European Commission

Single Market Scoreboard

Performance by governance tool

Transposition

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

Internal Market and Services

About

Single Market rules can only have their intended effects if they are **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 laws 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

[1] Transposition deficit (in %)
[2] Progress over the last 6 months (change in the number of outstanding directives)
[3] Number of directives two years or more overdue
[4] Transposition delay on overdue directives (in months)
[5] Compliance deficit (in %)

	BE	BG	CZ	DK	DE	EE	HR	IE	EL	ES	FR	IT	CY	LV	LT	LU	HU	MT	NL	AT	PL	PT	RO	SI	SK	FI	SE	UK	EU
[1]	1.2	0.7	0.3	0.2	0.6	0.4	0.6	0.7	0.3	0.7	0.6	1.5	1.4	0.6	0.6	0.7	0.7	0.2	0.6	0.9	1.0	0.5	1.1	1.5	0.4	0.6	0.3	0.7	0.7
[2]	-15	+4	-1	-4	0	-3		+4	-1	0	+2	+4	+4	+3	+3	-4	0	-1	+2	+3	-4	-5	-1	+5	0	-4	+3	+1	-2
[3]	2	0	0	0	1	0		2	0	0	0	0	1	0	2	0	1	0	0	2	2	0	0	3	0	0	1	0	0.6
[4]	13.1	5.2	4.6	0.5	10.4	1.3	4.0	9.9	5.2	2.8	2.2	5.6	9.4	6.3	12.3	7.9	8.0	19.2	5.9	12	16.0	3.4	5.2	13.5	6.6	2.4	8.9	3.5	7.3
[5]	0.9	1.1	0.8	0.3	0.6	0.6		0.5	0.8	1.0	0.9	2.3	0.2	0.5	0.5	0.3	0.6	0.3	0.3	0.7	2.1	0.8	0.2	0.7	0.7	0.5	0.4	0.7	0.7

under-performance   caution zone   good performance

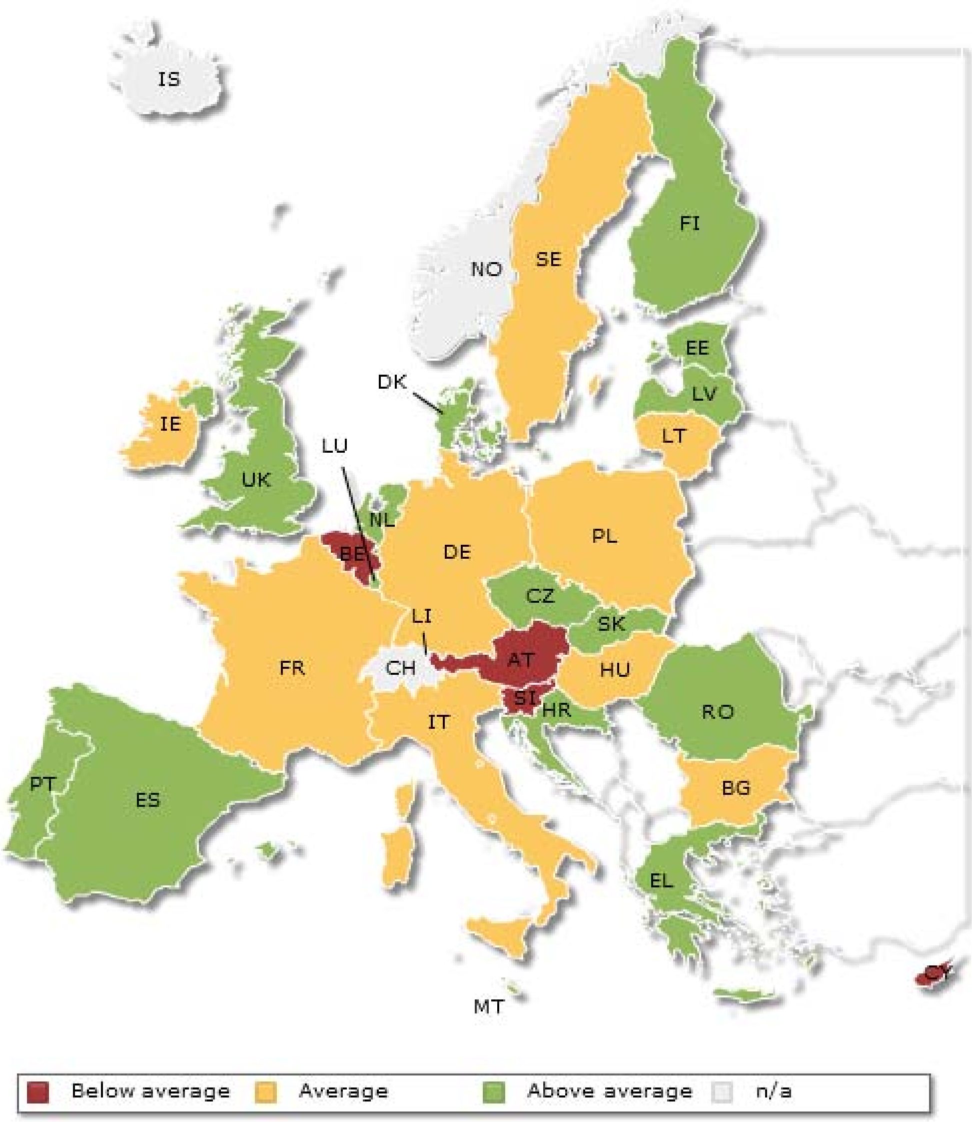
Indicator [1]: Measures the level of compliance with the 1 % target established by the European Council: transposition deficits above 1.0 % were rated as "red", those below or equal to 1.0 % were "green"; no "yellow" designation.

