

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

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**Research for REGI
Committee - Gold-plating
in the European Structural
and Investment Funds**

STUDY



DIRECTORATE-GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES

REGIONAL DEVELOPMENT

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Gold-plating in the European Structural
and Investment Funds**

STUDY

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Abstract

Gold-plating describes additional rules and regulatory obligations that go beyond the European Structural and Investment Funds (ESIF) requirements set out at European Union (EU) level, and that make the implementation of ESIF more costly and burdensome for programme bodies and beneficiaries. The study analyses gold-plating in all five funds and discusses the presence, reasons and effects of gold-plating in ESIF. It concludes with pointers for action to reduce gold-plating in the current 2014-2020 and in the post 2020 programming period.

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AGEA	Agency for Agricultural Payment
CEF	Connecting Europe Facility
CF	Cohesion Fund
CLLD	Community-Led Local Development
CPR	Common Provisions Regulation (Regulation (EU) No 1303/2013)
DG	Directorate General
EAFRD	European Agricultural Fund for Rural Development
EIA	Environmental Impact Assessment
EGESIF	Expert Group on European Structural and Investment Funds
EMFF	European Maritime and Fisheries Fund
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Funds
ETC	European Territorial Cooperation
EU	European Union
IB	Intermediate Body
ITI	Integrated Territorial Investment
JME	Joint Methodological Environment
NGO	Non-Governmental Organisation
NRDP	National Rural Development Programme
OP	Operational Programme
RDP	Rural Development Programme
SCO	Simplified Cost Options
SISa	Single information and audit system
SME	Small and Medium-sized Enterprises

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EXECUTIVE SUMMARY

Background

Gold-plating is a frequent term when discussing about 'cutting the red tape' and reducing the administrative costs and burdens of the European Structural and Investment Funds (ESIF) programme bodies and beneficiaries. Gold-plating can be divided into 'active gold plating' and 'passive gold-plating'. 'Active gold-plating' describes the additional administrative procedures and regulatory obligations that go beyond the ESIF requirements set out at European Union (EU) level. 'Passive gold-plating' occurs when the national, regional or local players fail to apply simplification measures proposed in the ESIF regulations.

Aim

In order to contribute to the debate and policy dialogue on gold-plating related to cohesion policy, the European Parliament's REGI Committee seeks to gain insights on gold-plating in ESIF. This study provides thorough information on gold-plating in ESIF and proposes pointers for action to reduce or avoid gold-plating both in the current 2014-2020 as well as in the post 2020 programming period.

Key findings on the presence of gold-plating

Gold-plating happens irrespective of the administrative level and time of ESIF management processes. Gold-plating can occur at any administrative level, from the EU level to the programme and beneficiary level. Similarly, it can occur at any time during the ESIF management.

Gold-plating can be observed during accreditation of ESIF programme bodies. Within the ESIF programme lifecycle, one of the earliest moments where gold-plating can be noted is during the accreditation of programme bodies. In these cases, programme authorities are obliged to deal with stricter rules imposed by the national and regional regulatory frameworks, making the accreditation process more burdensome.

Gold-plating can be observed during the application. Beneficiaries need to consider and comply with many additional rules to prove their eligibility for ESIF support during their project application phase. These rules derive either from the ESIF or other EU regulatory frameworks, from national and regional regulations, or programme specific procedures.

Additional requirements make reporting and payment claims more burdensome. To comply with rigid controls and reporting obligations, beneficiaries are frequently required to provide additional administrative documents even at the end of the programme lifecycle. Despite the use of electronic systems, in some cases hard copies are still required. This causes payment delays and subsequently delays in the implementation of project actions.

Rigid financial controls increase the risk of gold-plating. Gold-plating also occurs at the final phase of the programme. Financial controls based on stricter interpretations of rules, extensions of rules and additional control procedures increase the risk for gold-plating.

Key findings on the reasons for gold-plating

Reasons for the presence of gold-plating are manifold. Although one would expect that inconsistent regulatory frameworks would be the most prominent reason, other reasons such as various uncertainties, risk aversion and fear tend to be more important.

Inconsistent regulatory frameworks cause less gold-plating than expected.

Inconsistencies in the different existing regulatory frameworks are a result of different regulatory objectives at different levels of governance or between different policy domains. These inconsistencies increase the risk of gold-plating and can result from other EU rules, timing issues or additional rules in the Member States.

Various uncertainties of authorities managing ESIF contribute to gold-plating.

Delayed regulations, changing legal requirements, various interpretations of ESIF regulations and different political agendas create uncertainties. These uncertainties increase the risk for gold-plating, as authorities often tend to safeguard themselves against them.

Gold-plating is also caused by audit fear. Risk aversion and fear are a key reason for gold-plating. Be that due to the administrative cultures and traditions of different Member States, or a previous bad audit experience, the fear of non-compliance often leads players toward more narrow interpretations of rules.

The complexity of the system provides additional reasons for gold-plating. The shared management of ESIF, covering the variety of players, interests and perceptions, as well as the lack of communication among the players create a rather complex management system. This system triggers vested interests and bureaucratic power, which make the system even more complex, thereby increasing gold-plating.

Key findings on the effects of gold-plating

By definition gold-plating increases administrative costs and burden. Coordinating the information flows and procedures of the ESIF management system becomes more resource intensive for ESIF managing bodies. With gold-plating, more rules are to be considered, both for managing and building the necessary capacities, which increase the administrative costs and draws on technical assistance budgets. Gold-plating also adds to the administrative burden of ESIF beneficiaries at various stages from project development to closure. Beneficiaries also need to build capacities to successfully implement ESIF projects.

High administrative burden decreases ESIF attractiveness for players. In some Member States ESIF are perceived as burdensome. Gold-plating increases this burden even more, as additional requirements discourage players with good quality projects to apply for ESIF. As consequence, projects that could have made a valuable contribution to the programme's objectives do not apply, or submit a less convincing proposal that in the end may not be selected.

Programmes experience increasing risks of errors as an effect of gold-plating.

Excessive rules and requirements to comply with entail also careful monitoring and controlling. Limited resources to assess the fulfilment of all requirements or fear to make mistakes in turn tend to cause mistakes.

Compliance dominates over performance focus. ESIF players have to find a balance between delivering outcomes against targets, as well as projects and programmes efficiently. Due to the application of rigid rules the quality of projects becomes often secondary, while the compliance to these formal rules gets more importance, thereby negatively affecting potential results.

Together the different reasons and effects create a vicious circle for gold-plating.

The relation between error-rates and gold-plating is reinforcing and can become a vicious circle, where additional rules and procedures – intended to reduce errors rates – might lead to fear and uncertainty and thus to more errors.

These findings hold true for most funds and instruments. There are nevertheless some differences between some types of programmes and instruments. For instance European Territorial Cooperation Programmes or multi-fund programmes tend to be more affected by gold-plating due to their complex environments. The differences in the reasons, effects and presence of gold-plating are the biggest, however, between Member States.

Policy recommendations

It can be discussed whether gold-plating is necessarily always a negative practice, as in some cases it may be unavoidable and in others it may reduce administrative costs or burden. In most cases, it is worthwhile reducing its negative effects. Actions to reduce or avoid gold-plating can be put already in place in the current 2014-2020 programming period.

The shared management of ESIF needs to encourage all involved players to reduce gold-plating in the 2014-2020 period. Potential actions across levels include capacity building, open dialogue, better focus on a balance between compliance and performance, encouraged use of simplification measures and a possibly new role for the auditors to limit different interpretations of regulations. EU legislators should increase transparency and promote clarity, simplicity and continuity of rules. At national level e-governance tools should be further promoted, national administrative changes can be launched, while national coordination can be increased. As far as programmes are concerned, they need to focus on providing clarity to beneficiaries and to make more use of SCO.

Three possible routes for actions can be discussed for ESIF post 2020. ESIF post 2020 could decide for a move towards one of the principal 'schools' of thought:

- i) more and tighter rules with a focus on input control and compliance;
- ii) more flexibility and trust with a main focus on achievements and performance.

Alternatively, an intermediate third option can be considered. ESIF can continue with the current combination but introduce a clear shift from the focus on compliance to the focus on performance. The final decision lies with the legislators and clearly there is no best way to go.

1. INTRODUCTION

Accessing European Structural and Investment Funds (ESIF) is often perceived as difficult and when funding is provided, bureaucracy and audits discourage beneficiaries to apply again (Kallas, 2016). Various rules and requirements from different levels of governance involved in the management and implementation of ESIF add to this bureaucracy. This raises the question in how far and under which conditions additional requirements, i.e. gold-plating, can be justifiable.

The European Parliament's REGI Committee commissioned this study on 'Gold-plating in the European Structural and Investment Funds' to provide considerations relevant for beneficiaries and managing bodies, as well as input to the REGI Committee's on-going work and activities linked to the implementation of cohesion policy.

1.1. Scope and objectives of the study

This study analyses gold-plating in ESIF in view of its impacts on the administrative work and burden for programme bodies and beneficiaries under all five funds: European Regional and Development Fund (ERDF), Cohesion Fund (CF), European Social Fund (ESF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF). In doing so, it provides a differentiated view with regard to implementation phases, policy instruments used and players involved. The focus is on EU regulations and their implementation in Member States and ESIF programmes. EU directives are only considered where directly relevant for ESIF (such as public procurement and state aid).

This study addresses the following three main questions that are answered inter alia by concrete examples:

1. What are the main reasons behind gold-plating and how could gold-plating be defined in the context of European Structural and Investment Funds?
2. Which specific gold-plating practices and issues are emerging at different stages of the programme lifecycle related to the EU 2014-2020 regulatory framework (i.e. from programme development to implementation and looking forward to controlling and payment phases)?
3. How to address the main types of gold-plating practices and issues covering each of the Structural and Investment Funds?

To answer these questions, the study builds on a mixed-scanning and analysis approach, as shortly described below.

1.2. Methodology

The study has developed a solid methodology to ensure reliable results. This includes a thorough desktop analysis of literature and documents, in-depth interviews with selected stakeholders, as well as participatory approaches for quality check and fine-tuning of the analysis. In terms of geographical coverage, the study covers all 28 Member States of the European Union, of which nine countries are covered in depth, as regards the document analysis and interviews, and the remaining are covered in a more general level, with a more general document review and less interviews.¹

¹ The countries covered in depth are the Czech Republic, Germany, Italy, Lithuania, the Netherlands, Poland, Romania, Spain and the UK.

The desktop analysis of literature and documents provides a broad understanding of gold-plating. For this, a range of written sources have been collected and screened. The desktop analysis includes the screening of documents and literature both of European sources, i.e. studies and reports addressing gold-plating at international and European level, but also of studies and reports carried out within individual Member States. The desktop analysis provides the first inputs on the different Member States and supports the assessment of gold-plating at the level of programme management and implementation across the different funds.

To enhance the information collected during the desktop analysis, 71 persons have been interviewed. These regard interviews with selected players, such as managing authorities, audit / certifying authorities, national coordination bodies and beneficiaries in all Member States, so as to receive qualified answers to the main research questions. In addition to the Member States related interviews additional interviews have been conducted with ETC (also known as Interreg) programme authorities and EU level authorities.

The desk studies and interviews carried out for all EU Member States are detailed in 28 internal working fiches, one for each Member State to ease the synthesising analysis. These fiches are internal working documents and therefore not published.

Two participatory approaches have been set to place to ensure high quality of the analysis. Following the first cross-analysis of the results deriving from the desktop analysis and interviews, an internal workshop with all team members was held. This workshop has helped to distil the first findings of the study and formulate recommendations. Following the internal workshop and the revision of the analysis, a focus group has been organised to test, verify and fine-tune the analysis of the results and the recommendations in dialogue with the practitioners representing different relevant players affected by gold-plating in ESIF.

1.3. Structure of the report

The report is structured in seven chapters, including this introduction (chapter 1). Chapter 2 defines gold-plating in the context of ESIF. Chapter 3 discusses the presence of gold-plating in ESIF to give a general overview of its occurrence. Chapter 4 focuses on the main reasons for gold-plating and the rationale for introducing additional requirements. Chapter 5 discusses the possible effects of gold-plating and who is mainly affected by it. Regarding the effects, this chapter describes the administrative costs and burden and the effectiveness of the programmes in delivering policy objectives. Chapter 6 provides additional findings of reasons and effects for selected instruments and highlights differences between Member States. Textboxes with practical examples are also included in the previous chapters. Where possible the relevant fund is mentioned explicitly. However, the main differences in the reasons, effects and players affected by gold-plating are nationally, rather than fund specific.

The objective of chapter 7 is twofold. On the one hand it presents the overall conclusions of the study, drawing also upon justifiable cases of gold-plating. On the other hand, the chapter provides recommendations and pointers for reducing gold-plating, focusing both on the current 2014-2020 programming period, but also expanding to possible solutions for post 2020.

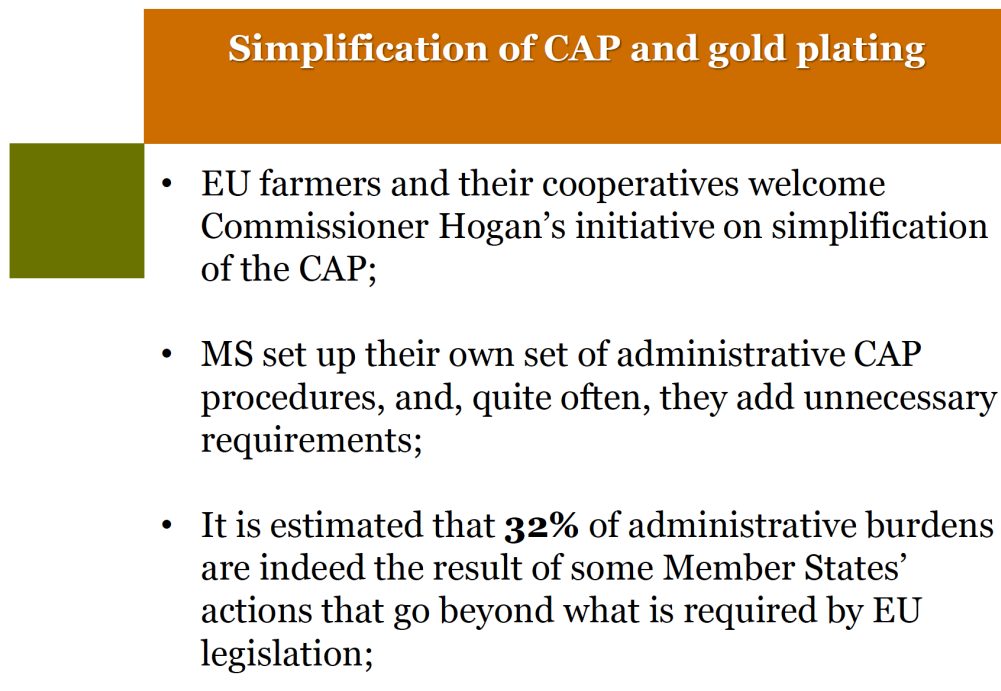
2. UNDERSTANDING GOLD-PLATING IN ESIF

KEY FINDINGS

- Gold-plating in the context of ESIF refers to imposing **additional administrative obligations** on top of the minimum requirements set by the ESIF regulatory framework.
- Gold-plating may be initiated by **any level and player** involved in the management of ESIF – from EU level to programme and beneficiary level – and can occur at any point of time during ESIF delivery.
- It **increases administrative costs and/or burden** for the players involved but is not the same as administrative costs and burdens arising from ESIF-regulations as such.
- Although the theoretical definition may be well understood, in practice it is often **difficult to precisely differentiate gold-plating** from generally occurring administrative costs and burden.

Gold-plating is considered as a negative and important aspect in discussing 'cutting red tape' and reducing the administrative costs and burden of ESIF programme bodies and beneficiaries. Gold-plating leads to adding layers of legislation to the minimum requirements set in the ESIF regulation, in other words an accumulation of legislation. Recent discussions at the High Level Group² indicate that as much as about 30% of administrative burden can be due to gold-plating (see Figure 1).

Figure 1: Gold-plating in EAFRD



² High Level Group monitoring simplification for beneficiaries of ESIF, available at: http://ec.europa.eu/regional_policy/de/policy/how/improving-investment/high-level-group-simplification/

Gold-plating is a highly complex and sensitive issue. It has been addressed in a variety of studies, which have different purposes and use different understandings of gold-plating. In this study, gold-plating is understood as the national, regional or programme rules and administrative obligations that go beyond EU legislation. This practice is often referred to as 'active gold-plating'. Gold-plating may also be the failure of national, regional or local bodies to apply simplification measures such as simplified cost options. This is usually referred to as 'passive gold-plating'. Both types of gold-plating complicate European Union legislation unnecessarily, and make it more costly, when implemented in the Member States. Thus, by definition, gold-plating leads to increasing administrative costs and burden.

This broad definition of gold-plating covers all cases in which:

- national, regional or programme authorities extend the scope of the EU legislation implementation beyond what is required by the relevant EU legislation;
- there are inconsistencies between different legislations;
- national, regional or programme authorities fail to take advantage of exemptions allowed by the legislation;
- national, regional or programme authorities introduce sanctions, enforcement mechanisms and burdens of proof which go beyond what is required according to EU legislation; or
- auditing practices and rules do not meet the rules of proportionality.

Due to ESIF shared management systems, gold-plating may happen at any administrative level involved in the management of any ESIF, from EU level to programme level and beneficiary level. In addition, while the administration of ESIF is already highly complex and work intensive, other EU regulatory frameworks, deriving from other policy objectives add to the minimum ESIF requirements set at EU level.

Gold-plating in the context of ESIF increases the administrative costs for the managing authorities, certifying authorities, audit authorities and other bodies involved in delivering ESIF programmes. At this level, gold-plating practices increase staff and implementation costs, whether due to additional rules, interpretations of rules or other sources of gold-plating.

Box 1: Key definitions relevant for gold-plating in the context of ESIF

Gold-plating refers to administrative obligations going beyond the requirements set at EU-level. It encompasses an excess of norms, guidelines and procedures accumulated at European, national, regional and programme levels interfering with the expected policy objectives. In the context of ESIF, gold-plating thus refers to additional administrative fulfilments going beyond ESIF-regulations – CPR and fund-specific regulations.

Administrative costs are the costs for an administrative task carried by bodies responsible for managing a policy. This includes costs for administrative workload and costs for the purchase of services and goods. In the context of ESIF, administrative costs refer to the workload and costs of ESIF programmes' bodies and national ESIF coordinators.

Administrative burden describes the costs to businesses and citizens of complying with the information obligations resulting from government imposed legislation and regulation. In the framework of ESIF, administrative burden arises for the funds' beneficiaries and final recipients (in case of financial instruments) respectively.

