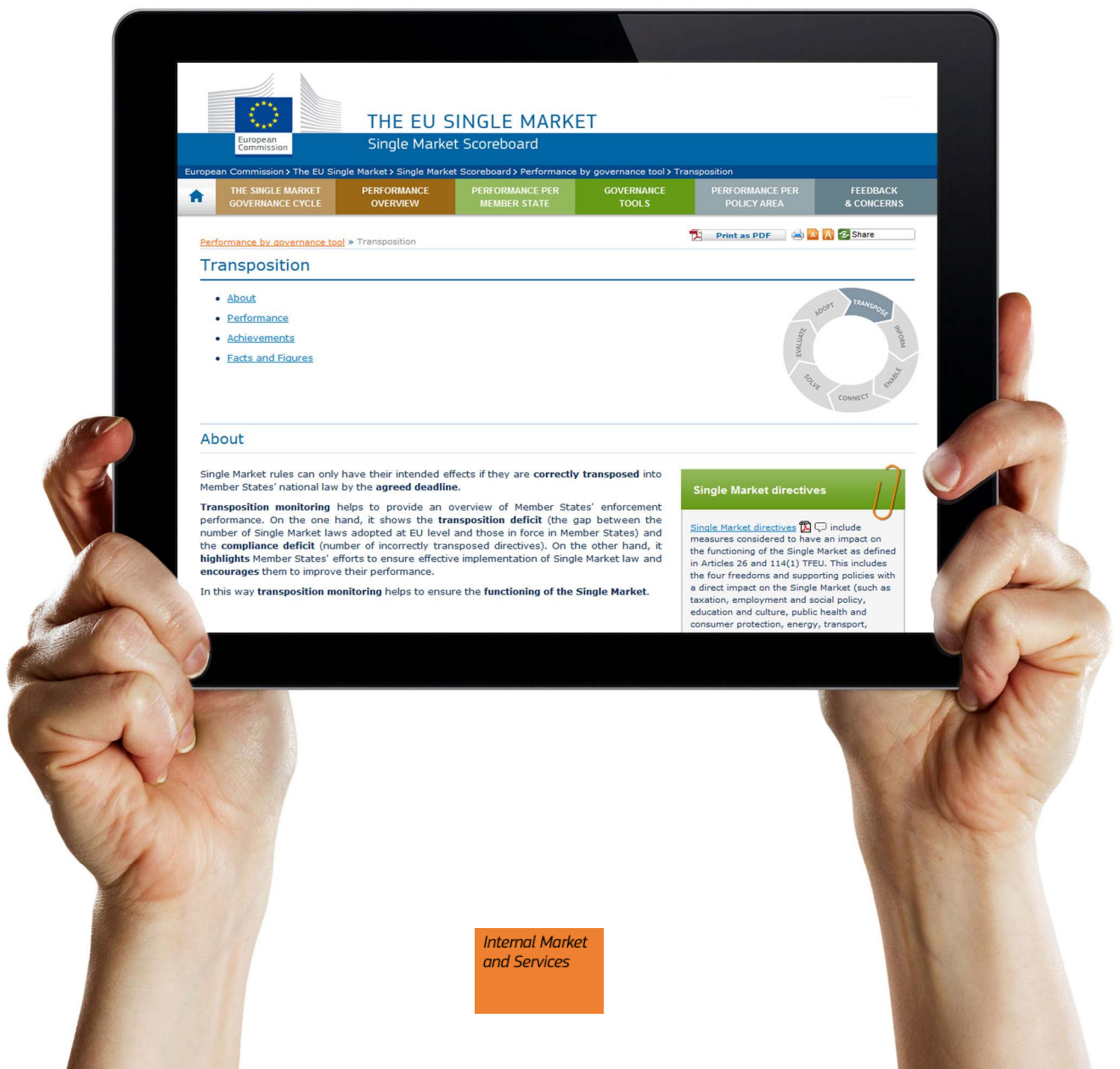


Single Market Scoreboard

Performance per governance tool

Transposition

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



About

Single Market rules can only have their intended effects if they are **completely and correctly transposed** into Member States' national law by the **agreed deadline**.

Transposition monitoring helps to provide an overview of Member States' enforcement performance. On the one hand, it shows the **transposition deficit** (the gap between the number of Single Market directives adopted at EU level and those in force in Member States) and the **compliance deficit** (number of incorrectly transposed directives). On the other hand, it **highlights** Member States' efforts to ensure effective implementation of Single Market law and **encourages** them to improve their performance.