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 compliance 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 attributing the following values to each of its five indicators: red = -1, yellow = 0 and green = 1.

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

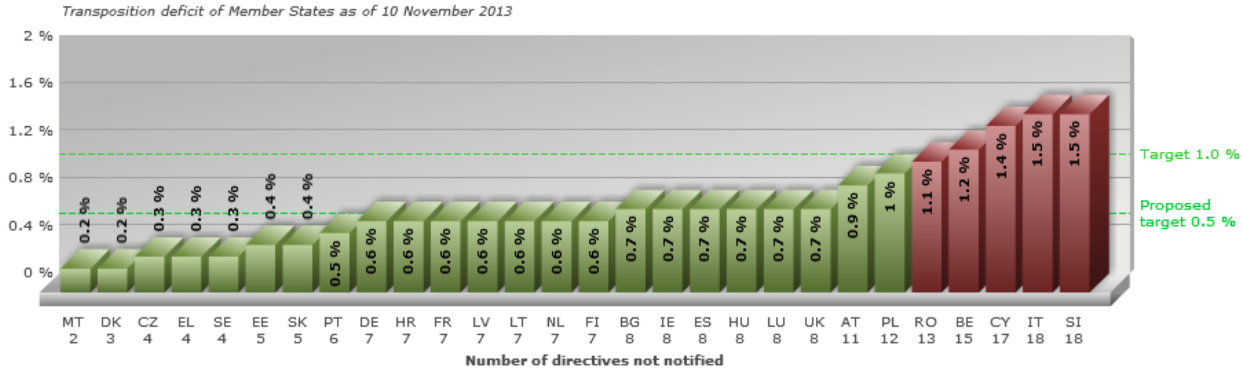
2 or higher => green

-1, 0 or 1 => yellow

-2 or lower => red

The current Scoreboard takes into account all notifications as at 10 November 2013 for directives with a transposition deadline of 31 October 2013. As of 1 October 2013, and leaving aside 14 directives related to Croatia's accession, which have not been taken into account in this context, 1 215 directives and 2 181 regulations were in force to ensure the functioning of the Single Market.

First challenge – Transposition deficit: achieving the 1% target



After a low and steady decrease, the **average transposition deficit has climbed to 0.7 %**. Sixteen Member States have a higher transposition deficit than six months ago. However, the most worrying fact is that five Member States have exceeded the 1.0 % target established by the European Council in 2007: Romania, Belgium, Cyprus, Italy and Slovenia. Six months ago, only two Member States had overshot the target.

