

EEA EFTA States

Internal Market Scoreboard

July 2009



INTERNAL MARKET SCOREBOARD

No. 24

**EEA EFTA STATES
of the
EUROPEAN ECONOMIC AREA**

July 2009

EFTA SURVEILLANCE AUTHORITY

MAIN CONCLUSIONS FROM
THE 24th
EEA EFTA INTERNAL MARKET
SCOREBOARD

- The Internal Market Scoreboard shows that the average transposition deficit of the EEA EFTA States decreased to an excellent 0.7%, the best ever result so far for the EEA EFTA States. The average transposition deficit of the EU Member States remains at 1.0%.
- With their lowest ever transposition deficits of 0.4% and 0.5%, Norway and Liechtenstein comply with the 1.0% interim target. Iceland's deficit, at 1.1%, is only slightly above the target.
- All three EEA EFTA States are far better positioned in the performance table than at the time of the previous Scoreboard.
- Iceland has two directives overdue by more than two years, whilst Liechtenstein and Norway have no such long overdue directives.
- Norway and Liechtenstein were able to reduce their transposition delays: Norway's average transposition delay was 5.0 months and Liechtenstein's 6.1 months. Regrettably, Iceland's transposition delay rose from 9.4 months to 14.7 months.
- The *total number* of infringement cases pursued by the Authority decreased by 81 cases from the time of the previous Scoreboard.
- The overall number of infringement cases due to *lack of conformity with or incorrect application* of Internal Market rules decreased slightly from the previous Scoreboard. In comparison to the EU Member States, the number of such infringement proceedings against the EEA EFTA States continues to be low.
- The number of infringement cases concerning *non-timely transposition of directives* by the EEA EFTA States decreased by almost 50% since the previous Scoreboard.
- The number of outstanding regulations and infringement cases against Iceland due to *non-timely transposition of regulations* decreased significantly since the previous Scoreboard.

1. INTRODUCTION

The Internal Market of the European Union ensures that businesses and citizens of the European Union have the right to trade their goods and services, to work, to invest and to establish themselves wherever within the Union they want. The purpose of the EEA Agreement¹ is to extend the Internal Market to the three EEA EFTA States, namely Iceland, Liechtenstein and Norway², thus ensuring, by and large, the same possibilities for businesses and individuals in those countries.

The benefits of the Internal Market include:

- free trade on equal terms within the EEA, which promotes innovation, competition and lower prices for consumers;
- the right to seek work and establish a business in the 27 EU Member States and 3 EEA EFTA States;
- competition between service providers, which leads to more innovation, better services and lower prices for consumers; and
- more cross-border investment within the EEA.

The Internal Market does not deliver benefits automatically. A prerequisite for the functioning of the Internal Market is that equal conditions exist for competition, based on common, homogeneous rules, across the aforementioned States that are parties to the EEA Agreement. These rules have to be adopted, transposed into national law and properly enforced.

The legal instruments regulating the Internal Market

The common body of law (“*acquis communautaire*”) that regulates the Internal Market consists first and foremost of directives and regulations adopted by the European Union. *Directives* must be transposed into national legislation in the EEA States, but it is left to each EEA State to choose the form and the method of implementation. Each directive provides a time limit by which transposition has to take place. EU directives are incorporated into the EEA Agreement through decisions taken by the EEA Joint Committee. The obligation to transpose a directive into the national law of the EEA EFTA States is triggered by these EEA Joint Committee decisions.

The EFTA Surveillance Authority is required to ensure the fulfillment by the EEA EFTA States of their obligations under the EEA Agreement, including the transposition of the directives in a timely and correct manner. The European Commission is entrusted with the parallel task in relation to the EU Member States. In carrying out its tasks, the Authority co-operates closely with the Commission. This co-operation ensures a uniform implementation and application of the Internal Market rules and principles throughout the whole EEA.

Regulations shall, according to the EEA Agreement, “as such” be made part of the internal legal orders of the EEA EFTA States. According to the legal order of Liechtenstein, a regulation is directly applicable once the EEA Joint Committee decision incorporating it into the EEA Agreement enters into force. In Iceland and Norway,

¹ Agreement on the European Economic Area.

² Switzerland is also a member of EFTA, but not a party to the EEA Agreement. Hence, in this Scoreboard, the term “EEA EFTA States” refers to Iceland, Liechtenstein and Norway.

however, regulations are not directly applicable. Rather, the constitutional orders of Iceland and Norway require that regulations be made part of the internal legal order by way of national implementing measures.

What is the purpose of the Internal Market Scoreboard?

Since 1997, the European Commission and the EFTA Surveillance Authority have issued the Internal Market Scoreboard to monitor how well the EU States and the EEA EFTA States comply with their obligations to ensure timely transposition of Internal Market directives.

The purpose of the EEA EFTA Internal Market Scoreboard is to monitor:

- to what extent the EEA EFTA States notify transposition of new EEA directives on time; and
- the transposition backlog and average delays in transposition of directives.

The findings in this Scoreboard take into account the 1702 Internal Market directives that were incorporated into the EEA Agreement by 30 April 2009.³ The Scoreboard records the transposition status for these directives on 11 May 2009.

In addition to the information concerning the transposition of Internal Market directives into national law, the Scoreboard provides information on the number of infringement proceedings initiated against the EEA EFTA States for failure to apply EEA legislation correctly as well as for failure to transpose directives on time.

Finally, the last Chapter of the Scoreboard provides information concerning the transposition of Internal Market regulations by the EEA EFTA States as well as infringement proceedings relating to non-timely transposition of regulations.

