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**COMMISSION STAFF WORKING DOCUMENT**

**GENERAL STATISTICAL OVERVIEW**

*Accompanying the document*

**REPORT FROM THE COMMISSION**

**Monitoring the application of European Union law**

**2021 Annual Report**

{COM(2022) 344 final}



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## I. WORKING WITH MEMBER STATES TO ENSURE PROPER IMPLEMENTATION OF EU LAW

Both Member States<sup>1</sup> and the European Commission share responsibility for ensuring compliance with EU law. In line with the principle of sincere cooperation set out in Article 4(3) of the Treaty on European Union (TEU), they should 'in full mutual respect, assist each other in carrying out tasks which flow from the treaties'.

The purpose of the Commission's enforcement actions is to ensure compliance with EU law. Infringement procedures are an option of last resort to achieving that purpose. In many cases, good cooperation and communication between the Commission and the Member States has proved to be a better way to reach compliance at an early stage than having to resort to infringement procedures. In its Communication 'EU law: Better results through better application'<sup>2</sup>, the Commission committed to strengthening its partnership with Member States.

In line with this approach, the Commission has developed a number of tools to help Member States transpose, apply and implement EU law correctly and on time. These include guidance documents, implementation plans, expert groups, explanatory documents, training courses, workshops and meetings. Some of these tools are used to avoid ('prevent') breaches of EU law, while others are intended to be used in parallel with infringement procedures to resolve ('correct') breaches of EU law so that the matter is not referred to the Court of Justice of the European Union (the Court). The Commission often uses a combination of these tools to address problems and promote compliance with EU law.

The Commission is committed to better explaining its role as guardian of the treaties and its work with Member States on issues concerning the application and implementation of EU law. Information provided in this section of the report goes beyond the dialogue with the Member States during formal infringement procedures. It gives a brief overview of other types of action taken by the Commission in 2021 to assist Member States in implementing and applying EU law.

### 1. Guidelines

The Commission often provides written guidance to Member States on how to implement and apply EU legal instruments. In 2021, the Commission issued guidelines on interpreting and implementing EU law in the following policy areas:

#### *Common agricultural policy*

In 2021, the **common agricultural policy** (CAP) underwent a reform, leading to the adoption of several pieces of EU legislation that will frame the common agricultural policy from 2023<sup>3</sup>. The Commission prepared guidance documents to help Member States with their national strategic plans in line with the rules, as well as guidance on eligible hectare at farmers' disposal, a Q&A document on eco-schemes, a fact sheet on agri-environmental practices (GAEC) and Q&A documents on checks by monitoring and on animal voluntary coupled support. The Commission also provided clarifications to Member States and stakeholders on various aspects of the legislative framework. Commission replies to a Member States are shared, for the benefit of all, with all other Member States. Hundreds of letters on the application of legislation have been written in 2021 on various aspects of agricultural policy, in particular on the CAP strategic plans (36), organics (180) and the application of the Unfair Trading Practices Directive (16).

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<sup>1</sup> On 1 February 2020, the Withdrawal Agreement setting out arrangements for the orderly withdrawal of the United Kingdom from the EU entered into force and the United Kingdom formally became a non-EU country. The transition period set by the Withdrawal Agreement ended on 31 December 2020. In line with the Withdrawal Agreement, the Commission can continue to pursue existing infringement cases and open new cases against the UK for infringements of EU law that occurred before the end of the transition period, or for breaches of certain provisions of the Withdrawal Agreement or of the Protocols on Ireland and Northern Ireland and on the Sovereign Base Areas in Cyprus. Therefore, cases concerning the United Kingdom are included in the overall statistics of this report.

<sup>2</sup> Communication 'EU law: Better results through better application', [C\(2016\)8600](#).

<sup>3</sup> The [Strategic Plan Regulation \(EU\) 2021/2115](#); the [Horizontal Regulation \(EU\) 2021/2116](#), and the [Common Market Organisation Regulation \(EU\) 2021/2117](#).

### *Communication networks, content and technology*

On **copyright**, the Commission adopted in June 2021 its guidance<sup>4</sup> on Article 17 of the Directive (EU) 2019/790 on Copyright in the Digital Single Market<sup>5</sup>. The new rules strengthen rightholders' ability to prevent the use of unauthorised content online and increase transparency in their relationships with online platforms. The guidance aims to support a common application of this provision across the Member States.

### *Employment*

On **occupational safety and health**, the Commission, together with social partners, Coiffure EU and UNI Europa, published non-binding guidelines for the hairdressing Sector<sup>6</sup> as part of jointly agreed activities to support the autonomous implementation of the European Framework Agreement on the Protection of Occupational Health and Safety in the Hairdressing Sector<sup>7</sup>. This publication is addressed to national administrations, including national labour inspectorates. The guidelines inform employers on risk assessment, preventive measures and training, provide useful links to online tools and resources, and give advice on managing particular risks such as those related to stress and ergonomics.

During the COVID-19 pandemic, the Commission, together with the European Agency for Safety and Health at Work (EU-OSHA), also made available guidelines<sup>8</sup> supporting employers to prevent COVID-19 at the workplace, to properly apply the main principles of the Framework Directive 89/391/EEC<sup>9</sup>. These guidelines are available in all EU official languages and are regularly updated. Existing guidelines to help employers and workers to stay safe and healthy in a pandemic working environment were updated and made more robust. For instance, in 2021, EU-OSHA published the COVID-19 and long COVID return-to-work guide for recovering workers<sup>10</sup> and the COVID-19 and long COVID return-to-work guide for managers<sup>11</sup>. Also, further practical guidance to help employers with risk assessments in the context of the current sanitary crisis<sup>12</sup> was also published.

### *Environment*

On **nature**, in October 2021, the Commission adopted a 'Guidance document on the strict protection of animal species of Community interest under the Habitats Directive'<sup>13</sup>, reflecting the latest legal interpretations of the Court and updating an earlier guidance from 2007. The Commission also updated the 'Methodological guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC'<sup>14</sup>. The guidance takes into account experience from the implementation of the previous guide in the last 20 years, new jurisprudence of the Court, in particular on the impact assessments of plans and projects on the Natura 2000 sites and on the establishment of site-specific conservation objectives, as well as new scientific evidence and practical experience in this field. The Commission has also updated a document 'hunnable bird species under the Birds Directive - Scientific overview of the periods of return to their rearing grounds and of reproduction in the Member States'<sup>15</sup>, which supports the Member States in the implementation of Article 7(4) of the Birds Directive. The Commission consulted Member States and stakeholder organisations before updating of these guidance documents.<sup>16</sup>

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<sup>4</sup> [COM/2021/288 final](#).

<sup>5</sup> [Directive \(EU\) 2019/790](#).

<sup>6</sup> [Non-binding guidelines for the Hairdressing Sector](#).

<sup>7</sup> [Framework Agreement](#).

<sup>8</sup> <https://osha.europa.eu/en/themes/covid-19-resources-workplace>.

<sup>9</sup> [Council Directive 89/391/EEC](#).

<sup>10</sup> <https://osha.europa.eu/en/publications/covid-19-infection-and-long-covid-guide-workers/view>.

<sup>11</sup> <https://osha.europa.eu/en/publications/covid-19-infection-and-long-covid-guide-managers/view>.

<sup>12</sup> <https://osha.europa.eu/en/themes/covid-19-resources-workplace>.

<sup>13</sup> [C\(2021\)7301](#).

<sup>14</sup> [C\(2021\) 6913](#).

<sup>15</sup> [Commission guidance](#).

<sup>16</sup> [Habitats Directive 92/43/EEC](#) and [Birds Directive 2009/147/EC](#).

On **environmental impact assessment** (EIA), in December 2021, the Commission adopted guidance on the application of the EIA Directive<sup>17</sup>. The guidance also includes a specific chapter on the application of the EIA Directive<sup>18</sup> to the extension of existing nuclear power plants, in light of the Court case-law. Also, the Commission adopted the Sustainability proofing guidance<sup>19</sup> that aims to enable the correct application of EU environmental law as regards EU co-financed projects.

On **environmental liability**, the Commission adopted in March 2021 Guidelines providing a common understanding of the term ‘environmental damage’<sup>20</sup> as defined in Article 2 of Directive 2004/35/EC on Environmental Liability<sup>21</sup>. Concerning the environmental compliance assurance, the Commission published a guidance on combating environmental crimes and related infringements<sup>22</sup>. It was endorsed by the environmental compliance and governance forum, which recommended wide use of the guidance by all relevant national authorities involved in combating environmental crime.

On **water**, the Commission published a study on strengthening the knowledge base on costs and investments and on financing mechanisms that support the implementation of EU water policy<sup>23</sup>. The document aims to assist Member States in identifying and prioritising barriers that could be removed to help achieve the Biodiversity strategy’s goal<sup>24</sup>. The goal is to strengthen the coordination between agriculture and floods authorities with a view to the developing CAP strategic plans and second flood risk management plans<sup>25</sup> as well as an analysing the main challenges that Member States face when factoring the impact of climate change into flood risk management<sup>26</sup>. Moreover, the Commission published a report ‘Current Practice in Flood Risk Management in the EU, based on a review of 34 cases in meetings with practitioners from Member States’<sup>27</sup>.

On **waste management**, in June 2021, the Commission published guidelines on the Single-Use Plastics Directive<sup>28</sup>.

#### *Internal Market, industry, entrepreneurship and SMEs*

The Commission actively supported the Member States and their contracting authorities and entities in effectively applying EU **public procurement rules**. This included guidance on innovation procurement<sup>29</sup>, the notice on tools to fight collusion in public procurement and on guidance on how to apply the related exclusion ground<sup>30</sup> and the new guide ‘buying social’, a guide to taking account of social considerations in public procurement<sup>31</sup>. In addition, the Commission published its ‘guide on Articles 34-36 of the Treaty on the Functioning of the European Union (TFEU)’<sup>32</sup>, which better explains the application of the principle of **free movement of goods** in the EU to improve compliance by national authorities and stakeholders and avoid market segmentation.

Furthermore, the Commission issued the guidance on the Regulation on the principle of mutual recognition<sup>33</sup>. The guidance document explains various aspects of the Regulation, including the mutual recognition declaration for businesses and the assessment of goods by national authorities. It also offers practical

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<sup>17</sup> [C/2021/8560](#).

<sup>18</sup> [Directive 2011/92/EU](#).

<sup>19</sup> [Commission Notice](#) – Technical guidance on sustainability proofing for the InvestEU Fund.

<sup>20</sup> [C/2021/1860](#).

<sup>21</sup> [Directive 2004/35/CE](#).

<sup>22</sup> [Guidance document ‘Combating environmental crimes and related infringements’](#).

<sup>23</sup> [Study](#).

<sup>24</sup> [Biodiversity Strategy 2030 – Barrier Removal for River Restoration](#).

<sup>25</sup> [Strengthening the synergies between agriculture and flood risk management in the European Union](#).

<sup>26</sup> [Impact of climate change on floods: survey findings and possible next steps](#).

<sup>27</sup> [Current practice in flood risk management in Europe](#).

<sup>28</sup> [Commission notice — Commission guidelines on single-use plastic products](#).

<sup>29</sup> [C\(2021\) 4320 final](#).

<sup>30</sup> [C/2021/1631](#).

<sup>31</sup> [C/2021/3573](#).

<sup>32</sup> [C/2021/1457](#).

<sup>33</sup> [C/2021/1455](#).

information on support services provided by SOLVIT centers<sup>34</sup> and product contact points. The Commission also issued two guidance documents on Article 4<sup>35</sup> and Article 9<sup>36</sup> of the Market Surveillance Regulation to ease the work of market surveillance authorities and economic operators. They provide details, explanations and examples of how the market surveillance rules work in practice.

### *Justice and consumers*

To improve the application of **consumer law**, the Commission adopted guidance in the form of notices on the interpretation and application of three consumer law directives, namely (i) the Unfair Commercial Practices Directive<sup>37</sup>; (ii) the Consumer Rights Directive<sup>38</sup>; and (iii) the Price Indication Directive<sup>39</sup>. These notices assist Member States, consumers, traders, judges, legal practitioners and other actors when applying these directives to new practices. In particular in the context of the digital and green transitions, and as a result of the recent changes brought by the Directive on better enforcement and modernisation of EU consumer protection rules<sup>40</sup>, which modernised the three directives.

On **fundamental rights**, notably the free movement of persons, the Commission put forward several proposals to amend Council Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic<sup>41</sup>, establishing a coordinated approach to COVID-19 travel restrictions. The amendments aimed at adapting the coordinated approach in light of the developing epidemiological situation and, in particular, the successful rollout of the EU vaccination campaign and the EU digital COVID certificate.

### *Transport*

In the **transport sector**, the Commission continued to assist Member States in transposing and implementing EU legislation by issuing general guidance. On **road transport**, and more specifically on tachograph<sup>42</sup> and posting of drivers rules<sup>43</sup>, the Commission prepared and discussed with Member States implementation guidelines. In the **aviation sector**, the Commission services published updated guidance on State aid rules and public service obligations rules applicable to the air transport sector during the COVID-19 pandemic<sup>44</sup>.

### *Food safety*

On **food safety**, the Commission issued a Commission Notice<sup>45</sup> to assist Member States in implementing the Transparency Regulation to the Genetically Modified Organisms (GMO) Directive<sup>46</sup>.

### *Taxation and customs*

The Commission published guidelines on the EU's **Value Added Tax (VAT) rules**, notably a guide to the VAT one-stop shop as well as to functional and technical specifications of VAT special schemes.<sup>47</sup> The one-stop shop is an e-portal businesses can use to comply with their VAT obligations on e-commerce sales to consumers within the EU since 1 July 2021. The published guidelines help online businesses, and in particular SMEs, to understand how to fulfil their VAT obligations arising from cross-border supplies to consumers in the

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<sup>34</sup> [https://ec.europa.eu/solvit/contact/index\\_en.htm](https://ec.europa.eu/solvit/contact/index_en.htm)

<sup>35</sup> [C/2021/1461](#).

<sup>36</sup> [Guidance - Market surveillance \(europa.eu\)](#).

<sup>37</sup> [C/2021/9320](#).

<sup>38</sup> [C/2021/9314](#).

<sup>39</sup> [C/2021/9328](#).

<sup>40</sup> [Directive \(EU\) 2019/2161](#).

<sup>41</sup> [Council Recommendation \(EU\) 2020/1475](#).

<sup>42</sup> [Questions and Answers on the manual recording of border crossings in tachographs](#).

<sup>43</sup> [Posting of drivers rules](#).

<sup>44</sup> [Guidance](#).

<sup>45</sup> [C/2021/1445](#).

<sup>46</sup> [Transparency Regulation \(EU\) 2019/1381](#) and [GMO Directive 2001/18/EC](#).

<sup>47</sup> [Guide to the VAT One Stop Shop as well as the functional and technical specifications](#).

EU in case they use the one-stop shop. The guidelines are available in all official EU languages, as well as in Chinese and Japanese.

**Excise duties** are indirect taxes on the sale or use of specific products, such as alcohol, tobacco and energy. The Commission published explanatory notes on the total annual production threshold to be declared in the certification and self-certification of independent small producers of alcoholic beverages for excise duty purposes<sup>48</sup>. The guidance follows the publication of a Commission implementing regulation on the subject matter.<sup>49</sup> The Commission also sent a notice to Member States' tax and customs administrations to clarify the legal situation regarding administrative cooperation VAT and excise duties and recovery of claims after the end of the transition period with the United Kingdom.

To improve the application of **customs** legislation, in particular to promote the uniform application of customs controls and conduct of risk analysis by Member States, the Commission prepared guidance on financial risk criteria (FRC), and on post-release audits and controls. The guidance was endorsed by the Customs Expert Group.

The Commission adopted and published specific Guidelines for economic operators and market surveillance authorities on the practical implementation of Article 4 of Regulation (EU) 2019/1020 on market surveillance and compliance of products<sup>50</sup>. The guidance aims to better enforce controls on products subject to certain Union harmonisation legislation, when these products enter the single market, as regards specific tasks of economic operators.

## 2. Meeting-based compliance tools

The Commission deploys a wide range of meeting-based tools, such as committees, networks, expert groups and workshops, to promote the good implementation of EU law across policy areas.

### 2.1 Committees, networks, expert groups and workshops

#### *Common agricultural policy*

Since the introduction of the **common agricultural policy**, the Commission has made wide use of committees and expert groups to promote compliance with EU law. Beyond their institutional role in the adoption of implementing and delegated acts, committees and expert groups are critical to discuss, explain and clarify applicable rules. In 2021, two new committees and one expert group were established to implement the reform of the common agricultural policy<sup>51</sup>. Furthermore, the Commission set up a new expert group for technical advice on organic production<sup>52</sup> and an expert Group on the European food security crisis preparedness and response mechanism<sup>53</sup>. Overall, in 2021, the Commission held 118 committee meetings and 96 expert group meetings with Member States, which were mainly held online.

