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**COMMISSION STAFF WORKING DOCUMENT**

**Part I: Policy areas**

*Accompanying the document*

**Report from the Commission**

**Monitoring the application of Union law  
2014 Annual Report**

# **Part I: Policy areas**

Staff Working Document

2014 Annual Report

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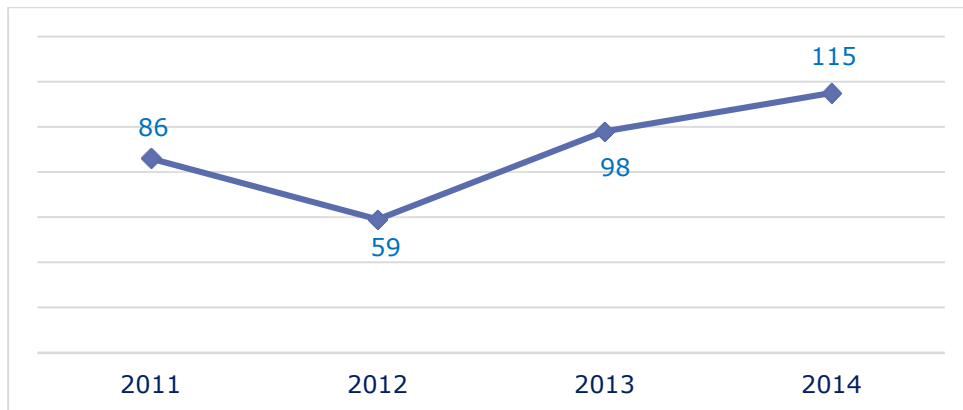
## AGRICULTURE AND RURAL DEVELOPMENT

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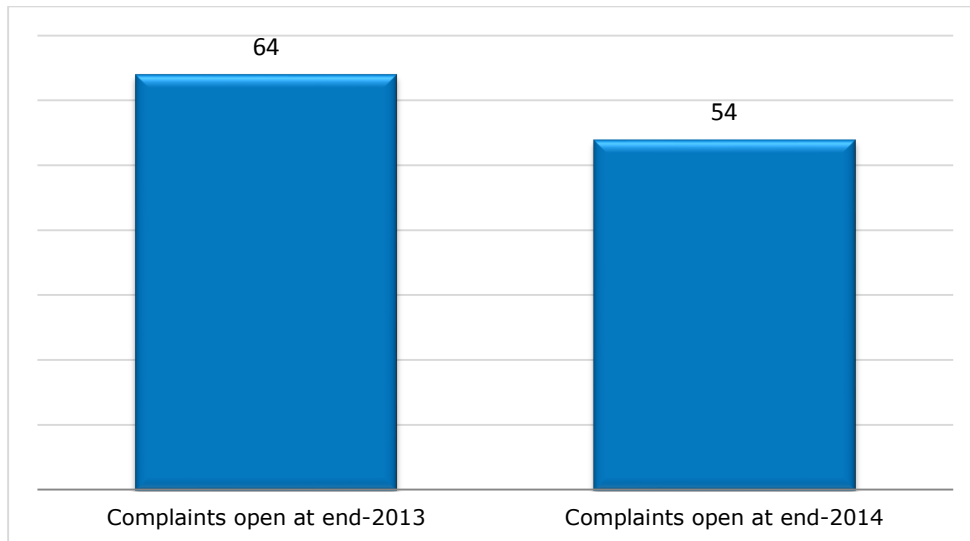
In 2014, the number of new complaints made in the area of agriculture and rural development reached a peak. Furthermore, the number of new files opened in EU Pilot increased, and almost reached the 2011 level, after having decreased in 2012 and 2013. After three consecutive years of high figures, the number of infringement cases still pending at the end of 2014 decreased considerably, even below the 2010 level. There were no late transposition infringement cases opened in the area of agriculture and rural development in 2014.

### I. COMPLAINTS

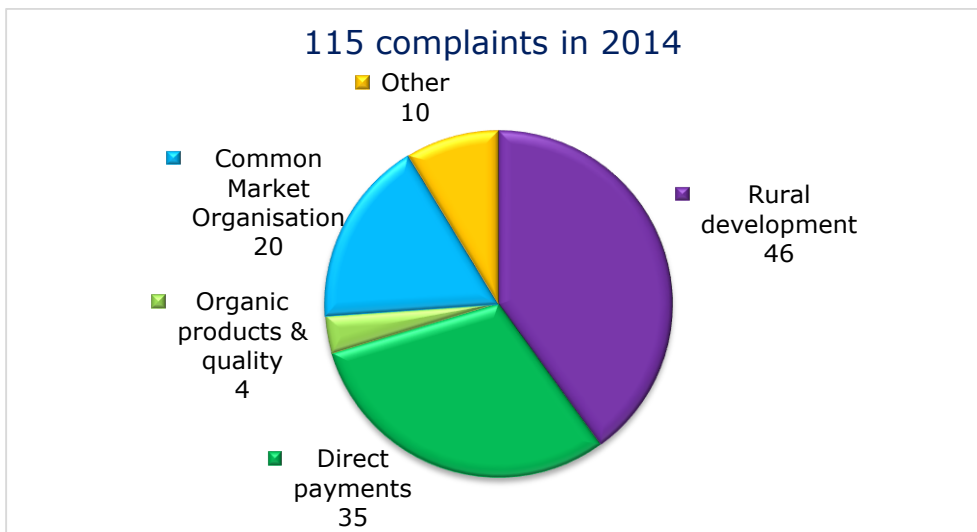
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

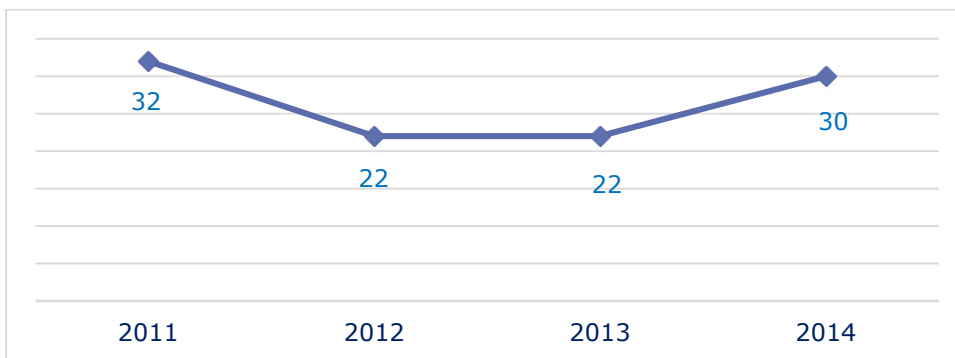


3. New complaints registered in 2014: main policy sectors

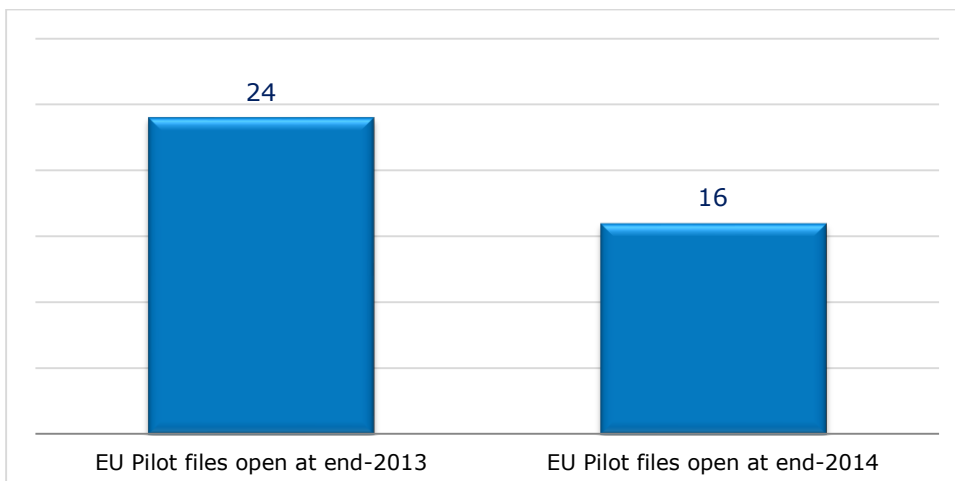


II. EU PILOT

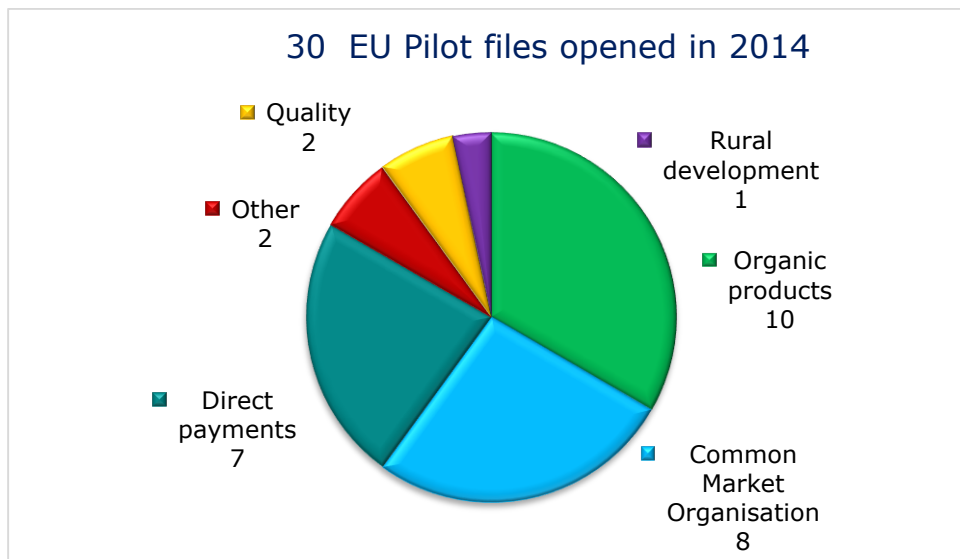
1. New EU Pilot files (2011-14)



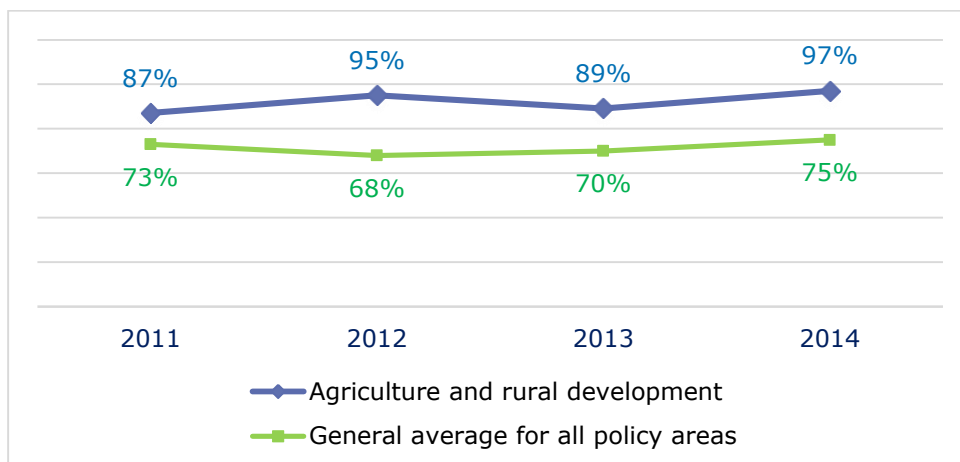
2. Evolution of files open in EU Pilot



3. New EU Pilot files opened in 2014: main policy sectors



4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

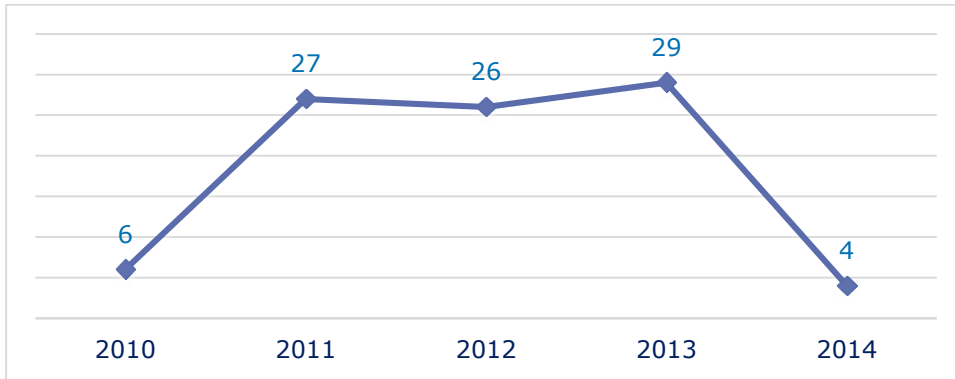
New own-initiative infringement cases

In 2014, the Commission opened own-initiative infringement cases concerning:

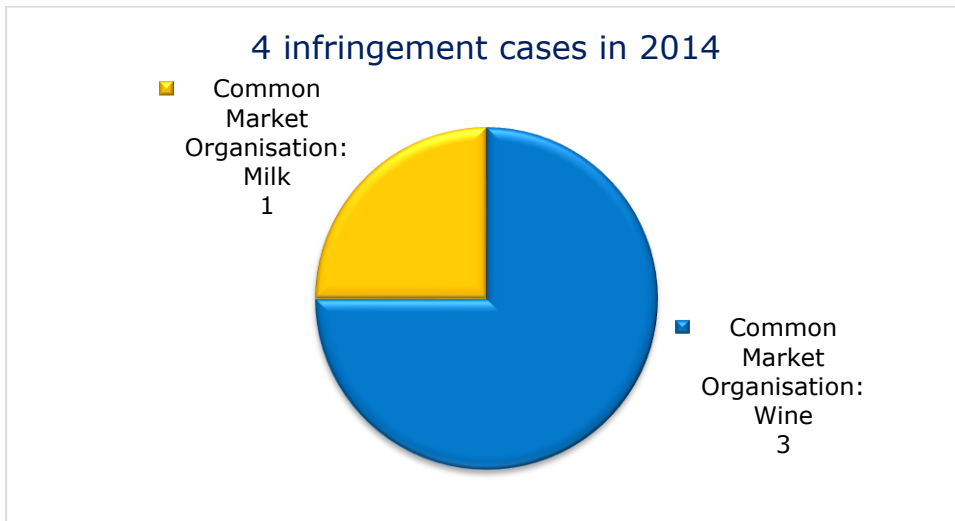
- organic production: 10 cases were opened due to fraud or other irregularities detected in relation to organic products, or infringements of EU requirements.

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors

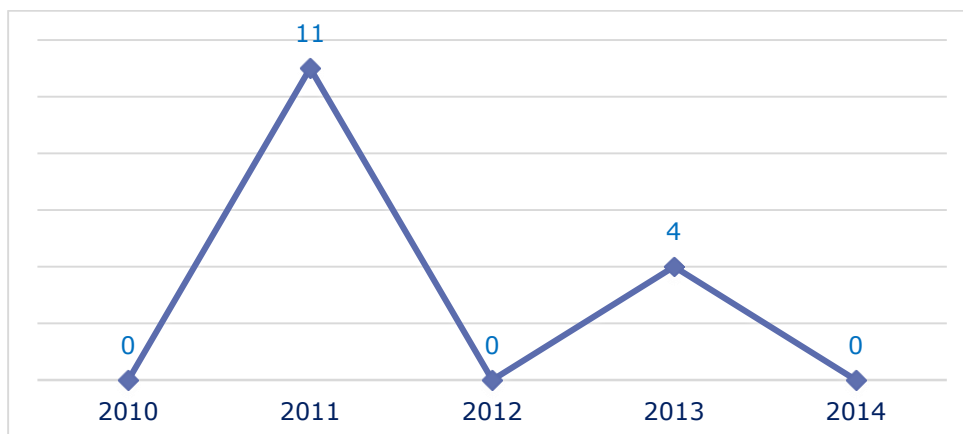


3. Key infringement cases and referrals to the Court

- a) The Commission did not open any new infringement cases in 2014.
- b) The Commission did not refer any cases to the Court under Article 258 of the Treaty on the Functioning of the European Union (TFEU).
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors

The Commission did not open any late transposition infringement cases in 2014.

3. Key infringement cases and referrals to the Court

- a) The Commission did not open any new late transposition infringement cases in 2014.
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

There were no major cases closed without a Court judgment in 2014 in the area of agriculture and rural development.

VII. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- the German action for annulment under Article 263 TFEU challenging the Council decision of 18 June 2012 'establishing the position to be adopted on behalf of the European Union with regard to certain resolutions to be voted in the framework of the International Organisation for Vine and Wine (OIV)' is dismissed.<sup>1</sup>

2. Preliminary rulings

In two preliminary rulings, the Court ruled that:

- a Member State is required to recalculate a farmer's payment entitlements under the regulation laying down detailed rules for the

<sup>1</sup> Federal Republic of Germany v Council of the European Union, [C-399/12](#).



implementation of cross-compliance, modulation and the integrated administration and control system;<sup>2</sup>

- in a case concerning Romania, Common Agricultural Policy legislation<sup>3</sup> must be interpreted as meaning that Romanian legislation cannot prohibit producers from accessing complementary national aid because they have overdue debts towards the state budget and/or local budget on the date on which they make their request for assistance. This is because no condition relating to the absence of such debt has been subject to prior authorisation by the European Commission.<sup>4</sup>

### VIII. OUTLOOK

#### Important implementation work in 2015 includes:

- prioritising cases which raise issues concerning the compatibility of Member States' legislative, regulatory or administrative measures with EU agricultural rules, and to cases where the Member States concerned refrain from applying these common rules, thereby jeopardising the effectiveness of important mechanisms of the common agricultural policy, particularly regarding the 1st pillar;
- pursuing infringement cases of the type described in the previous paragraph challenging the application of reformed key mechanisms set out in the Common Market Organisation Regulation that entered into force on 1 January 2014 and those which would affect the correct application of the new direct payment system as reformed by Regulation (EU) No 1307/2013,<sup>5</sup> that entered into force on 1 January 2015;
- in the agricultural sector, continuing to make use of the clearance of accounts procedure to persuade Member States to adapt their management and control system in the cases where audit investigations have detected infringements.

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<sup>2</sup> Regulation [796/2004](#), Vonk Noordegraaf, [C/105/13](#).

<sup>3</sup> Article 143c of Council Regulation (EC) No [1782/2003](#) of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Article 132 of Council Regulation (EC) No [73/2009](#) of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers.

<sup>4</sup> Agenția de Plăți și Intervenție pentru Agricultură (APIA), [C-304/13](#).

<sup>5</sup> Regulation (EU) No [1307/2013](#).

## BUDGET

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As in previous years, no new complaints were received in the area of budgetary affairs in 2014. Budget-related matters are not handled in the EU Pilot system, because there are alternative pre-infringement mechanisms in place. Two new infringement cases on budgetary issues were opened in 2014. There were no new late transposition cases.

### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)

The Commission did not receive any complaints in the area of financial programming and budget.

#### 2. Evolution of complaints

The Commission did not process any complaints in the area of financial programming and budget.

### II. EU PILOT

#### Evolution of files open in EU Pilot

The Commission did not process any EU Pilot files in the area of financial programming and budget.

### III. OWN-INITIATIVE CASES

#### New own-initiative infringement cases in 2014

The Commission opened two own-initiative infringement cases in 2014. They are outlined in point IV(1)(a) below.

### IV. INFRINGEMENT CASES

#### Key infringement cases and referrals to the Court

- a) The Commission opened two new infringement cases in 2014, both against Belgium:
  - one case concerns six requests made by Belgium's national authorities to waive the collection of traditional own resources, where the Commission is concerned that the authorities did not demonstrate that the entitlements were irrecoverable for reasons not attributable to them;
  - the other case concerns the collection of interest due on the late payment of own resources in a procedure where the requested securities turned out to be insufficient to cover a customs debt.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2014

In 2014, the Commission made 90 new findings in the area of traditional own resources (there were 102 in 2013) and issued 28 value added tax (VAT) and

28 gross national income (GNI) reservations.<sup>1</sup> As a result, Member States carried out 789 accounting actions related to traditional own resources (421 in 2013) and 243 related to VAT and GNI (285 in 2013) for potential corrective payments (principal amounts and belated interest) made by Member States.

Most of the new findings were resolved at an early stage in bilateral discussions with Member States or in the Advisory Committee on Own Resources.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings

The Court ruled that:

- the UK was financially responsible for its refusal to pay to the EU budget £15 million plus interest due from the import of fresh garlic under wrong authorising documents.<sup>2</sup>

#### 2. Preliminary rulings

There were no major preliminary rulings in 2014 in the area of financial programming and budget.

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<sup>1</sup> Regulations (EEC, Euratom) No [1553/1989](#) and [1150/2000](#).

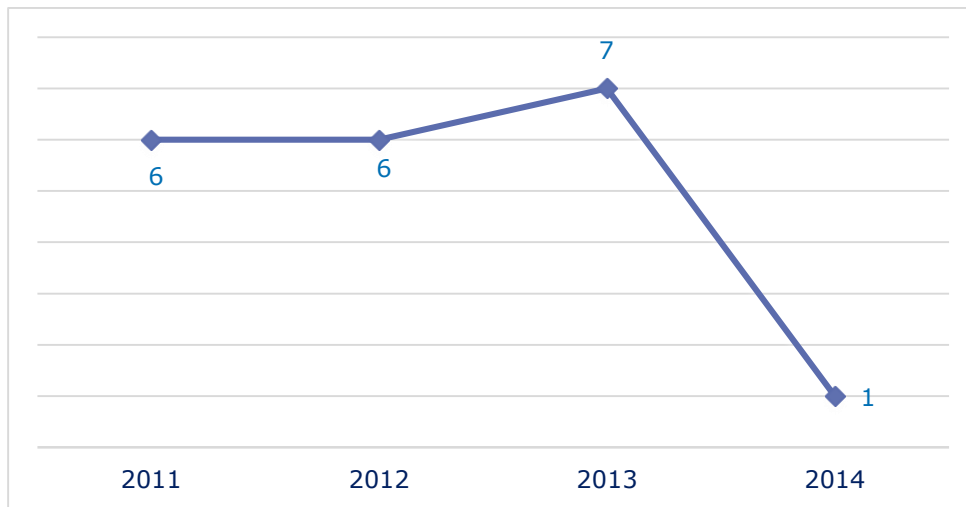
<sup>2</sup> Commission v United Kingdom, [C-60/13](#).

## CLIMATE ACTION

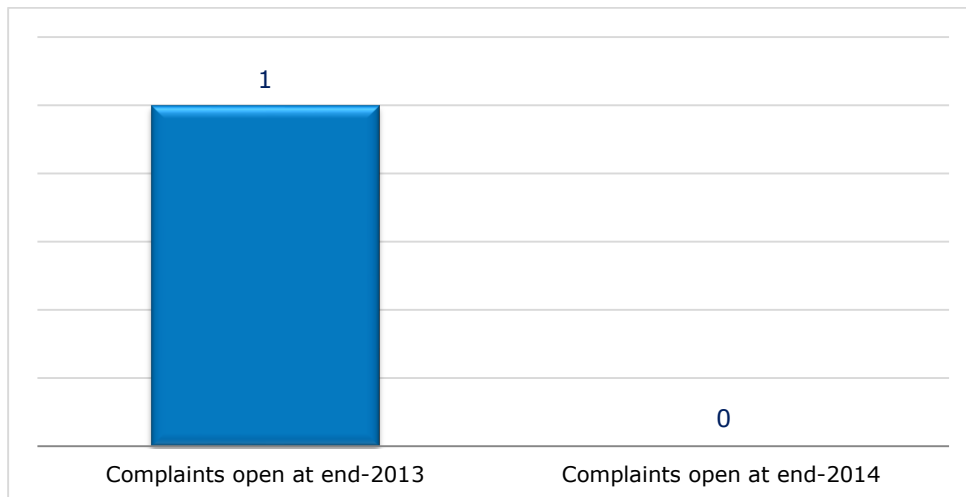
In 2014, the Commission received its lowest number of new complaints in the area of climate action since 2011. In contrast, the number of new EU Pilot files was higher in 2014 than it had been since 2011. The number of infringement cases still pending at the end of the year continued to fall in 2014, as did the number of new late transposition cases. There were no new late transposition cases opened in 2014, the lowest number registered in the area of climate action over the last five years.

### I. COMPLAINTS

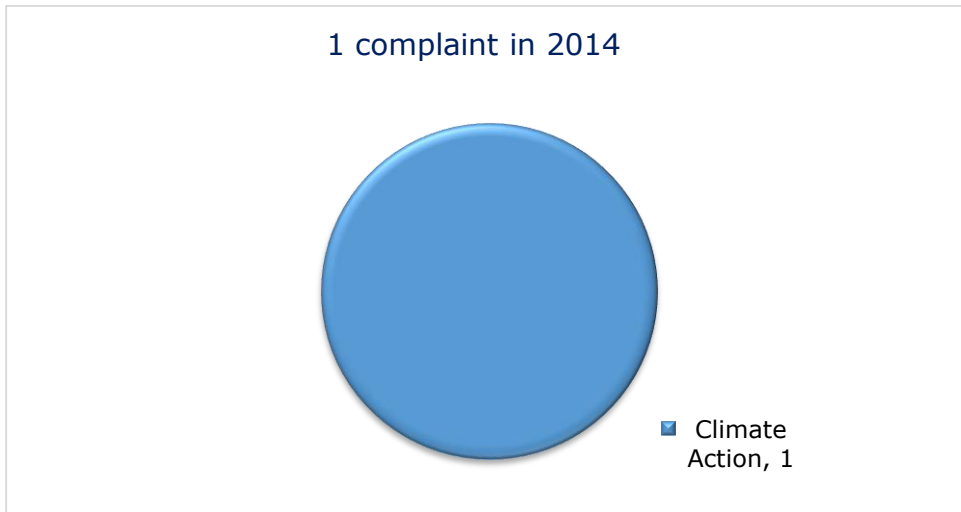
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

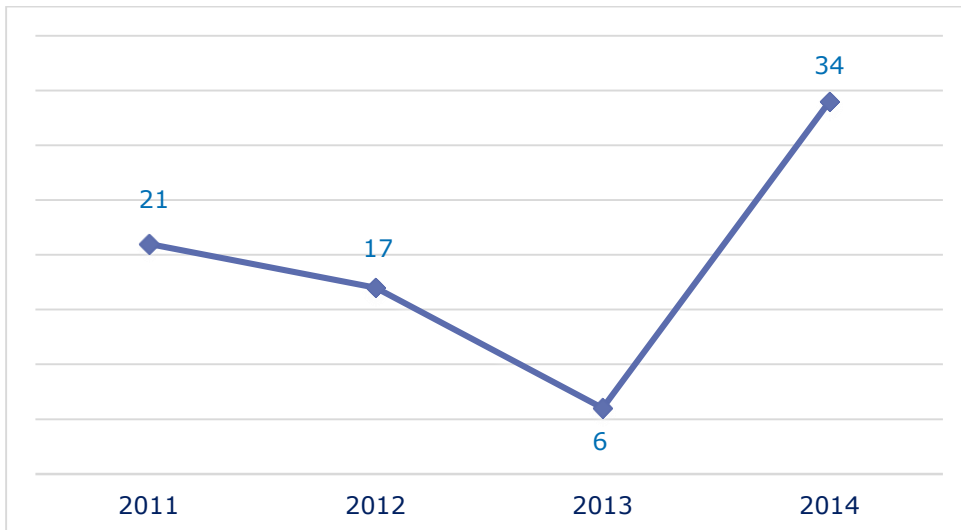


3. New complaints registered in 2014: main policy sectors

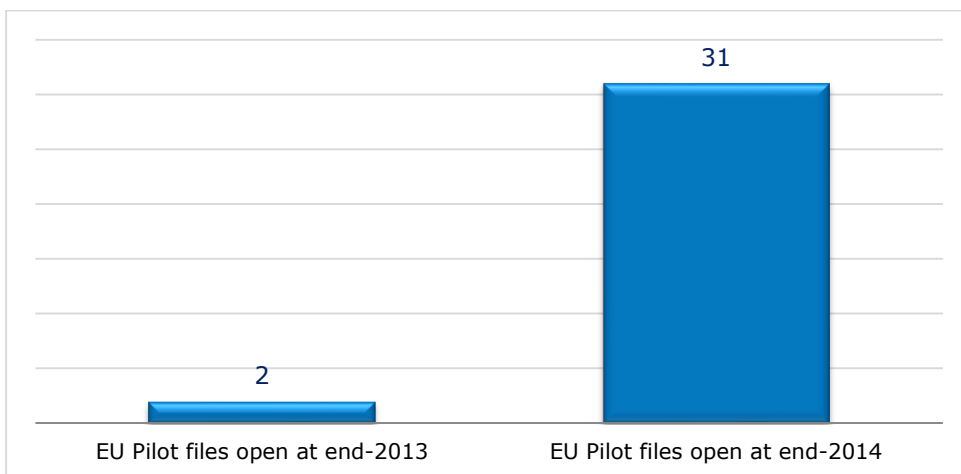


II. EU PILOT

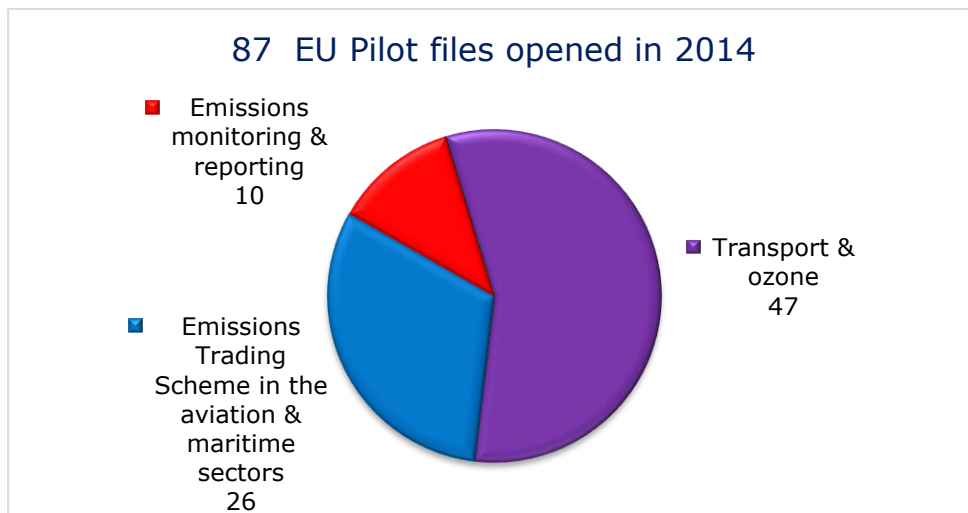
1. New EU Pilot files (2011-14)



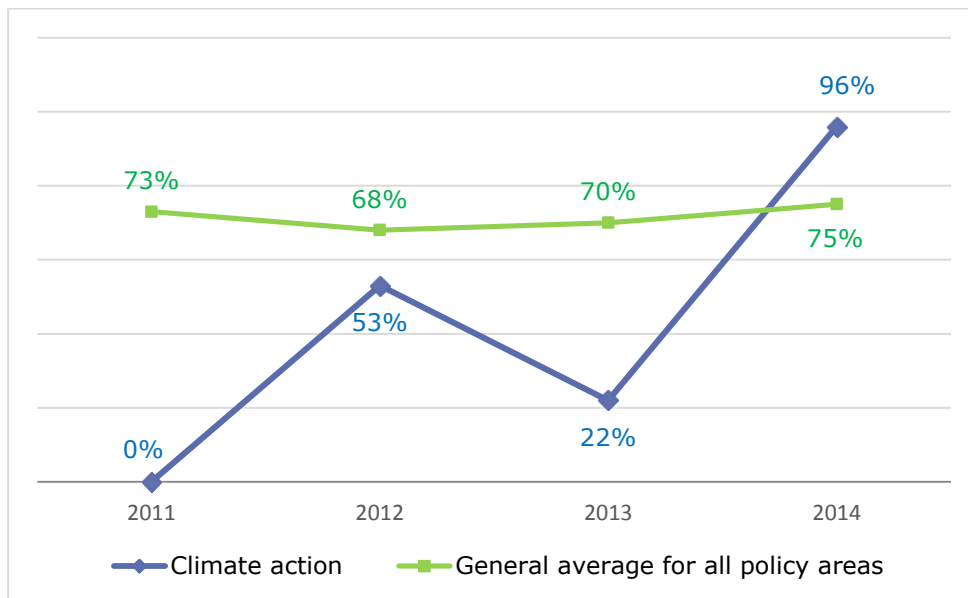
2. Evolution of files open in EU Pilot



3. New EU Pilot files opened in 2014: main policy sectors



4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

In 2014, the Commission opened own-initiative infringement cases to assess whether Member States have correctly transposed the following four important directives:

- the directive on aviation in emissions trading;<sup>1</sup>
- the directive on the extension of the emissions trading system;<sup>2</sup>
- the directive on fuel quality;<sup>3</sup>
- the directive on the geological storage of carbon dioxide.<sup>4</sup>

<sup>1</sup> Directive [2008/101/EC](#).

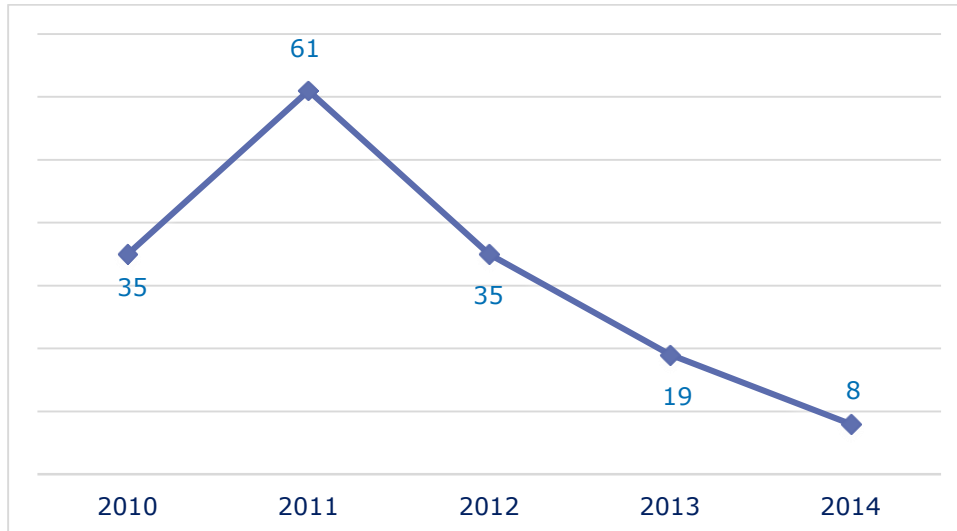
<sup>2</sup> Directive [2009/29/EC](#).

<sup>3</sup> Directive [2009/30/EC](#).

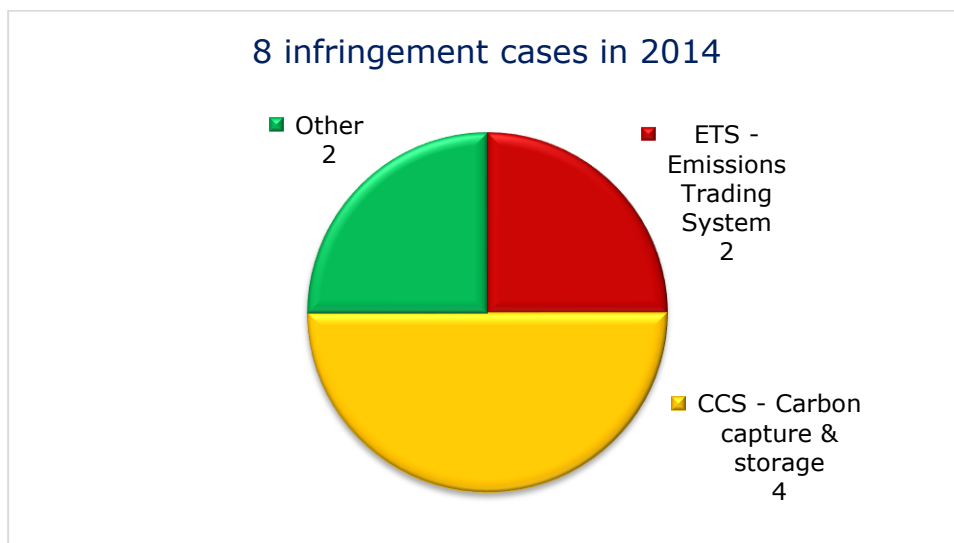
This has already led to the opening of pre-infringement files in the EU Pilot system and might lead to the opening of infringement cases in the coming year.

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened two new infringement cases in 2014, among which:
  - *Lithuania*: incorrect application of the rule set out in the Fuel Quality Directive<sup>5</sup> requiring Member States to ensure that the ethanol content of petrol placed on the market within their territory is below 10 %;

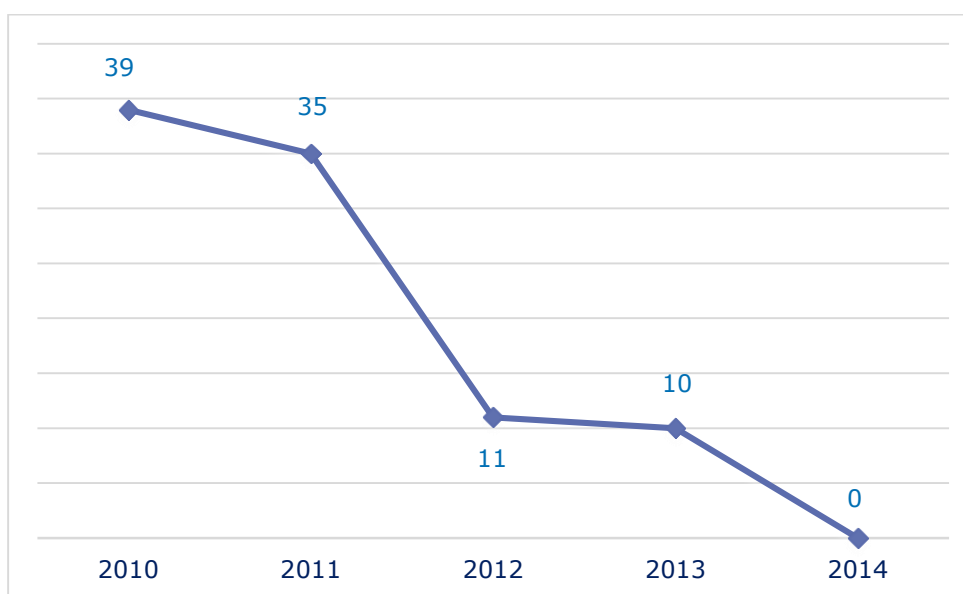
<sup>4</sup> Directive [2009/31/EC](#).

<sup>5</sup> Directive [2009/30/EC](#).

- *Poland*: granting of a building permit for two new units in a coal-fired power station without having carried out the assessment for retrofitting of CO<sub>2</sub> capture required by the Large Combustion Plants Directive.<sup>6</sup>
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerned:
- *Poland*: failure to notify the Commission of the penalties put in place to deal with cases where the EU rules for companies and personnel working with fluorinated gases are not followed.<sup>7</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2010-14)



### 2. New late transposition infringement cases opened in 2014: main policy sectors

The Commission did not open any new late transposition cases in 2014.

### 3. Key infringement cases and referrals to the Court

- a) The Commission did not open any new late transposition cases in 2014.
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2014

They concerned:

<sup>6</sup> Directive [2001/80/EC](#).

<sup>7</sup> Commission v Poland, [C-303/14](#), [IP/14/449](#).



- *Belgium, Bulgaria, Hungary and Slovenia*: failure to fully transpose the directive on improving and extending the EU greenhouse gas emission allowance trading scheme;<sup>8</sup>
- *Cyprus, Hungary, Ireland and Slovenia*: failure to fully transpose the directive on the geological storage of CO<sub>2</sub>.<sup>9</sup>

### VII. IMPORTANT JUDGMENTS

There were no major Court rulings or preliminary rulings in the area of climate action in 2014.

### VIII. OUTLOOK

Important implementation work in 2015 includes:

- monitoring the conformity of national measures with the directives on: aviation in emissions trading,<sup>10</sup> extension of the emissions trading system,<sup>11</sup> fuel quality<sup>12</sup> and the geological storage of carbon dioxide.<sup>13</sup>

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<sup>8</sup> Directive [2009/29/EC](#).

<sup>9</sup> Directive [2009/31/EC](#).

<sup>10</sup> Directive [2008/101/EC](#).

<sup>11</sup> Directive [2009/29/EC](#).

<sup>12</sup> Directive [2009/30/EC](#).

<sup>13</sup> Directive [2009/31/EC](#).

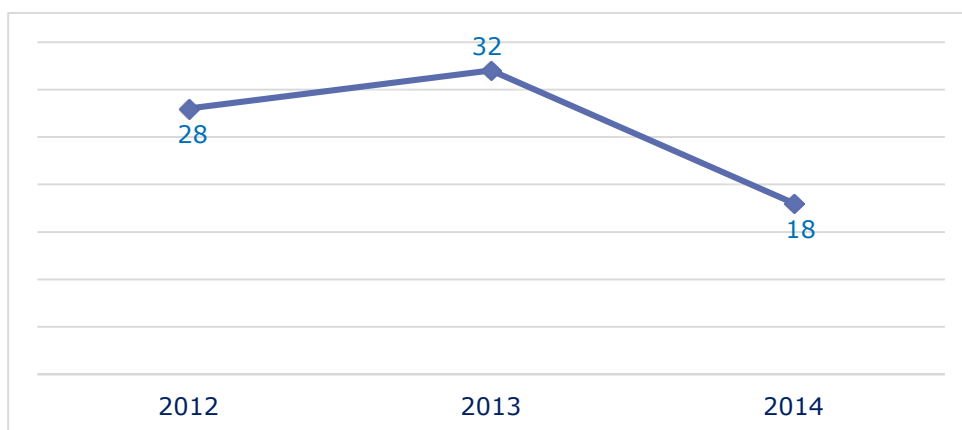
## COMMUNICATION NETWORKS, CONTENT AND TECHNOLOGY

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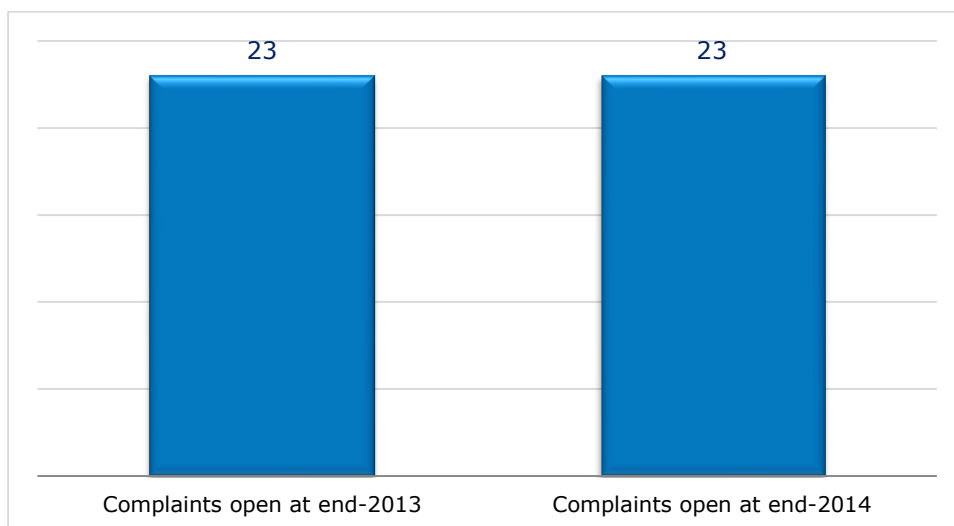
In 2014, the Commission received its lowest number of new complaints in the area of communication networks, content and technology since 2012. The number of EU Pilot files opened was at its lowest since 2011. The number of infringement cases pending at the end of the year in the area of communication networks, content and technology continued to decrease in 2014. There have been no new late transposition infringement cases since 2012.

