

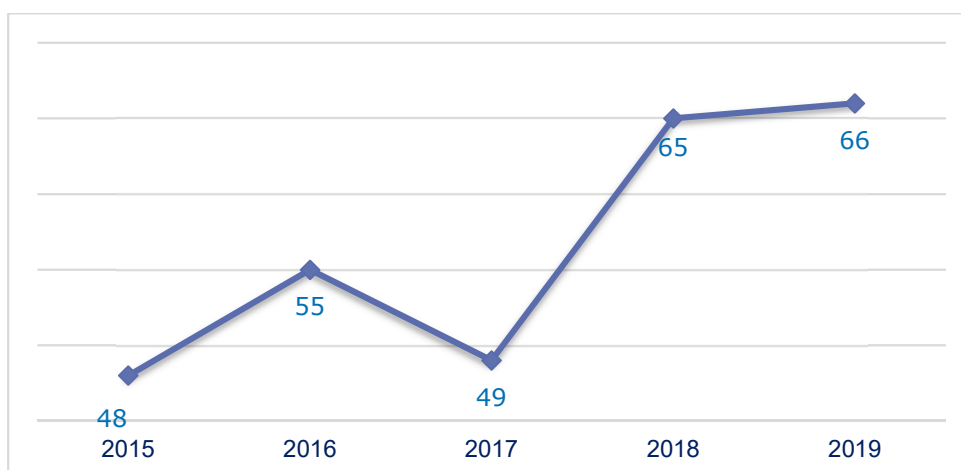
# THE UNITED KINGDOM

## Monitoring the Application of EUROPEAN UNION LAW

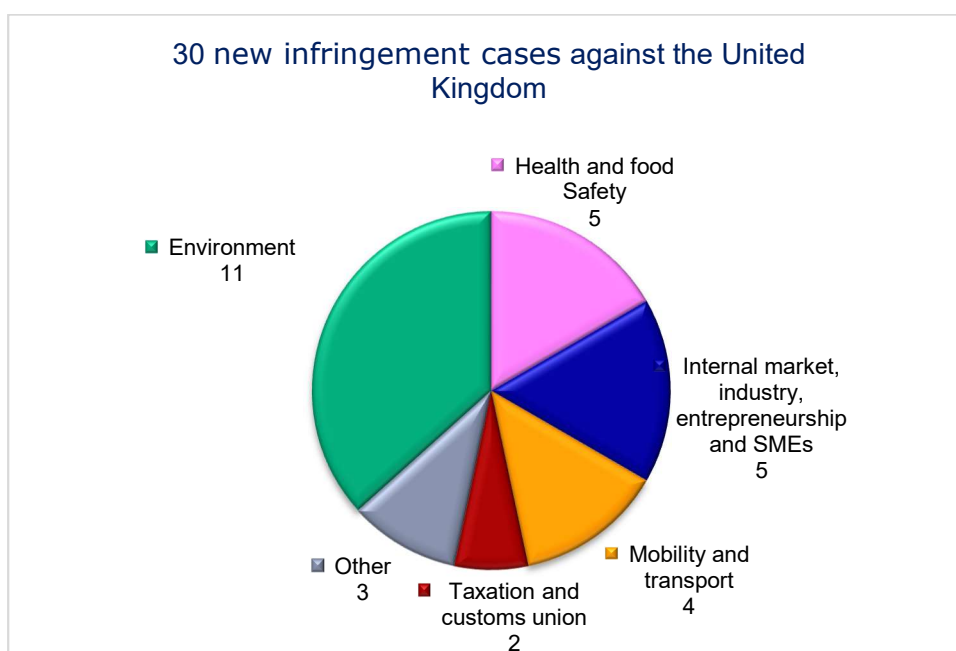
### 2019 Annual Report

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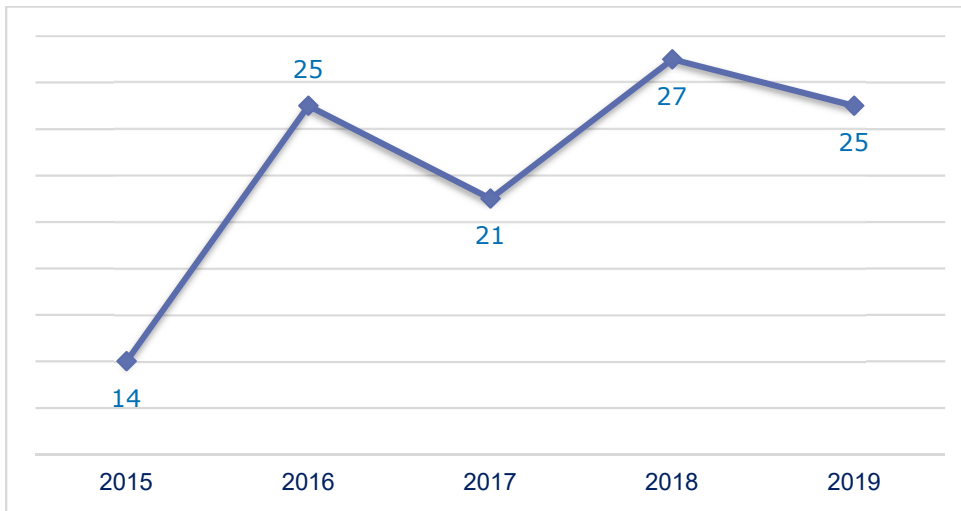
