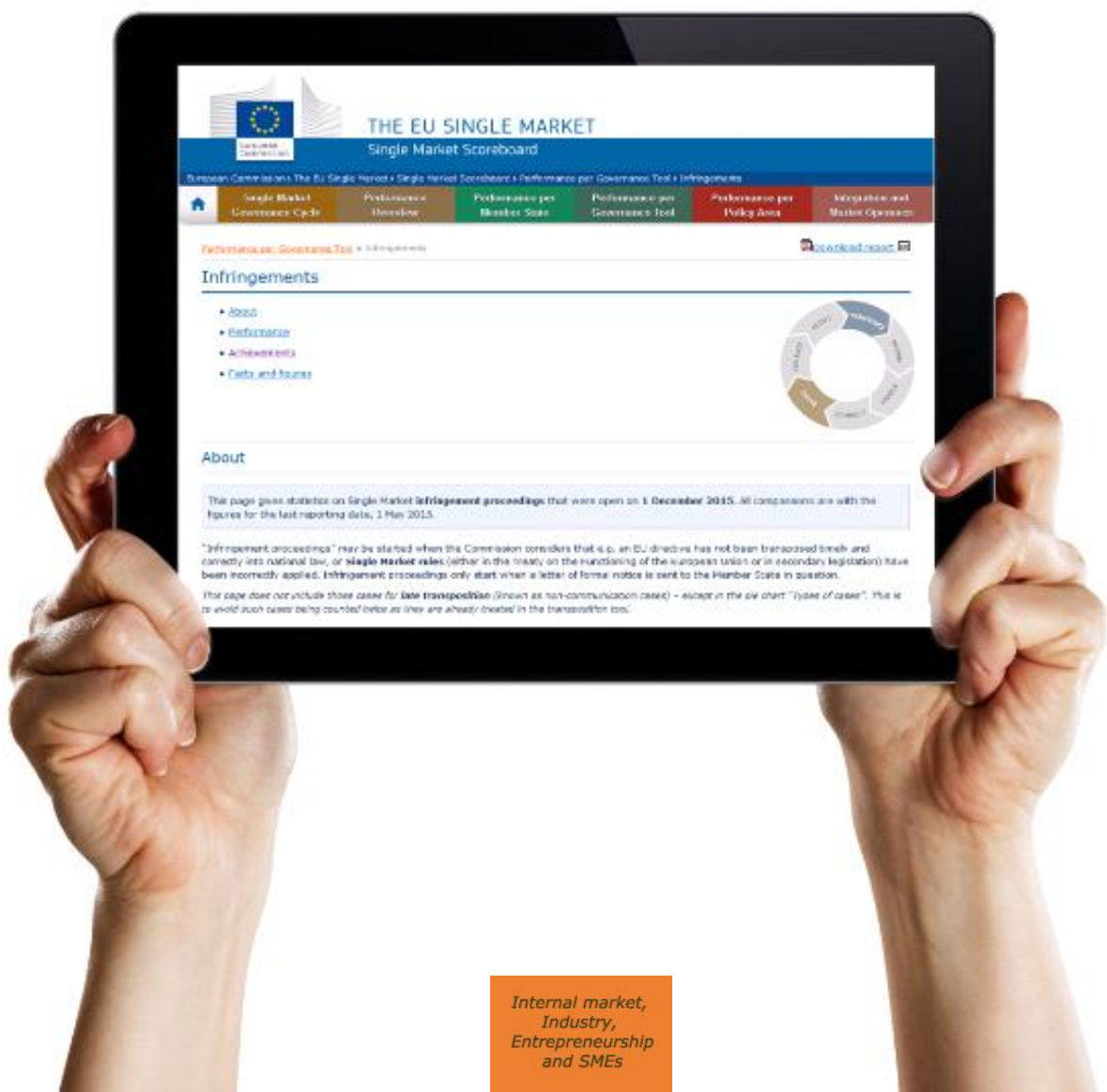


# Single Market Scoreboard

*Performance per governance tool*

## Infringements

*(Reporting period: 12/2016 - 12/2017)*



## About

This page displays statistics on Single Market **infringement proceedings** that were open on **1 December 2017**. All comparisons are with the figures of the last reporting date, 1 December 2016.

The Commission always initiates infringement proceedings if a Member State has not transposed an EU directive correctly or on time. It may also pursue a Member State if it considers that it is applying Single Market rules incorrectly.

Infringement proceedings start when the Commission sends a letter of formal notice to the Member State in question. However, only the Court of Justice can rule definitively that a breach of EU law has occurred.

This page does not include cases of **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 covered in the “Transposition” governance tool.

### Single 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 (TFEU). This includes the four freedoms (freedom of movement of persons, goods, services and capital across borders within the EU), and supporting policies with a direct impact on the Single Market (such as taxation, employment, social policy, education, culture, public health, consumer protection, energy, transport, information society and media, environment (except nature protection)).