#### *Communication networks, content and technology*

On **copyright**, the copyright contact committee<sup>54</sup> and the expert group on the Directive on collective management of copyright and related rights<sup>55</sup> assist the Commission in implementing the policy. In 2021, two meetings of the copyright contact committee took place to discuss matters such as extended collective

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<sup>48</sup> [Explanatory notes](#).

<sup>49</sup> [Commission Implementing Regulation \(EU\) 2021/2266](#).

<sup>50</sup> [C/2021/1461](#).

<sup>51</sup> The [Common Agricultural Policy Committee](#), the [Committee on the Agricultural Funds](#) and the [Expert Group on the implementation of the CAP strategic plans regulation](#). The agreement on the [reform of the common agricultural policy](#) was formally adopted on 2 December 2021.

<sup>52</sup> [Register of Commission Expert Groups and Other Similar Entities](#)

<sup>53</sup> [Register of Commission Expert Groups and Other Similar Entities](#)

<sup>54</sup> [Register of Commission Expert Groups and Other Similar Entities](#).

<sup>55</sup> [Register of Commission Expert Groups and Other Similar Entities](#).



licencing and the enforcement of rights in the digital environment, for example challenges for live content, including sport. The expert group on collective rights management met once in 2021 to discuss the preparation of the report on the application of the Directive on Collective Rights Management<sup>56</sup>.

On **electronic communications**, the communications committee (COCOM)<sup>57</sup>, which assists the Commission in implementing of the European Electronic Communications Code<sup>58</sup>, met three times in 2021. In addition, to promote the implementation of the radio spectrum policy, in particular on technical measures, the radio spectrum committee (RSC)<sup>59</sup> held four meetings. The radio spectrum policy group (RSPG)<sup>60</sup>, an advisory group assisting the Commission to develop a radio spectrum policy, held three plenary meetings. The connectivity special group, composed of Member States' representatives responsible for electronic communications and the Commission, met 12 times, including seven meetings of the subgroups on cost reduction and spectrum.

#### *Employment and social affairs*

On **occupational health and safety**, in 2021, the Commission made regular use of committees and expert groups to discuss the proper implementation and application of the extensive EU legislation that applies in this area. Cooperation between the Commission, Member States and social partners to make the EU's legislative framework future-proof and ensure proper compliance and enforcement was further strengthened in the context of the COVID-19 pandemic.

The expert group on the transposition of the Directive on transparent and predictable **working conditions**<sup>61</sup> completed its work in 2021. The group reviewed in detail the provisions of the Directive and discussed the issues Member States face in transposing them into national legislation, while taking into account the views and contributions of EU social partners as observers. Its report<sup>62</sup>, published in July 2021, helps to ensure an effective and consistent approach to implementing the Directive.

Regular updating of information on national legislation and European and national jurisprudence on **labour law** has been undertaken through the reports of the European Labour Law expert network and through the group of Directors General for Industrial Relations<sup>63</sup> which met twice in 2021. On the Working Time Directive,<sup>64</sup> which has been subject to several important rulings of the Court in 2021<sup>65</sup>, a specialised sub-group of Directors General for Industrial Relations exchanged views and information with national authorities on these developments, in order to assess possible consequences for the implementation of the Directive in the Member States.

The senior labour inspectors' committee<sup>66</sup> assists the Commission in monitoring the enforcement of EU legislation. It issues opinions on all matters relating to the enforcement by the Member States of EU legislation on health and safety at work. In 2021, the committee adopted a new work plan for 2021 to 2027 and set up a new working group on biological agents to develop guidelines to support labour inspectors in assessing the quality of assessment of exposure to biological risks, in particular SARS-CoV-2. The committee liaised with all 27 Member States in the context of 'thematic days' on the topics of teleworking and the COVID-19 pandemic and the occupational safety and health enforcement approach to overcome the spread of disease.

In the area of **equality**, the European network of legal experts in gender equality and non-discrimination<sup>67</sup> provides independent advice and information to the Commission. It issued a report on indirect discrimination

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<sup>56</sup> [Reports.](#)

<sup>57</sup> [Comitology Register.](#)

<sup>58</sup> [Directive \(EU\) 2018/1972.](#)

<sup>59</sup> [Radio Spectrum Committee.](#)

<sup>60</sup> [Radio Spectrum Policy Group.](#)

<sup>61</sup> [Register of Commission Expert Groups and Other Similar Entities.](#)

<sup>62</sup> [Report of the expert group.](#)

<sup>63</sup> [High-level group.](#)

<sup>64</sup> [Directive 2003/88/EC.](#)

<sup>65</sup> [List of cases on InfoCuria.](#)

<sup>66</sup> [Senior Labour Inspectors Committee.](#)

<sup>67</sup> [European equality law network.](#)

in the area of employment, focusing on topical issues such as intersectionality and reasonable accommodation.<sup>68</sup>

On **disability and accessibility**, the Commission held five meetings in 2021 with Member States' representatives to help them turn the Directive on accessibility of products and services, the 'European Accessibility Act'<sup>69</sup>. Issues addressed included provisions for conformity assessment, standardisation, e-books, built environment, consumer banking services and compliance of services.

On **labour mobility**, the role of the committee of experts on posting of workers<sup>70</sup> includes supporting and assisting Member States in the application and the interpretation of all directives on posting of workers<sup>71</sup>, met once in 2021. The Commission also organised the biannual meetings of the Advisory Committee on Free Movement of Workers<sup>72</sup> and a meeting of the bodies established under Directive 2014/54<sup>73</sup> for the promotion of free movement of workers in order to share good practice.

On the coordination of **social security** systems, the administrative commission, composed of Member States representatives, met four times to discuss issues related to the interpretation of applicable EU rules<sup>74</sup>. On digitalisation of social security coordination, the technical commission for data processing, including representatives and technical experts from each Member State, met four times to discuss progress and challenges in implementing the system of electronic exchange of social security information. This work was supported by specific ad-hoc groups, its executive board, the security expert forum and the data modelling expert group. Several monthly expert meetings also took place under the European social security pass pilot project<sup>75</sup>, which seeks to address challenges in people's mobile identification and authentication for social security coordination purposes.

### *Energy*

To promote the implementation of the **Renewable Energy** Directive<sup>76</sup>, the **Energy Efficiency** Directive<sup>77</sup> and the **Energy Performance** of Buildings Directive<sup>78</sup>, the Commission used committee meetings as well as concerted action forums<sup>79</sup>, which gather Member States' representatives and other interested parties, in particular to share best practice.

On nuclear safety and radioactive waste, the Commission held several meetings with the European nuclear safety regulators group, and on radiation protection it worked in cooperation with the group of health experts established under Article 31 of the Euratom Treaty.

### *Environment*

On enforcement of rules on **air quality**, the Commission held two expert group meetings<sup>80</sup> with Member States on the implementation of the Directive on the reduction of national emissions of certain atmospheric pollutants (NEC Directive)<sup>81</sup>, two expert group meetings<sup>82</sup> on the Industrial Emissions Directive<sup>83</sup> and two

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<sup>68</sup> [Report](#).

<sup>69</sup> [Directive \(EU\) 2019/882](#).

<sup>70</sup> [Register of Commission expert groups and other similar entities](#).

<sup>71</sup> [Directive \(EU\) 2018/957](#) and [Directive 2014/67/EU](#).

<sup>72</sup> [Register of Commission expert groups and other similar entities](#).

<sup>73</sup> [Directive 2014/54/EU](#).

<sup>74</sup> [Regulation \(EC\) 883/2004](#) and [Regulation \(EC\) 987/2009](#).

<sup>75</sup> [European Social Security Pass pilot project](#).

<sup>76</sup> [Directive \(EU\) 2018/2001](#).

<sup>77</sup> [Directive 2012/27/EU](#).

<sup>78</sup> [Directive 2010/31/EU](#).

<sup>79</sup> Concerted action forums for the [Renewable Energy Directive](#), [Energy Efficiency Directive](#), [Energy Performance of Buildings Directive](#).

<sup>80</sup> [Register of Commission Expert Groups and Other Similar Entities](#).

<sup>81</sup> [Directive \(EU\) 2016/2284](#).

<sup>82</sup> [Register of Commission Expert Groups and Other Similar Entities](#).

<sup>83</sup> [Directive 2010/75/EU](#).

expert group meetings<sup>84</sup> on the implementation of the Air Quality Directives<sup>85</sup>. The Commission also organised two expert group meetings<sup>86</sup> on the Seveso Directive<sup>87</sup> and the Mercury Regulation<sup>88</sup>. The third EU clean air forum<sup>89</sup> in November 2021, organised by the Commission and hosted by Spain, contributed to guidance for, and facilitated the coordinated implementation of, EU legislation and policies related to improving air quality<sup>90</sup>. In the context of the implementation of the National Emissions reduction Commitments (NEC) Directive, the Commission held workshops with all Member States on reporting guidance and templates related to ecosystem monitoring, in addition to bilateral capacity building meetings with nine Member States. Further workshops to promote the implementation of EU rules were organised on various topics, such as on an online tool for air pollutant emissions in the agricultural sector, on ammonia reducing technology and on the implementation of air quality assessments and assessment regimes.

On the **nature** directives<sup>91</sup>, to promote discussions with Member States on the key challenges in the implementation of the directives, the Commission held 17 nature dialogues with 12 Member States<sup>92</sup> in 2021. In each of these dialogues, the coordination between all authorities involved in the management of Natura 2000 sites was discussed and awareness raised on important links with the agricultural, as well as forestry and fisheries policies. On **waste management**, seven technical committee meetings<sup>93</sup> and eight expert group meetings<sup>94</sup> as well as many other meetings with stakeholders were organised. These meetings concerned both the preparation of new legislation and the implementation of existing directives and regulations.

On **water policy**, the Commission held four expert group meetings as well as many working group meetings with experts<sup>95</sup> where the implementation of the water directives<sup>96</sup> was discussed. The ad hoc task group on water reuse was transformed into a permanent working group to support the implementation of the new Water Reuse Regulation<sup>97</sup> and meet the EU's water reuse policy commitment. The ad hoc task group working on economic issues was also transformed into a working group on economics, and a new ad hoc task group on water scarcity and droughts was created.

On **environmental impact assessment** (EIA), two expert group meetings<sup>98</sup> were organised on implementation and practical issues on the EIA and the Strategic Environmental Assessment (SEA) Directives<sup>99</sup>. On **environmental compliance assurance**, two meetings of the high level Commission expert group environmental compliance and governance forum<sup>100</sup> took place in 2021, focusing on the revision of the Environmental Crime Directive<sup>101</sup> and other environmental governance aspects. A sub-group on sanctioning of environmental offences was also established, to establish good practice on environmental enforcement and sanctioning. The Commission also boosted cooperation of environmental practitioners in EU level networks, for example of prosecutors, inspectors, judges and police and other enforcement officers. These networks play an important role in sharing good practice, developing practical tools for inspections and detection and investigation of environmental crime, and training.

<sup>84</sup> [Register of Commission Expert Groups and Other Similar Entities.](#)

<sup>85</sup> Directives [2008/50/EC](#) and [2004/107/EC](#).

<sup>86</sup> [Register of Commission Expert Groups and Other Similar Entities](#) and [Register of Commission Expert Groups and Other Similar Entities.](#)

<sup>87</sup> [Directive 2012/18/EU.](#)

<sup>88</sup> [Regulation 2017/852.](#)

<sup>89</sup> [EU Clean Air Forum.](#)

<sup>90</sup> In line with Article 12, [Directive \(EU\) 2016/2284.](#)

<sup>91</sup> [Habitats Directive 92/43/EEC](#) and [Birds Directive 2009/147/EC.](#)

<sup>92</sup> Bulgaria, Cyprus, Czechia, Estonia, Finland, France, Hungary, Latvia, Portugal, Romania, Sweden, and The Netherlands.

<sup>93</sup> [Commission Comitology Register.](#)

<sup>94</sup> [Register of Commission Expert Groups and Other Similar Entities.](#)

<sup>95</sup> [Common Implementation strategy.](#)

<sup>96</sup> Directive [2000/60/EC.](#)

<sup>97</sup> Regulation [2020/741.](#)

<sup>98</sup> [Register of Commission Expert Groups and Other Similar Entities.](#)

<sup>99</sup> Environmental Impact Assessment Directive [2011/92/EU](#), Strategic Environmental Assessment Directive [2001/42/EC.](#)

<sup>100</sup> [Register of Commission Expert Groups and Other Similar Entities.](#)

<sup>101</sup> Directive [2008/99.](#)

### *Financial services*

On **financial services**, the Commission organised a second transposition workshop to support Member States to ensure compliance with the Covered Bond Directive<sup>102</sup>.

### *Internal Market, Industry, Entrepreneurship and SMEs*

On the **single market**, the EU network of review bodies for an effective enforcement of public procurement rules met in 2021 to discuss the Commission's next steps of in reviewing public procurement and the Court's latest case-law in this field. Also, the Commission Government Experts Group on Public Procurement (EXPP) met once in 2021 to discuss the effective application of the EU public procurement rules in the Member States and the latest policy developments in the field of public procurement.

In 2021, regular meetings of the forum to share information on enforcement of the EU legislation on the approval and market surveillance of automotive products<sup>103</sup> took place. The forum is established by Regulation (EU) 2018/858 on the approval and market surveillance of motor vehicles<sup>104</sup> and is an advisory body with a mission to promote best practice ease the common interpretation and implementation of type-approval rules, and ensure robust compliance checks of automotive products. It is composed of approval authorities and market surveillance authorities, and provides a space to share information on enforcement problems, cooperation, in particular on the assessment, designation and monitoring of technical services, the development of working methods and tools, the development of an electronic information exchange procedure, and the evaluation of common enforcement projects and penalties. 2021 was also the first time Member States submitted their annual planned market surveillance checks since Regulation (EU) 2018/858 entered into application.

### *Migration and home affairs*

The Commission regularly used committee meetings to discuss the implementation of **security and migration** legislation with Member States and expert groups proved essential to share expertise and best practice. In 2021, several meetings took place in the fight against organised crime, the fight against corruption, firearms trafficking, explosives precursors, protection of children in migration. They also contributed to preparing the Schengen strategy<sup>105</sup> on the use of new technologies at the borders and as alternative to internal border control. For the latter, to ease the sharing of the legislative developments and relevant case-law with the practitioners, the Commission held two expert meetings with the Member States to update the practical handbook for border guards.

To strengthen coordination and implementation in the **fight against corruption**, the Commission supported the establishment and functioning of a network of local research correspondents on corruption. In this context, it organised two experience-sharing workshops in 2021 with policy makers and law enforcement authorities from Member States to share information on anti-corruption efforts.

Two joined expert meetings on **the protection of children in migration** also took place. These bi-annual meetings bring together child rights and migration experts on children in migration from Member States, the Commission, EU agencies and UN agencies, to discuss progress in implementing the 2017 Communication on the protection of children in migration<sup>106</sup>.

In three meetings with the EU network of national rapporteurs and equivalent mechanisms, the EU ncivil society platform and the network of the EU agencies working against **trafficking in human beings**, the Commission discussed the challenges that affect the implementation of the Anti-trafficking Directive<sup>107</sup> and its possible amendments. The debates focused on the criminalisation of the use of exploited services of

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<sup>102</sup> [Directive \(EU\) 2019/2162.](#)

<sup>103</sup> [Register of Commission Expert Groups and Other Similar Entities.](#)

<sup>104</sup> [Regulation \(EU\) 2018/858.](#)

<sup>105</sup> [COM\(2021\)277.](#)

<sup>106</sup> [COM/2017/0211.](#)

<sup>107</sup> [Directive 2011/36/EU.](#)

victims of trafficking in human beings, the definition of trafficking in human beings, the online dimension of trafficking; as well as the early identification of assistance and support to victims.

*Justice, consumers and company law*

On **equality**, the European network of legal experts in gender equality and non-discrimination<sup>108</sup> provides the Commission with independent advice and information. On gender equality, among its many activities in 2021, it published a report on the transposition of Directive 2004/113 on sex equality in access to goods and services<sup>109</sup>, and prepared a report on criminalisation of gender-based violence against women<sup>110</sup>. It also produced two issues of the European equality law review<sup>111</sup> and organised a legal seminar. Moreover, to ensure a correct transposition of the Directive on Work-Life Balance<sup>112</sup>, the Commission held a meeting with Member States where the interpretation of the Directive was discussed.

To foster the implementation of EU legislation on **criminal justice**, the Commission regularly monitors the functioning of European Criminal Records Information System (ECRIS)<sup>113</sup> via statistical indicators and drafts reports on this basis. The Commission organised an ECRIS expert group meeting, in January 2021, to discuss the findings of the second report on the exchange through ECRIS of information extracted from the criminal records between the Member States, and subsequently engaged in an informal dialogue with the Member States concerned. Consequently, implementation issues identified in the report could be addressed by some Member States while in other cases the Commission decided to open infringement procedures<sup>114</sup>.