### I. COMPLAINTS

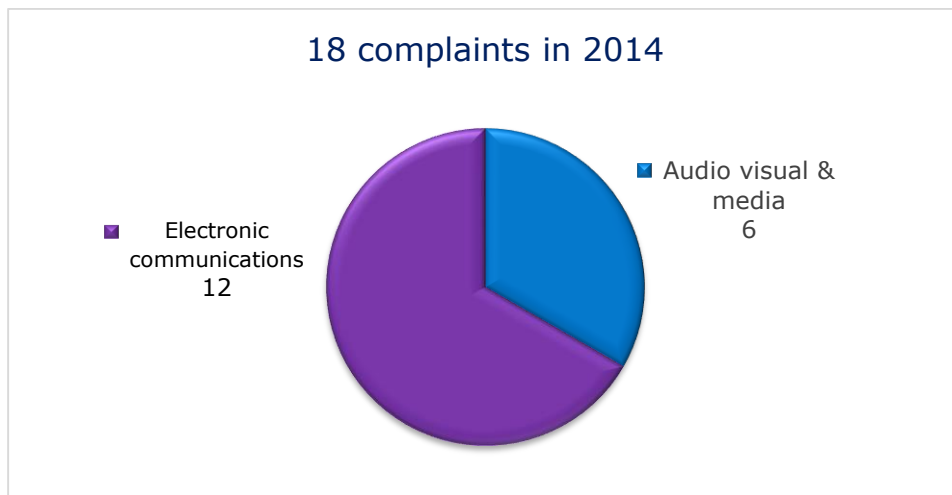
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

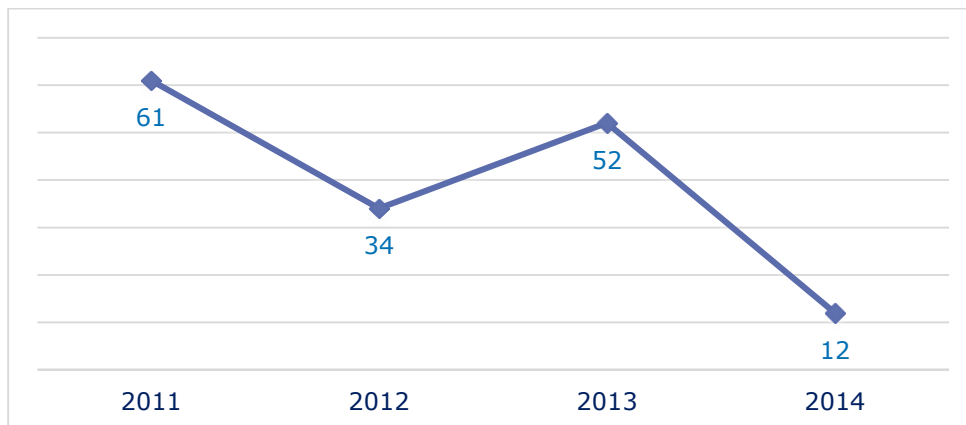


3. New complaints registered in 2014: main policy sectors

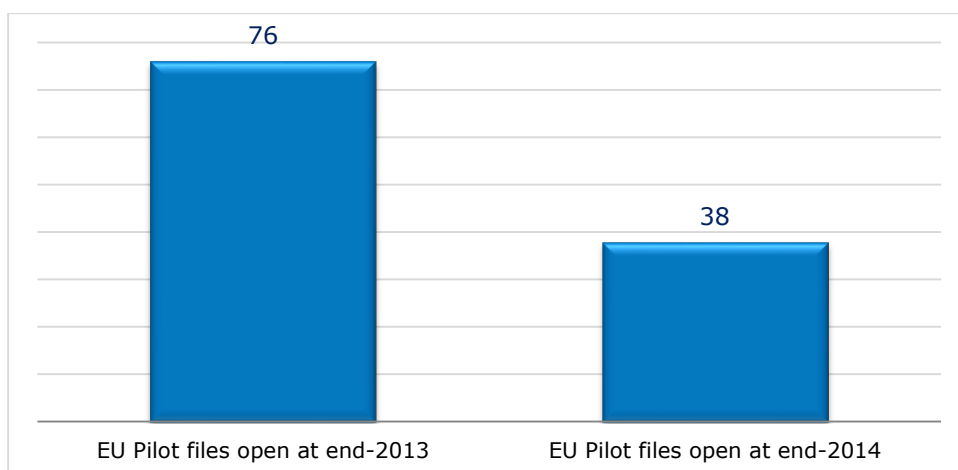


II. EU PILOT

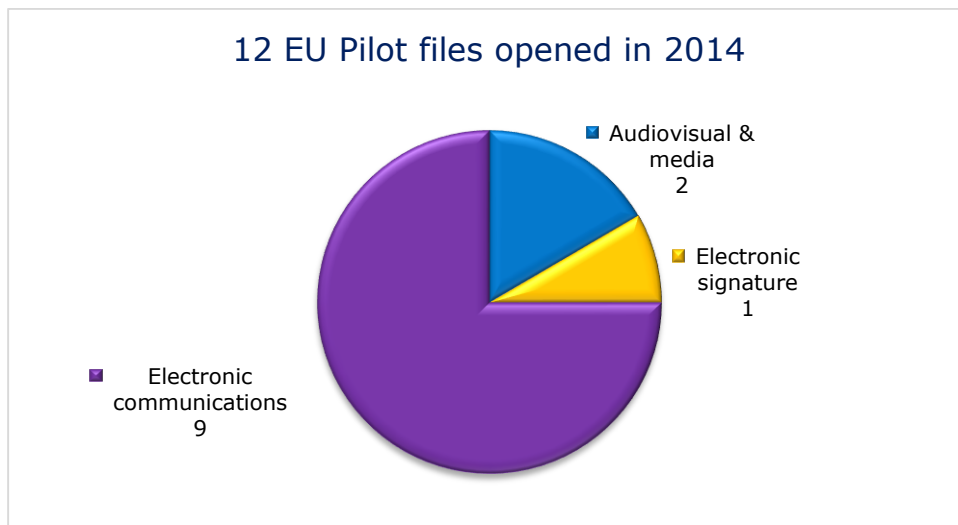
1. New EU Pilot files (2011-14)



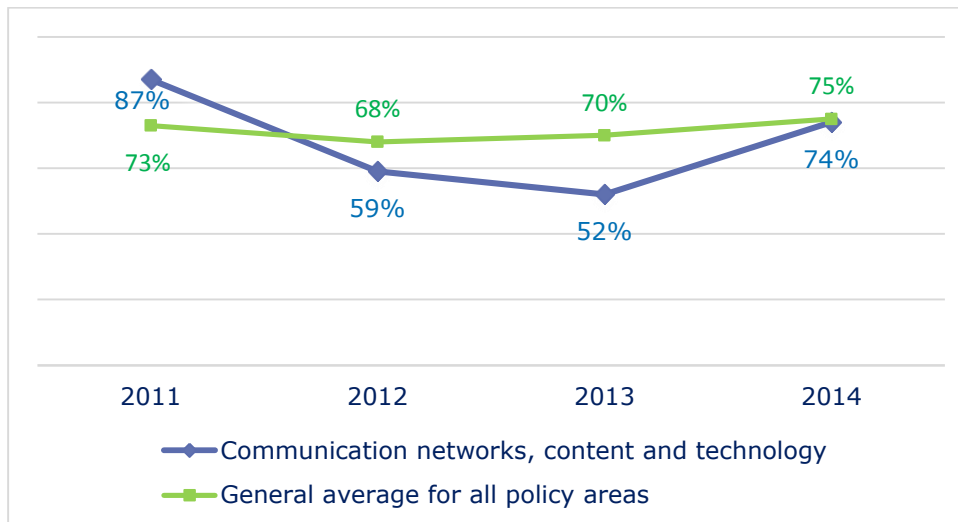
2. Evolution of files open in EU Pilot



3. New EU Pilot files opened in 2014: main policy sectors



4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



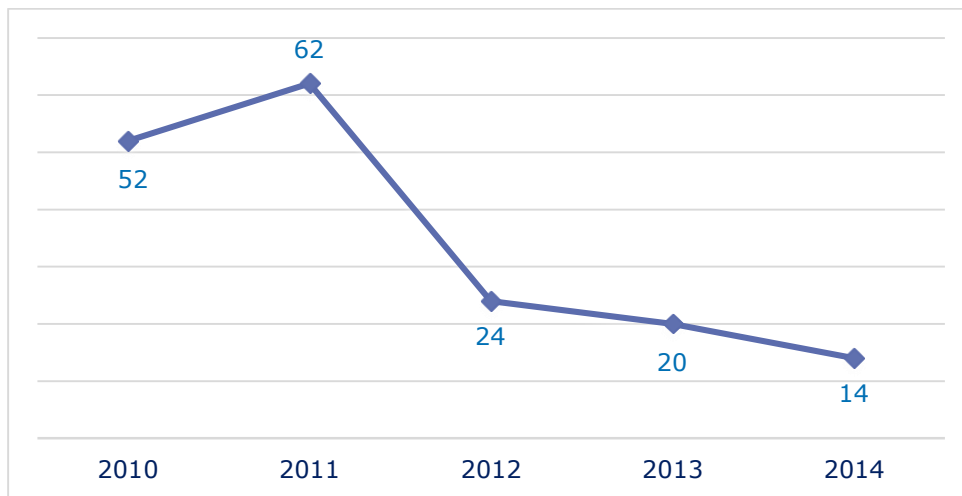
III. OWN-INITIATIVE CASES

New own-initiative infringement cases

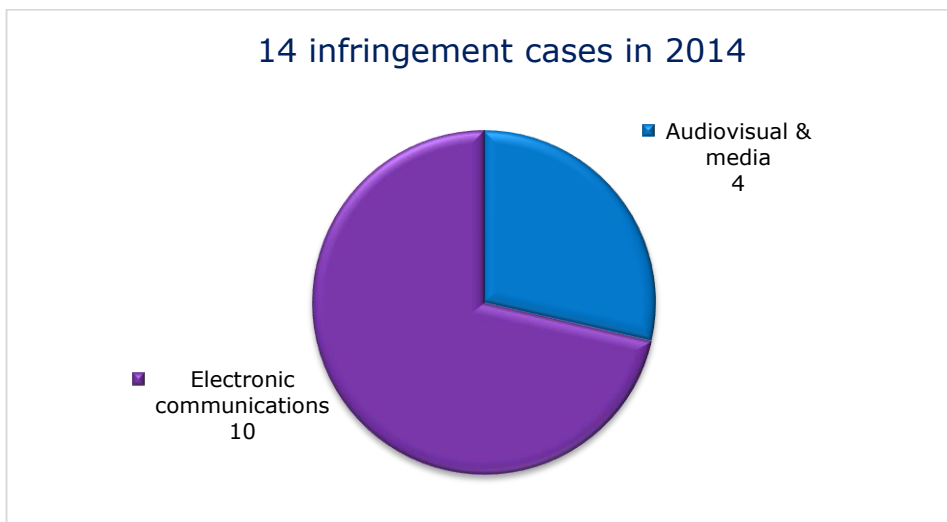
The Commission opened own-initiative infringement cases concerning electronic communications and audio visual and media services in 2014.

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened three new infringement cases in 2014, among which:
- *Hungary*: a procedure in the National Media Act allows the assignment of temporary licences to use radio spectrum, for up to three years in certain cases. This might be disproportionate to the general objectives of the Authorisation Directive;<sup>1</sup>
  - *Latvia*: national rules prohibit any disrespect to Latvia's national values in audiovisual commercial communications. This prohibition may not be in line with the Audiovisual Media Services Directive, in particular in light of the freedom of expression enshrined in the Charter of Fundamental Rights of the EU;
  - *Lithuania*: the national law provides that television broadcasts from another Member State may be suspended if they include information on gay marriage or on homosexual couples starting

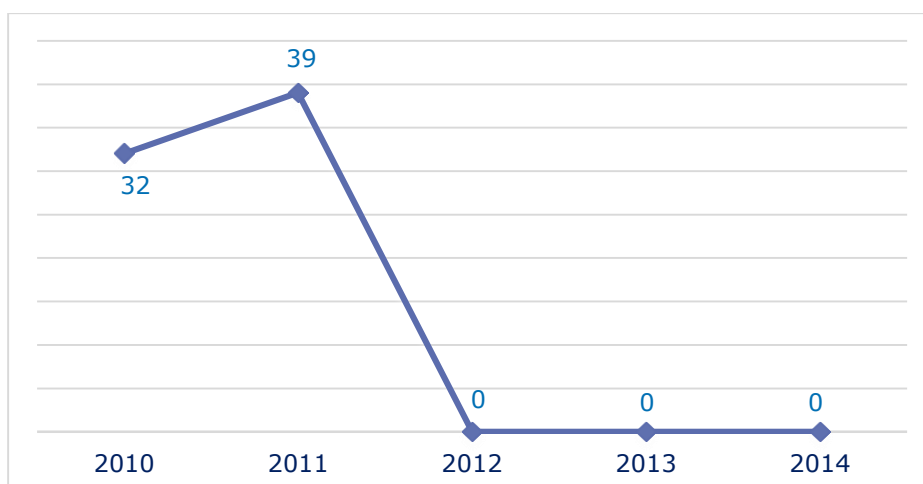
<sup>1</sup> Directive [2002/20/EC](#).

families. This provision may go beyond the scope of the derogations allowed under the Audiovisual Media Services Directive on the protection of minors.<sup>2</sup>

- b) The Commission referred one case to the Court under Article 258 TFEU. It concerned:
- *Luxembourg*: the national regulatory authority (the *Institut Luxembourgeois de Régulation*) has failed to carry out a timely analysis of the relevant markets for fixed access to the public telephone network and for leased lines, in breach of EU telecoms rules.<sup>3</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2010-14)



### 2. New late transposition infringement cases opened in 2014: main policy sectors

The Commission did not open any new late transposition cases in 2014.

### 3. Key infringement cases and referrals to the Court

- a) The Commission did not open any new late transposition cases in 2014.
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2014

They concerned:

- *Estonia*: under national law, the Ministry of Economic Affairs and Communications carried out certain regulatory tasks, including managing radio frequency allocation and granting frequency authorisations. At the same time, it controlled the largest TV and

<sup>2</sup> Directive [2007/65/EC](#).

<sup>3</sup> Commission v Luxembourg, [C-536/14](#), [IP/14/1147](#).

radio broadcasting network operator in Estonia (the state-owned company Levira Ltd). These control tasks have been transferred to the Ministry of Finance, ensuring compliance with the Framework Directive for electronic communications networks and services.<sup>4</sup>

### VII. IMPORTANT JUDGMENTS

#### 1. Court rulings

The Court ruled that:

- *Portugal* had still failed to correctly transpose the provisions of the Universal Service Directive<sup>5</sup> despite the Court's earlier judgment. Since the Court found that Portugal had not designated the companies responsible for providing the universal service by using a procedure that is consistent with the directive, and in the end had not provided the requested proof of the termination of the designated provider, it ordered Portugal to pay a lump sum of EUR 3 million, plus a daily penalty of EUR 10 000 until it complies with the first judgment.<sup>6</sup>

#### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- at the reasonable request of competing operators aiming to access and use specific network elements and facilities, the Danish national regulatory authority may oblige an electronic communications operator with significant power in a given market to install specific cables provided that this obligation is based on the nature of the problem identified, is proportionate and is justified under the Framework Directive. The fulfilment of these criteria is for the national court to verify.<sup>7</sup> The Court has also taken into account the initial investment of the operator concerned and the price control mechanism that allows the recovery of installation costs.<sup>8</sup>

### VIII. OUTLOOK

#### Important implementation work in 2015 includes:

- continuing to monitor the correct implementation of: (1) the 'regulatory framework for electronic communications' (Citizens' Rights and Better Regulation Directives); priorities include: independence of national regulators, respect for consultation procedures and consumer protection; (2) the Audiovisual Media Services Directive;
- monitoring the transposition of new EU legal instruments including the directive on the re-use of public sector information.<sup>9</sup>

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<sup>4</sup> Directive [2002/21/EC](#).

<sup>5</sup> Directive [2002/22/EC](#).

<sup>6</sup> Commission v Portugal, [C-76/13](#) and Court press release No [89/14](#).

<sup>7</sup> Directive [2002/21/EC](#).

<sup>8</sup> TDC, [C-556/12](#).

<sup>9</sup> Directive [2013/37/EU](#).

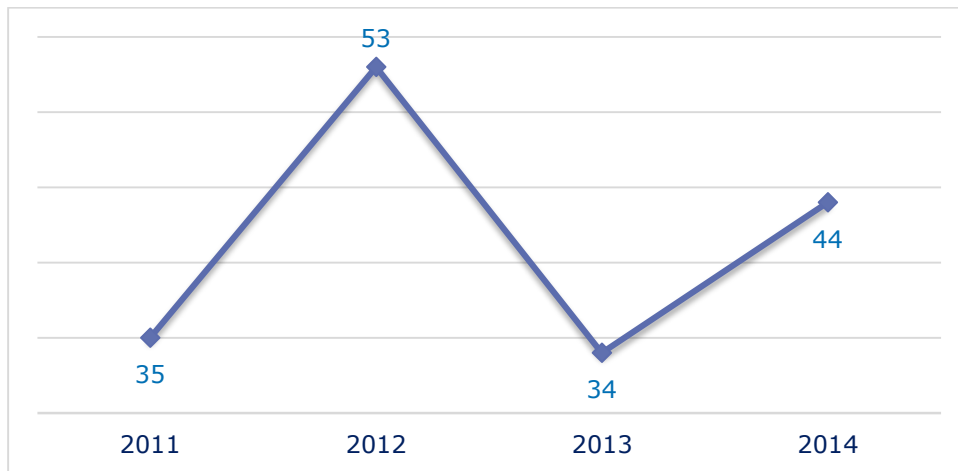
## COMPETITION

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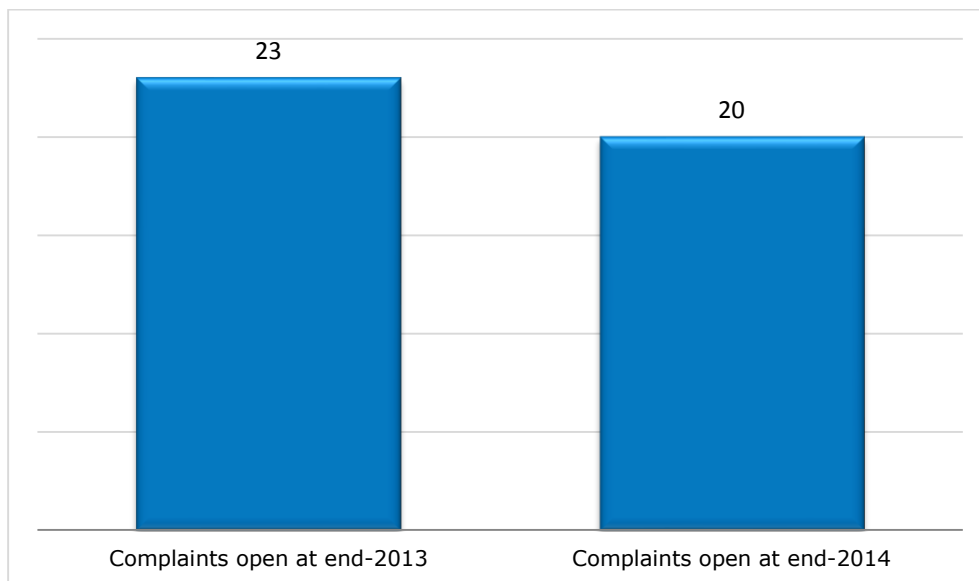
Although the number of new complaints received in the area of competition increased in 2014, it is still below the peak reached in 2012. In 2014, the Commission opened new infringement cases concerning one regulation and several Commission decisions.

### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)



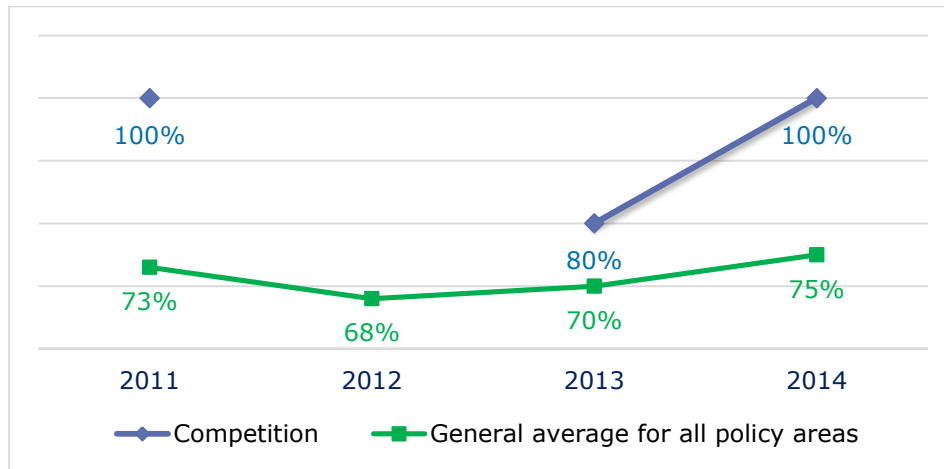
#### 2. Evolution of complaints





II. EU PILOT

EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)<sup>1</sup>



III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2014

The Commission opened own-initiative infringement cases in 2014 concerning:

- non-compliance with injunctions issued in the context of tax ruling and patent box enquiries based on the State aid Procedural Regulation;<sup>2</sup>
- non-compliance with Commission decisions on State aid (the Commission sent letters of formal notice to Italy and Greece).

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- a) The Commission opened four new infringement cases in 2014, among which:
- *Greece*: failure to comply with a Commission decision<sup>3</sup> and the subsequent judgment of the Court of Justice<sup>4</sup> under Article 108(2) TFEU on several aid measures in favour of Hellenic Shipyards SA that constitute incompatible aid and several aid measures approved by the Commission in the past that have been misused;
  - *Italy*: failure to comply with a Commission decision<sup>5</sup> and the subsequent judgment of the Court of Justice<sup>6</sup> under Article 108(2) on investment aid to the hotel industry in Sardinia;
  - *Luxembourg (two cases)*: non-compliance with injunctions issued in the context of tax ruling and patent box enquiries based on the State aid Procedural Regulation.<sup>7</sup>

<sup>1</sup> No EU Pilot files were closed in 2012.

<sup>2</sup> Council Regulation (EC) No [659/1999](#).

<sup>3</sup> Commission Decision [2009/610/EC](#).

<sup>4</sup> Commission v Greece, [C-485/10](#) and Court press release No [22/13](#).

<sup>5</sup> Commission Decision [2008/854/EC](#).

<sup>6</sup> Commission v Italy, [C-243/10](#).

- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission referred one case to the Court under Article 260(2) TFEU. It concerns:
  - *Italy*: failure to recover illegal and incompatible State aid to companies in Venice and Chioggia. The Commission proposed a daily penalty of EUR 24 578.40 multiplied by the number of days between the first Court ruling and either the full compliance by the Member State or the second Court ruling under Article 260(2) TFEU and a degressive penalty payment of EUR 187 264 for every day from the judgment until implementation.<sup>8</sup>

### V. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2014

These concerned:

- *Denmark*: failure to comply with the Competition Directive<sup>9</sup> by obliging property owners to become paying members of a particular local cable TV association;
- *France*: the incorrect application of the Competition Directive,<sup>10</sup> Framework Directive<sup>11</sup> and Authorisation Directive<sup>12</sup> concerning electronic broadcasting networks; incumbent national analogue broadcasters were granted 'bonus' frequencies while no procedure was in place for any other broadcasters to obtain similar frequencies.

### VI. IMPORTANT JUDGMENTS

#### 1. Court rulings

The Court ruled that:

- a general Court judgment annulling the Commission's 2008 decision, finding that Greece had infringed Article 106 TFEU, should be overturned. The Commission's 2008 decision concerned lignite-exploitation rights giving the State-owned energy company privileged access to lignite, the cheapest source of electricity in Greece. The Commission decision has been referred back to the General Court to rule on outstanding arguments. However, the Court's judgment is a useful clarification as to the scope of application of Article 106 in combination with Article 102;
- Spain failed to fulfil its obligation to comply with a judgment under Article 108(2) requiring it to comply with six Commission State aid recovery decisions concerning Basque fiscal schemes. Spain having recovered the pending amounts before the date of the judgment in the Court case, the Commission did not impose

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<sup>7</sup> Council Regulation (EC) No [659/1999](#).

<sup>8</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 25 July 2014. Commission v Italy, [C-367/14](#), [IP/13/1103](#).

<sup>9</sup> Commission Directive [2002/77/EC](#).

<sup>10</sup> Commission Directive [2002/77/EC](#).

<sup>11</sup> Directive [2002/21/EC](#).

<sup>12</sup> Directive [2002/19/EC](#).

daily penalty payments. The Court ordered Spain to pay a lump sum of EUR 30 million.<sup>13</sup>

### 2. Preliminary rulings

There were no major preliminary rulings in 2014.

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<sup>13</sup> Commission v Spain, [C-184/11](#) and Court press release No [71/14](#).

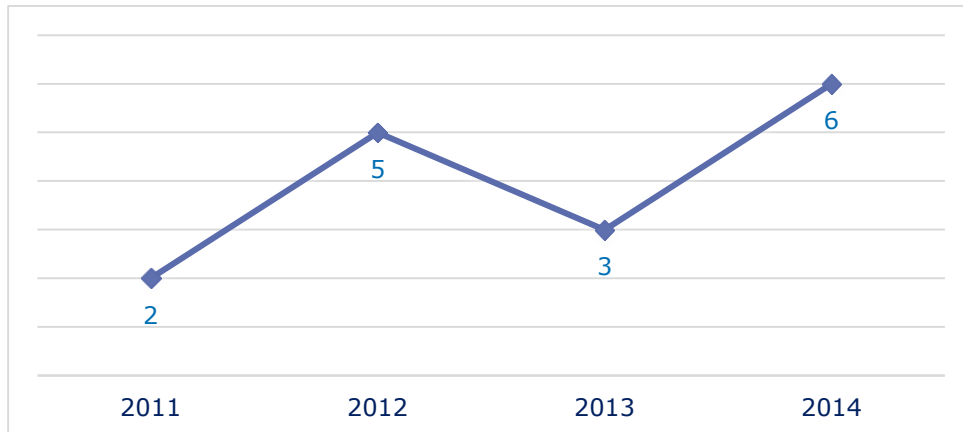
## ECONOMIC AND FINANCIAL AFFAIRS

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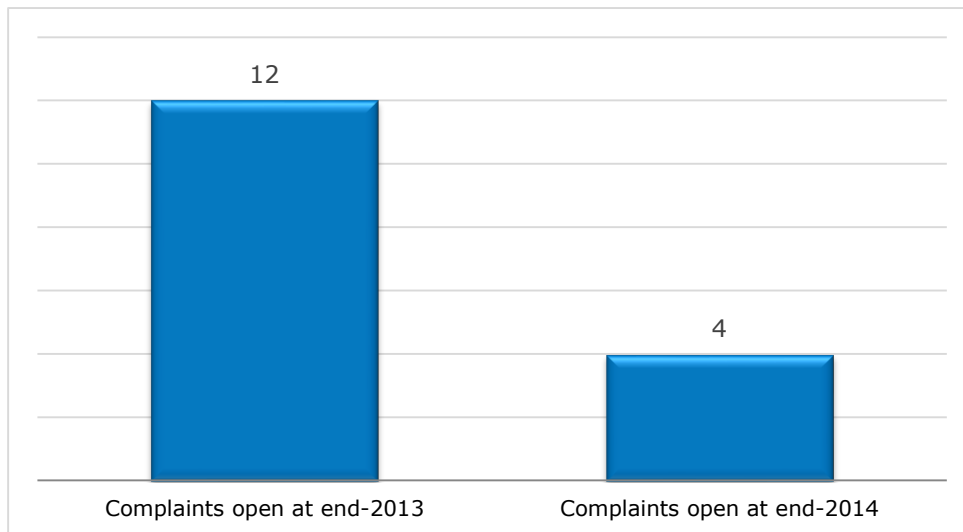
The number of new complaints made in the area of economic and financial affairs remained relatively stable over the last four years. All the infringement cases opened in 2014 concerned the implementation of the directive on the requirements for Member States' budgetary framework<sup>1</sup>.

### I. COMPLAINTS

#### 1. New complaints received from member of the public (2011-14)



#### 2. Evolution of complaints

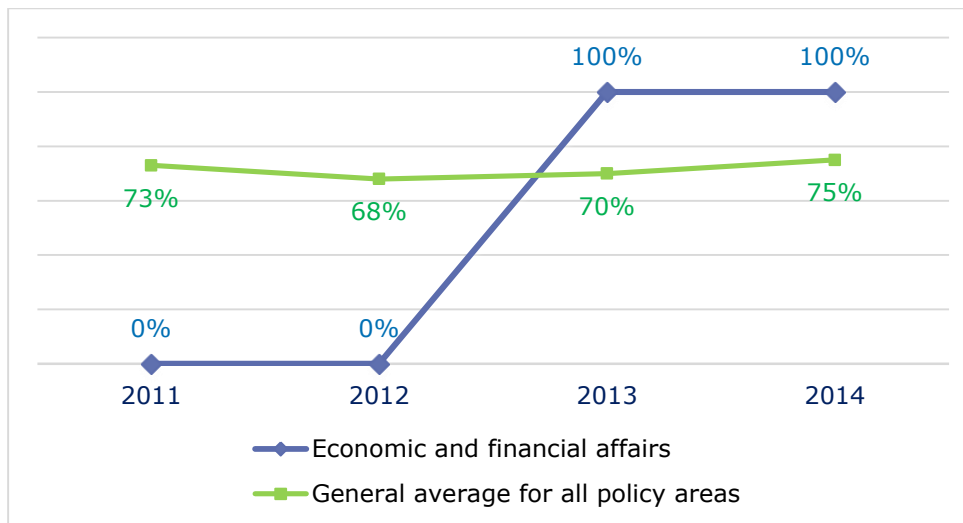


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<sup>1</sup> Directive [2011/85/EU](#)

II. EU PILOT

EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2014

The Commission opened own-initiative infringement cases in 2014 concerning:

- the directive on the requirements for Member States' budgetary frameworks.<sup>2</sup>

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- The Commission opened 17 new infringement cases in 2014, among which:
  - non-communication of the national implementing measures regarding the directive on the requirements for Member States' budgetary frameworks.<sup>3</sup>
- The Commission did not refer any cases to the Court under Article 258 TFEU.
- The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

These concern:

- non-communication of the national implementing measures regarding the directive on the requirements for Member States' budgetary frameworks (14 Member States).

<sup>2</sup> Directive [2011/85/EU](#).

<sup>3</sup> Directive [2011/85/EU](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no Court rulings in 2014 in the area of economic and financial affairs.

2. Preliminary rulings

There were no major preliminary rulings in 2014 in the area of economic and financial affairs.

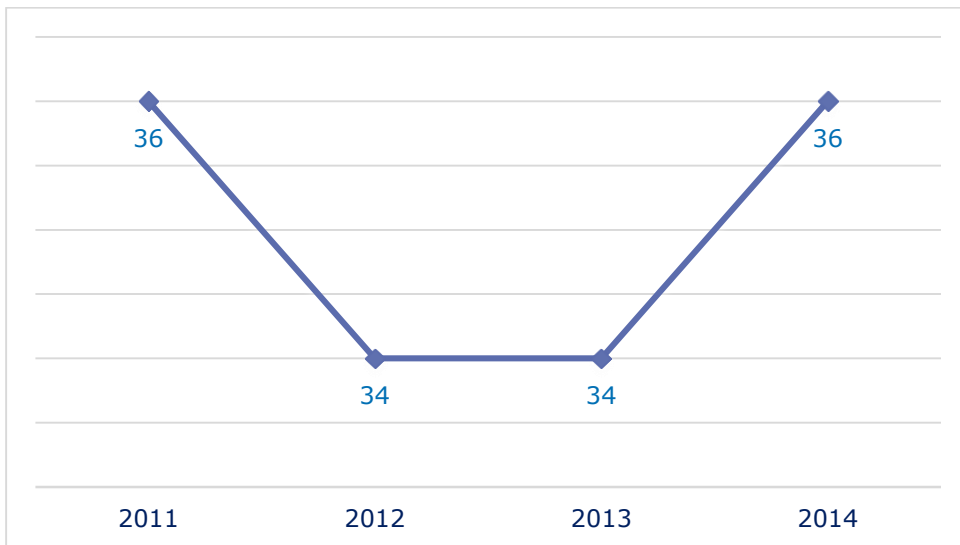
## EDUCATION AND CULTURE

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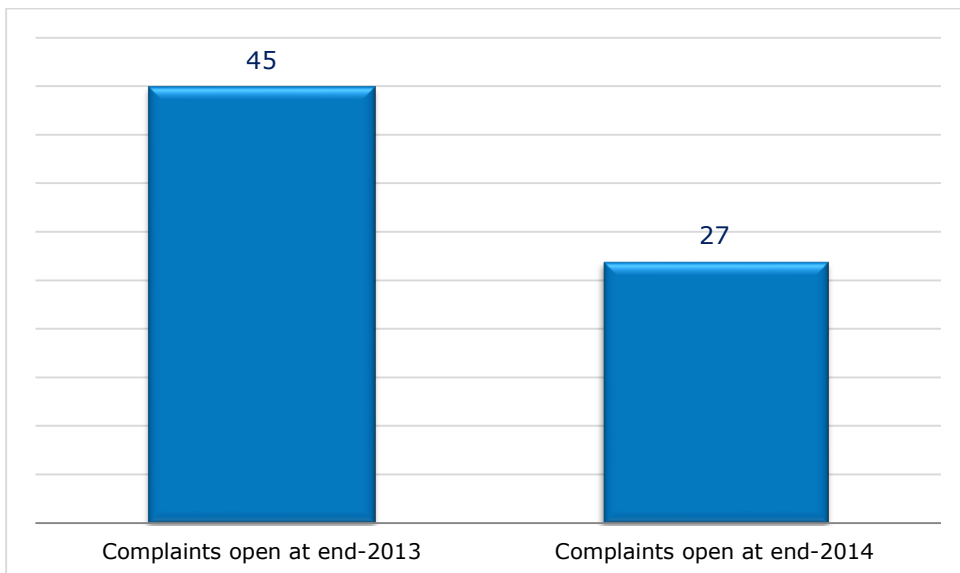
In 2014, the number of new complaints received in the area of education and culture reached the peak level seen in 2011. The Commission did not open any new infringement cases in 2014.

### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)

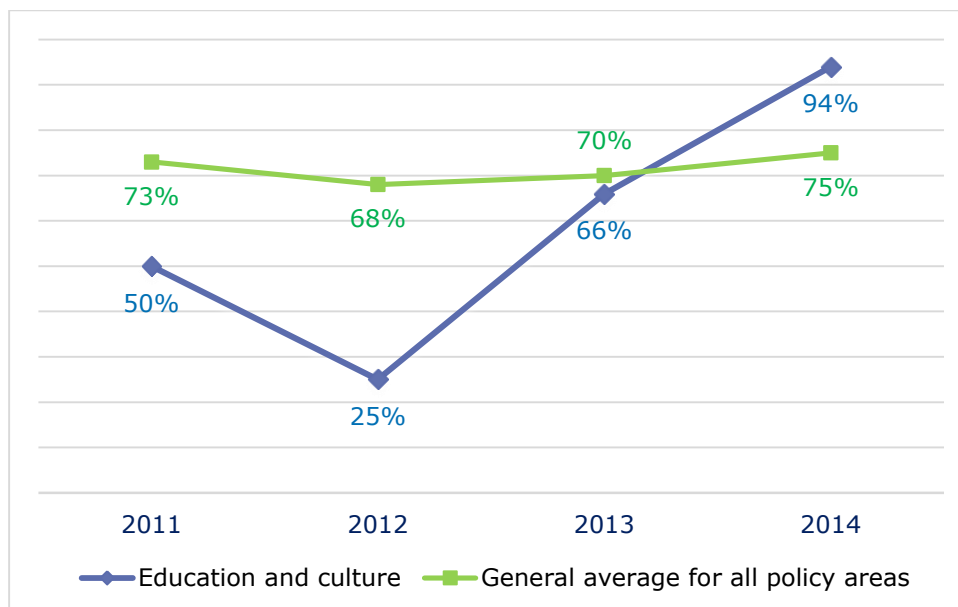


#### 2. Evolution of complaints



II. EU PILOT

EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2014

The Commission did not open any own-initiative infringement cases in 2014.

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- a) The Commission did not open any new infringement cases in 2014.
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
  - *Netherlands*: refusal to allow Erasmus students and students from other Member States who are not economically active in the Netherlands or have not obtained a permanent right of residence to benefit from the reduced transport fares granted to Dutch students.<sup>1</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

The Commission did not close any major infringement cases without a Court judgment in 2014.

<sup>1</sup> The Commission decided on 20 June 2013 to refer the case to the Court; the application was filed on 12 May 2014. *Commission v Netherlands*, [C-233/14](#), [IP/13/574](#).



VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no Court rulings in 2014 in the area of education and culture.

2. Preliminary rulings

There were no major preliminary rulings in 2014 in the area of education and culture.

VII. OUTLOOK

Important implementation work in 2015 includes:

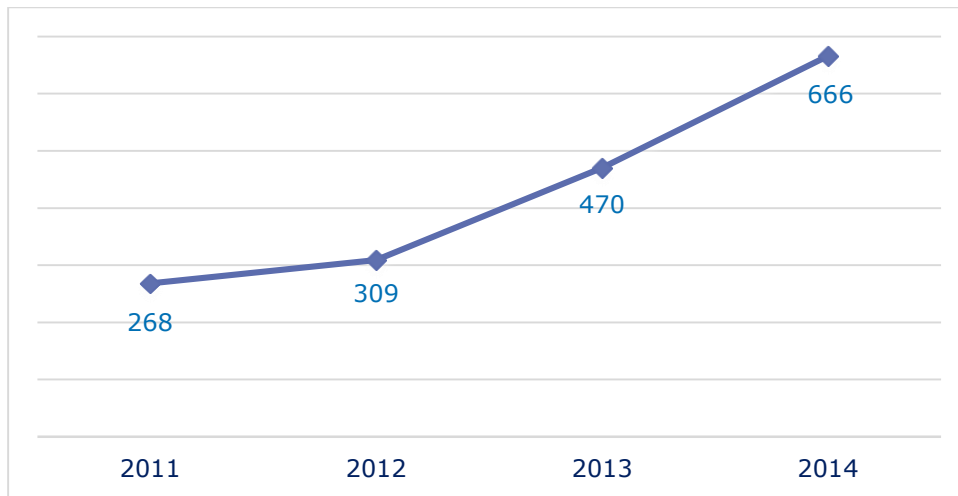
- following each case closely and respecting the given deadlines in order to strengthen the trust of students and other members of the public following education and training courses on the correct application of EU law.

## EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION

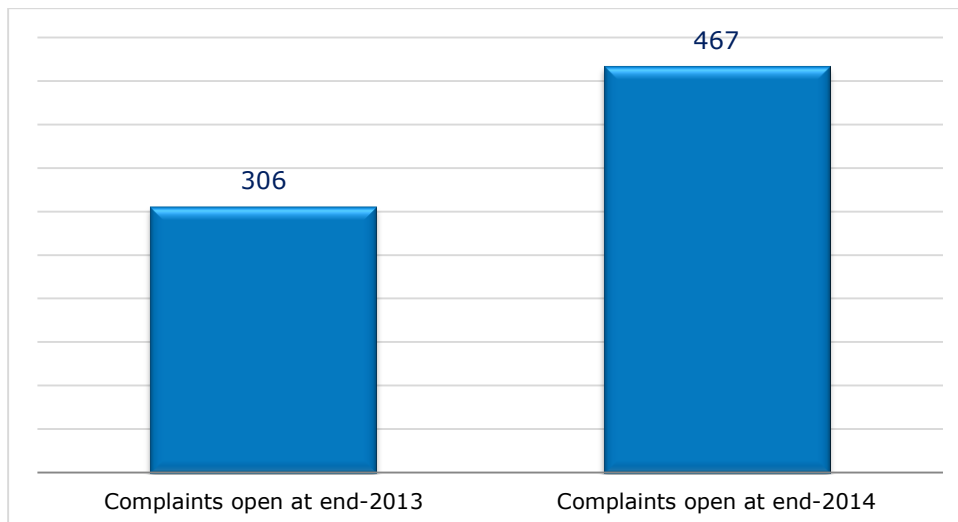
In 2014, the Commission received its highest number of new complaints in the area of employment, social affairs and inclusion since 2011. The number of new EU Pilot files opened has remained relatively stable since 2013, after reaching a peak in 2012. In 2014, the number of pending infringement cases at the end of the year saw a slight increase compared to the two previous years. While the number of new late transposition cases increased slightly in 2014 compared to 2013, this number is below the peak reached in 2012.