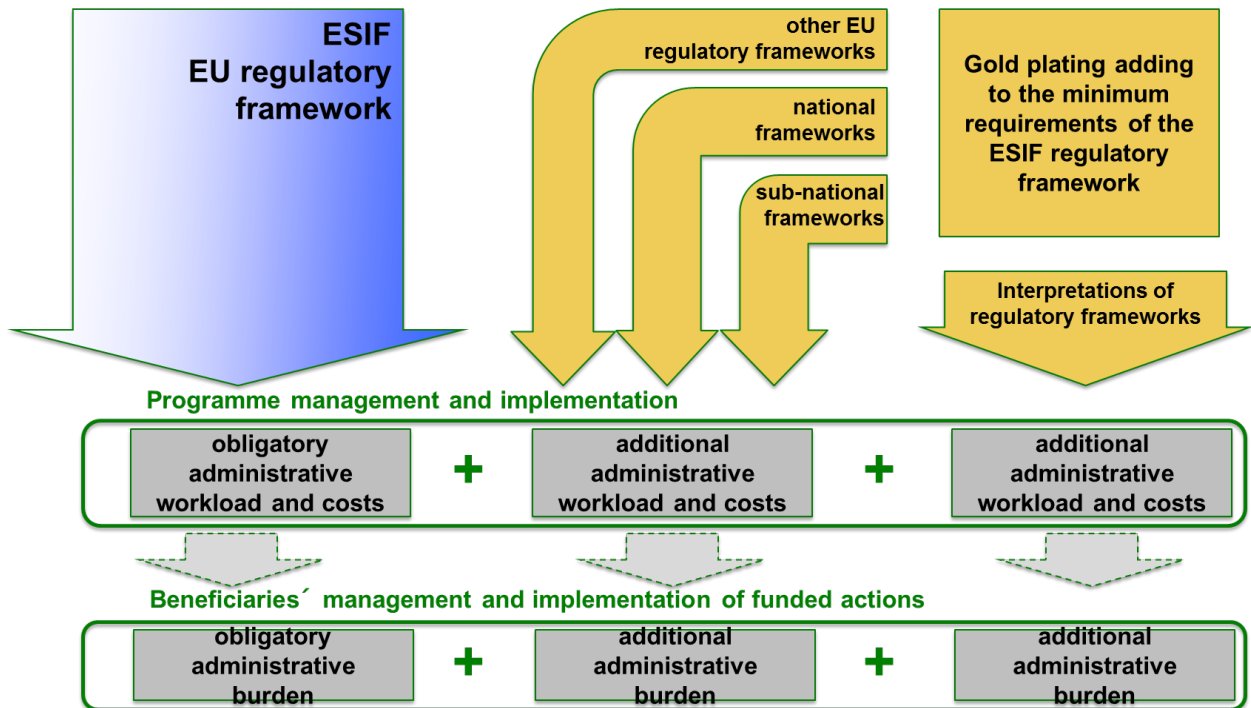
Sources: The definitions are based on the definitions in Sweco (2010), European Commission (2012), European Commission (2013), Bocci et al. (2014), and European Commission (2016).

More importantly, gold-plating increases the administrative burden for beneficiaries in their effort to comply with the regulatory obligations.

Due to the complexity the general definition of gold-plating has been amended for this study to better adhere the shared management system. The key definitions applied in this study are depicted in Box 1.

Figure 2 illustrates gold-plating in the context of ESIF. The minimum ESIF requirements are depicted by the blue box. Other EU, national and sub-national regulatory frameworks, as well as interpretations of these which supplement the ESIF minimum requirements are depicted by the yellow boxes.

Figure 2: Gold-plating in ESIF



Source: Spatial Foresight, 2017

Although in theory the definition of gold-plating is clear, in practice it is sometimes difficult to differentiate gold-plating from administrative costs and burden or administrative bureaucracy. A few such examples are given in box 2. The examples furthermore illustrate a differentiation on the perception on gold-plating by Member States. Therefore, the other textboxes with practical examples differentiate by Member State, only where possible specific types of ESIF programmes have been mentioned for fund specific practices.

There are variations of the levels and types of gold-plating (yellow boxes in Figure 2). As illustrated elsewhere in this report, these are often linked to national ESIF governance structures and the degree to which national administrative systems focus more on compliance or more on result orientation.

Box 2: Different understandings of gold-plating in Member States

Gold-plating is often seen as an ambiguous term and in some cases there are different interpretations of the term.

Sometimes it is difficult to **distinguish between gold-plating and difficulties for the Member State in applying or implementing ESIF regulations**. This is for instance the case in Spain.

Elsewhere, it is difficult to **distinguish between gold-plating and increased bureaucracy**. Often administrative bureaucracy originates in existing structures rather than having a direct link to the regulations. Interpretation complicates the intentions of the regulators. This is perceived for example in the Czech Republic and in Slovakia.

Source: Authors based on internal online workshop

3. GENERAL PRESENCE OF GOLD-PLATING IN ESIF

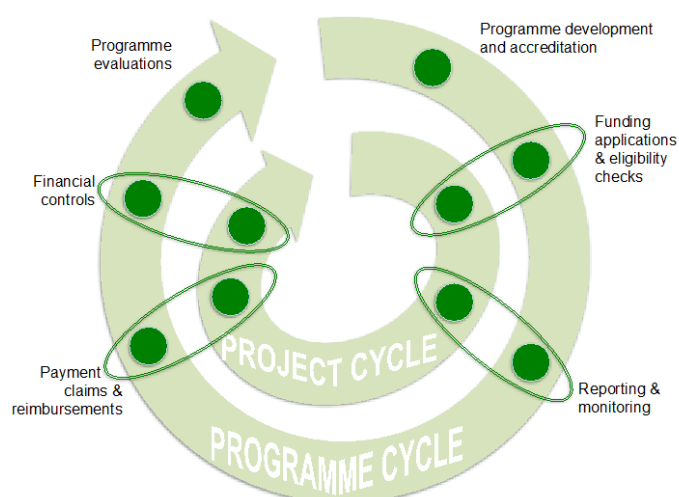
KEY FINDINGS

- Additional rules and requirements imposed at regional, national or programme level, **affect both administrations and beneficiaries in various phases of the programme lifecycle.**
- **Additional selection criteria and specific requirements** are often imposed to ESIF beneficiaries **during the application phase**. Typical examples are the obligation to carry out environmental impact assessments, regardless the project thresholds or the need to prove the compliance with additional conditions (i.e. equal opportunities between men and women and non-discrimination principle).
- **Reporting activities** can also be **gold-plated**. A typical example is the obligation, applied in some Member States, to provide a hard copy version of the electronic document submitted to the authorities of the programme.
- **Additional requirements related to payment** claims and reimbursements are a major source of gold-plating. For example, in some cases, expenditures which are eligible according to EU rules, are interpreted as ineligible by national rules.
- **Rigid financial controls** on ESIF, due to additional national requirements, also trigger gold-plating. In particular, the presence of specific national rules on public procurement or rigid interpretations of EU rules on public procurements are a key source of additional administrative costs.

Gold-plating occurs throughout all moments of the ESIF programme lifecycle (see Figure 3). That starts with the accreditation of relevant programme bodies and covers, during the implementation phase, the funding applications and eligibility checks, as well as the reporting and monitoring, the delivering and progressing of payment claims and reimbursements and related financial controls.

The following sections address the presence or risk of gold-plating in different ESIF implementation steps. These are differentiated along the different phases of ESIF implementation, since various tasks can be matched with different phases of the programme lifecycle (accreditation and application, reporting and payment and controlling phases). At the start of each section, there is a small version of Figure 3 indicating which moment of the lifecycle is addressed.

Figure 3: Phases in the ESIF programme lifecycle with high risk for gold-plating



Source: Spatial Foresight, 2017

The sections below address mainly active gold-plating, as the literature review and interviews provided little information on passive gold-plating. At the same time, the reluctant use of SCO in some Member States shows that passive gold-plating is a real issue.

Throughout the programme lifecycle gold-plating concerns most prominently:

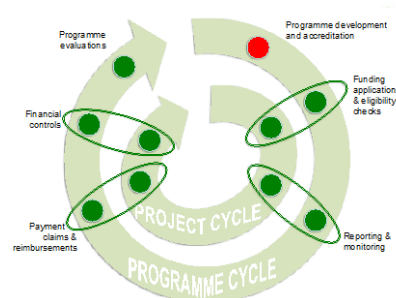
- **Eligibility.** A range of eligibility requirements can be associated with gold-plating including incomplete rules and ambiguous or vague requirements. Other issues include extremely detailed requirements for applicants, and excessive documentation requests, as well as variations of implementation rules between calls.
- **Reporting.** Multiple reporting obligations, such as the need for beneficiaries to report expenditure up to three times. First, in the regular expenditure statements to the Commission for a given period, second in a complementary statement where all expenditure during a given calendar year are reported again, and thirdly in a final expenditure declaration at the end of a project.
- **Payment.** Unnecessary rigidity in finding co-financing and application of various procedures and unnecessary requirements prevent timely payment. Final payment control is, however, not a gold-plating issue.
- **Financial controls.** These relate to general rigidity and extension of procurement rules to private entities, a burden for small investments. Another case is excessive publication or notification requirements.

3.1. Presence of additional requirements in the accreditation phase

Very early on in the ESIF programme lifecycle, there are indications of gold-plating already in the processes concerning the accreditation of programme bodies.

Programme authorities are often obliged to deal with stricter rules imposed by the national/regional regulative framework. This makes the accreditation process more complex or limits the possibility to designate specific types of implementing bodies. National regulations

can in fact limit the possibilities offered by the EU regulation. This is the case for example of the Czech Republic, where the transfer of the responsibilities for the financial management

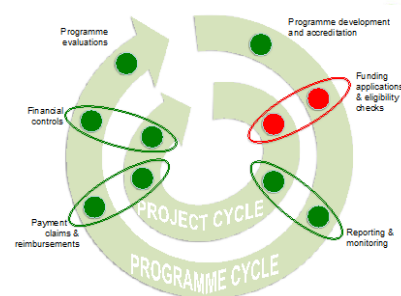


of the funds to intermediate bodies is impossible according to the Czech Budgetary Rules Act. Czech Intermediate Bodies (IB) can carry out many administrative tasks concerning financial administration and management but only the managing authority is entitled to, for example, issue decisions on financing of projects, carry out financial control and generally provide financial means to beneficiaries. In this case one may however also argue why the managing authority installs an intermediate body at all, since this is not requested by the Common Provisions Regulation (CPR).

Gold-plating **is also visible when it comes to the set-up of a programme in terms of the layers involved in managing ESIF**. According to CPR (Art. 123) the managing authority and the beneficiary are the central players for implementing ESIF. At programme level they are complemented by the certifying authority and the audit authority. However, in many Member States additional layers are added by establishing intermediate bodies. Though they may be justified in certain cases, there are sometimes two to five layers of intermediate bodies among which different functions are delegated, resulting in a cascading system (DG REGIO interview).

3.2. Presence of additional requirements in the application phase

Beneficiaries have to deal with many rules and requirements when applying for ESIF. These requirements can derive from the ESIF regulatory framework, other EU regulations, national and regional regulations or programme specific procedures. These requirements may concern selection criteria, horizontal principles or resubmission and in many cases it can be discussed whether they are avoidable or not.



Programme authorities require project applicants to submit supporting **evidence to prove their eligibility** for ESIF support or to provide other **evidence supporting certain selection criteria** including environmental impact assessment documents. The information and evidence support eligibility or selection criteria is a frequent area for gold-plating. Box 3 provides a non-exclusive list of examples of different kind of supporting evidence requested by programme authorities.

Box 3: Examples of additional requirements during the application phase

In Lower Saxony (Germany) SMEs are required to provide **certificates confirming their status as SME** (issued by the tax inspector). Self-declarations are no longer considered as being sufficient by the audit authority during the project application. To answer these additional requests by the audit authority, this certificate appeared to be the solution with the lowest additional burden for SMEs.

Another example of additional requirements imposed on ERDF/CF beneficiaries during the application phase comes from Lithuania, where additional national requirements indirectly deriving from the EU rules have been imposed. In this case, beneficiaries are asked to provide a **description of ineligible expenditure** in the project application for infrastructure projects. The programme bodies emphasise the importance of specifying ineligible expenditure in the case of infrastructure projects, as ineligible expenditure representing a large part of overall costs would become a serious obstacle for completing such projects.

Environmental Impact Assessment (EIA) requirements are, for example, imposed in the RDP of Marche region (Italy). The EAFRD programme authority enforces beneficiaries of energy generation measures to carry out the EIA, including activities aimed at producing very limited amount of energy.

Source: Research team analysis of Germany, Italy and Lithuania, 2016

Horizontal principles are also frequently subject to gold-plating. In many cases this implies that additional policy objectives are introduced in order to ensure the contribution of ESIF to achieving these non-ESIF policy objectives. An example is shown in the box below.

Box 4: Example of additional requirements to accommodate horizontal principles

Some programmes request specific evidence of ensuring the **compliance with the equal opportunities** between men and women and non-discrimination principles. In Cyprus, for example, beneficiaries should enclose in their project proposal the necessary certificates of compatibility, issued by the competent bodies, to prove compliance with these principles. In this case the relevant intermediate body should submit the proposed grant scheme either to the Ministry of Justice and Public Order (responsible for equal opportunities issues), or to the Ministry of Labour, Welfare and Social Security (responsible for non-discrimination), to receive the certificate of compatibility with the national and EU policy. The obligation of the beneficiary for compliance with national and EU policies and legislation should be included as a condition in the relevant public funding agreement to be signed between the beneficiary and the intermediate body.

Source: Research team analysis of Cyprus, 2016

There are also other examples showing that additional application requirements are raised for various reasons. In this context, it is also necessary to reflect in how far gold-plating practices are **avoidable or not**. Whether it is considered avoidable or not often depends on the perspective of the player involved, i.e. lies in the eye of the beholder as the example below illustrates.

Box 5: Unavoidable vs. avoidable gold-plating to operationalise the programme

Sometimes gold-plating is considered as unavoidable. The example of a Dutch OP states that the EU regulatory framework should **be leading when setting up and implementing the programme**, possibly supplemented by national regulation. However, some elements from the ESIF regulations needed further definition and this has been discussed at national and programme levels. Although in theory the more detailed definition does not require additional administration, practice proves the contrary and thus additional documents have been asked to potential beneficiaries in the application phase. The managing authority made this, initially unforeseen, choice to avoid any inconvenience in case auditors would indicate a lack of proof for the eligibility of some projects. As a consequence, the managing authority has extended the time for potential projects to apply for funding from one month to three months.

Source: Research team analysis of the Netherlands, 2016

In any case, additional requirements imposed on beneficiaries during the application phase are sometimes supposed and expected to support the quality of the result and limit administrative costs and burden in later stages. Despite the good intentions, in practice it can have the opposite results, as it implies an increasing risk of errors that can be detected by the auditors. In fact, any additional criterion imposed during application needs to be evaluated, monitored and controlled (for more information on the effects of gold-plating see chapter 5).

In the case of EAFRD in Marche (Italy), beneficiaries of measure 8 on farm and business development in rural areas³ are required to present, during the selection phase, the license for construction building. Although this is not required under EU regulation, it is asked for to

³ See Article 19 of the Regulation (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005

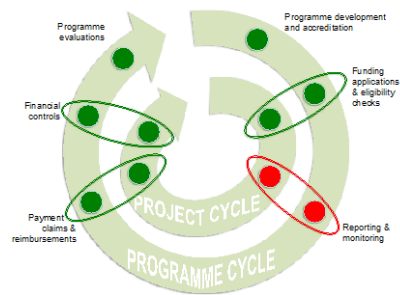
ensure that the selected projects are actually able to guarantee outputs and results. However, even if justified by specific policy objectives, any additional requirement increases the complexity of the project application both for beneficiaries (the drafting of the application becomes more complex) and for programme administrations (the selection phase is more complex due to the presence of additional criteria to be considered).

Gold-plating it does not only cover the request for additional documents, **requests for the repeated submissions** are also gold-plating. Although already provided during the application phase, administrative documents need sometimes to be resubmitted together with progress or financial reports. The repeated submission of procurement documents is one example.

3.3. Presence of additional reporting obligations

Once the application for funding has been successful, the administrative burden linked to reporting is further complicated by gold-plating. This may concern the type of information required, the frequency of reporting, or the establishment of parallel reporting trails.

Paradoxically, several examples of **gold-plating related to the reporting obligations appear in combination with the use of electronic systems**. Additional reporting obligations can occur in various forms.



Having an electronic system does not always reduce the burden, as beneficiaries are still required to sometimes **submit hard copies** of documents. Such a parallel paper trail is a clear case of gold-plating. Due to the obligatory nature of applying the electronic system not all Member States seem to be prepared to completely adjust their established systems to this EU requirement.

In addition to the electronic submission of documents in the system of the ESIF programme, beneficiaries are sometimes asked to provide additional inputs in **national online filing systems** as indicated in the two examples in the box below.

Box 6: Excessive online reporting systems

In Italy, the Agency for Agricultural Payments (AGEA), in its capacity as National Paying Agency for grants on EAFRD for certain regions, requires RDP beneficiaries to maintain **on-line file tracking changes in their business** and an annual crops/animal plan. This operation must be performed by using the procedures of the National Agricultural Information System, and must be maintained and updated thoroughly in order to be eligible for all measures funded by the EAFRD. A wide range of information is required and in some cases amendments must be inserted no later than 3 days after the status of the beneficiary has changed. Although this practice in principle aims at supporting transparency and efficiency in the communication between beneficiaries and public authorities, it is often considered a disproportionate effort in relation to the amount of funding granted and might induce irregularities due to tight timelines to upload necessary information.

In the Czech Republic, according to a specific national regulation (Budgetary Rules act No. 218/200) the use of financial means must be planned and reported (both at the level of managing authorities / intermediate bodies, as well as beneficiaries) in a structure required by the Information System of Programme Financing (ISPROFIN-EDS/SMVS), which is different from ESIF monitoring system. Thus, players involved in ESIF need to **report their budget and expenditures twice**.

Source: Research team analysis of Italy and Czech Republic, 2016

Additional reporting obligations can be requested both by programme from the beneficiaries or by other national authorities from the managing authority. Gold-plating is generated when these obligations are requested more frequently than required by the ESIF regulations. An example of more frequent reporting of managing authorities is given in the box below.

Box 7: More frequent reporting of managing authorities

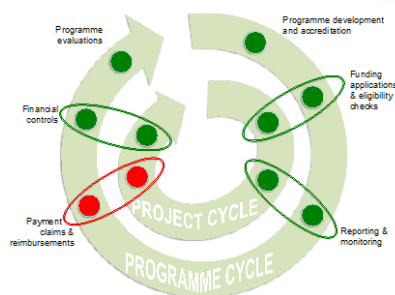
An example from Cyprus shows how gold-plating in the context of **more frequent reporting occurred** especially in the previous programming period. Then it was generated by delays occurred in the submission of monitoring data by the intermediate bodies. Actually, in many cases the managing authority was obliged to prepare the biannual reports of the projects to cover those delays. In the new programming period this problem seems to be solved, as the information systems used by the intermediate bodies have been connected to the single management information system. Therefore the intermediate bodies do not need to keep separate files for project monitoring, after the amendment of the system.

In the case of the Bulgarian ESF Programme “Science and Education for Smart Growth 2014-2020”, gold-plating imposes additional administrative costs to the managing authority because of several additional procedures, which among others **duplicate correspondence and data exchanges** with beneficiaries and additional reporting to the government and other national bodies.

Source: Research team analysis of Cyprus and Bulgaria, 2016

3.4. Presence of additional requirements affecting the submission of payment claims and the reimbursement

In the same way as reporting also the filing of payment claims is in many cases becoming more difficult and burdensome due to gold-plating. This concerns for example the documents and signatures to be provided as well as more narrowly defined eligibility rules.



The procedures for reimbursement can become extremely difficult and complex due to additional requirements. The **increased complexity with respect to payment claims** is associated with inappropriate restriction of eligibility or with excessive submission of documents. Eligibility is for instance unnecessarily restricted in some countries as regards the purchase of property or the acceptance of different forms of employment. The latter is illustrated by a Slovakian example, according to which a specific kind of temporary, short-time or contracted employment in ESF may not be eligible due to a different definition of “employment” in the national legislation.

Additional documents are sometimes required, for example full bank statements from beneficiaries for all years of eligibility or multiple declarations and statements from beneficiaries.

Gold-plating is more visible in the reimbursement procedures rather than in the payment requests themselves, as highlighted in box 8. Several examples show how rigid eligibility criteria and excessive documentation requests often prevent timely or full payments to beneficiaries. This consequently delays the implementation of the planned actions and causes difficulties in achieving the targeted output and results (see box 8). A very strict interpretation of the regulations affects the eligibility of costs in favour of risk prevention rather than for the benefit of project results.

