

# Who's afraid of the ECJ?

Charting the UK's relationship with the European Court



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## About this paper

The Government has promised to end the jurisdiction of the European Court of Justice (ECJ) after Brexit. This paper is a data-driven analysis of the UK's experience with the ECJ and the European Commission. It aims to inform negotiations over the future relationship between the UK and EU institutions. This builds on two earlier papers: *Dispute Resolution after Brexit*, which examined the options for future UK-EU dispute resolution; and *Brexit and the European Court of Justice*, which considered how Parliament should handle the ECJ in the EU Withdrawal Bill.

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# Introduction



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The Government has promised to end the direct jurisdiction of the European Court of Justice (ECJ) after Brexit. However, the role of the court remains a live issue in negotiations.

The question of whether the ECJ should be the final arbiter in citizens' rights cases has been particularly contentious. The European Union (EU) says that it should be possible for the UK courts to refer these cases to the ECJ, as they can now. Until now the UK Government has resisted this, but has accepted that the withdrawal agreement will have to include means of "ensuring the consistent interpretation of [...] concepts of EU law", including citizens' rights.<sup>1</sup>

The Government is also considering governance options for the future partnership, where it faces a choice between ongoing participation in EU agencies and regulators, which are overseen by the ECJ, and forging a new regulatory path away from the EU's institutional architecture.<sup>2</sup> In *Dispute Resolution after Brexit*, the Institute for Government argued that the UK cannot escape the ECJ entirely, and should not try to.<sup>3</sup> However, we also discussed a range of possible dispute resolution mechanisms for both the withdrawal agreement and the future partnership, including an arbitration system, a new joint court, and participation in the EFTA Court (the court which interprets European law for Norway, Iceland and Liechtenstein, the states in both the European Free Trade Association and the European Economic Area).

As the role of the ECJ continues to occupy negotiators in Brussels and parliamentarians in the UK, it is important that this debate is informed by a sound evidence base. The Prime Minister has promised that the law after Brexit "will be interpreted by judges not in Luxembourg but in courts across this country".<sup>4</sup> This paper sets out how often the UK is in fact taking orders from judges in Luxembourg, and what those judges tend to say.

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This analysis comes with a number of significant caveats:

1. **Selected countries only.** We have collected data on the UK's interactions with the ECJ, along with the European Commission, since 2003.\* We have, in most cases, compared the experience of the UK to that of the 14 other EU member states who joined before 2000 (listed below in order of accession):

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\* The European Commission's online database on infringement decisions, the main data source for this research, only goes back to mid-2002. Other sources, such as the European Commission's annual reports on monitoring the application of EU law, go back further, but are inconsistent in the statistics that they report, and do not include a detailed breakdown of cases by subject matter.

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- Belgium
  - France
  - Germany
  - Italy
  - Luxembourg
  - The Netherlands
  - Denmark
  - Ireland
  - Greece
  - Portugal
  - Spain
  - Austria
  - Finland
  - Sweden.

We have restricted our focus to these countries as newer members' interactions with the European institutions can be anomalous in the years directly after accession.

2. **Raw data only.** The countries we investigate vary in population size and gross domestic product (GDP). We have not tried to account for these variations. While there are probably correlations between a country's economic or demographic size and the frequency with which the European Commission brings infringement cases, businesses register complaints, and private parties open cases before domestic courts that eventually reach the ECJ, these correlations are difficult to identify and quantify. So are correlations between the number, legal expertise and effectiveness of civil society organisations, which initiate some cases, and the experience of different member states with the EU institutions. The data we present should therefore be viewed with these qualitative considerations in mind.
3. **Fully-fledged proceedings only.** In any event, data on member states' public interactions with the ECJ and the European Commission represent only the most visible part of a much larger picture. The EU treaties and EU regulations are directly applicable in member states and enforced by their own courts.<sup>5</sup> Where areas of non-compliance are identified, either by members of the public or the Commission's own monitoring, the majority of complaints are resolved without the opening of formal infringement proceedings.\* The threat of those proceedings, and the possibility of a hefty fine from the ECJ, may act as a deterrent, quietly forcing the hand of member states. We have not attempted to establish or quantify the impact of this deterrence.\*\*

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\* Based on recent European Commission annual reports, around 90% of formal complaints are not taken any further, and around 75% of pilot scheme cases are not taken any further. See: European Commission, *Monitoring the Application of European Union Law 2016 Annual Report*, 6 July 2017, Section IV, retrieved 15 November 2017, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=COM%3A2017%3A370%3AFIN&from=EN>

\*\* There is a body of academic literature assessing the ways in which compliance with EU law is ensured. The threat of an ECJ-imposed fine is typically stressed, but other factors, such as political pressure from other member states, also play a role. See: Andersen, S, *The Enforcement of EU Law: The role of the European Commission*, Oxford University Press, 2012.

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There are also other sanctions the EU can apply to an errant member state. The UK Department for Environment, Food and Rural Affairs (Defra), for example, has paid some £642 million in 'disallowance' (fines imposed by the Commission) for mismanagement of the farm Single Payment Scheme since 2004, without going near the ECJ.<sup>6</sup> This and similar cases are not considered here.

4. **Proceedings reflect priorities.** The number and type of infringement proceedings against the UK and other member states reflect, in part, the propensity of those member states to violate EU law in one area or another. However, they also reflect the priorities of the European Commission in general, those of a given Commission presidency, external political pressures on the Commission, and the Commission's resources. These data do not, therefore, amount to an authoritative scorecard on the UK's history of compliance with EU law.

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# Road to the ECJ

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There are a number of ways in which the UK interacts with the ECJ.

First, a referral to the ECJ represents the final stage of the EU's infringement process. The European Commission can open infringement proceedings against a member state for failing to comply with its obligations under EU law. These proceedings are initiated for three main reasons:

1. **Late transposition (or 'non-communication')**. The member state fails to communicate to the European Commission that it has transposed a directive into domestic law, usually because it has not done so.
2. **Non-conformity with EU law**. The member state has transposed a directive, but not correctly. Or, the member state is violating provisions of the EU treaties or EU regulations.
3. **Incorrect application of EU law**. The member state has the right law on its statute book, but is not applying it or implementing it correctly.

