

EU Law

EGO402 EU Law and European System of HR Protection

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4 October 2016

ARTICLE 14

ECHR

Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

ARTICLE 2

ECHR – Prot. 1

Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

ARTICLE 9

Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.



EU Law

- Primary law
 - Treaties (IL)
- Secondary law
 - Directives
 - Regulations
 - Decisions
 - Opinions
 - Recommendations

A court in a SN organization

- infringement proceedings (**enforcing** the law)
- actions for annulment (**annulling** EU legal acts)
- actions for failure to act (**ensuring** the EU takes **action**)
- preliminary rulings (**interpreting** the law)
- actions for damages (**sanctioning EU** institutions)

Court of Justice

- Direct effect – *Van Gend en Loos*
- Supremacy – *Costa v ENEL*
- Competences

Transposition of EU directives

1. by indicator



[1] Transposition deficit (% of all directives not transposed)

[2] Progress over the last 6 months (change in the number of non-transposed directives)

[3] Long overdue directives (2 years or more)

[4] Total transposition delay (in months) for overdue directives

[5] Compliance deficit (% of all directives transposed incorrectly)

[1]	1.1	0.6	0.8	0.3	0.9	0.7	0.3	0.7	0.4	1.0	0.3	0.8	0.7	0.4	0.5	1.5	0.4	0.2	0.6	0.7	1.4	0.3	1.1	1.2	0.4	0.5	0.4	0.5	0.7
[2]	+3	-1	+3	-3	+1	+2	-2	+3	-5	+3	+2	-9	-2	-4	+2	+5	-5	-3	0	+2	-2	-3	-1	-4	-1	+2	0	+1	-1
[3]	0	0	0	0	1	0	1	0	0	2	0	0	0	0	0	0	0	0	2	3	1	0	1	1	0	1	0	1	1
[4]	8.6	8.4	6.8	11.5	21.8	7.2	14.1	6.4	11.5	13.4	9.2	6.6	5.3	11.3	11.9	8.2	8.7	7.0	14.7	18.2	10.0	7.9	8.5	11.4	6.8	9.8	5.8	11.3	10.1
[5]	0.6	0.5	0.8	0.5	0.9	0.2	0.5	0.5	1.0	0.8	0.5	0.8	0.2	0.2	0.8	0.5	0.4	0.1	0.5	1.0	2.2	0.8	0.4	0.6	0.7	0.5	0.6	1.0	0.7
	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

Indicator values

[1]	≤1 %	/	>1 %	→ Target established by the European Council, Brussels 8-9 March 2007
[2]	decrease	no change	increase	
[3]	0	/	>0	→ Target established by the European Council, Barcelona 15-16 March 2002
[4] & [5]	<average	average ±10%	>average	

2. overall
(all 5 indicators combined)



Leaflet | Credit: EC-GISCO, © EuroGeographics for the administrative boundaries

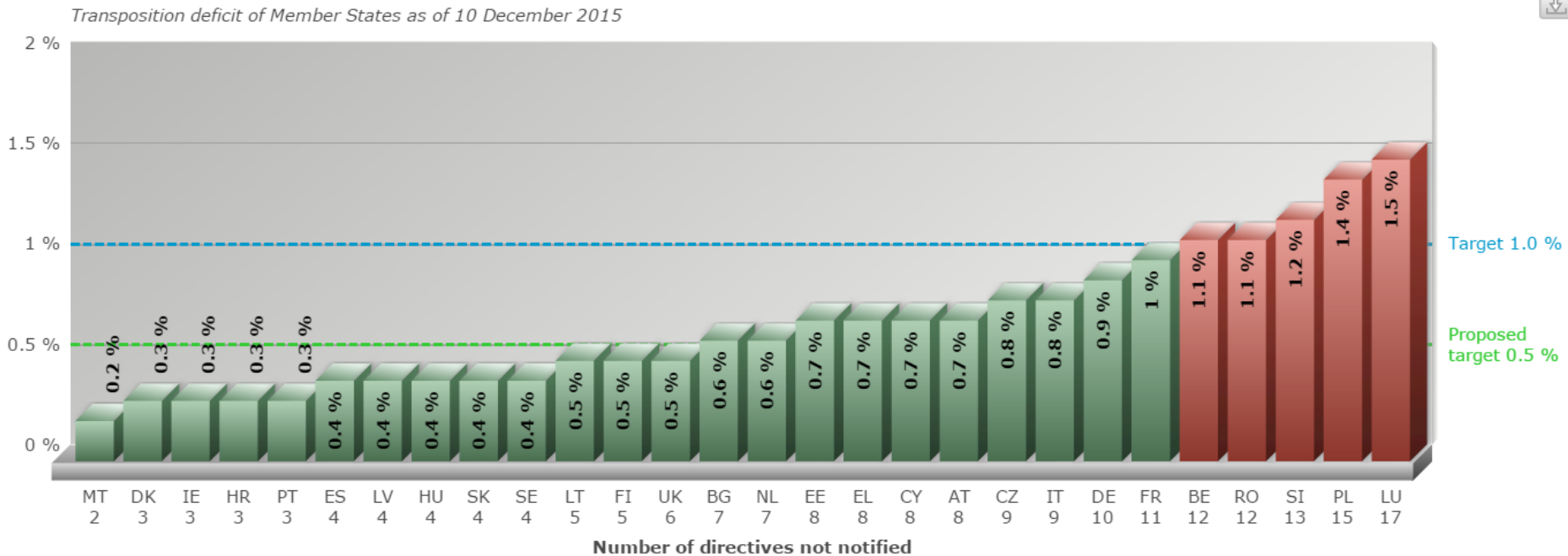
A Member State's **performance across all 5 indicators** is calculated by scoring each indicator in chart 1 as follows:
RED = -1, YELLOW = 0 and GREEN = +1.