## Performance

### 1. by indicator

[1]	35	15	30	14	46	4	24	35	51	34	17	40	15	7	13	9	26	8	18	28	29	40	21	17	27	10	25	26	24
[2]	0	-4	3	-2	-11	1	5	-7	4	-10	3	-1	0	0	0	-5	4	3	-2	0	-4	4	3	2	5	-2	2	-1	0
[3]	41.1	49.3	39.5	32.8	38.0	39.2	44.3	52.2	32.5	40.5	21.4	54.4	33.6	31.7	42.5	29.1	31.3	58.4	48.5	30.0	45.9	38.2	31.5	28.1	36.2	31.2	52.3	52.9	39.8
[4]	27.5	9.9	17.1	13.7	30.4	16.5	42.0	26.1	26.7	19.1	n/a	16.4	23.1	8.5	n/a	20.8	17.7	27.5	16.7	32.5	21.3	26.4	n/a	46.7	8.3	10.4	18.9	18.7	23.6
	BE	BG	CZ	DK	DE	EE	IE	EL	ES	FR	HR	IT	CY	LV	LT	LU	HU	MT	NL	AT	PL	PT	RO	SI	SK	FI	SE	UK	EU Avg

- [1] Number of pending infringement proceedings
- [2] Change over the last 6 months (change in the number of infringement cases)
- [3] Duration of infringement proceedings (in months)
- [4] Duration since Court's ruling (in months)

### Indicator values

[1] & [3]	<average	average ±10 %	>average	n/a
[2]	decrease	no change	increase	n/a
[4]	< 8 months	8–18 months	>18 months	n/a

## 2. overall (all 3 indicators combined)



A Member State's **performance across all 4 indicators** is calculated by scoring each indicator in chart 1 as follows:

RED = -1, YELLOW = 0 and GREEN = +1.

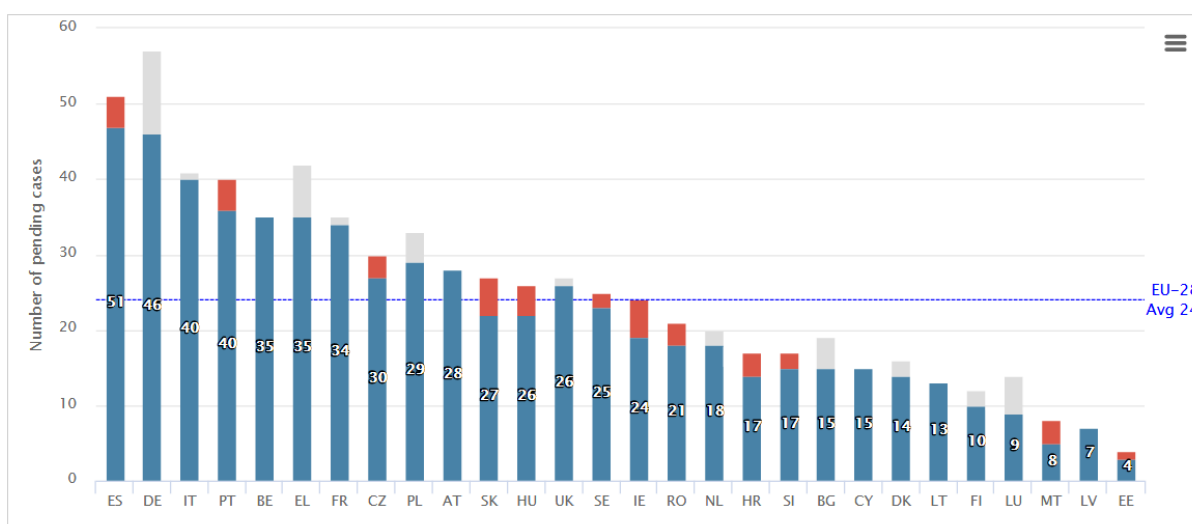
The colours on the map thus represent the **sum of these scores**:

2 or higher = above average    -1, 0 or 1 = average    -2 or lower = below average

### Comments

- Regarding Member States' overall performance since December 2016: only 4 of them have improved their performance (**Germany, Italy, Luxembourg and the United Kingdom**) while 11 worsened it; the remaining 13 have matched their previous performance. The number of Member States in the green zone (4) has halved in comparison with that of the previous period (9).
- Among the Member States that maintained their performance at the same level as in December 2016, 3 are above the EU average (**Denmark, Latvia and Finland**) and 4 are below (Belgium, Greece, Poland and Portugal).
- **Luxembourg** is now in the green zone. **Germany, Italy and the United Kingdom** left the red zone and are now in the EU average. The Czech Republic, Ireland, Spain, Malta, Slovakia and Sweden went the other way and are now below the EU average.
- From 7 red cards in December 2016 to 10 today, this deterioration is worrying and should be vigorously tackled by the concerned Member States.

### Indicator [1]: Number of pending infringement proceedings



Pending infringement proceedings as of 1 December 2017. The differences since the previous report (the July 2017 Single Market Scoreboard, with figures from December 2016) are shown at the top of each bar in the chart: the blank parts show a decrease in the number of pending cases (not counting for the final result), while the red parts show an increase in the number of pending cases.

**Note:** This indicator is used to give an overview of the number of open infringements in the Member States compared with the EU average. It is not per se a decisive evidence of a higher or lower actual compliance with the Single Market rules.

