

# INTERNAL MARKET SCOREBOARD

*February 2024*

**No. 53**

EEA EFTA STATES

## 53<sup>rd</sup> Internal Market Scoreboard of the EFTA States

The Internal Market aims at guaranteeing the free movement of goods, capital, services, and people across the EEA. A functioning internal market stimulates competition and trade for businesses, improves efficiency, raises quality and helps cut prices for consumers. It also improves living and working conditions for all citizens and strengthens environmental standards. The purpose of monitoring the Member States' timely compliance with EEA law is to ensure the full benefits of the EEA agreement for all stakeholders.

### **Main Findings** *(situation as at 30 November 2023)*

- The average transposition deficit for directives for the EEA EFTA States decreased to 0.8% although only Norway and Liechtenstein reduced its number of overdue directives since the last Scoreboard in December 2022. Liechtenstein, remains the only EEA EFTA State under the 0.5% Scoreboard benchmark. Iceland now has four directives which have been outstanding for more than two years, and Norway two, one of which is approaching six years overdue.<sup>1</sup> Missing notifications for these long overdue directives account for 30% of the overall transposition deficit.
- **Iceland's** transposition deficit for directives increased since the December 2022 Scoreboard from 1% to 1.6%, with the number of outstanding directives rising from eight to thirteen. 30% of these directives fall in the field of environment, two of which have been outstanding for more than two years.
- The number of regulations which had not been fully transposed into national law on time by Iceland decreased from 185 to 148 since the June 2023 Scoreboard, resulting in a transposition deficit for regulations of 3.5%. 87 of these outstanding regulations fall in the field of food & feed safety, animal health & welfare, with a further 31 cases in the financial services sector and 17 cases in the field of transport. When looking back to four years ago, when the outstanding regulations for Iceland concerning financial services stood at an all-time high of 206 overdue acts, progress continues to be made in this field however overdue acts concerning food & feed safety, animal health & welfare have remained high over the past two years.
- **Norway** halved its number of overdue directives, from 12 to six since the December 2022 Scoreboard, meaning a decrease in its transposition deficit from 1.5% to 0.8%. Two of these directives however have been outstanding for more than two years, one of which, in the social security sector, is in fact approaching six years overdue.

<sup>1</sup> In line with the European Commission, where in March 2002 Heads of State and Government set a target of 'Zero tolerance' for delays of 2 years or more in transposing directives, ESA calls on the EEA EFTA States to also meet this zero tolerance target.

- The number of regulations which had not been fully transposed into national law by Norway decreased from 45 to 23 since the June 2023 Scoreboard, resulting in a transposition deficit for regulations of 0.5 %, Norway's lowest number of outstanding regulations since the June 2020 Scoreboard. 65% of these outstanding regulations fall in the transport sector, with a further 22% in the goods – TBT sector.
- **Liechtenstein** has reduced its deficit is from 0.4% to a nearly perfect score, of 0.1% with one directive outstanding. This directive is currently only one month overdue, and Liechtenstein remains the only EEA EFTA State to fall below the 0.5% target.

In comparison, huge improvements have been made within the EU, with the average deficit among the EU Member States decreasing from 1.1 to 0.7%. The EEA EFTA States' average at 0.8% therefore, is now higher than the EU-27 average. 11 of the 27 EU Member States met the 0.5% benchmark with only four EU Member States sitting above the original 1% target.

- The Authority has seen a decrease in the total number of infringement cases at 95 (down from 130 since the December 2022 Scoreboard). Both Iceland and Norway reduced its overall number of infringement cases, 64 cases relate to Iceland, a decrease of 30 cases since the December 2022 Scoreboard, and Norway decreased from 33 to 28. Three cases relate to Liechtenstein, the same as at the time of the December 2022 Scoreboard.
- Of the above-mentioned total number of pending infringement cases (95), 49 of these cases, and making up 52% of all infringement cases, concern the late transposition of directives or regulations, with 46 cases (48%), concerning the incorrect implementation and application of EEA law.
- The EFTA States must increase their efforts to ensure timely compliance with EFTA Court judgments. For those cases where the EFTA States still have to comply with an EFTA Court judgment, meaning the case remains unresolved at the cut-off date of this Scoreboard, the average time that had lapsed since the court judgment was 10.5 months.

The European Commission has taken the decision to publish only one annual Internal Market Scoreboard, taking stock of the situation as at the end of November each year. The EFTA Surveillance Authority will continue to publish two Internal Market Scoreboards per year. One will look at the situation in the EFTA Member States as at the end of November each year (“December Scoreboard”) and the other will look at the situation as at the end of May of each year (“June Scoreboard”).

This Internal Market Scoreboard (No 53), reports on the status of the EFTA Member States with that of the EU Member States and takes into account all transposition notifications made by 5 December 2023 for directives and regulations with a transposition deadline on or before 30 November 2023.

## 1 Transposition of Internal Market directives into national law

The Internal Market is a key driver of growth and jobs. The EEA States need to transpose Internal Market legislation into their national law within the agreed deadlines. This is important, not only to achieve the policy objectives set out in the relevant legislation but also to protect the homogeneity of the Internal Market. This is why it is essential for all the EFTA States to display good transposition records<sup>2</sup>.

The transposition deficit indicates how many directives and regulations the EEA States have failed to communicate as transposed on time. In line with the benchmark used by the European Commission (Communication on the Single Market at 30 published in March 2023), ESA calls on the EEA EFTA States to limit the transposition deficit to 0.5%.

### 1.1 The EFTA States’ performance

The average transposition deficit for directives for the EFTA States decreased to 0.8%, since the last Scoreboard in December 2022<sup>3</sup>, however only Liechtenstein falls below the 0.5% benchmark, the same benchmark used by the European Commission (2011 Communication on the Single Market Act and the Single Market at 30 Communication published on 16 March 2023)<sup>4</sup>. **(Figure 1)**

25% of all outstanding directives fall in the environment sector, with a further 15% concerning transport. Iceland now has four directives that have been outstanding for more than two years in the fields of company law and environment-waste. One of these directives, falling under environment-waste has also been outstanding by Norway for more than two years, along with another directive in the social security sector which is now approaching six years overdue.

Iceland’s transposition deficit for directives increased since the December 2022 Scoreboard from 1% to 1.6%, with the number of outstanding directives rising from eight to thirteen.

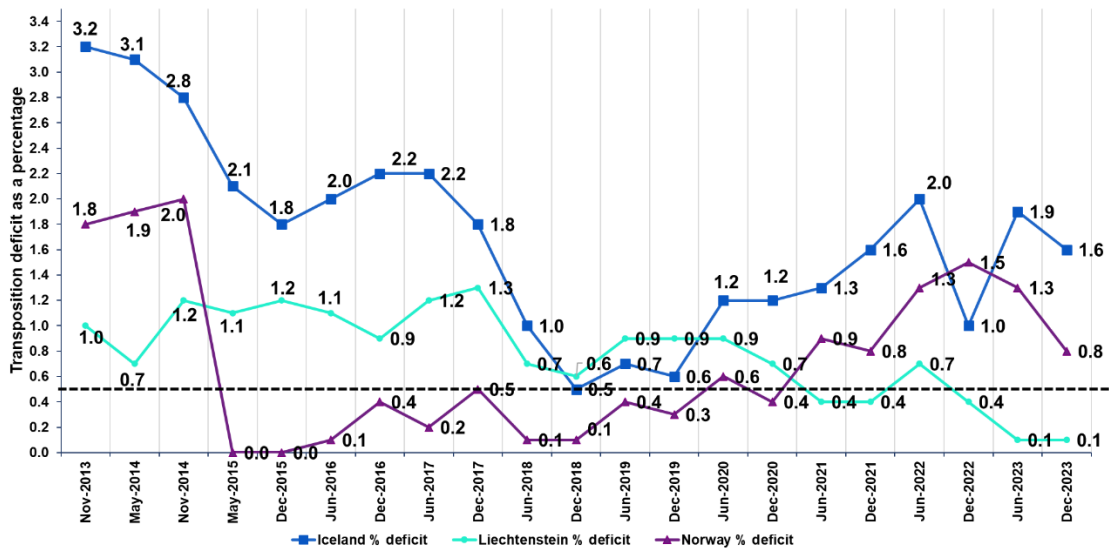
<sup>2</sup> The findings regarding the transposition deficits of the EFTA States take into account the 799 internal market relevant directives that were incorporated into the EEA Agreement and were in force on 30 November 2023.

<sup>3</sup> The comparison here is made with the situation on 1 December 2022 (Scoreboard 51) as these are the figures last officially reported by the European Commission, and comparable figures with the European Commission are also included in the Scoreboard).

<sup>4</sup> [2011 Communication on the Single Market Act](#) and [Single Market at 30 Communication 2023](#)

Norway decreased its transposition deficit from 1.5% to 0.8% since the time of the previous Scoreboard in December 2022, halving the number of outstanding directives from 12 to six. Two of these directives however have been outstanding for more than two years, one of which, in the social security sector, is in fact approaching six years overdue.

Liechtenstein’s transposition deficit decreased from 0.4%, to 0.1% reflecting the fact that one directive has yet to be transposed, however at the time of this current Scoreboard, the delay on this directive stands only at one month. Liechtenstein is currently the only EEA EFTA State falling below the 0.5% deficit target.

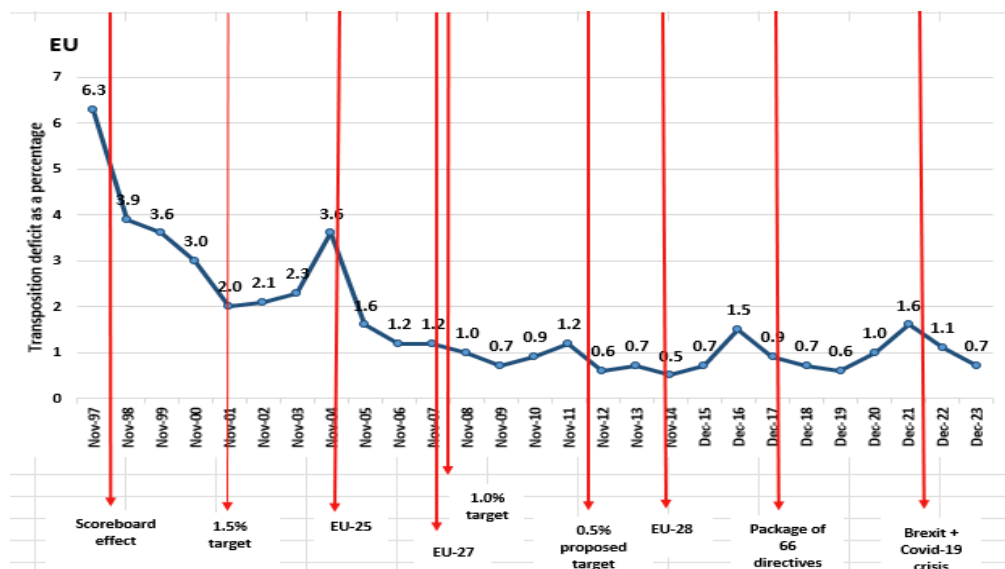


**Figure 1: EFTA States’ transposition deficit over the past 10 years**

Transposition deficit for directives that should have been transposed on or before 30 November 2023

## 1.2 The EEA EFTA States’ performance in comparison to the EU States

In comparison, the average deficit among the EU Member States also decreased, from 1.1% in December 2022 to 0.7%. (**Figure 2**).