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

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

http://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/transposition/index_en.htm

Indicator [1]: Transposition deficit

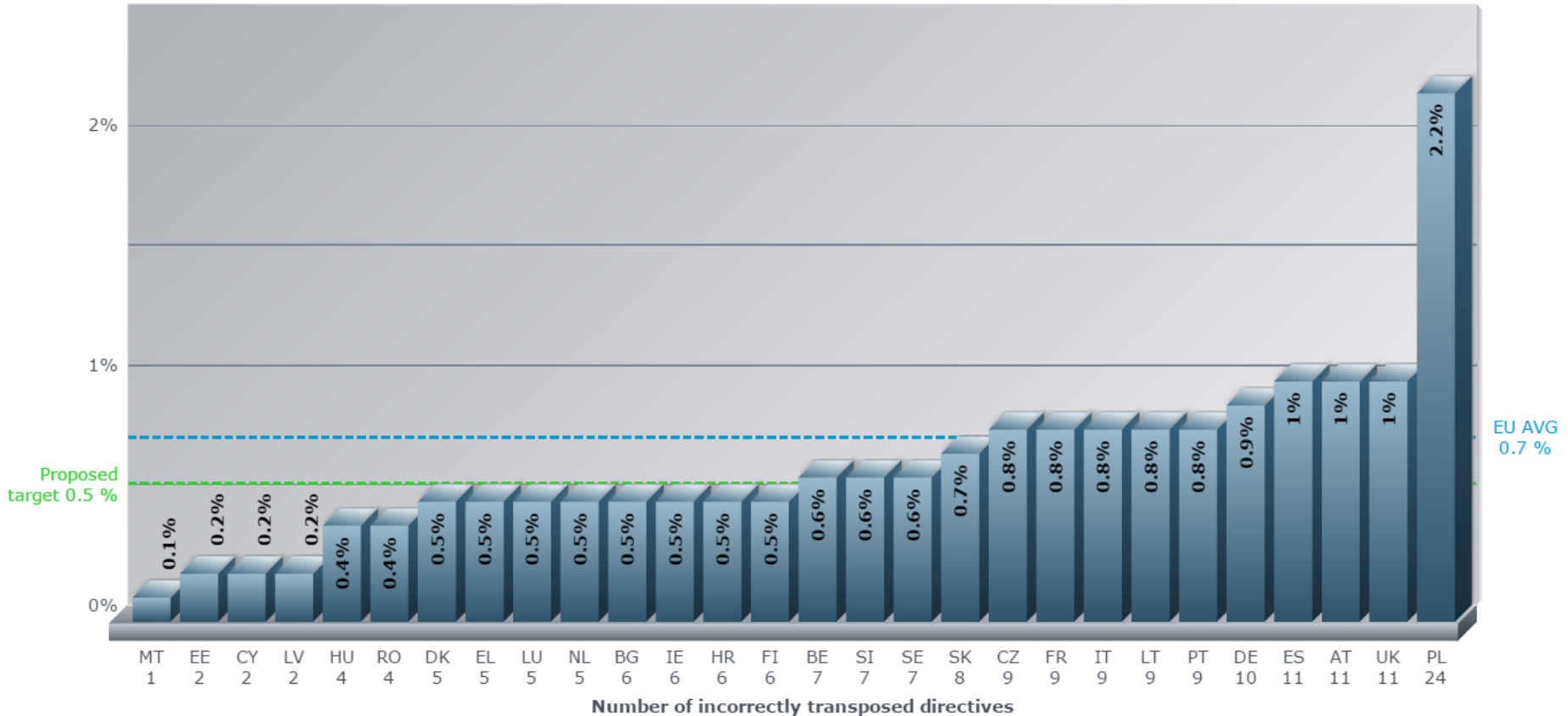


Status quo! Over the last six months, the average transposition deficit has remained unchanged at **0.7%** (see also the graph "Changes in the average transposition deficit" under "Achievements" below).