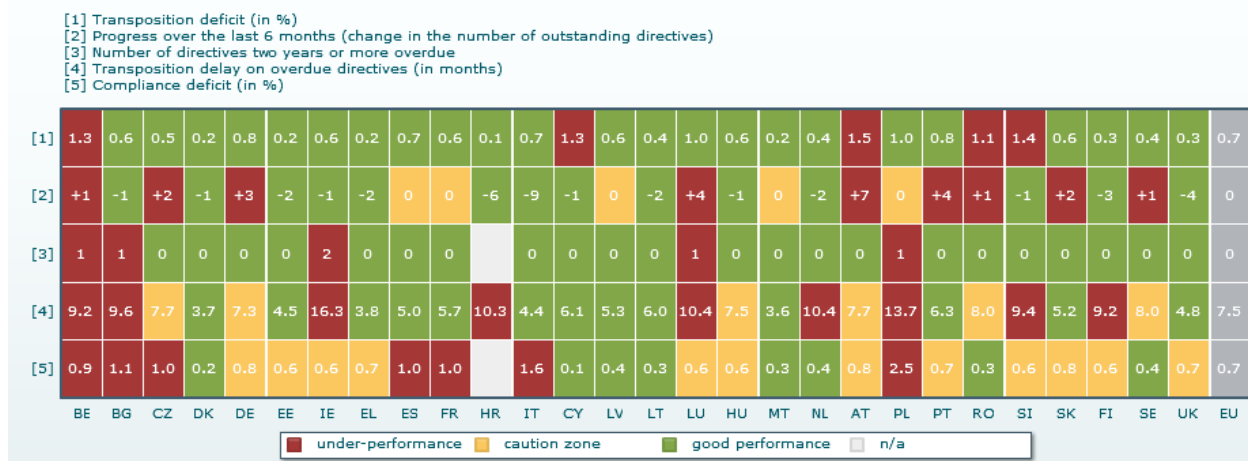
Single Market directives

Single Market directives include measures considered to have an impact on the functioning of the Single Market as defined in Articles 26 and 114(1) TFEU. This includes the four freedoms and supporting policies with a direct impact on the Single Market (such as taxation, employment and social policy, education and culture, public health and consumer protection, energy, transport, environment except nature protection, information society and media).

In this way **transposition monitoring** helps to ensure the **functioning of the Single Market**.

Performance

Performance per indicator



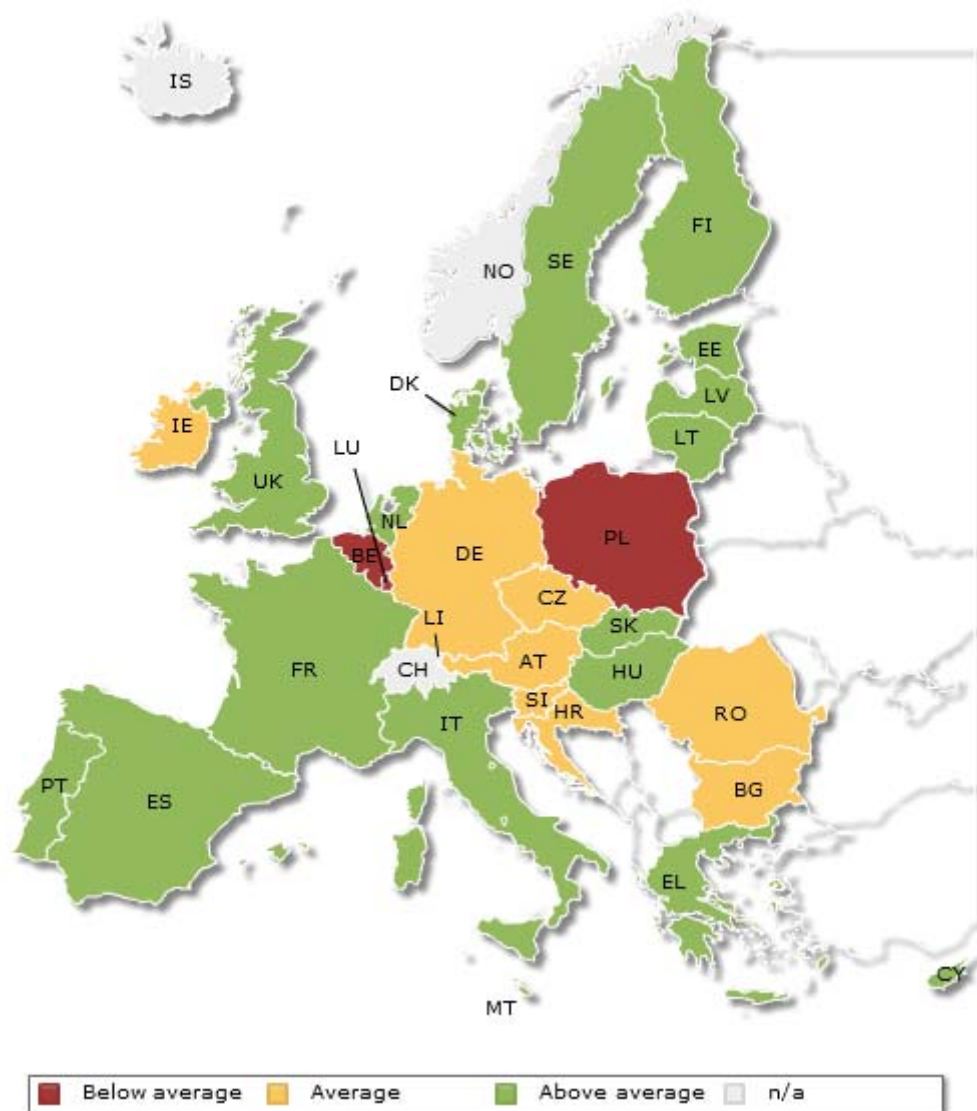
Indicator [1]: Measures the level of fulfilment with the 1 % target established by the European Council: transposition deficits above 1.0 % were rated as "red", those below or equal to 1.0 % were "green"; no "yellow" designation.

