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Annual Report

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COMMISSION STAFF WORKING DOCUMENT

Part I: General Statistical Overview

Accompanying the document

REPORT FROM THE COMMISSION

**Monitoring the application of European Union law
2017 Annual Report**

{COM(2018) 540 final} - {SWD(2018) 378 final} - {SWD(2018) 379 final}

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I. Working with Member States to ensure proper implementation of EU law

1. Implementation plans: state of play

In the Better Regulation Package¹, the Commission committed to actively help Member States transpose and implement legislation by preparing implementation plans for certain directives and regulations. While the responsibility for applying EU law lies with the Member States, the implementation plans aim to help them do so effectively and on time. The plans identify challenges which the Member States will face and which need to be taken into account when they prepare to transpose and implement a law. The plans also provide for a wide range of tools to help Member States implement EU laws, such as guidance documents, expert groups and dedicated websites.

In 2017 the Commission prepared an implementation plan to ensure the effective transposition and implementation of the proposal it issued for Directive empowering the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market². The plan lists a number of actions to be carried out by the Commission and by the Member States during the adoption and implementation of the proposed Directive. They are as follows.

- To ensure full implementation within the time-frame, the Commission will provide advice to the Member States, both through a single contact point and through bilateral meetings. It will also facilitate the exchange of best practices/technical solutions with the Member States for any implementation challenges that may arise. If there are any significant transposition issues, it may issue interpretative guidance. From their side, the Member States should inform the Commission about specific technical challenges or questions and may consult the Commission on draft transposition measures.
- The Commission will provide training and support for the national competition authorities upon request on issues concerning the practical implementation of new provisions in their national legal framework.
- The Commission and the national competition authorities will proactively ensure adequate information to the businesses community about the changes introduced.

The existing means for close cooperation between the Commission and the national competition authorities in the European Competition Network can be used to facilitate these actions.

The Commission will monitor the use Member States make of the implementation plan.

2. Explanatory documents: state of play

The EU institutions and the Member States agreed in 2011 that Member States, when notifying national transposition measures to the Commission, may also have to provide documents explaining how they have transposed directives into their law³. The Commission can ask Member States to submit these 'explanatory documents' in justified cases⁴.

¹ [IP/15/4988](#).

² [COM\(2017\)142](#).

³ The policy is contained in (1) a Joint Political Declaration of 28 September 2011 between the Commission and the Member States ([OJ 2011/C 369/02](#)) and (2) a Joint Political Declaration of 27 October 2011 between the European Parliament, the Council and the Commission ([OJ 2011/C 369/03](#)).

⁴ The standard recital in such directives reads as follows: Member States 'undertake to accompany the notification of transposition measures with one or more explanatory documents, which can take the form of correlation tables or other documents serving the same purpose'. The Commission will have 'to justify on a case by case basis, when submitting the relevant proposals, the need for, and the proportionality of, providing such documents'.

Explanatory documents play an essential role in promoting good understanding of national transposition measures. They help to make compliance monitoring easier: without the documents, the Commission would need considerable resources and numerous contacts with national authorities to track the methods of transposition in all Member States. As transposing measures must be merged with a complex existing legal framework, the resulting transposition exercise produces hundreds of measures to be examined.

In 2017 the Commission requested explanatory documents in nine out of 31 proposals for directives submitted to the European Parliament and the Council. The 34 directives that the Parliament and the Council adopted during the year included seven for which the Commission had requested explanatory documents. In all seven, the agreed recital on the need for such documents was maintained in the final text.

During the year Member States had to transpose 36 directives. They had undertaken to submit explanatory documents for 11 of these⁵. The process of assessing the national measures for these directives is under way.

Three of the 11 directives for which the Member States had undertaken to provide explanatory documents in 2017 concern the **environment**. Member States notified to the Commission the following numbers of explanatory documents:

- 30 for the Directive on the assessment of the effects of certain public and private projects on the environment⁶;
- 6 (including one correlation table) for the Directive on the limitation of emissions of certain pollutants into the air from medium combustion plants⁷;
- 11 for the Directive on the reduction of national emissions of certain atmospheric pollutants⁸.

Two of the 11 directives for which the Member States had undertaken to provide explanatory documents concern **energy**. Member States notified to the Commission the following numbers of explanatory documents:

- 22 (including three correlation tables) for the Council Directive establishing a Community framework for the nuclear safety of nuclear installations⁹;
- 11 (including two correlation tables) for the Directive on quality of petrol and diesel fuels¹⁰.

Two of the 11 directives concern **financial markets**. Member States notified to the Commission the following numbers of explanatory documents:

- 43 (including five correlation tables) for the Markets in Financial Instruments Directive¹¹;

⁵ The report takes into account the explanatory documents submitted for these directives between 1 January and 31 December 2017.

⁶ [Directive 2014/52/EU](#).

⁷ [Directive 2015/2193/EU](#).

⁸ [Directive 2016/2284/EU](#).

⁹ [Directive 2014/87/Euratom](#).

¹⁰ [Directive 2015/1513/EU](#).

¹¹ [Directive 2014/65/EU](#).

- 12 (including 1 correlation table) for the Directive on safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits¹².

Two of the 11 directives are in the field of **justice and consumers**. The Commission received

- 15 explanatory documents (including three correlation tables) for the Directive on the European Investigation Order in criminal matters¹³;
- 18 explanatory documents (including five correlation tables) for the Directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing¹⁴.

One of the 11 directives is on **transport**. The Commission received 12 explanatory documents (including five correlation tables) for the Directive on driving licences¹⁵.

One of the 11 directives concerns the **internal market**. The Commission received 12 explanatory documents for the Directive on the list of defence-related products¹⁶.

Overall, in 2017 Member States did not deliver in all cases on their commitment to provide explanatory documents together with the national measures transposing the directives into their legal order. An initial assessment of the explanatory documents that were submitted indicates that their quality is uneven.

The Commission will continue to report to the Parliament and the Council on explanatory documents in its annual reports on the application of EU law.

¹² [Directive 2017/593/EU](#).

¹³ [Directive 2014/41/EU](#).

¹⁴ [Directive 2015/849/EU](#).

¹⁵ [Directive 2015/653/EU](#).

¹⁶ [Directive 2017/433/EU](#).

II. Infringement procedures

There are three main types of infringements of EU law:

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

Infringements may be detected by the Commission's own investigations or brought to its attention by complaints or petitions from members of the public, businesses, NGOs or other organisations. The Commission actively informs complainants of the decisions taken throughout all stages of the procedure.

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

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

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

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

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

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

The Commission regularly publishes information about its decisions on infringement procedures on the Europa portal.

III. Before an infringement procedure is started

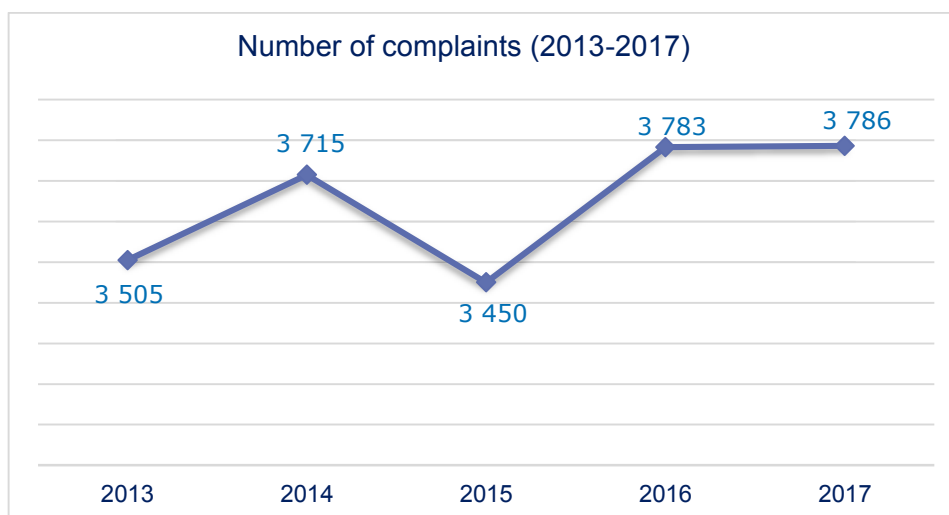
3. Detecting problems

3.1. Own-initiative cases

The Commission examines the implementation of EU law mainly on its own initiative. In 2017 it launched 139 such investigations using the EU Pilot mechanism (EU Pilot is explained in point 2 below), against 520 in 2016¹⁷. In addition to these cases, the Commission opened 684 infringement procedures by directly sending a letter of formal notice.