5 Member States still exceed the 1% target.

Indicator [5]: Compliance deficit (incorrectly transposed directives)

Compliance deficit of Member States as at 10 December 2015



The level of average compliance deficit stands at **0.7%** for the fifth consecutive time.

Compliance with EU law

1. by indicator

[1] Number of pending infringement proceedings
 [2] Duration of infringement proceedings (in months)
 [3] Time taken to comply with Court ruling (in months)

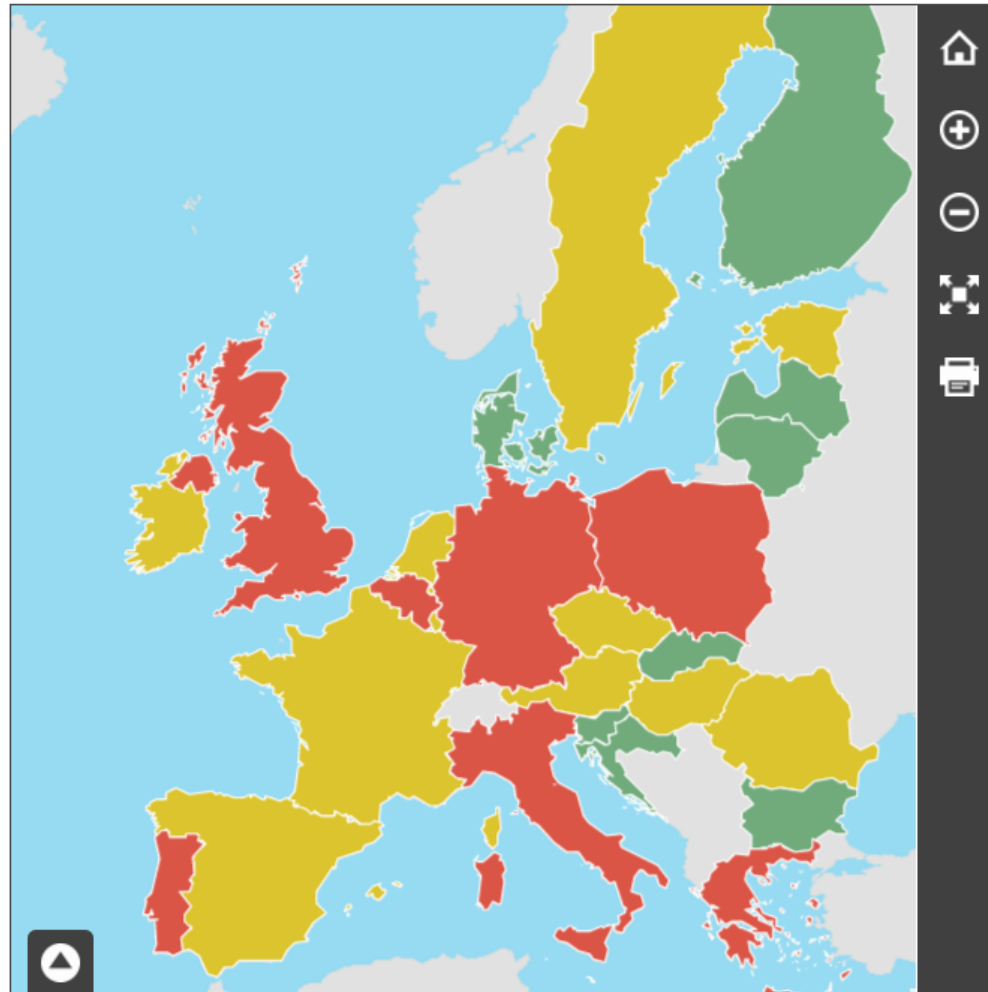


[1]	37	17	28	14	55	6	17	50	49	49	14	50	14	7	16	11	23	8	22	26	44	37	23	17	27	13	26	31	26
[2]	37.4	26.0	33.3	29.6	32.5	34.1	42.8	41.7	21.2	26.6	7.6	39.2	18.0	23.1	23.0	29.5	22.4	51.2	40.0	27.3	32.9	28.9	26.5	27.2	24.7	25.5	40.9	35.1	30.7
[3]	21.4	9.9	19.2	5.4	18.2	16.5	39.4	32.2	21.9	17.9	n/a	29.6	13.1	n/a	3.6	17.1	12.0	21.0	14.4	9.0	18.9	23.0	n/a	10.8	1.4	10.4	14.8	19.0	21.0
	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

