

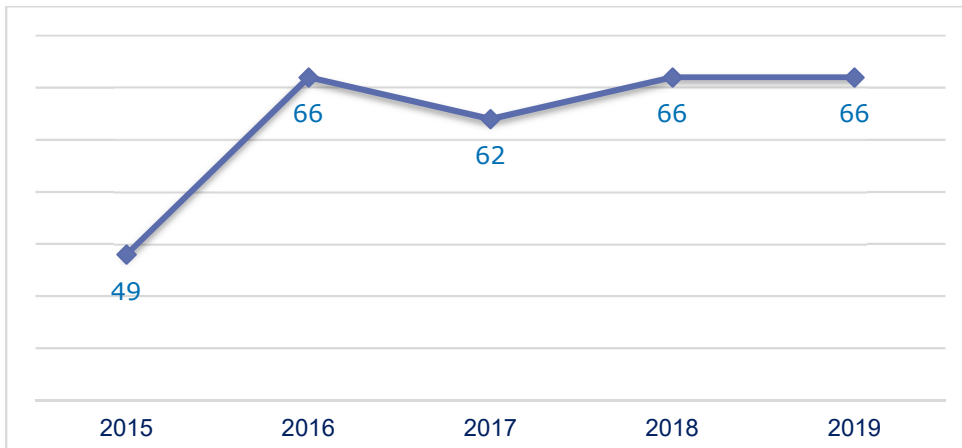
AUSTRIA

Monitoring the Application of EUROPEAN UNION LAW

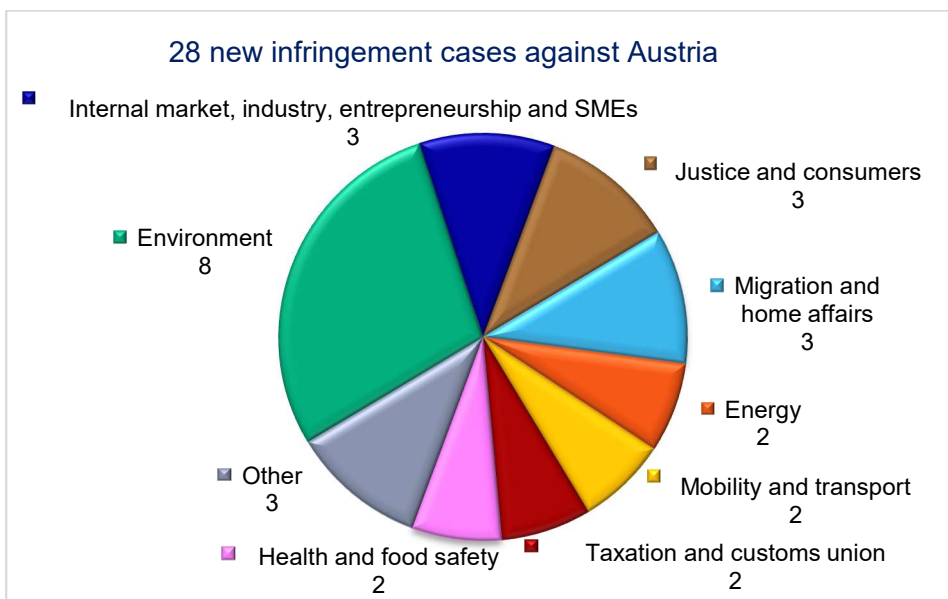
2019 Annual Report

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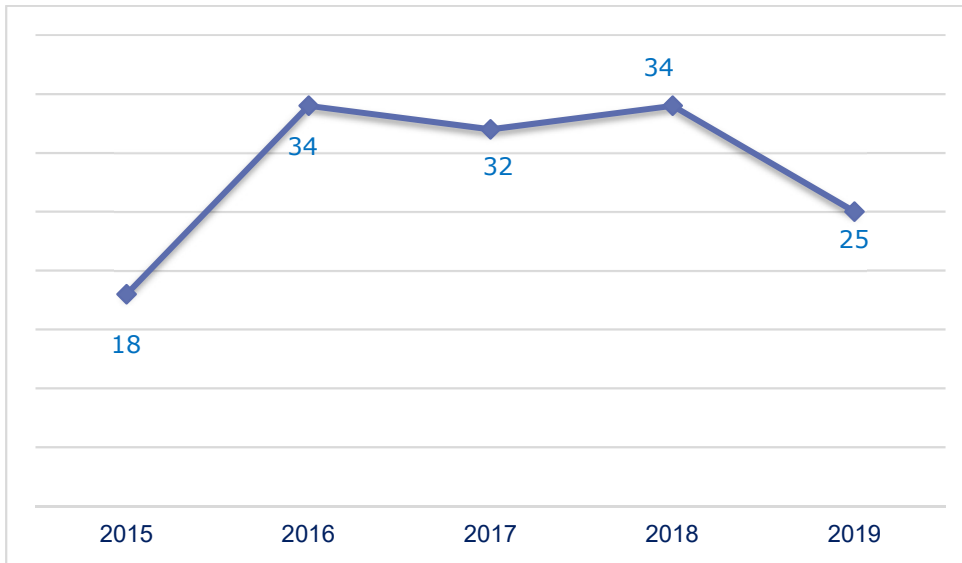
