



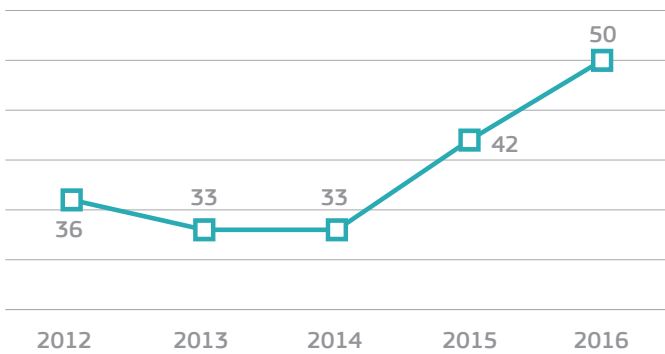
European Commission

Monitoring the Application of European Union Law

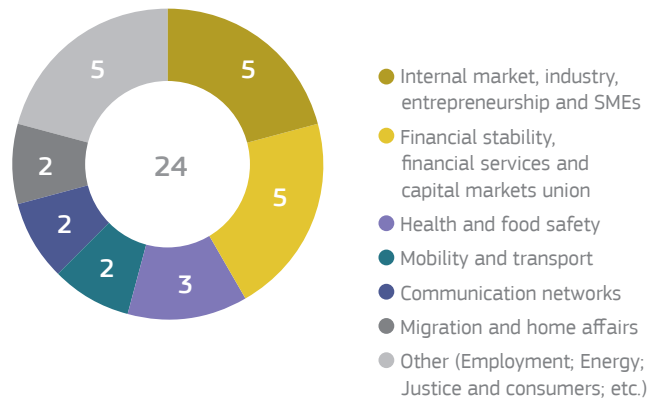
Annual Report 2016

New complaints against Sweden increased in 2016 to their highest level since 2012, and new EU Pilot files rose slightly after falling for 2 years. Open infringement cases continued to increase, reaching a five-year peak. The number of new cases for late transposition fell after sharp rise from 2014 to 2015.

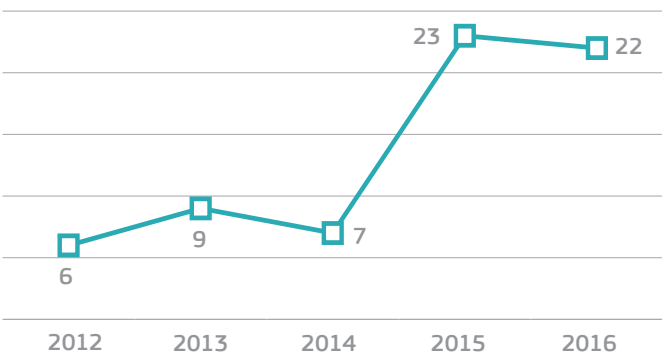
Infringement cases open on 31 December



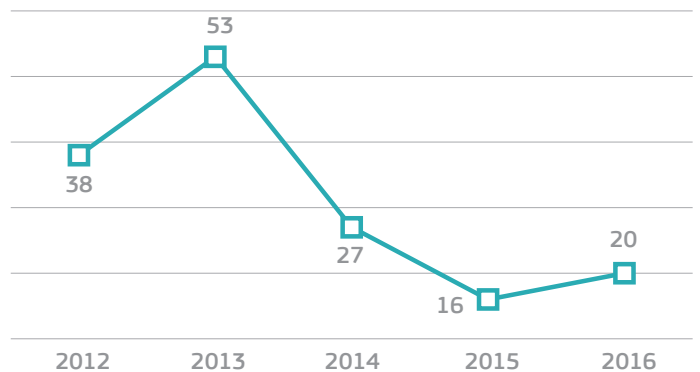
New infringement cases opened in 2016: main policy areas



New late transposition infringement cases



New EU Pilot files opened





Relevant rulings of the European Courts:

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

- an asylum applicant may, in an action challenging a transfer decision made about him, invoke an infringement of the rule set out in the Dublin Regulation¹ concerning an absence of at least 3 months from the territory of the Member State concerned;²
- under the Directive on privacy and electronic communications³ Member States may establish, as a preventive measure, a targeted retention of data solely for the purpose of fighting serious crime, provided that such retention is limited to what is strictly necessary regarding the categories of data to be retained, means of communication affected, persons concerned and duration of the retention period. The Court further clarified that the access of national authorities to the retained data must be subject to conditions, including prior review by an independent authority, and that the data must be retained within the EU;⁴
- the European arrest warrant issued by the Swedish National Police Board is invalid as such body is not covered by the term ‘issuing judicial authority’ and acts issued by police service cannot be regarded as a ‘judicial decision’;⁵
- higher taxation of Swedish dividends paid to non-resident pension funds than of dividends paid to resident pension funds is not contrary to EU law because resident and non-resident pension funds are not in a comparable situation. This is so because the objective of the Swedish yield tax, applicable to resident pension funds, is to tax the fund’s entire capital, and this objective cannot be fulfilled for non-resident pension funds as they are by definition only liable for tax on Swedish-sourced income, not on their entire capital.⁶

¹ Article 19(2) of Regulation [\(EU\) 604/2013](#).

² Karim, [C-155/15](#).

³ Directive [2002/58/EC](#).

⁴ Tele2 Sverige, joined case [C-203/15](#) and [C-698/15](#), Court press release [No 145/16](#).

⁵ Poltorak, [C-452/16](#).

⁶ Pensioenfondsen Metaal en Techniek, [C-252/14](#).