3.2. Complaints and petitions

The number of new complaints in 2017 reached its highest level since 2011.



The chart below shows further key data on complaints from members of the public¹⁸:

Public complaints open at year-end

- 3 423 > Complaints open at end-2016
- 3 786 > New complaints registered in 2017
- 3 611 > Complaints handled in 2017
- 3 423 + 3 786 - 3 611 = 3 598 > Complaints open at end-2017

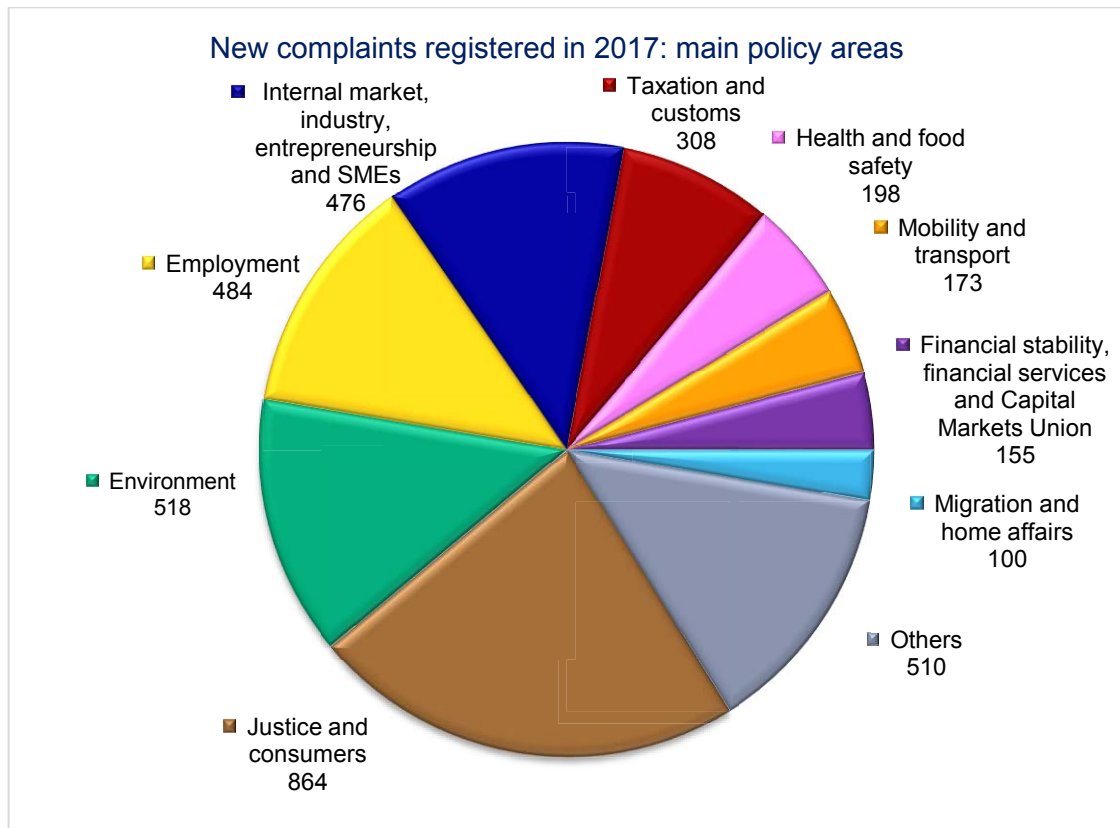
The Commission registered 3 786 new complaints in 2017. The three Member States against which it filed the most complaints were Italy, Spain and France.

- **Italy:** 533 complaints, most of them related to: environment (160 complaints); internal market, industry, entrepreneurship and SMEs (104 complaints); and employment (60 complaints);
- **Spain:** 437 complaints, especially in connection with: justice and consumers (109 complaints); environment (89 complaints); and employment (63 complaints); and
- **France:** 383 complaints, mainly related to: justice and consumers (74 complaints); employment (73 complaints); and environment (68 complaints).

¹⁷ Pursuant to the Communication 'EU law: Better results through better application' ([C\(2016\)8600](#)), the Commission will launch infringement procedures without relying on EU Pilot, unless recourse to this mechanism is seen as useful in a given case.

¹⁸ The number of complaints open at end-2017 (d) is calculated by adding together the number of complaint files open at end-2016 (a) and of new complaints opened in 2017 (b), then subtracting the number of complaints handled during 2017 (c) (a+b-c=d).

The following chart shows the main policy areas in which new complaints were registered in 2017. Together they account for 97 % of all complaints received in 2017.



The Commission handled 3 611 complaints in 2017. Once it has assessed complaints, the Commission may launch an investigation using the EU Pilot mechanism to clarify whether EU rules have been breached. Not all complaints in 2017 led to such investigations, for the following reasons: no EU laws were breached (2 312), the Commission had no power to act (7) or the correspondence did not qualify as a complaint (940)¹⁹. The Commission did not pursue 206 cases as the complainants withdrew their complaint. 3 465 complaints have therefore been closed.

Complaints leading to investigations (39) using the EU Pilot mechanism were most frequently related to taxation and customs (17 files opened under EU Pilot), internal market, industry, entrepreneurship and SMEs (8 files opened under EU Pilot) and agriculture and rural development (5 files opened under EU Pilot).

These 39 complaints also mainly concerned Spain, France and Italy.

- **Spain:** 7 new EU Pilot files, in connection with complaints about taxation and customs (3); internal market, industry, entrepreneurship and SMEs (2); agriculture and rural development (1); competition (1).
- **France:** 4 new EU Pilot files, in connection with complaints about taxation and customs (1); environment (1); climate action (1); agriculture and rural development (1).

¹⁹ According to conditions set out in point 3 of the Annex on administrative procedures for the handling of relations with the complainant regarding the application of European Union law to the Communication *EU law: Better results through better application* (C(2016)8600).

- **Italy:** 4 new EU Pilot files, in connection with complaints about taxation and customs (3) and agriculture and rural development (1).

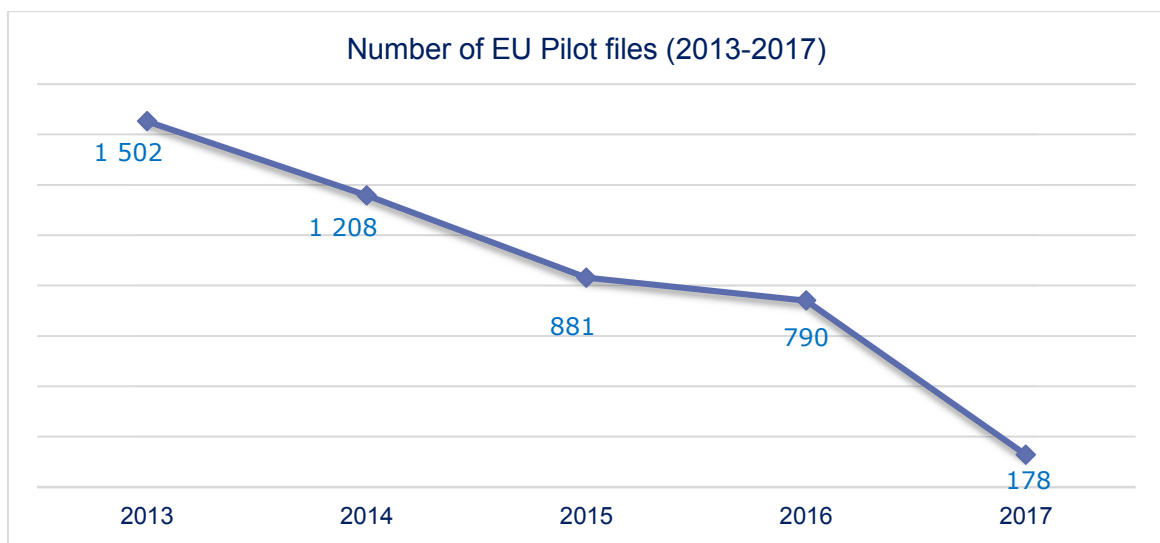
Through petitions and questions, the European Parliament alerted the Commission to shortcomings in the way some Member States were implementing and applying certain EU laws in 2017. These include the following:

