



Report on the National Declaration 2014

*Accountability by the Netherlands regarding the European funds
under shared management*

2014



Report on the National Declaration 2014

*The Netherlands' member state accountability for
European funds under shared management*

The original report *Rapport Nationale Verklaring 2014; Verantwoording van Nederland over de Europese fondsen in gedeeld beheer* was adopted on 8 May 2014 and presented on the Dutch House of Representatives on 21 May 2014.

Content

Executive summary	5
1 The National Declaration 2014	10
1.1 About the National Declaration	10
1.1.1 The Dutch National Declaration	10
1.1.2 National declarations in the EU	10
1.2 The National Declaration 2014	11
1.2.1 Responsible ministers and state secretaris	12
1.2.2 Different accounts and accounting reference periods	12
1.2.3 Amount of funding declared	13
1.2.4 Budget exhaustion in the 2007-2013 programming period	14
2 The Netherlands Court of Audit's opinion on the National Declaration 2014	16
2.1 Opinion on the assertion on the quality of management and control systems	16
2.1.1 General picture of the functioning of management and control systems	
2.1.2 Agricultural funds	18
2.1.3 European Regional Development Fund	19
2.1.4 European Fisheries Fund	20
2.1.5 European Social Fund	21
2.1.6 Migration funds	21
2.2 Opinion on the assertion on financial transactions	22
2.2.1 Agricultural funds	23
2.2.2 European Regional Development Fund	23
2.2.3 European Fisheries Fund	24
2.2.4 European Social Fund	25
2.2.5 Migration funds	25
2.3 Opinion on preparation	25
2.4 Findings of the National Audit Authority's review	26
3 Remittances to the European Union	27
3.1 Accountability for the remittance of own resources	27
3.2 Responsibility for customs duties	29
3.3 Still no remittances in National Declaration	29
3.3.1 Government's position	30
3.3.2 Position of the Netherlands Court of Audit	30
4 Effectiveness and efficiency of funding	32
4.1 Information available on effectiveness and efficiency	32
4.2 Effectiveness and efficiency in the new programming period	32
4.2.1 New performance requirements: achievement of Europe 2020 objectives	32
4.2.2 Performance agreements at member state level: partnership agreements	33
4.2.3 Performance agreements at programme level: indicators and targets	33
4.2.4 Closure of the programming period and opinion on performance agreements	34
4.2.5 ERDF projects in the Netherlands	34
4.3 Allocation of ERDF funds to the member states	34

5	Combatting fraud in the EU	36
5.1	OLAF	36
5.1.1	Annual report 2012	36
5.1.2	Development of irregularities and fraud in the EU	36
5.1.3	Fraudulent irregularities reported by the Netherlands	37
5.2	Greater priority to fraud prevention	37
5.3	Specific investigations reported in the National Declaration	38
6	Government response and the Netherlands Court of Audit's afterword	39
6.1	Response of the government	39
6.2	Netherlands Court of Audit's afterword	43
	Annexe I National Declaration 2014	44
	Annexe II Conclusions, recommendations and other points	57
	Annexe III Information on effectiveness and efficiency	61
	Annexe IV Abbreviations	62
	Annexe V Terms and definitions	63
	Literature	66

Executive summary

Transparency and public accountability are cornerstones of good public governance. The Netherlands sets a good example by being one of the few member states in the European Union (EU) voluntarily to issue a National Declaration (formerly known as a member state declaration)¹ to account for its management of EU funds that it spends under shared management with the European Commission. In the Netherlands Court of Audit's opinion, the National Declaration 2014 gives a good view of the management and use of these EU funds in the Netherlands.

The *National Declaration 2014* relates to the 2013 accounting and audit cycle.² The declaration reveals where there are problems in management and where errors have occurred so that targeted and timely measures can be taken to improve national accountability. There have been further improvements in the management of agricultural funds but unforeseen shortcomings arose in the management of the European Regional Development Fund (ERDF) West during the period. Shortcomings in the management of the relatively small European Fisheries Fund (EFF) and the relatively small migration funds have not yet been resolved.

The new 2014-2020 programming period commences this year. During this period, the European Commission will step up its management by results. EU funding will depend in part on the member states' achievement of their Europe 2020 objectives. We agree with the thinking behind this sharper focus on the results and impacts that the funds must achieve. We, too, have concluded that the current system has a built-in risk of inefficient and ineffective spending in multiannual programmes. The European Commission approves the member states' operational programmes after it has allocated funds to the member states. As the funds allocated then 'have to be spent' there is an inherent risk of inefficiency and ineffectiveness.

We recommend that the responsible ministers and state secretaries organise the management and control systems in the Netherlands so as to maximise the efficient and effective use of EU funds and the accountability for them in the member state. We also recommend that they investigate the balance between the administrative burden of the management and control systems and the funding the Netherlands receives. We continue to call for the inclusion of the Netherlands' remittances in the National Declaration and suggest that the explanatory notes to the National Declaration include information on efficiency and effectiveness. They could also be expanded in the new programming period to include information on the achievement of the Europe 2020 objectives and the milestones on the result indicators.

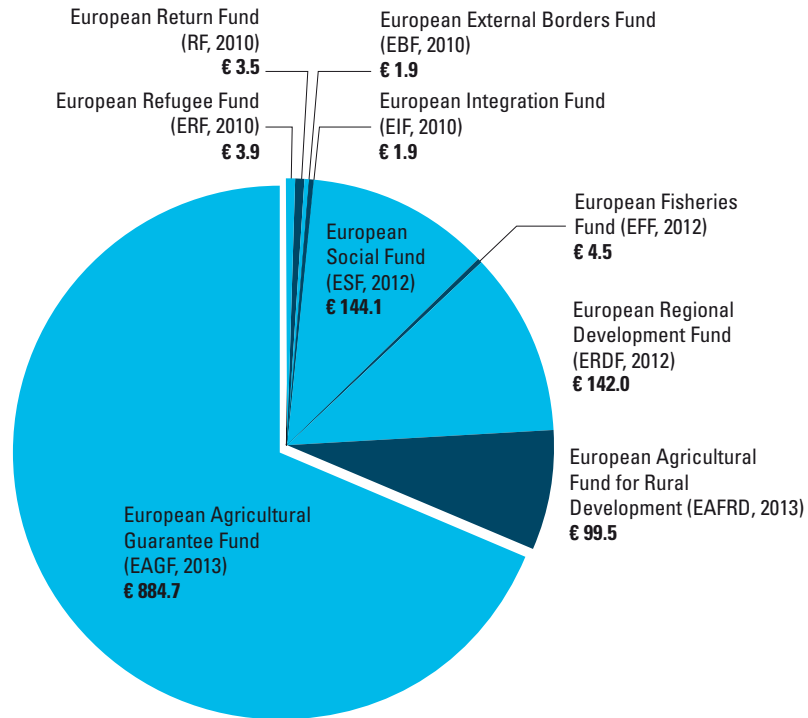
The National Declaration 2014

In the *National Declaration 2014*, the government accounts for expenditure and revenue from or in each fund and the amounts still receivable in each fund. On account of differences in the European regulations, different accounts and accounting reference periods are kept for each fund. The total amount of funding the Netherlands declared to the European Commission, as disclosed in the National Declaration 2014, was € 1,286 million, divided over nine funds.

¹ The Minister of Finance uses the term National Declaration, with the year referring to the year of publication, not the underlying accounting year. We issue a report on the National Declaration, which we consider to be the EU member state declaration issued by the Netherlands.

² The 2013 accounting and control cycle relates to the accounts for the agricultural funds (2013), the structural funds (2012), the European Fisheries Fund (2012) and the migration funds (2010), which were audited in 2013.

Figure 1 EU funding declared by the Netherlands (in millions of euros)



Source: National Declaration 2014

The National Declaration 2014 is positive about the management and control systems in place for the agricultural funds and the ESF. The Declaration contains reservations in respect of the ERDF, EFF and the migration funds on account of shortcomings in the functioning of the management and control systems:

- in the ERDF, for the management verifications made by the ERDF West managing authority;
- in the EFF, for the management verifications and certification;
- in the migration funds, for project supervision and the final award of funding.

The National Declaration is positive about the legality and regularity, accuracy and completeness of expenditures and revenues in the agricultural funds, EIF, RF and ERF. The Declaration contains reservations in respect of irregularities detected in expenditures and revenues in the ERDF, EFF, ESF and EBF.³ It also contains a reservation in respect of uncertainties in expenditures and revenues in the EFF.

The Netherlands Court of Audit's opinion

In our opinion, the assertion made by the Minister of Finance in the National Declaration regarding the functioning of management and control systems and the legality, regularity, accuracy and completeness of financial transactions is sound. We make a reservation, however, regarding the completeness of amounts receivable in the ERDF, EFF, ESF and the migration funds, on which we obtained only limited assurance. Furthermore, in our opinion the National Declaration 2014 as a whole was prepared in a sound manner.

³ The error rate in these funds exceeds 2%, the European Commission's tolerable error rate for the approval of accounts.

Amounts receivable in the sub-declarations for the ERDF, EFF, ESF and the migration funds, which form the basis of the National Declaration, had not been adequately audited. The amounts receivable in these funds are minimal relative to the total

amount of receivables and expenditures (see section 1.2.3). We propose that the National Audit Authority (ADR) should audit the receivables in the sub-declarations each year and report on them in its audit report on the consolidation statement.

Without prejudicing our opinion, we would draw attention to:

- improving the preparation and reliability of the EAFRD control statistics (section 2.1.2);
- improving the management verifications made by the managing authority for ERDF West, and thus reducing the excessive error rate (sections 2.1.3 and 2.2.2);
- improving the management verifications and certification work in the EFF and thus reducing the excessive error rate (sections 2.1.4 and 2.2.3);
- improving the supervisory and award work for the migration funds and thus reducing the excessive error rate in the EBF (sections 2.1.6 and 2.2.5);
- submitting annual reports on the migration funds on a timely basis (section 2.1.6);
- improving receivables management for the migration funds (section 2.1.6);
- reducing errors in the implementation of certain EAFRD schemes (section 2.2.1);
- improving the mediation process for the ERDF and EFF (sections 2.2.2 and 2.2.3).

Substantial improvements are needed in the management of the ERDF West, EFF and the migration funds. We would ask the State Secretary for Economic Affairs to monitor the effectiveness of the improvement measures taken by the ERDF West managing authority and the improvement plan of the EFF managing authority in order to restore sound management and reduce the error rates. We would also ask the State Secretary for Security and Justice to monitor the effectiveness of the improvement measures that have been taken for the migration funds.

To achieve the expenditure budgeted for the current 2007-2013 programming period, a significant amount of funding declarations still has to be submitted to the European Commission, accounted for and audited. As this pressure is increasing, the responsible minister or state secretary should actively monitor the quality of the management and control systems in place for all funds, especially in areas with a high risk of errors.

The conclusions and recommendations arising from our opinion and other points for attention are considered in full in chapter 2 of this report and summarised in annexe II.

Remittances to the European Union

Our opinion does not consider remittances to the EU because the National Declaration does not include them. In our opinion, the National Declaration should include remittances as their inclusion would produce a comprehensive set of EU accounts at member state level that were consistent with the EU annual accounts audited by the European Court of Auditors. The European Commission and the Dutch parliament would then have an insight into how the member state bears its responsibility for remittances.

We have been recommending for several years that the National Declaration includes remittances, commencing with customs duties and agricultural levies and gradually extending to include the other EU own resources. To date, however, the government has not acted upon our recommendation. In response to a motion proposed by Dutch

MP Eddy van Hijum (House of Representatives, 2013), the government again gave a number of reasons for not including remittances (Ministry of Finance, 2014). We are not convinced by the government's reasons not to include customs duties and agricultural levies in the National Declaration. In our opinion, the government does not make a strong argument by contending that they are not under shared management and are not a responsibility of the member state. The Minister of Finance is responsible for managing the Tax and Customs Administration, which collects the customs duties and agricultural levies. As the Minister himself states, there is a national accounting trail through the Ministry of Finance's annual report (customs duties) and the Ministry of Economic Affairs' annual report (agricultural levies). We think the National Declaration should be brought into line with the European accounting trail. We therefore repeat our earlier recommendation that remittances be included in the National Declaration, commencing with customs duties and agricultural levies.

Effectiveness and efficiency

The effectiveness and efficiency of EU funding is neither covered by the National Declaration nor, therefore, by our opinion.

Summary of effectiveness and efficiency

At our request, the Ministry of Finance and the ministries responsible for the individual funds produced a summary of the current and forthcoming information on effectiveness and efficiency in the current programming period. The summary is presented as a table in annexe III to this report. We suggest that such a summary be included in the explanatory notes to the National Declaration. The information could then be augmented during the new programming period.

New programming period

The new European Structural and Investment (ESI) Funds Regulation for the 2014-2020 programming period was published at the end of 2013. It lays down common and general provisions for the Cohesion Fund (not applicable to the Netherlands), ESF, ERDF, EAFRD and the European Maritime and Fisheries Fund (EMFF).

Under the ESI, the European institutions will step up their management by results in the new 2014-2020 programming period. In contrast to the previous programming period, ESI funding must be applied specifically to achieve the Europe 2020 objectives. The ESI funding that member states receive will be based in part on their achievement of the Europe 2020 objectives. To this end, partnership agreements will be concluded between the European Commission and the member states. At programme level, milestones will be set for indicators that have to be met by 31 December 2018. Stricter requirements will also be set for the indicators for the 2014-2020 period. The European Commission will review the achievement of the milestones in 2019 and take a decision on the allocation (in whole or in part) of a performance reserve. The ex post evaluations that have to be completed before 31 December 2025 will examine the effectiveness and efficiency of ESI funding and the extent to which they have contributed to the achievement of the Europe 2020 objectives and milestones for the Europe 2020 strategy.

In its response to our *EU Trend Report 2014* (Netherlands Court of Audit, 2014) the government agreed with our recommendation that the ERDF targets should be linked more closely to the desired outcomes and should be set more objectively. In the government's opinion, the description and reasoning for the desired results and the result indicators will be key assessment criteria in the new programming period. We recommend that the result indicators be set and measured in agreement with the European Commission's requirements. We also recommend that the explanatory notes to the National Declarations include information on the achievement of the Europe 2020 objectives and the milestones on the result indicators in the new programming period. The House of Representatives would then be given a full insight into the achievement of the objectives and milestones and the allocation of the performance reserve.

Fraud

At the request of the House of Representatives, fraud has been designated as one of the two central themes for Accountability Day 2014. Chapter 5 of this report is dedicated to the measures taken to combat fraud in the EU.

Response of the government and the Netherlands Court of Audit's reply

We received the government's response to our draft report from the Minister of Finance on 28 April 2014. The government found our opinion a valuable additional assurance on the National Declaration 2014. In the Minister's opinion, the two documents show that the Netherlands is willing to render political account at the highest level to the House of Representatives and the European Commission for its use of EU funds. The government is pleased that the Netherlands Court of Audit has concluded that the National Declaration 2014 gives a good view of the management and use of European funds under shared management in the Netherlands.

The government will adopt nearly all the recommendations arising from our opinion on the National Declaration (see chapter 2 and the summary in annexe 11). We will continue to follow developments with interest.

Remittances to the European Union

Unfortunately the government sees no reason to change its position on the inclusion of remittances of own resources in the National Declaration. The government refers to its letter of 13 February 2014 (Ministry of Finance, 2014). In it, the government gives arguments such as the absence of shared responsibility for remittances, the independence of Statistics Netherlands (CBS) and the European Commission's own audit system. We think it is advisable to have a comprehensive set of EU accounts at member state level. As we explain in this report, it is important that the national accounting trail is consistent with the European accounting trail and we see no convincing reasons in the letter for the government not to include own resources in the National Declaration, commencing with customs duties and agricultural levies.

Effectiveness and efficiency

In his response to the State of Central Government Accounts 2013 the Minister of Finance noted that he would again work to improve the effective and efficient use of EU funds during the new programming period (2014-2020) and account for them accordingly.

I The National Declaration 2014

I.1 About the National Declaration

I.1.1 The Dutch National Declaration

The National Declaration is a declaration issued by the Minister of Finance on:

- the functioning of management and control systems;
- the legality and regularity, accuracy and completeness of the expenditures and revenues disclosed in the consolidation statement⁴ and in the accounts submitted to the European Commission;
- the legality, regularity, accuracy and completeness of amounts receivable as disclosed in the accounts submitted to the European Commission.

By means of the National Declaration the Netherlands wishes to contribute to improved management, accountability and control of EU funds that it spends under shared management with the European Commission. The Minister of Finance issues the National Declaration every year on behalf of the government. It is addressed to the European Commission and the Dutch parliament. The Netherlands Court of Audit expresses an opinion on the National Declaration every year for the Dutch parliament. The Minister of Finance makes an important contribution to public accountability in the EU in general and in the Netherlands as a member state in particular by issuing the National Declaration.