There are three formal stages to the infringement process:

1. **Letter of formal notice**. The European Commission sends a letter of formal notice to the member state to inform them of the breach and request an explanation within a given time limit.
2. **Reasoned opinion**. If the member state fails to explain itself satisfactorily, the Commission issues a reasoned opinion. This offers further detail of the infringement, and sets a deadline for resolving the issue.
3. **Referral to the ECJ**. If the member state fails to comply with the reasoned opinion before the deadline, the Commission refers the offending state to the ECJ. If the ECJ finds the member state in breach of its obligations, but the member state still fails to comply, the Commission can refer the case to the ECJ for a second time with a proposed financial penalty (although if the case relates to late transposition, the Commission can propose a financial penalty on first referral).

Second, UK courts can refer a question of EU law to the ECJ for a 'preliminary ruling'. Courts have the right to do this if they are unsure of how to interpret EU law in a given context, and require clarification before making a judgment. The Supreme Court and, where no leave to request an appeal has been granted, lower courts, are duty-bound by the EU treaties to refer any questions of EU law to the ECJ.<sup>7</sup>

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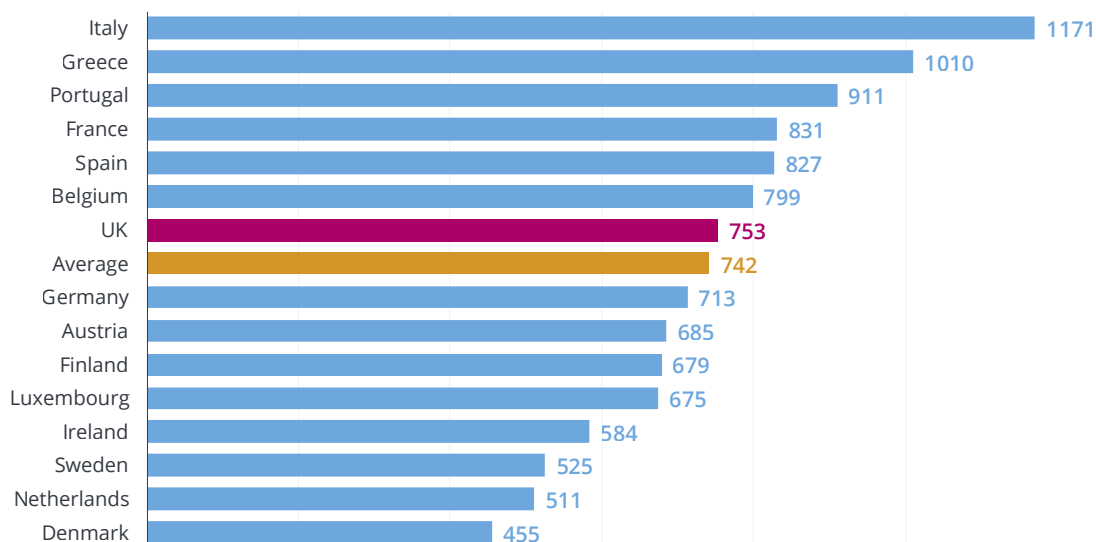
There are several other routes to the ECJ:

- It is possible for another member state to take the UK to the ECJ, and vice versa, without the involvement of the Commission. This very rarely happens, so these cases are not considered in this paper.
- The UK can intervene in cases brought by the Commission against another member state. The data on these cases are less readily available, so these cases are not considered here either.
- The UK can open a case against the EU institutions. These cases are also rare, so are not considered here.
- Private parties from the UK can ask the ECJ to overturn the actions of EU institutions if they believe those actions are in breach of EU law. The data on these cases are not readily available, so are not considered here.

# Findings

## The European Commission sends the UK an average number of letters of formal notice

Figure 1: European Commission decisions to send letter of formal notice, 2003–2016, by member state



Source: Institute for Government analysis of the European Commission’s database of infringement decisions

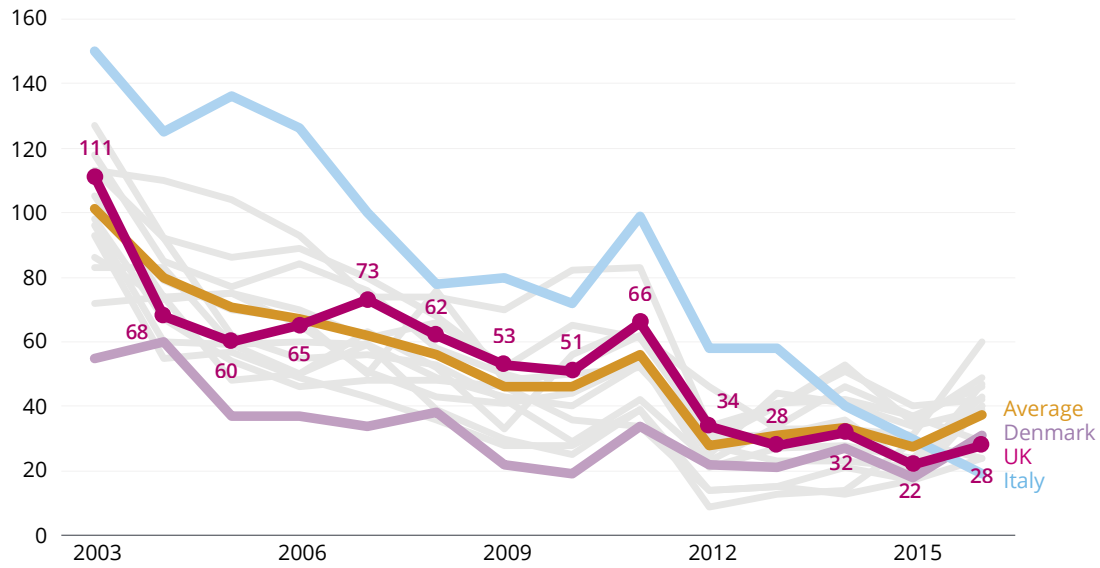
Between 2003 and 2016, the Commission made 753 decisions to send letters of formal notice to the UK.\* This puts the UK in the middle of the pack among comparable member states. It ranks seventh of the 15 member states we consider, coming in just above the group average.

The UK has been consistently close to the mean every year since 2003.

\* Numbers are based on data retrieved from the European Commission’s database of infringement decisions: [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/?lang\\_code=en](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/?lang_code=en). The figures differ slightly from those retrieved from the Commission’s annual reports on monitoring the application of EU law ([https://ec.europa.eu/info/publications/annual-reports-monitoring-application-eu-law\\_en](https://ec.europa.eu/info/publications/annual-reports-monitoring-application-eu-law_en)), which indicate that 751 letters of formal notice were sent to the UK over this period. The discrepancy arises in 2003: two decisions to send letters of formal notice may not actually have been executed that year.