Box 8: Additional requirements and interpretation of eligible costs

In some Czech ERDF/CF programmes, the **costs of purchasing land**, theoretically eligible in case of infrastructure projects, was considered ineligible by the managing authority in order to prevent any future complaints from auditors. Similarly, in the Lithuanian projects under the ERDF/CF programme, some expenditure which are eligible according to the ESIF rules (e.g. purchase of used property and purchase of vehicles) are deemed **ineligible in national legislation**.

In Hungary national authorities require **duplicated declarations and statements** from the beneficiaries for the co-financing contract and even if not mentioned in the financial and implementation manual, first level controllers often require additional statements from the beneficiary's legal representative.

For approving expenditures incurred in the various Italian RDPs, some Paying Agencies require a **full bank statement from the beneficiaries**, not just for those expenses which have to be refunded, but also for all other expenditures occurred during the years of eligibility. This practice is considered by beneficiaries as superfluous and far too intrusive (a certification of the actual expenditures to be refunded might be sufficient), which might result in high irregularities due to the reluctance of beneficiaries to provide unnecessary information.

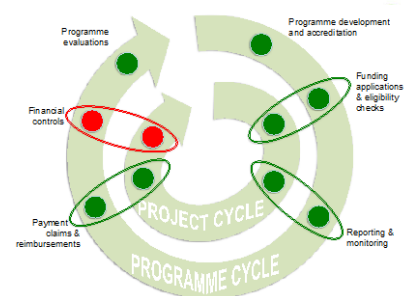
Source: Research team analysis of the Czech Republic, Hungary, Italy and Lithuania, 2016

3.5. Presence of additional requirements related to financial controls

Following the reporting and filing of payment claims, also the financial control can be subject to gold-plating.

There are various cases where the **financial control on ESIF is more rigid than** required by ESIF regulations. In many cases this type of additional requirement is linked with public procurement procedures. Examples related to financial controls refer to:

- more rigid controls in terms of application of lower thresholds or stricter rules when conducting public procurement procedures;
- extending EU rules also beyond ESIF funded activities;
- additional control procedures at various steps of programme implementation, in particular if public procurement procedures are to be applied as illustrated in box 9 or if beneficiaries are even controlled ex-ante before launching public procurement;
- additional criteria to be proven by beneficiaries to obtain an audit exemption; and
- stricter interpretation of eligibility criteria by auditors than required by regulations.



The presence of gold-plating is subject to various reasons linked to interpretations of ESIF regulations, inconsistencies between national and EU requirements or technical challenges. These are outlined in further detail in chapter 4.

Box 9: Gold-plating related to financial controls

In the case of Cyprus, every phase of the procurement process (tender documents, amendments, procurement procedure and consultation procedure) programme authorities need the **prior approval by the Public Procurement Directorate** of the Treasury as the competent authority for Public Procurements. This peculiar form of gold-plating (the involvement of authorities not included in the framework of ESIF management) is however considered by the programme authorities as essential for ensuring the legality of state-aid projects. On the contrary, in the case of energy efficiency projects, the fact of having two agencies both included in the ESIF implementation system (ministry of transport and ministry of energy) auditing twice the same projects is considered by the managing authority an useless burden (consequently the managing authority is going to modify the implementation framework for this category of projects).

Similar examples can be found in Belgium ESF. Audit authorities rigidly interpreted the **definition for training in vocational trainings**, by not considering as eligible any training lasting less than 8 hours (even training lasting 7,5 hours were not considered as eligible).

Another case of gold-plating related to the control procedures is reported in Slovenia. Here the EU regulation demands controls before the funds are allocated from the national budget. Regardless of the fact that these controls have been undertaken as required by Slovenian regulation, Slovenian authorities conducted even **additional controls** – the controls were doubled – one person controlled from the EU perspective and another person from the Slovene perspective. To a great extent this practice has been eliminated leaving one control now only.

Source: Research team analysis of Belgium, Cyprus and Slovenia, 2016

4. TYPICAL REASONS FOR GOLD-PLATING

KEY FINDINGS

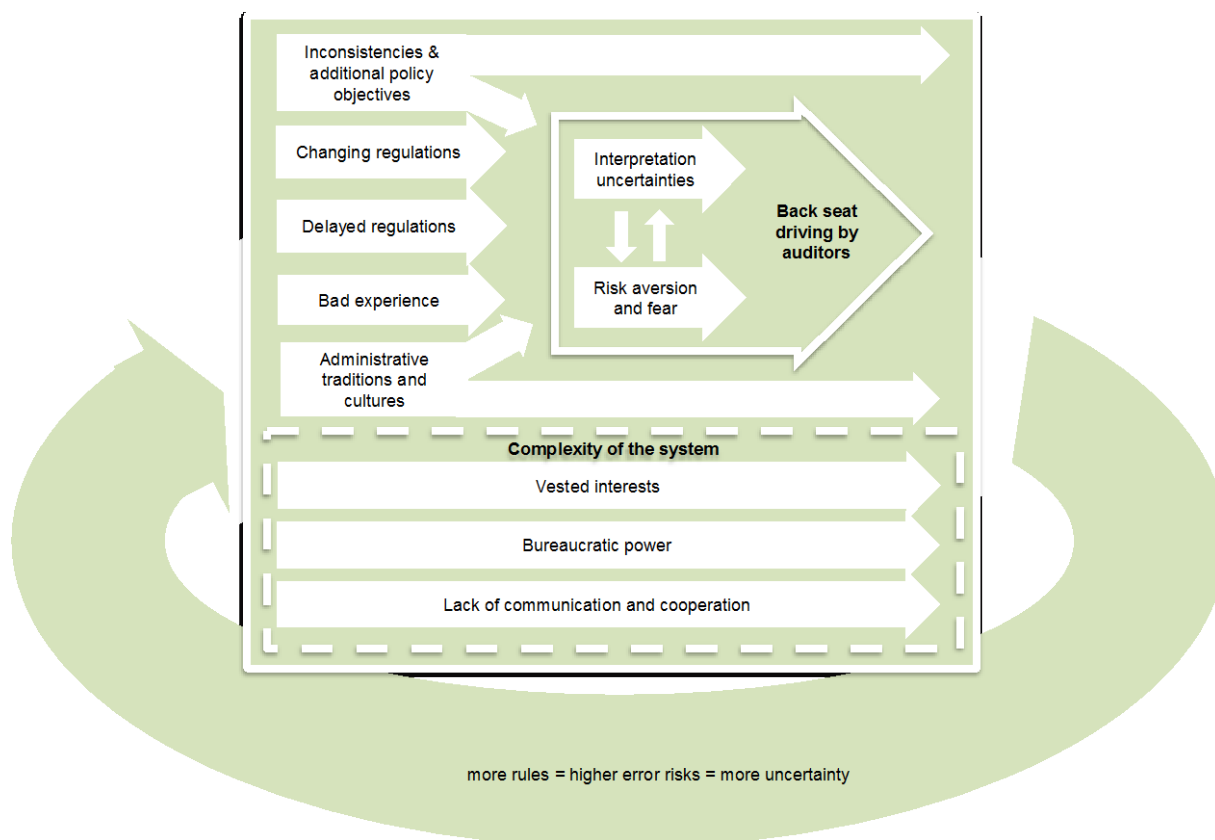
- **Inconsistent regulatory frameworks contribute to gold-plating** but to a lower degree as it might be expected. Inconsistencies can be observed mainly in relation to additional national rules and some other EU rules, especially linked to public procurement and state aid.
- **Uncertainties stemming from different reasons and a related risk aversion together with fear for audits are the main causes for gold-plating.** These uncertainties occur due to delayed regulations but also due to unstable legislation, different interpretations and different political agendas existing in parallel.
- **Risk aversion together with a fear of audits often stems from past audit experience.** Authorities managing ESIF frequently experience audits that apply stricter interpretations of rules than the managing authorities themselves. This makes them even more cautious.
- Effects of past experience and the degree of risk aversion also depend on **administrative cultures and traditions.** The more the administration is used to compliance, the stronger is the tendency towards ensuring future rules' compliance. Similarly, the uptake of new elements (e.g. for simplification) is not welcome in all Member States to the same degree.
- The shared management of ESIF contributes to the **overall system complexity**, which implies sometimes a lack of clear responsibilities or sufficient communication.

While theoretically the reasons for gold-plating might be linked to complex and **inconsistent** pieces of regulations, it appears that '**uncertainty**' and '**risk aversion**' together with '**fear**' are as important factors causing gold-plating. These are in turn 'fed' by several factors supportive to gold-plating practices. Among them are changing and delayed regulations, negative experience and different administrative traditions and cultures (see Figure 4).

In addition, the **overall complexity** of ESIF management contributes to gold-plating, and the shared management system implies that any governance level can gold-plate. This includes communication difficulties, vested interests and bureaucratic power (see Figure 4). Thus, quite a variety of reasons contributes to ever increasing administrative costs and burden and further effects (as detailed in chapter 5), often stemming from gold-plating. Thereby, a vicious circle is initiated that negatively affects effectiveness and efficiency of ESIF. The interplay between different reasons and effects enhancing this vicious circle are further described in section 5.2 when discussing risks of errors, since they seem to be central in this context.

This chapter explains how the different reasons interplay with each other by focusing on inconsistencies first, as they may be the most expected reason. Uncertainties and risk aversion are discussed in relation to their underlying reasons for gold-plating. The final section of the chapter outlines the more indirect effects of gold-plating stemming from the complexity of the system.

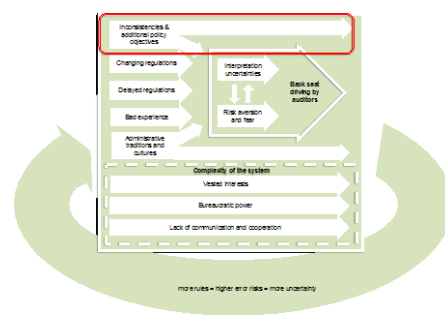
Figure 4: Overview of reasons for gold-plating



Source: Spatial Foresight, 2017

4.1. Inconsistent regulatory frameworks

A wide range of different regulatory frameworks at EU, national and regional levels apply to the management of ESIF. This includes environmental, state aid or public procurement regulations. Even if efforts are made to coordinate all regulatory frameworks, there are still inconsistencies, which exacerbate the already complex ESIF regulatory framework. In many cases inconsistencies are a result of different regulatory objectives at different levels of governance or between different policy domains.



These inconsistencies increase the risk of gold-plating. They can result from **other EU rules**, **different timing requirements of rules**, or **additional rules in the Member States**.

In several EU Member States there seems to be no consistency issues between ESIF regulations and corresponding national rules. The EU regulations are clearly perceived and implemented in the national frameworks of several countries such as Estonia, Cyprus, Latvia, Lithuania, Luxembourg, Romania, Slovenia and Finland. In countries with such predominantly consistent frameworks usually only minor examples of consistency issues between ESIF regulations and national regulations are acknowledged. These do, however, not seem to contribute to gold-plating.

In other Member States, national regulations create parallel systems, as can be illustrated on the case of e-cohesion. Whereas the CPR (art. 122) obliges managing authorities to

exchange all information between the managing authority and beneficiaries electronically, some programmes, for example in Bulgaria and Germany, need to have a parallel paper trail due to national or regional regulations. Whereas an additional paper trail or additional online reporting systems have to be respected by beneficiaries, the additional national rules are not (completely) compliant with ESIF rules. This creates inconsistencies leading to gold-plating.

Consistency issues in relation to other EU regulations are more often relevant for the implementation of ESIF. These consistency issues increase in most cases the administrative costs, but are not necessarily gold-plating. Based on evidence collected from Dutch sub-national authorities, researchers from the University of Twente conclude that state aid and procurement rules lead to the highest cost for regional and local governments when implementing EU Funds (Lange et al., 2015). In general, there is a high risk of gold-plating in ESIF due to state aid and public procurement rules, stemming from the complexity of these rules. This perception varies across Member States. These regulatory frameworks are seen as the biggest source of gold-plating by players in for example Belgium, Bulgaria, France, Cyprus, Luxembourg, Poland, Slovakia and Romania.

The application of **EU state aid rules** is an important bottleneck to the use of ESIF and possibly discouraging their access to beneficiaries (Boni and Choraży, 2016). The Committee of Regions states that the application of state aid has become more complicated over the years (CoR, 2016). This is mainly due to different interpretations of state aid rules at different levels of governance. There seems to be a discrepancy between the authorities' task with transposing state aid regulation in national context and the authorities responsible for implementing ESIF. This becomes even more apparent when applying different exemptions of state aid following proportionality principles. At the moment there is often confusion over when and how the de Minimis, Service of General Interest, General Block Exemption Regulation and Regional State Aid Guidelines operate (CoR, 2016). The following box highlights this.

Box 10: Gold-plating related to inconsistencies between ESIF and other EU rules

In the UK the EAFRD **state aid rules are linked to each of the sub measures**, within a given measure. It is felt that the structure and organisation of the RDP itself, is rather complex and adds to gold-plating, in relation to state aid as well as national rules, as it makes the reporting process very complex and difficult. For investment measures, non-productive investment measures, cooperation measures, and combinations, matching the needs and structure of beneficiaries with state aid rules is quite complex. For example, in cooperation measures, the MA requested that these could be implemented as pure cooperation measures, without requiring any other state aid rules. This negotiation process with the Commission was very time consuming, however, it was finally decided that the managing authority could run a cooperation measure as a pure cooperation. Therefore, it would be exempt from other state aid guidance. Streamlining this process may simplify the implementation of these funds in the future.

Source: Research team analysis of the United Kingdom, 2016

The complexity of the state aid rules has been confirmed for example in the Netherlands, France and Poland. In these cases, high prudence leads to additional administrative costs, but not necessarily to additional administrative burden. The managing authorities perform more verifications and controls in relation to state aid and might restrict the number of choices for potential beneficiaries as given in the ESIF regulations. For example, Dutch managing authorities have decided to limit the number of options for beneficiaries regarding aid for research and development projects to two. In contrast, the General Block Exemption Regulation (651/2014 art.25) offers four categories of aid – fundamental research, industrial

research, experimental research and feasibility studies. While the restriction aimed to decrease the complexity and administrative costs and burden, it implies restrictions beyond the EU rules and thus restricts the beneficiaries. The box below provides another example where the complexity of state aid rules increases the risk of gold-plating.

Box 11: Gold-plating related to inconsistencies between ESIF and state aid

The case of Cyprus state aid rules is an example where non-ESIF national regulations generate gold-plating in ESIF. National regulation requires the involvement of a Commissioner for state aid to ensure compatibility of a state-aid project with the respective EU regulations. This increases administrative costs, but not necessarily the administrative burden.

In detail, according to the legislation concerning auditing of state aid at national level, each competent authority, before the completion of the state aid approval process (including cases of the de Minimis aid), is obliged to submit a draft of this aid to the Commissioner for State-aid Control for approval or advice where appropriate. The Commissioner then

- a) issues binding decisions on the categories of aid that do not require approval by the European Commission, i.e. according to Regulation (EU) 651/2014 of the Commission (exemption regulation), and
- b) issues, for all other categories of aid (excluding aid granted under the exemption regulation), opinions on the compatibility with the state-aid rules.

Source: Research team analysis of Cyprus, 2016

Public procurement rules are another complex area in relation to implementing ESIF. In addition, public procurement rules are error-prone. The European Court of Auditors noted a relatively high share of errors in ESIF in relation to public procurement rules (Boni and Chorąży, 2016). Public procurement rules are a source of potential errors and are therefore assessed extra carefully by the programme bodies, including the auditors. This carefulness can result in additional administrative burden for the beneficiaries.

EU regulation and national regulation on public procurement are not always aligned. National procurement rules can have a lower threshold or more segmentation. An example for this can be found in Italy (see box 12).

The Committee of the Regions (2016) identified more cases of discrepancies between the EU legal framework for ESIF and national legislation, for example in terms of public procurement. This causes fragmentation and different approaches in various Member States. According to the Committee of the Regions, especially programmes managed by smaller authorities are concerned. These authorities do not always have the capacity to launch tenders or monitor the procurement processes in the light of different regulatory frameworks (CoR, 2016). A few examples are presented in the text box 12.

Besides these two most prominent sector policy rules, environmental impact assessments (EIA)⁴ are among the examples of other EU rules leading to gold-plating in ESIF. They also increase obligations of beneficiaries. In some cases beneficiaries have to carry out an EIA in

⁴ Environmental assessment is a procedure to ensure that the environmental implications of decisions are taken into account before the decisions are made. EU Directives differentiate between two types of environmental assessments: **Environmental Impact Assessment** concern individual projects, such as a dam, motorway, airport or factory, on the basis of Directive 2011/92/EU, known as EIA Directive. **Strategic Environmental Assessment** concern public plans or programmes on the basis of Directive 2001/42/EC, known as SEA Directive. The common principle of both Directives is to ensure that plans, programmes and projects likely to have significant effects on the environment are made subject to an environmental assessment, prior to their approval or authorisation. Consultation with the public is a key feature of environmental assessment procedures.

situations not foreseen by the EU regulation. The obligation to carry out EIAs results from Environmental Policy objectives and as such adds to the rules created for ESIF. Furthermore, examples show that EIA obligations are, in addition, differently implemented in different Member States by adding national requirements for EIA. Other examples can be found in the below text box.

Box 12: Gold-plating related to inconsistencies between ESIF and public procurement

Up to date, the Greek procurement legal system was uniquely complex, being dispersed among as many as 400 laws, regulations, and presidential decrees. Further contributing to the complexity was a **lack of uniformity, as different laws and regulations** employed a number of concepts and definitions that diverge from those inherent in the EU Directives. For example, there was no single definition of an awarding authority in Greek law, meaning that different classifications were used for different purposes. The new law on public procurement (Lay 4412/2016 on public works, supplies and services) attempts to solve and reduce these deficiencies, although problems still remain. The use of the e-procurement system, mandatory for all contract over EUR 60,000, although not yet applicable to public works, will decrease the public procurement related gold-plating.

In Luxembourg gold-plating can become an issue in relation to public procurement. There are several restrictions that make Luxembourgish **public procurement procedures more rigid than ESIF** public procurement practices, with different thresholds below the European one (below EUR 135,000 in 2016). The national law differentiates between i) contract values, ii) types of service tendered, iii) varying forms of procedures and iv) types of contracting authority.

In Italy, previous rules on public procurement set at the national level included a **strong segmentation of ranges and types of contracts**. Concerning ESIF, the reference to such rules implied for administrations and beneficiaries a lengthening of the time needed to the definition of procurement procedures as well as increasing risks of incurring errors. The new Legislative Decree 50 (which replaced the previous Decree Law 163) seems to have partly solved these risks.

Source: Research team analysis of Greece, Luxembourg and Italy, 2016

Box 13: Gold-plating related to EIA and national implementations

In the case of the Czech Republic, EIA is required for **waste water treatments plants** for more than 100,000 inhabitants, while the limit imposed by the EU directive is of 150,000 inhabitants, thus the national requirement is stricter than the limit in the EU Directive.

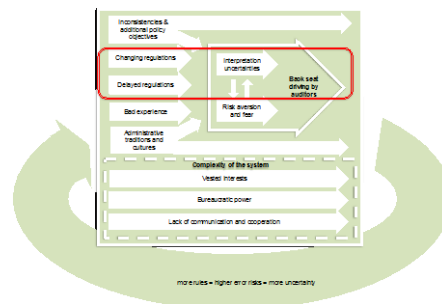
In Poland, beneficiaries of the **transport sector** of the ERDF/CF Infrastructure & Environment operational programme are requested at the point of submitting the project application to deliver as one of the attachments the EIA. However, in the case of some other Polish operational programmes such a document is requested at the point of contracting (i.e. signing the funding agreement) and under the Connecting Europe Facility (CEF) the EIA process can be executed even later, during the project implementation (after signing the Grant Agreement).

In Malta beneficiaries are required to carry out EIA regardless of the project threshold, as national regulation makes **no distinction between different threshold levels** and the need for environmental impact assessment.

