

Internal Market



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"Together for new growth"

EUROPEAN COMMISSION



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

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EDITORIAL

The Internal Market is the true engine of growth for the European economy. However, it is not yet working at its full potential and action is urgently needed. I have therefore decided to launch an action plan in order to restore consumer confidence in the Internal Market and put it firmly back on the path to growth. This action plan is called the Single Market Act. The aim is to reduce market fragmentation and eliminate barriers and obstacles to the free movement of persons, goods, services and capital, without compromising innovation, creativity and confidence. We need a more integrated market that fully plays its role as a platform to build European growth and competitiveness for all.

The Single Market Act also contains ideas on how governance can be strengthened in the context of the application of European law. We need to make sure that European law is properly transposed and applied on the ground, everywhere. I see this very much as a joint effort. The European Commission, national administrations, SOLVIT centres, national courts and all other bodies applying EU internal market law have to make sure that the internal market works in practice. It is our common responsibility.

The Internal Market Scoreboard is one of the tools used to track how national authorities transpose EU internal market rules. This is the first step towards correct implementation. The Scoreboard shows in a transparent way where we are and where we should be.

Member States are currently facing many challenges. This edition of the Scoreboard shows that only eleven Member States complied with the agreed 1% transposition deficit benchmark over the relevant period. This result is confirmation of the fact that we need to continue working together if the actions proposed in the Single Market Act are to produce their expected effects in terms of growth and jobs. Our common ambition should be to reduce the deficit to 0.5%.

To help us achieve this goal together, I decided when I took office to meet the national administrations of Member States responsible for the transposition of Internal Market directives in person. I wanted to listen, learn and better understand the specific challenges that each Member State is facing, and discuss how these challenges can be addressed. I am convinced that we can learn from each other and I would like to encourage further cooperation, not only between the services of the Commission and the Member States, but also between national transposition coordinators.

I also want to ensure that national authorities receive more complete information about the Commission's forthcoming initiatives at an earlier stage in the process and become better equipped to exchange best practices with their peers.

Let's work together to create the best conditions for new growth!



A handwritten signature in black ink, appearing to read 'M. Barnier', written in a cursive style.

*Michel Barnier
Member of the European Commission
responsible for the Internal Market and Services*



MAIN FINDINGS

In addition to the usual chapters on the transposition and application of the Internal Market legislation¹, past Scoreboards also focused on other aspects of the functioning of the Internal Market. This edition devotes particular attention to the recently adopted "Single Market Act" and the upcoming Single Market Forum (SIMFO). Moreover it presents measures put in place by Belgium improving the settlement of infringement cases.

Single Market Act and Single Market Forum

The Communication on the Single Market Act² presented by the European Commission on 13 April 2011 identifies twelve key actions to boost growth and strengthen confidence in the Single Market. A condition for its success is the need for closer monitoring of the implementation of the Single Market legislation, proposing to strengthen efforts in particular through new numerical benchmarks, such as the 0.5% transposition deficit target.

The Single Market Forum, to be held in Krakow (Poland) on 3-4 October 2011, will aim to secure a stronger commitment to the transposition, application and enforcement of Internal Market legislation.

Transposition³

For the first time since 2007, Member States have missed the 1% transposition deficit⁴. Only eleven Member States reached the 1% target and the average deficit was 1.2%. This is the first time that such a small number of Member States met the target since it was agreed by the European Heads of State and Government in March 2007. Malta is once more the Member State with the best transposition record, with only two directives overdue. The Czech Republic currently has the highest transposition deficit, but has also registered one of the biggest improvements compared to November 2007.

Despite the disappointing results of the transposition deficit, there was a better performance with respect to others challenges highlighted in the Scoreboard such as reducing the number of directives whose transposition is overdue by two years or more and shortening transposition delays.

In the July 2009 edition, the Internal Market Scoreboard identified long overdue directives as a particular challenge. Since then, the number has fallen from 22 to 3 directives (a decrease of more than 85%). Moreover, the EU average transposition time was reduced by almost 40%, with France and Ireland reducing their respective delays by half compared to the situation six months previously.

Timely transposition is just a first step. To meet the desired policy objectives, Member States must ensure that EU directives are correctly transposed into national law. The percentage of incorrectly transposed directives in July 2011 is 0.8%, which is above the 0.5% target recently proposed in the Single Market Act and which was achieved by one third of Member States.

Finally, the fragmentation factor of Internal Market legislation rose to 6%, which translates into 90 Internal Market directives not producing their full effect in the EU. More than 50% of these directives do not achieve their full effect because of the inability of one or two Member States to transpose the directives.

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. This includes the four freedoms and the supporting policies having a direct impact on the functioning of the Internal Market (such as: 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. Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Single Market Act: Twelve levers to boost growth and strengthen confidence "Working together to create new growth", COM (2011) 206 final, 14.4.2011.
3. The EU Heads of State and Government have repeatedly called on Member States to improve their transposition records: 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%).
4. The current Scoreboard takes into account all notifications of directives with a transposition deadline of 30 April 2011 which have been notified by 10 May 2011.

Infringements

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

Today, the EU average number of open infringement proceedings is 37 cases per Member State, compared to 40 cases half a year ago. Belgium continues to account for the highest number of infringement proceedings, followed by Greece and Italy. On average, the duration of infringement proceedings ranges from one year to almost three years.

Internal Market Enforcement Table

The Internal Market Enforcement table highlights the fact that only a small number of Member States perform better than the EU average when all the enforcement indicators are taken into account. Malta and Latvia are the overall best performers.

Member States' best practices

The Internal Market Scoreboard devotes one chapter to presenting best practices in Member States. The aim here is to highlight the mechanisms that Member States put in place in order 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 2010⁵.

In this edition, the focus is on Belgium and the mobilising measures it has taken in order to monitor the settlement of the infringement proceedings.

5. In OJ EU C 12 of 15 January 2011, page 1.

SINGLE MARKET ACT AND SINGLE MARKET FORUM

In the context of the current crisis, the Single Market has a key role to play as the core driving force to bring Europe out of economic stagnation. Therefore, the European Union has adopted a strategy – Europe 2020 – setting itself ambitious goals for smart, sustainable and inclusive growth⁶.

It is now more necessary than ever to unlock and realise the Single Market's full potential for growth by opening the doors to innovative, greener and more inclusive growth. With that in mind, on 13 April 2011, the Commission presented the Communication "Single Market Act – Twelve levers to boost growth and strengthen confidence in the Single Market", which aims to instil new life into the Single Market and provide practical solutions for businesses, citizens, consumers and workers who want to reap the benefits from the Single Market.

The Single Market Act includes twelve priority policy areas or levers that are intended to boost growth and jobs, and strengthen citizens' confidence. Each is defined by a key initiative where the Commission is committed to making a legislative proposal in the coming months and calls upon the European Parliament and Council to adopt proposals by the end of 2012. Each lever also contains other important initiatives/proposals, which should benefit from the *momentum* created by the Act. Growth, competitiveness and social progress are the hallmarks of the series of proposed projects.

A strengthened governance of the Single Market

However, among the proposed actions to produce the effects expected in terms of growth and jobs, the Communication on the Single Market Act identifies, along with other conditions for its success, the **need for closer monitoring of the application of Single Market legislation**. This is a field where the Internal Market Scoreboard has been playing a key role since it was first published in 1997.

The Single Market Act makes a strong case for full use to be made of the procedures provided for in Article 258 of the TFUE, in particular where difficulties persist and are the result of problems of a more structural nature originating in national legislation. In this context, the Single Market Act calls on the Member States to improve the transposition of – and compliance with – EU legislation, using numerical targets.

For this purpose, the European Commission proposes, *inter alia*, to strengthen efforts towards a thorough and comprehensive implementation of Single Market legislation, namely by means of numerical targets limiting the transposition and compliance deficit for national legislation to 0.5% and a more effective application of infringement proceedings by adopting numerical targets related to the stages of the procedure.

These are numerical references that the Internal Market Scoreboard has been using and relying upon for some time. However, the European Commission and the European Parliament have consistently recalled that the success of the Single Market depends on stronger commitments by the Member States in this field⁷.

