The Commission is keen to receive feedback on this Scoreboard, and to have suggestions for future editions. Please send reactions to Mr. Jonathan Faull, Director General, Internal Market and Services DG, The European Commission, B-1049 Brussels, or to the following e-mail address: markt-b3@ec.europa.eu

Please also use this address if you would like to receive a copy of this or future Scoreboards. An online version is available at: http://ec.europa.eu/internal_market/score/index_en.htm

Editor: Verónica Rego Casais - Internal Market and Services Directorate-General


Cataloguing data can be found at the end of this publication.

ISSN 1830-5881

© European Union, 2011
Reproduction is authorised provided the source is acknowledged.

Printed in Belgium
TABLE OF CONTENTS

MAIN FINDINGS

1. STATE OF TRANSPOSITION OF INTERNAL MARKET LEGISLATION INTO NATIONAL LAW

Average transposition deficit in November 2010

First challenge – All Member States meet the 1% target

Second challenge – All Member States meet the ‘zero tolerance’ target

Third challenge – Reducing the transposition delays

Fourth challenge – Improving the conformity of national legislation

Fragmentation of the Internal Market

2. INFRINGEMENT PROCEDURES FOR INCORRECT TRANSPOSITION OR APPLICATION OF INTERNAL MARKET RULES

Number of infringement proceedings

Nature of infringement proceedings

Duration of infringement proceedings

3. INTERNAL MARKET ENFORCEMENT TABLE

4. MEMBER STATES’ RECENT SUCCESS STORIES

Portugal

Greece

Luxembourg

Malta
MAIN FINDINGS

In addition to the usual chapters on the transposition and application of the Internal Market legislation¹, past Scoreboards also focused on the functioning of the Internal Market in specific areas. This edition devotes particular attention to Member States recent success stories in managing to reduce their transposition deficit.

Transposition

Member States managed an EU average transposition deficit of 0.9% which is in line with the transposition deficit target of 1%. In total, 20 Member States achieved this target. Just six months ago, Greece and Portugal accounted for the highest transposition deficits in the EU with Luxembourg not far behind. Today, these 3 Member States achieved the 1% target for the first time. Malta is once more the Member States with the best transposition record with only 2 directives overdue. Italy accounts for the highest transposition deficit.

The vast majority of Member States perform better with respect to the 4 challenges highlighted in the Scoreboard: 1) All Member States should achieve the 1% target; 2) Reduce the number of directives which are long overdue; 3) Reduce transposition delays; and 4) Improve the conformity of national measures with EU legislation.

In the July 2009 edition, the Internal Market Scoreboard identified long overdue directives as a particular challenge. Since then, the number has decreased from 22 to 7 directives (almost 70%). Moreover, the EU average transposition delay was reduced by almost 40% with Spain reducing it to one third. Member States are encouraged to continue these good efforts.

Timely transposition is just a first step. To meet the desired policy objectives Member States must ensure that EU directives are transposed correctly into national law. If we add the number of directives not correctly transposed to the number of directives not transposed on time, this would almost double the EU average transposition deficit to 1.6%. Member States are encouraged to make a further effort in bringing down this number.

Finally, the fragmentation factor on Internal Market legislation remains at 5% which translates into 69 Internal Market directives not producing their full effect in the EU. More than 50% of these directives do not achieve their full effect due to one or two Member State’s inability to transpose the directives.

Infringements

The overall number of infringement proceedings relating to the Internal Market continues to decrease. Almost half of the infringement procedures are related to the areas of taxation and environment.

Today the EU average number of open infringement proceedings is 40 cases per Member State compared to 46 cases half a year ago. Belgium continues to account for the highest number of infringement proceedings, followed by Greece and Italy. The average time needed to resolve infringements continued to fall slightly for the EU 15 but increased in the EU 12².

Internal Market Enforcement Table

The Internal Market Enforcement table highlights that only a small number of Member States perform better than the EU average when various enforcement indicators are taken into account. Malta is the overall best performer.

1. Internal Market legislation includes measures considered to have an impact on the functioning of the internal market as defined in Articles 26 and 114 (1) of the Treaty on the Functioning of the European Union (ex-Articles 14 and 95 EC Treaty). This includes the four freedoms and the supporting policies having a direct impact on the functioning of the Internal Market (a.o. taxation, employment and social policy, education and culture, public health and consumer protection, energy, transport and environment except nature protection, information society and media).

2. EU 15: Belgium, Denmark, Germany, Ireland, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom; EU 12: Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia, Slovakia.
Member States Recent Success Stories

This edition of the Internal Market Scoreboard devotes one chapter to highlighting Member States’ recent success stories. The aim here is to highlight the mechanisms put in place by Member States to ensure timely and correct transposition.

These mechanisms are also of particular importance in the light of the Communication of the Commission concerning the implementation of Article 260 (3) TFEU, adopted in November 2010\(^3\).

The largest reductions in the transposition deficit were achieved by Greece, Portugal and Luxembourg. Once again, Malta has the smallest transposition deficit. Particular attention is given to these Member States in this edition of the Scoreboard.