I.1.2 National declarations in the EU

Public accountability

The 28 EU member states work together subject to a complex regime of shared or divided responsibilities and competences. Political responsibility lies at either European or national level or is shared. Public accountability must be consistent with this structure for the purposes of democratic control and openness to European citizens. Public accountability at member state level is important to the Netherlands, but substantive and meaningful accountability is also important for the European Commission and the European Parliament to manage and steer policy.

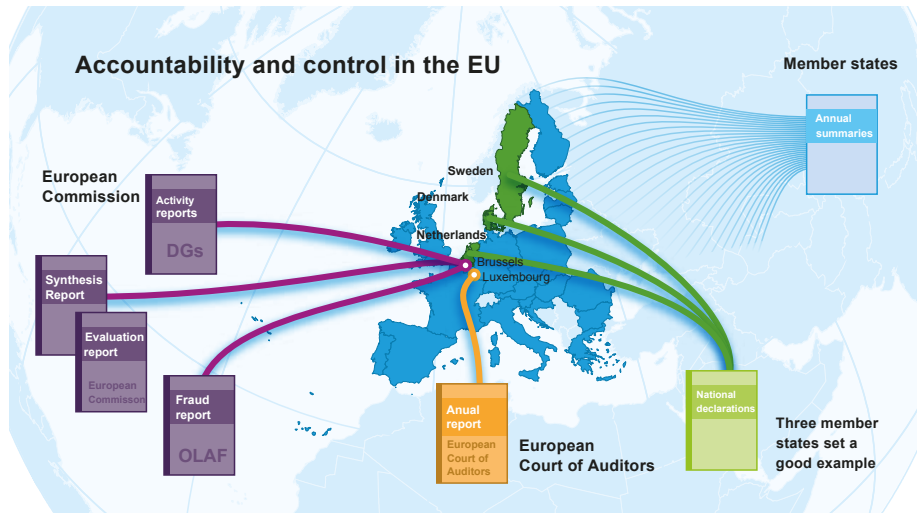
Accountability and control documents

Our *EU Trend Report 2014* (Netherlands Court of Audit, 2014) described a variety of accountability and control documents (see figure 2).

4

Actual financial figures are accounted for in the related consolidation statement.

Figure 2 Accountability and control in the EU



- The Directorates-General (DGs) of the European Commission compile activity reports. The European Commission issues an overarching Synthesis Report on the activity reports and an evaluation report on the policy conducted. OLAF, the European Commission's Anti-Fraud Office, issues an annual fraud report.
- The European Court of Auditors issues an annual audit report on the functioning of the management and control systems put in place by the European Commission and the member states and expresses an opinion on European expenditure.
- The individual EU member states are obliged to submit an annual summary to the European Commission each year. The Netherlands, Sweden and Denmark also voluntarily issue national declarations.

For further information on the documents and their contents, see the *EU Trend Report 2014*.

National Declaration

Partly on the insistence of the Netherlands, the EU Financial Regulation allows the member states to publish voluntarily national declarations. Only the Netherlands, Sweden and Denmark prepared national declarations in 2013. At the request of the European Parliament, the European Commission established a working group at the end of 2013 made up of participants from the European Commission, the European Parliament and the Council to make practical recommendations to support member states that want to issue national declarations.

We appreciate the working group's efforts and recognise the European Commission's continued support for activities to encourage the wider use of national declarations as an accounting instrument. We also appreciate the active part played by the Ministry of Finance in the working group and the Minister of Finance's support for a legal obligation to publish national declarations in the EU (Ministry of Finance, 2014). The Minister of Finance should continue to issue national declarations and encourage other member states to do so.

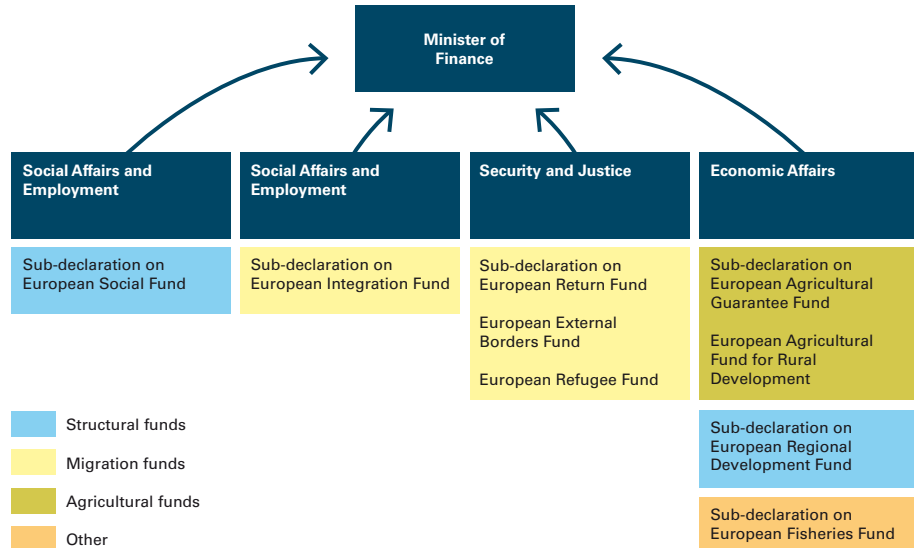
1.2 The National Declaration 2014

The *National Declaration 2014*, as signed by the Minister of Finance on behalf of the government, is presented in annexe 1.

1.2.1 Responsible ministers and state secretaries

The nine funds under shared management considered in the *National Declaration 2014* are under the responsibility of several ministers and state secretaries. The Minister of Finance compiles the National Declaration from sub-declarations issued by the ministers and state secretaries concerned, as shown in figure 3.

Figure 3 Responsible ministers and state secretaries



1.2.2 Different accounts and accounting reference periods

The European Commission has introduced different regulations for the accounts and the relevant accounting reference periods. The *National Declaration 2014* therefore relates to different accounts and accounting reference periods:

Fund	Accounts	Period	Accounts to the European Commission	Audit report to the European Commission	
1	EAGF	Annual accounts 2013	161012 to 151013	010214	010214
2	EAFRD	Annual accounts 2013	161012 to 151013	010214	010214
3	ERDF	Annual report 2012	2012	300613	311213
4	EFF	Annual report 2012	2012	300613	311213
5	ESF	Annual report 2012	2012	300613	311213
6	EIF	Annual report 2010	010110 to 300612	310313	310313
7	EBF	Annual report 2010	010110 to 300612	310313	310313
8	RF	Annual report 2010	010110 to 300612	310313	310313
9	ERF	Annual report 2010	010110 to 300612	310313	310313

Note: The 2013 annual accounts submitted to the European Commission in respect of the agricultural funds (EAGF and EAFRD) relate to the period from 16 October 2012 to 15 October 2013. The European Commission asked the Netherlands to submit accounting and audit information no later than 1 February 2014. The accounting reference period for the structural funds (ERDF and ESF) and the EFF was the 2012 calendar year. The European Commission asked the Netherlands to submit accounting information no later than 30 June 2013 and audit information no later than 31 December 2013. The accounts for the 2010 annual programme of the migration funds related to the period from 1 January 2010 to 30 June 2012. The European Commission asked the Netherlands to submit accounting and audit information no later than 31 March 2013.

The deadlines for submitting the reports on the ERDF, EFF and the migration funds were not met (see also section 2.2).

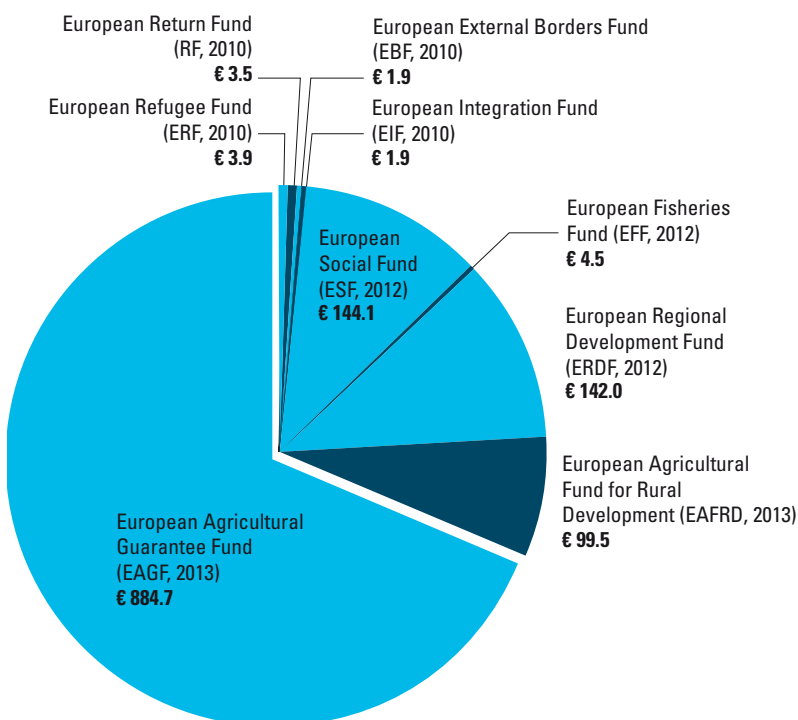
1.2.3 Amount of funding declared

In the *National Declaration 2014* the government accounts for expenditures and revenues spent and received from each of the EU funds and amounts still receivable from each fund.⁵

National Declaration 2014 (in million of euros)			
	Expenditures and revenues	Funding declared	Amounts receivable
EAGF	884.7	884.7	94.6
EAFRD	99.5	99.5	0.4
ERDF (2012)	336.3	142.0	1.0
EFF (2012)	19.4	4.5	0.1
ESF (2012)	328.2	144.1	0.0
EIF (2010)	4.0	1.9	0.1
EBF (2010)	2.4	1.9	1.2
RF (2010)	7.0	3.5	0.0
ERF (2010)	5.9	3.9	0.0
		1,286.0	97.4

The amounts relate to the accounts and accounting reference periods stated in section 1.2.2. The aggregate amount of funding disclosed in the declaration is € 1,286 million, divided over nine funds.

Figure 4 EU funding declared by the Netherlands (in millions of euros)



Source: National Declaration 2014

⁵ EU rules do not require disclosure of total eligible funding from the agricultural funds (i.e. including cofinancing) in the annual accounts. The net expenditures and revenues shown here are equal to the net funding declared. Expenditures and revenues therefore cannot be aggregated for all funds. Amounts still receivable from the RF and ERF have been rounded to € 0.0.

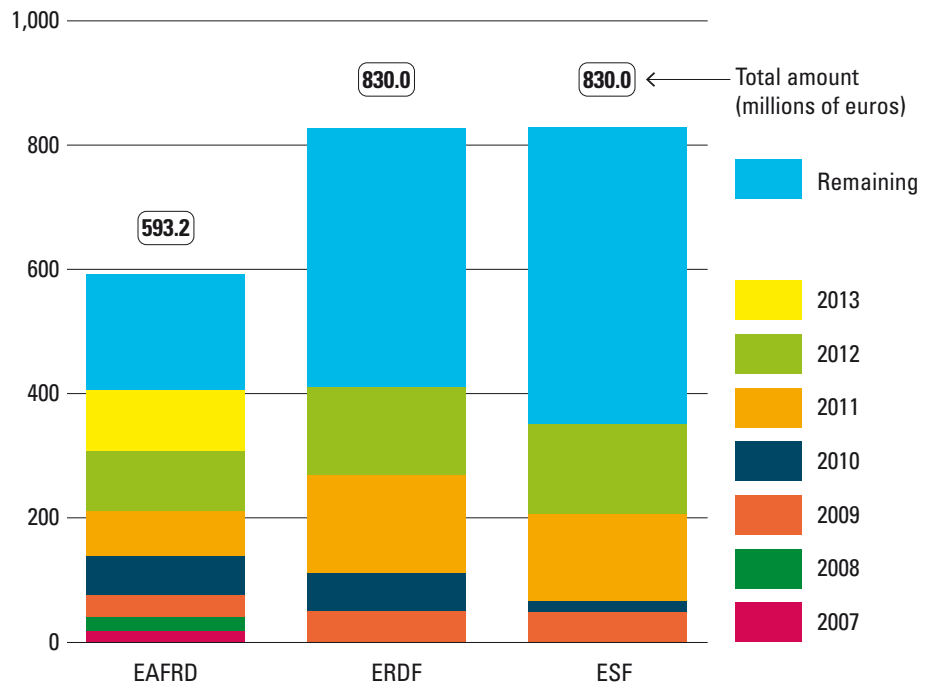
1.2.4 Budget exhaustion in the 2007-2013 programming period

The 2007-2013 budget for the EAGF sets annual ceilings for each member state (national maxima). In the other funds, the European Commission reserved budgets for the 2007-2013 programming period. The expenditure budgeted for the Netherlands for the 2007-2013 programming period was:

- for EAFRD € 593.2 million;
- for ERDF and ESF € 830 million each;
- for EFF € 48.6 million;
- for the migration funds EIF, EBF, RF and ERF, € 18.9, € 35.2, € 32.0 and € 20.9 million respectively.⁶

Figure 5 shows the actual expenditure in comparison with the budgets allocated by the European Commission for the 2007-2013 programming period for the largest funds (EAFRD, ERDF and ESF). Under EU regulations and systems, expenditure for a particular programming period can still be declared until several years after the end of the period.⁷

Figure 5 Exhaustion of the EAFRD, ERDF and ESF (in millions of euros, years refer to the annual accounts or annual report)



⁶ Migration funds can be spent during the annual tranches. Funding that is not spent before the end of the annual tranche period (30 June) is decommitted.

⁷ For most funds, until 31 December 2015. The 2013 annual programme for the migration funds runs until 30 June 2015 and expenditure must be declared before 31 March 2016. All declarations must be audited by 31 March 2017.

* Years refer to annual accounts (EAFRD) or annual report (ERDF, ESF). Source: National Declarations 2007-2014

A large proportion of the available budgets has not yet been declared. The view given of budget exhaustion is not the actual situation at the end of 2013. Apart from the EAFRD (accounting reference period to 15 October 2013) the 2013 declarations have not been included in the figure above because audited accounts are not yet available. To realise the budgeted expenditure, a large volume of declarations must still be accounted for and audited in 2013, 2014 and 2015. In the ERDF, the ERDF North and East programmes have to make the largest declarations. One of the European Commission's requirements is the timely declaration of committed funding within two

years (n+2 requirement) to avoid decommitment. To date, the n+2 requirement has been satisfied in all cases. There is a risk that the expenditure burden can lead to irregularity risks and that declared costs later prove to be ineligible.

The managing authorities (for the ERDF, ESF and EFF), the paying agency (for the EAFRD) and the responsible authority (for the migration funds) have stepped up their monitoring of project progress and their encouragement of project declarations. We would underline the importance of paying close attention to monitoring and declaration and recommend that sufficient attention be paid to the careful assessment of the regularity of the declarations made by project beneficiaries.

2 The Netherlands Court of Audit's opinion on the National Declaration 2014

We have examined the *National Declaration 2014* (including the associated consolidation statements)⁸ and expressed an opinion on it. The European Regulations set different requirements for the management, control and accounts of each fund. This means that the *National Declaration* must be tailored to each fund. Our opinion relates to three aspects of the *National Declaration 2014*:

1. the assertion on the systems and the measures in place for the management and control of the EU funds (section 2.1);
2. the assertion on the legality, regularity, accuracy and completeness of financial transactions down to the level of the final beneficiary (section 2.2);
3. the preparation of the *National Declaration* and the underlying sub-declarations with related consolidation statements (section 2.3).

Since the object and scope of our audit largely coincide with the object and scope of the National Audit Authority's (ADR) audit, we rely on its activities. We report on our main findings of our review in section 2.4.

2.1 Opinion on the assertion on the quality of management and control systems

Opinion

In our opinion, the assertion made in the *National Declaration 2014* is sound with regard to the functioning of the management and control systems and the measures in place in the Netherlands for expenditures and receipts from the EU funds accounted for in the *National Declaration 2014*.

Without prejudice to our positive opinion on the assertion made in the *National Declaration* on the functioning of management and control systems, there are still points for improvement. In this section we present an overall picture of the functioning of the management and control systems and the main conclusions, recommendations and other comments for each fund.

2.1.1 General picture of the functioning of management and control systems

Figure 6 presents a general picture of the functioning of the management and control systems used by the main actors in the period under review. Owing to differences in the European Commission's regulations, the organisation and titles of the actors differ, as does the assessment system (see box).

⁸

The associated consolidation statements are accounting documents disclosing the actual expenditures, receipts and amounts receivable per EU fund.

Assessment system for management and control systems**Agricultural funds**

Score 1: clear non-respect of the accreditation criteria or serious deficiencies (the seriousness of the deficiencies is such that the paying agency cannot fulfil certain tasks).

Score 2: poor (other deficiencies which do not fall under (1), but which would have to be followed-up).

Score 3: adequate (minor issues highlighted but scope for improvement).

Score 4: good.

Score 5: best practice.

Structural funds/ EFF

Score 1: works well, only minor improvements needed.

