

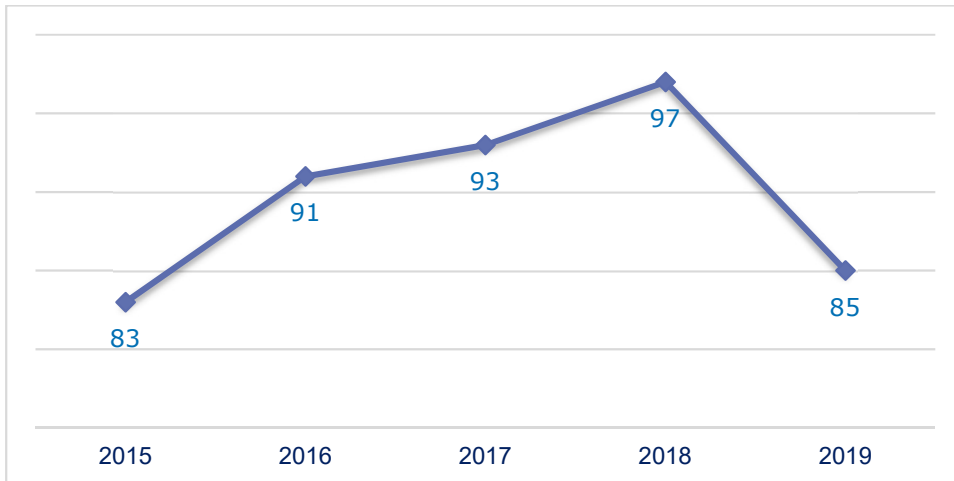
# SPAIN

## Monitoring the Application of EUROPEAN UNION LAW

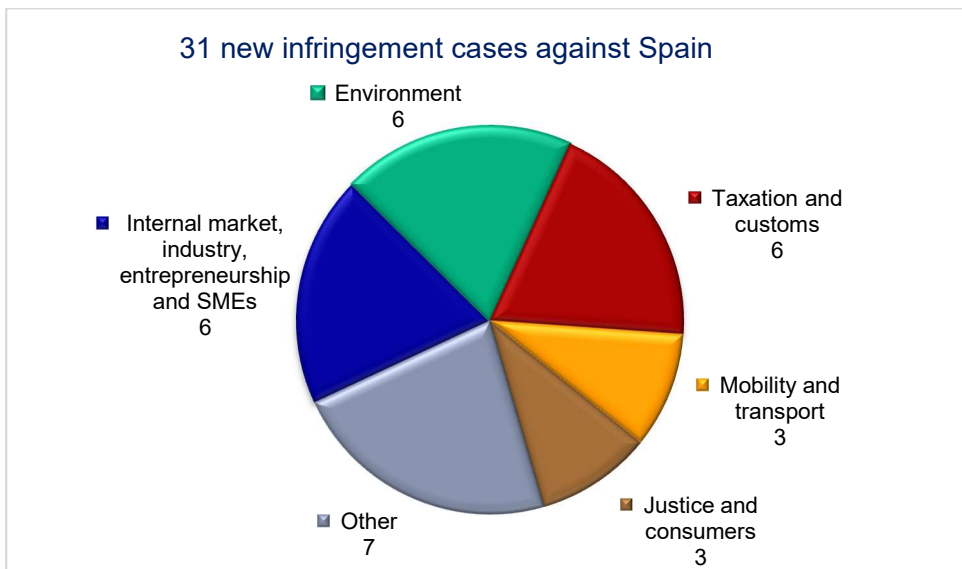
### 2019 Annual Report

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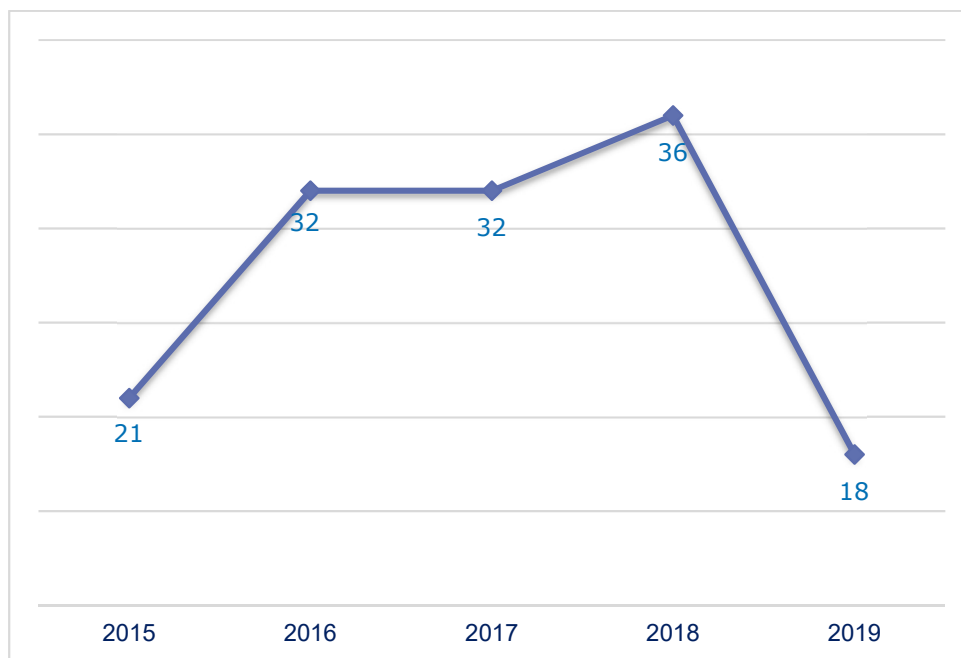
#### Infringement cases against Spain open on 31 December (2015-2019)



