. Files relating to Cyprus open in EU Pilot at year-end



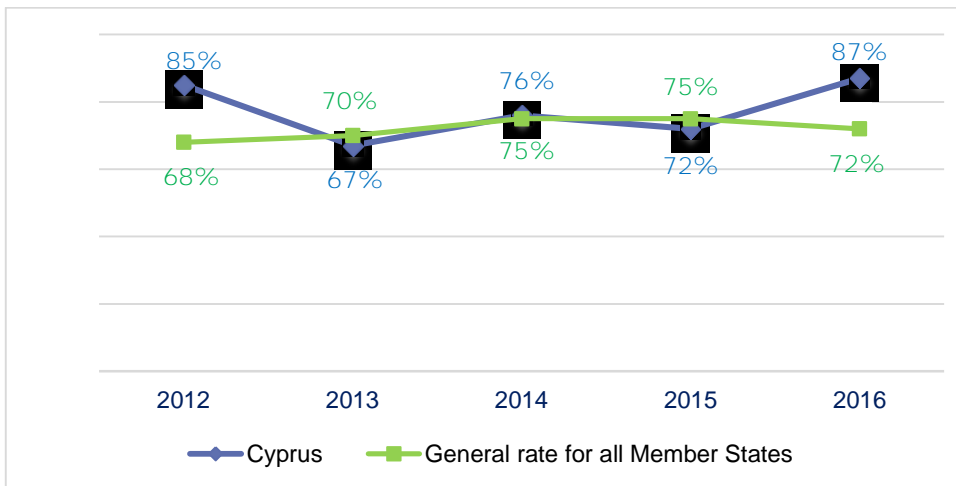
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Cyprus's average response time in 2012-2016 (in days)