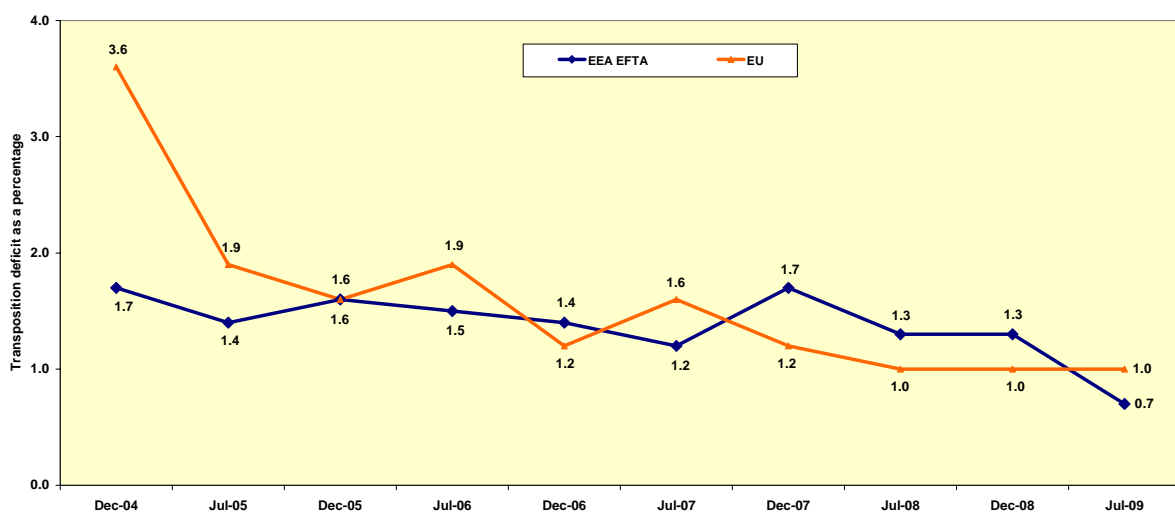
³ The corresponding figure for the EU is 1606 Internal Market directives. The difference is caused by the fact that some directives become applicable in the EU before they are incorporated into the EEA Agreement, and some directives are repealed in the EU before they are repealed in the EEA EFTA States.

2. TRANSPOSITION OF INTERNAL MARKET DIRECTIVES INTO NATIONAL LAW

The transposition deficit indicates how many directives containing Internal Market rules and principles the EEA States have failed to notify as transposed on time.⁴ As from January 2009, the relevant deficit target to measure transposition performance is 1% according to the European Council conclusions of March 2007.⁵ This interim target set by the European Council is used as a benchmark by the Authority as well.

2.1. Average transposition deficit in July 2009

Figure 1: The EEA EFTA States' average transposition deficit at applaudable 0.7%



Note: Transposition deficit on 11 May 2009 for the EEA EFTA States and the EU 27 for directives which should have been transposed on or before 30 April 2009 .

Source for EU figures: The European Commission's Internal Market Scoreboard N° 19.

All three EEA EFTA States were able to reduce their transposition deficits in relation to the previous Scoreboard. The average transposition deficit for the EEA EFTA States went down from 1.3% to 0.7 % (**figure 1**) which is the lowest deficit in history for the EEA EFTA States, and in view of the new transposition deficit target of 1.0%, a very satisfactory result. The EU average transposition deficit remains at 1.0%.

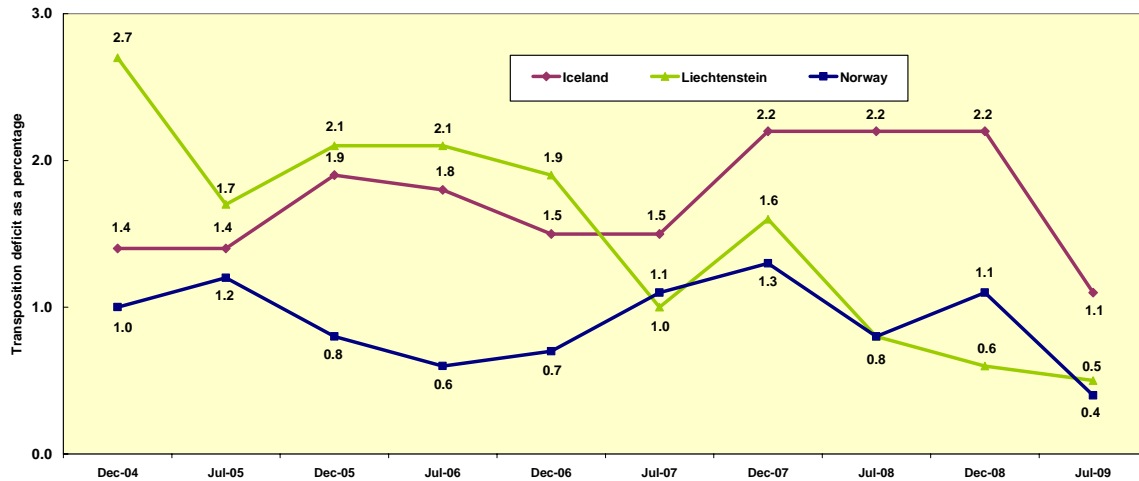
In absolute terms, the 0.7% deficit indicates that the EEA EFTA States are late with 34 notifications of national transposing measures, which is a reduction of 33 from the previous Scoreboard.

⁴ The EEA EFTA States' transposition deficit shows the proportion of Internal Market directives not notified to the EFTA Surveillance Authority as fully transposed.

⁵ Conclusion of the European Council summit in Brussels (8-9 March 2007).

2.2. Performance measured against the 1.0% interim target

Figure 2: With their lowest ever deficits, Liechtenstein and Norway comply with the 1.0% target, Iceland is getting very close to the target



Iceland’s transposition deficit went down since the previous Scoreboard from 2.2% to 1.1% corresponding to 19 directives not fully transposed on time. Even though Iceland was able to reduce their deficit in absolute terms by 18 directives, and is close to the 1% transposition deficit target, the State will have to continue to make efforts to achieve the target.

The transposition deficits of both Liechtenstein and Norway decreased to the lowest level ever. Since the previous Scoreboard, Liechtenstein’s transposition deficit decreased from 0.6% to 0.5%. In absolute terms the number of directives decreased by 2 directives. The deficit of 0.5% corresponds to 9 not fully transposed directives. Norway was able to reduce their transposition deficit from 1.1% to an excellent 0.4%. This corresponds to 6 directives not fully transposed, i.e. 13 non-transposed directives fewer than at the time of the previous Scoreboard.

2.3. How late are the EEA EFTA States in transposing directives?

Ensuring timely and correct transposition of directives is a continuous challenge. It requires a constant effort by the EEA EFTA States’ national administrations in order to keep pace with the incorporation of new directives into the EEA Agreement. Failure to do so may undermine the functioning of the Internal Market.