**Total number of cases:** down to 664 (from 674 in December 2016)

**Average cases per Member State:** 24 (no change)

**Total number of Member States with increase in the number of cases:** 12 (up from 7)

**Total number of Member States with decrease in the number of cases:** 11 (down from 19)

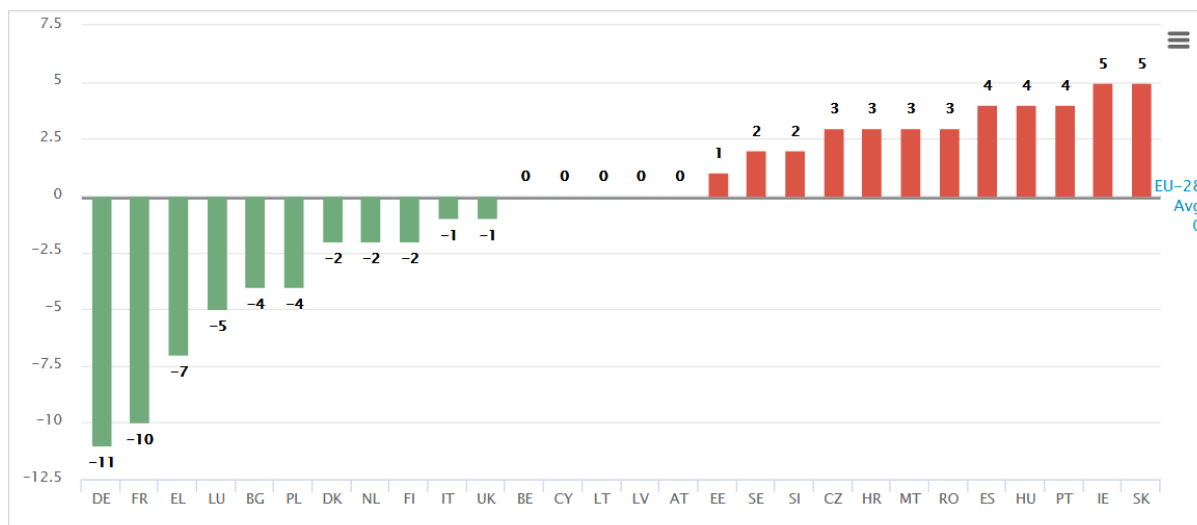
**Number of Member States with no change: 5** (up from 2)

### *Comments*

- **The number of pending infringements has never been lower.** The total number of cases reached 664 which is 10 less than in the previous Scoreboard (-1.5 %). **142 cases** out of the 674 pending one year ago have been **resolved** since then, in particular those on transport (30 cases closed), taxation (23), environment (15) and employment and social affairs (14).
- On the other hand, the last year has seen the launch of **132 new cases** (not including those for late transposition). 58 of these 132 cases concerned the environment (44 %), 15 were on free movement of goods and market surveillance, including 7 on automotive emissions cases (11 %), 15 were on transport (11 %) and 10 on taxation (8 %).
- With 51 cases (more than twice the EU average), **Spain** has the highest number of pending cases, followed by **Germany** (with 46 cases). With a reduction of nearly 20 % of its cases (57 to 46), **Germany achieved the best performance** and is no longer at the bottom of the ranking.
- 4 Member States continued their **impressive progress on lowering their number of infringement cases: i.e. Greece, France, Italy and Poland**. Compared to November 2014, Poland decreased this number by 42 % (from 50 cases to 29), Greece by 41 % (from 59 to 35), Italy by 40 % (from 67 to 40) and France by 28 % (from 55 to 34). The trend towards improvement is, moreover, general for most Member States, whose commitment must be underlined. Only 4 Member States slightly increased their number of cases within the last three years: the Czech Republic, Cyprus, Hungary and Portugal. This is also the case of Croatia but this is due to the quite recent accession of this Member State.
- The 6 Member States with the highest number of infringement cases count 38 % of the total number of cases.

## Indicator [2]: Change over the last year

Change in the number of pending infringement proceedings since December 2016 (July 2017 edition of the Single Market Scoreboard)



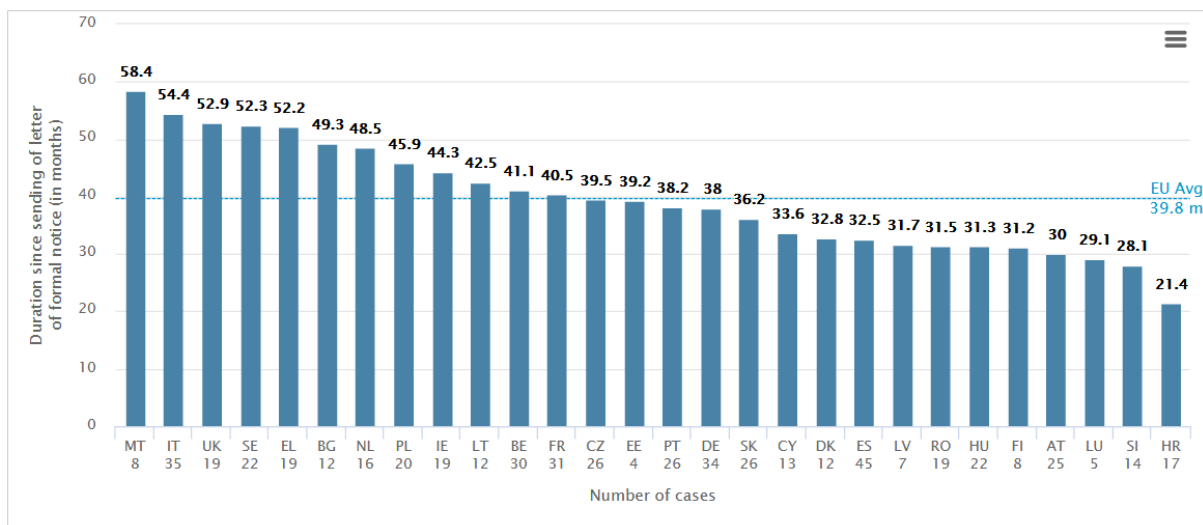
**An equal number of Member States increased (12) and decreased (11) their number of cases.**