- **Environment:** The Commission launched a bilateral dialogue with a Member State on the exclusion of grass clippings from the definition of waste in the national legislation transposing the Waste Framework Directive²⁰. In another cases about the management of waste from extractive industries, the Commission began a bilateral dialogue with the Member State concerned.
- **Migration and home affairs:** The Commission launched a bilateral dialogue with a Member State on equal treatment of third-country nationals regarding access to water and electricity services.
- **Taxation:** In the area of indirect taxation, petitions and most parliamentary questions concerned issues already covered by Commission's ongoing investigations in areas such as national practice concerning the exemption rules under the VAT Directive, the application of value added tax to fuels, and taxation on sustainable tourism.
- **Internal market:** The Commission launched bilateral discussions with a Member State on the conditions for access to and exercise of the profession of lawyer.

4. EU Pilot

The EU Pilot dialogue between the Commission and Member States was set up to quickly resolve potential breaches of EU law at an early stage in appropriate cases. It should be avoided that recourse to EU Pilot adds a lengthy step to the infringement process, which in itself is a means to enter into a problem-solving dialogue with a Member State. In line with the Communication *EU law: Better results through better application*, the Commission will henceforth launch infringement procedures without relying on the EU Pilot mechanism unless recourse to EU Pilot is seen as useful in a given case.

As a result of the new approach, in 2017 the number of new EU Pilot files reached the lowest level since 2011 (see the chart below).



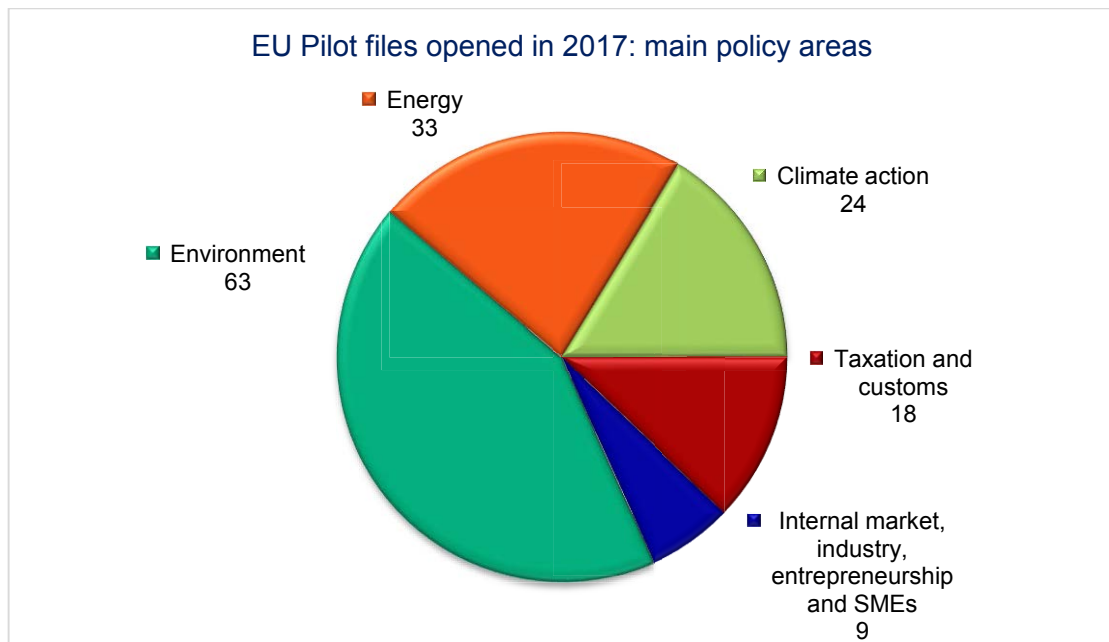
²⁰ [Directive 2008/98/EC](#).

The following chart shows the main EU Pilot figures for 2017²¹:

EU Pilot files open at year-end	
1 175	> EU Pilot files open at end-2016
178	> New EU Pilot files registered in 2017
512	> EU Pilot files handled in 2017
= 841	> EU Pilot files open at end-2017

178 new EU Pilot files were opened in 2017. Of these, 39 were triggered by complaints and 139 were opened by the Commission on its own initiative.

The following pie chart shows the policy areas in which most new EU Pilot files were opened in 2017:

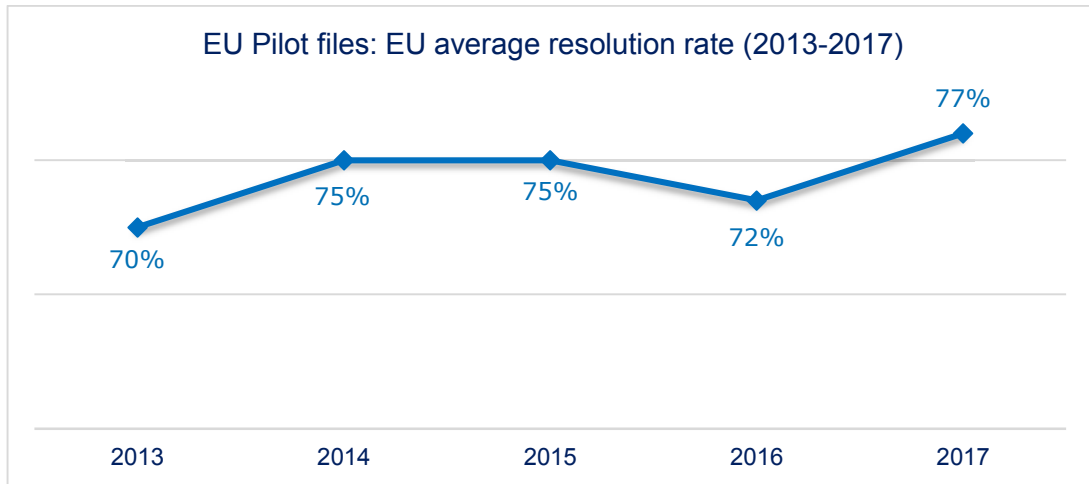


The Commission handled 512 EU Pilot files in 2017. It closed 393 of these after receiving satisfactory answers from the Member States concerned. This gives a resolution rate of **77 %**, which is above the 2016 and 2015 levels.

Altogether, **119 EU Pilot files** were closed because the Commission rejected the responses provided by Member States. Of these, 60 were followed up by launching formal infringement procedures. While 8 of these procedures were based on complaints, the Commission launched the remaining 52 at its own initiative.

Most EU Pilot files which led to formal infringement procedures concerned the following policy areas: environment (27 cases), energy (7), and communications, networks, content and technology (6). Slovenia had the highest number of files in EU Pilot which were pursued through infringement procedures (6), followed by Spain, Portugal and Greece (5 files each).

²¹ The number of EU Pilot files open at end-2017 (d) is calculated by adding together the numbers of files open at end-2016 (a) and of new files opened in 2017 (b), then subtracting the number of files handled during 2017 (c) (a+b-c=d).