Delays in transposition are at times due to time-consuming legislative processes in the EEA EFTA States. However, directives are usually transposed relatively soon after the expiry of the time limits.

In March 2002, the European Council announced a “zero tolerance” for directives for which the transposition is overdue by two years or more.⁶ Similarly, such long overdue directives are of particular concern to the Authority.

⁶ European Council summit in Barcelona (15-16 March 2002).

It is important that the States ensure that implementation takes place in a timely manner. Although the EEA EFTA States' transposition deficit in April was much lower than at the time of the previous Scoreboard, the average delay in the transposition of directives went down only by 1.4 months, being now at 8.6 months. Whilst Liechtenstein and Norway were able to reduce their transposition delays significantly, by 7.5 and 2 months respectively, Iceland's transposition delay increased by 5.3 months.

Figure 5: EEA EFTA States' average transposition delay at 8.6 months

	Number of directives delayed					
	ISL		LIE		NOR	
Length of delay	Apr 09	Oct 08	Apr 09	Oct 08	Apr 09	Oct 08
Less than 6 months	7	11	6	2	2	9
6 to 12 months	3	13	1	4	1	3
12 to 24 months	3	6	2	1	0	2
Over 24 months	2	2	0	1	0	1
Average delay (in months) by 30 April 2009	14.7	9.4	6.1	13.6	5.0	7.0

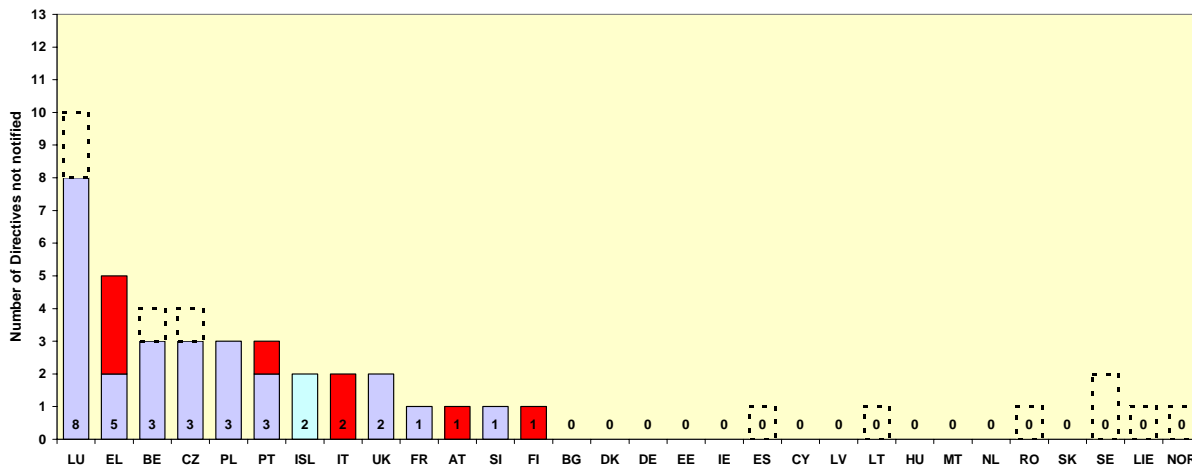
Note: Number of overdue Internal Market directives with a transposition deadline of 30 April 2009 for which no notification was received by 11 May 2009, broken down by the length of delay.

Most of the non-transposed directives in the EEA EFTA States were overdue by less than 6 months. However, Iceland still had two directives overdue by more than two years (**figure 5**). These were Directive 2002/30/EC on airport noise restrictions⁷ and Directive 2004/26/EC amending Directive 97/68/EC relating to measures against emission of pollutants from internal combustion engines in non-road mobile machinery.⁸

⁷ Infringement proceeding against Iceland for failure to implement the Directive 2002/30 on airport noise restrictions was initiated in March 2009.

⁸ The infringement case concerning the non-transposition by Iceland of Directive 2004/26/EC was referred to the EFTA Court on 20 February 2008. The judgment of the Court was rendered on 29 October 2008 (Case E-2/08).

Figure 6: Iceland still had two directives overdue by more than two years, Liechtenstein and Norway had none



dotted lines = decrease since Scoreboard 23 of directives overdue by two or more years
 red = increase since Scoreboard 23 of directives overdue by two or more years

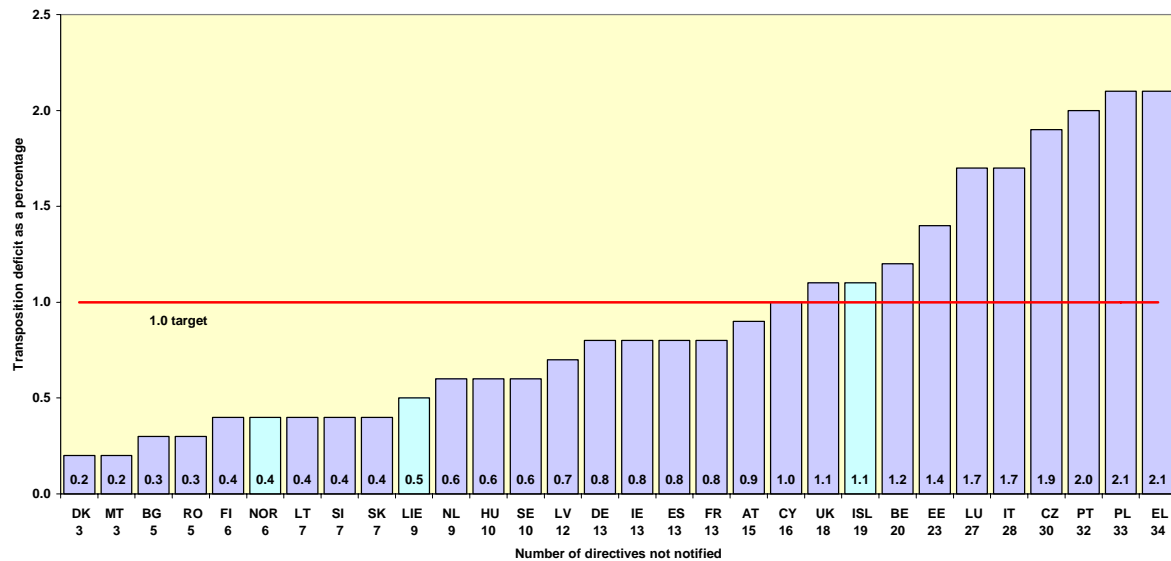
Note: Number of directives with a deadline for transposition into national law on or before 30 April 2007, which were not transposed by 11 May 2009.

