

Single Market Scoreboard

Performance per governance tool

Infringements

(Reporting period: 11/2013 - 05/2014)



About

The infringement statistics **highlight the number of infringements** opened against Member States, point out potential structural problems, **commend any** efforts undertaken to improve the resolution of cases and **encourage improved performances by Member States.**

As guardian of the Treaties, it is the Commission's task to ensure that both Treaty provisions and acts adopted by EU institutions are **correctly implemented** and **applied** by Member States. If, after preliminary consultations in EU Pilot, the Commission considers that EU rules are not being properly applied, it may open **infringement proceedings** against the Member States in question.

The Single Market Scoreboard therefore reflects the position of the Commission as regards alleged infringements. It has to be born in mind, however, that Member States may not agree with the Commission's position as regards the alleged infringement and that only the Court of Justice can rule definitively that a breach of EU law has occurred.

*The present edition of the Single Market Scoreboard still does not take **Croatia** into account in the chapter dedicated to Infringements and as regards the calculation of EU average. This is due to the fact that, although Croatia has been a full member of the European Union since 1 July 2013, as of 1 May 2014, no formal infringement proceedings had been initiated (by sending a letter of formal notice) against this new Member State (regardless from infringements for non-communication).*

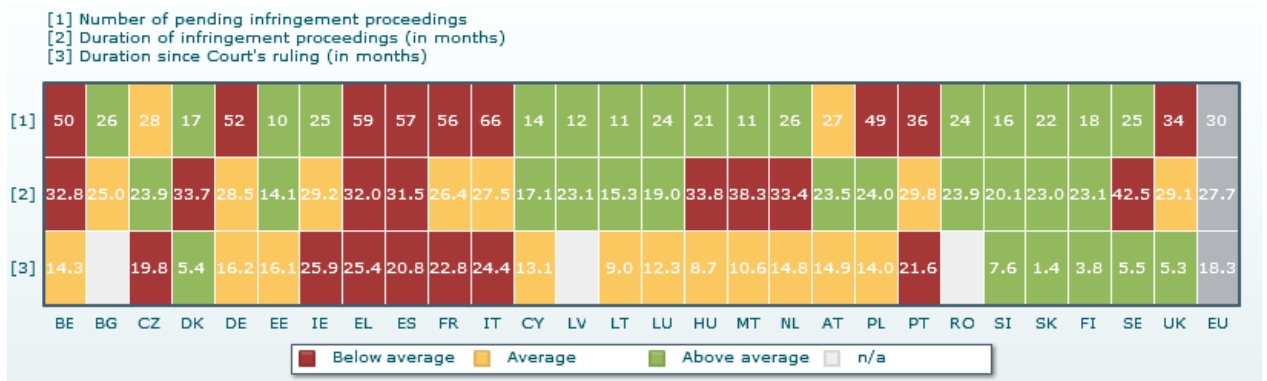
Infringement proceedings

"Infringement proceedings" are to be understood as covering all cases where transposition is presumed not to comply with the directive it transposes or where Single Market rules (either in the Treaty on the Functioning of the European Union or in secondary legislation) are presumed to have been incorrectly applied and where a letter of formal notice has been sent to the Member State in question.

In order to avoid double counting, cases of failure to notify transposition (non-communication cases) are excluded from this chapter except in the Figure "Types of infringements".