#### Infringement cases against the United Kingdom open on 31 December (2015-2019)



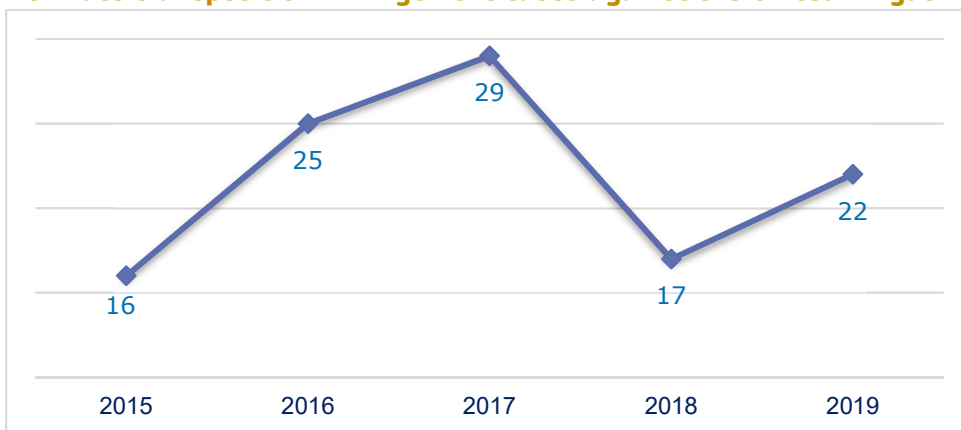
#### New infringement cases opened in 2019: main policy areas



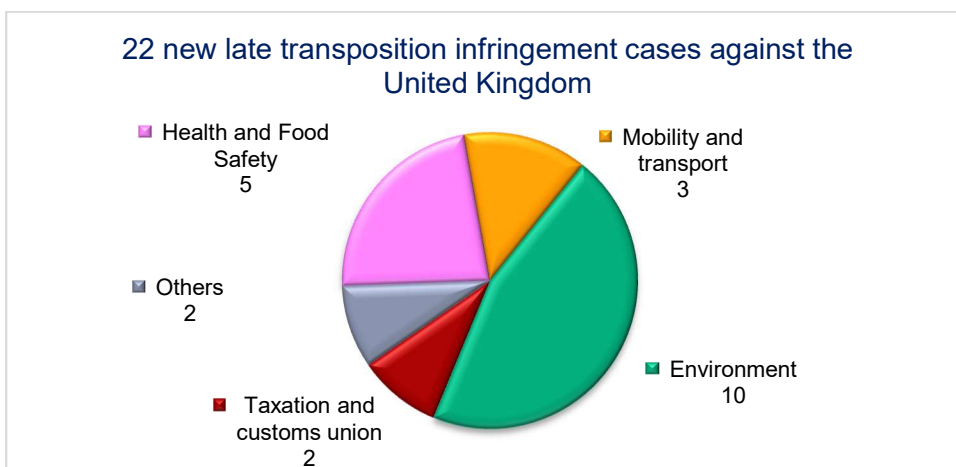
**Late transposition infringement cases against the United Kingdom open on 31 December (2015-2019)**