Indicator values

[1] & [2]	<average	average ±10 %	>average	n/a
[3]	< 8 months	8 - 18 months	>18 months	n/a

2. overall (all 3 indicators combined)



[Leaflet](#) | Credit: EC-GISCO, © EuroGeographics for the administrative boundaries

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.

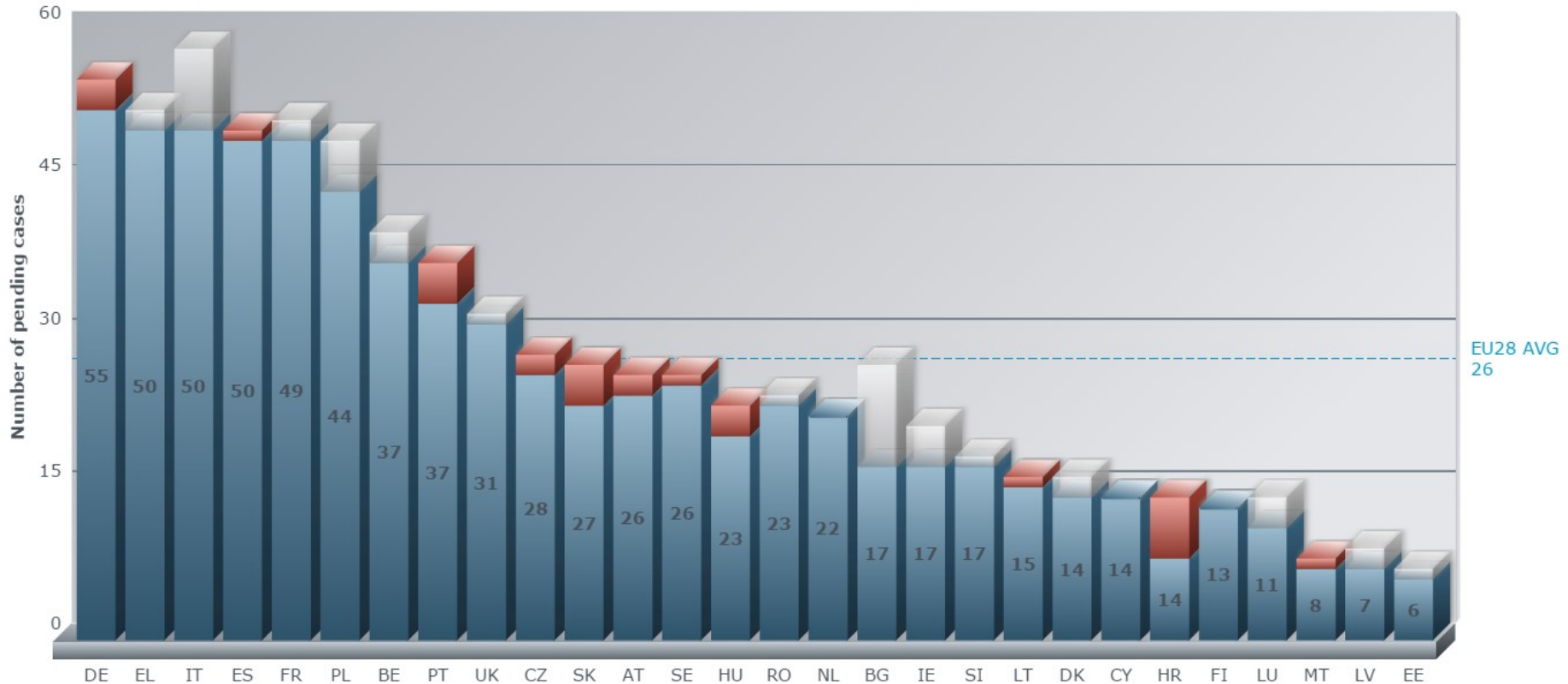
The colours on the map thus represent the **sum of these scores**:

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

http://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/infringements/index_en.htm

Indicator [1]: Number of pending infringement proceedings

Pending infringement proceedings as of 1st December 2015. The differences since the previous Scoreboard (the October 2015 Single Market Scoreboard, with figures from May 2015) 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 732 (from 749 in May 2015)