On **protection of personal data**, the Commission pursued regular exchanges with national authorities and stakeholders, including through the Member States' expert group on the General Data Protection Regulation (GDPR) and the Data Protection Law Enforcement Directive (LED), and the multi-stakeholder expert group on GDPR. In April 2021, the Commission established a network of data protection officers (DPOs) of Member States' law enforcement authorities to share information and best practice on the application of the LED.

On **free movement of persons**, the expert group on the right to free movement of persons (FREEMO) met virtually to discuss general matters related to free movement (recent case-law<sup>115</sup> of the Court of Justice and the forthcoming update of the guidance on free movement and exchange of information on recent cases of abuse and fraud<sup>116</sup>) as well as the implementation in the Member States of the citizens' rights part of the EU-UK Withdrawal Agreement<sup>117</sup>.

On **company law**, three meetings with the company law expert group (CLEG), bringing together Member State company law experts, took place in 2021 to support Member States in the transposition of Directive on cross-border conversions, mergers and divisions<sup>118</sup>, as part of the transposition workshops on the Company Law Package which have been taking place since 2019. The Committee on the Interconnection of Central, Commercial and Companies Registers also met twice to adopt an implementing act required under the same Directive.

On **consumer law**, concerning the Directive on better enforcement and modernisation of EU consumer protection rules<sup>119</sup> and the Directive on representative actions<sup>120</sup>, the Commission continued to organise expert

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<sup>108</sup> [European equality law network](#).

<sup>109</sup> [Report](#).

<sup>110</sup> [Report](#).

<sup>111</sup> [Issue No 1](#) and [Issue No 2](#).

<sup>112</sup> [Directive \(EU\) 2019/1158](#).

<sup>113</sup> [European Criminal Records Information System \(ECRIS\)](#).

<sup>114</sup> [Press release](#).

<sup>115</sup> A particular focus was given to the implementation of the judgement in case [C-535/19](#) (Public health care).

<sup>116</sup> Such as [marriages of convenience](#) or the use of fraudulent documents. [Current guidelines](#).

<sup>117</sup> [Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community \(OJ L 29, 31.1.2020, p. 7-187\)](#).

<sup>118</sup> [Directive \(EU\) 2019/2121](#).

<sup>119</sup> [Directive \(EU\) 2019/2161](#).

<sup>120</sup> [Directive \(EU\) 2020/1828](#).

group meetings with Member States and to share information with national experts via a dedicated IT tool to assist them in the transposition and future implementation of these instruments. Furthermore, the Commission discussed implementation of the Digital Content Directive<sup>121</sup> and the Sale of Goods Directive<sup>122</sup> in an expert group with Member States to ensure that these directives are effectively turned into national law.

### *Transport*

On **transport**, the Commission used committees and expert groups as a means to ensure Member States' compliance with EU legislation.

On **cross-cutting matters** affecting different modes of transport, such as security and passenger rights, 16 meetings took place in 2021 regarding maritime and aviation security, while eight meetings were held with national enforcement bodies on passenger rights issues covering all modes of transport (air, rail, waterborne and bus and coach). Two workshops were organised on aviation security issues.

On the **road sector**, five committee meetings (road transport, roadworthiness, transport of dangerous goods) and 20 expert meetings on issues as diverse as smart tachograph, tunnels, transport of dangerous goods roadworthiness and training of professional drivers contributed to a better understanding and enforcement of the vast road sector EU legislation. Further to these meetings, the first digital enforcement workshop was held in October 2021. Moreover, on the sustainable road transport side, there were two sustainable transport forum (STF)<sup>123</sup> plenary meetings, three STF sub-group on public authorities meetings, 11 STF sub-group on governance and standards meetings and 10 STF sub-group on data meetings. On intelligent transport systems, there have been five expert meetings<sup>124</sup> on the revision of Delegated Regulation 2015/962<sup>125</sup>, one meeting of the Intelligent Transport System (ITS) Committee<sup>126</sup> and one Expert meeting on the revision of Delegated Regulation 2017/1926<sup>127</sup>.

On the **rail sector**, three meetings of the railway interoperability and safety committee<sup>128</sup> took place, one of which with a dedicated agenda point on the transposition of the fourth railway package technical pillar.

On the **maritime and inland waterways sector**, the Committee on safe seas and the prevention of pollution from ships<sup>129</sup> met twice in 2021 while over 50 expert group meetings were organised over a broad range of issues. These included the implementation of the European maritime single window environment<sup>130</sup> and of the Regulation on electronic freight transport information<sup>131</sup>, passenger ship safety, ship-source pollution, governance of digital maritime system and services, marine equipment, inland waterways and European ports. A workshop on the development of the European Hull database took place in November 2021.

On the **air transport**, the Thessaloniki forum (expert group dealing with the implementation of the Airport Charges Directive)<sup>132</sup> met three times in 2021, as did the Commission expert group on the aviation single market<sup>133</sup>. On the single european sky (SES) issues<sup>134</sup>, the SES Committee met seven times, while several meetings were held by the national supervisory authority coordination platform<sup>135</sup>, the expert group on the human dimension of the SES<sup>136</sup> and the Industry Consultation Body. The single european sky air traffic

<sup>121</sup> [Directive \(EU\) 2019/770](#).

<sup>122</sup> [Directive \(EU\) 2019/771](#).

<sup>123</sup> [Sustainable Transport Forum](#).

<sup>124</sup> [Register of Commission Expert Groups and Other Similar Entities](#).

<sup>125</sup> [Regulation 2015/962](#).

<sup>126</sup> [Comitology Register](#).

<sup>127</sup> [Regulation 2017/1926](#).

<sup>128</sup> [Comitology Register](#).

<sup>129</sup> [Comitology Register](#).

<sup>130</sup> [Regulation \(EU\) 2019/1239](#).

<sup>131</sup> [Regulation \(EU\) 2020/1056](#).

<sup>132</sup> [Register of Commission Expert Groups and Other Similar Entities](#).

<sup>133</sup> [Register of Commission Expert Groups and Other Similar Entities](#).

<sup>134</sup> [Single European Sky](#).

<sup>135</sup> [NCP Portal](#).

<sup>136</sup> [Register of Commission Expert Groups and Other Similar Entities](#).



management Research (SESAR - the technological pillar of the SES initiative<sup>137</sup>) implementation was discussed at over 50 meetings. On aviation safety, there were three meetings of the European Aviation Safety Agency (EASA) committee to discuss the application of common safety rules for civil aviation and three meetings of the air safety committee to update the Air Safety List Regulation<sup>138</sup>. Several expert group meetings took place, in particular on consultations with Member States on drones. The European network of civil aviation safety investigation authorities met several times in 2021<sup>139</sup> as well as its working groups. Three meetings also took place with EASA to coordinate potential Member State-related enforcement action.

#### *Health and food safety*

On **tobacco control**, to help ensure compliance with the Tobacco Products Directive on the ban of products with a characterising flavour, the Commission organised meetings with the independent advisory panel on characterising flavours in tobacco products. Other tobacco control matters were discussed with the group of experts on tobacco policy, including its subgroups, the subgroup on ingredients and the subgroup on traceability and security features.

To promote compliance with EU **food safety** rules, the Commission, through the standing committee on plants, animals, food and feed (Section General Food Law), composed of national competent authorities, dealt with matters related to the interpretation and implementation of Regulation (EU) 1169/2011 (food information to consumers); Regulation (EC) 1924/2006 (health and nutrition claims); Directive 2002/46/EC (food supplements); Regulation (EC) 1925/2006 (addition of vitamins and minerals and of certain other substances to foods); Directive 2009/54/EC (exploitation and marketing of natural mineral waters) and Regulation (EU) 609/2013 (food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control).

#### *Taxation and customs*

On **Value Added Tax** (VAT) policy, the Commission organised two meetings of the VAT committee<sup>140</sup> to discuss questions on the application of EU VAT provisions. The VAT committee agreed guidelines<sup>141</sup> on various issues linked to the simplified rules for businesses moving goods to a stock located in another EU country for a known intended purchaser<sup>142</sup>, the exemption of vocational training<sup>143</sup>, the notion of investment gold<sup>144</sup>, the calculation of the EU place-of-supply threshold<sup>145</sup>, the recharging of electric vehicles<sup>146</sup> and on video chat services<sup>147</sup>. The Commission also presented and explained at more than 50 occasions the new VAT e-commerce rules<sup>148</sup>. These presentations and workshops for business associations support Member States in their communication activities to facilitate the correct implementation of the new VAT e-commerce rules.

On **mutual tax recovery assistance**, the Commission held five meetings of the recovery expert group<sup>149</sup>, dealing with the implementation of Directive 2010/24 on mutual assistance for the recovery of claims relating to taxes, duties and other measures<sup>150</sup>. On **administrative cooperation and recovery of claims on indirect taxation**, the Commission held a meeting of the joint committee with the Kingdom of Norway

<sup>137</sup> [SESAR](#).

<sup>138</sup> [Regulation \(EU\) 2021/2070](#).

<sup>139</sup> [Register of Commission Expert Groups and Other Similar Entities](#).

<sup>140</sup> The [VAT Committee](#), set up under Article 398 of [Council Directive 2006/112/EC](#) ('the VAT Directive'), consists of representatives of the Member States and of the Commission, and examines questions concerning the application of EU VAT provisions raised by the Commission or a Member State.

<sup>141</sup> [Guidelines](#) of the VAT Committee.

<sup>142</sup> Articles 17a and 243 of the [VAT Directive](#) and Article 54a of the [VAT Implementing Regulation](#).

<sup>143</sup> Article 132(1)(i) of the [VAT Directive](#).

<sup>144</sup> Article 344 of the [VAT Directive](#).

<sup>145</sup> Article 59c of the [VAT Directive](#).

<sup>146</sup> Articles 14, 15, 38, 39 and 193 of the [VAT Directive](#).

<sup>147</sup> Articles 44, 53, 54 and 58 of the [VAT Directive](#).

<sup>148</sup> [Consolidated text](#) of the Council Directive 2006/112/EC.

<sup>149</sup> [Register of Commission Expert Groups](#).

<sup>150</sup> [Council Directive 2010/24/EU](#).

and with the participation of Member States under the EU-Norway Agreement on administrative cooperation, fight against fraud and recovery of VAT claims. The aim was to take stock of the implementation of the Agreement and agree on how to further enhance the cooperation by revising the Agreement. Under the Trade and Cooperation Agreement with the United Kingdom, a meeting of the trade specialised committee was held to take stock of the administrative cooperation and recovery assistance in 2021 and to present the state of play on the implementation of the Protocol on administrative cooperation and combating fraud **VAT** and on **mutual assistance for the recovery of claims relating to taxes and duties**. The Commission has been working with the United Kingdom for the full implementation of this Protocol in order to establish practical arrangements and enhance mutual assistance.

On **customs policy**, regular meetings of the different sections of the customs expert group have ensured an open dialogue with the Member States on the implementation of the EU Customs Code. Notably, on the EU customs tariff, the Commission deploys three sections of the customs code committee, three sections of the customs expert group and two other expert groups, to promote a common implementation of the policy. The 'prohibitions and restrictions control strategies' (PARCS) expert group met three times in 2021 to discuss the implementation and enforcement of prohibitions and restrictions. These activities cover a wide range of 350+ acts that customs are due to enforce at EU borders as regards product compliance, health, environment, security and safety, etc. The group of experts on drug precursors met twice in 2021 to discuss implementation questions. The cash controls committee met four times in 2021 to prepare discuss and vote on two implementing acts to the Regulation on controls on cash entering or leaving the EU. The customs code experts group intellectual property right section met twice in 2021 where implementation questions regarding current legislation, as well as the use and development of the COPIS ("Counterfeit and anti-Piracy Information System") were discussed.

## 2.2 Package meetings

Package meetings are meetings between the Commission and a Member State to discuss implementation issues and infringement cases in a given policy area. They can be held before the Commission has detected a breach of EU law or concern existing infringement cases of the Member State. Package meetings can be an efficient tool to deal with challenges a Member State may face in a policy area, across different acts of EU legislation, beyond the well-defined limits of a specific infringement procedure.

On **communication networks, content and technology**, the Commission organised several package meetings in 2021 where it discussed respectively several enforcement issues with Member States. For example, on copyright rules, the Commission held meetings with Belgium, Estonia and Croatia to seek a swift resolution of the infringement cases for late transposition of the Directive on Copyright in the Digital Single Market<sup>151</sup> and the Directive on online television and radio programmes<sup>152</sup>. On **audio-visual and media**, the Commission organised meetings with Ireland, France, Luxembourg and Romania to identify and discuss transposition deficits and offer assistance where necessary. On **electronic communications**, the Commission met with Germany, Greece, France and Cyprus regarding the implementation of the single European emergency call number, with Poland to seek clarifications and swift resolution on the independence of their national regulatory authority and with Slovenia to identify and discuss transposition deficits and offer assistance on the European Electronic Communication Code.

On **energy policy**, the Commission organised package meetings with Croatia, Belgium and Slovenia to discuss all on-going infringement cases with these Member States, with all relevant experts from the Member State and the Commission.

On radioactive waste, the Commission continued its technical exchanges with the Member States on issues related to the conformity of their transposition with the Radioactive Waste Directive<sup>153</sup> and the conformity of the national programmes issued under the same Directive.

<sup>151</sup> [Directive \(EU\) 2019/790](#).

<sup>152</sup> [Directive \(EU\) 2019/789](#).

<sup>153</sup> [Directive 2011/70/Euratom](#).



On **environment**, the Commission organised nine package meetings in 2021<sup>154</sup>. Furthermore, six technical meetings on infringements were held with Bulgaria, Czechia, Germany and Romania on air quality and waste management, as well as a technical meeting with Malta on finch trapping.

On **single market** legislation, the Commission finalised a large series of package meetings with all Member States, in line with Action 22 of the Communication ‘Long term action plan for better implementation and enforcement of single market rules’<sup>155</sup>. During these meetings, the Commission discussed with the respective Member States compliance issues concerning the Services Directive<sup>156</sup>, the Professional Qualification Directive<sup>157</sup>, the Proportionality Test Directive<sup>158</sup>, the Public Procurement directives<sup>159</sup>, the Late Payments Directive<sup>160</sup> and the free movement of goods.

On **transport**, in 2021, the Commission returned to holding package meetings after their previous suspension due to the COVID-19 pandemic. It held a meeting with Belgium in relation to several open infringement and EU Pilot cases.

### 3. Other compliance tools

Apart from standard, meetings-based tools to promote the good implementation and application of EU law by Member States, the Commission may use policy area-specific tools to strengthen and check compliance with EU rules.

On the **common agricultural policy**, the Commission complements general enforcement practices with tailored compliance tools, both to prevent violations of EU law and to sanction them should they occur. For instance, the Commission carries out audits to check if Member States have set up control systems that ensure that payments to beneficiaries from the EU funds are made correctly. If the audit identifies weaknesses in the control systems, it can result in recommendations and financial corrections. When the Commission detects systemic deficiencies in the management and control systems, it requests Member States to set up and implement a remedial action plan, which, if not followed up by the Member State concerned, may lead a reduction or suspension of payments to the Member State.

Legislation on direct payments, greening and cross-compliance, POSEI programme modifications<sup>161</sup>, includes obligations for Member States to notify to the Commission their policy decisions as well as data on annual implementation. The Commission uses these notifications to guide Member States towards a more common implementation and reports on implementation of direct payments each year<sup>162</sup>.

Another example of a compliance tool used in the agricultural sector is the Organic Farming Information System<sup>163</sup>, an electronic platform to share information between Member States and the Commission, in particular for notifying any suspicion of irregularity. In 2021, Member States notified around 1 400 irregularity cases concerning imported organic products to control bodies and to non-EU countries, in particular on non-authorized pesticides residues.

These practices are completed by several other sector-specific and cross-compliance enforcement tools. As a result, compliance has continuously improved during the last years and the number of infringement procedures related to an incorrect application of EU law have diminished in the agricultural sector.

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<sup>154</sup> With Austria, Belgium, Croatia, Spain, France, Ireland, Italy, Poland and Slovenia.

<sup>155</sup> [COM\(2020\)94](#).

<sup>156</sup> [Directive 2006/123/EC](#).

<sup>157</sup> [Directive 2005/36/EC](#).

<sup>158</sup> [Directive \(EU\) 2018/95](#).

<sup>159</sup> Directives [2014/23/EU](#), [2014/24/EU](#), [2014/25/EU](#).

<sup>160</sup> [Directive 2011/7/EU](#).

<sup>161</sup> [POSEI program](#).

<sup>162</sup> [Summary report on the implementation of direct payments](#).

<sup>163</sup> [Databases](#).

On **communication networks, content and technology**, and more specifically on electronic communications, the Commission received 64 notifications from national telecommunications regulators under Article 32 of European Electronic Communications Code<sup>164</sup> on the consolidation of the single market for electronic communications. As one of the main EU instruments governing the telecommunications sector, this consultation and notification mechanism requires national telecommunications regulators to inform the Commission, the telecommunications regulators in other EU countries and the body of European regulators for electronic communications (BEREC), about measures they plan to introduce to solve market problems. The Commission is consulted on draft regulatory measures proposed and can veto measures that would create a barrier to the single market or if they raise serious doubts as to their compatibility with EU law.

