



Stages of **EU infringement** procedure in a nutshell

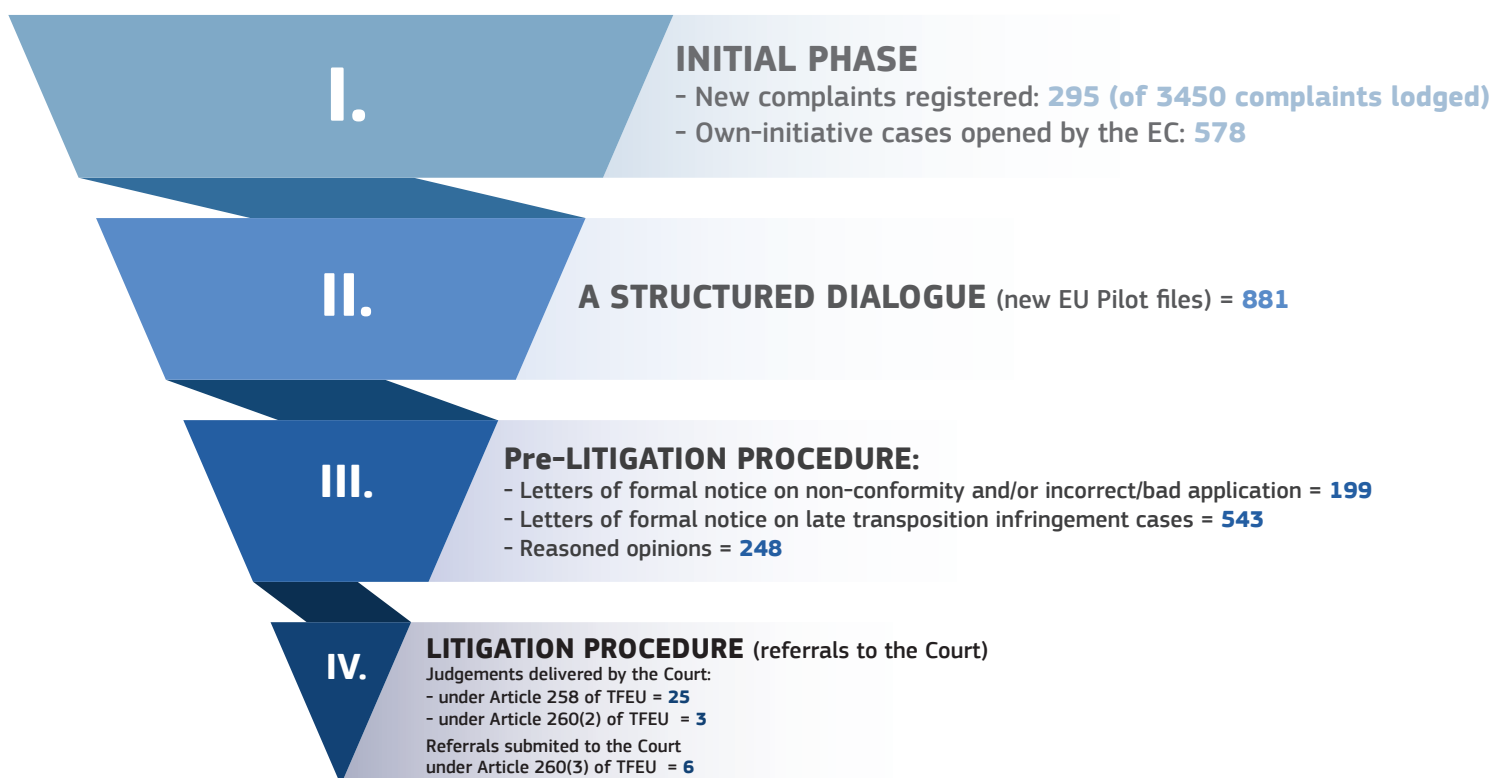
2015

The EU Member States (MS) must apply EU law correctly and timely. The European Commission (EC) acts as a Guardian of the Treaty (TFEU) and oversees the application of EU law under the supervision of the Court of Justice of the European Union (the Court).