---

1. STATE OF TRANSPOSITION OF INTERNAL MARKET LEGISLATION INTO NATIONAL LAW

The Internal Market can only deliver on its promises for growth and jobs if Member States write Internal Market legislation into their national law within the agreed deadline. It is for this reason that the EU Heads of State and Government have repeatedly called on Member States to improve their transposition records. In the current economic climate it is of particular importance that all parties do their utmost to ensure an effective enforcement of Internal Market rules.

The Internal Market Scoreboard was created to encourage Member States to ensure effective implementation of Single Market rules within their borders. It seeks to do so by benchmarking the efforts of Member States in this respect and providing an overview of the state of implementation of Internal Market legislation, in particular but not only the transposition deficit. Since the publication of the first Internal Market Scoreboard in 1997, the European average transposition deficit has improved continuously. Today, the EU average transposition deficit stands at 0.9% which is in line with the 1% transposition deficit target agreed by the European Heads of State and Government.

Average transposition deficit in November 2010

Figure 1: Member States continue to meet the 1% transposition deficit target

It is noteworthy that in these challenging times, Member States managed not only to maintain the EU average in line with the 1% transposition target but also to do better on the other challenges highlighted in the Internal Market Scoreboard: 1) all 27 Member States should achieve the 1% target; 2) the long overdue directives should be eliminated; 3) the transposition delays must be reduced and 4) the correct transposition of Internal Market legislation must be improved.

These good results are due not least to the political priority given to this issue in Member States and to the very good work by the relevant national authorities overseeing transposition. The Internal Market Scoreboard will continue to focus on these important challenges.

4. Conclusions of the European Council summits of Stockholm (23-24 March 2001), Barcelona (15-16 March 2002), Brussels (20-21 March 2003, 25-26 March 2004 and 8-9 March 2007). The targets were agreed at the following summits: Stockholm (1.5%), Barcelona (0% for long overdue directives), Brussels 2007 (1%).


6. Most recently reinforced at the Conference on Transposition of EU directives organised by the Belgian Presidency on 22-23 November 2010.
First challenge – All Member States meet the 1% target

The number of Member States in line with the European Council’s 1% transposition deficit target increased from 18 to 20 Member States within the last six months. This matches the result of November 2009. However, this time, the Member States are different. Estonia, Cyprus and Hungary were in line with the target one year ago, but have now been replaced by Portugal, Greece and Luxembourg.

Figure 2: 20 Member States which have achieved the 1% target

- Since November 2008, Malta is in first position and even continues to reduce its deficit. Today, Malta is merely 2 directives away from having a 0% deficit.
- The two Member States posting the highest transposition deficit only six months ago (Greece and Portugal) have shown a remarkable improvement. They have reduced their deficits by more than half, thereby bringing their deficit in line with the 1% target. Some of the reasons for this are highlighted in the fourth chapter below on ‘Member States’ recent success stories’.
- 2 Member States who achieved the target last spring (Hungary and Estonia) have now fallen back.
- In total, 5 out of the 20 Member States meeting the 1% target achieved their best result ever: Malta, Ireland, Portugal, Greece and Luxembourg. Moreover, Latvia equalled its best result ever.

Figure 3: Greece and Portugal post best improvement

Change in the number of outstanding directives since May 2010 (in Scoreboard n°21).
Compared to six months ago, 12 Member States managed to decrease the number of outstanding directives whereas 15 Member States added to their existing backlog. 8 out of these 15 Member States accounted already for an increase half a year ago (the Netherlands, Germany, Cyprus, Spain, Slovenia, Estonia, Sweden and Hungary). On the other hand, of the Member States that made progress half a year ago (the United Kingdom, Slovakia, Ireland, Denmark, Finland, Belgium and Italy), only Ireland maintained the positive trend.

Only six months ago, Greece and Portugal accounted for the highest transposition deficit among the 27 Member States. The table above illustrates that both Member States have undertaken a sustained effort, reducing their deficit by 21 and 18 directives respectively and bringing it in line with the 1% target. Their significant reduction counterbalances to a large extent the high increase shown in particular by Italy and Hungary and has a major impact on the achievement of the 1% EU average transposition deficit.

Luxembourg and France also achieved the 1% transposition deficit target this time around.

10 out of 18 Member States that accounted for an increasing backlog half a year ago have reversed this and managed to improve their transposition record. That is the case for the Czech Republic, Bulgaria, Romania, Latvia, Poland, Lithuania, Greece, Portugal, France and Luxembourg.

Italy posted the greatest improvement half a year ago. It has now gone into reverse and accounts for the highest increase. As a consequence, Italy now has the highest transposition deficit of all 27 Member States.

**Figure 4: 7 Member States not in line with the 1% target**

![Graph showing the transposition deficit of the Member States that missed the 1% target as of 10 November 2010.](image)

Today there are 7 Member States that have missed the interim target of 1%. Out of the 7 Member States, only the Czech Republic and Poland managed to reduce their transposition deficit compared to half a year ago. The Czech Republic accounts for the biggest improvement, bringing its deficit down from 1.5% to 1.2%.

The increased backlog of directives still to transpose has had a negative impact in particular for Estonia and Hungary. These two Member States are no longer in line with the 1% transposition deficit target: Estonia has increased its deficit from 0.9% to 1.3% while Hungary doubled its deficit from 0.7% to 1.4%.