On **employment** legislation, with a view to improve compliance with occupational safety and health rules, the Commission continued to support a joint action with stakeholders on a roadmap on carcinogens which is a voluntary action scheme to raise awareness about the risks arising from exposure to carcinogens in the workplace and share good practices between companies and organisations. On labour mobility and labour law, the Commission held four bilateral meetings with Member States' national authorities concerning cases of suspected or established breach of EU law.

On **energy** and national long-term building renovation strategies, with a crucial link to recovery and mobilisation of investments, the Commission issued two detailed analyses of the 26 national long-term renovation strategies received in 2021, first in March 2021 addressing the strategies received to date<sup>165</sup>, and subsequently in December 2021<sup>166</sup>.

To enforce EU **environmental rules**, and more specifically air quality, the Commission's second clean air outlook report<sup>167</sup> of January 2021 presents an analysis of the air pollution situation in the EU up to 2030 and beyond. It provides support in implementing national air pollution control programmes. On industrial emissions, the Commission published a report on the implementation of the Industrial Emissions Directive<sup>168</sup> and a report on implementation of the SEVESO III Directive<sup>169</sup>. Also, the Commission set up an online platform to provide a space for Member States to discuss, and access resources related to, the implementation of the Industrial Emissions Directive<sup>170</sup>.

On the implementation of **nature legislation**, the Commission continued to support the Natura 2000 biogeographical process. This is a process of cooperation between various stakeholders at the level of a biogeographical region. The Member States in which the region lies are involved in improving the implementation, management, monitoring, financing and reporting for the Natura 2000 network based on agreed roadmaps. One Natura 2000 biogeographical seminar was organised in 2021, for the Mediterranean region. Furthermore, the implementation of the new governance framework for biodiversity has progressed, with the completion of monitoring, progress tracking and review mechanisms.

On **water protection**, the Commission strengthened the common implementation strategy (CIS)<sup>171</sup> structure to better accommodate the enhanced cross-sectoral approach of the European Green Deal. To promote discussions with Member States on key challenges in the implementation of the Water Framework Directive<sup>172</sup> the Commission held structured dialogues with Member States that focused on the fundamental obligations of the Water Framework Directive related to monitoring, classification and justification of exemptions, which are essential to the correct implementation of the Directive. Furthermore, the Commission reported on

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<sup>164</sup> [Directive \(EU\) 2018/1972](#).

<sup>165</sup> [SWD\(2021\) 69 final](#).

<sup>166</sup> [SWD\(2021\) 365 final](#).

<sup>167</sup> [COM\(2021\)3 final](#).

<sup>168</sup> [COM\(2021\) 793 final](#).

<sup>169</sup> [COM\(2021\) 599 final](#).

<sup>170</sup> [Implementation of the IED](#).

<sup>171</sup> [Common Implementation Strategy](#).

<sup>172</sup> [Directive 2000/60/EC](#).

progress made at EU level on the implementation of the Water Framework Directive<sup>173</sup>, the Environmental Quality Standards Directive<sup>174</sup> and the Floods Directive<sup>175</sup>.

To promote a consistent interpretation and application of EU rules on **financial services**, the Commission answered 117 questions submitted by the European Banking Authority, 16 questions submitted by the European Insurance and Occupational Pensions Authority, 25 questions submitted by the European Securities and Markets Authority and six questions submitted by the Joint Committee of these three European supervisory authorities<sup>176</sup>. These Commission answers aim to ensure supervisory convergence financial services across the EU.

On **justice and consumers**, and more specifically on the protection of personal data, the Commission issued in June 2021 two sets of standard contractual clauses under the General Data Protection Regulation (GDPR) (one for controllers and processors located in the EU<sup>177</sup>, and another one for transferring personal data to non-EU countries<sup>178</sup>) to provide stakeholders with tools facilitating compliance with the GDPR. The Commission also contributed to the work of the European Data Protection Board, in particular when preparing guidelines on the application of data protection law.

On the **single market**, the Commission continued to meet with Member States in the single market enforcement taskforce (SMET). SMET was set up in 2020 to strengthen cooperation on the efficient implementation and enforcement of the single market freedoms. In 2021, alongside the work on the remaining COVID-19 related barriers, SMET emphasised the importance to address specific systemic barriers that hamper the proper functioning of the single market and, consequently, negatively impact the successful recovery. Thanks to its work, prior checks of qualifications were abolished for more than 210 professions in 14 Member States. Furthermore, seven Member States removed excessive document requirements in relation to the recognition of professional qualifications. As to measures with potential protectionist effects in the agri-food sector, four Member States acknowledged the existence of barriers to the single market and indicated steps undertaken to eliminate existing or planned measures while three Member States indicated willingness to continue the discussions to address the matter. In September 2021, SMET produced its first report<sup>179</sup> on its objectives, working methods and actions taken so far.

Based on Regulation (EU) 2019/515 on the mutual recognition of goods<sup>180</sup>, the information and communication system for market surveillance<sup>181</sup> (ICSMS) aims to facilitate the notification of decisions restricting or denying market access for goods, eligible for mutual recognition and to enhance administrative cooperation between the authorities on market surveillance. In 2021, the Commission organised several online trainings courses and webinars for the authorities on mutual recognition and ICSMS, and received a number of notifications from national authorities.

Notification procedures under the Single Market Transparency Directive<sup>182</sup> (SMTD) and the Services Directive<sup>183</sup> continued to be key instruments in preventing barriers before they arise, with more than 1 000 notifications of national legislation received in 2021. The COVID-19 pandemic highlighted the strategic importance of the SMTD, as this Directive was the entry point for urgent national measures with an impact on the free movement of medical equipment, medicinal products and medical information society services. Furthermore, notifications under the Services Directive continued to allow dialogue between Member States and the

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<sup>173</sup> [Directive 2000/60/EC](#).

<sup>174</sup> [Directive 2008/105/EC](#).

<sup>175</sup> [Directive 2007/60/EC](#).

<sup>176</sup> Regulations (EU) [1093/2010](#), [1094/2010](#) and [1095/2010](#), the respective founding Regulations of the European supervisory authorities, explicitly provide for a legal basis for this procedure under which the supervisory authorities must forward questions to the Commission if they require the interpretation of EU law. The Commission's answers must be published by the supervisory authorities.

<sup>177</sup> [Standard contractual clauses for controllers and processors in the EU/EEA](#)

<sup>178</sup> [Standard contractual clauses for data transfers between EU and non-EU countries](#).

<sup>179</sup> [Report](#).

<sup>180</sup> [Regulation \(EU\) 2019/515](#).

<sup>181</sup> [ICSMS](#).

<sup>182</sup> [Directive \(EU\) 2015/1535](#).

<sup>183</sup> [Directive 2006/123/EC](#).

Commission to avoid the creation of barriers and possible infringements. Furthermore, in 2021 the Commission provided guidance on the correct implementation of the Public Procurement directives via an online platform.

The Internal Market Information System (IMI) also allows swift and efficient exchanges of information between Member States administrative bodies. By using very modern digital means, it considerably eases the implementation of EU rules in several important policy areas.

On **migration and home affairs**, the Schengen strategy<sup>184</sup> of 2 June 2021 announced a new structured approach aiming to make a more systematic use of the synergies between the Schengen Evaluation and Monitoring Mechanism<sup>185</sup>, and infringement procedures. This structured approach helps apply more flexible and transparent criteria to decide on the circumstances that may trigger an infringement procedure in line with the Commission's overall policy on the enforcement and implementation of EU law.

To enforce the EU's **maritime affairs and fisheries** legislation, the Commission relies heavily on a system of checks, inspections and audits by Commission inspectors. In addition, the Commission adopts control action plans<sup>186</sup>, in close cooperation with the Member State concerned, which are an additional tool to ensure compliance by Member States with EU legislation. In 2021, the Commission actively monitored how Member States were implementing the 15 currently opened action plans. On the common organisation of the markets in fishery and aquaculture products, the Commission carried out implementation checks as an alternative tool to ensure full compliance with EU rules in this sector, including on the recognition of producer organisations.

On **health**, and more specifically tobacco control, in order to facilitate the ongoing work on the compliance assessment of the national implementing measures, the Commission organised bilateral meetings with Member States. To foster the implementation of EU rules on **cross-border healthcare**, the Commission organised bi-lateral dialogues with two Member States.

Furthermore, to promote compliance with the EU legislation in food safety and food hygiene, the Commission carried out audits in the Member States in food and feed safety, animal health, plant health and animal welfare and systematically followed up audit recommendations. On animal welfare the Commission followed-up with the Member States the updating of their action plans to enforce the prohibition of routine tail-docking of pigs and achieved improvements in the welfare of animals at transport by road.

On official controls, the Commission facilitated enforcement at border control posts and control points through the use of IMSOC (Integrated management system for official controls), and the development of guidance on the implementation of the Official Control Regulation by the Member States.

On **taxation and customs** policy, the Commission began compiling an informal 'integrated EU prohibitions and restrictions list' identifying 350+ acts that establish rules that apply to goods entering, exiting or transiting the EU as regards product compliance, health, environment, security and safety, etc. This first ever integrated list will serve as a basis to better coordinate and harmonise activities and efforts for better protecting the EU, the people it serves, its businesses and the environment.

#### 4. Explanatory documents

Explanatory documents play an essential role in allowing the Commission to understand how Member States transpose EU directives. Often, Member States must fit measures into a complex legal framework. The resulting exercise can therefore produce a high number of measures that the Commission needs to examine. For example, in 2021, there were several directives for which a single Member State, on average, notified more than 13 transposition measures per directive. In light of this considerable workload for the Commission,

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<sup>184</sup> [COM\(2021\)277](#).

<sup>185</sup> EU law established the [Schengen Evaluation Mechanism](#) as a specific monitoring mechanism designed to check the application of the EU's legislation on the functioning of the Schengen area.

<sup>186</sup> See Article 102 of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, OJ L 343 22.12.2009, p. 1. Those action plans were adopted as implementing acts.

the quality of explanatory documents is crucial so that the Commission can carry out swift and effective transposition and conformity checks.

The critical nature of explanatory documents has been recognised by the Court. In its judgement of 8 July 2019<sup>187</sup>, the Court clarified that, when notifying national transposition measures to the Commission, Member States must provide sufficiently clear and precise information, and identify, for each provision of the directive, the national provision(s) ensuring its transposition. If they fail to notify such information explaining the correlation between the provisions of a directive and the corresponding provisions of national law, the Commission will pursue the infringement procedures under Article 260(3) TFEU. This Treaty provision allows the Commission to request the Court to impose financial penalties if a Member State fails to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure. The Court's judgement did not impose an obligation on the Member States to notify explanatory documents to the Commission in the form of correlation tables. Member States remain free to choose the form of their explanatory documents. However, the Commission notes that correlation tables have proved a useful tool for Member States to match the legal obligations stemming from a directive with a corresponding legal obligation in the national legislation.

Since that judgement, the Court has confirmed this jurisprudence in further judgements<sup>188</sup>. Given that the requirement for Member States to provide sufficiently clear and precise information on the national provisions transposing a directive is now firmly established as a legal obligation for each directive and not merely optional, the Commission considers that it is no longer necessary to report on the numbers of explanatory documents notified by the Member States.

In 2021, based on the Court's rulings, the Commission initiated four infringement procedures in taxation where the Member States concerned had declared the transposition of the Directive to be complete but where the explanatory document was still lacking.

## 5. Implementation strategies

Supporting Member States in the implementation and application of EU law is a priority of the Commission's enforcement policy as a key element to prevent infringements of EU law by Member States. As set out in the 2017 Communication 'EU law: Better results through better application'<sup>189</sup>, the Commission attaches great importance to the **full and timely transposition** of EU law. With a view to making the Commission's support to Member States more effective as regards the transposition of directives, the Commission in its Better Regulation Guidelines of 3 November 2021<sup>190</sup> introduced **implementation strategies**, updating and replacing 'implementation plans' previously used to assist Member States and monitor the transposition process of new directives.

An implementation strategy identifies the challenges that the Member States will face and which need to be taken into account when they prepare to turn and implement the respective directive or regulation. The strategies also explain the various support actions the Commission will provide to Member States for their implementation of EU laws, such as preparing guidance documents, organising expert groups, workshops and dedicated websites or promoting training for practitioners. Implementation strategies may also identify the tools the Commission will use to carry out its monitoring activities. Implementation strategies can include implementation plans of, and monitoring arrangements with Member States to track progress and report on their implementation. The Commission aims to prepare implementation strategies for major directives and regulations and in any event for legislation with a certain degree of complexity.

Given the introduction of implementation strategies in November 2021 a reporting on the use of this tool will only be possible for the year 2022. The Commission will continue to explore avenues for improving the effectiveness of its support for the transposition of directives, together with the Member States.

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<sup>187</sup> *Commission v Belgium*, [C-543/17](#).

<sup>188</sup> *Commission v Romania*, [C-549/18](#) and *Commission v Ireland*, [C-550/18](#).

<sup>189</sup> [C/2016/8600](#).

<sup>190</sup> [2021 Better Regulation Guidelines](#).

## II. INFRINGEMENT PROCEDURES – FROM DETECTING BREACHES TO PENALTIES

There are four 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 turn a directive into national law;
- b) **non-conformity / non-compliance**: the Commission considers that a Member State's law are not in line with the requirements of EU directives;
- c) **infringement of the treaties, regulations or decisions**: the Commission considers that a Member State's laws are not in line with the requirements of the treaties, EU regulations or decisions;
- d) **incorrect 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 if the Member State 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 under Article 258 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 has not taken 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 penalties per day or another specified period.

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.

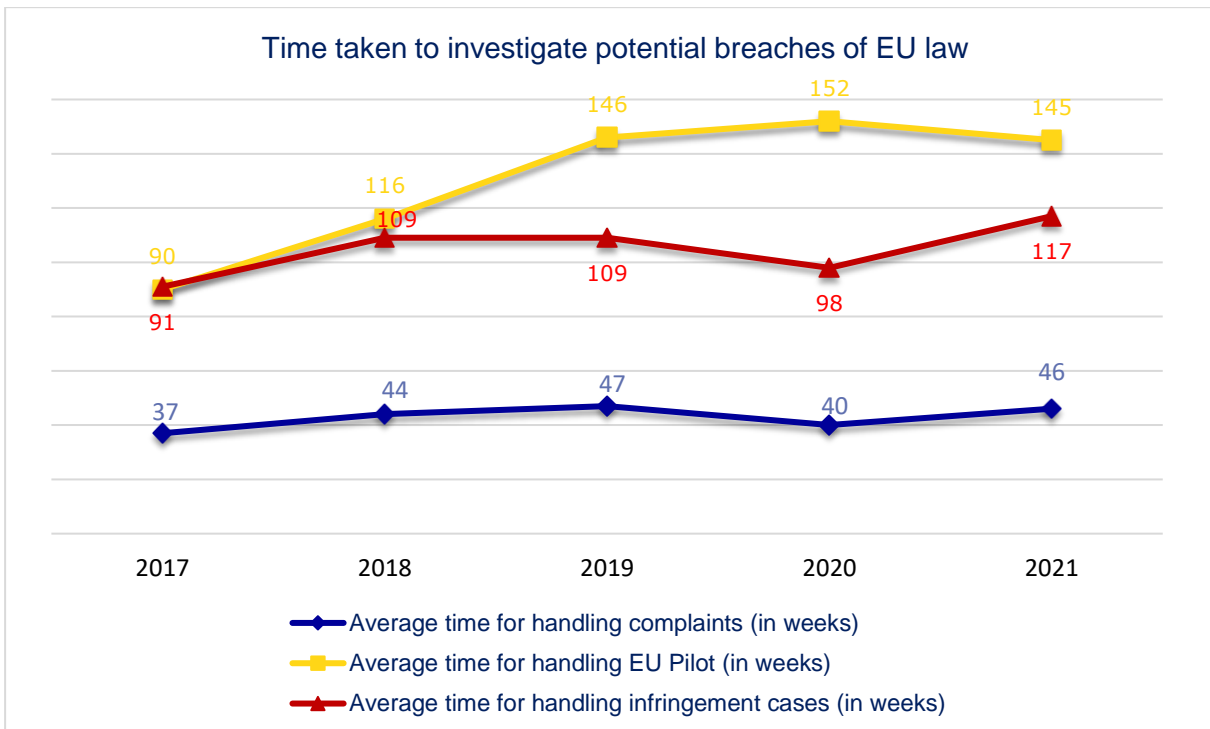
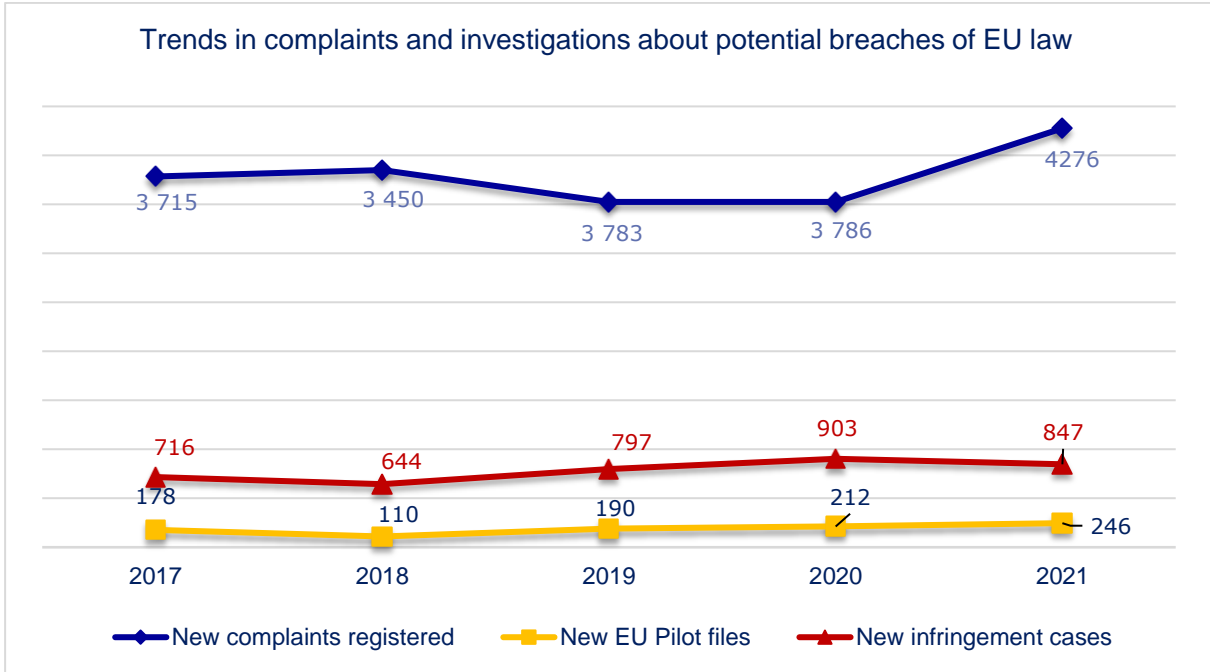
At the request of national courts, the Court may also issue **preliminary rulings** under Article 267 TFEU addressing issues of conformity of national laws with EU legislation. While preliminary rulings are distinct from infringement judgements, they give the Commission an additional opportunity to ensure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

