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REPORT FROM THE COMMISSION

**31st ANNUAL REPORT ON MONITORING THE APPLICATION OF EU LAW
(2013)**

INTRODUCTION

The Commission monitors whether Member States respect EU law obligations, i.e. *completely and correctly transpose* EU directives and *properly apply* the entire EU *acquis*. For this purpose, the Commission can formally challenge the Member State implementation of EU law on its own initiative but it also acts on petitions from the European Parliament (EP) and on complaints it receives from citizens, businesses, NGOs and other stakeholders that reveal potential violations of EU law, for instance incorrect transposition or bad application of EU law.

Before resorting to formal legal actions, the Commission tries to remedy problems and ensure the correct implementation of EU law through a structured dialogue with Member States in EU Pilot. If this is not successful, the Commission takes formal proceedings (a letter of formal notice to the Member State under Article 258 TFEU).¹ Should a Member State fail to align its laws or practices with EU law during the formal infringement procedure, the Commission may refer the case to the Court of Justice under Article 258 TFEU, with the possibility to request financial sanctions (either under Article 260(2) or 260(3) TFEU).

The 31st Annual Report on monitoring the application of EU law reviews the performance on key aspects of the application of EU law and highlights strategic issues.²

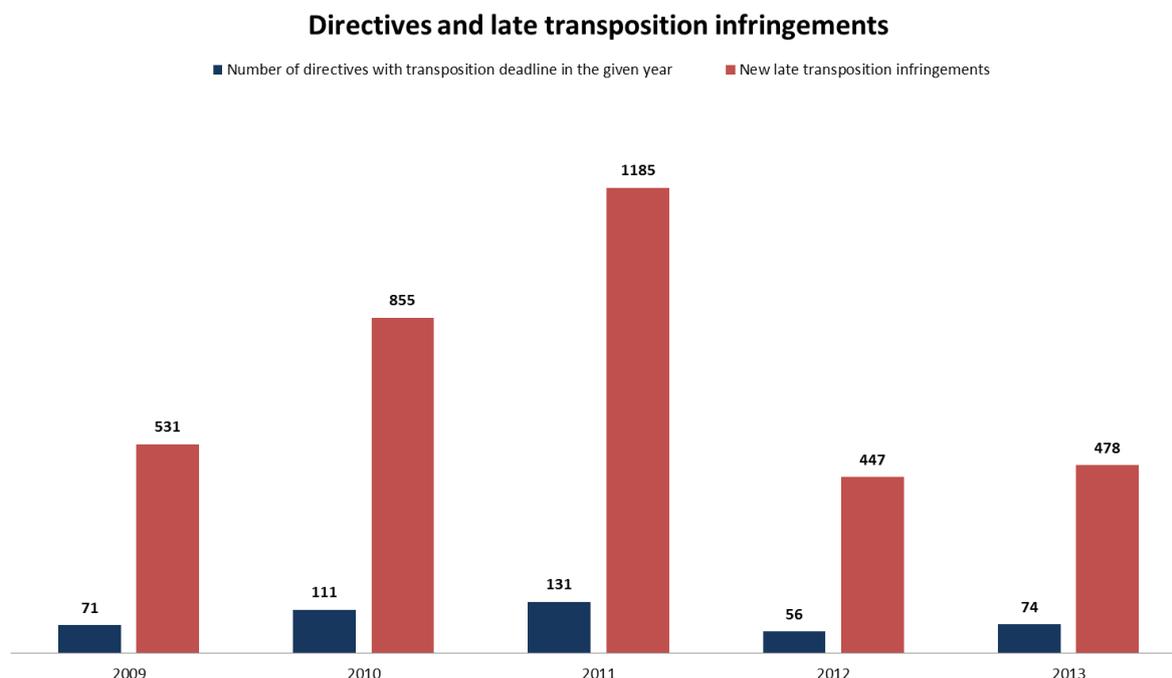
¹ It should be noted that infringement procedures can also be initiated under other provisions of EU law, for example Article 106 TFEU in combination with Articles 101 or 102 TFEU.

² Detailed information for each Member State and policy area is provided in a staff working document which will be published electronically on the Commission's dedicated [website](#).

1. TRANSPOSITION OF DIRECTIVES

1.1. LATE TRANSPOSITION

Late transposition of directives remains a persistent problem hindering delivery of tangible benefits for citizens.



