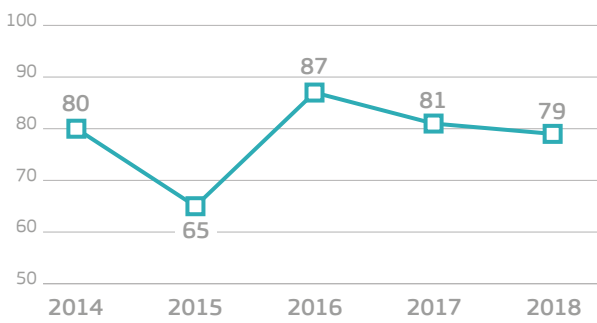


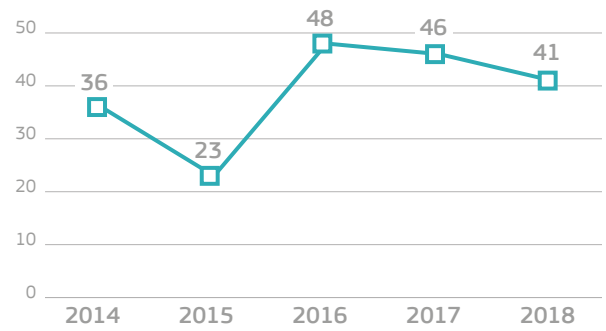
Monitoring the Application of European Union Law

Annual Report 2018

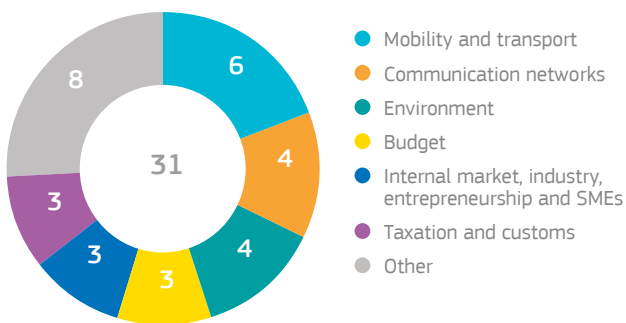
Infringement cases open as of 31 December 2018



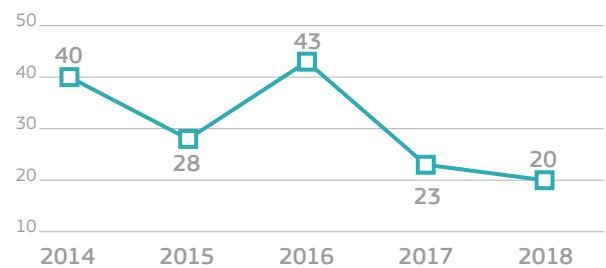
Late transposition¹ infringement cases



New infringement cases opened in 2018: main policy areas



New late transposition infringement cases



1. Number of infringement cases due to failure to implement an EU Directive into national law on time.



Relevant rulings of the European Courts:

The Court ruled, amongst others, that Belgium has failed:

- To comply with EU rules on the coordination of social security systems². The Court invalidated Belgian provisions granting national authorities the power to decide unilaterally on the existence of fraud or abuse in the case of posted workers without contacting the authorities of the Member State which had issued the portable document³.
- To fulfil its obligations under EU law in the way it calculates rental income. It calculates the rental income of Belgian taxpayers from immovable property located abroad on the basis of the actual value, while rental income on property located in Belgium is based on the cadastral value, i.e. calculated by reference to the property description and valuation.

In preliminary rulings, the Court held, amongst others, that:

- On posting of workers, the Court of Justice confirmed the binding nature of the portable document delivered by the Member State of the sending company⁴. Nevertheless, the receiving Member State can check the validity of that document and contact the issuing Member State in cases of doubt about its validity or the accuracy of the facts on which it is based. The latter is obliged to carry out a proper assessment of the facts and ensure that the information is correct, in accordance with the principle of cooperation laid down in Article 4(3) of TEU.
- Ritual slaughter without stunning may take place only in an approved slaughterhouse. The obligation to carry out ritual slaughter in an approved slaughterhouse simply aims, from a technical point of view, to organise and manage the freedom to carry out slaughter without prior stunning for religious purposes. Such a technical framework is not in itself of such a nature as to restrict the right to freedom of religion of practising Muslims⁵.
- Restrictions on the freedom of movement and residence of an EU citizen, or a family member of an EU citizen, who is suspected of having, in the past, participated in war crimes must also be assessed on a case-by-case basis, as required by the Free Movement Directive⁶.
- That assessment requires the threat that the individual concerned represents to the fundamental interests of the host society to be weighed against the protection of the rights of EU citizens and their family members⁷.
- The stand-by time of a worker at home who is obliged to respond to calls from the employer within a short period must be regarded as 'working time'. The obligation to remain physically present at the place determined by the employer and the requirement to reach the place of work within a short period very significantly restrict a worker's opportunities for other activities⁸.
- Member States are entitled to adopt a return decision as soon as an application for international protection is rejected, provided that the return procedure is suspended pending the outcome of an appeal against that rejection⁹.
- Requests for family reunification must be examined even if the national of a non-EU country, who is a family member of an EU citizen who has never exercised his right of freedom of movement, is subject to an entry ban. Whether there is a relationship of dependency between the national of a non-EU country and the EU citizen and whether public policy grounds justify the entry ban must be assessed on a case-by-case basis¹⁰.

2. Regulation (EC) 883/2004.

3. Commission v Belgium, C-356/15.

4. Altun and Others, C-359/16.

5. Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others, C-426/16 and press release.

6. Directive 2004/38/EC.

7. Joined cases: K., C-331/16 and H., C-366/16.

8. Matzak, C-518/15 and Court press release No 14/18.

9. Gnandi, C-181/16 and Court press release No 88/18.

10. K.A. and Others, C-82/16 and Court press release No 64/18.