Source: Research team analysis of the Czech Republic, Malta and Poland, 2016

4.2. Uncertainties

Various uncertainties occur when designing and implementing ESIF operational programmes. This causes gold-plating as players tend to safeguard their decisions taken under uncertainty. During the different phases uncertainties originate from different sources. The most prominent are delayed regulations, changing legal requirements, different interpretations of ESIF regulations and vested interests.



The delayed adoption of ESIF regulations for the 2014-2020 programming period increased uncertainty in the programme development phase. The multifaceted process leading to the final adoption of the CPR implied that the final version of the regulatory framework became available at a time when Member States and programmes already were rather advanced with the elaboration of partnership agreements and operational programmes. Especially if new elements were added to the regulations and changes from early drafts were more considerable than expected, additional programming steps had to be taken, the workload of the managing authorities increased. Although this did not necessarily hint to gold-plating practices, these changes on draft versions of the CPR implied that responsible players at national and programme level felt in some cases uneasy and tried to safeguarded themselves. This led to opt for rather narrow interpretation of the expected regulatory framework and thus was the first step of gold-plating. This was the case in the Czech Republic, Croatia, France, the Netherlands and Slovakia.

Changes in the regulatory framework do not only happen in the beginning of the programming period, but at any time of the programme lifecycle. According to the Committee of the Regions ESIF are not only getting more complicated every programming period, but virtually every year (CoR, 2016). These changes contribute to uncertainty; this is worsened if they are to be applied retroactively. Such changes occur within the ESIF framework and are due to different timing in the adoption of delegated and implementing acts and the development of guidance documents. For the latter, it is not always clear that they are not binding. Other examples of changing legal frameworks may also be linked to other relevant rules beyond ESIF regulations. For instance, new public procurement directives needed to have been transposed in national law by 18 April 2016. The majority of the EU Member States are delayed in the transposition of this legislative package⁵.

Programme authorities need time to adjust their established procedures to the new regulatory frameworks. During such periods of change there is a higher risk of gold-plating. Furthermore, changes create uncertainty which results in increasing risks for gold-plating as the example in the box below illustrates.

Box 14: Gold-plating due to changing rules

Application procedures are made more complex and time consuming in Romania due to national regulations adding to EU regulations. **Frequent modifications and changes of national rules and legislation** during the application and evaluation procedures slow down and sometimes even block the implementation of programmes. For example, the opening of some calls for grants were suspended and eventually cancelled because of the revision of the national law for public procurement.

Source: Research team analysis of Romania, 2016

⁵ Public procurement: Commission requests 21 Member States to transpose new EU rules on public procurement and concessions. Available at: http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8826

Interpretation uncertainties are a key reason for gold-plating. ESIF regulations are not conclusive and different articles are described in different levels of detail. This follows the basic principles of subsidiarity and shared management. However, it also leaves room for interpretation for national authorities and authorities involved in ESIF management as the examples in the box below highlight. Whereas in some Member States this is perceived as beneficial for including own (established) procedures in the ESIF management, programme authorities in other Member States are uncertain about the interpretation of different elements in the regulation causing inefficiency in the implementation of regulations. This uncertainty results, for example, in numerous requests for guidance documents to the European Commission, which in turn does not always reduce the risk for gold-plating.

Risk aversion is another example of a consequence of this uncertainty. In this case, programme authorities might introduce new procedures and requirements to overcome their perception of incomplete or even confusing regulations.

Box 15: Interpretation uncertainties as a source for gold-plating

A specific example of gold-plating can be retrieved from the **Italian partnership agreement** in which it has been inserted a norm (not foreseen by the European regulatory framework) according to which it is **possible to finance through ESIF also projects related to other contexts** (e.g. projects funded under national programmes) only if those projects have been approved under the Programmazione Unitaria ("Unitary Planning"). The reference to "unitary planning" is an additional constraint (compared to the European regulatory framework) increasing the difficulties for regional and national programmes to provide ESIF financing to operations mainly developed in the context of other instruments.

In German EAFRD programmes the implementation of **LEADER is hampered by different interpretations** between the federal states. Implementation of LEADER varies considerably between the states and thereby leads to currently incalculable additional administrative costs and burden hampering the overall implementation and thus effectiveness of the LEADER groups. One example is the lack of consensus among EAFRD managing authorities whether LEADER can be applied state-wide and covers the entire territory of a state or whether eligible LEADER regions need to be selected in a competitive procedure covering only parts of the programme area. Another example refers to the questions in how far LEADER may overlap with other EAFRD funding streams. In some states, other EAFRD funding streams have to aim at the same thematic objectives to ensure thematic concentration, in other states this is explicitly prohibited.

Source: Research team analysis of Germany and Italy, 2016

The different details and room for manoeuvre to refine some rules at national or programme level mirror the **shared management nature of ESIF and more generally the subsidiarity principle**. However, **this also causes challenges when different players have different interpretations** of the regulatory framework. ESIF management and implementation involves a large number of players with a high task division, including line ministries, managing authorities, certifying authorities, audit authorities and intermediated bodies. In addition, the partnership has been strengthened in the 2014-2020 regulatory framework. This aimed to strengthen the inclusion of other partners and interest groups in programme development.

Because of their different roles and interests, players involved in the management of ESIF often interpret the regulations from their perspective leading to challenging coordination efforts (see box 16). Moreover, even players with limited responsibilities might influence the implementation of certain practices with their specific interpretation (e.g. in cases of ITI and

CLLD). While contributing to uncertainties, this reason is also linked to vested interests as further outlined in the last section of this chapter. But also among the authorities involved in the management of ESIF, audit authorities tend to have a more strict reading of the regulatory framework than managing authorities who are more aware of the context in which decisions are made. These different interpretations from different perspectives can lead to an accumulation of rules. The presence of different interpretations of same provisions supports an ever-present “fear of not doing enough”.

Box 16 Different interpretations as a source for gold-plating

The **coordination between the managing authority responsible for EU funds and the individual ministries** (that are actually designing and implementing politics in their respective fields) can be a challenge (e.g. in Slovenia). The coordination between the different ministries leads to misunderstandings and consequently additional administrative work and costs. This is triggered by different languages of the ministries and different routines and objectives.

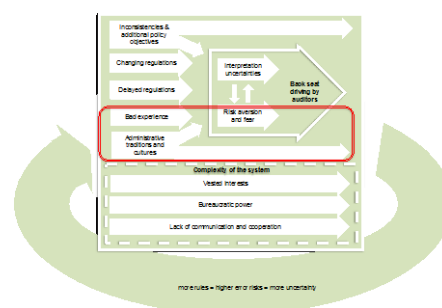
The multi-level governance and partnership principles from the CPR and code of conduct lead to more discussions in **programme development in the Netherlands** with national authorities, managing authorities, regional and local authorities and different interest organisations. The interest from environmental groups and research and education, including their interpretations of the regulations seems to be relatively high (RLI, 2015).

Source: Research team analysis of the Netherlands and Slovenia, 2016

Finally, **political agendas of different sector policies and across levels vary**. While overall objectives may lead to the same directions, this gives rise to uncertainties for authorities managing ESIF. All policies have to contribute to the Europe 2020 Strategy and their more specific goals and targets may give rise to competing objectives, at least when it comes to the timing of policies. Uncertainties in this context may be even exaggerated in times of elections leading to changing majorities in governments.

4.3. Risk aversion and fears

Against the background of uncertainties – whether avoidable or not – the way that the players involved in the programming and implementation of ESIF deal with them matters. Risk aversion depending on administrative cultures or fear based on past experience with audits plays a role in triggering gold-plating. Decisions based on risk aversion and fear often imply that following principles is the overarching objective rather than following common sense and considering the achievement of programme objectives first.



It has to be acknowledged that **administrative cultures and traditions differ widely** across Europe. This implies that the same uncertainty is dealt with differently. This concerns structures and procedures as well as the level of responsibility. Administrative cultures which are characterised by low levels of responsibility lead to usually more burdensome procedures and requirements to ensure an accurate implementation. Furthermore, different traditions prevail in terms of administrative simplification and the general attitude towards daily procedures such as collecting signatures and stamps. Just looking at the number of signatures etc. needed for an ESIF funding application tells a story about that. The examples in the box below highlight how the administrative culture affects the reading and implementation of EU legislation.

Box 17: Risk aversion depending on administrative cultures

In the context of the 2010 OECD Review on Better Regulation in Spain, the OECD peer review team analysing Spain noted that “the **administrative culture remains formal and legalistic**, with ‘internal gold-plating’, and there is a need for further public administration reforms to embed good regulatory practices as well as practical support.” This ‘internal gold-plating’ might also affect the implementation of EU regulations.

The example of France illustrates the different perceptions of what is a precise legislation. In France the lack of clarity of EU legislations would be linked with the rise of an **Anglo-Saxon legal culture at the expense of a Latin legal culture**, which tends to be more precise and descriptive per se. An increasing number of requests for interpretative notes may be a resulting factor.

Source: Research team analysis of France and Spain, 2016

Bad past experience increases the risk of gold-plating. Experience with audit findings and their consequences do not only lead to improved behaviour but often to additional safeguarding measures. Differences in interpretation become an issue if it affects accountability. Many programme authorities fear strict interpretations of the regulatory framework, including guidance documents by different audit authorities in ESIF management. Auditors aim to reduce the number of errors. In anticipation of strict audits, managing authorities introduce additional requirements. In addition, multiple audits may take place if errors have been found in procedures of similar kind, even after a longer period of time. As a result, programme authorities become extremely careful when implementing ESIF and risk to generate gold-plating. While being careful in spending tax payers’ money correctly as it is the obligation of ESIF programmes, bad experience in some cases make programmes taking safeguarding measures which clearly overshoot this objective and are considered gold-plating.

Box 18: Bad experience and different audit perceptions as source of gold-plating

Gold-plating in the process for the designation of the authorities in charge of the management of ESIF occurred (e.g. in Croatia). Although the system for the 2014-2020 programming period was largely the same as in the previous programming period, the **audit authority re-did the entire accreditation process** regardless of the fact that they could have relied on the experience of the past period. The authority was afraid to jeopardize its credibility.

In Belgium, exclusive ex-post audits that were conceived to be very strict by Flemish authorities implied that overall programme management was based on uncertainty and fear. It was **unknown how the audit authority would read the rules** so the practices became stricter. At the same time European legislators usually aimed at reducing the level of uncertainty and fear.

In the Czech Republic changes of the construction projects during their implementation occurred, among other reasons, due to additional requirements of various national authorities. This may be, for example, an intersection of roads which had to be changed to comply with additional requirements of the traffic police department which could not be mentioned in the project application because the details were not and could not be known then. In consequence, sometimes the managing authority of the transport **related operational programme excludes the projects** from financing them fully.

Source: Research team analysis of Belgium, Croatia and Czech Republic, 2016

Furthermore, audits themselves do not only raise concerns but are the **cause for interpretation**. The management and control system, and especially audits, are frequently considered as source for interpretations rather than the legislation itself. In this context, increasing emphasis on the managing and control system and a low acceptance of errors

created a system of distrust. Managing authorities have often more a principle based approach when interpreting the regulations. They consider the context and make a judgement on what would work best for the beneficiaries. On the contrary audit authorities have a more rules based approach. They have a more literally reading of the regulations (Damen, 2016). This is further nurtured, if audit authorities apply different interpretations across audit levels or even within one auditing institution. Complaints about auditors, who often do not look at the context or reported figures, have been aired in Croatia, Belgium and the Czech Republic as detailed in box 18.

These experiences often **stimulate fear of audits**, thus driving gold-plating. Managing authorities aim to reduce potential errors and corrections as result of audits in later programming phases. Therefore, in many cases they follow a stricter reading of the regulation themselves. This is confirmed for Spain. Managing authorities have a general fear of audits and controls that might lead to problems and additional work with financial reports and expenditure declarations.

Box 19: Introduction of excessive audit trails

Audit practices are particularly burdensome and costly due to many audit and control institutions. In the case of Poland, 10 different EU and national institutions can audit a beneficiary, not to mention law enforcement authorities. In addition, the institution of higher rank can audit each operational programme institution.

The audit is particularly burdensome and costly in the areas not adequately defined in the EU regulatory framework. For example, the CPR promotes the use of ESIF financial instruments or public private partnerships. However, it does not provide adequate unequivocal information on the delivery mechanisms. Moreover, **audits reported many mechanisms adopted at national level as irregularities.** Auditors have **freedom of interpretation** of the EU law and no limitations of the time-span for conducting audits (though the Member States are imposed with time limits for providing information for auditors). Consequently, in the most significant cases, there are **audits that have lasted over years**, whose **findings were even imposed retrospectively** (though this was against the basic legal rule of law not acting retrospectively and putting the Member State at risk of financial losses). For example, the final opinion from a DG REGIO audit of operational programme Infrastructure and Environment launched in 2011 was issued in 2014 and the final opinion from the DG REGIO audit of the CF 2000-2006 launched in 2006 was issued in 2009.

Finally, there is a problem of the **amounts of financial corrections** that are de facto governed by Commission Guidelines, and in particular by guidelines on corrections for public procurement irregularities which defines rates to be applied in the case of various infringements. This causes the creation of many caution procedures, even though there has been a European Court of Justices ruling (case C-406/14) in which the guidelines on corrections were found non-obligatory, the Commission did not recognise that as a fact.

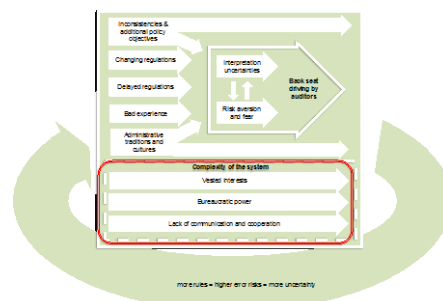
Source: Research team analysis of Poland, 2016

The fear of audits due to retroactive auditing has been acknowledged by players in the Czech Republic and Germany. Auditors, for instance, assess newer projects against older findings even though the problem and requirements were not known at the moment of closing the older project. Audit findings and opinions are developing so that an issue not dealt with or dealt with in previous audits in a different way may become more strictly considered in a new audit and previous projects may be audited according to such a new interpretation. As a result, sometimes audit trails become more extensive over time as the example in the box 19 shows, thereby further stimulating fear of audits.

The above examples of excessive audit trails show a variation of interpretations stemming from audit. This system is further complicated by multiple layers of audits. Audits are subject to proportionate control. According the CPR (Art. 148) operations below specific limits can only be audited once prior to the closure and other once a year and the commission audit will be focused on more risk-prone areas.⁶ This study shows that **audits from different levels of control are more overlapping than complementary.**

4.4. Complexity of the system

The different reasons for gold-plating create considerable additional administrative costs and burden. Considering them jointly and in the context of the complexity of the whole system delivering ESIF, contributes further to gold-plating. This is not least linked to the shared management approach. In this context, **complexity of the system stems from various sources:**



- Shared management contributes to complexity not least because of the variety of interests and perceptions to be considered but in terms of communication needed to balance these perceptions.
- Such complexity is either overcome by additional coordination and communication efforts, adding to the administrative costs of managing authorities or leads to misunderstandings and follow-up adjustments. Introducing a trail of gold-plating if additional rules are introduced to clarify misunderstandings.
- A lack of communication in turn may also affect the positioning of institutions involved in the delivery of ESIF. The above example of auditors from one level with different interpretations reflects only one possibility for different voices of one and the same institution. This can also occur within one ministry, DG etc., which in turn reflects also the variety of positions and roles of different people within one institution.
- Complex systems furthermore give a voice to vested interests and increasing bureaucratic power. Various players have vested interest in pushing for certain requirements and procedures. Any form of bureaucracy in general has a tendency to demonstrate its 'power' through enforcing regulations on others. The more vested interests are raised and considered in legislative processes the more complex the process becomes, the higher the number of rules to be considered, etc. That means public management systems have an inherent tendency to grow complex and increase gold-plating over time.

Overall, the complexity implies that roles of individual players are very limited. Thus, an understanding of overarching goals and a coherent picture of understanding of the other players involved is often missing. The own perspective and needs dominate the decisions taken by the players rather than the achievement of the overall objectives. Under such

⁶ 2013/1303 article 148 (1): Operations for which the total eligible expenditure does not exceed EUR 200,000 for the ERDF and the Cohesion Fund, EUR 150,000 for the ESF or EUR 100,000 for the EMFF shall not be subject to more than one audit by either the audit authority or the Commission prior to the submission of the accounts for the accounting year in which the operation is completed. Other operations shall not be subject to more than one audit per accounting year by either the audit authority or the Commission prior to the submission of the accounts for the accounting year in which the operation is completed. Operations shall not be subject to an audit by the Commission or the audit authority in any year if there has already been an audit in that year by the European Court of Auditors, provided that the results of the audit work performed by the European Court of Auditors for such operations can be used by the audit authority or the Commission for the purpose of fulfilling their respective tasks.

conditions, administrative behaviour is increasingly characterised by a lack of responsibility towards commonly sharing objectives.

The examples in box 20 illustrate different aspects of complex systems as they can be found in the context of ESIF management. They show how the complexity immediately adds to administrative costs and burden. More indirect effects to gold-plating arise from additional tasks and rules that are defined in consequence of the complexity. These and other effects of gold-plating are discussed in the following chapter.

Box 20: Complex systems within ESIF and beyond

The complexity of the public procurement system makes it very costly to administer, thus **reducing efficiency**. This is among other the case in Greece. In this case, in addition, delays in delivering public works and supplies not only increase the costs of the contract but also deprive the beneficiaries of public goods and undermine development. Regular, comprehensive training of practitioners and oversight personnel is essential to the operation of any procurement system. The more complex the regulatory system is, the more extensive, and thus expensive, the training must be. The same relation holds true for the administration of contracts, and oversight of activities.

Weaknesses in the process of strategic planning, developing, implementing and monitoring of policies, as well as separation of functions and the coordination between administrative structures are often perceived as challenging. This is for example the case in Bulgaria. The unstable legislative framework combined with a low degree of inter-institutional coordination **affect business climate and productivity**. Administrative structures are fragmented, impeding coordination and the implementation of sector and horizontal policies and demanding an optimisation of structures. For instance, a delay in the e-government implementation hampers better communication and coordination between national/regional authorities and/or beneficiaries, which in turn leads to an increase of administrative burden.

Source: Research team analysis of Bulgaria and Greece, 2016

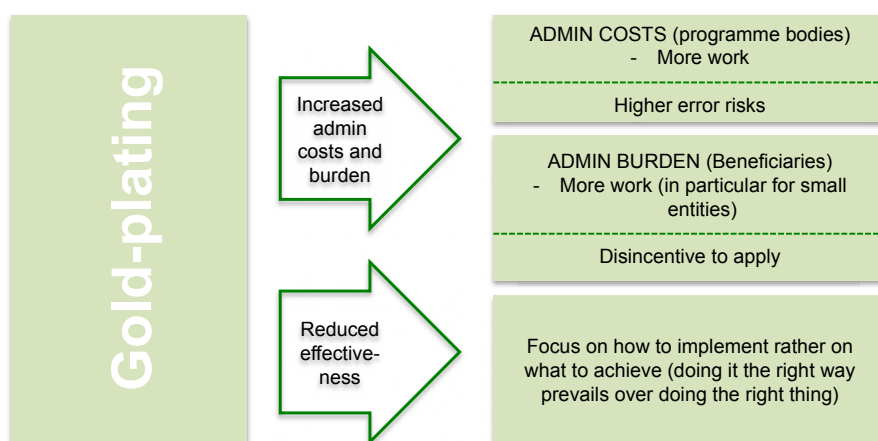
5. TYPICAL EFFECTS OF GOLD-PLATING IN ESIF AND PLAYERS AFFECTED

KEY FINDINGS

- Effects of gold-plating are visible in **all phases of the programme lifecycle**.
- By definition, gold-plating leads to **increasing administrative costs and burden**. These effects are particularly visible in the project application phase as well as in the tasks related to reporting and control which become longer and more complex.
- **Managing authorities are most affected by increasing administrative costs**. Other authorities involved in the management of ESIF are affected to lower degrees.
- **Gold plating increases the risk of errors**. The relation between error-rates and gold-plating is reinforcing and can become a vicious circle, where additional rules and procedures with the intention to reduce errors might lead to fear and uncertainty and thus to more errors.
- **Additional administrative burden matter especially for small beneficiaries**. This includes not only SMEs but small Non-Governmental Organisations (NGOs), small public authorities, etc. They experience increasingly a lack of capacity to implement ESIF projects.
- The higher the burden and the more capacity building is needed, the **less attractive ESIF becomes for potential beneficiaries**. This has negative effects on the quantity and quality of projects submitted and thus the potential to create innovative ideas.
- When implemented, **large infrastructure projects and innovative projects** are significantly affected by the presence of additional regional/national requirements.
- Gold-plating reduces the technical assistance resources of programmes to **focus on performance and achievements**. Due to rigid rules a lot of emphasis is put on controlling compliance rather than on results and achievements and the quality thereof. This constrain of resources to focus on achievements is not a wise spending of technical assistance resources.

