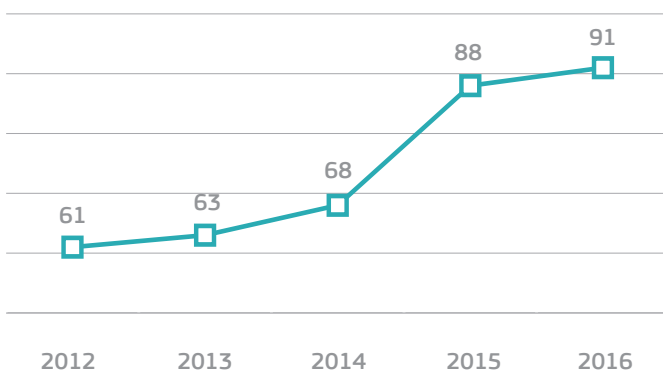


Monitoring the Application of European Union Law

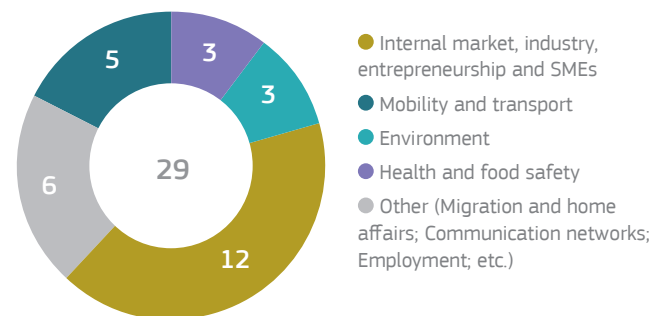
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New complaints against Germany in 2016 increased to a five-year peak, but new EU Pilot files reached a five-year low after falling sharply from 2015's already low level. The number of infringement cases pending at the end of the year rose slightly. New infringement cases for late transposition remained at the 2015 level but were still above the 2012-2013 levels.

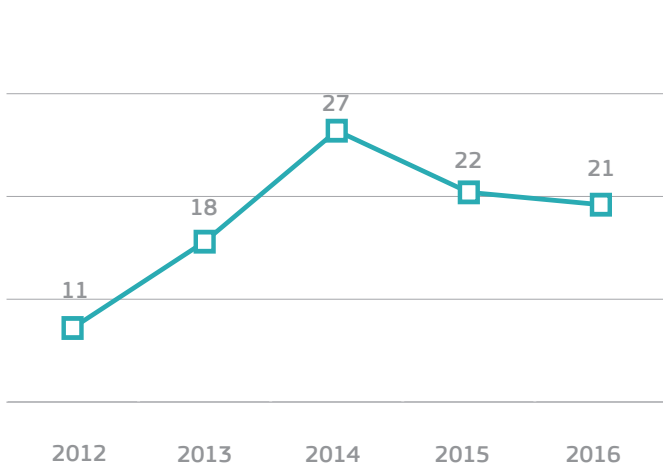
Infringement cases open on 31 December



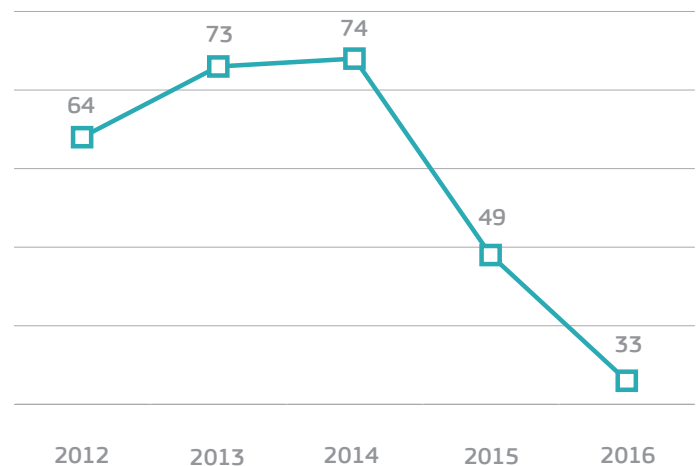
New infringement cases opened in 2016:
main policy areas



