

The gold-plating of EU law

Strategies for limiting or preventing undesirable gold-plating

Philipp Eckhardt



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For many years, EU law has been subject to "refinement" during its transposition into national law, and there have long been calls for this practice to stop. The Commission now aims to breathe new life into the debate with a new pact against gold-plating. In practice, however, very little is actually happening. Gold-plating remains an integral part of the transposition of EU law. But how can undesirable gold-plating be limited or even avoided altogether? This cep study aims to provide answers to that question. cep is calling for

- ▶ the establishment of a common approach to gold-plating practices within the EU, whilst developing as consistent a distinction as possible between desirable and undesirable regulatory refinement strategies;
- ▶ an increase in transparency around the harmonising nature of individual EU provisions, in order to gain clarity at an early stage as to whether or not there is any scope for action at national level;
- ▶ the systematic development of guidelines on national transposition, in which outstanding issues – for example, regarding the interpretation or precise application of certain provisions – are clarified at an early stage;
- ▶ the implementation of "comply or explain" mechanisms at national level under which national legislators would be required to justify any deviations from a one-to-one transposition;
- ▶ an active review of the national body of legislation that is derived from EU law, with a view to retrospectively addressing any existing instances of the over-zealous transposition of EU legislation.

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1 Introduction

Nine instances of gold-plating in the transposition of EU directives into German law and three instances in the implementation of EU regulations; plus nine instances of national discretion being exercised in the transposition or implementation of EU law; those were the figures for the “traffic light” coalition government during the 20th parliamentary term (up to July 2024).¹ Even now, in the current 21st legislative term, the practice of national legislators “gilding” or “refining” EU legislative acts is by no means a thing of the past. And this is despite the fact that the current federal government, comprising the CDU/CSU and the SPD, has clearly committed itself in its coalition agreement to ensuring a “low-bureaucracy” implementation of EU law, thereby ruling out “overzealous bureaucratic compliance” and rejecting parallel provisions at European and national level^{2,3}. Not to mention that it also reaffirmed this commitment in its modernisation agenda for government and public administration⁴ and that, in mid-November 2025, Federal Chancellor Friedrich Merz promised financial market participants at Euro Finance Week that he would not further tighten European requirements as part of national implementation⁵. Previous federal governments also formulated similar ambitions and made it their policy either to implement EU law on a one-to-one basis, or to limit implementation to what was strictly necessary, or to rule out any implementation that went beyond the requirements of EU law.⁶ They failed in their ambitions every single time. The calls for progress to finally be made in this area are certainly not dying down. The Bundesrat has also requested the Federal Government, when transposing EU law, “to refrain in future from imposing additional bureaucratic hurdles on top of the obligations under EU law” and to make a voluntary commitment to this effect.⁷ The organisation Initiative for an Effective State warned that, whilst EU legal requirements should be met, in an effort to avoid over-regulation they should not be exceeded.⁸ And in the “Federal Modernisation Agenda”, the federal and state governments advocate a “straight-forward implementation of European law”, whereby “the requirements of EU law are implemented without excessive bureaucratic compliance, in order to rule out any additional burdens or obligations for those affected”.⁹

¹ Bundestag (2024), Kleine Anfrage, Übererfüllung von EU-Rechtsakten, sogenanntes Gold-Plating, in der 20. Legislaturperiode, Drucksache 20/12167, 20. Wahlperiode, 2 July 2024.

² CDU/CSU and SPD (2025), Koalitionsvertrag, Verantwortung für Deutschland, 21. Legislaturperiode, Paras. 2013–2015.

³ With regard to financial market regulation, the coalition agreement also emphasises that the coalition partners are committed to uniform European financial regulation and, in this context, intend to refrain from gold-plating [CDU/CSU and SPD (2025), paragraphs 1559–1563].

⁴ Herein, the Federal Government reaffirms its aim of the one-to-one transposition of EU law. “EU law will be implemented without excessive bureaucratic compliance (with immediate effect)” [Die Bundesregierung (2025), Modernisierungsagenda für Staat und Verwaltung (Bund) – Für ein schnelles, digitales und handlungsfähiges Deutschland, Federal Ministry for Digital Affairs and Government Modernisation (BMDS), October 2025].

⁵ Merz emphasised that directives from Brussels would in future be “implemented without gold-plating, i.e. on a one-to-one basis”. The German Government should “not add to the burden”, as EU banking regulation is already “too stringent”. [Börsenzeitung (2025), Euro Finance Week – Merz verspricht Verzicht auf strengere nationale Regeln für Banken, Fechtner, D., 17 November 2025]

⁶ See the coalition agreement between the CDU, CSU and SPD, 19th legislative term, Ein neuer Aufbruch für Europa, Eine neue Dynamik für Deutschland, Ein neuer Zusammenhalt für unser Land; coalition agreement between CDU, CSU und SPD, 18th legislative term, Deutschlands Zukunft gestalten; coalition agreement between CDU, CSU und SPD, 16th legislative term, Gemeinsam für Deutschland: Mit Mut und Menschlichkeit; coalition agreement between CDU, CSU and FDP, 17th legislative term, Wachstum, Bildung, Zusammenhalt.

⁷ Bundesrat (2024), Entschließung des Bundesrates “Den europäischen Binnenmarkt stärken und die Übererfüllung von EU-Recht (Gold-Plating) verhindern”, Drucksache 603/24 (Beschluss).

⁸ Julia Jäkel, Thomas de Maizière, Peer Steinbrück, Andreas Voßkuhle (2025), Initiative für einen handlungsfähigen Staat, Abschlussbericht, Verlag Herder GmbH, Freiburg im Breisgau, 2025.

⁹ Ministerpräsidentenkonferenz (2025), Föderale Modernisierungsagenda, 4 December 2025, para. 221, for details see [here](#).

And at the European level, too, there are intensive efforts to combat gold-plating. First, on 19 March 2026, the European Council called on the Member States “to avoid gold-plating and disproportionate national requirements when transposing and implementing EU rules”.¹⁰ Second, at the end of April 2026, the European Commission proposed three specific key actions to tackle gold-plating as part of its efforts for a simpler, clearer and better enforced EU rulebook. The Commission wants to develop a 'toolkit' to support Member States in avoiding gold-plating by providing best practice examples and guidance on transposition. Furthermore, it aims to detect instances of gold-plating 'better and earlier'. Finally, it intends to refer to the European Semester and the Single Market Enforcement Taskforce to identify 'key barriers' and follow up on gold-plating issues.¹¹ Third, in July 2026, the Commission initiated two dedicated consultations, asking both Member States and stakeholders for their views on how to tackle gold-plating practices. Fourthly, and most notably, the President of the European Commission addressed the issue in her 'State of the European Union' speech on 16 September 2026. She claimed that the Commission's efforts to reduce the administrative burden and simplify the EU acquis 'cannot be a one-way street'. Instead, she said that 'it is time for the Member States to step up'. Ultimately, she called for a 'pact against gold-plating' to be established (see also chapter 5).¹² Following von der Leyen's lead, on 16 October 2026 the European Council called on the Commission “to come forward with further initiatives [...] to avoid gold-plating and to reduce administrative and regulatory burdens” [...].¹³