**Figure 2: European Commission decisions to send letter of formal notice over time: the UK in context**



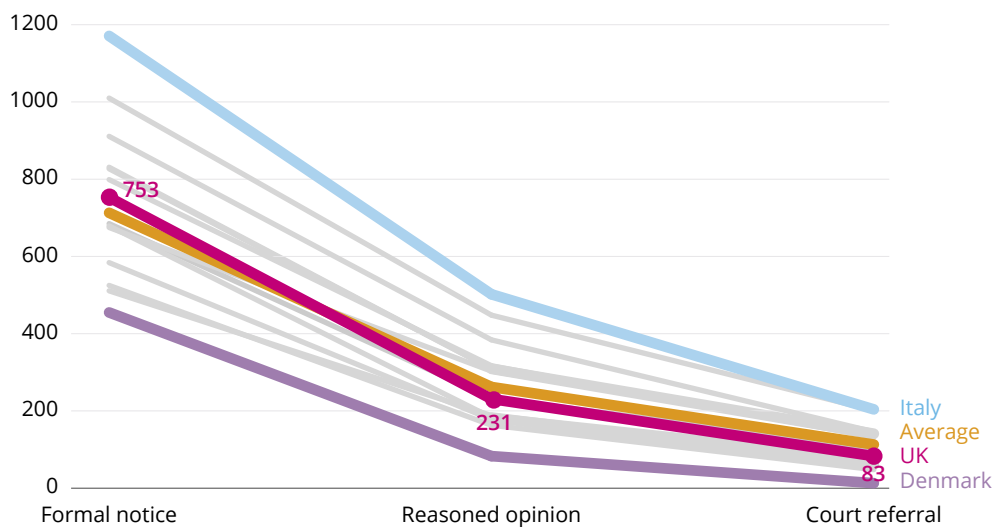
Source: Institute for Government analysis of the European Commission’s database of infringement decisions

The number of letters of formal notice sent by the European Commission has declined considerably in recent years, for both the UK and other member states. This probably reflects a growing preference at the Commission for cases to be resolved using domestic legal remedies and informal dispute resolution procedures. These developments are discussed in more detail below.

Over two thirds of letters of formal notice received by the UK concern the late transposition of directives – cases in which the UK needs to make changes in domestic law to comply with its EU law obligations, but fails to notify the European Commission that it has done so. That is typical across the bloc.

### The UK tends to resolve its cases earlier than other member states

**Figure 3: Number of cases reaching each stage of the infringement process, 2003–2016**

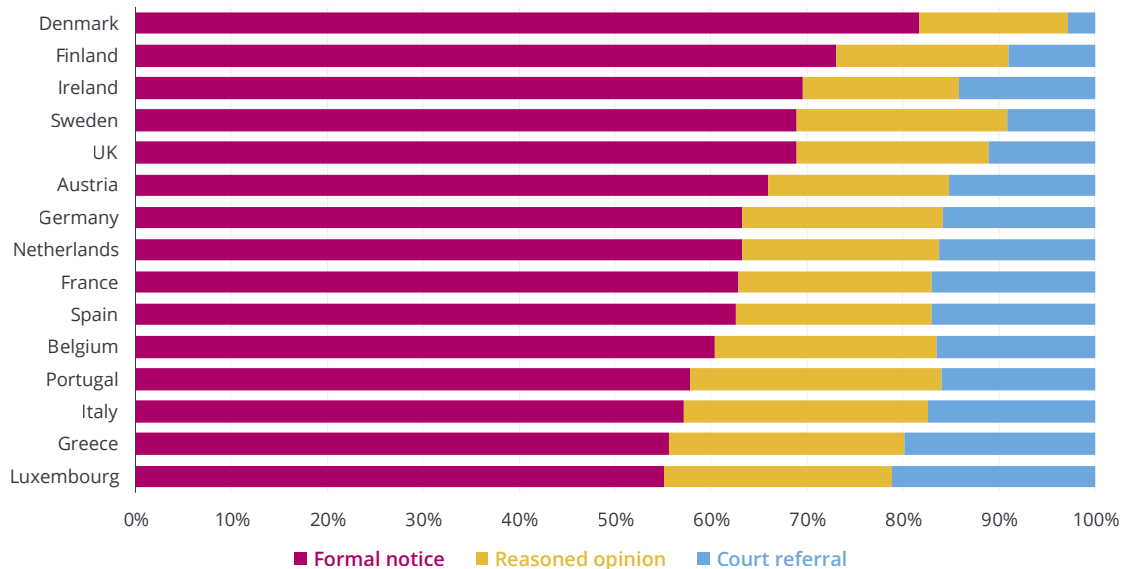


Source: Institute for Government analysis of the European Commission’s database of infringement decisions

Though the UK falls in the middle of the pack when it comes to the number of letters of formal notice it receives, a letter of formal notice is only the first step in infringement proceedings. The number of cases against the UK that progress to the next stage, a reasoned opinion, is lower than average, as is the number of cases that the Commission decides to refer to the ECJ.

According to legal experts interviewed by the Institute for Government, this is because the UK devotes considerable resources to resolving disputes informally as soon as it receives a letter of formal notice, and even more once it receives a reasoned opinion.