### I. COMPLAINTS

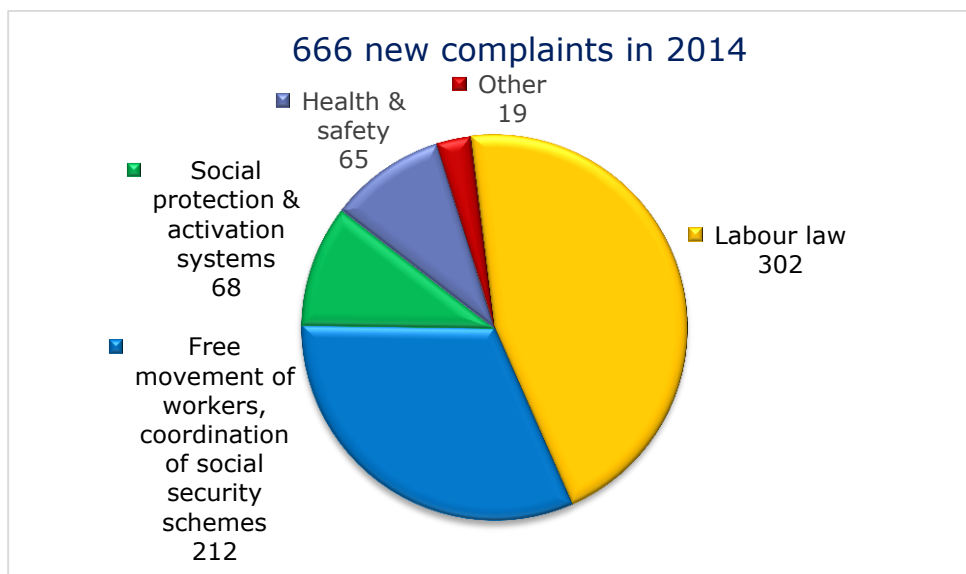
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

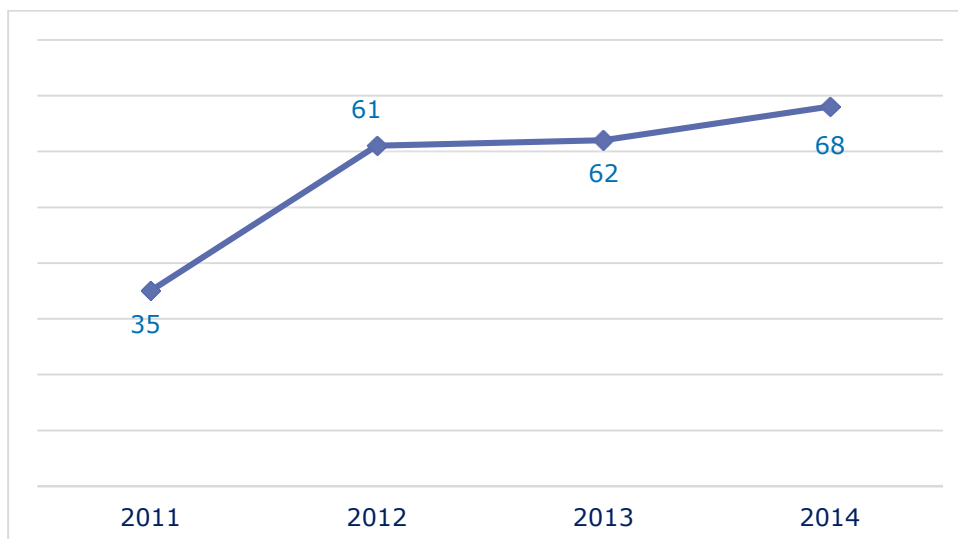


3. New complaints registered in 2014: main policy sectors

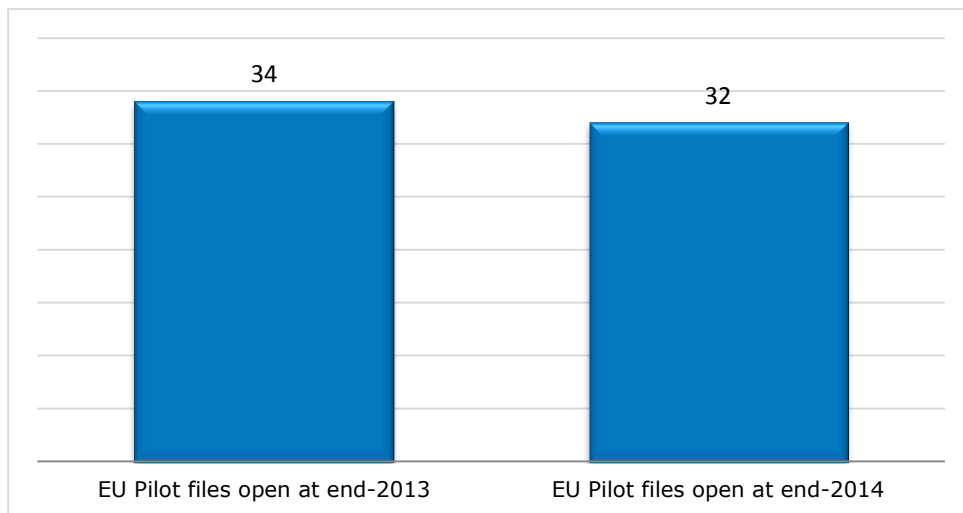


II. EU PILOT

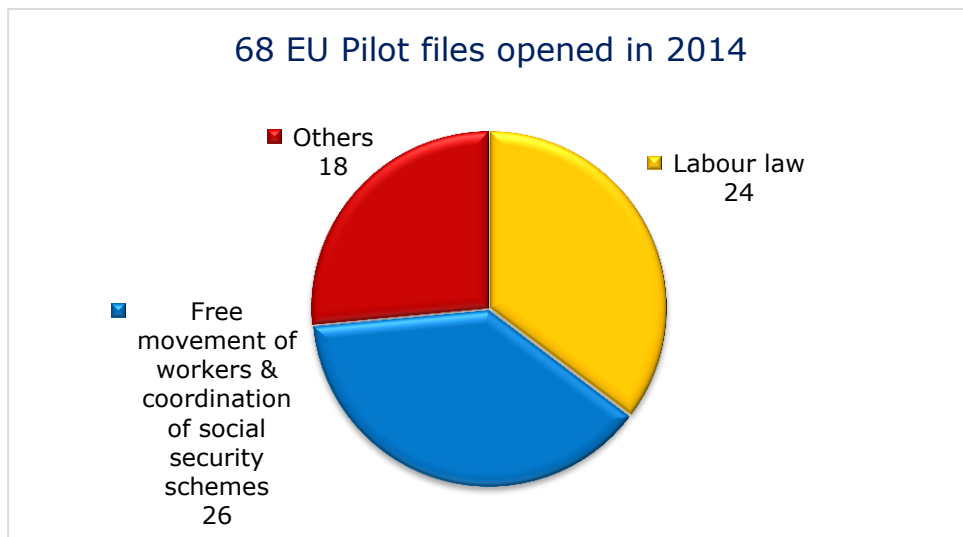
1. New EU Pilot files (2011-14)



1. Evolution of files open in EU Pilot<sup>1</sup>

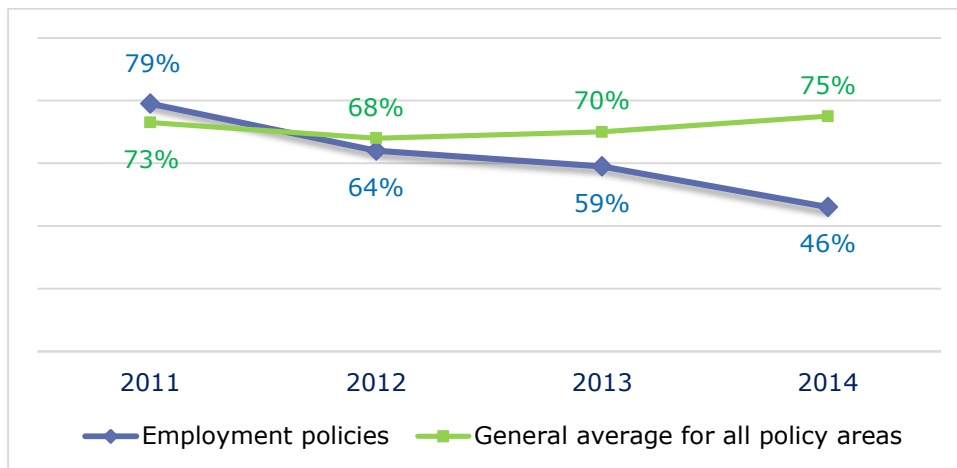


2. New EU Pilot files opened in 2014: main policy sectors



<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

3. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

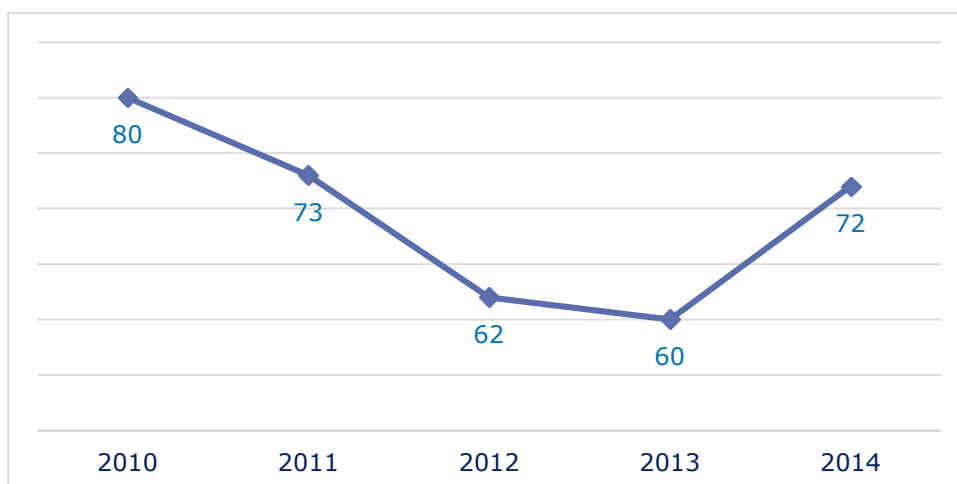
New own-initiative infringement cases

In 2014, the Commission opened (or followed up with an additional letter of formal notice or a reasoned opinion) three own-initiative infringement cases. They concern:

- *the hospital and healthcare sector*: late transposition of the directive implementing the Framework Agreement on preventing injuries caused by sharp objects in the hospital and healthcare sector concluded by the European Hospital and Healthcare Employers' association (HOSPEEM) and the European Federation of Public Service Unions (EPSU).<sup>2</sup>

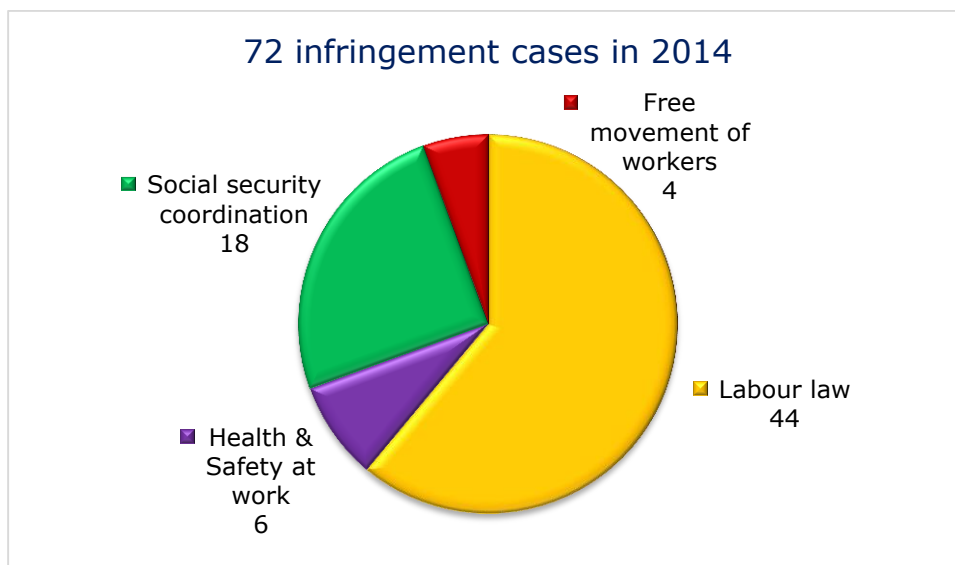
IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



<sup>2</sup> Directive [2010/32/EU](#).

## 2. Infringement cases open on 31 December 2014: main policy sectors



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 39 new infringement cases in 2014, among which:
- *Austria*: the incompatibility of Austrian legislation with EU law<sup>3</sup> regarding questions related to who is responsible for the health and safety at work of school teachers in certain provinces;
  - *Ireland*: the incompatibility of national provisions on annual leave with the Working Time Directive as regards the carry-over period for leave not taken due to illness;
  - *Sweden*: the way parental allowances are classified under Swedish legislation;
  - *United Kingdom*: the incompatibility of national law with the Working Time Directive<sup>4</sup> regarding annual leave entitlements for overtime;
  - *United Kingdom*: the incompatibility of national law with the Working Time Directive regarding annual leave entitlements for sick leave.
- b) The Commission referred eight cases to the Court under Article 258 TFEU. They concern:
- *Belgium*: the requirement under Belgian legislation to prove language knowledge exclusively through a certificate issued by the Belgian authorities for posts in the local administrations of the French-, Flemish- and German-speaking regions;<sup>5</sup>
  - *Cyprus*: the incompatibility with EU law of Cyprus' pension rights for Cypriot nationals under 45 years old working in the EU institutions;<sup>6</sup>

<sup>3</sup> Directive [89/391/EEC](#).

<sup>4</sup> Directive [2003/88/EC](#).

<sup>5</sup> The Commission decided on 26 September 2013 to refer the case to the Court; the application was filed on 2 July 2014. *Commission v Belgium*, [C-317/14](#), [IP/13/868](#).

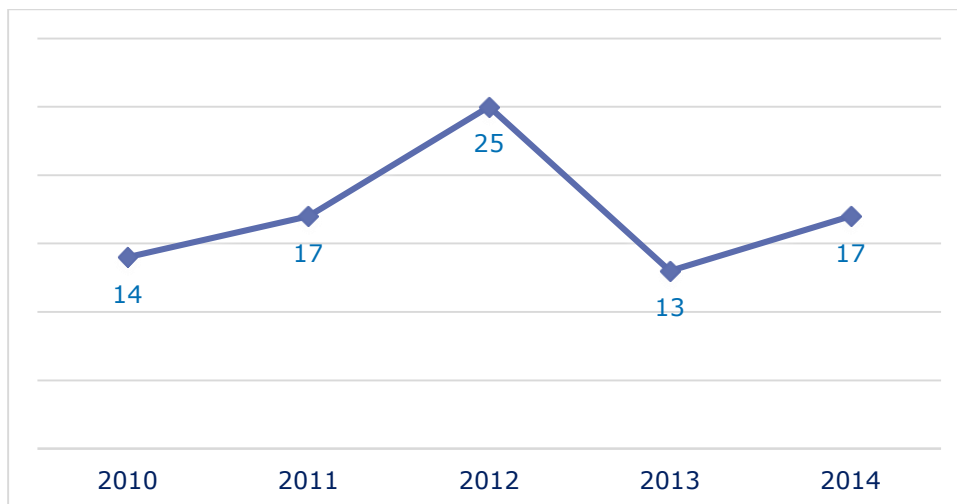
<sup>6</sup> The Commission decided on 26 September 2013 to refer the case to the Court; the application was filed on 14 November 2014, *Commission v Cyprus*, [C-515/14](#), [IP/13/869](#).

- *Greece*: the incorrect application of the Working Time Directive<sup>7</sup> as interpreted by the Court of Justice, particularly as regards doctors' on-call time in rural public health services;<sup>8</sup>
- *Ireland*: the application of national legislation for doctors-in-training raises concerns regarding the Working Time Directive (limits, minimum rest requirements);<sup>9</sup>
- *Italy*: exclusion of National Health Service staff from certain rights under the Working Time Directive;<sup>10</sup>
- *Luxembourg*: Labour Code incompatibility with the Fixed-Term Work Directive<sup>11</sup> regards the advertising of vacancies and workers in casual employment in showbusiness;<sup>12</sup>
- *Malta*: the situation of some Maltese nationals who previously worked in the UK civil service and whose UK pensions are deducted from their Maltese retirement pensions;<sup>13</sup>
- *United Kingdom*: the incompatibility with EU law<sup>14</sup> of UK restrictions on EU nationals' eligibility for certain social security benefits (the 'right to reside test').<sup>15</sup>

c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2010-14)



<sup>7</sup> Directive [2003/88/EC](#).

<sup>8</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 11 April 2014. *Commission v Greece*, [C-180/14](#), [IP/13/1108](#).

<sup>9</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 18 February 2014. *Commission v Ireland*, [C-87/14](#), [IP/13/1109](#).

<sup>10</sup> *Commission v Italy*, [C-124/14](#), [IP/14/159](#).

<sup>11</sup> Directive [1999/70/EC](#).

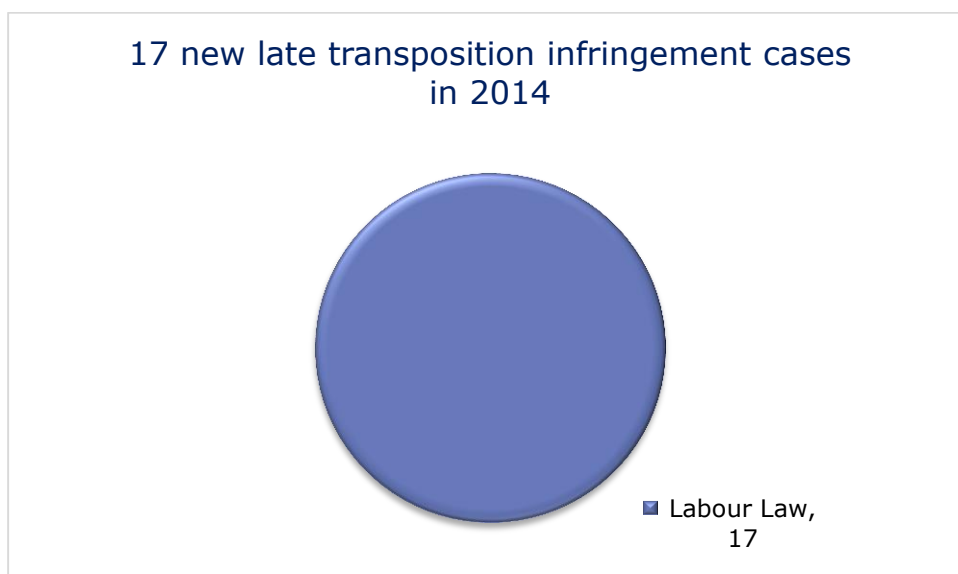
<sup>12</sup> *Commission v Luxembourg*, [C-238/14](#), [IP/160/14](#).

<sup>13</sup> The Commission decided on 21 March 2013 to refer the case to the Court; the application was filed on 10 January 2014. *Commission v Malta*, [C-12/14](#), [IP/13/249](#).

<sup>14</sup> Regulation (EU) No [883/2004](#).

<sup>15</sup> *Commission v United Kingdom*, [C-308/14](#).

## 2. New late transposition infringement cases opened in 2014: main policy sectors



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 17 new late transposition cases in 2014. Most of these concern:
  - the Council Directive implementing the agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the 2006 Maritime Labour Convention (16 Member States).<sup>16</sup>
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2014

They concerned:

- *France*: the freeze of military pensions provided to widows of former Moroccan soldiers who served in the French army;
- *Spain*: rules on the composition of teams in basketball competitions organised by the Spanish Basketball Federation and the Spanish federation of basketball clubs, requiring a minimum number of locally trained players;
- *Spain*: failure to apply the provisions of the Framework Directive on health and safety at work<sup>17</sup> correctly to Civil Guard staff.

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no major Court rulings in the area of employment, social affairs and inclusion in 2014.

<sup>16</sup> Council Directive [2009/13/EC](#).

<sup>17</sup> Directive [89/391/EEC](#).



## 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the *German* monetary allowance for annual leave not taken upon termination of the employment relationship must still be paid if termination is a result of a workers' death, based on Article 7 of the Working Time Directive;<sup>18</sup>
- in a *German* case, Member States are not obliged to grant social assistance benefits to people who do not meet the conditions for legal residence set out in the directive on the right of EU nationals and their family members to move and reside freely within the territory of the Member States;<sup>19</sup>
- the definitions of 'residence' and 'stay' for the purposes of applying Regulation (EC) No 883/2004 on the coordination of social security systems apply when someone is suddenly taken seriously ill while on holiday in another Member State and is compelled to remain in that Member State as a result of the illness;<sup>20</sup>
- the Fixed-Term Work Directive precludes national rules (here *Italian*) that authorise the renewal of fixed-term contracts to fill vacant posts, pending the recruitment of tenured school staff, without stating a definite deadline for the completion of these recruitment processes and without providing compensation for damage suffered due to such unlimited renewals;<sup>21</sup>
- in an *Italian* case, the Part-Time Work Directive does not always require an employer to obtain a worker's consent before changing his part-time contract into a full-time one;<sup>22</sup>
- when calculating the supplementary allowance to which a migrant worker may be entitled in his or her Member State of employment, it is not possible to take account of all the family benefits received by the worker's family under the legislation of the Member State;<sup>23</sup>
- prior medical authorisation under the regulation on coordinating social security systems<sup>24</sup> cannot be refused due to the hospital concerned not being able to provide medication, basic medical supplies or infrastructure in good time in the insured person's Member State of residence;<sup>25</sup>
- in a *Dutch* case, the directive on approximating national legislation on protecting employees in the event of their employer's insolvency<sup>26</sup> must be interpreted as prohibiting national legislation which treats a non-EU national who is not legally resident in the Member State concerned as not being an employee with the right to an insolvency benefit even if recognised under Member State law as having the status of an 'employee';<sup>27</sup>

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<sup>18</sup> Directive [2003/88/EC](#), Bollacke [C-118/13](#).

<sup>19</sup> Directive [2004/38](#), Dano, [C-333/13](#).

<sup>20</sup> 'I', [C-255/13](#).

<sup>21</sup> Mascolo, [C-22/13](#) and Court press release No [161/14](#).

<sup>22</sup> Mascellani, [C-221/13](#).

<sup>23</sup> Wiering, [C-347/12](#).

<sup>24</sup> Regulation (EC) No [883/2004](#).

<sup>25</sup> Elena Petru, [C-268/13](#), [CJE/134/14](#).

<sup>26</sup> Directive [80/987](#).

<sup>27</sup> Tumer, [C-311/13](#).

- in *Poland*, the non-discrimination rule in the Fixed-Term Work Directive also applies to notice periods;<sup>28</sup>
- compensation for loss of remuneration due to the length of judicial procedures declaring a dismissal unfair, following the insolvency of the employer (*'salarios de tramitación'*), is more favourable than is required by the directive on protecting employees in the event of their employer's insolvency.<sup>29</sup> As a result, it may be granted only to employees of insolvent employers who have been unfairly dismissed and not to those whose dismissal was declared null and void;<sup>30</sup>
- Article 7 of the Working Time Directive<sup>31</sup> must be interpreted as meaning that a salesperson's holiday pay cannot be limited to their basic salary and that if their pay includes a sales commission, then the commission must also be included when calculating holiday pay.<sup>32</sup>

## VIII. OUTLOOK

### Important implementation work in 2015 includes the following:

- a number of expected important judgments of the CJEU concerning the rights of EU job-seekers to receive social security benefits (*Alimanovic*<sup>33</sup> and *Garcia Nieto*<sup>34</sup>). Judgments of the ECJ in these two cases should clarify the question of benefits for jobseekers in other Member States.
- the analysis of the conformity of the national measures transposing the 'Sharp injuries' Directive<sup>35</sup> will continue during 2015.
- special attention will be given in 2015 to monitoring the progress of the complex infringement case concerning Portugal and the alleged violations of the provisions on health and safety at work applicable to public sector workers, in particular those working in the buildings of the national Court.

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<sup>28</sup> Nierodzik, [C-38/13](#).

<sup>29</sup> Directive [2008/94/EC](#).

<sup>30</sup> Hernández, [C-198/13](#).

<sup>31</sup> Directive [2003/88/EC](#).

<sup>32</sup> Lock, [C-539/12](#), [CJE/14/76](#).

<sup>33</sup> Alimanovic, [C-67/14](#).

<sup>34</sup> Garcia Nieto, [C-299/14](#).

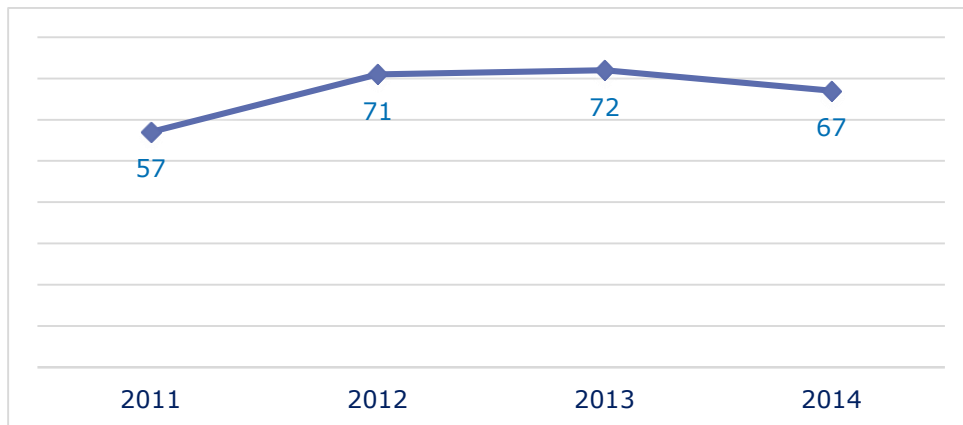
<sup>35</sup> Directive [2010/32/EU](#).

## ENERGY

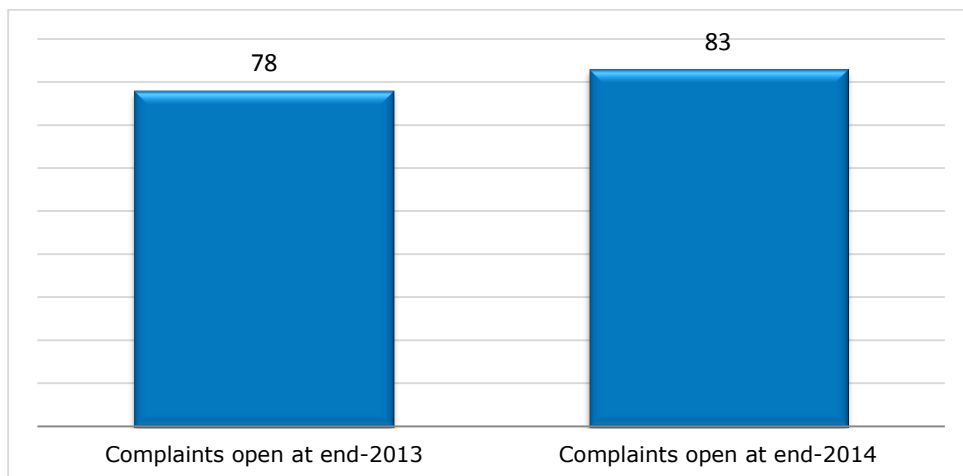
The number of new complaints received in the area of energy remained relatively stable over the last four years. The number of new EU Pilot files continued to increase over this period. After reaching a peak in 2011, the number of pending infringement cases at the end of the year continued to decrease. Similarly, the number of new late transposition infringement cases continued to decrease in 2014, as has been the case since 2011.

### I. COMPLAINTS

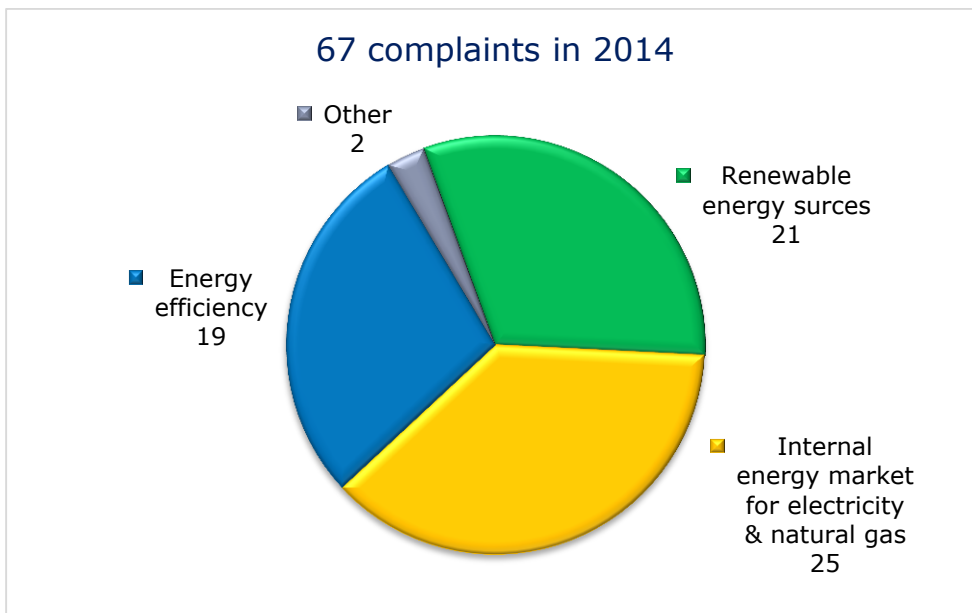
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

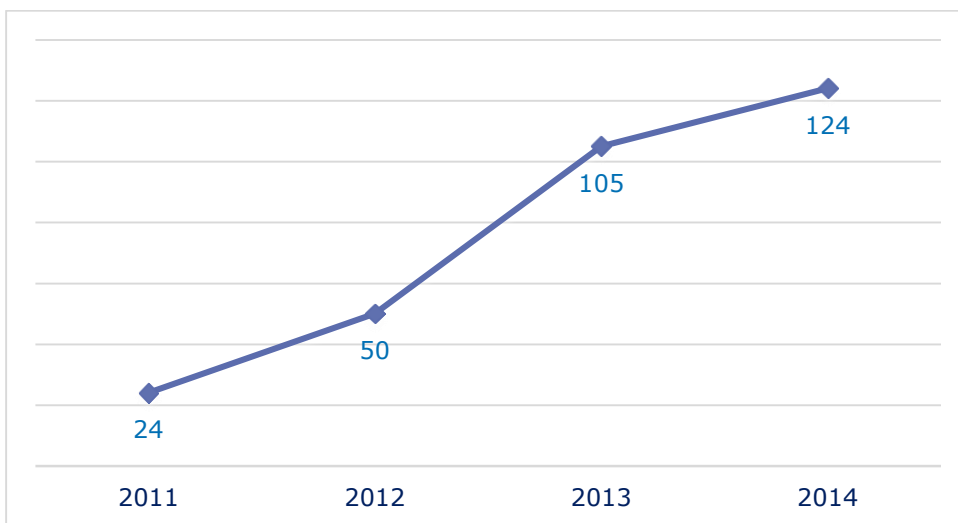


3. New complaints registered in 2014: main policy areas

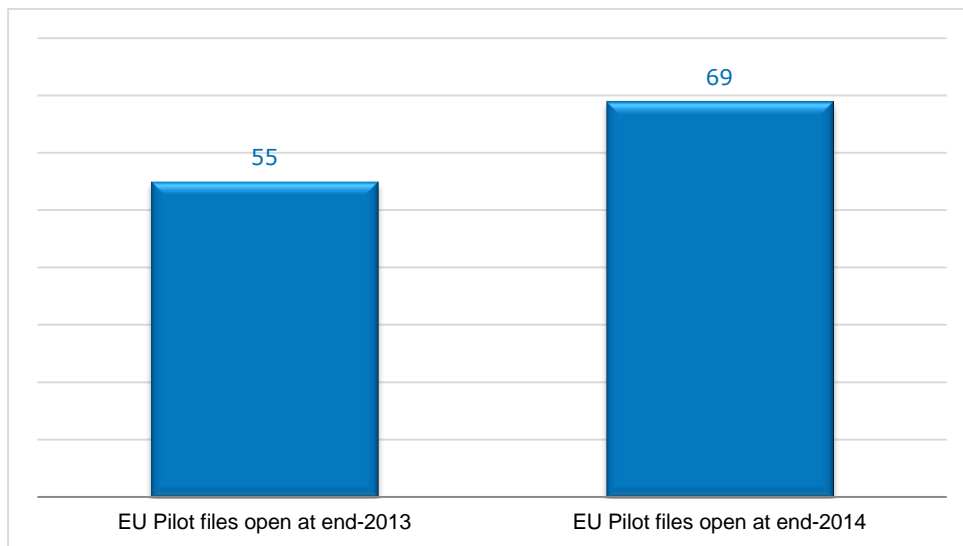


II. EU PILOT

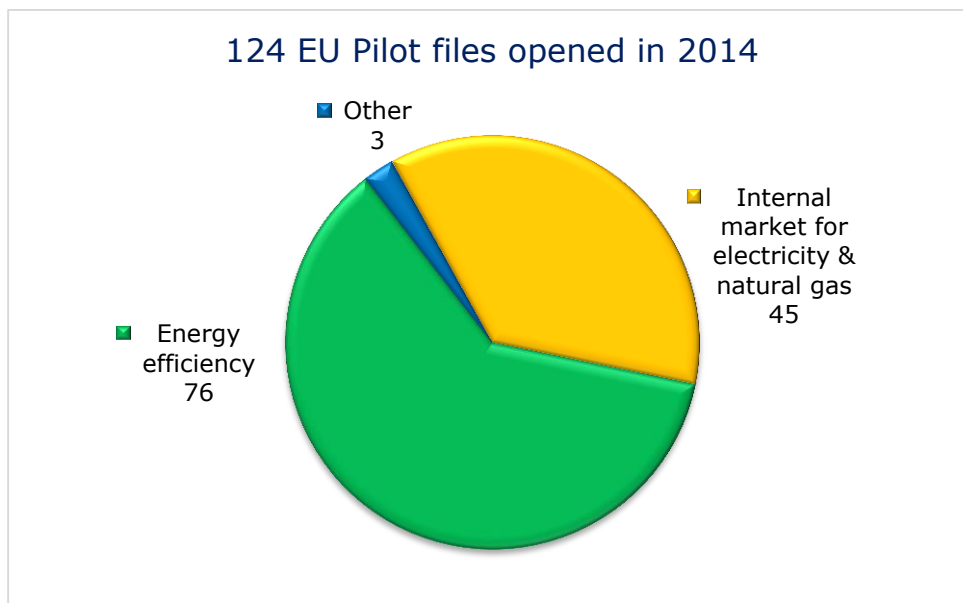
1. New EU Pilot files (2011-14)



## 2. Evolution of files open in EU Pilot<sup>1</sup>

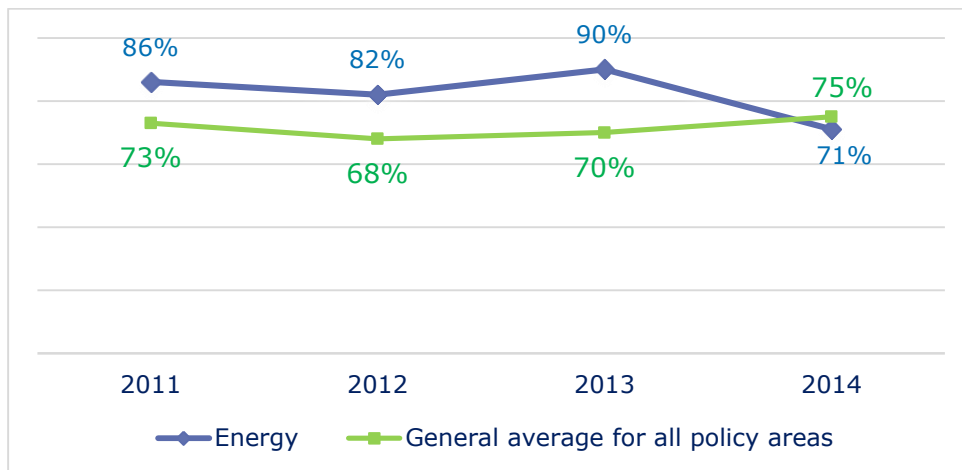


## 3. New EU Pilot files opened in 2014: main policy sectors



<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

#### 4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



### III. OWN-INITIATIVE CASES

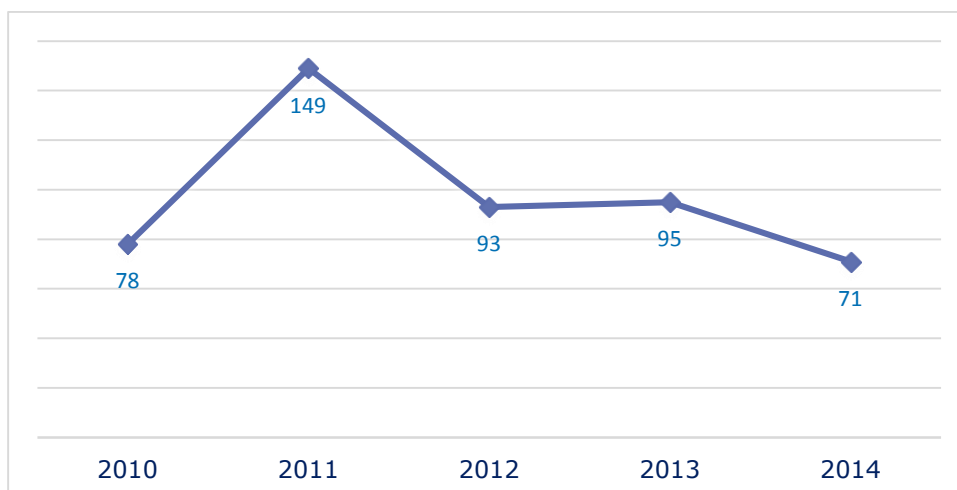
#### New own-initiative infringement cases

In 2014, the Commission opened own-initiative infringement cases concerning:

- the incorrect transposition of the Electricity and Gas Directives;<sup>2</sup>
- failure to comply with obligations under the Regulation on security of gas supply;<sup>3</sup>
- non-compliance with biofuel sustainability criteria under the Renewable Energy Directive;<sup>4</sup>
- failure to comply with obligations under the Energy Performance of Buildings Directive<sup>5</sup> and the Energy Efficiency Directive.<sup>6</sup>

### IV. INFRINGEMENT CASES

#### 1. Infringement cases open on 31 December (2010-14)



<sup>2</sup> Directives [2009/72/EC](#) and [2009/73/EC](#).

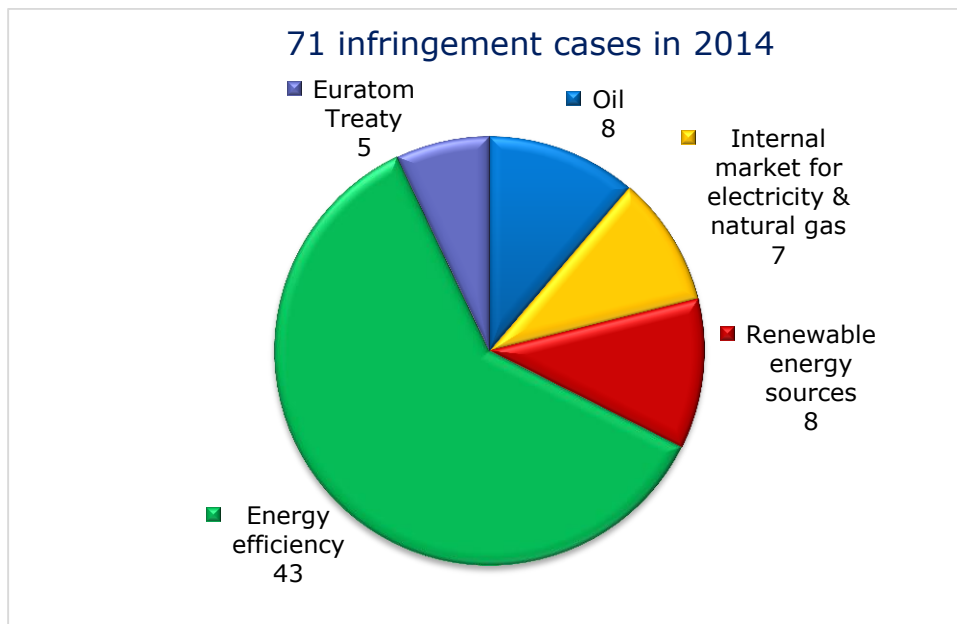
<sup>3</sup> Regulation (EU) No [994/2010](#).

<sup>4</sup> Directive [2009/28/EC](#).

<sup>5</sup> Directive [2010/31/EU](#).

<sup>6</sup> Directive [2012/27/EU](#).

## 2. Infringement cases open on 31 December 2014: main policy sectors



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 40 new infringement cases in 2014, among which:
- *Belgium and Luxembourg*: incorrect transposition of the Electricity and Gas Directives;<sup>7</sup>
  - *Greece*: failure to comply with reporting obligations under the Energy Performance of Buildings Directive;<sup>8</sup>
  - *Greece, Luxembourg, Portugal, Romania and Slovenia*: failure to communicate to the Commission their long-term strategy for mobilising investment in renovating the national stock of residential and commercial buildings and/or their national energy efficiency action plan, as required under the Energy Efficiency Directive;<sup>9</sup>
  - *Poland, Portugal and Spain*: non-compliance with the biofuels sustainability criteria under the Renewable Energy Directive and the exclusion of certain biofuels from national markets;<sup>10</sup>
  - *Slovenia*: failure to comply with obligations under the regulation on security of gas supply;<sup>11</sup>
  - *United Kingdom*: failure to display energy performance certificates in public buildings, as required under the Energy Performance of Buildings Directive.<sup>12</sup>
- b) The Commission continued to pursue one case referred to the Court under Article 258 TFEU. It concerns:
- *Poland*: the Polish system of regulated gas prices for non-household customers in violation of the Gas Directive.<sup>13</sup>

<sup>7</sup> Directives [2009/72/EC](#) and [2009/73/EC](#).

<sup>8</sup> Directive [2010/31/EU](#).

<sup>9</sup> Directive [2012/27/EU](#).

<sup>10</sup> Directive [2009/28/EC](#).

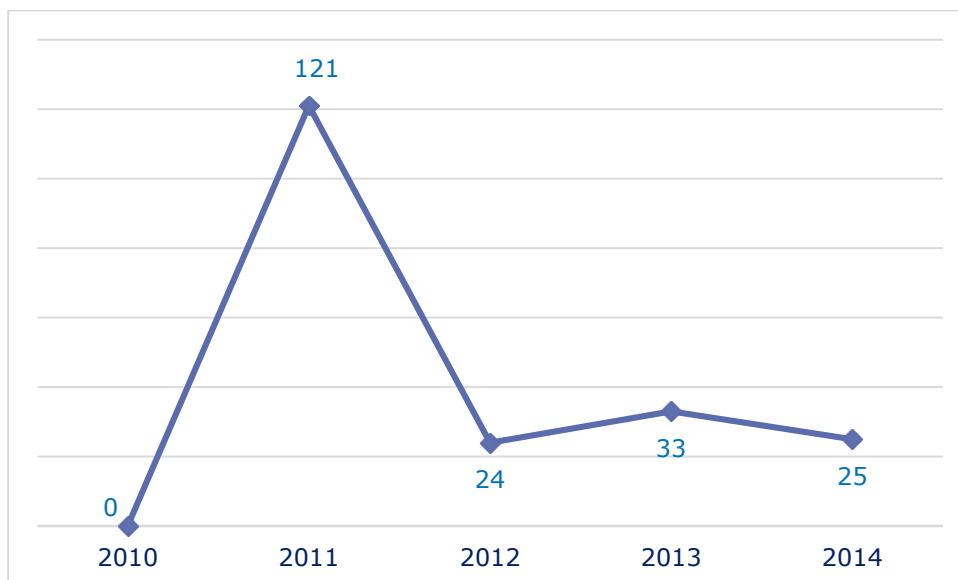
<sup>11</sup> Regulation (EU) No [994/2010](#).

<sup>12</sup> Directive [2010/31/EU](#).

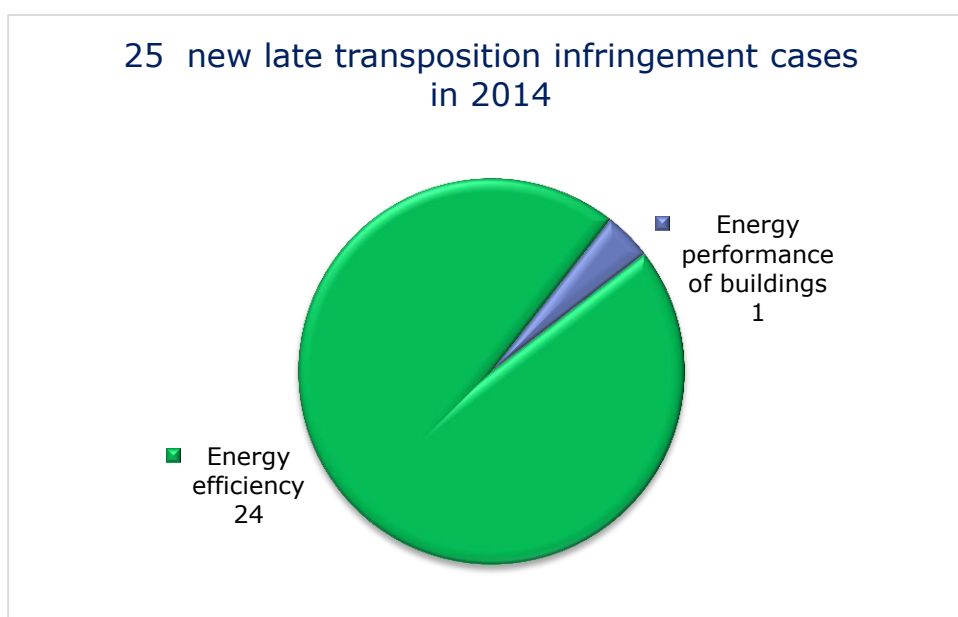
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2010-14)



### 2. New late transposition infringement cases opened in 2014: main policy sectors



### 3. Key infringement cases and referrals to the Court

- a) The Commission opened cases due to the late transposition of:
- the Energy Efficiency Directive (24 Member States);<sup>13</sup>
  - the Energy Performance of Buildings Directive (1 Member State).

<sup>13</sup> The Commission decided on 20 June 2013 to refer the case to the Court; the application was filed on 24 January 2014. *Commission v Poland*, [C-36/14](#), [IP/13/580](#).

<sup>14</sup> Directive [2012/27/EU](#).



- b) The Commission referred four cases to the Court under Articles 258 and 260(3) TFEU. They concern:
- *Belgium and Finland*: failure to fully transpose the Energy Performance of Buildings Directive;<sup>15</sup>
  - *Ireland*: failure to fully transpose the Electricity Directive;<sup>16</sup>
  - *Ireland*: failure to fully transpose the Renewable Energy Directive.<sup>17</sup>

### VI. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2014

These concerned:

- *Cyprus*: failure to fully transpose the Oil Stocks Directive and the Renewable Energy Directive;<sup>18</sup>
- *Estonia, Romania and Slovenia*: failure to fully transpose the Electricity and Gas Directives;<sup>19</sup>
- *France*: the existence of regulated gas prices for non-household customers is in breach of the Gas Directive.
- *Ireland*: failure to fully transpose the Electricity Directive.<sup>20</sup>

### VII. IMPORTANT JUDGMENTS

#### 1. Court rulings

There were no major Court rulings in 2014.

#### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the Renewable Energy Directive does not require Member States to open their support schemes for renewable electricity to producers established in other Member States. The *Swedish* scheme promoting green energy produced domestically is therefore compatible with EU law.<sup>21</sup>
- consumers supplied with electricity and gas under a universal supply obligation must be informed about the scope, reasons and conditions of any price increase, before any such increase comes into effect. By not providing this information, *German* legislation does not comply with the Electricity Directive and the Gas Directive.<sup>22</sup>
- the conclusion of international agreements on Member States' recognition of guarantees of origin issued by non-EU countries is liable to affect the correct functioning of the harmonised certification mechanism set up by the Renewable Energy

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<sup>15</sup> Commission v Belgium, [C-302/14](#), Commission v Finland, [C-329/14](#), [IP/14/447](#).

<sup>16</sup> Directives [2009/72/EC](#), Commission v Ireland, [C-217/14](#), [IP/14/155](#).

<sup>17</sup> Directive [2009/28/EC](#), Commission v Ireland, [C-236/14](#), [IP/14/44](#). Ireland subsequently adopted the necessary legislative amendments in 2014 and the Commission withdrew the case from the Court.

<sup>18</sup> [IP/14/156](#) and [IP/13/259](#).

<sup>19</sup> Directives [2009/72/EC](#) and [2009/73/EC](#).

<sup>20</sup> Directive [2009/72/EC](#), Commission v Ireland, [C-217/14](#), [IP/14/155](#).

<sup>21</sup> Ålands Vindkraft AB v. Energimyndigheten, [C-573/12](#) and Court press release No [90/14](#).

<sup>22</sup> Schulz & Egbringhoff, joined cases [C-359/11](#) and [C-400/11](#) and Court press release No [140/14](#).

Directive, and the objectives it pursues. This is therefore an exclusive EU external competence.<sup>23</sup>

### VIII. OUTLOOK

#### Important implementation work in 2015 includes:

- active monitoring of the transposition of the directives on the safety of offshore oil and gas operations<sup>24</sup> and on protecting the health of the general public from radioactive substances in water intended for human consumption;<sup>25</sup>
- nonconformity checks for the Third Energy Package Directives, the Renewable Energy Directive, the Energy Performance of Buildings Directive, the Oil Stocks Directive and the directive on the management of spent fuel and radioactive waste;<sup>26</sup>
- follow-up of non-transposition cases concerning the Energy Efficiency Directive;<sup>27</sup>
- monitoring the application of the regulation on guidelines for trans-European energy infrastructure.<sup>28</sup>

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<sup>23</sup> Green Network SpA/Autorità per l'energia elettrica e il gas, [C-66/13](#).

<sup>24</sup> Directive [2013/30/EU](#).

<sup>25</sup> Directive [2013/51/EURATOM](#).

<sup>26</sup> Directives [2009/72/EC](#) and [2009/73/EC](#); Directive [2009/28/EC](#); Directive [2010/31/EU](#);

Directive [2009/119/EC](#); Directive [2011/70/EURATOM](#).

<sup>27</sup> Directive [2012/27/EU](#).

<sup>28</sup> Regulation (EU) No [347/2013](#).