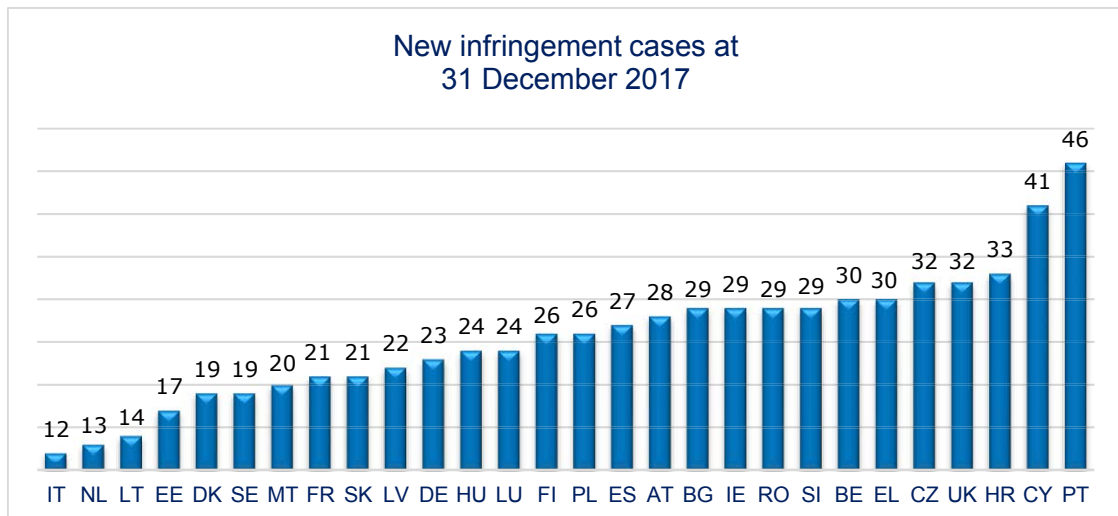


At the end of 2017, 841 EU Pilot files were open. The main Member States concerned were Italy (70), Spain (55) and France (50). The environment remained the main policy area affected (240 open files), followed by justice and consumers (127), taxation and customs (94), and internal market, industry, entrepreneurship and SMEs (90).

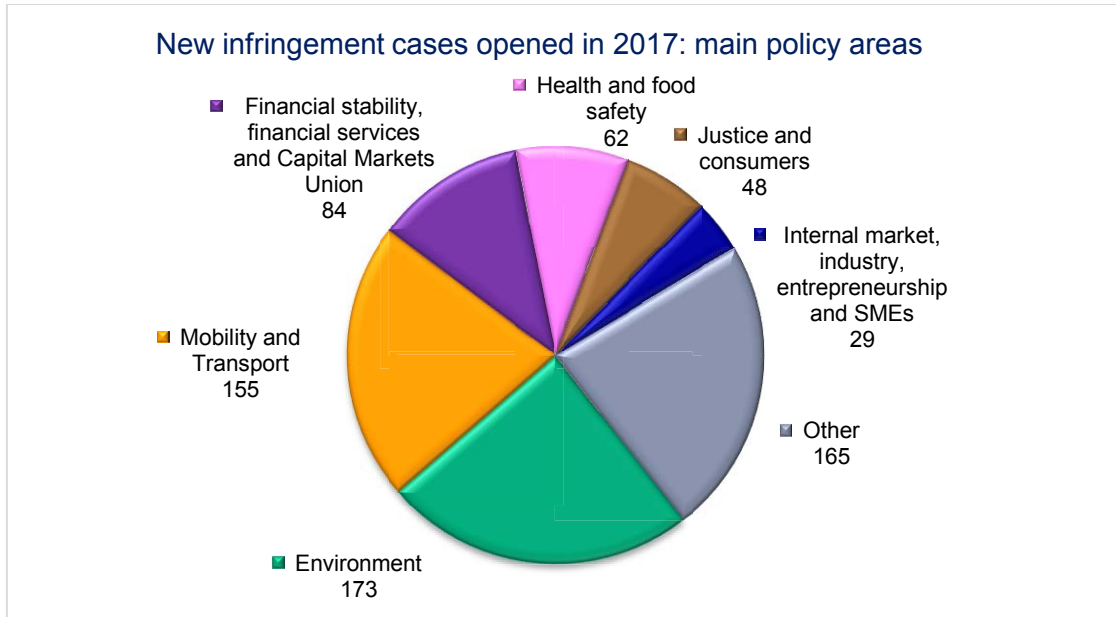
IV. Stages in infringement procedures

1. Pre-litigation phase

In 2017, the Commission launched **716** new procedures by sending a letter of formal notice. The following chart gives the breakdown by Member State.

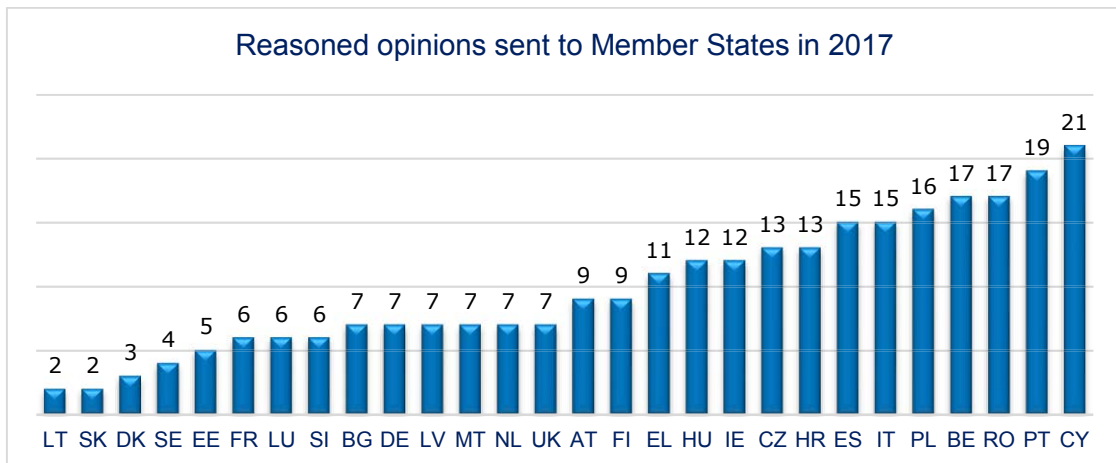


The following chart shows the main policy areas in which new procedures were opened.

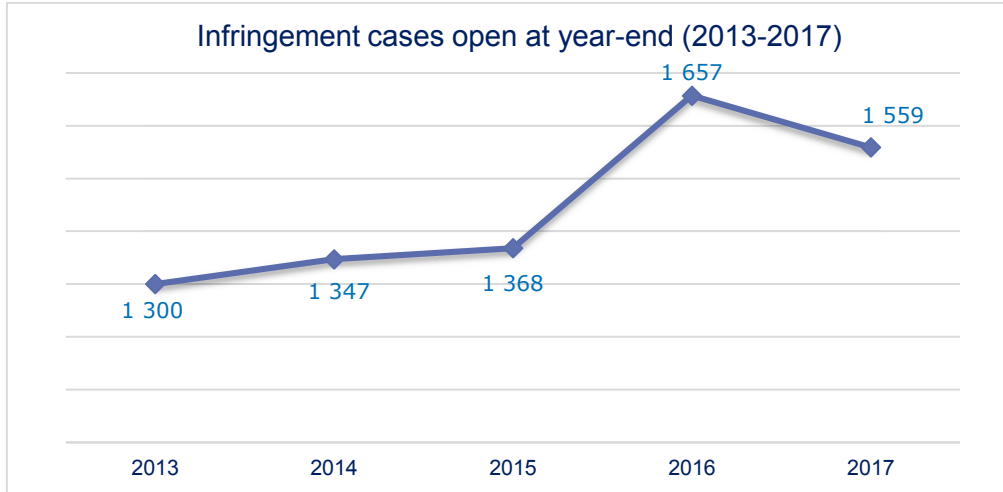


The Commission also sent 275 reasoned opinions to Member States in 2017. The main policy areas concerned were environment (45), mobility and transport (45), financial services (43), and internal market (36).