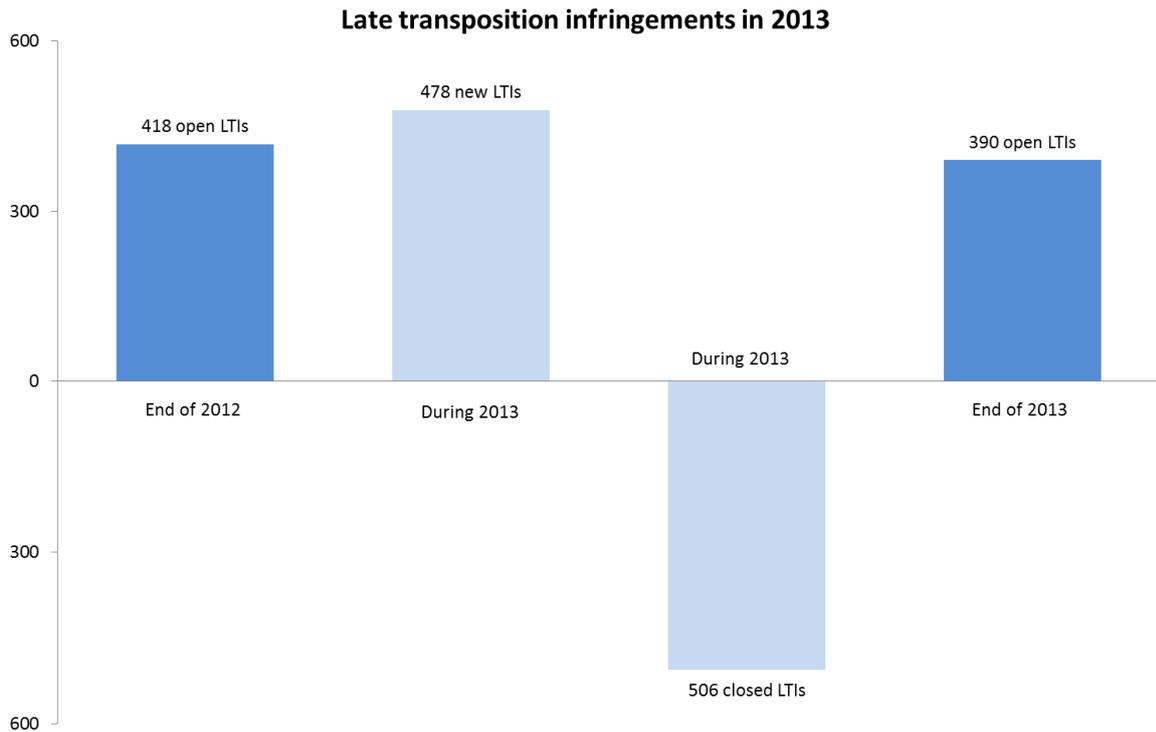
Reducing late transposition is a long-established priority of the Commission's policy: "*Priority should be attached to those infringements which present the greatest risks, widespread impact for citizens and businesses ... These categories cover: non-communication of national measures transposing directives or other notification obligations; ...*"³

There were more directives to transpose in 2013 compared to the previous year (i.e. 74 in contrast to 56 in 2012) but fewer than in 2011 (131). However, there was only a slight increase in new late transposition infringements in 2013 compared to the previous year (478 new late transposition infringements were launched in 2013 compared to 447 procedures in 2012; there were 1,185 in 2011 and 855 in 2010). 390 late transposition cases were open at the end of 2013, which represents a 6.7 % decrease when compared to the 418 cases at the end of 2012. The Commission closed more late transposition infringements in 2012 and 2013 than it opened, which resulted in the number of open infringements of this kind reaching a 5-year low at the end of 2013.

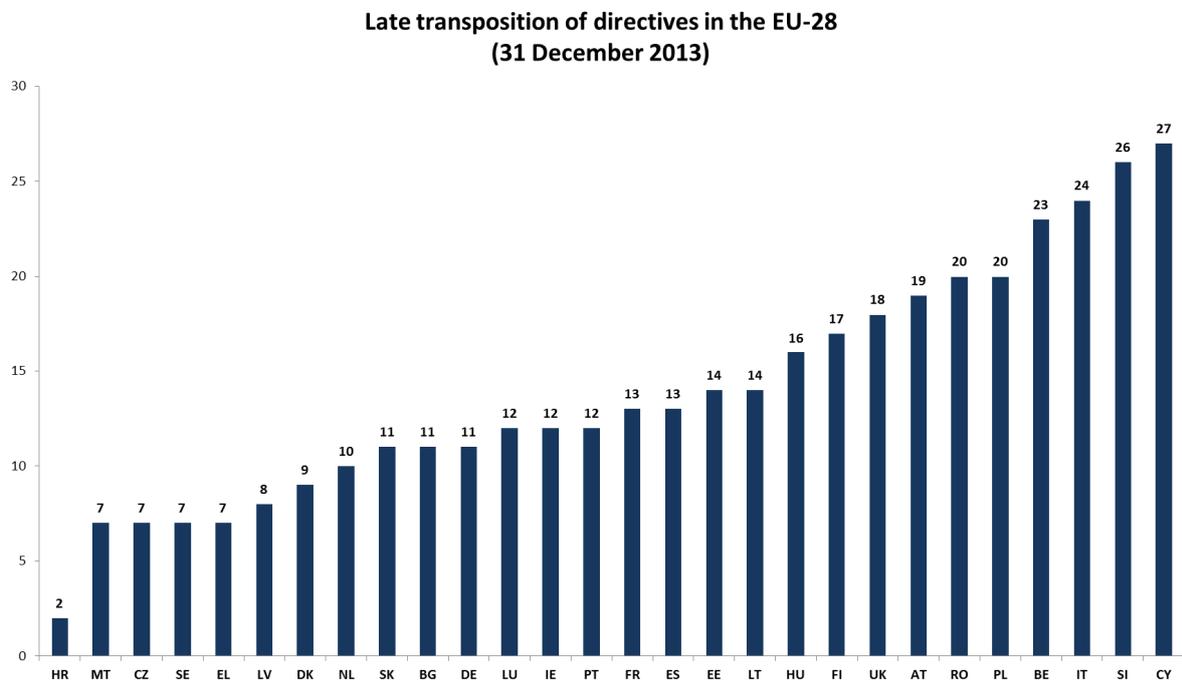
The following chart contains the key figures⁴ on late transposition infringements (LTIs) initiated by the Commission during 2013:

³ Commission Communication on 'A Europe of results – Applying Community law', [COM\(2007\)502 final](#), p. 9.

⁴ From the sum of the 2012 open LTIs and the 2013 new LTIs (418+478=896), the number of closed LTIs is deducted (896-506=390).



The following table shows late transposition infringements by Member States:⁵



⁵ The table below indicates the number of late transposition infringements open on 31 December 2013, irrespective of the year when the infringement was opened. By contrast, the section “Transposition of directives” in the Member State pages of Part I of the Commission Staff Working Document will show how many *new* late transposition infringements were initiated against the Member States *during* 2013.

