

Single Market Scoreboard

Performance per governance tool

Infringements

(Reporting period: 11/2014 - 05/2015)



About

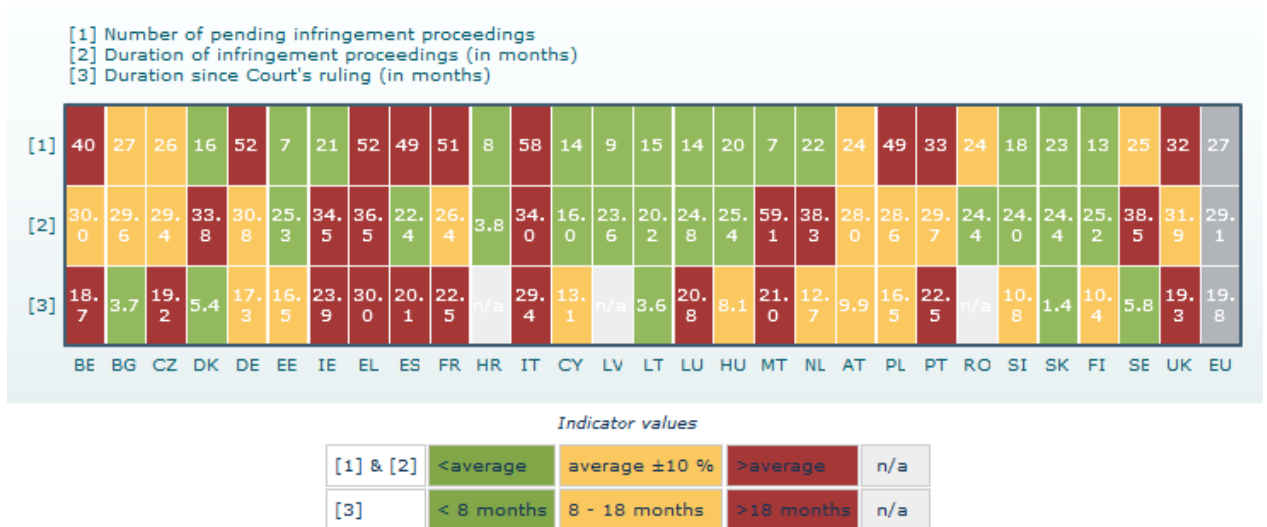
This page gives statistics on Single Market **infringement proceedings** that were open on **1 May 2015**. All comparisons are with the figures for the last reporting date, 1 November 2014.

“Infringement proceedings” may be started when the Commission considers that e.g. an EU directive has not been transposed timely and correctly into national law, or **Single Market rules** (either in the Treaty on the Functioning of the European Union or in secondary legislation) have been incorrectly applied. Infringement proceedings only start when a letter of formal notice is sent to the Member State in question.