⁶ Communication from the Commission: "EUROPE 2020 - A strategy for smart, sustainable and inclusive growth", COM (2010) 2020 final, 3.3.2010.

⁷ See for example "European Parliament resolution of 9 March 2010 on the Internal Market Scoreboard" (2009/2141(INI)) - Rapporteur: Róza Thun Und Hohenstein and "European Parliament resolution of 23 September 2008 on the Internal Market Scoreboard" (2008/2056(INI)) – Rapporteur: Charlotte Cederschiöld.

The Single Market Forum (SIMFO)

In its resolution of 9 March 2010 on the Internal Market Scoreboard⁸, the European Parliament called on the Commission to organize an annual Internal Market Forum bringing together representatives of EU institutions and Member States and other stakeholders in order to establish a stronger commitment to transposition, application and enforcement of internal market legislation.

The Forum will provide an occasion for transparency and motivation. An exchange of best practices could highlight Member States with best performance on implementing and applying EU legislation. In concrete, the Forum will identify key challenges and agree on what needs to be improved in rendering enforcement more effective and efficient.

The Single Market Forum aims to bring together citizens, businesses and public authorities from all over Europe to take stock of the single European market. Organised jointly by the European Parliament, the Polish Government and the European Commission, this year's Forum will be held in Krakow (Poland) on 3-4 October 2011. The two-day forum in Krakow will mark the start of an ongoing debate among EU institutions and stakeholders on the development of the Single Market.

Convincing stakeholders of the benefits of the Single Market is a permanent task and one of particular importance in an economic downturn. The Single Market Forum is an opportunity to bring the Single Market closer to citizens and to show them what has already been achieved for the benefit of consumers and businesses. Through the involvement of market players, as well as national and EU institutions, the event will highlight the main obstacles which need to be tackled in order to complete the Single Market, and will provide practical problem solving tools, thereby contributing to the image of the EU.

In 2012, all interested parties (members of the European Parliament and of national parliaments, representatives of national, regional and local authorities and all stakeholders) will be invited to participate actively in a "Single Market Week" designed to take stock of progress achieved and to focus on the priorities ahead at national and European level and, in particular, in the Single Market Forum.

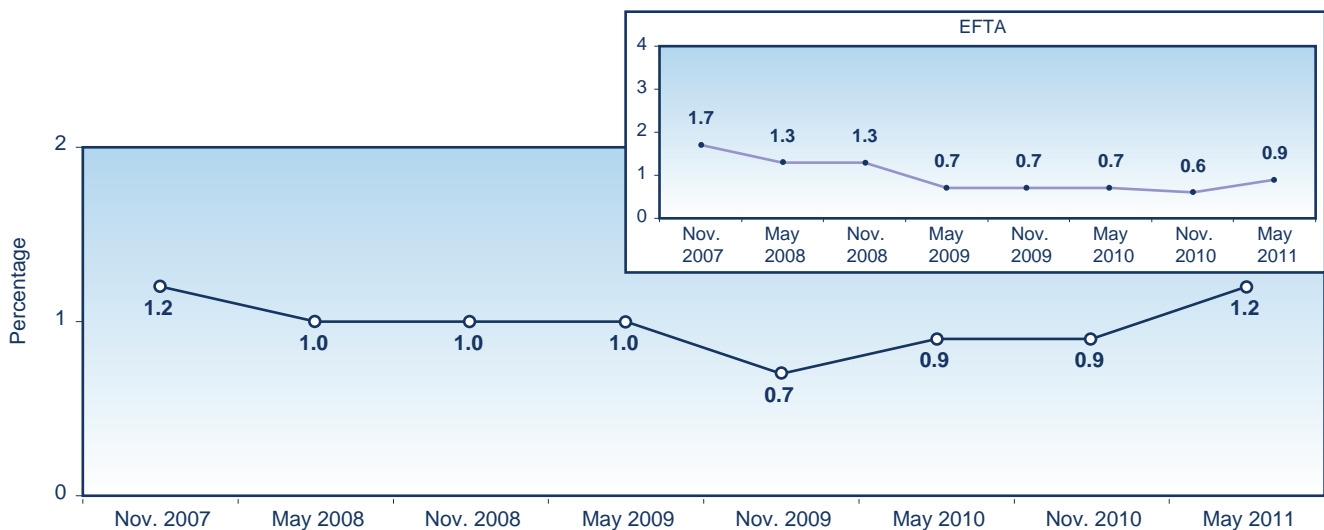
8 See footnote 7.

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

One of the elements which emerged more clearly during the consultation for the adoption of the Single Market Act was the need to ensure **a level playing field for all**. To achieve this, the Commission has announced in its Single Market Act that it will develop a more determined enforcement policy and will call on the Member States to improve the transposition of EU laws in their national legislation and compliance of their national law with EU legislation. This is a pre-requisite for the Internal Market to deliver on its promises. The Internal Market Scoreboard, and in particular this section, will help the Commission and Member States to measure their achievements in the scope of the Single Market Act.

Average transposition deficit in May 2011

Figure 1: For the first time since 2007, Member States do not achieve the 1% transposition deficit target



The transposition deficit shows the percentage of Internal Market directives not yet notified (via national transposition measures) to the Commission, in relation to the total number of directives which should have been notified by the deadline. The current Scoreboard takes into account all notifications of directives with a transposition deadline of 30 April 2011 which have been notified by 10 May 2011. As of 30 April 2011, 1525 directives and 1347 regulations were in force to ensure the functioning of the Internal Market.

After a steady improvement since 2007, the European average transposition deficit has started to grow again and is now above the 1% transposition deficit target agreed by the European Heads of State and Government⁹.

Despite this, Member States have had more success in meeting other challenges highlighted in the Internal Market Scoreboard: shortening of long overdue directives and reduction of the time necessary for transposition.

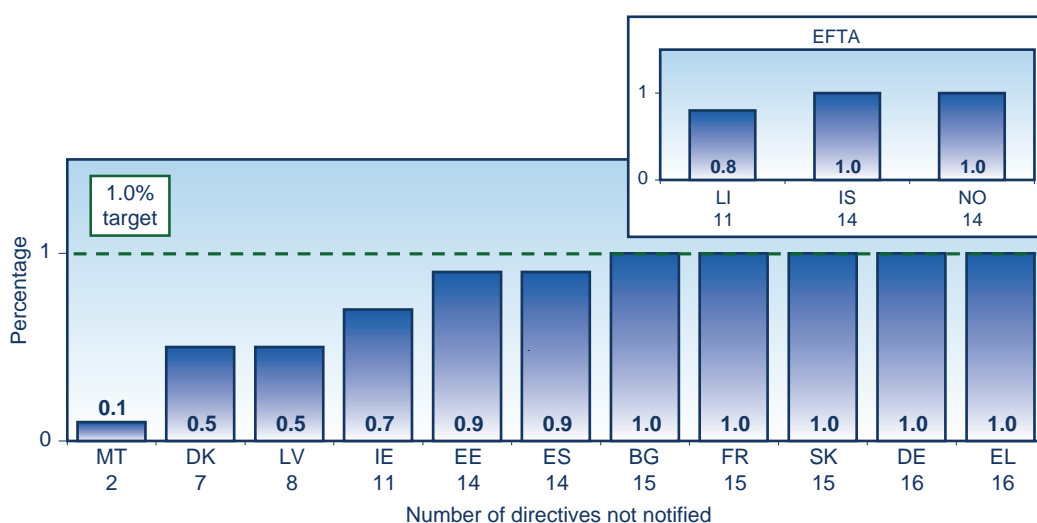
⁹ See footnote 3.

First challenge – All Member States should meet the 1% target

The number of Member States which were in line with the European Council's 1% transposition deficit target decreased dramatically from twenty to eleven Member States within the past six months.

While Estonia is now back in line with the target, ten Member States who achieved the target in November 2010 (Belgium, Lithuania, Luxembourg, the Netherlands, Portugal, Romania, Slovenia, Finland, Sweden and the United Kingdom) have now fallen back. It is the first time that such a small number of Member States have been in line with the 1% target. This turnaround shows that transposition requires a permanent effort, and any relaxation quickly leads to the deficit increasing again.