Score 2: works, some improvements needed.

Score 3: works partially, substantial improvements needed.

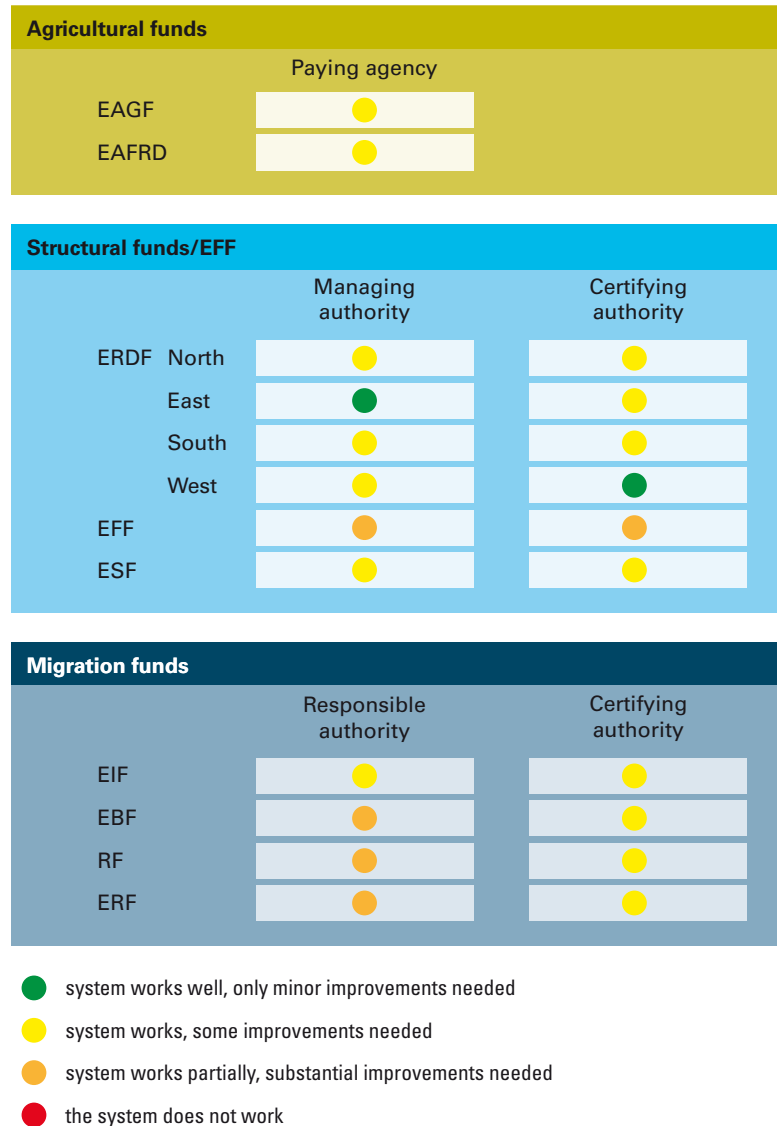
Score 4: essentially does not work .

Migration funds

The regulations for the migration funds do not provide scores to assess the management and control systems.

Despite the differences in assessment systems, we wanted to present an overall picture of the functioning of the management and control systems. To do so, we adopted the system in place for the structural funds (ERDF, ESF) and EFF. We then adapted the scores reported by the ADR to the European Commission's assessment system for the agricultural funds and its audit conclusions on the migration funds as faithfully as possible.

Figure 6 Functioning of management and control systems



Regarding the ERDF West we concluded that the system audits performed by the ADR in its capacity as audit authority had found that the systems functioned adequately but some improvements were still necessary (yellow). The ADR, however, had raised the remaining regularity risk from low to average on account of the shortcomings in the functioning found by the project audits. The *National Declaration 2014* included a reservation because the management verifications functioned only partially. Substantial improvements are therefore also needed in the ERDF West.

Our conclusions, recommendations and other comments on each fund are presented below. Further information can be found in the background documents on each fund available on our website at www.rekenkamer.nl.

2.1.2 Agricultural funds

The management and control systems we reviewed for the agricultural funds, EAGF and EAFRD, functioned adequately during the 2013 agricultural year (16 October 2012 to 15 October 2013). Management and control of the agricultural funds improved in certain areas in the past year. We would draw particular attention to improving the preparation and reliability of control statistics⁹ for the EAFRD.

⁹ Statistical data on audits performed (both administrative and on-the-spot checks) resulting in error rates.

Preparation and reliability of EAFRD control statistics not entirely in order

The system used by the paying agency (since 1 January 2014, the Netherlands Enterprise Agency) to generate control statistics for the EAFRD has not functioned adequately since 2007. A lot of manual processing with a heightened risk of error is still required; irregularities and sanctions in non-IACS schemes¹⁰ are not documented in full and control statistics and financial accounting records for IACS schemes are not reconciled. The paying agency made improvements in 2013 but they have not yet created a controlled and transparent process. In the new programming period, the certification body (the ADR) must give assurance on the control statistics. The system that generates the control statistics must therefore function correctly.

Recommendation: Improve the reliability of the control statistics by recording all irregularities and sanctions in non-IACS schemes in the basic systems. Document the reconciliation of control statistics and financial accounting records for the IACS schemes.

Other points

We would make the following other points:

- Improve the security of information systems (EAGF and EAFRD). The paying agency and the delegated implementing organisations use the ICT services of the ICT Implementation Agency (DICTU) for their management systems and networks. DICTU does not yet comply in full with the Central Government Baseline Information Security (BIR) standards and it has not yet adequately performed all audit procedures for the information systems. Furthermore, existing measures to manage information security incidents are still inadequate and not documented coherently in the Information Security Management System (ISMS). The BIR standards should be implemented in full in 2014 and it should be determined that the information security complies with them.
- Improve administrative checks of duplicate EAFRD funding. The current control system cannot guarantee that the paying agency will detect duplicate funding by the paying agency. The European Commission should be consulted to determine whether the current control measures are adequate to detect potential irregular duplicate funding at the level of the final beneficiary.

2.1.3 European Regional Development Fund

The management and control systems in place for the ERDF functioned adequately in the 2012 calendar year with the exception of the management verifications of the ERDF West managing authority, which functioned partially. We would draw particular attention to improving the performance of management verifications by the ERDF West managing authority in order to reduce the excessively high error rate (see also section 2.2.2).

Shortcomings in the performance of management verifications by the ERDF West managing authority and other points for improvement at the managing authorities and the certifying authority

Apart from a number of points for improvement, the management and control systems function well but the ERDF West managing authority had shortcomings in the main component of its management and control system: essential requirement 'management verifications', i.e. the assessment of the regularity of amounts declared to the European Commission. Some shortcomings were also found in the management verifications performed by the ERDF North and South managing authorities. Other points for improvement are the ICT systems (all managing

¹⁰

A distinction is made between schemes that are subject to the Integrated Administration and Control System (IACS) and those that are not. IACS schemes are land-based and animal-related support measures; non-IACS schemes are non-land-based and non-animal-related schemes such as investment schemes, market support and school milk support.

authorities) and the follow-up to the audit findings (ERDF South). The management and control systems used by the ERDF certifying authority functioned adequately, although the performance and documentation of the certification has some points for improvement (audit trail). The explanatory notes to the National Declaration indicate that the Ministry of Economic Affairs (EZ) will step up its supervision of the improvement actions to be taken by the ERDF West managing authority.

Recommendations:

- Monitor the effectiveness of the measures taken by the ERDF West managing authority. Improve the performance of the managing authorities' management verifications (North, South and, especially, West), ICT systems (all managing authorities) and the follow-up to audit findings (South). In particular, ensure that there is sufficient capacity to carry out management verifications in the closing years of the 2007-2013 programming period and that policy on declarations is prudent (sufficient assurance at the managing authority on the regularity of amounts declared).
- Further improve the performance and documentation of the certifying authority's certification work.

Other points

We would also draw attention to the importance of preparing the annual audit reports and opinions for ERDF South and West on a timely basis. Problems regarding the quality and intensity of the management verifications of an ERDF West project and objections made by the ERDF South and West managing authorities against the audit authority's findings in several project audits delayed the completion of the audits and the submission of reports to the European Commission. In consequence, the European Commission paid extra attention to the Netherlands and the drafting of the Ministry of EZ's sub-declaration was delayed.

We think it is important that good agreements are made on the timely start of project audits, timely reporting, timely completion of clearance procedures and the prudent use of the mediation instrument (see section 2.2.2), so that annual audit reports and opinions can be submitted on time. Furthermore, cooperation between the ERDF South and West managing authorities and the audit authority needs to be improved.

2.1.4 European Fisheries Fund

The management and control systems reviewed for the EFF functioned partially in the 2012 calendar year. Substantial improvements are needed. We would draw particular attention to improving the management verifications and certification work in order to reduce the excessive error rate (see also section 2.2.3).

Shortcomings in management and control systems, particularly in management verifications and certification work

As in the previous year, there were shortcomings in the EFF management and control systems. Management verifications by the managing authority/intermediate body¹¹ and the certification work performed by the certifying authority still do not function adequately. Both processes are critical to establish the regularity of the amounts declared to the European Commission. As a result of the shortcomings, there is a high error rate, many uncertainties and the Commission temporarily suspended payments. As explained in the explanatory notes to the National Declaration, the managing authority is preparing an improvement plan.

¹¹

For the sake of simplicity, we refer solely to the EFF managing authority in the remainder of this report. The intermediate body works on behalf of and under the responsibility of the EFF managing authority.

Recommendations:

- Monitor the effectiveness of the improvement plan and make the necessary improvements in all parts of the managing authority's management and control system quickly.
- Make further improvements in the segregation of duties (prevention of responsibilities overlapping at the certifying authority and the intermediate body) and, especially, in the certifying authority's certification work.

Other points

We would also draw attention to the timely preparation of the annual audit report and opinion. Owing to the delay in completing the audit work, and thus the clearance procedure and differences of opinion between the managing authority and the audit authority, the process of completing the audits and the submission of reports to the European Commission was delayed. This led to the late preparation of the Ministry of EZ's sub-declaration. It is important to make good agreements on the timely start of project audits, the timely submission of reports, the timely completion of the clearance procedure and the prudent use of mediation (see also section 2.2.3), so that the annual audit report and opinion can be submitted on time.

2.1.5 European Social Fund

The management and control systems reviewed for the ESF functioned adequately in the 2012 calendar year.

Other points

We would draw attention to several points that are open to improvement at the managing authority. The audit authority's report reveals that certain improvements are necessary, for example regarding the lead times for final declarations, documentation of the project accounts and information security at the managing authority.

2.1.6 Migration funds

The EIF management and control systems reviewed functioned adequately during the period under review (2010 annual programme). The EBF, RF and ERF systems functioned partially during this period. Substantial improvements are needed. We would draw particular attention to:

- improving the supervisory and award work and thus reducing the excessive error rate in the EBF;
- submitting annual reports on a timely basis;
- improving receivables management.

Substantial improvements needed in supervision and award work especially for the EBF

The responsible authority for the EBF must improve its supervision of projects and award of funding. The responsible authorities for the RF and ERF must amongst others improve their monitoring and documentation activities. The explanatory notes to the National Declaration refer to a variety of measures to improve management. They also state that further measures will be taken if the current measures prove inadequate.

Recommendation: monitor the effectiveness of the improvement measures being taken and take further measures if necessary.

Backlog in annual reports reduced but not eliminated

The responsible authority submitted the 2010 annual reports after the deadline. As noted in the National Declaration, the annual reports should have been submitted to the European Commission by 31 March 2013. The annual reports for the EBF, RF and EFF were submitted on 14 August 2013 and the annual report for the EIF on 30 August 2013. In comparison with previous years, the backlog has been reduced but not yet eliminated.

Recommendation: Ensure that the plans for the timely preparation of the annual reports are implemented and take further measures as necessary.

Too little attention paid to receivables management

Too little attention is paid to the timely settlement of receivables in the migration funds.

Recommendation: transfer receivables management to the SZW Agency properly and settle receivables on a timely basis.

Other points

We would further draw attention to several areas for improvement in the EIF, such as better and more frequent monitoring and better documentation of projects.

2.2 Opinion on the assertion on financial transactions

Opinion

In our opinion, the assertion made in the *National Declaration 2014* on financial transactions down to the level of beneficiaries of European funds is sound, subject to a reservation regarding the completeness of receivables outstanding in the ERDF, EFF, ESF and the migration funds, on which we could obtain only limited assurance.

The receivables outstanding in the sub-declarations for the ERDF, EFF, ESF and the migration funds, which form the basis for the National Declaration, had not been adequately audited. The receivables outstanding in these funds are modest in comparison with the total amount of receivables outstanding and expenditures (see section 1.2.3). In cooperation with the ADR, we attempted to repair the audit gap. We were able to obtain only limited assurance on the completeness of receivables. In the migration funds, several prior-year items, worth at least € 250,000, are missing from the receivables statement as at 1 August 2013.

Recommendation: have the ADR audit the receivables in the sub-declaration every year and report on them in its audit report on the consolidation statement.

As explained in the explanatory notes to the National Declaration, the error rate in the ERDF, EFF, ESF and EBF exceeds the tolerable error rate of 2%.¹² The situation is therefore worse than in the previous year, when the 2% tolerable error rate was exceeded only in the ERDF and uncertainty exceeded 2% only in the EFF.

Our conclusions, recommendations and other points on each fund are presented below. For further information, see the background documents for each fund on our website at www.rekenkamer.nl.

¹²

The tolerable error rate of 2% applies to the agricultural funds as a whole. The error rate for the agricultural funds as a whole was less than 2%. As noted in the National Declaration, however, the error rate in the EAFRD was higher than 2%.

2.2.1 Agricultural funds

The rate of irregularities in financial transactions in the 2013 agricultural year was below the tolerable error rate of 2%. We would draw attention, however, to reducing errors in the implementation of a number of EAFRD schemes.

High error rate in EAFRD

The error rate in the EAFRD comfortably exceeded 2%. On-the-spot checks found more errors than in previous years. This is reflected in the control statistics for both the IACS schemes and the non-IACS schemes, which show error rates of 5.19% and 10.78% respectively. They are due to errors in the implementation of the Provincial Agricultural Nature Management Scheme (PSAN), Problem Area Payment,¹³ and of investment schemes. As stated in the explanatory notes to the National Declaration, improvement measures have been taken.

Recommendation: monitor the effectiveness of the improvement measures taken to reduce the error rate.

Other points

- We would also draw attention to: the faster provision of control statistics and inspection results (EAGF and EAFRD). The control statistics for the non-IACS schemes and the cross-compliance inspection results for the accounting reference period were not available until after the ADR and the Netherlands Court of Audit had completed their audits. Control statistics and inspection results must be made available earlier in the new programming period, no later than the end of February n+1, so that we and the ADR can allocate the results to the correct agricultural year.
- Further improvement in recoveries management in the EAFRD. The paying agency is encouraging the provinces to conduct an active recoveries policy. The provinces should also pay attention to the timely collection of receivables. Good agreements should be made with the provinces on the timely collection of receivables.

2.2.2 European Regional Development Fund

The percentage of irregularities in financial transactions in the member state during the 2012 calendar year exceeded the tolerable error rate of 2%. We would draw particular attention to:

- reducing the excessive error rate in ERDF West;
- improving the mediation process.

Error rate at member state level above 2% owing to high error rate in ERDF West

Payment applications in 2012 displayed a total error rate of 4.00%, well above the tolerable error rate of 2%. ERDF North, East, and South did not have error rates in excess of 2%. The error rate in ERDF West was nearly 7%. This will probably result in the European Commission imposing a sanction in respect of ERDF West.

Recommendation: see recommendation on management and control systems in section 2.1.3.

Mediation process open to improvement

In contrast with previous years, frequent use was made of the mediation instrument in 2013, with the managing authority putting disputes about the audit authority's opinion to the Ministry of EZ, which issues a compelling recommendation. The recommendation is to be taken into account by the audit authority, but it is not binding: the audit authority ultimately renders the final judgement. The ERDF South and, especially, the

¹³

The Problem Area Payment (PGV) consists of financial compensation for managers of agricultural land in areas with adverse physical conditions.

ERDF West managing authorities took many cases to mediation in 2013, often at a late stage in the audit cycle. We found that this led to conflicts and delays.

Recommendation: ensure that the past period is evaluated well (causes of different interpretations and process), seek mediation with restraint and at an early stage, and consider optimising independence by involving an independent expert in the process or by positioning mediation outside the ministry concerned.