The four policy areas where the most new late transposition infringements were launched in 2013 were environment (168 procedures), health & consumers (58), internal market & services (47) and transport (36).

Late transposition infringements were launched against 20 Member States because of the late transposition of the Directive on industrial emissions⁶ and the Directive introducing new rules for falsified products into the Community code on human medicines.⁷ In addition, 19 Member States were involved in late transposition infringements under the Directive that adapts a number of rules related to the right of establishment and the right of the freedom to provide services due to the accession of Croatia.⁸ 17 procedures were launched concerning the Directive on minimum stocks of crude oil and/or petroleum products.⁹ 16 Member States failed to transpose and / or notify within the set deadline their implementing rules under the Directive on alternative investment fund managers¹⁰ and the Directive on the right to interpretation and translation in criminal proceedings.¹¹ 15 Member States received a letter of formal notice due to the late transposition of the Directive restricting the use of various hazardous substances in electronic equipment.¹²

1.2. REFERRALS TO THE COURT UNDER ARTICLES 258 / 260(3) TFEU

Under Article 260(3) TFEU, when referring a late transposition infringement to the Court of Justice according to Article 258 TFEU, the Commission may propose financial penalties without having to wait for a first judgment. The purpose of this innovation in the Lisbon Treaty is to give a stronger incentive to Member States to transpose directives within the deadlines laid down by the legislator. The Commission establishes the proposed amounts of fines in line with its communication¹³ on the implementation of Article 260(3) TFEU.

⁶ Directive [2010/75/EU](#) of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)

⁷ Directive [2011/62/EU](#) of the European Parliament and of the Council of 8 June 2011 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the prevention of the entry into the legal supply chain of falsified medicinal products

⁸ Council Directive [2013/25/EU](#) of 13 May 2013 adapting certain directives in the field of right of establishment and freedom to provide services, by reason of the accession of the Republic of Croatia

⁹ Council Directive [2009/119/EC](#) of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products

¹⁰ Directive [2011/61/EU](#) of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

¹¹ Directive [2010/64/EU](#) of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings

¹² Directive [2011/65/EU](#) of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment

¹³ Communication from the Commission - Implementation of Article 260(3) of the Treaty, [OJEU C 12](#) of 15 January 2011.

In 2013, the Commission continued to refer a number of late transposition infringements to the Court of Justice with a request for daily penalties under Article 260(3) TFEU. Nine Member States were involved in 14 such decisions in 2013: Belgium, Bulgaria, Estonia, Romania, the United Kingdom (two cases each) and Austria, Cyprus, Poland and Portugal (one each). The proposed daily penalty range from EUR 4 224 to EUR 148 177,92. Most of the penalty proposals for late transposition of directives have been made in the policy area of energy. The Commission has not yet proposed the Court to apply lump sum payments.¹⁴

Member States increased their efforts to achieve complete transposition before the judgment of the Court of Justice during 2013. However, taken together with the other cases based on Article 258 and 260(3) TFEU that were launched in the previous years, there remained a total of twelve open late transposition infringement cases with a referral decision¹⁵ proposing daily penalties: two cases each against Estonia, Romania and Slovenia and one case each against Austria, Belgium, Cyprus, Germany, Poland and Portugal.¹⁶

2. PRE-INFRINGEMENT PHASE

Problems of transposition and / or application of EU law are examined by the Commission on its own initiative or where shortcomings are reported to the Commission. Indeed, complaints by citizens, businesses and stakeholder organisations make a significant contribution to monitoring the respect of EU law obligations by reporting shortcomings by Member State authorities. Once detected, problems are followed up by a structured dialogue between the Commission and the Member State concerned via EU Pilot in order to remedy them.

2.1. DETECTION OF PROBLEMS

2.1.1. COMPLAINTS AND PETITIONS

Citizens, businesses, NGOs and other organisations frequently file complaints with the Commission. The Commission laid down its complaint handling rules in a Communication issued in 2002 and updated them in 2012.¹⁷

In 2013, citizens, businesses and organisations remained very active in reporting potential breaches of EU law. The Commission received more new complaints (3 505) than in any of the previous three years (3 141 complaints were submitted in 2012, 3 115 in 2011 and 3349 in