Austria is just outside the 1% transposition deficit target for the third consecutive time.

In November 2009, Cyprus had a deficit of 0.8% and was therefore still in line with the 1% target. Today, with 1.4% it is almost double the deficit of one year ago.

Italy doubled its deficit from 1.1% up to 2.1%, within the last six months. This is particularly regrettable as Italy had improved considerably its transposition performance recently. This illustrates once more that transposition requires a sustained effort to prevent the deficit from rising.
Second challenge – All Member States meet the ‘zero tolerance’ target

Long transposition delays cause serious harm to the good functioning of the Internal Market. In particular, it distorts the level-playing field, prevents businesses and citizens from exercising their rights under the law and generates legal uncertainty. For this reason the Heads of State and Government added a ‘zero tolerance’ target for directives whose transposition is 2 years or more overdue.

In the recent past, Member States made enormous progress in reducing the number of long overdue directives. In 2007, 22% of all the directives not transposed on time had a transposition deadline of more than two years. Since then, Member States managed to reduce the number of the long overdue directives by almost 70%. Today, there are in total 7 directives whose transposition remains long overdue. Member States are invited to continue their good efforts, remove the 7 directives from the list altogether and see to it that other directives are not added to the list.

**Figure 5: Vast majority of Member States continue to perform well**

- 15 Member States continue to maintain their good performance, remaining in line with the ‘zero tolerance’ target. In addition, 6 Member States have performed better compared to half a year ago. Portugal and the United Kingdom managed to reduce their number of outstanding long overdue directives to zero.
- Greece has made most progress by transposing 4 such directives, followed by Ireland and Austria with 3 each.
- Some Member States have gone into reverse. This is the case for: Poland, Estonia, Italy and the Netherlands. Poland accounts for the biggest increase (adding 2 such directives) and now is the Member States with the highest deficit with respect to long overdue directives.

---

Figure 6: Number of long overdue directives reduced by almost 70% within 18 months

<table>
<thead>
<tr>
<th>Directives</th>
<th>Not transposed by</th>
<th>Transposition deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006/24/EC Publicly available electronic communications services and public communications networks / Retention of data</td>
<td>IE, EL, AT, SE</td>
<td>15/09/2007</td>
</tr>
<tr>
<td>2004/113/EC Equal treatment between men and women in the access to and supply of goods and services</td>
<td>PL</td>
<td>21/12/2007</td>
</tr>
<tr>
<td>2006/21/EC Management of waste from extractive industries</td>
<td>FR</td>
<td>10/05/2008</td>
</tr>
<tr>
<td>2006/32/EC Energy end-use efficiency and energy services</td>
<td>NL, PL</td>
<td>17/05/2008</td>
</tr>
<tr>
<td>2005/47/EC Working conditions of mobile workers engaged in interoperable cross-border services in the railway sector</td>
<td>EE, IT, LU</td>
<td>27/07/2008</td>
</tr>
<tr>
<td>2006/54/EC Equal opportunities and equal treatment of men and women in matters of employment and occupation</td>
<td>PL</td>
<td>15/08/2008</td>
</tr>
<tr>
<td>2006/46/EC Annual accounts and consolidated accounts of banks and other financial institutions</td>
<td>LU</td>
<td>5/09/2008</td>
</tr>
</tbody>
</table>

Directives with a transposition deadline by 31 October 2008, which are not (fully) transposed by at least one Member State - Situation as of 10 November 2010.

The oldest directives, among the 7 long overdue directives not yet transposed by all Member States, date back to September 2007. More than 3 years later, this directive still needs to be transposed by Ireland, Greece, Austria and Sweden.

Notably, out of the 7 long overdue directives, 4 have not yet achieved their full effect due to one Member State failing to transpose them. The long delays cannot be justified by administrative burdens or the complexity of the directives. From what Member States have told the Commission, timely transposition seems to be linked in particular to 4 factors: 1) Political attention; 2) Careful planning; 3) Starting transposition work while negotiations are still ongoing; 4) Close co-operation with national parliaments.
**Third challenge – Reducing the transposition delays**

One year ago, Member States took on average an extra 9 months to transpose EU directives after the transposition deadline expired. In December 2009, the Internal Market Scoreboard therefore called on all Member States to put an increased focus on the need to reduce transposition delays. Today, Member States managed to reduce the EU average transposition delay to 5.8 months or by almost 40%.

**Figure 7: Notable improvement in transposition delays**

Many Member States managed to reduce their delays by half and more compared to November 2009: Greece, Portugal, Slovakia, the United Kingdom, Finland, Latvia, Bulgaria and Malta. Spain has posted the biggest improvement by reducing delay very substantially (from 14 down to 3.8 months).

In total, 24 Member States reduced their delays considerably compared to 12 months ago. In November 2009, the longest delay recorded was 16 months. Today, the longest delay is around 10 months.

Only 3 Member States account for a delay greater than one year ago: Sweden, the Netherlands and Cyprus. These Member States are encouraged to reverse this negative trend.

Altogether, this is a remarkable achievement. What is required now is that Member States continue their efforts to reduce further the transposition delays and thereby ensure that compliance with the transposition deadline is the rule and delays the rare exception.

