

# The transposition of European directives

**The transposition of European directives is an important subject for all citizens who live and work in the EU. The large number of national and European actors and the complexity of the issues involved make the transposition of European directives an intensive but essential element of the European integration process. Within Belgium, almost all federal public services and administrative departments, together with the Communities and Regions are involved in one or more transposition processes.**

## European directives: what are they ?

Article 288 of the new Treaty on the Functioning of the European Union states that a directive “shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods”. Unlike the provisions of treaty articles, regulations and decisions, European directives must therefore be transposed into the national legislation of each EU Member State. A deadline is stated in each directive, by which the transposition must be fully completed and announced (the so-called ‘notification’) to the European Commission. As a Member State of the EU, Belgium is therefore obliged to transpose directives into its national legislation within the prescribed time limit. However, each Member State is free to select how and by what procedures directives are transposed.

## The European internal market scoreboard: Belgium increasing its scores!

Since 1997 the European Commission has used a six-monthly internal market scoreboard to monitor timely transposition by Member States. All the directives to be transposed within the next six months are indicated on a scoreboard. Every six months, in May and November, an assessment is carried out based on two standards: the 1% deficit standard and the zero tolerance for directives with a transposition delay of over two years.

In theory, all directives should be transposed within the deadline. However, avoiding any transposition deficit at all is an exceptionally difficult task. Only one Member State, Bulgaria, has ever succeeded in ending a six-monthly scoreboard with a zero deficit. Still, positive progress has been made since 1997 and the first standard has therefore been made tougher. The European Council has determined that from 1 January 2009 the Member States must strive towards a transposition deficit (i.e. the number of untransposed directives) of 1%.

A second standard specifies **zero tolerance** in respect of directives which have a transposition delay of two years.

Naturally, Belgium is striving to achieve as small a deficit as possible. The transposition of European directives into national law was a big problem for many years but since 2007 a clear change has been noticeable. Since that year Belgium has succeeded in gradually improving its transposition score. This is the result of years of effort to harmonise Belgian procedures with European commitments. Another thorough examination of the existing structures and procedures was launched in 2008, prompted mainly by the Belgian Presidency of the EU in the second half of 2010, the new deficit standard of 1% from 2009 and the implications of the entry into force of the Lisbon Treaty. According to our calculations, we should achieve a deficit of 0.7% in the May 2010 scoreboard. This is Belgium’s lowest ever deficit and means we are once again in compliance with the prevailing European standard. Furthermore, Belgium has no internal market directive with a transposition delay of over two years and therefore also complies with the second European standard.

## Transposition of directives within Belgium

The FPS Foreign Affairs is responsible for general monitoring of directive transposition. Non-internal market directives, though much less common, are also monitored by the FPS Foreign Affairs.

The transposition activities themselves are undertaken by the government departments responsible for the area to which the directives in question relate: the FPS Mobility for example transposes directives relating to railway infrastructure whereas the FPS of Public Health does the same for cosmetic products. The Communities and Regions are naturally responsible for the transposition process within their own jurisdiction. For example, a great many directives relating to the environment are within the jurisdiction of the regions. ‘Transposition’ is an item on the agenda of the Consultation Committee every month. Likewise the Councils of Ministers of Belgium’s various governments monitor transposition processes regularly.

To give an idea of the scope of these transposition activities, in 2009, Belgium notified the Commission of 251 transposition deeds in 2009.

The transposition of directives is therefore a very complex process involving many actors. Consequently, both coordination and circulation of information are essential to achieving a good transposition score. A key position is occupied by the network of **Euro-coordinators**. These officials each monitor the various transposition processes within their own departments. The swift and transparent circulation of information is ensured by the **Eurtransbel interactive database**. The FPS Foreign Affairs organises annual training sessions for the users of this database. Finally, transposition procedures and practices are investigated at regular intervals. In 2008, an in-depth review was held which led to a number of essential improvements to the Belgian system.

## **A Belgian conference on the transposition of European directives**

In March 2009, the Czech EU Presidency organised a conference on the transposition and implementation of European law in the Member States. The conference was a great success in terms of attendance and achievement. As a follow-up to this conference, Belgium has decided to organise a conference on the transposition of European directives during the **Belgian Presidency** on 22 and 23 November 2010. This conference is intended to bring together officials involved in coordinating directive transposition and officials of the EU institutions to discuss the issue of transposition. During the two-day conference, debates will be held on the various 'soft' enforcement measures available to EU institutions and the Member States to guide the transposition process (the so-called 'soft tools') and the handling of infringement procedures ('hard tools'). The objective is to focus on the 'best practices' of the Member States. Naturally, the implications of the Treaty of Lisbon for the transposition process will form a central theme throughout the conference.

## **Transposition and application of EU law: the role of the SOLVIT network**

There is a strong link between the implementation of EU law and the resolution of practical problems relating to the internal market. Where another EU Member State has incorrectly transposed a directive, citizens and businesses can turn to the SOLVIT network. There is a SOLVIT centre in each EU Member State and also in Norway, Liechtenstein and Iceland. The Belgian centre has been established within the FPS Foreign Affairs. The website <http://ec.europa.eu/solvit> provides a host of information about this efficient instrument. Under the Belgian EU Presidency, the 27th SOLVIT workshop will be held on 24 and 25 November in conjunction with the European Commission.

## **Environmental law within the EU: the NEEL**

In the same week as the conference on transposition and the SOLVIT workshop, environmental lawyers from around the EU will be meeting to exchange ideas about the proper implementation of European environmental law by sharing information about and insights into the associated legal issues.

### **Calendar of events**

#### **22-23 November 2010**

Conference on the transposition of European directives  
Conference for national and European officials  
Egmont Palace, Brussels  
Access with accreditation only

#### **24-25 November 2010**

SOLVIT workshop - Workshop for national representatives  
from the SOLVIT network  
Egmont Palace, Brussels  
Access with accreditation only

#### **24-25 November 2010**

NEEL – Network of European Environmental Lawyers  
Meeting of the network of national environmental lawyers  
Ellipse Auditorium, Brussels  
Access with accreditation only