Infringement cases against Austria open on 31 December (2015-2019)



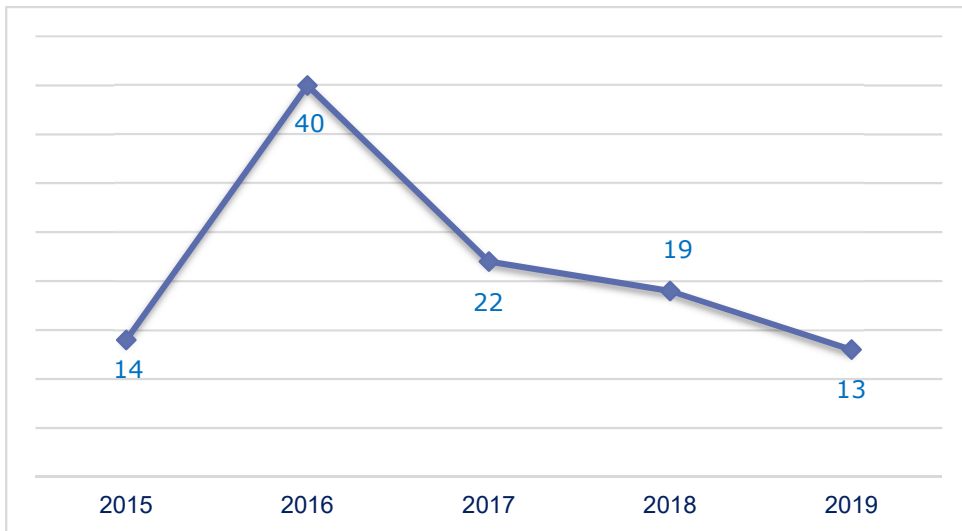
New infringement cases opened in 2019: main policy areas



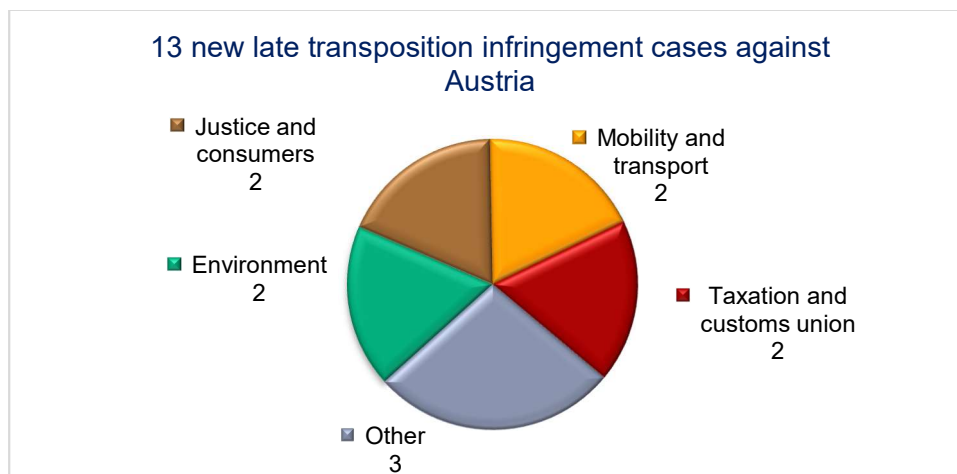
Late transposition infringement cases against Austria open on 31 December (2015-2019)