**Figure 4: Proportion of cases resolved at each stage, 2003–2016, by member state**

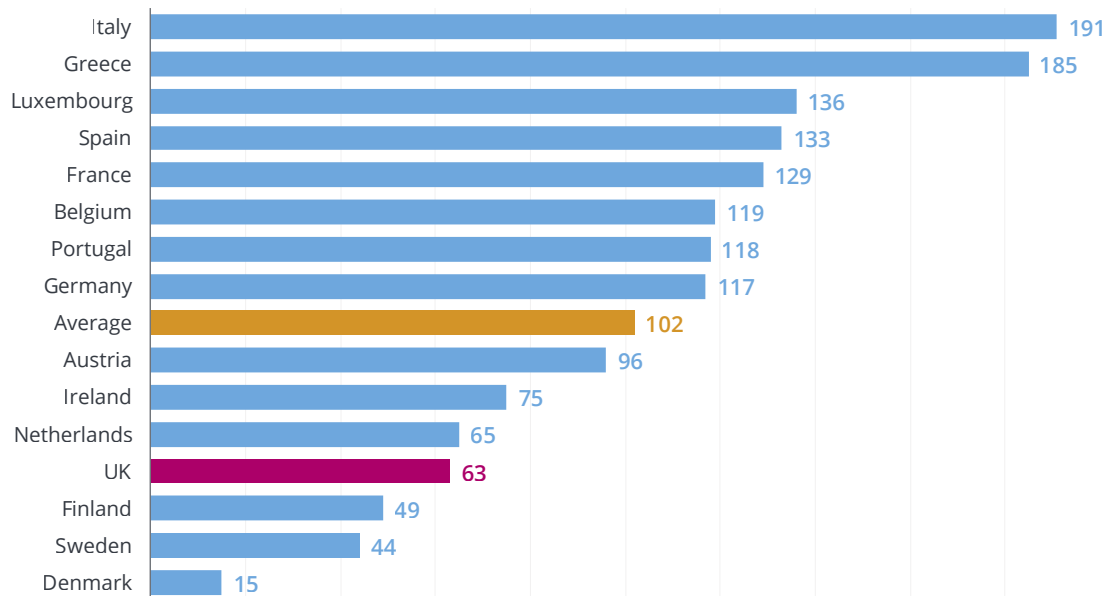


Source: Institute for Government analysis of the European Commission’s database of infringement decisions

The UK resolves 69% of its cases at the formal notice stage, and 20% of its cases at the reasoned opinion stage.

## The UK ends up in court less often than many other member states

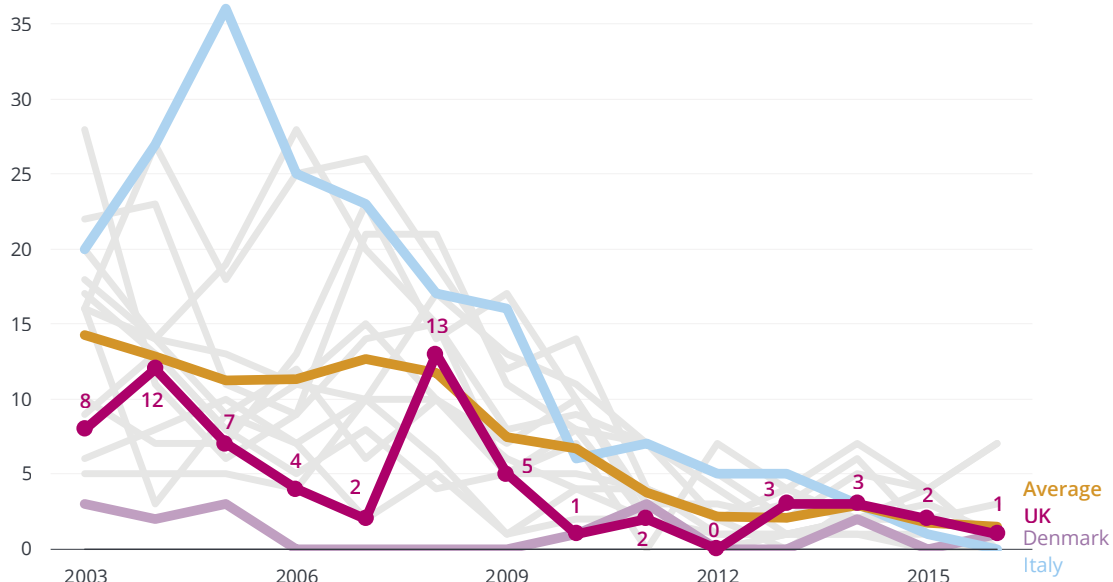
**Figure 5: Actions brought before the European Court of Justice against member states, 2003–2016**



Source: Institute for Government analysis of the annual reports of the European Court of Justice

In absolute as well as relative terms, the UK rarely ends up in the dock. The number of actions brought against the UK before the ECJ is well below average.\* Of the countries we consider, only the Scandinavian member states are taken to court by the Commission less often than the UK.

**Figure 6: Actions brought before the European Court of Justice against member states over time: the UK in context**

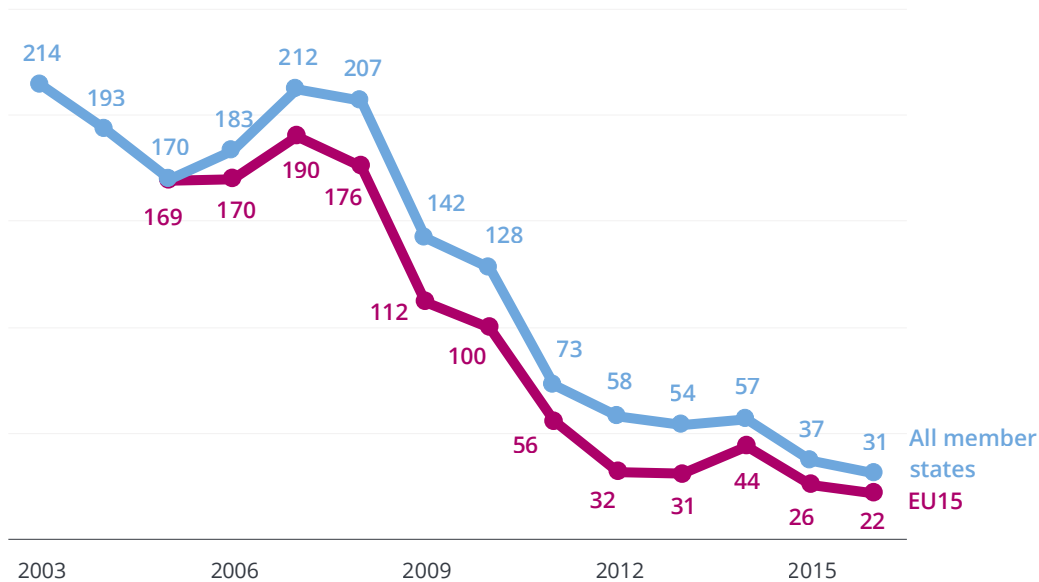


Source: Institute for Government analysis of the annual reports of the European Court of Justice

\* There is a difference between European Commission decisions to refer a case to the ECJ, and the formal bringing of an action. Cases are sometimes closed between the Commission's decision to refer them to the ECJ and the actual submission of an application to court. As a result, there is a discrepancy between the number of Commission decisions to refer cases presented above, which is retrieved from Commission data, and the number of actions brought presented here, retrieved from ECJ data.

The UK also ends up in court less often than it used to. This is in line with the trend for the other member states we have looked at (as Figure 6 shows). But it is not only the 15 member states in our study (labelled 'EU15' in Figure 7) that are being taken to court less often. The overall number of infringement cases reaching the ECJ for all member states is also much smaller than it used to be, despite the accession of a further 13 countries in the last 13 years.