Source for EU figures: The European Commission’s Internal Market Scoreboard N° 19.

2.4. EEA EFTA States are improving their position in all of the EEA

Out of the 30 EEA States, ten remain above the current 1.0% transposition deficit target, Iceland included. Out of the three EEA EFTA States, Liechtenstein and Norway are well below the deficit target of 1.0% (figure 7).

Figure 7: The position of the EEA EFTA States has improved from the time of the previous Scoreboard but Iceland still remains above the 1.0% target



Note: EEA comparison of transposition deficits.

Source for EU figures: The European Commission's Internal Market Scoreboard N° 19.

2.5. Conformity of legislation: Directives not correctly transposed

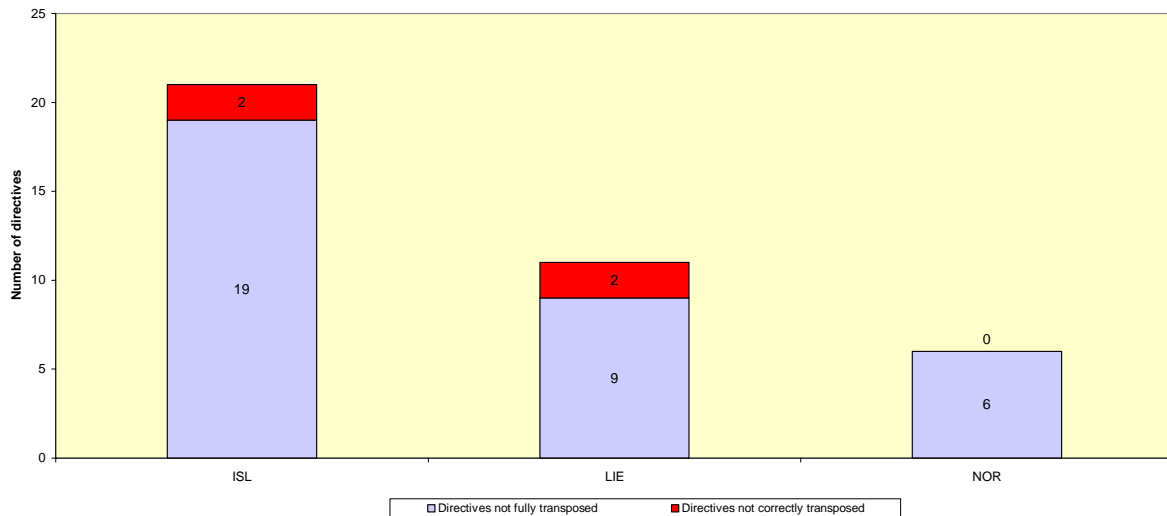
For the functioning of the Internal Market, correct transposition of directives is as crucial as transposition on time.

The transposition deficit figures do not indicate the quality of the national legislation. It is important to bear in mind that the transposition deficit figures presented above only indicate the failure by the EEA EFTA States to notify the implementation of directives at a given point in time. The quality of the national implementing legislation is only assessed at a later stage. Such conformity assessments may prompt the Authority to take further action if it finds that the notified measures do not ensure full and correct implementation.

Furthermore, failure to comply with the basic principles of the EEA Agreement itself, such as the free movement of goods, persons, services and capital, impairs the functioning of the Internal Market and might, therefore, also prompt action by the Authority.

About one third of the notified directives have been made subject to a systematic assessment by the Authority of conformity between the text of the directive and the notified national measures. The majority of such assessments are concluded without the need to resort to formal infringement proceedings.

Figure 8: Number of infringement cases concerning not correctly transposed directives is very low



Note: Number of Internal Market directives not yet communicated as having been fully transposed (transposition deficit) added to the number of directives transposed but for which an infringement proceeding for non-conformity has been initiated by the Authority (May 2009).

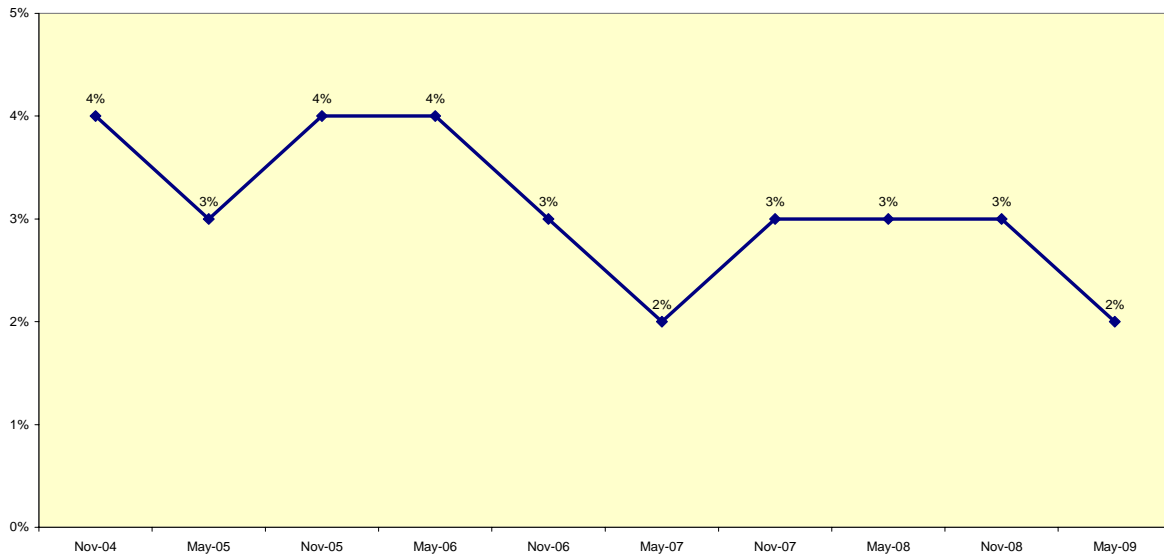
It appears from the above figure that the number of infringement proceedings against the EEA EFTA States concerning incorrect transposition of directives established on the basis of systematic conformity assessments is significantly lower than the number of outstanding directives.