- After a top deficit of 2.2 % six months ago, Belgium has redoubled its efforts. Though still scoring above the set target, it has managed to reduce its transposition deficit up to 1.2 % and the number of non-transposed directives from 30 to 15.
- After scoring good results during the last edition of the Scoreboard, Cyprus, Italy and Slovenia have reached the red zone, increasing their transposition deficit first from 0.8 to 1.0 % and then to 1.4 % for Cyprus and to 1.5 % for Italy and Slovenia.
- On the positive side, it is worth praising the efforts made by Poland to reduce its transposition deficit, which as a result has helped it respect of the 1.0 % target and achieve its best score since November 2006.
- In this edition of the Single Market Scoreboard, three Member States have reached or equalled their best score ever: Denmark (0.2 %), Greece (0.3 %) and Portugal (0.5 %).
- Croatia appears in the Scoreboard for the first time, with a below-average transposition deficit of 0.6 %.

Today, only eight 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, fourteen Member States achieved that target.

The ultimate goal remains that all Member States transpose Single Market rules within the deadline they have imposed on themselves. However, Member States and their authorities should be praised for their dedication to maintaining their good results in the context of the present economic crisis.

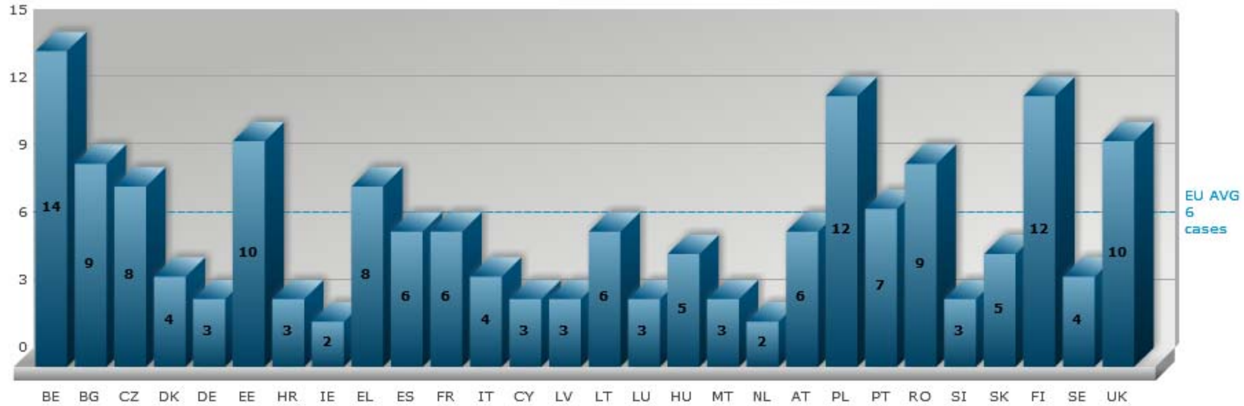
How do the Commission services calculate the so-called transposition deficit?

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 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.

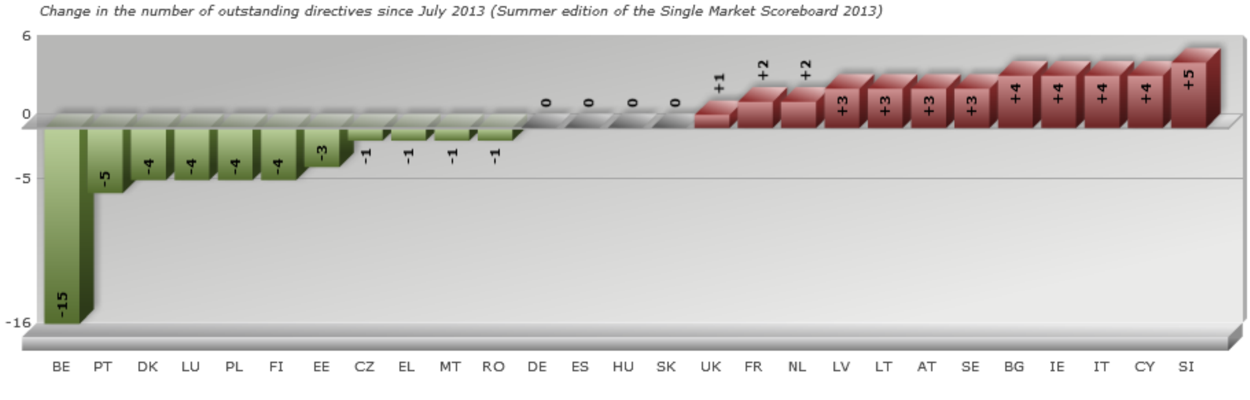
In contrast, the transposition deficit does not include those directives considered as completely transposed by a Member State and which are still under examination by the Commission services (i.e. there has been no procedural step adopted after the latest notification).