But what might an EU strategy on the issue of gold-plating look like? This **cepStudy** aims to provide some answers to that question. Chapter 2 will begin by explaining what “gold-plating” actually means, how it manifests itself in practice, and what restrictions apply to such practices. Chapter 3 examines the key motivations behind gold-plating and explains why there are also a variety of arguments in favour of curbing the practice of gold-plating EU law. To illustrate how such practices manifest themselves in everyday life, the study also presents, in this section, a total of five practical examples from the recent past in Germany (which also reveal a certain deviation from the objectives of the coalition agreement). Chapter 4 sets out a total of seven specific strategies and approaches for limiting and preventing undesirable gold-plating. Chapter 5 looks at current developments with a focus on the Commission's initiative to build a “Pact against gold-plating” together with the Member States. The **cepStudy** concludes with a summary (Chapter 6).

¹⁰ European Council (2026) European Council meeting – Conclusions, 19 March 2026.

¹¹ European Commission (2026a), COM(2026) 380, A Simpler, Clearer and Better Enforced EU Rulebook, Communication, 28 April 2026.

¹² European Commission (2026a), 2026 State of the Union Address by President von der Leyen, Speech, 16 September 2026.

¹³ European Council (2026), European Council conclusions on competitiveness, the next multiannual financial framework and enlargement and reforms, 16 October 2026.

2 What exactly is gold-plating, how does it manifest itself in practice, and where (in theory) are its limits?

“Gold-plating” refers to a practice whereby Member States adopt additional requirements, obligations or standards that go beyond those required by EU law when they transpose EU legislation into national law or when they apply it. This not only relates to the transposition or application of provisions of primary law, but also that of delegated and implementing acts (“secondary legislation”), as well as the national implementation of EU legislation.¹⁴ When it comes to implementation, another factor is how the EU requirements, as transposed into national law, are actually applied or put into practice by public authorities, individuals and businesses.¹⁵

Gold-plating EU law is not always possible. In some cases, areas of regulation are fully harmonised at EU level and are thus definitively regulated, leaving national legislators with no scope (for action) which would allow them to engage in gold-plating. In other cases, however, it is possible. Gold-plating therefore takes a variety of forms. Most notably it can arise where^{16,17,18}

- an EU legislative act (covering various policy areas) only provides for minimum harmonisation. In this case, when transposing the legislation into national law, Member States must not fall below a specified minimum standard or a defined minimum level of regulation. They can however set requirements, obligations or standards that go beyond the defined minimum level. This minimum harmonisation therefore affords Member States a degree of flexibility which is generally also desired by the legislator. Consequently, when Member States make use of this flexibility, it leads to divergent rules across the EU and inconsistent application of the law;
- Member States apply a broader scope or area of coverage when transposing EU law than is required by the relevant EU legislation. Consequently, in some Member States, more stakeholders – such as consumers or businesses – are affected by certain EU provisions than in others that do not extend the scope or coverage;
- Member States apply EU legislation at an early stage, i.e. before the expiry of a deadline laid down in the legislation. As a result, the market participants concerned will have to comply with the requirements earlier than those in Member States that opt to implement “just in time”;
- When transposing EU provisions into national law, Member States opt to retain rather than actively scale back existing national rules that go beyond the minimum standard or level laid down in the EU legislation. This potentially results in a regulatory gap with respect to other Member States that choose to base their standards on the minimum level. Companies operating in Member State that retain their higher minimum standards will potentially therefore face a heavier regulatory burden and, in some cases, a competitive disadvantage;
- Member States, whether intentionally or unintentionally, adopt or maintain national rules even though EU law already regulates a particular matter (supposedly in full). Consequently, there is a risk of duplication, legal friction or even legal uncertainty or ambiguity;

¹⁴ European Commission (2024), The future of European competitiveness, Part B – In-depth analysis and recommendations, Draghi report, September 2024.

¹⁵ European Commission (2025), COM(2025) 47, Communication, A simpler and faster Europe – Communication on implementation and simplification, 11 February 2025.

¹⁶ European Commission (2020), COM(2020) 93, Communication, Identifying and addressing barriers to the Single Market, Brussels, 10 March 2020.

¹⁷ EU Commission (2024).

¹⁸ Thomann, E. & Zhelyazkova, A. (2019), Moving beyond (non-)compliance: The customization of European Union policies in 27 countries, In Innovative approaches to EU multilevel implementation (pp. 17-36). Routledge.

- Member States may interpret the definitions and terms, introduced by EU legislation, either more broadly or more narrowly than intended or desired, when transposing or applying it at national level. This is particularly likely where the definitions and terminology leave room for interpretation. Furthermore, an absence of definitions and concepts in EU law may mean that Member States feel, as it were, compelled to provide greater legal clarity by laying down their own provisions. Consequently, this also leads to diverging provisions within the single market;
- Member States actively refrain from reducing the level of regulation to the EU minimum standard or the EU minimum level, or fail to make full use of the available derogations, thereby ensuring that compliance remains at a level that exceeds the minimum required;
- Member States adopt a stricter approach to enforcing EU rules than is strictly necessary, for example by applying the range of sanctions for non-compliance with EU requirements more strictly, interpreting liability more narrowly or regulating the burden of proof more strictly.

The Regulatory Control Council (*Normenkontrollrat*) groups these various aspects of gold-plating into two categories and distinguishes between, on the one hand, “genuine gold-plating” where, when transposing EU law, a provision is “actively added” which goes beyond what is “necessary” under the directive, and, on the other hand, “passive gold-plating” where the national legislator, when transposing EU law, retains certain standards that go beyond the level set by the directive.^{19,20}

Thus, regardless of whether gold-plating in the specific areas mentioned is appropriate, required, unnecessary or harmful, it evidently takes a wide range of forms. There are also, however, limits to gold-plating. When “practising” gold-plating in its various forms, Member States must adhere to certain principles and do not have unrestricted discretion. Thus, where a matter falls within the scope of EU law, Member States cannot adopt provisions that conflict with, for example, the EU Treaties, the Charter of Fundamental Rights of the European Union or EU law. They must not therefore come into conflict with e.g. the objectives of the free movement of persons, goods, services and capital. Furthermore, any gold-plating measures at national level must comply with the harmonised minimum requirements, take account of the principle of proportionality and must not support discrimination. Finally, their implementation or continuation must be justified. They must for example be in the “overriding public interest”. And a further restriction on the scope for action also arises from the fact that differences in legislation within the single market must be kept to a minimum. By means of infringement proceedings, the Commission is empowered to monitor compliance with these principles in order to curb gold-plating by Member States.^{21,22}

3 Reasons for gold-plating and for restricting or avoiding it

So let’s take a look at the motives – some understandable, others less so – behind the “refinement” or “over-zealous fulfilment” of EU law, and why are the calls to limit or avoid this so loud? Firstly, it should be noted that national legislators may have a legitimate interest in going beyond the minimum requirements of an EU legal act. This interest may stem, in particular, from a desire to take national, regional or even local particularities into account and thus cater for the circumstances in those areas. There may also be a desire to ensure higher standards of protection at home – for example, with regard to safeguarding consumer rights or labour law – and thus to set itself apart from other Member States

¹⁹ Normenkontrollrat (2024), Was ist eigentlich: Gold-Plating, available [here](#).

