



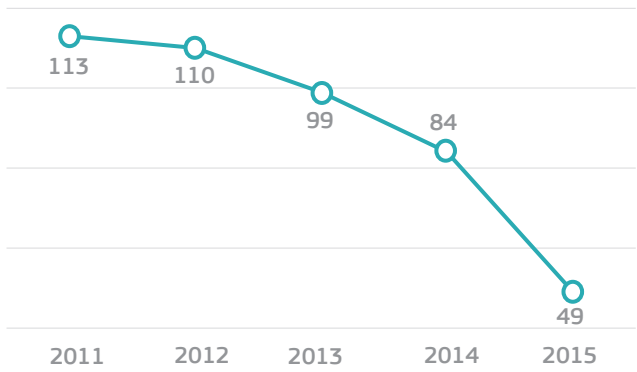
European Commission

Monitoring the Application of European Union Law

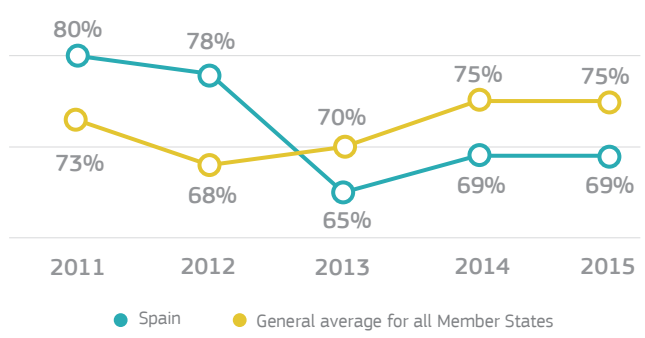
Annual Report 2015

In 2015, new complaints against Spain dropped sharply, reversing much of the strong increase of the previous two years. New EU Pilot files and the number of open infringement cases continued the downward trend seen since 2011, with both reaching their lowest level in five years. After rising for two years, new infringement cases for late transposition fell back to the 2012 level, the lowest in the last five years.

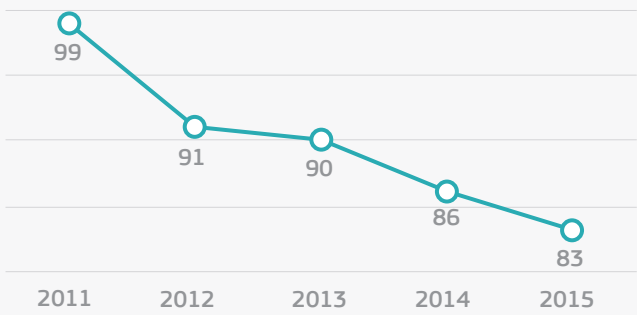
New EU Pilot files opened



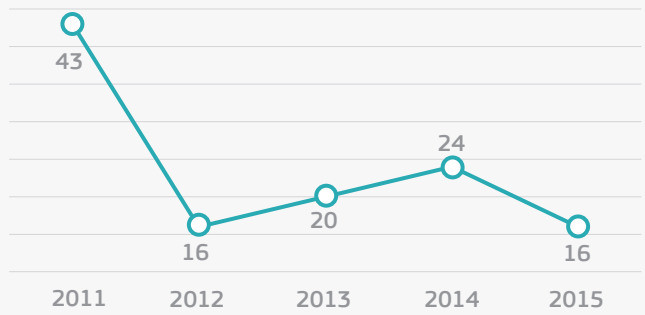
EU Pilot files: evolution of the resolution rate



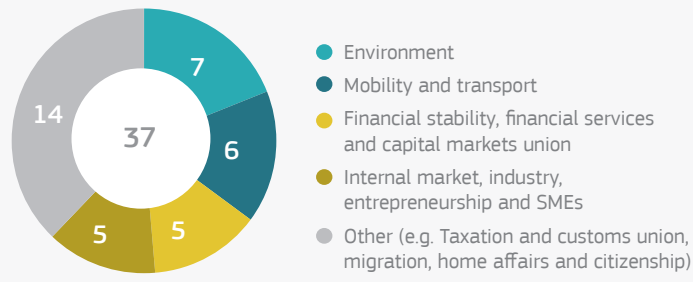
INFRINGEMENT CASES
Infringement cases open on 31 December



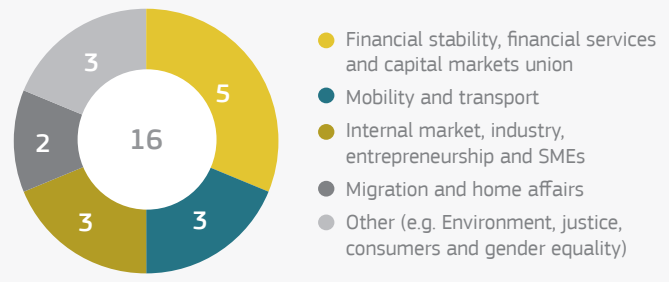
TRANSPOSITION OF DIRECTIVES
New late transposition infringement cases



37 new infringement cases opened in 2015: main policy areas



16 new late transposition infringement cases opened in 2015: main policy areas





In preliminary rulings, the Court ruled that:

- for workers without a fixed or habitual workplace, the journeys made from their homes to the first customer and from the last customer to their homes constitute working time;¹
- the rule that takes the undertaking (and not the establishment) as the only criterion to determine whether dismissals constitute a collective redundancy is contrary to the Directive on collective redundancies where this deprives workers of their right to information and consultation;²
- any termination of an employment contract not sought by the worker is a ‘redundancy’ within the meaning of the Directive on collective redundancies. This includes cases where the worker agrees to the termination following a substantial worsening of his working conditions imposed by the employer;³
- vehicle roadworthiness testing activities are excluded from the scope of application of the Services Directive⁴ and cannot be regarded as connected with the exercise of official authority. This is the case even if operators of the centres where these activities take place have the power to take vehicles off the road in the case of safety defects creating an imminent danger. The Court also clarified that the Treaty on the Functioning of the EU (TFEU) precludes national legislation which makes the authorisation of an undertaking to open a vehicle roadworthiness testing centre subject to a minimum distance between the centre in question and centres belonging to that undertaking which are already authorised, and a maximum market share of over 50%; unless it is established that these conditions are genuinely necessary and proportionate;⁵
- the Return Directive must be interpreted as precluding national legislation which provides, in the event of non-EU nationals illegally staying in that Member State, for either a fine or their removal. The two measures are mutually exclusive;⁶
- when assessing whether a time-limit for opposing enforcement proceedings makes it excessively difficult for consumers to rely on protection against unfair contract terms, both the duration of the time-limit and the mechanism adopted to start that period running have to be taken into account. The Court considered that mere publication of a new law in the Spanish Official Journal, establishing an additional time-limit calculated to run from the day following the publication of that law, without the consumers being informed personally of that time-limit was incompatible with the principle of effectiveness, in circumstances where the previously applicable time-limit had been drawn to the individual attention of the consumers concerned. It created the risk that the time-limit would expire before they were able effectively and usefully to exercise their rights through legal action.⁷

¹ Federación de Servicios Privados del sindicato Comisiones obreras, [C-266/14](#) and Court press release No [99/15](#).

² Rabal Cañas, [C-392/13](#) and Court press release No [55/15](#).

³ Pujante Rivera, [C-422/14](#).

⁴ Directive [2006/123/EC](#).

⁵ Grupo Itevelesa and Others, [C-168/14](#).

⁶ Zaizoune, [C-38/14](#).

⁷ BBVA S.A., [C-8/14](#) and Court press release No [130/15](#).