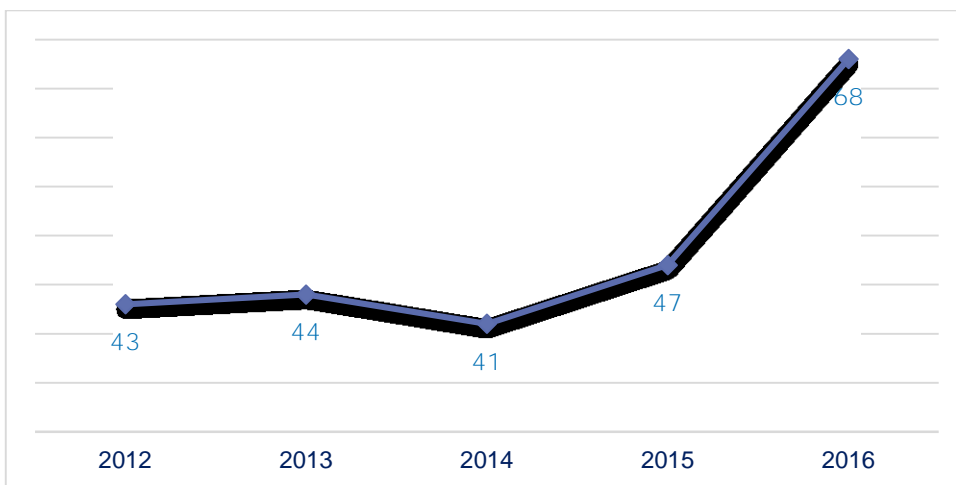


5. EU Pilot files: Cyprus's resolution rate in 2012-2016

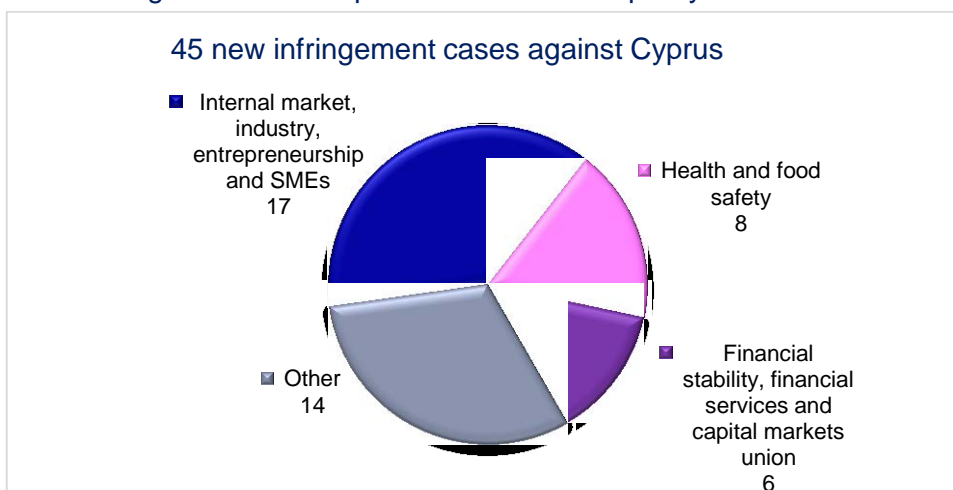


III. INFRINGEMENT CASES

1. Infringement cases against Cyprus open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 45 new infringement cases against Cyprus in 2016. These, and other major ongoing infringement cases, include:
- non-compliance with the Regulation on the marketing and use of explosives precursors;<sup>1</sup>
  - lack of waste management plans and waste prevention programmes required under the Waste Framework Directive;<sup>2</sup>
  - failure to communicate all national measures transposing the Mortgage Credit Directive;<sup>3</sup>
  - failure to communicate all national measures transposing the Accounting Directive;<sup>4</sup>
  - incorrect implementation of the Directive on accident investigations;<sup>5</sup>
  - incorrect implementation of the Directive on port State control;<sup>6</sup>
  - failure to correctly transpose EU rules on driving licences;<sup>7</sup>
  - non-communication of national measures transposing the Maritime Spatial Planning Directive;<sup>8</sup>
  - excessive and unjustified obstacles in the area of professional services that run counter to the Services Directive;<sup>9</sup>
  - failure to transpose in full two Directives on public procurement and concessions;<sup>10</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;<sup>11</sup>
  - failure to notify transposition measures for the Tobacco Directive.<sup>12</sup>
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Regulation (EU) No 98/2013; MEMO/16/3125.

<sup>2</sup> Directive 2008/98/EC; MEMO/16/4211.

<sup>3</sup> Directive 2014/17/EU; MEMO/16/3644.

<sup>4</sup> Directive 2013/34/EU; MEMO/16/2097.

<sup>5</sup> Directive 2009/18/EC.

<sup>6</sup> Directive 2009/16/EC; MEMO/16/319.

<sup>7</sup> Directive 2006/126/EC; MEMO/16/2097.

<sup>8</sup> Directive 2014/89/EU.

<sup>9</sup> Directive 2006/123/EC; IP/16/323, IP/16/3646, MEMO/16/3644 and MEMO/16/319.

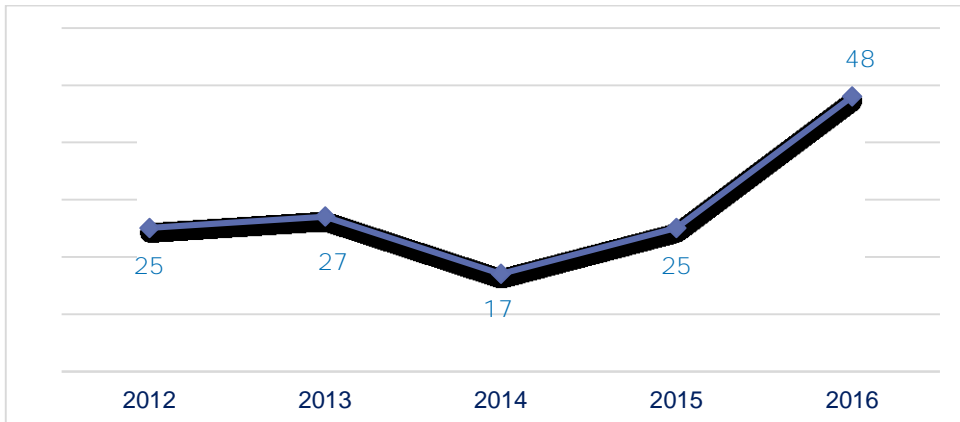
<sup>10</sup> Directives 2014/23/EU and 2014/25/EU; MEMO/16/4211.

<sup>11</sup> Directive 2013/55/EU; MEMO/16/3125.