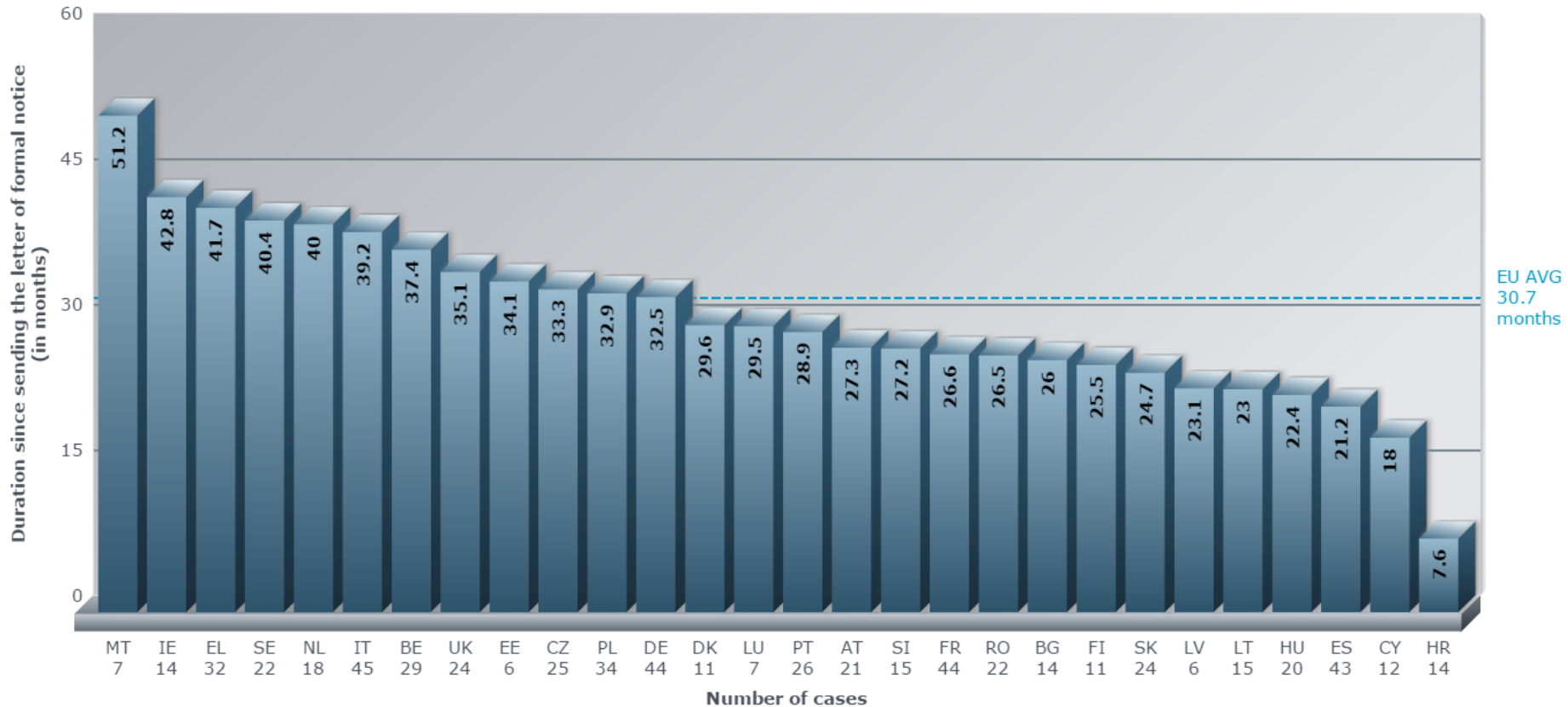
Average cases per Member State: 26 (27 in May 2015)

Total number of Member States trending up: 11 (up from 1)

