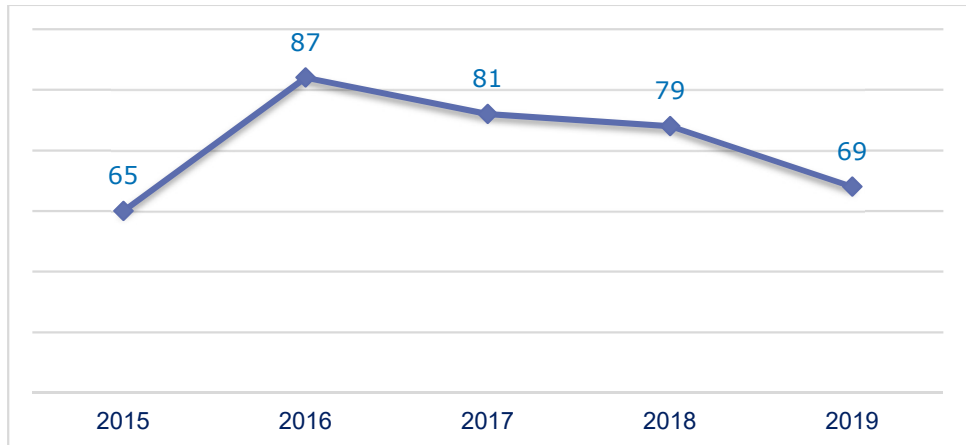


BELGIUM

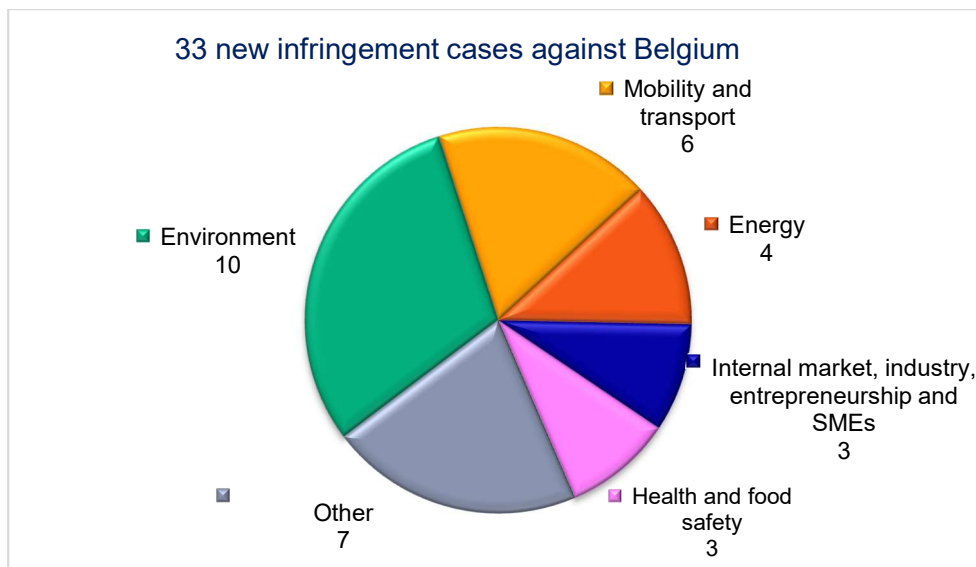
**Monitoring the Application
of EUROPEAN UNION LAW**
2019 Annual Report

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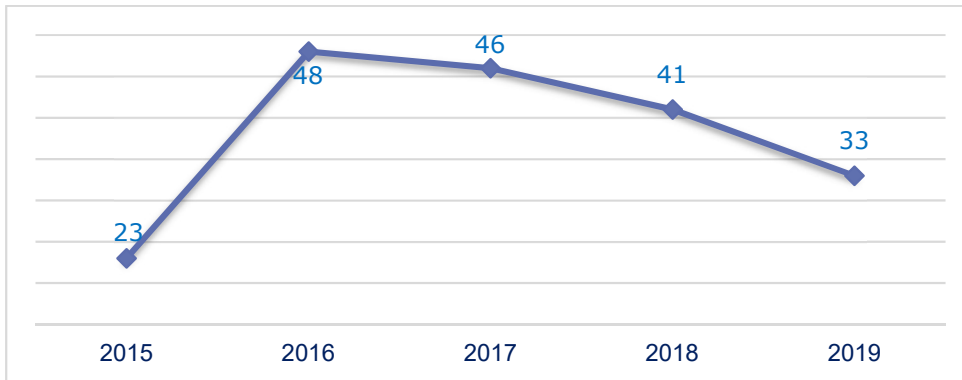
Infringement cases against Belgium open on 31 December (2015-2019)