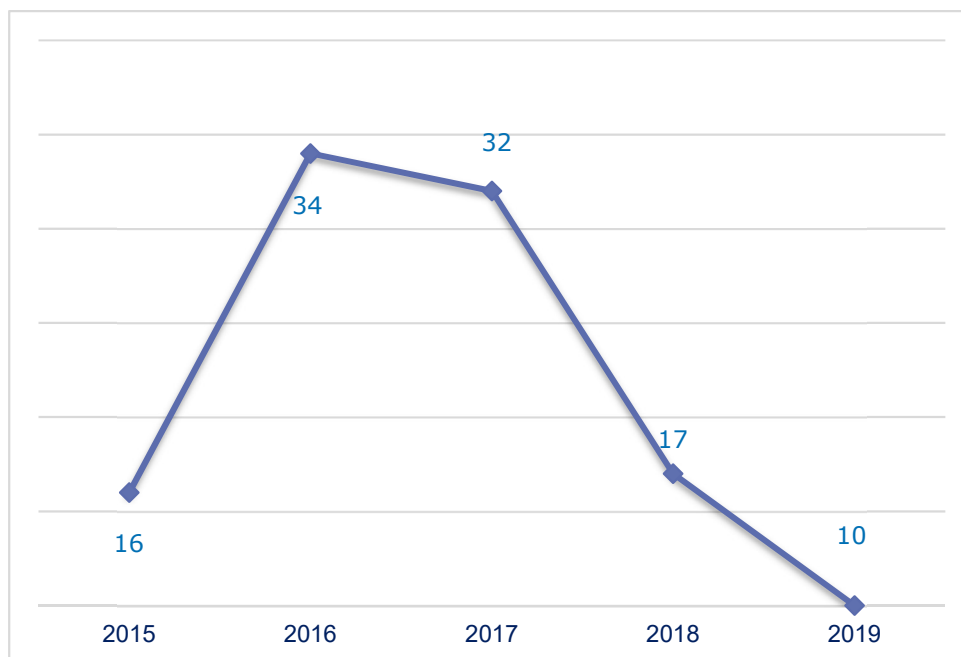
#### New infringement cases opened in 2019: main policy areas



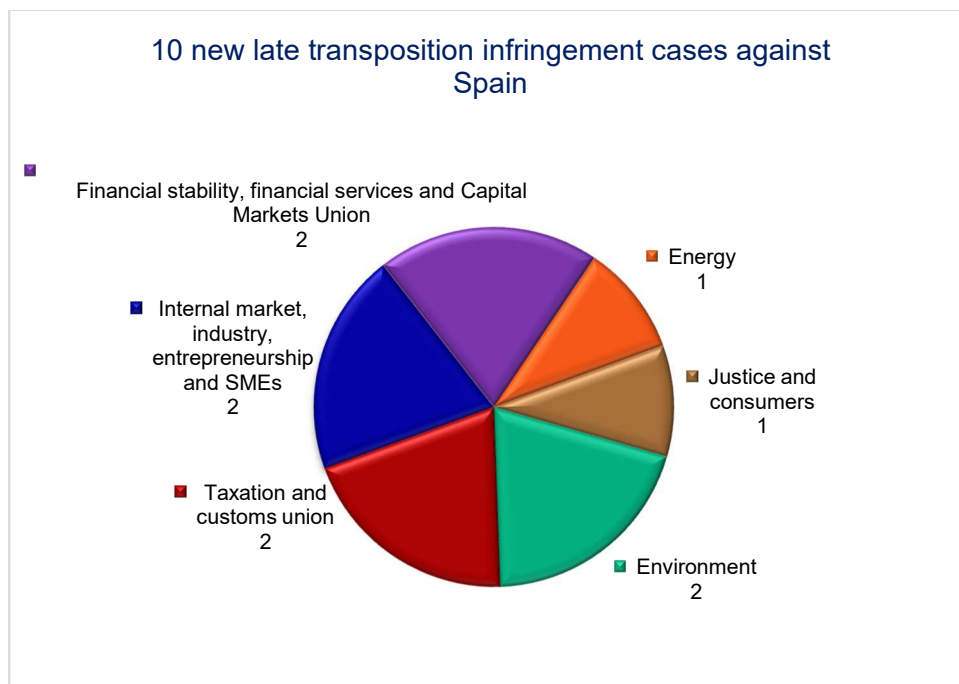
### Late transposition infringement cases against Spain open on 31 December (2015-2019)