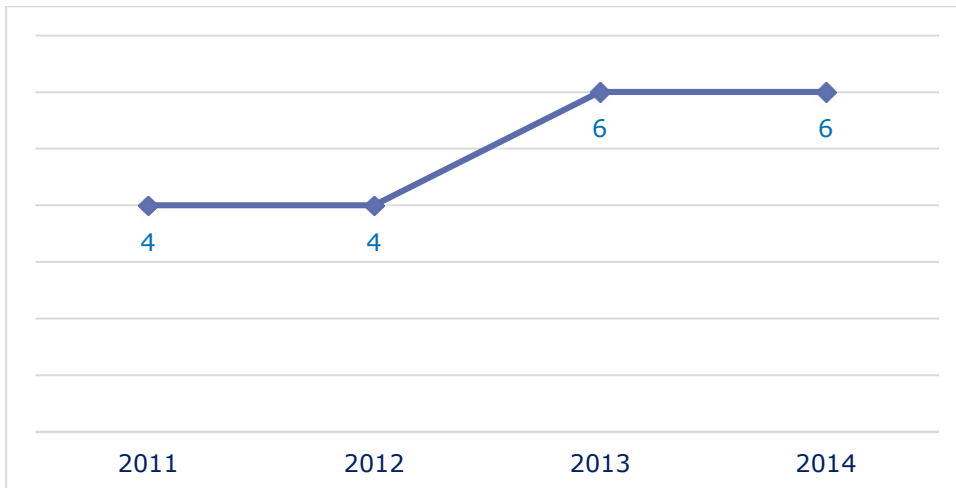
## ENLARGEMENT

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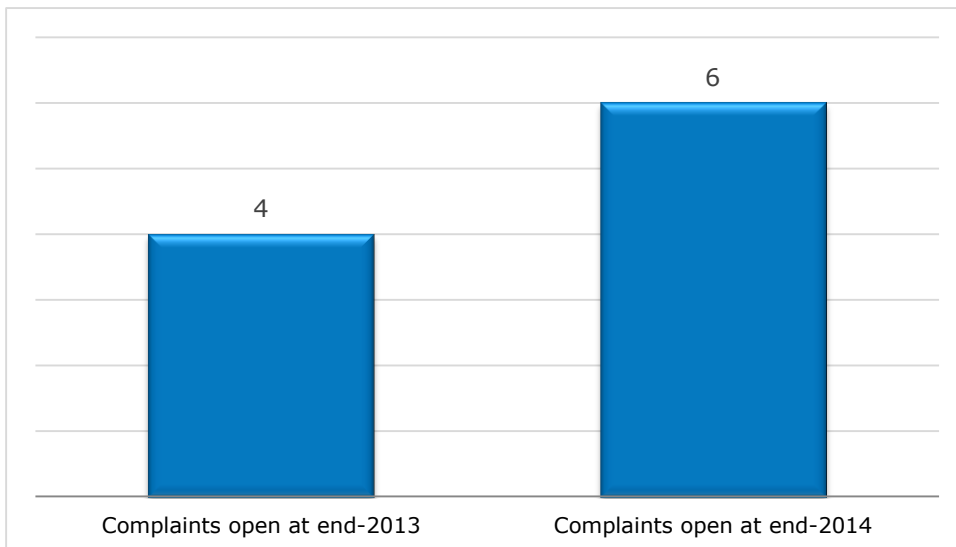
In 2014, the Commission received the same number of new complaints in the field of enlargement as it had 2013. It did not open any new infringement cases in 2014.

### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)

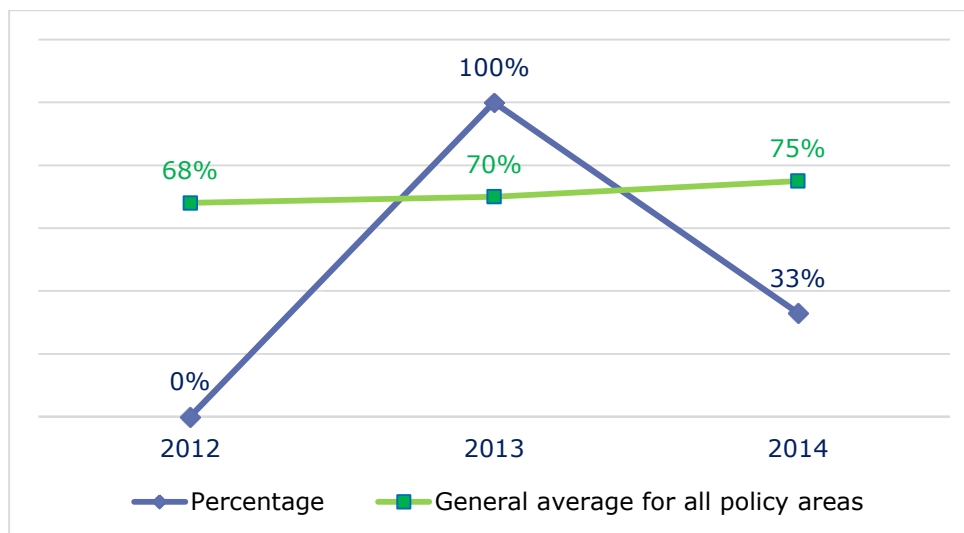


#### 2. Evolution of complaints



II. EU PILOT

EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)<sup>1</sup>



III. OWN-INITIATIVE CASES

[New own-initiative infringement cases in 2014](#)

The Commission did not open any own-initiative infringement cases in 2014.

IV. INFRINGEMENT CASES

[Key infringement cases and referrals to the Court](#)

- a) The Commission did not open any new infringement cases in 2014.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

[Major cases closed without a Court judgment in 2014](#)

The Commission did not close any major infringement cases without a Court judgment in 2014.

VI. IMPORTANT JUDGMENTS

1. [Court rulings](#)

There were no Court rulings in 2014 in the area of enlargement.

2. [Preliminary rulings](#)

In a preliminary ruling, the Court ruled that:

- the requirement<sup>2</sup> that the spouse of a Turkish national residing in a Member State should prove their basic knowledge of the official

<sup>1</sup> In 2011, there were no files in EU Pilot so the Member States' combined resolution rate for EU Pilot could not be calculated.

language of that Member State as a condition for issuing a visa for family reunification is disproportionate.<sup>3</sup>

### VII. OUTLOOK

#### Important implementation work in 2015 includes:

- the swift handling of complaints related to the application and interpretation of certain provisions of the EU-Turkey association law, in particular on the alleged violation by a number of Member States of the standstill clauses set out in the 1970 Additional Protocol and the Association Council Decision No 1/80.

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<sup>2</sup> This requirement is not compatible with the 'standstill clause' of the Association Agreement with Turkey.

<sup>3</sup> Dogan, [C-138/13](#) and Court press release No [96/14](#).

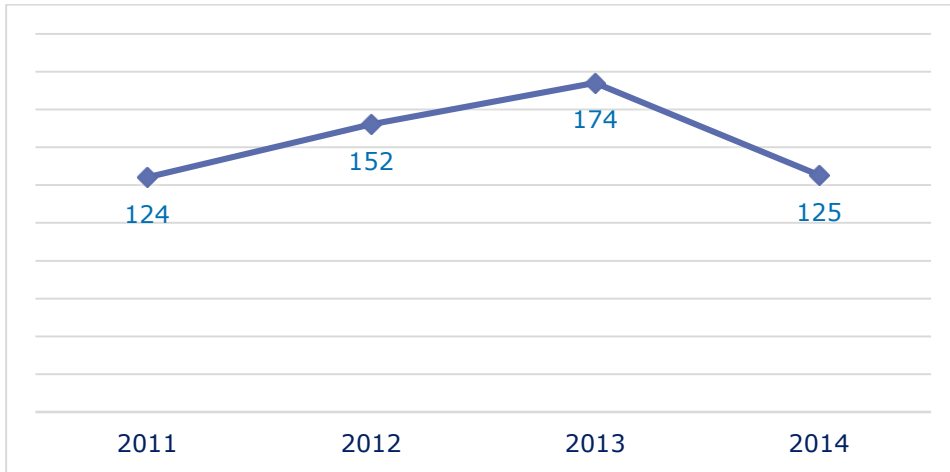
## ENTERPRISE AND INDUSTRY

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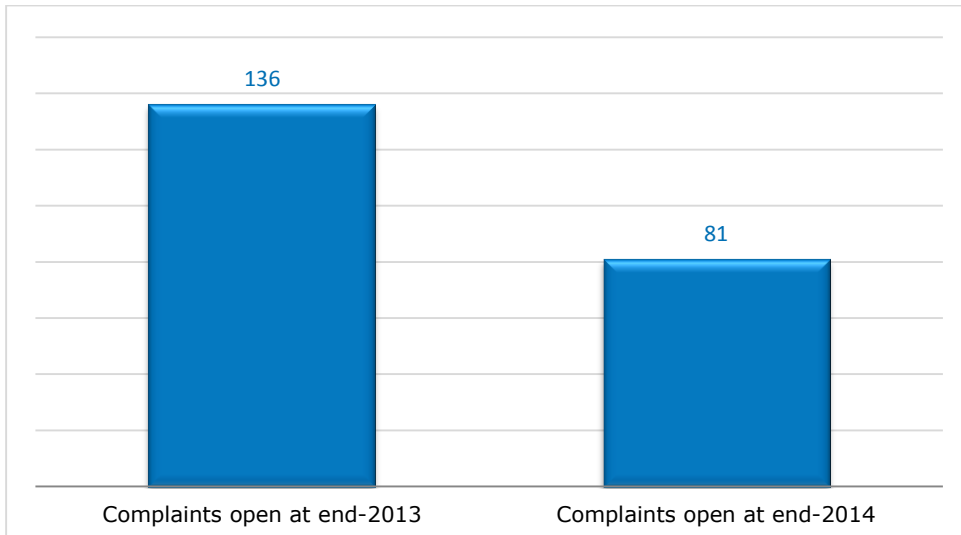
After three years in which the number of new complaints received in the area of enterprise and industry steadily increased, the figure dropped considerably in 2014. The same trend can be seen for the number of new EU Pilot files and the number of infringement cases pending at the end of the year. Conversely, the number of late transposition infringement cases continued to increase over the last three years.

### I. COMPLAINTS

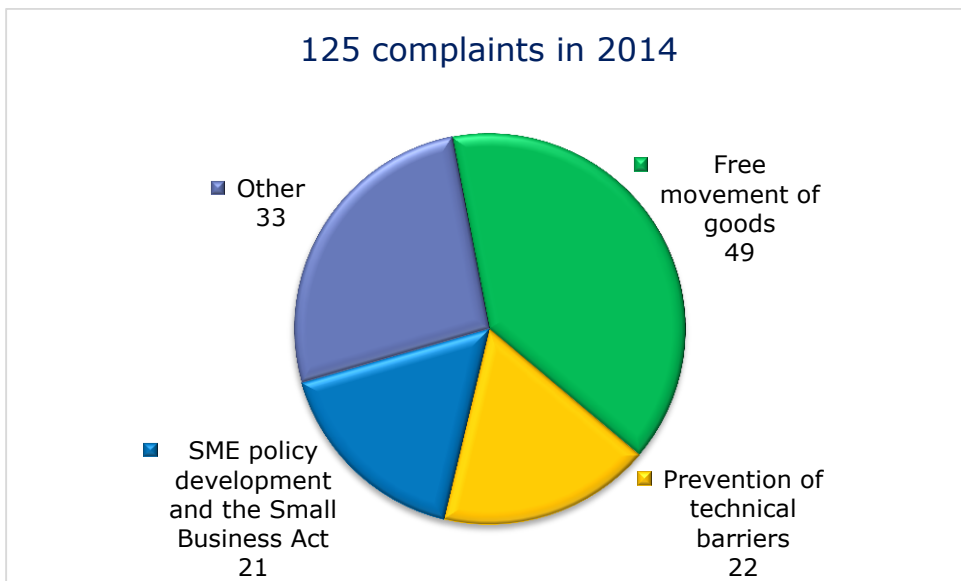
#### 1. New complaints received from members of the public (2010-14)



#### 2. Evolution of complaints

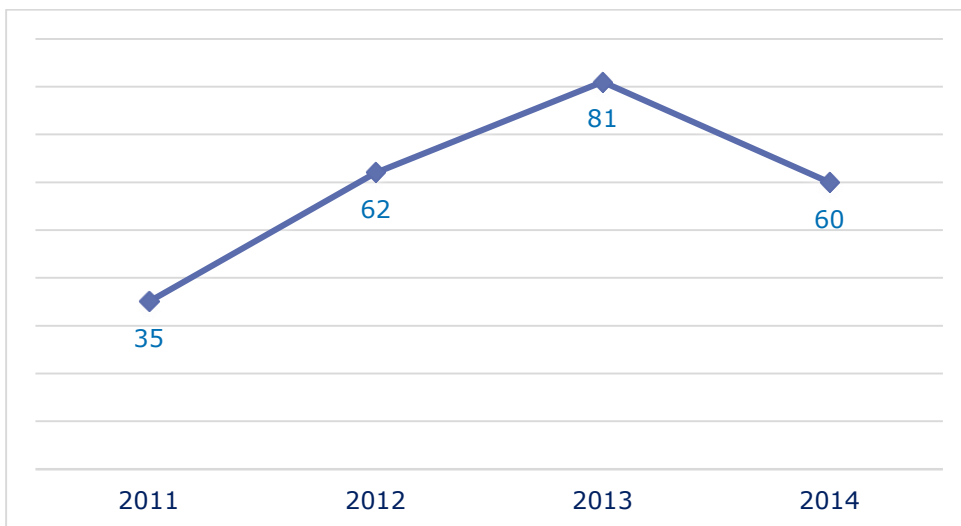


3. New complaints registered in 2014: main policy sectors

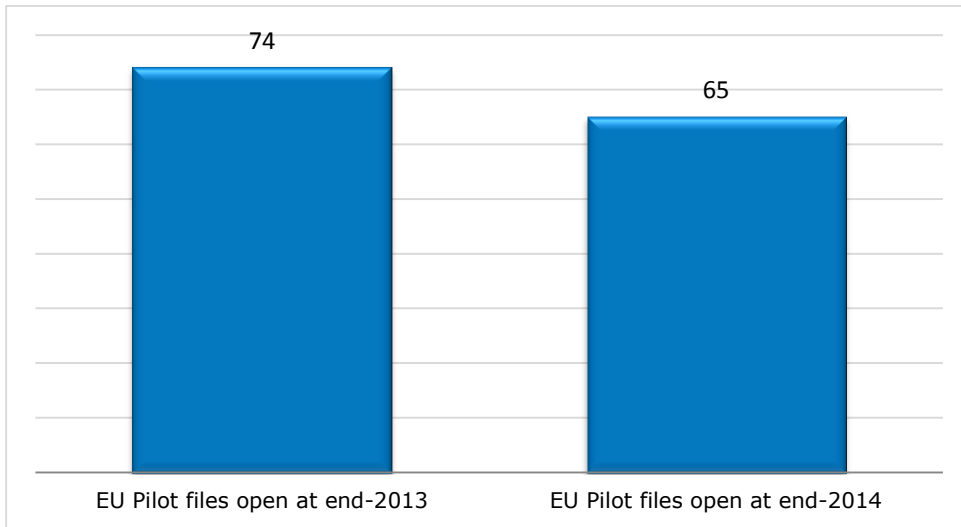


II. EU PILOT

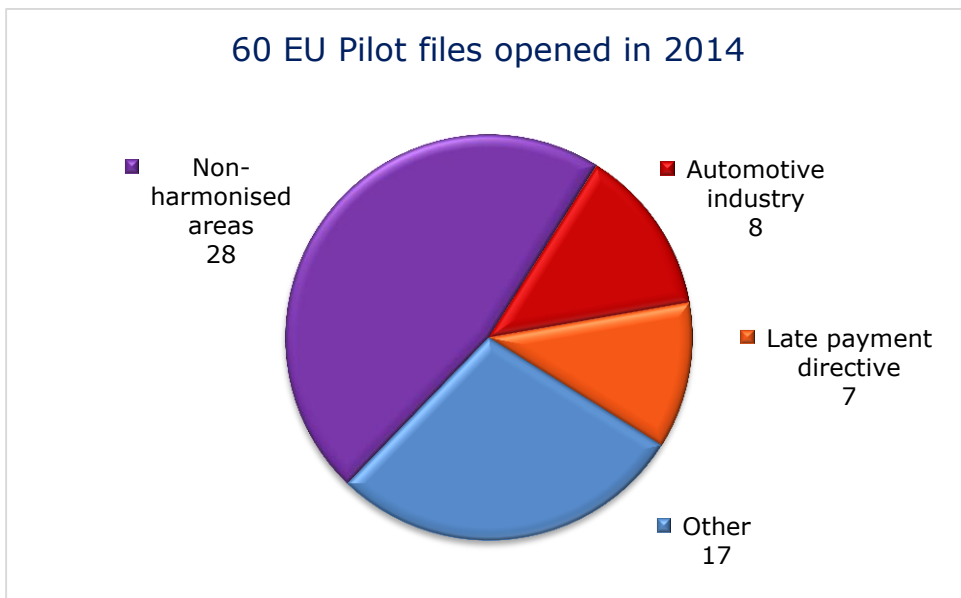
1. New EU Pilot files (2011-14)



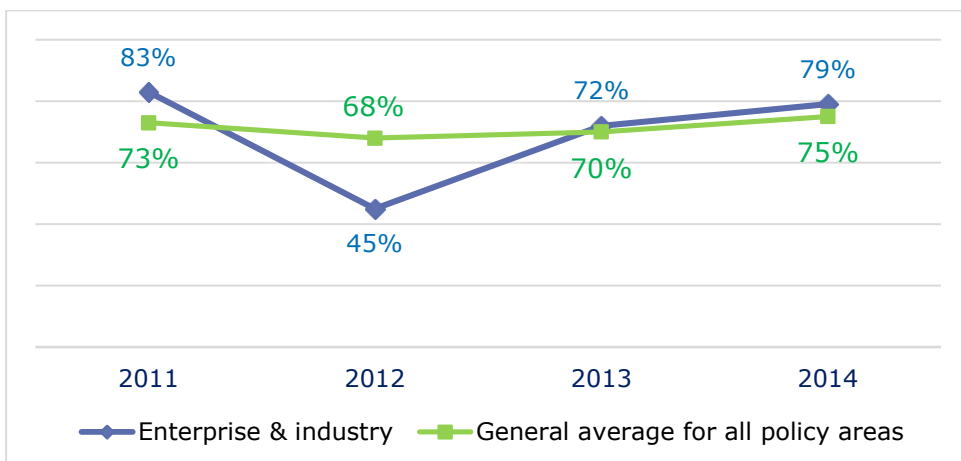
2. Evolution of files open in EU Pilot



3. New EU Pilot files opened in 2014: main policy sectors



4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)





III. OWN-INITIATIVE CASES

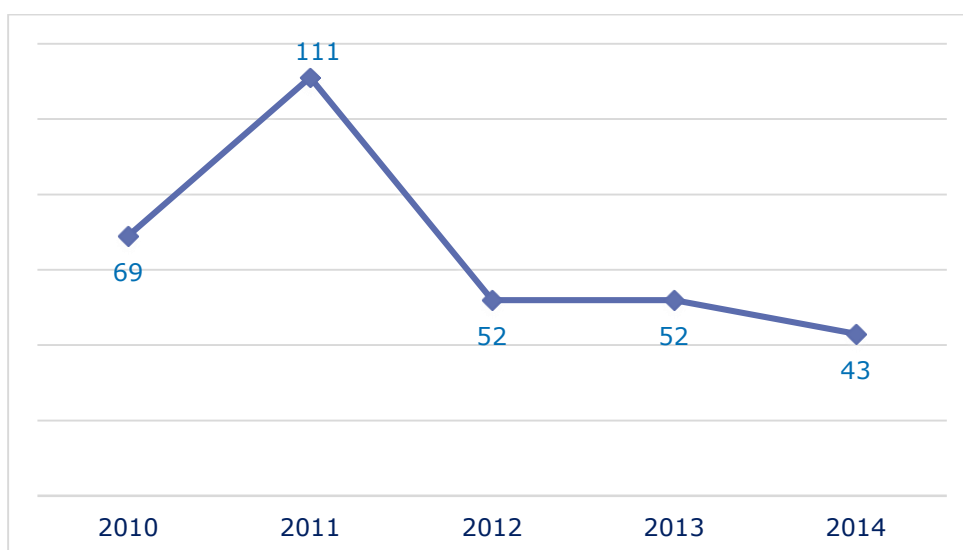
New own-initiative infringement cases

In 2014, the Commission opened major own-initiative infringement cases concerning:

- The correct and full application of the Late Payment Directive, which continued to be a priority for the Commission in 2014.<sup>1</sup> 25 Member States were contacted through the EU Pilot system because the assessment of their national transposing measures for the directive raised concerns.
- *Germany's* application of the directive on mobile air conditioning.<sup>2</sup>

IV. INFRINGEMENT CASES

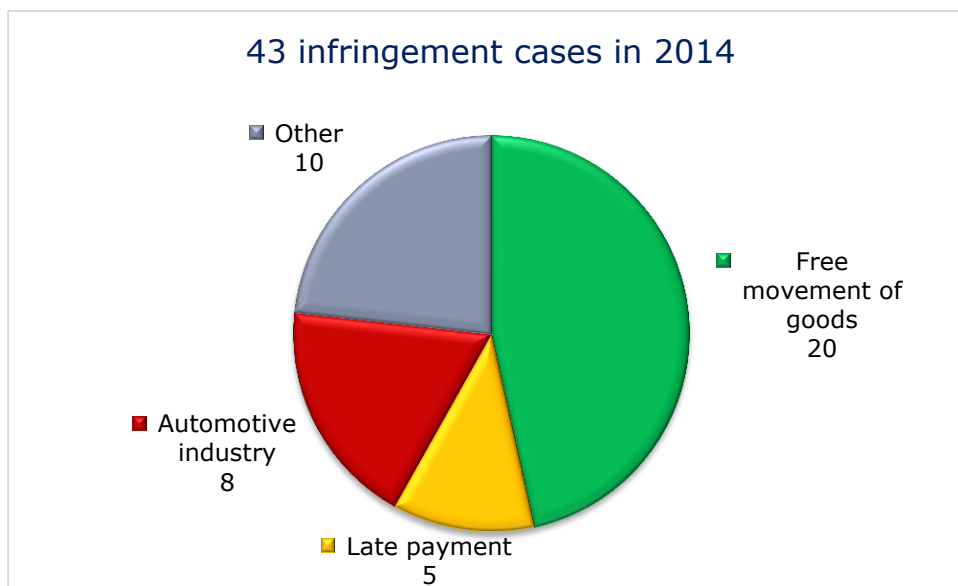
1. Infringement cases open on 31 December (2010-14)



<sup>1</sup> Directive [2011/7/EU](#).

<sup>2</sup> Directive [2006/40/EC](#).

## 2. Infringement cases open on 31 December 2014: main policy sectors



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 56 new infringement cases in 2014, among which:
- *France*: restricting the sale of alcohol test kits to those certified in France;<sup>3</sup>
  - *Germany*: ban on online sales of UK veterinary products to customers located in Germany;
  - *Germany*: non-compliance with the directive on mobile air conditioning. Germany allowed a German manufacturer to market vehicles in the EU in the first half of that did not comply with the directive, and decided not to impose any remedial measures on the manufacturer;<sup>4</sup>
  - *Germany*: incomplete transposition of the Toy Safety Directive;<sup>5</sup>
  - *Italy* and *Slovakia*: incorrect application/implementation of the Late Payment Directive;<sup>6</sup>
  - *Romania*: a requirement to submit gas transactions for prior checks and approval, which acts as a barrier to the export of natural gas;<sup>7</sup>
  - *United Kingdom*: the front-of-pack food-labelling scheme, which colour-codes certain nutrients using a traffic-light system. The scheme may make the marketing of some products more difficult and thus hinder or impede trade between Member States.
- b) The Commission referred one case to the Court under Article 258 TFEU. It concerns:
- rules on the hallmarking of jewellery in the Czech Republic. The Czech Assay Office requires certain articles of jewellery imported from another EU country to be stamped with an additional

<sup>3</sup> [MEMO/14/36](#).

<sup>4</sup> [MEMO/14/537](#).

<sup>5</sup> Directive [2009/48/EC](#), [MEMO/14/589](#).

<sup>6</sup> [IP/14/689](#).

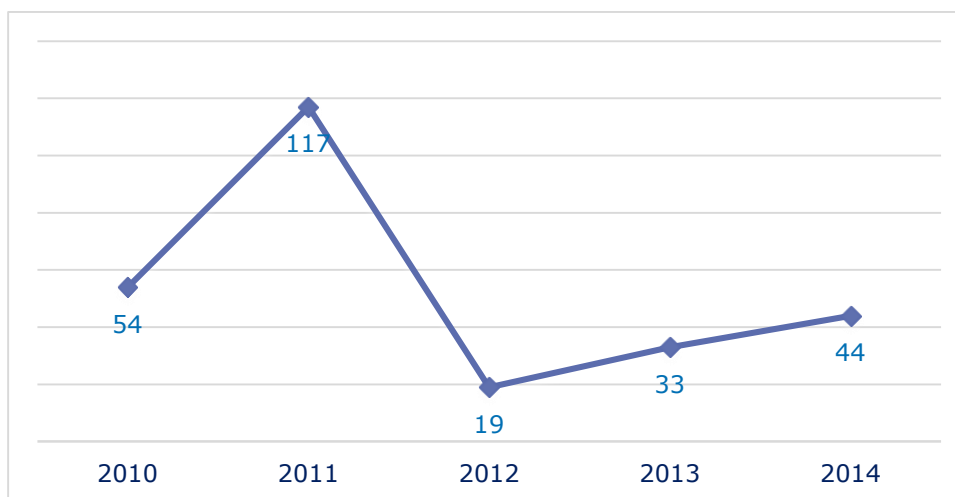
<sup>7</sup> [MEMO/14/470](#).

national hallmark even when they have already been lawfully hallmarked and marketed within the EU.<sup>8</sup>

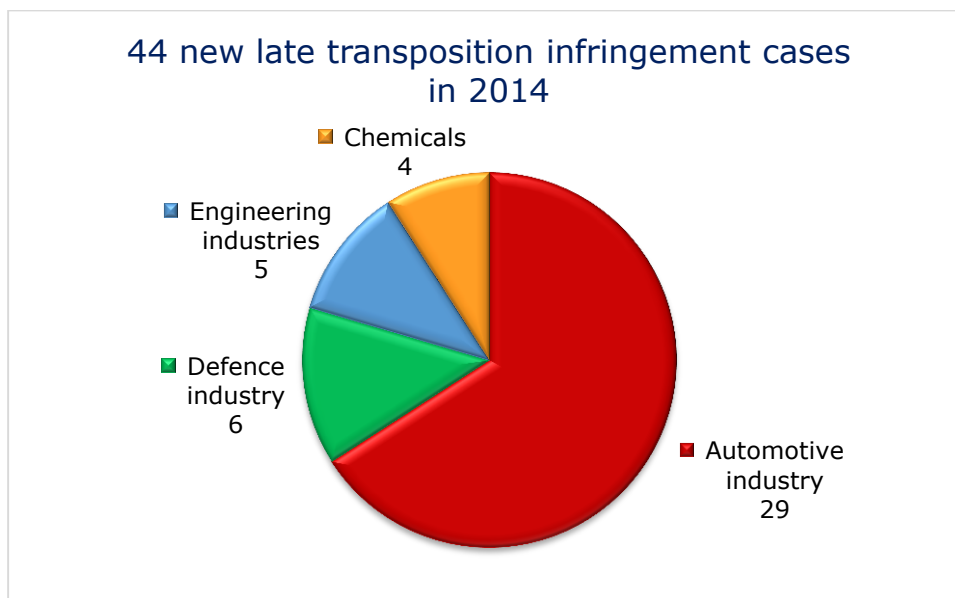
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2010-14)



### 2. New late transposition infringement cases opened in 2014: main policy sectors



### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 44 cases for late transposition in 2014. Most concern:
- two directives in the automotive sector;<sup>9</sup>
  - the directive on aerosol dispensers;<sup>10</sup>

<sup>8</sup> Commission v Czech Republic, [C-525/14](#), [IP/14/785](#).

<sup>9</sup> Directives [2013/60/EU](#) and [2013/8/EU](#).

- the directive on defence-related products.<sup>11</sup>

b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2014

These concerned:

- *Belgium and Germany*: non-communication of national measures transposing the Late Payment Directive;
- *France*: additional requirements for 'battery tests' on cars imported from another Member State where they had already been subject to a roadworthiness check;
- *Ireland*: incorrect implementation of the Late Payment Directive;
- *Netherlands*: restrictions on importing and possessing airsoft devices;
- *Spain*: failure to comply with the regulation setting out the requirements for accreditation and market surveillance for the marketing of products.<sup>12</sup>

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

The Court ruled that:

- the German obligation for CE-marked construction products to meet supplementary national requirements for construction products (*Bauregellisten*) violates EU rules on the free movement of goods;<sup>13</sup>
- the Polish and Lithuanian obligation to move the steering wheel of right-hand drive vehicles to the left-hand side for road safety reasons infringes EU law since it is not considered necessary for road safety;<sup>14</sup>
- the Spanish road transport authorisation rules state that the first vehicle in a company's fleet must have been registered less than five months before authorisation for supplementary private transport is requested; this is in breach of Article 34 TFEU on the free movement of goods.<sup>15</sup>

### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the free movement of goods principle does not permit national legislation (here Lithuanian) that requires precious metal articles to be controlled and stamped again when they have been imported from another Member State where they have already

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<sup>10</sup> Directive [2013/10/EU](#).

<sup>11</sup> Directive [2014/18/EU](#).

<sup>12</sup> Regulation (EC) No [765/2008](#).

<sup>13</sup> Commission v Germany, [C-100/13](#).

<sup>14</sup> Commission v Poland, [C-639/11](#) and Commission v Lithuania, [C-61/12](#) and Court press release No [37/14](#).

<sup>15</sup> Commission v Spain, [C-428/12](#).

been authorised to be put on the market and stamped with a hallmark in accordance with that Member State's legislation.<sup>16</sup>

## VIII. OUTLOOK

### Important implementation work in 2015 includes:

- enforcement of the Court's judgment in case C-100/13 concerning the German obligation for CE-marked construction products to meet additional national requirements for construction products;
- monitoring the adoption of the necessary national measures to comply with the judgments concerning the impossibility of registering right-hand-drive vehicles in Poland and Lithuania;
- monitoring Germany's application of the requirements of the directive on toy safety.<sup>17</sup>

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<sup>16</sup> UAB 'Juvelta' v VĮ 'Lietuvos prabavimo rūmai', [C-481/12](#).

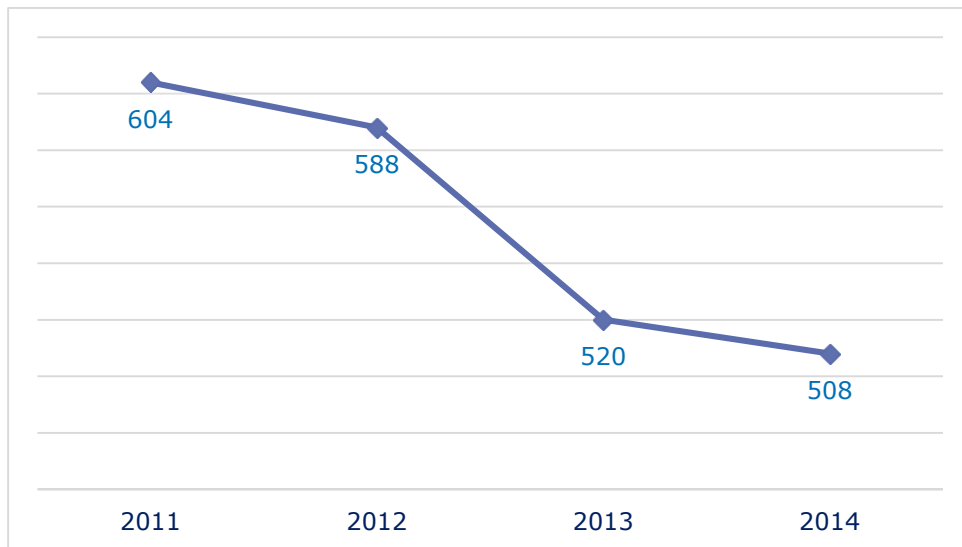
<sup>17</sup> Directive [2009/48/EC](#).

## ENVIRONMENT

In 2014, the Commission received its lowest number of new complaints in the area of environment since 2011. Between 2011 and 2014, the number of new EU Pilot files opened decreased further. The number of infringement cases pending at the end of 2014 was slightly lower than at the end of 2013, but the figure remains higher than in 2012, when the lowest number of cases was registered. The trend is similar for late transposition cases.

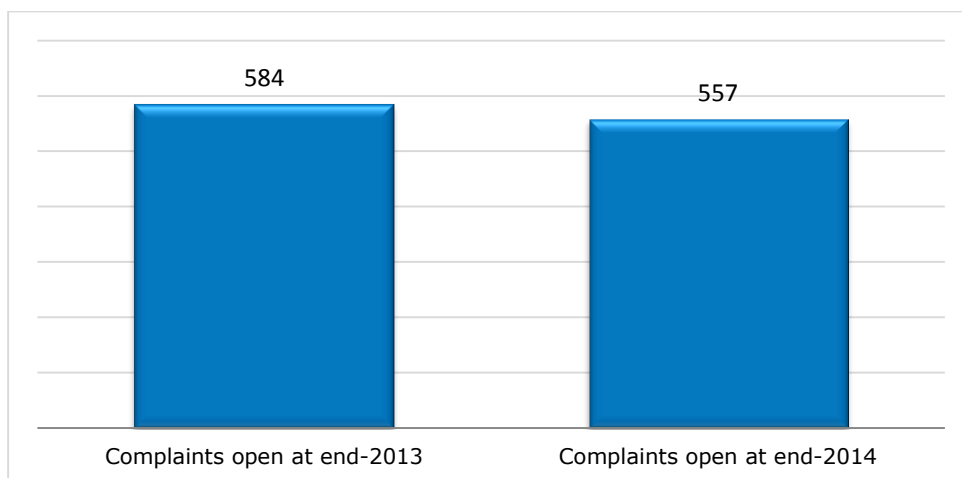
### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)

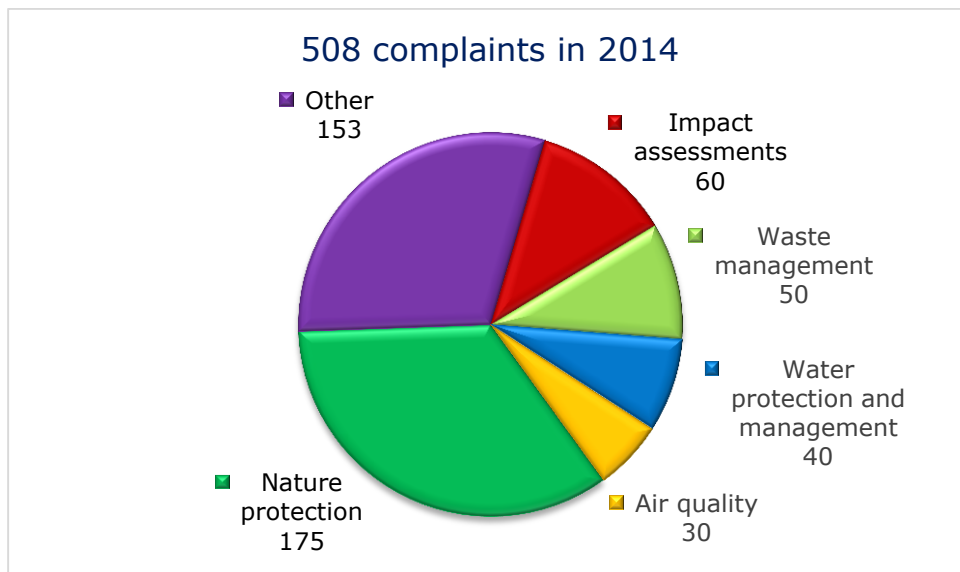


#### 2. Evolution of complaints

Upon petitions received from Parliament, three letters of formal notice were sent in 2014 relating to the authorisation of various development projects in France. In addition, in 13 cases concerning waste management, water protection and impact assessments, the Commission initiated bilateral dialogues with the Member States. The majority of these files were addressed to Italy, France, Luxembourg and Spain.

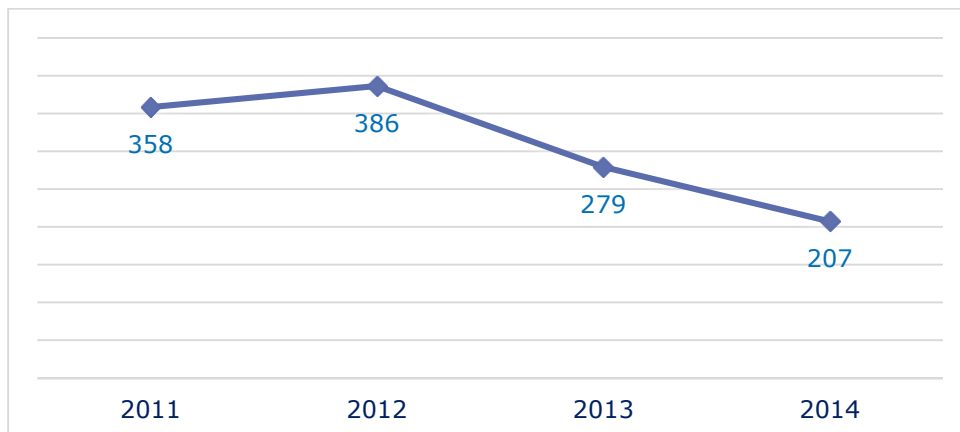


3. New complaints registered in 2014: main policy sectors

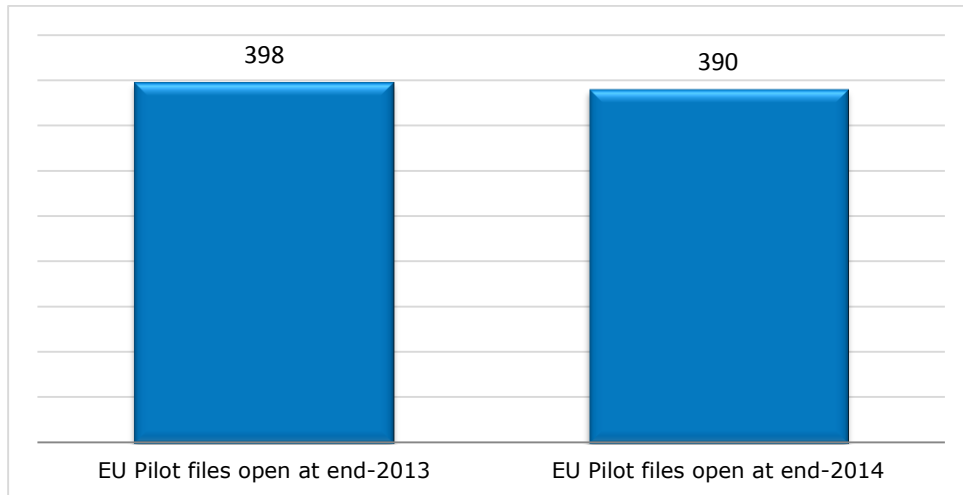


II. EU PILOT

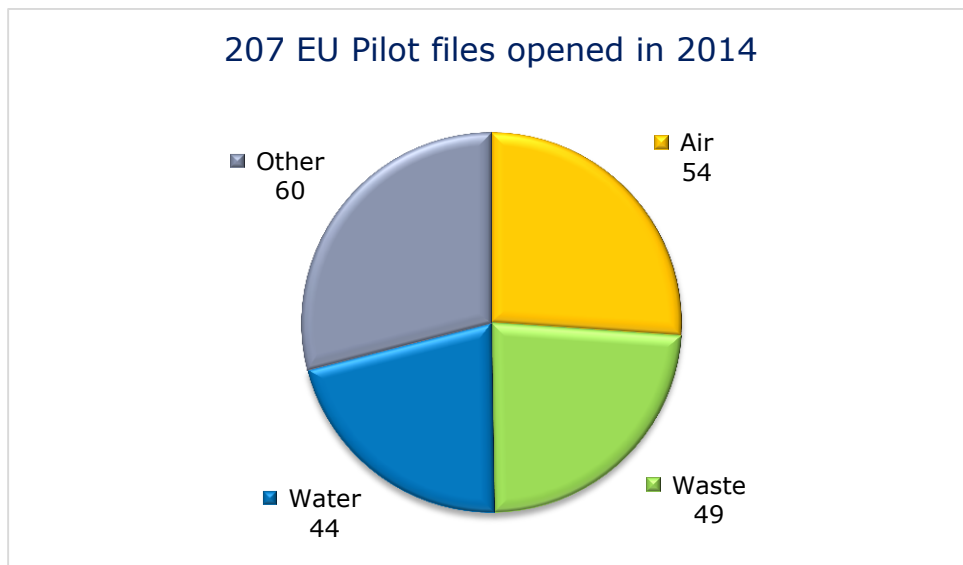
1. New EU Pilot files (2011-14)



2. Evolution of files open in EU Pilot<sup>1</sup>



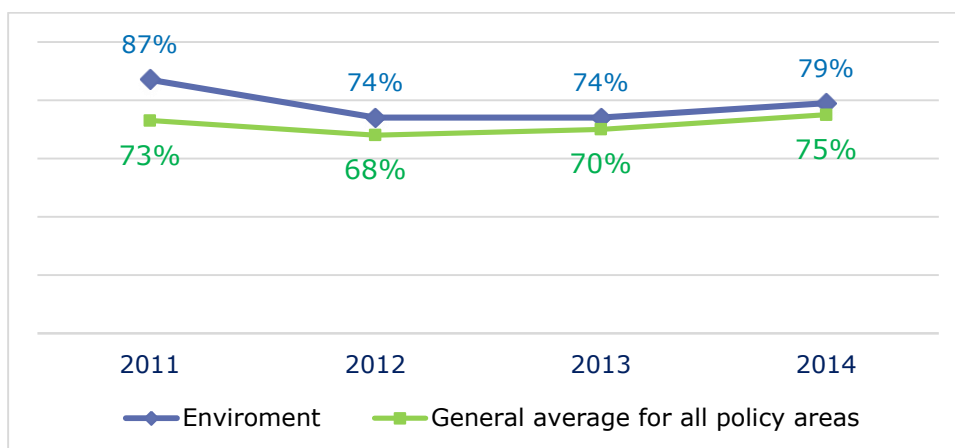
3. New EU Pilot files opened in 2014: main policy sectors



<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.



4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

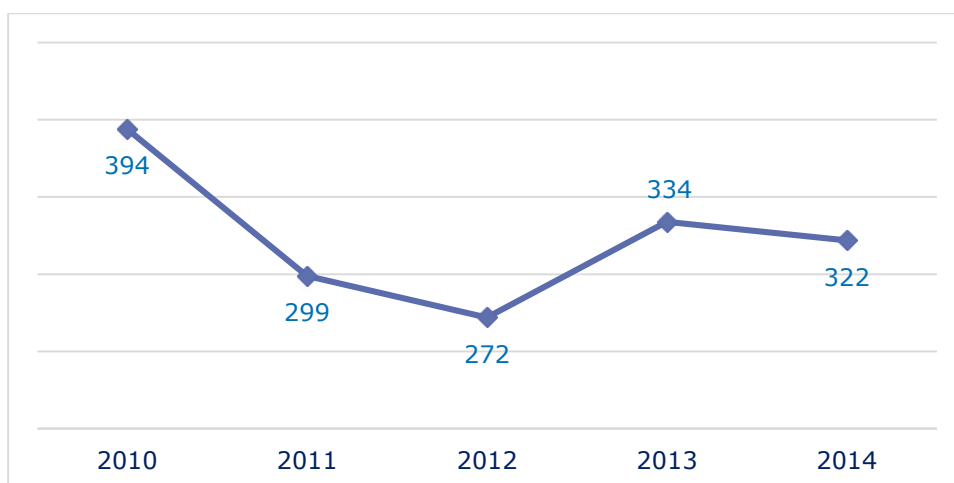
New own-initiative infringement cases

In 2014, the Commission opened own-initiative infringement cases concerning:

- lack of timely transposition of the directive on waste from electrical and electronic equipment (the WEEE Directive);<sup>2</sup>
- non-respect of the PM<sub>10</sub><sup>3</sup> limit values in the Air Quality Directive.<sup>4</sup>

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)

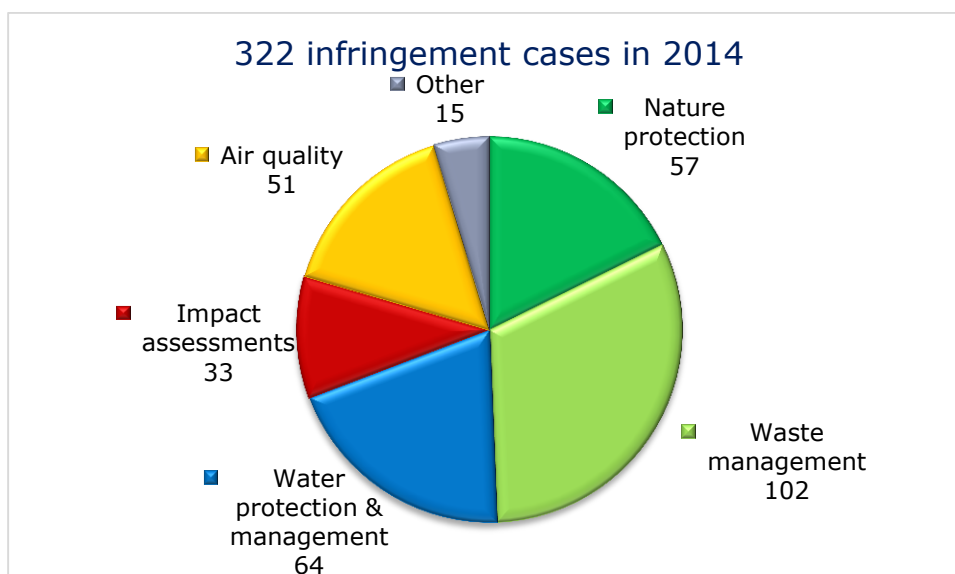


<sup>2</sup> Directive [2012/19/EU](#).