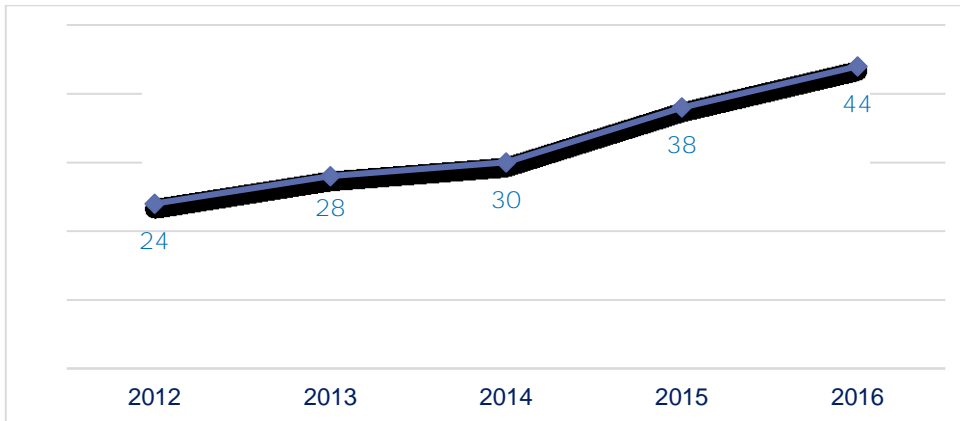
<sup>12</sup> Directive 2014/40/EU; MEMO/16/4211.

#### IV. TRANSPOSITION OF DIRECTIVES

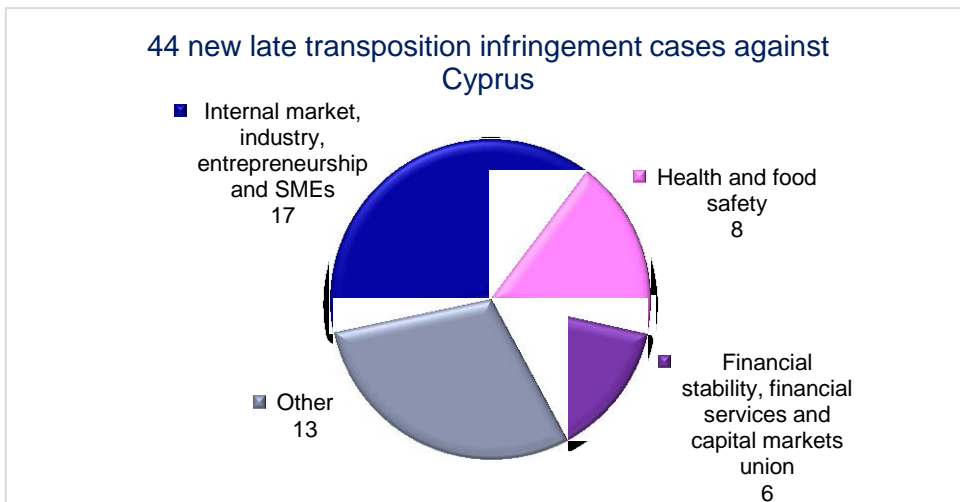
##### 1. Late transposition infringement cases against Cyprus open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Cyprus (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- failure to implement the Eurodac Regulation, which sets up an EU asylum fingerprint database;<sup>13</sup>
- non-communication of national measures transposing the new Batteries Directive;<sup>14</sup>
- non-communication of national measures transposing the Directive on priority substances in the field of water policy;<sup>15</sup>
- possible discrimination of nationals of other Member States regarding bus fares;<sup>16</sup>
- completing the transposition of the Directive on over-reliance on credit ratings.<sup>17</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court rulings<sup>18</sup>

The Court ruled that:

- Cyprus has treated migrant workers unequally by providing that those who left the national civil service to work within the EU institutions or within another international organisation lose their pension right and receive only a lump sum payment. By contrast, civil servants who remained in their position or took up another civil service position in Cyprus received the lump sum and retained their pension right.<sup>19</sup>

### 2. Preliminary rulings

No major preliminary rulings were addressed to the Cyprus judiciary in 2016.

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<sup>13</sup> Regulation [\(EU\) 603/2013](#).

<sup>14</sup> Directive [2013/56/EU](#).

<sup>15</sup> Directive [2013/39/EU](#).

<sup>16</sup> Regulation [\(EU\) No 492/2011](#).

<sup>17</sup> Directive [2013/14/EU](#).

<sup>18</sup> These rulings are almost exclusively handed down in infringement procedures.