²⁰ In the view of the Regulatory Control Council, however, no gold-plating – or only “pseudo gold-plating” – exists where the provisions of an EU directive apply to matters “which are not regulated by the directive itself” [Normenkontrollrat (2024)].

²¹ EU Commission (2020).

²² EU Commission (2024).

in a “positive” way. Furthermore, gold-plating can simply mean clarifying ambiguous EU requirements, thereby using it to create greater legal certainty for the parties affected by a provision and to close any regulatory loopholes. Beyond that, gold-plating may simply be the result of political objectives. Failing to introduce supplementary provisions would in such cases mean abandoning or setting aside these objectives, or even actively relinquishing political scope for action.^{23,24}

On the other hand, gold-plating is regularly said to have a detrimental effect, which makes limiting or avoiding it seem reasonable. Thus, both genuine and passive gold-plating can lead to inconsistent legislation across Member States and thereby run counter to the objective of establishing a single market. This inconsistency may, in turn, give rise to distortions of competition and make it more difficult to carry out economic activities within the EU and, consequently, across borders. Furthermore, the gold-plating of EU law may result in additional costs and administrative and bureaucratic burdens for businesses affected by a gold-plating provision, for example where it takes the form of extended reporting or documentation requirements. This is particularly problematic for small and medium-sized enterprises (SMEs), which generally have fewer resources – such as staff – available to meet legal requirements. Furthermore, if a gold-plating measure entails additional costs and extra work, it may undermine the competitiveness of the businesses concerned, not only in relation to businesses in other Member States where the practice does not apply, but also in relation to firms from jurisdictions outside the EU. Overall, therefore, gold-plating can also weaken the position of European companies in global competition. Strategic gold-plating practices may also be seen as comprehensible at national level but potentially harmful from the perspective of the single market; these practices aim to protect domestic companies from competition or give them a competitive advantage, for example by establishing additional rules that cannot be met by companies from other EU countries, or only with great difficulty.^{25,26,27}

Whether a particular instance of gold-plating at national level – be it by the national legislature or through administrative action – is to be regarded as appropriate, beneficial or effective generally depends on the specific (individual) case. There may be cases of “justified” or “necessary” gold-plating just as there may be cases of “unjustified” or “unnecessary” gold-plating. A blanket rejection does not therefore seem particularly helpful. Instead, it is important to take both forms of refinement of European law adequately into account and, when seeking to limit or avoid gold-plating through political measures, to focus primarily on those categories of cases that are generally regarded as unjustified or unnecessary.

Box: Practical examples

Despite a clear commitment, the federal governments of recent years have largely failed to avoid gold-plating²⁸. The coalition partners, CDU/CSU and SPD, are still struggling with this in the new legislative term. Here are a few examples:

²³ Normenkontrollrat (2024).

²⁴ Thomann, E., & Zhelyazkova, A. (2019).

²⁵ Normenkontrollrat (2024).

²⁶ Bundesrat (2024).

²⁷ CFA Society Poland (2024), Gold-plating in EU capital markets law: Regulatory practices in selected jurisdictions, December 2024.

²⁸ One example of this is the implementation of the General Data Protection Regulation (GDPR), which came into force in May 2018 and was intended to harmonise EU data protection law across the EU. As the German Council of Economic Experts points out in its latest report, national gold-plating has led to considerable fragmentation in this area, particularly since supervisory responsibilities are divided amongst a large number of authorities at national and regional level, which

Example 1: Implementation of Directive (EU) 2023/222 on consumer credit agreements

Directive (EU) 2023/222 on consumer credit agreements (see [cepPolicyBrief](#)) came into force on 19 November 2023.²⁹ It had to be transposed into national law by 20 November 2025. In June 2025, the Federal Ministry of Justice and Consumer Protection (BMJV) presented a ministerial draft of the bill to implement the Directive. The draft law followed in September 2025³⁰ containing several provisions that could be regarded as gold-plating. These included, amongst other things, provisions stipulating that the requirements of the Directive should also apply to consumer credit agreements exceeding the amount of € 100,000, even if the purpose of these credit agreements is not the renovation of a residential property.^{31,32,33} The fact that the Federal Government has chosen not to exempt certain credit agreements in the form of debit cards with deferred payment – and, in particular, deferrals in connection with credit cards – from the provisions of the Directive, even though the Directive allows Member States to do so, can also be regarded as passive gold-plating.^{34,35,36}

This also applies to the Federal Government's decision not to exercise the option to exempt credit agreements that take the form of an overdraft from the provisions of the Directive.^{37,38} Furthermore, the Federal Government intends to bring no-fee purchases on account under consumer credit law in certain cases, namely where a third party is involved and acquires the debt. If no third party is

increases administrative costs for businesses and undermines the efficiency and consistency of supervision. Furthermore, companies that operate or wish to operate across borders must deal with the respective supervisory structures and other specific national provisions on a case-by-case basis, which is detrimental to the strengthening of the single market. [German Council of Economic Experts (2025), Report on the overall economic situation (2025), Creating New Prospects for Tomorrow – Not Squandering Opportunities, Annual Report, 12 November 2025].

²⁹ Directive (EU) 2023/2225 of the European Parliament and of the Council of 18 October 2023 on credit agreements for consumers and repealing Directive 2008/48/EC.

³⁰ Entwurf eines Gesetzes zur Umsetzung der Richtlinie (EU) 2023/2225 über Verbraucherkreditverträge, Gesetzentwurf der Bundesregierung, Drucksache 21/1851, 29 September 2025.

³¹ According to Article 2(2)(c), the Directive does not apply to credit agreements where the total amount of credit exceeds € 100,000. However, pursuant to Article 2(3), it does apply to credit agreements with a total amount of credit exceeding € 100,000 which are not secured by a mortgage or comparable security customarily used in a Member State in respect of immovable property, or by rights in real property, where the purpose of such credit agreements is the renovation of residential property.

³² See, for example, the statements issued by the Deutsche Kreditwirtschaft (DK) and the Bankenfachverband, available [here](#).