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 the context of an infringement procedure in order to prepare for a formal decision to be adopted by the Commission.

Existing backlog



Compared to six months ago, **twelve Member States have further increased their number of outstanding directives**. Belgium has made the biggest improvement, having reduced its backlog by 15 directives. Portugal, Denmark, Luxembourg, Poland, Finland, Estonia and, to a lesser extent, the Czech Republic, Greece, Malta and Romania have also improved their results.

Slovenia has added five more directives to its backlog and Italy has worsened its already worrying backlog by adding four more.

Second challenge – Meeting the "zero tolerance" target

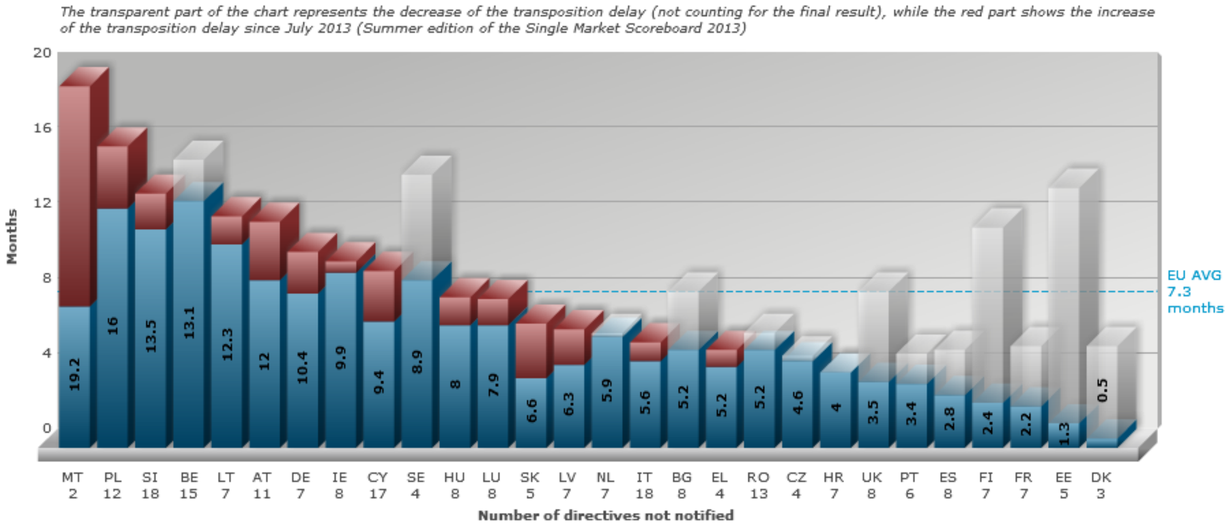
Seven directives with transposition deadlines before November 2011

Number	Subject	Not transposed by	Transposition deadline
2008/101/EC	Inclusion of aviation activities in the scheme for greenhouse gas emission allowance trading within the Community	BE	02/02/2010
2006/24/EC	Retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks	DE	02/03/2010*
2009/28/EC	Promotion of the use of energy from renewable sources	BE, AT, PL	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, LT, SI	03/03/2011
2009/73/EC	Common rules for the internal market in natural gas	LT, SI	03/03/2011
2009/31/EC	Geological storage of carbon dioxide	IE, CY, HU, AT, SI, SE	25/06/2011

** The deadline for transposition of Directive 2006/24/EC was 15 September 2007. In January 2008, Germany notified a transposition law which was repealed by the German Constitutional Court on 2 March 2010. This last date is here used as transposition date for Germany.*

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. Currently, ten Member States do not meet the "zero tolerance" target for at least one of seven long overdue directives, all of them related to the energy and climate change.

