

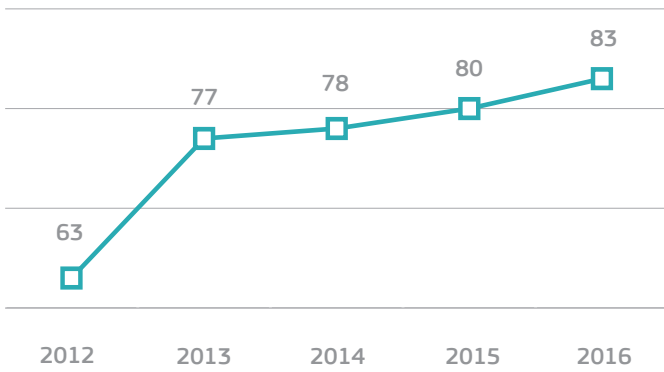


Monitoring the Application of European Union Law

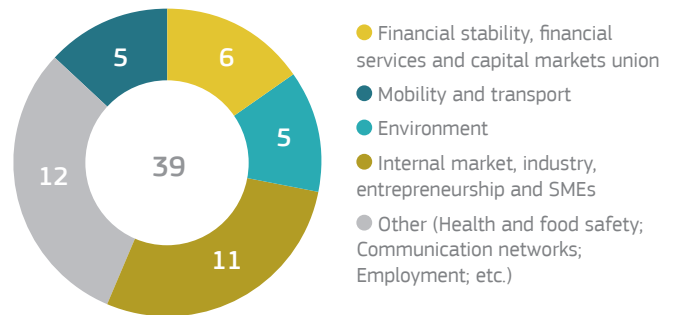
Annual Report 2016

New complaints continued their upward trend, reaching their highest level in 5 years. The number of new EU Pilot files also rose, reversing a continuous fall since 2012. Continuing the trend seen since 2012, the number of open infringement cases rose slightly. New infringement cases for late transposition showed a more marked increase, hitting their highest level in 5 years.

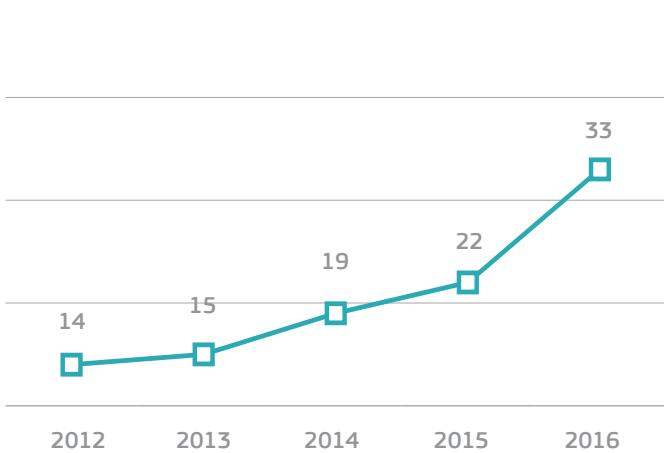
Infringement cases open on 31 December



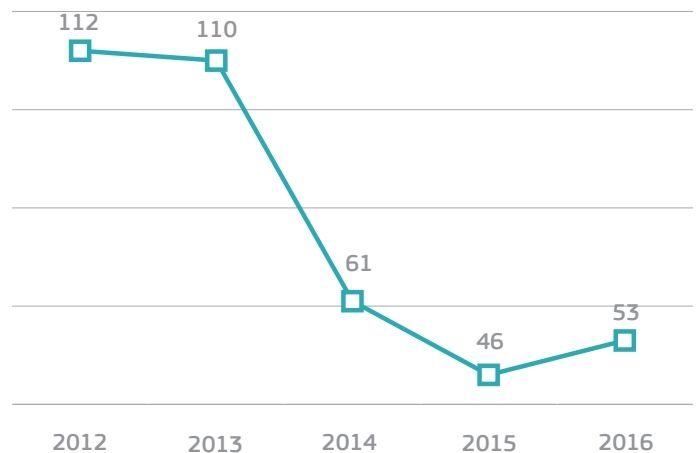
New infringement cases opened in 2016: main policy areas



New late transposition infringement cases



New EU Pilot files opened





Relevant rulings of the European Courts:

1. The Court of Justice of the EU ruled France has failed to provide adequate treatment of urban waste water in several smaller agglomerations.¹
2. In preliminary rulings, the Court held, amongst others, that:
 - security of supply and territorial cohesion might be objectives in the general economic interest which may justify state intervention in fixing the price of supply of natural gas to household customers. However, such intervention would be compatible with the Gas Directive² only if strict requirements were met, including proportionality and non-discrimination;³
 - a national court may, exceptionally and on a case-by-case basis, limit in time the effects of a declaration of the illegality of a national provision adopted in disregard of the Strategic Environmental Assessment Directive, provided that such a limitation is dictated by an overriding consideration linked to environmental protection and having regard to the specific circumstances of the case. However, this power may be exercised only if certain conditions are satisfied;⁴
 - a commercial practice consisting of the sale of a computer equipped with pre-installed software without any option for the consumer to purchase the same model of computer not equipped with pre-installed software does not in itself constitute an unfair commercial practice within the meaning of Article 5(2) of the Unfair Commercial Practices Directive⁵, unless such a practice is contrary to the requirements of professional diligence and materially distorts or is likely to materially distort the economic behaviour of the average consumer with regard to the product, a matter which is for the national court to determine by taking account of the specific circumstances of the case in the main proceedings. In the context of a combined offer consisting of the sale of a computer equipped with pre-installed software, the failure to indicate the price of each of those items of pre-installed software does not constitute a misleading commercial practice within the meaning of the Unfair Commercial Practices Directive.⁶

¹ Directive [91/271/EEC](#); Commission v France, [C-314/15](#).

² Directive [2009/73/EC](#).

³ Association nationale des opérateurs détaillants en énergie (ANODE) v Premier ministre and Others, [C-121/15](#), Court Press Release No [88/2016](#).

⁴ Directive [2001/42/EC](#); Association France Nature Environnement, [C-379/15](#).

⁵ Directive [2005/29/EC](#).

⁶ Deroo-Blanquart, [C-310/15](#).

More information:

Staff working document of the European Commission - [Annual Report 2016](#) "Monitoring the application of Union Law" (part II: Member States)