**Figure 7: Actions brought before the European Court of Justice against member states: volume over time**



Source: Institute for Government analysis of the annual reports of the European Court of Justice

The decline in court cases is partly explained by the decline in letters of formal notice. Fewer infringement proceedings means fewer opportunities for countries to be taken to the court. However, the *proportion* of infringement proceedings resolved early, before reaching the court stage, has also gone up for the countries in question. The European Commission decided to refer only 8% of infringement cases against our countries to the ECJ over the last five years, compared with 15% of cases over the 2003–2016 period.

Three factors are likely to have played a role in the fall in the number of cases progressing to court:

1. **Pilot scheme.** The pilot scheme, introduced progressively between 2008 and 2012, is a means of informal dispute resolution whereby the European Commission attempts to resolve breaches of EU law prior to opening formal infringement proceedings.
2. **Early fines.** Between the Maastricht Treaty (1993) and the Lisbon Treaty (2009), if a member state failed to comply with an initial court ruling, the Commission would issue an additional reasoned opinion detailing the areas of non-compliance and setting a deadline for resolving these issues. The Commission would then refer the country to the ECJ for a second time with a proposed penalty payment if this deadline was not met. The UK was a vocal advocate of introducing penalty

payments in the Maastricht Treaty, possibly because it had a strong compliance record.<sup>8</sup>

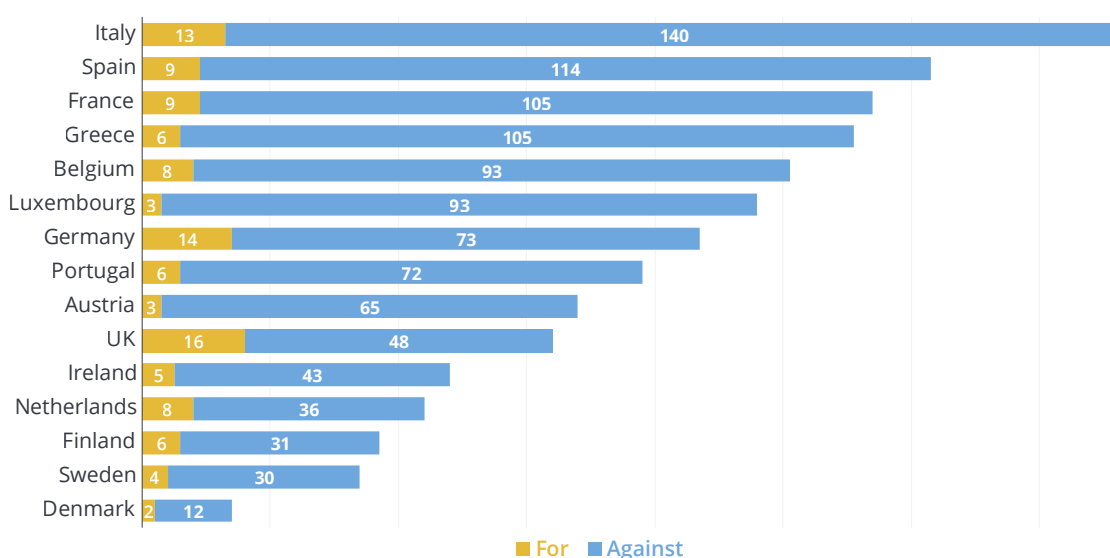
Since the introduction of the Lisbon Treaty, however, the Commission has been able to propose a penalty payment on the first referral of a case to the ECJ if it concerns late transposition of a directive.<sup>9</sup> The greater threat of financial sanctions in the wake of these changes is likely to have made member states more wary of being referred to the ECJ, encouraging them to resolve cases earlier.

3. **Cultural changes.** Some lawyers interviewed by the Institute for Government thought that the Commission had increasingly pushed for states to resolve disputes related to EU law using domestic legal remedies, meaning that fewer reach the ECJ.

Though enlargement might also be thought to have played a role, with the Commission increasingly directing its resources towards accession states and away from the group of older member states, we have not found evidence for this. The total volume of letters of formal notice and court actions for all member states (not just the 15 in our study) has declined since 2003. Around 40% of both letters of formal notice and court cases concern the newest states.\* These countries constitute 46% of the total membership, suggesting that the Commission is expending no more resources on ensuring compliance in newer states than it is in the original 15 member states.

## When the UK does end up before the ECJ, it wins more often than most other member states

**Figure 8: European Court of Justice rulings by country, 2003–2016**



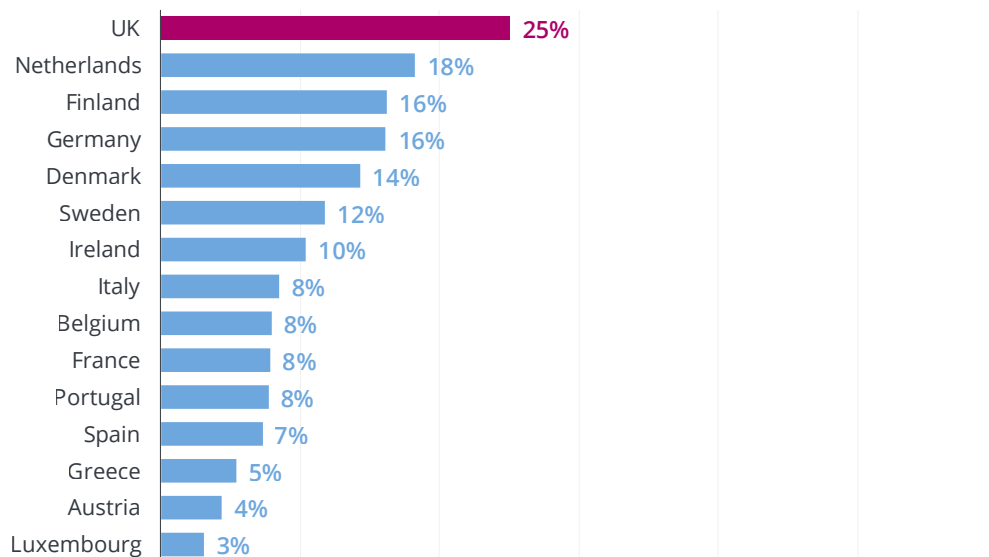
Source: Institute for Government analysis of the annual reports of the European Court of Justice

\* Figures for letters of formal notice are based on data retrieved from the European Commission's database of infringement decisions: [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/?lang\\_code=en](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/?lang_code=en). The number of court cases brought against member states is retrieved from the annual reports of the ECJ: [https://curia.europa.eu/jcms/jcms/Jo2\\_11035/rapports-annuels](https://curia.europa.eu/jcms/jcms/Jo2_11035/rapports-annuels).