**Figure 2: EU States’ transposition deficit**

Liechtenstein, with the near perfect score, along with one EU Member State, with one directive outstanding, has the least number of non-implemented directives, and is the only EEA EFTA Member State to fall under the 0.5% target.

Norway<sup>5</sup> now finds itself mid-table, and at 0.8% no longer meets the 0.5% target. Iceland, at 1.6% and at the high end of the table<sup>5</sup>, falls in the top four of all EEA Member States with the highest deficit and is also way above the 0.5% target. (Figure 3).

11 EU Member States met the 0.5% target proposed by the Commission in comparison with seven EU Member States a year ago.

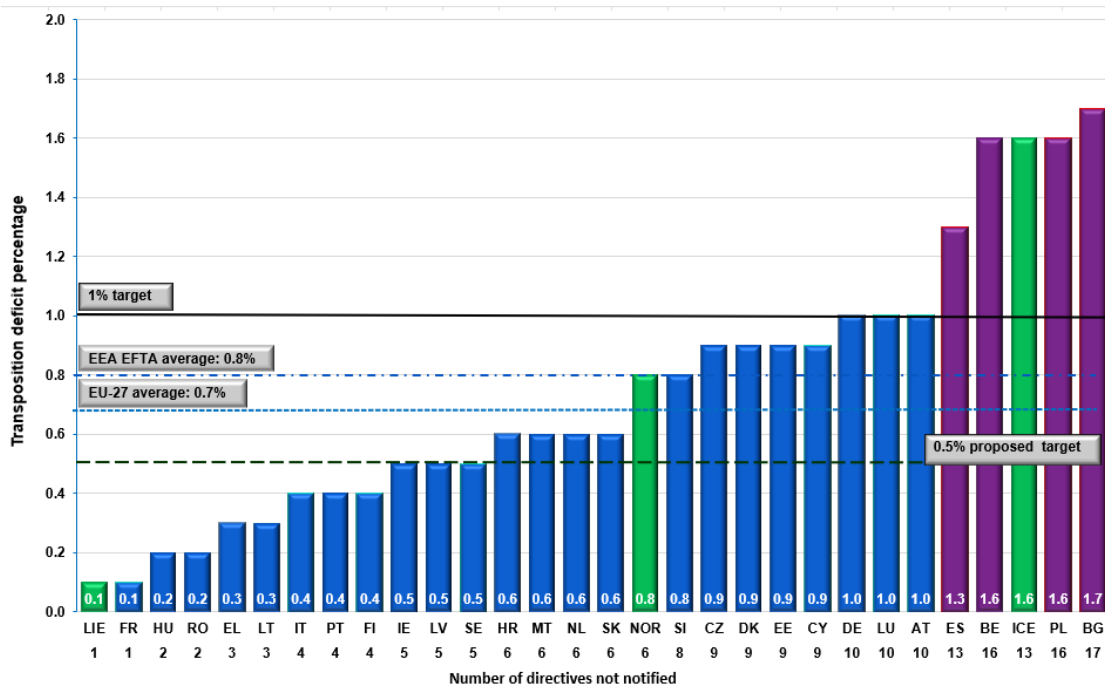


Figure 3: Comparison of EEA EFTA States’ and EU States’ transposition deficit

20 EU Member States have decreased their number of outstanding directives, with four remaining the same and three EU Member States having increased the number of non-implemented Directives. Looking at the same time-frame for the EEA EFTA Member States, comparing the December 2023 figures with December 2022, not only has Iceland increased the number of non-implemented Directives but now also equals the highest increase in outstanding Directives with one EU Member State. Both Liechtenstein and Norway decreased their number of outstanding directives. (Figure 4).

These findings for the EEA EFTA States take into account the 799 directives that were incorporated into the EEA Agreement and were in force on 30 November 2023. The corresponding figure for the EU is 1001 Internal Market directives. This difference is due to the fact that some directives fall outside of the scope of the EEA Agreement, or because typically directives enter into force in the EU before they are incorporated into the EEA Agreement, and consequently are also repealed in the EU before they are repealed under the EEA Agreement. Any comparison between the EEA EFTA States and the EU Member States in this document has therefore to be made with this in mind.

<sup>5</sup> The reason that the transposition deficit percentages for the EFTA States are higher than the EU States with the same amount of outstanding directives is due to the difference in the number of directives in force in the EU and the EEA which is used for the deficit calculations.

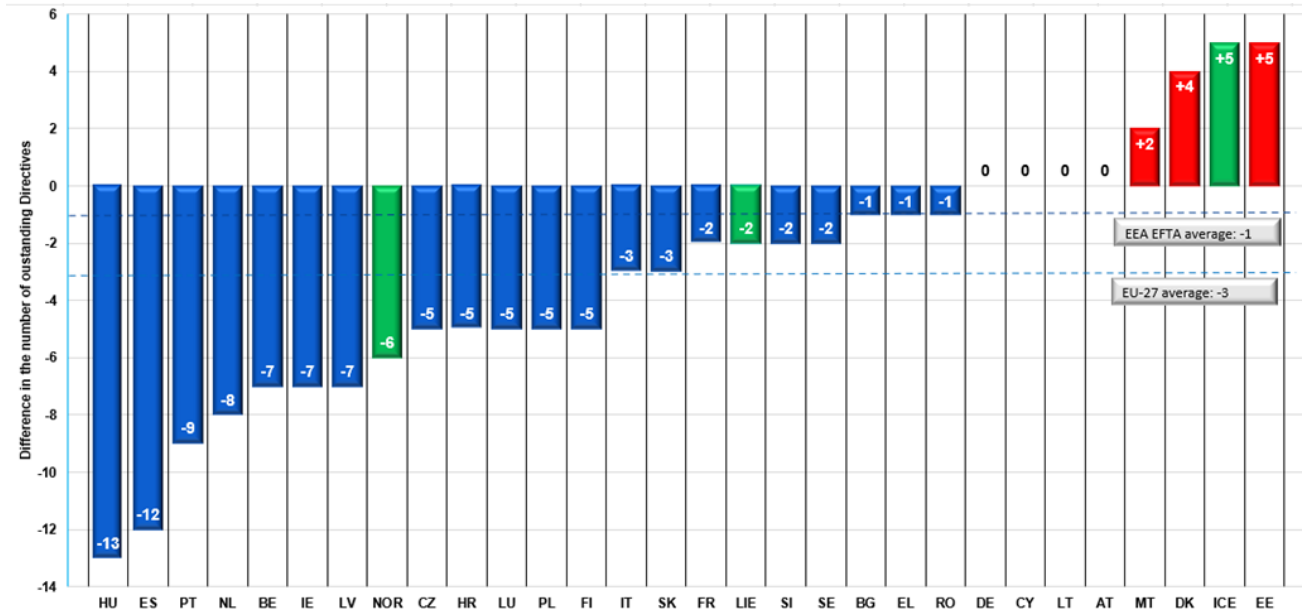


Figure 4: Difference in the number of outstanding directives since the December 2022 Scoreboard - EEA EFTA States and EU States

### 1.3 Incompleteness rate of the Internal Market in the EFTA States with regard to directives

The incompleteness rate is an overall indicator of gaps in the EEA framework. Whenever one or more EEA States fail to transpose a directive on time, this leaves a gap, meaning that instead of covering all EEA States, the internal market remains fragmented. Consequently, the economic interests of all EEA States are affected even if only one EEA State does not deliver on time.

The incompleteness rate<sup>6</sup> records the percentage of directives which one or more of the three EFTA States have failed to transpose. In total, 2% of the directives applicable in the EFTA States on 30 November 2023 had not been transposed by at least one of the three EFTA States (Figure 5).

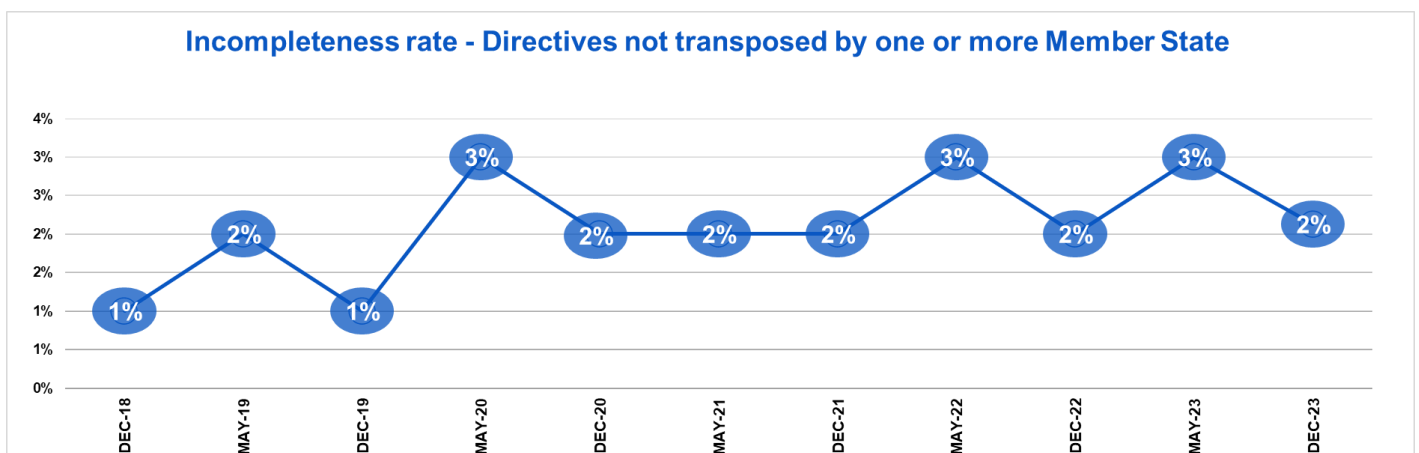
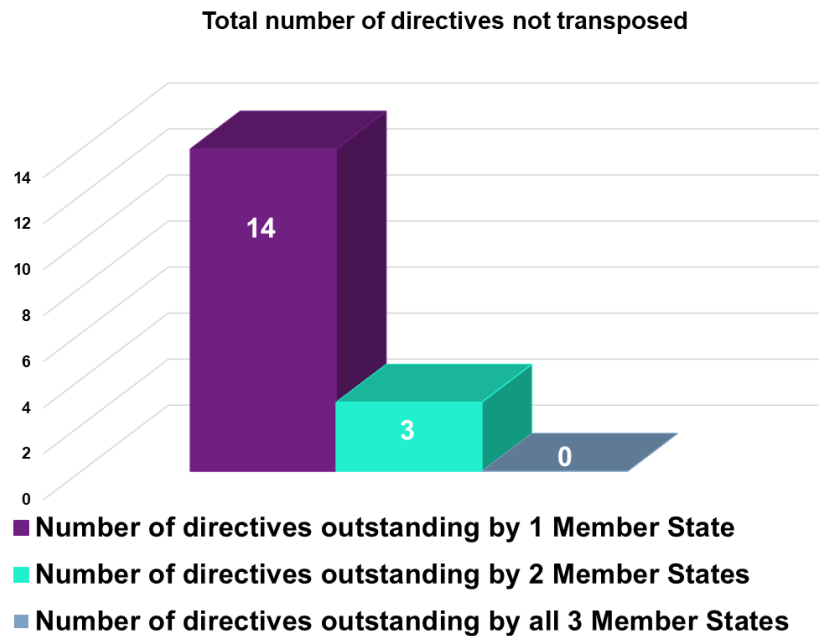