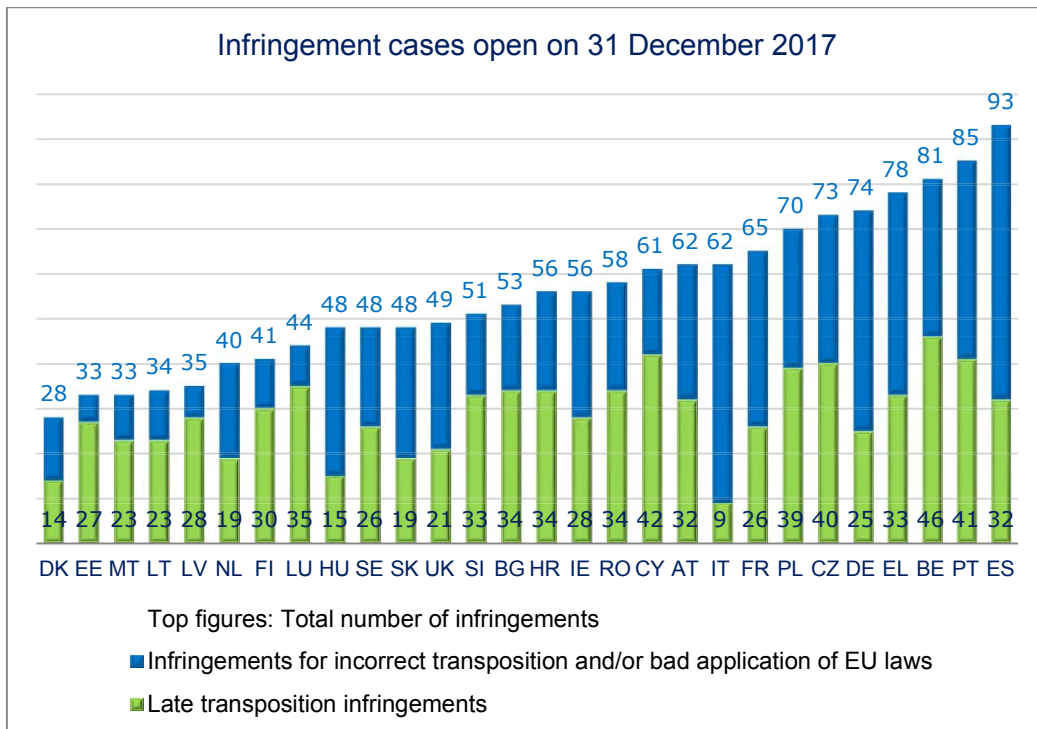
The following chart gives the breakdown by Member State.



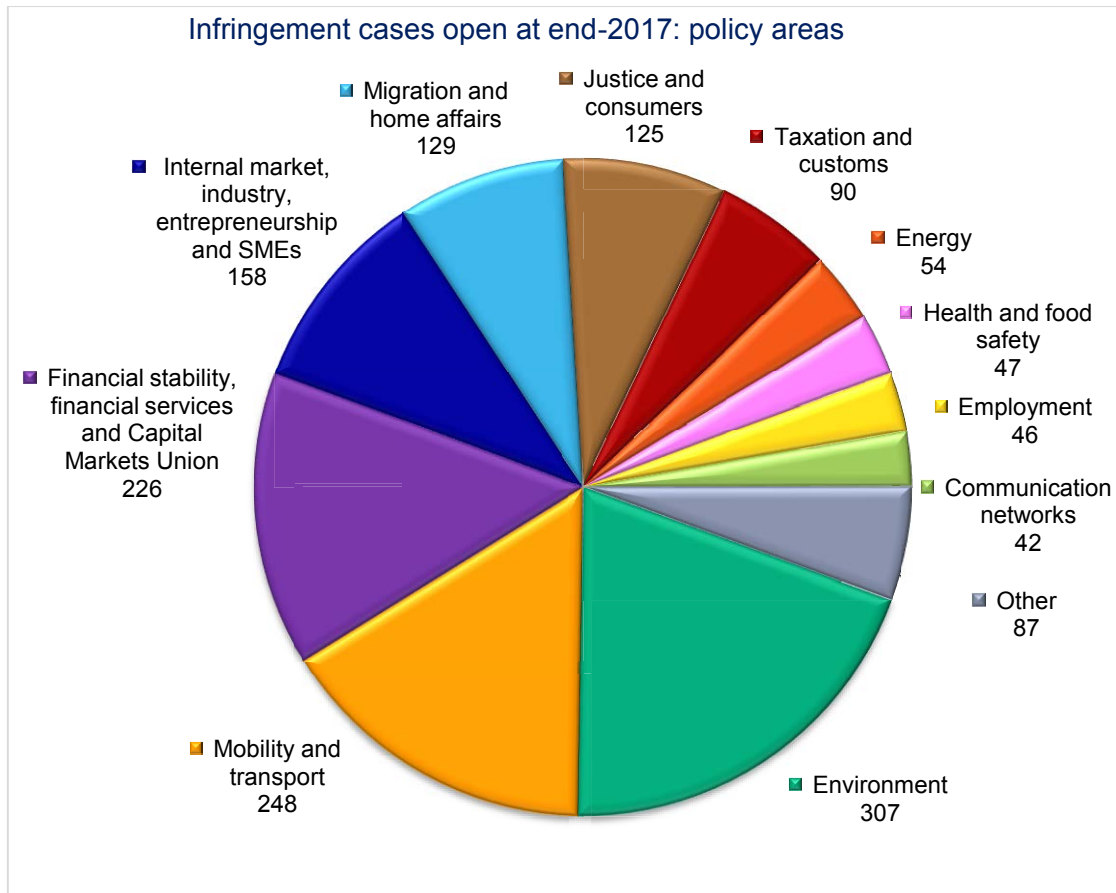
At the end of 2017, **1 559** infringement cases remained open. This is a decrease from the previous year, as the following chart shows.



The following chart shows the number of open infringement cases by Member State at the end of 2017:



The following chart shows the breakdown of the infringement cases open at the end of 2017, by policy area:



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

In 2017 the Commission closed the following.

- 563²² infringements after sending letters of formal notice.
- 209 cases after sending reasoned opinions.
- 17 cases after deciding to refer the case to the Court but before submitting the application, and 18 cases following a Court Judgment. In addition, the Commission withdrew 8 cases from the Court before the latter handed down its ruling. These cases were withdrawn as the Member States concerned took the necessary measures to comply with EU law.

In 2017 the Commission referred and submitted 28 cases to the Court under Article 258 TFEU.