In general, the ECJ finds against member states more than it finds for them. However, the UK's scorecard is better than most. In the period we examine, the UK has won 16 cases and lost 48, a 'success rate' of 25%. This is by far the highest success rate of any member state in our study, and the third highest of all 28 member states.\*

In interviews with the Institute for Government, UK lawyers argued that this is partly thanks to the high quality of UK lawyers. The UK's marked preference for resolving cases before court stage also means that the UK is unlikely to go to court unless the Government believes its case is strong.

**Figure 9: Proportion of favourable ECJ judgments by country, 2003–2016**

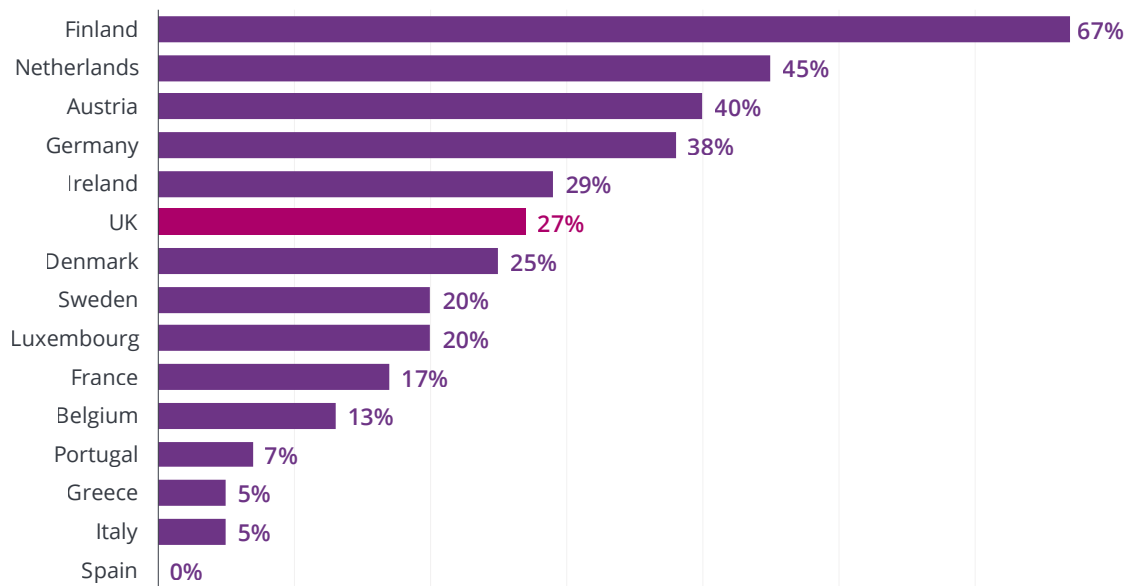


Source: Institute for Government analysis of the annual reports of the European Court of Justice

The countries we examine have generally enjoyed greater success in the last five years. The UK has not topped the table in that time period, but it has improved nevertheless.

\* Institute for Government analysis of the ECJ's annual reports indicates that Malta and Slovakia have been successful in 33% and 50% of their court cases, respectively, since their accession to the EU in 2004.

**Figure 10: Proportion of favourable ECJ judgments by country, 2012–2016**



Source: Institute for Government analysis of the annual reports of the European Court of Justice

Member states do not always choose to defend themselves when taken before the ECJ. Of the 63 cases the Commission brought against the UK that resulted in ECJ rulings over this period\*, the UK only submitted a defence for 30.<sup>10</sup> Its 16 wins came from these, with the UK's success rate for the cases it defended accordingly much higher, at 53%, than its success rate overall (25%).

The UK very rarely submits a defence in cases concerning the late transposition of directives. The UK defended itself in only two of 28 such cases that reached the court in this period, and those two cases were highly unusual.<sup>11</sup>

The UK has also been successful at avoiding penalty payments imposed by the ECJ for failure to comply. The European Commission refers countries such as Greece and Italy to the court with proposed penalty payments almost annually. Although not all of these fines materialise, they can be sizeable when they do. For instance, in 2016 Greece was ordered to pay a lump sum of €10 million, with a daily penalty of €30,000 to be paid on top of that until the required measures to comply with EU law had been adopted.<sup>12</sup>

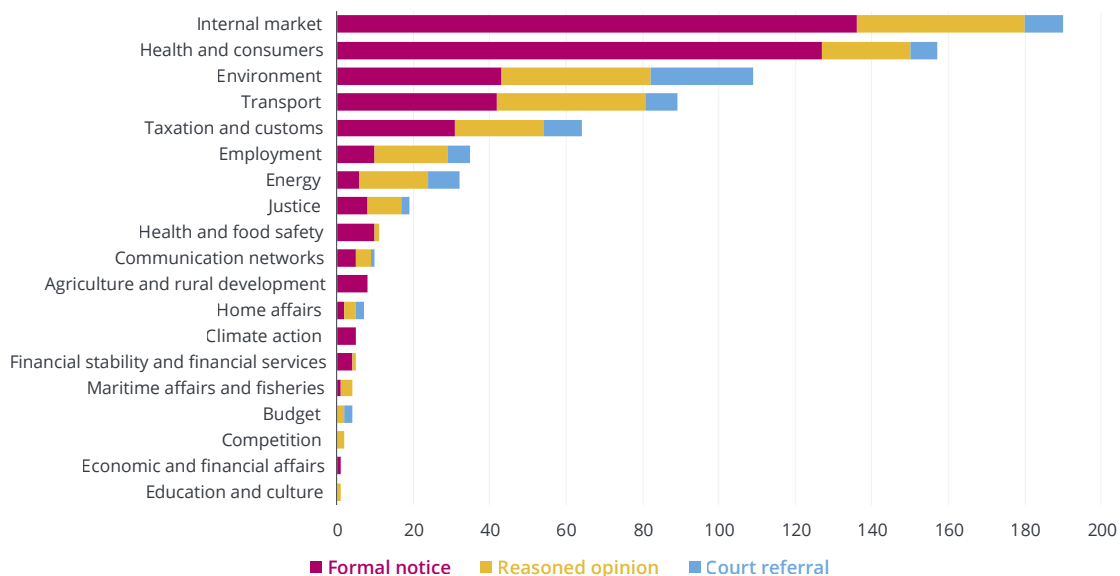
The UK has never been referred to the court for a fine, let alone been ordered to pay one.\*\* However, according to experts interviewed by the Institute for Government, fear of fines has created a powerful 'chilling effect' in Whitehall.