Figure 5: Incompleteness rate in the EEA EFTA States (Directives)

<sup>6</sup> The incompleteness rate records the percentage of the outstanding directives which one or more of the three EFTA States have failed to transpose with the consequence that the Internal Market is not complete in the EFTA States in the areas covered by those directives

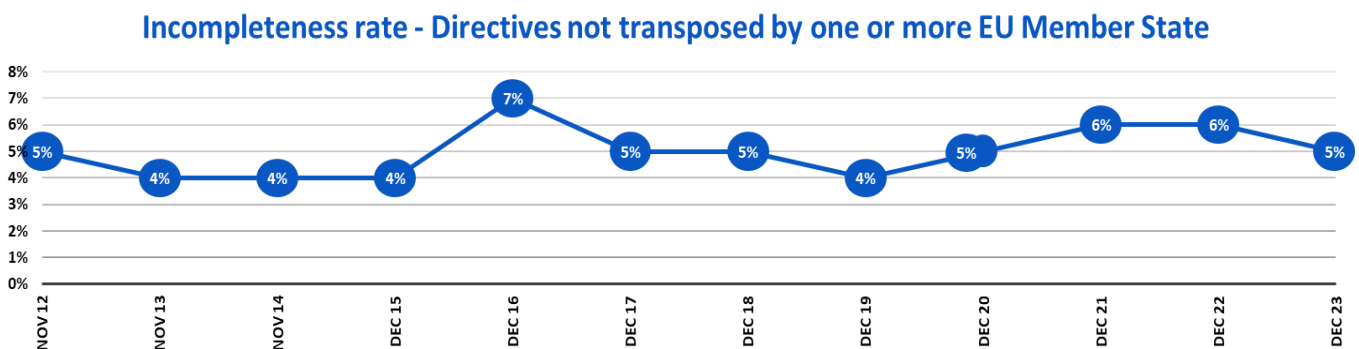


The incompleteness rate of 2% translates into 17 directives (**Figure 6**) that had not been transposed by one or more of the EFTA States and which had therefore, not achieved their full effect in the EFTA States. The three directives outstanding by two Member States, fall in the fields of environment - waste, energy and mutual recognition - professionals.



**Figure 6: Number of directives outstanding by one or more Member State**

The incompleteness rate in the 27 EU Member States has reduced to 5% since the December 2022 Scoreboard, meaning a total of 46 directives have not been transposed in at least one EU Member State, and therefore, for the sectors concerned, the Single Market is not yet a reality. (**Figure 7**)



**Figure 7: Incompleteness rate in the EU-27 States (Directives)**

When the transposition delays are broken down by sector, the pattern of implementation varies between the EFTA States. (**Figure 8**)



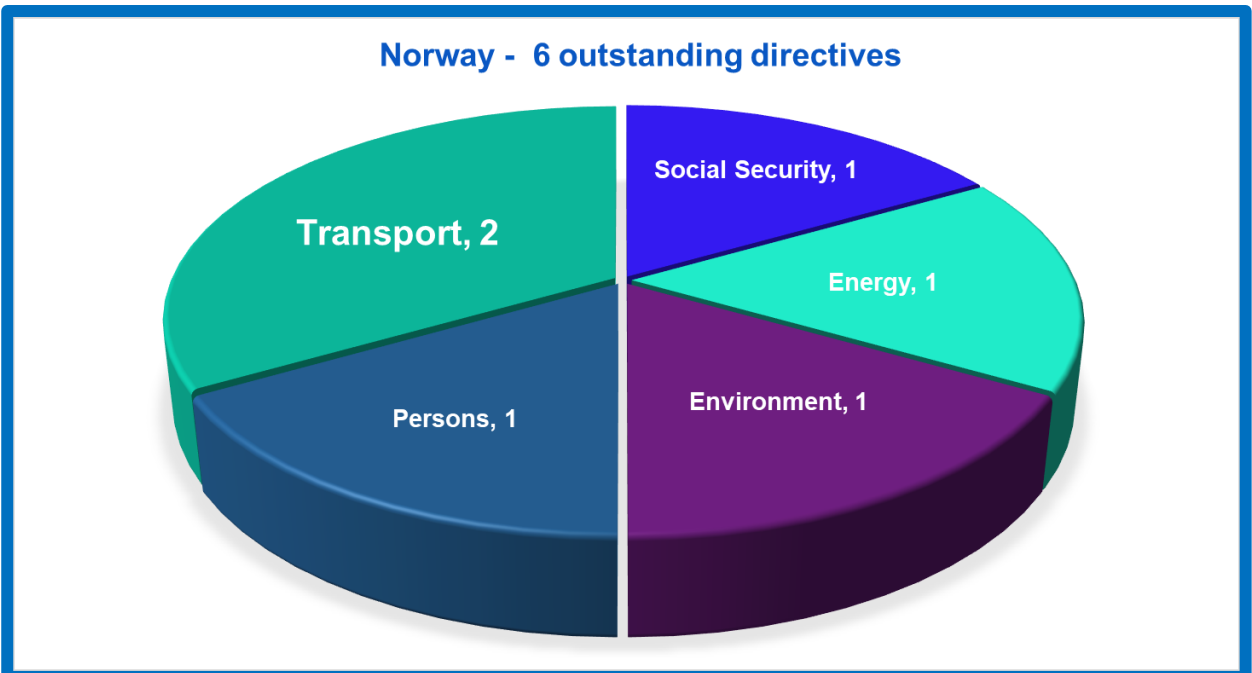
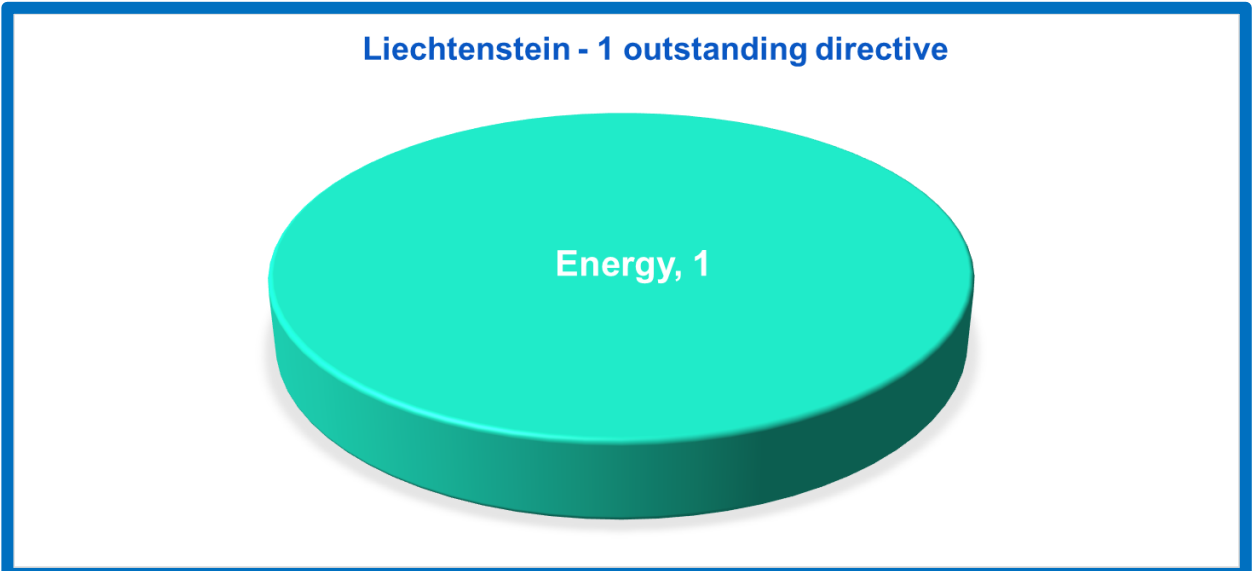


Figure 8: Outstanding directives broken down by sector in each EFTA State as at 30 November 2023

### 1.4 Performance indicators

New to this Scoreboard, is an overview of the performance of EEA EFTA Member States relating to all transposition concerning directives, showing a comparison with the EU-27 Member States (**Figure 9**)

The Performance Indicators (**Figure 9**) combine the most relevant data to provide a better overview of compliance in transposing single market directives and include a comparison with the EU Member States. The table shows that a good result on the transposition deficit – which is seen as a key indicator – does not necessarily reflect the overall performance. Liechtenstein however is the only Member State from all the EEA Member States to have green cards across all values. Additionally, the duration of infringement proceedings for late transposition of Directives, is significantly lower in the EEA EFTA Member States, in comparison with the EU-27 Member States, and meets the EU’s target of 12 months from the sending of the letter of formal notice to the resolution of the case, or referral to court<sup>7</sup> (**Figure 10**). Cases referred to the EFTA Court are removed from these figures.

	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	EU average	ICE	LIE	NOR	EEA EFTA average
[1]	1.6%	1.7%	0.9%	0.9%	1.0%	0.9%	0.5%	0.3%	1.3%	0.1%	0.6%	0.4%	0.9%	0.5%	0.3%	1.0%	0.2%	0.6%	0.6%	1.0%	1.6%	0.4%	0.2%	0.8%	0.6%	0.4%	0.5%	0.7%	1.6%	0.1%	0.8%	0.8%
[2]	-7	-1	-5	+4	0	+5	-7	-1	-12	-2	-5	-3	0	-7	0	-5	-13	+2	-8	0	-5	-9	-1	-2	-3	-5	-2	-3	+5	-2	-6	-4
[3]	1	5	2	1	2	3	2	2	4	0	2	1	1	2	1	1	2	2	1	2	6	3	1	0	3	2	2	2	4	0	2	2
[4]	13.1	15.5	15.3	16.8	19.9	16.6	20.8	40.6	21.6	11.2	16.8	16.8	15.1	17.7	12.1	10.1	33.1	25.6	16.6	12.3	19.1	26.3	22.5	9.7	15.6	15.9	17.2	18.3	13.1	1.0	21.2	11.8
[5]	1.2%	1.6%	1.7%	0.9%	1.8%	1.1%	1.5%	0.9%	1.3%	1.3%	1.1%	1.4%	0.9%	0.4%	0.7%	0.5%	2.3%	0.4%	1.2%	1.4%	1.5%	0.8%	1.2%	0.8%	1.3%	1.0%	0.8%	1.2%	0.1%	0.1%	0.1%	0.1%
[6]	15.3	14.4	19.9	12.1	21.5	18.0	17.0	17.4	19.5	20.9	17.8	16.9	16.5	16.0	15.6	16.3	26.1	15.1	23.9	18.4	19.5	18.8	20.7	20.1	18.5	15.3	17.8	17.9	9.5	0	8.5	6

- [1] Transposition deficit
- [2] Change over the last 12 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] Conformity deficit
- [6] Duration of infringement proceedings for late transposition (in months)

Indicator values			
[1]	≤ 1%	/	> 1%
[2]	decrease	no change	increase
[3]	0	/	> 0
[4] & [5]	< average -10%	average 10%	> average +10%
[6]	≤ 12 months	> 12 months ≤ 18 months	> 18 months