Performance

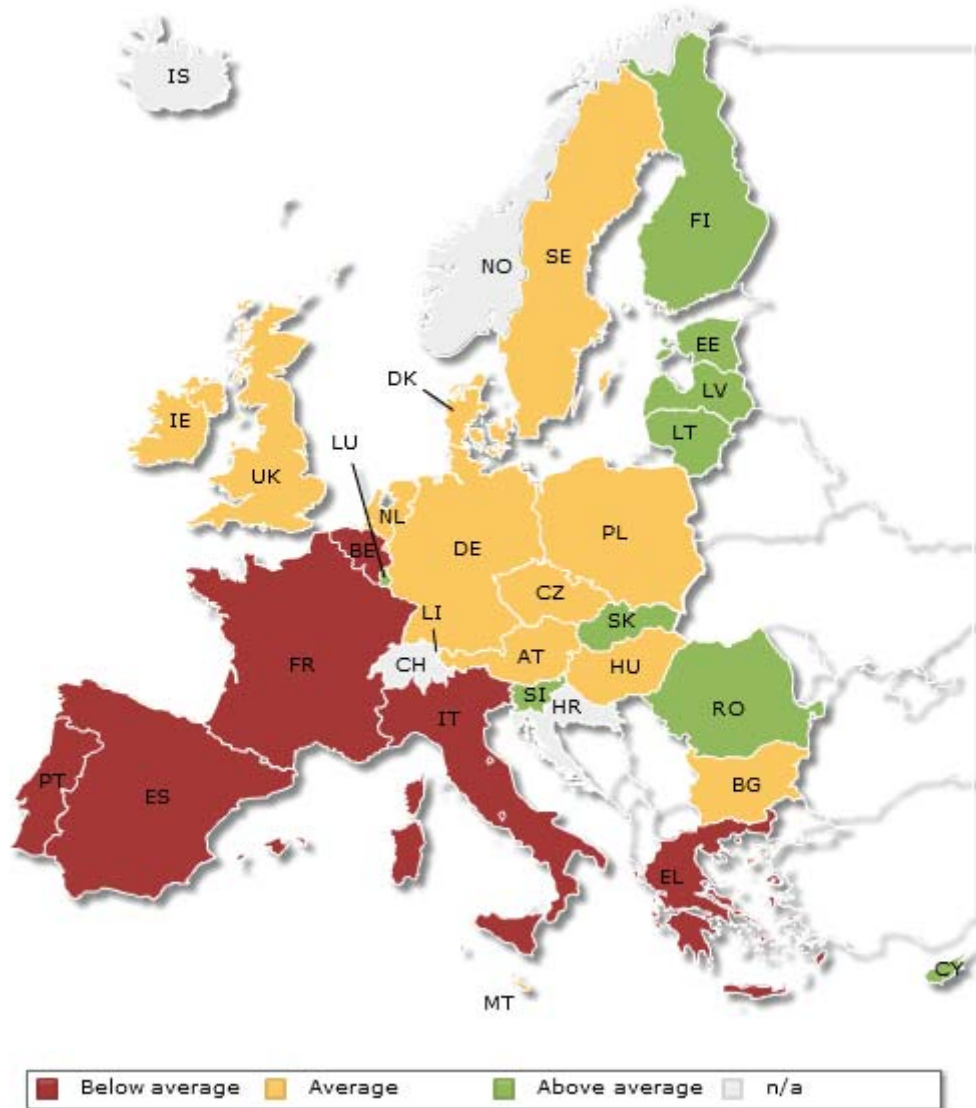
Performance per indicator



Indicators [1] and [2]: An average (+/- 10 %) score was rated as "yellow"; a score below it as "red" and a score above it as "green".

Indicator [3]: Duration of more than 18 months was rated as "red", between 8 and 18 months, as "yellow", and less than 8 months as "green".

Overall performance



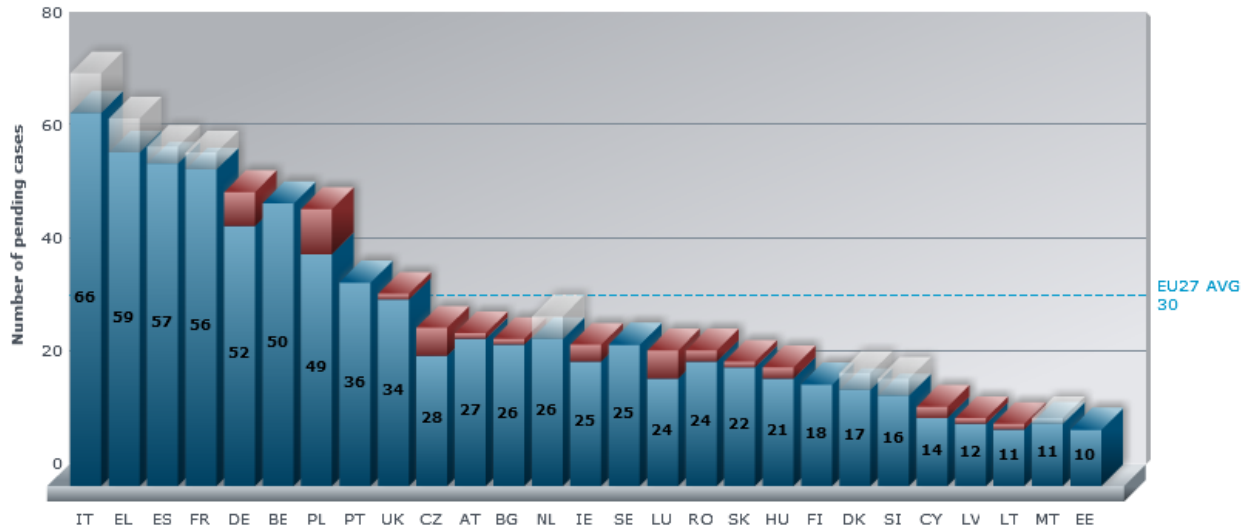
A country's overall performance is calculated by attributing the following values to each of its three indicators: red = -1, yellow = 0 and green = 1.