\* One of the 64 rulings accounted for in the ECJ's annual reports and included in Figure 8 was on a case brought against the UK by Spain.

\*\* In 2013, the European Commission decided to refer two cases concerning the UK to the ECJ for penalty payments. However, the required measures were implemented and notified to the Commission before the cases were formally referred. See: House of Lords European Union Select Committee, Justice, Institutions and Consumer Protection (Sub-Committee E), *Correspondence with Ministers – 4 June 2014–30 March 2015*, p.85, retrieved 15 October 2017, [www.parliament.uk/documents/lords-committees/eu-sub-com-e/cwm/CwMsubE4Jun14-30Mar15.pdf](http://www.parliament.uk/documents/lords-committees/eu-sub-com-e/cwm/CwMsubE4Jun14-30Mar15.pdf).

## Cases relating to the internal market, health and consumers, and the environment make up the bulk of infringement proceedings against the UK

**Figure 11: Number of UK infringement cases reaching each stage by subject area, 2003–2016**



Source: Institute for Government analysis of the European Commission's database of infringement decisions

Some 60% of letters of formal notice sent to the UK relate to these three subject areas, and a further 12% to transport matters.\*

This is typical of the bloc as a whole. The European Commission's annual reports on monitoring the application of EU law indicate that the environment, the internal market and transport tend to be particular problem areas for member states, with each regularly making up 10–20% of ongoing cases.

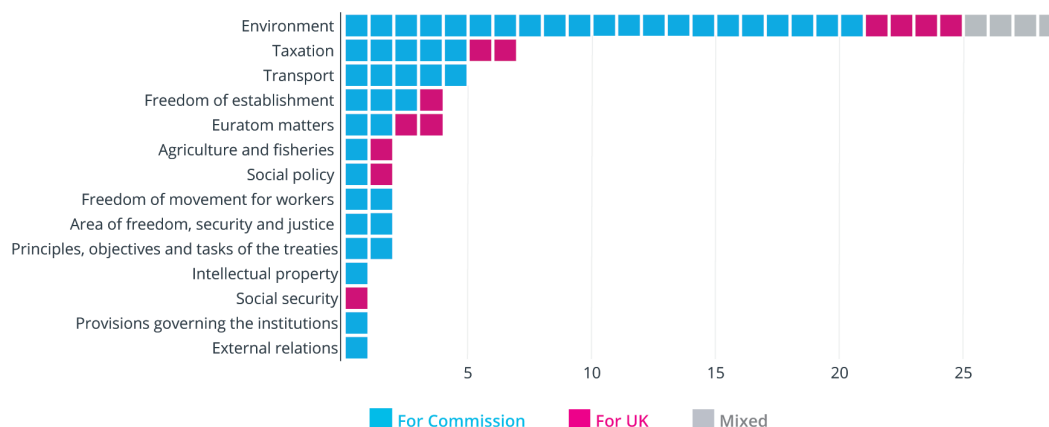
Cases relating to health and consumers are more frequent for the UK than for most other member states, but the majority of these are early in the period we examine, with no new cases brought in the last two years.

\* The European Commission narrows and widens the scope of the 'internal market' category in different annual reports. In addition, there is some variation in the scope of the 'health and consumers' and 'health and food safety' categories.



## Cases on the environment are the most likely to end up in court

Figure 12: Commission vs. UK: ECJ judgments by subject matter, 2003–2016



Source: Institute for Government analysis of judgments retrieved from InfoCuria, a database of the case law of the European Court of Justice

Though cases on the environment made up only 14% of letters of formal notice against the UK since 2003, they have proven particularly difficult to resolve. Some 29 of the 63 judgments (46%) handed down by the ECJ on UK infringements in this period related to the environment.\*

Legal experts interviewed by the Institute for Government supplied two main reasons for this:

1. **Cost.** Cases relating to the environment are more likely than cases in other areas of law to concern the implementation or application of EU law, rather than the proper transposition of EU law. Cases relating to implementation can be more costly and time consuming to resolve than cases relating to non-transposition or incorrect transposition, because they often involve building new infrastructure or achieving specific outcomes (such as a certain, measurable level of a pollutant in a body of water).

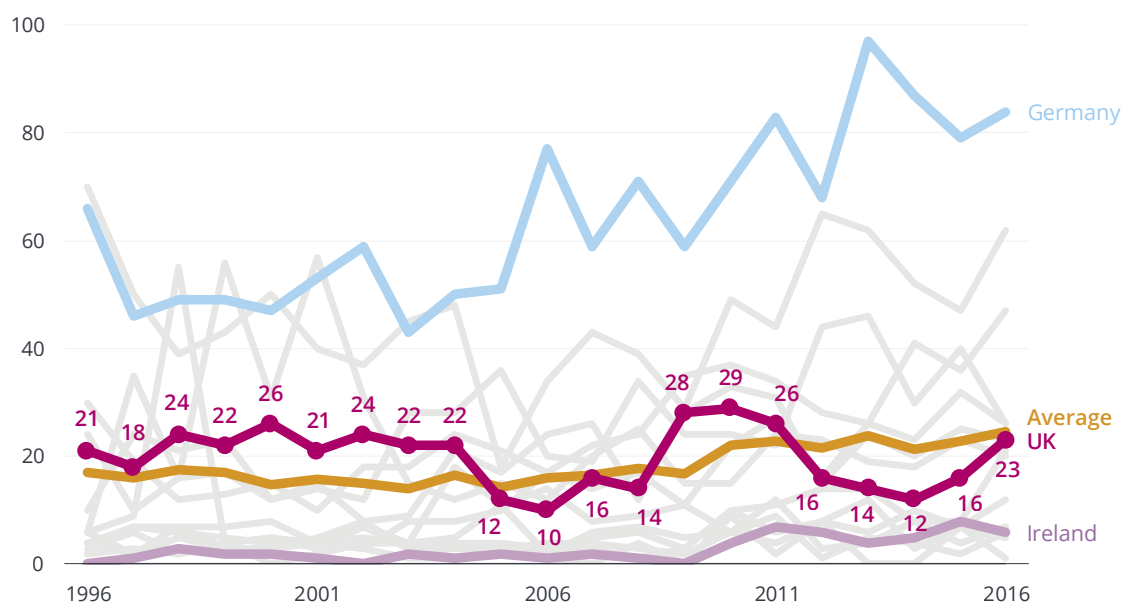
For example, four of the environmental judgments from the last 10 years have concerned the poor implementation of a 1991 directive on the management of urban waste water. The widespread provision of water treatment plants that the directive required was expensive. The costs involved meant that the UK Government was slow to implement the directive fully, to the extent that the most recent court ruling on the matter was in May 2017.<sup>13</sup> Ten other countries from the group of 15 we studied have also been taken to court for failure to fulfil their obligations under this directive.