Figure 9: Performance indicators – comparison with EU

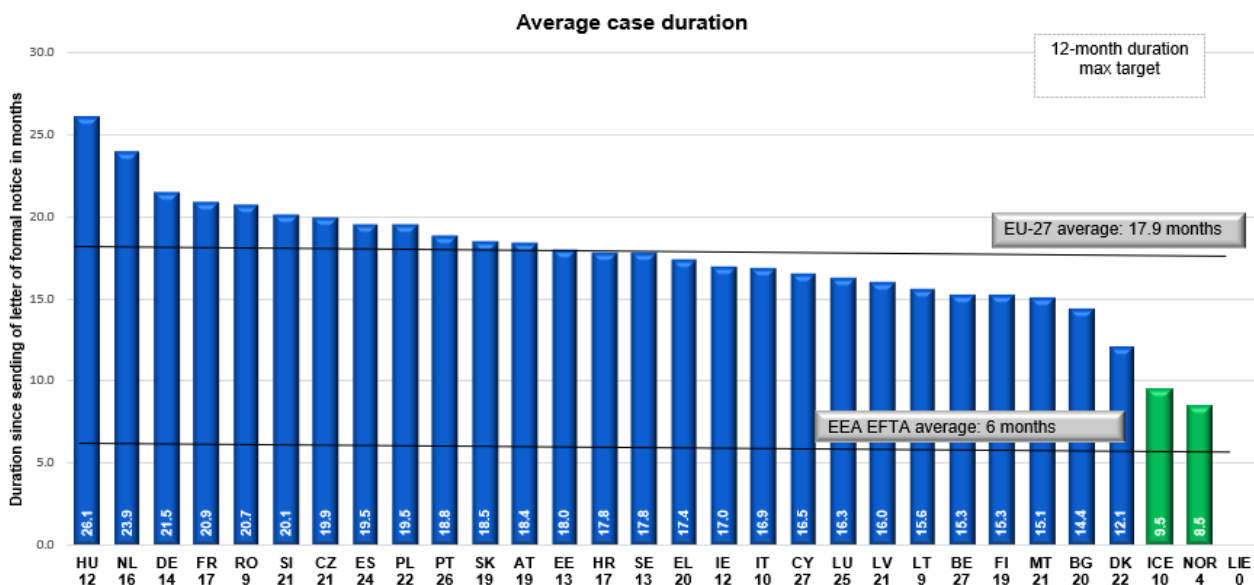


Figure 10: Duration of infringement cases – Directives excluding cases referred to court – comparison with EU

<sup>7</sup> Single Market at 30 Communication 2023

## 2 Transposition of regulations by the EFTA States

It follows from Article 7 of the EEA Agreement that regulations incorporated into the Agreement shall “as such” be made part of the internal legal order of the EFTA States.

Pursuant to its monistic legal tradition, regulations become part of Liechtenstein’s internal legal order once they have been incorporated into the EEA Agreement through an EEA Joint Committee decision and are published. Iceland and Norway are, on the other hand, obliged to adopt legal measures in order to make regulations “as such” part of their internal legal orders.

### 2.1 Delays in the transposition of regulations

The timely incorporation of regulations is as important as that of directives in ensuring the completeness of the internal market.

On 30 November 2023, 4.230 internal market relevant regulations incorporated into the EEA Agreement were in force. Of these, there were 148 regulations that Iceland had not notified as having been incorporated into its national law. This is a decrease in outstanding regulations, from 185 at the time of the last Scoreboard in June 2023, representing a transposition deficit of 3.5%. 59% of these outstanding regulations fall in the food & feed safety, animal health & welfare sector, with a further 21% in the financial services sector.

For Norway, the number of regulations not notified as incorporated into national law decreased from 45 to 23 since the June 2023 Scoreboard, representing a transposition deficit for regulations of 0.5%, Norway’s lowest number of outstanding regulations since the June 2020 Scoreboard. **(Figure 11)** 65% of these outstanding regulations fall in the transport sector, with a further 22% in the goods – TBT sector.

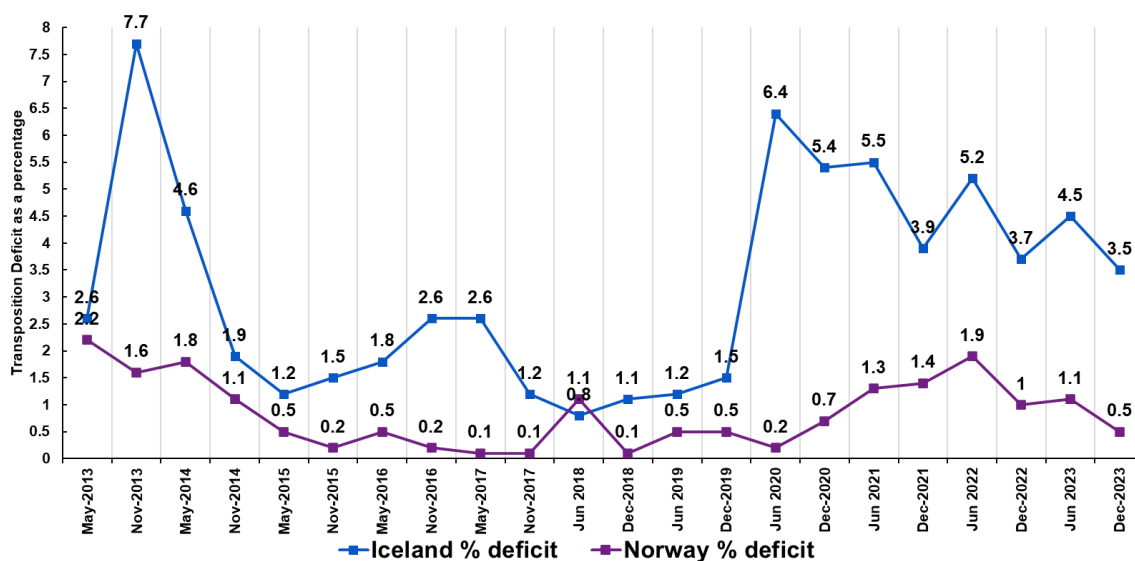


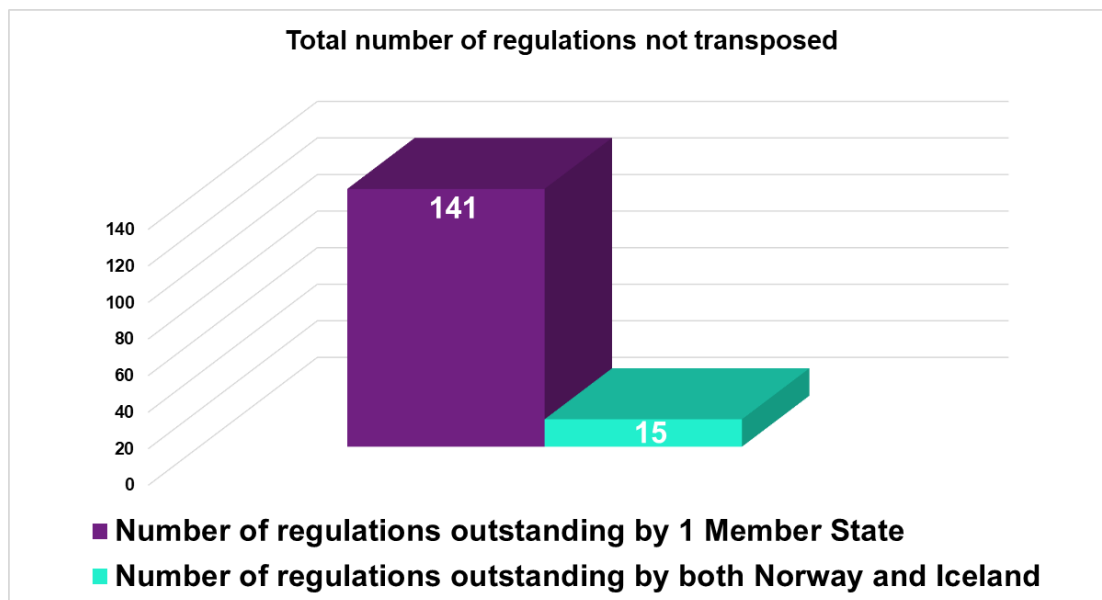
Figure 11: EFTA States’ transposition deficit – regulations - over the past 10 years

The corresponding figure for the number of regulations in force in the EU is 6.563. This difference is due to the fact that some regulations fall outside of the scope of the EEA

Agreement, or because typically regulations enter into force in the EU before they are incorporated into the EEA Agreement, and consequently are also repealed in the EU before they are repealed under the EEA Agreement.