<sup>3</sup> PM<sub>10</sub> is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: [European Environment Agency](#)).

<sup>4</sup> Directive [2008/50/EC](#).

## 2. Infringement cases open on 31 December 2014: main policy sectors



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 174 new infringement cases in 2014, among which:
- *Czech Republic*: nonconformity of national transposition measures with the Waste Framework Directive;<sup>5</sup>
  - *Denmark*: nonconformity of national transposition measures with the Marine Strategy Framework Directive;<sup>6</sup>
  - *France*: incorrect application of the directives on environmental impact assessment and strategic environmental assessment in relation to the Notre-Dame des Landes airport project;<sup>7</sup>
  - *France*: incorrect application of the Water Framework Directive in relation to the Sivens dam project;<sup>8</sup>
  - *Germany*: incorrect application of the Habitats Directive in relation to the authorisation of the coal power plant in Hamburg/Moorburg;<sup>9</sup>
  - *Greece*: inadequate planning of windfarm projects;
  - *Italy*: the trapping of birds with nets for use as live decoys;<sup>10</sup>
  - *Italy*: failure to comply with the Urban Waste Water Treatment Directive in 900 agglomerations covering all of Italy's territory;<sup>11</sup>
  - *Italy*: incorrect application of the Drinking Water Directive (arsenic and fluoride in drinking water);<sup>12</sup>
  - *Malta*: finch trapping, which is a practice prohibited under EU legislation on the conservation of wild birds;<sup>13</sup>
  - *Poland*: inadequate river basin management plans, which are required under the Water Framework Directive;<sup>14</sup>

<sup>5</sup> Directive [2008/98/EC](#).

<sup>6</sup> Directive [2008/56/EC](#).

<sup>7</sup> Directives [2001/42/EC](#) and [2011/92/EU](#).

<sup>8</sup> Directive [2000/60/EC](#).

<sup>9</sup> Directive [92/43/EEC](#), [MEMO/14/589](#).

<sup>10</sup> [MEMO/14/2130](#).

<sup>11</sup> Directive [91/271/EEC](#).

<sup>12</sup> Directive [98/83/EC](#), [IP/14/816](#).

<sup>13</sup> [IP/14/1154](#).

<sup>14</sup> Directive [2000/60/EC](#).

- *Romania*: incorrect application of the Environmental Impact Assessment Directive in relation to lignite quarries in the Gorj Region;<sup>15</sup>
  - *Slovakia*: incorrect transposition of the Floods Directive;<sup>16</sup>
  - *Spain*: deterioration of the habitats of the Doñana wetlands in Andalusia;
  - *Spain*: inadequate management of saline waste from potash extraction in central Catalonia;
  - *United Kingdom*: non-respect of EU air quality standards (nitrogen dioxide limit values).<sup>17</sup>
- b) The Commission referred 11 cases to the Court under Article 258 TFEU. They concern:
- *Austria*: a proposed hydro power plant which would cause serious deterioration in the quality of the Schwarze Sulm river in Styria;<sup>18</sup>
  - *Bulgaria*: breach of the Landfill Directive due to the continuing operation of numerous non-compliant landfill sites;<sup>19</sup>
  - *Bulgaria*: failure to protect unique habitats and endangered species;<sup>20</sup>
  - *Denmark*: lack of river basin management plans, which are required under the Water Framework Directive;<sup>21</sup>
  - *Estonia*: incorrect transposition of the directive on public access to environmental information;<sup>22</sup>
  - *Germany*: nonconformity with EU law of the German legislation on access to justice in environmental matters;<sup>23</sup>
  - *Greece*: failure to designate a number of zones vulnerable to nitrate pollution and failure to adopt measures to effectively combat nitrate pollution in these zones;<sup>24</sup>
  - *Greece*: failure to provide adequate protection for endangered sea turtles;<sup>25</sup>
  - *Slovenia*: breach of EU legislation on waste due to the operation of two illegal landfill sites;<sup>26</sup>
  - *Spain*: numerous landfills operating in breach of the Landfill Directive;<sup>27</sup>
  - *Spain*: planned rail link between Seville and Almería, for which no adequate environmental impact assessment has been carried out.<sup>28</sup>

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<sup>15</sup> Directive [2011/92/EU](#).

<sup>16</sup> Directive [2007/60/EC](#).

<sup>17</sup> Directive [2008/50/EC](#), [IP/14/154](#).

<sup>18</sup> Commission v Austria, [C-346/14](#), [IP/14/448](#).

<sup>19</sup> Directive [1999/31/EC](#), Commission v Bulgaria, [C-145/14](#), [IP/14/47](#).

<sup>20</sup> The Commission decided on 17 October 2013 to refer the case to the Court; the application was filed on 25 March 2014. [C-141/14](#), [IP/13/966](#).

<sup>21</sup> Commission v Denmark, [C-323/11](#) and [C-190/14](#), [IP/14/157](#).

<sup>22</sup> Directive [2003/4/EC](#), Commission v Estonia, [C-206/14](#), [IP/14/158](#). Estonia subsequently adopted the necessary legislative amendments and the Commission withdrew the Court application.

<sup>23</sup> Directive [2003/35/EC](#), the Commission decided on 17 October 2013 to refer the case to the Court; the application was filed on 21 March 2014. Commission v Germany, [C-137/14](#), [IP/13/967](#).

<sup>24</sup> Directive [1991/676/EEC](#), the Commission decided on 20 June 2013 to refer the case to the Court; the application was filed on 31 March 2014. Commission v Greece, [C-149/14](#), [IP/13/576](#).

<sup>25</sup> Commission v Greece, [C-504/14](#), [IP/14/324](#).

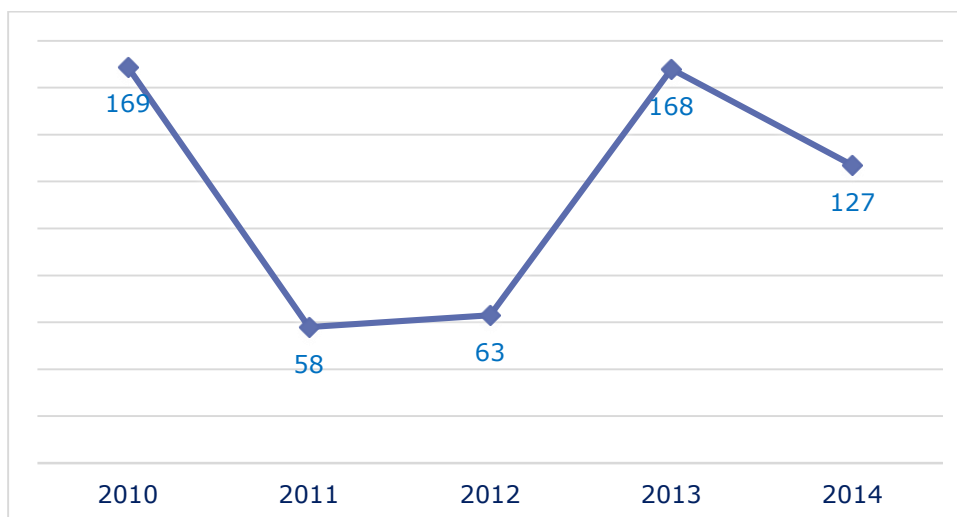
<sup>26</sup> Commission v Slovenia, [C-140/14](#), [IP/14/51](#).

<sup>27</sup> Commission v Spain, [C-454/14](#), [IP/14/814](#).

- c) The Commission referred two cases to the Court under Article 260(2) TFEU. They concern:
- *Greece*: failure to implement a judgment of the Court of Justice finding that Greece was failing in its obligation to treat and dispose of urban waste water adequately, with 23 agglomerations across the country lacking the necessary collection and treatment systems. The Commission proposed a lump sum of EUR 11 514 081 and a daily penalty payment of EUR 47 462 until the obligations are fulfilled.<sup>29</sup>
  - *Portugal*: failure to implement a judgment of the Court of Justice finding that Portugal was failing in its obligation to collect, treat and dispose of urban waste water in an adequate way, since seven agglomerations across the country with populations of more than 15 000 lacked the necessary collection systems and 15 lacked adequate treatment systems. The Commission proposed a lump sum of EUR 4 458 828 and a daily penalty payment of EUR 20 196 until the obligations are fulfilled.<sup>30</sup>

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2010-14)

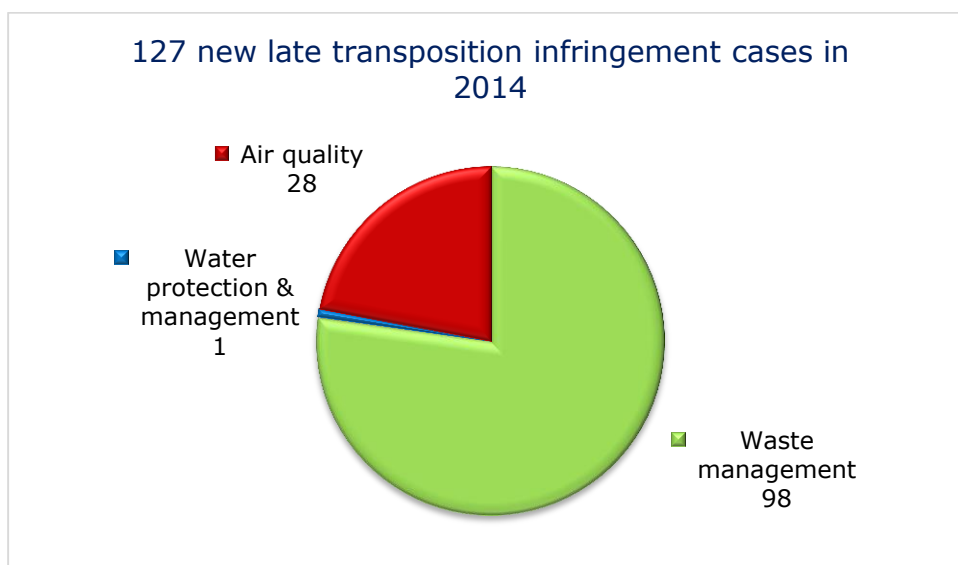


<sup>28</sup> Commission v Spain, [C-461/14](#), [IP/14/814](#).

<sup>29</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 9 April 2014. Commission v Greece, [C-167/14](#), [IP/13/1102](#).

<sup>30</sup> Commission v Portugal, [C-557/14](#), [IP/14/1142](#).

2. New late transposition infringement cases opened in 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 127 cases for late transposition in 2014. Most concern:
  - the WEEE Directive;<sup>31</sup>
  - the directive on the sulphur content of marine fuels.<sup>32</sup>
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

These concerned:

- *Austria*: incomplete transposition of the Strategic Environmental Assessment Directive;<sup>33</sup>
- *Bulgaria, Cyprus, France, Italy, Luxembourg and Romania*: non-communication of national measures transposing the Industrial Emissions Directive;<sup>34</sup>
- *Bulgaria*: illegal construction of ski resorts in the Rila Mountain;
- *Finland*: failure to ensure appropriate protection of the Saimaa ringed seal;
- *Germany*: inadequate urban waste water treatment in small agglomerations;
- *Latvia, Finland, Portugal and Sweden*: incorrect transposition of the Mining Waste Directive;<sup>35</sup>
- *Lithuania*: insufficient designation of special protection areas (SPAs) under the Birds Directive;<sup>36</sup>

<sup>31</sup> Directive [2012/19/EU](#).

<sup>32</sup> Directive [2012/33/EU](#).

<sup>33</sup> Directive [2001/42/EC](#).

<sup>34</sup> Directive [2010/75/EU](#).

<sup>35</sup> Directive [2006/21/EC](#).

<sup>36</sup> Directive [2009/147/EC](#).

- *Slovenia*: incorrect application of the Environmental Impact Assessment Directive in relation to a waste treatment facility in Ljubljana;
- *United Kingdom*: incorrect application of the Environmental Impact Assessment Directive regarding risk assessment of the liquefied natural gas terminal and tankers in Milford Haven, Wales.

### VII. IMPORTANT JUDGMENTS

#### 1. Court rulings

The Court ruled that:

- *Belgium* and *Italy* failed to ensure adequate collection and treatment of urban wastewater.<sup>37</sup>
- *Denmark* failed to comply with the Water Framework Directive, because it failed to adopt and notify the river basin management plans required under it.<sup>38</sup>
- *France and Poland* failed to adequately implement the Nitrates Directive.<sup>39</sup>
- *Germany* has not failed to fulfil its obligations under Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, particularly Articles 2(38) and 9, by excluding certain services from the concept of 'water services'.<sup>40</sup>
- *Greece* failed to fully comply with the 2005 judgment of the Court of Justice finding that it breached the Waste Directive by continuing to operate illegal landfill sites. In addition to a lump sum of EUR 10 million the Court ordered Greece to make a penalty payment until it complies with the judgment in full. The actual amount will depend on the progress Greece makes; if there is no progress, it will be more than EUR 14 million for each six-month period of delay.<sup>41</sup>
- *Italy* did not implement the 2007 judgment of the Court of Justice that found Italy had failed to fulfil obligations under the Waste Directives. The Court ordered Italy to pay a lump sum of EUR 40 million and a penalty of 42.8 million for each six-month period of delay in implementing the measures necessary for compliance.<sup>42</sup>
- *Italy* failed to ensure adequate treatment of waste landfilled in Malagrotta and in other Lazio landfills.<sup>43</sup>
- *Sweden* did not implement a judgment of the Court of Justice finding that it had transposed the directive on integrated pollution prevention and control incorrectly.<sup>44</sup> The Court ordered Sweden to pay a lump sum of EUR 2 million and a daily penalty of EUR

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<sup>37</sup> Directive [91/271/EEC](#), Commission v Italy, [C-85/13](#) and Commission v Belgium, [C-395/13](#).

<sup>38</sup> Commission v Denmark, [C-190/14](#).

<sup>39</sup> Directive [91/676/EEC](#), Commission v France, [C-237/12](#) and Commission v Poland, [C-356/13](#).

<sup>40</sup> Commission v Germany, [C-525/12](#)

<sup>41</sup> Commission v Greece, [C-378/13](#) and Court press release No [164/14](#).

<sup>42</sup> Commission v Italy, [C-196/13](#) and Court press release No [163/14](#).

<sup>43</sup> Commission v Italy, [C-323/13](#).

<sup>44</sup> Directive [2008/1/EC](#).

4000 for each day it delayed implementing the measures necessary to comply with the first judgment.<sup>45</sup>

- *The United Kingdom's* system of costs for environmental plaintiffs bringing a case to court was excessive.<sup>46</sup>

### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- an import permit that does not comply with the conditions set out in the regulation on protecting species of wild fauna and flora by regulating trade in them is void only in respect of those animals that are actually affected by its invalidity.<sup>47</sup> These animals are the only ones that may be seized and possibly confiscated by the competent authority of the Member State in which they are situated. The national proceedings concerned Hungary's decision to invalidate the permits issued by Bulgaria on the import of animals and to confiscate the animals.<sup>48</sup>
- if a site of EU importance has lost its ecological value due to natural causes and not because a Member State has failed to protect it, the Member State is required to propose to the Commission that the site be declassified.<sup>49</sup>
- a plan or project that has negative implications for a natural habitat on a 'Natura 2000' site and that provides for the creation of an area of equal or greater size of the same natural habitat type within the same site has an effect on the integrity of that site. Protective measures that are included in a project and aim to compensate for the project's negative effects on a Natura 2000 site cannot be taken into account in the project's impact assessment. Such measures can be categorised as 'compensatory measures' within the meaning of the Habitats Directive if the conditions it sets out are met.<sup>50</sup>
- the Air Quality Directive's ambient air quality standard for nitrogen dioxide is binding and national courts must take the necessary measures to ensure that each Member State's competent authority develops the required air quality plans.<sup>51</sup>

## VIII. OUTLOOK

### Important implementation work in 2015 includes:

- transposition checks for the WEEE Directive and the new Seveso Directive;<sup>52</sup>
- compliance checks on the implementation of the Waste Framework Directive, the Air Quality Directive and the Industrial Emissions Directive;
- follow-up on the expected Court judgments on operating non-standard landfill sites<sup>53</sup> and on waste management;<sup>54</sup>

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<sup>45</sup> Commission v Sweden, [C-243/13](#) and Court press release No [166/14](#).

<sup>46</sup> Commission v United Kingdom, [C-530/11](#).

<sup>47</sup> Regulation (EC) No [338/97](#).

<sup>48</sup> Sofia Zoo, [C-532/13](#).

<sup>49</sup> Cascina Tre Pini, [C-301/12](#).

<sup>50</sup> Directive [92/43/EEC](#), Briels and Others, [C-521/12](#).

<sup>51</sup> ClientEarth, [C-404/13](#).

<sup>52</sup> Directive [2012/18/EU](#).

<sup>53</sup> Commission v Spain, [C-454/14](#) and Commission v Bulgaria, [C-145/14](#).

<sup>54</sup> Commission v Italy, [C-653/13](#).

- legal action against several Member States over the insufficient designation of special areas of conservation under the Habitats Directive;
- further steps in the ongoing infringement cases against several Member States over their continued failure to respect the PM<sub>10</sub> limit values in the Air Quality Directive;<sup>55</sup>
- focus on addressing certain Member States' failure to respect the nitrogen dioxide limit values in the Air Quality Directive.

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<sup>55</sup> PM<sub>10</sub> is an air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. The particles' small size allows them to penetrate deep into the lungs where they may be deposited and cause adverse health effects. (Source: [European Environment Agency](#)).

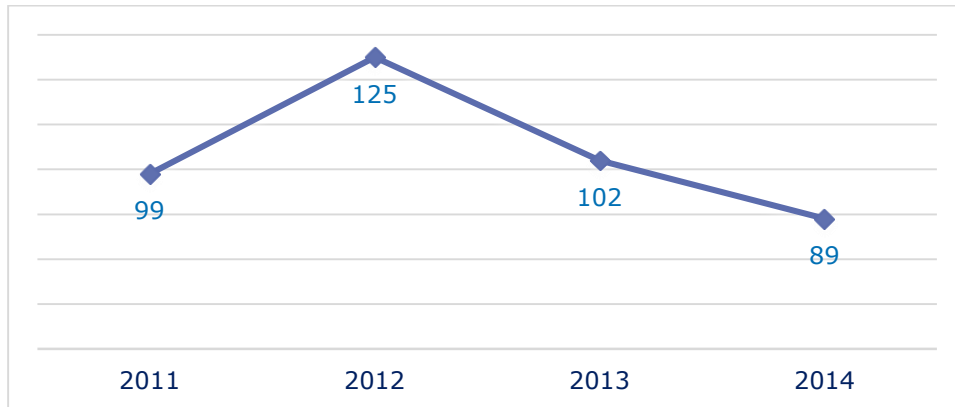


## HEALTH AND CONSUMERS

In 2014, the Commission received its lowest number of new complaints in the area of health and consumer protection since 2011. Over the same period, the number of new EU Pilot files continued to decrease (in 2014 it was half of the 2011 figure). The number of infringement cases pending at the end of 2014 was higher than at the end of 2011 and 2013. The number of new late transposition cases reverses the decreasing trend seen since 2010 and 2011, with a clear increase in 2014.

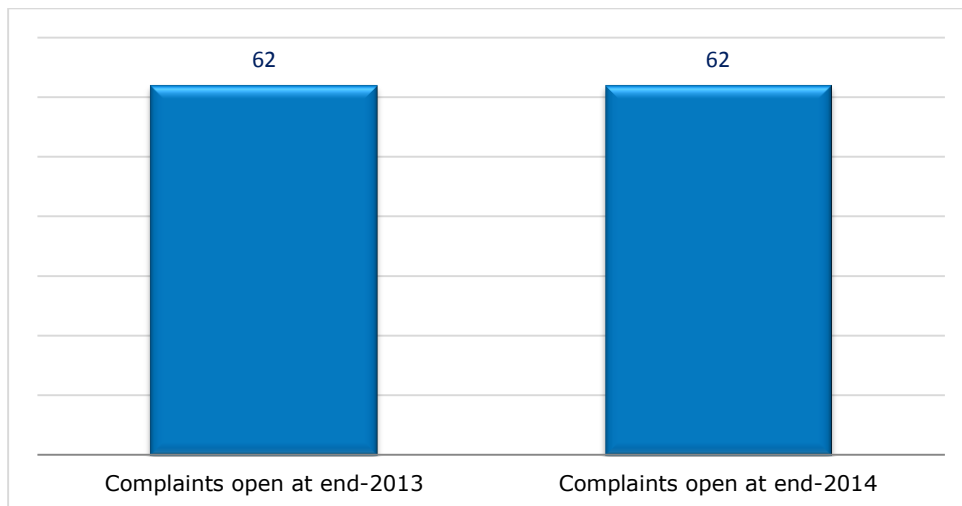
### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)

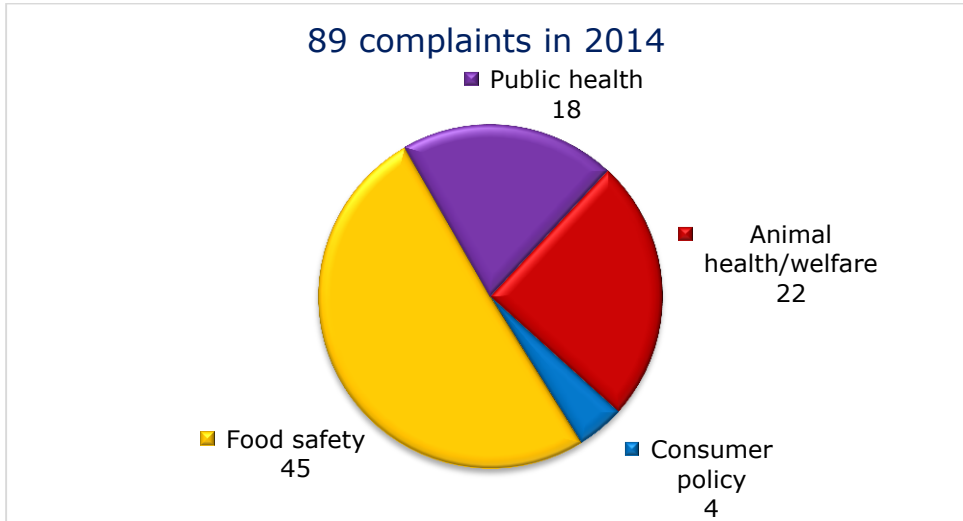


#### 2. Evolution of complaints

Petitions from the European Parliament revealed potential infringement of EU rules on animal welfare and food safety.

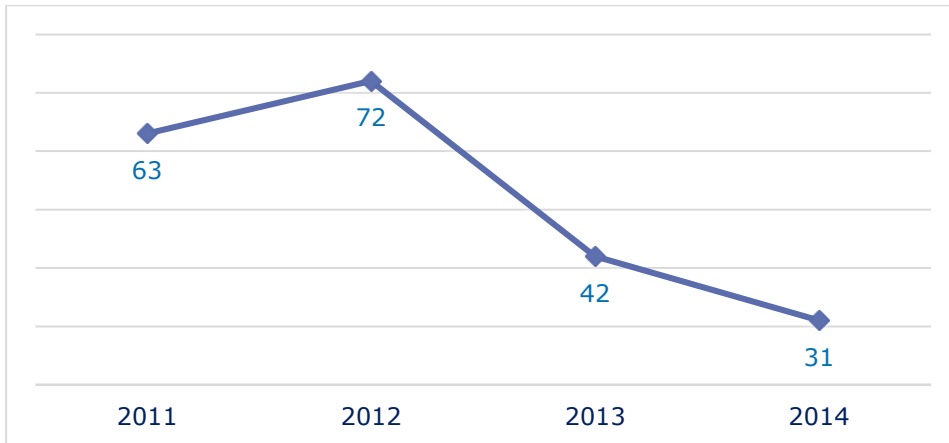


3. New complaints registered in 2014: main policy sectors

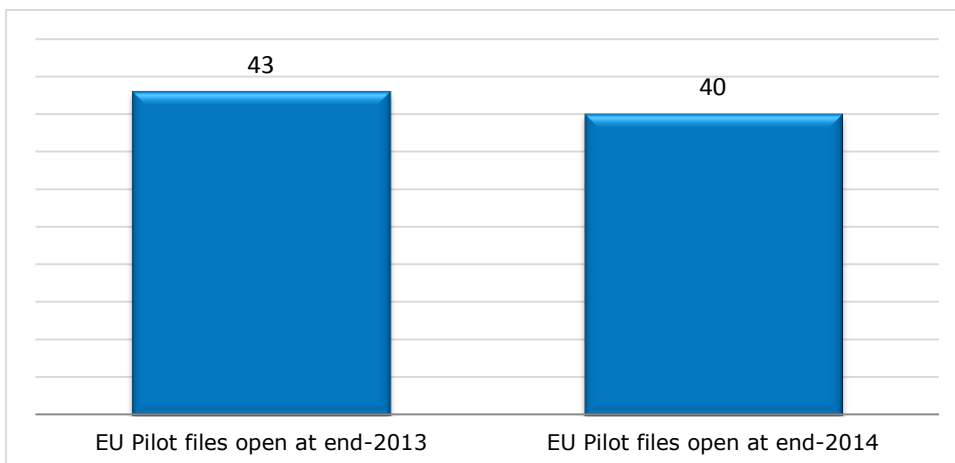


II. EU PILOT

1. New EU Pilot files (2011-14)

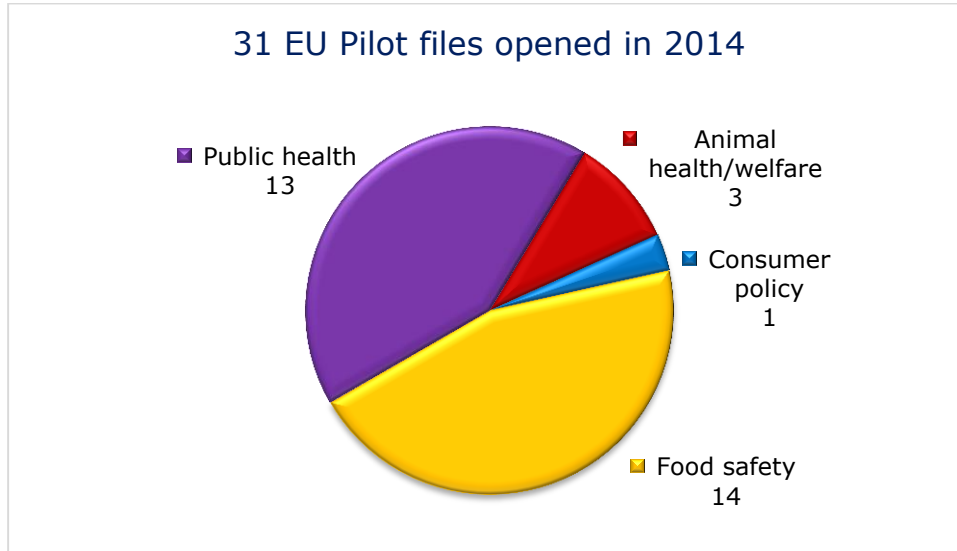


2. Evolution of files open in EU Pilot<sup>1</sup>

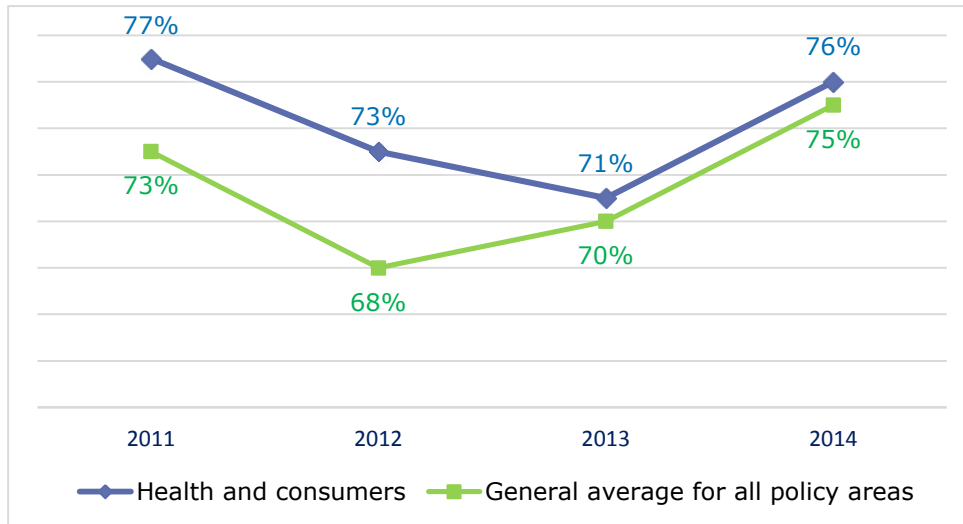


<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

### 3. New EU Pilot files opened in 2014: main policy sectors



### 4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



## III. OWN-INITIATIVE CASES

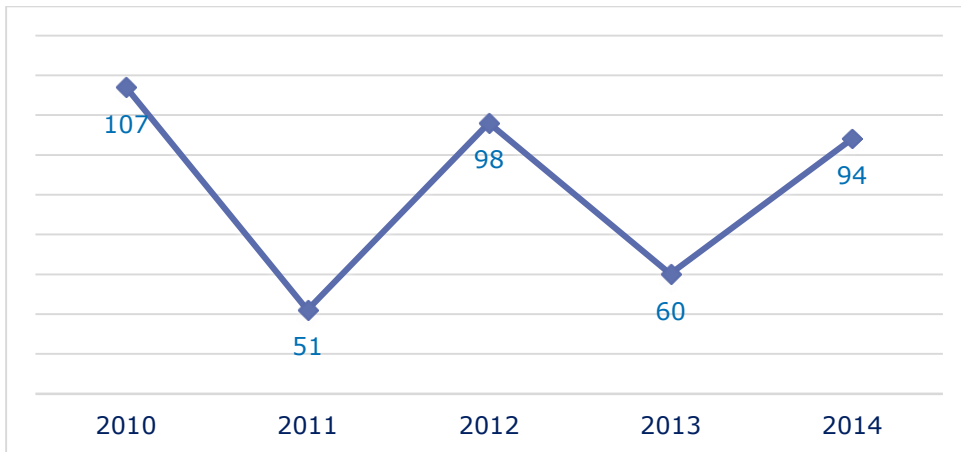
### New own-initiative infringement cases

In 2014, the Commission opened own-initiative infringement cases on implementing EU legislation on human tissues and cells.<sup>2</sup>

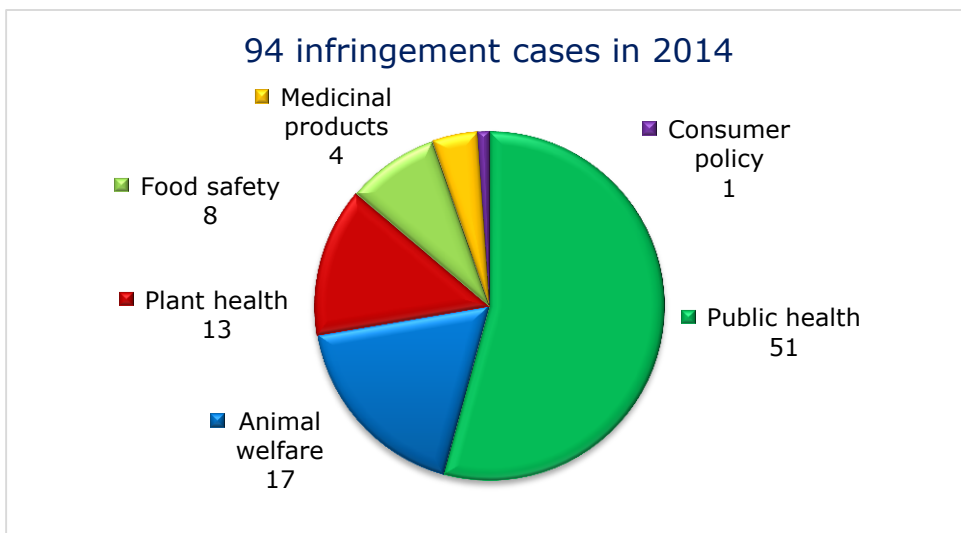
<sup>2</sup> Directive [2004/23/EC](#) and Commission directives [2006/17/EC](#) and [2006/86/EC](#).

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 134 new infringement cases in 2014, among which:
  - *Finland and Slovenia*: failure to implement animal welfare rules, in particular the obligation to keep sows in groups during part of their pregnancy;<sup>3</sup>
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concern:
  - *Denmark*: failure to amend its national legislation to ban all forms of snus;<sup>4</sup>
  - *Poland*: failure to comply with EU legislation on the quality and safety of human tissues and cells.<sup>5</sup>

<sup>3</sup> Directive [2008/120/EC](#) and [MEMO/14/36](#).

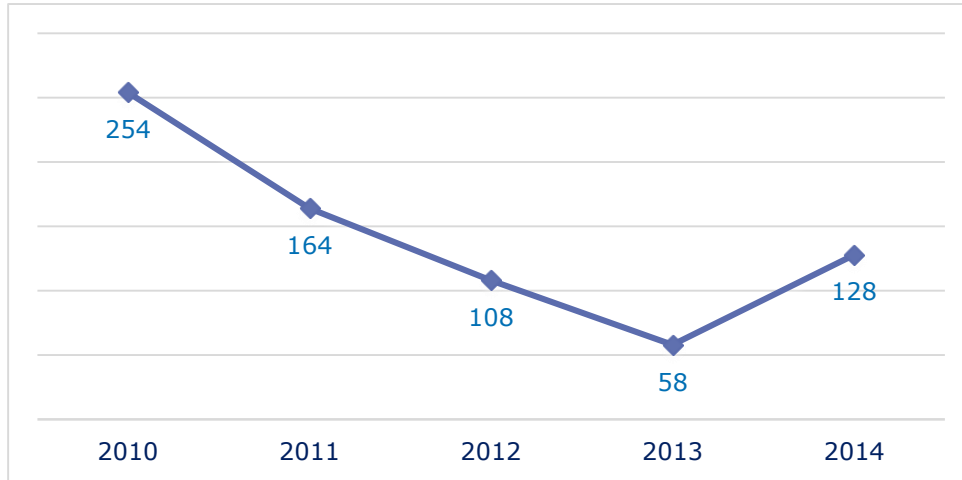
<sup>4</sup> Commission v Denmark, [C-468/14](#), [IP/14/812](#).

<sup>5</sup> The Commission decided on 26 September 2013 to refer the case to the Court; the application was filed on 21 January 2014. Commission v Poland, [C-29/14](#), [IP/13/873](#).

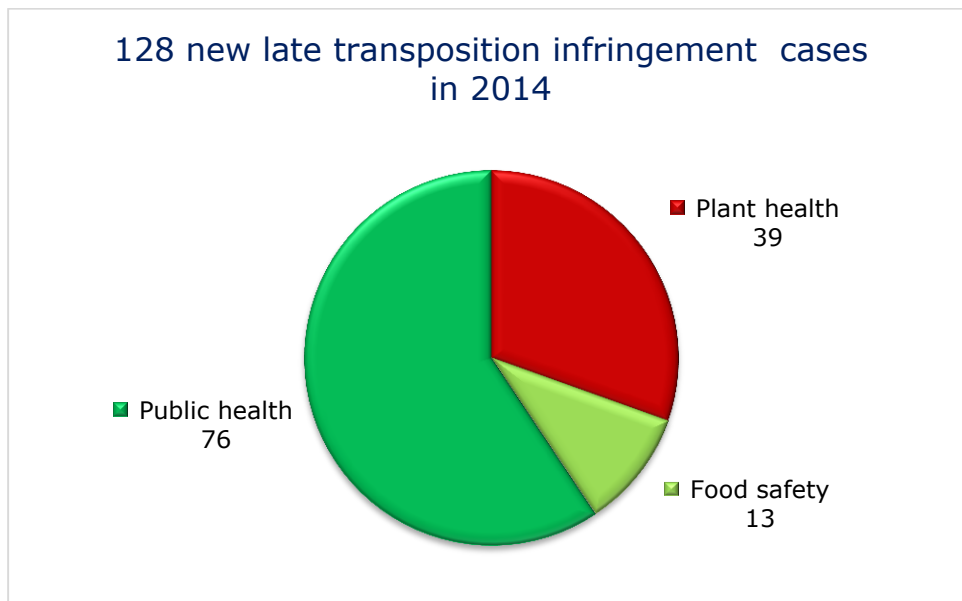
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2010-14)



### 2. New late transposition infringement cases opened in 2014: main policy sectors



### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 128 cases for late transposition in 2014, among which:
- the Cross-border Healthcare Directive (26 Member States) and the directive on recognition of medical prescriptions issued in another Member State (9 Member States);<sup>6</sup>
  - the directive on cross-border exchange of human organs intended for transplantation (17 Member States);<sup>7</sup>

<sup>6</sup> Directives [2011/24/EU](#) and [2012/52/EU](#).

<sup>7</sup> Directive [2012/25/EU](#).

- the directive on certain technical requirements for the testing of human tissues and cells (10 Member States).<sup>8</sup>

b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

### VI. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Major cases closed without a Court judgment in 2014

These concerned:

- *Denmark*: in the animal welfare sector, incorrect implementation of the requirement to keep sows in groups during part of their pregnancy;
- *Greece*: restrictions on the marketing of plant-propagating material;
- *Romania*: incorrect application of the directive on veterinary checks in intra-Community trade; Romania had confiscated meat originating in Denmark.<sup>9</sup>

### VII. IMPORTANT JUDGMENTS

#### 1. Court rulings

The Court ruled that:

- *Greece* and *Italy* failed to comply with the directive on protecting laying hens by not ensuring that they are no longer reared in unenriched cages;<sup>10</sup>
- *Poland* was in breach of the directive on the deliberate release of GMOs into the environment because producers were not legally obliged to inform the authorities if they cultivated genetically modified crops and no register was set up to list the locations where such crops were grown.<sup>11</sup>

#### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- on the concept of certain meat-processing techniques, in particular on whether they should qualify as 'mechanically separated meat' or 'meat preparation' under the regulation on hygiene rules for food of animal origin.<sup>12</sup>

### VIII. OUTLOOK

#### Important implementation work in 2015 includes:

- monitoring the correct transposition of the Cross-border Healthcare Directive.<sup>13</sup>

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<sup>8</sup> Directive [2012/39/EU](#).

<sup>9</sup> Directive [89/662/EEC](#).

<sup>10</sup> Directive [1999/74/EC](#), and *Commission v Italy*, [C-339/13](#) and *Commission v Greece*, [C-351/13](#).

<sup>11</sup> Directive 2001/18/EC and *Commission v Poland*, [C-478/13](#).

<sup>12</sup> Regulation (EC) No [853/2004](#) and *Newby Foods*, [C-453/13](#).

<sup>13</sup> Directive [2011/24/EU](#).

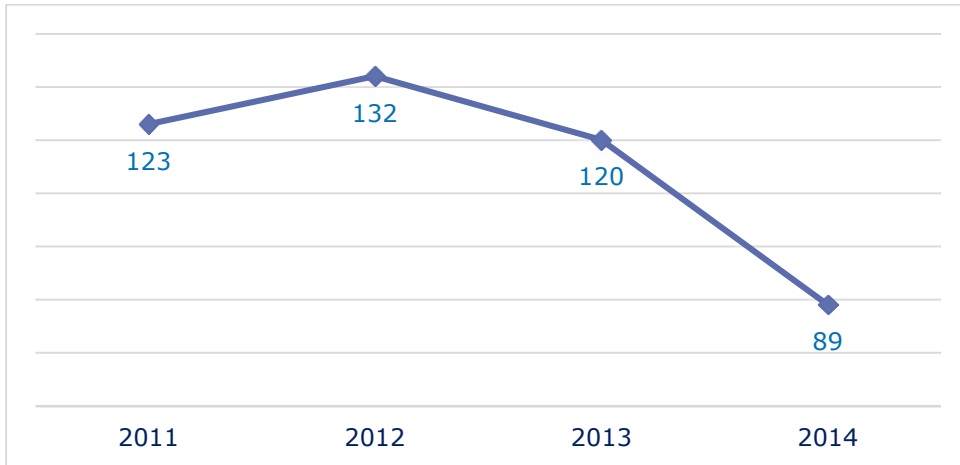
## HOME AFFAIRS

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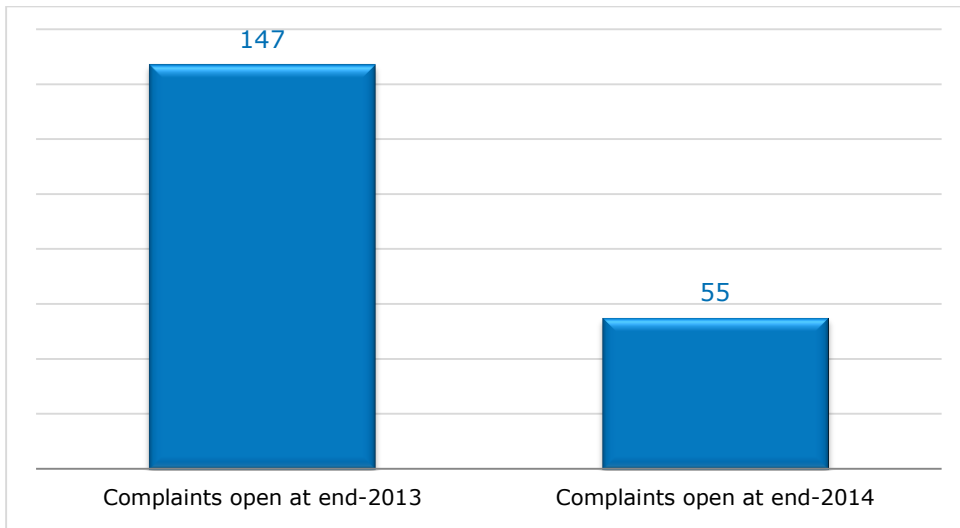
In 2014, the Commission received its lowest number of new complaints in the area of home affairs since 2011. In 2014, the number of new EU Pilot files opened decreased for the first time since 2011. The number of infringement cases pending at the end of the year continued to increase in 2014. Although the number of new late transposition cases increased in 2014, it was below the peak reached in 2011.