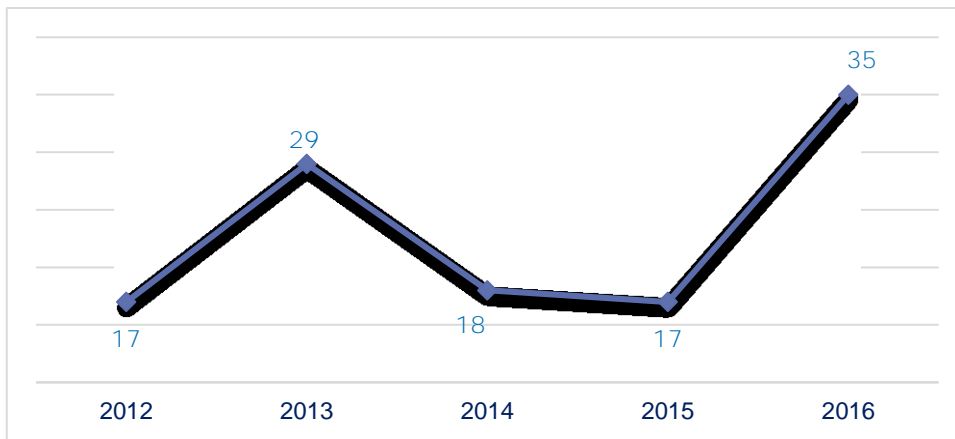
<sup>19</sup> Commission v Cyprus, [C-515/14](#).

Latvia

All the main indicators for Latvia worsened in 2016. New complaints doubled to their highest level since 2012 while the number of new EU Pilot files rose slightly after several years of steady decrease. Open infringement cases and new cases for late transposition both continued to increase.

I. COMPLAINTS

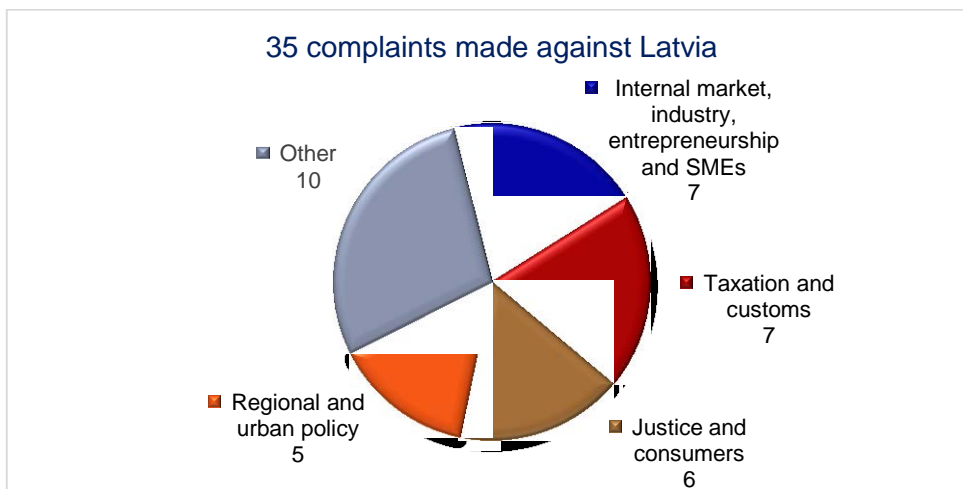
1. New complaints made against Latvia by members of the public (2012-2016)



2. Public complaints against Latvia open at year-end

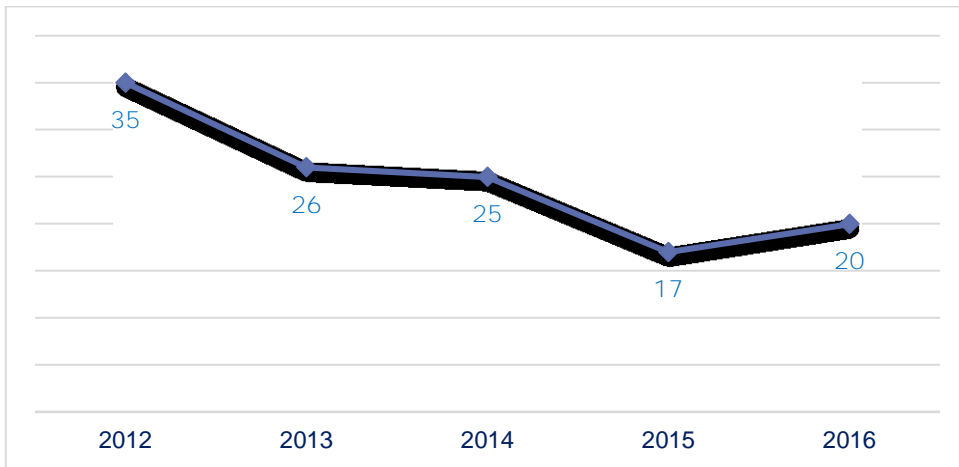
|             |   |                                    |
|-------------|---|------------------------------------|
| 18          | > | Complaints open at end-2015        |
| 35          | > | New complaints registered in 2016  |
| 27          | > | Complaints handled in 2016         |
| <b>= 26</b> | > | <b>Complaints open at end-2016</b> |