³³ The Bundesrat criticises the fact that the Federal Government's draft bill does not transpose the EU requirements one to one but goes beyond them in a manner that is "unnecessary". The Federal Government counters this by stating that "even with larger loan amounts, there is a need for appropriate safeguards" and that there is "no objective reason to deny consumers this protection in future when taking out large loans". [Deutscher Bundestag (2025), Entwurf eines Gesetzes zur Umsetzung der Richtlinie (EU) 2023/2225 über Verbraucherkreditverträge – Drucksache 21/1851 – Opinion of the Bundesrat (German Upper House) and Response of the Bundesregierung (German Government), available [here](#)]

³⁴ Under Article 2(5), Member States may exclude from the scope of this Directive credit agreements in the form of deferred-payment debit cards provided by a credit or payment institution, under which the credit must be repaid within 40 days, which are interest-free and which involve only minimal fees for the provision of the payment service. Recital 18 adds that "deferred-payment debit cards are credit cards commonly available on the market, where the total amount of the transactions is debited from the cardholder's account at a pre-agreed time, usually once a month, without any interest being payable. Member States should be able to exclude certain credit agreements in the form of deferred-payment debit cards from the scope of this Directive [...]".

³⁵ See, for example, the statements issued by the Deutsche Kreditwirtschaft (DK) and the Interessengemeinschaft Kreditkarten, available [here](#).

³⁶ In this regard, the Bundesrat calls on the Federal Government to make use of the exemption provided for in Article 2(5) "with a view to implementing EU law with a minimum of red tape". However, the Federal Government sees no need for adjustment, as "making use of the exemption option [...] would create a significant gap in protection, particularly for socially vulnerable consumers, and would increase the risk of over-indebtedness", as well as causing distortions of competition [German Bundestag (2025)].

³⁷ Under Article 2(4), only Article 18 of the Directive applies to credit agreements in the form of overdrafts, unless Member States provide otherwise.

³⁸ See, for example, statements issued by the Deutsche Kreditwirtschaft (DK), available [here](#).

involved, the purchase on account is not covered and the provisions of the Directive do not apply. The interpretation of the relevant provision of the Directive may be seen as going too far and based on its precise wording considered as unnecessary gold-plating that is detrimental to the single market. On the other hand, there is room for interpretation with regard to the EU provision in question. Fleshing out the provisions at national level could then help to ensure legal clarity and avoid legal uncertainty, and may therefore be necessary. Clarification is required, however, as to whether this can be implemented in a way that is non-bureaucratic.^{39,40} Furthermore, the draft bill does not provide for the removal of existing rules that make so-called bundling transactions more difficult, even though such transactions must be expressly permitted under the EU Directive. Thus, there is criticism of the fact that the German legislature is maintaining existing provisions in the Insurance Contracts Act (Section 7a VVG on cross-selling - “Waiting period for residual debt insurance”), making it impossible to bundle a credit agreement and residual debt insurance at the same time.^{41,42,43}

Example 2: The German Banking Directives Implementation and Red Tape Reduction Act – BRUBEG law

In July 2024, Directive (EU) 2024/1619 entered into force amending Directive 2013/36/EU relating to supervisory powers, sanctions, third-country branches and environmental, social and governance risks.⁴⁴ It forms part of the EU banking package and must be implemented by Member States by early 2026. In October 2025, the Federal Government presented a draft of the Banking Directive Implementation and Red Tape Reduction Act (BRUBEG), which also implements the aforementioned Directive.⁴⁵ Instances of gold-plating were also identified during the implementation of this Directive. For example, it has been pointed out that the German legislature retains national provisions even though they are not strictly necessary under EU law (the requirement for consent when granting loans, Section 15(6) of the German Banking Act (KWG)).⁴⁶ Attention has also been drawn to the fact that, for the implementation of certain ESG requirements (Sections 26c and 26d of the draft KWG), shorter implementation deadlines will apply to small and non-complex banks

³⁹ Under Article 2(2)(h), the Directive does not apply to certain payment deferrals where “a supplier of goods or services – without a loan provided by a third party – grants the consumer a period of time for payment of the goods or services provided by that supplier”. It does not apply to deferred payments where payment is made within 14 days of delivery and no interest or charges are incurred, provided that no third party offers a loan or acquires a claim for payment. The Federal Government now wants purchases on account to be covered when a third party offers the loan or acquires the claim for payment. This third party may also be a group-owned (subsidiary) company.

⁴⁰ See, for example, the statements issued by the Otto Group, Zalando SE, the Bundesverband E-Commerce und Versandhandel Deutschland e.V. (bevh) and Bitkom e.V., available [here](#).

⁴¹ According to Article 3(16), a bundled transaction is defined as “the offer or conclusion of a credit agreement as part of a package together with other separate financial products or services, where the credit agreement may be concluded separately by the consumer [...]”. Article 14 provides that Member States (must) permit bundling transactions.

⁴² See, for example, the statements issued by the Gesamtverband der Deutschen Versicherungswirtschaft (GDV) and the Bankenfachverband, available [here](#).

⁴³ Interestingly, in its response to the Federal Government’s draft bill, the Bundesrat criticises the fact that the new Consumer Credit Directive has “massively curtailed Member States’ scope for exemptions or flexible arrangements [...]”. Whilst it therefore welcomes and calls for a 1:1 transposition in several places (see above), it is at the same time open to greater national discretion and thus to fragmentation in European consumer credit law, thereby encouraging future (un)desirable gold-plating practices [German Bundestag (2025)].

⁴⁴ Directive (EU) 2024/1619 of the European Parliament and of the Council of 31 May 2024 amending Directive 2013/36/EU as regards supervisory powers, sanctions, branches from third countries, and environmental, social and governance risks.

⁴⁵ Draft law to implement Directive (EU) 2024/1619 of the European Parliament and of the Council of 31 May 2024 amending Directive 2013/36/EU as regards supervisory powers, sanctions, branches from third countries, and environmental, social and governance risks, and to reduce the administrative burden on credit institutions (Bankenrichtlinienumsetzungs- und Bürokratienteilungsgesetz – BRUBEG), 10 October 2025.