Indicator [2]: Duration of infringement proceedings



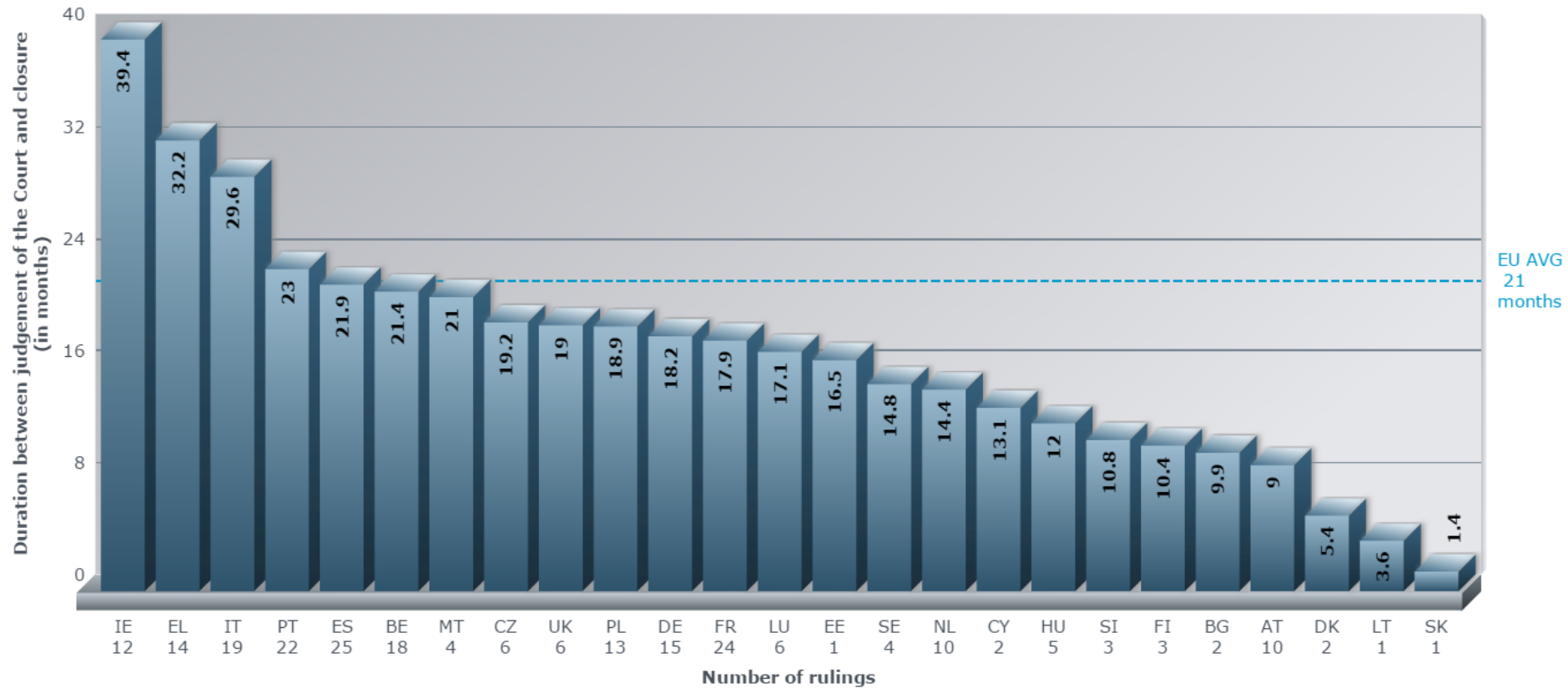
Pending infringement cases not yet sent to the Court (pre-litigation stage) as of 1 December 2015 (605 cases). The average duration is calculated in months from the sending of the letter of formal notice.



Change in average case duration: now 30.7 months, up from 29.1 in May 2015.

Indicator [3]: Time taken to comply with Court ruling

Cases closed between 1 December 2000 and 30 November 2015 where the Court has ruled against a Member State (228 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 19.8 months in May 2015 to 21 months