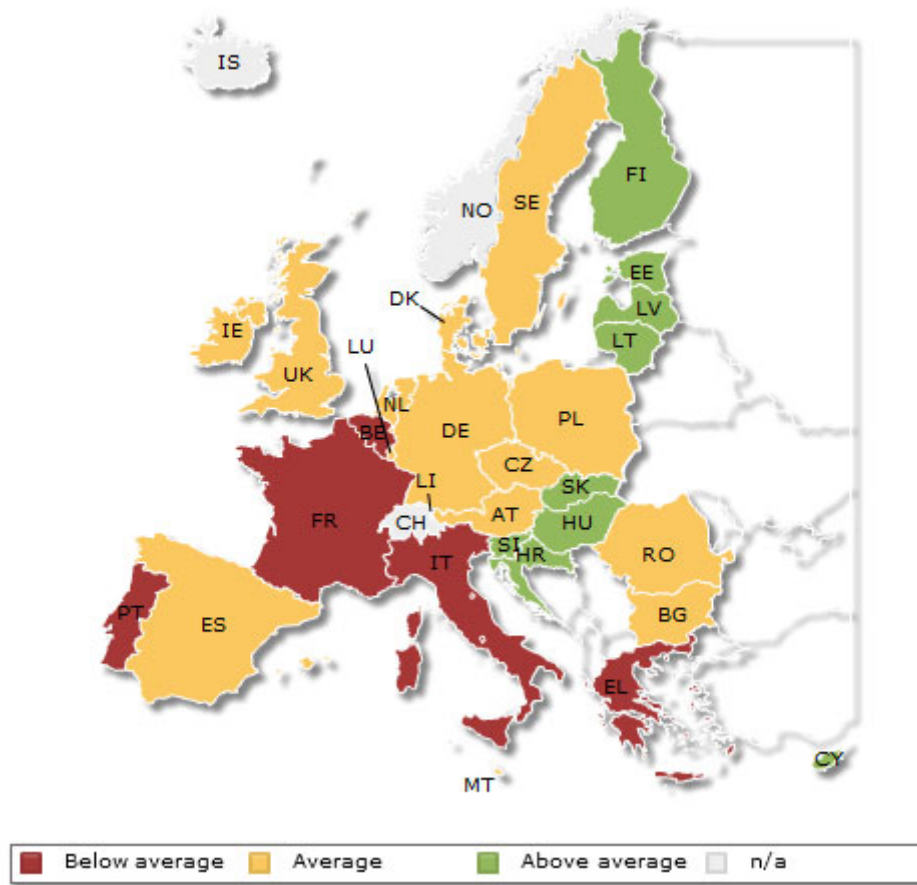
*This page does not include those cases for **late transposition** (known as non-communication cases) – except in the pie chart “Types of cases”. This is to avoid such cases being counted twice as they are already treated in the transposition tool.*

Performance

1. by indicator



1. overall (all 3 indicators combined)



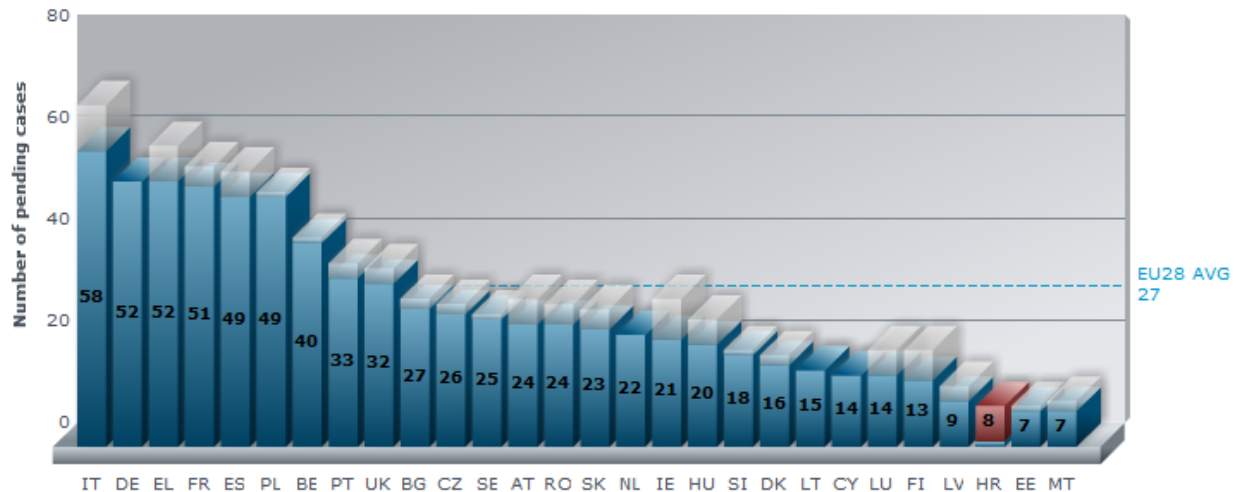
A Member State's **performance across all 3 indicators** is calculated by scoring each indicator in chart 1 as follows:
RED = -1, YELLOW = 0 and GREEN = +1.