**New late transposition infringement cases against the United Kingdom (2015-2019)**



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



## IMPORTANT JUDGMENTS

### Court rulings

*The Court ruled that:*

- Member States which have special relations with the overseas countries and territories (OCT) are obliged to compensate the loss of EU own resources caused by the wrongful issue of export certificates by the local authorities of those OCTs based on the principle of sincere cooperation as laid down in Article 4(3) TEU (2013/2103 and 2013/2165)<sup>1</sup>.

### Preliminary rulings

*The Court addressed the following preliminary rulings to the United Kingdom judiciary:*

- The concept of a 'direct descendant' of a citizen of the Union does not include a minor who has been placed in permanent legal guardianship under the Algerian kafala system, because that placement does not create any parent-child relationship between them. However, where the EU citizen has exercised his/her right to free movement to a Member State other than the one of which he/ she is a national, the citizen's Member State of residence must facilitate the minor's entry to and residence in its territory as one of the 'other family members' pursuant to the Free Movement Directive<sup>2</sup>.
- In assessing whether a Union citizen who is a minor has sufficient resources not to become an unreasonable burden on the social assistance system of the host Member State during his period of residence account is to be taken of resources placed at his or her disposal stemming from income obtained from the employment of his third-country national parent following the expiry of his residence or work permit<sup>3</sup>.
- A third-country national who in the past has been tortured by the authorities of his or her country of origin but no longer faces a risk of being tortured if returned to that country, but whose physical and psychological health could, if so returned, seriously deteriorate, leading to a serious risk of him committing suicide on account of trauma resulting from the torture he was subjected to, is eligible for subsidiary protection. This is the case if there is a real risk of this person being intentionally deprived, in his or her country of origin, of appropriate care for the physical and mental after-effects of that torture<sup>4</sup>.
- The marketing authorisation relied on in support of an application for a supplementary protection certificate concerning a new formulation of an old active ingredient, cannot be regarded as being the first marketing authorisation for the product concerned as a medicinal product. This is the case where that active ingredient has already been the subject of a marketing authorisation as an active ingredient.<sup>5</sup>
- The court clarified that, when adopting a tariff classification regulation, the Commission cannot be bound by a judgment of a court of a Member State, including a supreme court. It is settled case law that such a regulation is adopted by the Commission, following the opinion of the Customs Code Committee, when the classification in the combined nomenclature of a particular product is such as to give rise to difficulty or to be a matter for dispute, since such a situation of legal uncertainty may in particular exist in the event of case law or administrative divergences between the Member States concerning the tariff classification of the same product.<sup>6</sup>

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<sup>1</sup> Cases [C-391/17](#), *Commission v United Kingdom* and [C-395/17](#), *Commission v Netherlands*.

<sup>2</sup> Directive [2004/38/EC](#), *SM v Entry Clearance Officer, UK Visa Section*, [C-129/18](#).

<sup>3</sup> *Bajratari*, [C-93/18](#).

<sup>4</sup> *MP*, [C-353/16](#).

<sup>5</sup> *Abraxis Bioscience*, [C-443/17](#).

<sup>6</sup> *Amoena Ltd v Commissioners for Her Majesty's Revenue and Customs*, [C-677-18](#).