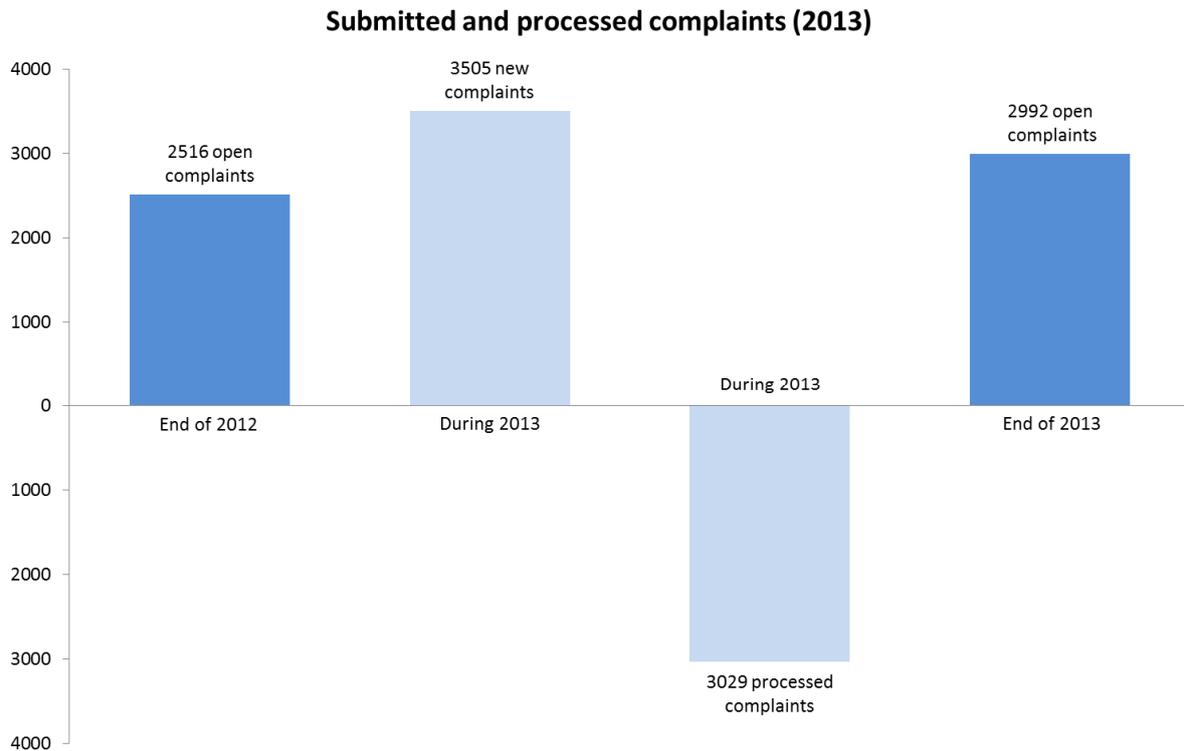
¹⁴ Communication from the Commission - Implementation of Article 260(3) of the Treaty, [OJEU C 12](#) of 15 January 2011, point 21.

¹⁵ Some of these twelve cases are already pending before the Court of Justice. As regards the other cases, their documentation is being finalized for submission to the Court of Justice.

¹⁶ See the Staff Working Document for details on the directives which were not transposed by the Member State and related penalty proposals.

¹⁷ Communication from the Commission to the Council and the European Parliament on updating the handling of relations with the complainant in respect of the application of Union law, [COM\(2012\)154 final](#)

2010). As a result, the total number of open complaints increased by approximately 19 % during 2013. The chart below shows the key data¹⁸ on complaints:



New complaints – The three Member States against which the most complaints were filed were:

- Italy: 472 complaints, most of them related to employment (120 complaints), internal market & services (81) and environment (64);
- Spain: 439 complaints, especially in connection with employment (100 complaints), justice and environment (65 each); and
- Germany: 297 complaints, mainly related to justice (64 complaints), internal market & services (57) and environment (53).

72% of new complaints were concentrated in the following five policy areas: justice (590), environment (520), internal market & services (494), employment (470) and taxation & customs union (452).

Processed complaints – Following an initial assessment of more than 3 000 complaints in 2013, the Commission opened bilateral discussions with Member States in relation to 487 complaints in order to clarify whether EU rules had been breached.¹⁹ Complaints that led to bilateral

¹⁸ From the sum of the 2012 open complaints and the 2013 new complaints (2516+3505=6021), the number of processed complaints is deducted (6021-3029=2992).

¹⁹ The rest of the submissions have not been further processed because EU laws were not breached, the Commission lacked competence or the correspondence did not qualify as complaint. It is also noted that in

discussions were most frequently related to environment, taxation & customs union and internal market & services (82, 78 and 70 files opened under EU Pilot, respectively) and concerned particularly the following Member States:

- Italy: 57 newly opened files in EU Pilot, most of them related to complaints on internal market & services (14 new EU Pilot files), environment (11) and taxation & customs union (6);
- France: 50 newly opened files in EU Pilot, mainly related to taxation & customs union (13), employment (7) and enterprise & industry (7) matters; and
- Spain: 42 newly opened files in EU Pilot, especially in connection with complaints addressing employment, enterprise & industry and environment complaints (9, 8 and 8 new EU Pilot files respectively).

The European Parliament alerted the Commission to shortcomings in the way Member States implement and apply EU law in the following areas by way of petitions and questions:

- *Environment:*
 - Formal infringement procedures have already been initiated against Italy due to its alleged failure to comply with EU rules on industrial emissions and to respect the polluter pays principle in the ILVA steel plant (located in Taranto)²⁰ and the potentially incorrect transposition of certain rules in the Environmental Impact Assessment Directive²¹; and
 - Investigations within EU Pilot were launched due to other possible violations of rules relating to waste management, water management and nature protection in six other Member States;
- *Home affairs:* the waiting times at Spain's border with Gibraltar²², reported by the European Parliament and also in numerous citizens' complaints, was followed-up by an on-site visit of the Commission, and subsequent recommendations to both the Spanish and the UK authorities;²³
- *Justice:* the Commission opened an investigation concerning the discrimination on grounds of religion and followed up, with an additional letter of formal notice, an

urgent and exceptional cases, the Commission may decide to address a letter of formal notice (Article 258 TFEU) to the Member State without prior bilateral discussion.

²⁰ [IP/13/866](#)

²¹ Directive [2011/92/EU](#) on the assessment of the effects of certain public and private projects on the environment

²² Official Journal [2013/C 246/07](#)

²³ Official Journal [2013/C 357/04](#)

infringement launched earlier against Belgium due to the misapplication of the Regulation on the European enforcement order;²⁴

- *Transport*: the Commission sent a letter of formal notice to Austria regarding the possible violation of the non-discrimination principle in setting the toll rates at the Felbertauern crossing;
- *Health*: the Commission opened six investigations on alleged infringement of EU rules on food safety, cosmetics and animal welfare;
- *Taxation*: European Parliament initiatives led the Commission to raise concerns in relation to tax rules applicable to mobile workers; and
- *Agriculture and rural development*: a Commission investigation was commenced upon a European Parliament question claiming the violation of organic farming rules.