---

*Figure 7: Notable improvement in transposition delays*

- **red** = increase of transposition delay since November 2009 (in Scoreboard n°20)
- **dotted lines** = decrease of transposition delay since of November 2009 (in Scoreboard n°20)

Average transposition delay in months for overdue directives – Situation as of 10 November 2010 compared to corresponding figures for 10 November 2009.
**Fourth challenge – Improving the conformity of national legislation**

Timely transposition of EU legislation represents only the first step towards the proper functioning of the Internal Market. In order to ensure that citizens and businesses can benefit from the Internal Market’s full potential, Member States need to transpose correctly EU Directives into national law. Otherwise, Internal Market rules will not be applied correctly on the ground. Adding the number of directives not correctly transposed to the number of directives not yet transposed alters the ranking of Member States.

**Figure 8: The number of incorrectly transposed directives remains high**

![Graph showing the number of directives not timely transposed and incorrectly transposed across different countries.](image)

*Number of Internal Market directives not yet communicated to the Commission as having been transposed (transposition deficit) plus the number of directives transposed where an infringement proceeding for non-conformity has been initiated by the Commission (as of 1 November 2010).*

- With the exception of Malta and Cyprus, all Member States account for a significant number of directives not correctly transposed compared to their respective number of outstanding directives.

- Combining late transposition and incorrect transposition translates into an EU average deficit of 1.6% of directives that do not achieve their full effect. This deficit is almost twice as high as the EU average transposition deficit of 0.9%.

- In total, 11 Member States have an equal or greater number of cases of non-conformity than outstanding directives. Belgium, Poland, Italy and Greece account for the highest number of directives not correctly transposed. Some of these Member States (in particular Greece and Belgium) showed that they are able to reduce their number of outstanding directives in a short period of time.

- Some of the Member States show a combination of a high transposition deficit and a high number of incorrectly transposed directives. These Member States in particular are urged to invest more to bring down these numbers. This is the case in particular for: Italy and Poland.

- The example of Malta proves that it is possible to ensure timely as well as correct transposition. Today, Malta has managed to reduce its timely transposition deficit and has no longer any incorrectly transposed directive.
Italy ranks in last position with a transposition deficit more than double the average EU deficit. At the same time, Italy accounts for the second highest number of incorrectly transposed directives. Adding the number of directives not transposed to the number of directives not correctly transposed raises Italy’s deficit to 3.5%. Italy has twice the number of directives that do not achieve their effect compared to the EU average.

The vast majority of Member States has shown enormous progress on the timely transposing of national legislation. What is required now is that Member States invest the same efforts to reduce the number of incorrectly transposed directives.

**Fragmentation of the Internal Market**

The fragmentation factor is an overall indicator of legal gaps. Whenever one or more Member States fail to transpose directives on time they leave a void in the EU legal framework. Instead of an Internal Market covering all Member States, it remains much smaller and fragmented. Consequently, the economic interests of all Member States already suffer if one Member State does not deliver.

**Figure 9: Fragmentation factor again at 5%!**

Given Member States’ improved performance, the fragmentation factor has now been brought back to its lowest level. The fragmentation factor of 5% means that this percentage of Internal Market directives does not achieve the full effect in all Member States. These remaining legal gaps generate legal uncertainty and imply missed opportunities for European citizens and businesses. In absolute terms, 69 directives have not been transposed on time in at least one Member State. Almost half of these directives (34 out of the 69 directives) do not achieve their full effect simply because one or two Member State have failed to transpose them.

The failure to transpose a directive in one Member State while it has been transposed in all the others holds the Internal Market hostage to that one Member State’s inability to transpose directives. This penalises all Member States, their citizens and businesses.

Among the sectors most fragmented are transport, environment, consumer rights and public procurement. In these sectors, more than 10% of the directives have not been transposed in at least one Member State.
2. **INFRINGEMENT PROCEDURES\(^8\) FOR INCORRECT TRANSPOSITION OR APPLICATION OF INTERNAL MARKET RULES**

Agreed EU rules must not only be timely and correctly transposed into national law in every Member State, but also applied effectively. Ineffective implementation and uneven enforcement are perceived as serious problems by many citizens and businesses.

As guardian of the Treaties, the Commission shall ensure that both Treaty provisions and acts adopted by the Institutions of the European Union are correctly implemented and applied by the Member States. Where the Commission considers that Internal Market rules are not properly applied, it may open infringement proceedings against the Member States in question. The infringement procedure entails a dialogue between the Commission and the Member State concerned. Initiating such a procedure reflects the Commission’s view that the Member State is failing to fulfill its obligations under the Treaty. However, only the Court of Justice can rule definitively that a breach of the EU law has occurred. This should be kept in mind when interpreting statistics on infringement procedures.

**Number of infringement proceedings**

The number of infringement proceedings continues to fall. Today, the EU 27 account for 1091 pending Internal Market infringement proceedings, which is a decrease of 18% compared to November 2007 and a decrease of 11% compared to six months ago. Almost half of the infringement procedures (470 out of the 1091 cases) relate to the areas of environment and taxation.