Final colours are attributed based on the sum of scores:

2 or higher => green
 -1, 0 or 1 => yellow
 -2 or lower => red

Number of infringement cases open against each Member State

Open infringement cases as of 1st May 2014. The transparent part of the chart represents the decrease in the number of pending infringement proceedings (not counting for the final result), while the red part shows the increase in the number of pending infringement proceedings since November 2013 (in winter 2013 Single Market Scoreboard)



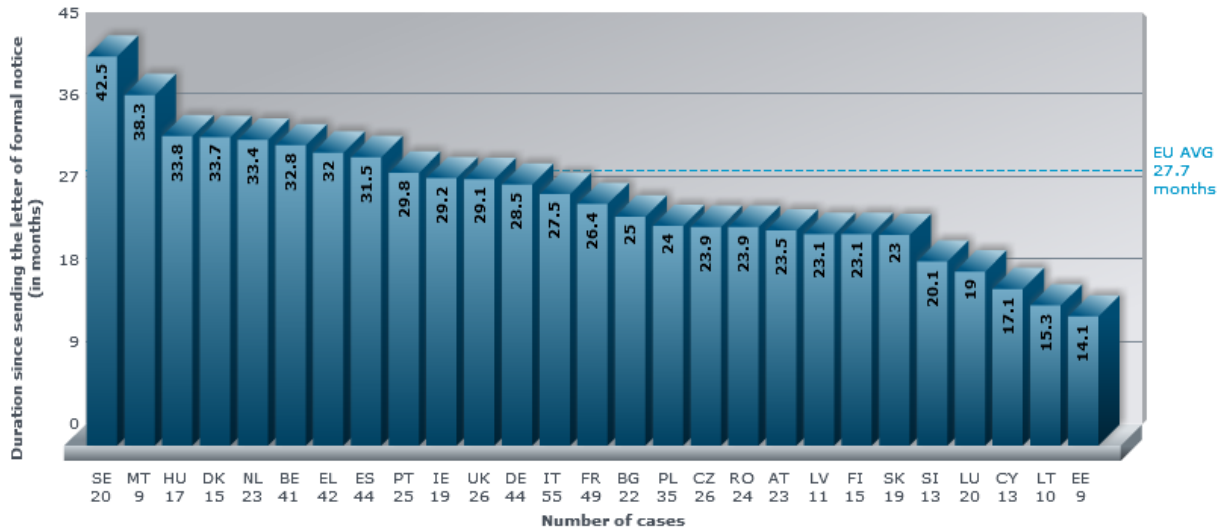
While the average number of EU infringement proceedings remains at 30 cases, it has to be highlighted that the global number of infringements **has increased for the first time since November 2008**: from 807 last November 2013 it has slightly mounted to 816. This shows that, after a constant decrease of this global number, the situation seems to be stabilized.

In the past six months, Poland has started the highest increase for the number of infringement cases (+8). Germany (+6), the Czech Republic and Luxembourg (+5) have increased their score considerably, too. In total, 14 Member States have seen the number of open cases rise.

Again, although it has seen the highest decrease for the number of infringements (-7), Italy retains for the fifth consecutive time the position of Member State with the highest number of infringement cases (66), while EU average remains at less than half of it. 13 Member States have reduced or maintained the number of open infringement cases. Apart from Italy, also Greece (-6), the Netherlands (-4), Denmark, Spain, France, Slovenia (-3), as well as Malta (-1) have reduced their backlog. In turn, Belgium, Estonia Portugal, Finland and Sweden equal their score when compared to six months ago.