Over recent years, the Commission has taken specific measures to improve the **transparency** of its monitoring activities and decisions on infringement procedures. It has set up a centralised platform for sharing infringement-related information on the Europa portal<sup>191</sup>. This provides detailed information on the decisions the Commission takes on infringement procedures, including press material on specific cases. Since 2017, the **press material** covers all formal steps of the infringement procedure. In addition, every year the Commission provides information in its **annual reports** on monitoring the implementation of EU legislation, on the follow-up given to complaints and on parliamentary petitions and infringement procedures.

The Commission remains committed to improving the transparency of its enforcement action. At the same time, it has taken into account to the legitimate need for confidentiality with regard to the Member States in infringement procedures, as recognised by the Court.

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<sup>191</sup> [https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/?lang\\_code=en](https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/?lang_code=en).





## 1. Complaints

Complaints<sup>192</sup> open at year-end

3 828	>	Complaints open at end-2020
4 276	>	New complaints registered in 2021
4 398	>	Complaints handled in 2021
<b>= 3 706</b>	>	Complaints open at end-2021

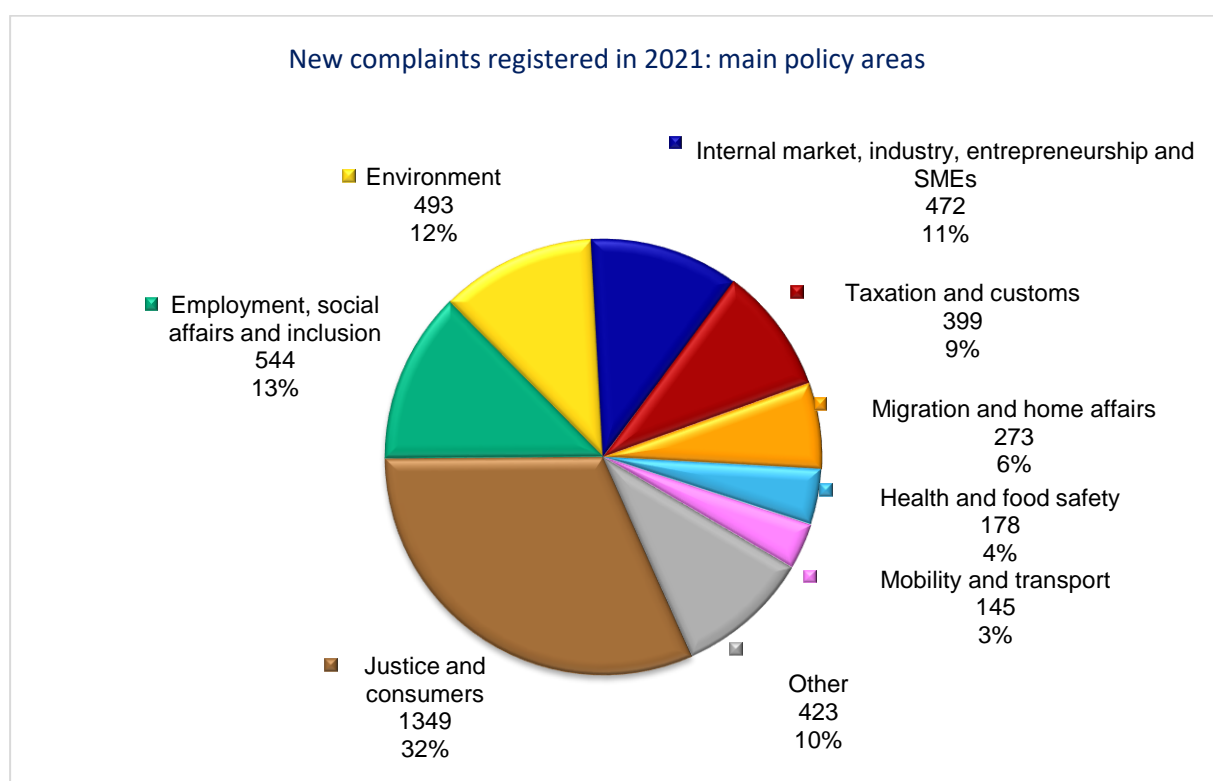
The three Member States against which the Commission received the most complaints were Spain, Germany and France:

**Spain:** 933 complaints, especially related to justice and consumers (285 complaints), environment (174 complaints), and taxation and customs (150 complaints);

**Germany:** 372 complaints, mainly related to justice and consumers (134 complaints); internal market, industry, entrepreneurship and SMEs (44 complaints), and environment (35 complaints);

**France:** 348 complaints, mostly concerning justice and consumers (98 complaints), internal market, industry, entrepreneurship and SMEs (69 complaints), employment (43 complaints) and home affairs (43 complaints).

The following chart shows the main policy areas for which new complaints were registered in 2021. Together they account for 90% of all complaints received in 2021.



<sup>192</sup> Reference to 'complaints' in this report includes incoming correspondence qualified by senders as a complaint even though it did not qualify as such, according to the 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](#). Furthermore, reference to 'complaints' includes so-called 'multiple complaints', where the Commission under one complaint file (registration entry) handles sometimes a very large number of individual complaints.



**The Commission handled 4 398 complaints in 2021.** A large number of incoming correspondence, qualified by persons and bodies as complaints, did not actually qualify as such and were dismissed and followed-up in accordance with the rules under the Commission’s Code of Good Administrative Behaviour (1 700)<sup>193</sup>. Following the assessment of complaints, the Commission may launch an investigation using the EU Pilot mechanism or through formal infringement procedures to ensure that Member State laws and practices are compliant with EU law. Most complaints in 2021 did not lead to such investigations, as no breach of EU law could be established (2 490 complaints). Furthermore, the Commission did not pursue 90 cases as the complainants withdrew their complaint. It also transferred one complaint to SOLVIT<sup>194</sup>. In 2021, the Commission therefore dismissed or closed **4 281** complaints while it pursued **117** complaints by investigating them in the EU Pilot mechanism or through an infringement procedure.



Complaints leading to investigations using the EU Pilot mechanism were mostly related to taxation and the customs union, mobility and transport, employment, financial stability, financial services and the Capital Markets Union, the internal market, industry, entrepreneurship and SMEs and agriculture. These complaints mainly concerned Italy, Spain, France, Belgium, Bulgaria, Germany and Greece.

Complaints leading to formal infringement procedures were mostly related to justice and consumers, employment, taxation and the customs union, the internal market, industry, entrepreneurship and SMEs, and the environment. These new infringements procedures mainly concerned Italy, Portugal, Austria, France, Germany, Spain and Greece.

## 2. Petitions

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 2021. The Commission systematically follow-up on petitions. However, not all petitions lead to investigations about breaches of EU law, because no EU laws were breached or the Commission had no power to act. In many cases, the situation presented in a petition is already being investigated by the Commission through the EU Pilot or a formal infringement procedure. The Commission also applies to petitions that point to specific individual and isolated instances of incorrect application of EU law the same policy approach that it applies to complaints. In these situations, it recalls that European citizens can find redress more swiftly and more effectively at national

<sup>193</sup> According to the 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](#).

<sup>194</sup> [https://ec.europa.eu/solvit/index\\_fr.htm](https://ec.europa.eu/solvit/index_fr.htm).

level. At the EU level, the Commission suggests that petitioners use more informal means, including the SOLVIT network<sup>195</sup>, which might lead to a swifter and a more individualised resolution of their issue.

This section provides an overview of the follow-up the Commission gave to petitions in 2021 in the policy areas most concerned:

On the **common agricultural policy**, the Commission received 10 petitions concerning alleged breaches of the policy by Member States (for example, on aids, payments, etc.). None of them led to further actions since their assessment did not identify any breaches of EU law.

On **communication networks, content and technology**, and more specifically on electronic communications, the Commission received 3 petitions on the harmonisation of the process of digitisation of radio in the EU, the application of internet neutrality to providers of the United States and its effects for European citizens and web pages in the EU, and on the preservation of net neutrality.

On **employment**, and in particular occupational safety and health, the Commission continued to handle petitions. For example, on the exposure to asbestos at work, health and safety of construction workers, harassment at work, precarious work and issues related to COVID-19 and in related fields where occupational health and safety was raised in addition to public health issues. In these areas, the Commission handled 16 petitions in 2021. In light of the issues raised by the petitioners, these petitions did not lead to new infringement procedures. However, in relation to one petition regarding the health and safety of construction workers, the Commission intends to contact the responsible national authorities to inform them about its assessment of the petition.

On labour law, the Commission handled 14 petitions. As they related to matters in ongoing infringement procedures, they did not lead to any new infringement cases. Furthermore, the Commission dealt with seven petitions concerning social protection, 12 petitions concerning disability, three petitions on non-discrimination issues and two petitions in the area of housing. None of them led to further actions since their assessment did not identify any breaches of EU law.

On labour mobility, the Commission handled seven petitions, whereas in the area of coordination of social security systems, the Commission handled eight petitions, raising questions about access to healthcare, disability pensions and family benefits. They did not lead to any further actions as the Commission did not find any breach of EU law.

On **energy**, the Commission handled 19 petitions regarding different areas such as renewable energy, electricity and gas, consumers' rights, eco-design and Euratom. Generally there has been no follow-up in terms of opening new infringements. One petition was related to the ongoing transposition check of the Renewable Energy Directive 2018/2001/EU<sup>196</sup>.

On **environment**, the Commission received 144 petitions in 2021. Many of those petitions were linked to complaints or to structural infringements, which were already being investigated. A number of petitions raised specific individual and isolated instances of incorrect application of EU law, which the Commission did not pursue further in its enforcement policy, and therefore did not lead to investigations.

On **financial services and the Capital Markets Union**, the Commission dealt with two petitions in 2021. One petition concerned the impossibility of opening a bank account online from another Member State. The Commission contacted the respective Member State, which took the necessary steps to ensure correct application of EU law. Another petition related to the role of public authorities in the fraud by the Wirecard company. The Commission published a public consultation on improving the quality and enforcement of corporate reporting for a possible revision of the legislative framework in the field.

On the **single market**, the Commission received 18 petitions concerning various aspects of the internal market.

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<sup>195</sup> [https://ec.europa.eu/solvit/index\\_en.htm](https://ec.europa.eu/solvit/index_en.htm).

<sup>196</sup> [Directive \(EU\) 2018/2001](#)

On **migration and home affairs matters**, the Commission handled 48 petitions.

On **transport**, five petitions concerned road safety issues. On driving licences, petitioners questioned the common conditions and age limits for issuing driving licences and restrictions applicable to new drivers in a Member State. On roadworthiness, one petition was submitted on technical rules for vehicle restrictions in a Member State. Furthermore, the Commission received two petitions on the safety of road infrastructure. On passenger rights, the Commission received four petitions on issues ranging from passenger protection in case of airline bankruptcy and the transport of medical equipment for people with special needs to reimbursement after flight cancellation due to the pandemic. Moreover, there has been a petition on sustainable development of e-mobility, a petition on reducing the environmental impact of battery production for electric cars as well as on the impossibility for foreign citizen of paying Portuguese motorway tolls online.

On **food safety**, in 2021, the Commission received a petition regarding food information and composition that included elements to be considered in the upcoming proposal for common mandatory front-of-pack nutrition labelling at EU level.

On **taxation**, the Commission received seven petitions concerning the implementation and application of EU law. Three petitions concerned issues already dealt with by the Commission under two infringement procedures and, respectively, one EU Pilot file, while three petitions have not raised breaches of EU law. For one petition, the Commission deferred its assessment, as there is currently a pending preliminary question before the Court on the matter.

### 3. EU Pilot

The EU Pilot dialogue was set up to allow the Commission to share information with a given Member State on potential breaches of EU law at an early stage. While the recourse to EU Pilot should not add a lengthy step to the infringement process, which in itself is a means to enter into a problem-solving dialogue with a Member State, the EU Pilot dialogue has been revealed useful for cases where a quick solution within a short period appears attainable or when the Commission intends to collect the information needed to perform its assessment on the correct implementation of EU law<sup>197</sup>.

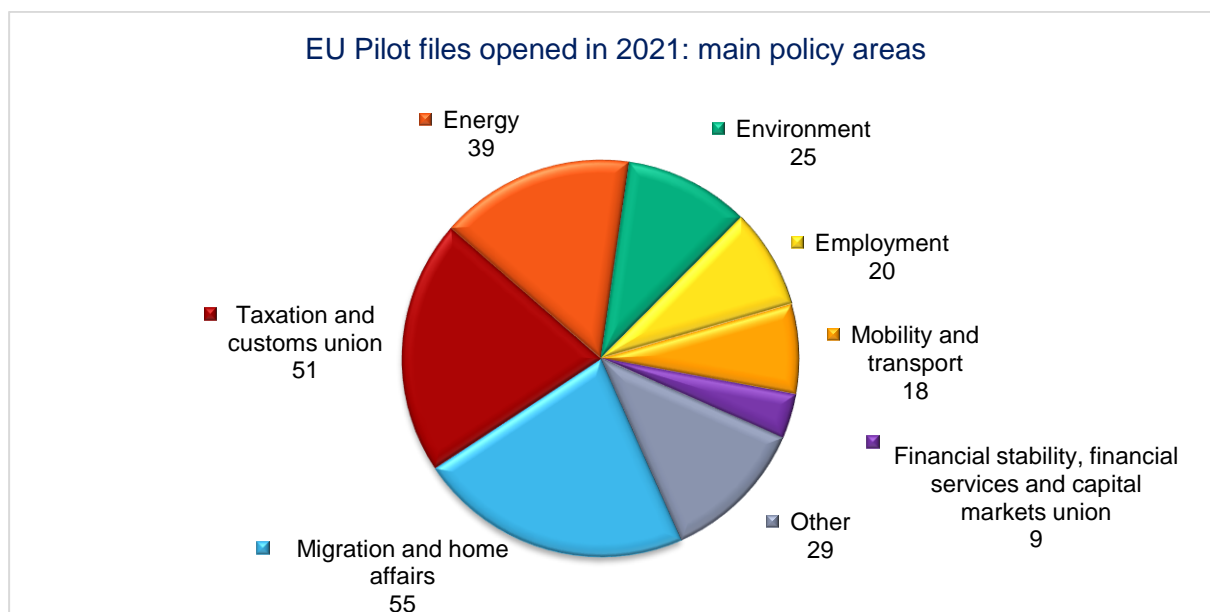
**The Commission opened 246 new EU Pilot files in 2021.** Of these, 55 were triggered by complaints and 191 were opened by the Commission on its own initiative.