Indicator [2]: An increasing number of outstanding directives were given a "red" rating, with an unchanged number rated as "yellow" and a decreasing number as "green".

Indicator [3]: Measures the level of fulfilment with the 0 % target established by the European Council for directives overdue by two years or longer: one or more long overdue directives were rated "red"; those with no long overdue directives were rated "green"; no "yellow" rating was designated.

Indicators [4] and [5]: An average (+/- 10 %) score was rated as "yellow"; a score below it as "red" and a score above it as "green".

Overall performance



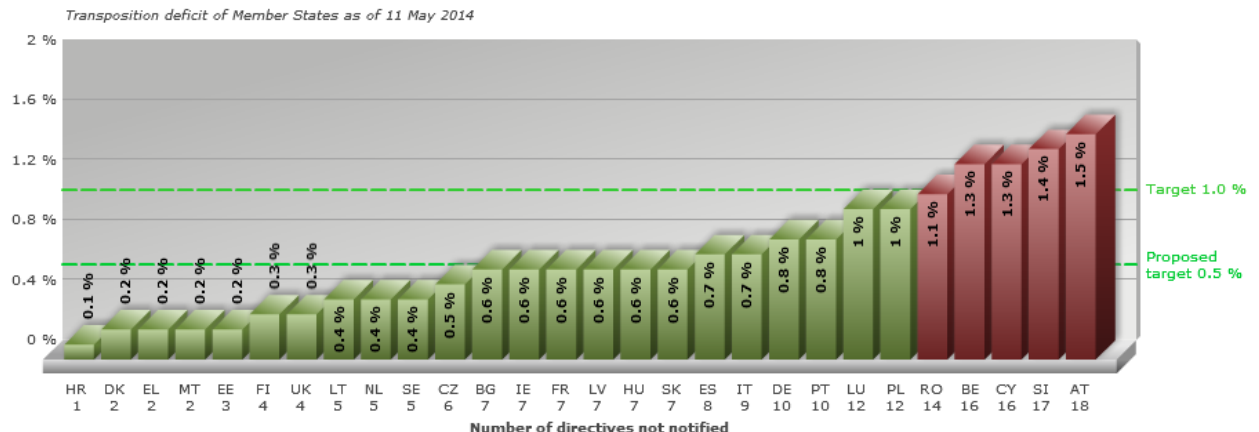
A country's **overall performance** is calculated by assigning the following values to each of its 5 indicators: red = -1, yellow = 0 and green = 1.

Final colours are assigned based on the sum of the scores:

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

The current Scoreboard takes into account all notifications made by 11 May 2014 for directives with a transposition deadline of 30 April 2014. As of **1 April 2014**, **1 221 directives** and **2 521 regulations** were in force to ensure the functioning of the Single Market.

First challenge – Transposition deficit: meeting the 1 % target



Over the last six months, the **average transposition deficit has remained unchanged at 0.7 %**. A total of 13 Member States have managed to cut their transposition deficit and seven of them have equalled their results from November 2013. Yet, eight Member States have a higher transposition deficit now. Again, five Member States have exceeded the 1.0 % target established by the European Council in 2007: Romania, Belgium, Cyprus, Slovenia and Austria:

- Worryingly, Austria's transposition deficit has worsened from 0.9 % 6 months ago to 1.5 %, making it the "worst performer"
- Romania, Belgium and Cyprus have not managed to leave the red zone, where they remain for the third (Romania and Cyprus) or even fifth (Belgium) consecutive time.
- On the positive side, up to 7 Member States have managed to reduce their best result ever or at least equal it: Denmark (0.2 %), Croatia (0.1 %), Greece (0.2 %), Italy (0.7 %), the Netherlands (0.4 %), Finland (0.3 %) and the United Kingdom (0.3 %).
- Although it joined the EU only recently, Croatia scores best in the Scoreboard's present edition with only 0.1 %.
- Italy's improvement is the most impressive achievement: a previous high deficit of 1.5 % has been reduced to 0.7 %, thus meeting the 1 % target again. In the section "best practices", this edition of the Scoreboard presents the measures taken by Italy and Spain to improve timely transposition.

Today, eleven Member States have a transposition deficit equal to or below 0.5 %, which is the target proposed by the European Commission in the 2011 Single Market Act. Six months ago, only eight Member States achieved that target.

In contrast to the last edition of the Scoreboard, the transposition of the 14 directives adopted to adapt the *acquis* to Croatia's accession was now taken into account when calculating the average transposition deficit for the current edition. In November 2013,

only 80.6 % of these directives had been totally transposed by all Member States while the transposition rate has increased to 95.2 % six months later. Were they not to be taken into account, the EU average transposition deficit would be 0.6 % instead of 0.7 %.