Average duration of infringement cases open against each Member State

There were 669 pending infringement cases not yet sent to the Court as of 1 May 2014. The average duration is calculated in months from the sending of the letter of formal notice.



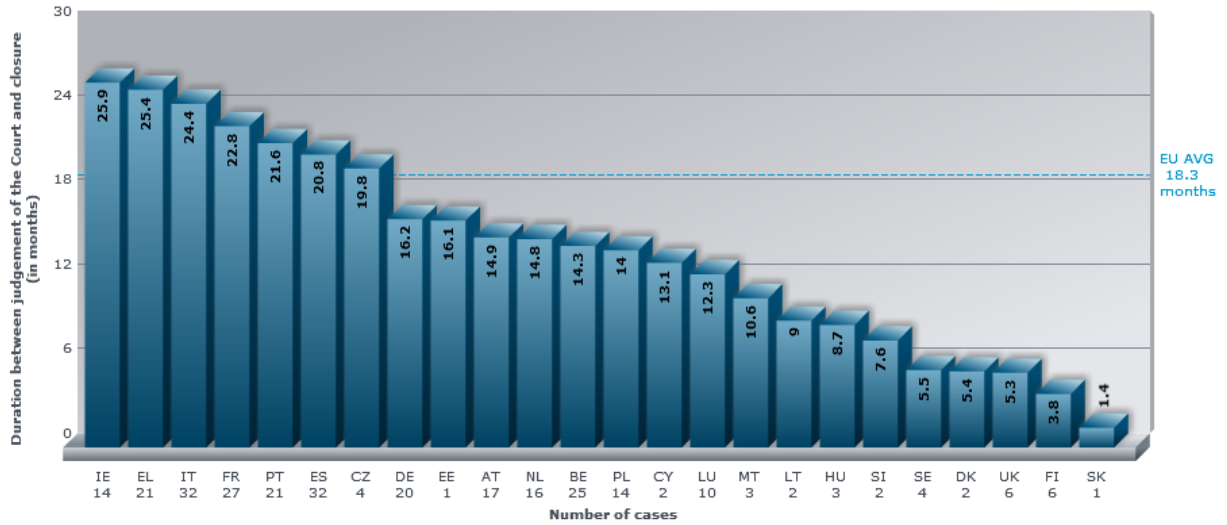
Both the Commission services and national administrations share the common responsibility of ensuring that, when conformity problems arise in relation to Single Market rules or their application, it is imperative that they are addressed quickly to ensure that citizens and businesses are able to exercise their rights in the Single Market. In this regard, it has to be noted that in May 2014 the average duration of an infringement case (calculated as from the sending of the letter of formal notice) has slightly reduced from 27.9 to 27.7 months — but it remains still over two years. The Commission services and Member States need to give special attention to the time required to settle infringement proceedings.

As of 1 May 2014, **the average time it takes to resolve a case has been reduced in fourteen Member States**. Most impressive is the reduction of its average duration by Latvia by 8.1 months, or Poland by half a year (-6.2 months). However, average case length has worsened in thirteen Member States; average case duration of Danish cases, for example, increased by 7.8 months.

It should be recalled that, in those key areas likely "to bring about the most significant gains in growth and jobs" as identified by its Communication on Better Governance for the Single Market, the Commission asks Member States for a common effort to ensure quick compliance in order that the duration of infringement procedures be reduced to **18 months on average**. Today, for what concerns the whole Internal Market legislation, this benchmark would only be respected in three Member States.

Duration between judgment of the Court and closure

Cases closed between 1 November 2009 and 30 April 2014 where the European Court of Justice has ruled against a Member State (285 cases). The average duration is calculated in months elapsed between judgment of the European Court of Justice and the adoption by the Commission of a final decision regarding the case.



The time lag in compliance with EU law following a court judgment increased again, from 18.2 months in November 2013 to 18.3 months. While only three Member States (Bulgaria, Latvia and Romania) do not have cases under this category, cases against 15 Member States are still open more than 12 months on average after the initial court ruling. The top-6 remain the same Member States, though in different positions: Ireland, Greece, Italy, France, Portugal and Spain.