### New late transposition infringement cases against Spain (2015-2019)



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



### IMPORTANT JUDGMENTS

#### Court rulings<sup>1</sup>

The Court ruled the following:

- *Spain* has not adopted on time, as required by the Water Framework Directive, the second round of river basin management plans for Lanzarote, Fuerteventura, Gran Canaria, Tenerife, La Gomera, La Palma and El Hierro<sup>2</sup>.
- The Court dismissed the Commission's action against *Spain* concerning the adoption and/or revision of waste management plans. The Court found that the Commission had prematurely opened the pre-litigation stage of the infringement procedure and, consequently, dismissed the action as inadmissible<sup>3</sup>.

#### Preliminary rulings

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

- The requirements stemming from the principles of effectiveness and ex officio review of unfair contract terms apply also to proceedings for a European payment order. Therefore, the courts seized with a request to issue a European order for payment must be able to request from the creditor additional information on contract terms, in order to assess the possible unfairness of such terms<sup>4</sup>.
- Figurative signs may trigger directly in the consumer's mind the image of products whose designation of origin is protected, on account of their 'conceptual proximity' to such a designation. Consequently, a protected designation of origin, such as 'queso manchego', may be evoked through the use of figurative signs, including where such figurative signs are used by a producer established in the geographical area associated with the designation of origin, but whose products, similar or comparable to those protected by the designation of origin, are not covered by it<sup>5</sup>.

<sup>1</sup> These rulings are almost exclusively handed down in infringement procedures.

<sup>2</sup> *Commission v Spain*, [C-556/18](#).

<sup>3</sup> *Commission v Spain*, [C-642/18](#).

<sup>4</sup> *Bondora*, [C-453/18](#) and [C-494/18](#).

<sup>5</sup> *Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego*, [C-614/17](#) and Court press release [No. 55/19](#).

- On the basis of the Working Time Directive and in light of the Charter of Fundamental Rights of the EU, the Member States must require employers to set up an objective, reliable and accessible system enabling the duration of time worked each day by each worker to be measured<sup>6</sup>.
- A financial contribution imposed on certain electricity generating undertakings to finance savings and energy efficiency plans managed by a public authority does not constitute a public service obligation under the Electricity Directive<sup>7</sup>.
- National legislation may set taxes on the production and storage of nuclear fuel and waste which apply only to electricity-generating undertakings using nuclear energy and whose main objective is to increase the amount of revenue for the electricity financial system. Such legislation does not violate the principle of non-discrimination provided for by the Electricity Directive<sup>8</sup>.
- EU law does not prohibit a tax on the use of inland waters for the production of electricity which does not incentivise the efficient use of water, nor establish mechanisms for the preservation and protection of public water resources, as it is focused solely and exclusively on the income-generating capacity of hydroelectricity producers. A tax on the use of inland waters to produce electricity which exclusively affects hydroelectricity generators operating in river basins encompassing more than one autonomous community and not those operating in river basins encompassing a single autonomous community is not considered discriminatory<sup>9</sup>.
- Immunity implies lifting the pre-trial detention measure imposed prior to the election of the person concerned as member of the European Parliament, allowing him or her to take part in the inaugural session of the European Parliament. However, if the competent national court considers that the detention measure should be maintained after that person has become member of the European Parliament, it must, as soon as possible, request that the European Parliament waive that immunity<sup>10</sup>.
- Calculating the length of service of a part-time worker whose working hours are 'distributed vertically' over the whole year (a vertical cyclical part-time worker) solely on the basis of periods actually worked when it comes to the right to pay rise and promotion, while not doing the same for comparable full-time workers, may be discriminatory and therefore breach the Framework Agreement on Part-Time Work and the Equal Treatment Directive<sup>11</sup>.

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<sup>6</sup> *CCOO*, [C-55/18](#).

<sup>7</sup> Directive [2009/72/EC](#), *Engie Cartagena*, [C-523/18](#).

<sup>8</sup> Directive [2009/72/EC](#), joined cases: *UNESA*, [C-80/18](#), *Endesa Generación*, [C-81/18](#), *Endesa Generación*, [C-82/18](#) and *Iberdrola Generación Nuclear*, [C-83/18](#).

<sup>9</sup> Joined cases: *UNESA*, [C-105/18](#), *Engasa*, [C-106/18](#), *Duerocanto*, [C-107/18](#), *Acciona*, [C-108/18](#), *Associació de Productors i Usuaris d'Energia Elèctrica*, [C-109/18](#), *Burgos Pérez and Guinea Bueno*, [C-110/18](#), *Endesa Generación*, [C-111/18](#), *APPA*, [C-112/18](#), *Parc del Segre and Others*, [C-113/18](#).

<sup>10</sup> *Junqueras Vies*, [C-502/19](#).

<sup>11</sup> *OH/ER v AEAT*, joined cases [C-439/18](#) and [C-472/18](#).