⁴⁶ See, for example, statement by Bitkom e.V., available [here](#).

than those set out in a guideline issued by the European Banking Authority (EBA), which contains (non-binding) guidelines on ESG risk management (EBA/GL/2025/01).⁴⁷ In addition, there has also been criticism of the fact that the provisions of the draft bill regarding the (calculation of) capital requirements for branches of credit institutions in third countries are excessive and would therefore exceed the level required by the Directive.⁴⁸

Example 3: Amendment of the law governing consumer contracts and insurance contracts

In November 2023, Directive (EU) 2023/2673 was adopted regarding financial services contracts concluded at a distance (see [cepPolicyBrief](#)).⁴⁹ The deadline for implementation was 19 December 2025. At the end of September 2025, the Federal Government presented a draft bill to amend the law on consumer contracts and insurance contracts and to transpose Directive (EU) 2023/2673.⁵⁰ Allegations of gold-plating have arisen here too. For example, it has been pointed out that the requirements regarding the timely exercise and submission of a notice of withdrawal do not conform to the Directive but go further.⁵¹ In addition, there has also been criticism of the fact that a provision in the German Civil Code (BGB) concerning the legal consequences of the withdrawal from contracts for financial services, most notably Section 357b(2), first sentence, No. 2 of the BGB, remains in force. This relates to a consumer's obligation to pay compensation for the value of a service provided up to the point of withdrawal and states that the consumer must have "expressly" consented to the provision of the service before the end of the withdrawal period even though such express consent is not required by the Directive.⁵² Furthermore, another provision relating to the requirement to provide an electronic cancellation function for distance contracts, has also been criticised as excessive. It is emphasised in this regard that, whilst Directive (EU) 2023/2673 does stipulate that, in the case of distance contracts concluded via an online user interface, traders must ensure that the consumer can also withdraw from the contract by using a withdrawal function, this requirement does not automatically mean that withdrawal must take place via the same online user interface. This is nevertheless what the Federal Government's draft bill stipulates, and it therefore goes beyond the requirements of the EU Directive.⁵³

Example 4: Implementation of the Directive on Sustainability Reporting

Directive (EU) 2022/2464 on corporate sustainability reporting was adopted in December 2022 (see [cepAdhoc](#)).⁵⁴ The Federal Government presented a draft bill to transpose Directive (EU) 2022/2464⁵⁵ at the end of September 2025, although it should have been transposed by 6 July 2024 at the latest. It has therefore arrived later than planned and is in some cases, where appropriate, already addressing the ongoing revisions to the Directive under the so-called Omnibus Package on

⁴⁷ See, for example, the statements issued by the Deutsche Kreditwirtschaft (DK) and the ZIA Zentraler Immobilien Ausschuss e.V., available [here](#).

⁴⁸ See, for example, statements of the Verband der Auslandsbanken in Deutschland e.V., available [here](#).

⁴⁹ Directive (EU) 2023/2673 of the European Parliament and of the Council of 22 November 2023 amending Directive 2011/83/EU as regards financial services contracts concluded at a distance and repealing Directive 2002/65/EC.

⁵⁰ Entwurf eines Gesetzes zur Änderung des Verbrauchervertrags- und des Versicherungsvertragsrechts sowie zur Änderung des Behandlungsvertragsrechts, Drucksache 21/1856, 29 September 2025.

⁵¹ See, for example, statement by Bitkom e.V., available [here](#).

⁵² See, for example, statements issued by the Deutsche Kreditwirtschaft (DK), available [here](#).

⁵³ See, for example, statement of the Handelsverband Deutschland (HDE), available [here](#).

⁵⁴ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014 and Directives 2004/109/EC, 2006/43/EC and 2013/34/EU as regards corporate sustainability reporting.

⁵⁵ Entwurf eines Gesetzes zur Umsetzung der Richtlinie (EU) 2022/2464 hinsichtlich der Nachhaltigkeitsberichterstattung von Unternehmen in der durch die Richtlinie (EU) 2025/794 geänderten Fassung, Drucksache 21/1857, 29 September 2025.

sustainability (see [cepAdhoc](#)). Gold-plating practices have also been identified in relation to the implementation of this Directive. For example, are reservations regarding the proposed obligation for all members of the body authorised to represent a company to inform employee representatives of the contents of the sustainability report. The Directive focuses here solely on the company's management; in particular, "the central management or any other more appropriate level of management". The implementing legislation therefore restricts the scope of action in a manner that is out of line with the Directive, which may also be regarded as gold-plating.⁵⁶ The rules on auditing or certifying sustainability reporting can also be regarded as another example. Under the Directive, statutory auditors and auditing firms may carry out these activities. It also considers it "desirable" for companies subject to reporting requirements to be able to use – in addition to statutory auditors and audit firms – the services of so-called "independent assurance service providers" and therefore grants Member States the option of accrediting such providers to provide an assurance opinion. The German legislature has chosen not to exercise this discretion available to Member States and therefore adheres to the minimum level of transposition required by the Directive, thereby de facto foregoing a permissible form of gold-plating, which could, however, be regarded as desirable for strengthening competition in the market for auditors.⁵⁷

Example 5: Implementation of the NIS Directive

Directive (EU) 2022/2555 on measures to ensure a high common level of cybersecurity in the Union was adopted on 14 December 2022, (hereinafter: NIS-2 Directive (see [cepAdhoc](#))).⁵⁸ The Directive came into force on 17 October 2024, and Member States were required to transpose it by that date. In September 2025, and thus considerably late, the Federal Government presented a draft bill to transpose the NIS-2 Directive.⁵⁹ Here, too, stakeholders recognised that there had been a departure from a strict 1:1 implementation of the Directive. It was pointed out, for example, that under the draft bill, "major establishments" were also to include establishments which – provided they exceed certain thresholds in terms of staff numbers, annual turnover and annual balance sheet total, and correspond to the types of establishments set out in Annexes 1 and 2 to the Directive – offer goods or services to other natural or legal persons in return for payment. This is seen as a "national tightening" that "goes beyond the original intention of the EU Directive".⁶⁰ Furthermore, criticism was levelled at the excessive regulation of data centre service operators, who are regarded as providers of essential facilities under the Directive. It is emphasised here that the German legislature also regards the provision of "all necessary equipment and infrastructure, in particular for power distribution and environmental control" as a "data centre service", even though the Directive does not explicitly require this. This is said to "go beyond the EU's requirements".⁶¹ Furthermore, the draft bill extends the scope of the Directive in other respects as well. The Directive stipulates that it applies to certain organisations that are classified as medium-sized enterprises or that achieve the thresholds for medium-sized enterprises. The Federal Government's draft bill now defines "medium-sized enterprises" more broadly than required by the Directive, or by the Commission's

⁵⁶ See, for example, statement of the Deutsche Aktieninstitut e.V., available [here](#).

⁵⁷ See, for example, statement of the Verband der Elektro- und Digitalindustrie (ZVEI), available [here](#).

⁵⁸ Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures to ensure a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive).

⁵⁹ Entwurf eines Gesetzes zur Umsetzung der NIS-2-Richtlinie und zur Regelung wesentlicher Grundzüge des Informationssicherheitsmanagements in der Bundesverwaltung, Drucksache 21/1501, 8 September 2025

⁶⁰ See, for example, statement by Bitkom e.V., available [here](#).

⁶¹ See, for example, the statements issued by Bitkom e.V. and the Bundesverband der Deutschen Industrie e.V. (BDI), available [here](#).