Although it is true that Member States with only a few condemning rulings to comply with need on average less time to do so, there are some exceptions to this apparent link: with only 4 cases in this category, the Czech Republic takes longer than EU average to comply with the ruling. On the other side, Belgium, with 25 cases, took on average "only" 14.3 months.

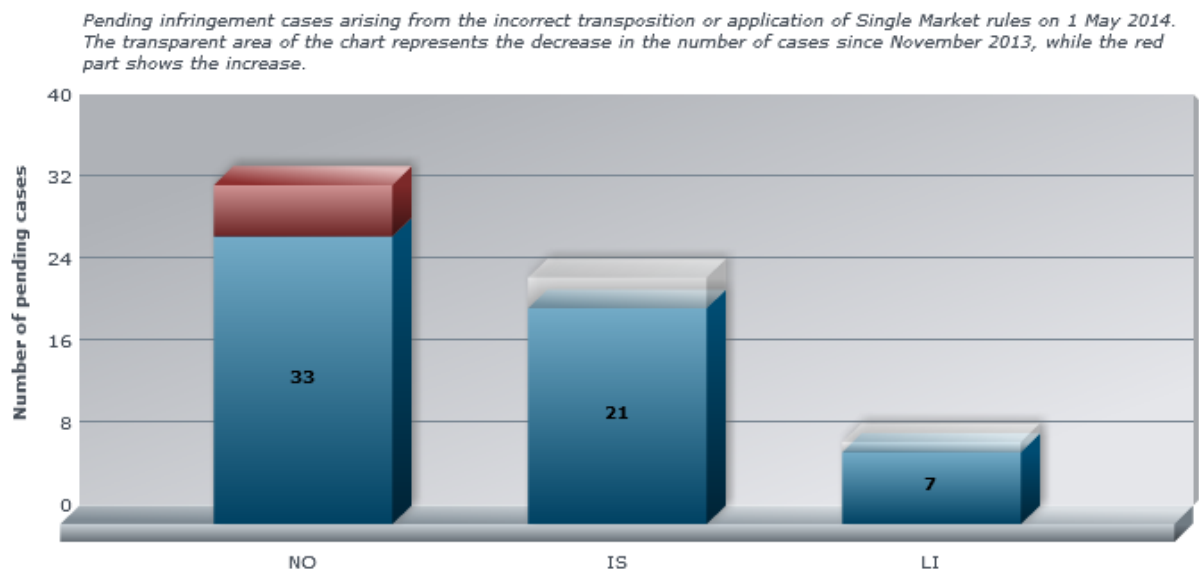
It is worth recalling that, in those key areas likely "to bring about the most significant gains in growth and jobs", the Communication on Better Governance for the Single Market asks the Commission and Member States to cooperate to speed up the process for complying with Court judgments, setting 12 months on average as the goal to achieve full compliance.

Performance of EEA EFTA countries

The purpose of the Agreement on the European Economic Area is to extend the Single Market of the European Union to the three EEA EFTA States, namely Iceland, Liechtenstein and Norway, ensuring that businesses and individuals in those countries have the same rights as those in the EU Member States.

The Single Market *acquis* applicable in the EEA EFTA States does not coincide exactly with the provisions applicable in the EU Member States. This is because of the time lag between the adoption, or repeal, of legal acts in the EU and their incorporation into, or deletion from, the EEA Agreement. Any comparison of the results from the two Internal Market Scoreboards (this one and the EEA EFTA Scoreboard) must take this difference into account.

Number of open infringement cases – EEA EFTA countries



On 1 May 2014, a total of 238 infringement cases were being pursued by the EFTA Surveillance Authority. Compared to the last Scoreboard, this constitutes an increase of two cases.