*Figure 10: Decreasing trend continues*

![Graph showing the decreasing trend of pending infringement cases since November 2007.](image)

Development of pending infringement cases since 1 November 2007.

\(^8\) ‘Infringement procedures’ in chapter 2 are to be understood as representing all cases where the transposition is presumed not to be in conformity with the directive it transposes or cases where Internal Market rules (both rules contained in the Treaty on the Functioning of the European Union and in Internal Market directives) are presumed to be incorrectly applied and where a letter of formal notice has been sent to the Member State concerned. Cases of non-communication, i.e. concerning directives counted in the transposition deficit, are excluded from this chapter in order to avoid double-counting.
The alternative problem solving and complaints handling mechanisms introduced by the Commission in recent years have a considerable influence on the general trend shown in the table above.

The “EU Pilot” was introduced by the Commission in April 2008 with the aim to improve the communication and cooperation between Member State authorities and the Commission on issues pertaining to the application of EU law. The “EU-Pilot” is also an attempt to resolve problems with the application of EU law at an early stage and is seen as an efficient tool before the formal infringement procedure is launched. Today, 22 Member States have joined the “EU-Pilot” and the remaining 5 Member States (Greece, France, Cyprus, Luxembourg and Malta) will join as well in the course of 2011.

The 15 original members of the EU Pilot reduced the number of their formal infringement procedures by 13.1% within the last six months. This represents a decrease of almost double the average reduction for the 12 Member States who only joined later. Hence, the extension of EU-Pilot to now include 22 Member States should contribute to a noticeable decrease in the absolute number of formal infringement proceedings.

**Figure 11: 24 out of 25 Member States managed to reduce their number of infringement proceedings**

In total, 24 Member States managed to reduce their infringement proceedings since November 2007. Most progress was made by Malta (reduction of 65%), followed by Finland (reduction of 57%). By contrast, 1 Member State (Belgium) posts a 65% increase, while for 2 Member States, Greece and Lithuania, there was no change. This development represents an EU 25 average decrease of 21% compared to the number of infringement procedures in November 2007.

   CHAP is a database designed by the Commission in 2009 to register and manage complaints and information requests regarding the application of Community law by Member States.

10. Bulgaria and Romania are not included as their first figures were too recent in November 2007.
There are significant differences between Member States as to the number of infringement proceedings. Belgium is subject to almost twice as many infringement cases than Germany or the United Kingdom.

**Figure 12: Today’s number of infringement proceedings by Member States**

- Today’s EU average number of open infringement proceedings has decreased to 40 cases compared to 46 cases six months ago. With the exception of Estonia and Cyprus, all Member States improved their record within the last six months. Italy and the United Kingdom account for the biggest decrease of infringement proceedings since the previous Scoreboard edition followed by Germany and Ireland.

- Belgium, Greece and Italy are responsible for almost 25% of all infringement procedures.

- Again, Belgium accounts for the highest number of infringement proceedings. Almost half of Belgium’s infringement proceeding are related to taxation.

- It is worrying that the two Member States that increased their number of infringement proceedings within the last six months (Estonia and Cyprus) also recorded, for the same period, an increased transposition deficit and missed the agreed 1% transposition deficit target.

- Italy reduced its number of infringement proceeding by 40% since November 2007. Today, Italy is no longer the Member State with the highest number of infringement proceedings. However, taking into account that Italy accounts for the highest transposition deficit (with 2.1%, more than double the EU average) and the second highest number of incorrectly transposed directives (21 directives) Italy’s overall performance is a cause of concern.
A breakdown of infringement proceedings by sectors and their corresponding subgroups illustrates that ‘taxation’ and ‘environment’ remain the source of the biggest amount of cases.

**Figure 13: Environment and taxation account for almost half of the infringement proceedings**

Open infringement cases as of 1 November 2010 divided by sectors concerned representing at least 1% of all infringement proceedings. 61 out of the 1091 infringement proceeding are divided into sectors representing less than 1% (such as health and safety at work, renewable energy, chemical substances, industrial and biotechnological hazards) and are therefore not shown in this figure.

Out of the 1030 open infringement cases shown in the figure above, 262 are in the area of taxation and 192 in the area of environment. Hence, these two sectors cover 44% (454 cases) of these infringement cases. **If Member States were to focus their attention on correctly applying the rules in these two sectors, they could reduce the number of infringement proceedings very considerably.**
Nature of infringement proceedings

Figure 14: Most infringements relate to misapplication of EU law

The vast majority of infringement proceedings (73%) are related to the incorrect application of EU legislation by Member States. The only exceptions are Estonia and Lithuania which account for more infringement proceedings related to incorrect transposition rather than wrong application.
Duration of infringement proceedings

As long as Internal Market rules are not applied correctly by Member States, EU citizens and businesses cannot exercise their rights which in turn harms the European economy and undermines citizen’s and businesses’ confidence in the EU. Finding effective and efficient solutions to these problems is in the interest of all Member States. However, far too many infringement proceedings take 2 years or more to be closed or referred to Court of Justice.

Figure 15: Almost half of the infringement procedures take more than 2 years

Infringement cases closed or brought before the Court of Justice between 1 November 2008 and 31 October 2010: average time in years needed to either close an infringement case or to bring it before the Court of Justice counted from the moment of the sending of the letter of formal notice (1022 such cases).