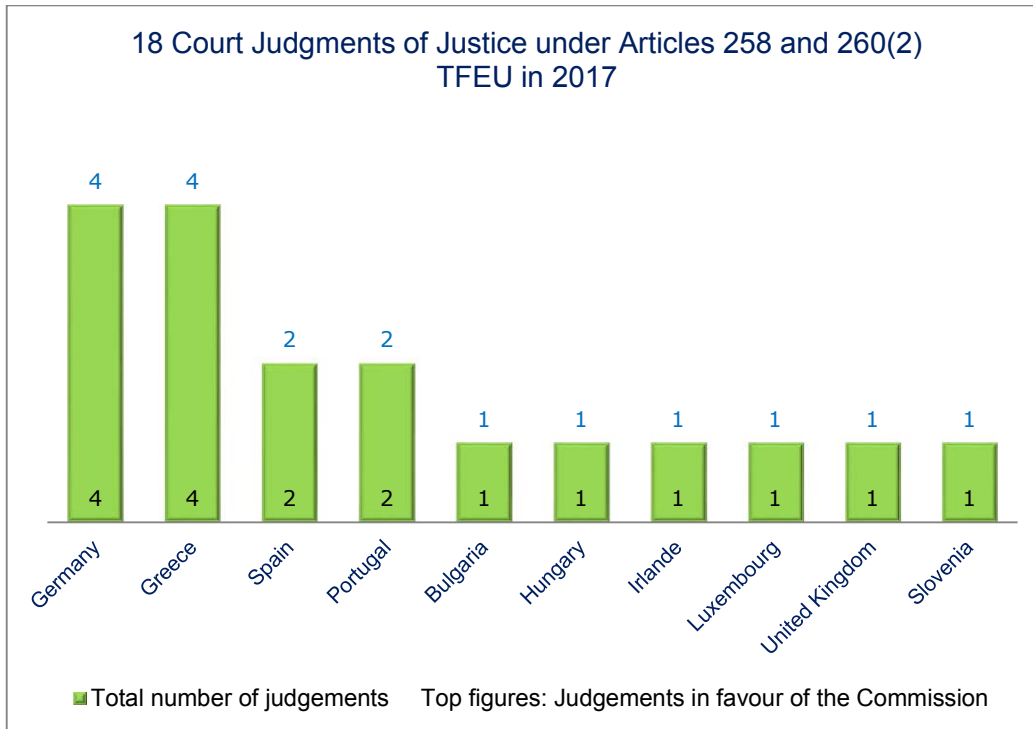
In 2017, the Commission referred 3 cases to the Court under Article 260(2) TFEU.

2. Judgments of the Court of Justice under Articles 258 and 260(2) TFEU

In 2017 the Court gave 17 judgments under Article 258 TFEU and 1 judgment under Article 260§2 TFEU. All were in the Commission's favour.

²² Includes three letters of formal notice under Article 260 TFEU.

Germany (4), Greece (4), Portugal (2) and Spain (2) were the subject of the most Court judgments under Article 258 TFEU in 2017.



Member States frequently take the measures needed to comply with a Court judgment promptly. However, at the end of the year 93 infringement procedures were still open after a Court ruling because the Commission considered that the Member States concerned had not yet complied with judgments under Article 258 TFEU. The main Member States concerned were Greece (16), Portugal (10), Spain (9) and Germany (7). The cases mainly related to the environment (48), transport and mobility (18), taxation and customs (8), and the internal market (6).

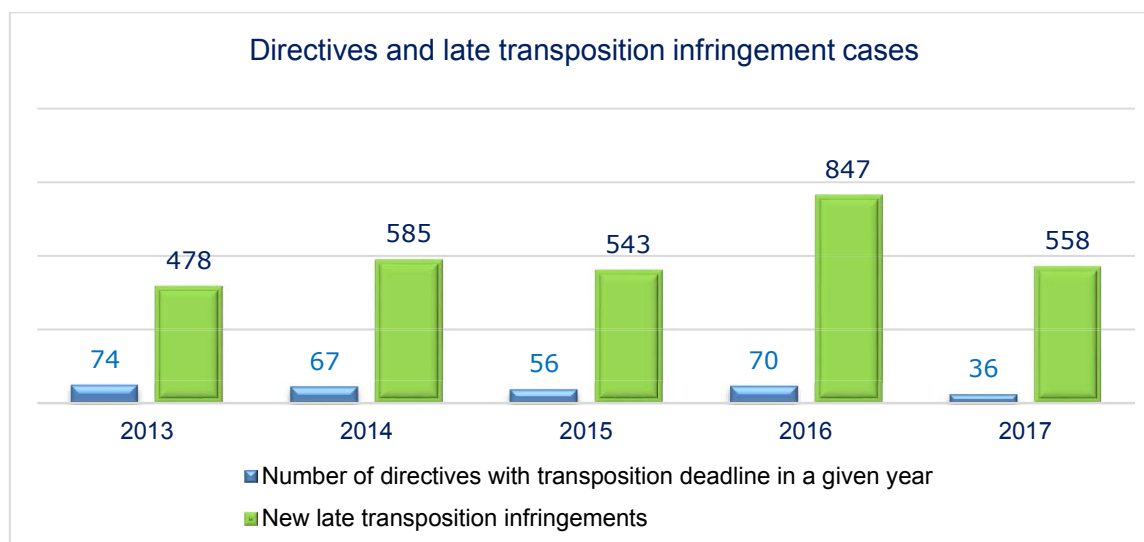
Of these 93 cases, 13 had already been referred to the Court for the second time. When the Court imposes financial penalties under Article 260(2) TFEU, the defaulting Member State must pay the lump sum immediately and continue to pay the periodic penalty until it complies fully with the first and second Court judgments. In 2017, the Court delivered 1 judgment under Article 260(2) TFEU. It imposed penalty payments on Spain²³. At the end of 2017, 9 infringement procedures were still open after a Court ruling under Article 260(2) TFEU.

²³ Commission v Spain, [C-388/16](#) (lump sum payment of EUR 3 million).

V. Transposition of directives

1. Late transposition

Combating late transposition is a long-established priority for the Commission. The Commission therefore proposes financial sanctions whenever it refers a Member State to the Court of Justice under Articles 258 and 260(3) TFEU for not having communicated on time its measures to transpose a directive adopted under a legislative procedure (see details in subsection V.2).



There were 36 directives to transpose in 2017, down from 70 in 2016. **New late transposition infringements decreased sharply, to 558** from 847.

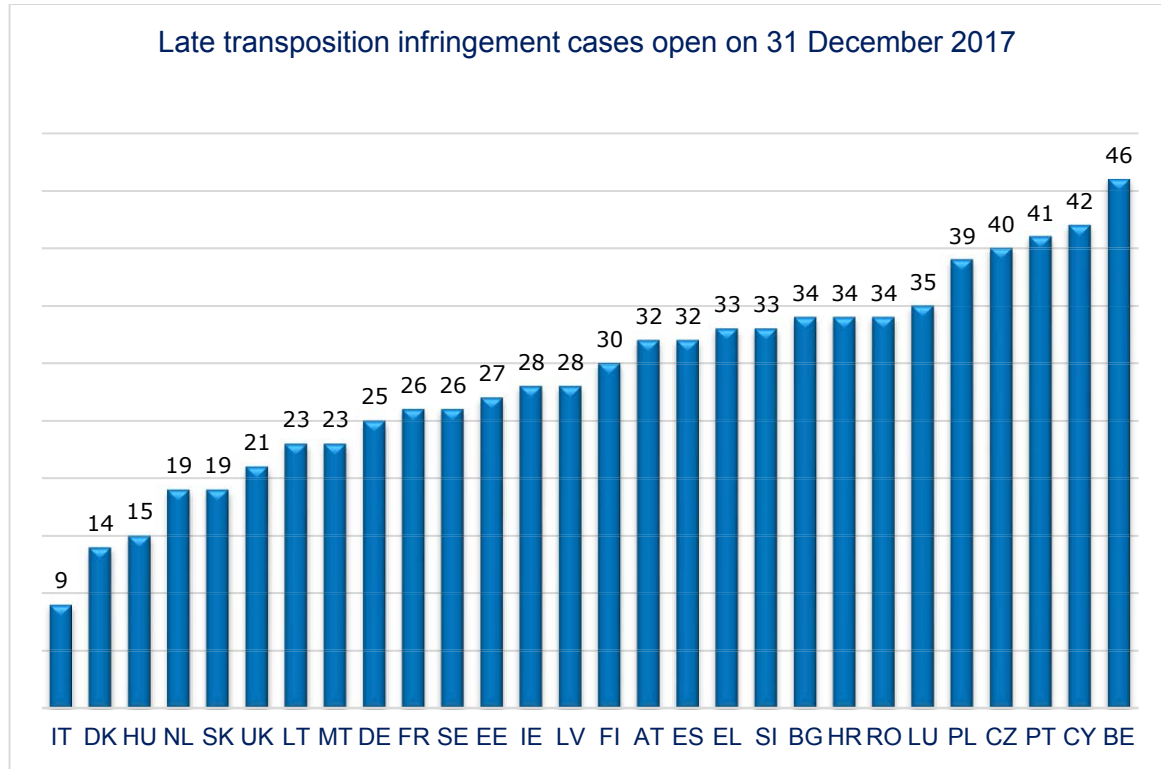
At the end of 2017, **808 late transposition infringement cases were still open**, a 7 % increase from the 874 cases open at the end of 2016.