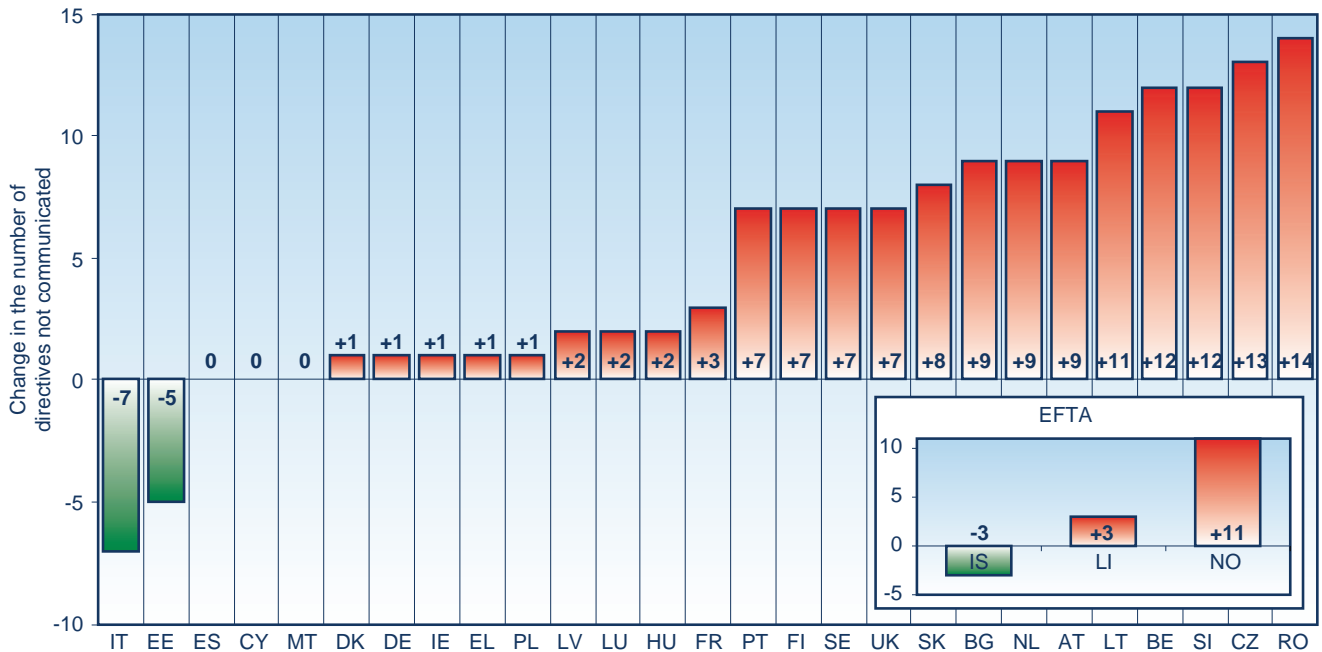
Figure 2: 11 Member States which have achieved the 1% target



Transposition deficit of the Member States that achieved the 1% target as of 10 May 2011.

- Malta equalled its best ever result with merely two directives away from having a 0% deficit. Once more, Malta illustrates that a consistently good transposition performance is possible.
- Like in previous years, Denmark and Latvia continue their good transposition performance resulting in the second lowest transposition deficit.
- With a 0.9% deficit, Estonia managed to go back to under 1.0%, down from 1.3% six months ago.
- Bulgaria and Slovakia managed to stay within the 1.0%, but their previous low transposition deficit doubled from respectively 0.4% and 0.5% to 1%.
- Out of all the Member States included in this table, only Estonia managed to improve its performance compared to six months previously. In addition to Malta, Ireland and Greece equalled their best ever result.

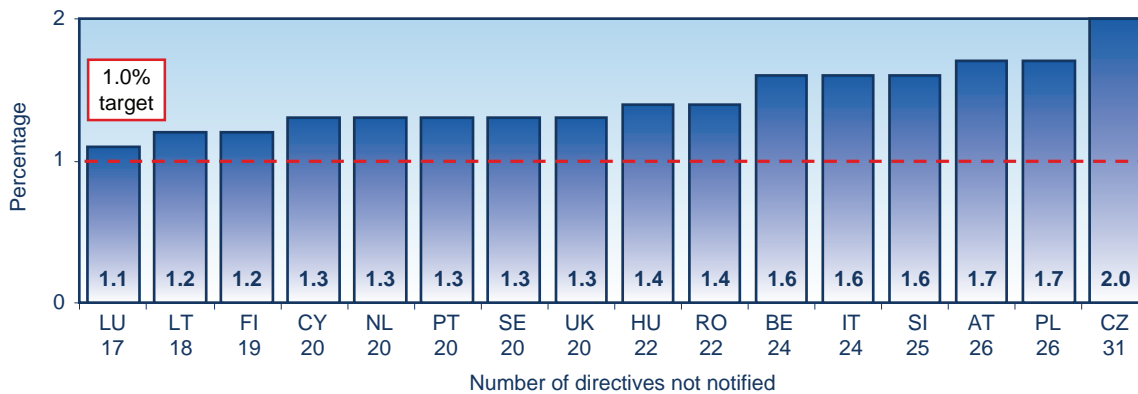
Figure 3: Worsening performance in a large number of Member States



Change in the number of outstanding directives since November 2010 (in Scoreboard n°22).

- Compared to six months ago, only two Member States managed to reduce the number of outstanding directives, whereas 22 Member States added to their existing backlog.
- Eleven out of these 22 Member States accounted for an decreasing backlog half a year ago. Now they have reversed this and increased their transposition record. They were: Bulgaria, Czech Republic, Ireland, Greece, France, Latvia, Lithuania, Luxembourg, Poland, Portugal and Romania. This meant that four of them (Lithuania, Luxembourg, Portugal and Romania) went above the ceiling and missed the 1% target.
- After registering the highest transposition deficit of all 27 Member States six months ago, this time Italy registered the biggest improvement. For its part, Estonia reversed the negative trend of the previous year, and this time achieved one of the best improvements ever. This shows that both Member States have made sustained efforts.

Figure 4: 16 Member States not in line with the 1% target

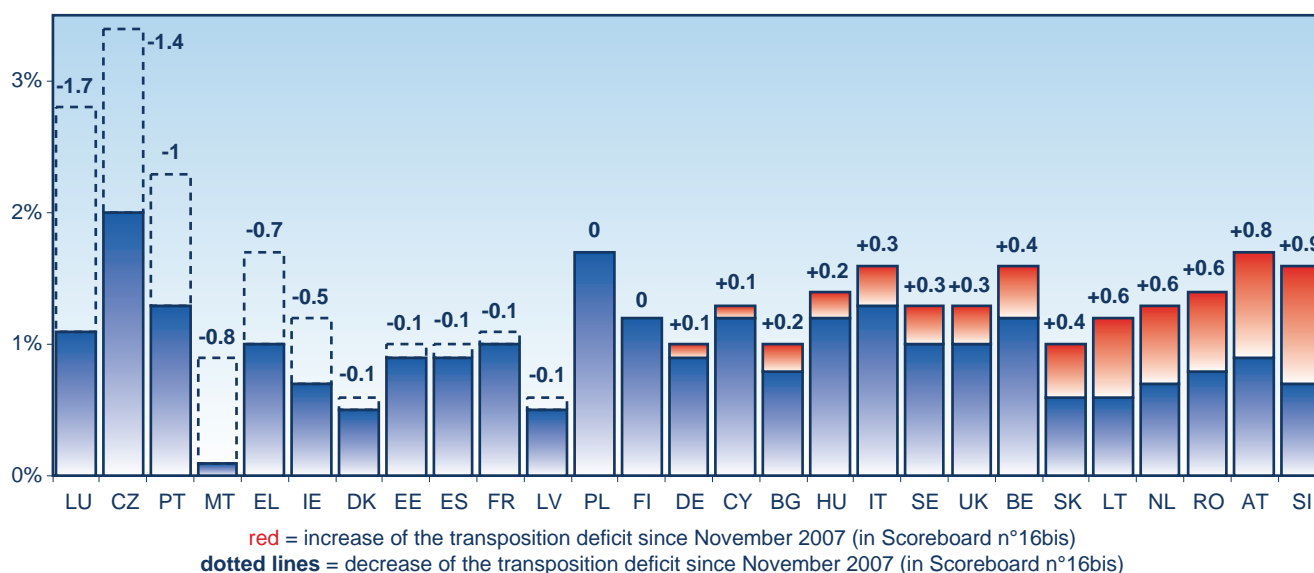


Transposition deficit of the Member States that missed the 1% target as of 10 May 2011.