Cases by sector

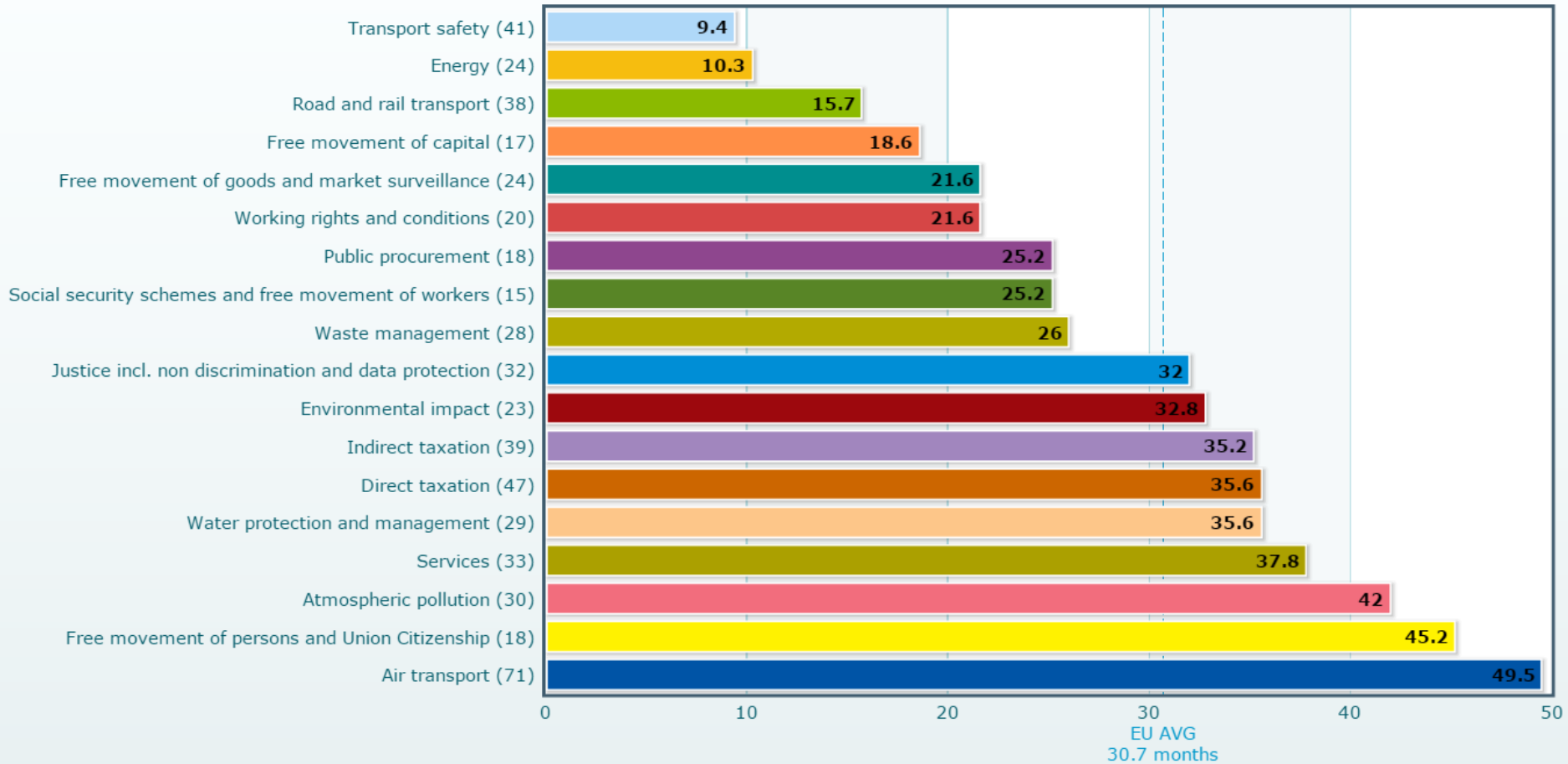
This table shows the total number of infringement cases for each Member State, broken down by sector, as of 1 December 2015. Sectors with only a few infringement proceedings are included in "other fields". The highlighted figures show the sector(s) with the highest number of infringement cases in each Member State.



DE	4	2	6	1	1		7	1	1	6	4	2	5	4	1	5	1	2	1	1	55
EL	4	1	3	1	1	1	1		4	4	2	2	3	2		2	7	9	1	2	50
ES	5	2	4	3	5		2	1		2		3	2	1		2	3	5	6	4	50
IT	4	4		1	1	1	1			5	3	5	1	2	3	3	6	4		6	50
FR	3	3	11	2	2		4		1	5		1	2		5		1	4	3	2	49
PL	5	1	1	2	3		2	2	4	3	1		6	3		1	1	5		4	44
BE	5	1	11	1				2	1	2	3			3	2			2		4	37
PT	6	2	1	2			2		2	3	3		3		1	4	2	3		3	37
UK	3	3	2	2	1		1	2		3	1		2		1	2	2	3	1	2	31
CZ	3	2			2		2	2	1		3		4	1		1	2	2		3	28
SK	3	2			1	3	2	1		1	3	1	1		2	2	1	4			27
AT	3		1	2	1	3	1	1		3	1	1	3	1		1		1		3	26
SE	3	1	3			2		1	1	1	2	2		3	1	1		3	1	1	26
HU	3	1	1	2		2				1		1	2	4			1		3	2	23
RO	1	2	1	2	2	1	2				1		1	2	1		3	1	1	2	23
NL	3		6			1			1	3	1		2	1	1	2				1	22
BG	2	2				2	1			1		1	1				2	2		3	17
IE	3				2			1		2	1		1	2	1			2	2		17
SI	2	3		1	2						1			1		3	4				17
LT	2			1		1	2	2	1		1		1	1		1				3	16
DK	2		3						1		1		1			2	1	1	2		14
CY	2									1	1			2	2	2	2			2	14
HR	2			1		1				1	1		1	1		2	3			1	14
FI	2				1	1			2	1	1		1			1		1		2	13
LU	3			1						1			2			1		1	1	1	11
MT	3							1		1				1	1	1					8
LV		1				1		1		1						1				2	7
EE	1									1						2		1	1		6
	82	33	54	25	25	20	30	18	20	52	35	19	45	35	22	42	42	56	23	54	732
	Air transport	Atmospheric pollution	Direct taxation	Energy	Environmental impact	Free movement of capital	Free movement of goods & market surveillance	Free movement of persons & union citizenship	Health & consumers	Indirect taxation	Justice incl. non discrimination & data protection	Public procurement	Road and rail transport	Services	Social security schemes & free movement of workers	Transport safety	Waste management	Water protection & management	Working rights and conditions	Other fields	TOTAL