By definition, gold-plating results in increasing administrative costs for authorities managing ESIF and administrative burden for beneficiaries. While, increased administrative costs may challenge the efficient delivery of ESIF, it may be justified. A balance has to be sought between increasing costs and burden, between different phases of the programme lifecycle and between administrative costs and/or burdens and the programmes' outputs and results. Gold-plating becomes an issue in cases where additional rules and requirements significantly increase administrative costs, without securing better project results. This is further worsened if the increased burden reduces the attractiveness of using ESIF and if authorities managing ESIF have to fear penalties due to higher error rates in effect of additional rules.

The discussion of the following sections is structured along the effects for different players involved in ESIF management and implementation (see Figure 5). Managing authorities are most strongly affected by increasing administrative costs and higher risks for errors. On the other hand, beneficiaries face higher administrative burden and due to this consider ESIF less attractive. Both, on programme and project level, gold-plating implies a focus on compliance with rules rather than performance. This affects the players managing ESIF as well as beneficiaries.

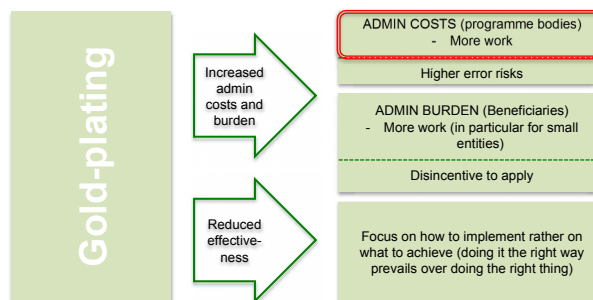
Figure 5: Overview effects of gold-plating

Source: Spatial Foresight, 2017

5.1. Increasing administrative costs for managing authorities

Managing authorities are challenged by accumulating requirements.

The central position of managing authorities in the ESIF management system entails information flows and procedures coming together and a need for coordination. Managing authorities do not only have to implement ESIF regulations and to support valuable projects, they also have to ensure that other regulatory frameworks such as EU competition policy (e.g. state aid and procurement rules) and EU environmental policies (e.g. EIAs) as well as national rules are respected. Together with the guidance notes this is an excessive framework to assess and respect by just a few people. It furthermore requires detailed knowledge on a diverse set of topics. Not every managing authority has these (human) resources.



Increasing intensity of the regulatory frameworks as well as increasing coordination needs require more staff, or outsourcing of tasks.

Furthermore, all additional requirements to be fulfilled by beneficiaries need to be checked and controlled again by the managing authorities. Other programme bodies, such as audit authorities and line ministries, experience also higher workload due to defining and interpreting the rules as well as due to monitoring and control practices.

Increasing focus on compliance tasks risks to reduce the technical assistance resources available for supporting project development.

The CPR (Art.119) puts a threshold for the budget share which can be used for technical assistance. The higher the costs are for ensuring compliance – e.g. through additional rules added resulting from gold-plating – the fewer resources are available for programme authorities to contribute to content related work improving the overall performance and results of the programme.

Following the different phases of the programme lifecycle different elements of administrative costs are affected:

- Excessive requirements increase the **application time** to apply for ESIF funding. Constant additional requirements do not only increase complexity, but also increase the application time. In some cases the timeframe for project applications has been

changed in order to allow applicants to comply with the necessary requirements. Subsequently, programme bodies may need more time to verify the fulfilment of the additional requirements. For instance, applications in Croatia have to wait approximately 90 days before receiving the financing decision.

- **Delays in payment** are expected to occur, though this cannot be proven yet. The time between the payment claim and the payment can be challenging if many documents need to be checked by the programme bodies. This may affect not only managing authorities, but also other programme bodies such as certifying authorities.
- The interlinkages between EU and national regulations make it difficult to **estimate the costs of excessive control and audit requirements**. For programme bodies it is often difficult to assess whether rules and requirements are based on EU or national regulatory frameworks or whether they stem from Member State traditions. Regulations are translated and embedded in national practices including control and auditing procedures. Despite these difficulties to quantify increase of administrative costs in this phase, they are expected to be relatively high.

Some specific examples of additional administrative costs are presented in box 21.

Box 21: Examples of effects creating additional administrative costs

The managing authorities in Romania are already burdened with the development of guidelines, procedures and specific instructions for the programme implementation, actions to align with changes of the legislative provisions and actions to inform beneficiaries about occurring actions or updates. This requires specialised knowledge which is not always available in the managing authority. Thus, some services, such as IT configuration services, technical consultation services, legally advisory services, consultancy services for the **assessment of public procurement, evaluation and selection of projects etc. need to be outsourced**. This has been recorded as additional administrative costs.

Czech authorities have developed a Joint Methodological Environment (JME) as single reporting system. All authorities have to comply with this coordination mechanism, including ESIF managing authorities. However, ESIF programme authorities also have to comply with the monitoring system for EU Funds 2014+ (the e-cohesion system MS2014+). Since the systems are not complementary, programme authorities would need to report data twice. The MS2014+ is maintained and operated by one entity for all OPs, and for each call for proposals and its specific features must be put into the MS2014+, it results in **inevitable delays due to communication between the managing authorities or IBs** and the operator of the MS2014+.

For the 2014-2020 programming period the majority of managing authorities in Bulgaria had to **increase their staff** in order to be able to provide timely monitoring and evaluations of the projects. Additionally, the majority of managing authorities will need to **provide specialised training to their staff** for newly introduced concepts/methodologies, thus creating additional costs.

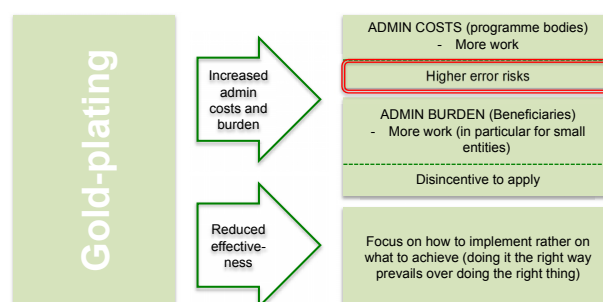
In the case of Cyprus gold-plating is estimated to represent around 3% of the costs of auditing procedures. The figure includes the salaries of the staff employed in the Directorate of Public Procurement, which is the main source of gold-plating regarding ESIF management. The percentage is even higher in the case of Czech Republic (between 5-15% of costs) and Croatia (**up to 30% of additional costs for the audit authority**). Italian authorities highlight that the combination of EU rules and national requirements, led to define **audit trails with about 150 control points**.

Source: Research team analysis of Bulgaria, Croatia, Cyprus, the Czech Republic, Italy and Romania, 2016

Authorities delivering ESIF contribute to increasing administrative costs themselves if their habits and traditions or other reasons contributing to gold-plating challenge the **uptake of simplification measures** as proposed in the regulatory framework. New practices proposed by higher levels of governance are in these cases perceived as additional requirements. The reason for this is that a change might imply modifications in the established procedures, more effort in time and resources to understand, implement and promote the new measures. In these cases, management authorities are also a source of gold-plating rather than being solely subject of gold-plating in ESIF.

5.2. Increasing risk of errors in the OPs

Albeit some additional rules and requirements are introduced to limit the risk or avoid errors in ESIF management, gold-plating generally risks generating errors. The relation between errors and gold-plating can be described as a vicious circle. Excessive rules and requirements to comply with entail also careful monitoring and controlling of these rules. Limited resources to assess the fulfilment of all requirements or fear to make mistakes in turn tend to cause mistakes. Similarly, fear for audits, can lead to the introduction of more rules and procedures with the intention to reduce errors. However, these rules and procedures often lead to increased fear and uncertainty to perform well and thus to more errors. At the same time, every additional rule gives rise to new risks for fraud and corruption, as it becomes more difficult to understand all rules and exemptions.



Evidence for a vicious circle between additional rules and higher error risks is confirmed in various national contexts. For example, the European Court of Auditors demonstrated the link between the complexity of the programme's procedures, and the degree of the error rate in the UK (Court of Auditors, 2015). They conclude that more complex programmes, with very strict auditing procedures, will naturally have higher error rates. The examples in box 22 show different possible lines of argument feeding such a vicious circle.

Setting the **threshold of the error rate to 2% is being challenged** and considered too rigid and too constraining. In turn, managing authorities tend to become over-cautious as they fear non-conformity with the EU regulation and thereby create defensive mechanisms to hedge against sanctions. This kind of threshold furthermore may create incentives for managing authorities to opt for large project budgets for single project partners in order to avoid that small mistakes of one project partner contribute to high error rates.

In addition to the principal complexity of rules that affects the risk of errors, this is further enhanced if **time for control measures is too tight**. If there is too little time for first level control this might increase the number of errors. All documents requested from beneficiaries need to be checked again at later stages by the managing authorities, responsible for the first level control. These control mechanisms can take quite some time in case numerous documents have been requested as evidence. At the same time, management authorities are bound to perform these checks in a limited timeframe. If not enough invested in resources to accommodate all controls this might lead to an increase in errors. Additional controls to reduce errors for the past programming period have been reported by several countries such as Latvia, the Netherlands, Poland, Germany and the UK. How this will be affected under the 2014-2020 framework remains to be seen.

Box 22: Vicious circle increasing the risk of errors

The Czech JME electronic system comprises more than thousand pages of detailed descriptions of procedures, in theory common and binding for all managing authorities. Because of its complexity and because of the wide array of conditions in various operational programmes, JME requirements are difficult to follow completely. The JME contains numerous issues that managing authorities are afraid of, which can **lead to errors** (such as specific time frames for some reporting, information provision, launching of calls for proposals, etc. that MAs are obliged to stick to but which is sometimes impossible). Major fears are related to the JME and its use by auditors and control bodies. Moreover, as the JME is still developing it is not integrated into the monitoring system (MS2014+).

In Ireland, a **relatively high error rate** for rural development was considered to be derived from the numerous and/or complex conditions imposed under several of the rural development measures of the 2007-2013 programming period. For example agri-environment measures under Axis 2 were subject to numerous and/or complex conditions including eligibility criteria, verifiable commitments by the beneficiary, cross-compliance (European Commission, DG for Agriculture and Rural Development, 2011).

Gold-plating is also **associated with error rates** in Austria. The error rate does not distinguish between serious errors and mistakes that arise from different kind of interpretations. Depending on the level of the error rate, the audit authority increases the sample for the next auditing. Correcting the errors causes considerable efforts. Error rates also have a financial impact, as beneficiaries receive lower funds. In ESF all errors have to be corrected, even if ESF is not harmed by deviations from the regulations. In addition, extensive auditing procedures lead to frustration. As a result, beneficiaries no longer spend money. There are already some programme priorities in Austria where no money is claimed.

There is similar experience with the EAFRD in Austria, where additional requirements on the one hand **discourage potential project applicants** and on the other hand increase the error rates as the requirements become more complex. This in turn leads to an increased administrative effort and then action plans are forged again to reduce the error rate leading to a vicious circle.

In Portugal, **gold-plating has been identified as the main cause of error rates** in some EAFRD measures in the 2007-2013 period. Despite of other reasons, such as unclear understanding by the beneficiaries on the agreed commitments or problems with available statistics causing irregularities, additional national regulations increased the error rate in Portugal. For example, for Measure 214 of EAFRD, the error rate reached 33% by 2010, having an impact to the whole error rate for Axis 2 and the entire RDP. This was due to the introduction by the managing authority of a regulation on 'excessive requirements in terms of trading commitment', which goes beyond the EU regulations. The requirement intended to ensure that the objective of increasing biological production was achieved. It was, however, so strict that it made it difficult for beneficiaries to respect. (See also European Parliament, 2014)

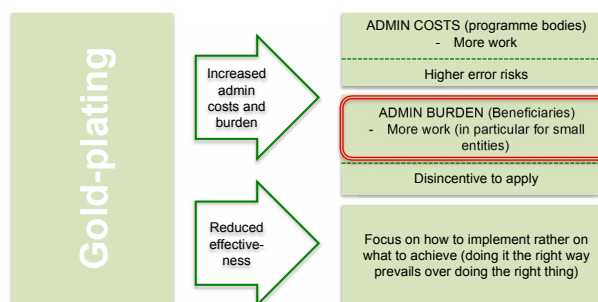
Source: Research team analysis of Austria, Czech Republic and Ireland, 2016

5.3. Increasing administrative burden for beneficiaries

Most importantly gold-plating increases the **administrative burden of ESIF beneficiaries**. This concerns both the preparation of funding applications as well as the reporting during project implementation. Indeed, beneficiaries increasingly need to build capacity to actually benefit from ESIF support.

Beneficiaries face increasingly **complicated application processes**. An accumulation of rules from EU, national and regional levels as

well as programme specific procedures increases the complexity to apply for funding. This is due to strict eligibility requirements and the obligation to present feasible and good quality projects. Programme authorities request different documents to support the legitimacy of funding. Some of these documents are easy to collect for beneficiaries, other documents demand some time to collect, such as bank guarantees which are requested in Hungary. Depending on the bank record of the potential beneficiary, obtaining a bank guarantee can be time consuming and may even involve additional steps between the applicant and the bank before the actual application for ESIF support can be developed and submitted.



One of the most frequently mentioned effect of gold-plating increasing the burden for beneficiaries is the presence of **parallel reporting systems**. This burden results from the obligation raised in the CPR according to which programme authorities have to offer an electronic system to communicate with beneficiaries (i.e. e-cohesion) and from the fact that there are still parallel systems in some Member States. In many countries there are national procedures and habits that entail different ways of reporting, resulting in higher reporting efforts for beneficiaries – in a national system and in the ESIF system. In other cases this leads to the repeated submission of the same formal documents as some examples in chapter 3 illustrated. Parallel reporting systems are for example noted in Germany, Bulgaria and the Czech Republic, where hard copies are requested in addition to electronic reports. This increases administrative costs of the managing authorities.

The box 23 below presents examples related to the application process and parallel reporting in more depth.

Box 23: Increased administrative burden for beneficiaries

In the Lower Saxony EAFRD programme (Germany), the **funding request for LEADER comprises 21 pages**. As of page 12, only declarations and commitments have to be signed to confirm that the undersigned fully respects and complies with various EU specifications, etc. A small registered association that relies on voluntary workers does not have the capacity to get familiar with all the specifications and rules that actually require intense law studies, and can consequently not sign such a funding request with a good conscience.

In Bulgaria there is a **duplicate system for correspondence and data exchange with the beneficiaries**. Beneficiaries have to report through the (ESIF) information system for management and monitoring and through the national paper documents exchange system. This increases administrative burden but also affects the administrative costs of the managing authorities.

Source: Research team analysis of Bulgaria and Germany, 2016

Beneficiaries of smaller sizes are relatively more affected by gold-plating. While all types of beneficiaries are affected by gold-plating, SMEs, and in particular micro-enterprises, as well as other small players are affected to a larger degree. This includes small NGOs and other civil society players as well as small public administrative units in addition to SMEs. These players have only reduced internal resources to keep up with changing requirements for applications and project documentation. They often deal with small projects but are faced with high administrative burden comparable to that for larger scale projects. Furthermore, instruments and funding arrangements which involve a wide range of players have the risk that gold-plating effects multiply also in terms of administrative burden. Small SMEs and NGOs often also do not have the necessary systems in place that are needed to prove eligibility, such as time reporting systems.

Gold-plating of application requirements, affects in particular micro-enterprises and other small players as mentioned above (see examples in the box below). Indeed, it may even imply that they are excluded from funding if they perceive the administrative burden of the application process disproportionately high, and therefore, do not participate in programmes targeted toward them as further outlined in the following section.

Box 24: Additional administrative burden for SMEs and other small entities

In the Italian Marche region beneficiaries are required to fill in and to **maintain an online questionnaire about their status and changes in their business**. Sometimes, it creates difficulties for the players to maintain these online files and to update them with track changes. Moreover, this online web portal for application to funding – Fascicolo Aziendale – poses various limits on the beneficiaries.

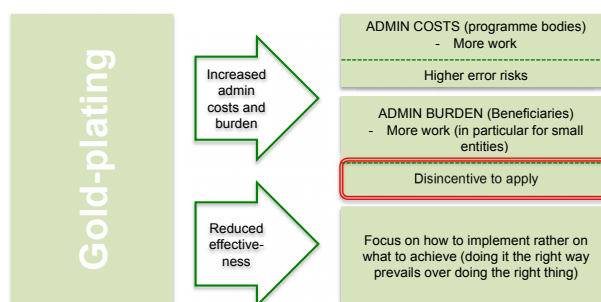
In Cyprus, according to one provision included in the last call of proposals for state-aid projects, the beneficiaries applying for aid in the field of women and youth entrepreneurship are asked to give an **interview during the approval stage**. This interview is not obligatory for the applying company, although it is playing an important role in the evaluation of the business plan, especially the evaluation of the sustainability of the project. It is actually an additional procedure in the pre-selection process, generating gold-plating for both the enterprises and the intermediary body.

In both cases all beneficiaries are affected. However, for small entities these additional efforts account for a higher share of their costs, thus affecting them more strongly than larger beneficiaries.

Source: Research team analysis of Cyprus and Italy, 2016

5.4. Decreasing attractiveness of ESIF for beneficiaries

In some Member States ESIF are perceived as burdensome and gold-plating increases the administrative burden to such a degree that applying for ESIF support becomes less attractive. Players with some qualitatively good projects might decide to not apply for ESIF due to the perceived administrative burden. Additional requirements might be even a discouragement for applicants. As consequence, projects that could have made a valuable contribution to the programme's objectives may not apply.



In addition to the general complexity of the application and management of ESIF projects, gold-plating can also pro-long the time from the submission of a payment claim to the receiving of funding. This implies that **beneficiaries need to have more resources available for pre-funding**, which also can turn off smaller beneficiaries from applying for funding.

Due to past experience with high administrative burden, previous beneficiaries increasingly refrain from applying again for ESIF support, although they have already built capacity. Thus, **for new players it is even more burdensome to deliver competitive proposals**. This leads to an even smaller number of potential applicants and applications, hampering risky and innovative projects and approaches. Especially in Member States where ESIF plays a minor role in the total available funding potential beneficiaries tend to perceive ESIF as burdensome and increasingly replace ESIF support by other means.

In conclusion, SMEs and other small potential beneficiaries become less motivated to participate in ESIF programmes because of the legal and financial requirements to be fulfilled. The following box provides examples from different Member States illustrating the effects of decreasing attractiveness of ESIF for beneficiaries and small organisational units in particular.

Box 25: Decreasing attractiveness of ESIF

Estimates for France indicate that **fewer and fewer potential beneficiaries will be able to put together an application** and the managing authorities will not have the capacity to support all applications.