- At a time when Member States need to redouble their efforts, a lot of them appear to have gone into reverse: currently there are 16 Member States that have missed the interim target of 1%. This is by far the largest number in four years.
- Out of these 16 Member States, only Italy and Cyprus managed to reduce their transposition deficit. Hungary and Poland equalled their previous score. All other Member States posted an increase in their already existing transposition backlog. This increase is particularly worrying for some of them: 0.7% to 1.3% for Netherlands, 0.8% to 1.6% for Belgium, 0.5% to 1.2% for Lithuania and 0.5% to 1.4% for Romania.
- Six months ago, Belgium, Lithuania, Luxembourg, the Netherlands, Portugal, Romania, Slovenia, Finland, Sweden and the United Kingdom were within the 1.0% target, but this time round they were above the threshold.

What is required now from those Member States who missed the 1% target is that they take the necessary steps to improve their transposition performance. 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.

Figure 5: Half of Member States reduced or equalled their transposition compared to 2007



Transposition deficit as of 10 May 2011 compared to corresponding figures as of 10 November 2007.

Today, the average transposition deficit has fallen back to the level of November 2007. The figure above shows that the good performance of half of the Member States is counterbalanced by the increased transposition backlog of the other half.

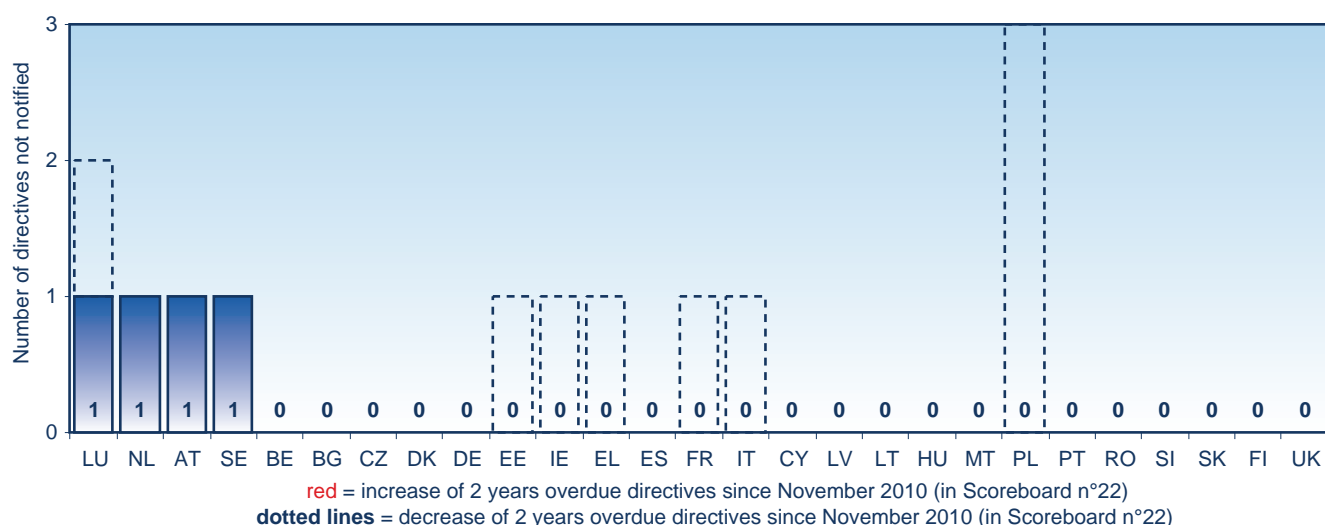
- Czech Republic is currently the Member State with the highest transposition deficit, but it is also the Member State which registered one of the biggest improvements compared to November 2007.
- Bulgaria, Germany and Slovakia are among the Member States which have increased the transposition deficit, although they are still within the 1.0% threshold. By contrast, Luxembourg posts the highest improvement compared to 2007 but is above the 1.0% deficit this time around.

Second challenge – All Member States should meet the “zero tolerance” target

Long transposition delays cause serious harm to the proper functioning of the Internal Market. In particular, it distorts the level playing field, prevent businesses and citizens from exercising their rights under the law and creates legal uncertainty. This is why the Heads of State and Government set a “zero tolerance” target for directives whose transposition is overdue by two years or more¹⁰.

In the recent past, Member States made considerable progress in reducing the number of long overdue directives. A reduction (of 86%) from 22 to 3 directives has been registered in the last two years. Member States are invited to continue their good efforts, remove the three directives from the list altogether and pay the utmost attention to ensuring that other directives are not added to the list.

Figure 6: Continuous improvement in the “zero tolerance” target



Number of directives with a deadline for transposition into national law by 30 April 2009, for which all national transposition measures have not been notified by 10 May 2011 (compared to corresponding figures for 10 November 2010).

- Currently, 23 Member States respect the “zero tolerance” target compared to 17 in November 2010. The latest countries to join this group are Estonia, Ireland, Greece, France, Italy and Poland, which had at least one directive outside the target six months ago. Member States improved their good performance, with each Member State outside the target having just one directive delayed.
- Poland, after adding two directives the last time round, has made the strongest progress by transposing three such directives.

Figure 7: Number of long overdue directives reduced by 86% within two years

Directives	Not transposed by	Transposition deadline
2006/24/EC Publicly available electronic communications services and public communications networks / Retention of data	AT, SE	15/09/2007
2005/47/EC Working conditions of mobile workers engaged in interoperable cross-border services in the railway sector	LU	27/07/2008
2007/44/EC Procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector	NL	21/03/2009

Directives with a transposition deadline by 30 April 2009, which are not (fully) transposed by at least one Member State - Situation as of 10 May 2011.

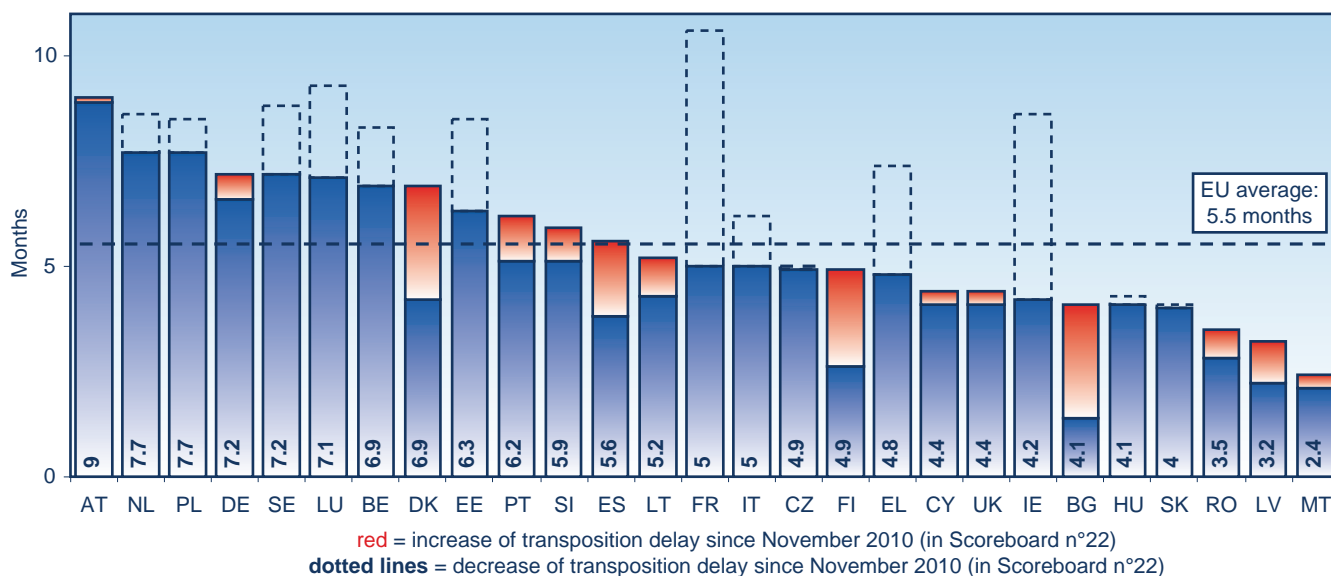
- The oldest directive, among the three long overdue directives not yet transposed by all Member States, dates back to September 2007. Almost four years later, this directive still needs to be transposed by Austria and Sweden.
- Two of the three long overdue directives have not yet achieved their full effect, because of one Member State failing to transpose them.