Recommendation on the definition of micro, small and medium-sized enterprises, to which the Directive refers in this regard. Consequently, the German law covers more companies and organisations than is strictly necessary, which runs counter to a one-to-one transposition of the EU legislation.^{62,63}

4 Strategies for limiting or preventing undesirable gold-plating

As described above, gold-plating can have both positive and negative aspects. Accordingly, in most Member States there is no de facto ban on such practices, nor are there any other legally binding measures to restrict them. At best, there are recommendations, guidelines and even voluntary commitments⁶⁴ aimed at avoiding gold-plating. Furthermore, there are often no detailed and/or widely accepted definitions for such refinements of EU law, either at EU level or at national level,⁶⁵ which regularly results in a lack of common understanding at both levels as regards (sensible or desirable, and less sensible or undesirable) gold-plating. Germany is no exception in this respect. Whilst the Federal Government is committed to ensuring that the implementation of EU law is carried out “effectively, with a minimum of red tape and in a manner that promotes the further development of the European single market”,⁶⁶ the German legislature has (so far) refrained from issuing clear and, in particular, binding rules regarding the national implementation of EU law.⁶⁷

But what would be forward-looking and, above all, effective strategies for limiting or preventing undesirable gold-plating? Here are a few ideas:

4.1 Classification of gold-plating practices

First, it would seem essential to arrive at a common understanding of gold-plating. The establishment of a classification system, preferably at European level, would therefore be beneficial. The first step for setting up this system should be to clearly and unambiguously define practices that can generally be regarded as gold-plating. In this regard, the various forms, purposes and objectives of individual practices should be distinguished from one another, and different categories of gold-plating practices should be identified. To illustrate the distinction, several practical examples should also be given for each of the categories, where possible. Such a classification system should also address borderline cases which cannot be assigned to a single category, or which could be assigned to more than one category. Such a classification system would serve as the primary point of reference for (national, regional or local) legislators, administrations and (regulatory) authorities, and as the basis for a structured and meaningful discussion. Where possible, the list of (categories of) gold-plating practices should be supplemented with explanations of cases that might be thought to fall under a certain category, but which do not (and should not) fall within this category.

⁶² See, for example, statement of the Bundesverband der Deutschen Industrie e.V. (BDI), available [here](#).

⁶³ On 13 November 2025, the Bundestag passed the NIS II Implementation Act (with amendments to the Federal Government’s original draft bill) (see [here](#)).

⁶⁴ For example, in July 2023, the state government of Baden-Württemberg reached an agreement with the state’s local authority associations and business and finance organisations to form the Entlastungsallianz Baden-Württemberg. This also includes a second relief package, which was presented in July 2024, and contains a “voluntary commitment” by the state government, according to which “in future draft legislation, regulations and administrative provisions implementing EU and federal legal requirements, the bureaucratic burden will be kept to a minimum”. [see [here](#)]

⁶⁵ CFA Society Poland (2024), Gold-plating in EU capital market law: Regulatory practices in selected jurisdictions, December 2024.

⁶⁶ Bundestag (2024).

⁶⁷ CFA Society Poland (2024)

4.2 Desirable vs. undesirable gold-plating

A second step should be to clarify which (categories of) gold-plating practices should be regarded as generally acceptable, desirable or even justified, and which practices are to be regarded as unacceptable, undesirable or unjustified. This distinction is necessary because a blanket rejection of all possible practices would be neither appropriate nor effective. Not every instance of what is perceived as “over-compliance” with the requirements of an EU legal act is harmful or necessarily leads to more red tape, competitive disadvantages or excessive fragmentation within the single market. In fact, when “tackling” gold-plating, the focus should be on those specific scenarios which give rise to these adverse effects. Where possible, the clarification of desirable and undesirable practices should be carried out within the classification system set out in Chapter 4.1. In each case, the classification should be justified (e.g. practice (category) x is undesirable because it encourages regulatory arbitrage or results in excessive competitive disadvantages for domestic companies). This ensures transparency and reliability with regard to the (political) focus in the implementation of EU law.

4.3 Remarks on the harmonising nature of individual pieces of EU legislation

A widely held view on how to avoid gold-plating calls for a greater use of EU regulations rather than EU directives, in order to achieve full harmonisation of EU law rather than merely partial (minimum) harmonisation.⁶⁸ This call, which goes a long way towards preventing divergent and possibly excessive transposition into national law, should be supported. However, particularly where the EU legislator adheres to the legislative instrument of a directive (and, where applicable, is obliged to do so for reasons of competence), a measure would be helpful. It is therefore worth considering whether, where the European Commission tables a legislative proposal which is to take the form of a directive, it should in future include a statement indicating which of the articles set out in the proposal it regards as definitive and which it intends to leave open to the discretion of Member States. This would clarify the provisions for which the Commission would, in principle, permit gold-plating - even where Member States do not have explicit discretion - or would at least be open to gold-plating (even if it may not actively support it). If the Commission wishes to enable Member States to engage in gold-plating, or to permit it in principle, it should also provide explicit justification for this. During the negotiations on the relevant legislative proposal, the legislators – the Council and/or the European Parliament – should then be required to take an active position (in each case) on whether or not they agree with the Commission’s proposed classification. In the latter case, they should, for their part, ensure transparency regarding their (revised) classification and, where possible, explain the reasons for any variations. At the end of the negotiation process, there should then be sufficient clarity on the part of the Commission, the Council and the European Parliament as to which specific and harmonised EU provisions may still be implemented with gold-plating at national level, and which provisions may not. If legislators agree on a specific form of gold-plating, the scope for action at national level should be further clarified so as to make it clear within what framework this may take place; in particular, this means specifying where any limits to the discretionary scope for action at national level lie.

4.4 Guidance on national implementation

Even after EU legislation has been adopted, there are often unresolved issues, for example regarding the interpretation or precise application of certain provisions. If these questions remain unanswered,

⁶⁸ See, for example, Enrico Letta, who regards regulations as the cornerstone for achieving harmonisation within the single market and calls for the EU institutions to give priority to regulations when drafting binding rules for the single market [Letta, E. (2024), *Much more than a market*, April 2024].

there is a risk of rules being implemented differently across Member States – whether intentionally or unintentionally – resulting in unnecessary and avoidable fragmentation within the single market. It is therefore advisable to draw up guidelines for national implementation promptly following the adoption of EU Directives in particular, and in good time before the respective deadline for national transposition expires. The Commission should be responsible for drawing up these implementation guidelines, whilst maintaining close contact with the EU legislator, namely the European Parliament and the Council. The guidelines should address any outstanding questions that may be raised, in particular by those affected by an EU legal act (i.e. consumers, businesses, public authorities, etc.) or by the bodies responsible for its implementation at national level. Although the guidelines cannot be (legally) binding, or preclude a different interpretation, they can serve as a valuable guide and help to ensure more uniform and consistent national implementation of EU law.⁶⁹

4.5 Disclosure and justification of 1:1 implementation versus gold-plating

In future, when transposing EU law, Member States should (be required to) disclose whether a specific, newly introduced national provision originates explicitly from EU law or not, for example in the form of compliance tables. If the “basis” for a provision is EU law, the national legislator should then explain whether – in its view – the provision is being transposed verbatim and it therefore does not intend to deviate from the requirements at European level. If this is the case, and if, from the perspective of the national legislature, the transposition is not therefore subject to gold-plating, this should be emphasised accordingly in the draft bill. In assessing whether gold-plating exists or might exist, national legislators should refer to the definition and classification of such practices – see Chapter 4.1.