### Comments

- The Member States that have made the biggest reduction in their number of cases since the previous Scoreboard are **Germany** (-11 cases), followed by **France** (-10) and **Greece** (-7). At the other end of the scale, Ireland and Slovakia made the biggest increase (+5). It should be noted that the Czech Republic and Hungary have not had as many infringement cases since year 2010.
- The **top 3 Member States** by reduction percentage only are **Luxembourg** (-36 %), **France** (-23 %) and **Bulgaria** (-21 %). At the opposite end of the scale, Malta (+60 %), Estonia (+33 %) and Ireland (+16 %) had the highest percentage increase. Of course, these figures must be weighed by the number of infringement cases concerned in each Member State.
- 9 Member States deserve a special mention: they have achieved an **uninterrupted reduction** in their number of cases: **the Netherlands** since May 2009 (-68 %), **Greece** since May 2013 (-46 %), **Belgium** and **France** since November 2013 (respectively -30 % and -42 %), **Latvia** since May 2014 (-42 %), **Italy** (-40 %), **Poland** (-42 %), **Finland** (-47 %) and **the United Kingdom** (-26 %) since November 2014.

### Indicator [3]: Duration of infringement proceedings

Pending infringement cases not yet sent to the Court (i.e. at the pre-litigation stage) as of 1 December 2017 (546 cases). The average duration is calculated in months from when the letter of formal notice is sent.



**Change in average case duration:** now 39.8 months, up from 36.9 in December 2016.

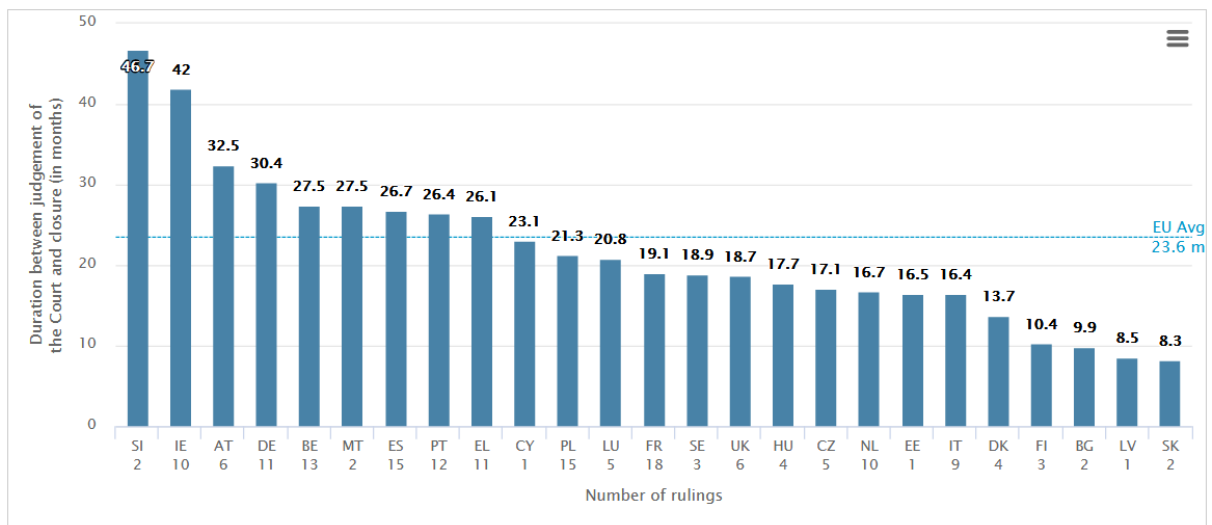
#### Comments

- Although it is to be hoped that infringements duration is as short as possible, an increase in duration is not necessarily negative. This happens generally when Member States resolve a number of quite recent cases. At the same time, the remaining cases are getting older and are weighing more heavily in the calculation of the average duration.
- **The average case duration of 6 Member States** (up from only 2 in December 2016) **decreased** since the previous Scoreboard: **Estonia, Ireland, Greece, Malta, Romania and Slovenia**. Among them, cases from **Malta** and **Estonia** have the most impressive reduction, of respectively 17.4 and 11.8 months. For both Member States, the explanation is the same: new recent cases combined with a quite moderate number of already pending cases (3 + 5 for Malta and 2 + 2 for Estonia) had a considerable impact on the average duration of cases.
- Infringements in the other 23 Member States have longer average case durations. The **average increase in duration since December 2016 is 4.7 months**. The cases above this average are those from Bulgaria (+17.6 months), Finland (+11), the United Kingdom (+8.5), Lithuania (+7.8), France and Cyprus (+7.4), Poland (+7), Latvia and Sweden (+5.4), Portugal (+5.3) and Spain and Croatia (+5). Five quite recent Bulgarian cases were closed while only one new case was initiated; the result is an increase of almost 18 months (from 31.7 to 49.3 months) to the duration average. Concerning Finland, no case was recently initiated or no recent case closed; the 8 currently pending cases are open since between 1 and 7 years.
- As recalled in the Communication [EU Law: Better Results through Better Application](#) infringements must be dealt with promptly. The Commission and the Member States need to proceed expeditiously in investigating breaches of the law. As shown in the table above, average case duration for Single Market law is **above three years**.