The long delays cannot be excused by administrative burdens or the complexity of the directives. From what Member States have told Commission services, timely transposition seems to be linked to four factors in particular: 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

In November 2009, Member States took **an extra 9 months** on average to transpose EU directives after the transposition deadline had expired. The Internal Market Scoreboard therefore called on all Member States to focus increasingly on the need to reduce transposition delays. Member States managed to reduce the EU average transposition delay to **5.8 months in December 2010** and to **5.5 months today, which is equivalent to an overall reduction of almost 40% in 18 months.**

Figure 8: Notable improvement in transposition delays



Average transposition delay in months for overdue directives – Situation as of 10 May 2011 compared to corresponding figures for 10 November 2010.

- After the remarkable performances registered six months ago where many Member States managed to reduce their delays by half and more, others did the same this time round, with France in particular passing from 10.6 to 5 months and Ireland from 8.6 to 4.2 months.
- 13 Member States reduced their delays this time round compared to six months ago.
- Only three Member States carried a delay that was greater than in November 2009: they were Bulgaria, Denmark and Cyprus. These Member States are encouraged to reverse this negative trend.
- 14 Member States have recorded a longer delay this time round compared to six months ago. The highest increases were in Bulgaria, Finland and Denmark.

- The longest delay recorded has been reduced from 16 months in November 2009 to the current figure of nine months.

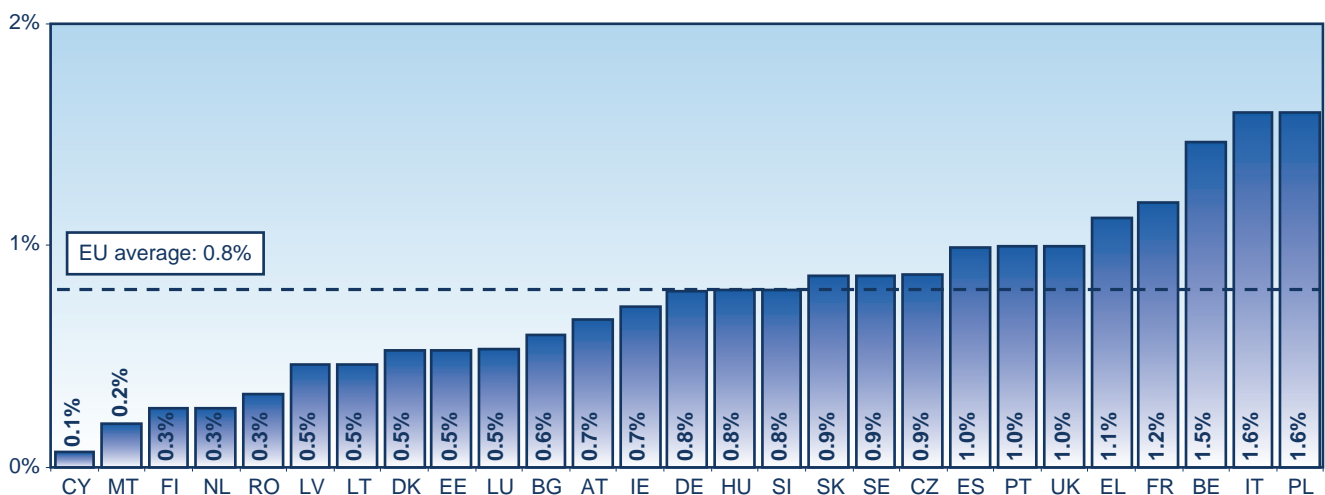
Altogether, this is a remarkable achievement. Member States are called upon to continue their efforts to further reduce the transposition delays and thereby ensure that compliance with the transposition deadline is the rule and delays are the rare exception.

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 EU Directives correctly into national law**. Otherwise, the Internal Market rules will not be applied correctly on the ground.

In the Single Market Act, the Commission, following requests from European Parliament and stakeholders to ensure a level playing field for all, pointed out the need for a more determined policy, not only on the transposition deficit but also for the compliance deficit¹¹.

Figure 9: The number of incorrectly transposed directives remains high



Number of directives transposed where an infringement proceeding for non-conformity has been initiated by the Commission as a percentage of the number of Internal Market directives communicated to the Commission as having been transposed (as of 1 May 2011).

- The figure shows the percentage of incorrectly transposed directives according to the benchmarks proposed in the Single Market Act on the basis of the infringement proceedings open by the Commission¹².
- The average compliance deficit stands at 0.8%. More than one third of the Member States are already in line with the proposed 0.5% deficit. This shows that 0.5% is an achievable target, which calls for even closer cooperation between the Commission and the Member States.
- Some of the Member States show a combination of a high transposition deficit and a high percentage of incorrectly transposed directives (namely Belgium, Italy and Poland). These Member States in particular are urged to invest more in order to reduce these numbers.

¹¹ "The Commission will therefore initiate a more determined policy in this field and will call on the Member States to improve the transposition of – and compliance with – their national legislation, using numerical targets....limiting the transposition and compliance deficit for national legislation to 0.5% for the transposition deficit, and 0.5% for the compliance deficit" (Single Market Act, see footnote 2).

¹² See disclaimer at the beginning of chapter 2.

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 the 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 10: Fragmentation factor again at 6%



The so-called “fragmentation factor” records the percentage of the outstanding directives which one or more Member States have failed to transpose in relation to the total number of Internal Market directives, with the consequence that the Internal Market is not a reality in the areas covered by those directives - Situation as of November 2007 to May 2011.

The fragmentation factor of 6% means that this percentage of Internal Market directives is not having the full effect in all Member States. In other words, the Internal Market is operating at only 94% of its potential. These remaining legal gaps generate legal uncertainty and mean missed opportunities for European citizens and businesses, in particular in the areas of transport, environment and financial services. In absolute terms, 90 directives have not been transposed on time in at least one Member State. Almost half of these directives (46%) do not achieve their full effect simply because one or two Member States have not transposed them.

The failure to transpose a directive in one Member State, when 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.

2. INFRINGEMENT PROCEEDINGS¹³ 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 fulfil 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

Following an unprecedented decrease of 11% during the last reporting period (from May to November 2010), the number of pending Internal Market infringement proceedings fell by a further 8% in the past six months. Since November 2007, the number was down by a quarter.

Figure 11: A reduction by 25% since November 2007



Development of pending infringement cases since 1 November 2007.