2.1.2. OWN INITIATIVE CASES

Apart from acting on complaints, the Commission examines the correct implementation of EU law on its own initiative. 1023 investigations were launched during 2013 (in 2012, 791 were started).

Transport, environment and justice were the three policy areas where the most potential infringements were identified (256, 199 and 144 new EU Pilot files, respectively). The Member States primarily concerned were Italy, Greece and Spain (67, 61 and 58 new EU Pilot files, respectively).

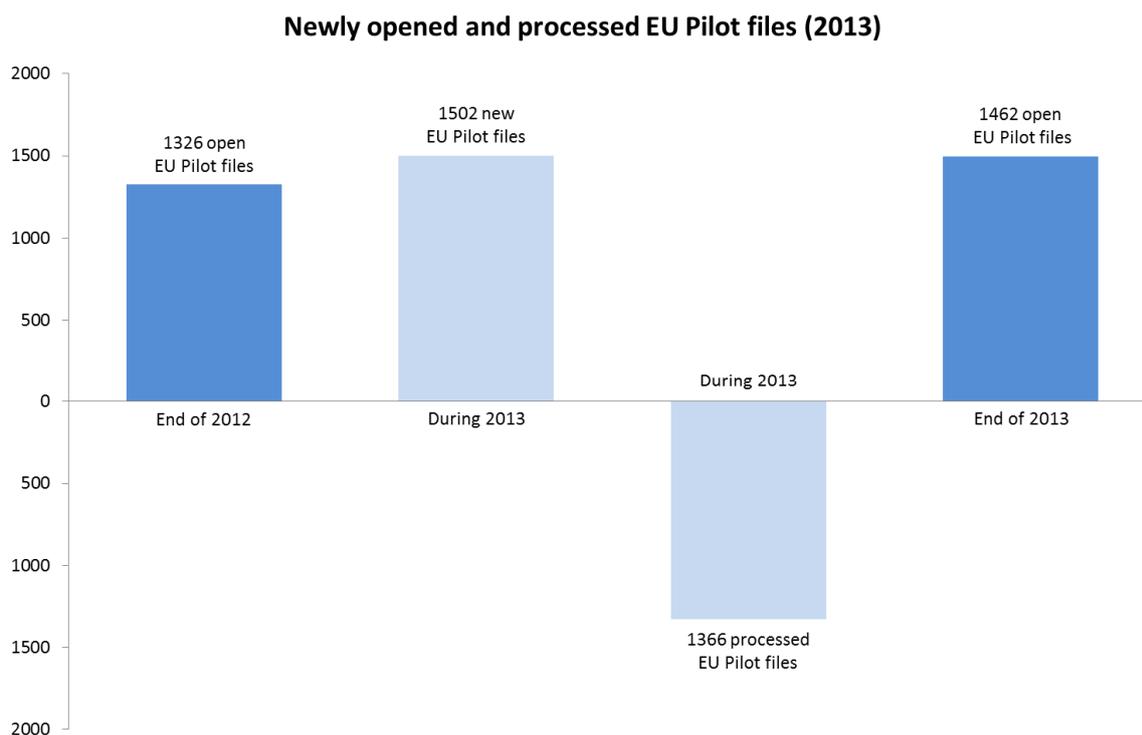
2.2. PROBLEM SOLVING

The purpose of the Commission's infringements policy is to promote the correct application of EU law as quickly as possible. EU Pilot is a Commission initiative aimed at resolving problems related to the application of EU law in compliance with EU law and responding to questions. Supported by an on-line database and communication tool, EU Pilot provides the opportunity to resolve problems rapidly as, in principle, the process should be completed within 20 weeks. EU Pilot dialogue facilitates achieving compliance with EU law obligations through speedy resolution of problems for the benefit of citizens and businesses.

The number of new EU Pilot files has increased gradually during the past three years (1 201 new files were opened in 2011 and 1 405 in 2012). Therefore, despite the fact that the Commission solved 16% more EU Pilot files in 2013 (1366 as compared to 1175), the number of open files is 10% higher than the previous year. The following chart contains the main EU Pilot figures for 2013:²⁵

²⁴ Regulation (EC) No [805/2004](#) creating a European Enforcement Order for uncontested claims

²⁵ From the sum of the 2012 open EU Pilot files and the 2013 new EU Pilot files (1326+1502=2828), the number of processed files is deducted (2828-1366=1462).



1 502 new files during 2013 – This figure is composed of 479 files triggered by complaints and 1023 new own initiative files.

1 366 closed files during 2013 – Of the 1 330 processed EU Pilot files in 2013, the Commission closed 934 files because the Member State provided a satisfactory response. This is a 70.22 % resolution rate for the Member States, a slight increase from the 2012 rate (68.34 %).²⁶

In 2013, 396 EU Pilot files were followed up by formal infringement procedures (there were 334 such files in 2012). These include 79 transport, 71 environment and 50 taxation & customs union cases. Spain, Italy and France had the highest number of such files in EU Pilot followed by infringement proceedings (34, 33 and 32 files, respectively).

1 462 pending EU Pilot files – By the end of 2013, most of the open EU Pilot files concerned Italy (147), followed by France (112) and Spain (107). From the point of view of policy areas, environment remained the leading field with 396 open dossiers, followed by justice (210) and transport (200).