Due to uncertainties in the types and application of SCO and financial instruments, SMEs in Hungary are less motivated to participate in sector and territorial programmes. The legal and financial requirements, even in case of prepayment construction, make the **measures less favourable for SMEs**.

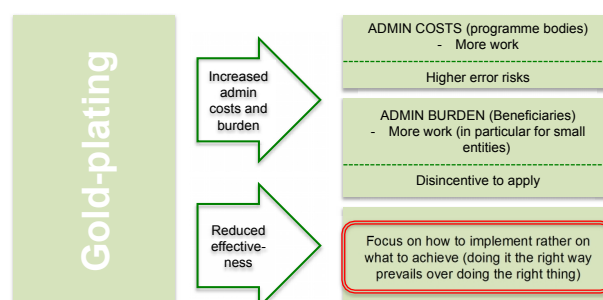
For the Dutch EMFF it is reported that SMEs are affected due to more rules and procedures to be fulfilled. **More extensive proof is to be submitted with their project application, than originally foreseen**. Even though there is no final assessment, it is expected that some potential beneficiaries do not apply for funding due to high administrative requirements.

ESIF play an important role in strengthening Romanian SMEs, particularly in the less developed regions, where they often suffer from relatively low levels of competitiveness and insufficient access to information and competences. At the same time gold-plating makes it difficult for SMEs to access funding. One of the main challenges faced by the SMEs when applying for ESIF relates to the **rigid provisions of national legislation on state aid, which restricts the access to funding**.

Source: Research team analysis of France, Hungary, the Netherlands and Romania, 2016

5.5. Increasing focus on compliance rather than performance

The introduction of a stronger focus on objectives and the performance framework for the 2014-2020 period meant to strengthen the result orientation of ESIF programmes. Stakeholders involved in ESIF have to find a balance between delivering outcomes against targets and to deliver projects efficiently. Frequent discussions on accountability of expenditure of public



resources risk overshadowing valuable projects that make a contribution to European policy objectives. The application of rigid rules may not only lead to potential errors but might cause a decrease of quality in single projects. As a matter of fact, gold-plating increases the focus on compliance issues rather than results achieved.

The application of rigid rules may not only lead to potential errors as indicated above but might also cause a lack of quality of the results. Managing authorities tend to refrain from carrying out “risky or complex projects”. Due to limited resources, simpler projects that can be conducted safely from an administrative point of view tend to be undertaken, regardless whether the objectives of the project have the highest socio-economic impact compared to another project deemed relatively more demanding in terms of administration and riskiness. This tends to **hamper proposals for particular innovative projects** that are typical for small potential beneficiaries.

While the aim to create synergies between funds, programmes and projects increases complexity of the systems applied, synergies at the same time go hand in hand with a stronger orientation towards results and achievements. Thus, an increasing focus on compliance also risks reduced effectiveness in terms of forgone synergies. As illustrated with the examples in the following box, this strengthens the compliance orientation of both, programme authorities and projects.

Box 26: Lacking content and result orientation

Additional requirements have led to excluding certain groups of beneficiaries as a Romanian example highlights. Due to a very restrictive national interpretation of the state aid law, it was decided to **exclude private entities from the list of eligible beneficiaries** of ETC. In consequence, this can negatively affect the innovativeness of the applications.

For example in Austria, strategically desired and therefore often **challenging projects move to the background in favour of more feasible projects**, in terms of easy handling of applications, etc. This also leads to the fact that **small project promoters no longer want to do the required administrative work**. Only the bigger and more experienced players that have the support structure can handle the administrative burden. This contributes to a thinning of the project promoters’ landscape and may lead to a downgrading of the proposed project contents. The mainstream is promoted but not the really innovative projects, which also are riskier.

Another Austrian example derives from the social sector, where ‘for-profit’ players develop project ideas and submit proposals. These players however do not have the content related knowledge of the project but are capable to run the administrative processes of projects. Thus, they sub-contract the content work to NGOs. While this type of division of labour may suggest high efficiency, it **questions the effectiveness and innovativeness of the projects**. This is related to two effects. Firstly, the more innovative ideas of small NGOs may not be raised but ‘standard’ project applications are submitted. Secondly, by means of sub-contracting, fewer funds are made available for the actual content related work to achieve project objectives.

Source: Research team analysis of Austria and Romania, 2016

Overall, these examples show that apart from managing authorities, beneficiaries (and here especially the small size beneficiaries), are most affected by gold-plating through the different effects and at different stages of the programme lifecycle. Nevertheless, all other players involved in the delivery of ESIF tend to be affected as well, including intermediate bodies, treasuries, contractors and suppliers of services, goods and works, and other

ministries, municipalities, and regional authorities not directly administering ESIF. Respondents in Germany, Spain, and Poland, likewise, identified local and national ministries and administrations as the main other players affected by gold-plating. In contrast, in the Czech Republic, contractors and suppliers of services, goods and works, stood out as the players most affected.

So far, both reasons and effects of gold-plating have been discussed without distinguishing between funds or instruments but highlighted the variety of reasons and effects observed. The following chapter analyses in how far differences of gold-plating can be found in different areas of ESIF management.

6. DIFFERENCES BETWEEN ESI-FUNDS, INSTRUMENTS AND MEMBER STATES

KEY FINDINGS

- **The risk of gold-plating in financial instruments is ambivalent.** Especially guidance documents are considered critically in this context and additional burden for final recipients is assessed differently between Member States.
- The **uptake of simplification measures as promoted in ESIF regulations varies between Member States.** For example, simplified cost options (SCO) can counteract gold-plating but corresponding adjustments are not made everywhere when possible.
- **European Territorial Cooperation (ETC) and other tools aimed at integrating approaches (multi-fund, CLLD, ITI) tend to be more prone to gold-plating** than mainstream and less integrated approaches respectively. This results largely from the higher complexity perceived in these cases.
- **There are no significant differences for gold-plating reasons and effects between ESIF.** The differences observed vary more strongly between different types of projects.
- **Reasons for and effects of gold-plating between Member States, in contrast, vary strongly.** These are linked to different governance systems, different ways of coordinating ESIF and national policies and different administrative cultures.

ESIF may be implemented by applying different instruments and tools. The following focuses on few selected instruments and tools and highlights some differences between different ESIF. The use of certain instruments may have different implications and can thus give rise to gold-plating. Many of these instruments have been introduced inter alia to increase effectiveness and efficiency of ESIF resources. Others, like ETC, are considered to highlight specific aspects as compared to mainstream programmes. Similarly, gold-plating occurs for different reasons and with different effects to varying degrees between Member States. The following sections highlight these differences in relation to instruments, different funds and Member States.

6.1. Financial instruments

The risk of gold-plating by national and regional rules for ESIF financial instruments is low. Generally, specific national rules do not limit the implementation options provided by the CPR (e.g. there is no evidence of national/regional rules limiting the possibility for the MA to directly manage loans or guarantees as foreseen under art. 38 (4) (c) CPR)) or of rules limiting the type of investments that can be supported or the number of potential final recipients. The only exception identified that hints at some gold-plating is described for Latvia in the below sample box. However, some national and regional players perceive the EU regulatory framework too complex compared to domestic frameworks for implementing national or regional financial instruments. How initial gold-plating can be overcome in relation to financial instruments is illustrated at the example of Lithuania in the following box.

Box 27: Examples for financial instrument specific gold-plating

In Latvia, a specific national requirement imposes programmes to complete the **ex-ante assessment of the financial instruments before the programme approval**. Although this could be considered as gold-plating negatively affecting the operational programme, according to the managing authority, the precondition of having the ex-ante assessment itself does not impose major delays to the implementation of the OP.

In Lithuania, **additional application forms for entities to be selected as financial intermediaries** have been introduced and guidelines on eligible expenditure in the case of financial instruments (considerably limiting eligible expenditure) were issued by the managing authority. In response to this latter requirement, the fund of funds issued recommendations suggesting to waive the following excessive requirements: submitting monthly reports (it was suggested to provide the relevant information in quarterly reports instead), providing the information on management fees and expenses of project promoters in the quarterly reports (it was suggested to provide such information in the annual report and together with each request for payment), dividing the amount disbursed to the final recipients by type of funds in the quarterly reports.

Source: Research team analysis of Latvia and Lithuania, 2016

Complexity of EU regulatory framework, including numerous guidance documents increases the risk of gold-plating for financial instruments. National and regional authorities perceive the implementation of ESIF financial instruments as challenging due to the general lack (within the managing authorities) of specific competences needed to implement financial instruments, partly due to the characteristics of the EU regulations. Depending on the experience programme authorities have with financial instruments, the regulations are either perceived as too rigid or too flexible. Furthermore, more specific than the 2007-2013 regulatory framework, arrangements on ESIF financial instruments detailed under the CPR are still considered not sufficiently precise to allow programme authorities to establish a secure system. If perceived this way, financial instruments lead to uncertainties and, beyond the necessary capacity building, can be the source for additional administrative costs.

More detailed guidelines are provided by the Expert Group on European Structural and Investment Funds (EGESIF) (e.g. management costs and fees) which, however, present a narrower interpretation of the CPR provisions (in particular provisions on the funds of funds). As the EGESIF guidelines have been published only two years after the launch of the programming period, they imply the risk that auditors apply them also in cases where the programme authorities have set up the implementing systems at the beginning of the programming period, i.e. before the guidelines become available.

Despite these general findings, there are some considerable differences as to how gold-plating may occur and is perceived in relation to financial instruments in different Member States as the examples in the following box show.

Box 28: Different findings of gold-plating effects for financial instruments by Member States

In the case of Greece, the **main administrative burden and cost related to financial instruments was experienced by the financial intermediaries**, i.e. the banks. The experience of the previous programming period shows that the implementation of financial instruments generates some additional costs for the banks. The latter, had sufficient knowledge of the EU regulatory framework. Furthermore, the information requirements of the holding fund manager led the financial intermediaries to develop specific information systems, including, for example, document storage and specific reporting templates, resulting thus in an extra administrative cost for the banks.

On the other hand, in Germany, in the context of financial instruments, **final recipients are mainly excluded from various requirements** and specifications otherwise requested for grants or commercial loans. Similarly, for Spain, no additional or unnecessary burden on final recipients of financial instruments could be identified.

Source: Research team analysis of Germany, Greece and Spain, 2016

6.2. Simplified cost options

The 2014-2020 regulatory framework for ESIF includes options for calculating eligible expenditure of grants and repayable assistance on the basis of Simplified Cost Options (SCO), i.e. flat-rate financing, standard scales of unit costs and lump sums (CPR, Art.67). In practical terms this should considerably decrease the number of documents for proving expenditures. The application of the 'real cost' method for reimbursement of expenditures forces beneficiaries to submit a significant number of documents and often requires complex and error-prone calculations. In contrast, if SCO are used the tracing of every euro of co-financed expenditure is no longer required.

SCO are generally perceived as a key solution to reduce administrative costs and burden during implementation as well as verification and audit phases. In some Member States national regulations or consolidated administrative approaches can limit the use of SCO and thus reduce the potential benefits for administrations and beneficiaries respectively. This refers in particular to the

- Need to still provide real cost documents;
- Lack of sufficiently established procedures as regards SCO;
- Lack of an actual benefit for beneficiaries in case they are subject to other reporting requirements being inconsistent with SCO.

The following examples illustrate the different rationales for gold-plating in relation to SCO.

In general, problems seem to originate from the fact that practices related to SCO still need to be established. Though this creates administrative costs, it does not represent gold-plating as such. However, as shown by the Czech example, a key issue is represented by the potential difference between the money provided as unit costs and the real expenditures incurred.

In several Member States this problem seems to be particularly relevant in the case of beneficiaries from the public sector. For example in the Czech Republic, the Budgetary Rules do not allow public institutions to keep financial means if they are not used for the purpose they were originally assigned to. Thus, the money cannot be spent for other purposes and must be returned to the funder. Therefore, especially state organisations are not keen to use the simplified cost options and prefer the application of real costs. Thereby, potential cost reductions from applying SCO are forgone and at least passive gold-plating is the effect.

Box 29: Examples of gold-plating related to SCO

In Bulgaria, national and financial legislation **requires beneficiaries to provide evidences of the real costs incurred and consequently limiting beneficial effects of SCO**. And also in other cases, such as individual programmes in Germany, sometimes real cost documents are requested.

Similar problems are reported in the Czech Republic, where in the case of private beneficiaries of operations covered by SCO, **real costs must still be reported in books due to the controls from the financial authorities or the Supreme Audit Office**. Since SCO are still a new option it is still uncertain how authorities will assess cases when the money provided as unit costs are not fully spent (e.g. a total wage of the nurse is lower than calculated in unit costs) and are used for other purposes. Even if it concerns small amounts (e.g. up to EUR 100) authorities fear that this may result in serious penalties.

In Slovenia, due to the fear of potential differences between the actual expenses and the standards/flat rates/lump sums, **beneficiaries from the public sector are developing complicated methodologies to get near to the actual expense**, which causes enormous administrative burdens and extra costs and limit the advantages of simplification.

Likewise, in Poland beneficiaries of the ERDF/CF programme Infrastructure & Environment (mostly public finance units) are generally **reluctant to use SCO due to audit risks related to the principle of sound financial management and the discipline of public finance** imposed by the national Act on the Public Finance.

A similar example is also reported for the multi-fund ERDF/ESF programme in Finland, where for example in the "Sustainable growth and work 2014–2020 - Finland's Structural Fund programme", the national budget law and **accounting rules of the public sector do not allow the use of SCO** for projects/operations implemented by state public organisations.

Source: Research team analysis of Bulgaria, Czech Republic, Finland, Germany, Poland and Slovenia, 2016

6.3. European Territorial Cooperation (ETC)

ETC is at the heart of EU cohesion policy in as far as it tackles cross-border and transnational disparities and barriers and aims to contribute to economic, social and territorial cohesion independently from the existence of national borders. At the same time ETC programmes are prone to gold-plating as they are confronted with two or more national systems that may increase administrative procedures for programming authorities and beneficiaries.

Gold-plating in relation to ETC derives mostly from different systems at national levels of the countries involved. ETC programme implementation is interpreted differently across Member States (see the box below). Therefore, even in cases where no practice of gold-plating is denoted at national level, the variation in the interpretation in ETC programme requirements inherently increases the risk of gold-plating.

The overlap of regulation between the involved Member States of the ETC programmes, increases complexity of public procurement and auditing procedures, and increases administrative burden related to programming ETC with non-EU countries.

Auditing procedures within ETC programmes have been found to be gold-plated through stricter and more complex implementation of controls, and a duplication of auditing reports and related documentation in the countries involved. MAs and national control bodies were reported to implement additional requirements (on national co-financing and prepayment from the ESIF support) in ETC programmes which were seen to contribute to gold-plating.

Box 30: Different eligibility rules by Member States hampering efficient implementation of ETC programmes

ETC, often better understood as Interreg programmes, used to require national eligibility rules, meaning different sets of rules in single programmes. This creates additional layers of control for joint secretariats and ETC managing authorities, thus increasing administrative costs if not burdening beneficiaries. A few examples are:

- In **Greece**, the interpretation of the additionality principle is so strict that civil servants cannot report their staff costs as eligible costs of an ETC project. This does not only represent a burden for Greek beneficiaries but may negatively affect the ownership of common projects with other Member State partners.
- In **Spain** and **Portugal**, there is an additional layer of control (validation at national level) which implies additional burden to the partners and creates more work for programme authorities.
- Administrative burden due to gold-plating has been seen in the **Austrian-Slovakian** cross-border programme, as around 50% of the lead partners' workforce goes to administrative tasks. Also, the translation of all documents in three languages as self-imposed by the programme takes time and resources in favour of transparency.

Source: Research team analysis of ETC programmes, 2016

Box 31: Lack of clarity and increased burden for ETC programmes

For example in Hungary and Romania gold-plating in ETC has been identified primarily as the result of **vague and difficult to apply EU regulations**, resulting in variable interpretations between Member States.

Uncertainties in ETC programmes, that both, result from gold-plating and are the source for further gold-plating, were identified in the Czech Republic, Romania and France. For instance, the application of the joint methodology environment results in the obligation of the beneficiaries in the partnering ETC Member States to comply with the procedures and requirements of the managing authority and the OP.

Other examples from the **Czech Republic** and **Romania**, highlight that regulation is amplified for both of the Member States participating in a given cross-border cooperation programme, making the **project application and management more complex because two national legal systems are considered**, as well as EU regulations.

Another example of administrative burden was seen in the Saxony-Czech ETC programme. In this cross-border cooperation programme beneficiaries must comply with both the requirements of the national legislation and procedures (such as Joint Methodological Environment – JME) as well as with the requirements of the OP itself. Therefore in **one recent application the call required no less than 19 annexes to the project application**.

Source: Research team analysis of the Czech Republic, France, Hungary and Romania, 2016

In cooperation programmes including non-EU territories, aligning the auditing procedures of non-EU partnering countries according to the EU level rules of the ETC is extremely difficult. For example, in the case of Réunion in France (overseas region), the auditing rules in ETC under the current programming period are considered to be an "absurdity". The specific aspect of concern relates to the requirement that the Member State signatory is required to guarantee a thorough control of the lawfulness of the operation being undertaken in the non-EU partnering country. In practice, it is stated that this level of control is largely impossible to ensure.

State aid and public procurement regulations increase the risk of gold-plating in ETC programmes, too. In some cases the programme authorities require additional documentation. Furthermore, state aid is reported to be complex and difficult to apply when related to ETC programmes. Issues regarding the clarity of certain aspects of EU regulations related to ETC programmes (see the box 31 for illustrative examples), resulting in different interpretations and gold-plating were mentioned in Romania. General Block Exemption Regulation state aid schemes and the regulations related to de minimis aid were highlighted as those with the most unclear guidelines.

6.4. Other instruments (multi-fund, ITI, CLLD)

Several innovations introduced for the 2014-2020 ESIF programming period aim at combining funds or actions respectively. The new instruments introduced shall support integrated approaches and reduce administrative cost and burden for integrated actions. However not all of these instruments have been taken up at the levels expected. This raises the question to in how far this implies either passive gold-plating (i.e. by continuing with separate programmes rather than using potentials of multi-fund programmes) or is considered as avoidance of gold-plating practices. Furthermore, application of these instruments may also imply new gold-plating practices.

New innovations in the 2014-2020 regulatory framework increase the risk of gold-plating due to increased coordination efforts. There are gold-plating risks linked to the increased complexity in the implementation of these tools, including the dispersion of roles and responsibilities across many players, and the necessity for the formation of new bodies for coordination, thereby leading to repeated reporting and controlling efforts like in the case of other coordinated mechanisms (see ETC programmes). There is a general additional administrative burden (in terms of procedures and additional costs) as an issue in the 2014-2020 funding innovations; this was particularly evident for ITIs. The risks of gold-plating are mostly associated with ITIs, followed by CLLD and multi-fund programmes.

ITI risks gold-plating due to involvement of multiple players and management traditions. As highlighted above, 2014-2020 funding innovations are felt to carry a risk of gold-plating due to the increased complexity required for their implementation and coordination. This increased complexity may imply gold-plating in as far as unfavourable or multiple management traditions need to be combined. Indeed, ITIs may be burdensome due to having "multiple captains on the same ship". In such a case, complexity of rules (costs and burden) may be worsened by the behaviour of crucial stakeholders (gold-plating). This becomes particularly apparent if different interests of the various stakeholders involved finally lead to additional rules or if the same rules are interpreted in different ways.

Examples for different interpretations contributing to gold-plating in relation to ITI and CLLD and increasing in particular administrative costs are presented in the following box.

Box 32: Various reasons for gold-plating in ITI and CLLD

ITIs are being implemented in 11 city municipalities in Slovenia. This is felt to be a large number, and poses a potential for gold-plating as the division of funding management toward this **large number of cities is complex, and therefore, reduces the effects** of the interventions.