EU Pilot files open at year-end

538	>	EU Pilot files open at end-2020
246	>	New EU Pilot files registered in 2021
223	>	EU Pilot files handled in 2021
<b>= 561</b>	>	<b>EU Pilot files open at end-2021</b>

The following chart shows the policy areas in which the Commission opened the most new EU Pilot files in 2021:

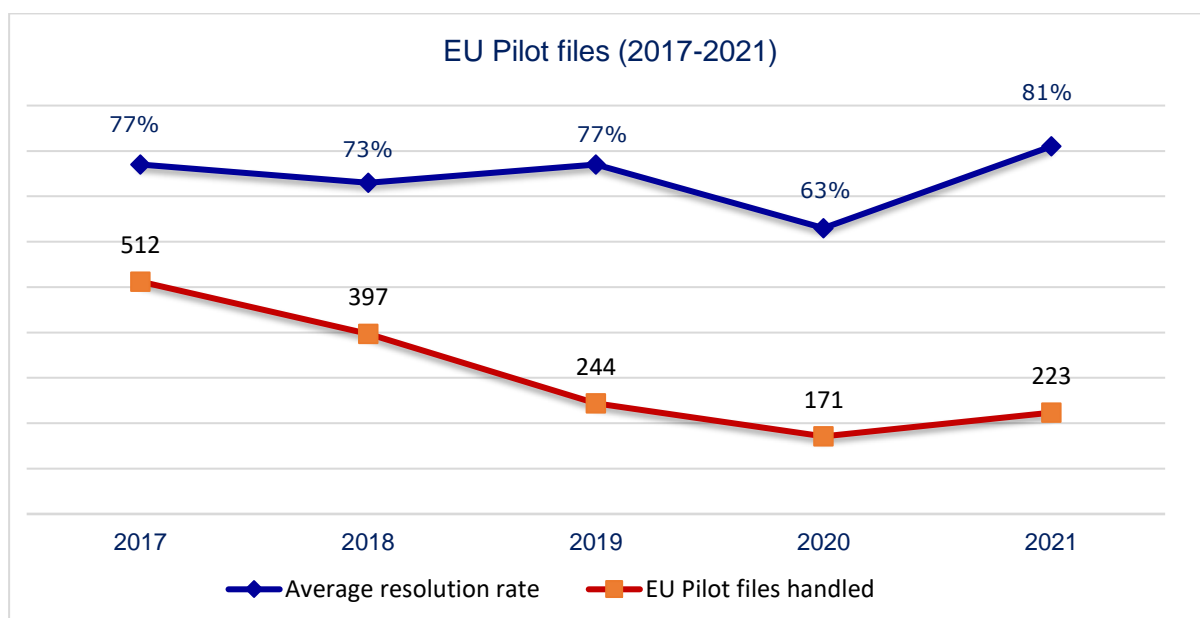
<sup>197</sup> [COM\(2020\)94](#).



**The Commission handled 223 EU Pilot files in 2021.** It closed 181 of these after receiving satisfactory answers from the Member States concerned. This gives a resolution rate of **81%**, which is considerably higher than the 2020 level (63%).

Altogether, **18 EU Pilot files** were followed up by the opening of a formal infringement procedure in 2021. While five of these procedures were based on complaints, the Commission launched the remaining 13 on its own initiative.

The policy area with the most EU Pilot files that led to formal infringement procedures is environment (10 cases).

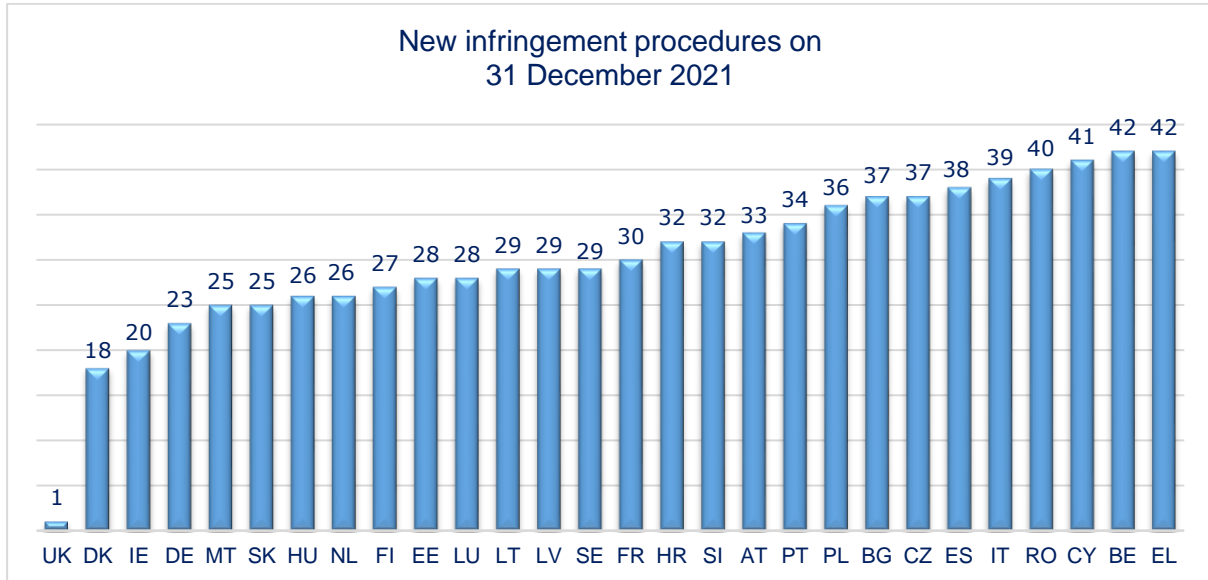


**At the end of 2021, 563 EU Pilot files were open.** The main Member States concerned were Italy (46), Poland (35) and Germany (33). The main policy area concerned continued to be environment policy (136 open files), followed by justice and fundamental rights (59), migration and home affairs (56) and mobility and transport (56).

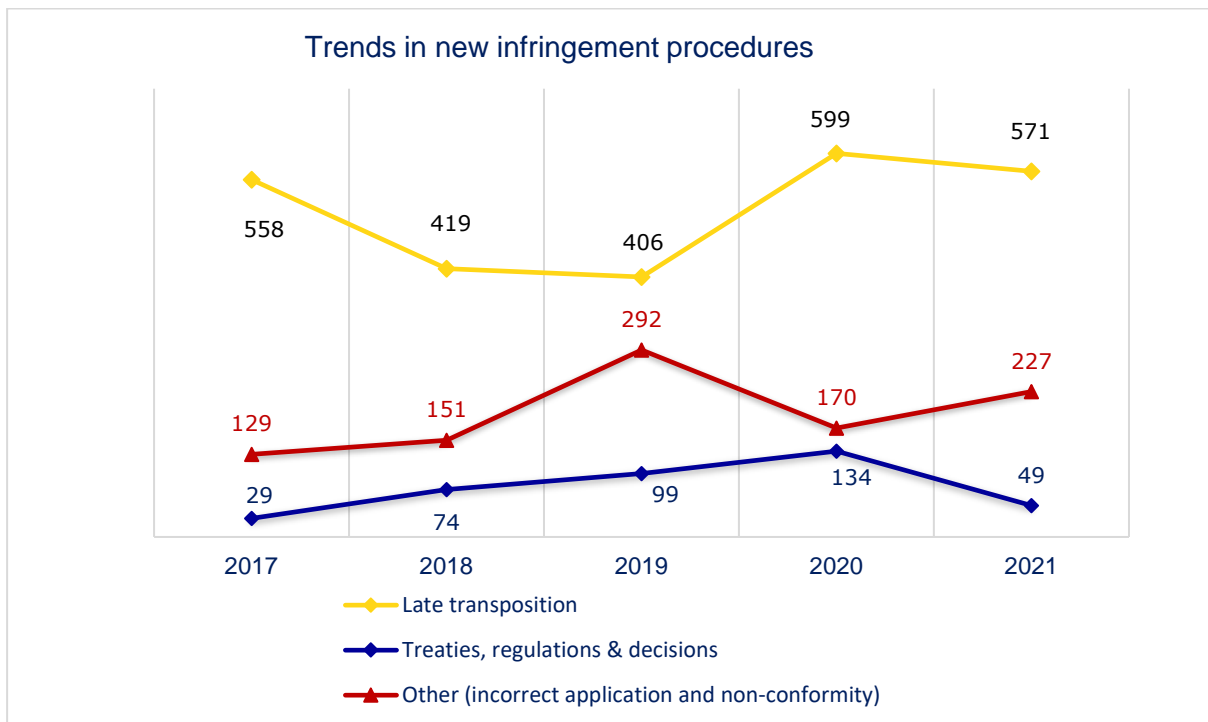
#### 4. Open infringement procedures

The Commission launched **847** new infringement procedures in 2021.

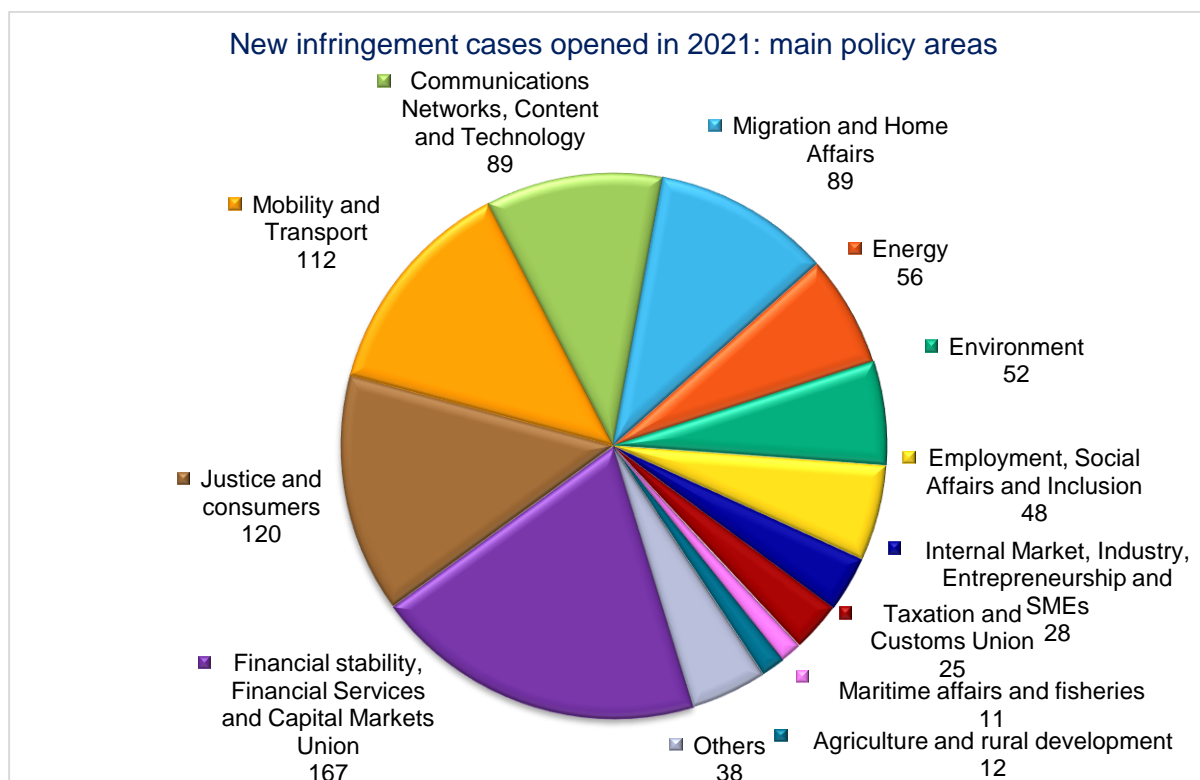
The following chart gives the breakdown by Member State and the United Kingdom.



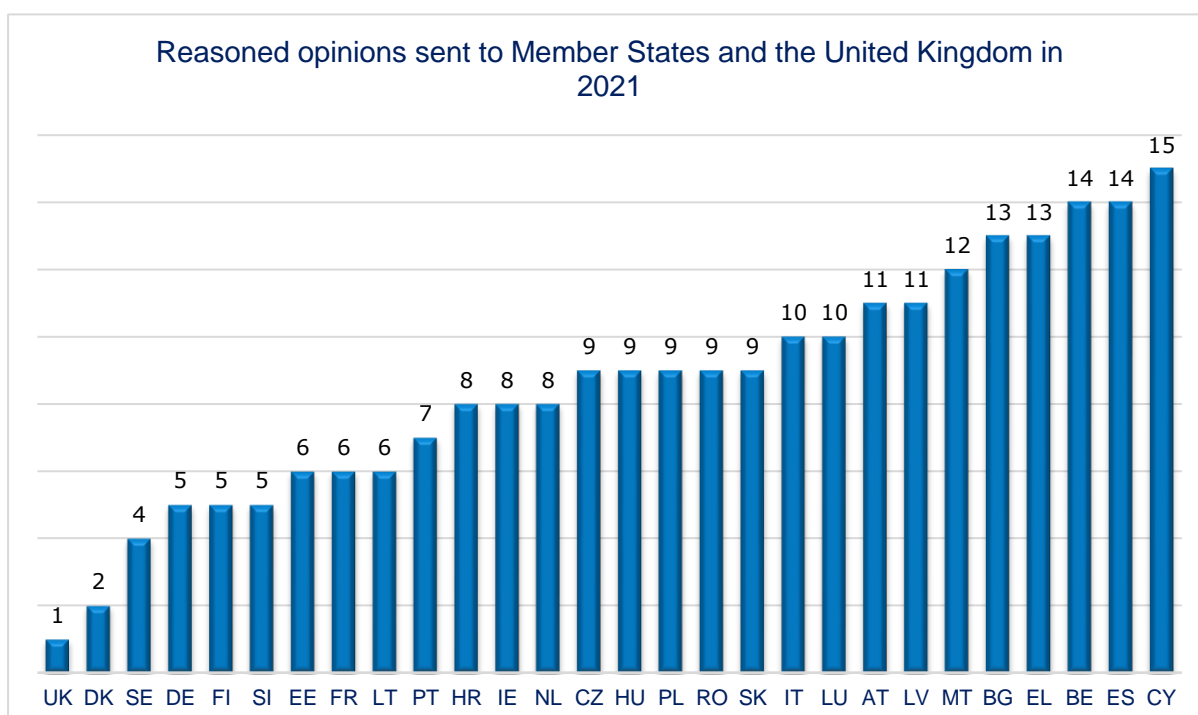
Most new infringement cases are for late transposition of EU directives.



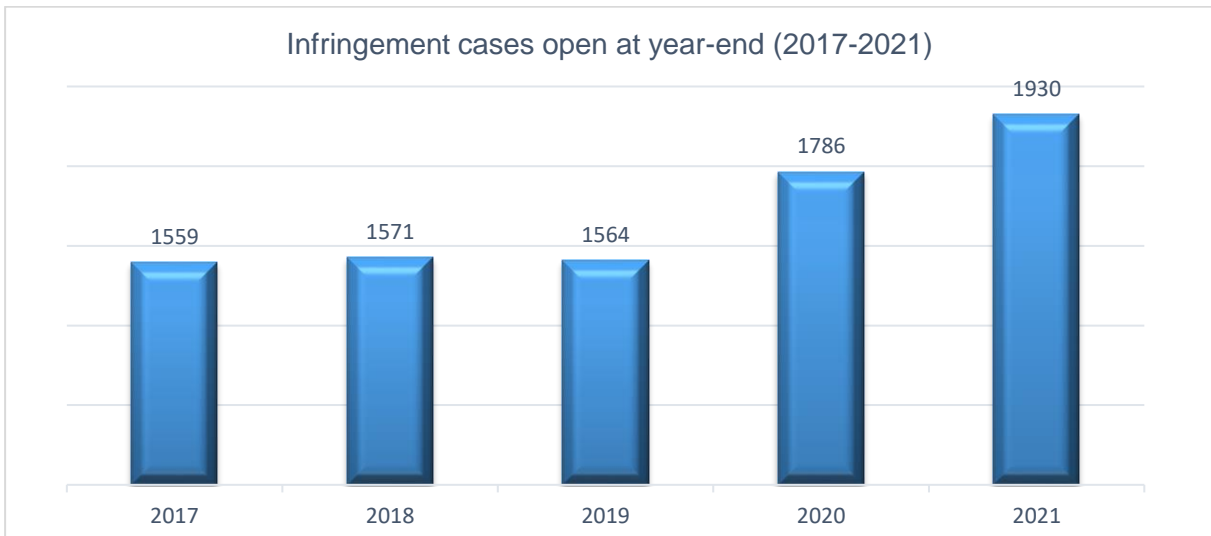
The following chart shows the main policy areas in which new procedures were opened.