If a provision stems from EU law and is not to be transposed on a one-to-one basis, the national legislator should also draw attention to this in the draft legislation and explain why, in its view, the provision constitutes gold-plating and where the proposed measure fits within the classification system; in particular, it should specify which category of gold-plating the transposition of a provision falls under. The national legislator should also be required to give reasons for,

- why they believe they can dispense with 1:1 transposition,
- why they want to engage in gold-plating in this specific case,
- what purpose the practice of gold-plating is intended to serve,
- why there are no more effective alternatives to the proposed course of action, and

regardless of the category into which a gold-plating practice is classified, the national legislator should, where possible, also carry out an impact assessment and set out the potential positive and negative effects of the measure.

Since it is reasonable to expect that national legislators will be reluctant to admit publicly that they are resorting to a practice that has been generally classified as “unacceptable, undesirable or unjustified”, they should also explain how they reach the conclusion that a practice falls into a particular category. On this basis, the general public would be able form an opinion as to whether they share this assessment and consider the national legislature’s arguments to be valid. These transparency and justification obligations could have a deterrent effect in that national governments might, as a

⁶⁹ The Commission’s IT tool, which has been available since spring 2025 in the form of an implementation roadmap, and the development of standard templates with explanations of the implementation obligations, represent a valuable first step in this regard [European Commission, COM(2025) 871, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Simplification, Implementation and Enforcement, 22 October 2025].

preventive measure, refrain from engaging in unacceptable, undesirable or unjustified gold-plating if they lack the arguments to justify such action. At the same time, transparency and justification requirements also present an opportunity for greater acceptance of gold-plating practices that are regarded as acceptable, desirable or even justified. Finally, transparency and justification requirements may help to raise awareness amongst national legislators of the issue of gold-plating and could prevent or reduce instances where a failure of one-to-one transposition takes place unintentionally.

In cases where a bill is tabled at national level to transpose EU law but one of its provisions neither originates from EU law nor constitutes a case of gold-plating, transparency may be equally as important because it would then be apparent that the national legislature itself is responsible for this provision and must also therefore bear responsibility for the consequences associated with it. This would also prevent unwarranted “Brussels bashing” – such as blaming EU institutions for creating new bureaucratic burdens.

4.6 No general ban on gold-plating

In addition to the imposition of voluntary commitments and the pledge to refrain from gold-plating, there is also regular discussion of an explicit ban on such practices⁷⁰. This should be avoided, however, because not only would it amount to the national legislature imposing excessive restrictions on itself, but would also mean that even deviations from EU law which have been deemed acceptable, desirable or justified would have to be avoided.

4.7 Review of the body of national law derived from EU law

In February 2025, as part of the presentation of its work programme, the Commission announced a phased review of individual pieces of EU legislation as well as entire policy areas. As part of these fitness-for-purpose reviews, the entire body of EU legislation is to be gradually subjected to stress tests and assessed for its potential for simplification, cost reduction and harmonisation.⁷¹ The results of these stress tests are to be incorporated into so-called simplification or omnibus packages⁷². Numerous European Heads of State and Government have also called for a “systematic review of all EU legislation in order to identify superfluous, excessive or unbalanced provisions” and to assess their fitness for purpose.⁷³

The Commission’s efforts and the call from the Heads of State and Government are primarily aimed at reviewing existing legislation at EU level. However, a similar approach should also be adopted at national level. Member States should follow the example of the Commission and the European legislator, whose efforts are now being stepped up, and put together omnibus packages of their own at national level.

The focus of this exercise should be on reviewing the body of national provisions derived from EU law, i.e. carrying out a systematic and thorough analysis of existing national legislation resulting from the

⁷⁰ For example, in a statement to the newly elected Baden-Württemberg state government and state parliament, Baden-Württemberg’s association of administrative districts expressed the expectation that an existing voluntary commitment must “lead to a statutory obligation” and that the state of Baden-Württemberg should “promptly enact an anti-gold-plating law” [Landkreistag Baden-Württemberg (2025), Erwartungen der Baden-Württembergischen Landkreise an die neue Landesregierung und den neuen Landtag, September 2025].

⁷¹ European Commission (2025), COM(2025) 47, A simpler and faster Europe: Communication on implementation and simplification, 11 February 2025.

⁷² The Commission presented some of these packages back in 2025, for example on European sustainability, defence and digital legislation. More are to follow.

⁷³ Letter from numerous Heads of State and Government to the President of the European Commission, 20 October 2025.

transposition of EU law. As part of the analysis, particular attention should be paid to determining whether existing provisions at national level incorporate gold-plating practices which, if classified as “unacceptable, undesirable or unjustified”, could be eliminated. This step would also make it possible to apprehend nonsensical gold-plating resulting from implementation processes carried out by governments that are no longer in office. The approach would therefore serve as a building block for the “de-refinement” of national law that has been subject to “refinement”. This would seem necessary, as Member States generally focus their governance activities on “new” legislation or the implementation of new (EU) legislation, and pay little attention to existing “old” legislation.

The first steps towards implementing this strategy are apparently being taken. In early December 2025, Germany’s Conference of Minister-Presidents agreed that it also wished to roll back existing instances of over-compliance arising from the transposition of EU law into national law, insofar as these had led to additional bureaucratic burdens.^{74,75}

4.8 Self-restraint on the part of the European Commission and EU legislators

When presenting legislative proposals – particularly in the case of proposed directives requiring transposition – the Commission should actively seek to avoid granting Member States rights of choice or discretion, thereby preventing gold-plating as far as possible. Excluding such rights from the draft legislation reduces the likelihood of them being included in the final legislation adopted following legislative negotiations. If it nevertheless wishes to grant such rights, it should be required to provide explicit justification for doing so and to carry out an impact assessment. At the same time, Members of the European Parliament and representatives of the Council must also exercise restraint and refrain from formulating rights of choice and options, particularly where this would encourage undesirable gold-plating practices. A rather inglorious recent retrograde example is provided by the revision of Directive 2014/49/EU on deposit guarantee schemes as part of the EU’s crisis management and deposit insurance (CMDI) package. The outcome of the negotiations indicates that deposits resulting from property transactions carried out by a natural person involving private residential property will be protected beyond the usual € 100,000 limit. This applies where the transactions have been, or are to be, concluded on a “temporary” basis. Not only are Member States given the option here to set an amount of at least € 500,000 up to a maximum of € 2.5 million – i.e. each Member State will probably define a different amount – which applies for a period of six months, but they are also permitted to define at Member State level what is meant by “temporary”.⁷⁶

5 Current developments – The pact against gold-plating

As mentioned in the introduction, the President of the European Commission touched upon the topic of gold plating in her 'State of the European Union' speech.⁷⁷ In the meantime, she has further clarified her views on the pact, particularly in a letter dated October 12, 2026—shortly before the European Council meeting on October 15 and 16, 2026.⁷⁸ In this letter she proposed to launch work on the Pact

⁷⁴ Ministerpräsidentenkonferenz (2025), *Föderale Modernisierungsagenda*, 4 December 2025, paras. 45 and 46.