\* The categories of law used in this graph are significantly different from those used in the previous one. That is because the European Commission and the ECJ categorise their cases differently. The 'internal market' category used in the Commission's graph likely includes cases that come under 'freedom of movement for workers', the 'environment' and possibly some other categories in the ECJ data. In addition, whereas the ECJ data categorise judgments into only two outcomes (a win for the member state, or a win for the Commission), we have included a 'mixed' category for cases where different parts of the judgment go different ways.

2. **Route to court.** Trying to get the European Commission to bring infringement proceedings is generally cheaper than bringing a case before domestic courts with the hope of a reference to the ECJ. Many environment cases are public interest, rather than private interest, cases. Whereas in private interest cases, well-resourced businesses with direct financial interests may be motivated and positioned to spend money on proceedings before domestic courts, civil society organisations and non-governmental organisations pursuing public interest cases may be more likely to raise a complaint with the Commission in the hope of infringement proceedings being initiated.

## The UK courts refer cases to the ECJ an average number of times each year, but not many of these cases relate to citizens' rights

**Figure 13: References for a preliminary ruling by year: UK courts in context**



Source: Institute for Government analysis of the annual reports of the European Court of Justice

Debate about the ECJ has, in recent months, often focused on references from UK courts to the ECJ. This is when a UK court decides that some aspect of EU law is unclear, and asks the ECJ to give a ruling on it.

In the time period we examined, the number of references from the UK courts to the ECJ each year has darted either side of the average for member states, but has never strayed far from it. This is in striking contrast to Germany, whose courts are particularly prone to seeking guidance from the ECJ. However, while the UK is in the EU, it is not just references from UK courts that affect UK law. All ECJ rulings do.

An area of particular political contention has been the role the ECJ plays in cases concerning 'citizens' rights'. We identified the Treaty articles, regulations and directives referenced by the European Commission and the UK Government in their respective Brexit position papers on citizens' rights.<sup>14</sup> Approximately two cases per year concerning these laws have been referred from the UK courts to the ECJ in recent years. 'Citizens' rights' cases, as negotiators have defined them, therefore represent a reasonably small proportion of UK references.

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The UK makes a relatively high number of references on citizens' rights compared with other member states. Between 2011 and 2016, the ECJ handed down 12 judgments on cases referred from the UK courts which it categorised as relating to 'citizenship of the Union'. Only two countries across the EU received a comparable number of judgments on citizenship references: Germany (13) and the Netherlands (8).<sup>15</sup> However, it is particularly important to note in this context that countries with bigger populations are likely to generate more cases.

Of course, many more cases relating to EU law on citizens' rights are heard, and concluded, in the UK courts. In addition, cases on citizens' rights that are referred from the domestic courts of all member states have consequences for UK law too.

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# Conclusions

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## **The UK is a good international citizen**

The Government has consistently argued that the UK is a good international citizen, which meets its obligations under international law. The data indicate that this is right. Compared with other EU member states, the UK resolves its cases early, ends up in court less often than most, and wins more often than most.

These findings suggest that the UK would be economically well served by a robust and far-reaching system of enforcement for its future relationship with the EU. The better-behaved partner in any international agreement will benefit from having the other held to a high standard. However, the political imperative may be for a lighter-touch dispute resolution mechanism.

 Compared with other EU member states, the UK resolves its cases early 

## **A 'governance gap' could appear in environmental regulation after Brexit**

Though the UK is good at complying in general, it is less well-behaved when it comes to the environment. There is a risk that the disappearance of EU enforcement mechanisms could leave behind a 'governance gap' in this area. Michael Gove, the Secretary of State for the Environment, Food and Rural Affairs, has recently proposed a new watchdog to enforce environmental standards, which may help to bridge that gap.<sup>16</sup>

## **The EU institutions' use of legal proceedings to deal with breaches has declined significantly over time**

The EU institutions, and the ECJ in particular, have become objects of considerable political attention. However, it is striking that their activity in relation to the first 15 member states, and the bloc as a whole, has dropped off considerably in recent years. The UK is the subject of infringement proceedings less than it used to be, and ends up in court less than it used to.

## **The UK courts have not asked the ECJ for help very often, compared with other member states**

Negotiators are still locked in a stalemate over the role of the ECJ in enforcing citizens' rights after Brexit. One point of clash is what the withdrawal agreement, the future partnership agreement and UK law should say about how the UK courts are to regard post-Brexit ECJ case law. Another is whether the UK Supreme Court should be obliged to refer questions of EU law on citizens' rights to the ECJ after Brexit, as it is now.

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Negotiators on both sides should be aware that the UK courts have not made references to the ECJ particularly often in recent years. The number of references from UK courts is average compared with other member states'. Around two references a year concern citizens' rights.

### **The impact of EU law on the UK runs far deeper than visible interactions with European institutions**

These data tell only a fraction of the story. Most of the time, EU law is applied and enforced by the UK's own regulators and courts, not the EU institutions. In addition, the EU institutions exercise much of their influence through means other than infringement proceedings. Negotiation and correspondence with the UK, as well as threats of infringement proceedings that are never realised, have an impact on the workings of government too.

These data are therefore not a good measure of how much influence EU law has in the UK compared with other member states. They do, however, chart the UK's public dealings with the EU institutions in the most recent years of its membership. As policy makers and negotiators craft a new relationship between the UK and those EU institutions, they should do so informed by a sound evidence base, mindful of the way this relationship has functioned in practice during the UK's membership.

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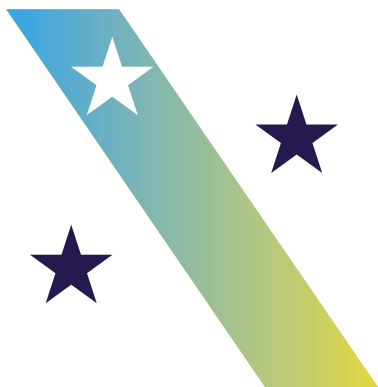
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