Depending on the situation, the delays can be attributed to the national authorities or the Commission. Both should cooperate more closely to quickly resolve problems with complying or applying Single Market rules.

### Indicator [4]: Time taken to comply with Court ruling

Cases closed between 1 December 2012 and 30 November 2017 where the Court has ruled against a Member State (171 cases). This graph shows the average time (in months) between the delivery of the Court's judgment and the closure of the case confirming that the Member State has complied with the judgment.



**Change in average time lag:** further increase from 22.4 months in December 2016 to 23.6 months.

#### Comments

- The average time taken by Member States to comply with a Court of Justice ruling increased (up to 23.6 months from 17.4 months 4.5 years ago) for the 8th consecutive period.
- 5 Member States reduced their average time lag: the **Czech Republic, Greece, France, Italy and Portugal**. In December 2016 the figure was 3. The most impressive reductions were in **Greece** (down 8.1 months) and in **Italy** (7.7 months).
- 11 Member States had longer average time lags (down from 15 one year ago). The Member States with the biggest increase are Slovenia (+34.1 months) and Austria (+23.1). This statistic is based on cases closed in the last five years. Taking a case closed more than five years ago out of the statistics or adding a recently closed one can have a major impact on the results, in particular for Member States with only a few cases. This is illustrated by the significant increase of Slovenian time lag: the duration of a case resolved in 17 months was balanced by the recent closure of a case that took more than six years to be closed.
- For 9 Member States (5 in the last report), the average time lag is over two years: Spain, Ireland, Greece and Portugal have been joined by Belgium, Germany, Malta,



Austria and Slovenia, which are now above this threshold. **Italy** is no longer part of this group.

- In general, Member States with only a few rulings against them need less time to comply. But not always: Slovenia (2 rulings only) has a compliance lag twice as long as Poland's (15 rulings); also, although Belgium and Malta have the same time lag (27.5 months), Belgium has 13 rulings and Malta only 2.

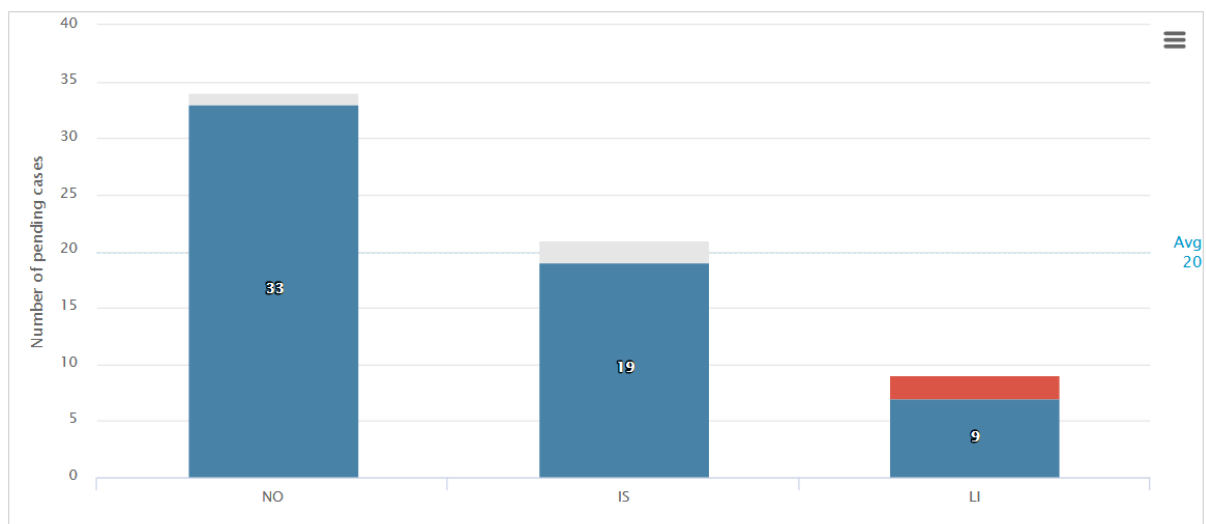
## Iceland, Liechtenstein & Norway

These countries are also subject to Single Market rules under the [EEA Agreement](#). They are monitored by the [EFTA Surveillance Authority](#).

However, there is a time lag between when a legal act is adopted or repealed in the EU and when it is added to or removed from the EEA Agreement. This means that the body of EU law that applies in Iceland, Liechtenstein and Norway may differ from what applies in the EU. This should be borne in mind when comparing this scoreboard and the [EEA Scoreboard](#).