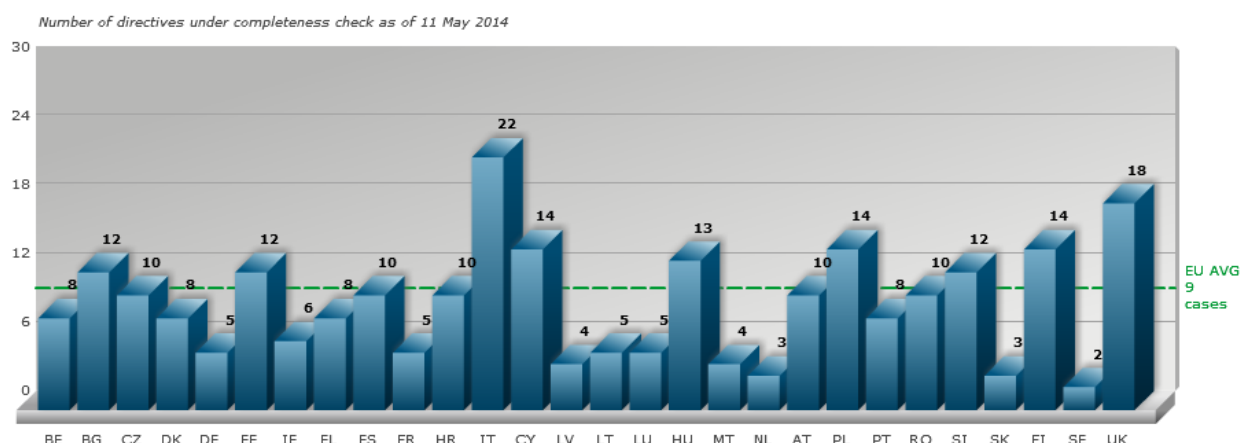
How is the transposition deficit calculated?

To calculate each Member State's transposition deficit, the Commission includes:

- Directives for which no transposition measures have been communicated;
- Directives considered as partially communicated by Member States after notifying some transposition measures;
- Directives considered as completely transposed by Member States but in respect of which the Commission has opened a formal infringement procedure for non-communication and the Member State has not notified new transposition measures after the latest procedural step taken by the Commission.

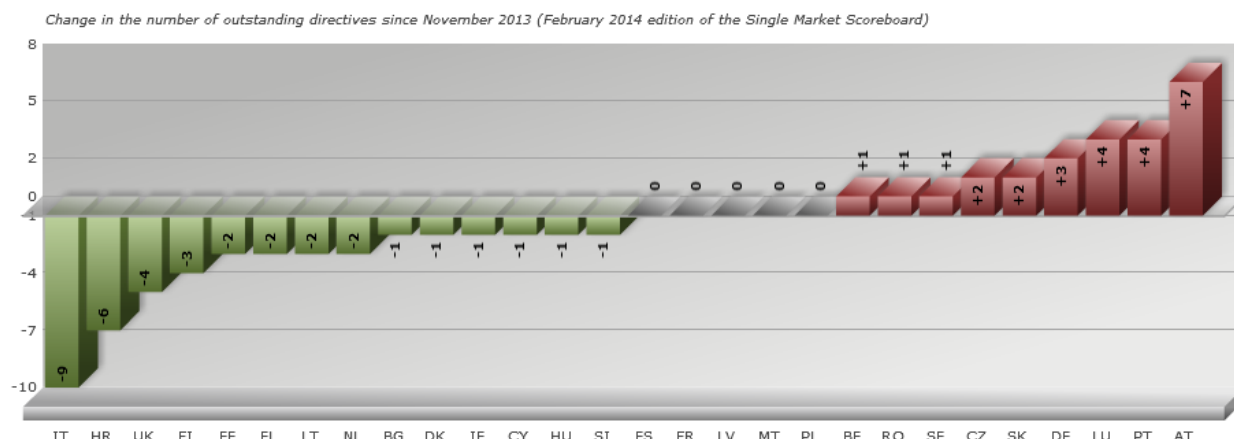
In contrast, the transposition deficit does not include those directives considered as completely transposed by a Member State but which are still under examination by the Commission services (i.e. no further procedural steps have been taken after the latest notification).

Directives under completeness check



This graph shows, by Member State, the number of directives not included in its transposition deficit for which the completeness of the notification is under examination by the Commission services in order to prepare for a formal decision to be adopted by the Commission, be it a formal step in the infringement procedure or its closure.

Existing backlog



Compared to six months ago, **nine Member States have further increased their number of outstanding directives**. Austria has added five more directives to its backlog and has jumped to the highest transposition deficit (1.5 %).

Italy, however, has made a remarkable effort to put its transposition deficit in line with the set target and has reduced its backlog by nine directives. In doing so, Italy has achieved its best result ever (0.7 %). As a new arrival, Croatia has made timely transposition a top priority, reducing its incipient transposition deficit almost to zero.