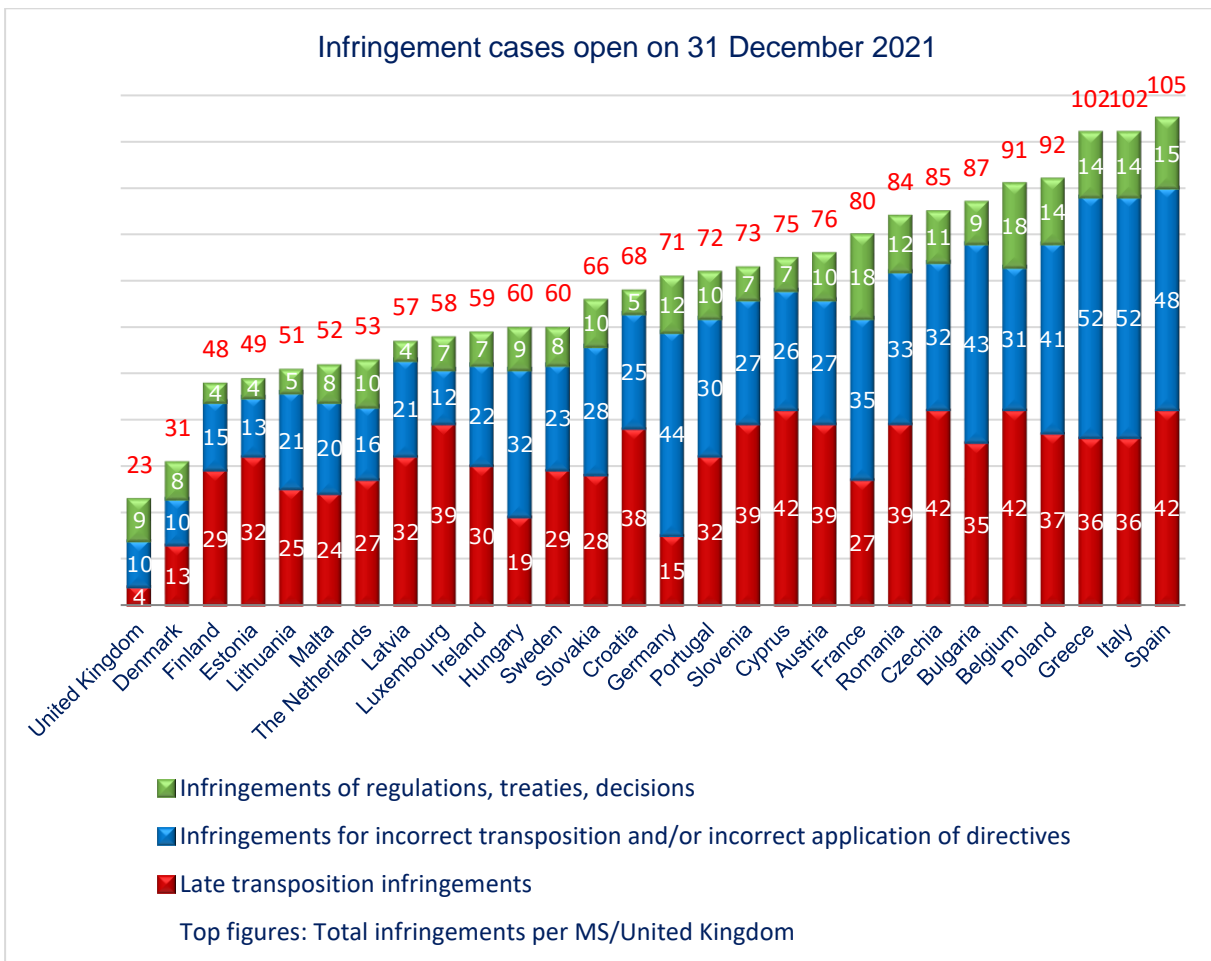
The Commission pursued **239** infringement procedures further by sending reasoned opinions to Member States and the United Kingdom in 2021. The main policy areas concerned were environment (71), financial stability; financial services and Capital Markets Union (43); communication networks, content and technology (34); mobility and transport (23) and energy (21).



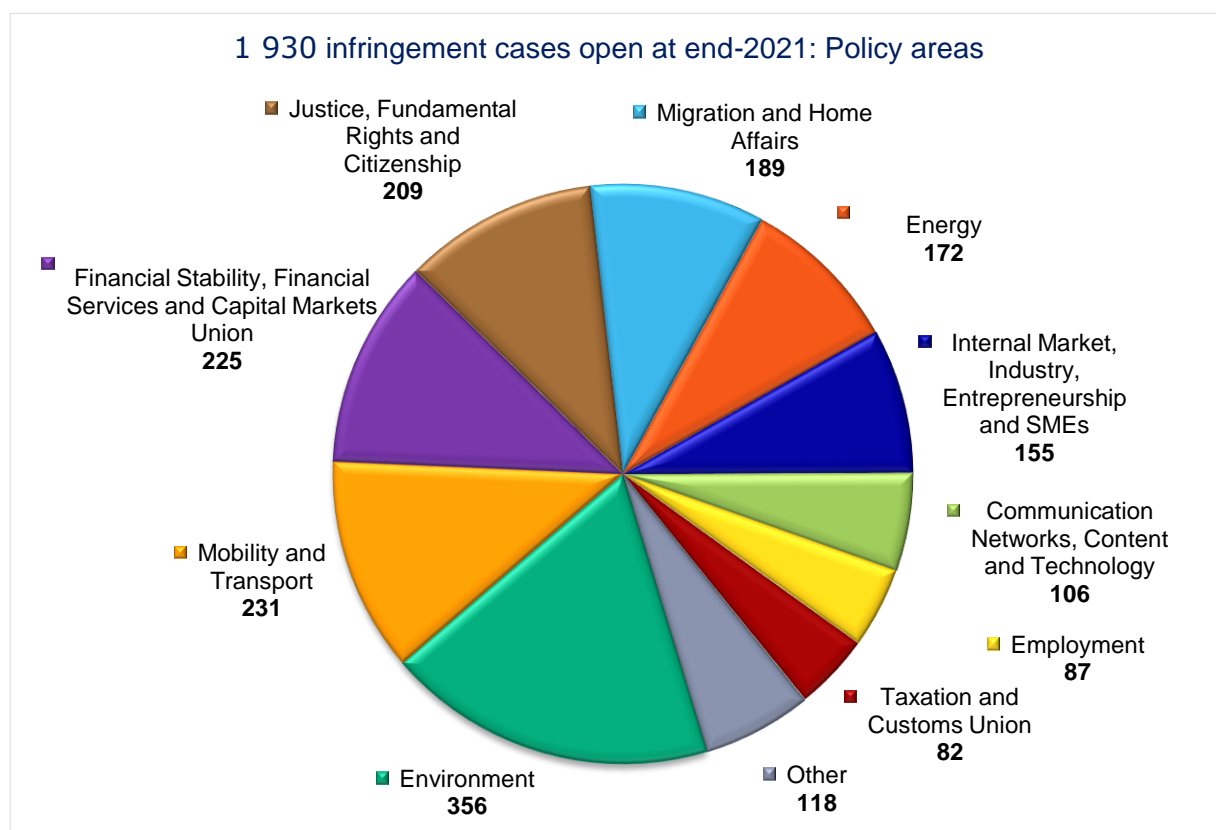
At the end of 2021, 1 930 infringement cases remained open. This is a 7% increase from the previous year, as the following chart shows.



The following chart shows the number and type of open infringement cases for the Member State and the United Kingdom at the end of 2021:



The following chart shows the breakdown of the infringement cases open at the end of 2021, 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 2021, the Commission closed 704 cases, which had reached the following stages in the infringement procedure:

- 496 cases after the sending of a letter of formal notice
- 157 cases after the sending of a reasoned opinion;
- 3 cases after deciding to refer the case to the Court but before submitting the application;
- 46 cases following a Court judgement;
- 2 cases had been withdrawn from the Court before the latter handed down its ruling. The Commission withdrew these cases as the Member States concerned had taken the necessary measures to comply with EU law.

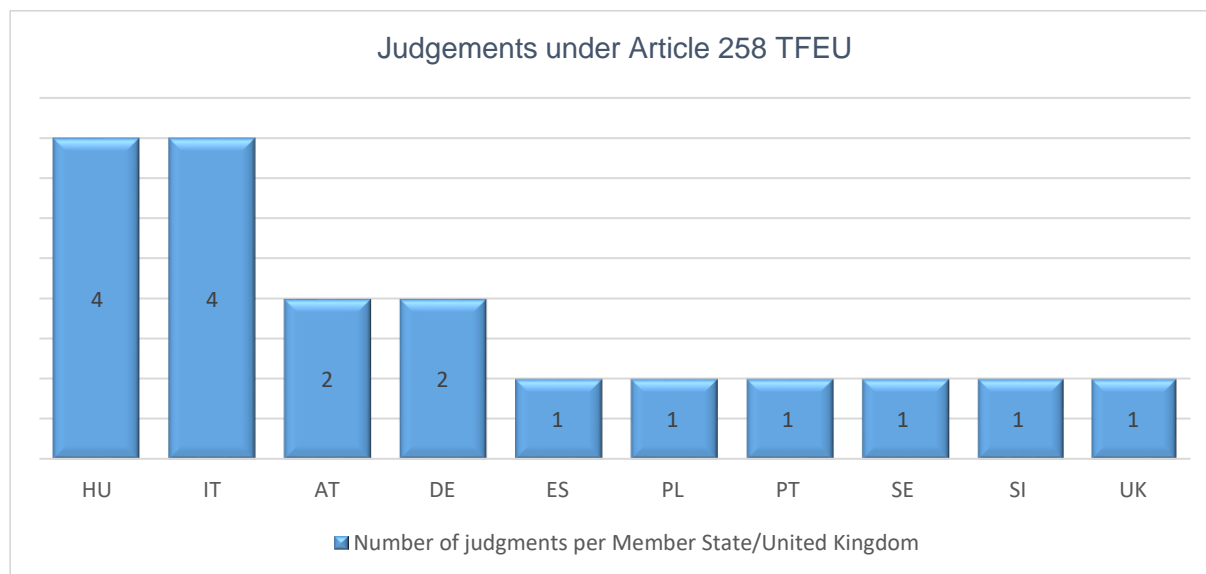
## 5. Referrals and judgements of the Court of Justice under Articles 258 and 260(2) TFEU

In 2021, the Commission took the decision of referring a total of 31 new cases to the Court, of which 29 under Article 258 TFEU and two cases under Article 260(2) TFEU.

In 2021, the Court issued 18 judgements under Article 258 TFEU, none under Article 260(2) TFEU and two under Article 260(3) TFEU (further information on the latter under chapter III.5). 18 judgements were in the



Commission's favour while in two cases<sup>198</sup> the Court dismissed the Commission's action. Hungary and Italy (four each) were the Member States subject of most Court judgements under Article 258 TFEU in 2021.



Member States are required to take all the measures needed to comply with a Court judgement promptly. However, this does not always happen. At the end of 2021, 89 infringement procedures under Articles 258 and 260(2) TFEU were still open after a Court ruling because the Commission considered that the Member States had not yet complied with the judgements, including rulings that had been delivered well before 2021. This is a decrease compared to the situation at the end of 2020 (112). The Member States mainly concerned are Italy (17), Greece (15), Hungary (7), Spain (6), as well as Germany, Ireland, Poland and Portugal (4 each). On the United Kingdom, there were still five such infringement procedures open. The main policy areas concerned were the environment (51), direct and indirect taxation (8), single market (4), financial services (4) and transparency of state aid (4).

If a judgement under Article 258 TFEU is not complied with, the Commission can decide to refer a case to the Court for a second time under Article 260(2) TFEU. Under this article, the Commission can request the Court to impose financial penalties in the form of a lump sum to be paid immediately and a periodic penalty to pay until the Member State complies fully with the first and second judgement. At the end of 2021, 13 infringement procedures were still open after a Court ruling under Article 260(2) TFEU.

When the Court imposes financial penalties under Article 260(2) TFEU, the Member State concerned must pay the lump sum immediately and continue to pay the periodic penalty until it complies fully with the first and second Court judgement. In 2021, the Court did not deliver any judgement under Article 260(2) TFEU. The Court may also impose financial penalties in interim measures proceedings (Article 279 TFEU). In two cases<sup>199</sup>, the Court<sup>200</sup> ordered Poland to pay the Commission a daily penalty to strengthen the effectiveness of interim measures previously ordered by the Court, to avoid serious and irreparable harm, respectively, to the environment and human health, and to the EU's legal order.

<sup>198</sup> *Commission v Italy*, [C-63/19](#) and *Commission v Austria*, [C-537/19](#).

<sup>199</sup> [C-204/21R](#) and [C-121/21R](#).

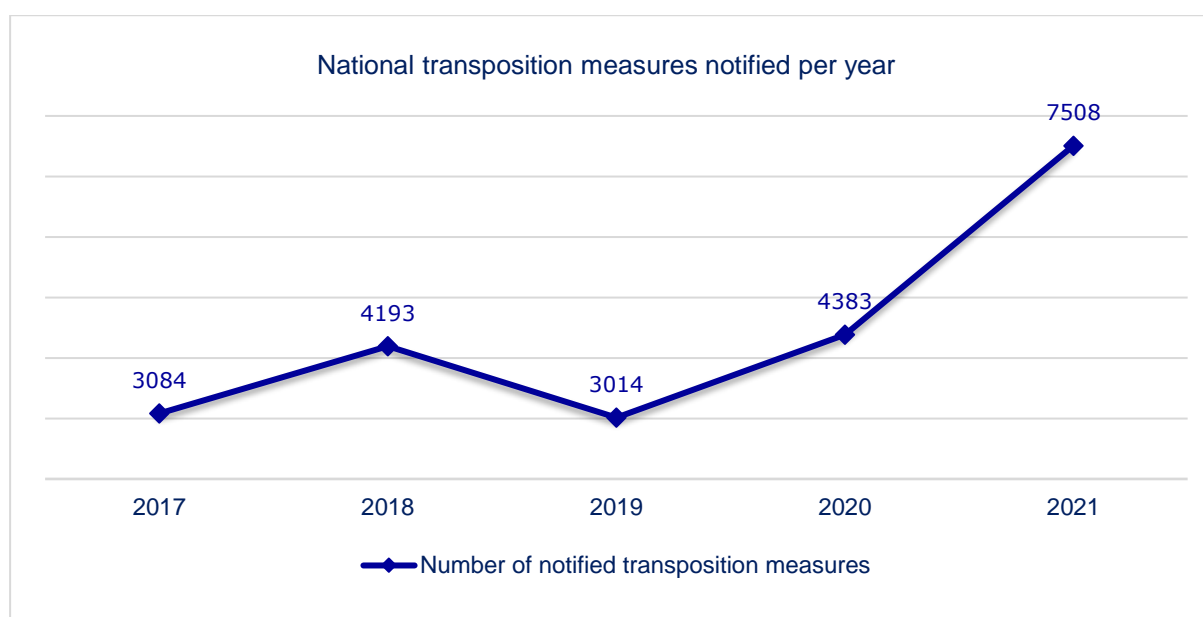
<sup>200</sup> Article 279 TEU confers on the Court the power to prescribe any interim measures that it deems necessary to ensure that the Court's final decision in the main proceedings of the case is fully effective. Both the Commission and Member States can bring an application for interim measures before the Court.

### III. TRANSPOSITION OF DIRECTIVES

#### 1. EU directives to be transposed in 2017-2021

In 2021, 30 adopted directives were published in the Official Journal of the European Union. Most of these directives amend existing laws. There were two basic directives<sup>201</sup> and one codifying directive<sup>202</sup>. The latter do not impose a new transposition deadline. The main policy areas concerned were: environment (7), taxation (7), mobility and transport (5) and health (4).

At the same time, **55** directives had a transposition deadline in 2021, which is more than in 2020 (47). For these directives, Member States notified **7 508** national transposition measures to the Commission by the end of 2021<sup>203</sup>. On average, a Member State notified **five measures** per directive.



The transposition of the Directive laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation triggered the highest number of notified measures (**484**)<sup>204</sup>. The two directives with the second and third highest number of notified measures are the Directive on the promotion of the use of energy from renewable sources (**360**)<sup>205</sup> and the Directive on common rules for the single market for electricity (**358**)<sup>206</sup>.

#### 2. Transposition deadlines

Of the 55 directives to be transposed in 2021, **10 directives** had a transposition deadline that was shorter than one year from the time of their publication (4 less than in 2020).

<sup>201</sup> A basic directive is a directive that is not modifying, repealing or codifying another act.

<sup>202</sup> A codifying directive is a directive that gathers together in a new legislative act an act and all its amendments. It involves replacing and repealing all the previous acts without making changes to the substance.

<sup>203</sup> There is a difference between the number of all measures notified by the Member States to the Commission and the number of measures visible on EUR-Lex. Not all Member States have agreed to the publication of their measures on EUR-Lex. In addition, not all measures notified by the Member State are visible on the EUR-Lex website: for instance, the explanatory documents are not sent for publication.