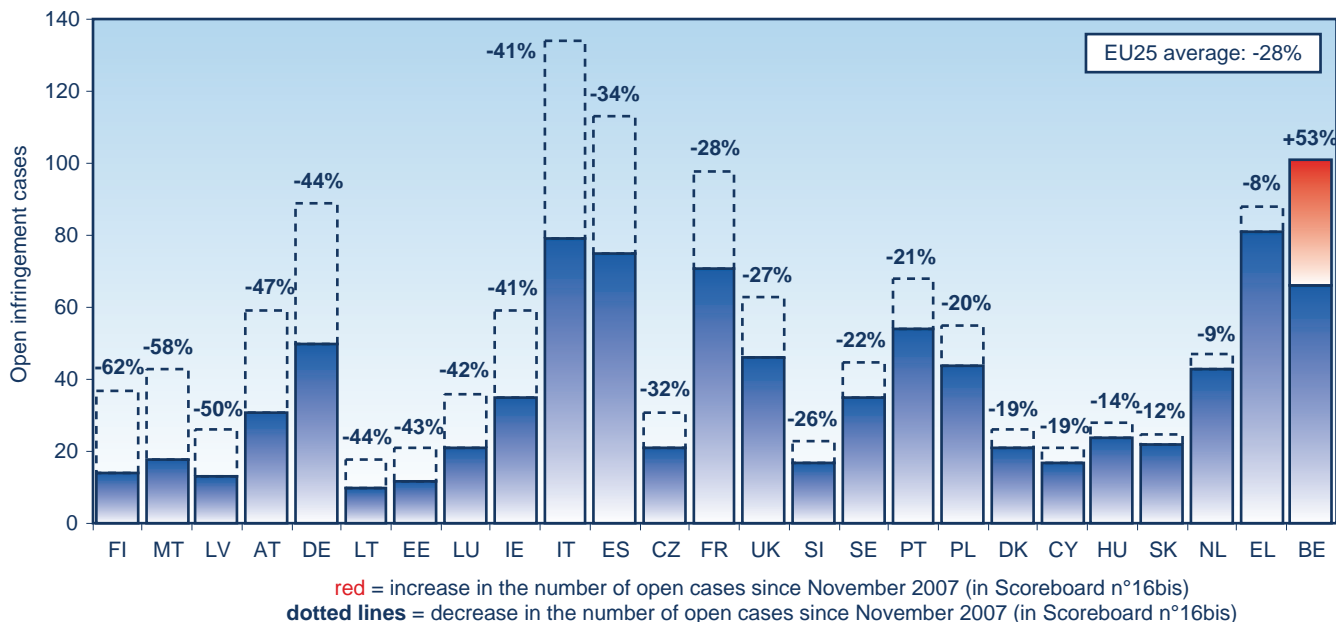
Almost 70% of this decrease occurred in the last twelve months and might be put down to the introduction in recent years of improved working methods concerning complaints handling mechanisms and early problem solving in compliance with EU law¹⁴. It remains to be confirmed over time how much infringement proceedings can be definitely avoided using these systems.

¹³ "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.

¹⁴ SOLVIT: <http://ec.europa.eu/solvit/>
EU-Pilot: http://ec.europa.eu/community_law/infringements/application_monitoring_en.htm
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.

For example, the “EU Pilot” procedure has been in place since April 2008 to enhance cooperation and early resolution of problems between Member State authorities and the Commission relating to the application of EU law before formal infringement procedures are launched. As from September 2011, 25 Member States are participating in the “EU-Pilot” and Malta is making necessary internal arrangements to join the system soon. Negotiations are still on going with Luxembourg.

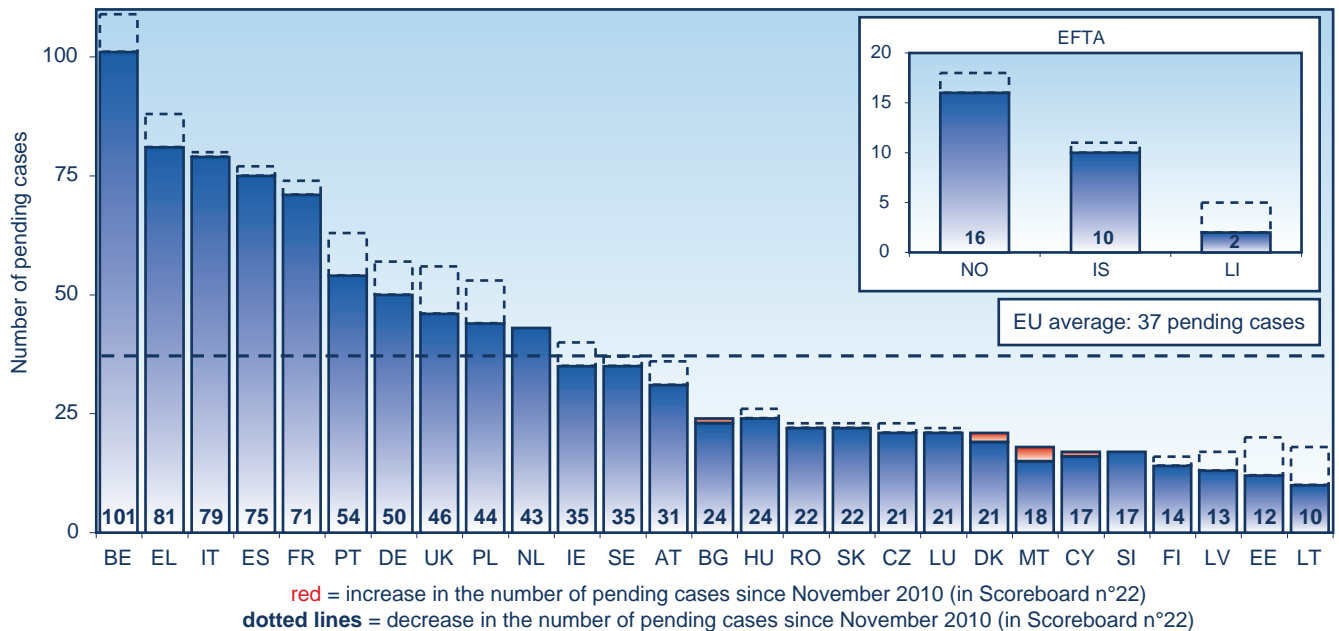
Figure 12: Trend in the number of infringement proceedings per Member State comparing May 2011 to November 2007



Open infringement cases as of 1 May 2011 compared to the corresponding figures as at 1 November 2007.

- All the Member States except Belgium managed to reduce the number of their infringement proceedings compared to November 2007. Finland and Malta post the biggest reduction in case load with -62% and -58% respectively.
- The total number of infringement proceedings per Member State varies widely. The Member State with the most pending infringements (Belgium) has ten times more infringement cases than Lithuania, which is the Member State with the lowest number of cases.