### I. COMPLAINTS

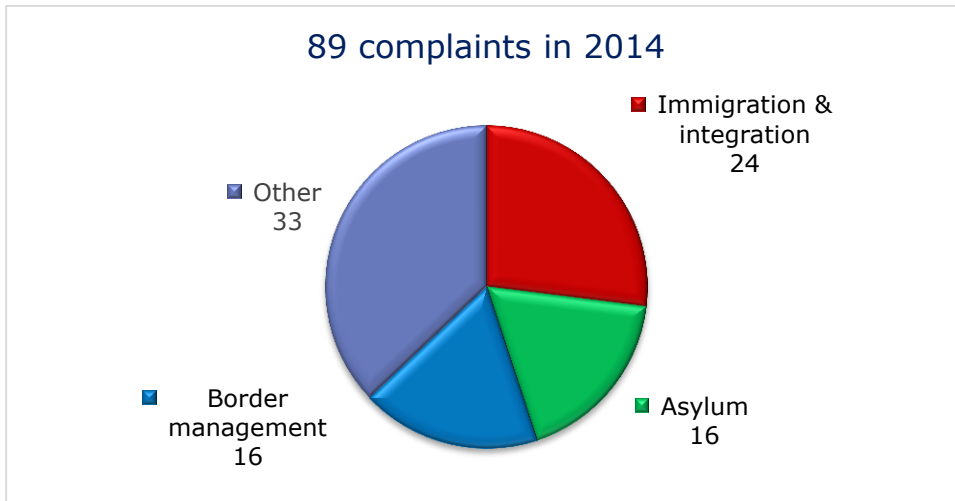
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

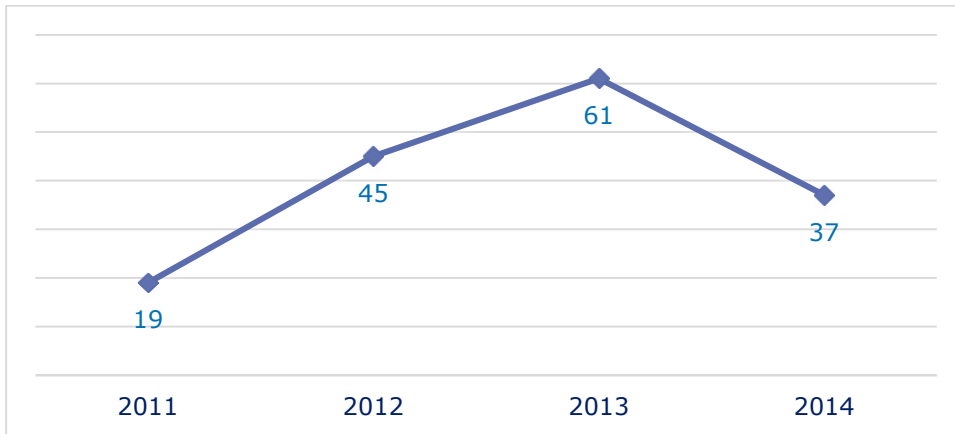


3. New complaints registered in 2014: main policy sectors

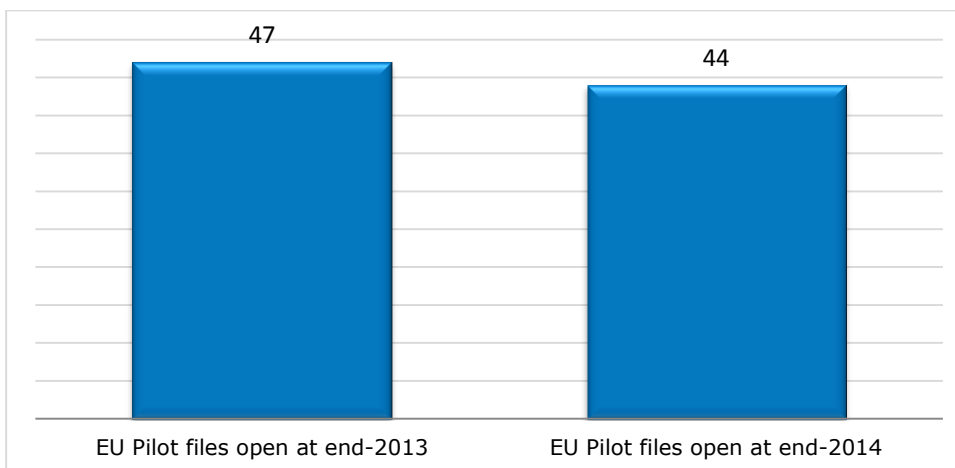


II. EU PILOT

1. New EU Pilot files (2011-14)



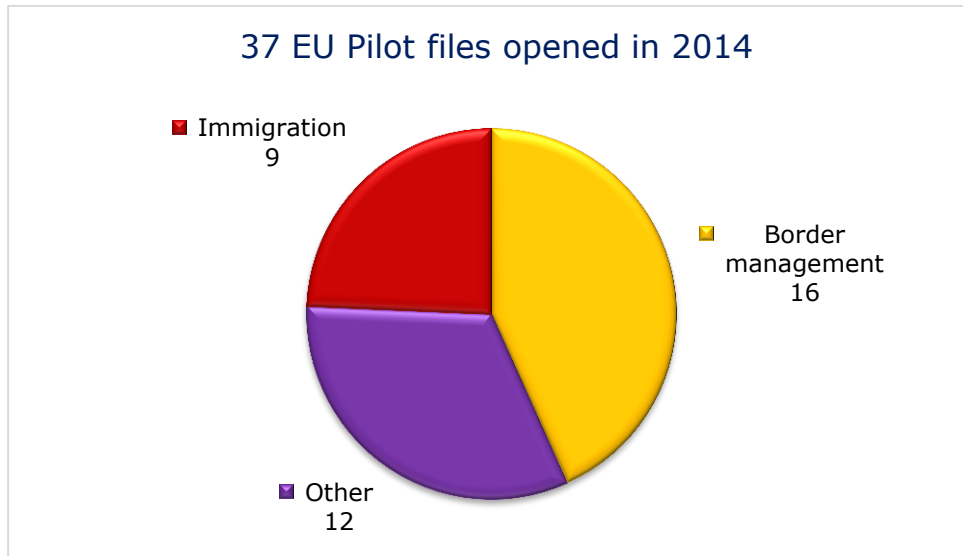
2. Evolution of files open in EU Pilot<sup>1</sup>



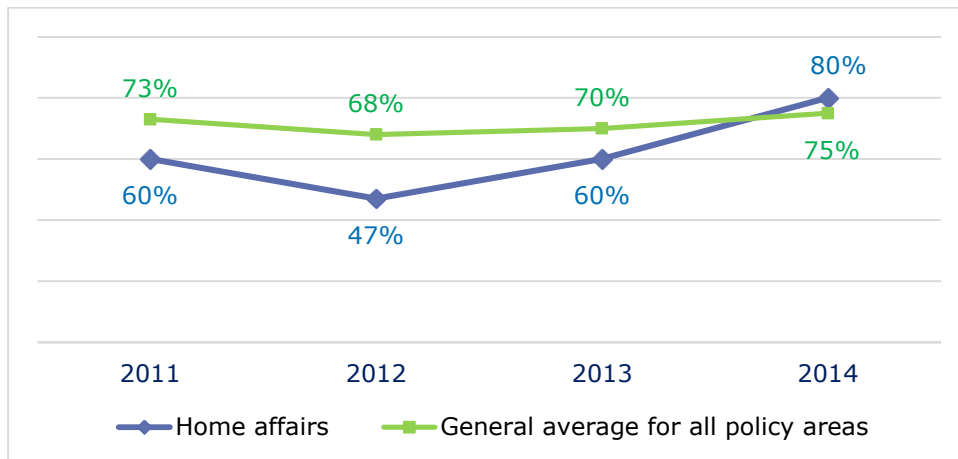
<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.



3. New EU Pilot files opened in 2014: main policy sectors



4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

In 2014, the Commission opened own-initiative infringement cases concerning:

the Return Directive<sup>2</sup>, on aspects such as an effective forced-return monitoring system, criminalisation of irregular stay, and detention and detention conditions.

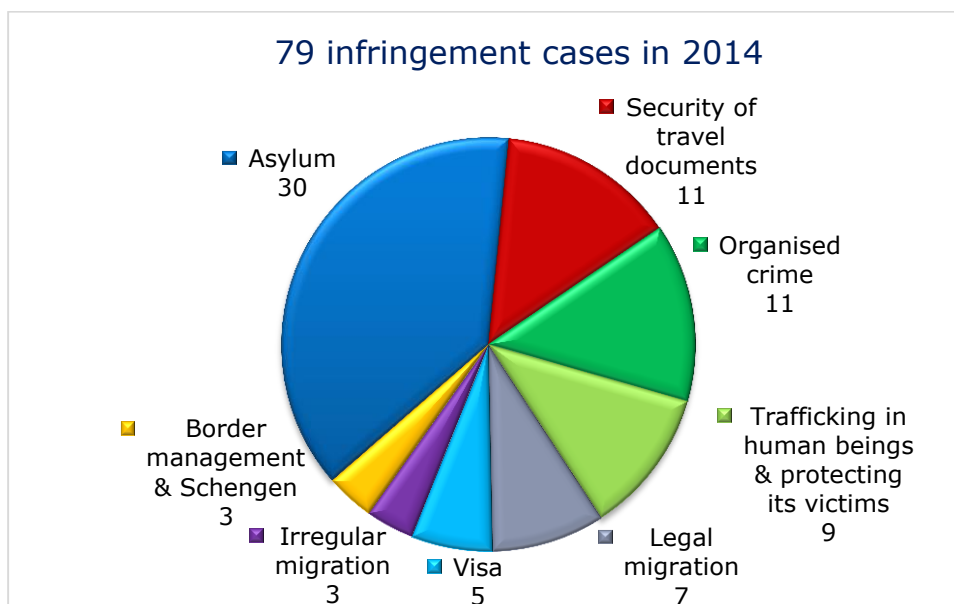
<sup>2</sup> Directive [2008/115/EC](#).

## IV. INFRINGEMENT CASES

## 1. Infringement cases open on 31 December (2010-14)



## 2. Infringement cases open on 31 December 2014: main policy sectors



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 58 new infringement cases in 2014, among which:
- *Cyprus*: the alleged systematic detention of certain categories of asylum applicants without properly assessing the necessity of detention, and the lack of an effective remedy against detention orders;<sup>3</sup>
  - *Germany, Greece and Italy*: nonconformity of national legislation with the Return Directive<sup>4</sup>, on aspects such as an effective

<sup>3</sup> In breach of Council Directives [2003/9/EC](#), [2005/85/EC](#) and Article 47 of the EU Charter of Fundamental Rights.

<sup>4</sup> Directive [2008/115/EC](#).

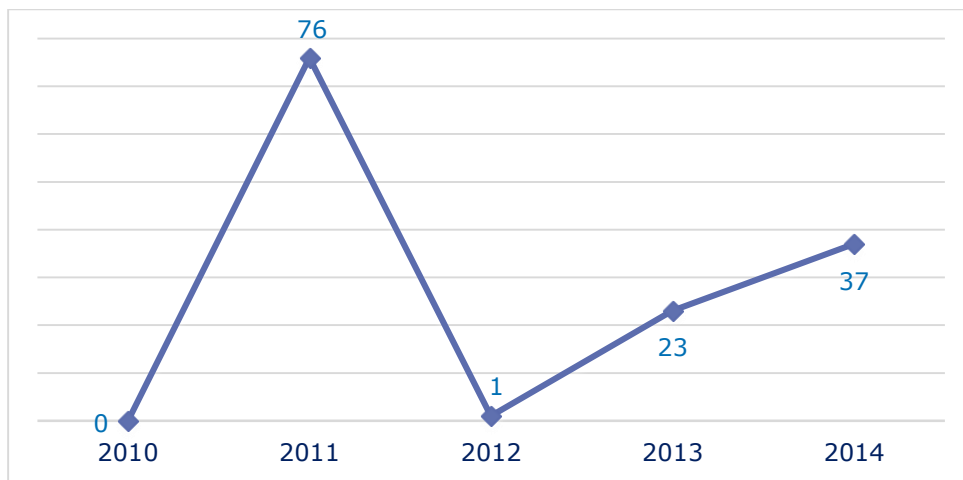
forced-return monitoring system, criminalisation of irregular stays, and detention and detention conditions;

- *Germany*: non-compliance of German legislation on checks on persons at internal borders with the abolition of internal border controls (Articles 20 and 21 of the Schengen border code;<sup>5</sup>
- *Italy*: the alleged denial of access to the asylum procedure to migrants arriving from Greece<sup>6</sup> who may need international protection (under the Dublin Regulation<sup>7</sup>).

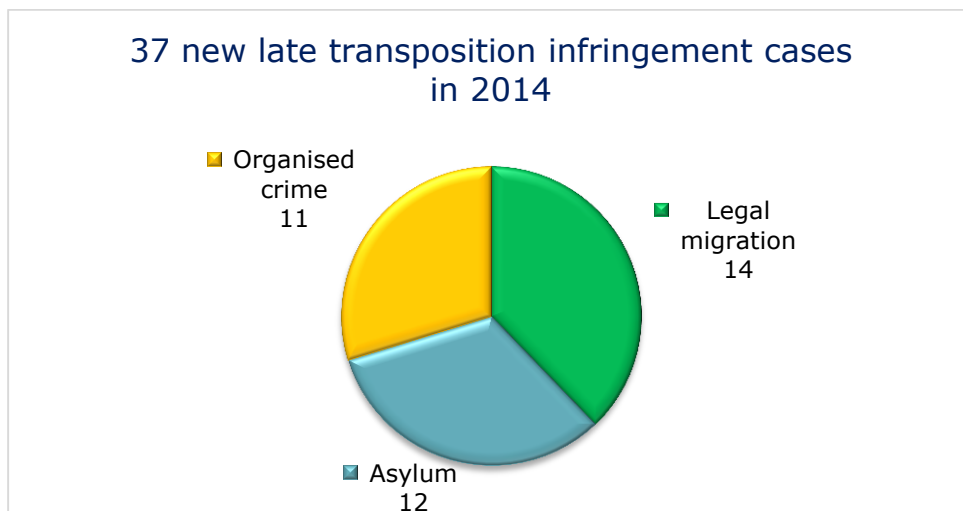
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors



<sup>5</sup> Regulation (EC) No [562/2006](#).

<sup>6</sup> In breach of Council Directive [2005/85/EC](#).

<sup>7</sup> Council Regulation (EC) No [343/2003](#).

### 3. Key infringement cases and referrals to the Court

- a) The Commission opened 37 cases for late transposition, concerning:
- the directive on the single permit for non-EU nationals (Austria, Belgium, Cyprus, Czech Republic, Finland, Greece, Hungary, Italy, Lithuania, Malta, Netherlands, Romania, Spain and Slovenia);<sup>8</sup>
  - the directive setting out the standards for: allowing non-EU nationals or stateless people to qualify for international protection; a single status for refugees or for people eligible for subsidiary protection; the content of the protection granted (Bulgaria, Cyprus, Finland, France, Hungary, Italy, Malta, Poland, Portugal, Romania, Slovenia and Spain);<sup>9</sup>
  - the directive on combating the sexual abuse and sexual exploitation of children and child pornography (Belgium, Cyprus, Greece, Hungary, Italy, Malta, Netherlands, Portugal, Romania, Spain and United Kingdom).<sup>10</sup>
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2014

These concerned:

- the late transposition of the directive on preventing and combating trafficking in human beings and protecting its victims<sup>11</sup> (Cyprus, Ireland, Malta and Netherlands).

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

There were no Court rulings in 2014.

### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- Member States may impose the requirement that both the applicant and the spouse must have reached the age of 21 by the time they apply for a residence permit for the purpose of family reunification, a measure to prevent forced marriages.<sup>12</sup>
- the Data Retention Directive<sup>13</sup> is invalid. The retention of data required by the directive might be considered appropriate to meet the objective of fighting organised crime and terrorism, and therefore of improving public security. However, the directive's wide-ranging and serious interference with the fundamental rights to respect of private life and to protection of personal data is not sufficiently limited to what is strictly necessary.<sup>14</sup>

<sup>8</sup> Directive [2011/98/EU](#).

<sup>9</sup> Directive [2011/95/EU](#).

<sup>10</sup> Directive [2011/92/EU](#).

<sup>11</sup> Directive [2011/36/EU](#).

<sup>12</sup> Noorzia, [C-338/13](#) and Court press release No [108/14](#).

<sup>13</sup> Directive [2006/24/EC](#).

<sup>14</sup> Digital Rights Ireland and Seitlinger and Others, [C-293/12](#) and [C-594/12](#) and Court press release No [54/14](#).

- a national court reviewing an extension of the detention of an illegally staying non-EU national must be able to make an independent decision, whether or not it agrees with the authority that ordered the initial detention. In addition, any extension of the detention must be made in writing, and must include reasons in fact and in law. It is subject to a court review of its legality.<sup>15</sup>
- under EU asylum law,<sup>16</sup> the interpretation of 'internal armed conflict' must be independent from the definition used in international humanitarian law. An internal armed conflict exists if a State's armed forces confront one or more armed groups or if two or more armed groups confront each other, regardless of the intensity of the confrontations, the level of organisation of the armed forces involved, or the duration of the conflict.<sup>17</sup>
- the requirement<sup>18</sup> that the spouse of a Turkish national residing in a Member State should prove their basic knowledge of the official language of that Member State as a condition for issuing a visa for family reunification is incompatible with the standstill clause of the additional protocol to the EC-Turkey association agreement.<sup>19</sup>
- Member States must admit to their territory non-EU nationals who wish to stay for more than three months for study purposes, if they meet the conditions for admission under EU law<sup>20</sup> and if one of the grounds expressly listed by EU law as justification for refusing a residence permit cannot be invoked.<sup>21</sup>
- national authorities must ensure the respect of fundamental rights when assessing the credibility of the declared sexual orientation of applicants for asylum. This excludes intrusive and humiliating medical or pseudo-medical tests, intrusive questioning and requiring photographic or video evidence of sexual practices. The assessment cannot be based on stereotyped notions and should always take full account of the individual situation and personal circumstances of the applicant.<sup>22</sup>
- a Member State cannot require a descendant applying for a residence permit to prove that s/he has unsuccessfully tried to find work or to obtain a subsistence allowance in his/her country of origin.<sup>23</sup>

## VIII. OUTLOOK

### Important implementation work in 2015 includes:

- monitoring the implementation of EU law (Council framework decisions and decisions) in the area of police cooperation;
- monitoring the pre-integration conditions for family reunification under the Family Reunification Directive<sup>24</sup>, in the light of the preliminary rulings<sup>25</sup> to be delivered in 2015;

<sup>15</sup> Mahdi, [C-146/14 PPU](#) and Court press release No [80/14](#).

<sup>16</sup> Council Directive [2004/83/EC](#).

<sup>17</sup> Diakite, [C-285/12](#) and Court press release No [12/14](#).

<sup>18</sup> This requirement is not compatible with the 'standstill clause' of the Association Agreement with Turkey.

<sup>19</sup> Dogan, [C-138/13](#) and Court press release No [96/14](#).

<sup>20</sup> Council Directive [2004/114/EC](#).

<sup>21</sup> Ben Alaya, [C-491/13](#) and Court press release No [120/14](#).

<sup>22</sup> Joined cases A, B, C, [C-148/13 to C-150/13](#) and Court press release No [162/14](#).

<sup>23</sup> Reyes, [C-423/12](#), [CJE/6/14](#).

<sup>24</sup> Directive [2003/86/EC](#).

- monitoring implementation of the right to appeal against the refusal, annulment or revocation of a visa under the Visa Code Regulation,<sup>26</sup> also in the light of the Koushkaki Court ruling;<sup>27</sup>
- monitoring implementation of the new Schengen evaluation mechanism to verify correct implementation of the Schengen acquis;<sup>28</sup>
- continuation of the conformity assessments for the Long-Term Resident Directive,<sup>29</sup> the Single Permit Directive,<sup>30</sup> the Family Reunification Directive,<sup>31</sup> the Return Directive<sup>32</sup>, and the Employers Sanctions Directive;<sup>33</sup>
- the launch of conformity assessments for the directive on common procedures for granting and withdrawing international protection<sup>34</sup> and the directive laying down standards for the reception of applications for international protection.<sup>35</sup>

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<sup>25</sup> K and A, [C-153/14](#).

<sup>26</sup> Regulation (EC) No [810/2009](#).

<sup>27</sup> Koushkaki, [C-84/12](#).

<sup>28</sup> Regulation (EC) No [1053/2013/EU](#).

<sup>29</sup> Council Directive [2003/109/EC](#).

<sup>30</sup> Directive [2011/98/EU](#).

<sup>31</sup> Directive [2003/86/EC](#).

<sup>32</sup> Directive [2008/115/EC](#).

<sup>33</sup> Directive [2009/52/EC](#).

<sup>34</sup> Directive [2013/32/EU](#).

<sup>35</sup> Directive [2013/33/EU](#).

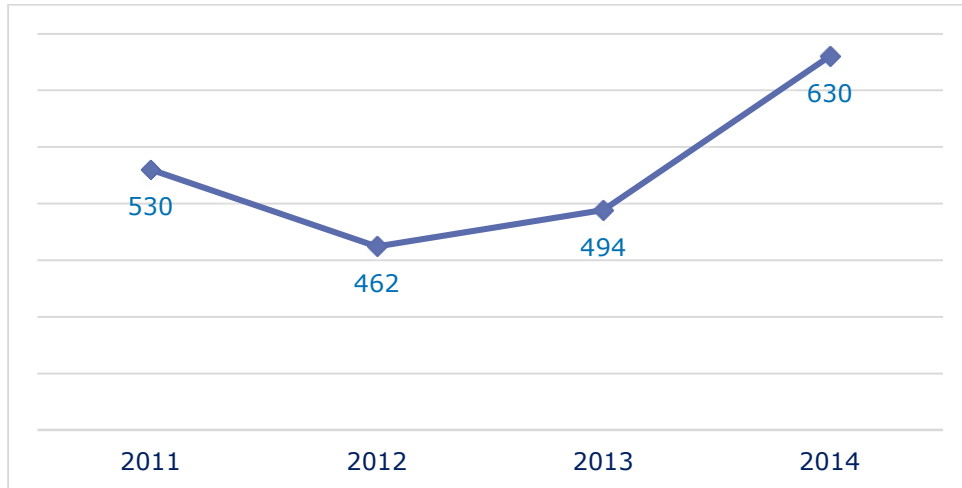
## INTERNAL MARKET AND SERVICES

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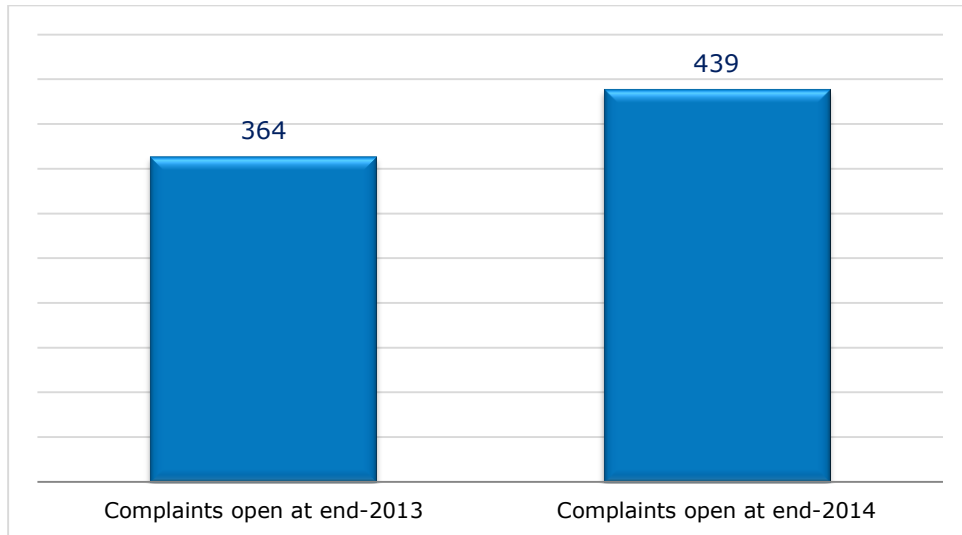
In 2014, the Commission received its highest number of new complaints in the area of single market and services since 2011. Over the same period, the number of new EU Pilot files opened remained stable. In 2014, the number of infringement cases pending at the end of the year continued to decrease. Although the number of new late transposition cases increased in 2014, it was below the peak reached in 2011.

### I. COMPLAINTS

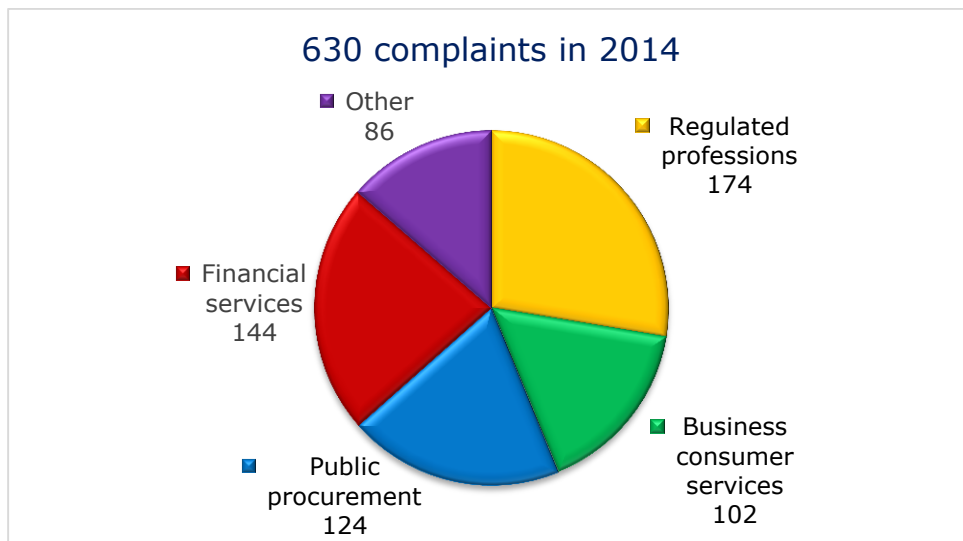
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

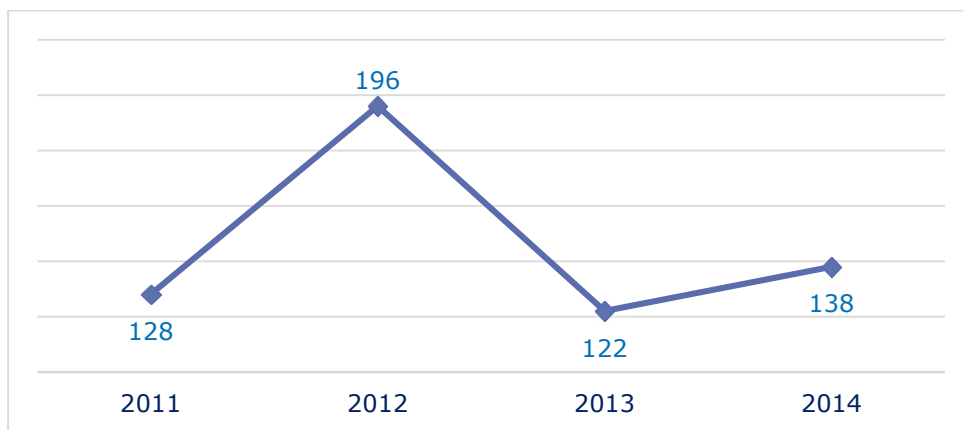


3. New complaints registered in 2014: main policy sectors

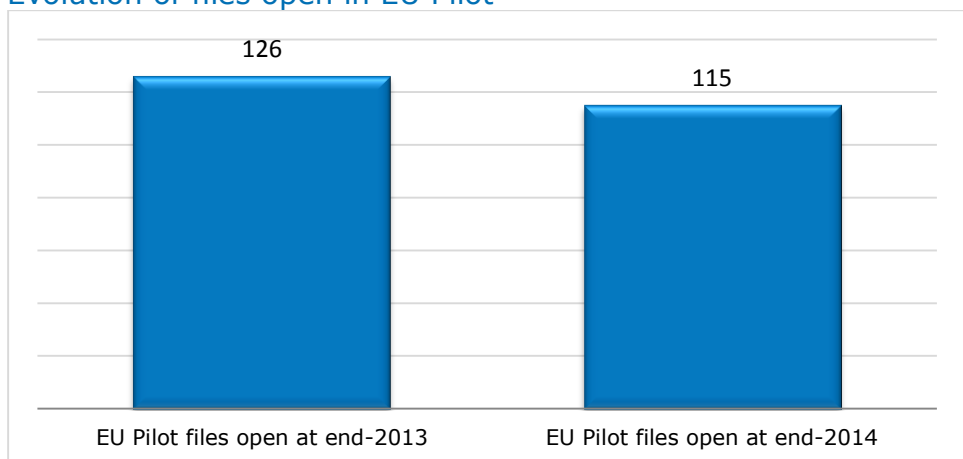


II. EU PILOT

1. New EU Pilot files (2011-14)



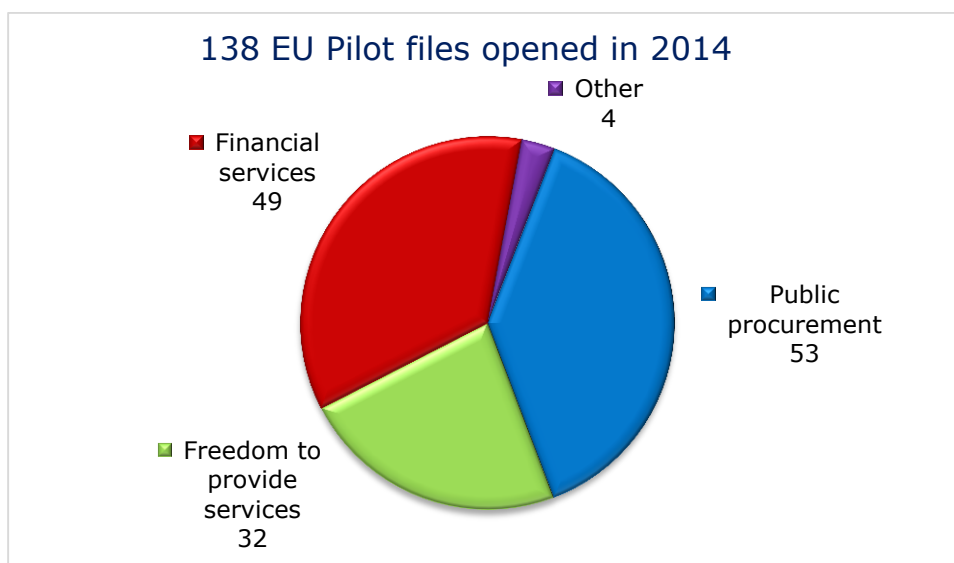
2. Evolution of files open in EU Pilot<sup>1</sup>



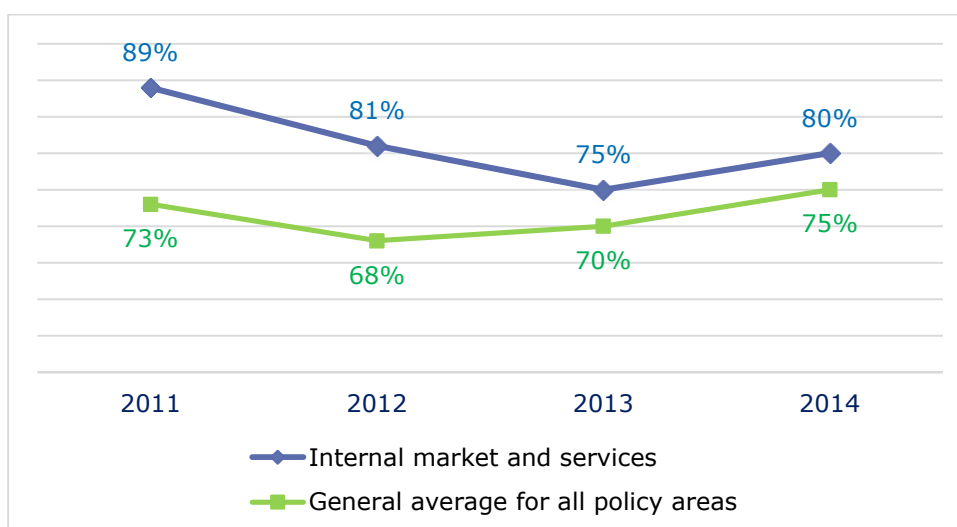
<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.



### 3. New EU Pilot files opened in 2014: main policy sectors



### 4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



## III. OWN-INITIATIVE CASES

### New own-initiative infringement cases

The Commission opened major own-initiative infringement cases in 2014 concerning:

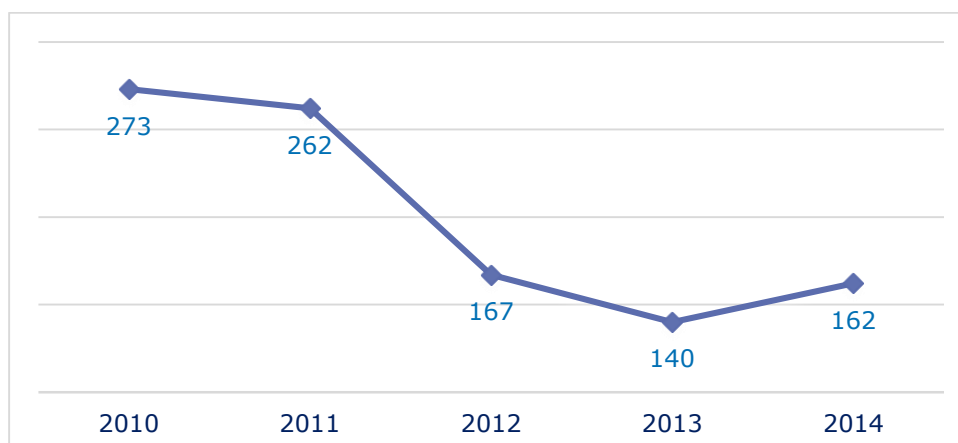
- the requirements of a legal form, shareholding and tariffs provided for in Article 15 of the Services Directive;<sup>2</sup>
- depositors' protection (provided for in the directive on deposit-guarantee schemes).<sup>3</sup>

<sup>2</sup> Directive [2006/123/EC](#).

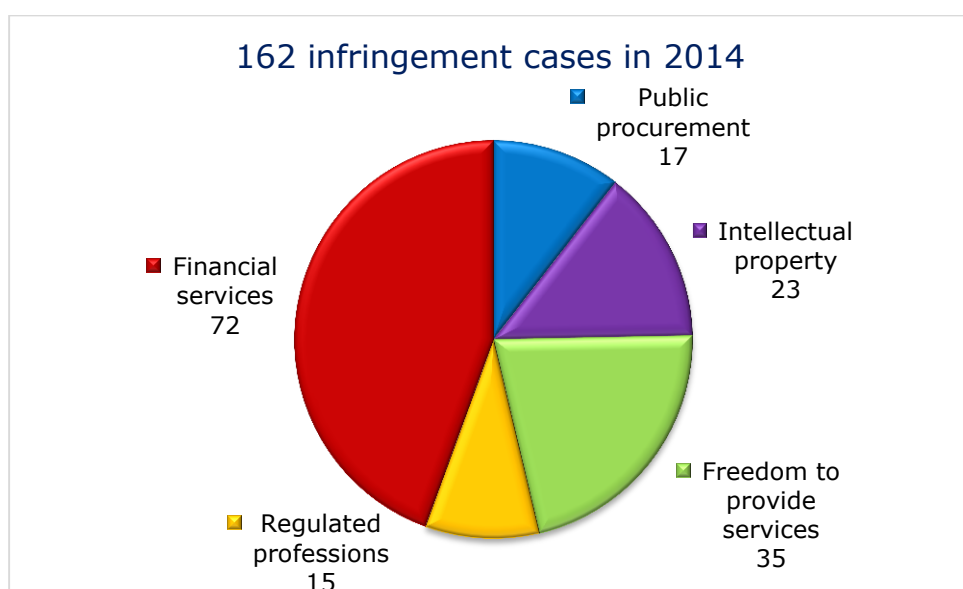
<sup>3</sup> Directive [1994/19/EC](#).

## IV. INFRINGEMENT CASES

## 1. Infringement cases open on 31 December (2010-14)



## 2. Infringement cases open on 31 December 2014: main policy sectors



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 112 new infringement cases in 2014, among which:
- *Bulgaria*: incorrect transposition of the directive on deposit-guarantee schemes and disproportionate restriction of the free movement of capital.<sup>4</sup> Two banks have been put into receivership with a complete suspension of payments and bank activities, and depositors have not had access to their funds for three months.<sup>5</sup>
  - *Croatia*: the law on privatising the *Industrija Nafta d.d. (INA)* energy company, which grants the Croatian State significant special powers over the INA; these seem to be unjustified restrictions to the free movement of capital.

<sup>4</sup> Directive [1994/19/EC](#).

<sup>5</sup> [IP/14/1041](#).

- *Hungary*: the award of a contract for the development and operation of an e-tolling system on the Hungarian motorways without a prior competitive procedure.<sup>6</sup>
  - *Hungary*: the so-called 'Plaza Stop Law', which banned the construction and expansion of retail outlets larger than 300 m<sup>2</sup> from January 2012 until December 2014. A government decree introduced the possibility of requesting an exemption from this ban, but the criteria for granting an exemption were unclear and included a potential 'economic needs' test.
  - *Hungary*: national legislation adopted in December 2013 that on 1 May 2014 terminated all existing usufruct (the right to use land and profit from it) and use rights which had been granted for agricultural land by a contract between parties other than close relatives. This radically shortened the 20-year transitional period adopted in 2012 to four and a half months. The measure has affected people and businesses from other EU Member States that had acquired such rights for an unlimited period of time or who bought lifelong usufruct on small plots of land before 2002.<sup>7</sup>
- b) The Commission referred three cases to the Court under Article 258 TFEU. They concerned:
- *Hungary*: the restrictive issuing conditions for meal and holiday vouchers under the new national legal framework;<sup>8</sup>
  - *Latvia*: the requirement to have Latvian nationality to work as a notary in Latvia;<sup>9</sup>
  - *Poland*: national legislation specifying grounds for exclusion from tenders that differ from those provided for in the Public Procurement Directive.<sup>10</sup> The exclusion concerned economic operators who had been awarded a contract but had failed to perform that contract correctly or had the contract terminated due to circumstances for which they were responsible.<sup>11</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

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<sup>6</sup> For procedural reasons — complete execution of the contract in question — the Commission has decided to close the infringement case.

<sup>7</sup> [IP/14/1152](#).

<sup>8</sup> The Commission decided on 20 June 2013 to refer the case to the Court; the application was filed on 10 April 2014. *Commission v Hungary*, [C-179/14](#), [IP/13/578](#).

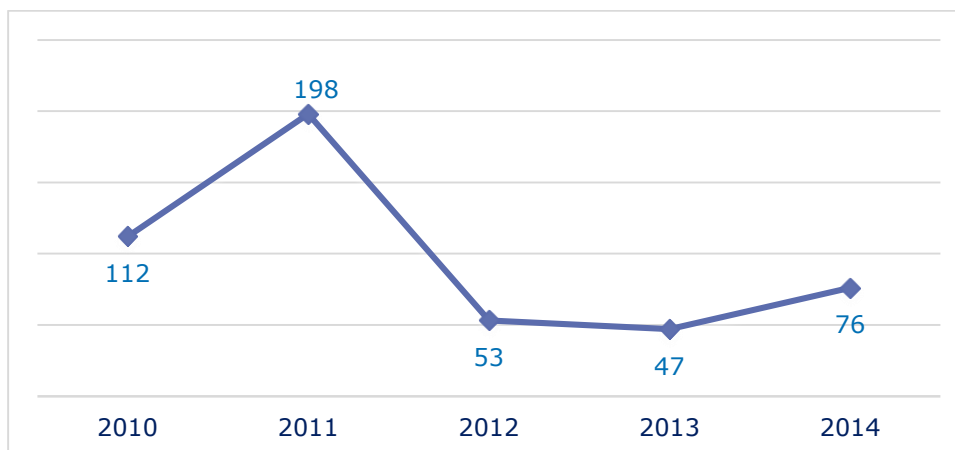
<sup>9</sup> *Commission v Latvia*, [C-151/14](#), [IP/14/48](#).

<sup>10</sup> Directive [2004/18/EC](#).

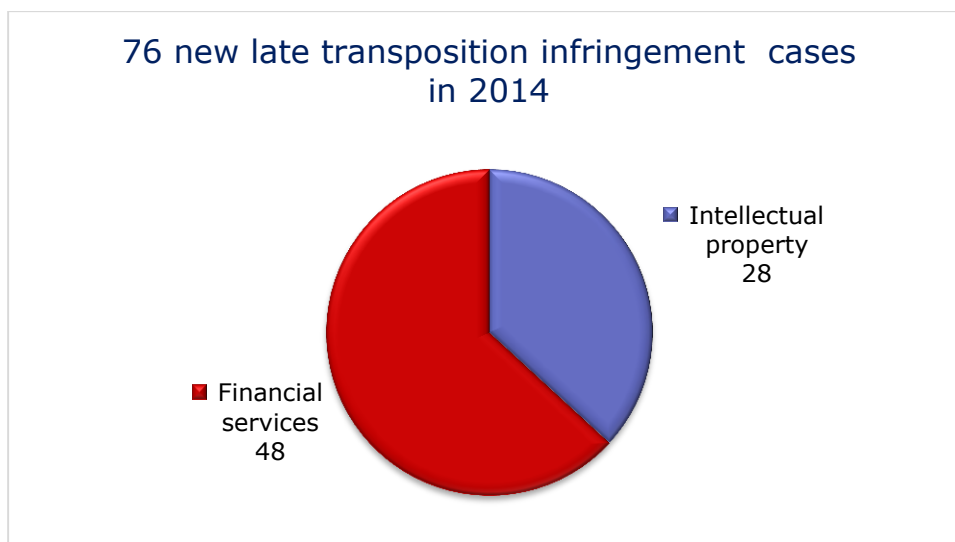
<sup>11</sup> The Commission decided on 17 October 2013 to refer the case to the Court; the application was filed on 4 April 2014. *Commission v Poland*, [C-162/14](#), [IP/13/965](#).

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 76 cases for late transposition. Most concern:
  - the Capital Requirements Directive (27 Member States);<sup>12</sup>
  - the directive on protecting copyright<sup>13</sup> (15 Member States).
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

VI. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

These concerned:

<sup>12</sup> [MEMO/14/589](#).

<sup>13</sup> Directive [2011/77/EU](#).

- *Greece*: award of a contract for providing information technology services to the Social Insurance Foundation (IKA);
- *Greece*: public procurement restrictions for consultants based in Greece and domestic construction companies;
- *Italy*: the Italian authorities' refusal to recognise that holders of the Italian '*Maturita magistrale*' diploma were fully qualified to exercise the profession of primary school teacher in Italy. As a result, holders of this diploma could not work in any other Member State either;
- *Spain*: restrictions on inspection bodies in Catalonia (limited number of inspection bodies, minimum number of offices and sectors, minimum share capital, separate authorisation for Catalonia);
- *Spain*: restrictions on the technical designer profession.

### VII. IMPORTANT JUDGMENTS

#### 1. Court rulings

There were no major Court rulings in 2014.

#### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the demographic criteria applied in Austria for determining whether there is a need to set up a new pharmacy is contrary to the freedom of establishment.<sup>14</sup>
- the EU Copyright Directive<sup>15</sup> does not allow health establishments (SPAs) to be exempt from paying copyright fees. The monopoly granted by Czech legislation to the Czech copyright collecting society (to collect fees on behalf of composers for the use of their musical works) is compatible with the freedom to provide services.<sup>16</sup> Moreover, the grant of this territorial monopoly over the management of copyright is not, as such, contrary to competition rules either (Article 106 in conjunction with Article 102 TFEU).
- Excluding the participation in a tendering procedure of an economic operator who has committed an infringement of competition law established by a judicial decision is allowed under Directive 2004/18/EC; as a consequence such exclusion is also allowed under Articles 49 and 56 TFEU regarding public contracts which fall below the EU thresholds.<sup>17</sup>
- a national of a Member State who qualifies as a lawyer in another Member State has the right to work as a lawyer in his own Member State.<sup>18</sup>
- the in-house exemption (which makes it possible to not apply the public procurement directives) requires, amongst other conditions, that the contracting authority exercises over the contractor a control similar to the control that it exercises over its own departments. This condition is not met if a private undertaking or a non-profit entity makes any investment in the

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<sup>14</sup> Sokoll-Seebacher, [C-367/12](#) and Court press release No [19/14](#).

<sup>15</sup> Directive [2001/29/EC](#).

<sup>16</sup> OSA, [C-351/12](#) and Court press release No [23/14](#).

<sup>17</sup> Generali-Providencia Biztosító, [C-470/13](#).

<sup>18</sup> Torresi, [C-58/13](#), [CJE/14/59](#).

capital of a company of which the awarding authority is also part.<sup>19</sup>

- an unfertilised human ovum whose division and further development have been stimulated by parthenogenesis does not constitute a 'human embryo' within the meaning of Article 6(2)(c) of the directive on the legal protection of biotechnological inventions<sup>20</sup> if, in the light of current scientific knowledge, it is not capable of developing into a human being.<sup>21</sup>

### VIII. OUTLOOK

#### Important implementation work in 2015 includes:

- *Gambling area*: the resolution of infringement cases and the investigation of compliance of national rules with EU law in the area of gambling services (with a focus on online gambling).
- *Regulated professions*: follow-up of the transparency exercise regarding the regulation of professions in Member States (started in 2013). In 2014, the exercise covered the professions of driving instructor, real estate agent, architect, civil engineer, electrician and optician (for the real estate, transport, business services, constructions and retail sectors). Member States will have to provide national actions plans for these sectors by April 2015.<sup>22</sup> Meetings to discuss other professions are also scheduled in 2015.
- *Deposit-guarantee schemes*: transposition of and compliance checks on the directive on deposit-guarantee schemes.<sup>23</sup> Implementation of the expected judgment of the Court in the case on investor-compensation schemes and deposit-guarantee schemes (preliminary ruling from a Lithuanian court).<sup>24</sup>
- *Bank resolution*: transposition of and compliance checks on the Bank Recovery and Resolution Directive.<sup>25</sup>
- *EU insurance framework*: monitoring of the implementation of the Solvency II Directive.<sup>26</sup>

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<sup>19</sup> Centro Hospitalar de Setúbal and SUCH, [C-574/12](#).

<sup>20</sup> Directive [98/44/EC](#).

<sup>21</sup> International Stem Cell Corporation, [C-364/13](#).

<sup>22</sup> According to Communication [COM\(2013\) 676](#).

<sup>23</sup> Directive [2014/49/EU](#).

<sup>24</sup> Indėlių ir investicijų draudimas and Nemaniūnas, [C-671/13](#).

<sup>25</sup> Directive [2014/59/EU](#).

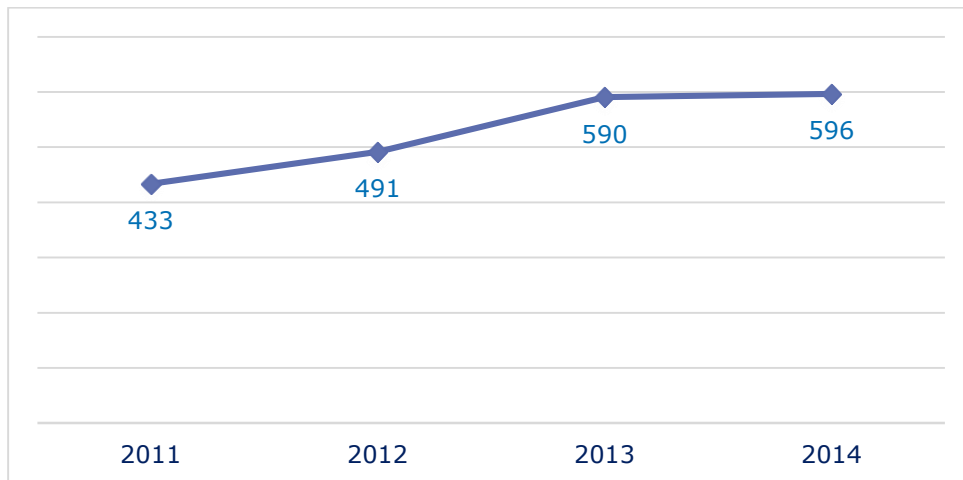
<sup>26</sup> Directive [2014/51/EU](#).