Other points

We would also draw attention to:

- The prevention of ‘preliminary audits’ by the audit authority. The procedure adopted by the audit authority in two of the five ERDF South project audits in effect unintentionally adopted the managing authority’s own control activities (‘preliminary audit’). This is undesirable because the managing authority itself is responsible for eliminating errors in the declaration. Furthermore, the errors had not been allocated, resulting in a lower error rate. The audit authority should no longer adopt this inappropriate ‘preliminary audit’ procedure and the audit authority should allocate errors in accordance with the European Commission’s regulations.
- Tighten up the standards on the eligibility of costs. Last year we had found frequent uncertainty about the extent to which declared costs complied with the European requirement of necessity (proportionality and efficiency). The State Secretary for EZ accepted our recommendation to tighten up the standards but has not yet implemented it. Stricter standards should be developed in the near future to evaluate whether the declared costs are eligible (i.e. proportionate and efficient). This is particularly relevant because the peak in declarations for the seven-year programme is about to begin.

2.2.3 European Fisheries Fund

The percentage of irregularities in financial transactions exceeded the tolerable error rate of 2%. Furthermore, there were many remaining uncertainties. We would draw particular attention to:

- reducing the high error rate;
- improving the mediation process.

Error rate above tolerable 2% with many remaining uncertainties

The total error rate in the payment applications in 2012 was 3.34% (nearly € 0.7 million), well above the tolerable rate of 2%. In addition to these definite errors there was an even greater amount in uncertainties (€ 7.3 million). Part of this amount relates to errors that were disputed by the managing authority and taken to mediation (€ 3.2 million); the remainder relates to an ongoing examination in which a number of facts still had to be investigated or clarified (€ 4.1 million). The European Commission (DG MARE) has agreed that the findings taken to mediation in respect of the EFF, contrary to other funds, do not have to be included in the error rate. The negative audit findings resulted in a European sanction in the form of a suspension of payments.

Recommendation: see recommendation on management and control systems in section 2.1.4.

Mediation process open to improvement

In contrast with previous years, frequent use was made of mediation in 2013, with the managing authority putting disputes about the audit authority's opinion to an external party. The audit authority ultimately renders the final judgement. Many cases, relating to nearly half the project audits, were taken to mediation in 2013, often at a late stage in the audit cycle. We found that this led to delays at the end of 2013, resulting in the late preparation of the annual audit report and opinion and the late preparation of the sub-declaration. Furthermore, DG MARE agreed that the mediation cases could be excluded from the error rate. This is not the case with the ERDF and ESF; as a result, the error rates were not comparable.

Recommendation: ensure that the past period is evaluated well (causes of different interpretations and process), seek mediation with restraint and at an early stage. Use the same procedure to calculate the error rate in the EFF as in the structural funds (include findings taken to mediation) so that the error rates produced for the European funds are comparable. Discuss this with DG MARE.

2.2.4 European Social Fund

The percentage of irregularities in financial transactions in the 2012 calendar year was slightly higher than the tolerable rate of 2%.

Other points

We would draw attention to the settlement of amounts receivable from the Wholesale Training Fund (SOG). The overall error rate in the 2012 payment applications was 2.01%, just above the tolerable rate of 2%. The excess was due chiefly to SOG projects. The audit authority found errors worth € 1.6 million in five SOG projects. This is equal to an error rate of 0.5%. The Ministry of SZW still has open advance payments of € 25.3 million with the SOG. The Ministry has taken action to set off as many of these advances as possible against the declarations submitted to the European Commission. We will follow the settlement of advance payments with interest.

2.2.5 Migration funds

The percentage of irregularities in financial transactions in the 2010 annual programme was higher than the tolerable rate of 2% only in the EBF. We would draw particular attention to reducing this error rate.

EBF error rate well above tolerable 2%

Project audits of the EBF initially found an error rate of 19.81%. The responsible authority corrected some of these errors in the revised award decision. Since an amount of € 161,328 has still not been corrected, the error rate in the EBF is still too high at 6.7%.

Recommendation: see recommendation on management and control systems in section 2.1.6.

2.3 Opinion on preparation**Opinion**

In our opinion, the *National Declaration 2014*, as issued by the Minister of Finance on behalf of the government, was on the whole prepared in a sound manner.

Without prejudicing our opinion, we would draw attention to the State Secretary for EZ's timely issue of the sub-declaration. Furthermore, the receivables outstanding in the ERDF, EFF, ESF and the migration funds sub-declarations have not been adequately audited. We have therefore made a reservation in our opinion regarding the assertion made on financial transactions (see section 2.2).

2.4 Findings of the National Audit Authority's review

The National Audit Authority (ADR) is the audit authority for the ERDF, ESF, EFF and migration funds and the certification body for the agricultural funds.¹⁴ We carry out reviews to determine whether we can rely on the ADR's findings in order to express an opinion. In all funds, we determine how the ADR checked the legality and regularity, accuracy and completeness of the financial transactions down to the level of the final beneficiary and whether its audits, in our opinion, were adequate. We also carried out our own procedures and attended some of the ADR's audits.

For the purposes of our opinion, we can rely on the findings of the ADR in its capacity as both audit authority and certification body. We would draw attention, however, to the further harmonisation and standardisation of similar audit procedures performed by the ADR for the various funds, where possible. Regarding the audit of the ERDF and EFF we would draw attention to:

- the adequate planning of audit procedures and use of capacity (ERDF, EFF);
- the timely and careful completion of audit reports (ERDF, EFF);
- more uniformity in the annual audit reports (ERDF);
- improved audit documentation (ERDF);
- uniform internal review of audit files (ERDF, EFF).

For further information, see the background documents on each fund on our website at www.rekenkamer.nl.

14

In the regulations for the agricultural funds, the European Commission uses the term certifying authority instead of audit authority, which it uses for the other funds.

3 Remittances to the European Union

On the introduction of the member state declaration (Ministry of Finance, 2007), the government had held the ambition of including the remittance of own resources. To date, remittances have not been included in the National Declaration and have not been covered by our opinion. We think inclusion in the National Declaration is desirable to arrive at comprehensive EU accounts at member state level and to be consistent with the EU annual accounts as audited by the European Court of Auditors.

3.1 Accountability for the remittance of own resources

The Netherlands' remittance of own resources to the European Commission's budget is accounted for in the annual report of the Ministry of Foreign Affairs (BZ). The cost incurred for the collection of agricultural levies and customs duties are recognised as receipts in the Ministry's annual report.

Remittance of own resources

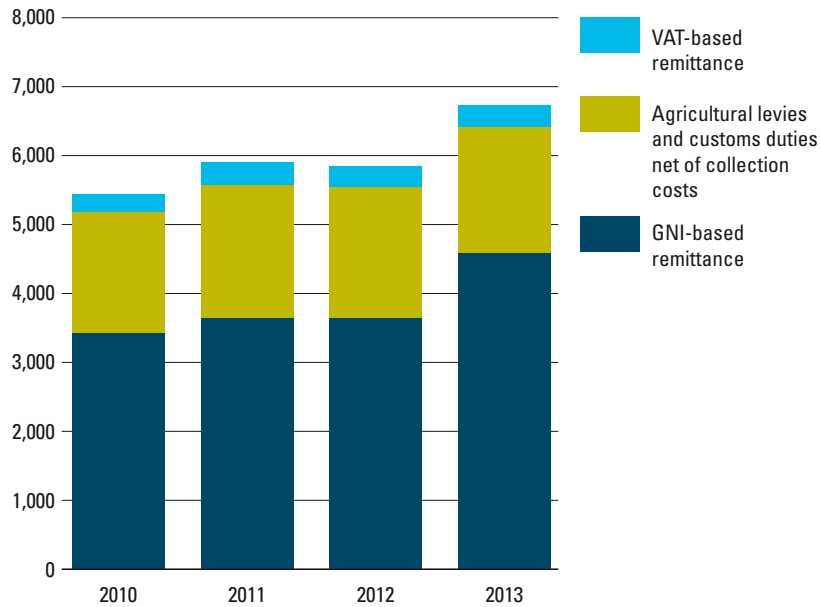
Own resources are sources of revenue that accrue to the European Union by operation of law without requiring further decisions by the national authorities. There are four types of own resources:

- agricultural levies;
- customs duties;
- VAT-based remittance;
- GNI-based remittance.

The first two are known as traditional own resources; the third and fourth are based on gross national income (GNI). The member states keep 25% of the agricultural levies and customs duties they collect to defray the cost of collection.

Figure 7 shows the remittances accounted for by the Ministry of BZ in its annual reports for 2010 to 2013. Agricultural levies and customs duties are shown net of collection costs.

Figure 7 Dutch remittances to the EU 2010-2013 (in millions of euros)



Source: Ministry of Foreign Affairs, annual reports 2010-2013.

The GNI-based remittance is determined with the member states in the light of the European Commission's overall budgetary situation.

The remittances are recognised in the Ministry of BZ's budget and accounted for in the annual report but accountability and competences have been assigned to the Ministries of Finance and EZ (see box).

Political responsibility for remittances and control

Our report on the National Declaration 2013 (Netherlands Court of Audit, 2013a) stated that the assignment of responsibility for remittances to the European Union did not fully match the budgetary responsibilities of the Minister of BZ, the Minister of Finance and the Minister of EZ.

This is demonstrated by the following arrangements agreed upon by the ministers:

1. Higher GNI-based remittances are not compensated for from the Ministry of BZ's budget. The GNI-based remittance has no influence on BZ's share of general compensation.¹⁵
2. The Ministry of Finance prepares the documents necessary for the notes to the individual articles in the Ministry of BZ's budget for the remittances.
3. The Ministries of Finance and EZ take the lead in answering questions on EU remittances in the House of Representatives.
4. The Ministries of Finance and EZ are responsible for timely remittance and the payment of any fines imposed for late remittance.
5. The Ministry of Finance prepares the estimates and notes for the remittances in the Ministry of BZ's budget.

The Minister of Finance noted in his response to our report that it had been decided to group net remittances in budget chapter V BZ under one article as from 2002, in order to inform the House of Representatives of the total remittances to the EU and their relationship with each other. The Minister of BZ's budgetary responsibility is restricted to the timely remittance of funds to the European Commission and accounting for them in budget chapter V BZ. The same division of responsibilities and conditions were in place in 2013.

15

In the general compensation system, additional outgoings are divided across several budgets. This is in contrast to specific compensation, in which additional outgoings are recognised in a ministry's own budget.

3.2 Responsibility for customs duties

Customs duties arise from the application of a common customs tariff to the customs value of goods imported from countries outside the EU. In the Netherlands, the Tax and Customs Administration is responsible for the collection of customs duties and their remittance to the EU within two months. It was announced in 2013 that the European Commission was holding the Netherlands liable for € 43.2 million in respect of irregularities found in the collection of customs duties in the period from 2006 to the end of August 2013. MP Pieter Omtzigt, asked questions about the matter in the House of Representatives. The State Secretary for Finance answered the questions in October 2013 (Ministry of Finance, 2013). The amount of € 43.2 million was explained as follows:

Own resources: the Netherlands liable or made payment	
Liable as a result of audits by European supervisors and legal proceedings	21.3
Liable after the Netherlands had requested an opinion from the EU	5.4
Paid by the Netherlands to the EU of its own volition owing to administrative mistakes	14.6
Liable owing to the late or non-remittance of duties collected but not remitted	16.3
Total	57.6
Correction for collection costs	- 14.4
Total remittances liability	43.2

Of the gross amount¹⁶ of € 21.3 million for which the Netherlands has been held liable following audits by the European supervisors, €18.5 million is disputed. According to the European Commission, the disputed amount relates to export certificates incorrectly issued by the Antillean authorities. According to the Netherlands, the Statute of the Kingdom prohibits such a claim from being brought against the Netherlands. The administrative mistakes of € 14.6 million gross relate chiefly to uncollectable files for which the Netherlands itself thought it was liable. It remitted these amounts to the EU of its own volition. The late remittance of € 16.3 million gross was due chiefly to IT problems, where amounts collected were incorrectly not remitted. This system error was resolved in May 2012. The European Commission has not imposed financial corrections or fines because EU regulations on customs duties do not provide for them.

In autumn 2013, the European Court of Auditors examined customs duties in the Netherlands for its 2013 statement of assurance. We were present during this examination for several days. We were unable to include the results in this report.

3.3 Still no remittances in National Declaration

We have been recommending for several years that the remittance of own resources be included in the National Declaration. In our *Report on the Netherlands Member State Declaration 2010* (Netherlands Court of Audit, 2011) we recommended that a start be made with the inclusion of traditional own resources and that the other own resources be introduced gradually. We repeated the recommendation to include remittances in the National Declaration in our *EU Trend Report 2014* (Netherlands Court of Audit, 2014).

16

Customs can withhold 25% of the customs duties to defray the cost of collection.

3.3.1 Government's position

To date, the government has not adopted our recommendation. The government gave reasons for not doing so again in its response to the EU Trend Report 2014 (Netherlands Court of Audit, 2014). The Minister of Finance also provided a number of reasons (partly mentioned earlier) for not adopting the recommendation in a response (Ministry of Finance, 2013) to a motion put to the House by MP Eddy van Hijum (House of Representatives, 2013)¹⁷ (see box).

Government's reasons not to include remittances in the National Declaration

- *Member states do not have shared responsibility.* The National Declaration is consistent with the regime of the Financial Regulation for the EU budget and considers only EU funds that are spent under shared management. Responsibility for auditing the system to remit own resources and the legislation in this area lies entirely with the European Commission; the member states have neither shared responsibility for remittances, nor a separate responsibility.
- *Protecting the independent position of Statistics Netherlands (CBS).* The CBS's independence is laid down in law. If the government were to include remittances in the National Declaration, it would be expressing an opinion on the accuracy and reliability of the CBS's systems and the statistical outcomes for the calculation of GNI. This would be at odds with the CBS's independence.
- *Reliability of source data and confidence in the control system.* The European Commission has set up its own control system, with Eurostat and the GNI Committee supervising correct compliance with extensive rules and guidelines. In the CBS's opinion, the source data underlying the National Accounts are of adequate quality to give assurances on reliability. The government has no cause to doubt the reliability of the source data used to calculate the GNI figures and does not wish to increase the audit burden unless the EU specifically requests it to do so. There is already a national accounting trail for the other own resources in the form of the Ministry of Finance's annual report (VAT and customs duties) and the Ministry of Economic Affairs' annual report (agricultural levies). The annual reports are subject to annual audit by the ADR and no significant points for improvement have been found.
- *Risks to international support for national declarations.* There is little support within the EU for national declarations. Thanks in part to the Netherlands' persistence and the stance taken by the European Parliament, the new Financial Regulation already provides for voluntary national declarations. A voluntary enlargement of the Dutch National Declaration to include own resources would probably undermine acceptance of the instrument among other member states.

3.3.2 Position of the Netherlands Court of Audit

The Netherlands Court of Audit thinks remittances should be included in the National Declaration in order to produce comprehensive EU accounts, i.e. complete accounts of both revenues (EU funding received by the Netherlands) and remittances (contributions paid by the Netherlands to the EU).

Regarding the independence of the CBS, a distinction can be made between the Minister of Finance's tasks and the CBS's. The Minister of Finance is responsible for the compilation of accurate and complete accounts of remittances (in the Minister of BZ's annual report). The CBS has an independent responsibility to calculate GNI from the source data. The GNI figures are used to calculate the remittances. We understand that it requires a delicate touch to express how tasks and competences are exercised and recognised in the National Declaration. However, we expect them to change and

¹⁷

The motion requests the government to 'include the substantive data on EU remittances, including information on the quality of the basic data in the national member state declaration, and to work at European level to improve accountability for remittances and the functioning of the underlying allocation system'.

become less distinct once the *European Public Sector Accounting Standards (EPSAS)* are introduced in the EU.

We can see no convincing reasons in the government's arguments not to include customs duties and agricultural levies in the National Declaration. In our opinion, the argument that the remittances are not under shared management and the member state does not have its own responsibilities is not strong. The Minister of Finance is responsible for managing the Tax and Customs Administration, which collects customs duties and agricultural levies. Moreover, as the minister himself states, there is a national accounting trail through the Ministry of Finance's annual report (customs duties) and the Ministry of Economic Affairs' annual report (agricultural levies),¹⁸ which are already audited by the ADR. In our opinion the national accounting trail should match the European accounting trail.

We therefore repeat our earlier recommendation that remittances be included in the National Declaration, commencing with customs duties and agricultural levies.

18

This is the case with receipts (collection); remittances are recognised in the Ministry of BZ's annual report, as described in section 3.1.

4 Effectiveness and efficiency of funding

19
Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund, and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) no. 1083/2006.

20
As well as the common ESI Regulation, there are also fund-specific Regulations:

- Regulation (EU) no. 1299/2013 (ERDF Regulation for ETC objectives);
- Regulation (EU) no. 1300/2013 (CF Regulation);
- Regulation (EU) no. 1301/2013 (ERDF Regulation);
- Regulation (EU) no. 1302/2013 (EGTC Regulation for territorial cooperation);
- Regulation (EU) no. 1304/2013 (ESF Regulation);
- Regulation (EU) no. 1305/2013 (EAFRD Regulation).