3. New complaints registered in 2016: main policy areas

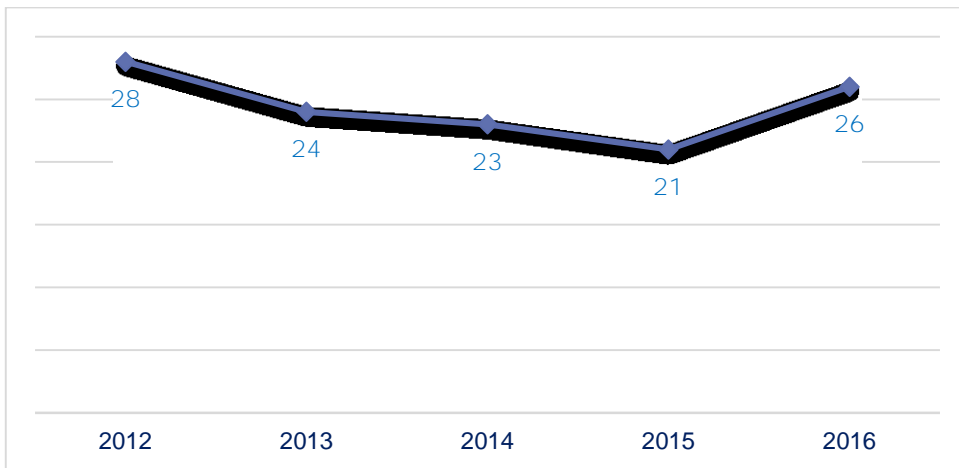


## II. EU PILOT

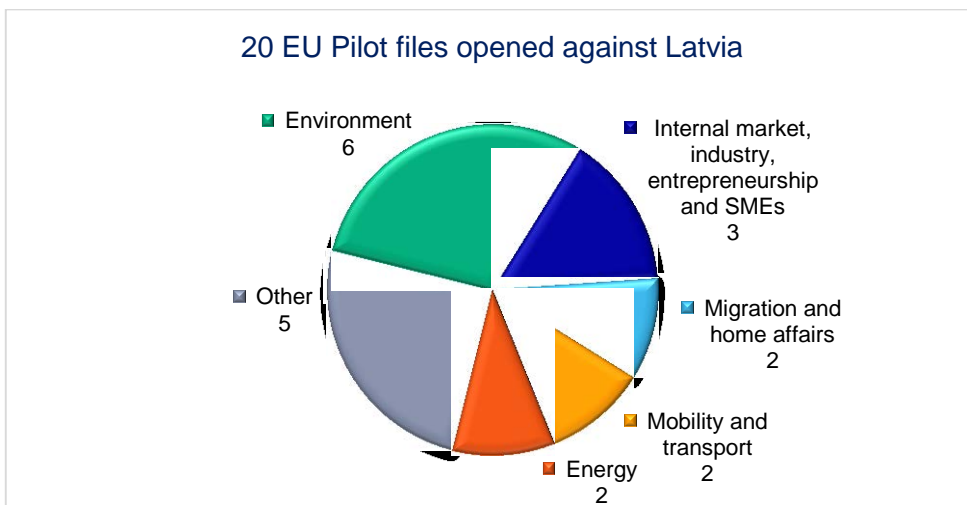
### 1. New EU Pilot files opened against Latvia (2012-2016)



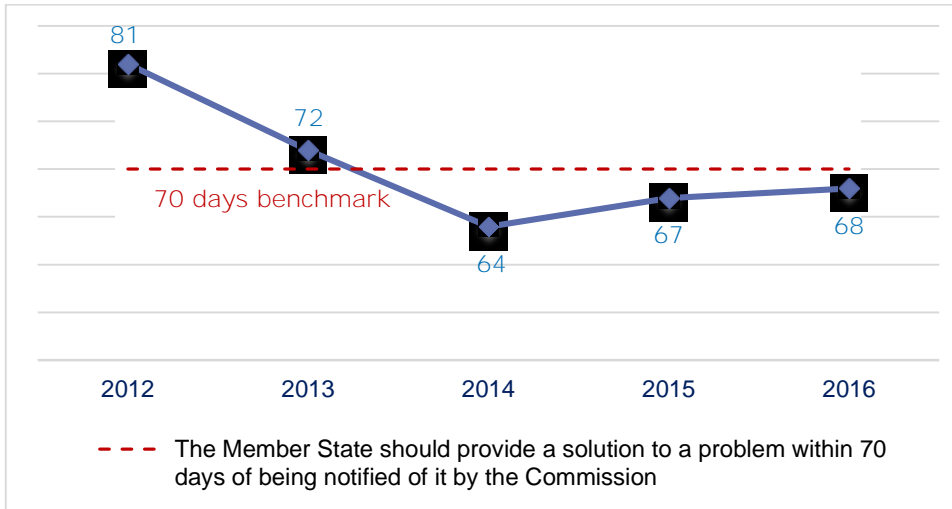
### 2. Files relating to Latvia open in EU Pilot at year-end