The colours on the map thus represent the **sum of these scores**:

2 or higher = above average	-1, 0 or 1 = average	-2 or lower = below average
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Indicator [1]: Number of pending infringement proceedings

Pending infringement proceedings as of 1st May 2015. The differences since the previous Scoreboard (the winter 2014 Single Market Scoreboard, with figures from November 2014) are shown at the top of each bar in the chart: transparent parts represent the decrease in the number of pending cases (not counting for the final result), while the red part shows the increase of the number of pending cases.



Total number of cases: down to 749 (from 826 in November 2014)

Average cases per Member State: 27 (30 in November 2014)

Total number of Member States up: 1
Croatia (+7)

Total number of Member States down: 23

Italy (-9), Ireland (-8), Greece (-7), Finland (-6), Spain, Hungary, Luxembourg, Austria (-5), France, Romania, Slovakia (-4), Latvia, Portugal, the United Kingdom (-3), Bulgaria, Czech Republic, Denmark, Malta (-2), Belgium, Estonia, Poland, Slovenia, Sweden (-1)

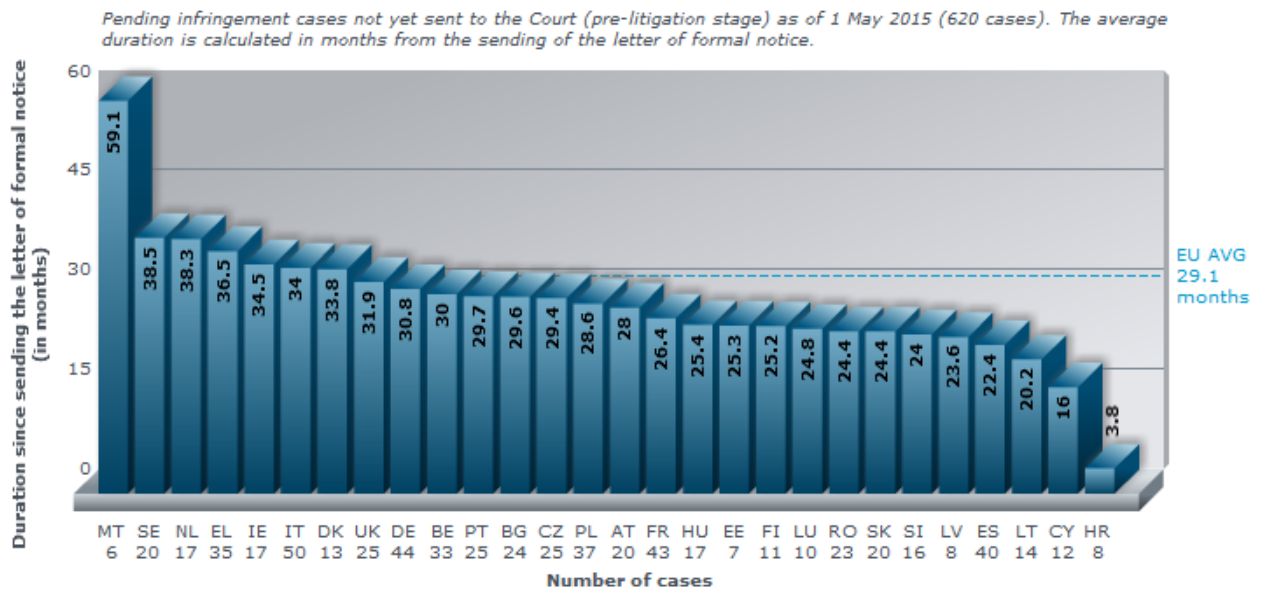
Number of Member States with no change: 4
(Germany, Cyprus, Lithuania and the Netherlands)

Comments

- The number of pending infringements has never been lower. In May 2015, the total number of cases reached 749, which are 77 cases less than in the previous Scoreboard. 157 cases among the 826 pending in November 2014 are now resolved in particular in the field of transport (33 cases closed), taxation (28), agriculture (20) and environment (19). On the other side, 80 new cases (excluding those for late transposition) have been initiated in the last 6 months. 17 of these cases (21%) concerned transport issues and 10, environment (12.5%).
- For the first time, all Member States but one have reduced or maintained their number of cases. The exception of Croatia can be explained by the recent accession of that Member State.