- Around 40% of cases take two years or more before they are closed or brought before the Court of Justice. This is too long not only because it causes harm for a considerable period of time but also because the solution may well come too late for the complainant at the origin of the case. More efforts must be made to resolve ongoing infringements proceedings faster.

For the EU 15, the time necessary to either resolve an infringement or to bring it before the Court of Justice fell from 28 months to 26.4 months within the last 12 months. The trend within the EU 12 is that more and more time is required to resolve infringement proceedings. Compared to one year ago, the time needed increased from 16 months to almost 19 months.
Figure 16: Member States’ average duration of infringement proceedings almost unaltered compared to six months ago

Infringement cases closed or brought before the Court of Justice between 1 November 2008 and 31 October 2010: average time in years needed to either close an infringement case or to bring it before the Court of Justice counted from the moment of the sending of the letter of formal notice (1022 such cases).

- In the EU 15 most progress was made by Denmark, France, Greece and Ireland who reduced their average time by around 4 months. In the EU 12, Romania accounts for the biggest improvement. Moreover, with the exceptions of Hungary, Slovenia, Latvia, Lithuania, and Bulgaria, the average time to resolve an infringement procedure increased in the group of EU 12 Member States.

- The average time needed per Member States varies considerably. In the EU 15, the Member State with the shortest duration (Luxembourg) needs on average one year less to resolve a case than the Member State with the longest duration (France). The same difference applies to the EU 12 where Bulgaria needs almost one year less than Estonia to resolve a case.

In order to measure Member States’ ability to resolve the problems at the centre of infringement procedures quickly, figure 17 shows as an early resolution rate the percentage of cases closed between 6 months and 2.5 years at the latest after the transmission of the letter of formal notice.
The ‘early resolution’ performance has increased from 36.2% up to 45.2% within the last six months. In other words, 45.2% of all cases opened between May 2008 and April 2010 had been solved by October 2010, compared to 36.2% for the comparable period covered by the last Scoreboard.

- All Member States have improved, except Cyprus, Estonia and Hungary. Compared to half a year ago, the biggest improvements were achieved by Denmark (27% cases solved more quickly), the United Kingdom (21% more) and Slovakia (20% more).

- On the other hand, Cyprus had the highest resolution rate (65%) only six months ago. Today, Cyprus resolves 54% of its cases rather quickly.

- Malta managed to improve its resolution rate further and became the Member State with the highest rate by solving 77% of its cases rather quickly.

- At the other end of the spectrum, Belgium continues to have the lowest early resolution rate. Hence, Member States with high early resolution rates solve over 3 times more cases than Member States with a low resolution rate in the same period of time.

Member States need to take more effective action in resolving infringement procedures quickly and to take rapid corrective measures wherever proper implementation goes wrong. In this context, the proper implementation of Court of Justice rulings is of particular importance.
When a Member State has been condemned by the Court of Justice for the breach of EU legislation, the Member State concerned has the obligation to take immediate action to comply with the Court judgment and to complete the process of compliance as soon as possible\(^\text{11}\). Member States must make compliance with Court ruling a priority not least because they have already deprived citizens and businesses from exercising their rights for several years.

Notwithstanding this legal obligation, many Member States take considerable time to comply with Court rulings. Irish cases account for the longest delay, taking more than 2 years to comply with a Court ruling.

The EU average of more than one year and a half to comply with Court ruling is simply too long. Member States need to invest more efforts to reduce this delay.

---

3. INTERNAL MARKET ENFORCEMENT TABLE

It is in the common interest of Member States to ensure that the Internal Market functions properly for the benefit of their citizens and businesses. However, a well functioning Internal Market requires the proper implementation of EU legislation in various aspects. This is why the Internal Market Scoreboard uses a set of different indicators in order to measure Member States’ overall enforcement performance.

The Internal Market Enforcement Table brings together the most relevant indicators in order to provide a better overview of Member States’ compliance with the implementation and application of Internal Market legislation.

The Table illustrates that only a small number of Member States perform better than the EU average when all the indicators are taken into account. This is in particular the case for Malta: it accounts for the best transposition deficit, it is the only Member State with no directive incorrectly transposed, it posts the lowest number of infringement proceedings and accounts for the highest early resolution rate.

The table highlights where Member States’ performance is average or above average (in yellow or red). Where performance is below average, Member States have to invest more to improve their enforcement performance further.
### Fig. 2-4: Transposition deficit