New late transposition infringement cases against Austria (2015-2019)



New late transposition infringement cases opened in 2019: main policy areas



IMPORTANT JUDGMENTS

Court rulings¹

The Court gave the following rulings:

- Austria failed to fulfil its obligations under EU law by setting restrictions on the location of the seat, legal form and shareholding requirements for professional companies of architects, engineers, patent attorneys, veterinarians².

Preliminary rulings

The Court addressed the following preliminary rulings to the Austrian judiciary:

- A Member State which granted subsidiary protection status when the conditions for granting it were not met based on incorrect facts must revoke it; the fact that the person concerned cannot be accused of having misled the Member State is irrelevant³.
- The limitation on the recognition of previous periods of professionally relevant experience completed in another Member State for determining the entry salary for the migrant worker is possible only if the limitation applies equally to national and migrant workers and the work-related experience from another Member State is not fully comparable with the new employment position⁴.
- Natural and legal persons directly concerned by the pollution of groundwaters can rely, before national courts, on certain provisions of the Nitrates Directive⁵.
- An airline is liable for the harm caused by a spilt cup of hot coffee. It is not necessary for that accident to relate to a hazard typically associated with flight⁶.
- Workers providing services on board international trains, pursuant to a contract concluded between their employer and an undertaking established in another Member State, are not posted workers if they carry out a significant part of the work inherent to those services in the Member State where their employer is established and if they begin or end their shifts there⁷.
- The use of passenger platforms is part of the 'minimum access package' under the Single European Railway Directive, and infrastructure managers are required to make them available to all train operators⁸.

¹ These rulings are almost exclusively handed down in infringement procedures.

² *Commission v Austria*, Case [C-209/18](#).

³ *Mohammed Bilali*, [C-720/17](#), Directive [2006/123/EC](#).

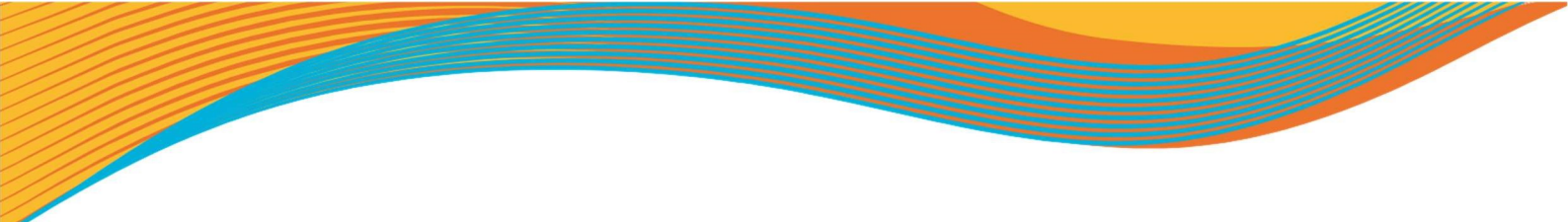
⁴ *Krah*, [C-703/17](#).

⁵ Directive [91/676/EEC](#), *Wasserleitungsverband Nördliches Burgenland and Others*, [C-197/18](#).

⁶ *Niki Luftfahrt*, [C-532/18](#) and Court press release 163/2019.

⁷ Directive [96/71/EC](#), *Dobersberger*, [C-16/18](#).

⁸ Directive [2012/34/EU](#), *WESTbahn Management*, [C-210/18](#).

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- The fact that part-time workers, who would otherwise have been employed on open-ended contracts, could be employed on fixed-term contracts for longer periods of time than comparable full-time workers, could be contrary to the Framework Agreement on Part-Time Work (principle of non-discrimination). Such a situation may also constitute an indirect discrimination based on sex, to the extent that women are substantially overrepresented in the group of part-time workers on a fixed term contract under the Equal Treatment Directive⁹.

⁹ *Schuch-Ghannadan*, Case [C-274/18](#).