3. INFRINGEMENT PROCEDURES

If a Member State does not resolve the alleged breach of EU law and if the Commission considers there is a violation of EU law obligations, the Commission may launch infringement procedures under Article 258 TFEU²⁷ and eventually refer the dispute to the Court of Justice. In 2013, the

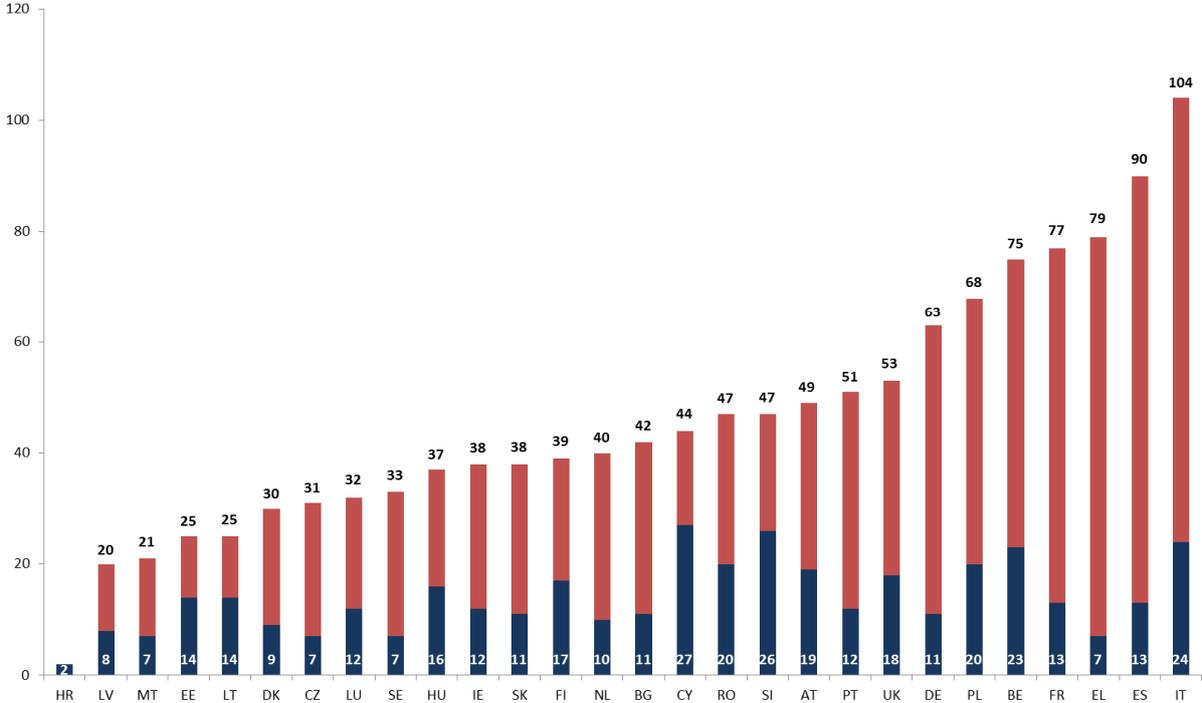
²⁶ Report from the Commission – 30th Annual Report on monitoring the application of EU law (2012), [COM\(2013\) 726 final](#), p. 7.

²⁷ Or under other provisions of the TFEU, see footnote 2 above.

Commission launched 761 new infringement procedures. Italy received the most letters of formal notice from the Commission (58), followed by France (44) and Spain (41). As regards policy fields, most new procedures related to environment, transport and health issues (223, 94 and 69 letters of formal notice, respectively). In addition, the Commission sent 217 reasoned opinions to Member States during 2013. Italy, Romania and Belgium received the most (20, 15 and 14 reasoned opinions, respectively). Environment, energy and taxation & customs union were the policy areas where the Commission addressed the most reasoned opinions to Member States (52, 38 and 29, respectively).

At the end of last year, 1 300 infringement cases remained open.²⁸ The number of open infringement cases has continued to fall – from nearly 2 100 cases in 2010 to 1 775 cases in 2011 and to 1 343 cases in 2012. The following charts break down the total number of open infringement cases between late transposition infringements and incorrect transposition / bad application cases according to Member States and policy areas:

**Number of infringements in the EU-28
(31 December 2013)**



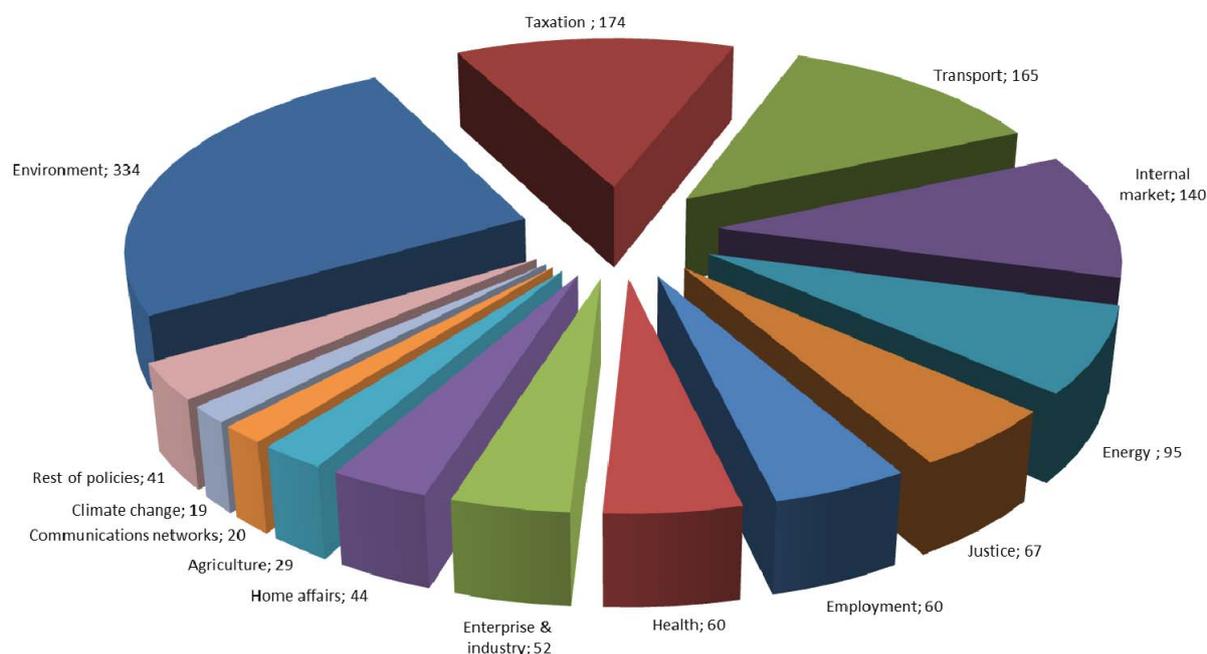
Blue part of the bars: late transposition infringements