The EMFF Regulation had not been adopted when this report was prepared. Regulation (EU) no. 1306/2013 (EAGF and EAFRD Regulation) applies to the EAGF. EAGF performance is measured against the main CAP goals by means of common indicators. The indicators are related to the policy structure and goals and must make it possible to review the progress,

The Dutch government issues the National Declaration to account for the legality and regularity, accuracy and completeness of EU funds spent in the Netherlands under shared management. It therefore declares whether the accounts give a true and fair view and are regular, two important criteria for good public governance. Other criteria are effectiveness and efficiency.

4.1 Information available on effectiveness and efficiency

Obligatory European evaluation have to date provided inadequate insight into the effectiveness and efficiency of EU funding (Netherlands Court of Audit, 2013b). In our *Report on the National Declaration 2013* (Netherlands Court of Audit, 2013a) we recommended that the National Declaration include information on effectiveness and efficiency. The government did not adopt this recommendation. According to the government, nearly all evaluation reports are public and are available on the internet. It sees no reason to change the information and accounting structure to accommodate evaluations of EU expenditure but it is open to suggestions on how to evaluate the new programming period in accordance with EU standards.

At our request, the Ministry of Finance and the ministries responsible for the funds provided a summary of the current and forthcoming information on effectiveness and efficiency in the current programming period. The summary is presented in annexe III. We suggest that such a summary be included in the explanatory notes to the National Declaration in anticipation of the new programming period, in which this information can be provided in greater detail (see also section 4.2).

4.2 Effectiveness and efficiency in the new programming period

The new Regulation for the structural and investment funds for the 2014-2020 programming period was published at the end of 2013.¹⁹ This Regulation, the ESI Regulation, contains common and general provisions for the Cohesion Fund (not applicable to the Netherlands), the ESF (employment and labour market), the ERDF (regional development), the EAFRD (rural development) and the European Maritime and Fisheries Fund (EMFF).²⁰

4.2.1 New performance requirements: achievement of Europe 2020 objectives

The ESI Regulation requires the EU institutions to manage more by results in the 2014-2020 programming period. ESI funding must be applied specifically to achieve the Europe 2020 objectives (Art. 4). This was not the case in the previous programming period.

Europe 2020: the growth strategy of the EU

With its internal market of 28 countries, the EU is one of the biggest trade blocs in the world. To consolidate its position and overcome the economic and financial crisis, in 2010 the European Commission launched 'Europe 2020': a strategy for smart, sustainable and inclusive growth. The strategy has five main objectives in the fields of employment, education, research and development, social inclusion and poverty reduction, and climate and energy. Each member state has set its own national goals in each of these fields that it must achieve by 2020. To achieve the Europe 2020 ambitions, the EU and the member states are undertaking joint activities in several areas, amongst which promoting digital economy, innovation, employment, poverty reduction, industry and the efficient use of natural resources.

4.2.2 Performance agreements at member state level: partnership agreements

Part of the ESI funding for the 2014-2020 programming period will be based on the member states' achievement of their Europe 2020 objectives. To this end, the European Commission and the member states have concluded partnership agreements (Art. 15). The partnership agreements set out the strategy, priorities, and rules and principles a member state will apply to use ESI funds efficiently and effectively in order to achieve the Europe 2020 objectives. Part of the ESI allocated resources (6%) will not be released until the results set in the partnership agreements have been achieved. This performance reserve will be allocated only to programmes and priorities which have achieved their milestones.

If the performance agreements are fulfilled, the member state will definitively receive all the funds allocated to it. However, if a performance review finds that there have been serious shortcomings and a member state has seriously failed to achieve the milestones set out in the partnership agreement, all or part of a payment can be suspended. Should the latter be the case, financial corrections may be applied after the submission of the final report on an operational programme and some of the allocated funds can be withdrawn (Arts. 20-22).

4.2.3 Performance agreements at programme level: indicators and targets

At programme level, targets have been set for a variety of indicators that must be achieved by 31 December 2018 (Art. 27). Stricter criteria have been set for the indicators for the 2014-2020 programming period than in the previous programming period. They consist of, for example, output indicators for supported projects, result indicators at programme level, and common indicators at EU level that must inform the European Commission of the progress made with the operational programmes and projects (partially set out in the fund-specific regulations). These indicators attempt to go a step further than those used in the previous programming period. In the ERDF, for example, several new indicators have been introduced for innovation projects:

- the number of new researchers at the institutions supported;
- the number of researchers working in improved research facilities;
- the number of enterprises supported that market new products.

The agreements not only apply to enterprises that have received support but also consider whether these enterprises have actually produced something new. Greater importance will therefore be attached to the result ultimately desired.

effectiveness and efficiency of policy in the light of the objectives. Outcomes and impacts are not relevant. The four migration funds will be replaced with two new migration funds during the 2014-2020 programming period: the Asylum and Migration Fund (AMF) and the Internal Security Fund (ISF). The migration funds do not fall within the scope of the ESI Regulation. The AMF and ISF Regulations had not been adopted when this report was prepared.

4.2.4 Closure of the programming period and opinion on performance agreements

The European Commission will review the achievement of the targets and decide whether to allocate the performance reserve in full or in part in 2019 (Art. 21). The ex post performance reviews, which must be completed by 31 December 2025 at the latest, will examine the effectiveness and efficiency of the ESI funds and their contribution to the realisation of the Europe 2020 strategy objectives, taking account of the targets set for the strategy (Art. 57). In the meantime, the Commission can suspend payments to the operational programmes and, following the final review, impose definitive financial corrections if the programmes have underperformed (Art. 22).

Performance agreements had also been used in the previous programming period (Regulation 1083/2006, Art. 50). Those agreements, however, related to a smaller proportion of the budget allocated to the member states' programmes (3% instead of the new 6%). Furthermore, the member states themselves set the milestones in the operational programmes. As the bar was not always set very high, it was generally not difficult to achieve the milestones. On paper, this will change in the new programming period because the milestones will be set in the partnership agreements approved by the European Commission.

4.2.5 ERDF projects in the Netherlands

For the *EU Trend Report 2014* (Netherlands Court of Audit, 2014) we examined several ERDF projects and concluded that it was not always straightforward to establish their effectiveness and efficiency. In response to our report, the government agreed with our recommendation to link the milestones more closely to the outcomes and to justify the milestones more objectively. In the government's opinion, the description and justification of the milestones to be reached and the result indicators will be important assessment criteria in the new programming period.

We recommend that the achievement and measurement of result indicators should be consistent with the European Commission's requirements. We further recommend that in the new programming period information be included in the explanatory notes to the National Declaration on the achievement of the Europe 2020 objectives and the milestones on the result indicators. The House of Representatives would then have a comprehensive view of the achievement of the objectives and milestones and the allocation of the performance reserve.

4.3 Allocation of ERDF funds to the member states

In early December 2013, after nearly two and a half years of negotiation - first with the member states and then with the European Parliament - the Council adopted the EU Regulation for the Multiannual Financial Framework (MFF) for the period 2014-2020.

It became apparent during the negotiations that the parties involved held widely divergent interests. The European Commission and the European Parliament wanted to increase expenditure in order to achieve the European goals. The member states, however, were sharply divided. The net contributors demanded sweeping cuts in expenditure, whereas the net recipients wanted a further increase in EU expenditure.

The outcome of the negotiations was that the large net contributors received or retained traditional abatements and that total expenditure for the 2014-2020 period would be lower than that in the previous period. In cohesion policy, for example, € 325 billion would be available for the seven years, € 30 billion less than in the previous period (€ 355 billion).

The European Council completed its negotiation of budgetary priorities and the indicative allocation of the funds to the member states on 8 February 2013.

The European Council of 7-8 February 2013 stated in its conclusions that ERDF funds would be allocated by means of an objective method, taking account of average gross domestic product (GDP) per capita (purchasing power parity), GNI per capita and unemployment. The regions have been divided into three categories: less developed regions, transition regions and more developed regions. Interestingly, a safety net has been formed to ensure that all recipient countries receive a minimum level of support from the ERDF: 'The minimum total allocation (Cohesion Fund and structural funds) for a member state shall correspond to 55% of its individual 2007-2013 allocation'.²¹

Preparation of the ERDF operational programmes began following the completion of the negotiations. The programmes set out what the European regions intend to achieve with support from the ERDF. In the Netherlands, the four ERDF regions sent their preliminary operational programmes to the Ministry of EZ in autumn 2013. They were submitted to the European Commission for approval in March 2014. The first project applications can be submitted once the Commission has approved the programmes.

The European Commission informed the member states of the definitive allocation of the ERDF per member state at the end of December 2013. Before then, the Netherlands had based its programmes on a provisional estimate (Ministry of EZ, 2013).

Timeline of the negotiation of the Multiannual Financial Framework and preparation of ERDF operational programmes in the Netherlands

Negotiation of the Multiannual Financial Framework 2014-2020			ERDF operational programmes in the Netherlands	
Commission proposal	Agreement among member states in European Council	Approval by the Council and European Parliament	Provisional version from the regions to Ministry of EZ	Submission to the Commission for approval
June 2011	February 2013	Nov/Dec 2013	Sept/Nov 2013	March 2014

The European Commission therefore approves the member states' operational programmes after it has allocated funds to the member states.

21

Conclusions of the European Council, Multiannual Financial Framework, p. 18 (European Council, 2013).

5 Combatting fraud in the EU

The legal basis of the fight against fraud in the EU is laid down in Article 325 of the Treaty on the Functioning of the EU. It stipulates that the EU and the member states will counter fraud and all other illegal activities that prejudice the financial interests of the Union. The member states must take measures that act as a deterrent and afford effective protection.

5.1 OLAF

The European Commission's anti-fraud office, OLAF (*Office européen de lutte antifraude*), is tasked with implementing article 325 by countering fraud, corruption, irregularities and other illegal practices that prejudice the financial interests of the European Union. OLAF has the competence to carry out external investigations to combat fraud in member states. If it receives a report of 'fraudulent irregularities'²² it carries out checks and verifications to determine the seriousness of the reported irregularities, and initiates an investigation where necessary. OLAF also assists the European Commission in its efforts to combat fraud in cooperation with the member states. OLAF can initiate its own investigations without suspicions of fraud being reported. The member states are obliged to cooperate in OLAF's investigations.

5.1.1 Annual report 2012

Member states must report all irregularities they detect in excess of € 10,000. The report must make a distinction between unintentional acts or omissions and intentional acts or omissions. The latter are referred to as 'fraudulent irregularities'. Member states must recover the amounts concerned.

The difference between 'irregularity' and 'fraud'

An *irregularity* is an act or omission whereby a member of the EU internal market (for example a paying authority or a beneficiary) prejudices the financial interests of the EU, either by reducing or losing revenue accruing to the EU or by declaring an unjustified item of expenditure. *Fraud* is an intentional act or omission involving the use or presentation of false, incorrect or incomplete statements or documents or non-disclosure of information in violation of a specific obligation or the misapplication of EU funds for purposes other than those for which they were originally granted.

On behalf of the European Commission OLAF prepares annual summaries of the number of irregularities reported. These summaries do not give a complete and reliable picture because member states do not all report irregularities in the same way.²³

5.1.2 Development of irregularities and fraud in the EU

In 2012 13,436 irregularities with an aggregate financial value of € 3.4 billion were reported to the European Commission. Of this amount, € 2.9 billion related to EU expenditure sectors of the budget. The financial value of the irregularities reported represented 2.3 % of all payments in the member states.

²²

OLAF refers to 'irregularities reported as fraudulent'. OLAF defines this as both irregularities where fraud is 'suspected' and where fraud is established, including irregularities that the member states do not report as fraudulent but for which they indicate that criminal proceedings have been initiated. Source: Methodology regarding the statistical evaluation of reported irregularities for 2012 (SWD(2013) 286 final).

²³

See also the *EU Trend Report 2014*, section 1.1.2.

Table 1 Irregularities in expenditure and traditional own resources in the EU in 2012

Nature of the irregularity	Number	Expenditure	Own resources
Irregularities	13,436	€ 2.9bn	€ 0.5bn
- of which fraudulent	1,231	€ 314.8m	€ 77.6m

Source: European Commission/OLAF, Statistical evaluation of irregularities reported for 2012 Own Resources, Natural Resources, Cohesion Policy, Preaccession and Direct expenditure (COM 2013 (284)).

The table below shows the number and financial value of fraudulent irregularities in funds under shared management in 2012 reported by OLAF.

Table 2 Number and financial volume of fraudulent irregularities in funds under shared management in the EU as a whole in 2012

Fund	Number of reports	Financial value (€m)
Agricultural funds	204	88.4
Fisheries fund	4	0.7
Structural funds	279	200.6
Total	487	269.7

Figures derived from: European Commission/OLAF, Statistical evaluation of irregularities reported for 2012 Own Resources, Natural Resources, Cohesion Policy, Preaccession and Direct expenditure (COM 2013 (284)).

In traditional own resources (agricultural levies and customs duties) OLAF found that the member states reported approximately 5% fewer irregularities, including fraudulent irregularities, in 2012 compared to the average number reported in 2008-2012. The financial value in 2012, by contrast, was 20% higher than the average in 2008-2012. This increase, according to OLAF, was due to six major cases reported by five member states, including the Netherlands.

5.1.3 Fraudulent irregularities reported by the Netherlands

OLAF's report for 2012 discloses that the Netherlands reported fraudulent irregularities only in respect of the traditional own resources (ten reports)²⁴ and of the agricultural funds (one report).²⁵

5.2 Greater priority to fraud prevention

Greater priority will be given to fraud prevention in the new 2014-2020 programming period. In addition to the European Commission's Directorates-General, the managing authorities in the member states must also draft an anti-fraud strategy. The audit authority must ensure that the strategy and its implementation comply with the European requirements.²⁶

On 6 December 2012 the European Commission approved a detailed and ambitious action plan to combat tax fraud and tax evasion. More specifically, the action plan comprises a rapid response mechanism to counter VAT fraud. Where necessary to combat complicated fraud arrangements, such as carousel fraud, the member states can apply a more effective reverse charge mechanism so that the recipient of goods or services is liable for the VAT. More information is available in our report, *Intracommunity VAT Fraud* (Netherlands Court of Audit, 2012). The mechanism also provides handles to tackle new forms of fraud.

²⁴

The statistical evaluation of irregularities reported for 2012 shows that the Netherlands reported ten cases of fraudulent irregularities in customs duties, a traditional own resource. The financial value was not known when the reports were made.

²⁵

Following complicated legal proceedings in 2011 fraud was established with a financial value of € 28.7 million.

²⁶

Synthesis of the Commission's management achievements in 2012 (COM(2013)), 334 final. Articles 72, 125 and 148 and Annex XIII of Regulation EC 1303(2013). See also answers to parliamentary questions on the EU Trend Report 2014, parliamentary paper 33 869, no. 2.

5.3 Specific investigations reported in the National Declaration

Two cases of suspected fraud were reported in the EAGF. One case related to the collection of a receivable that the Ministry of EZ had initiated at the request of the European Commission.²⁷ This was not a case of fraud directly related to an irregularity reported by the member state. The other case related to the common organisation of the fruit and vegetables market. Further to information received from third parties, the European Commission established that there were potential irregularities which had led to a preliminary investigation carried out by OLAF in 2013. The investigation has not yet been completed.

An irregularity was reported in the ESF, as disclosed in the *National Declaration 2014*. DG Employment made an initial report to OLAF in 2013. The managing and audit authorities subsequently made a joint report in 2014. OLAF has started an investigation.

Fraud was suspected in two ERDF projects. In ERDF North, OLAF is investigating an anonymous report. In ERDF West, the audit authority has expressed a suspicion of fraud (this is still a matter of discussion with the managing authority).

²⁷

The same report as referred to in section 5.1.3.

6 Government response and the Netherlands Court of Audit's afterword

We received the Minister of Finance's response to our draft report on behalf of the government on 28 April 2014. The Minister of Finance also responded on behalf of the Minister of SZW and the State Secretaries for EZ, SZW and Security and Justice (VenJ). This chapter presents the Minister's letter in full (section 6.1) and the Netherlands Court of Audit's afterword (section 6.2). The Minister of Finance responded to the table of conclusions and recommendations in annexe II in an annexe to his letter. The full response can also be found on our website at www.rekenkamer.nl.

6.1 Response of the government

'You submitted your Report on the National Declaration 2014 for comment on 11 April 2014. On behalf of the Minister of Social Affairs and Employment and the State Secretaries for Economic Affairs, Social Affairs and Employment, and Security and Justice, I hereby present the government's response to the report.

The government considers your opinion to be a valuable additional assurance on the National Declaration 2014. The two documents demonstrate that the Netherlands is willing to account for EU expenditure at the highest political level to the House of Representatives and the European Commission.

The government is pleased that the Netherlands Court of Audit concludes that the National Declaration 2014 gives a good view of the management and use of EU funds under shared management in the Netherlands. A hallmark of the National Declaration is that it accounts transparently for the regularity of expenditure and the functioning of the systems and also raises matters that do not comply with EU rules and associated points for improvement. The National Declaration 2014 is no exception. The National Declaration specifically refers to errors in EU expenditure that exceed the 2% tolerable error rate and to the necessary improvements. This is confirmed by your report.