- **Italy** continues to have the highest number of pending cases (58 – over twice the EU average). This situation has been maintained for the 7th consecutive reporting period. Nevertheless Italy reduced its number of cases by 9 (13%) which is the highest reduction by a Member State since the last Scoreboard, followed by **Greece** (-7) and **Finland** (-6).
- Considering only the percentage of reduction, the top 5 are **Finland** (-32%), **Ireland** (-28%), **Luxembourg** (-26%), **Latvia** (-25%) and **Malta** (-22%).
- Six Member States (**Italy, Germany, Greece, France, Spain and Poland**) represent 42% of the total number of cases.

Indicator [2]: Duration of infringement proceedings

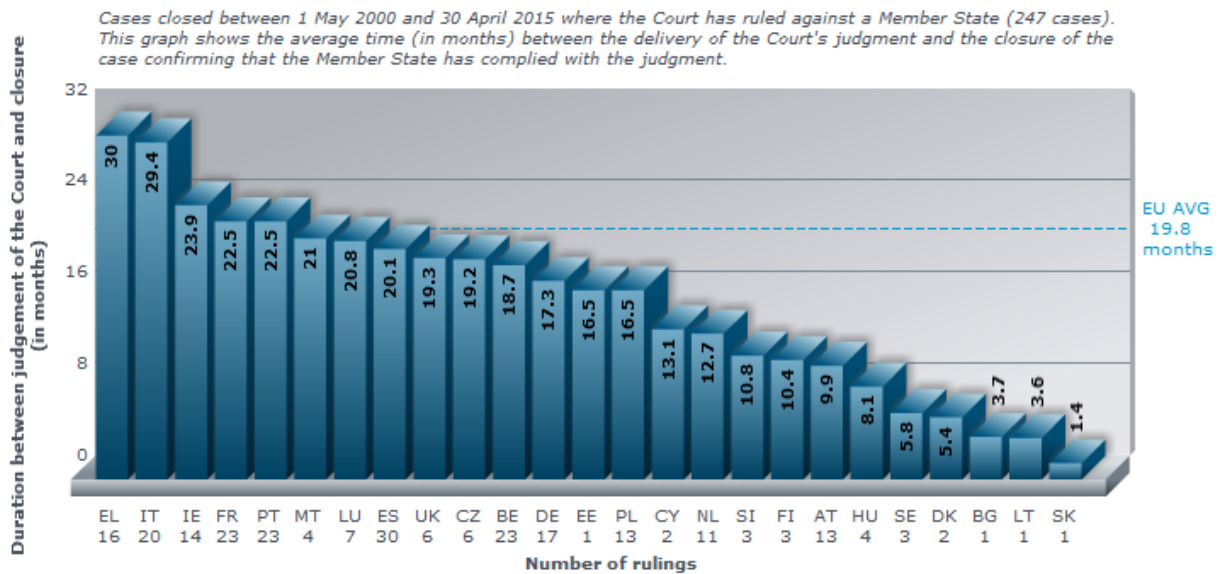


Change in average duration of a case: now 29.1 months, up from 26.9 in November 2014

Comments

- Only 8 Member States (14 in November 2014) reduced the average duration of their cases since the last Scoreboard: Belgium, France, Spain, Cyprus, the Netherlands, Portugal, Finland and Sweden. The most impressive is **Spain** which chopped 5.6 months off its average case length.
- The other 20 Member States had longer average case durations and that increase is 4.5% on average. The Member States above the average are **Ireland** (+ 9.6 months), **Malta** (+ 8.3), **Luxembourg** (+ 7.7), **Denmark** (+ 6.4), the United Kingdom (+ 5.6), Latvia (+ 5.3), **Greece** and **Poland** (+ 5.2), the **Czech Republic** (+ 5.1) and **Estonia** (+ 4.7)
- Average case duration is **still over 2 years**. The Commission and national administrations should join forces for quickly resolving compliance problems that arise with Single Market rules or their application.