<table>
<thead>
<tr>
<th></th>
<th>BE</th>
<th>BG</th>
<th>CZ</th>
<th>DK</th>
<th>DE</th>
<th>EE</th>
<th>IE</th>
<th>EL</th>
<th>ES</th>
<th>FR</th>
<th>IT</th>
<th>CY</th>
<th>LV</th>
<th>LT</th>
<th>LU</th>
<th>HU</th>
<th>MT</th>
<th>NL</th>
<th>AT</th>
<th>PL</th>
<th>PT</th>
<th>RO</th>
<th>SI</th>
<th>SK</th>
<th>FI</th>
<th>SE</th>
<th>UK</th>
<th>EU average</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.8%</td>
<td>0.4%</td>
<td>1.2%</td>
<td>0.4%</td>
<td>1.0%</td>
<td>1.3%</td>
<td>0.7%</td>
<td>1.0%</td>
<td>0.9%</td>
<td>0.8%</td>
<td>2.1%</td>
<td>1.4%</td>
<td>0.4%</td>
<td>0.4%</td>
<td>0.5%</td>
<td>1.0%</td>
<td>1.4%</td>
<td>0.1%</td>
<td>0.7%</td>
<td>1.1%</td>
<td>1.7%</td>
<td>0.9%</td>
<td>0.5%</td>
<td>0.9%</td>
<td>0.8%</td>
<td>0.9%</td>
<td>0.9%</td>
<td>0.9%</td>
</tr>
</tbody>
</table>

### Fig. 3: Progress over the last 6 months (change in the number of outstanding directives)

<table>
<thead>
<tr>
<th></th>
<th>Fig. 3: Progress over the last 6 months (change in the number of outstanding directives)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>+2 -3 -5 +3 +2 +4 -21 +4 +14 +2 -2 -1 -8 +10 -1 +2 +1 -2 -18 -2 +5 +2 +6 +1 +3 +0</td>
</tr>
</tbody>
</table>

### Fig. 5: Number of directives two years or more overdue

|      | 0 0 0 0 0 1 1 1 0 1 1 0 0 0 2 0 0 1 1 3 0 0 0 0 0 0 1 0 0.5 |

### Fig. 7: Transposition delay on overdue directives (in months)

|      | 8.3 1.4 5.0 4.2 6.6 8.5 8.6 7.4 3.8 10.6 6.2 4.1 2.2 4.3 9.3 4.3 2.1 6.6 8.9 8.5 5.1 2.8 5.1 4.1 2.6 8.8 4.1 5.8 |

### Fig. 8: Number of directives not timely or correctly transposed

|      | 37 11 28 12 26 30 23 35 30 27 52 21 11 18 22 27 2 17 26 50 28 13 21 16 17 25 26 24 |

### Fig. 11: Development of infringement cases since Nov. 2007

|      | >65% NA -26% -27% -36% -5% -32% -0% -32% 24% 4.0% -24% -35% -6% -39% -7% -65% -9% -39% -4% -7% NA -26% -8% -57% -18% -11% -21% |

### Fig. 12: Number of pending infringement cases

|      | 109 23 23 19 57 20 40 88 77 74 80 16 17 18 22 26 15 43 36 53 63 23 17 23 16 37 56 40 |

### Fig. 16: Average speed of infringement resolution (in months)

|      | 30.0 12.0 20.1 30.0 27.1 23.9 25.8 20.4 28.1 31.6 23.9 16.1 16.4 15.6 19.1 18.6 20.3 25.4 25.5 23.9 28.2 12.1 18.4 20.7 28.1 29.1 27.4 23.9 |

### Fig. 17: Early resolution rate

|      | 20% 60% 52% 59% 41% 46% 61% 46% 31% 30% 45% 54% 68% 47% 60% 52% 77% 45% 40% 44% 41% 48% 53% 56% 60% 27% 47% 45% |

### Fig. 18: Duration since Court's judgments (in months)

|      | 18.1 NA NA 12.8 14.7 NA 25.1 16.7 22.4 23.6 18.4 NA NA 14.3 16.4 NA 5.2 17.0 20.4 9.6 18.9 NA NA 6.1 12.1 13.9 14.0 18.4 |

### Legend

<table>
<thead>
<tr>
<th>Transposition deficit</th>
<th>&lt; average</th>
<th>average ±10%</th>
<th>&gt; average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duration since Court’s judgment</td>
<td>&lt; 6 months</td>
<td>&gt; 6 months</td>
<td></td>
</tr>
<tr>
<td>NA= not applicable</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4. MEMBER STATES’ RECENT SUCCESS STORIES

Compared to the last edition of the Internal Market Scoreboard, some Member States have shown remarkable reductions in their transposing deficit. With a view to promoting best practices, these Member States were invited to explain the new measures put in place to achieve such good results. The feedback received from these Member States is presented below in brief.

We will invite other Member States to share with us their best practices in future editions of the Scoreboard.

Portugal

In May 2010, Portugal posted the second highest transposition deficit (2.1%) of all 27 Member States. Today, with 0.9% Portugal achieved its best transposition record ever.

In May 2010, the Portuguese Government launched the “SIMPLEGIS” programme which sets out three goals: 1) to simplify legislation by having fewer laws; 2) to make laws more accessible to citizens and businesses; 3) to improve law enforcement.

In the area of simplification of legislation, SIMPLEGIS fixes a “ZERO delay” target for the transposition of EU directives by the end of the 1st semester of 2011. To reach this target, the Presidency of the Council of Ministers (PCM) and the Ministry of Foreign Affairs (MFA) have adopted new procedures to ensure more effective control over the transposition process:

1. Periodic meetings of Secretaries of State will be held to discuss and approve draft legislation to transpose EU Directives. The agendas of these meetings are fixed with reference to the transposition dates of EU Directives in such a way that, as a general rule, the drafts of legislation that are discussed concern the transposition of EU Directives with a transposition deadline 6 months later (9 months in advance, if a parliamentary act is necessary). The organization of these meetings was expressly included in the Regulations of the Council of Ministers of the XVIIIth Constitutional Government.