Remittance of own resources to the European Union and the National Declaration

You express a wish to include the remittance of own resources to the European Union in the National Declaration in order to produce comprehensive EU accounts at member state level. In response, the government refers to its letter of 13 February 2014 (parliamentary paper 33 523, no. 12). This letter details our reasons for not including the remittance of own resources in the National Declaration unless we are required to do so by the EU. The government sees no reason to amend its position on the inclusion of the remittance of own resources in the National Declaration.

Combatting fraud in the EU

In the chapter on combatting fraud in the EU, you use the term 'fraudulent irregularities'. This term may cause misunderstandings because it can be interpreted as irregularities that are accompanied by fraud. OLAF, the European Commission's anti-fraud office, refers in its own figures to 'irregularities reported as fraudulent'.

These are irregularities where there is only suspected fraud, not fraud itself. Suspected fraud is defined in article 27 of Regulation (EC) No. 1828/2006 as, “an irregularity giving rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud.” This definition indicates that fraud is not necessarily the case. That is decided by the courts.

Administrative burden of smaller funds

The Netherlands Court of Audit recommends that for the smaller funds the government investigate the balance between the administrative burden of adequate management and control systems and the funds the Netherlands receives. The government will adopt this recommendation.

Opinion on the National Declaration 2014

General

In summary, the Netherlands Court of Audit’s opinion is:

- the preparation of the National Declaration as a whole was sound;
- the management and control systems set up by the Netherlands function in a sound manner;
- the assertion on the legality and regularity of the financial transactions accounted for down to the level of the final beneficiaries is sound, subject to a reservation regarding amounts receivable in the ERDF, EFF, ESF and the migration funds, on which the Netherlands Court of Audit could obtain only limited assurances.

Reservation on amounts receivable

Your opinion on the assertion made in the National Declaration on the financial transactions includes a reservation on the completeness of amounts receivable in the ERDF, ESF, EFF and the migration funds. The Netherlands Court of Audit could obtain only limited assurances on these amounts. The Court of Audit recommends that the amounts receivable in the sub-declarations be audited in full by the ADR. The government accepts your recommendation but notes that the method used to include receivables in the National Declaration has already been applied for several years. The government would also note that the reservation due to the limited assurances relates to € 2.3 million, out of total outstanding receivables of € 97.3 million. The reservation relates to less than 0.2% of the total expenditure declared to the European Commission of € 1,286 million. It is of very little financial importance.

Assessment of the systems in place for the agricultural funds and migration funds

To arrive at your opinion, the Netherlands Court of Audit reviewed the structural funds in the same way that it reviewed the agricultural funds and the migration funds. Different EU rules are in force, however, for reviews of the structural funds systems and the agricultural funds and migration funds systems. The Netherlands Court of Audit can, of course, use its own evaluation system but it will not be completely consistent with those required by the EU and with the system prescribed by the European Commission for the audit authority to review the systems and on which the National Declaration is based. The Netherlands Court of Audit’s review accordingly presents an anomalous and more negative picture. To date, the National Declaration has been prepared in close consultation with the Court of Audit and in accordance with EU rules to prevent national top-ups. The government therefore attaches great value to the fact that the systems are reviewed in accordance with EU standards.

Furthermore, the use of different review methods is confusing to external parties. The reviews the government carried out for the National Declaration 2014 were in accordance with EU rules.

Agricultural funds

The error rates detected in the European Agricultural Fund for Rural Development (EAFRD) exceed the 2% tolerable level. You recommend that we monitor the effectiveness of the improvement measures being taken in order to reduce the error rate. You also make a recommendation regarding improvements to the reliability of the control statistics and the documentation of the reconciliation of the control statistics with the financial accounts for the EAFRD. The State Secretary for Economic Affairs will follow up both recommendations.

ERDF

You recommend that we monitor the effectiveness of improvement measures taken by the ERDF West managing authority and make improvements to the management verifications, ICT systems and the follow-up to audit findings. You also recommend that sufficient capacity be made available, that a cautious declaration policy be pursued and that further improvements be made in the certification work. Finally, you recommend exercising prudence and making early use of mediation and consider optimising independence by involving an external expert in the mediation process or by positioning mediation outside the ministry.

The West managing authority undertook to the Supervisory Committee that it would implement a number of improvement measures. Where necessary, management verifications will be improved. Sufficient capacity will be provided to implement a cautious declaration policy to ensure that expenditure is declared only if there are assurances on its regularity. The ministry will also step up its supervision of the timely detection of implementation problems, the timely introduction of measures and, if necessary, escalation. Agreements will be made with the audit authority regarding the timely completion of audits. Finally, agreements have been made for the new programming period on the harmonisation of the managing authorities' procedures and the introduction of a single ICT system to be implemented in 2015.

The State Secretary agrees with the recommendation that prudent use should be made of mediation and mediation should be independent. The ministry will consider the recommendations in an assessment with the parties concerned. The state secretary will not adopt the recommendation regarding the early use of mediation. It does not agree with the recommendation to make prudent use of mediation as mediation is preceded by other processes such as the audit clearance process.

Position of the audit authority

In accordance with Regulation 1083/2006, Art 59 (paragraph 1c), the audit authority is: a national, regional or local public authority or body, functionally independent of the managing authority and the certifying authority, designated by the member state for each operational programme and responsible for verifying the effective functioning of the management and control system.

EFF

You recommend that we monitor the effectiveness of the improvement plan and ensure that the improvements necessary in all parts of the managing authority's management and control system are implemented soon. You further recommended that segregation of duties be improved, particularly in the certification work. Finally, you recommend that prudent and timely use be made of mediation and that the same method be used to calculate the error rate as in structural funds.

The State Secretary for Economic Affairs will adopt your recommendation to monitor the effectiveness of the improvement plan. The managing authority has prepared an improvement plan with necessary improvements and submitted it to DG MARE. The improvements at the managing authority/intermediate body will be implemented largely before 31 May 2014. The audit authority will review the functioning in its system audit for 2013/2014. The recommendation on improving the segregation of duties in the certifying authority's certification work is due entirely to a one-off change in the expenditure statement made by the certifying authority in December 2012 in order to prevent automatic decommitment.

The State Secretary for Economic Affairs agrees with the recommendation to make prudent use of mediation and optimise the independence of mediation. The mediation process makes a positive contribution to the regularity of the accounts and to the member state's financial interests. The audit authority's calculation of the error rate has been agreed with DG MARE.

Migration funds

The Netherlands Court of Audit made three recommendations in respect of the migration funds. Firstly, it recommends that the effectiveness of the improvement measures already being taken be monitored and additional measures be taken if necessary. Secondly, it recommends that the plans for the preparation of the annual reports be implemented on a timely basis and further measures be taken if necessary. Thirdly, it recommends that receivables management be transferred properly to the SZW Agency and receivables be settled in a timely manner.

The State Secretary for Security and Justice (European External Borders Fund (EEBF), the European Refugee Fund (ERF) and the European Return Fund (RF)) and the Minister of Social Affairs and Employment (European Integration Fund (EIF)) have taken measures in the light of experience with previous annual tranches for the migration funds.

The impact of the improvement measures, such as the introduction of a planning tool to plan monitoring visits to the projects, the recruitment of extra personnel and the strengthening of internal control, is reflected, albeit with some delay, in the audit authority's opinion on the funds. Monitoring the impact has the continuous attention of the responsible authority for the funds. To this end, the authorities hold monthly meetings. The audit authority's first project audits for the 2011 annual tranche found a positive development.

The deadlines set by the European Commission for the submission of annual reports on the migration funds were not met in respect of the 2010 annual tranche. The delay was reduced, however, from 19 months to five months for the 2010 annual tranche.

The delay will be reduced even further, to three months at the most, in respect of the 2011 annual tranche. Many member states have difficulty meeting the formal deadline because the European Commission has set a very tight term. Where possible, all measures will be taken in order to submit the 2012 annual reports to the Commission no later than one month after the official deadline. This must still be agreed with the Commission.

The outstanding receivables have been analysed and transferred to the SZW Agency. The SZW Agency will use the same collection method that it uses for the European Social Fund (ESF).

Our comments on the recommendations are enclosed in the annexe to this response to the Netherlands Court of Audit's report on the National Declaration 2014.

6.2 Netherlands Court of Audit's afterword

The government will adopt nearly all the recommendations arising from our opinion on the National Declaration (see chapter 2 and the summary in annexe 11). We will continue to follow the progress made with interest. The Netherlands Court of Audit agrees with the government that any review of the funds' management and control systems should comply with EU standards. We have explained that the review system differs from one fund to another on account of the different rules set by the European Commission but we nevertheless wanted to present an overall picture and explained how we did so.

Remittances to the European Union

Unfortunately the government sees no reason to change its position on the inclusion of remittances of own resources in the National Declaration. It refers to its letter of 13 February 2014 (Ministry of Finance, 2014). In it, the government gives such reasons as the absence of shared responsibility for remittances, the independent position of the CBS and the European Commission's own control system. We are in favour of having a comprehensive set of EU accounts at member state level. As we explained in the report, in our opinion the national accounting trail should be consistent with the European accounting trail and we see no convincing reasons in the letter not to include customs duties and agricultural levies in the National Declaration.

Effectiveness and efficiency

We were pleased to read that the government agreed to consider studying the administrative burden of the smaller funds. In response to the *State of Central Government Accounts 2013*,²⁸ the Minister of Finance undertook to work again in the new 2014-2020 programming period to ensure that European funds were spent and accounted for efficiently and effectively.

Combatting fraud in the EU

The Minister of finance states in his letter that the term 'fraudulent irregularities' can lead to misunderstandings. The Minister observes that OLAF uses the term 'irregularities reported as fraudulent'. In his opinion, these are irregularities where there is only a suspicion of fraud, and not fraud itself. We explained in chapter 5 that OLAF understands 'irregularities reported as fraud' to include both irregularities in which fraud is suspected and irregularities in which fraud is established,²⁹ in brief fraudulent irregularities.

28

See <http://verantwoordingsonderzoek.rekenkamer.nl/2013/rijksbreed>.

29

See 'Methodology regarding the statistical evaluation of reported irregularities for 2012'.

Annexe I National Declaration 2014

We received the *National Declaration 2014* from the Minister of Finance on 18 March 2014. An English translation of the signed Dutch National Declaration, made by the Ministry of Finance is presented below. The ministry has not included the annexes to the National Declaration in this translation.

National Declaration 2014

Having regard to the Council of Ministers decision d.d. 7 March 2014, I hereby declare, on behalf of the government of the Netherlands, in my position and responsibility as minister of Finance, concerning the financial management of resources for the following funds in shared management and based on the information at my disposal, that:

Declaration on the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD):

1. The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) for the financial year 16 October 2012 to 15 October 2013, provide, to the best of my knowledge, reasonable assurance on the legality and regularity of underlying transactions, as well as of the eligibility of payment claims;
2. The expenditure and revenue up to a total amount of € 984.145.119 debit or credit to the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) as included in the consolidation statement issued by the Dutch payment agency and in payment claims to the Commission covering the financial year 16 October 2012 to 15 October 2013, are, to my best knowledge, legal, regular, correct and complete up to the level of the final beneficiary;
3. Pending claims up to a total amount of € 94.984.555 for the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) as included in the consolidation statement issued by the Dutch payment agency and in payment claims to the Commission covering the financial year 16 October 2012 to 15 October 2013 are, to the best of my knowledge, legal, regular, correct and complete.

Declaration on the European Fisheries Fund (EFF):

1. The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the European Fisheries Fund (EFF), for the period 1 July 2012 to 30 June 2013, provide, to the best of my knowledge, reasonable assurance on the legality and regularity of underlying transactions, as well as of the eligibility of payments, with the exception of the management verifications and certification which guarantee the legality and regularity of the payments, which function partially and for which substantial improvements are needed;
2. The expenditure and revenue up to a total amount of € 19.410.856 (EFF co-financing € 4.484.397) debit or credit to the European Fisheries Fund (EFF), as included in the consolidation statement issued by the Dutch Certifying Authority and in payment claims to the Commission covering the period 1 January 2012 to 31 December 2012, are, to the best of my knowledge, legal, regular, correct and complete up to the level of the final beneficiary, excluding an amount of € 668.088 (3,34%) of irregular expenditure and subject to an amount of € 7.333.665, which is still uncertain.
3. Pending claims up to a total amount of € 130.518 (EFF co-financing € 50.137) as included in the consolidation statement issued by the Dutch Certifying Authority and in payment claims to the Commission covering the period 1 January 2012 to 31 December 2012 are, to the best of my knowledge, legal, regular, correct and complete.

Declaration on the European Regional Development Fund (ERDF):

1. The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the European Regional Development Fund (ERDF) for the period 1 January 2012 to 31 December 2012, provide, to the best of my knowledge, reasonable assurance on the legality and regularity of underlying transactions, as well as the eligibility of payment claims, with the exception of the management verifications of Management Authority West which guarantee the legality and regularity of the payments, and which function partially;
2. The expenditure and revenue up to a total amount of € 336.318.722 (ERDF co-financing € 142.043.848) debit or credit to the European Fund for Regional Development (ERDF), as included in the consolidation statement issued by the Dutch Certifying Authority and in payment claims to the Commission covering the period 1 January 2012 to 31 December 2012, are, to the best of my knowledge, legal, regular, correct and complete up to the level of the final beneficiary, excluding an amount of € 14.210.800 (4,00%) of irregular expenditure of which a part (€ 248.854) was corrected by the management authorities before the submission of the audit report. Therefore the error rate has been reduced to € 13.961.946 (3,93%);
3. Pending claims up to a total amount of € 967.777 (co-financing ERDF € 504.000), as included in the consolidation statement issued by the Dutch Certifying Authority ERDF and in payment claims to the Commission covering the period 1 January 2012 to 31 December 2012 are, to the best of my knowledge, legal, regular, complete and correct.

Declaration on the European Social Fund (ESF):

1. The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the aim 2 2007-2013 European Social Fund (ESF) operational program, CCI2007NLO52PO001 for the period 1 January 2012 to 31 December 2012 provide, to the best of my knowledge reasonable assurance on the legality and regularity of underlying transactions, as well as of the eligibility of payments;
2. The expenditure and revenue up to a total amount of € 328.237.390 (ESF co-financing € 144.146.604) of eligible costs credit or debit to the European Social Fund (ESF), as included in the consolidation statement issued by the Dutch Certifying Authority and in payment claims to the Commission covering the period 1 January 2012 to 31 December 2012, are, in the context of the above mentioned information and to the best of my knowledge, legal, regular, correct and complete to the level of the final beneficiary, excluding an amount of € 2.267.056 (2,01%) of irregular expenditure of which the actual error has been corrected by the Management authority before the submission of the audit report. Therefore the remaining error rate has been reduced to 1,33%;
3. Pending claims up to the amount of € 0.00 to the European Social Fund, as included in the consolidation statement issued by the Certifying Authority and in payment claims to the Commission covering the period 1 January 2012 to 31 December 2012 are, to the best of my knowledge, legal, regular, complete and correct.

Declaration on EU Migration Funds: European Refugee Fund (ERF), European Return Fund (RF), European Border Fund (EBF) and the European Integration Fund (EIF):

1. The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the Annual Program of the European Refugee Fund (ERF) 2010, the European Return Fund (RF) 2010, the External Borders Funds (EBF) 2010, and the European Integration Fund (EIF) 2010, provide, to the best of my knowledge, reasonable assurance on the legality and regularity of underlying transactions, as well as the eligibility of payment claims, with the exception of the findings mentioned in the explanatory note regarding the functioning of monitoring the projects and the determination of EU subsidies.
2. The total eligible costs up to an amount of:
 - € 5.887.164 (ERF co financing € 3.897.708) as included in the annual program ERF 2010,
 - € 6.953.995 (RF co financing € 3.524.685) as included in the annual program RF 2010,
 - € 2.404.508 (EBF co financing € 1.881.796) as included in the annual program EBF 2010,
 - € 3.956.667 (EIF co financing € 1.937.359) as included in the annual program EIF 2010,
 issued by the Responsible Authority and in payment claims to the Commission (credit and debit), in the context of the information above and to the best of my knowledge, legal, regular, correct and complete up to the level of the final beneficiary with exception of the following:
 - Having regard the additional information of the subsidy applicants and own interpretation of rules, the Program secretarial Office for European Funds has, after discussion with the Certifying Authority, decided to differ from the correction proposed by the Audit Authority concerning the EBF. The Audit Authority estimates the effects of the restriction on 6,7%. The amount of Community funding is € 120.966;
3. Pending claims on 1 August 2013 up to the amount of:
 - € 26.268 to the European Refugee Fund, including € 25.006 for the year program 2010 and € 1.262 for the year program 2009;
 - € 18.021 to the European Return Fund, including € 18.021 for the year program 2010;
 - € 1.184.154 for the European Border Fund, including € 555.459 for the year program 2010 and € 628.695 for the year program 2009;
 - € 137.025 to the European Integration Fund, including € 100.090 for the year program 2010 and € 36.935 for the year program 2009, are, to the best of my knowledge, legal, regular, complete and correct.