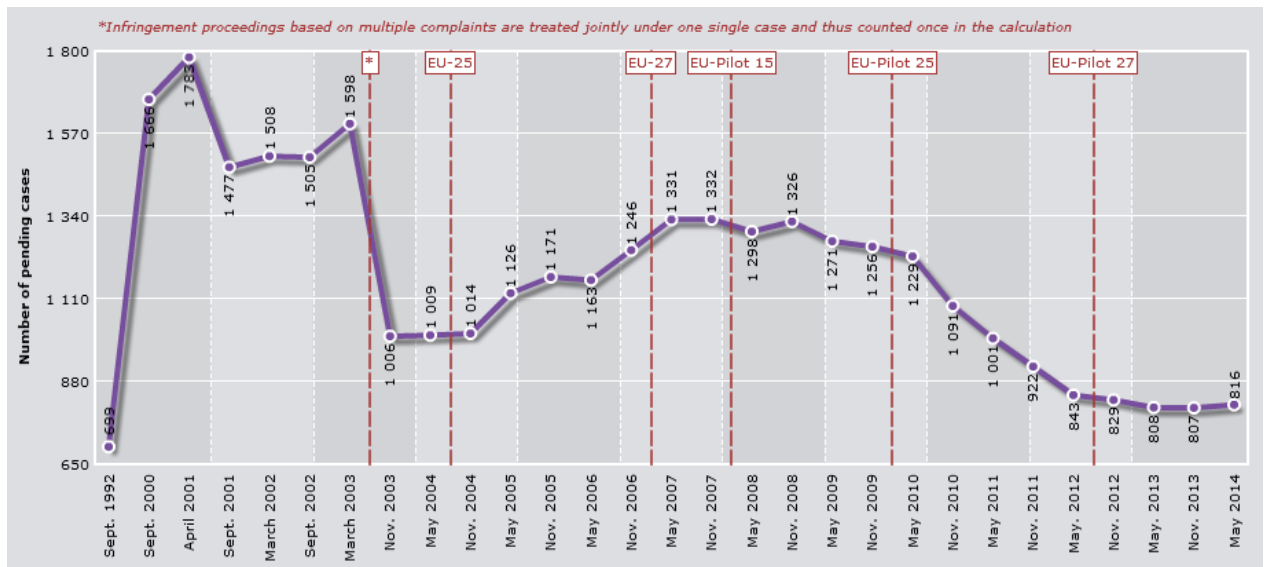
61 of these infringement cases concerned the incorrect implementation or application of Internal Market rules (see figure above).

A further 56 of the cases concerned the late transposition of directives (IS 32, LI 5, and NO 19). The remaining 121 cases concerned the late transposition of regulations (IS 111 and NO 10).

It follows from Article 7 of the EEA Agreement that regulations incorporated into the Agreement shall "as such" be made part of the internal legal order of the EEA EFTA countries. As a consequence of the monistic legal order of Liechtenstein, regulations are directly applicable and do not have to be transposed.

Achievements

Evolution in the number of open infringement cases through time



For the first time since November 2008, the number of open infringements has (even if slightly) increased, from 807 in November 2013 to 816 today. As mentioned above, this represents a stabilization in the until now constant decrease of the number of infringements.

Having said that, it is still noticeable that the global number of infringement proceedings has reduced since the establishment of early problem-solving systems like Solvit or EU-Pilot, made to **enhance cooperation** prior to the launch of formal infringement proceedings on the application of EU law. 125 new cases related to Internal Market (excluding cases for late transposition) were initiated in the last six months. But as the number of formal infringement cases remained quite stable since November 2013, the 125 new cases are offset by the same number of cases that have been resolved.

Facts and Figures

Infringement cases by sector

This table shows the total number of infringement cases for each Member State, broken down by sector as at 1 May 2014. Sectors with only few infringement proceedings (such as maritime transport, intellectual property and free movement of professionals) are included in "other fields". The highlighted figures show the sector(s) with the highest number of infringement cases in each Member State.