Red part of the bars: infringements for incorrect transposition and / or bad application of EU laws

Black figures: total number of open infringement cases against the Member State

²⁸ This figure includes all procedures where the Member State has received at least a letter of formal notice from the Commission under Article 258 TFEU.

Infringement cases per policy areas in 2013



The dialogue between the Member State and the Commission continues during the formal procedure, in order to promote compliance as quickly as possible. Statistics confirm that Member States make serious efforts to settle their infringements before the Court of Justice hands down its ruling.²⁹ During 2013:

- the Commission closed 484 infringements after sending the letter of formal notice;
- 200 cases were solved after reasoned opinions were sent to the Member State; and
- 47 infringements were closed (or withdrawn from the Court) after the Commission decided to refer the case to the Court of Justice.

In total, 731 infringement cases were closed before the Court of Justice delivered its judgment under Article 258 TFEU because the relevant Member States had demonstrated their compliance. The Court of Justice delivered 52 judgments under Article 258 TFEU in 2013, out of which 31 judgments (59.6 %) were in favour of the Commission. The Court of Justice passed most of its judgments against France (8, of which 2 were in favour of the Member State), Poland (6/2), Spain (5/0), Italy, Ireland and the Netherlands (4/1, 4/1 and 4/2 respectively). Taxation (24), transport (11) and environment (7) were the three policy areas with the most judgments delivered by the Court of Justice during 2013.

²⁹ The following figures were calculated for all infringement cases irrespective of their type (i.e., complaint, own initiative of the Commission or late transposition of directives by Member States).

Member States frequently take the necessary measures to comply with the judgment of the Court of Justice in a timely manner. However, at the end of 2013, the Commission considered that 113 judgments passed under Article 258 TFEU had still not been fully complied with by the Member States concerned. Most of these cases concerned Spain (14), Greece (13) and Italy (12) and were related to environment (40), transport (18) and taxation & customs union (17).

Out of these 113 cases, nine had already been referred to the Court of Justice for the second time under Article 260 (2) TFEU. In principle, a Court judgment under Article 260(2) TFEU can impose a lump sum and / or a (daily or other periodic) penalty payment on the defaulting Member State, which must pay immediately the lump sum while paying the periodic penalty until it reaches full compliance with the first and second Court judgments. In 2013, five Court judgments were delivered under Article 260(2) TFEU. The Court imposed penalty payments against Belgium,³⁰ the Czech Republic,³¹ Luxembourg³² and Sweden³³ but it dismissed the claim of the Commission against Germany.³⁴

4. POLICY DEVELOPMENTS

Accurate and timely transposition and application of EU law is an element of the Commission's broader Smart Regulation Agenda.

4.1. EU REGULATORY FITNESS

To follow up on its 2012 Communication on Regulatory Fitness³⁵, the Commission implemented the Regulatory Fitness and Performance Programme (REFIT) in 2013. REFIT involves mapping and screening of the *acquis* with a view to ensuring that legislation is 'fit for purpose' and that unnecessary red tape and burdens are removed while still maintaining the benefits of EU legislation. REFIT identifies areas where the Commission will propose to simplify legislation and reduce regulatory burdens; will not take action; will withdraw or repeal proposals and where it will undertake analysis to see where burdens can be reduced. Initial results were published in the form of a staff working document³⁶, followed by a Communication³⁷ which identified specific

³⁰ Commission v Belgium, [C-533/11](#) (lump sum payment: € 10,000,000; penalty: € 859,404 for each six-month period of non-compliance with the judgment under Article 258 TFEU)

³¹ Commission v the Czech Republic, [C-241/11](#) (lump sum payment: € 250,000; no daily penalty)

³² Commission v Luxembourg, [C-576/11](#) (lump sum payment: € 2,000,000; penalty: € 2,800 for each day of non-compliance with the judgment under Article 258 TFEU)

³³ Commission v Sweden, [C-270/11](#) (lump sum payment: € 3,000,000; no daily penalty)

³⁴ Commission v Germany, [C-95/12](#) (no penalties)

³⁵ Communication from the Commission on EU Regulatory Fitness ([COM\(2012\) 746 final](#)). This Communication has been followed up by another Communication on the REFIT's results and next steps ([COM\(2013\) 685 final](#))

³⁶ REFIT: mapping the *acquis*, initial results – [SWD\(2013\)401 final](#)

³⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Regulatory Fitness and Performance (REFIT): Results and Next Steps, [COM\(2013\)685 final](#)

actions for legislative amendment, repeal, withdrawal and evaluation. The Communication confirmed that recurring problems in the application of law should also be followed up in the context of REFIT.