The United Kingdom, Finland, Estonia, Greece, Lithuania, the Netherlands and, to a lesser extent, Bulgaria, Denmark, Ireland, Cyprus, Hungary and Slovenia have also improved their results.

Second challenge – Meeting the “zero tolerance” target

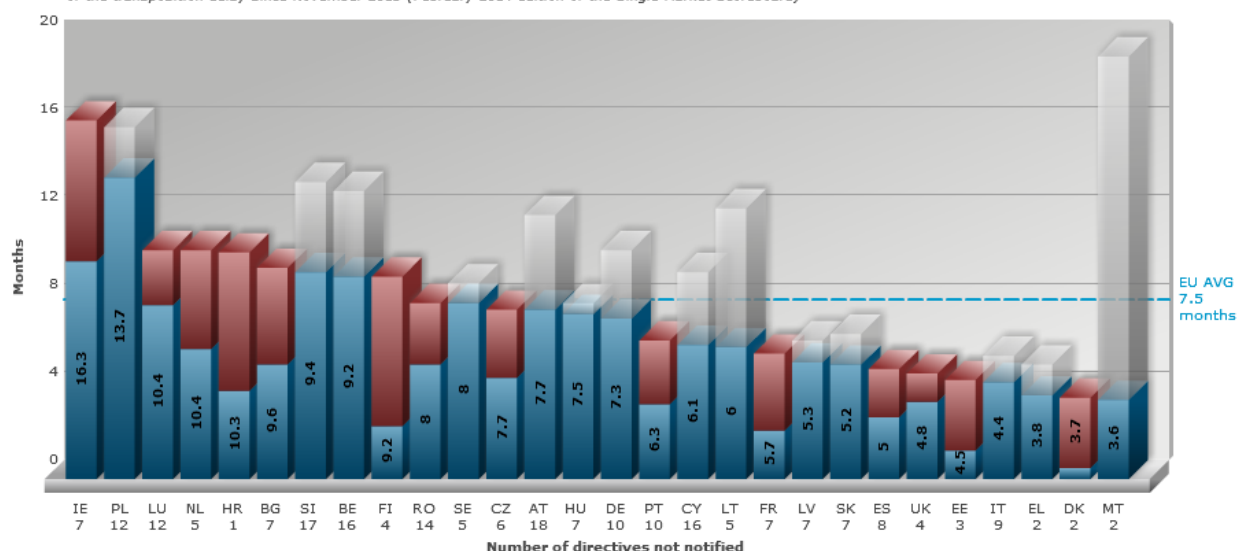
Five directives with transposition deadlines before May 2012

Number	Subject	Not transposed by	Transposition deadline
2009/28/EC	Promotion of the use of energy from renewable sources	BE	05/12/2010
2009/30/EC	Specification of petrol, diesel and gas-oil and introduction of a mechanism to monitor and reduce greenhouse gas emissions	PL	31/12/2010
2009/72/EC	Common rules for the internal market in electricity	IE	03/03/2011
2009/31/EC	Geological storage of carbon dioxide	IE	25/06/2011
2009/128/EC	Community action to achieve the sustainable use of pesticides	BG, LU	26/11/2011

To tackle undue delays, the Heads of State and Government in 2002 set a target of "zero tolerance" for delays of two years or more in transposing directives. However, the number of these long overdue directives remains too high even if it should be welcomed that progress has been made: in this edition of the Single Market Scoreboard only five Member States do not meet the "zero tolerance" target for at least one of five long overdue directives, four of them related to energy and climate change. Six months ago, ten Member States and seven directives were concerned.

Third challenge – Reducing transposition delays

The transparent part of the chart represents the decrease of the transposition delay (not counting for the final result), while the red part shows the increase of the transposition delay since November 2013 (February 2014 edition of the Single Market Scoreboard)



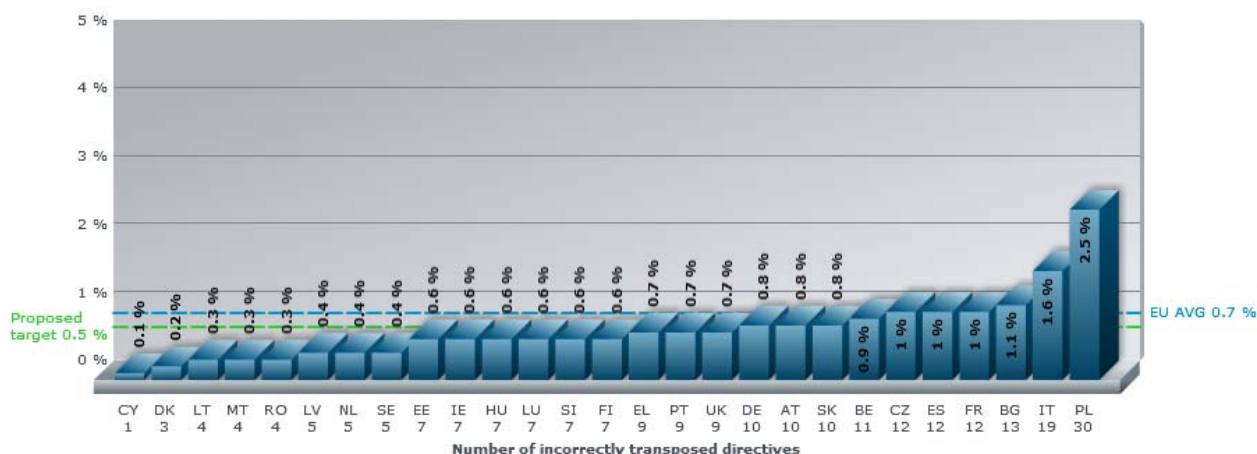
When there are delays in transposing measures, this is not just a legal problem. It leaves a void in the legal system, which deprives citizens and businesses of certain rights and can undermine confidence in the European Union. For this reason, Article 260(3) of the Lisbon Treaty provided for the possibility for the Court of Justice to impose financial penalties already in the context of the first referral to the Court under Article 258 TFEU for cases of failure to notify transposition of a directive adopted under a legislative procedure.