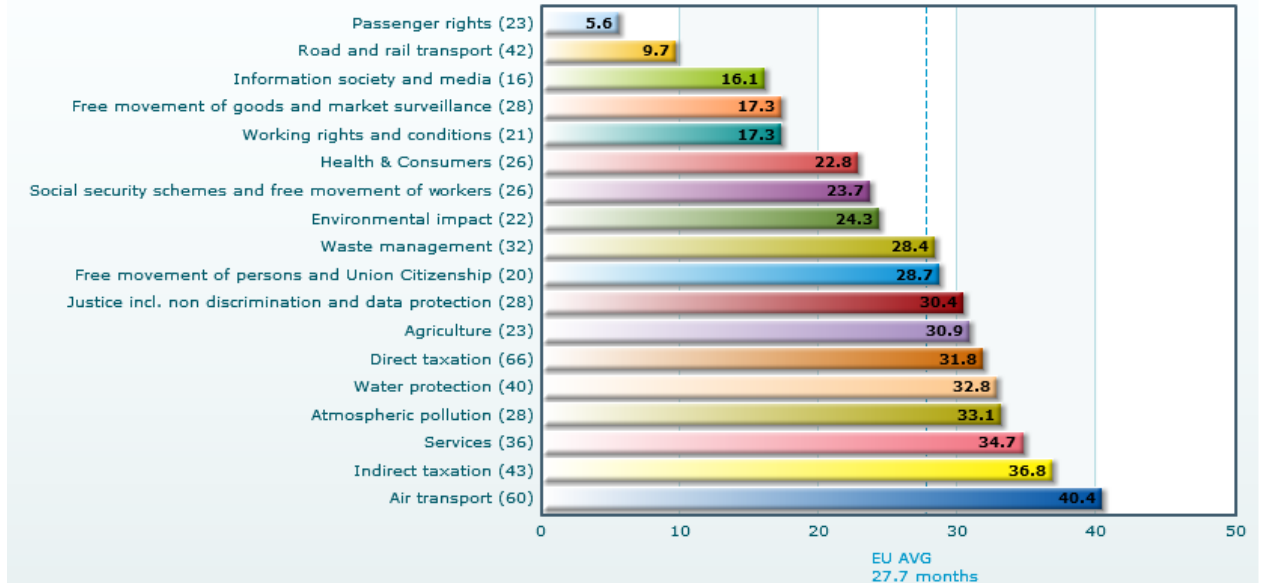
IT	1	4	3	4	2	2		1	5	1	5	4	6	2	2	2	5	4	3	10	66
EL	2	5	1	3	1	4		6	7		2	1	2	3	1	1	7	9	1	3	59
ES	1	5	1	9	2	2	1	1	3	1			5	4	3	3	6	3	7	57	
FR	1	4	2	8	2	7		2	5		1	3		4	2	3		4	4	4	56
DE	1	5	1	7	1	7	1	2	4		5		2	1	5	2	1	3		4	52
BE	1	4	1	16			2	1		2	4	2		2	2	4		4		5	50
PL		4	1	1	2	3	2	6	3		1	1	1	4	2		4	4	1	9	49
PT	1	4	1	3	1			3	3	1	2	2		4			3	4	1	3	36
UK		2	2	4	2		2		4	1	1	1		1	1	3	1	5	1	3	34
CZ	3	3	2		2	1	2	1		1	2	1		2	1		1	1		5	28
AT	1	2	1	2	2		1		1		2	2	1	3				2	1	6	27
BG	1	2	3						1	2				2	2		3	3	1	6	26
NL	1	3		5		1	1	1	2	1	1	1		1	1	2		1	1	3	26
IE		2		4	1			2	4					1	3	1	1	3	2	1	25
SE	1	2	2	1			2	1	2	1		1	1		2		1	4	1	3	25
LU	1	3		5					2	2		1		2		1		2	2	3	24
RO	1	1	2	3	1	1		2	2		1			2	1	1	2		1	3	24
SK	1	2	2		2	1	1			1	3					2	2	3		2	22
HU	1	3	1						4	1	1			2	4		1	1	1	2	21
FI	1	2		1				1	1		2			2		2	1	2	1	2	18
DK		2		2				3	1			1		2			1	2	1	2	17
SI	1	1	3		2			1						2	1		4			1	16
CY	1	2				1	1	1	1		1	1		1	1	2	1				14
LV	1		1	1			1			1				2			2	1		2	12
LT		1				2	2							1	3					2	11
MT	1	2	1				1		1	1		1				1		1		1	11
EE		1				1		1	1					1			1	1	1	2	10
	24	71	31	79	23	33	20	36	57	17	34	23	13	52	38	30	45	70	26	94	816
	Agriculture	Air transport	Atmospheric pollution	Direct taxation	Environmental impact	Free movement of goods & market surveillance	Free movement of persons & union citizenship	Health & Consumers	Indirect taxation	Information society and media	Justice incl. non discrimination & data protection	Passenger rights	Public procurement	Road and rail transport	Services	Social security schemes & free movement of workers	Waste management	Water protection	Working rights and conditions	Other fields	TOTAL

During the last six months there has been little change in the pending infringement cases as far as their allocation by sector is concerned. **The major concerns continue to be mainly in the areas of the environment** (21.9 %, but water protection and waste management particularly), **taxation** (17.4 % of all cases), and transport (15.1 % counting only air transport and road and rail transport).