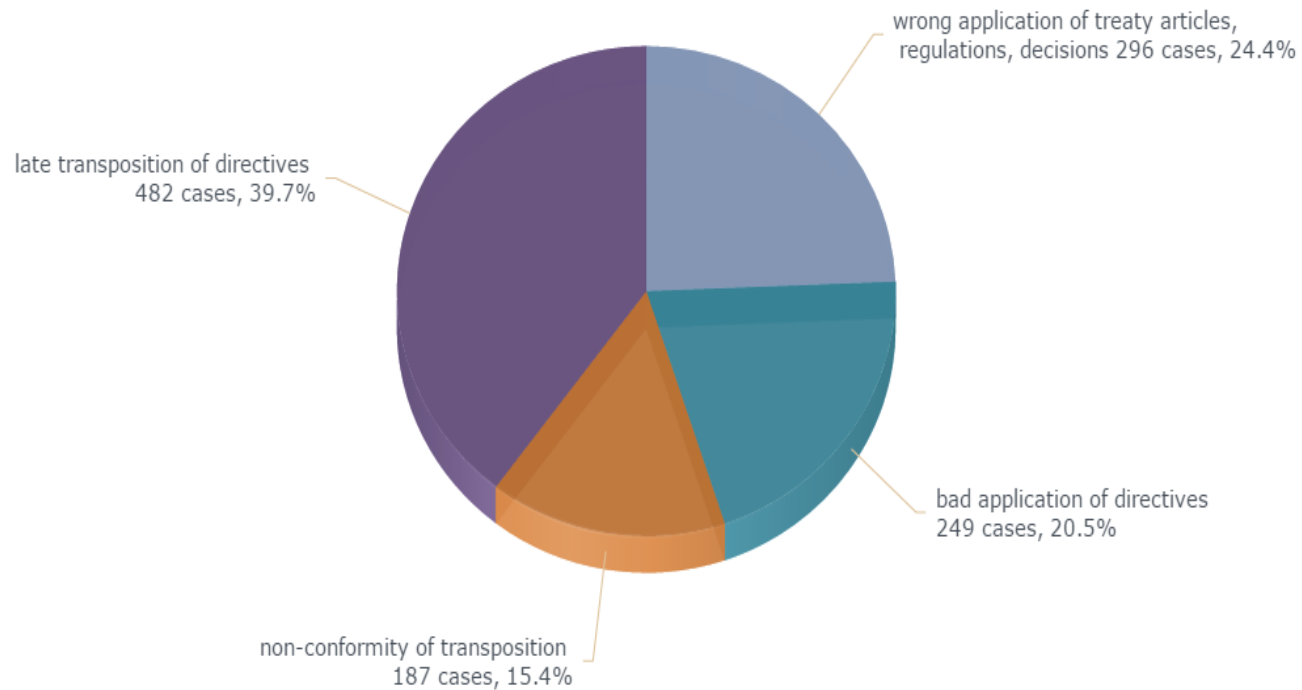
Average duration by sector

Pending infringement cases not yet sent to the Court (still in the pre-litigation phase) as of 1 December 2015, broken down by sectors including at least 15 cases (547 cases). The average duration is calculated in months from the sending of the letter of formal notice.
 (#) = number of cases



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 December 2015 (1 214 cases).



- **55%** of cases are for late or incorrect transposition of directives
- **76%** of cases relate to directives
- **24%** concern regulations, decisions and Treaty articles

Article 352 (ex Article 308 TEC)

1. If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures. Where the measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article 5(3) of the Treaty on European Union, the Commission shall draw national Parliaments' attention to proposals based on this Article.

3. Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the Treaties exclude such harmonisation.

4. This Article cannot serve as a basis for attaining objectives pertaining to the common foreign and security policy and any acts adopted pursuant to this Article shall respect the limits set out in Article 40, second paragraph, of the Treaty on European Union.