In Belgium ITI related gold-plating was seen to be caused by **various interpretations, at the level of intermediate bodies**, of the vaguely written EU legislation.

The issue raised in the Czech Republic relates to the introduction of a new tool, “similar to the ITI, but not entirely the same”⁷, illustrating a case where **national arrangements created an additional layer, also in territories where it did not need to be created**, thereby increasing complexity. As the integrated territorial development plans are not based on EU regulation, the Czech Republic has got two type of integration of territorial interventions with at least partly different rules. Moreover, this created an additional project assessment step for applicants in the integrated territorial development plans’ regions not required by the ESIF regulation.

The national ministry and Swedish Agency for Economic and Regional Growth in charge of the ERDF and the national ministry and Swedish Board of Agriculture in charge of EAFRD reach **different conclusions as regards the compatibility of ITI with national law**. ERDF authorities doubt that the delegation of decisions envisaged in an ITI is compatible with Swedish laws and administrative settings. In contrast, within EAFRD LEADER is not considered to be incoherent, though the basic principles of LEADER and ITI are the same.

With regard to CLLD in Germany, many authorities consider the respective **rules being rather vague, imposing a considerable risk of misinterpretation**.

The Slovenian CLLD was seen to cause **administrative costs because it sparked the creation of a third body for operating the CLLD**, while still requiring a significant amount of coordination between two OPs and two MAs.

Source: Research team analysis of Belgium, Czech Republic, Germany, Slovenia and Sweden, 2016

Multi-fund programmes are taken up to very different extent in different Member States, which partly is linked to possible risks for gold-plating. Programmes that have decided against the option to set-up a multi-fund programme often argue that they find the rules too complex and are concerned about creating additional administrative costs. They are afraid of gold-plating resulting from additional coordination issues between the different authorities involved for different funds.

This raises the question to which extent multi-fund programmes actually go hand in hand with changing responsibilities or may be considered as a combination of OPs rather than a fully integrated and coordinated programme. If original responsibilities (e.g. between the previously separated MAs) are not fundamentally reorganised, indeed gold-plating practices may be created, since similarly to above example on ITI, more bodies want to integrate their administrative interests and may thus contribute to additional complexity. Furthermore, gold-plating in the context of multi-fund programmes may also occur in particular during the programming and early implementation phases. Nevertheless, there are also examples, illustrating that multi-fund programmes were explicitly developed in order to reduce gold-plating, as indicated for Finland in box 33. However, this example also indicates that several actions may have to be taken jointly to reduce gold-plating.

⁷ Integrated Territorial Development Plan - Integrovaný plán rozvoje území for urban areas and regions non-eligible for ITI.

Box 33: Multi-fund programmes – Gold-plating at different levels

In Slovenia, the multi-fund programme is seen as beneficial because of the synergies between various stakeholders such as multiple MAs, ministries, NGOs, and civil society organisations. Nevertheless, the **demand for coordination is blatant**.

The example from Lower Saxony, a multi-fund OP combining ERDF and ESF funding illustrates the **additional coordination during programming**. In this phase, both DGs responsible for the ERDF and ESF respectively set high requirements for the programme. A request by one DG implied that it was transferred to the other and was to be applied to all parts of the programme. A similar observation was made in Czech Republic.

In Finland, in the 2014-2020 programming period coordination has been strengthened aiming to reduce gold-plating effects for beneficiaries. ERDF and ESF measures are now implemented under the same multi-fund programme. In the Åland Islands, ERDF, ESF and EAFRD programmes have a joint monitoring committee. Managing authorities for the ESIF are making arrangements to reduce the administrative burden for beneficiaries. These include consolidating functions (e.g. by reducing the number of intermediate bodies, and by increasing the use of simplified cost options). **Reducing the number of institutions involved in the management and coordination of ESIF** at regional level might have a positive impact by creating a commonly defined management framework.

Source: Research team analysis of Czech Republic, Germany, Finland and Slovenia, 2016

6.5. Gold-plating by different types of programme projects and funds

Although the CPR provides the ground for common approaches and methodologies to deliver the different Funds, specifications in the fund specific regulations indicate that their delivery processes may vary. Thus, the question is raised in how far these differences give rise to different reasons and effects of gold-plating. Furthermore, differences of the rules and delivery mechanisms also exist between different instruments (as pointed out for selected tools in the previous sections) and they may even affect different types of projects, depending, for example, on the types and numbers of beneficiaries, types of investments or size of projects.

Gold-plating practices are minor between different funds. The use of ESIF sources usually does not affect the degree or type of gold-plating. Gold-plating occurs in all funds during the different phases of the programme lifecycle. In many cases gold-plating affects all programmes within a country rather than being fund specific. This is due to Member States or regional rules affecting all operational programmes in the territory concerned. Furthermore, if gold-plating occurs in specific programmes this may be more linked to cautious and safeguarding behaviour of the authorities managing and implementing the funds rather than the fund itself.

Finally, **programmes with a lot of small projects tend to be more impacted by gold plating**. This is however not linked to additional rules or particularly anxious managing authorities but results from a lack of proportionality. For instance, audit trails do only partly differentiate between project sizes. In consequence, programmes with predominantly small projects experience considerably higher administrative costs if they have to follow the same rules as programmes with predominantly large size projects.

Box 34: Little differentiation of gold-plating between ESIF

Gold-plating in the Czech Republic can be attributed to a specific budgeting system, the limitation of roles of intermediate bodies, and the monitoring requirements of the Joint Methodological Environment (JME), as indicated in the text boxes above. These **additional requirements have to be respected by all Czech ESIF programmes**, and do not depend on the precise fund used. Between different types of projects this affects the records of money spent differently. For instance, by limited eligibility of additional construction costs (ERDF/CF) or different time sheets requests for ESF projects.

The Italian examples highlight the role of the **Partnership Agreement** for gold-plating that again tackle all funds and programmes. In addition, the general tendency of managing authorities to **safeguard the programmes** by implementing rigid and stringent procedures throughout all policy phases does not differentiate between funds either but may vary between authorities indecisive of the fund and instrument.

From the perspective of the German beneficiaries, **procurement law** contributes to gold-plating. EU procurement law does not match with procurement law at national and state level. If public funding only comes from one source, this is no problem because everything only needs to be in accordance with the respective rules of the source of funding. However, if a beneficiary receives funding from the EU, which is co-financed by the state, for example, different rules have to be taken into consideration, thus contributing to gold-plating. While the procurement rules differentiate some types of goods and services they do not differentiate between the funds applied but are linked to the territory providing the funding.

A more profound **example for differences between funds can be found in Spain**. For the Spanish EMFF Programme the question arose, whether only SME can be beneficiaries of innovation actions (as stated in the EMFF regulation) or also associations (cluster etc.), as it is usual in innovation measures of ERDF programmes. As it is unlikely that single SME in the fisheries sector launch innovative actions, due to their limited resources, in Spain they would do this via business associations or groupings or clusters. Thus, implementation of innovative actions under the EMFF may be hampered.

Source: Research team analysis of the Czech Republic, Germany, Italy and Spain, 2016

Risk of gold-plating in different programmes depends on the number of partners.

There is only little information on a differentiation of gold-plating across programmes. As discussed above in section 6.3, the risk of gold-plating is comparatively high for the ETC programmes. This is due to the number of Member States involved and thus to the need to respect different national rules. Examples are the different auditing procedures and the state aid and public procurement regulations which tend to contribute to gold-plating for all ESIF programmes.

At project level, the risk of gold-plating tends to be higher for large projects. There are only few examples of specific types of projects that can have an increased risk of gold-plating. Major projects are one example. Infrastructure and innovation projects might have a higher risk of being negatively affected by gold-plating as they tend to be more prone to audit and on-the-spot checks by European Auditors due to their financial size. Furthermore, innovation projects seem to be more prone to gold-plating due to more uncertainty and to the fact that they often involve more partners, thus also negatively affecting them by more or more intensive controls. While on the one hand, a more intensive control trail may be justified for larger projects as compared to smaller projects, in all cases this raises the question of proportionality in order to avoid gold-plating. Thus, one control trail may not in all cases be similarly considered to represent gold-plating, depending on the perspective.

Box 35: Gold-plating in infrastructure and innovation projects

In Cyprus, for example, **infrastructure projects are repeatedly audited** during their implementation every three months, by both the audit authorities responsible for ESIF, but also by the relevant national ministry.

In the Netherlands a higher risk for gold-plating is identified in relation to article 70 of the CPR. At national level it is discussed, how to **interpret the place of actions (projects)**. The perception is that this is more difficult to assess for innovation project, than for example for big infrastructure projects. In the case of innovation projects, often many partners are involved, including relevant partners outside the programme area. This raises questions regarding the eligibility of these partners.

Source: Research team analysis of Cyprus and the Netherlands, 2016

6.6. Gold-plating in different Member States

The previous chapters and sections provide the main arguments and examples that indicate that gold-plating primarily differentiates between Member States rather than funds, instruments, etc. This differentiation is driven by the national and regional administrative traditions and culture.

Since the analysis aimed to primarily focus on reasons and practices of gold-plating during all phases of the programme lifecycle no in-depth analysis focusing primarily on the Member States was conducted. However, differentiating between governance systems of ESIF (centralised – decentralised) and traditions of aligning domestic with EU policies (more integrated – more differentiation) helps to understand the differences observed in examples used for illustrations in previous chapters.⁸

Different governance systems and their inherent mechanisms reflect the differences in the traditions and course of actions across the Member States. These different traditions have also been detected above as one of the underlying reasons for different degrees of gold-plating. The ESIF governance refers to the differentiation of management and implementation mechanisms. These governance systems differ across Europe. Different Member States involve different players and governance levels have different competences, based on domestic structures and traditions. Centralised, regionalised and mixed systems can be distinguished and play their role when it comes to decision-making and taking actions which have gold-plating as a consequence:

- In **centralised systems** competences accumulate at national level. They are strongly based on involving national ministries and other national bodies for managing policy making and delivery of ESIF. The degree of decentralisation and partnership is limited. Thus, if occurring, any measures at national level implying gold-plating tend to affect all programmes of a Member State.
- In **regionalised systems**, multi-level governance is more greatly emphasised. Administrative competences and tasks are distributed across different levels. This often implies more coordination and communication efforts to align policies and in the context of gold-plating may lead to a considerable differentiation of implementation methods, rules and interpretation between regions. Furthermore, these systems tend to add more layers to the process as more centralised systems, thereby contributing to gold-plating.
- **Mixed central-regional systems** for management and implementation combine

⁸ The described framework and the following outline is based on the work of EPRC done for the SWECO study on administrative costs in 2010.

elements of centralised and decentralised approaches. Thus, the degree to which either of the systems dominates may also affect the degree of differentiated gold-plating between regions.

These differences in governance systems help to explain different gold-plating practices across Member States. Still, Member States with a similar governance system (e.g. centralised systems in different Member States) may experience different degrees of gold-plating in the delivery of ESIF.

The degree of alignment of national and EU policy reflects the administrative systems in Europe and their degree of harmonisation between domestic and EU systems. Three systems can be distinguished in terms of allocation of sources:

- **Integrated systems** use existing domestic policy decision-making channels for ESIF allocation. Decision-making is usually delegated to a single body allocating both domestic resources and ESIF dedicated to support the same policy objective. While pre-existing channels may reduce administrative costs as such, they may contribute to gold-plating if additional rules need to be applied due to the national or regional funds integrated in the delivery of ESIF.
- **Differentiated systems** deliver ESIF and domestic funds through separate management and project selection structures. Thus, separate administrative structures are created for both types of funding respectively. Despite potentially high costs coming together with doubled systems, gold-plating may not occur because of aligning national and EU rules as it happens in the case of integrated systems.
- **Aligned systems** represent an in-between solution of the two extremes outlined above. In these systems separate decision-making structures for ESIF and national funding are in place, but operate in an aligned manner (e.g. by aiming at coordinated decision-making on ESIF and national funding).

In addition to these differences of governance systems and allocation processes the previously mentioned different administrative cultures matter strongly for the differing presence of gold-plating across Member States. The different traditions on how to deal with rules imposed from higher administrative levels and how to implement/transpose these matters. This affects furthermore the degree to which safeguarding measures are taken and is mirrored, for example in how far staff costs are considered eligible or additional layers are introduced (as illustrated in the text box below).

Box 36: Different national rules to be considered in ETC

In Spain and Portugal, there is an **additional layer of control** in terms of a validation at national level, which implies additional burden to the partners.

In yet other countries, **national eligibility rules appear to be unclear**, leading to uncertainty on what costs are eligible, thereby creating additional burden for the beneficiaries and possibly also additional costs for the managing authorities and national contact points when trying to support the project partners for clarifications.

Source: Research team analysis of ETC programmes, 2016

These differences between Member States are also visible when comparing the eligibility of staff costs for one specific fund, the ESF for instance as illustrated in the following text box.

Box 37: Different Member State rules for ESF eligibility

If a company in Spain applies for recruitment aid upon employing an unemployed person, it has to **prove for 3 years that it pays all insurances and taxes connected**. Even minor late payments (e.g. for local garbage tax), implied ineligibility of the whole support. This may be considered harsh in relation to the fault of the company and may harass its existence.

In Belgium employees are only entitled for ESF support if they **attended at least 16 hours of training in a calendar year**. If these 16 hours are divided between two years (e.g. December and February following year), the costs are ineligible.

In various countries **holiday payment** is made only a year later. Thus, if a project is funded in 2015 and the holiday payment is made in 2016, then this is not eligible because project period and payment time are conflicting.

Source: Author based EC DG EMPL interviews, 2016

7. CONCLUSIONS, POSSIBLE SOLUTIONS AND RECOMMENDATIONS

KEY FINDINGS

- Gold-plating is mainly **driven by fear and uncertainties** leading to **increasing administrative costs and burden**, with the risk of making **ESIF less attractive** and more **error prone**.
- The different reasons and effects have to some degree **a reinforcing character via different loops of vicious circles**.
- **In general gold-plating is perceived as negative**. In some cases gold-plating might be justifiable as the **negative effects are compensated for by positive effects** (e.g. in terms of achievements of policy objectives).
- **Reducing or avoiding gold-plating is a task for all players in the ESIF shared management system**. Already in the present period, steps may be taken at all levels involved in delivering ESIF.
- **Passive gold-plating should also be reduced** by an enhanced uptake of profound simplification measures. Experience with **SCO** shows that their introduction reduces administrative costs and burden. Nonetheless it is not used that widely.
- **Beyond 2020 there are at least three different main paths how gold-plating could be reduced**. Legislators have to take the political decision on the path to be chosen.

Gold-plating in ESIF is tightly linked to the shared management system through which ESIF are implemented. EU institutions, Member States and programme bodies have the responsibility to ensure the funds are implemented efficiently and effectively. Programmes are on the one hand obliged to meet the objectives and achieving the intended results (effective delivery of ESIF). On the other hand programme authorities have the task to make the most of the resources available (efficient ESIF management). These responsibilities account for all stakeholders involved in ESIF. Gold-plating occurs at all these levels for different reasons and with different effects, by making the rules more complex and increasing administrative costs and burden.

The effects of this are considerable. There are indications that in the case of ESIF **about one third of all administrative costs and burden are caused by gold-plating** (see chapter 2).

Before discussing suggestions on how to reduce gold-plating the following section quickly summarises the main findings of this study following a systemic logic of the reasons and effects of gold-plating. This is followed by a section discussing whether gold-plating is necessarily always negative and finally a section on pointers for policy makers who want to reduce gold-plating.

7.1. A systemic understanding of gold-plating in ESIF

The Figure 6 below summarises the main findings from the study. The left part of the figure shows general reasons for gold-plating in ESIF. The reasons for gold-plating are manifold and interlinked. In some cases they are enforcing each other. Some reasons directly lead to gold-plating while others have a more indirect influence.

In many cases the debate centres on **inconsistencies between different regulatory frameworks** that need to be applied. Certainly, there are cases of inconsistent regulatory frameworks, but they do not seem to be the main reason for gold-plating. If these inconsistencies occur, often ESIF contributes to the achievement of other (non-ESIF) EU policies (e.g. competition policy and environmental policy). Examples for this can be initiatives for green or social public procurement.

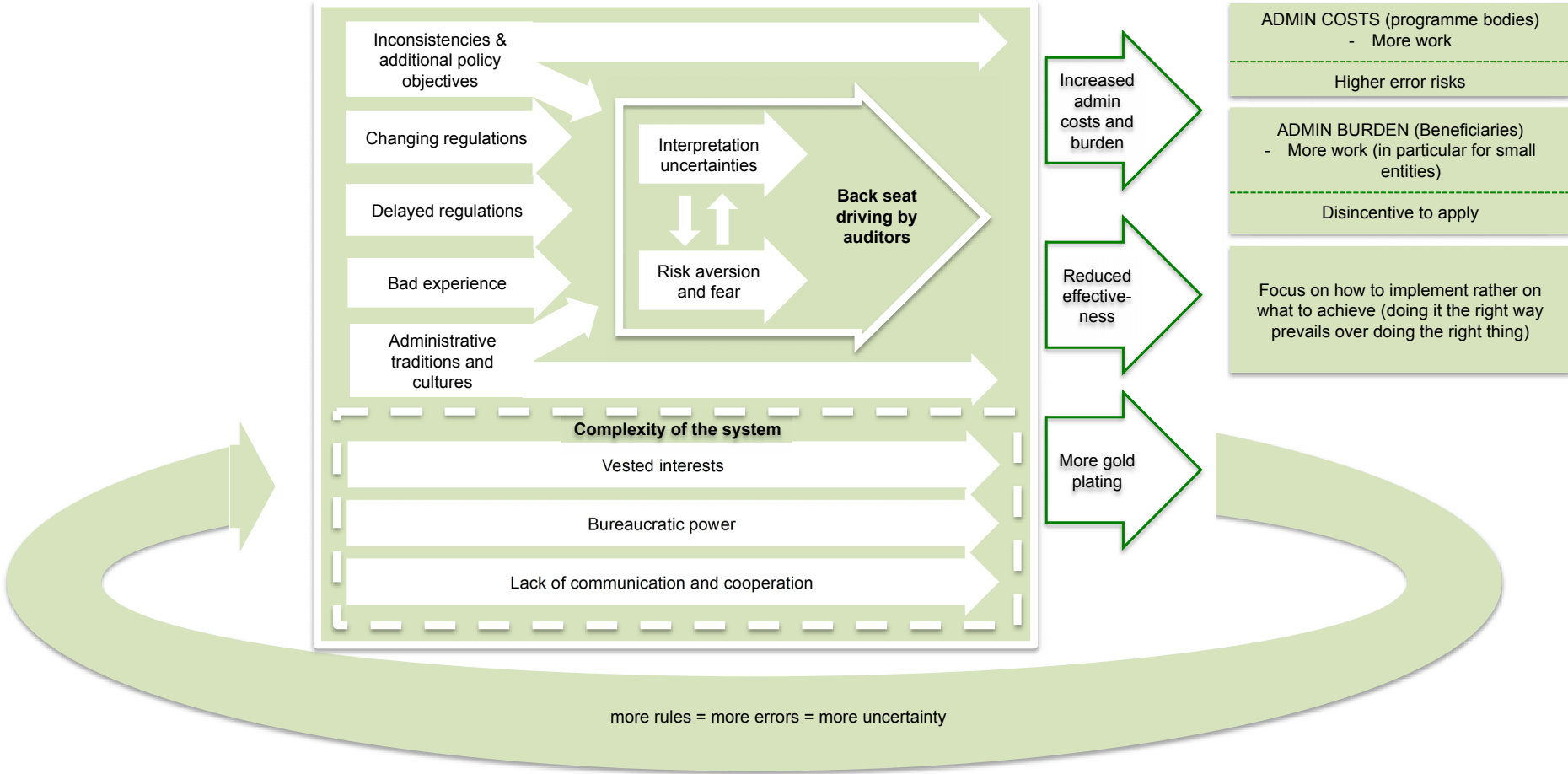
The main drivers for gold-plating are **uncertainties and risk aversion or fear**. Especially these reasons contribute to a vicious circle of ever increasing gold-plating. Risk aversion and fear are in particular linked to the fear for audits including different interpretations that auditors give to the rules. This pushes auditors in the role of back seat drivers. Albeit auditors do not create additional rules, their assessments and the corresponding consequences affect the behaviour of programme authorities and also legislation. In other words, the attempts that programme bodies make to safeguard themselves against any possibly anticipated audit finding means that they constantly have the auditors in their mind and prefer making too tight interpretations of the rules rather than taking a risk.