Late transposition infringement cases open at year-end

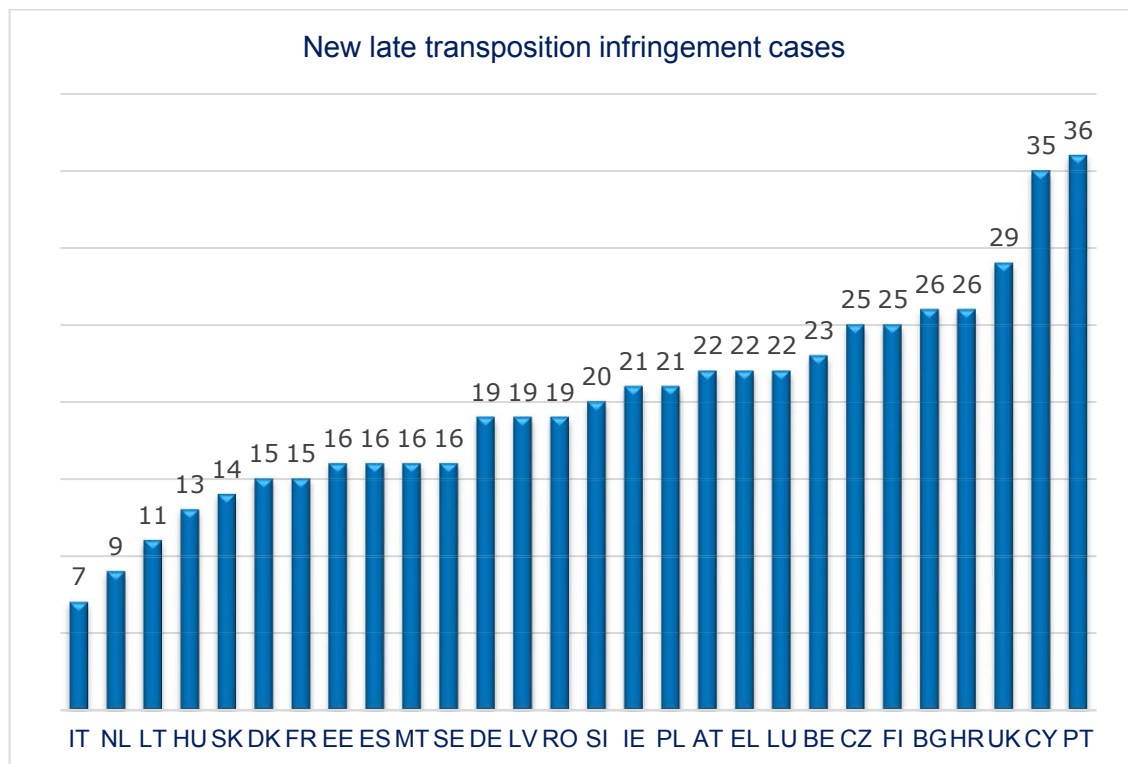
$$\begin{aligned}
 &874^{24} > \text{Late transposition cases open at end-2016} \\
 &558 > \text{New late transposition cases registered in 2017} \\
 &624 > \text{Late transposition cases closed in 2017} \\
 \hline
 &= 808 > \text{Late transposition cases open at end-2017}
 \end{aligned}$$

²⁴ Corrigendum: The 2016 Annual Report stated that 868 cases were open at end-2016. This clerical error has been corrected to reflect the actual number of open late transposition cases: 874 cases open at end-2016.

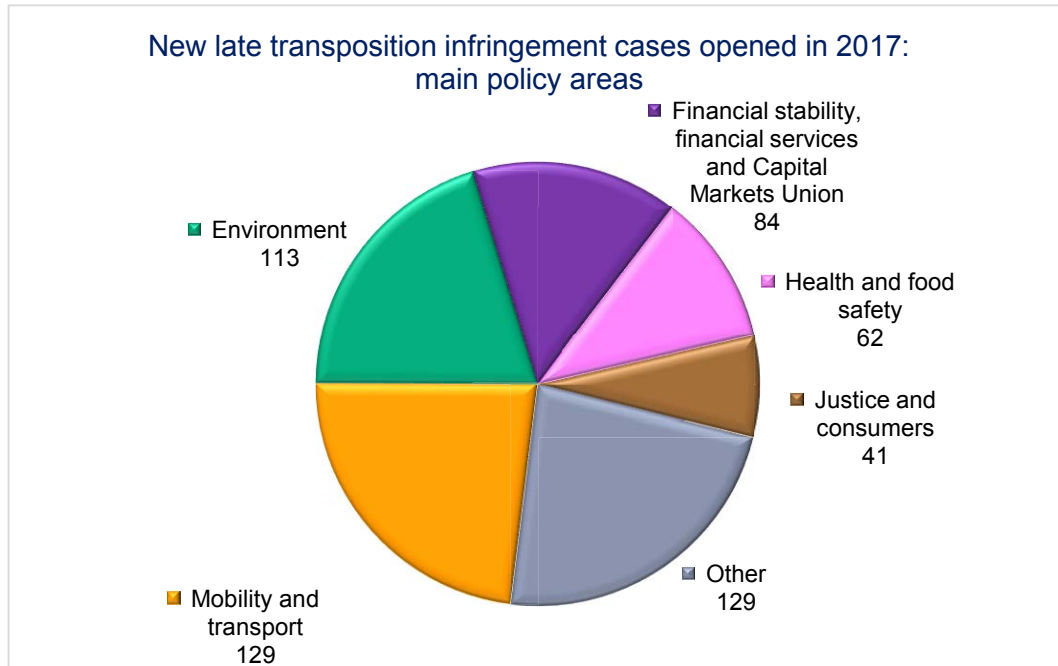
The following chart shows the number of late transposition infringement cases open at the end of 2017 by Member State, irrespective of the year in which the case was opened.



The next chart shows new late transposition infringement cases (**558** in total) opened in 2017, by Member State.



The policy areas in which the new cases were launched in 2017 are shown in the following chart:



New cases were launched against 23 Member States for late transposition of the Directive on fuel quality²⁵. In addition, 21 Member States were involved in cases of late transposition of the Directive on the deployment of alternative fuels infrastructure²⁶. The Commission launched 21 procedures over late transposition of the Antitrust Damages Directive²⁷.

2. Referrals to the Court of Justice under Article 258 and 260(3) TFEU

Under Article 260(3) TFEU, the Commission may propose financial penalties even when referring a case for the first time to the Court of Justice under Article 258 TFEU for failure to fully transpose a legislative Directive. This innovation, introduced in the Treaty of Lisbon, aims to give Member States a greater incentive to transpose directives on time. The Commission decides on the level of financial penalties to propose in line with the policy laid down in its Communication on the implementation of Article 260(3) TFEU.

In 2017 the Commission continued to bring late transposition infringement cases to the Court of Justice with a request for daily penalties under Article 260(3) TFEU. It referred 5 Member States to the Court in 2017: Belgium (2 cases)²⁸, Croatia (2 cases²⁹), Slovakia³⁰, Slovenia³¹ and Spain³² (1 case each).

²⁵ [Directive 2015/652/EU](#).

²⁶ [Directive 2014/94/EU](#).

²⁷ [Directive 2014/104/EU](#).