Third challenge – Reducing transposition delays



Long transposition delays seriously impair the proper functioning of the Single Market. The longer the delay, the more serious the consequences can be for citizens and businesses.

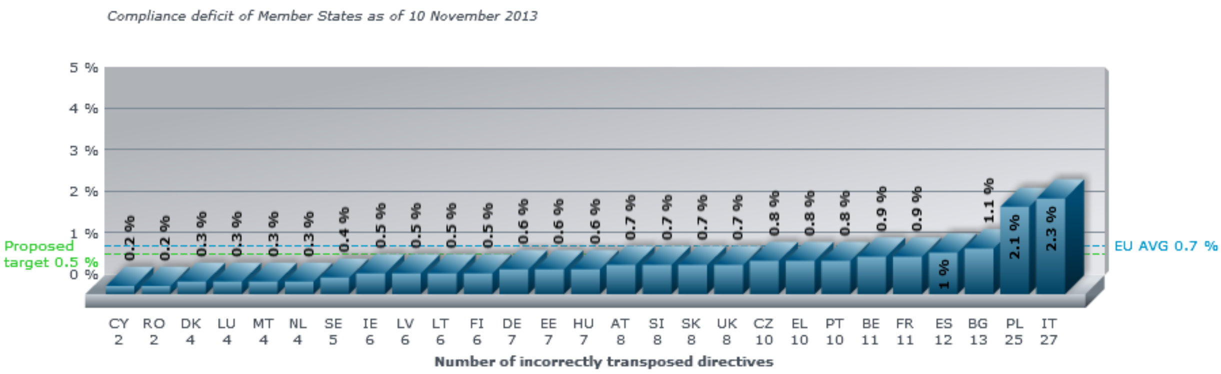
On average, Member States take **7.3 extra months** to transpose EU directives. This represents a moderate improvement since July 2013, when the average transposition delay stood at 8 months.

The biggest improvements have been achieved by Estonia, Finland, Sweden, Denmark and the United Kingdom. Indeed, Denmark has almost no missed deadlines in transposing directives: with only an extra half a month taken on average to transpose them, it shows that transposition deadlines are not unrealistic.

At the other end of the spectrum, Malta (with only two directives overdue and scoring the lowest transposition deficit in the EU) has the longest missed deadline for these two directives: one and a half years longer than expected.

Poland, Austria, Slovakia and Cyprus have also increased their transposition delay. So too, to a lesser extent, have Germany, Latvia, Slovenia, Hungary, Lithuania, Luxembourg, Italy, Greece and Ireland.

Fourth challenge – Improving the conformity of national legislation



One year ago, the **average compliance deficit dropped** to 0.6 %, the best result ever.

Today, at 0.7 %, we are slightly further from the 0.5 % target proposed by the Commission in the 2011 Single Market Act. However, this is still a good result, for which Member States should be praised.

Italy, Poland, Bulgaria, Spain, France and Belgium again head the top six of Member States with the highest compliance deficit in the EU. Moreover, of all the six, only Bulgaria has improved its score even slightly.

On the other hand, up to eleven 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.

Compliance deficit

The so-called 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.