Over the last six months, this average delay has increased slightly from 7.3 to **7.5 extra months**. This increase has taken place despite the improvement achieved by Malta, Lithuania and, to a lesser extent, Austria, Slovenia, Belgium, Cyprus, Germany, Poland, Slovakia, Greece, Italy, Latvia, Sweden and Hungary.

It is worth mentioning the case of Malta, which after a top average delay of 19.2 months has managed over the last six months to transpose completely two long lasting directives and, with two more directives still to be transposed, has reduced this delay by 15.6 months.

A total of 14 Member States have increased their transposition delay (between 6.8 and 1.3 months): Finland, Ireland, Croatia, the Netherlands, Bulgaria, France, Denmark, Estonia, the Czech Republic, Portugal, Romania, Luxembourg, Spain and the United Kingdom.

Fourth challenge – Improving the conformity of national legislation



The correct functioning of the Single Market does not only depend on timely transposition of the adopted directives, but also on their correct transposition. If a Member State does not correctly adapt its legal order to the new directive, citizens and businesses are equally deprived of their newly conferred rights.

One and a half years ago, the **average compliance deficit dropped** to 0.6 %, the best result ever. After having slightly increased six months ago, however, the EU compliance deficit remains at 0.7 % for the second time. It is a good result, though, for which Member States should be praised.

While eight Member States have equaled or improved their best result ever in the present edition, only eight Member States have a compliance deficit which is equal to or below 0.5 %, which is the target proposed by the European Commission in the 2011 Single Market Act. Italy, Bulgaria, France, Spain and the Czech Republic join Poland in the top six of the Member States with the highest compliance deficit in the EU.

Compliance deficit

The "compliance deficit" measures the number of directives transposed where infringement proceedings for **non-conformity** have been initiated by the Commission, as a percentage of the number of Single Market directives notified to the Commission as transposed or which do not require any further implementation measures. However, only the Court of Justice can rule definitively that a directive has not been transposed correctly. This should be kept in mind when interpreting the statistics on compliance deficit.

Performance of EEA EFTA countries

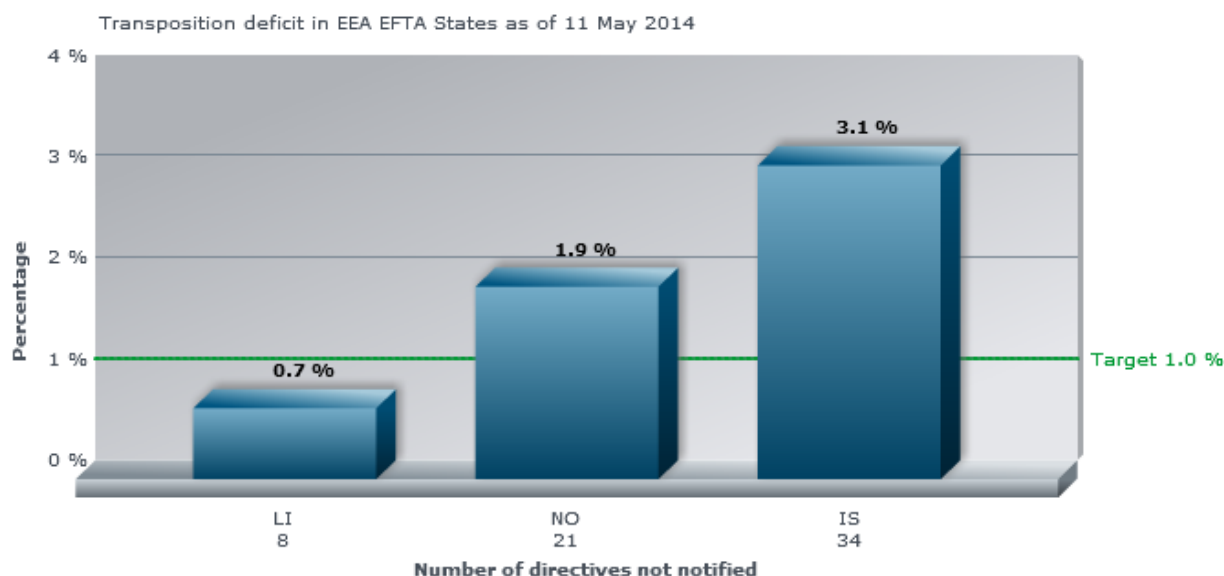
The purpose of the **Agreement on the European Economic Area** is to extend the Single Market of the European Union to the three **EEA EFTA States**, namely **Iceland**, **Liechtenstein** and **Norway**, ensuring that businesses and individuals in those countries have the same rights as those in EU Member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