2.6. Fragmentation of the Internal Market in the EEA EFTA States

Whenever one or more EEA States fail to transpose directives on time they leave a gap in the European Economic Area’s legal framework. In total, 2% of the directives in force in April 2009 have not yet been transposed in all three EEA EFTA States (**figure 9**). A fragmentation factor of 2% translates into 26 directives which have not been transposed by all three EEA EFTA States and that have, therefore, not achieved their full effect in the EEA EFTA States. The Internal Market is thus operating at 98% of its full potential in the EEA EFTA States.

The fragmentation factor in the EU Member States is 6%.

Figure 9: Fragmentation factor in the EEA EFTA States has gone down to 2%



Note: The so-called fragmentation factor records the percentage of the outstanding directives which one or more of the three EEA EFTA States have failed to transpose with the consequence that the Internal Market is not a reality in the EEA EFTA States in the areas covered by those directives.

The next chapter of the Scoreboard highlights the infringement proceedings initiated by the Authority, many of which relate to lack of conformity with or incorrect application of Internal Market rules.

3. INFRINGEMENT PROCEDURES

If the Authority considers that an EEA EFTA State has failed to fulfil an obligation under the EEA Agreement, it may initiate formal infringement procedures pursuant to Article 31 of the Surveillance and Court Agreement.⁹ Such infringement proceedings correspond to those initiated by the European Commission under Article 226 EC.

To the extent possible, the Authority endeavours to solve all matters by informal means, through contacts with the national administrations concerned. Formal infringement proceedings are opened, however, where an informal exchange of views fails to solve the problem at hand.

The opening of an infringement procedure provides an opportunity for a more formal dialogue between the Authority and the EEA EFTA State concerned. It should be noted that only the EFTA Court can declare that a breach of EEA law has occurred. Until the Court renders its judgment, the fact that an infringement procedure has been opened shows only that, in the Authority's opinion, the State concerned has failed to fulfil its obligations under the EEA Agreement. This should be kept in mind when interpreting the statistics on infringement procedures below.

Infringement cases can be divided into two categories. The first category relates to cases concerning lack of conformity with or incorrect application of EEA provisions, opened either on the basis of complaints or on the Authority's own initiative. This concerns, for example, situations in which the Authority, after having acknowledged transposition of a directive by an EEA EFTA State, concludes at a later stage that the national legislation is not in full conformity with the requirements of the relevant directive or that the EEA EFTA State otherwise does not comply with the EEA Internal Market rules and principles. When EEA legislation/rules are not correctly implemented or applied in practice, citizens and businesses are often deprived of their rights.

The second category of cases relates to late transposition, meaning that directives are not at all or not fully transposed into the national legislation of the EEA EFTA States within the set time limits. Infringement cases in this category (non-transposition cases) are generally clear-cut and, therefore, seldom the subject of legally complicated disputes between the Authority and the EEA EFTA State concerned.

Information on the infringement cases concerning non-timely transposition of regulations is included in Chapter 4 covering the issue of transposition of Internal Market regulations by the EEA EFTA States.

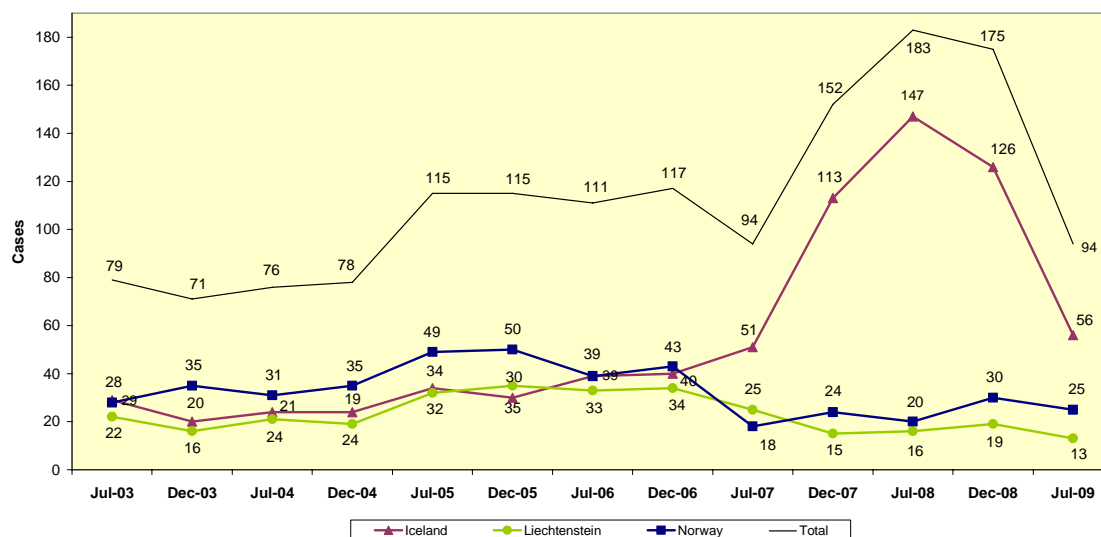
3.1. Evolution of the total number of infringement proceedings

On 1 May 2009, a total of 94 infringement cases were being pursued by the Authority (**figure 10**). This represents a staggering 81 cases fewer than at the time of the previous Scoreboard. The decrease in the number of infringement cases is mainly twofold: First, a large number of pending cases concerning non-incorporation of regulations by Iceland were closed following the full transposition and notification of the regulations by Iceland. Secondly, due to the significant improvement in the timely transposition of regulations,

⁹ Agreement on the Establishment of a Surveillance Authority and a Court of Justice.

fewer cases concerning non-incorporation of regulations were initiated since the previous Scoreboard.

Figure 10: Total number of infringement cases decreased significantly



Note: Total number of all open infringement proceedings against the three EEA EFTA States on 1 May 2009.

Of the 94 infringement cases pending in May 2009, 27 cases concerned incorrect implementation or application of Internal Market rules (see point 3.2) whereas 30 cases concerned non-timely transposition of directives (see point 3.3). The remaining 37 cases concerned non-timely transposition of regulations (see point 4.3).