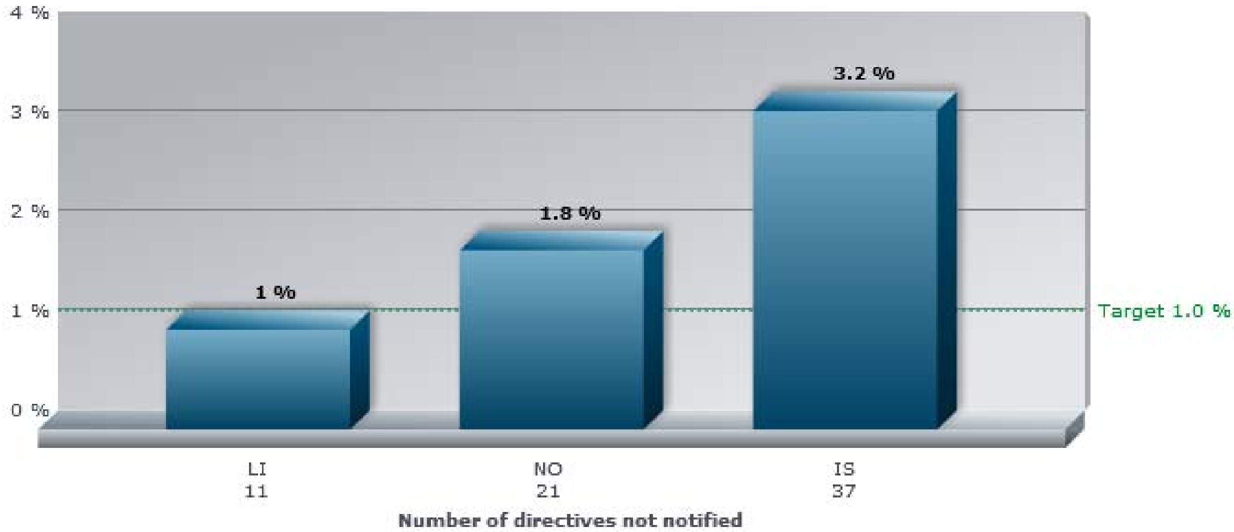
Performance of EEA EFTA countries

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 abrogation, 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 31 October 2013 that had been notified by 10 November 2013.

Transposition deficit – EEA EFTA States



Over the last six months, the average transposition deficit of the EEA EFTA States increased from 1.2 % in May to 2.0 % in November. Liechtenstein was the only EEA EFTA state not to exceed the 1 % deficit target. Both Iceland and Norway have the highest deficits for ten years. For Iceland, an all-time high deficit of 3.2 % was observed. Norway doubled its transposition deficit to a disappointing 1.8 %.

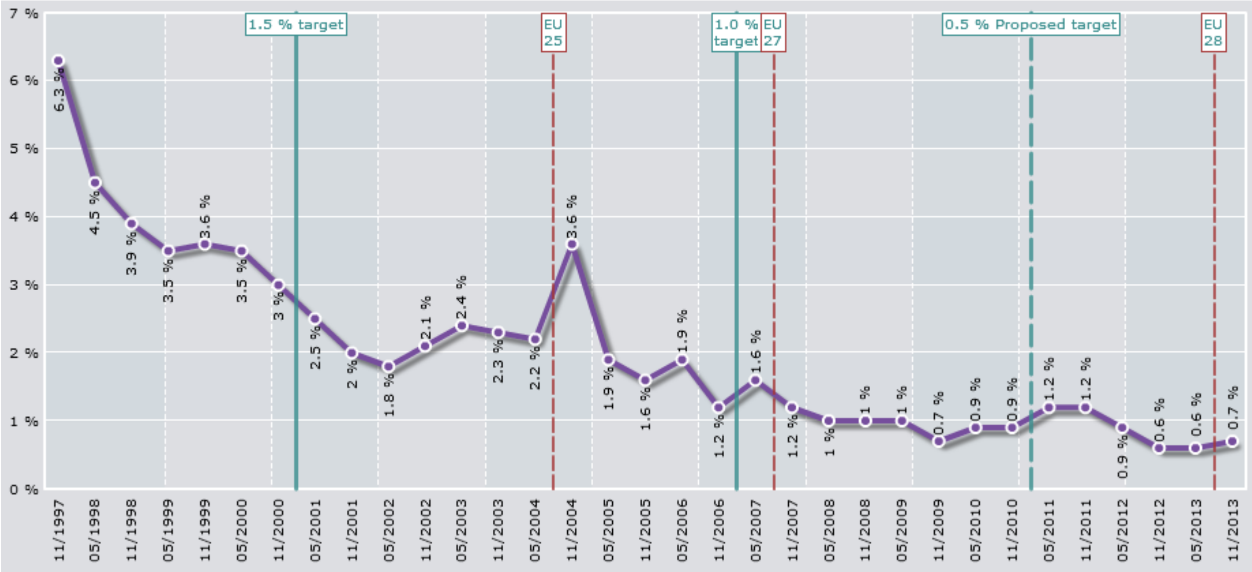
In absolute terms, the average 2.0 % deficit indicates that the EEA EFTA States were late in their notification of national transposing measures for a total of 69 directives. This constitutes an increase of 25 directives since the last Scoreboard. Liechtenstein was late in notifying the national transposing measures for 11 directives, Norway for 21 and Iceland for 37.