⁷⁵ The first pieces of legislation to which this will apply are the Veterinary Medicines Act, the Compulsory Insurance Act and the Federal Data Protection Act [Conference of Minister-Presidents (2025)].

⁷⁶ European Parliament Committee on Economic and Monetary Affairs (2025), Proposal for a Directive of the European Parliament and of the Council amending Directive 2014/49/EU as regards the scope of deposit protection, use of guarantee schemes funds, cross-border cooperation, and transparency, Provisional trilogue agreement, as at 5 November 2025, available [here](#).

⁷⁷ European Commission (2026a), 2026 State of the Union Address by President von der Leyen, Speech, 16 September 2026.

⁷⁸ European Commission (2026b), Letter from the President to the Members of the European Council, Brussels, 12 October 2026.

at the said European Council. She wants to sign a declaration on the Pact at a European Council meeting before the end of 2026. In general, she aims to achieve that 'a rule agreed at European level cannot become more complex when transposed or implemented nationally'. This should form the basis of the Pact. To achieve this, she proposes the following, among other things:

First, she calls for transparency from Member States when they add something when they transpose EU into national law and demands them to explain, why they want to do so. In the end, everyone should be able to see, when gold-plating occurs. These proposals read like a comply or explain-mechanism and addresses issues that were already raised in Chapter 4.5. Yet, the Pact between the Commission and Member States should go a bit further. The explanation part in case gold-plating occurs should not only include declarations on why the Member State intends to engage in gold-plating in a specific case. In addition to that, Member States should state what purpose the gold-plating practice is intended to serve and explain why there are no more effective alternatives to the proposed approach. Furthermore, the national legislature should also, if possible, conduct an impact assessment of the addition and outline the potential positive and negative effects of the measure.

Second, the Commission asks for effective national policies against gold plating, which could include a comply-or-explain approach as mentioned above as well as “public declarations, systematic assessments of gold-plating risks, or explicit political sign-off”. These proposals touch upon issues that were already raised in Chapter 4.8. Yet, as has been seen in numerous coalition agreements in recent years, public declarations, while providing a constant reminder of the issues at stake, have had minimal success. An explicit political sign-off may be a more straightforward approach here. Yet, such sign-off rests on the proper identification of envisaged gold-plating practices during the process of implementing European law into national law. There must be a certain level of awareness of the problem within the legislative machinery such that it reaches the political level. Thus, the sign-off is subject to certain preconditions.

Third, the Commission wants to support “national administrations with clearer transposition guidance and roadmaps”. These proposals take up suggestions that have already been mentioned in Chapter 4.4. They are highly welcome. While such guidance and roadmaps cannot be legally binding, they can nonetheless contribute to a more uniform and consistent national implementation of EU law.

And fourth, the Commission demands that Member States should “commit to review existing instances of gold-plating”. In this regard, she wants the Pact to include a “review and remove” mechanism within the European Semester. The Commission and the Member States would identify priority areas for such reviews. Thereafter, Member States would specifically focus on these areas and would commit “to simplify or remove unnecessary burdens” within those areas. These proposals touch upon issues that were already raised in Chapter 4.7 and should be an absolute priority. It shifts the focus to not only prevent gold-plating in the future, but rather on rolling back existing gold-plating.

6 Conclusion

Reducing bureaucracy has now become a top priority at many levels. Hardly a week goes by without new appeals being made, demands being put forward and initial steps being taken to ease the burden on European businesses, for example through the European Commission's presentation of numerous omnibus packages aimed at simplifying regulation. Admittedly, for many companies, the avoidance of gold-plating as a means of reducing administrative burdens plays only a minor role compared with other measures – such as the removal of reporting and documentation requirements, the shortening of procedural times, and the lowering of data protection standards. Nevertheless, the majority of companies consider it important to make substantial progress in this area⁷⁹, particularly since between 36% and 67% of national legislation now stems from the transposition of EU law.⁸⁰ A recent internal list from the Austrian government, for instance, shows that 139 laws in Austria have been made stricter than those in the rest of the EU over the past ten years.⁸¹

Our cepStudy, puts forward several ideas in this regard, which should be implemented as soon as possible. The aim should not be to eliminate gold-plating in all its forms, as has often been called for. Instead, there is a need to ensure, based on criteria that are as objective and uniform as possible, that gold-plating is confined to practices that may be deemed generally acceptable, desirable and justified. Any practices that do not meet these requirements should be prohibited, both preventively – for example, through greater transparency and the implementation of “comply-or-explain” mechanisms – and retrospectively, through the active review of the current body of national legislation derived from EU law. This would ensure that the “refinement” of EU law takes place only in justified cases and that there is a greater general awareness of the sometimes serious drawbacks that such practices can entail – unnecessary bureaucratic red tape, obstacles within the single market, an uneven playing field, disadvantages in global competition, barriers to market entry, etc.

However, the key to the success of any effort to limit and curb this practice is likely to lie in countering the (mis)incentives which mean that gold-plating is still the norm, despite numerous pledges to the contrary. This is unlikely to be a trivial matter because such measures would effectively deprive policy makers of their scope for action and room for manoeuvre, and make it more difficult for them to respond to the particular interests of citizens and businesses or to pursue specific policy objectives.

It is highly welcome that the Commission is now stepping up its efforts to tackle gold-plating by establishing a Pact with Member States. However, the Commission's plans fail to address one major issue. Gold-plating is still not defined, nor are welcome and unwelcome practices differentiated in a sound manner. However, this is essential for the Pact to be successful.

⁷⁹ Industrie und Handelskammer (2025), IHK-Umfrage zur Bürokratiebelastung, September 2025, available [here](#).

⁸⁰ German Council of Economic Experts (2025), p. 431.

⁸¹ See [here](#).



Author:

Philipp Eckhardt, Head of the Financial Markets and Information Technologies Division

eckhardt@cep.eu

Centrum für Europäische Politik FREIBURG | BERLIN

Kaiser-Joseph-Strasse 266 | D-79098 Freiburg

Schiffbauerdamm 40 Raum 4205 | D-10117 Berlin

Tel. + 49 761 38693-0

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