²⁸ Commission v Belgium, [C-543/17](#). The Commission referred Belgium to the Court for failing to fully implement the Directive on measures to reduce the cost of deploying high-speed electronic communications networks. It proposed a daily penalty of EUR 54 639.36. In a second case (Commission v Belgium, [C-564/17](#)), the Commission referred Belgium to the Court for failing to fully implement the Single Permit Directive. It proposed a daily penalty of EUR 70 828.80.

²⁹ Commission v Croatia, [C-381/17](#). The Commission referred Croatia to the Court for failing to fully implement the Mortgage Credit Directive. It proposed a daily penalty of EUR 9 865.40. In a second case (Commission v Croatia, [C-415/17](#)), the Commission referred Croatia to the Court for failing to fully implement the Directive on statutory audits of annual accounts and consolidated accounts. It proposed a daily penalty of EUR 9 275.20.

In another 5 cases the Commission took a decision for referral but the Member States adopted the transposition measures before the application was sent to Court and thus avoided the Court procedure. These cases concerned late transposition of the Single European Railway Area Directive (Romania)³³, the Banking Recovery and Resolution Directive (Sweden)³⁴, the Deposit Guarantee Schemes Directive (Poland)³⁵, the Enforcement Directive on Posting of Workers (Croatia)³⁶ and the Directive on measures to reduce the cost of deploying high-speed electronic communications networks (Croatia)³⁷.

In 2017 Member States increased their efforts to complete transposition before the Court of Justice delivered its judgments. However, 34 cases with a proposal for daily penalties remained open: 5 cases each against Spain and Luxembourg; 3 cases each against Belgium, Austria and Slovenia; 2 cases each against Bulgaria and Croatia; 1 case each against Czech Republic, Germany, Ireland, Greece, Cyprus, France, Netherlands, Portugal, Romania, Slovakia and Finland.

³⁰ Commission v Slovakia, [C-605/17](#). The Commission referred Slovakia to the Court for failing to fully implement the Directive on measures to reduce the cost of deploying high-speed electronic communications networks. It proposed a daily penalty of EUR 10 036.80.

³¹ Commission v Slovenia, [C-594/17](#). The Commission referred Slovenia to the Court for failing to fully implement Council Directive on requirements for budgetary frameworks of the Member States. It proposed a daily penalty of EUR 7 099.20.

³² Commission v Spain, [C-569/17](#). The Commission referred Spain to the Court for failing to fully implement the Mortgage Credit Directive. It proposed a daily penalty of EUR 105 991.60.

³³ [Directive 2012/34/EU](#).

³⁴ [Directive 2014/59/EU](#).

³⁵ [Directive 2014/49/EU](#).

³⁶ [Directive 2014/67/EU](#).

³⁷ [Directive 2014/61/EU](#).

VI. Methodology and explanations

1. Detecting problems

First chart: Number of complaints (2013-2017)

This shows the total number of complaints the Commission registered for the years 2013-2017.

Second chart: Public complaints open at year-end

This starts with the number of open complaints carried over from 2016 (first column). The second column shows the number of new complaints registered in 2017. The third column shows the number of complaints on which the Commission took a decision in 2017. The fourth column shows the number of complaints open at the end of 2017 (calculated by taking the first figure, adding the second and subtracting the third).

Third chart: New complaints registered in 2017: main policy areas³⁸

This shows the main policy areas in which the new complaints were registered in 2017.

2. EU Pilot

First chart: Number of EU Pilot files (2013-2017)

This shows the total number of EU Pilot files the Commission opened in the years 2013-2017.

Second chart: EU Pilot files open at year-end

This starts with the number of open EU Pilot files carried over from 2016 (first column). The second column shows the number of new EU Pilot files opened in 2017. The third column shows the number of files on which the Commission took a decision in 2017. The fourth column shows the number of EU Pilot files open at the end of 2017 (calculated by taking the first figure, adding the second and subtracting the third).

Third chart: EU Pilot files opened in 2017: main policy areas

This shows the policy areas in which the new EU Pilot files were opened in 2017.

Fourth chart: EU Pilot files: EU average resolution rate (2013-2017)

The resolution rate is the percentage of EU Pilot files handled for which the Commission accepted the Member States' responses. The chart shows the resolution rate for the last 5 years.

3. Infringement procedures

First chart: New infringement cases at 31 December 2017

This shows the number of new infringement cases opened in 2017, by Member State.

³⁸ The data on policy areas referred to in the main report and in the sections on the Member States is based on information provided by the European Commission's directorates-general. The policy areas are referred to as follows: agriculture and rural development; budget; climate action; communication networks, content and technology; competition; education and culture; economic and financial affairs; financial stability and Capital Markets Union; neighbourhood and enlargement negotiations; employment; energy; environment; migration and home affairs; justice and consumers; maritime affairs and fisheries; internal market, industry, entrepreneurship and SMEs; mobility and transport; regional policy; health and food safety; taxation and customs; trade.

Second chart: New infringement cases opened in 2017: main policy areas

This shows the main policy areas in which the new infringement cases were opened in 2017.

Third chart: Reasoned opinions sent to Member States in 2017

This shows the number of reasoned opinions sent to Member States in 2017.

Fourth chart: Infringement cases open at year-end (2013-2017)

This shows the number of infringements that remained open on 31 December of each year from 2013 to 2017.

Fifth: chart: Infringement cases open on 31 December 2017

These figures show all procedures that the Commission has started against each Member State by sending a letter of formal notice under Article 258 TFEU. It covers letters sent in 2017 or before, irrespective of the stages the cases have reached. Only cases which have not yet been closed by a formal decision are shown. For each Member State, the chart distinguishes between infringements for incorrect transposition and/or bad application of EU law, on the one hand, and late transposition infringements, on the other.

Accordingly, the numbers include all cases that, on 31 December 2017:

- were in the pre-litigation phase (letter of formal notice, reasoned opinion or decision on referral to the Court under Article 258 TFEU);

- were pending before the Court under Article 258 TFEU or Article 260(3) TFEU;

- the Court had ruled on but where the Commission could not yet confirm that the Member State had implemented the judgment correctly;

- were in the second pre-litigation procedure (letter of formal notice or referral decision under Article 260(2) TFEU);

- were pending before the Court due to a second referral; or

- the Court had ruled on for the second time but where the Commission could not yet confirm that the Member State had implemented the second judgment correctly.

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

Sixth chart: Infringement cases open at end-2017: policy areas

This shows the breakdown, by policy area, of the infringement cases open on 31 December 2017.

4. Transposition of directives

First chart: Directives and late transposition infringement cases

This shows how many directives had to be transposed in the years 2013-2017 and how many new infringement cases for late transposition were opened in that period.

Second chart: Late transposition infringement cases open at year-end

This starts with the number of late transposition infringements carried over from 2016 (first column). The second column shows the number of new late transposition infringements registered in 2017. The third column shows the number of complaints on which the Commission took a decision in 2017. The

fourth column shows the number of late transposition infringements open at the end of 2017 (calculated by taking the first figure, adding the second and subtracting the third).

Third chart: Late transposition infringement cases open on 31 December 2017

This shows the number of late transposition infringements open on 31 December 2017 by Member State, irrespective of the year in which the infringement was opened.

Fourth chart: New late transposition infringement cases

This figure shows the number of letters of formal notice addressed to each Member State under Article 258 TFEU for missing or partial notifications of national transposition measures in 2017. This figure is already included in the total number of new infringement cases initiated against the Member State in 2017, so it should *not* be added to the figure shown in the first chart of the general statistics section.

Please note that not all of these new infringement cases for late transposition were necessarily still open on 31 December 2017. For example, if the Commission opened a late transposition infringement procedure in March 2017 by sending a letter of formal notice, this would be added to the new infringement cases even if the Commission closed the case in October 2017 as a result of the Member State notifying complete transposition.

Fifth chart: New late transposition infringement cases opened in 2017: main policy areas

This shows the main policy areas in which the procedures for late transposition were launched in 2017.