Indicator [3]: Duration since Court's ruling



Change in average lag: slight increase from 19.7 months in November 2014 to 19.8 months

Comments

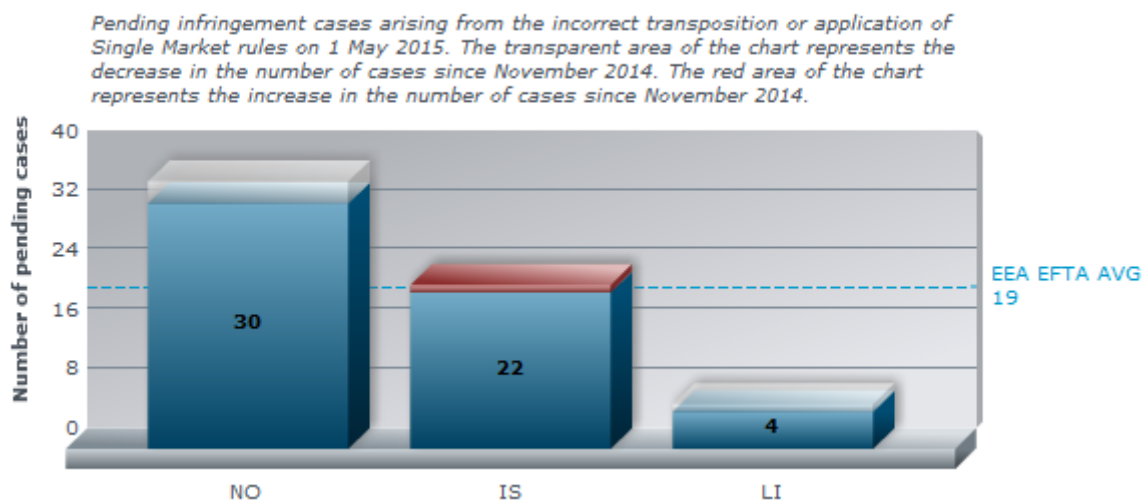
- The average compliance lag **increased again**, for the 5th consecutive period (from 17.4 months 2.5 years ago to 19.8 months).
- 7 Member States reduced their average lag (5 in November 2014): Germany, Ireland, Spain, France, Latvia, Austria and Portugal. The most impressive is **Latvia** (down 5.4 months). The reduction in the other 6 Member States is between 0.1 and 2%.
- 10 Member States had longer average lag times (11 in November 2014): Belgium, Greece, Italy, Luxembourg, the Netherlands, Malta, Slovenia, Finland, Sweden and the United Kingdom. Out of them, **Malta** increased by 10.4 months and **Finland** by 7.2 months. It should be noted that this statistic is based on the cases closed in the last five years. The withdrawal from the statistics of a case closed more than five years ago or the addition of a case recently closed can have a great impact on the results, in particular for those Member States which have only few cases.
- For 2 Member States (3 in the last report), the average lag time is over 2 years: **Greece** and **Italy**. **Ireland** is now under this threshold.
- The 5 Member States with the biggest lag times are still **Greece, Italy, Ireland, France** and **Portugal** (albeit in a different order).
- In general, Member States with only a few rulings against them need less time to comply. But not always: **Malta** (4 cases only) has a compliance lag two times longer than **Austria** (13 cases). In the same way, although Belgium and Luxembourg have similar lag times (18.7 and 20.8 months respectively), Belgium has three times more cases than Luxembourg (23 against 7).

Iceland, Liechtenstein & Norway

These 3 countries are also subject to Single Market rules under the EEA Agreement. They are monitored by the EFTA Surveillance Authority.

However, the specific rules applicable to these countries **at any given point in time are different** from those applicable to EU Member States – due to the time lag between the adoption (or repeal) of legal acts in the EU and their incorporation into (or deletion from) the EEA Agreement. This should be borne in mind when comparing this scoreboard and the EEA Scoreboard.

