Single Market Scoreboard

Performance per governance tool

Transposition

(Reporting period: 05/2014 – 11/2014)

BEST EVER RESULT!
About

This page takes into account all transposition notifications made by 10 November 2014, for directives with a transposition deadline of 31 October 2014. As of this date, 1 246* directives (together with 2 775 regulations) were in force to ensure the functioning of the Single Market.

All comparisons are with the figures for the last reporting date, May 2014.

*Directive 2011/82/EU of the European Parliament and of the Council of 25 October 2011 facilitating the cross-border exchange of information on road safety related traffic offences was annulled by the ECJ in its judgement of 6 May 2014 (case C-43/12). Paragraphs 55 and 56 of the judgment stipulate that the annulled Directive still produces all its legal effects until the entry into force, within a reasonable period of time which may not exceed twelve months as from the date of delivery of this judgment, of a new Directive.

Single Market directives can only have their intended effects if they are completely and correctly transposed into Member States’ national law by the deadline set out therein.

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 transposed 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.

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

Performance

1. Per indicator

![Image of performance indicators]

[1] Transposition deficit (% of all directives not transposed)
[2] Long overdue directives (3 years or more)
[3] Total transposition delay (in months) for overdue directives
[4] Compliance deficit (% of all directives transposed incorrectly)

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2. Overall
(all 5 indicators combined)

A Member State's performance across all 5 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
Indicator [1]: Transposition deficit

Best result ever! The average EU deficit has gone down and now stands at 0.5 % (see also the graph “Evolution of the average transposition deficit” under “Achievements” below).

Only 1 Member State now exceeds the 1 % target.

Comments

- Romania, Belgium, Cyprus and Austria managed to quit the red zone, leaving Slovenia as the only EU country with a transposition deficit higher than 1 %.

- 10 Member States have matched or beaten their best ever result: Belgium (0.7 %), Denmark (0.2 %), Croatia (0.1 %), Greece (0.2 %), Italy (0.5 %), Malta (0.1 %), Netherlands (0.4 %), Poland (0.7 %), Slovakia (0.2 %) and Finland (0.2 %).

- The 3 best performers in reducing their transposition deficit are Belgium (previous high deficit of 1.3 % reduced to its lowest ever deficit of 0.7 %), Austria (1.5 % to 0.9 %) and Slovakia (0.6 % to 0.2 %).

- 13 Member States (up from 11) met the 0.5 % target proposed by the Commission in the 2011 Single Market Act, and 6 Member States are very close to the target. This shows that the 0.5 % target for the transposition deficit could be reached with a few additional efforts by the majority of Member States.
How is the deficit calculated?

To calculate the transposition deficit of each Member State, the Commission services include:

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

The transposition deficit does not include those directives considered as completely transposed by a Member State, but which transposition measures are still under examination by the Commission services (i.e. there has been no procedural step 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 these directives, the Commission is examining whether the notification is complete, leading either to a formal step in the infringement procedure, or its closure. If the Commission decides to continue with an infringement case, or to launch an infringement procedure, the directives concerned will be included in the transposition deficit in the next report.
Indicator [2]: Progress over the last 6 months

24 Member States have decreased or equalled their May 2014 backlog.

Comments

- Compared to six months ago, 16 Member States have decreased their number of outstanding directives (up from 14) while 4 Member States have increased it (down from 9).

- **Belgium**, which had an increasing backlog six months ago, has reversed this trend and managed to sharply improve its transposition rate. The same efforts are evident from the significant reduction of **Austria**’s backlog which went from the biggest rise in May 2014 to the biggest fall today.

- Other Member States started reducing their backlog again: Czech Republic, Germany, Luxembourg, Portugal, Romania, Slovakia and Sweden. **Italy** continues its remarkable improvement with a decrease of 27 overdue directives in 2 years.

- **Bulgaria** and the **United Kingdom** have added 4 more directives to their existing backlog after their positive results six months ago. At 0.9 %, Bulgaria’s transposition deficit draws dangerously close to the 1 % threshold.

Transposition requires a permanent effort, and any let-up in effort results in a quick rise in the deficit. In the Best practices shared by EU countries, **Belgium**, **Italy** and **Portugal** present the effective initiatives they have undertaken to improve the transposition of Single Market directives.
Indicator [3]: Long overdue directives (2 years or more)

Directives with transposition deadlines before November 2012

<table>
<thead>
<tr>
<th>Number</th>
<th>Subject</th>
<th>Not transposed</th>
<th>Transposition deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009/40/EC</td>
<td>Safety of toys</td>
<td>DE</td>
<td>20/01/2011</td>
</tr>
<tr>
<td>2009/72/EC</td>
<td>Common rules for the internal market in electricity</td>
<td>IE</td>
<td>02/03/2011</td>
</tr>
<tr>
<td>2009/31/EC</td>
<td>Geological storage of carbon dioxide</td>
<td>AT</td>
<td>25/06/2011</td>
</tr>
<tr>
<td>2009/128/EC</td>
<td>Community action to achieve the sustainable use of pesticides</td>
<td>LU</td>
<td>26/11/2011</td>
</tr>
<tr>
<td>2010/78/EC</td>
<td>Powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority)</td>
<td>UK</td>
<td>31/12/2011</td>
</tr>
<tr>
<td>2010/31/EU</td>
<td>Energy performance of buildings</td>
<td>CZ, NL</td>
<td>09/07/2012</td>
</tr>
<tr>
<td>2010/41/EU</td>
<td>Principle of equal treatment between men and women engaged in an activity in a self-employed capacity</td>
<td>RO</td>
<td>05/08/2012</td>
</tr>
</tbody>
</table>

More directives and Member States are concerned. 9 Member States have long-overdue directives (up from 5 six months ago) and 8 long overdue directives are not fully notified (up from 5).