The average transposition delay decreased from 10.4 months to 8.9 months. Individually, Norway's was reduced by 0.2 to 5.7 months and Liechtenstein's by 5.4 to 8 months. Iceland's delay rose from 11.8 to 13.1 months. The decrease in transposition delay for Norway and Liechtenstein seems to be due to an increased number of directives being overdue by less than 12 months rather than an actual reduction in transposition time. Iceland has had two directives outstanding for more than two years and Liechtenstein one.

Achievements

The **EU average transposition deficit has decreased steadily** since the publication of the first Internal Market Scoreboard in 1997. This is in line with the different target benchmarks established by the European Council (1 % in Brussels in 2007) as incentives for Member States to improve their performance. In the short term, however, the average transposition deficit has seen a slight increase during the last six months, from 0.6 % (best result ever) to 0.7 %.

Evolution on the average transposition deficit

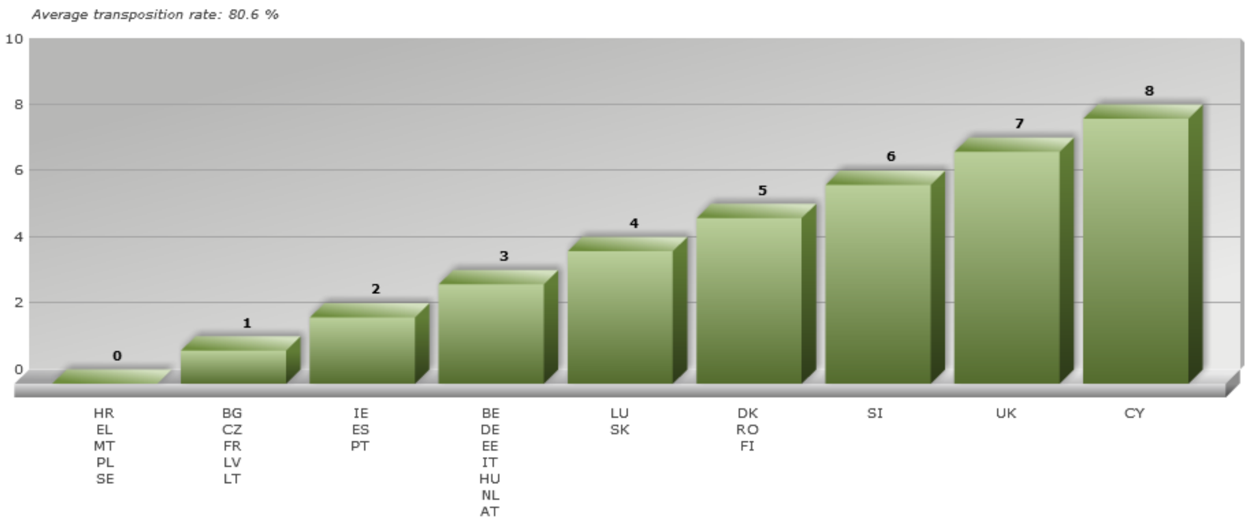


The diagram provides a general overview of the **improvement and evolution in timely transposition**. The green lines show the **milestones** that, in our opinion, moved Member States to **improve performance** (targets of 1.5 % and 1.0 % as established by European Council, or target of 0.5 % proposed 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