Number of pending cases



Total cases open: 127 (down from 244 in November 2014), of which:

- **incorrect transposition/application:** 56 (*see figure above*)= 44.1% of all open infringement cases
- **late transposition** (directives): 41 (IS 21, LI 19 and NO 1)= 32.3%
- **late implementation*** (regulations): 30 (IS 23 and NO 7)= 23.6%

**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 EFTA States. In Liechtenstein, however, regulations are directly applicable and do not have to be implemented.*

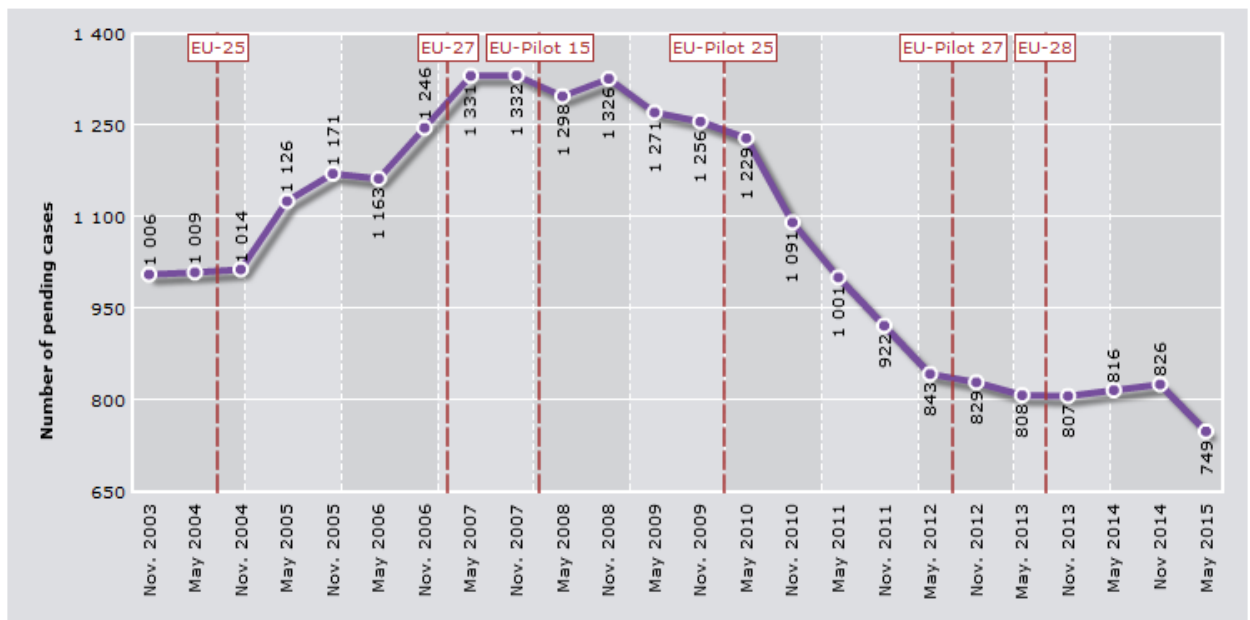
Comments

- The number of infringement cases concerning incorrect transposition or application of Single Market rules has settled at around 60 cases for all three countries combined. This number has been stable for the last 5 Scoreboards. However, this number is twice as high as in May 2011, when only 28 pending cases were reported.

- However, there is an improvement in the number of cases concerning the late transposition of *directives*: 41 pending infringement cases in this Scoreboard, compared to a peak of 72 pending cases in November 2013.
- Improvement can also be observed in the number of infringement cases concerning the late adoption of measures making regulations part of the national legal orders. With 30 pending cases, the number has fallen by 77% since the last Scoreboard. This reduction is due to the improved performance of both Norway and Iceland in this respect.
- Problematic sectors - none.

Achievements

Number of pending cases



The current report shows a significant decrease in the number of infringement proceedings (10% within the last six months) in line with the global reduction of cases since the establishment of **early problem-solving systems** (-42% of cases since the launching of EU-pilot in April 2008 with 15 willing Member States). Indeed, instruments like SOLVIT or EU-Pilot aim to enhance cooperation prior to the launch of infringement proceedings on the lack of compliance or wrong application of EU law.