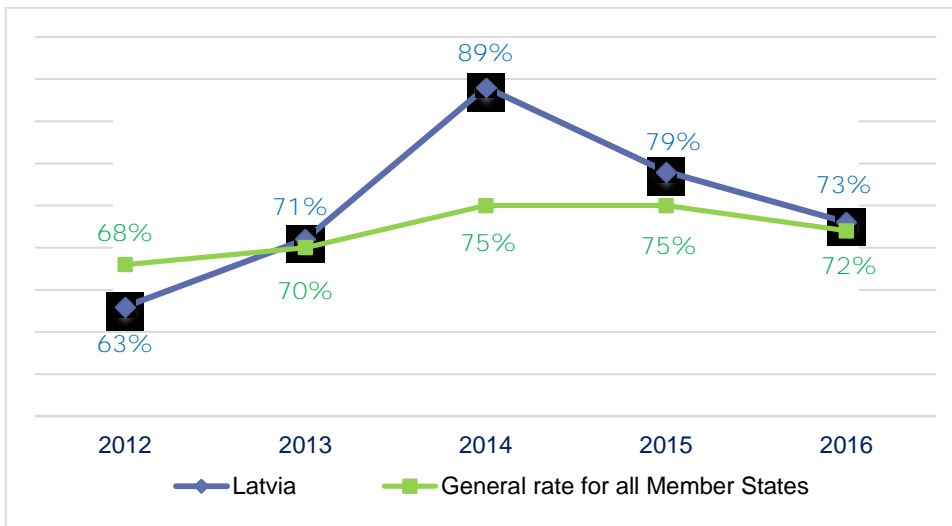
### 3. New EU Pilot files opened in 2016: main policy areas