4.2. IMPLEMENTATION PLANS

In order support to the competent national authorities in ensuring the correct transposition and application of EU rules, the Commission has increasingly cooperated with Member States on implementation plans. These plans identify the main risks for timely and correct implementation of new (or amended) pieces of EU legislation and suggest actions to national authorities to mitigate those risks.

Implementation plans accompanied Commission proposals on, inter alia:

- The reduction of national emissions for certain atmospheric pollutants;³⁸
- The amendment of the directive³⁹ establishing a Community framework for the nuclear safety of nuclear installations;⁴⁰
- The regulation of payment services in the internal market;⁴¹
- Strengthening the presumption of innocence and of the right to be present at trial in criminal proceedings;⁴²
- Procedural safeguards for children suspected or accused in criminal proceedings⁴³
- Provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings⁴⁴
- Package travel and assisted travel arrangements⁴⁵ and
- Certain rules governing actions for damages under national law for infringements of the competition provisions.⁴⁶

38 [COM\(2013\)920](#)

39 Directive [2009/71/EURATOM](#) establishing a Community framework for the nuclear safety of nuclear installations

40 [COM\(2013\)343](#)

41 [COM\(2013\)547](#)

42 [COM\(2013\)821](#) and [SWD\(2013\) 500](#)

43 [COM\(2013\) 822](#) and [SWD\(2013\) 492](#)

44 [COM\(2013\) 824](#) and [SWD\(2013\) 499](#)

45 [COM\(2013\) 512](#) and [SWD\(2013\) 266](#)

46 [COM\(2013\)404](#)

4.3. EXPLANATORY DOCUMENTS

While Member States are responsible for transposing directives accurately and on time, it is the Commission's role as guardian of the Treaties to check that this is done. For this purpose, the information that Member States give the Commission must be clear and precise. In 2011 the European Institutions and Member States established a new framework under which Member States provide supporting information about how they have transposed directives into their law. It was agreed that such supporting information ("explanatory documents") will be submitted in justified cases together with the measures to transpose directives.

In November 2013 the Commission submitted a report on the implementation of the new framework,⁴⁷ which showed that since 1 November 2011, 29 explanatory documents had been requested at the point of making a proposal. Another 19 requests were made relating to proposals pending before the co-legislators on 1 November 2011.

A full assessment of the new framework was not possible in 2013, as the first directive, adopted in December 2011, had to be transposed by the Member States only by the end of 2013.⁴⁸ A fuller assessment will therefore only be possible once the Commission has received explanatory documents for a more representative number of directives. The Commission will report to the European Parliament and the Council on developments in upcoming Annual Reports.

4.4. TRANSPARENCY – ACCESS TO INFRINGEMENT-RELATED DOCUMENTS

The Court has handed down its judgment in a case that involved a request of an organisation to have access to Commission documents relating to the investigation of a potential infringement of EU law by a Member State.⁴⁹

The Court confirmed that from the point of view of public access to documents, the Commission could treat the entire content of its administrative file as belonging to a single category of documents during the investigation phase of the infringement procedure (including EU Pilot). The Commission is entitled to apply a general presumption that disclosing any document in this phase would undermine the protection of the purpose of the investigations, namely, to give the Member State an opportunity to comply with its obligations and to exercise its right to defend itself. Accordingly, the Commission did not infringe the Regulation on access to documents held by the institutions of the EU⁵⁰ when it refused to grant access to the entire documentation during the investigation period.

In addition, the Court confirmed its earlier case law⁵¹ as regards the Commission's discretionary right in relation to the infringement procedures under Article 258 TFEU. More precisely, the

⁴⁷ [COM\(2013\)788 final](#)

⁴⁸ Directive [2011/98/EU](#)

⁴⁹ Joined cases [C-514/11 P](#) and [C-605/11 P](#)

⁵⁰ Regulation (EC) No [1049/2001](#) regarding public access to European Parliament, Council and Commission documents

⁵¹ *Star Fruit v Commission*, [C-247/87](#) (paragraph 11); *Sonito and Others v Commission*, [C-87/89](#) (paragraph 6) and *P Ruipérez Aguirre and ATC Petition v Commission*, C-111/11 (the [order](#) of 14 July 2011, paragraphs 11 and 12)

complainant does not have the right in the context of this procedure to require the Commission to take a specific position or to bring an action against the Member State. It is also for the Commission to assess the appropriateness of acting against the Member State, to identify the infringed EU rules and to establish the timing of its procedural steps.

5. CONCLUSIONS

The high and rising number of complaints indicates that citizens are more and more aware of the benefits that flow from the full and correct application of EU rules. At the same time, this is an indication of the expectation that the implementation of EU law requires increased efforts from the Member States and on-going monitoring from the Commission.

The timely transposition of directives remains a top priority within the Commission's EU law policy and transposition deadlines will be vigorously enforced. Although the timely transposition of directives continues to be a challenge in many Member States, Denmark, Latvia and Malta maintained a very low number of late transposition infringement cases over the past three years. Greece and the Czech Republic made good progress in reducing their late transposition infringements during the same period.

The overall decrease of formal infringement procedures during the past five years (from nearly 2900 to 1300) reflects in part that problems have been solved with the use of EU Pilot. The structured dialogue via EU Pilot has proven effective in the early resolution of potential infringements, to the benefit of citizens and business alike. The situation varies across Member States. The Czech Republic and Portugal have managed to halve the number of their infringement cases during this period and the Netherlands and Luxembourg have also significantly improved their results. Slovenia, Cyprus and Romania saw their number of infringement cases rise over the past five years, although their total cases are at average level.

The Commission will continue its active monitoring of the application of EU law. This includes proactive assistance to the Member States and, if necessary, the launch of formal infringement proceedings, with a view to ensure full respect of EU law obligations across the Union.