## JUSTICE

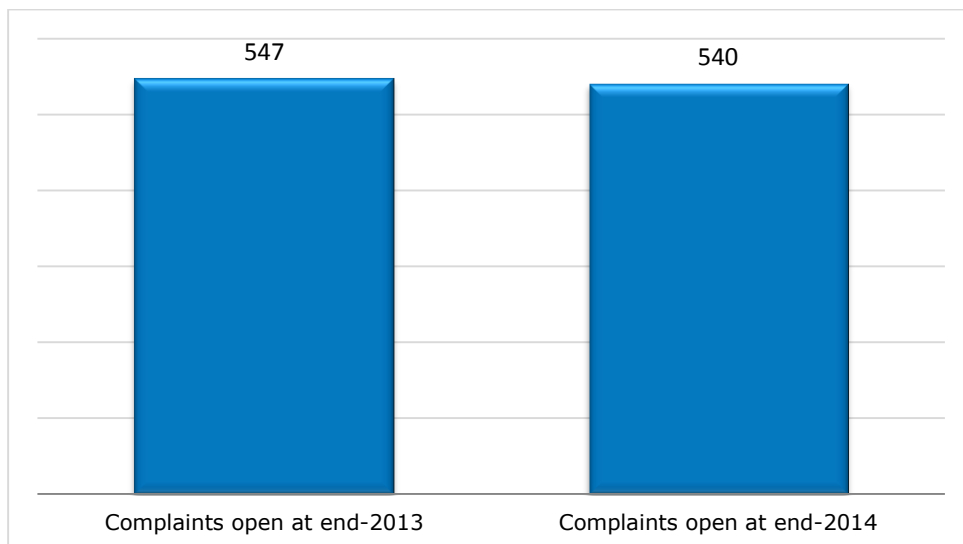
In 2014, the Commission received its highest number of new complaints in the field of justice since 2011. Over the same period, the number of new EU Pilot files decreased considerably. The number of pending infringement cases in 2014 was at its highest since 2011, continuing the increasing trend. Although the number of new late transposition cases increased in 2014, it was below the peak reached in 2011.

### I. COMPLAINTS

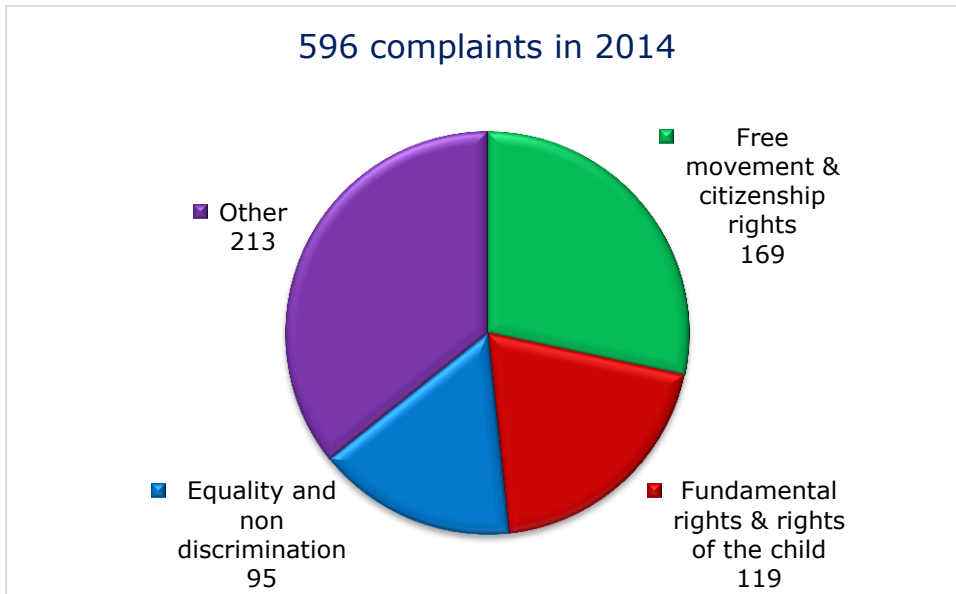
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

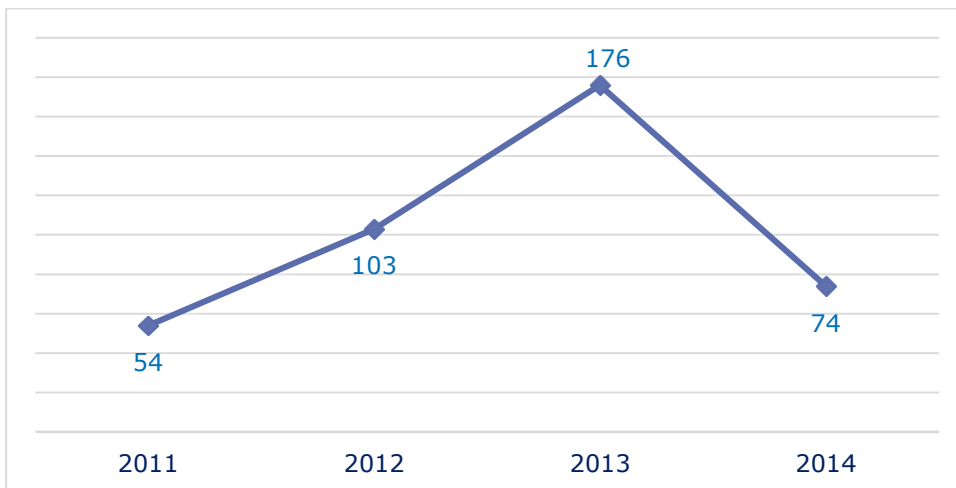


3. New complaints registered in 2014: main policy sectors



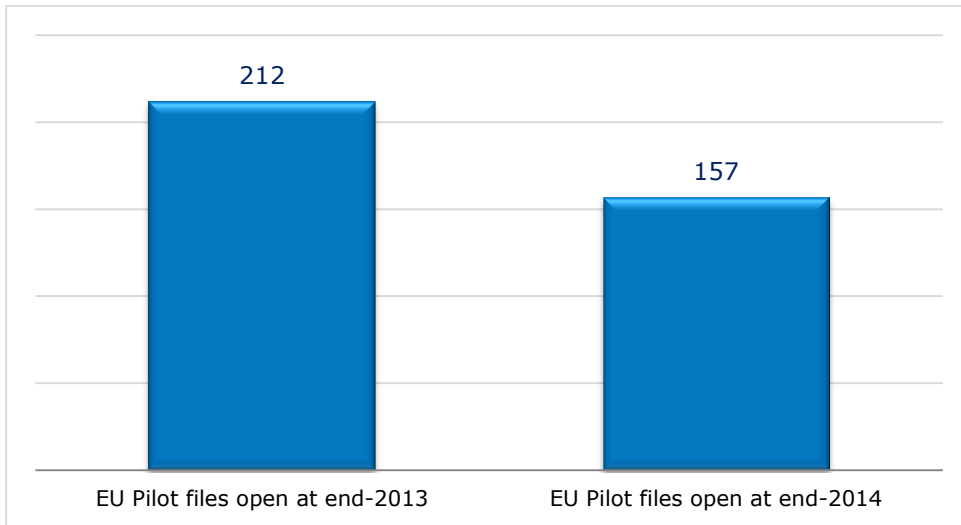
II. EU PILOT

1. New EU Pilot files (2011-14)

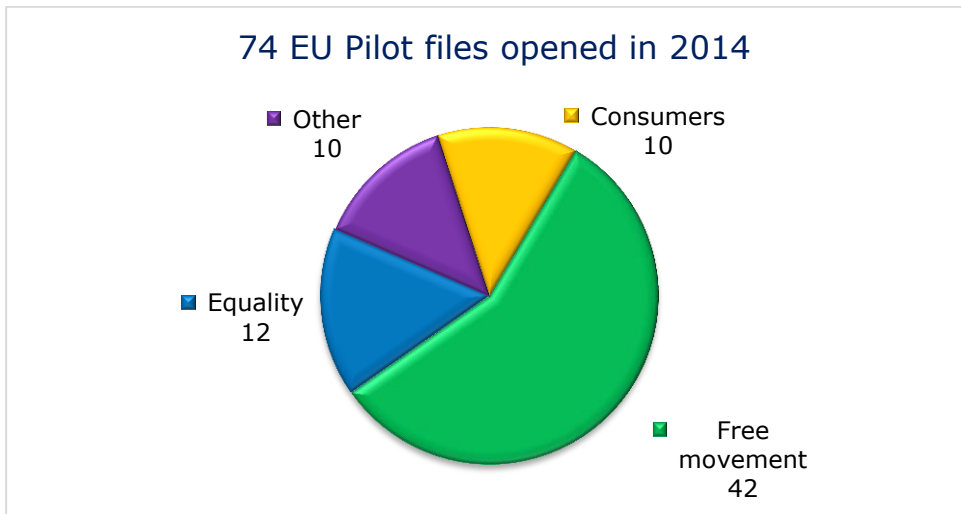




2. Evolution of files open in EU Pilot<sup>1</sup>

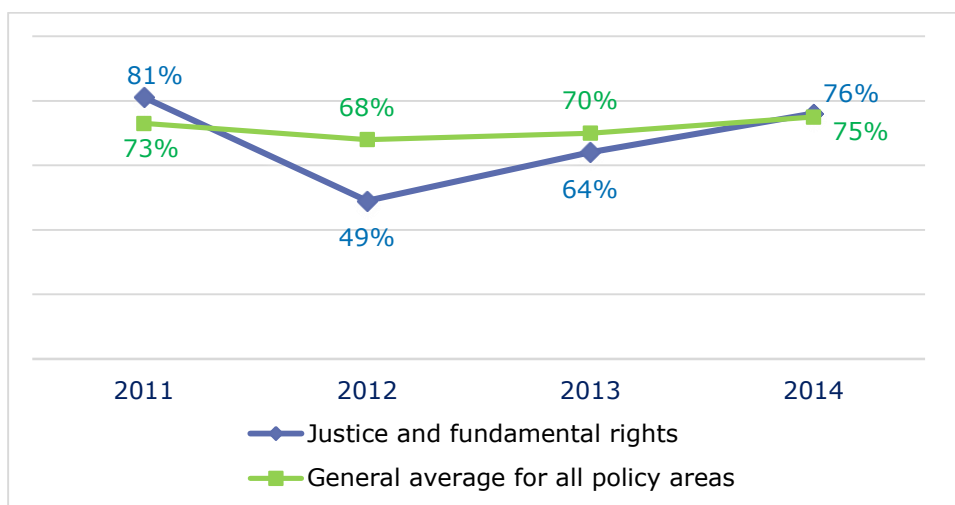


3. New EU Pilot files opened in 2014: main policy sectors



<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

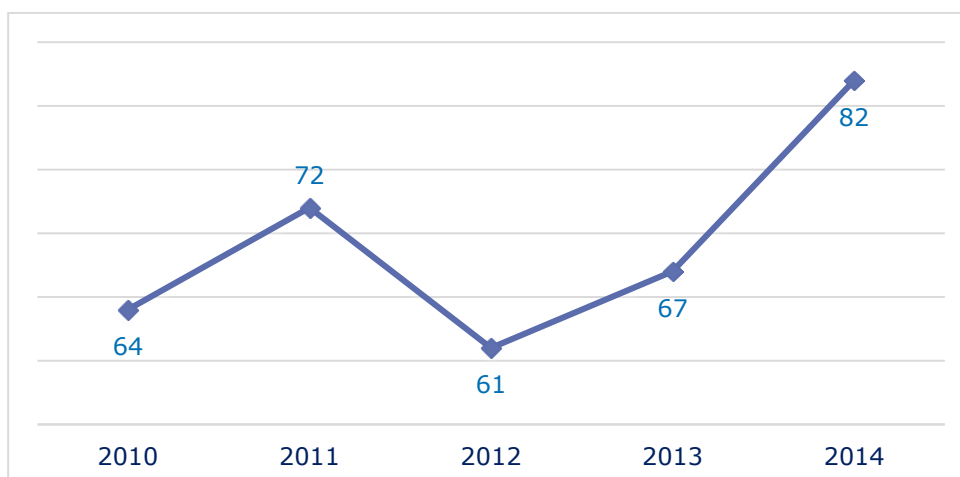
New own-initiative infringement cases

The Commission opened own-initiative infringement cases in 2014 concerning:

- The Unfair Commercial Practices Directive:<sup>2</sup> the Commission sent letters of formal notice to Croatia, Denmark, Finland, Malta and Sweden for inadequate transposition of the directive, in addition to the letters already sent to Austria, Czech Republic, Cyprus, Germany, Italy, Poland, Portugal and Slovakia in 2013;
- The Timeshare Directive:<sup>3</sup> the Commission sent a letter of formal notice to Romania for inadequate transposition of the directive.

IV. INFRINGEMENT CASES

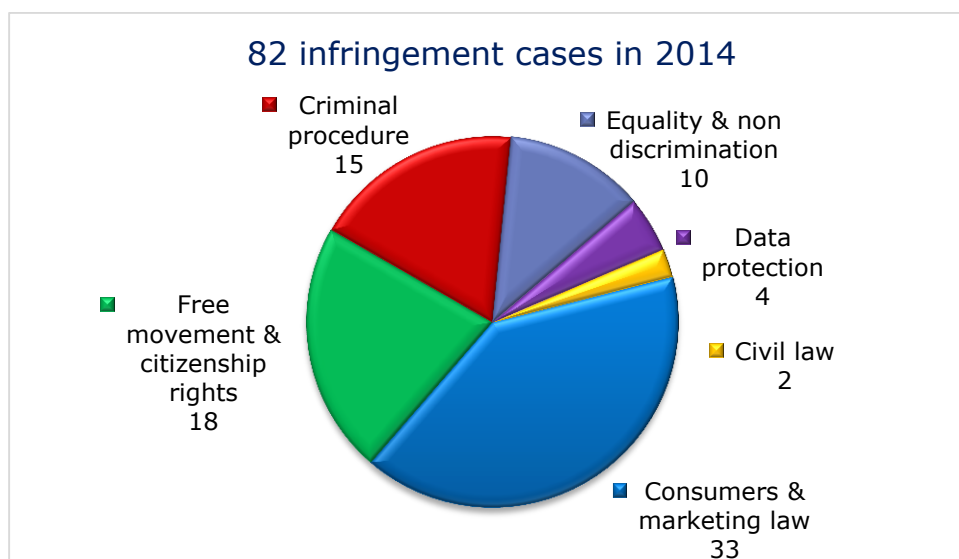
1. Infringement cases open on 31 December (2010-14)



<sup>2</sup> Directive [2005/29/EC](#).

<sup>3</sup> Directive [2008/122/EC](#).

## 2. Infringement cases open on 31 December 2014: main policy sectors



## 3. Key infringement cases and referrals to the Court

- a) The Commission opened 53 new infringement cases in 2014, among which:
- *Czech Republic*: nonconformity with the Racial Equality Directive<sup>4</sup> due to discrimination of Roma children by disproportionately and systematically placing them in special schools meant for children with disabilities;
  - *Ireland*: failure to accept applications for a residence card lodged by family members during their first three months of residence, in breach of the directive on the right of EU citizens and their family members to move and reside freely within the territory of the Member States.<sup>5</sup>
- b) The Commission referred two cases to the Court under Article 258 TFEU. They concerned:
- *Finland*: nonconformity with the Racial Equality Directive<sup>6</sup> due to deficiencies in the competences of the national equality body which provides assistance to victims of discrimination;<sup>7</sup>
  - *Italy*: nonconformity with the directive on compensation for crime victims<sup>8</sup> due to the fact that Italian legislation only provides for compensation to victims of certain violent intentional crimes, such as terrorism and organised crime, but not for all of them.<sup>9</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

<sup>4</sup> Directive [2000/43/EC](#).

<sup>5</sup> Directive [2004/38/EC](#).

<sup>6</sup> Directive [2000/43/EC](#).

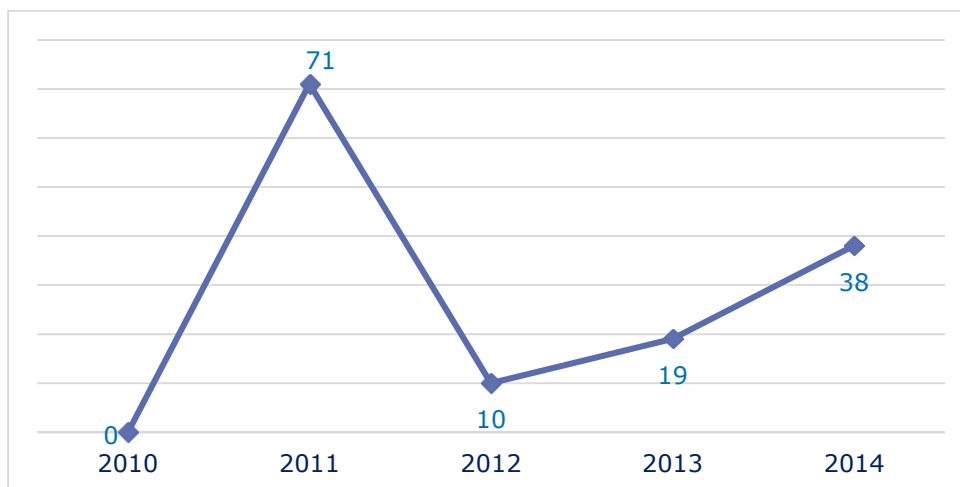
<sup>7</sup> Commission v Finland, [C-538/14](#), [IP/14/811](#).

<sup>8</sup> Council Directive [2004/80/EC](#).

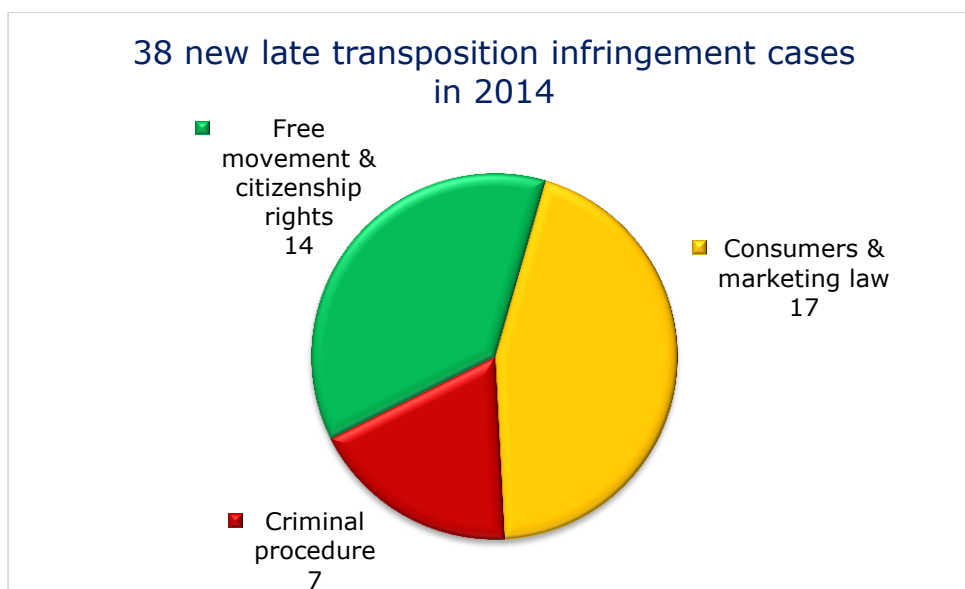
<sup>9</sup> Commission v Italy, [C-601/14](#), [IP/14/1146](#).

V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 38 cases due to the late transposition of:
- the Consumers' Rights Directive<sup>10</sup> (Austria, Belgium, Bulgaria, Croatia, Finland, France, Hungary, Italy, Luxembourg, Latvia, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain);
  - the directive<sup>11</sup> amending a directive<sup>12</sup>, on certain detailed arrangements for exercising the right to stand as a candidate in European Parliament elections, for EU nationals residing in a Member State of which they are not nationals (Belgium, Bulgaria,

<sup>10</sup> Directive [2011/83/EU](#).

<sup>11</sup> Council Directive [2013/1/EU](#).

<sup>12</sup> Council Directive [93/109/EC](#).

Czech Republic, Denmark, France, Greece, Italy, Lithuania, Malta, Poland, Romania, Spain, Slovakia and Sweden);

- the directive on the right to information in criminal proceedings (Cyprus, Czech Republic, Luxembourg, Malta, Slovenia, Slovakia and Spain).<sup>13</sup>

b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

### 4. Major cases closed without a Court judgment in 2014

These concerned:

- *Germany*, as it modified its legislation on door-to-door sales so that consumers are now guaranteed effective protection in all cases covered by the directive on protecting the consumer in contracts negotiated away from business premises.<sup>14</sup>

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

The Court ruled that:

- *Belgium* infringed Union law by excluding members of a profession, (dentists and physiotherapists) from the scope of the law which transposes the Unfair Commercial Practices Directive,<sup>15</sup> by imposing restrictive rules on the announcement of price reductions, and by banning door-to-door sales for products above EUR 250.<sup>16</sup>
- *Hungary* infringed Union law by ending the term served by its data protection supervisor before the expiry of the term of office. The independence of the authorities responsible for data protection, as detailed in the Data Protection Directive<sup>17</sup>, requires Member States to allow them to serve their full term of office.<sup>18</sup>

### 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the notion of "final judgment" under the "ne bis in idem" principle (Article 54 of the Convention implementing the Schengen Agreement (CISA)) includes an order making a finding that there is no ground to refer a case to a trial court which precludes, in the State in which that order was made, to bring new criminal proceedings in respect of the same acts against the person to whom that finding applies, unless new facts and/or evidence against that person come to light; such an order precludes new proceedings against the same person in respect of the same acts in another State;<sup>19</sup>

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<sup>13</sup> Directive [2012/13/EU](#).

<sup>14</sup> Council Directive [85/577/EC](#).

<sup>15</sup> Directive [2005/29/EC](#).

<sup>16</sup> Commission v Belgium, [C-421/12](#).

<sup>17</sup> Directive [95/46/EC](#).

<sup>18</sup> Commission v Hungary, [C-288/12](#) and Court press release No [53/14](#).

<sup>19</sup> M., [C-398/12](#).

- the Court upheld the validity of the enforcement condition in the "*ne bis in idem*" principle (Article 54 CISA) requiring that, upon conviction and sentencing, the penalty imposed 'has been enforced' or is 'actually in the process of being enforced';<sup>20</sup>
- the operation of a camera system installed by an individual in their family home to protect the property and the health and life of the family, but which also monitors a public space, is not considered as processing data for a purely personal or household activity and therefore falls within the scope of the Data Protection Directive;<sup>21</sup>
- the obesity of a worker may be considered a disability covered by the directive on employment equality<sup>22</sup> if it hinders the person's full and effective participation in personal and professional life on an equal basis with other workers;<sup>23</sup>
- Member States are not allowed to take into account the different life expectancies of men and women when calculating the statutory benefits payable due to an accident at work;<sup>24</sup>
- data about an applicant for a residence permit that are contained in an administrative document (including the data in the document's legal analysis) are personal data within the meaning of the Data Protection Directive.<sup>25</sup> The person whose data have been processed may request a full summary of the data in an intelligible form;<sup>26</sup>
- under the Data Protection Directive,<sup>27</sup> the operator of a search engine is obliged to remove from the list of results displayed following a search made on the basis of a person's name links to web pages published by third parties and containing information relating to that person. Before removing such links, the operator must examine whether the data subject has the right to the information in question no longer being linked to his/her name. This is the case if the information on the data subject appears to be inadequate, irrelevant or no longer relevant, or excessive in relation to the purposes for which it was processed. However, such right to erasure is denied if the data subject played a role in public life. In this case, the public interest in accessing all information available on the data subject prevails over the subject's right to deletion of the data;<sup>28</sup>
- a system of enforcement that states that mortgage enforcement proceedings may not be handled by a court of first instance to which the debtor may not bring an appeal is a breach of the directive on unfair terms<sup>29</sup> and Article 47 of the Charter of Fundamental Rights;<sup>30</sup>

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<sup>20</sup> Zoran Spasic, [C-129/14 PPU](#).

<sup>21</sup> Rynes, [C-212/13](#) and Court press release No [175/14](#).

<sup>22</sup> Directive [2000/78/EC](#).

<sup>23</sup> FOA, [C-354/13](#) and Court press release No [183/14](#).

<sup>24</sup> X., [C-318/13](#).

<sup>25</sup> Directive [95/46/EC](#).

<sup>26</sup> YS and others, joined cases [C-141/12](#) and [C-372/12](#).

<sup>27</sup> Directive [95/46/EC](#).

<sup>28</sup> Google Spain and Google, [C-131/12](#) and Court press release No [70/14](#).

<sup>29</sup> Directive [93/13/EEC](#).

<sup>30</sup> Sanchez Morcillo and Abril Garcia, [C-169/14](#).

- Member States are not required to grant maternity leave or adoption leave to a female worker who was a commissioning mother and had a baby through a surrogacy arrangement.<sup>31</sup>

## VIII. OUTLOOK

### Important implementation work in 2015 includes:

- monitoring the timely and correct transposition of the directive on the European Protection Order,<sup>32</sup> the directive establishing the minimum standards on the rights, support and protection of victims of crime,<sup>33</sup> and the directive on alternative dispute resolution for consumer disputes;<sup>34</sup>
- the continuation of the conformity assessments for the directive on the right to interpretation and translation in criminal proceedings,<sup>35</sup> the directive on the right to information in criminal proceedings,<sup>36</sup> the directive on protecting the environment through criminal law,<sup>37</sup> the directive on ship-source pollution,<sup>38</sup> the directive on the free movement of EU nationals and their family members,<sup>39</sup> the directive on the right to stand as a candidate in European Parliament elections for EU nationals residing in a Member State of which they are not nationals,<sup>40</sup> the Consumer Rights Directive,<sup>41</sup> and the Unfair Commercial Practices Directive;<sup>42</sup>
- the launch of conformity assessments for the Parental Leave Directive<sup>43</sup> and the directive on equality between men and women in self-employment;<sup>44</sup>
- follow-up on the application of the regulation on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.<sup>45</sup>

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<sup>31</sup> D., [C-167/12](#) and Court press release No [36/14](#).

<sup>32</sup> Directive [2011/99/EU](#).

<sup>33</sup> Directive [2012/29/EU](#).

<sup>34</sup> Directive [2013/11/EU](#).

<sup>35</sup> Directive [2010/64/EU](#).

<sup>36</sup> Directive [2012/13/EU](#).

<sup>37</sup> Directive [2008/99/EC](#).

<sup>38</sup> Directive [2009/123/EC](#).

<sup>39</sup> Directive [2004/38/EU](#).

<sup>40</sup> Council Directive [2013/1/EU](#).

<sup>41</sup> Directive [2011/83/EU](#).

<sup>42</sup> Directive [2005/29/EC](#).

<sup>43</sup> Directive [2010/18/EU](#).

<sup>44</sup> Directive [2010/41/EU](#).

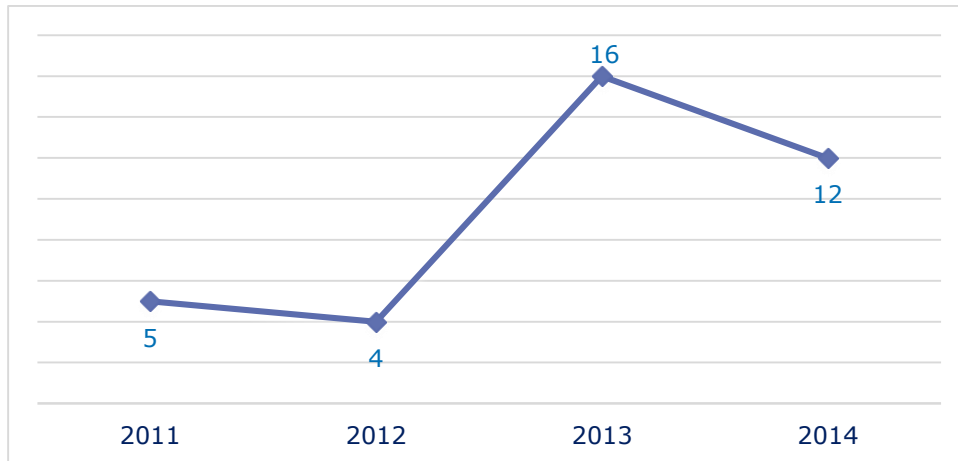
<sup>45</sup> Regulation (EC) No [650/2012](#).

## MARITIME AFFAIRS AND FISHERIES

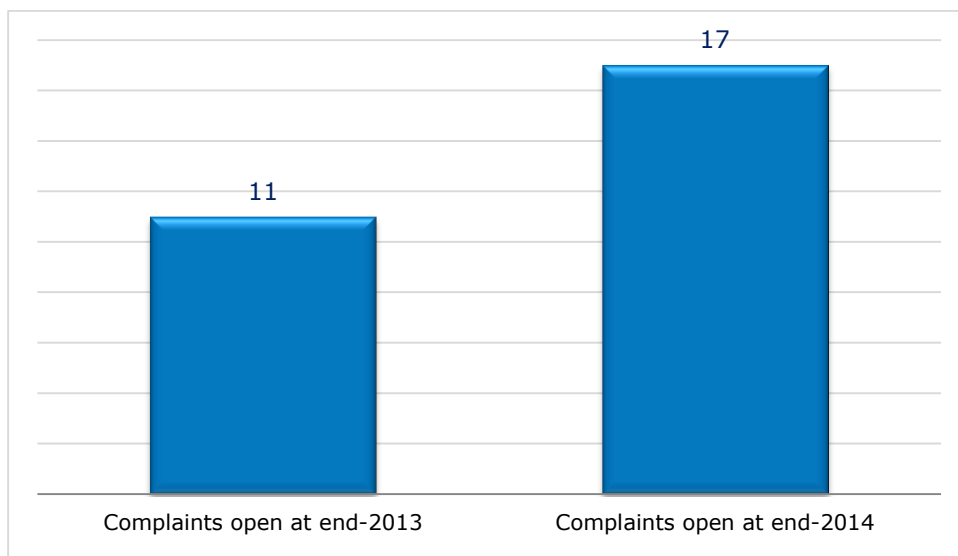
In 2014, the Commission received its second highest number of new complaints in the area of maritime affairs and fisheries since 2011, after a peak in 2013. In 2014, six new EU Pilot files were opened. No infringement cases were opened in the area of maritime affairs and fisheries.

### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)



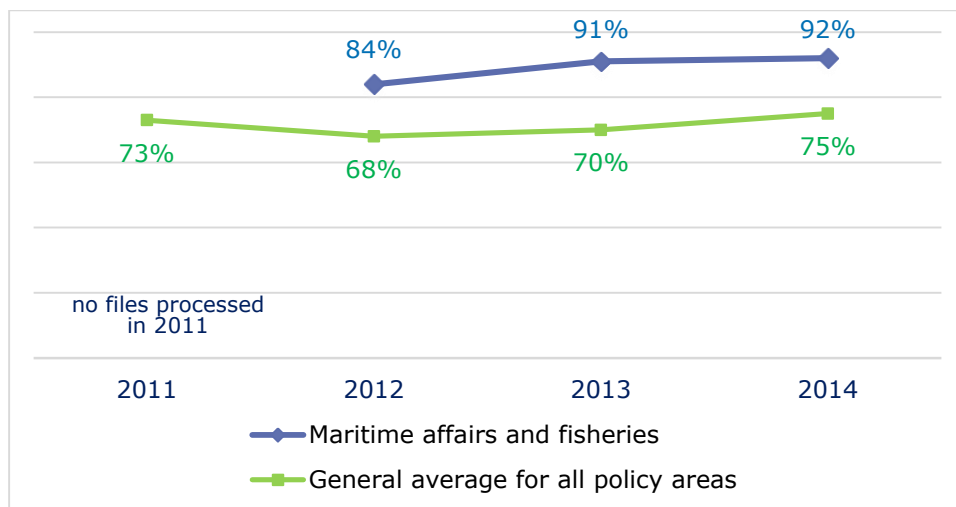
#### 2. Evolution of complaints





II. EU PILOT

EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2014

The Commission did not open any own-initiative infringement cases in 2014.

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- a) The Commission did not open any new infringement cases in 2014.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

They concerned:

- *Italy*: lack of controls on the illegal use of driftnets. Following a Court judgment in October 2009<sup>1</sup>, and in the context of an action plan, Italy agreed to give top priority to implementing additional measures to eradicate illegal driftnet activities. The Commission monitored Italy's implementation of the remedial actions included in the action plan over the first half of 2014.
- *Italy*: several fishing agreements concluded by Italy with non-EU countries were in breach of the EU's exclusive competence in the field of fisheries (the Italian authorities provided evidence that the agreements in question have been terminated).

<sup>1</sup> Commission v Italy, [C-249/08](#).

VI. IMPORTANT JUDGMENTS

1. Court rulings

There were no major Court rulings in the area of maritime affairs and fisheries in 2014.

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- the exclusivity clause contained in Fishing Partnership Agreements concluded between the Union and third countries excludes any possibility for Union vessels to carry out fishing activities on the basis of a licence issued by those third countries without the intervention of the competent EU authorities.<sup>2</sup>

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<sup>2</sup> Ahlström and Others, [C-565/13](#).

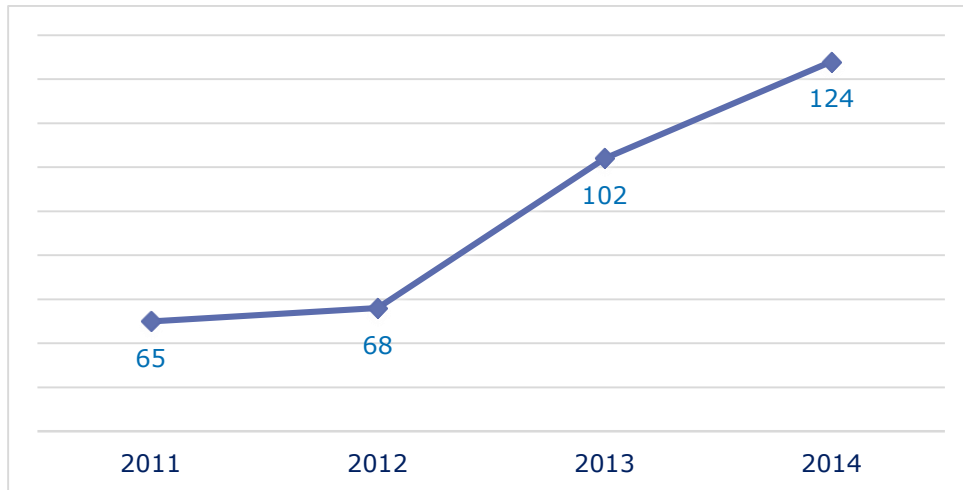
## MOBILITY AND TRANSPORT

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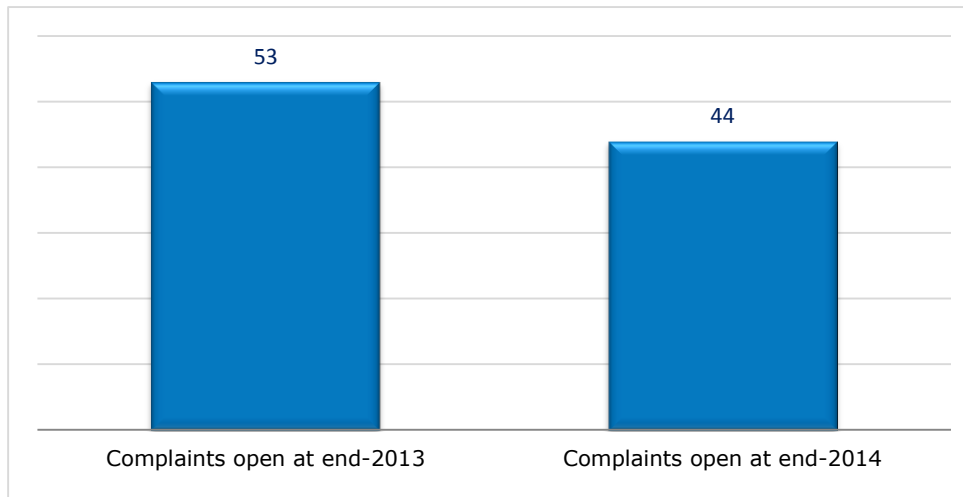
In 2014, the number of new complaints in the area of mobility and transport continued to rise. At the same time, the number of new EU Pilot files continued to decrease. Both the number of new pending infringement cases and the number of new late transposition infringement cases increased again in 2014, for the first time since 2011.

### I. COMPLAINTS

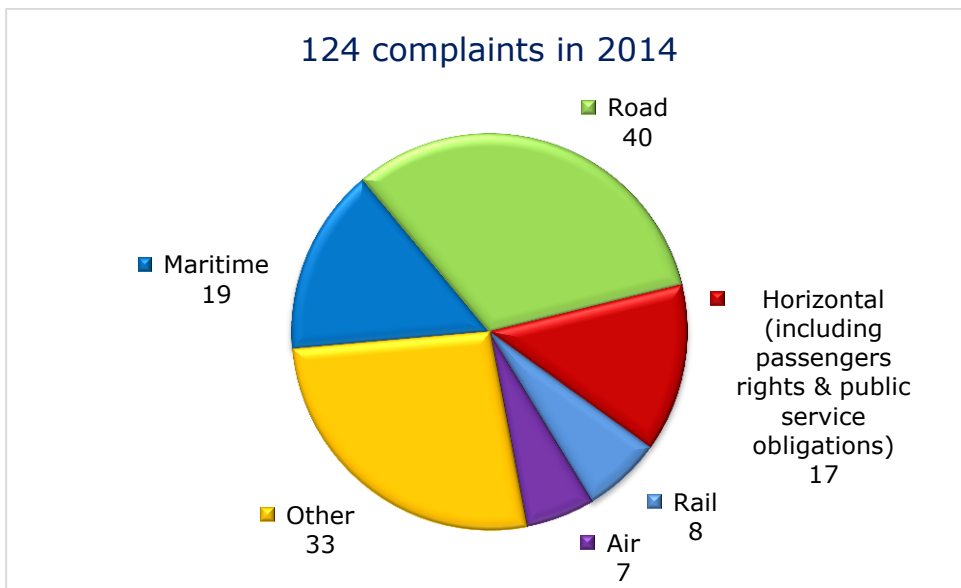
#### 1. New complaints received from members of the public (2011-14)



#### 2. Evolution of complaints

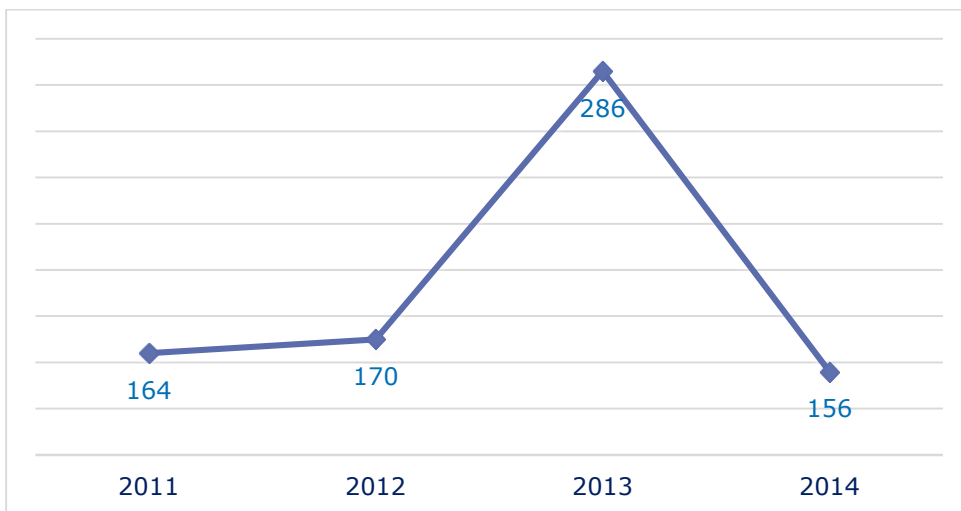


3. New complaints registered in 2014: main policy sectors

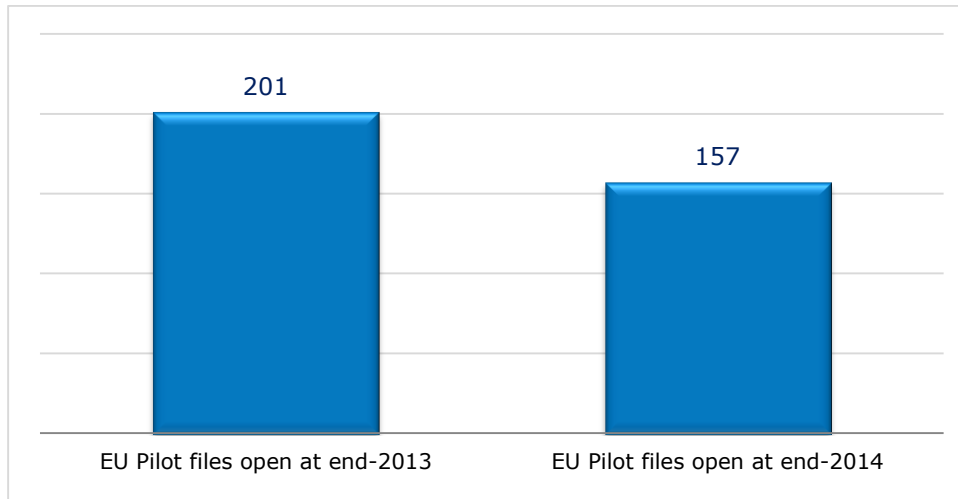


II. EU PILOT

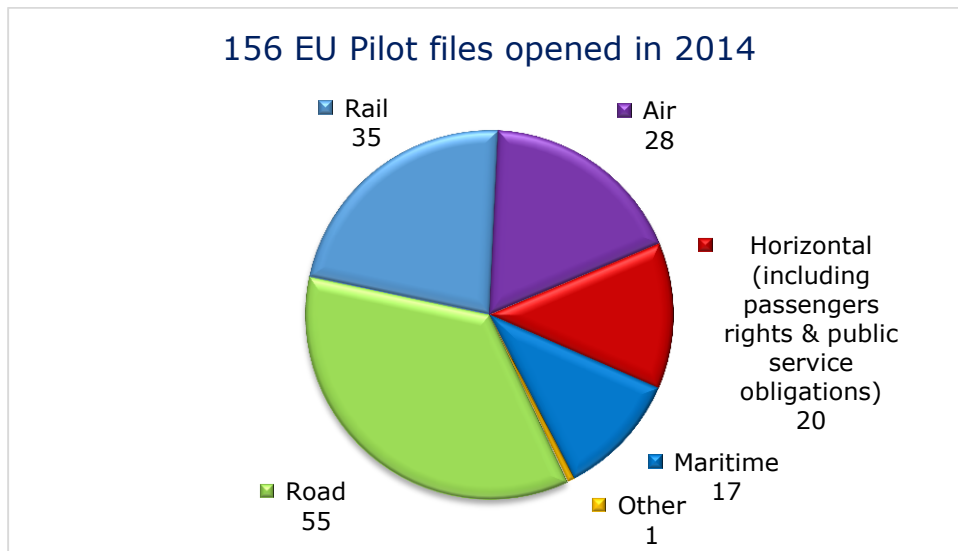
1. New EU Pilot files (2011-14)



2. Evolution of files open in EU Pilot<sup>1</sup>

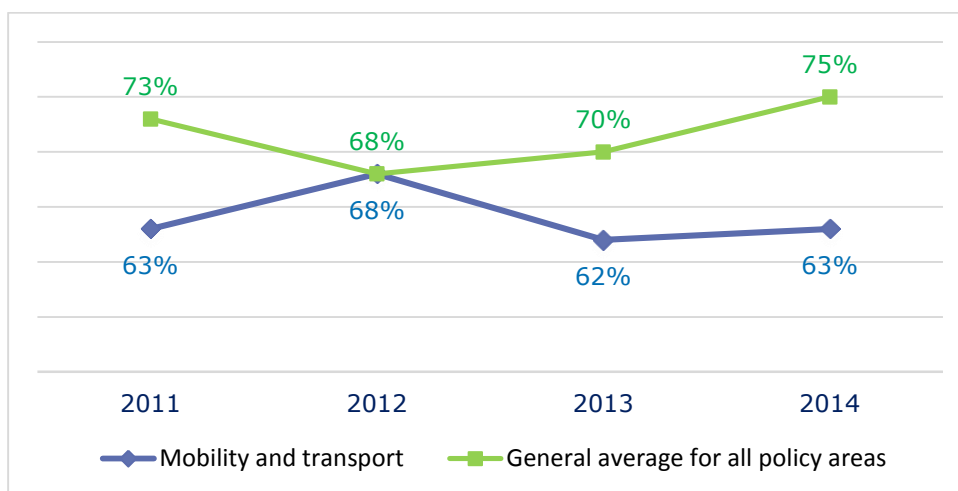


3. New EU Pilot files opened in 2014: main policy sectors



<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.