The European Commission may take an action if a MS:

- fails to incorporate EU directives fully (**518 cases were open at the end 2015**) and in due time into its national law, and to communicate to the EC what measures it has taken to this end; or
- is alleged to have adopted/maintained national provisions which are not in conformity or which apply badly Union law (**850 cases were open at the end 2015**).

MONITORING THE APPLICATION OF EU LAW IN 2015



Examples in 2014

	<h3>I INITIAL PHASE</h3>	<p>Detection of possible MS's non-compliance with EU law (by the EC itself and/or by means of complaints from members of the public, businesses, NGOs, other organisations and petitions of the European Parliament).</p>	<p>578 new own initiative cases launched by the EC.</p> <p>The European Commission followed up 295 complaints by opening EU Pilot files (see below); 65 of these complaints led to infringement procedures.</p>
	<h3>II EU PILOT¹</h3>	<p>The EC and a MS engages in an informal bilateral dialogue (called EU Pilot) to find a solution compliant with EU law (a deadline to MS for responding is 10 weeks.)</p>	<p>The EU average resolution rate for EU Pilot files was 75%.</p>
	<h3>III FORMAL PROCEDURE</h3>	<p>If a MS fails to resolve the alleged breach of Union law, the EC may launch a formal infringement procedure (Art 258 of TFEU).</p> <p>Types of issues:</p> <ul style="list-style-type: none"> • non-conformity and/or incorrect/bad application or • failure to notify national provisions transposing directives. 	<p>742 number of cases</p> <p>248 number of cases</p>
		<p>Pre-litigation phase²:</p> <ul style="list-style-type: none"> • The EC requests a MS to comment on non-compliance issue, typically within two months by sending a letter of formal notice (Art 258 of TFEU). • If no satisfactory reply has been received from a MS concerned, the EC requests the MS to comply within a given time limit by sending a reasoned opinion (Art 258 of TFEU). <p>Litigation phase:</p> <ul style="list-style-type: none"> • If no satisfactory reply has been received from the MS, the EC brings this MS before the Court (referral to the Court, Art 258 of TFEU). • If the MS still does not comply, the EC launches a 2nd infringement procedure by sending a 2nd letter of formal notice. In a 2nd judgement, the Court may, on the basis of a proposal from the EC, impose lump sum and/or a daily penalty payment on a MS concerned (Art 260 (2) of TFEU). • In cases of failure to transpose EU legislative directives into national law on time, the EC may propose penalty payments without the need for a 2nd judgement (Article 260(3) of TFEU). 	<p>25 judgments, of which 18 (82%) were in the European Commission's favour</p> <p>3 judgements, including:</p> <ul style="list-style-type: none"> • ITALY (lump sum payment of € 30 million; penalty: € 12 million for each half-year of non-compliance with the judgment under Article 258 of TFEU); • ITALY (lump sum payment of € 20 million; penalty: € 120 000 for each day of non-compliance with the judgment under Article 258 of TFEU); • GREECE (a lump sum payment of € 10 million; a penalty: € 3.64 million for each half-year of non-compliance with the judgment under Article 258 of TFEU). <p>6 cases: the highest penalty payments proposed to:</p> <ul style="list-style-type: none"> • GERMANY (for failing to fully implement the Waste Electrical and Electronic Equipment Directive and proposed a daily penalty of € 210 078), <p>and the lowest to:</p> <ul style="list-style-type: none"> • LUXEMBOURG (for failing to fully implement the Directive establishing a framework for the recovery and resolution of credit institutions, investment firms, and proposed a daily penalty of € 6 700).

¹ EU Pilot is an initiative of the European Commission aimed at asking Member States to answer questions and to find solutions to problems related to the application of EU law.

² National governments are responsible for adopting its laws or practices, and to resolve initial dispute as soon as possible. Therefore, in the last few years, more than 85% of cases were resolved before launching a litigation stage (formal procedure).