3.2. Infringement proceedings due to lack of conformity with or incorrect application of Internal Market rules

3.2.1. Number of infringement proceedings

The overall number of infringement cases due to lack of conformity with or incorrect application of Internal Market rules decreased slightly since the previous Scoreboard (figure 11).

Figure 11: The number of infringement cases against the EEA EFTA States due to lack of conformity with or incorrect application of Internal Market rules

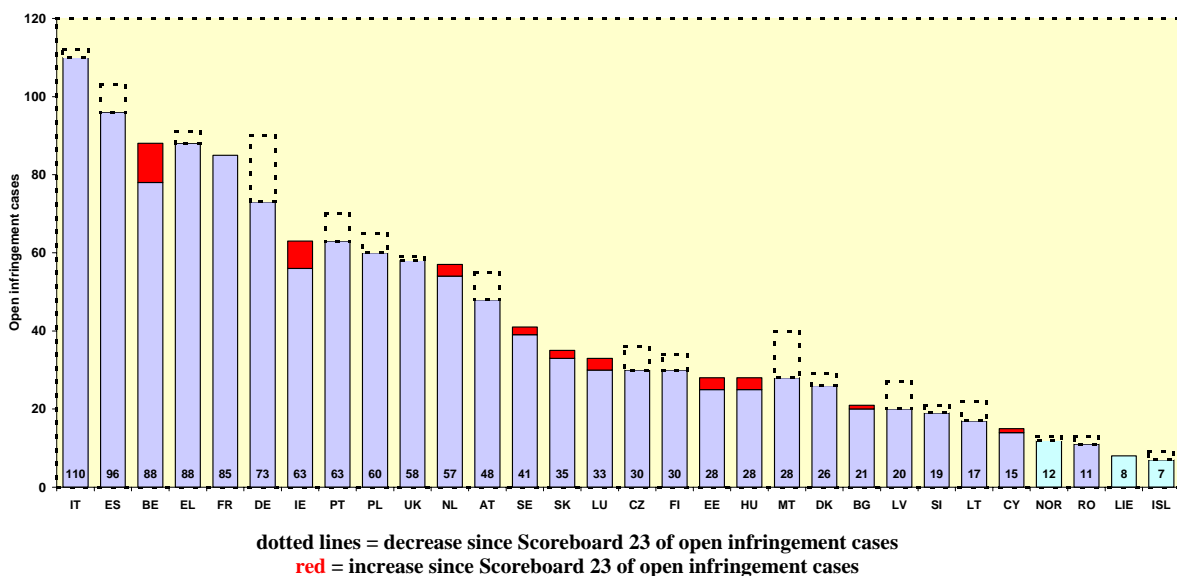
	ISL		LIE		NOR		EEA EFTA	
	Apr 09	Oct 08	Apr 09	Oct 08	Apr 09	Oct 08	Apr 09	Oct 08
Letter of formal notice	5	7	4	4	7	6	16	17
Reasoned opinion	2	2	2	4	5	7	9	13
Referral to EFTA Court	0	0	2	0	0	0	2	0
Total	7	9	8	8	12	13	27	30

Note: Pending infringement cases due to lack of conformity with or incorrect application, according to stage of infringement proceedings, on 1 May 2009.

In comparison to the EU 27, the number of infringement proceedings against the EEA EFTA States remained low (**figure 12**). Liechtenstein, with 8 cases, and Iceland, with 7 cases, had the lowest number of infringement proceedings in this category out of the 30 EEA States.

Between 1 November 2008 and 30 April 2009, two cases against Liechtenstein were referred to the EFTA Court. The cases concerned residence requirements imposed by Liechtenstein for lawyers, patent lawyers, trustees and auditors, and residence clauses contained in the Liechtenstein Banking Act and Ordinance.¹⁰

Figure 12: The number of EEA EFTA States’ infringement cases concerning lack of conformity with or incorrect application of Internal Market rules remains low compared to all EEA States



Note: Pending infringement cases due to lack of conformity with or incorrect application on 1 May 2009 compared to the situation in November 2008.

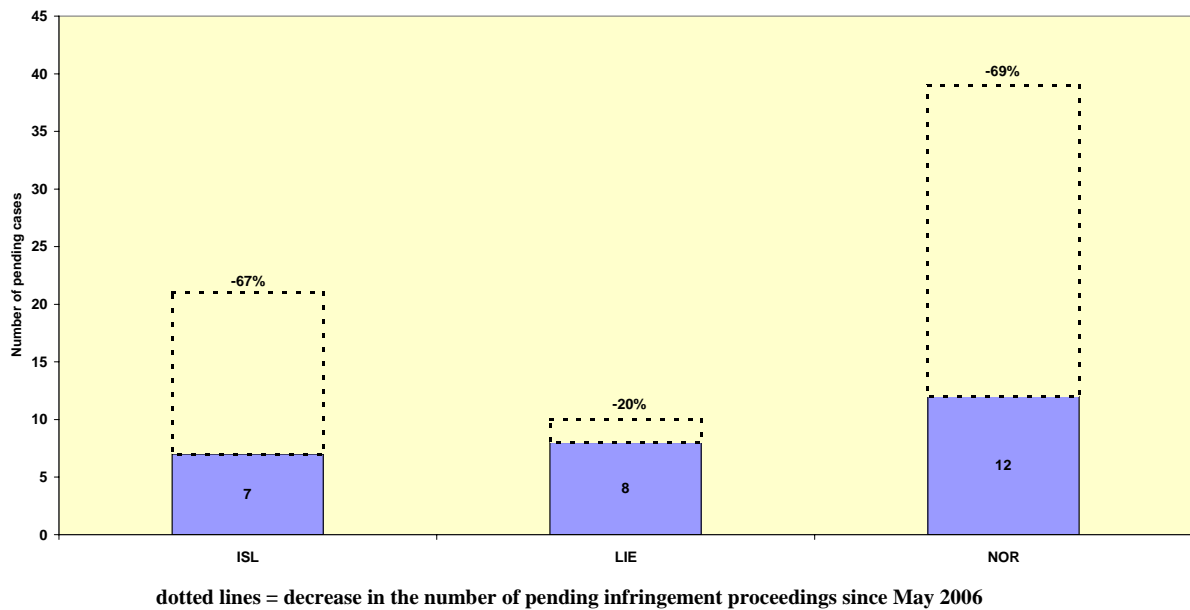
Source for EU figures: The European Commission’s Internal Market Scoreboard N° 19.