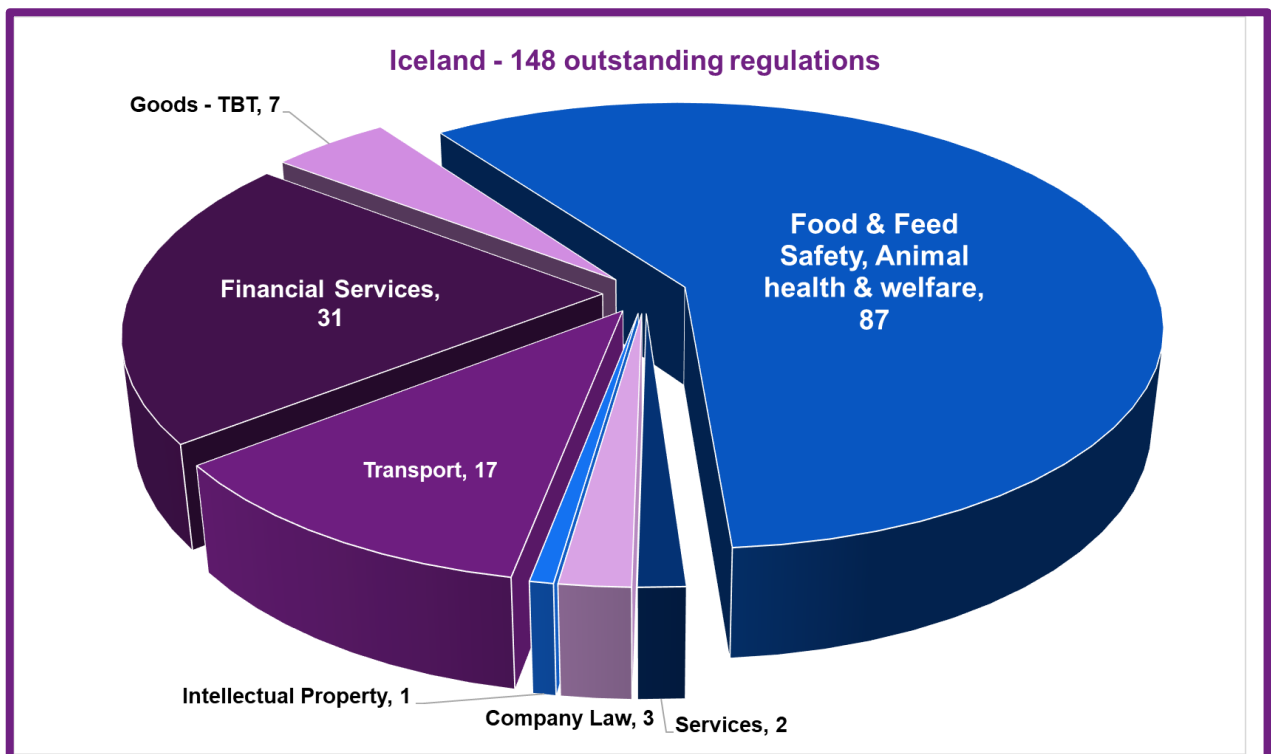
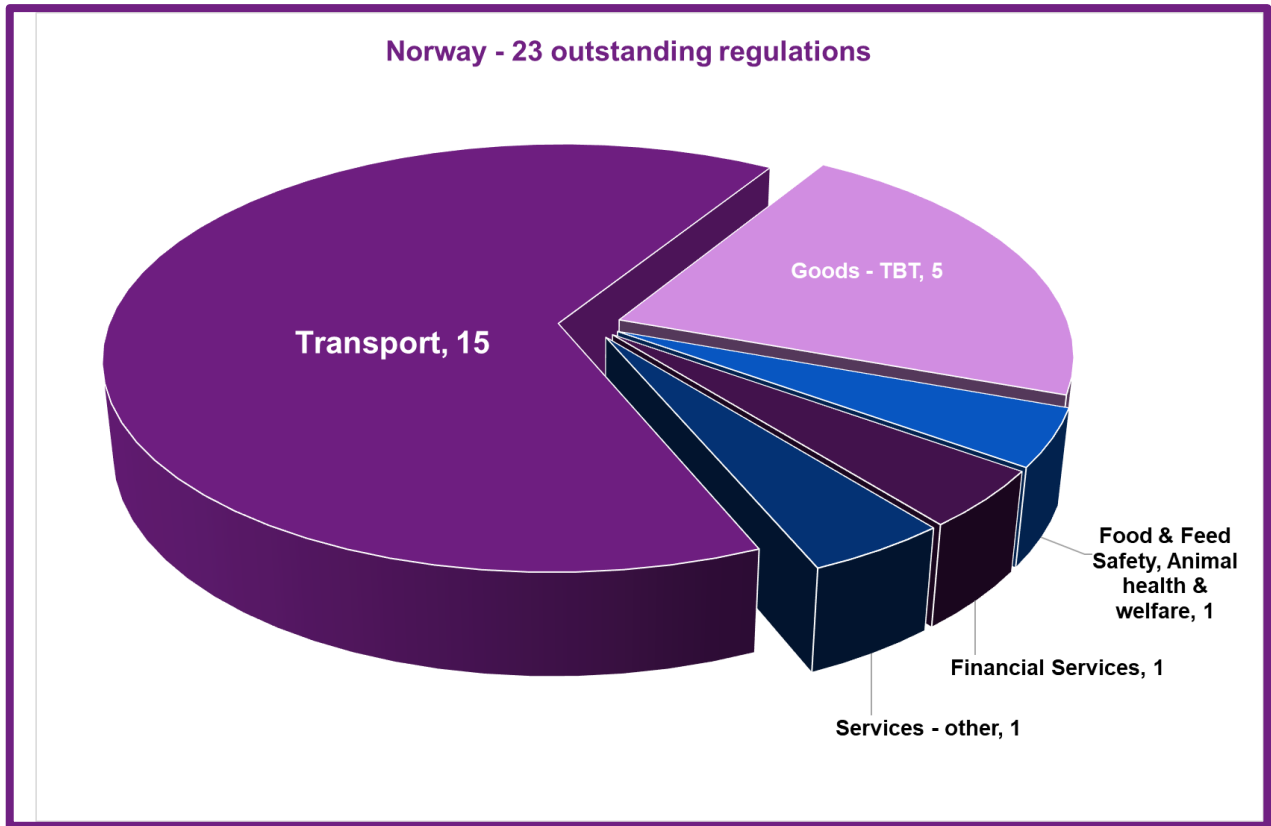
## 2.2 Incompleteness rate of the Internal Market in the EFTA States with regard to regulations

The implementation of regulations in a timely manner is crucial in order to deliver the benefits of the internal market to businesses and consumers across the EEA. In total, 4% of the 4.320 regulations incorporated into the EEA Agreement had not been transposed by both Iceland and Norway. The figure translates into 156 regulations (**Figure 12**) which had not achieved their full effect in the EFTA States. Iceland has not transposed 133 regulations and eight have not been transposed by Norway. 15 regulations have not been transposed by both Norway and Iceland, 12 of which fall in the transport sector.



**Figure 12: Number of regulations outstanding by one or more Member State**

The most incomplete sectors in Iceland are in the areas of food & feed safety, animal health & welfare (87 cases), financial services (31 cases) and transport (17 cases). In Norway, 15 of the 23 outstanding regulations fall in the transport sector. (**Figure 13**).



**Figure 13: Outstanding regulations broken down by sector in each EFTA State as at 30 November 2023**

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 Proceedings<sup>8</sup>

The Authority opens infringement proceedings when it is of the view that an EFTA State has failed to fulfil its obligations under the EEA Agreement. When interpreting the statistics on infringement procedures below it should be noted that only the EFTA Court can declare that a breach of EEA law has occurred.

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**. These cases concern, for example, situations in which the Authority, after having acknowledged transposition of a directive by an 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 EFTA State is not complying with the Internal Market rules, i.e. the free movement principles, in some other way. When EEA rules are not correctly implemented or applied in practice, citizens and businesses can be deprived of their rights.

The second category of cases relates to **late transposition**, in other words directives and regulations only partially transposed or not transposed at all into the national legislation of the EFTA States within the 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 EFTA State concerned.

#### 3.1 A reduction in the total number of infringement proceedings

As at 1 December 2023, the Authority was pursuing a total of 95 infringement cases against the EFTA States in the internal market field (**Figure 14**)<sup>9</sup>. This is 35 cases less than at the time of the Scoreboard in December 2022<sup>10</sup> and is the lowest number of open infringement cases since 2011. Both Iceland and Norway reduced its overall number of infringement cases, 64 cases relate to Iceland, a decrease of 30 cases since the December 2022 Scoreboard, and Norway decreased from 33 to 28. Three cases relate to Liechtenstein, the same as at the time of the December 2022 Scoreboard.

<sup>8</sup> If the Authority considers that an EFTA State has failed to correctly implement and apply legislation under the EEA Agreement, it may initiate formal infringement proceedings pursuant to Article 31 of the Agreement on the Establishment of a Surveillance Authority and a Court of Justice. Such infringement proceedings correspond to those initiated by the European Commission under Article 258 of the Treaty on the Functioning of the EU (TFEU).

<sup>9</sup> A pending infringement case is defined as a case where at least a letter of formal notice has been sent to the State concerned.

<sup>10</sup> The comparison here is made with the situation on 1 December 2022 (Scoreboard 51) as these are the figures last officially reported by the European Commission and comparisons with the EU are included in the Scoreboard.

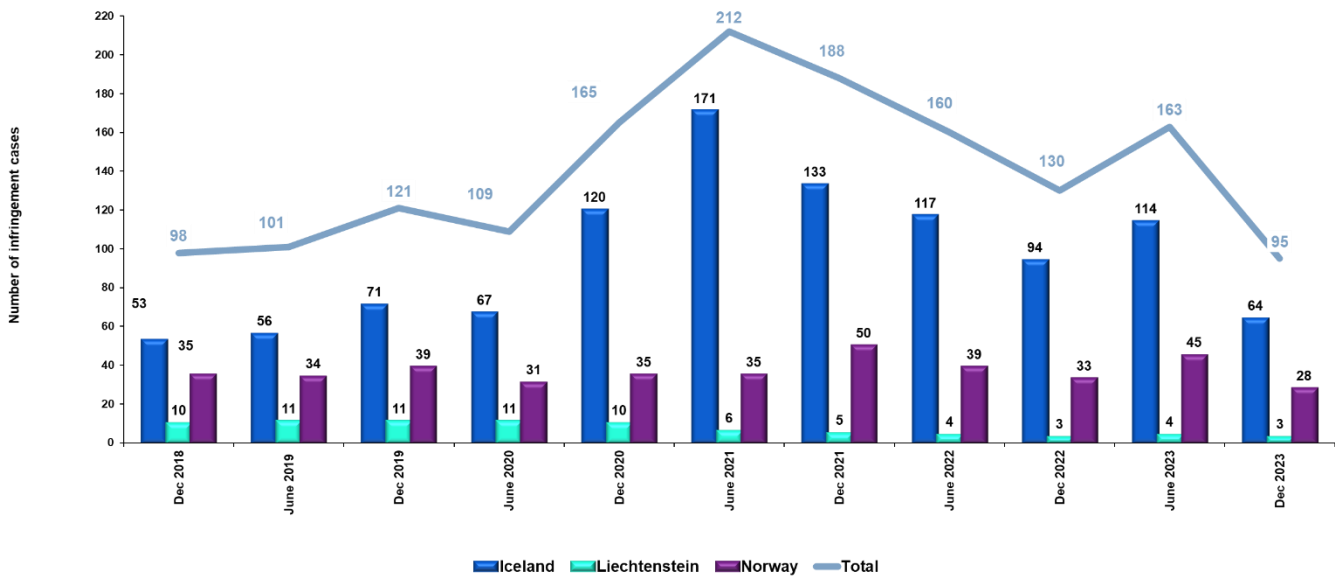


Figure 14: Total number of infringement cases against the three EFTA States on 1 December 2023

Of the above-mentioned total number of pending infringement cases (95), 49 of these cases, and making up 52% of all infringement cases, concern the late transposition of directives or regulations, with 46 cases (48%), concerning the incorrect implementation and application of EEA law.

Of the 95 pending infringement cases, 46 cases, concerned the incorrect implementation or application of Internal Market rules (see chapter 3.2). – 24 cases relate to Iceland, 3 concern Liechtenstein and 19 relate to Norway. There was a decrease in the total pending infringements concerning the late transposition of directives and regulations (see chapter 3.3) since the time of the December 2022 Scoreboard<sup>7</sup>, down from 78, to 49 cases, the lowest since December 2018. (Figure 15).

There are no infringement cases relating to the late transposition of directives for Liechtenstein, however, ten cases remain open for Iceland, and five for Norway. Regarding the late transposition of regulations, 30 cases relate to Iceland, and four to Norway. (Figure 15).



