



European Commission

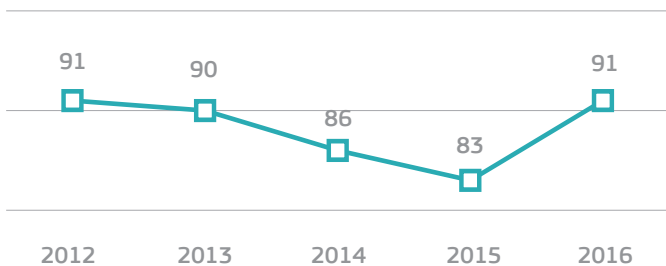
SPAIN

Monitoring the Application of European Union Law

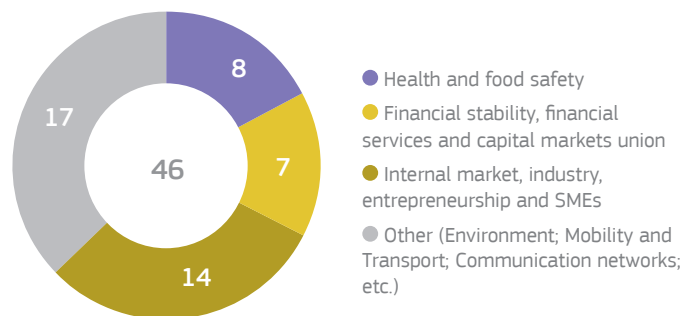
Annual Report 2016

Compared to 2016, new complaints increased significantly after a sharp drop the previous year. New infringement cases for late transposition more than doubled. Both new EU Pilot files and open infringement cases also started to rise, reversing the downward trend seen since 2012.

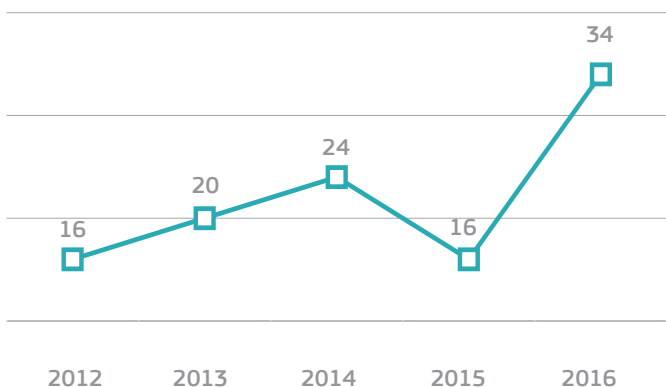
Infringement cases open on 31 December



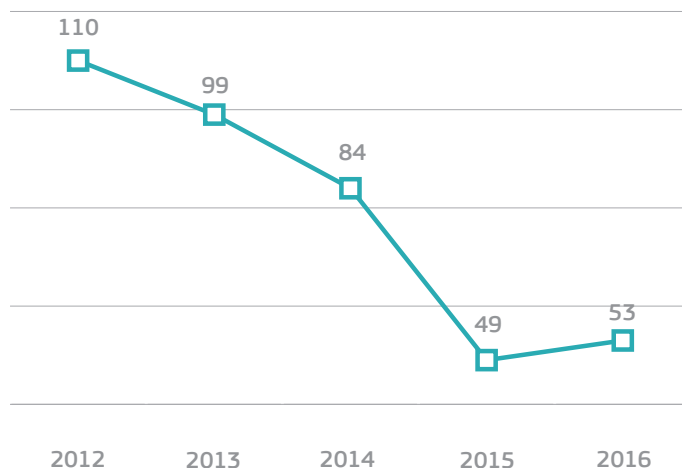
New infringement cases opened in 2016: main policy areas



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:
 - Spain has failed to ensure the adequate treatment of urban waste water from four agglomerations discharging into sensitive areas;¹
 - Spain has not fulfilled its obligations under the Birds Directive and the Habitats Directive in relation to a project for the building of a high-speed railway line between Seville and Almeria;²
 - Spain has infringed the Landfill Directive by not taking the necessary measures to ensure that non-compliant landfills do not continue to operate unless they satisfy the requirements of the Directive.³

2. In preliminary rulings, the Court held, amongst others, that:
 - National case-law cannot temporally limit the restitutory effects connected with a finding of unfairness by a court, in respect of a clause contained in a contract concluded between a consumer and a seller or supplier, to amounts overpaid under such a clause after the delivery of the decision in which the finding of unfairness is made. The case concerned a decision by the Spanish Supreme Court of 2013 which had found so-called floor clauses in loan contracts concluded by consumers to be unfair, but had ruled that this finding would have effect only from the date of its judgment, thereby excluding restitution claims by consumers for overpayments made in the past;⁴
 - Member States' may adopt or retain in force stricter measures to prevent money laundering and terrorist financing than the rules laid down in the Directive on the prevention of the use of the financial system for money laundering and terrorist financing.⁵ These measures, however, must be justified by the level of risk and must be proportionate;⁶
 - a national of a non-EU country who has the sole care of an EU citizen who is a minor cannot be automatically refused a residence permit or expelled from the territory of the European Union on the sole ground that he has a criminal record. To be capable of being adopted, an expulsion measure must be proportionate and founded on the personal conduct of the national of a non-EU country. Moreover, that conduct must constitute a genuine, present and sufficiently serious threat adversely affecting one of the fundamental interests of the society of the host Member State.⁷
 - a Member State may refuse an application for family reunification if the sponsor does not have sufficient, stable and regular resources to maintain himself and the members of his family without recourse to the social assistance system of that Member State. Such a decision could be based on the prospective assessment of the likelihood of the sponsor retaining, or failing to retain, the necessary stable and regular resources in the year following the date of submission of the application for family reunification. The assessment is based on the pattern of the sponsor's income in the 6 months preceding the date of the application;⁸
 - the Framework Directive⁹ on electronic communications networks and services does not preclude the possibility for national regulatory authorities to merge into one multisectoral authority provided that, in performing those tasks, that body meets the requirements of competence, independence, impartiality and transparency laid down by the Directive. In addition, an effective right of appeal to an independent body must be available against its decisions, which is a matter to be determined by the national court.¹⁰

¹ Directive [91/271/EEC](#), Commission v Spain, [C-38/15](#).

² Directives [2009/147/EC](#) and [92/43/EEC](#), Commission v Spain, [C-461/14](#).

³ Directive [1999/31/EC](#), Commission v Spain, [C-454/14](#).

⁴ Gutiérrez Naranjo, joined cases [C-154/15](#), [C-307/15](#) and [C-308/15](#).

⁵ Directive [2005/60/EC](#).

⁶ Safe Interenvios, SA v Liberbank, SA and Others, [C-235/14](#).

⁷ Rendón Marín and CS, joined cases [C-165/14](#) and [C-304/14](#) and Court press release [No 95/16](#).

⁸ Mimoun Khachab, [C-558/14](#).

⁹ Directive [2002/21/EC](#).

¹⁰ Ormaetxea Garai and Lorenzo Almendros, [C-424/15](#).

More information:

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