Figure 13: Today's number of infringement proceedings by Member States

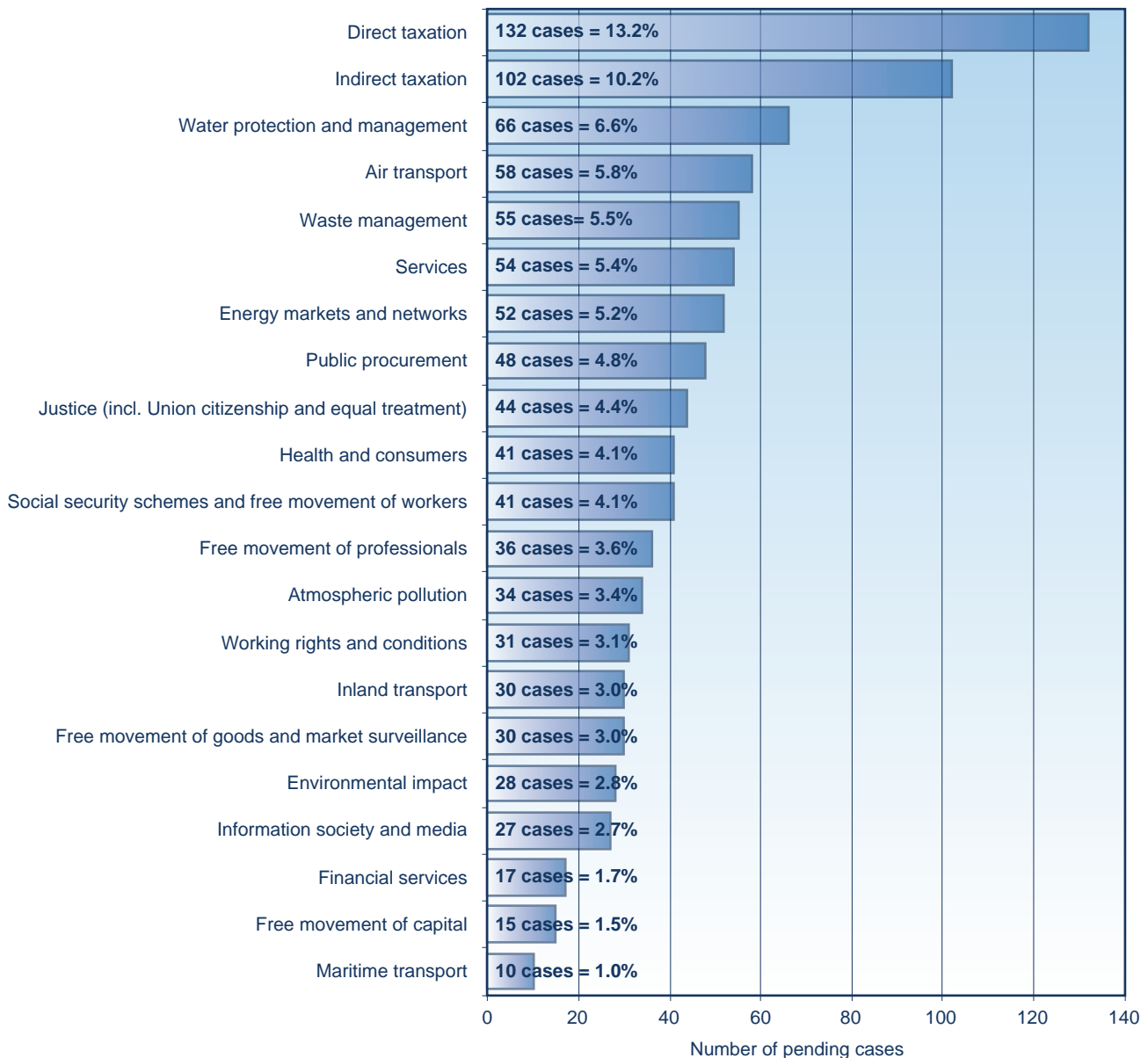


Open infringement cases as of 1 May 2011.

- The average number of open infringement proceedings in the EU decreased further to 37 cases compared to 40 cases six months previously. Twenty-one Member States have improved their record since November 2010. Only Bulgaria, Denmark, Cyprus and Malta have a growing caseload, which goes against the EU trend. Cyprus is the only one of these Member States to have had a (slightly) growing caseload during the last two reporting periods since May 2010.
- The bulk of infringement procedures are still pending against Belgium, Greece and Italy. Although these three Member States continue to reduce their caseload, their combined share is increasing slightly (from 25% to 26%) as the number of cases against these Member States is falling to a lesser extent than the EU average.

The figure below shows that the biggest groups of cases are still observed in the areas of taxation (direct and indirect taxation) and environment (water protection and management, waste management, atmospheric pollution and environmental impact). These two sectors account for 44% of the 951 pending infringement proceedings shown in the figure above, which is the same level as six months ago.

Figure 14: Environment and taxation account for almost half of the infringement proceedings



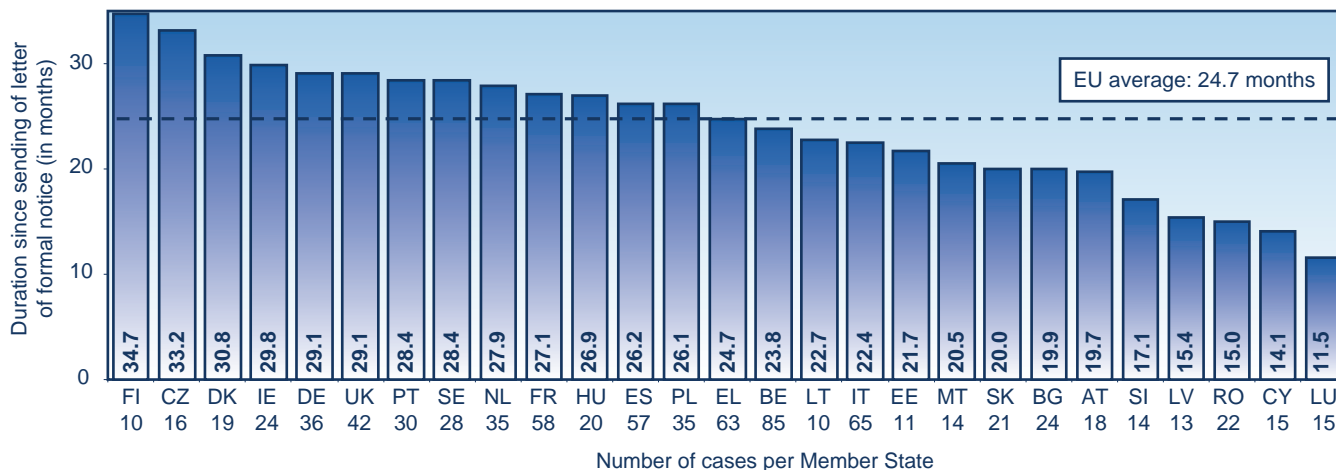
Open infringement cases as of 1 May 2011 divided by sectors concerned representing at least 1% of all infringement proceedings. Fifty out of the 1001 infringement proceeding concern sectors representing less than 1% (such as health and safety at work, climate change, education, chemical substances, industrial and biotechnological hazards) and are therefore not shown in this figure.

- Taxation is a source of numerous cases for most Member States, in particular in Belgium, Spain, France, the Netherlands, Portugal and the United Kingdom.
- Spain, France, Italy, Portugal and Slovakia face problems in the area of environment, Greece and Italy in the social policy area and finally Greece and the Netherlands in the sector of public procurement.

Duration of infringement proceedings

Rapid action to bring to an end breaches of Internal Market rules is vital for EU citizens and businesses who wish to exercise their rights in the Single Market. However, the EU average duration of pending infringement cases is more than two years, which deprives citizens of their rights for too long and might even prevent compliance with EU law before its adverse effects expire anyway. Increased efforts to resolve ongoing infringement proceedings more promptly are therefore required.

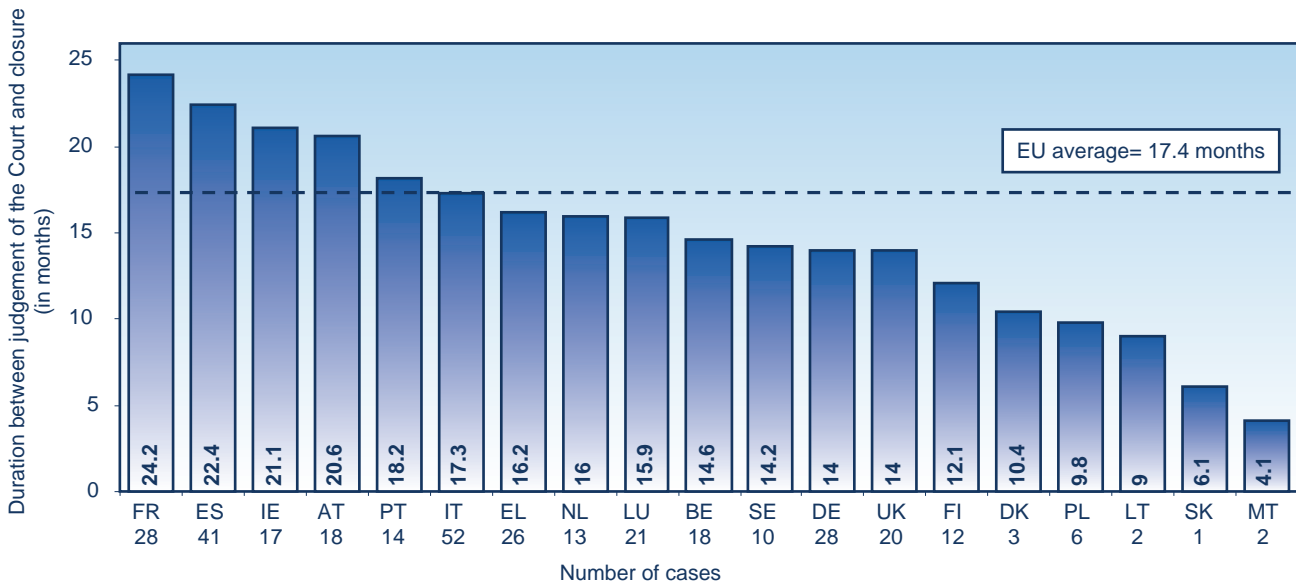
Figure 15: The average duration of infringement proceedings ranges from one year to almost three years



Pending infringement cases not yet sent to the Court as of 1 May 2011 (800 such cases): average duration in months from the moment of the sending of the letter of formal notice.