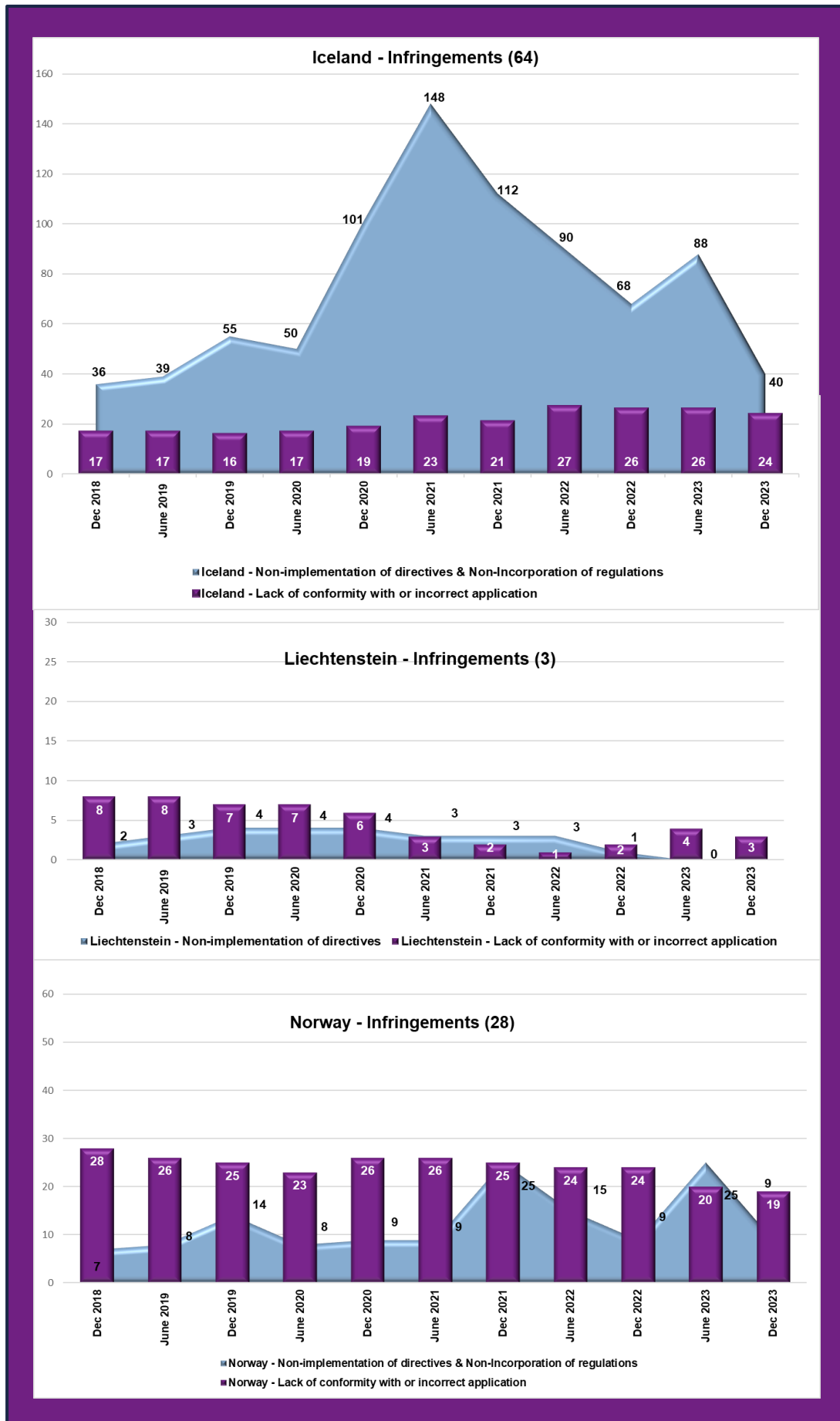
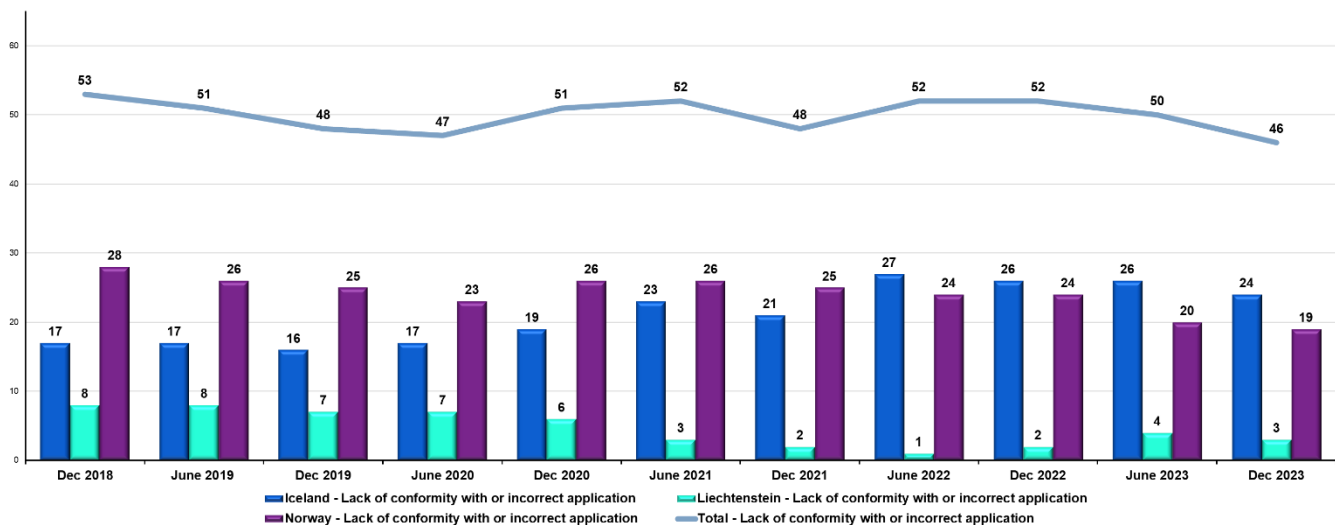


Figure 15: Open Infringement proceedings against the three EEA EFTA States split between lack of conformity with or incorrect application, and non-transposition of directives and regulations as at 1 December 2023

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

#### 3.2.1 Number of cases

The overall number of infringement cases which were being pursued on the grounds of lack of conformity with, or incorrect application of Internal Market rules is 46 (**Figure 16**). This reflects a decrease of six since the previous Scoreboard in December 2022. Both Norway and Iceland decreased their number of cases, Norway by five cases down to 19, and Iceland by 2 cases down to 24 since the December 2022 Scoreboard however Liechtenstein increased its cases by one, from two, up to three.



**Figure 16: Infringement proceedings against the three EEA EFTA States due to lack of conformity with or incorrect application of Internal Market rules on 1 December 2023**

When comparing with the 27 EU Member States, there was very little change to the average number of infringement proceedings against the EU Member States or for the EEA EFTA States. The average for the EU Member States remained at 26 cases with the average number reducing slightly from 17 to 15 for the EEA EFTA States since the December 2022 Scoreboard.

The average figure for the EEA EFTA States still remains lower than the EU-27 average however. (**Figure 17**). Liechtenstein, with 3 infringement cases concerning lack of conformity with or incorrect application of Internal Market rules cases, has by far the fewest number of cases of all the EEA Member States and takes the top spot in the table. Norway continues to proceed towards the lower end of the table however Iceland despite having reduced the number of infringement cases, with 24 cases, still finds itself mid-table. The comparison here is made with the situation on 1 December 2022 (Scoreboard 51) as these are the figures last officially reported by the European Commission.

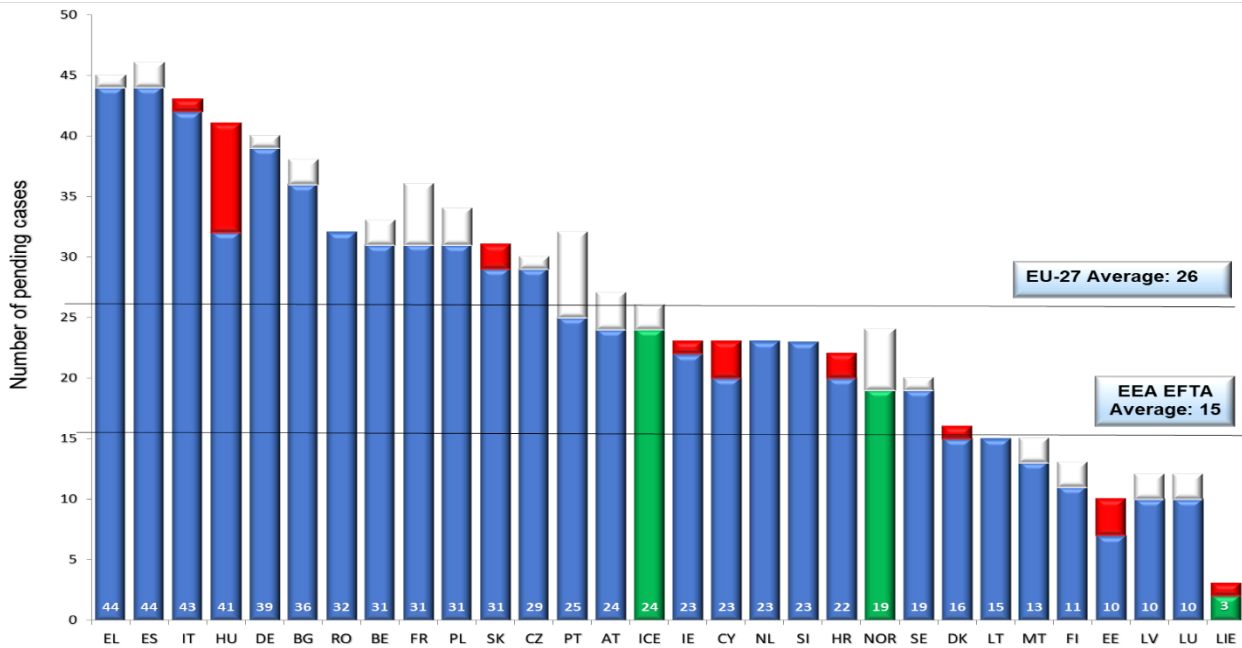


Figure 17: Comparison of EEA EFTA States’ and EU States’ infringement cases due to lack of conformity with or incorrect application of Internal Market rules on 1 December 2023

Fifteen EU Member States, along with Norway and Iceland from the EEA EFTA States all reduced the number of pending infringement cases since the December 2022 Scoreboard. For four EU Member States there was no change, however eight EU Member States, and Liechtenstein showed an increase in the number of open infringement cases due to lack of conformity with or incorrect application of Internal Market rules. When comparing with the EU Members States, Norway finds itself in the top three concerning progress made since the previous December 2022 Scoreboard, having reduced the number of open infringements by five cases. (Figure 18)