Because of risk aversion national and programme authorities tend to include more requirements and rules for beneficiaries in the programme. Multiple factors, to different extents, are related to this. Uncertainties and risk aversion can result from timing issues between the programme development and adoption of the regulations. Late adoption of the regulations means less time for developing the programme or adjusting the programme to the latest rules and requirements. The same accounts for subsequent changes in the regulations, when established practices need to change. Due to retroactive auditing this can lead to problems in later programming phases. Inconsistencies between regulations cause uncertainty. Furthermore, programme authorities might have bad experience with audits and apply therefore a strict reading of the regulations and therefore risk requiring more administration from beneficiaries.

In addition, general habits and traditions of programme implementation play a role. In some cases rules and simplification measures from the European levels are perceived as burden, because they differ from established practices. In these cases, players are reluctant to adapt their practices to the latest regulatory frameworks and risk thus requesting more documentation from beneficiaries than necessary.

Typical effects of gold-plating are depicted on the right of Figure 6. Gold-plating leads by definition to increasing administrative costs and burden. Beneficiaries and programme bodies have the tendency to blame higher levels of governance to focus too much on formal delivery of ESIF rather than effective delivery of ESIF. Especially detailed discussions with auditors, who exclude the context and programme specificities, show a focus on formally correct ESIF delivery. The additional costs and burden are not only mirrored in the actual use of resources but go hand in hand with higher error risks for the programmes and increasing disincentives for potential beneficiaries to apply, thus reducing the attractiveness of ESIF.

Figure 6: Causes and effects of gold-plating in ESIF



Source: Spatial Foresight, 2017

Gold-plating increases the administrative costs at the level of programme bodies. In particular highly complex programmes (e.g. multi-fund or territorial cooperation programmes) and programmes with a high share of small actions are more affected by gold-plating. However, more importantly it increases the administrative burden of beneficiaries and final recipients. In particular small players are affected by gold-plating as they often do not have the administrative capacity to deal with the additional burden. Examples for such players are SMEs, micro-enterprises, small NGOs, small civil society players, but also small public bodies (minor municipalities). While the administrative burden of ESIF is already high, increasing it through gold-plating makes the funds even more unattractive and becomes a disincentive to apply.

Besides the impacts on programme bodies and beneficiaries, gold-plating also reinforces the focus on compliance and input control in the ESIF management system. This deviates energy and attention from demonstrating performance and achievements and thus the actual reasons for funding ESIF, the programmes and actions.

Finally, and in addition to these expected effects of gold-plating it can also lead to additional gold-plating. The different drivers of gold-plating together increase the complexity of the implementation and the risk for errors. In relation to a fixed threshold for error rates and retroactive audits, regulations are more strictly interpreted than necessary. Higher error risks lead to increasing uncertainties and fears, thereby enforcing a vicious circle. This vicious circle makes ESIF also less attractive to beneficiaries.

7.2. Justifiable cases of gold-plating

There are many sources and consequences of requirements going beyond ESIF regulations. These sources and consequences are often interlinked and in some cases they reinforce each other as pointed out above. Different loops of fear and uncertainty affect the administration of programme bodies and beneficiaries. Therefore, gold-plating is largely seen as something to be avoided and actions should focus on reducing it.

Gold-plating is present in ESIF management and can happen in all moments of the ESIF programme lifecycle (e.g. accreditation, application, implementation, payment, controlling). In some cases, additional requirements seem to be unavoidable, for example when adjusting regulations into operational practices.

While, it certainly is worthwhile to reduce the negative effects of gold-plating, the question is whether gold-plating necessarily is always negative. In some cases the negative effects of gold-plating at one point might be compensated for by positive effects of the gold-plating measures at other points of time or for other players involved.

There is no final verdict on these questions. To stimulate some reflection about it, here are some examples where it might be worthwhile to consider whether gold-plating could be justifiable:

- **Higher costs but lower burden.** In cases where gold-plating causes increased administrative costs for managing authorities, but reduces the administrative burden for beneficiaries gold-plating might be justified. In these cases the programme authorities take their responsibility in the shared management system of avoiding administrative burden and contribute to making ESIF attractive for potential beneficiaries. An example where administrative costs at programme level (at least in the beginning) increase, while administrative burden of beneficiaries are reduced substantially are SCO.

- **Increased effectiveness and performance orientation.** In cases where gold-plating increases the effectiveness of the programme and thereby strengthens its result-orientation it might be justifiable. If due to higher administrative costs and/or burden a programme delivers outputs and results better supporting its targets, gold-plating might be justified. Examples for this can be additional selection criteria, reporting and monitoring efforts which help to shift the focus from compliance to performance. In this case, however, the question arises where to draw the line between justified and unjustified gold-plating. Considering the cost (gold-plating) – benefit (better effectiveness) – relation may be helpful.
- **Contribution to other policy objectives.** In cases where gold-plating contributes to achieving other (non ESIF) policies' objectives it might be justifiable. Examples for this can be initiatives for green or social public procurement.

7.3. Pointers for avoiding or reducing gold-plating

Gold-plating often seems unavoidable. The European Parliament (2016) has highlighted the need for simplifying the rules for Cohesion Policy and ESIF, including addressing unnecessary additional requirements and rules at all governance levels (P8_TA(2015)0419). In general one has to keep in mind that not only gold-plating is at stake but also the general perception of ESIF. Therefore, applying common sense is essential when interpreting regulatory frameworks and working within the complex shared management system of ESIF. There are some promising actions for reducing or avoiding gold-plating in the short and longer term. Non-exhaustive proposals for potential actions at different levels are presented below. They differentiate between the on-going programming period and the post-2020 period.

7.3.1. The 2014-2020 programming period

The responsibilities for reducing gold-plating are to be shared among all players and actions to reduce or avoid it are also a responsibility of all players.

The 2014-2020 regulatory framework already includes a number of provisions to reduce administrative costs and burden, which do not always reach their full potential because of gold-plating. Further promising actions to be taken into account by different players that may start already in the current programming period are presented below.

European Union level

Increase transparency between programme bodies and European Commission.

Programme bodies can learn from each other's experience. Thus Q&A from programme bodies to the European Commission can be public and available for all players to create a more uniform communication among desk officers and between them and the European Commission. More generally, this is about including the right players when designing regulatory frameworks and guidance documents to ensure that their impact on programmes and beneficiaries is well understood.

Promote clarity, simplicity and continuity. While fully clear rules that do not leave room for interpretation are difficult to achieve, it is important to be aware of likely interpretations and the effects of delayed or changing regulations. Thus, increased awareness among EU legislators and other staff involved at EU level (e.g. desk officers) about the need for better clarity, simplicity and continuity could represent a starting point to a better shared management of the ESIF. As a rule, increasing the number of articles in the regulations indicates less clarity and especially less simplicity, even if formally aiming at simplification.

National level

Increase interoperability of e-governance tools. In the context of e-cohesion, national online tools and electronic systems to be used at all stages of the project cycle would be an advantage. Web-based information systems, online application support systems and other e-tools can reduce the administrative burden for beneficiaries and lead to more efficient programming. However, an actual reduction of administrative burden is only achieved when different systems are interoperable (i.e. information only needs to be provided once and can feed into different systems, both for ESIF and national co-funding).

Initiate administrative changes in the Member States. The reduction of programmes, of intermediate bodies, as well as of unnecessary legislation is a step that Member States can take to reduce the administrative costs among their bodies, thereby contributing to freeing resources that can support the effectiveness of the programmes.

Increase national coordination. The application of the EU regulations by the Member States can be more coordinated and uniformed within a Member State, so that all managing and implementing bodies have the same information and develop a common course of action. In particular, in Member States with small ESIF programmes, the possibility to merge programmes for example into multi-fund programmes may reduce administrative costs and burden at least in the long-run. Building on the experience from authorities who developed multi-fund programmes for 2014-2020 could be useful for other programmes for the programming post 2020.

Programme level

Provide clarity for beneficiaries. Beneficiaries should take the least administrative burden possible. Providing clear and easy to understand steps for all moments of the project cycle would be helpful in decreasing unnecessary administrative work.

Make more use of SCO. Passive gold-plating describes cases where possible simplification options, including SCO, are not used. Throughout the Member States, the use of SCO in ESIF can be increased substantially. This would reduce administrative costs and burden and also the risk of gold-plating in the long-run after establishing a sound SCO system possibly approved by auditors during its development. In a similar way also ESIF financial instruments hold some additional potential to at least reduce administrative burden for beneficiaries.

All players – horizontal actions

There are some actions that are horizontal and need to be taken jointly.

Better balance between compliance checks and performance orientation. Several other actions may be supportive for reducing gold-plating. However, they may not necessarily be effective without an overall shift from input to output and performance orientation. This shift needs to go beyond the formal movement towards a higher result orientation as requested in the 2014-2020 ESIF regulations with the introduction of a stronger result orientation in terms of the indicator systems and the performance framework. This shift implies a general move from input and compliance controls to a focus on performance and achievements. The question is whether the taxpayers' money is 'well spent' and what has been achieved with it. Therefore, the promoted shift also includes assessments of the resources used for achieving the results. Such a focus would also benefit the general perception of ESIF in the larger public. At the same time such a shift in balance need to apply common sense to not result in additional layers of administrative costs and burden and gold-plating actions.

Promote capacity building. Today, there is a lack of experience and knowledge exchange concerning action to combat both active and passive gold-plating. An open dialogue on how to reduce or avoid gold-plating needs to be fostered among all players. This may also include exchange across funds, as for instance the ESF is more experienced in applying SCO. Awareness raising events, experience exchange platforms, sharing of good practices and ideas, consultancy and advice would be first steps toward this direction. One step towards increased capacity building would also be to internalise or remember the existing hierarchy of rules already indicated in ESIF.

Single information and audit system (SiSa). Encourage the use of a single information and single audit for financial reporting and compliance checks can reduce gold-plating risks, as well as administrative costs and burden in general. Such a system is already applied in some Member States for the decentralised management of ESIF, for example in Belgium and the Netherlands. The system entails that the lower government authorities only report once a year to the central authority (single information) and therewith perform one audit. The central government authority does not perform any additional audits. For grants, this means that single project audits at the end of a project disappear if the project is taken into account in the annual SiSa by the regional government AIR. The central governance authority checks less afterwards, but might be more involved at the beginning.

Understand guidance as guidance. Through the ESIF programme lifecycle various players ask for guidance. In many cases this is also provided in form of European Commission guidance documents. However, while generally guidance is understood as non-binding support which helps players to make their own decisions, ESIF guidance are partially seen as binding recommendations. These tendencies discourage people to seek guidance – where they just want competent input to their own decision making processes – and increases uncertainty as to the implications and ‘power’ of ESIF guidance. A first step to increase the support function of ESIF guidance documents is by reflecting on the wording used in the documents to make a greater differentiation between these documents and the regulatory framework.

Re-think the role of auditors. A new role for the auditors could be initiated, be that EU-level auditors or national audit authorities. This concerns two aspects, firstly a common understanding among auditors and secondly the relation between auditors and programmes. For the first point, coordination between different audit authorities can be promoted to limit different interpretations between them. More cooperation between national and audit authorities can be promoted to prevent gold-plating issues at different stages of programming. Auditor checks need to be in line with the subsidiarity and proportionality principles and carried out only when necessary. Regarding the second point an open dialogue between programme bodies and auditors should be encouraged already at an early stage. This can help to avoid some of uncertainties and fears in the system. If higher levels of trust between the different bodies can be established, the risks of gold-plating might decline. In addition, a new, expanded role of auditors can be considered. When auditors notice gold-plating practices, they can identify reasons for it and then possibly provide solutions on how to solve and prevent it next time. In consequence, this should reduce the controlling effort of auditors.

7.3.2. Post 2020

The recommendations provided above for the current programming period point at two different directions as they include both **more stringent and more flexible ideas**. These largely also reflect different ‘schools’ and ‘principles’ for public policies. At present ESIF draws on both. To some degree this also contributes to the uncertainty. Responding at the one hand

to the request for tighter rules, and at the other hand to the request for more flexibility creates both expectations and fears about what comes next.

Preferably, a possible post 2020 ESIF framework could decide for either of the two 'schools'. Arguments and possible steps towards both directions are provided in the below overview. Given the diversity of the EU, the below overview also contains middle strata which continues with the current mixture but introduces a clear shift from the focus on compliance to the focus on performance.

The below overview provides the main pro and contra arguments for three different routes which could be taken to reduce gold-plating in the ESIF post 2020. The arguments are meant to inform decision making processes. The final decision lies with the legislators and clearly there is no best way to go.

However, apart from the arguments of the different schools and the need to improve clarity and reduce uncertainty, a final aspect to be seriously considered is the impact any change of the regulative framework brings about. Any change leads to administrative costs and burden because of the adjustment of processes, new capacities needed, etc. This is only worthwhile if it implies substantially reduced administrative costs and burden in the long run. Thus, the ultimate goal will have to be to settle for a change that will afterwards lead to longer lasting frameworks creating continuity and trust.

CURRENT SYSTEM – increased shift from compliance to performance		
	Arguments for	Possible implications
	+ Stable continuation of the current system with only minor changes.	➡ Increases stability and certainty among the players as experience from 2014-2020 remains valid.
	+ Reduction of the compliance and input perspective	➡ Reduces administrative burden (and costs) for the controlling inputs and compliance.
	+ Stronger focus on the use of SCO and reduction of passive gold-plating.	➡ Reduced administrative burden (and costs) for the controlling inputs and compliance.
	+ Stronger focus on performance both in programming, monitoring and evaluation.	➡ Players become a stronger sense of the purpose of their actions and it becomes easier to communicate achievements to a wider public.
	+ Stronger focus on partnership approaches and dialogue among all players (EC, MS, MA, AA, ...)	➡ Stepwise increase of trust among players.
	Arguments against	Possible implications
	– Risk of establishing a system with a lot of administrative costs and burden for both compliance and performance.	➡ Overload of the system which makes it unmanageable and unbearable for both programme bodies and beneficiaries.
	– Inertia among players which benefit from the current focus on compliance and input control.	➡ Some players will slow or water down the change and lead to increasing administrative costs and burden.
	– Small changes are not sufficient to clean up the complex current system.	➡ Gold-plating will not be reduced as small changes merely imply 'more of the same'.

MORE & TIGHTER RULES – main focus on input control and compliance	
Arguments for	Possible implications
+ Harmonised set of rules which leave limited flexibility and probably reduce the range of possible funding actions.	➡ Extensive regulatory framework which provides clear guidance to all players and reduces uncertainty of its interpretation.
+ Exactly the same rules apply for all programmes.	➡ Easier to move between programmes both at programme level and for beneficiaries.
+ Clear focus in compliance and input control, i.e. the procedures on how to spend taxpayers' money.	➡ Less risk of corruption and fraud and all their effects including bad publicity in the media.
+ Clear procedures for assessing efficiency of the money spent	➡ Improved understanding of the use of taxpayers' money and possibly better arguments for their spending.
+ In an extreme version, even more centralised systems could be imagined as for example in the case of Horizon 2020.	➡ The shared management system will be weakened with lower levels only executing but neither taking decisions nor responsibilities.
Arguments against	Possible implications
– There is no one-size fits all as national administrative and legal systems differ.	➡ ESIF will turn into an extremely rigid system with a narrow focus to ensure it fits all different national and regional contexts.
– No flexibility to adhere regional or sector specificities.	➡ The money will be spent correctly but not necessarily used in the best way for areas where it is spent.
– Subsidiarity principle is not respected.	➡ Reducing subsidiarity may create rejection among players.
– High control and evaluation efforts.	➡ Resources for controls and evaluations cannot be used for actual policy implementation and limit effectiveness of the policy.

MORE FLEXIBILITY & TRUST – main focus on achievements and performance	
Arguments for	Possible implications
+ More focus on performance than compliance both in programming, target setting and monitoring.	➔ Players will focus more on achieving change with ESIF rather than control the way money is spent.
+ Larger partnership approach for ESIF at European, national and programme level. Partnerships are not only to review and approve but actually contribute to ensuring that decisions are also meaningful at the 'ground'.	➔ Involving a wide range of players at all levels of the shared management approach increases trust among partners and thus reduces the risk of gold-plating if all players take their part of the common responsibility. Furthermore, it ensures higher quality achievements.
+ Audits will also consider the context in which different rules and interpretations of these rules are applied.	➔ Audits have a chance to become helpful tools for steering ESIF towards performance orientation and trust between auditors and programmes might increase.
+ Differentiation and proportionality will be applied when it comes to controls and error rates.	➔ Reduced administrative costs and burden.
Arguments against	Possible implications
– Regionally differentiated systems challenge the assessment of accountability of ESIF at European level.	➔ Increasing diversity in how ESIF are implemented invites for critics in terms of accountability and weakens the perception about EU spending.
– Regionally differentiated systems challenge harmonised procedures for application.	➔ Diverse implementation systems limit applicants to apply in different areas or types of programmes.
– Trust based systems are easier to misuse.	➔ Risks of increasing cases of the misuse of funding erase the reputation of ESIF.

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ANNEX

Interview partners

	MANAGING AUTHORITIES					AUDIT AUTHORITIES / CERTIFICATION AUTHORITIES BODIES					NAT. COORDINATION	AUTHORS OF GOLD-PLATING STUDIES	ESIF BENEFICIARIES	EU SOCIAL & ECONOMIC PARTNERS	
	ERDF-CF	ESF	ERDF	EMFF	Multifund	ERDF-CF	ESF	ERDF	EMFF	MULTIFUND					
Member States for in-depth coverage (several interviews per Member State)															
Czech Republic	x				x									x	
Germany	x				x							x		x	
Italy		x	x												
Lithuania					x					x		x		x	
Netherlands	x			x								x			
Poland	x				x						x	x		x	
Romania	x	x	x	x							x				
Spain	x			x				x	x		x				
United Kingdom	x		x					x		x					
Member States for general overview (one interview per Member State)															
Austria	x	x	x			x					x				
Belgium		x													
Bulgaria					x										
Croatia					x										
Cyprus					x										
Denmark	x														
Estonia					x										
Finland					x										
France	x														
Greece											x			x	
Hungary	x		x											x	
Ireland															
Latvia					x										
Luxembourg	x														
Malta		x			x						x				
Portugal											x				
Slovakia														x	
Slovenia					x	x				x					
Sweden															x
ETC programmes	x														
European level interviews															
European institutions	x	x								x					

Source: Authors' own compilation

Focus group participants

ORGANISATION NAME	ORGANISATION TYPE
Ministry of Economy & Development / General secretariat for Public Investments, Greece	National Coordination Authority – Special Service for Institutional Support
Ministry of Finance of The Republic of Lithuania	Managing authority of Multi-fund programmes
ENSIE asbl	Socio-economic partner
Interreg Europe JS	Managing authority
University	Beneficiary
Region Västerbotten	Beneficiary
European Network on Independent Living - ENIL	Socio-economic partner
Interreg Europe JS	Managing authority
SALAR	Socio-economic partner / Beneficiary
TWI Ltd	Socio-economic partner
EASPD	Socio-economic partner

Source: Authors' own compilation

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