- In May 2011, the average duration of pending infringement cases was more than 30 months in three Member States (Finland, Czech Republic, Denmark), while in five Member States (Slovenia, Latvia, Romania, Cyprus and Luxembourg) the average duration was less than 18 months.

Figure 16: Cases from most Member States are still open more than 12 months after the Court ruling



Cases closed between 1 May 2006 and 30 April 2011 (332 cases) – Average duration between the judgement of the Court and the resolution of the case.

Article 260 paragraph 1, as interpreted by the Court of Justice, requires that after a Court rulings establishing a breach of EU legislation, the Member State concerned takes immediate action to ensure compliance with EU law as soon as possible¹⁵.

Despite this legal obligation, cases from 14 Member States are still open more than 12 months on average after the Court ruling; for five Member States (France, Spain, Ireland, Austria and Portugal) the period is more than 18 months.

The EU average period fell by one month since the last assessment six months ago, but an average duration of 17.4 months is still too long. Against the general trend, the times taken to comply with Court rulings are now slightly longer for France, Austria, Sweden and Poland than was the case 6 months ago. On the other hand, the time-lag between Court rulings and compliance with EU law fell by more than the EU average of one month in Ireland, Belgium, Denmark and Lithuania.

Member States need to take more effective action to resolve infringements of EU law established in Court of Justice rulings.

¹⁵ See in particular the judgments in case C-291/93 Commission v Italian Republic (1994) paragraph 6, case C-101/91 Commission v Italian Republic (1993) paragraph 20 and case C-328/90 Commission v Hellenic Republic (1992) paragraph 6.

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 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 combines 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 shows 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 and Latvia, who are above the average on all criteria.

The table highlights where Member States' performance is average or above average (in yellow or red). Where performance is below average, Member States need to invest more to improve their enforcement performance further.

	BE	BG	CZ	DK	DE	EE	IE	EL	ES	FR	IT	CY	LV	LT	LU	HU	MT	NL	AT	PL	PT	RO	SI	SK	FI	SE	UK	EU average
Fig. 2-4: Transposition deficit	1.6%	1.0%	2.0%	0.5%	1.0%	0.9%	0.7%	1.0%	0.9%	1.0%	1.6%	1.3%	0.5%	1.2%	1.1%	1.4%	0.1%	1.3%	1.7%	1.7%	1.3%	1.4%	1.6%	1.0%	1.2%	1.3%	1.3%	1.2%
Fig. 3: Progress over the last 6 months (change in the number of outstanding directives)	+12	+9	+13	+1	+1	+0	+1	+1	+0	+3	-7	+0	+2	+11	+2	+2	+0	+9	+9	+1	+7	+14	+12	+8	+7	+7	+7	+5
Fig. 5: Development of transposition deficit since Nov. 2007	+0.4	+0.2	-1.4	-0.1	+0.1	-0.1	-0.5	-0.7	-0.1	-0.1	+0.3	+0.1	-0.1	+0.6	-1.7	+0.2	-0.8	+0.6	+0.8	0	-1.0	+0.6	+0.9	+0.4	0	+0.3	0	0
Fig. 6: Number of directives two years or more overdue	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	0	0	0	1	0	0
Fig. 8: Transposition delay on overdue directives (in months)	6.9	4.1	4.9	6.9	7.2	6.3	4.2	4.8	5.6	5.0	5.0	4.4	3.2	5.2	7.1	4.1	2.4	7.7	9.0	7.7	6.2	3.5	5.9	4.0	4.9	7.2	4.4	5.5
Fig. 9: Compliance deficit	1.5%	0.6%	0.9%	0.5%	0.8%	0.5%	0.7%	1.1%	1.0%	1.2%	1.6%	0.1%	0.5%	0.5%	0.5%	0.8%	0.2%	0.3%	0.7%	1.6%	1.0%	0.3%	0.9%	0.9%	0.3%	0.9%	1.0%	0.8%
Fig. 12: Trend in the number of infringement cases since Nov. 2007	+53%	NA	-32%	-19%	-44%	-43%	-41%	-8%	-34%	-28%	-41%	-19%	-50%	-44%	-42%	-14%	-58%	-9%	-47%	-20%	-21%	NA	-26%	-12%	-62%	-22%	-27%	-28%
Fig. 13: Number of pending infringement cases	101	24	21	21	50	12	35	81	75	71	79	17	13	10	21	24	18	43	31	44	54	22	17	22	14	35	46	37
Fig. 15: Average speed of infringement resolution - pending cases (in months)	23.8	19.9	33.2	30.8	29.1	21.7	29.8	24.7	26.2	27.1	22.4	14.1	15.4	22.7	11.5	26.9	20.5	27.9	19.7	26.1	28.4	15.0	17.1	20.0	34.7	28.4	29.1	24.7
Fig. 16: Duration since Court's judgments - closed cases (in months)	14.6	NA	NA	10.4	14.0	NA	21.1	16.2	22.4	24.2	17.3	NA	NA	9.0	15.9	NA	4.1	16.0	20.6	9.8	18.2	NA	NA	6.1	12.1	14.2	14.0	17.4

Legend	< average	average ±10%	> average
Transposition deficit	< 1%	1%	> 1%
Duration since Court's judgment	< 8 months	8-18 months	> 18 months
NA= not applicable			

4. MEMBER STATES' BEST PRACTICES

The latest edition of the Internal Market Scoreboard devoted particular attention to recent success stories of the Member States in managing to reduce their transposition deficit. With a view of promoting best practices, all Member States were invited to share with us their initiatives for improving their implementation of the Single Market law. This edition presents the Belgian measures concerning the settlement of infringement cases.

Belgium



Between 1 November 2007 and 1 May 2010, there was a continuous increase in the number of infringement procedures against Belgium. However within the last year, Belgium reversed this negative trend and managed to improve its score by 9%.

General responsibility lies with the Minister of Foreign Affairs and the Minister of Development Cooperation competent for European Affairs, on the political level, and the Federal Public Service of Foreign Affairs, on the administrative level. The specific cases are followed up by the competent Ministers at the federal level and/or at the level of the federated governments. The monitoring of the pre-litigation cases is organised via the network of Euro-coordinators and contact points, totalling up to 110 people. There is regular consultation and coordination regarding both the general state of affairs and individual cases. The Euro-coordinator is the key figure in each administration. She/he has the task of monitoring the process of transposition of the directives, as well as settling infringement proceedings for which the administration is responsible.

Belgium has been taking various awareness-raising and mobilising measures in order to achieve the above-mentioned result, and also to sustain and deepen it.

Firstly, it adopted an action plan at government level (Concertation Committee of 16 September 2009 and Federal Council of Ministers of 18 September 2009). This action plan sets the following priorities:

1. respond to the European Commission within the set time period,
2. enforce, as soon as possible, the judgments of the Court of Justice of the European Union rendered against Belgium,
3. end, as soon as possible, infringements for non-notification of the transposition measures,
4. permanently screen the other infringement procedures against Belgium with the aim of identifying, without delay, the cases where the Belgian government agrees with the point of view of the Commission. Further actions on these cases – including the adoption of the necessary measures – improve the general score.

Secondly, between November 2010 and May 2011, the existing structures and practices have been the subject of an in-depth analysis by the Belgian authorities. Consequently, a set of measures has been adopted by the Federal Council of Ministers and the Concertation Committee recently. More proposals have been drawn up in order to reduce the number of infringement procedures in a radical and structured way by focusing in particular on both the increase of information flow and a proactive approach (including benchmarking). These proposals are submitted at the political level.

Thirdly, it is hoped that Belgium's participation in the EU pilot project as from 3 January 2011 will reduce the number of new infringement procedures against Belgium. The statistics show that this is the case for most of MS who have participated in the EU-Pilot project.

Finally, emphasis is placed on the importance of regular contacts and exchanges with the EU institutions and the other EU Member States. In that context, in the second half of 2010 when it held the EU presidency, Belgium organised a conference on the transposition of EU directives following the successful Czech conference (March 2009) on the same subject. During this conference, various EU Member States were offered the possibility to share "best practices" with one another. Belgium therefore welcomes the Polish initiative to hold in October 2011 a third meeting on the transposition and implementation of EU law.

European Commission

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