According to the best of my knowledge, surveys and corrections on the approval of payment claims to the Commission are accounted for in the annex. The confirmations and reservations in this declaration are restricted to matters of material consequence, and are a direct result of audits and bar inherent insecurities due to the interpretation of EU-legislation.

Minister of Finance of the Netherlands,

J.R.V.A. Dijsselbloem

Explanatory note

The following table shows an overview of the assertion made on the systems, and the error rates for each fund included in the National Declaration.

	Assertion on the system	Error rate	Total of eligible costs for ND 2014 in €
EAGF en EAFRD	System functions	<2% *	984.145.119
EFF	System functions partially	3,34%	19.410.856
ERDF	System functions, with the exception of Management authority West	4,00%	336.318.722
ESF	System functions	2,01%	328.237.390
Migrationfunds	System functions, with the exception of the functioning of monitoring the projects and the determination of EU fund.	EBF: 6,7% for the other funds: below 2%	19.202.334

*) The error rate in the Financial year 2013 for EAFRD Integrated Management- and Control System regulations leads to 5,19%, and for EAFRD not Integrated Management- and Control System regulations leads to 10,78%. The total error, denominated in a percentage of the claimed amounts, exceeds the 2% tolerance norm for EAFRD.

Accountability threshold

The following criteria apply for reporting special points of interest:

- Is there a substantial financial or political risk?
- Is it a substantive qualitative improvement in the execution of European funding regulations?
- Is a wide range of executioners affected?

The following criteria apply special points of interest for what is finally accounted for in the National Declaration:

- Investigation of qualitative aspects points to serious shortcomings of national control systems; and
- Irregularities resulting from these shortcomings for the sample concerned exceed the tolerability threshold of 2%; and
- The effect cannot be annulled by corrective measures.

A tolerability threshold of 2% applies for claims and excessive funding on the level of different funds or operational programmes (as far as amounts are not corrected).

It will be specified when the tolerability threshold is exceeded on fund level.

Approval European Commission

In the end the European Commission decides on the EU-conformity of national implementation and execution of EU-legislation. Consequently, there is an inherent risk regarding the scope and size of corrections by the Commission.

Common Agricultural Policy

Declaration of paying agencies

The payment agency “Rijksdienst voor Ondernemend Nederland” has, conform article 8 of Council Regulation (EG) no. 1290/2005 of 21 June 2005, in its payment claim to the Commission for the period 16 October 2012 to 15 October 2013, issued a declaration that these are true and fair, complete and correct. The management and control systems offer reasonable assurance on the legality and regularity of underlying transactions.

The technical services found at on the spot checks at beneficiaries of EAFRD, that there were more errors (incorrect claimed amounts by the final beneficiary) than previous years. This appears among other things by the assurance statements, which include an analysis of the control statistics of EAFRD and EAGF. These show that the error rate in the financial year 2013 for EAFRD Integrated management- and control system regulations results in 5,19% and EAFRD non Integrated management- and control system regulations results in 10,78%. The total error, expressed as a percentage of the claimed payments, exceeds the tolerability threshold of 2%. For the Common Agriculture Policy (CAP) as a whole (EAFRD and EAGF) the error stays below the threshold.

Improvement measures EAFRD Integrated management and control system regulations

The first improvement concerns the “Subsidieregeling Agrarisch Natuurbeheer” which includes a result commitment. The committed results were not achieved in all cases: the final beneficiary was not always able to pursue results due to external influences. In the new regulation, “Subsidieregeling Natuur- en Landschapsbeheer”, the result commitment will not be included. This should ensure that these errors do not occur in the future.

The second improvement concerns the regulation “Probleemgebiedenvergoeding”. In this regulation, the way of collecting the data (claims for declarations, regulation “Probleemgebiedenvergoeding” without subscription and without indicating surface data) results in differentiation between the claim for the parcel and the boundaries of the problem area. This method was modified at the start of 2013. Now applicants have to subscribe exactly the given “Probleemvergoeding” parcels, with mentioning of the surface data.

Improvement measures EAFRD non Integrated management and control system regulations

With respect to the error rate of the non Integrated Management- and Control System regulations the amount of error is low and incidental. The error concerns mostly investments: it appeared that they were not realized (on time). Because it concerns incidents, there are no improvements taken.

Declaration of the certifying body

The Central Audit Service has, in the position of Certifying body, conform article 8 of the above mentioned Council Regulation, confirmed the correctness of the declaration of the payment agencies in their audit opinion.

Audit statement on legality

The Central Audit Service has, in addition to European regulations for the purpose of the judgment of the Secretary of State for Economical Affairs on EAFRD and EAGF, declared that the state of consolidation CAP 2013 offers a true and fair view of the expenditure and revenue, and that the declared expenditure and revenue in the state of consolidation CAP 2013 meet the requirements of legality to the level of beneficiaries.

European Fishery Fund

Declaration of the certifying body

The “Dienst Regelingen”, in the position of Certifying body, conform article 60 of the Council Regulation (EG) nr. 1198/2006 of 27 July 2006, issued a declaration that payment claims to the Commission covering the period 1 January 2012 to 31 December 2012 are true and fair, complete and correct. The management and control systems offer reasonable assurance on the legality and regularity of underlying transactions.

Report and judgment Audit Authority

The Central Audit Service has, in the position of Audit Authority conform article 61 of the above mentioned Regulation, held on the period 1 July 2012 to 30 June 2013 that the management and control system of the Management Authority/ Mediation body and the Certifying Authority, sufficient efficiently has functioned to ensure that the payment claims to the Commission are correct, as well as a result to offer a reasonable assurance on the legality and regularity of underlying transactions, with the exception of the management verifications and certification, which function partially. There are substantial improvements needed for the procedures that ensure the legality and regularity of the payments. The Management Authority composes a plan for improvement in alignment with the Audit Authority which will be send to the Commission for approval before the end of April 2014. The European Commission has pending of the improvement measures suspended the payments of the member state.

The investigation of the Audit Authority resulted in a total error of € 668.088 (3,34%). The founded errors concerns to a large extend the eligibility of the wages. In particular the assessment of reasonableness and fairness by the Management Authority/ Mediation Body. To reduce risks for similar cases in the future, the Management Authority/ Mediation Body tightens the existing procedures (like benchmarking).

Through participation in the Supervisory Committee and the (directors) “Stuurgroep EFF” the ministry (of Economical Affairs) monitors the above mentioned improvements.

Additionally the Management authority (directorate “Dierlijke Agroketens en Dierenwelzijn”) and operator (“Rijksdienst voor Ondernemend Nederland”) tightens the checks on regularity of the fund claims. For example through expanding the checklists and adaption of the controlsystems.

The Audit Authority has after consultation of the European Commission decided to leave the disputed items (to an amount of € 3.223.316) out of the error calculation. In addition, an audit where several issues need closer investigation was not taken into account. The amount of declared expenditure involved € 4.110.349.

The EFF has a multiannual system of finance. Budgets become available in seven annual stages. The Management authority submits interim payment claims of audited incurred and paid eligible costs by the beneficiaries. When the program is closed, the final payment claim and the matching audit report of the Audit Authority are the grounds for approval of the financial accountability of the program by the European Commission. According to the Commission the Audit Authority should not take into account the specific already corrected errors at the rating of the interim payment claims. The annual approval of the European Commission is based on the error rates after correction of errors. The Netherlands on the other hand, bases her annual National Declaration on the legality of the annual payment claim.

Audit statement on legality

The Central Audit Service, in addition to European regulations for the purpose of the judgment of the Secretary of State for Economical Affairs on European Fishery Fund, issued an audit statement with restriction because the management verifications and certification which ensure the legality and regularity of the payments, function partially and the above mentioned amounts exceed the tolerability threshold.

An amount of € 278.784 under technical assistance (priority axis 5) is declared above the Operational Program mentioned budget of € 2.395.200. The base for calculating the claimed interim payment is the co-finance contribution of the member state multiplied with the contribution rate for each priority axis included in the OP. This will be corrected in later payment claims.

ERDF

Declaration Certifying Authority

The “Dienst Regelingen”, in the position of Certifying Authority, conform article 61 of Council Regulation no. 1083/2006 d.d. 11 July 2006, issued a declaration that payment claims to the Commission covering the period 1 January 2012 to 31 December 2012, are true and fair, complete and correct, and offer reasonable assurance on the legality and regularity of underlying transactions.

Report and judgment Audit Authority

The Central Audit Service, in the position of Audit Authority, conform article 62 of the above mentioned Regulation on period 1 January 2012 to 31 December 2012 held that the management and control system of the Management Authorities North, South, East and West and the Certifying Authority sufficient efficiently have functioned, to ensure that the payment claims to the Commission are correct, and as a result, to offer a reasonable assurance on the legality and regularity of underlying transactions, with the exception of the management verifications at Management Authority West, which function partially.

The Audit Authority has found a total amount of € 14.210.800 (4,00%) of errors. The Management Authorities corrected certain errors before the submission of the audit report. Therefore the error is reduced with € 248.854 to € 13.961.946.

The following table shows the corrected (net) error rates in relation to the declared amounts in total ERDF and for each Management Authority.

Structure fund ERDF	Error rate
ERDF Total	3,93%
ERDF Management Authority West	6,86%
ERDF Management Authority South	0,41%
ERDF Management Authority East	0,64%
ERDF Management Authority North	0,21%

Taking the table above into account, the high error rate has led to an audit statement with restriction for Management Authority West. The Annual Control Report shows that the management verifications which ensure the regularity of the payments to final beneficiary, function insufficiently and that the largest part of the irregularities regards the findings with respect to the external costs and, to a lesser extent, to wages and procurement. For the error found at 23 projects at Management Authority West with a total amount of € 10,8 mln, € 8,9 mln is due to 3 projects. Management Authority West has pledged improvements in the Supervisory Committee with respect to the management verifications which should reduce the risk on the same errors in the future. Examples of improvements are: timely and adequate correction of own findings and declaring as much as possible projects that are settled and completed with the final beneficiary settled and completed projects at the European Commission.

In addition to the improvements of Management Authority West, the ministry (of Economic Affairs) intensifies the oversight. There will be periodic consultation with all parties involved on the level of MT within the ministry and with the Central Audit Service, to identify problems in operations on time, to take measures on time and, if necessary, timely escalate at the top of public officials/political officials.

In line with what was agreed and decided in the Covenant for the period 2014-2020, the management authorities will ensure that the payment claims that are submitted to the European Commission for the remainder of the period 2007-2013 contain less than 2% errors.

The ERDF has a multiannual system of finance. Budgets become available in seven annual stages. The Management authority submits interim payment claims of audited incurred and paid eligible costs by the beneficiaries. When the program is closed, the final payment claim and the matching audit report of the Audit Authority are the grounds for approval of the financial accountability of the program by the European Commission. According to the Commission the Audit Authority should not take into account the specific already corrected errors at the rating of the interim payment claims. The annual approval of the European Commission is based on the error rates after correction of errors. The Netherlands on the other hand, bases her annual National Declaration on the legality of the annual payment claim.

Audit statement on legality

The Central Audit Service has, in addition to European regulations for the purpose of the judgment of the Secretary of State for Economic Affairs on ERDF, declared that the state of consolidation ERDF 2012 offers a true and fair view of the expenditure and

revenue, with exception of the amounts mentioned above, and meets the requirements of regularity to the level of beneficiaries. This results in an audit statement with restriction. The Central Audit Service has found that the tolerability threshold of 2% is exceeded with 2% (total error 4%). After 2012 a small amount of errors has been corrected by the management authorities. Therefore the error rate has been reduced to 3,93%.

ESF

Declaration Certifying Authority interim payment European Commission d.d. 21 December 2012

The “Dienst Regelingen”, in the position of Certifying Authority, conform article 61 of Council Regulation no. 1083/2006 d.d. 27 July 2006, for the period 1 January 2012 to 31 December 2012, issued a declaration that the management measures of the Management Authority are sufficient effectively and offer reasonable assurance on the legality and regularity of underlying transactions.

Report Audit Authority

The Central Audit Service, in the position of Audit Authority, held that the management and control system covering the period 1 July 2012 to 30 June 2013, set up for Operational Program aim 2 2007-2013, CC12007NLO52P0001, conform the applicable requirements of articles 58 to 62 of Regulation (EG) nr. 1083/2006 of the Council, and section 2 of Regulation (EG) nr. 1828/2006 of the European Commission, sufficient effectively have functioned to offer a reasonable assurance that payments claimed by the Commission are correct, and as a result to offer a reasonable assurance on the legality and regularity of underlying transactions.

Audit statement on legality

The Central Audit Service, in its position as Audit Authority, issued additionally that the declared expenditure to the level of beneficiants, and the European Commission calculated and paid eligible fund, in all material aspects are legal and regular based on European law and regulations, with the exception of 2,01% of irregular expenditure of which the found error ad € 2.267.056 has been corrected by Management Authority before the submission of the audit report. Therefore the error rate has been reduced to 1,33%. This net error rate is the basis of the annual statement to the European Commission according to article 62, sub 1, point ii) of the Regulation (EG) nr. 1083/2006 and article 18, sub 2, of the Regulation (EG) nr. 1828/2006. This opinion is unqualified.

The slight excess of the 2% threshold is mainly caused by five projects of “Stichting Opleidingsfonds Groothandel”, declared in 2012. The total declared amount ad € 10.349.207, with an error found of € 1.646.624. This error was for a substantial part (€ 1.236.499) caused by the erroneous accountability of training costs of two executors. The total error amount of € 1.646.624 has been corrected in the last payment claim for 2013. Without “Stichting Opleidingsfonds Groothandel” the brute error rate consists of 1,51%.

The Management Authority will consider the consequences of these findings for future payment claims of projects related to “Stichting Opleidingsfonds Groothandel”, and to what extent these findings and possible overfunding are applicable for the

mentioned five projects on the declared expenditure before 2012. The Audit Authority will judge the sufficiency and operations of the Management Authority. Further, the Management Authority has tightened the payment in advance policy: the possibility for payment in advance for Action E (sustainable deployment sectors) has been removed, and for other payment in advance claims, also depending on risk assessment, there will be looked at the degree the project is implemented to date, the forecast of liquidity. The Management Authority will work with a limited number of fixed applicants, and simplified monitorable projects for the new ESF period. This requires more control at the 'front office'.

Migration Funds

Audit Authority

The Audit Authority is the body mentioned in article 25, sub 1 preamble and sub c of the Decision nr. 573/2007/EG of the European Parliament and the Council d.d. May 23 2007 establishing ERF for the period 2008-2013 and in the corresponding Decisions to establish the RF and the EBF. For the EIF the Audit Authority is the body mentioned in article 23, sub 1, preamble and sub c of the Decision nr. 2007/435/EG of the Council d.d. June 25 establishing EIF.

Implementation Migration Funds

The secretary of state of the ministry of Security and Justice is since the formation of the current government responsible for managing the ERF, the RF, and the EBF in the Netherlands, the minister of Social Affairs and Employment is since that formation responsible for EIF. The declared expenditure refers to the Annual programs of 2010 of these funds. The eligibility period of these annual programs are from January 1 to June 30 2012.

Late submission annual report

The annual reports 2010 should have been submitted on March 31 2013. This date was not met because of several reasons. The directorates "Migratiebeleid" (EBF, RF, ERF) and "Integratie en Samenleving" (EIF) chose in their position as Responsible Authority to give the applicants maximum space to execute their project. Hence there was a limited amount of time left for the auditing bodies to complete their investigations. From the year tranche 2012, the space for beneficiaries has been shortened by 6 weeks, through an adaption of the terms of condition of the funds EBF, RF, ERF, EIF. Besides the Responsible Authority had to deal with arrears from the past. These arrears have been eliminated through extra staff capacity in 2012. Also, there have been organizational changes like the moving of the Responsible Authority and the delegated body.

The annual reports of EBF, RF, and the ERF are submitted on August 14 2013 at the European Commission. The annual report EIF has been submitted on August 30 at the Commission. This was before the decommitment deadline set by the European Commission.

From January 1 2014 the Agency SZW has been established as the Delegated Body for the Migration Funds. The Responsible Authority wants to profit from the benefits of synergy in the implementation of the funds because the Agency SZW is currently also the responsible Management Authority for ESF.

Audit investigation European Commission

In spring 2012 the European Commission performed a post-audit on the ERF and the EBF where the system was investigated, and some project audits were performed on projects of the year tranches 2007 and 2008. On August 27 2012 the European Commission sent a concept report on which has been extensively responded by letter. Eventually this led to a reduction of € 9.290 for ERF 2008 and a provisional reduction of € 14.871 for EBF 2007 and 2008. This has been announced to the Responsible Authority by letter on December 11 2013. The post-audit of the European Commission on the EBF has not been closed because of a dispute. This dispute is currently held at the Commission.