The single most relevant sector for a Member State is, once more, the issue of Belgian compliance with EU rules on direct taxation, representing one third of Belgium's pending infringement proceedings. Taxation is also an issue for France, Germany or Spain, while Greece is more concerned by infringements regarding the environment.

Number of infringement cases and average duration by sector

Average duration of pending infringement cases not yet sent to the Court as of 1 May 2014, broken down by sectors including at least 15 cases (580 cases): average duration in months from the sending of the letter of formal notice. (#)= number of cases



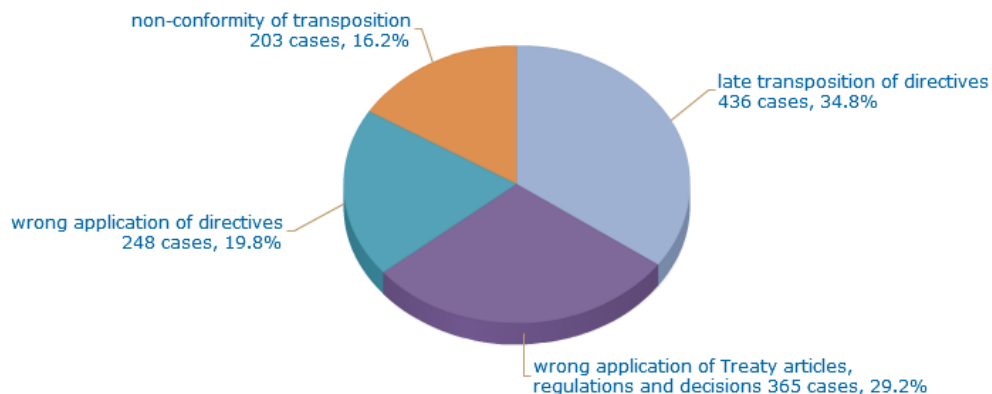
Infringement proceedings that concern **air transport, indirect taxation** and the **services** sectors have the longest duration, **tending to last an average of 40.4, 36.8 and 34.7 months respectively**. In the air transport area the average duration of a considerable number of cases has been inflated by factors which do not depend either from Member States or the Commission.

However, it is worth mentioning that the duration of infringement cases in the **services** sector has decreased by **16.8 months on average**. Although the average 34 months taken to solve a case in the services sector still almost doubles the target set by the Governance Communication (18 months) for what concerns key measures in that sector, it represents a movement in the right direction.

Both the responsible Commission services and the Member States should work closely together to reverse this trend and shorten the duration of infringements in these areas.

Types of infringements

Number of pending infringement cases open for late or wrong transposition of Single Market directives plus number of cases open for wrong application of Single Market rules - Situation as of 1 May 2014 (1 252 cases)



During the last six months, the total amount of cases open for late transposition has increased considerably: from 27 % to 34.8 %. This fact can be interpreted as a logical consequence of the intense legislative activity during the last years: a high number of single market directives recently adopted felt due for transposition in the last months. An important number of infringement proceedings were therefore initiated for late transposition.

On the other hand, the other kinds of infringement proceedings remain at a large extent unchanged: while the share of cases for wrong application of Treaty articles, regulations or decisions has decreased slightly (-2.4 %), the share of cases regarding non-conformity of transposition and cases for wrong application of directives have increased (by 1.4 % and 4 % respectively).

Over half of the cases (52 %) relate to late or incorrect transposition of directives, as opposed to cases related to **the wrong application of Single Market rules**. Similarly, 70 % of cases relate to directives while 30 % concern regulations, decisions and Treaty articles.

The number of infringements open for late transposition (436 cases) is higher than the number of national transposition measures not notified in time by the Member States (223) (see transposition deficit in the "Transposition" tool). This is due to the time lapse between the actual notification and the necessary assessment of the notified measures before closing the infringement proceedings.