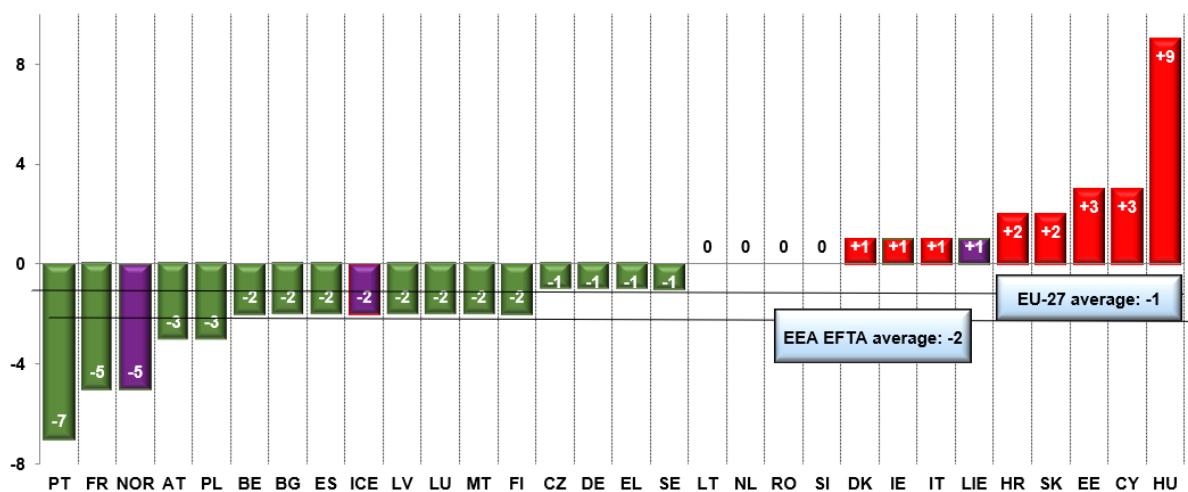
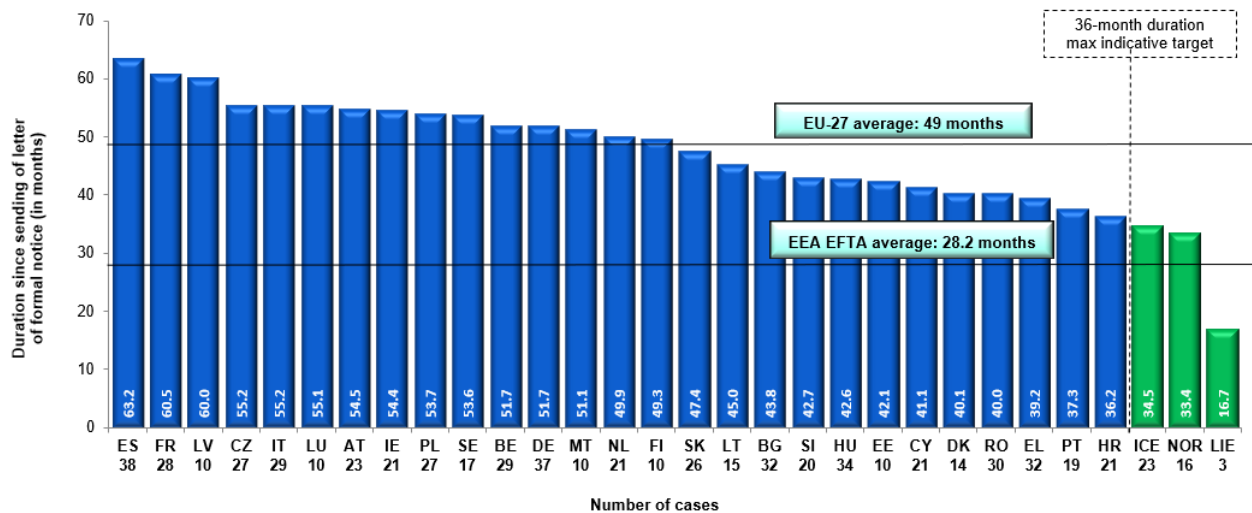


Figure 18: Comparison of EEA EFTA States’ and EU States’ progress since former Scoreboard of open infringement cases due to lack of conformity with or incorrect application of Internal Market rules as at 1 December 2023

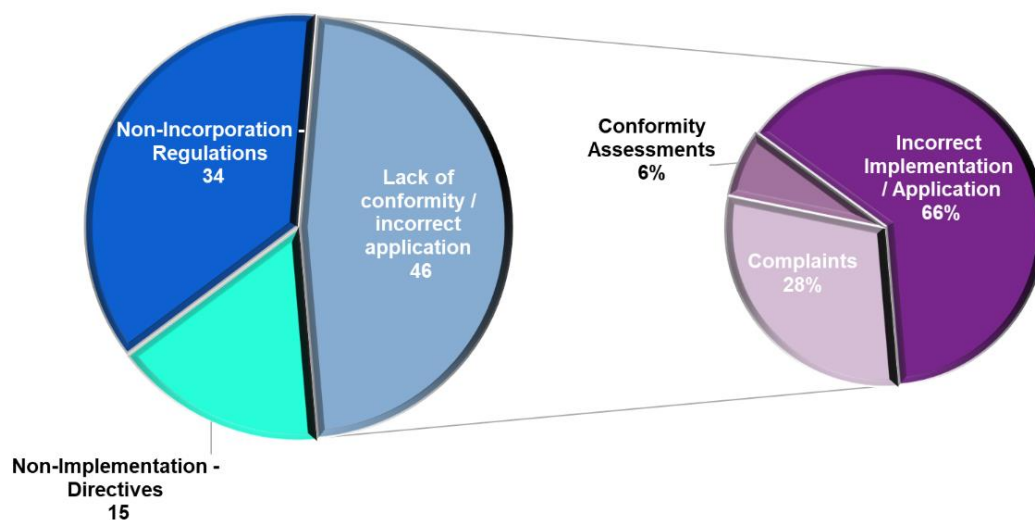
The average duration of pending infringement cases not yet sent to the EFTA Court, calculated in months from when the letter of formal notice is sent, stands at 28.2 months at the time of the December 2023 Scoreboard for the EEA EFTA Member States, which is considerably lower than the equivalent comparison with the EU-27 average, at 49 months (**Figure 19**): No EU Member State has a case duration below the EU’s 36-month indicative target, however all three EEA EFTA Member States do fall below this indicative target



**Figure 19: Comparison of EEA EFTA States’ and EU States’ average duration of pending infringement cases not yet sent to Court**

The number of infringement proceedings stemming from complaint cases fell to 13 cases representing 28% of all pending infringement proceedings concerning lack of conformity with or incorrect application of Internal Market rules. Broken down by Member State, six of these cases relate to Norway, and seven to Iceland. (**Figure 20**)

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.



**Figure 20: Infringement proceedings – Lack of conformity / incorrect application**

### 3.2.2 Breakdown per sector

The fields of transport, workers, establishment, persons – other, and goods – TBT accounted for the highest number of infringement proceedings concerning the lack of conformity with, or incorrect application of Internal Market rules. Together these sectors accounted for 62% of the infringement proceedings (**Figure 21**).

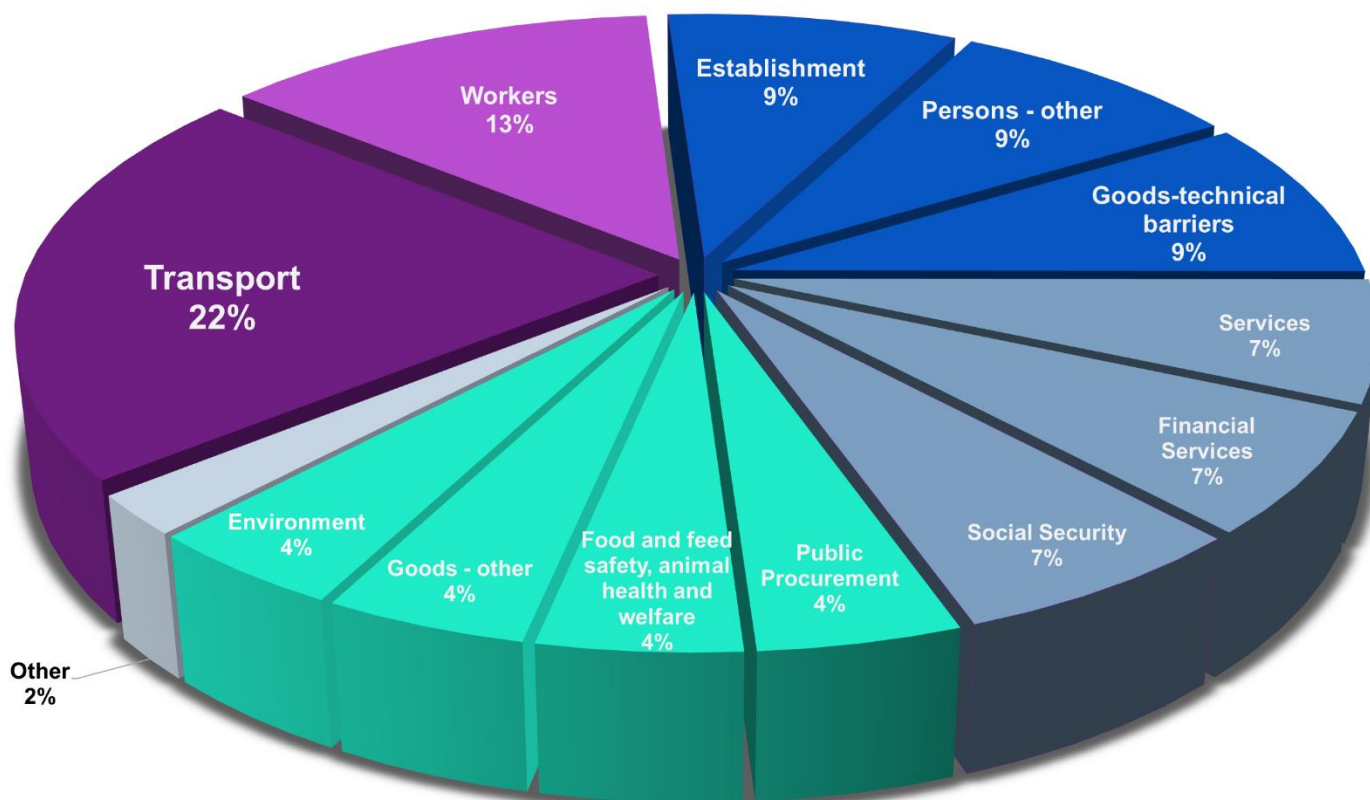


Figure 21: Pending infringement proceedings due to lack of conformity with or incorrect application of Internal Market rules on 1 December 2023 divided by sector

### 3.2.3 Compliance with Court judgments

Court rulings establishing a breach of EEA law require that the State concerned takes immediate action to ensure compliance as soon as possible. Internal circumstances or practical difficulties cannot justify non-compliance with obligations and time-limits arising from EEA law. For those infringement cases relating to lack of conformity with, or incorrect application of Internal Market rules where the EFTA States still have to comply with an EFTA Court judgment, meaning the case remains unresolved at the cut-off date of the Scoreboard, the average time that had lapsed since the court judgment was 10.5 months (**Figure 22**).

EFTA State	Case	Duration in months
Norway	Application of data link services according to Reg 29/2009	5
Iceland	Animal by-product legislation	16

Figure 22: Duration in months since the judgment of the EFTA Court

### 3.2.4 Performance indicators

New to this Scoreboard, is an overview of EEA EFTA Member States compliance with the requirement to implement and apply Single Market rules, showing a comparison with the EU-27 Member States. (Figure 23)

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	EU average	ICE	LIE	NOR	EEA EFTA average
31	36	29	16	39	10	23	44	44	31	22	43	23	10	15	10	41	13	23	24	31	25	32	23	31	11	19	26	24	3	19	15
-2	-2	-1	+1	-1	+3	+1	-1	-2	-5	+2	+1	+3	-2	0	-2	+9	-2	0	-3	-3	-7	0	0	+2	-2	-1	-1	-2	+1	-5	-5
51.7	43.8	55.2	40.1	51.7	42.1	54.4	39.2	63.2	60.5	36.2	55.2	41.1	60.0	45.0	55.1	42.6	51.1	49.9	54.5	53.7	37.3	40.0	42.7	47.4	49.3	53.6	49.0	34.5	16.7	33.4	28.2
59.7	25.5	16.4	117.6	54.1	n/a	24.3	81.4	25.5	58.6	n/a	5.9	n/a	n/a	n/a	184.6	24.5	n/a	101.9	42.9	17.1	39.2	44.4	58.1	45.0	223.1	170.4	67.6	31.0	62.5	48.5	47.4

Figure 23: Performance indicators – comparison with EU

- [1] Number of pending infringement proceedings
- [2] Change over the last 12 months (change in the number of infringement cases)
- [3] Duration of infringement proceedings (in months)
- [4] Duration since Court's ruling in months (time take to comply with a court ruling – case closed in last 5 years)

Indicator values			
[1] & [3]	<average -10%	average +/- 10%	> average +10%
[2]	decrease	no change	increase
[4]	< 8 months	8 - 18 months	> 18 months

### 3.3 Infringement proceedings concerning failure to transpose directives and regulations into national law

Overall, the total number of infringement cases concerning the non-transposition of directives and regulations decreased by 29 cases since the December 2022 Scoreboard, standing at a total of 49 cases.