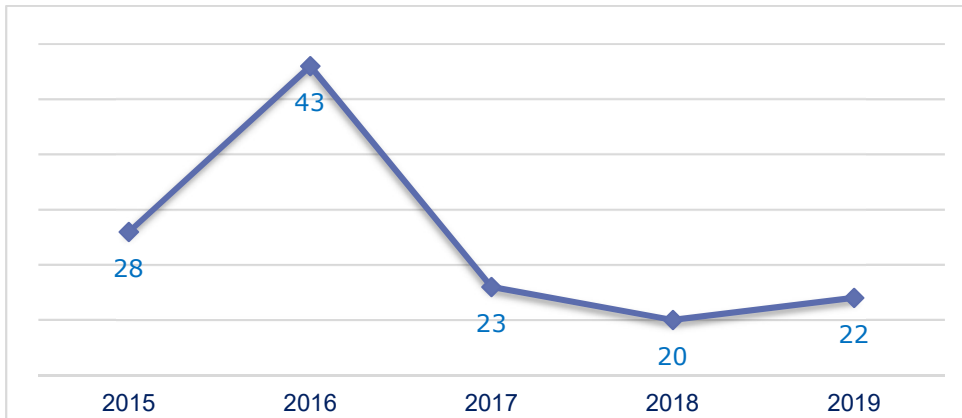
New infringement cases opened in 2019: main policy areas



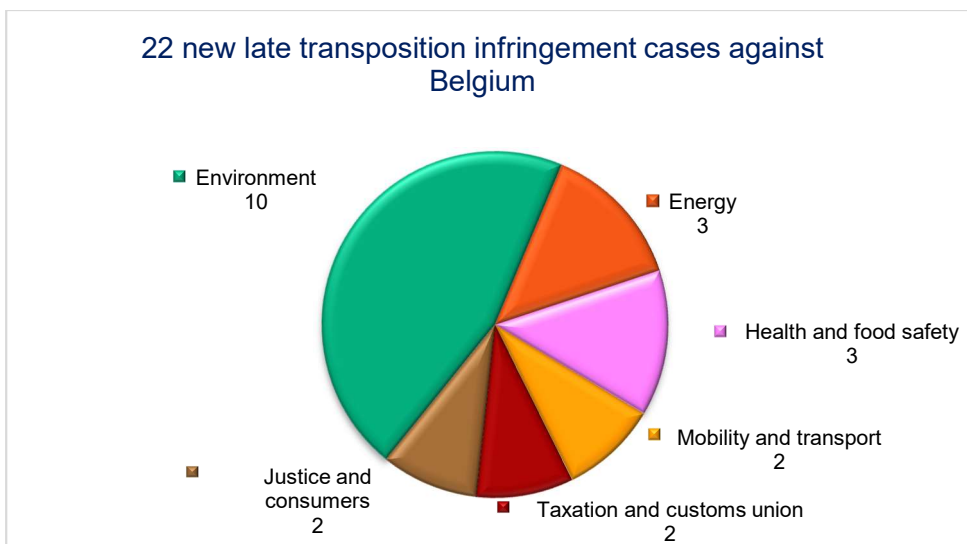
Late transposition infringement cases against Belgium open on 31 December (2015-2019)



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



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



IMPORTANT JUDGMENTS

Court rulings¹

The Court ruled that:

- *Belgium* did not fulfil its obligations under EU law by notifying to the Commission only partial transposition measures for the Directive on measures to reduce the cost of deploying high-speed electronic communications networks² with respect to the region of Bruxelles-Capitale. The Court applied for the first time the sanction mechanism of Article 260(3) TFEU. This Treaty provision allows the Commission to request the Court to impose financial penalties if Member States fail to fulfil their obligation to notify measures transposing a directive adopted under a legislative procedure. In addition to clarifying that the sanction scheme of Article 260(3) TFEU may also be applied to cases of partial failure to adopt and communicate transposition measures, the Court held that, when notifying national transposition measures to the Commission, Member States must provide sufficiently clear and precise information and state, for each provision of the directive, the national provision(s) ensuring its transposition³.