### Number of pending cases

*Infringement cases pending on 1 December 2017 arising from the incorrect transposition or application of Single Market rules. The red area of the chart shows the increase in the number of cases since December 2016.*



**Total cases open:** 127 (down from 172 in December 2016), of which:

- **incorrect transposition/application:** 61 (*see figure above*) = 49 % of all open infringement cases (Iceland 19, Liechtenstein 9 and Norway 33)
- **late transposition** (directives): 26 (Iceland 16, Liechtenstein 7 and Norway 3) = 20 %
- **late implementation\*** (regulations): 40 (Iceland 39 and Norway 1) = 31 %

\* Under Article 7 of the EEA Agreement regulations incorporated into the Agreement “shall as such be made part of the internal legal order” of the EEA EFTA countries. In

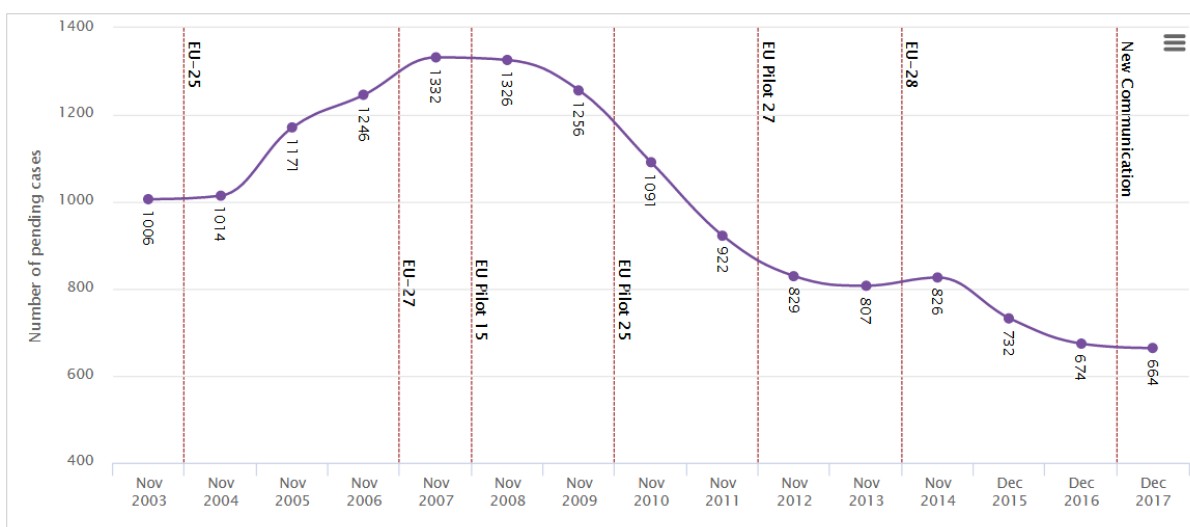
*Liechtenstein, however, regulations are directly applicable and do not have to be implemented.*

### Comments

- The figure of 61 infringement cases concerning incorrect transposition or application represents a decrease of just one case since the last report, whilst the total number of infringement cases has reduced from 172 to 127.
- There is a small increase in the number of cases concerning the late transposition of directives: 26 pending infringement cases in this Scoreboard, compared to 24 in December 2016.
- With regard to the incorporation of regulations, a decrease of almost half the cases has been observed from 82, down to 40.
- Problematic sectors: food and feed safety, animal health and welfare, transport and workers including health and safety.

## Achievements

**Trend in numbers of infringement cases, by Member State**



- The current report shows a new decrease in the number of infringement proceedings (1.5 % within the last year). This is in line with the **overall reduction of cases (-50 %)** since the structured problem-solving dialogue between the Commission and Member States (known as “EU Pilot”) was launched in April 2008.
- In the Communication [EU Law: Better Results through Better Application](#), while recognizing the effectiveness of EU Pilot, the Commission has noted that the dialogue with the national authorities could go well beyond a reasonable duration. As EU Pilot was not intended to add a lengthy step to the infringement process, which in itself is a mean to enter into a problem-solving dialogue with a Member State, the Commission decided to launch infringement procedures without systematically relying on the EU Pilot problem-solving mechanism. Since January 2017, recourse to EU Pilot is only

made when a pre-litigation dialogue is seen as useful in a given case. The results of this new policy will be measured in the upcoming Scoreboards.

- In any case, the Commission and the Member States need to proceed expeditiously in investigating breaches of EU law in order to achieve quicker and better results in resolving problems.