In general, from a report to the next, the number of resolved infringements is more or less balanced with the number of new cases. It is not the case this time: 157 cases among the 826 pending in November 2014 were resolved while only 80 new cases (excluding those for late transposition) have been initiated in the last 6 months. This relatively small amount of new cases shows that a number of litigations are solved in the framework of the administrative cooperation.

Facts and Figures

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		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																					

Sectors with the most infringement cases

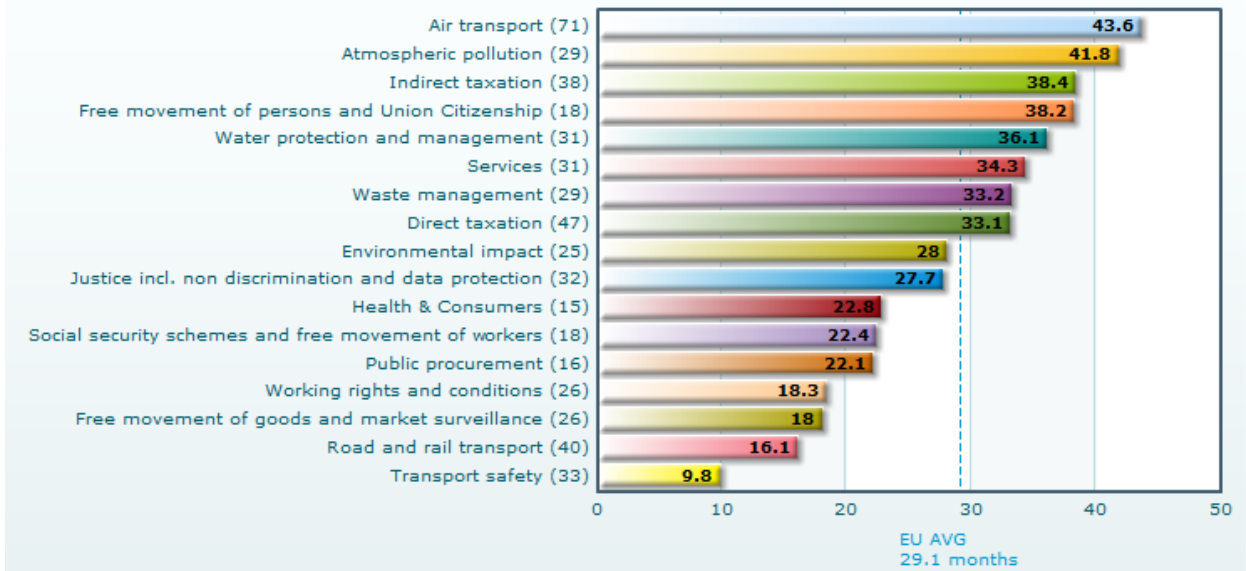
- **Transport:** 23.8% of all cases (especially air transport & road and rail transport)
- **Environment:** 22.2% (especially water protection & waste management)
- **Taxation:** 14.4% (fairly balanced between direct & indirect taxation)

Problematic sectors by Member State

- **Taxation:** around 30% of Belgium's and France's total cases, and also an issue for Germany and the Netherlands
- **Environment:** Greece, Spain, Italy and Poland

Average duration by sector

Pending infringement cases not yet sent to the Court (still in the pre-litigation phase) as of 1 May 2015, broken down by sectors including at least 15 cases (525 cases). The average duration is calculated in months from the sending of the letter of formal notice. (#) = number of cases