The Commission’s Internal Market Strategy 2003-2006¹¹ called on Member States to reduce the number of infringement proceedings against them by at least 50% by 2006. Although the number of infringement proceedings concerning the lack of conformity with or incorrect application of Internal Market rules against the EEA EFTA States has decreased only by 17% compared to the situation in 2003, since May 2006 the number of infringement proceedings against the EEA EFTA States has decreased by 52% (**figure 13**).

¹⁰ The infringement case against Liechtenstein concerning the residence requirements imposed by Liechtenstein for lawyers, patent lawyers, trustees and auditors and the infringement case against Liechtenstein concerning the residence clauses contained in the Liechtenstein Banking Act and Ordinance were jointly referred to the EFTA Court on 17 December 2008 (case E-1/09).

¹¹ COM (2003) 238, 7 May 2003.

Figure 13: The number of infringement proceedings against the EEA EFTA States has decreased since May 2006

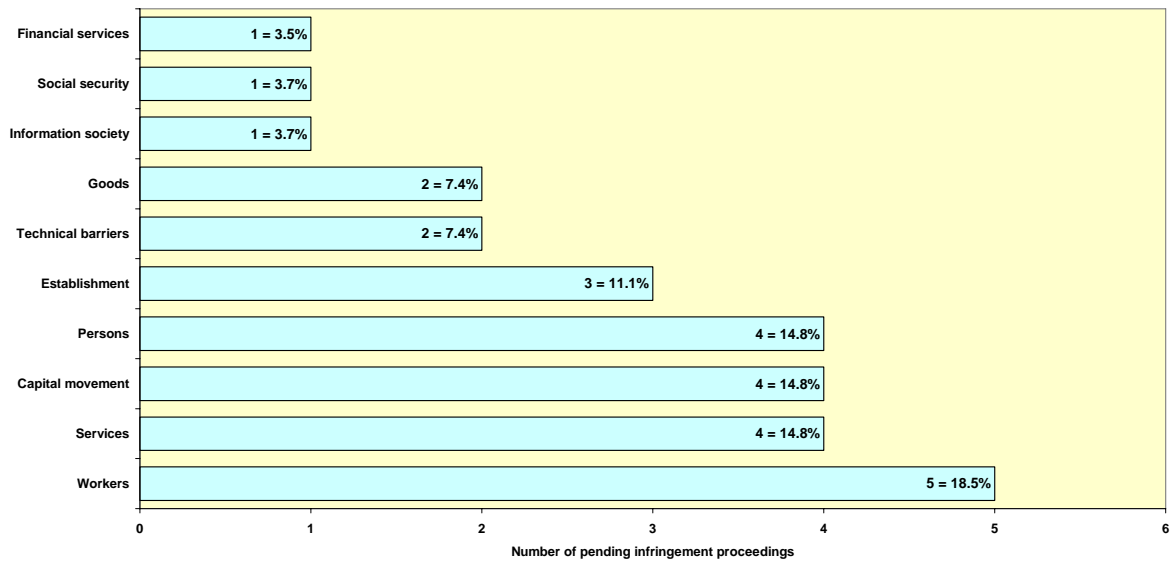


Note: Pending infringement proceedings due to lack of conformity with or incorrect application of Internal Market rules on 1 May 2009 compared to the corresponding figures on 1 May 2006 .

3.2.2. Breakdown of infringement proceedings per sector

Similar to the previous Scoreboard, the biggest number of infringement proceedings concerning the lack of conformity with or incorrect application of Internal Market concerned workers (including labour law), services, capital movements and persons.

Figure 14: Workers' sector (including labour law) accounts for the largest sector of infringement proceedings in the EEA EFTA States



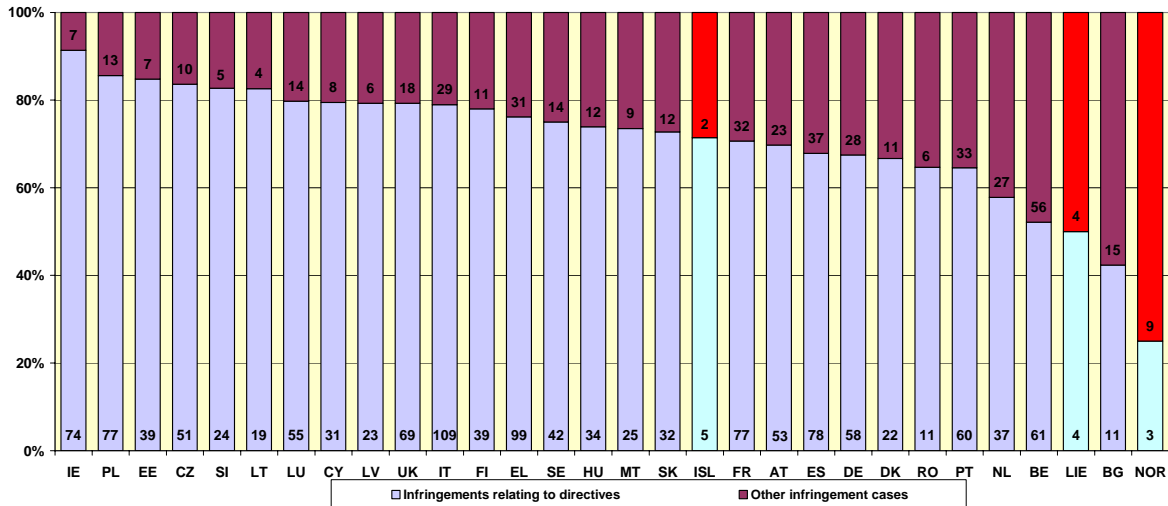
Note: Pending infringement proceedings due to lack of conformity with or incorrect application of Internal Market rules on 1 May 2009 divided by sector.