Preliminary rulings

The Court addressed the following preliminary rulings to the Belgian judiciary: |

- SkypeOut service should be considered an electronic communications service. As a result, SkypeOut is subject to telecoms legislation, in particular to the general authorisation regime. Services offered via software, such as SkypeOut, which allow calling numbers in a national numbering plan, constitute electronic communication services⁴.
- If, within 6 months, national authorities have not decided on the application for family reunification, they cannot automatically issue a residence permit to the applicant as it must be established whether the applicant meets the requirements for residence in the host Member State in accordance with EU law⁵.
- In case of serious breaches of the rules of the accommodation centres, as well as violent behaviour by an applicant, a Member State cannot provide for a sanction consisting in the withdrawal, even temporary, of material reception conditions, relating to housing, food or clothing in so far as it would have the effect of depriving the applicant of the possibility of meeting his or her most basic needs⁶.
- The formal recognition of the status of refugee implies that the refugee concerned is a beneficiary of international protection for the purpose of the Qualification Directive so that he is entitled to all the rights and benefits provided for in this Directive. This Directive contains both rights equivalent to those set out in the Geneva Convention and rights providing greater protection which have no equivalent in that Convention⁷.
- The closure of an airport runway due to petrol spillage constitutes an 'extraordinary circumstance' when the petrol in question does not originate from an aircraft of the carrier operating that flight. It is a circumstance that could not have been avoided even if all reasonable measures had been taken⁸.
- When a passenger boards a train without a ticket, he concludes a contract with the carrier. This covers the situation where access to the train is free⁹.
- The circumstance that the transferee has a choice whether to dismiss employees goes against the objective of the Directive on transfer of undertakings, which provides that dismissals due to the transfer are prohibited¹⁰.

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

² Directive [2014/61/EU](#).

³ *Commission v Belgium*, [C-543/17](#).

⁴ *Skype Communication*, [C-142/18](#).

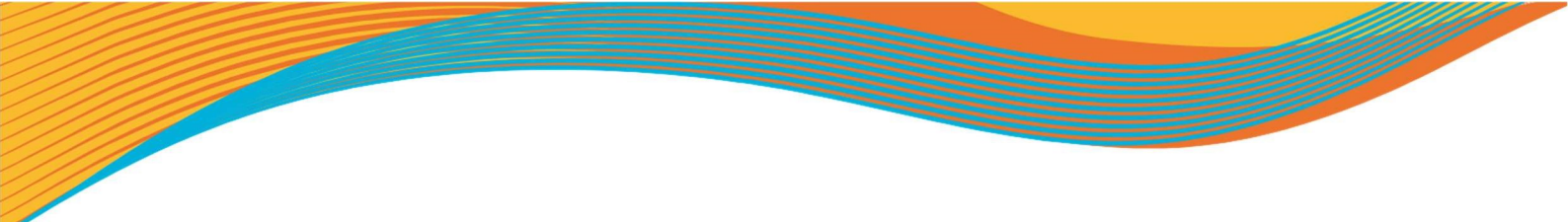
⁵ *X*, [C-706/18](#).

⁶ *Zubair Haqbin*, [C-233/18](#).

⁷ *Joined cases M and Others*, [C-391/16](#), [C-77/17](#) and [C-78/17](#).

⁸ *Moens*, [C-159/18](#), Regulation (EC) No [261/2004](#).

⁹ joined cases: *Kanyeba*, [C-349/18](#), *Nijs*, [C-350/18](#), *Dedroog*, [C-351/18](#), Regulation (EC) No [1371/2007](#), Court press release No [136/2019](#).

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- A decree by which a body of a Member State establishes, at regional level for its Natura 2000 network, conservation objectives which have an indicative value, whereas the conservation objectives at site level have a statutory value, is not a ‘plan or programme’, within the meaning of the Strategic Environmental Assessment Directive, for which an assessment under this Directive is mandatory¹¹.
 - A decree whereby a Member State designates a Special Area of Conservation and makes provision for conservation objectives and certain preventive measures is not a ‘plan or programme’, within the meaning of the Strategic Environmental Assessment Directive, for which an assessment under this Directive is required¹².
 - National courts have jurisdiction to review the choice of location of air quality measuring stations and to take all necessary measures against the national authority concerned. In assessing whether limit values have been complied with, the pollution level at each sampling point must be taken into account individually¹³.

The Belgian law extending the operating life of nuclear power stations Doel 1 and Doel 2 was adopted without the required environmental assessments being carried out first. It is not, however, excluded that the effects of the law on extension may provisionally be maintained where there is a genuine and serious threat of an interruption to electricity supply¹⁴.

¹⁰ *Plessers*, [C-509/17](#).

¹¹ *Terre wallonne*, [C-321/18](#), Directive [2001/42/EC](#).

¹² *CFE*, [C-43/18](#), Directive [2001/42/EC](#).

¹³ *Craeynest and Others*, [C-723/17](#) and Court press release No [82/2019](#).

¹⁴ *Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen*, [C-411/17](#) and Court press release No 100/2019.