Directives related to Croatia's accession

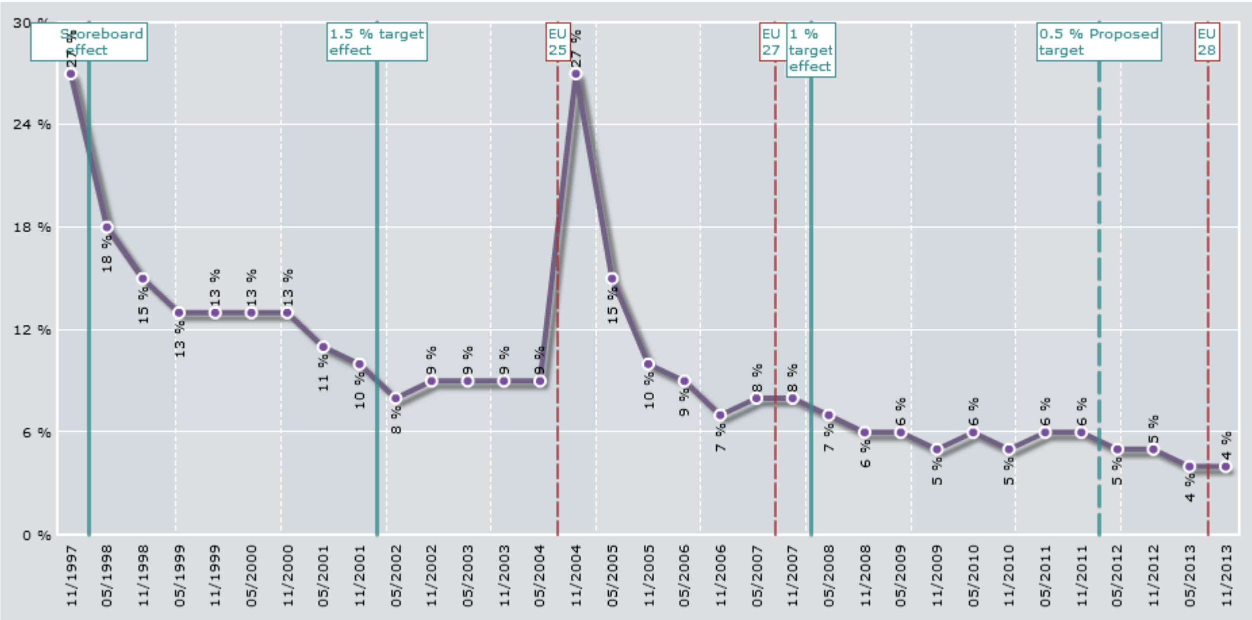
Number of directives not notified



When calculating the average transposition deficit, this edition of the Single Market Scoreboard has not taken into account the transposition on schedule of a series of 14 directives adopted to adapt the *acquis* to Croatia's accession. This is because these directives are merely linked to technical adaptations of Croatia's accession and are therefore not comparable to the rest of the *acquis*. **Were they to be taken into account, the EU average transposition deficit would have climbed to 0.9 %**.

These directives, adopted in May 2013, were published on 10 June and set an exceptionally short transposition deadline of 1 July 2013 (date of accession of Croatia to the European Union). Only 80.6 % of the directives have been totally transposed by all Member States and many Member States have not managed to transpose one or more of these directives on time. This table shows the number of directives still to be transposed by Member States.

Incompleteness rate



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

The so called "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.

Whenever one or more Member States fail to transpose directives on time, they leave a void in the European legal framework. Instead of the Single Market covering all Member States, it remains much smaller and fragmented. Consequently, if one Member State does not deliver, 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 %. In absolute terms, 48 directives have not been transposed on time in at least one Member State. The biggest problems remain in the areas of the environment (16 outstanding directives out of 92 in force), energy including energy efficiency (5 out of 20) and social policy (6 out of 68).

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 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 November 2013 and 30 April 2014.