4. EU Pilot files: Latvia's average response time in 2012-2016 (in days)

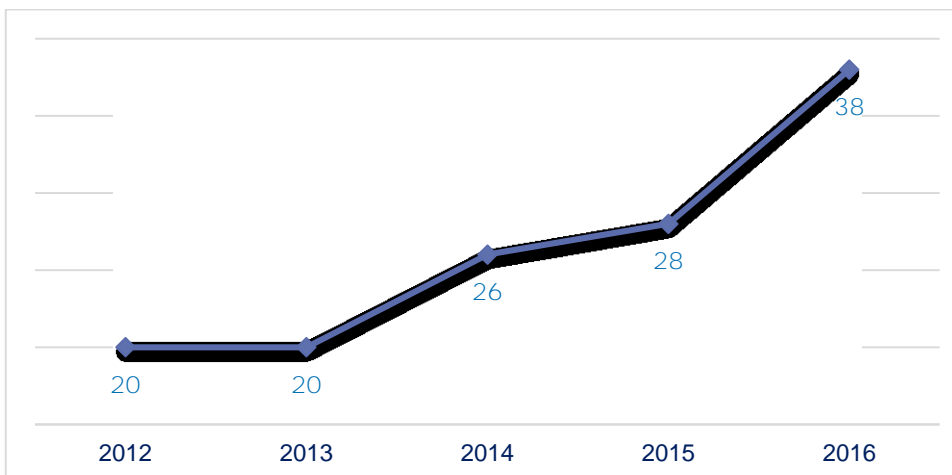


5. EU Pilot files: Latvia's resolution rate in 2012-2016

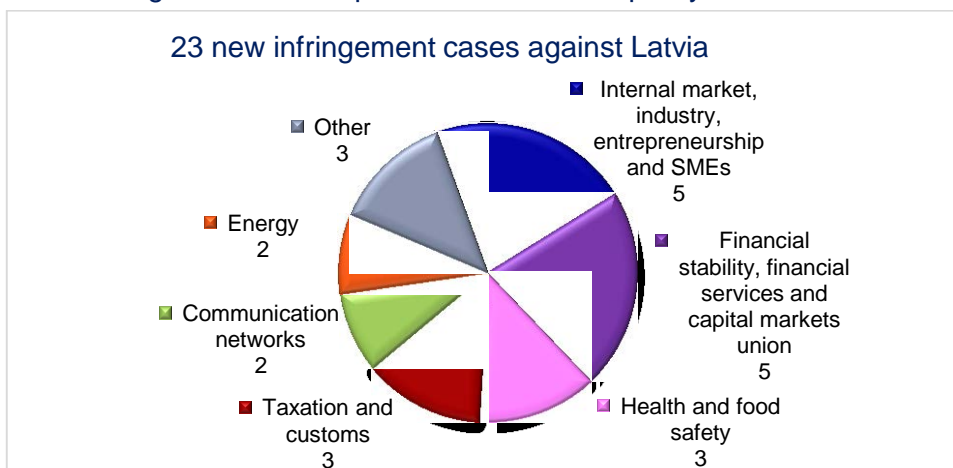


III. INFRINGEMENT CASES

1. Infringement cases against Latvia open on 31 December (2012-2016)



## 2. New infringement cases opened in 2016: main policy areas



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

- a) The Commission opened 23 new infringement cases against Latvia in 2016. These, and other major ongoing infringement cases, include:
- failure to fully transpose the Radioactive Waste Directive;<sup>1</sup>
  - failure to communicate all national measures transposing the Capital Requirements Directive<sup>2</sup> and the Directive amending the Transparency Directive;<sup>3</sup>
  - national restrictions on the acquisition of agricultural land which limit the free movement of capital and freedom of establishment by being discriminatory and/or disproportionate;<sup>4</sup>
  - failure to transpose the Directive establishing a single European railway area;<sup>5</sup>
  - failure to transpose in full the Directive amending EU legislation on the recognition of professional qualifications and the Internal Market Information System;
  - failure to transpose in full one or more of the three Directives on public procurement and concessions.<sup>6</sup>
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>1</sup> Directive [2011/70/Euratom](#); [MEMO/16/1452](#).

<sup>2</sup> Directive [2013/36/EU](#); [MEMO/16/1452](#).

<sup>3</sup> Directive [2013/50/EU](#); [MEMO/16/3644](#).

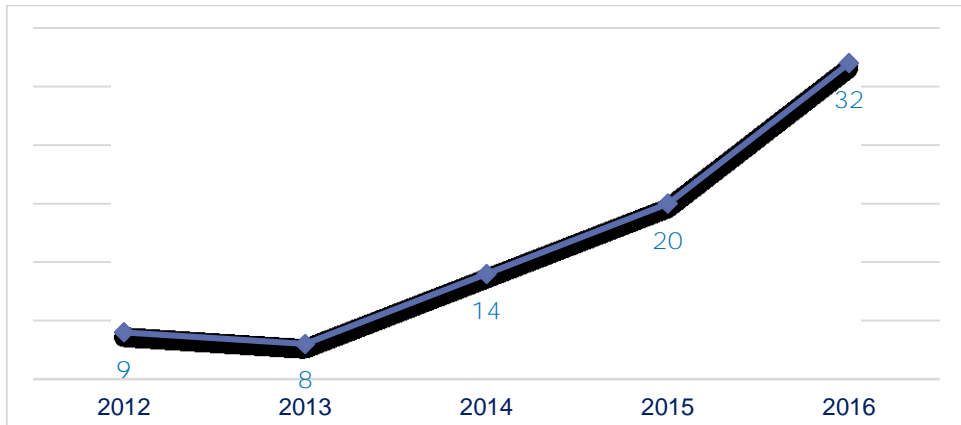
<sup>4</sup> Press releases [IP/16/1827](#) and [MEMO/16/1823](#).

<sup>5</sup> Directive [2012/34/EU](#); [MEMO/16/319](#).

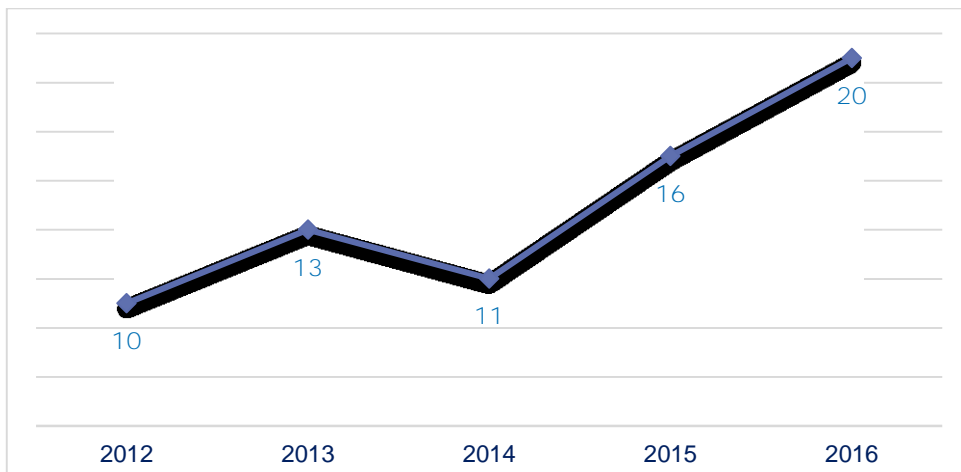
<sup>6</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#); [MEMO/16/1823](#).