4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

The Commission opened own-initiative infringement cases in 2014 concerning the:

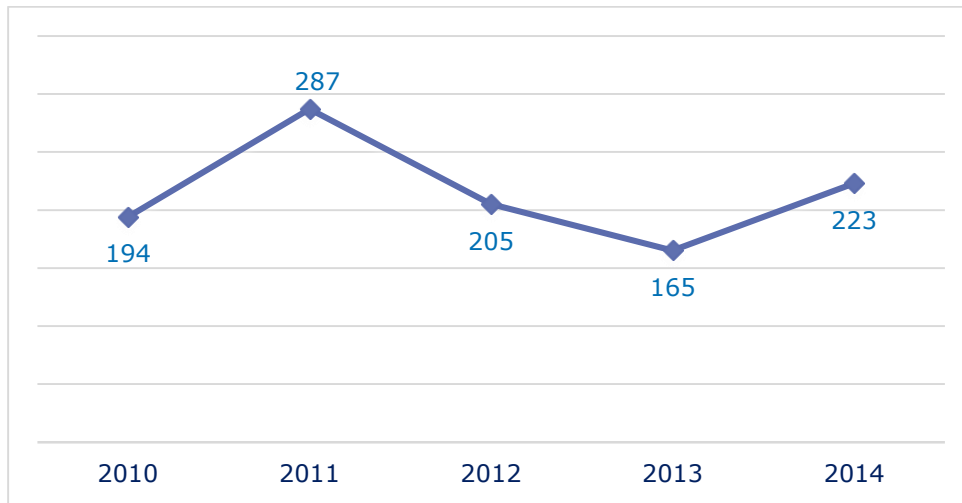
- *railway sector*: railway safety and separating the accounts of railway companies and railway infrastructure managers;
- *road sector*: implementation of the directive on driving licences, in particular connection to the driving licence network (RESPER)<sup>2</sup>, and of the regulation on the conditions for pursuing the occupation of road transport operator, in particular the electronic interconnection of national registers (ERRU);<sup>3</sup>
- *air sector*: implementation of functional airspace blocks under the Single European Sky legislation;
- *maritime sector*: port security;
- *passenger rights*: designation and operation of national bodies to handle passenger complaints (in particular sea and inland waterway, bus and coach passengers); designation of special bus terminals for people with reduced mobility.

<sup>2</sup> Directive [2006/126/EC](#).

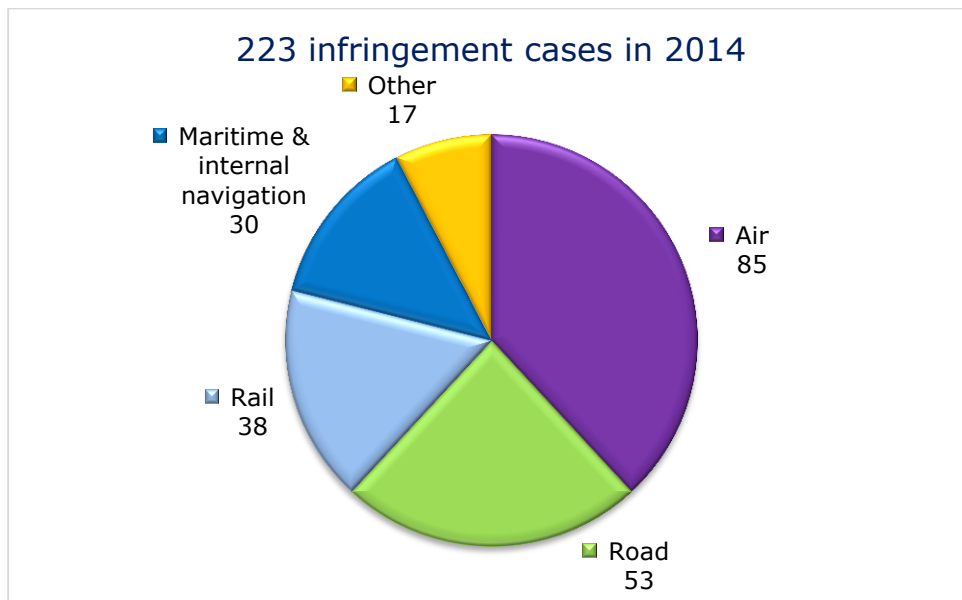
<sup>3</sup> Regulation (EC) No [1071/2009](#).

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 171 new infringement cases in 2014, among which:
- *23 Member States*: failure to efficiently implement functional airspace blocks (FABs). Under the Single European Sky legislation,<sup>4</sup> national air traffic control organisations should work together in nine regional airspace blocks to gain efficiency, cut costs and reduce emissions. The set-up of these common airspace blocks is arranged around traffic flows rather than state boundaries, which leads to performance improvements. The

<sup>4</sup> Regulation (EC) No [550/2004](#).

- Commission opened infringement procedures concerning seven FABs.<sup>5</sup>
- *Austria, Greece, Luxembourg and Portugal*: incorrect application of the regulation on the rights of bus and coach passengers.<sup>6</sup>
  - *Belgium*: restrictions to the principle of freedom of establishment as regards organisation of port labour.
  - *Poland*: award of land-lease contracts in the Port of Gdansk in breach of the principle of freedom of establishment.
  - *Portugal*: incorrect application of the regulation on rail passengers' rights and obligations.<sup>7</sup>
- b) The Commission referred four cases to the Court under Article 258 TFEU. They concerned:
- *Austria*: failure to bring national rules in line with the directive on rail safety;<sup>8</sup>
  - *Germany*: failure to separate financial flows between train operators and rail track managers, in breach of the directive on the separation of accounts in the rail sector;<sup>9</sup>
  - *Portugal*: failure to establish guidelines for assessing infrastructure safety for road infrastructure in the trans-European network (TEN-T);<sup>10</sup>
  - *Portugal*: failure to guarantee the independence of the airport slot coordinator.<sup>11</sup>
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

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<sup>5</sup> FABEC (the FAB between Germany, Belgium, France, Netherlands, Luxembourg and Switzerland) — [IP/14/446](#), BLUEMED (the FAB between Italy, Greece, Cyprus, and Malta), FABCE (the FAB between Austria, Czech Republic, Slovakia, Slovenia, Hungary, Croatia), DANUBE (the FAB between Bulgaria and Romania), BALTIC (the FAB between Lithuania and Poland), SOUTHWEST (the FAB between Spain and Portugal) and the UK/IRELAND FAB — [IP/14/818](#).

<sup>6</sup> Regulation (EU) No [181/2011](#), [MEMO/14/241](#), [MEMO/14/537](#).

<sup>7</sup> Regulation (EC) No [1371/2007](#), [MEMO/14/2130](#).

<sup>8</sup> Commission v Austria, [C-244/14](#), [IP/14/323](#).

<sup>9</sup> Commission v Germany, [C-482/14](#).

<sup>10</sup> Commission v Portugal, [C-116/14](#), [IP/14/49](#).

<sup>11</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 24 April 2014. Commission v Portugal, [C-205/14](#), [IP/13/1100](#).

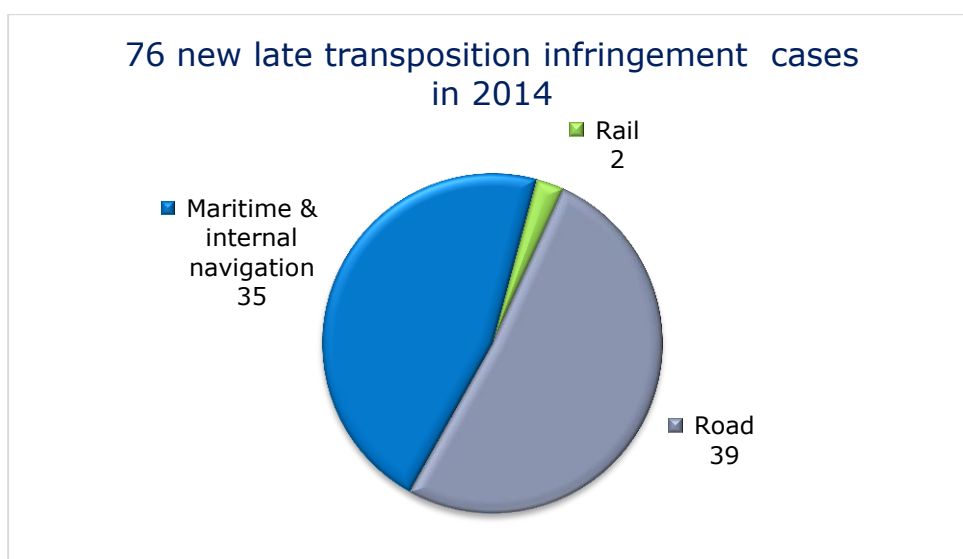


V. TRANSPOSITION OF DIRECTIVES

1. New late transposition infringement cases (2010-14)



2. New late transposition infringement cases opened in 2014: main policy sectors



3. Key infringement cases and referrals to the Court

- a) The Commission opened 76 cases for late transposition in 2014. Most concerned:
  - the directive on the minimum level of training for seafarers;<sup>12</sup>
  - the directive on the charging of heavy goods vehicles for the use of certain infrastructure.<sup>13</sup>
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

<sup>12</sup> Directive [2012/35/EU](#).

<sup>13</sup> Directive [2011/76/EU](#).

### VI. EARLY RESOLUTION OF INFRINGEMENT CASES

#### Cases closed without a Court judgment in 2014

These concerned:

- *France*: tax discrimination of railway service providers;
- *Italy*: incorrect application of the rail passengers' rights and obligations regulation;<sup>14</sup>
- *Italy*: discriminatory airport charges on non-EU carriers;
- *Poland*: award of land-lease contracts in the Port of Gdansk in breach of the principle of freedom of establishment.

### VII. IMPORTANT JUDGMENTS

#### 1. Court rulings

The Court ruled that:

- Bulgaria failed to comply with the provisions of the First Railway Package<sup>15</sup> because it included staff remuneration and social security contributions in the calculation of charges incurred for all minimum services and for the network's access to the service infrastructure costs. However, staff remuneration and social security cannot be considered to have been directly incurred as a result of operating the train service.<sup>16</sup>
- Portugal failed to organise a procedure for selecting suppliers to provide ground handling services for baggage handling, 'ramp handling' and freight and mail handling at Lisbon, Porto and Faro airports.<sup>17</sup>
- Spanish legislation that provides a monopoly for the recruitment of dockers violates Article 49 TFEU.<sup>18</sup>

#### 2. Preliminary rulings

There were no major preliminary rulings in the area of mobility and transport in 2014.

### VIII. OUTLOOK

#### Important implementation work in 2015 includes:

- monitoring of the implementation of the directive on certain State responsibilities for compliance with and enforcement of the Maritime Labour Convention, and the directive establishing a single European railway area;<sup>19</sup>
- follow-up to the Court's proceedings in a case on separating accounts in the rail sector.<sup>20</sup>

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<sup>14</sup> Regulation (EC) No [1371/2007](#), [IP/14/325](#). Italy subsequently adopted the necessary legislative amendments and the Commission withdrew the Court application.

<sup>15</sup> Directive [2001/14/EC](#).

<sup>16</sup> Commission v Bulgaria, [C-152/12](#).

<sup>17</sup> Commission v Portugal, [C-277/13](#).

<sup>18</sup> Commission v Spain, [C-576/13](#).

<sup>19</sup> Directives [2013/54/EU](#) and [2012/34/EU](#).

<sup>20</sup> Commission v Germany, [C-482/14](#).

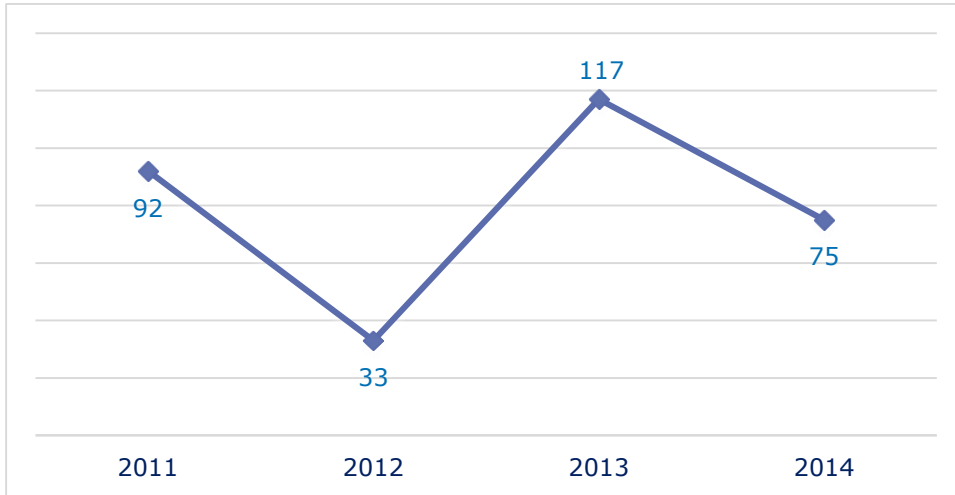
## REGIONAL AND URBAN POLICY

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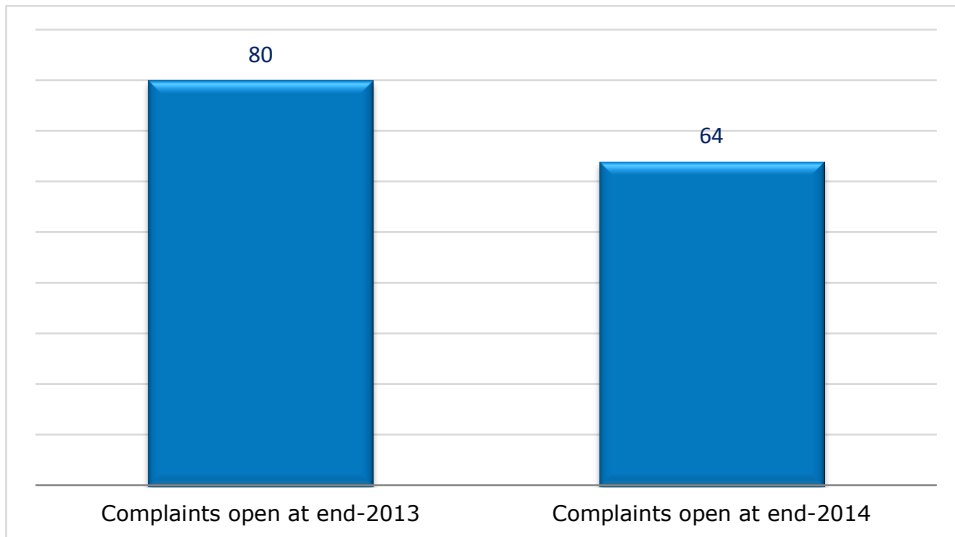
In 2014, the Commission received a substantial number of new complaints in the area of regional and urban policy (although the figure is visibly lower than that for the previous year). There were no newly opened EU Pilot files, infringement procedures or late transposition cases in this policy area in 2014.

### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)

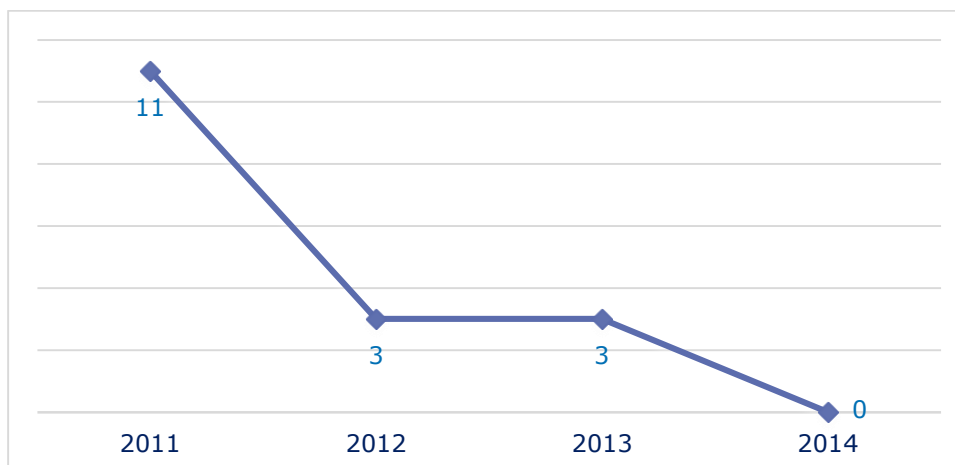


#### 2. Evolution of complaints

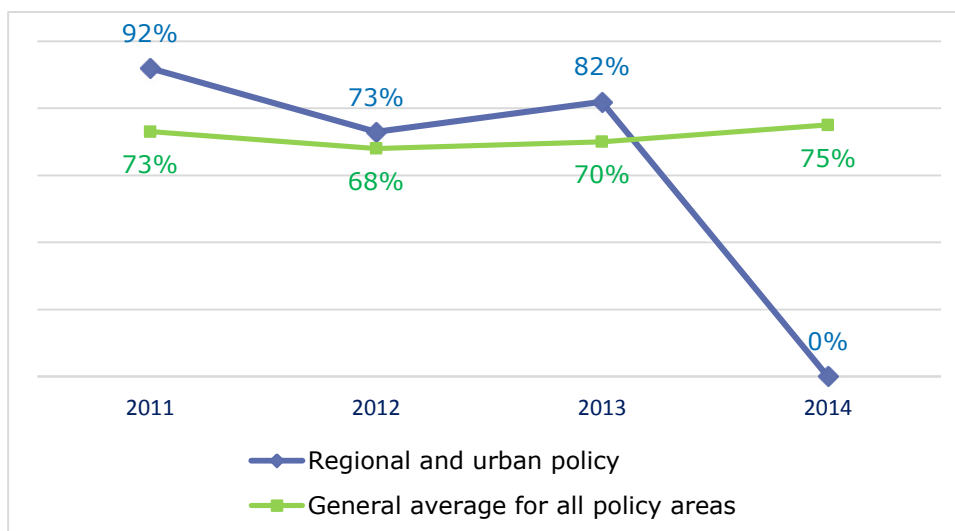


II. EU PILOT

1. New EU Pilot files (2011-14)



2. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases in 2014

The Commission did not open any own-initiative infringement cases concerning regional and urban policy in 2014.

IV. INFRINGEMENT CASES

Key infringement cases and referrals to the Court

- a) The Commission did not open any new infringement cases in 2014.
- b) The Commission did not refer any cases to the Court under Article 258 TFEU.
- c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

V. EARLY RESOLUTION OF INFRINGEMENT CASES

Major cases closed without a Court judgment in 2014

The Commission did not close any infringement cases in 2014.

VI. IMPORTANT JUDGMENTS

1. Court rulings

The Court ruled that:

- *Italy*: Italy's actions against two Commission decisions under the European Regional Development Fund are unfounded. One, involving a 10% flat-rate reduction in financial assistance, concerned the Apulia region<sup>1</sup> and the other, involving the non-admission of interim payment applications, concerned the Campania region;<sup>2</sup>
- *Spain*: experience cannot be regarded as an award criterion in public procurement procedures (confirmation of established case law);<sup>3</sup>
- the Commission had not adopted the financial correction decisions within the deadline indicated in the regulation on the European Regional Development Fund, the European Social Fund and the Cohesion Fund.<sup>4</sup> The Court of Justice considered that the Commission infringed essential procedural requirements by adopting the decisions after the regulation's six-month deadline had expired, which was not compatible with the general principle of sound administration. The Court of Justice ruled in favour of the Member State (Spain) by annulling the General Court's judgment and overturning previous case-law, which considered that the regulatory deadlines for adopting financial correction decisions were indicative and that the Commission had to adopt them in a "reasonable time".<sup>5</sup>

2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- a programme manual adopted by a monitoring committee in the context of an operational programme established by two Member States and intended to promote European territorial cooperation, cannot prevent a decision of the monitoring committee rejecting an application for aid from being subject to appeal before a court of a Member State, as this would constitute a breach of Regulation (EC) No 1083/2006, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union.<sup>6</sup>

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<sup>1</sup> Italy v Commission, [T-117/10](#).

<sup>2</sup> Italy v Commission, [C-385/13 P](#).

<sup>3</sup> Spain v Commission, [C-641/13 P](#).

<sup>4</sup> Regulation (EC) No [1083/2006](#).

<sup>5</sup> Spain v Commission, [C-197/13P](#); Spain v Commission, [C-192/13P](#); Spain v Commission, [C-429/13 P](#) and Spain v Commission, [C-513/13P](#).

<sup>6</sup> Liivimaa Lihaveis MTÜ v Eesti-Läti programmi 2007-2013 Seirekomitee, [C-562/12](#).

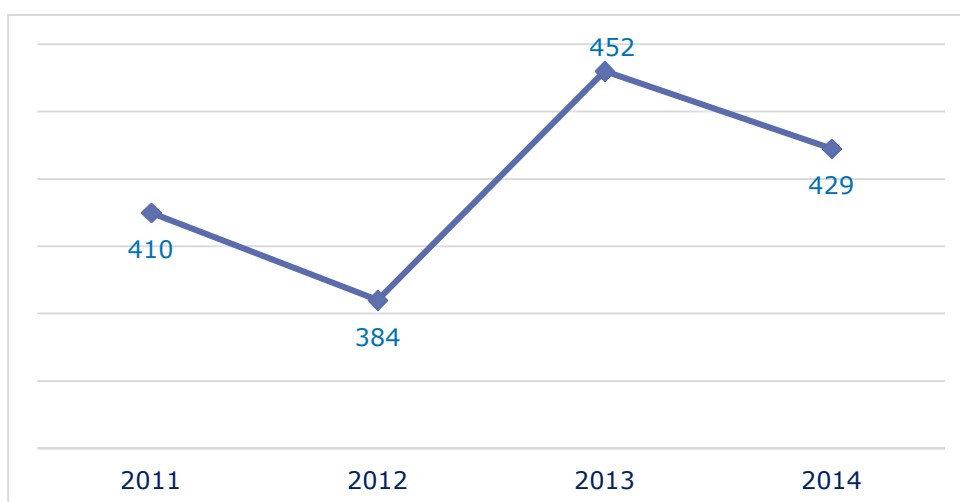
## TAXATION AND CUSTOMS UNION

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In 2014, the Commission received a relatively high number of new complaints in the area of taxation and customs union (second highest number since 2011). After the last three years' gradual decrease in the number of new EU Pilot files, this figure was higher again in 2014. There were fewer pending infringements at the end of the year in 2014, continuing the downward trend of the previous five years. There were no new late transposition cases in 2014 in the area of taxation and customs union.

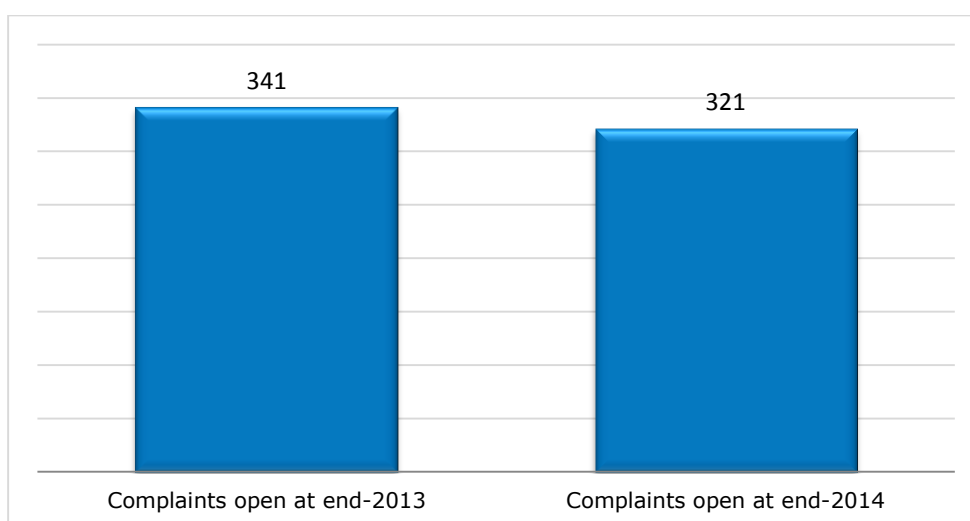
### I. COMPLAINTS

#### 1. New complaints received from members of the public (2011-14)

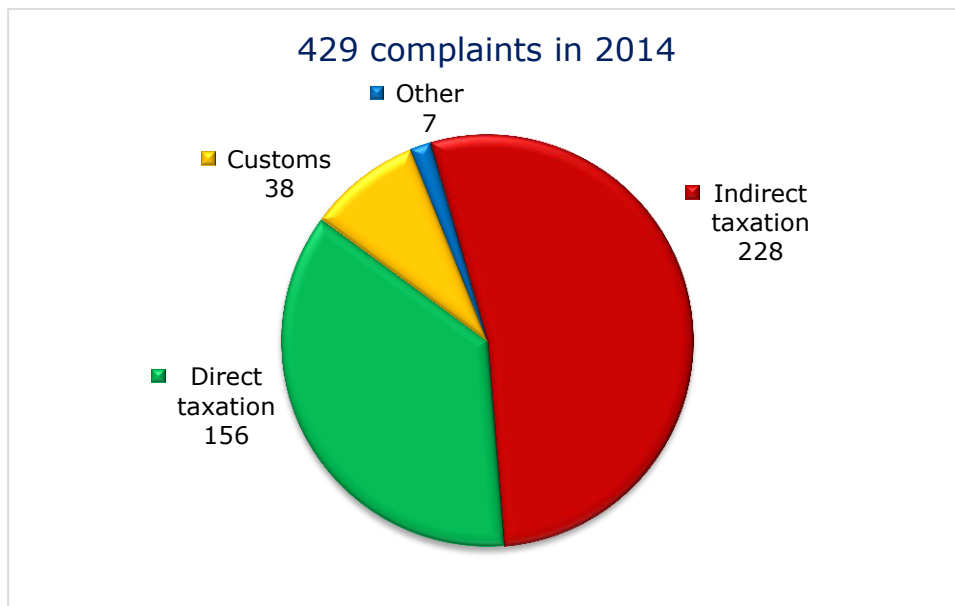


#### 2. Evolution of complaints

Most petitions and questions from the European Parliament concerned cases already opened by the Commission. One EU Pilot file was opened following a European Parliament written question regarding the implementation of a Court of Justice judgment on intra-group transfer of losses.

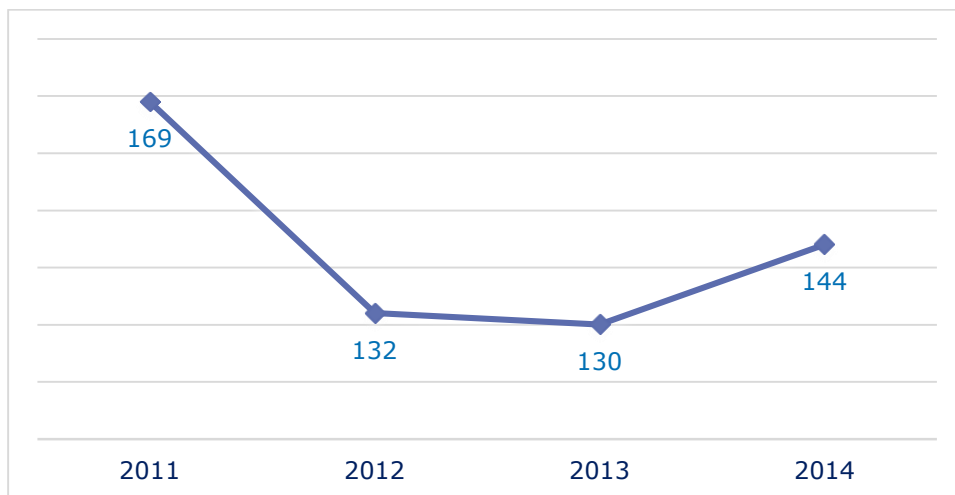


3. New complaints registered in 2014: main policy sectors

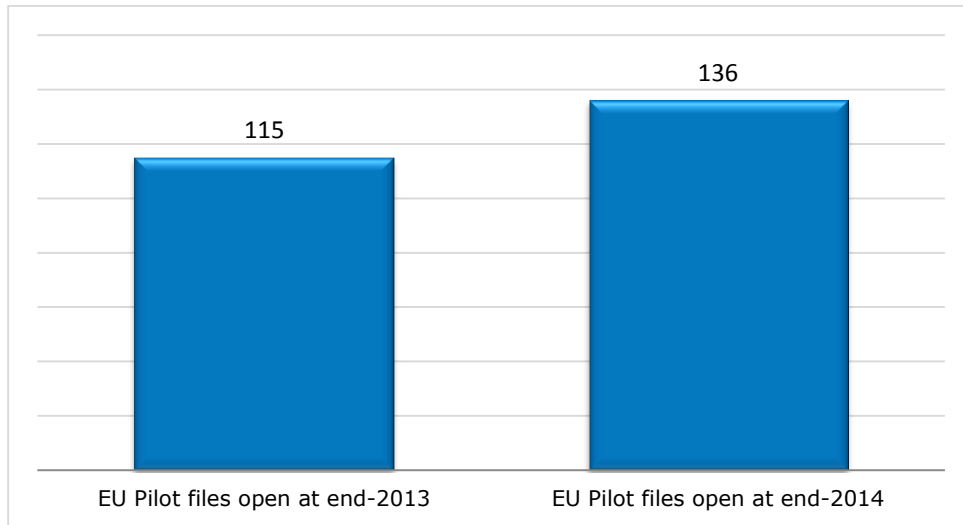


II. EU PILOT

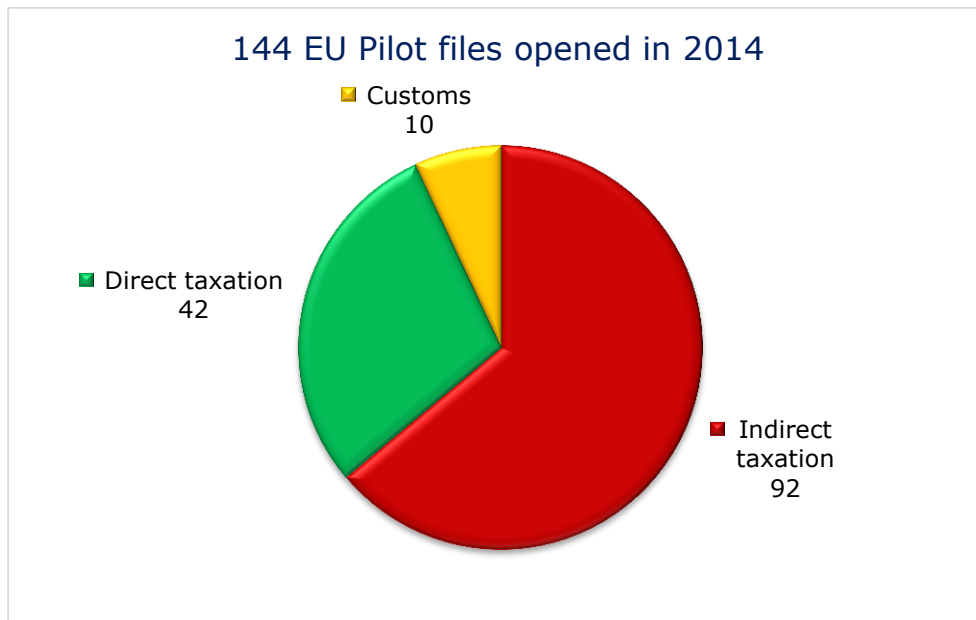
1. New EU Pilot files (2011-14)



2. Evolution of files open in EU Pilot<sup>1</sup>



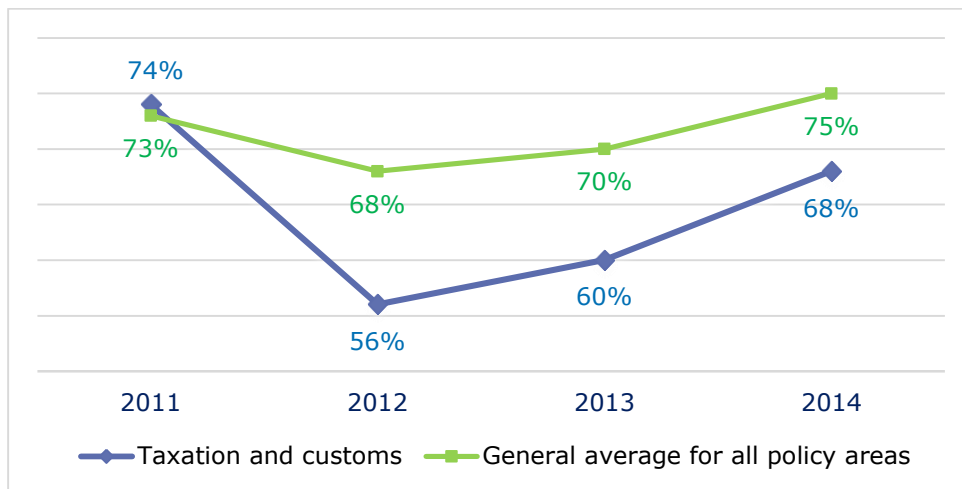
3. New EU Pilot files opened in 2014: main policy sectors



<sup>1</sup> The number of files open at the end of 2013 given in the 2013 annual report is different from the current figure. This is because some files were registered late and others have been closed.



4. EU Pilot files: evolution of the Member States' combined resolution rate (2011-14)



III. OWN-INITIATIVE CASES

New own-initiative infringement cases

The Commission opened own-initiative infringement cases in 2014 concerning:

In the customs sector:

- mutual assistance between Member States on recovering outstanding customs debts and on simplifying procedures ('waiver notification at local clearance' procedure).

In the indirect taxation sector:

- excise duties: validity of tax markings for tobacco.

In the direct taxation sector:

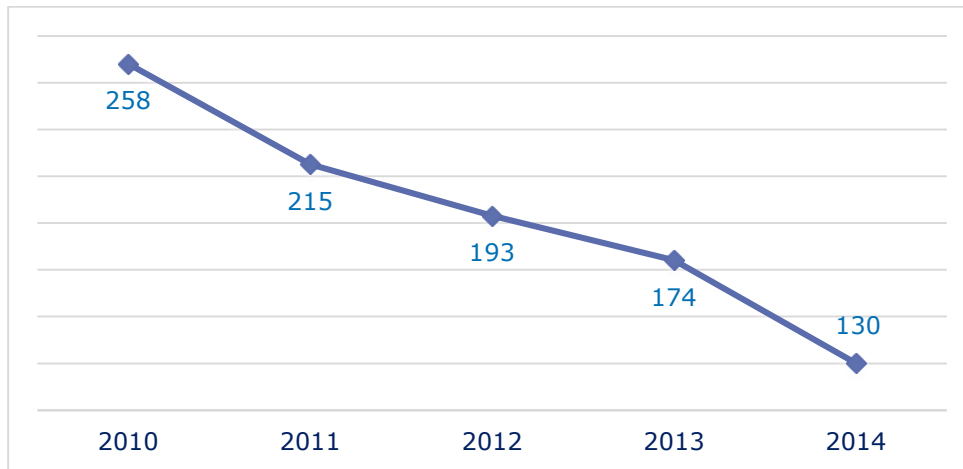
- implementation of the 2014 horizontal compliance review in the area of 'mobile persons taxation' resulted in a number of own-initiative cases being initiated;<sup>2</sup>
- the own-initiative cases arising from the implementation of the horizontal compliance reviews in the areas of 'cross-border inheritance taxation' and 'cross-border workers' taxation' continued.<sup>3</sup>

<sup>2</sup> [IP/14/31](#).

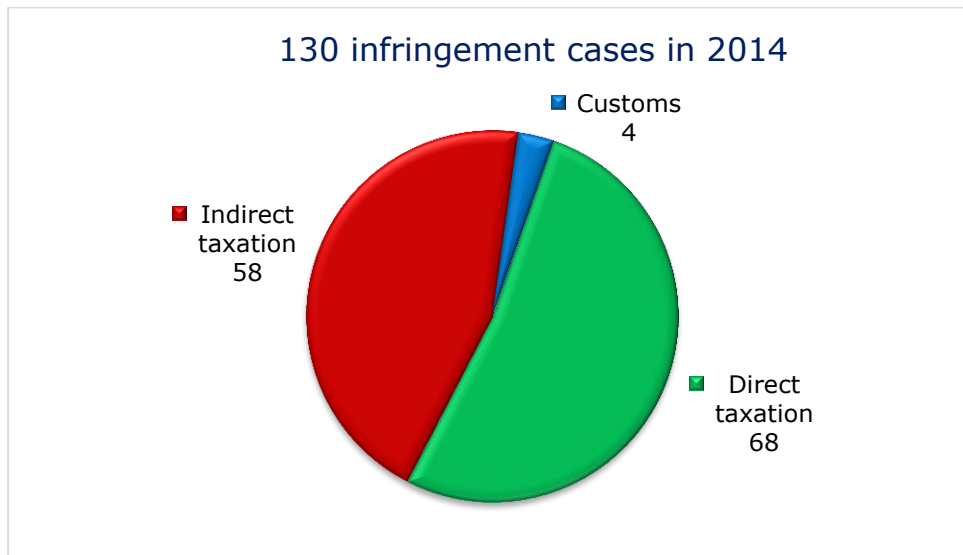
<sup>3</sup> [IP/11/1551](#) and [IP/12/340](#).

IV. INFRINGEMENT CASES

1. Infringement cases open on 31 December (2010-14)



2. Infringement cases open on 31 December 2014: main policy sectors



3. Key infringement cases and referrals to the Court

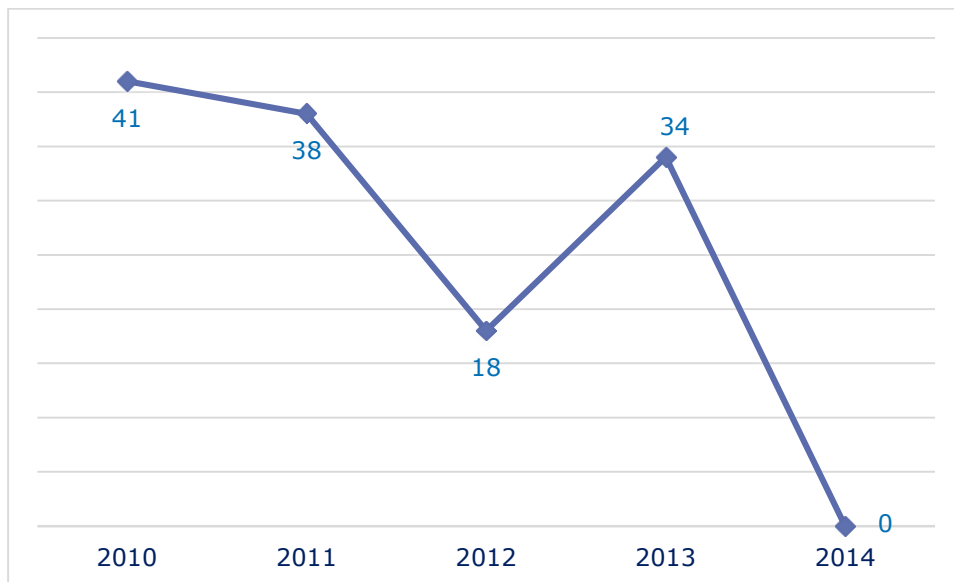
- a) The Commission opened 25 new infringement cases in 2014, among which:
- *France*: deficiencies in the follow-up to the Supreme Court decision delivered after the Court of Justice ruling in case C-310/09 *Accor*;
  - *France*: reduced VAT rate applied to numerical press;
  - *Spain*: higher taxation of income of non-profit entities located outside Spain and/or of the taxpayers making contributions to the aforementioned entities.
- b) The Commission referred eight cases to the Court under Article 258 TFEU. They concerned:

- *Belgium*: discriminatory tax rules in the Walloon Region;<sup>4</sup>
- *France*: discriminatory taxation of charities not established in France;<sup>5</sup>
- *Portugal*: discrimination against taxpayers who cease to be tax-resident in Portugal;<sup>6</sup>
- *Sweden*: VAT rules on postal services, as VAT is applied to some services that, under EU rules, should be exempt from VAT;<sup>7</sup>
- *United Kingdom*: taxation regime for transfers of assets abroad since the UK legislation seems to treat domestic and cross-border transactions differently,<sup>8</sup> and its reduced VAT rate on the supply and installation of energy-saving materials as this measure goes beyond what is allowed under the VAT Directive.<sup>9</sup>

c) The Commission did not refer any cases to the Court under Article 260(2) TFEU.

## V. TRANSPOSITION OF DIRECTIVES

### 1. New late transposition infringement cases (2010-14)



### 2. New late transposition infringement cases opened in 2014: main policy sectors

The Commission did not open any new late transposition infringement cases in 2014.

<sup>4</sup> The Commission decided on 21 February 2013 to refer the case to the Court; the application was filed on 20 March 2014. *Commission v Belgium*, [C-130/14](#), [IP/13/136](#).

<sup>5</sup> *Commission v France*, [C-485/14](#), [IP/14/808](#) (three infringement cases will be handled in a single Court procedure).

<sup>6</sup> *Commission v Portugal*, [C-503/14](#), [IP/14/50](#).

<sup>7</sup> The Commission decided on 20 November 2013 to refer the case to the Court; the application was filed on 10 March 2014. *Commission v Sweden*, [C-114/14](#), [IP/13/1111](#).

<sup>8</sup> The Commission decided on 24 October 2012 to refer the case to the Court; the application was filed on 7 March 2014. *Commission v United Kingdom*, [C-112/14](#), [IP/12/1147](#).

<sup>9</sup> Directive [2006/112/EC](#), the Commission decided on 21 February 2013 to refer the case to the Court; the application was filed on 4 April 2014. *Commission v United Kingdom*, [C-161/14](#), [IP/13/139](#).

### 3. Key infringement cases and referrals to the Court

- a) The Commission did not open any new late transposition infringement cases in 2014.
- b) The Commission did not refer any cases to the Court under Articles 258 and 260(3) TFEU.

## VI. EARLY RESOLUTION OF INFRINGEMENT CASES

### Major cases closed without a Court judgment in 2014

These concerned:

- *Belgium*: customs fees and opening hours of customs offices;
- *France* : VAT exemption for the hiring of sea-going vessels;
- *Greece*: national income taxation of individuals and discrimination of non-resident people with disabilities when applying car registration tax;
- *Ireland*: exit taxation of companies.<sup>10</sup>

## VII. IMPORTANT JUDGMENTS

### 1. Court rulings

The Court ruled:

- against Germany by declaring that it must grant to non-residents the same inheritance and gift tax allowances as if at least one of the concerned people were resident;<sup>11</sup>
- against Hungary by confirming that EU law precludes exempting from excise duties fruit distillates (*pálinka*) produced under both contract and private distillation;
- against Spain by clarifying that EU law precludes both (i) Spanish law granting regions the competence to adopt and apply different tax treatment for residents, thus treating purely internal and cross-border situations differently,<sup>12</sup> and (ii) the obligation imposed on foreign pension funds and insurance companies to designate a tax representative in Spain;<sup>13</sup>
- against the United Kingdom by declaring that the UK controlled foreign company rule for capital gains is not compatible with the Treaty because it levied corporation tax on the UK parent company when its non-UK subsidiary realised capital gains by disposing of an asset. The tax was levied even if the UK parent company could prove that the transaction was carried out for valid commercial reasons and did not involve tax avoidance.<sup>14</sup>

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<sup>10</sup> [IP/11/78](#) on the earlier reasoned opinion.

<sup>11</sup> Commission v Germany, [C-211/13](#) and [IP/12/1018](#) on the earlier referral decision.

<sup>12</sup> Commission v Spain, [C-127/12](#) and [IP/11/1278](#) on the earlier referral decision.

<sup>13</sup> Commission v Spain, [C-678/11](#) and [IP/10/1569](#) on the earlier referral decision.

<sup>14</sup> Commission v United Kingdom, [C-640/13](#) and [IP/12/64](#) on the earlier referral decision.

## 2. Preliminary rulings

In preliminary rulings, the Court ruled that:

- a person's right to be heard before Member State authorities adopt any decision under the Community Customs Code may be relied on directly by individuals before national courts.<sup>15</sup>

## VIII. OUTLOOK

Important implementation work in 2015 includes:

- within the *customs* sector, areas such as customs representation, tariff classification, and remission and recovery of customs duties. Particular focus will be given to the ongoing investigations of customs fees and charges issued by customs authorities in some Member States and their compatibility with Article 30 TFEU and Article 52 of the EU Customs Code;
- within the *indirect taxation* sector, follow-up of infringements with positive impact on the functioning of the single market and the economy due to the economic crisis. Emphasis will be placed on the horizontal application of judgments of the Court of Justice of the EU, where in scope of a preliminary ruling the Court provides a general interpretation of the VAT Directive and the Excise Duty Directives;
- within the *direct taxation* sector, implementation of the horizontal compliance reviews in the areas of cross-border inheritance taxation,<sup>16</sup> the taxation of cross-border workers,<sup>17</sup> and the taxation of mobile people.<sup>18</sup>
- follow-up to important judgments expected in 2015:
  - a case where the Court is to rule on whether the UK legislation adopted in response to the CJEU ruling in Case C-446/03 *Marks and Spencer* (cross-border loss relief) complies with the TFEU and the aforesaid ruling;<sup>19</sup>
  - a case where the Court is to rule for the first time on whether a Member States may tax outbound dividends paid to a loss-making parent company resident in another Member State, while domestic dividends paid to a loss-making parent company are not taxed;<sup>20</sup>
  - a case where the Court is expected to provide conclusive clarification on the German exit tax rules;<sup>21</sup>
  - a case where the Court is to rule on the treatment of final losses from permanent establishments/subsidiaries located in another Member State.<sup>22</sup>

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<sup>15</sup> Kamino International Logistics BV and Datema Hellmann Worldwide Logistics BV, Joined Cases [C-129/13](#) and [C-130/13](#).

<sup>16</sup> [IP/11/1551](#).

<sup>17</sup> [IP/12/340](#).

<sup>18</sup> [IP/14/31](#).

<sup>19</sup> Commission v United Kingdom, [C-172/12](#).

<sup>20</sup> Société Générale, [C-17/14](#).

<sup>21</sup> Verder LabTec, [C-657/13](#).

<sup>22</sup> Timac Agro Deutschland, [C-388/14](#).