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 that Germany failed to fulfil its obligations under the Directive on the placing on the market of pyrotechnic articles¹. This was because Germany provided, over and above the requirements of the Directive and notwithstanding a previous conformity assessment of pyrotechnic articles, that (i) those articles are to be subject to a specific national procedure (“the SprengV”) before being placed on the market; and that (ii) pursuant to the SprengV, a national body is to have the power to review and, where required, to modify their instructions for use.²
2. In preliminary rulings, the Court held, amongst others, that:
 - imposing fixed prices for the sale of prescription-only medicines by pharmacies restricts the free movement of goods due to its impact on pharmacies in other Member States. Imposing such price-fixing on foreign pharmacies cannot be justified as it is not an appropriate way to achieve the objective of protecting human health and life by ensuring a safe and high-quality supply of medicinal products;³
 - nationals of other Member States may be excluded from social assistance during the first 3 months of residence without the individual situation of the person concerned being assessed;⁴
 - the recognition of freely chosen forenames and the surname (acquired legally in another Member State) may be refused in order to ensure equality before the law;⁵
 - the execution of a European arrest warrant must be deferred if there is a real risk of inhuman or degrading treatment due to the detention conditions in the Member State where the warrant was issued;⁶
 - under the Qualification Directive, beneficiaries of subsidiary protection status may be subjected to a residence condition to promote their integration where they are not in a comparable situation to non-EU citizens;⁸
 - when a person provides access to somebody else’s content through open internet access, the person whose rights are breached cannot claim compensation from the access provider for that breach by a third party. However, it can claim compensation from the access provider if the infringement continues;⁹
 - a civil servant of a Member State who leaves his post voluntarily in order to be employed in another Member State should not lose his pension rights under the retirement scheme for civil servants;¹⁰
 - inheritance rules obliging financial institutions (including their branches) to notify the tax authorities about a client’s assets upon his death do not restrict the freedom of establishment. Thus, German banks’ branches in another Member State must also notify such information, even if inheritance tax is not levied in the other Member State and even if notification would breach the other Member State’s banking secrecy rules;¹¹
 - a project aiming at stretching a road by less than 10 km is not, in itself, subject to a systematic environmental impact assessment, even though it widens an existing road with four or more lanes. The term ‘express road’ does not have to form part of the network of main international traffic arteries or to be located in urban areas. The term ‘construction’ covers the carrying-out of works not previously existing or the physical alteration of existing installations;¹²
 - the Temporary Agency Work Directive¹³ applies to members of non-profit associations working in an undertaking in so far as they are paid by the association and the association receives compensation in return for their work.¹⁴

¹ Directive [2007/23/EC](#).

² Commission v Germany, [C-220/15](#).

³ Deutsche Parkinson Vereinigung, [C-148/15](#), Court press release No [113/2016](#).

⁴ Jovanna García-Nieto, [C-299/14](#).

⁵ Bogendorff von Wolffersdorff, [C-438/14](#) and Court press release No [119/16](#).

⁶ Aranyosi and Căldăraru, Joined Cases [C-404/15](#) and [C-659/15 PPU](#) and Court press release No [36/16](#).

⁷ Directive [2011/95/EU](#).

⁸ Kreis Warendorf v. Ibrahim Alo and Amira Osso v. Hannover Region, Joined Cases [C-443/14](#) and [C-444/14](#).

⁹ Tobias Mc Fadden v Sony Music Entertainment Germany GmbH, Court press release No [99/16](#), [C-484/14](#).

¹⁰ Pöpperl, [C-187/15](#).

¹¹ Sparkasse Allgäu, [C-522/14](#).

¹² Bund Naturschutz in Bayern, [C-645/15](#).

¹³ Directive [2008/104/EC](#).

¹⁴ Betriebsrat der Ruhrländklinik, [C-216/15](#).

More information:

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