#### IV. TRANSPOSITION OF DIRECTIVES

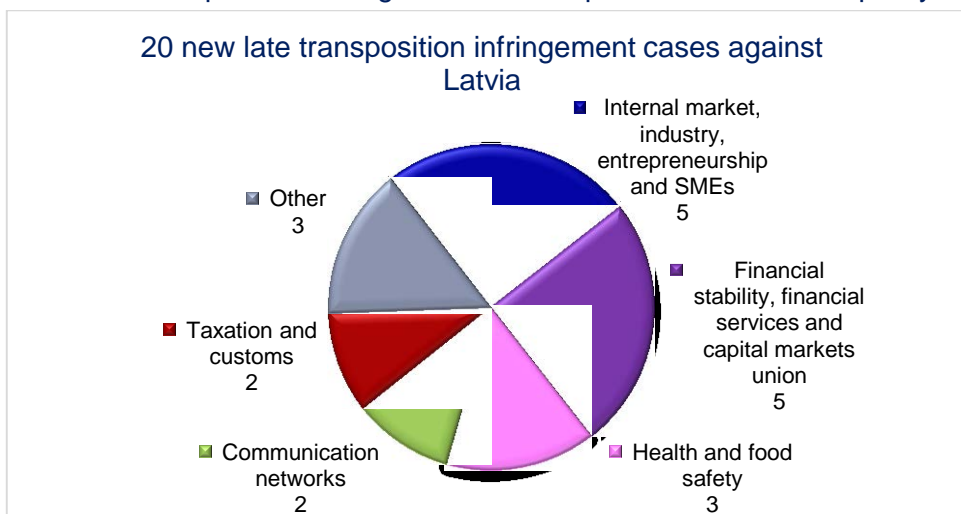
##### 1. Late transposition infringement cases against Latvia open on 31 December (2012-2016)



##### 2. New late transposition infringement cases against Latvia (2012-2016)



##### 3. New late transposition infringement cases opened in 2016: 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 2016

These concerned:

- non-communication of national measures transposing the Seveso III Directive;<sup>7</sup>
- completing the notification of all national measures necessary to transpose the Bank Resolution and Recovery Directive<sup>8</sup> and the Directive on alternative investment fund managers;<sup>9</sup>
- failure to fulfil obligations under the Directive on driving licences.<sup>10</sup>

## VI. IMPORTANT JUDGMENTS

### 1. Court ruling<sup>11</sup>

There were no major Court rulings in 2016.

### 2. Preliminary ruling

In preliminary rulings addressed to the Latvian judiciary, the Court held that:

- a Member State is not required to grant every EU citizen who has moved within its territory the same protection against extradition as that granted to its own nationals. However, before extraditing the citizen, the Member State concerned must give priority to the exchange of information with the Member State of origin and allow that Member State to request the citizen's surrender for the purposes of prosecution;<sup>12</sup>
- monies deposited in the current account that are pledged to the bank as financial collateral to cover all the account holder's debts fall within the scope of the Directive on financial collateral arrangements<sup>13</sup> if those monies have been 'provided' to the bank, that is, the collateral provider must be prevented from disposing of such monies lodged in the ordinary bank account. The Court also confirmed that the collateral does not normally fall within the scope of the Directive if it was provided after the launch of an insolvency procedure but can be enforceable in exceptional circumstances.<sup>14</sup>

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<sup>7</sup> Directive [2012/18/EU](#).

<sup>8</sup> Directive [2014/59/EU](#).

<sup>9</sup> Directive [2011/61/EU](#).

<sup>10</sup> Directive [2006/126/EC](#).

<sup>11</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>12</sup> Petruhhin, [C-182/15](#) and Court press release [No 84/16](#).

<sup>13</sup> Directive [2002/47/EC](#).

<sup>14</sup> Private Equity Insurance Group, [C-156/15](#).