Besides the European Commission also performed a post-audit on EIF in spring 2012. The system was investigated and some project audits were performed on projects of year tranche 2007. On August 27 2012 the European Commission sent a concept report on which has been extensively responded by letter on October 15 2013. Eventually this led to a (small) reduction of € 1.837 for EIF 2007. This has been announced to the Responsible Authority by letter on December 11 2013.

Comments of the Audit Authority on the Funds

The checks of the Audit Authority on the fund EBF have led to a declaration with restriction. The AA estimated the effects of the restrictions on 6,7% of the total amount of declared expenditures. The community contribution involved comes down to € 120.996.

The restriction on the declaration is caused by differences of interpretation of the regulation between the Audit Authority and the Responsible Authority. The Responsible Authority has decided, in alignment with the Certifying Authority, to follow the advice of the Program secretarial Office for European Funds to mark an amount of € 161.328 as eligible from the proposed correction of € 344.247 by the Audit Authority. The Audit Authority has, after the submission of the annual accountability report, entered in consultation with the both bodies to discuss the differences of interpretation.

The reports of the Audit Authority on the Annual reports 2010 show several findings with respect to the management system of year tranche 2010, these findings are from previous years. In response of the audits over year tranche 2008 and 2009 the necessary measures have been taken. The results will gradually become visible in the current year tranches.

Measures

There was a planningstool adopted in 2012 to plan the monitor visits at projects.

Concept conclusions are being extensively checked by a second employee since the year tranche 2012. The intern checks are performed on base of the “checklist intern controls”, and recorded in the project files that way.

From December 1 2012 there has been extra staff recruited to eliminate the arrears in the provision of grant awards and to improve the quality. From year tranche 2011 all the files have been digitalized and provided with contents.

The method mentioned above has been fully implemented for the first time in year tranche 2013. If this appears to be insufficient, additional measures will follow immediately.

Annexe II Conclusions, recommendations and other points

Conclusions, recommendations, government response and afterword

Conclusion	Recommendation	Government response	Netherlands Court of Audit's afterword
Functioning of management and control systems			
<i>Agricultural funds (EAGF and EAFRD)</i>			
Preparation and reliability of EAFRD control statistics not entirely in order (see section 2.1.2) - 2007.*	Improve the reliability of control statistics by including all irregularities and sanctions in the base system for non-IASC schemes. Document the reconciliation of non-IASC control statistics with the financial accounts.	The State Secretary for EZ will adopt this recommendation.	-
<i>ERDF</i>			
Shortcomings in functioning of ERDF West management verifications and some other points for improvement at managing authorities and certifying authority (see section 2.1.3).	Monitor effectiveness of improvement measures at ERDF West managing authority. Attend to further improvements in management verifications, ICT systems and follow-up to audit findings. Ensure there is sufficient capacity and cautious declaration policy. Attend to further improvement in certification work.	The State Secretary for EZ will adopt this recommendation. ERDF West managing authority has undertaken to the supervisory committee that it will make a number of improvements in the management verifications. The ministry will also step up its supervision. Agreements will be made with the audit authority on the timely completion of audits.	
<i>EFF</i>			
Shortcomings in management and control systems, especially in management verifications and certification work (see section 2.1.4) – 2011.*	Monitor effectiveness of improvement plan and attend to rapid introduction of necessary improvements in all parts of the management and control system. Make further improvements in segregation of duties, especially in certifying authority's certification work.	The State Secretary for EZ will adopt this recommendation.	
<i>Migration funds</i>			
Substantial improvements in supervisory and award work necessary, especially in EBF, (see section 2.1.6) - 2011.*	Monitor impact of improvement measures already taken and take further measures if necessary.	The State Secretary of VenJ will adopt this recommendation. Periodic meetings are held with the parties involved. Plans and reports are also used. The necessity of further measures is based on risk assessment.	

Backlog in submission of annual reports reduced but not eliminated (see section 2.1.6) - 2011.*	Ensure timely compliance with plans to prepare annual reports and take further measures if necessary.	The State Secretary for VenJ will adopt this recommendation. The effectiveness of the improvement measures will take some time to feed through into the audit authority's opinion. Monitoring the impact has the continuous attention of the responsible authority. Monthly monitoring meetings are held by the various authorities. The audit authority's first project audits of the 2011 annual tranche found a positive development. The delay in the 2011 annual tranche will be reduced to three months at most. Where possible all opportunities are being used to speed up the annual reports so that the 2012 report is submitted to the Commission no later than one month after the deadline. This still has to be discussed with the Commission.	
Too little attention paid to receivables management (see section 2.1.6).	Transfer receivables management to the SZW Agency and ensure receivables are settled on time.	The State Secretary for VenJ will adopt this recommendation. Outstanding receivables have been analysed and transferred to the SZW Agency. The collection policy used by the SZW agency for the European Social Fund (ESF) will be adopted.	

Legality, regularity, accuracy and completeness of financial transactions

General

Amounts receivable not adequately audited.	The ADR should audit the receivables in sub-declarations each year and report on them in its audit report on the consolidation statement.	The government accepts the recommendation. 98% of the amounts receivable in the National Declaration is audited, 2% is not. The amounts receivable in the National declaration 2015 will be fully audited by the ADR.	As we noted in our report the amounts receivable are minimal relative to the total amount of receivables and expenditures. But the Minister of Finance gives a statement on each fund separately. Furthermore we had limited assurance on completeness, so we don't know what part is missing. That's why we had to make a reservation.
--	---	---	---

<i>Agricultural funds (EAGF and EAFRD)</i>			
High error rate in EAFRD (see section 2.2.1).	Monitor the effectiveness of improvement measures to reduce errors.	The State Secretary for EZ will adopt this recommendation.	
<i>ERDF</i>			
Error rate at member state level above 2% owing to high error rate in ERDF West (see section 2.2.2).	See recommendation on management and control systems.	The State Secretary for EZ will adopt this recommendation. See recommendation on management and control systems.	
Mediation process open to improvement (see section 2.2.2).	Evaluate the past period thoroughly, make prudent and timely use of mediation and consider optimising independence by involving an external expert in the mediation process or external mediation.	The State Secretary for EZ agrees with this recommendation, except for the timely use of mediation. The Netherlands Court of Audit's consideration on evaluation will be taken into account.	Timely completion of the audit authority's clearance process would allow earlier use of mediation.
<i>EFF</i>			
Error rate above 2%, with many uncertainties remaining (see section 2.2.3).	See recommendation on management and control systems.	The State Secretary for EZ will adopt this recommendation. See recommendation on management and control systems.	
Mediation process open to improvement (see section 2.2.3).	Evaluate the past period thoroughly, make prudent and timely use of mediation. Use the same method to calculate the error rate as in the structural funds. Discuss this with DG MARE.	The State Secretary for EZ agrees with the recommendation to make prudent use of mediation and to optimise independence. The mediation process makes a positive contribution to the regularity of accounts and the financial interests of the member state. Agreement has been reached with DG MARE on the audit authority's accounting method.	
<i>Migration funds</i>			
Error rate in EBF comfortably above 2% (see section 2.2.5).	See recommendation on management and control systems.	The State Secretary for VenJ will adopt this recommendation. See response to management and control systems.	

* The year indicates a year in which we had come to the same or a similar conclusion or recommendation.

Other points

Functioning of management and control systems
Agricultural funds (EAGF and EAFRD, see section 2.1.2) <ul style="list-style-type: none"> • Improve security of information systems (EAGF and EAFRD) - 2011.* • Improve administrative checks of duplicate funding EAFRD - 2011.*
ERDF (see section 2.1.3) <ul style="list-style-type: none"> • Timely preparation of annual audit report and opinions on ERDF South and West.
EFF (see section 2.1.4) <ul style="list-style-type: none"> • Timely preparation of annual audit report and opinion.
ESF (see section 2.1.5). <ul style="list-style-type: none"> • Some areas for improvement at managing authority.
Migration funds (see section 2.1.6) <ul style="list-style-type: none"> • Some areas for improvement at EIF.
Legality, regularity, accuracy and completeness of financial transactions
Agricultural funds (EAGF and EAFRD, see section 2.2.1) <ul style="list-style-type: none"> • Faster provision of control statistics and inspection results - 2008.* • Further improvement in receivables management at EAFRD - 2012.*
ERDF (see section 2.2.2) <ul style="list-style-type: none"> • Prevent 'preliminary audits' by the audit authority. • Tighten up standards on eligibility of costs - 2012*
ESF (see section 2.2.3) <ul style="list-style-type: none"> • Settle amount receivable from bankrupt Wholesale Training Fund.

* The year indicates a year in which we had come to the same or a similar conclusion or recommendation.

Annexe III Information on effectiveness and efficiency

Fund	Report/evaluation	Submitted to the House (and therefore public)
ERDF and ESF	<ul style="list-style-type: none"> national strategic reference framework national strategic report midterm evaluations managing authorities' annual reports ex ante evaluation of member state ex post evaluation (art. 49 of 1083/2006) at the end of the programming period (2007-2013) letters to parliament 	<ul style="list-style-type: none"> Yes, 2007-2013 Yes, 2012 Yes, 2010 Yes, annually No (but submitted to the European Commission and therefore public) Yes, forthcoming (2015) Yes, 30 June every year
EAGF and EAFRD	<ul style="list-style-type: none"> midterm evaluation of rural development (2007-2013) ex ante evaluation of rural development (2014-2020) ex post evaluation of rural development (2007-2013) midterm evaluation of rural development (2014-2020) specific evaluations ad hoc evaluations (ex ante and ex post) letters to parliament 	<ul style="list-style-type: none"> Yes, 2010 Yes, forthcoming (2014) Yes, forthcoming (2015) Yes, forthcoming (2017) No, by the European Commission (Yes) ad hoc (Yes) ad hoc
EFF	<ul style="list-style-type: none"> midterm evaluation EFF annual reports ex post evaluation at the end of the programming period (2007-2013) 	<ul style="list-style-type: none"> Yes, 2010 Yes, in future annually (for the first time in 2012) Yes, forthcoming (2015)
Migration funds	<ul style="list-style-type: none"> evaluation reports 2008-2010 evaluation reports 2011-2013 per fund, per annual tranche, one annual report for the European Commission 	<ul style="list-style-type: none"> No, in future annually on the site No, forthcoming (2015) on the site No, in future annually on the site

This table has been posted on our website at www.rekenkamer.nl with links to the relevant ministry websites.

Annexe IV Abbreviations

ADR	National Audit Authority
CBS	Statistics Netherlands
EAFRD	European Agricultural Fund for Rural Development
EAGF	European Agricultural Guarantee Fund
EBF	European External Borders Fund
EFF	European Fisheries Fund
EIF	European Integration Fund
EMU	Economic and Monetary Union
ERDF	European Regional Development Fund EMFF European Maritime and Fisheries Fund
ERF	European Refugee Fund
ESF	European Social Fund
ESI	European Structural and Investment Funds
EU	European Union
EZ	Ministry of Economic Affairs
GDP	Gross Domestic Product
GNI	Gross National Income
IACS	Integrated Administration and Control System
ICT	Information and Communication Technology
Reg.	Regulation
RF	European Return Fund
SZW	Ministry of Social Affairs and Employment
VenJ	Ministry of Security and Justice
VAT	Value Added Tax

Annexe V Terms and definitions

Assurance

The provision of a positive declaration on an audit objective by an auditor.

Audit

A systematic, independent and documented process to investigate and evaluate the activities and results of an organisation.

Audit authority

A body designated by the member state for every operational programme that is responsible for verifying the proper functioning of the management and control system. The audit authority is functionally independent of the managing authority and the certifying authority.

Beneficiary

The ultimate recipient of funding.

Certification

An official declaration that something is free from error or complies with a standard.

Certifying authority

A body designated by the member state to certify expenditure declarations and payment applications before they are submitted to the European Commission.

Certification body

A body designated by a member state to certify the management, supervision and control systems set up by the paying agencies and the annual accounts of the agricultural funds. The certification body is functionally independent of the paying agencies. The European Commission uses the term certification body in the regulations for the agricultural funds instead of the term audit authority

Compliance

The state of being in agreement with EU and other regulations.

Compliance assessment

Assessment of whether EU and other requirements are satisfied.

Consolidation statement

A statement of consolidated expenditure/payments.

Cross-compliance

Specific requirements in the fields of public health, animal health, plant health, the environment and animal welfare that a farmer must satisfy to be eligible for full support.

Eligibility

Expenditure that qualifies under the European Commission's criteria for support from European funds.

Irregularity

Any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Managing authority

A body designated by the member state to manage an operational programme.

Material errors

Errors that exceed a certain, acceptable percentage.

Materiality

The extent to which inaccuracies are acceptable.

Mediation

A request for compelling, but not binding, advice where there are differences of opinion on the interpretation of rules.

National Audit Authority

Audit service that periodically audits operational management and policy implementation at a ministry as well as conducting statutory audits of the ministry's annual report.

Operational Programme

A document submitted by a member state and approved by the European Commission setting out a development strategy based on a coherent body of priorities requiring financial support from a fund.

Paying agency

A body that makes payments on behalf of the European Commission.

Phases in the internal control process

1. Design: description and structure of the process;
2. Existence: whether there is actually a process that is consistent with the design;
3. Operation: whether the process functions throughout the entire period in accordance with the design and does what it is intended to do.

Recoverable

A legally enforceable right to a sum of money from a third party, usually the recovery of an undue payment.

Reliability

The extent to which information is true.

Reservation

An exception in a declaration.

Responsible authority

A body designated by the member state to manage operational programmes in the migration funds.

Review

An assessment of the adequacy of an audit.

Tolerable threshold

A quantifiable financial level above which an error or uncertainty is considered important (material).

Uncertainty

Case where it cannot be determined whether certain expenditures or receipts are regular or disclosed correctly.

Literature

European Commission (2013a), *Protection of the European Union's financial interests – Fight against fraud 2012 Annual Report*, European Commission, 24 July 2013, COM (2013) 548 final, Brussels, European Commission.

European Commission (2013b), *Synthesis of the Commission's Management Achievements in 2012*, European Commission, 5 June 2013, COM (2013) 334 final, Brussels, European Commission.

European Council (2013), *Conclusions of the European Council, Multiannual Financial Framework*, 7 and 8 February 2013, Brussels, 8 February 2013.

House of Representatives (2013), *Motion presented by Eddy van Hijum, MP, on 19 December 2013*, House of Representatives, session 2013-2014, 33 806, no. 6, The Hague, Sdu.

Ministry of Economic Affairs (2013), *Letter from the State Secretary for Economic Affairs*, House of Representatives, session 2012-2013, 21 501-08, no. 470, The Hague, Sdu.

Ministry of Finance (2007), *Letter from the Minister of Finance*, House of Representatives, session 2006-2007, 30 455 and 24 202 no. 5 and no. 6, The Hague, Sdu.

Ministry of Finance (2013), *Response from the State Secretary for Finance to questions in the House by Pieter Omtzigt, MP*, House of Representatives, session 2013-2014, Annexe to the Proceedings, no. 241, See Proceedings, session 2012-2013, no. 3156.

Ministry of Finance (2014), *Further explanation of the position on the motion proposed by Eddy van Hijum, MP, regarding the request to include EU remittances in the National Declaration (pending)*, House of Representatives, session 2013-2014, 33 523, no. 12, Den Haag, Sdu.

Netherlands Court of Audit (2011), *Report on the Dutch EU member state declaration 2010*, House of Representatives, session 2010-2011, 32 754, no. 2, The Hague, Sdu.

Netherlands Court of Audit (2012), *Report on Intracommunity VAT Fraud*, House of Representatives, session 2012-2013, 31 880, no. 7, The Hague, Sdu.

Netherlands Court of Audit (2013a), *Report on the National Declaration 2013*, House of Representatives, session 2012-2013, 33 523, no. 8, The Hague, Sdu.

Netherlands Court of Audit (2013b), *EU Trend Report 2013*, House of Representatives, session 2012-2013, 33 523, no. 2, The Hague, Sdu.

Netherlands Court of Audit (2014), *EU Trend Report 2014*, House of Representatives, session 2013-2014, annexe to 33 869, no. 1, The Hague, Court of Audit.

Audit team

Dhr. drs. P.E. Lubach RA CPSA (Project Manager)
Dhr. J. van Bodegraven
Dhr. drs. J. Chhatta RA
Dhr. W. Costerus RA
Dhr. drs. R. Dijkstra
Dhr. E. Dorsman
Dhr. A.H.J. Hilhorst
Mw. drs. F.J. Melker CMA
Dhr. drs. P.A. Neelissen MA RA CIA
Dhr. J.L.M. Schreurs
Mw. A.A.A. van Schijndel MSc LLM

The Netherlands Court of Audit

Algemene Rekenkamer
P.O. Box 20015
2500 EA The Hague
phone +31 70 342 43 00
voorlichting@rekenkamer.nl
www.courtofaudit.nl

Translation

Alan Hyde

Cover

Design: Corps Ontwerpers, The Hague
Photo: Peter Hilz / Hollandse Hoogte

The Hague, December 2014