The Single Market *acquis* applicable in **EEA EFTA States** does not coincide exactly with that which is applicable in EU Member States. This situation arises from the time lag between the adoption, or repeal, of legal acts by the EU and their incorporation into, or deletion from, the EEA Agreement. Any comparison of the results from the two

Scoreboards (this one and the EEA EFTA Scoreboard) has to take this difference into account.

The **transposition deficit** indicates the percentage of Single Market directives not yet communicated to the EFTA Surveillance Authority as having been transposed, in relation to the total number of Single Market directives which should have been notified by the deadline. The current Scoreboard takes into account all notifications of directives with a transposition deadline up to and including 30 April 2014 which were still outstanding on 11 May 2014.

Transposition deficit – EEA EFTA countries



Over the last six months, the average transposition deficit in the EEA EFTA countries has fallen slightly from 2.0 % in November 2013 to 1.9 % in May 2014. Liechtenstein was the only EEA EFTA country to meet the 1 % deficit target, with a deficit of 0.7 %. Iceland's deficit has remained very high, at 3.1 %. Norway's already high deficit has increased by a further 0.1 % since the last scoreboard to a 1.9 % deficit.

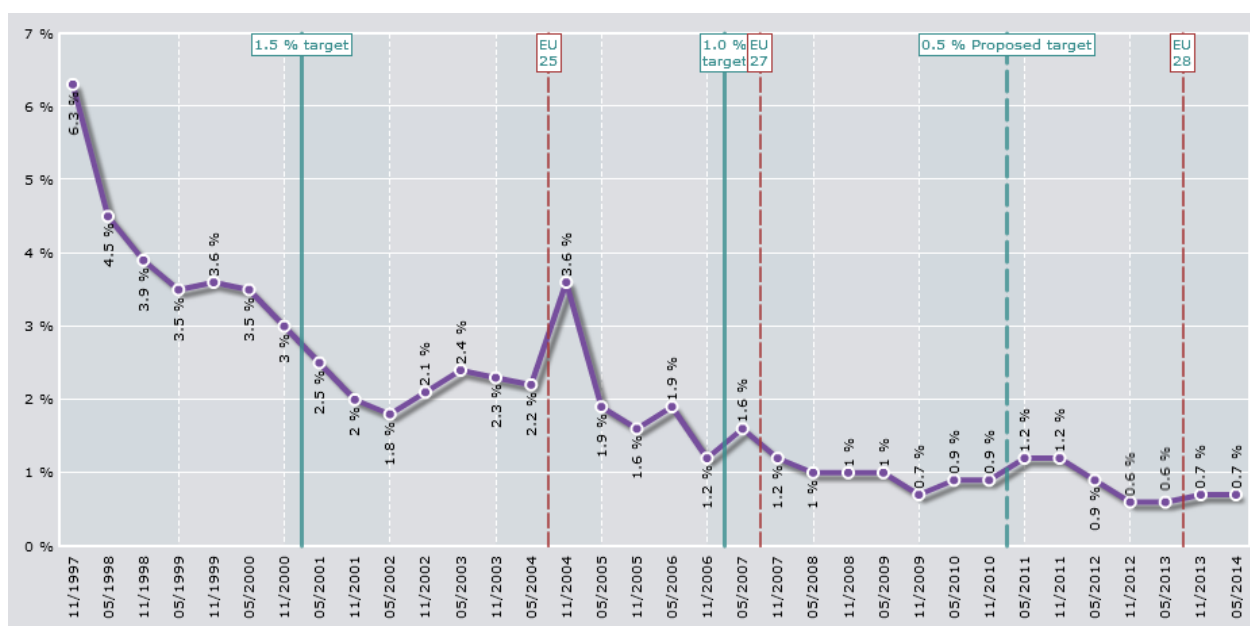
In absolute terms, the average 1.9 % deficit indicates that the EEA EFTA States were late in their notification of national transposing measures for a total of 63 directives. This constitutes a decrease of six directives since the last Scoreboard. Liechtenstein was late in notifying the national transposing measures for eight directives, Norway for 21 and Iceland for 34.

The average transposition delay increased from 10.4 months to 11.7 months due to the fact that 35 of the 63 outstanding directives were the same as at the previous Scoreboard. All three EEA EFTA States increased their transposition delay. Individually, Norway's delay rose from 5.7 to 8.9 months, Liechtenstein's from 8 to 11.8 months and Iceland's delay rose from 13.1 to 14.3 months. Iceland had two directives outstanding for more than two years and Liechtenstein had one.