Undertakings and citizens may lodge a complaint with the Authority if they believe that they have not been able to exercise their rights under the EEA Agreement because of the failure by an EEA EFTA State to apply the EEA Agreement correctly. Compared to the previous Scoreboard, the number of pending infringement proceedings initiated as a result of a complaint went down from 11 to 8.

The 8 pending infringement proceedings initiated on the basis of complaints represent 30% of the 27 pending infringement proceedings concerning lack of conformity with or incorrect application of Internal Market rules. Six of these cases (75%) relate to Norway and two to Liechtenstein.

3.2.3. Breakdown of infringement proceedings by type

Figure 15: Slightly more proceedings against the EEA EFTA States concern infringements other than directives



Note: Breakdown of pending infringement proceedings due to lack of conformity with or incorrect application of Internal Market rules on 1 May 2009.

Figure 15 shows that infringement proceedings against the EEA EFTA States, on average, are almost equally divided between proceedings relating to the lack of conformity with directives and proceedings relating to incorrect application of Internal Market rules in regulations or provisions of the EEA Agreement (12 proceedings compared to 15). In contrast, the vast majority of infringement cases pursued by the European Commission against the EU Member States relate to directives.

3.3. Infringement proceedings concerning non-transposition of directives

The number of infringement cases for non-transposition of directives against the EEA EFTA States decreased by 42% (22 cases) from the time of the previous Scoreboard (figure 16).

Figure 16: The number of infringement cases against the EEA EFTA States due to non-transposition of directives decreased

	ISL		LIE		NOR		EEA EFTA	
	Apr 09	Oct 08	Apr 09	Oct 08	Apr 09	Oct 08	Apr 09	Oct 08
Letter of formal notice	5	20	2	10	4	12	11	42
Reasoned opinion	9	7	2	0	5	1	16	8
Referral to EFTA Court	1	1	1	1	1	0	3	2
Total	15	28	5	11	10	13	30	52

Note: Pending EEA EFTA States infringement cases due to non-transposition of directives, according to stage of infringement proceedings, on 1 May 2009.

Between 31 October 2008 and 30 April 2009, three new cases, one against each EEA EFTA State, concerning non-transposition of directives were referred to the EFTA Court. The cases against Iceland and Liechtenstein both concerned failures to implement Directive 2005/68 on reinsurance.¹² The case against Norway concerned a failure to implement Directive 2002/91 on the energy performance of buildings in Norway.¹³

¹² The infringement case concerning the non-transposition by Liechtenstein of Directive 2005/68 was referred to the EFTA Court on 27 March 2009 (case E-3/09). The infringement case concerning the non-transposition by Iceland of Directive 2005/68 was referred to the EFTA Court on 30 April 2009 (case E-5/09).

¹³ The infringement case concerning the non-transposition by Norway of Directive 2002/91/EC was referred to the EFTA Court on 12 November 2008. The judgment of the Court was rendered on 13 May 2009 (Case E-6/08).

4. TRANSPOSITION OF INTERNAL MARKET REGULATIONS INTO NATIONAL LAW

4.1. Transposition of regulations “as such” by the EEA EFTA States

A particular situation arises with regard to the incorporation of Internal Market regulations into the EEA Agreement. According to Article 7 of the EEA Agreement, regulations that are incorporated into the Agreement shall “as such” be made part of the internal legal order of the EFTA States. Pursuant to the constitutional law of the three EEA EFTA States, regulations become part of Liechtenstein’s internal legal order, due to its monistic legal tradition, once they have been incorporated into the EEA Agreement through an EEA Joint Committee decision, whereas Iceland and Norway are obliged to adopt legal measures in order to make regulations “as such” part of their internal legal orders.

Due to the fact that regulations do not contain a provision setting out an obligation to notify implementing measures (as directives do), the Authority systematically requests that, pursuant to Article 6 of the Surveillance and Court Agreement, Iceland and Norway notify the national measures taken to transpose regulations.

4.2. Delays in the transposition of regulations

As explained above, regulations only become part of the internal legal order of Iceland and Norway following an act of incorporation by the national legislative body. This usually requires a prior translation of regulations into the national language, followed by a publication of the translated regulations in the EEA Supplement to the Official Journal.

In recent years, the delays in the translation and publication of regulations in Icelandic have created a backlog of overdue regulations in Iceland. However, a positive trend can be seen in the transposition of regulations by Iceland: although 42 new regulations were incorporated into the EEA Agreement between 31 November 2008 and 30 April 2009, Iceland managed to reduce the number of outstanding regulations during the same period by 49 regulations. Consequently, on 11 May 2009, Iceland had 38 overdue regulations which had not been notified as fully transposed into the national law. The corresponding number of regulations for Norway was 7.¹⁴

4.3. Infringement proceedings concerning failure to transpose regulations in a timely manner

The Authority considers the timely transposition of regulations in Iceland and Norway to be necessary for the smooth functioning of the Internal Market. Consequently, the enforcement of the non-transposed regulations is now handled swiftly and systematically by the Authority. Out of the 94 infringement cases pending in May 2009 before the Authority, 39% concerned non-timely transposition of regulations by Iceland (34 cases) and Norway (3 cases).

¹⁴ These numbers do not include regulations in the field of statistics (Annex XXI to the EEA Agreement).

Despite the significant decrease in the number of infringement cases against Iceland, 10 new infringement cases were opened against Iceland between the time of the previous Scoreboard and this Scoreboard. One new case was opened against Norway. Between 31 October 2008 and 30 April 2009, no new cases concerning non-transposition of regulations were referred to the EFTA Court.

Figure 17: The number of infringement cases against Iceland due to non-transposition of regulations decreased significantly

	ISL		NOR		EEA EFTA	
	Apr 09	Oct 08	Apr 09	Oct 08	Apr 09	Oct 08
Letter of formal notice	12	58	2	4	14	62
Reasoned opinion	22	30	1	0	23	30
Referral to EFTA Court	0	1	0	0	0	1
Total	34	89	3	4	37	93

Note: Pending infringement cases against Iceland and Norway due to non-transposition of regulations, according to stage of infringement proceedings, on 1 May 2009.

The Authority, being determined to enhance the transparency and level of public information about the performance of the EEA EFTA States in transposing regulations, will continue monitoring the transposition situation carefully and reporting on the situation to the public.

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