2. In every second meeting of Secretaries of State, there is a discussion about the transposition of EU Directives (also included in the Regulations of the Council of Ministers of the Ministers of the XVIIIth Constitutional Government).

3. Lastly, the “Regulations System Control” (Sistema de Controlo de Actos Normativos – SCAN system) provides an automatic and centralized control of the transposition of EU Directives. This system is coordinated by the Presidency of the Council of Ministers and the Ministry of Foreign Affairs. It allows national authorities:
   - To define responsibilities: immediately after the publication of the EU Directive, the system registers the ministry and the person entitled to draft its transposition;
   - To better plan: the transposition timetable sends early warnings about milestones to be reached;
   - To make better monitoring: the PCM and MFA foresee and solve delays and other problems regarding the transposition of the EU Directive.
Greece

Greece had the highest transposition deficit with 2.4% among all 27 Member States six months ago. Today, Greece is in line with the agreed transposition deficit target.

Greece’s high transposition deficit was mainly due to the lack of coordination between the different national agents in charge of the implementation of EU Law. To remedy this problem an Office for International and European Affairs was established by presidential decree No 18/2010 on March 2010. The Office is part of the General Secretariat of the Greek government and works under the auspices of the Greek Prime Minister. Thus, it enjoys political support. The Office is also in charge of surveying and following-up on all infringement cases linked to non-transposition or the incorrect transposition of EU Directives.

The Office communicates all new Directives to the competent national authorities/ministries the day these are published in the Official Journal of the European Union. Subsequently, it monitors progress in transposition on a daily basis and offers assistance to line ministries to facilitate the completion of the necessary work (logistical/technical support and legal advice).

Twice a month tables with all non-transposed EU Directives are circulated to the competent national authorities/ministries

The considerable reduction in the transposition deficit was achieved in less than 4 months (July 14th – November the 10th) in difficult circumstances due to the economic crisis and a challenging political environment.

Among other things, the Office will work on the following priorities in the months ahead:

1. streamlining the EU implementation process into Greek law and its follow-up/impact assessment as well as the handling of infringement cases,

2. publishing guidelines and manuals on the subject of transposing EU Directives with an emphasis on very complex Directives (such as 2006/123/EC “Services Directive”, 2005/36/EC “Professional Qualifications Directive”),

3. providing assistance in connection with the sections in the “Memorandum of Understanding” referring to EU law implementation,

4. organizing seminars on EU law transposition.
**Luxembourg**

Luxembourg accounted for one of the highest transposition deficits in the past. Only six months ago, Luxembourg had still a transposition deficit of 1.5%.

The Government of Luxembourg was aware of the need to address this problem. Firstly, the Government introduced regular meetings of the Council Ministers to review the transposition deficit record. Moreover, it was agreed that a draft national measure transposing a directive must be presented to the Cabinet within 6 months after the publication of this Directive in the Official Journal.

**Malta**

The EU Secretariat within the Office of the Prime Minister is responsible for coordinating the transposition process of adopted EU *acquis* across the Government to ensure adoption as well as implementation within agreed time frames. In so doing, it liaises on a regular basis with government Ministries and the Permanent Representation of Malta to the EU in Brussels. Each Ministry has a designated Director responsible for EU Affairs who acts as the contact point on transposition issues falling within the remit of the respective Ministry.

A key factor contributing towards Malta’s success is the early preparation of transposition of a Directive into national law. This requires close monitoring of the entire life-cycle of Commission proposals from the discussion stage up until the final adoption of the proposal in Council.

Briefly, once a proposal is issued by the Commission, the line Ministry draws up an Explanatory Memorandum which is discussed within the Inter-Ministerial Committee for European Union Affairs chaired by the Permanent Representative of Malta to the EU. These Explanatory Memoranda define the main contractual, legal, economic and political aspects of the proposal and the Government's preliminary position on it. Once approved, these Memoranda are approved in Cabinet and sent to Parliament’s Standing Committee on Foreign and European Union Affairs for scrutiny. This allows for a proactive assessment of Commission proposals from an early stage and by all key actors.

To the extent possible, national officials responsible for the transposition and application of a Directive at the national level are involved during the negotiations on that Directive. When this is not possible, such officials cooperate closely with the officials responsible for the transposition thereafter. The objective here is to ensure that any potential transposition issues are raised and addressed as early as possible in the process.

Once a Directive is published, the EU Secretariat ensures that the legislative measure is communicated to the Ministry responsible for its transposition in advance of the transposition deadline.
How to obtain EU publications

Publications for sale:

• via EU Bookshop (http://bookshop.europa.eu)

• from your bookseller by quoting the title, the publisher and/or ISBN number

• You can obtain their contact details by linking http://bookshop.europa.eu, or by sending a fax to +352 2929-42758.

Free publications:

• via EU Bookshop (http://bookshop.europa.eu)

• at the European Commission’s representations or delegations. You can obtain their contact details by linking http://ec.europa.eu or by sending a fax to +352 2929-42758.