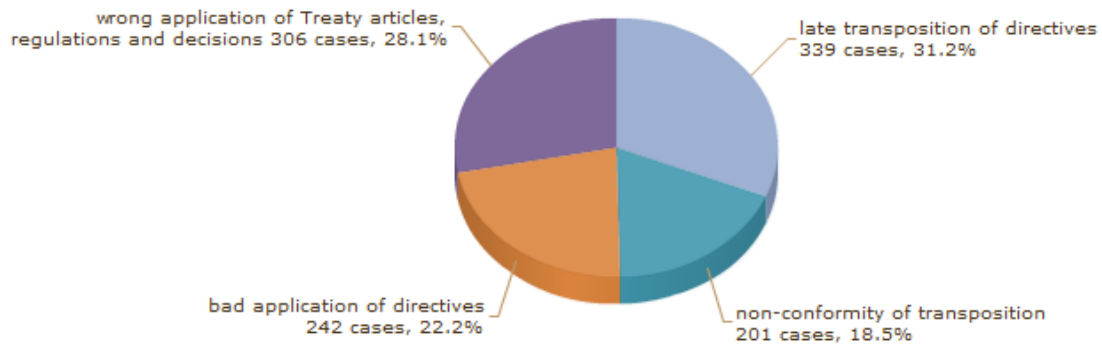
Longest average duration (in months): air transport (43.6), atmospheric pollution (41.8) and indirect taxation (38.4) – same top 3 as in the last report.

Comments

- **Air transport** – for many cases the figure has been inflated by factors outside the control of either the national authorities or the Commission. Both the number of pending cases and the average duration increased slightly from November 2014.
- The average duration of cases in the area of **atmospheric pollution** has increased from 37.8 to 41.8 months during the last six months while the number of cases remains stable. Compared to one year ago, the duration of cases increased by 26% (33.1 to 41.8 months).
- Despite high number of cases (40) the average duration of infringement proceedings in the **road and rail transport** area is one of the shortest (16.1 months). The same for the field of **transport safety** which counts the fifth number of cases but has the lowest duration.
- With the closure of 20 out of 23 cases and no new cases opened within the last six months, the field of **agriculture** disappeared from the table.

Types of cases

Number of pending infringement cases open for late or wrong transposition of Single Market directives plus number of cases open for wrong application of rules – situation as of 1 May 2015 (1088 cases).



- **50%** of cases are for late or incorrect transposition of directives
- **72%** of cases relate to directives
- **28%** concern regulations, decisions and Treaty articles

Comments

- The number of pending infringement cases for late transposition (339) is higher than the number of cases where no transposition measures were notified to the Commission (220 – see “transposition deficit” in the transposition tool). This is because – after being notified – the Commission needs a certain time to assess the measures and eventually close the proceedings.
- Good co-operation between Member States and the Commission is very important in this process. It can help decrease the time needed for the assessment of national legislation implementing a directive, which can bring down the number of pending cases. In this context of sincere cooperation, Member States notifying national transposition measures have to submit clear and precise information indicating unequivocally the laws, regulations and administrative provisions by means of which the Member State considers that it has satisfied the various requirements imposed on it by the directive.

Examples of good practice

Ireland

Examples of some actions taken to reduce numbers of new infringement cases and to resolve existing cases.

1 - Internal actions

- Oversight by Interdepartmental Committee on EU Engagement, chaired by Minister for European Affairs, of infringements and transposition of EU Directives has resulted in significant reduction in open infringement cases (reduced by 2/3rd in past 5 years).
- Department of Environment established a dedicated Compliance Unit to engage actively with the Commission and to provide a co-ordinated response to a number of cross-cutting environmental infringements, working with other relevant Departments and Agencies.

2 - External Actions

- An annual 'package meeting' with Commission officials allows for detailed discussion of individual cases between the Commission and all relevant stakeholders across Government and agencies.
- A successful feature of the large case resolution process in recent years has been the use of a 'programme of measures' based approach, to address longstanding and/or complex multi-element infringements. First applied in relation to environment case C494/01 (Waste Framework Directive), this approach, now being taken on board across Departments, involves adoption by Government of an agreed programme of measures to bring the case to closure, with concrete timelines for outstanding deliverable and allocations of adequate funds to finance the programme.
- The Department of Communications reported that informal discussion with the Commission in advance of its finalising the implementing legislation to resolve an infringement case relating to Directive 2009/31/EC 2009 on the geological storage of carbon dioxide provided good clarity on the extent of the additional information required by the Commission and ensured that all relevant areas were being covered. Similar engagement with a facilitative DGENR was also helpful in dealing with an infringement relating to Directive 2009/72/EC on the internal electricity market.