## Facts and Figures

### Cases by sector

Member State	Air transport (77)	Atmospheric pollution (48)	Consumers' protection and safety (13)	Direct taxation (36)	Energy (27)	Environmental impact (17)	Financial services (21)	Free movement of goods and market surveillance (39)	Free movement of persons and Union Citizenship (14)	Indirect taxation (41)	Information society and media (18)	Justice (incl. non-discrimination and data protection) (15)	Public procurement (18)	Road and rail transport (28)	Services (36)	Transport safety (18)	Waste management (55)	Water protection and management (61)	Other fields (82)	TOTAL
ES	4	2	2	4	3	1	1	5		1	3		3	1	1		6	8	6	51
DE	3	3		5	1	1		7	1	6		1		6	4	2	1	2	3	46
IT	4	4	1			1		3	1	4		2	2	1	2		5	4	6	40
PT	5	3	1	2	2		1	3		4	2		1	2		6	1	4	3	40
BE	5	3		8	1			1	1	1	1	2			4	1	1	2	4	35
EL	3	1				1		2		2	1		1		2		7	8	7	35
FR	3	3		7	1		1	2		3				2			2	2	8	34
CZ	3	3			2	2		3	2		1	2	1	2	1	1	1	1	5	30
PL	3	3			2	2			2	3	3	1		4	1		1	3	1	29
AT	3	1	2	1	1	1	2	1	1	3			4	3	1		1	1	2	28
SK	3	3	1			1	3	4			1	2	2			1	2	3	1	27
HU	3	3			1		3	1		2	1	2		1	4		1	2	2	26
UK	3	2		2		1		2	2	3	1	1		2			1	3	3	26
SE	4	1	1	1	1		2		1		1		2		3	1	2	3	2	25
IE	3		1		1	2				2	1				2	1	1	4	6	24
RO	1	4			1		1	3			1				2		5	1	2	21
NL	3		1	4	2		1							1	2	2	1		1	18
HR	1	1			2	1	2			2		1			2	1	2		2	17
SI	2	2			1	3					1						4	2	2	17
BG	2	2			1		1						1	1			2	2	3	15
CY	2	1	1							1					2	2	3	1	2	15
DK	2	1	1	2								1		1			2		4	14
LT	2				1		1	1	2						2			1	3	13
FI	3		1		1		1										1		3	10
LU	3	1						1		1				1			1	1		9
MT	3									1					1		1	1	1	8
LV		1			1		1		1	1			1					1		7
EE	1				1					1								1		4

### Sectors with the biggest number of infringement cases

- **Environment:** 30 % of all cases (especially atmospheric pollution, water protection and management & waste management)
- **Transport:** 20 %

- **Taxation:** 12 % (evenly balanced between direct & indirect taxation)

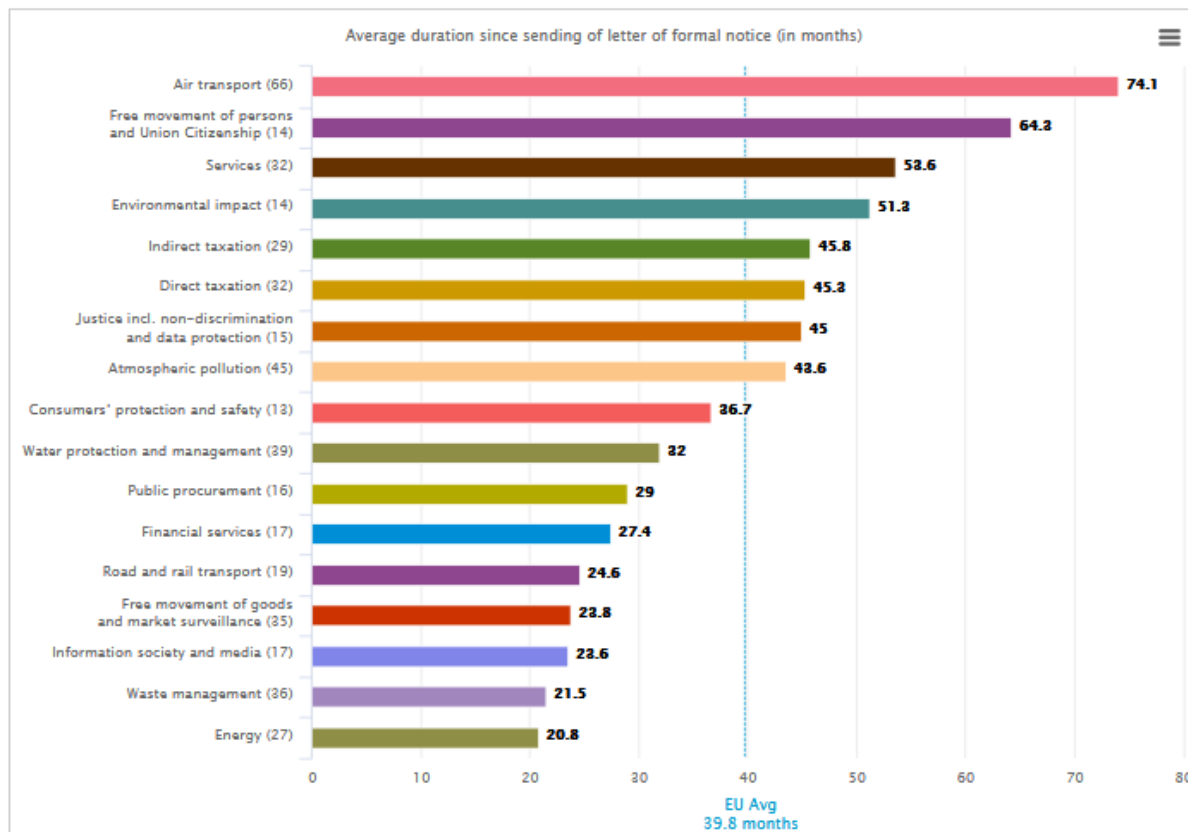
### Problematic sectors by Member State

- **Environment:** Slovenia (71 % of all cases), Greece (49 %), Romania (48 %), Italy (38 %), Spain (35 %) and the Czech Republic (34 %)
- **Transport:** France (29 % of all cases) and Germany (24 %)
- **Taxation:** France (29 % of all cases), Belgium (26 %) and Germany (24 %)

### Average duration by sector

Pending infringement cases not yet sent to the Court (i.e. still in the pre-litigation phase) as of 1 December 2017, broken down by sectors that have at least 13 cases (466 cases). The average duration is calculated in months from when the letter of formal notice is sent.