Achievements

The Single Market Scoreboard has shown during the last 16 years that the **EU average transposition deficit has decreased steadily** since 1997. With a recent average transposition deficit of 0.7 %, Member States have on average respected the 1 % target established by the European Council for the fifth consecutive time, while the best result ever (0.6 %) was reached in November 2012 and May 2013.

Evolution on the average transposition deficit

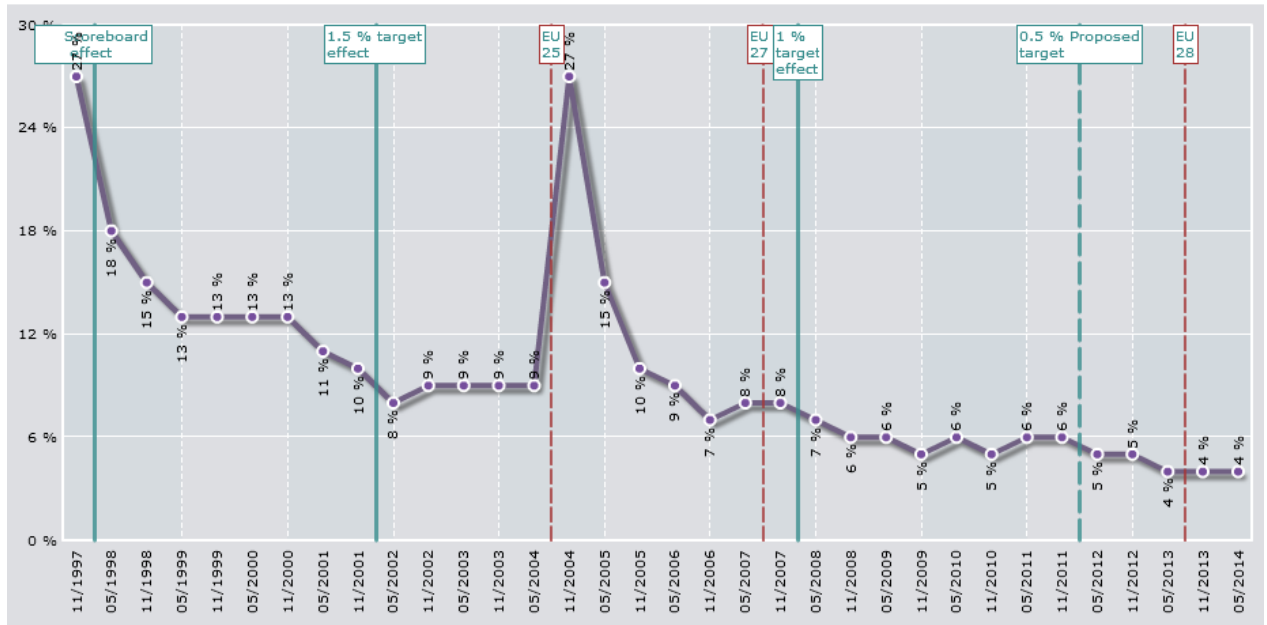


The diagram provides a general overview of the **improvement and evolution in timely transposition**. The green lines show the **milestones** that, in our opinion, moved Member States to **improve performance** (targets of 1.5 % and 1.0 % as established by European Council, or target of 0.5 % proposed by the Commission). Additionally, the new Article 260(3) TFEU providing the possibility to impose financial sanctions could have had an impact on this positive trend.

Facts and Figures

The Single Market is incomplete when its **rules are not applied** or the **rights** derived from them **cannot be exercised uniformly**. There are several causes, including making different use of exemptions and derogations and applying existing rules in different ways. However, one of the main problems continues to be the **failure by one or more Member States to transpose a given directive**.

Incompleteness rate



Whenever one or more Member States fail to transpose directives on time, the European legal framework cannot deploy its expected effects uniformly. Instead of the Single Market covering all Member States, it remains smaller and fragmented. Consequently, if one Member State does not transpose a directive in due time, completely and/or correctly, the **economic interests of all Member States** are affected.

Thanks to the improved transposition performance by Member States, the rate of incompleteness of the Single Market due to failures to transpose has remained unchanged at 4 % for the third consecutive time. In absolute terms, 50 directives have not been transposed on time in at least one Member State. The biggest problems remain in the areas of environment (12 outstanding directives out of 85 in force), social policy (5 out of 72), financial services (4 out of 70) and energy including energy efficiency (4 out of 19).

Incompleteness rate

The "incompleteness rate" records the percentage of outstanding directives which one or more Member States have failed to transpose in relation to the total number of Single Market directives, with the consequence that the Single Market is not a reality in the areas covered by those directives.

Looking ahead

In addition to today's transposition deficit, it is also important to look at new directives coming on stream. An early preparation and involvement of the various stakeholders responsible is indeed necessary to achieve a timely and correct transposition. For that purpose, the Single Market Scoreboard includes a list of directives for which transposition should be notified by Member States between 1 May and 31 October 2014.