<sup>204</sup> Directive [2013/59/EU](#).

<sup>205</sup> Directive [2018/2001/EU](#).

<sup>206</sup> Directive [2019/944/EU](#).

The average period to transpose directives was **22 months** (9 months less than in 2020). The directive with the longest transposition period and deadline in 2021 (**97 months**) was the Directive on the amendment of the status of Mayotte with regard to the EU<sup>207</sup>.

Directives with a shorter transposition period did, on average, not have an increased number of infringements for late transposition. The average number of late transposition infringements for directives that had a transposition period of up to six months varies by less than 1 from the average number for all directives. These statistics suggest that the choice of the transposition time corresponded to the length and complexity of the directives to be transposed.

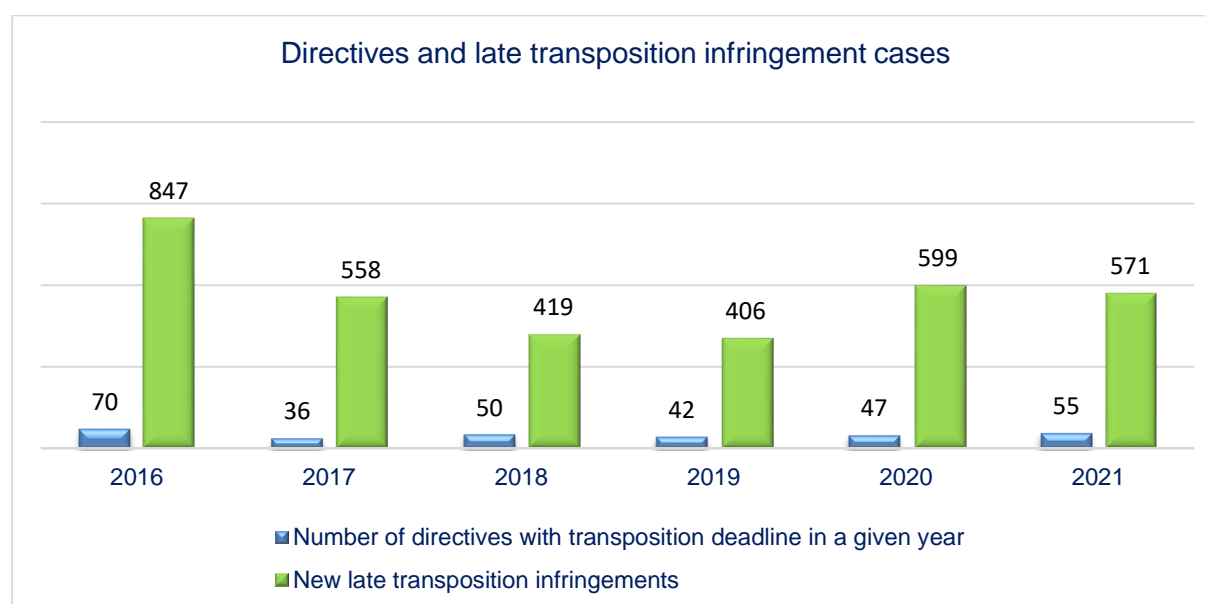
### 3. Transparency

To further encourage Member States to be more transparent with the national measures transposing directives, the Commission invited Member States to agree to the **publication of the text of these measures on EUR-Lex**<sup>208</sup>. At the end of 2021, 14 Member States had agreed to do so: Austria, Czechia, Cyprus, Estonia, France, Greece, Malta, Latvia, Lithuania, Luxembourg, Slovakia, Spain, Sweden and Poland. The Commission also invited Member States to make their declaration of transposition public on EUR-Lex, which accompanies the national transposition measures notified to the Commission. At the end of 2021, only Greece had agreed to do so.

### 4. Late transposition infringements

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 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.4).

The number of new late transposition infringements decreased from 599 in 2020 to 571 in 2021.



At the end of 2021, **872 late transposition infringement cases were still open**, a 21% increase from the 719 cases open at the end of 2020.

<sup>207</sup> Directive [2013/64/EU](#).

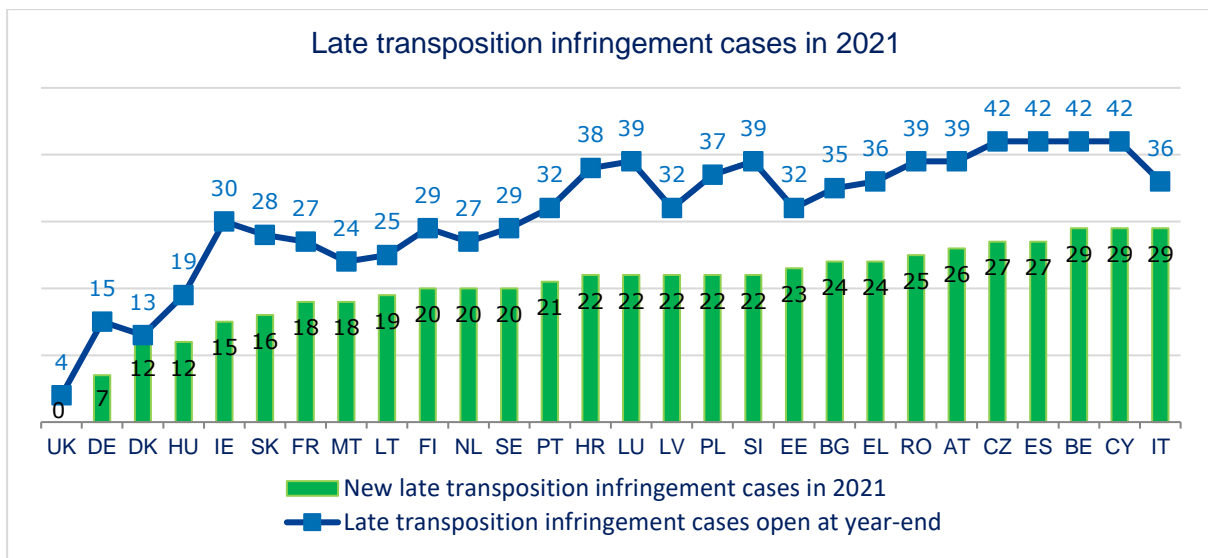
<sup>208</sup> [Search in national transposition](#) on Eur-lex (selecting 'national transposition' in the drop down list under 'collection').

- 719 > Late transposition cases open at end-2020
- 571 > New late transposition cases registered in 2021
- 418 > Late transposition cases closed in 2021

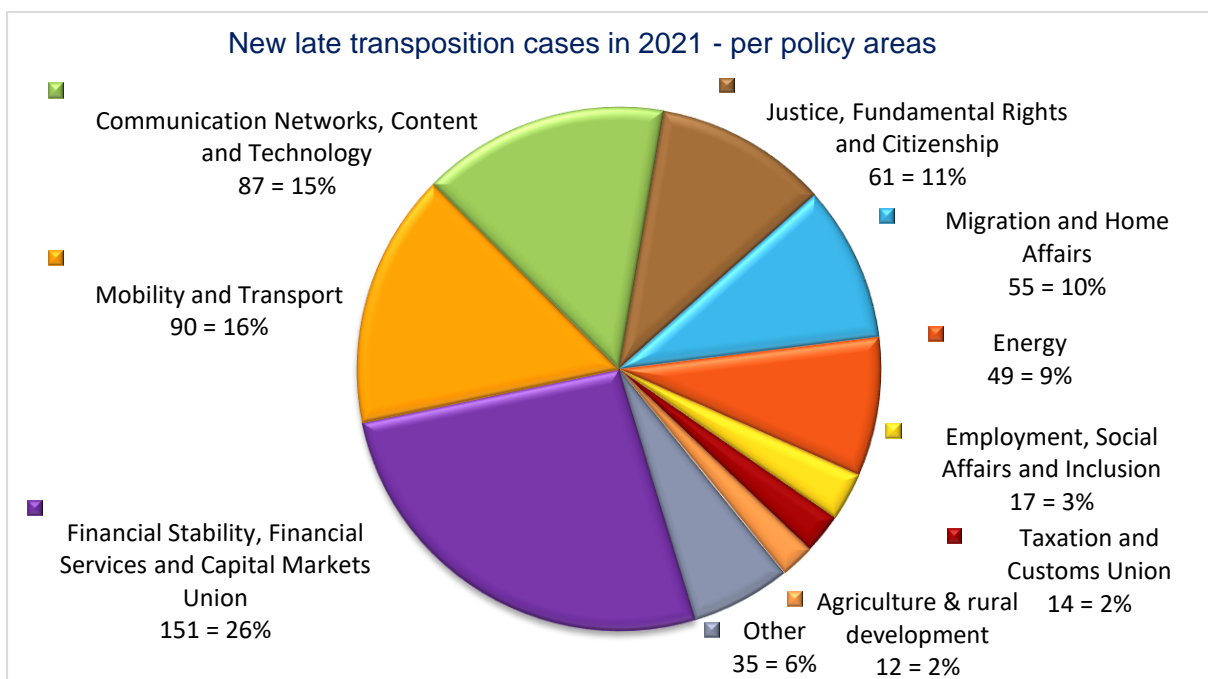
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- = 872** > Late transposition cases open at end-2021

The following chart shows the number of late transposition infringement cases open at the end of 2021 (872 in total) for each Member State and the United Kingdom, irrespective of the year in which the case was opened. The graph also illustrates the new late transposition infringement cases (571 in total) opened in 2021.



The policy areas in which the new cases were launched in 2021 are shown in the following chart:



## 5. Referrals and judgements of the Court under Articles 258 and 260(3) TFEU

Under Article 260(3) TFEU, the Commission may propose financial penalties even when it refers a case for the first time to the Court under Article 258 TFEU on the ground that a Member State has failed to turn a directive into national law. This innovation, introduced in the Treaty of Lisbon, aims to incentivise the Member States to transpose directives on time. The Commission proposes the level of financial penalty to the Court in line with the policy laid down in its Communications on the implementation of Article 260(3) TFEU and on the calculation method for lump sum payments and daily penalty payments<sup>209</sup>.

In 2021, the Commission decided to refer two cases under Article 258 and 260(3) TFEU to the Court, both against Luxembourg, including a request for daily penalties. The Commission took these two referral decisions for failure, by the Member State concerned, to notify all national measures necessary to transpose the EU rules concerned<sup>210</sup>.

In 2021, the Court delivered two judgements imposing financial sanctions under Article 260(3), one against Spain<sup>211</sup> and one against Slovenia<sup>212</sup>. The Court found Spain to have failed to adopt the provisions necessary to turn EU law into its national law and ordered it to pay a lump sum as well as a daily payment until it put an end to the infringement. As for Slovenia, the Court ordered it to pay a lump sum for failure to adopt or notify to the Commission the measures necessary to comply with a directive.

At the end of 2021, one infringement procedure under Articles 258 and 260(3) TFEU was still open after a Court ruling because the Commission considered that the Member State concerned had not yet complied with the judgement.

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<sup>209</sup> [SEC\(2010\)1371](#), [C\(2019\)1396](#), [C\(2021\) 2283](#).

<sup>210</sup> [EU rules on seizing criminals' profits \(europa.eu\)](#) and [EU rules on acquisition and possession of firearms \(europa.eu\)](#)

<sup>211</sup> *Commission v Spain*, [C-658/19](#).

<sup>212</sup> *Commission v Slovenia*, [C-628/18](#).

## IV. METHODOLOGY AND EXPLANATIONS

### Infringement procedures – from breach to penalties

#### **First chart: trends in complaints and investigations about potential breaches of EU law**

This chart shows aggregated data over a five-year period covering new complaints registered, new EU Pilot files and new infringement cases.

#### **Second chart: time taken to investigate potential breaches of EU law**

This shows the total number of files (complaints, EU Pilot and infringement cases) closed in a given year with the average time in weeks needed before taking a decision to close them. This means that certain files are potentially counted in all three categories, if an initial complaint becomes an infringement case. For reasons of statistical comparability, the 2021 average time to close an infringement case does not include 20 infringement cases closed in 2021 in relation to bilateral ‘Open Sky’ agreements of Member States with the United States. While the Court, in 2002, ruled that such bilateral agreements violated the exclusive power of the Union, these cases – many of which were launched in 1995 – were on hold during a long period of time due to the absence of ratification of the EU–US Open Skies Agreement.

### Complaints

#### **First table: public complaints open at year-end**

This starts with the number of open complaints at the end of 2020 (first line)<sup>213</sup>. The second line shows the number of new complaints registered in 2021. The third line shows the number of complaints for which the Commission took a decision in 2021. The fourth line shows the number of complaints open at the end of 2021 (calculated by taking the first figure, adding the second and subtracting the third).

#### **First chart: new complaints registered in 2021 (main policy areas)<sup>214</sup>**

This shows the main policy areas for which new complaints were registered in 2021.

#### **Second chart: complaints leading to investigations**

This shows the number of complaints which the Commission pursued further by launching an investigation about breaches of EU law (via the EU Pilot mechanism or launching a formal infringement procedure).

### EU Pilot

#### **First table: EU Pilot files open at year-end**

This starts with the number of open EU Pilot files at the end of 2020 (first line). The second line shows the number of new EU Pilot files opened in 2021. The third line shows the number of files on which the

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<sup>213</sup> In some instances a difference between the figures from the preceding annual report may be due to delayed, double or erroneous registration at the moment of extracting statistical data.

<sup>214</sup> 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.

Commission took a decision in 2021. The fourth line shows the number of EU Pilot files open at the end of 2021 (calculated by taking the first figure, adding the second and subtracting the third).

#### **First chart: EU Pilot files opened in 2021 (main policy areas)**

This shows the policy areas in which the new EU Pilot files were opened in 2021.

#### **Second chart: EU Pilot files (2017-2021)**

This shows the number of EU Pilot files processed in a given year and the resolution rate in that year. The resolution rate is the percentage of EU Pilot files handled for which the Commission accepted the Member States' responses.

#### **Third chart: EU Pilot files and infringement cases (2017-2021)**

This compares the number of new EU Pilot files and new infringement cases in an overlay with the total number of infringement cases open at the year-end.

### Pre-litigation phase

#### **First chart: new infringement cases at 31 December 2021**

This shows the number of new infringement cases opened in 2021, by Member State.

#### **Second chart: trends in new infringement procedures**

This shows a comparison, over a five-year period, between different types of infringement cases originating as late transposition cases, breaches of regulations and treaties and incorrect application or non-conformity with directives.

#### **Third chart: new infringement cases opened in 2021 (main policy areas)**

This shows the main policy areas in which the new infringement cases were opened in 2021.

#### **Fourth chart: reasoned opinions sent to Member States in 2021**

This shows the number of reasoned opinions sent to Member States in 2021.

#### **Fifth chart: infringement cases open at year-end (2017-2021)**

This shows the number of infringements that remained open on 31 December of each year from 2017 to 2021.

#### **Sixth chart: Infringement cases open on 31 December 2021**

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 2021 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, late transposition infringements and breaches of regulations and treaties.

Accordingly, the numbers include all cases that, on 31 December 2021:

- 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 but where the Commission could not yet confirm that the Member State had implemented the judgement 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 for the second time but where the Commission could not yet confirm that the Member State had implemented the second judgement 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.

### **Seventh chart: infringement cases open at end-2021: policy areas**

This shows the breakdown, by policy area (DG), of the infringement cases open on 31 December 2021.

## Referrals and judgements of the Court under Articles 258 and 260(2) TFEU

### **First chart: Court judgements under Article 258 and 260(2) TFEU in 2021**

This shows the total number of Court judgments and the number of judgements in favour of the Commission and the Member States.

## Transposition of directives

### **First chart: national transposition measures notified per year**

This shows the total number of national transposition measures submitted by Member States to the Commission in a given year.

### **Second chart: directives and late transposition infringement cases**

This shows how many directives had to be transposed in the years 2017-2021 and how many new infringement cases for late transposition were opened in that period.

### **First table: late transposition infringement cases open at year-end**

This starts with the number of late transposition infringements at the end of 2020 (first line). The second line shows the number of new late transposition infringements registered in 2021. The third line shows the number of infringement cases on which the Commission took a decision in 2021. The fourth line shows the number of late transposition infringements open at the end of 2021 (calculated by taking the first figure, adding the second and subtracting the third).

### **Third chart: late transposition infringement cases in 2021**

This shows the number of late transposition infringements open at year-end for each Member State, irrespective of the year in which the infringement was opened. In addition, it also shows new late transposition infringement cases opened in 2021 for each Member State.

### **Fourth chart: new late transposition infringement cases opened in 2021 (main policy areas)**

This shows the main policy areas in which the procedures for late transposition were launched in 2021.



**NB: Minor inconsistencies for statistical figures related to policy areas**

There might be perceived inconsistencies with regard to figures for a certain Directorate-General (policy area) open at the end of a previous year and the figures provided for the following year. This is due to certain cases being transferred from one Directorate-General (policy area) to another. There should be no such inconsistencies for overall total figures across all policy areas.