Comments

- Considering the "zero tolerance" target set up by the European Council in 2002 for delays of 2 years or more in transposing directives, the number of these long overdue directives remains too high.

- Compared to six months ago, Belgium, Bulgaria and Poland managed to transpose their long overdue directives. 7 Member States (Czech Republic, Germany, the Netherlands, Austria, Romania, Slovenia and the United Kingdom) have moved in the opposite direction: each now finds itself with a long overdue directive.

- By May 2015, 4 new long overdue directives risk being added to the backlog of some Member States.
Indicator [4]: Total transposition delays

The average transposition delay has increased. Outstanding directives are now late by 9.2 months on average (up from 7.5 six months ago).

Comments

- The average delay increased namely because some Member States transposed directives with quite recent transposition dates and failed to transpose several long overdue directives.

- 6 Member States have reduced their average delay: Belgium, Bulgaria, Denmark, Croatia, Hungary and Poland. The most impressive reduction comes from Croatia (from 10.3 to 5.2 months).

- Despite the fact that Ireland managed to transpose 1 long overdue directive, it still has 4 that are more than 1 year late (including 1 directive due since March 2011).

- Belgium, Bulgaria and Poland have now transposed all their long overdue directives which is reflected in the reduction of their average delay. However, delays have lengthened in the Czech Republic, Germany, the Netherlands, Austria, Romania, Slovenia and the United Kingdom. Each of them failed to transpose 1 long overdue directive.

- Quite logically, the 9 Member States with the highest transposition delays all have 1 long overdue directive (between 2 and 4 years overdue).

- Malta has only one outstanding directive. However, it should have been notified already in December 2013.

- Denmark further decreased its transposition delay reaching the lowest delay of 2.5 months.
Indicator [5]: Compliance deficit (incorrectly transposed directives)

The low level of average compliance deficit remains stable, at 0.7%.

Comments

- 6 Member States improved or equalled their score of May 2014: Estonia, Greece, Cyprus, Latvia, Malta and Sweden.

- 11 Member States (up from 8) now have a compliance deficit of 0.5% or less. 4 other Member States are very close to this target, which was proposed in the 2011 Single Market Act.

- Poland, Italy, Bulgaria and Spain are still among those with the highest deficits (more than 1%). The Czech Republic and France have edged below their previous compliance deficits of 1%, but Slovakia and the United Kingdom have now hit the 1% mark.

Iceland, Liechtenstein & Norway

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

However, the acquis applicable to these countries may differ from that applicable in the EU as a result of the time between the adoption (or repeal) of legal acts in the EU and their incorporation into (or deletion from) the EEA Agreement. As of 1 November 2014, 1126 directives (together with 1765 regulations) were in force to ensure the functioning of the Single Market in the EEA. This should be borne in mind when comparing this Scoreboard and the EEA Scoreboard.
Average deficit (all 3 countries): 2.0 % (up from 1.9 % in the last period)

- Liechtenstein: 1.2 % (up from 0.7 %) - although retaining the lowest deficit of the EEA EFTA States, Liechtenstein had the biggest increase since the previous Scoreboard
- Iceland: 2.8 % (down from 3.1 %) - however, the deficit is still very high
- Norway: 2.0 % - already high deficit of 1.9 % increased by 0.1 percentage points

Total late directives: 67 (up from 63 in the last period)

- Liechtenstein : 13 (up from 8)
- Norway : 23 (up from 21)
- Iceland : 31 (down from 34)

Average delay: 10.8 months (down from 11.7 months in the last period)

- Norway: 6.1 months (down from 8.9)
- Liechtenstein: 11.3 months (down from 11.8)
- Iceland: 15.1 months (up from 14.3)

Comments

- None of the EEA EFTA States meets the 1 % target
- “Zero tolerance target”: all EEA EFTA States have 2 Directives that are outstanding for 2 years or more (different Directives for each state)
- Directives outstanding from previous period: IS: 20, LI:7; NO: 3
- Average delay decreased by nearly 1 month mainly due to the transposition by Norway of 18 old Directives since the last period.
Achievements

Evolution of the average transposition deficit

- The EU average deficit has been **decreasing steadily for the last 16 years** (since 1997).
- The Member States have **beaten the average 1 % target** for the 6th consecutive period (2½ years in total).
- After the 0.6 % that was reached in November 2012 and May 2013, the new lowest ever score is **0.5 %**.

Commission’s opinion on reasons for this improved performance

- Over the years, the Commission has observed a **strong political commitment** for transposition in most Member States as well as the introduction of effective administrative procedures and improved coordination.
- **Targets indicated by the European Council**: 1.5 % and 1 % (*the green lines in the graph above*) – The 0.5 % average transposition deficit proposed in the 2011 Single Market Act is now reached by the Member States, which shows that the Commission’s proposal was realistic.
- **Financial sanctions** – Since the entry into force of the Lisbon treaty, the Commission may propose and the Court of Justice may impose financial sanctions (under Article 260(3) TFEU) already in the context of a first referral to the Court under Article 258 TFEU for failure to notify transposition of a directive adopted under a legislative procedure.
Facts and Figures

Incompleteness rate

- Thanks to the improved transposition performance by EU Member States, the rate of incompleteness has remained at a low level (4%) for the 4th consecutive period.
- In absolute terms, 45 directives have not been transposed on time in at least 1 Member State (from 50 directives last time).

Main problem areas

- employment and social policy: 6 non-transposed directives out of 74 in force
- financial services: 4 out of 70
- energy/energy efficiency: 4 out of 19

Directives subject to notification by next Scoreboard

In addition to today’s transposition deficit, it is also important to look at new directives coming on stream, i.e. new directives that must be transposed by 30 April 2015.