#### 3.3.1 Directives

The number of infringement cases initiated against the EFTA States non-transposition of directives increased by four cases since the Scoreboard in December 2022<sup>7</sup>, from 11 to 15. (Figure 24).

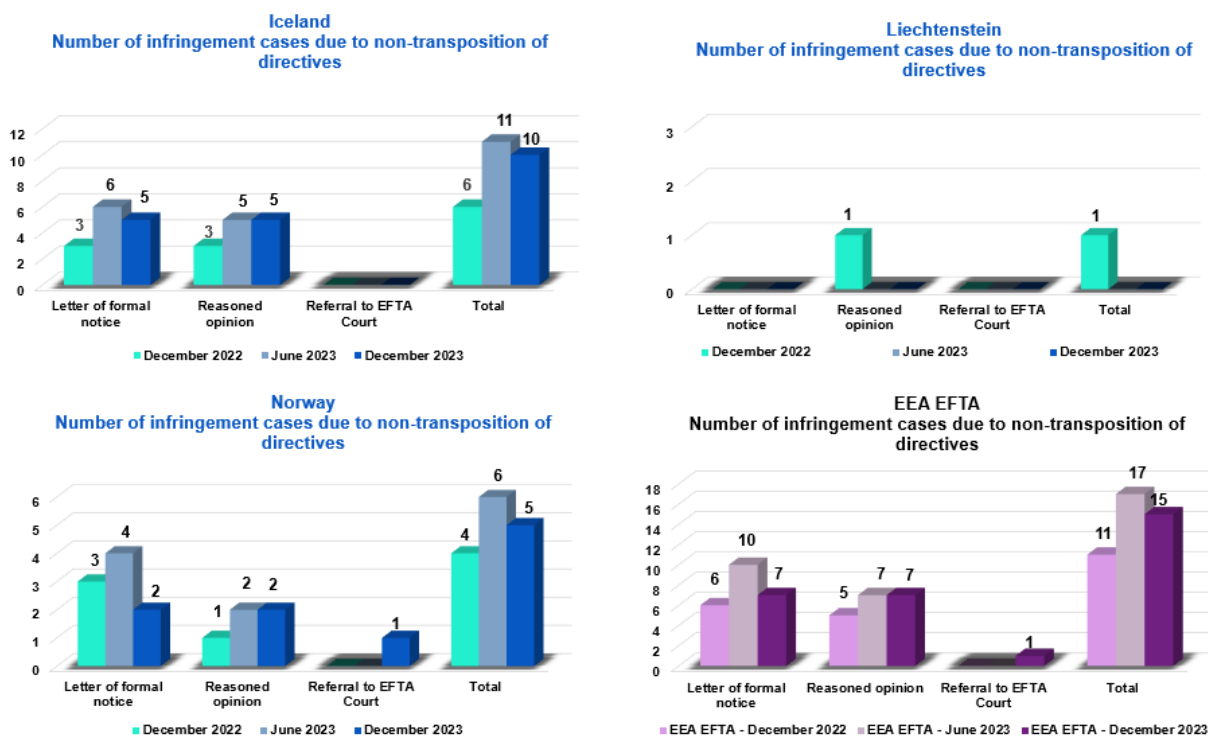


Figure 24: The number of infringement cases against the EFTA States due to non-transposition of directives



### 3.3.2 Regulations

Of the 95 infringement cases pending on 1 December 2023, 36% concerned the late transposition of regulations. For Iceland, this means 30 cases, a decrease of 32 cases since the December 2022 Scoreboard, and for Norway, the figure concerning the late transposition of regulations reduced from five to four cases (**Figure 25**).

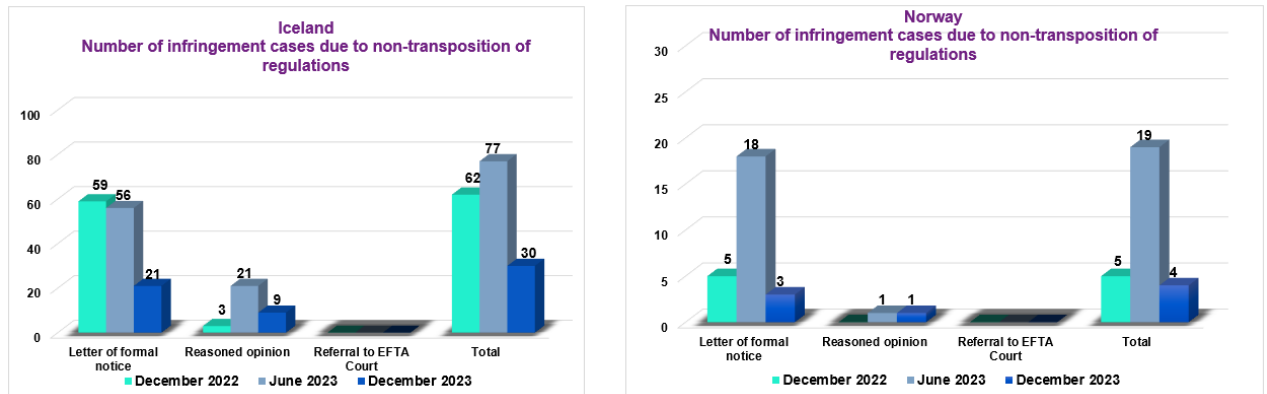


Figure 25: The number of infringement cases against the EFTA States due to non-transposition of regulations.

## 4 Draft Technical Regulations

The final chapter of the Scoreboard shows the number of draft national rules for products and information society services (“draft technical regulations”) that ESA has received from the EEA EFTA States. It also shows the number of final texts that the EEA EFTA States have submitted to ESA, that is the adopted versions of draft rules that EEA EFTA States have previously notified to ESA.

The legal basis for this notification system is the Single Market Transparency Directive (EU) 2015/1535. It serves to prevent regulatory barriers in the internal market for products and information society services. This Directive requires the EEA EFTA States to notify their draft rules in those fields to ESA. The same requirement applies to the EU Member States, who notify their draft rules to the European Commission. If an EEA EFTA State should fail to notify a draft technical regulation to ESA before it adopts it, that rule cannot be applied against individuals and economic operators. In addition, ESA can start an infringement procedure against the EEA EFTA State for failing to fulfil its obligations under EEA law, and the State can become liable to individuals and businesses for economic losses they have suffered as a consequence of this breach of EEA law.

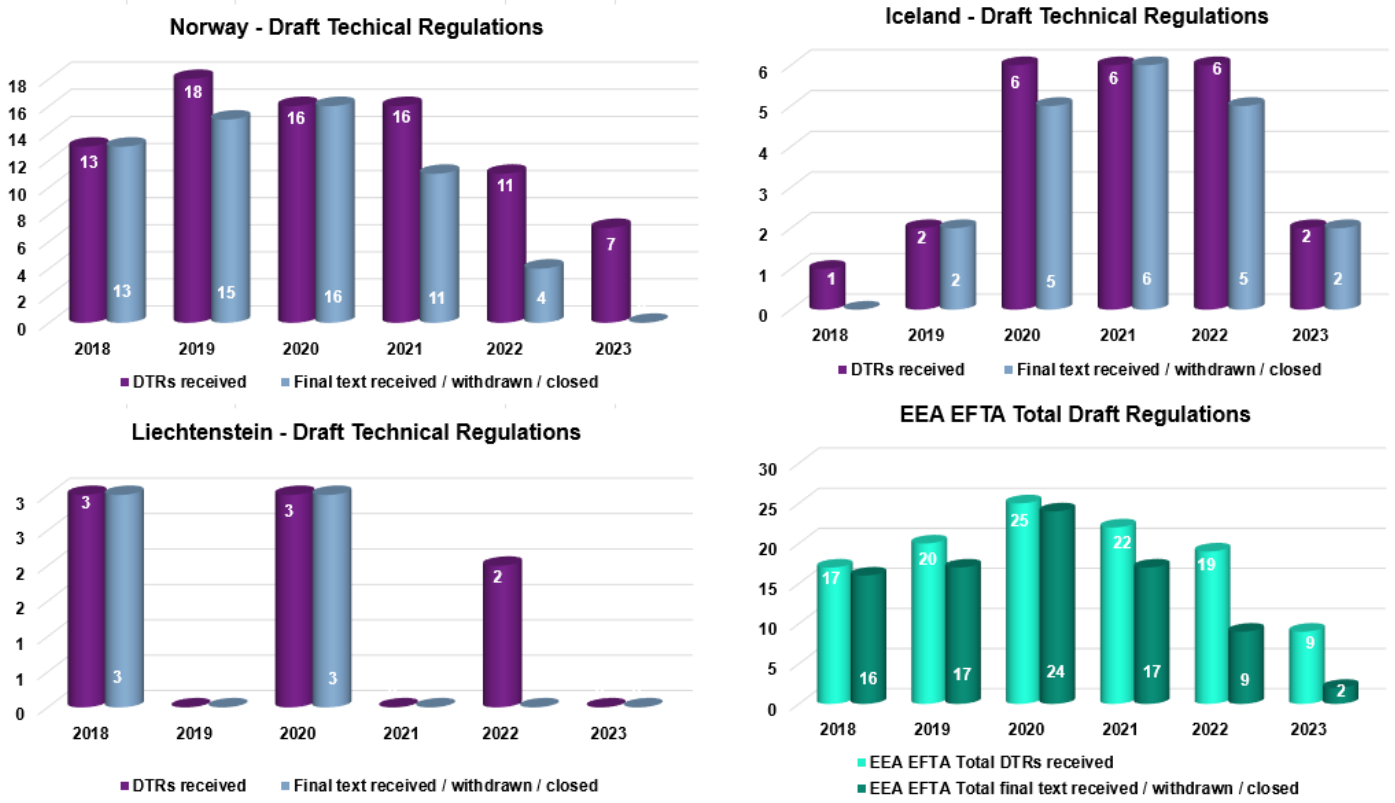
Notifications are uploaded to the [Technical Regulation Information System \(TRIS\)](#), a public database where information about draft rules becomes available to whoever may be interested, but most importantly to the EEA EFTA States, the EU Member States, ESA and the European Commission. Once a draft rule has been uploaded in TRIS, a 3-month standstill period begins. The notifying country may not adopt the draft rule during this standstill period. It is intended to give the other countries, ESA and the European Commission the possibility to study the draft rules and to comment on them if they think they could create barriers to the single market. In this way, the notification



system can help to nip potential issues in the bud – before they become actual problems for the internal market.

The notifying country should take any comments into account. Once the standstill period has passed, it is free to adopt the draft rule as a final legal text. The Directive requires the EEA EFTA Countries to forward those final texts to ESA, just like the EU Member States are required to inform the European Commission about their final texts. At that point, ESA will take a second look to ensure that the adopted national rules are compatible with EEA law.

In 2023 a total of 9 draft technical regulations were received from the EEA EFTA States (Iceland: 2 and Norway: 7) (**Figure 26**). A number of final texts are still awaited from all EEA EFTA States. These are final texts of draft rules that have been notified over several years, but that the EEA EFTA States have so far not submitted to ESA.



**Figure 26: Draft Technical Regulations and final texts received from EFTA States**

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