(#) = number of cases in the sector



### Longest average duration (in months):

- air transport (from 60.7 to 74.1)
- free movement of persons and Union citizenship (from 54.9 to 64.3)
- services (42.5 to 53.6)
- environmental impact (from 47.2 to 51.3)
- indirect taxation (from 41.1 to 45.8)

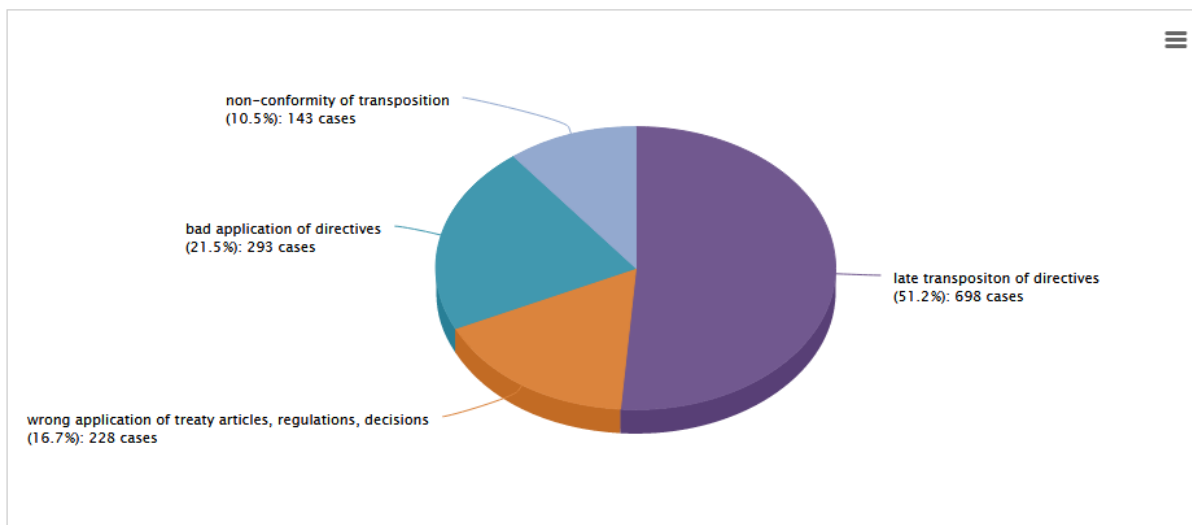
Services has replaced environmental impact in the top 3 of the longest duration since last year.

### Comments

- The comment above on the increase in case duration by Member State is also relevant for **case duration by sector**. When a substantial number of quite recent cases are resolved, the remaining cases, which are getting older, weigh more heavily in the calculation of the average duration.
- **Air transport** – in many cases the figure was inflated by factors outside the control of either the national authorities or the Commission. The number of pending cases is quite stable since December 2015 and the average duration has increased by 24 months which is purely arithmetical since 67 files could not evolve in one direction or another during the last 2 years.
- **Energy** remains the sector with the shortest average duration. In the top 3, road and rail transport and transport safety are now replaced by **information society and media** (new in the ranking) and **waste management** (from 27.6 to 21.5).

### Types of cases

Number of pending infringement cases open for late or incorrect transposition of Single Market directives plus the number of cases open for incorrect application of rules – situation as of 1 December 2017 (1 362 cases).



- **62 %** of cases are for late or incorrect transposition of directives (down from 64 % in December 2016)
- **83 %** of cases relate to directives (up from 82 %); **17 %** concern regulations, decisions and Treaty articles (down from 18 %).

### Comments

- The number of pending infringement cases for late transposition (698) is much higher than the 258 cases where no complete transposition measures were notified to the Commission. This is because **the Commission needs time to assess the completeness of the measures notified and possibly close the non-communication proceedings**. For more on this see the “Transposition deficit” indicator in the “Transposition” governance tool.

- The figures on infringement cases open for late transposition and on missing notifications have **sharply increased in 2016**, from 482 in December 2015 to 736 (+53 %) in December 2016 and from 204 to 433 (+112 %) respectively. This exceptional increase was due to the large number of new directives included in EU Single Market legislation as of 1 December 2016 that had a transposition date within the year before the cut-off date for the calculation. This situation resulted in a significant number of notifications reaching the Commission in a short time, with most of them being under examination at the cut-off date of the Scoreboard.
- Nevertheless, the **situation is improving**: there are now 698 infringement cases for late transposition and 258 cases where no or partial transposition measures were notified to the Commission. Compared to the situation one year ago, this represents a decrease by 5 % and by 40 % respectively.
- **Good co-operation between Member States and the Commission can help to decrease the time needed to assess national legislation implementing a directive**, which can bring down the number of pending cases. In particular, the information the Member States provide when notifying national transposition measures must be as clear and specific as possible: for example, they should indicate precisely which laws, regulations and administrative provisions will, in their views, satisfy the various requirements of the directive, and provide explanatory documents when so envisaged in the Directive.