



# Advisory report

on the audit of federal government reporting on the  
National Flood Protection Programme

addressed to the parliamentary Budget Committee

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## 0 Executive summary

The National Flood Protection Programme (National Programme) is designed to speed up preventative flood defence projects of key priority that affect more than one region. The federal government co-finances the states' activities to improve agricultural structures and coastal defence. Currently, federal grant funding for this joint task with the states makes up €100 million annually. On 13 April 2016, the parliamentary Budget Committee adopted a resolution calling for the federal government to report to the Committee by 31 May of each year on the status of National Programme implementation (e.g. funding called up, projects encountering challenges, compliance with the additionality principle).

We reviewed the federal government's reporting practice. We based our work on the Committee's resolution and the principles set out in the Master Plan on preventative flood defence work (Master Plan). In our audit report, we have given consideration to the comments submitted by the federal government.

- 0.1 The annual reports of the federal government did not specify the individual National Programme projects for which the states had disbursed the federal grants. We recommended to government adding a comparison of actual figures against budgeted figures to the reports before submitting them to the Budget Committee. The federal government rejected our recommendation and justified this by pointing out the excess reporting costs this effort would entail especially for the states. To provide parliament with reliable information about National Programme run and target achievement (on individual projects designed to protect the population from floods etc.), we consider it crucial for the government to report in detail to the Budget Committee on the purposes for which project grants have been disbursed and any challenges arising. The Master Plan expressly stipulates that the states have the duty to report to the federal government (Nos 3 - 7).
- 0.2 At the time of our audit, the government had failed to verify if the states complied with the Master Plan and had actually used grants solely for capital work operations. We hold that to fulfil its reporting duty properly, the government needs additional facts and figures from the states. The government should engage with the states to agree on a set of

instruments that is fit for the purpose of substantiating that federal grants have been used solely for capital works (Nos 3 - 7).

- 0.3 One National Programme priority is to provide additional funding for preventative flood defence work. The states can call up these funds once their expenditure on flood defence (federal, regional, EU funds taken together) exceeds a baseline amount specified in the Master Plan. When the government reports go to the Budget Committee, the government can only make rough estimates on whether expenditures will reach or exceed this baseline amount. We recommend to the Budget Committee resolving to set the deadline for federal government reporting at 1 July. Federal government officials stated that by that date, they were in a position to reliably assess whether the baseline had been reached or not (Nos 3 - 7).

## 1 Driver for government reporting

The National Flood Protection Programme (National Programme) is designed to speed up supra-regional preventative flood defence projects of key priority and for the catchment areas of the Elbe, Danube, Oder, Rhine and Weser rivers. The federal government estimates National Programme funding needs at €5.5 billion.<sup>1</sup>

As a rule, the states hold operational and financing responsibility for national flood defence. The federal government uses a formula grant scheme to co-finance the National Programme as a cross-governmental task which is designed to improve agricultural structures and coastal defence.

On 13 April 2016, the parliamentary Budget Committee adopted a resolution calling for the federal government to report to the Committee by 31 May each year on the status of National Programme implementation<sup>2</sup>. Government reports shall

- provide a concise overview of the states' annual reports on the Master Plan for preventative flood defence work;
- inform on any delays or other challenges encountered in implementing projects and programmes included in the Master Plan;
- present information on funds called up, federal funding needs estimated for the following financial year, and confirm compliance with the baseline amount agreed; and
- serve a further programme rollout.

Since the Budget Committee's resolution, the Federal Ministry of Food and Agriculture (agriculture ministry) submitted three reports on the National Programme. The wording used in the 2015, 2016 and 2017 annual reports<sup>3</sup> that we studied had been agreed with the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (environment ministry).

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<sup>1</sup> Parliamentary record 19/5131, p. 33.

<sup>2</sup> Budget Committee records 18/3124.

<sup>3</sup> Budget Committee records 18/3165, 18/4366 and 19/1071.

The Committee resolution of 13 April 2016 was driven by a report we developed on National Programme performance of the environment ministry (at that time designated as Federal Ministry for the Environment, Nature Conservation, Construction and Reactor Safety).<sup>4</sup>

Our audit work focuses on the federal government's reporting practice. Our work was motivated by current discussions on how to ensure that the states use the federal formula grant in full and for appropriate purposes.

We studied what regional documentation the two ministries relied on for their annual reporting to the Budget Committee. We also reviewed whether and how they analysed such information. In this report, we inform the Budget Committee of our audit findings. We have given consideration to the two ministries' consolidated comment on our draft report.

## 2 National Flood Protection Programme

The federal government has a long history of co-financing flood defence operations as a cross-governmental task to improve agricultural structures and coastal defence. Flood protection is managed under a joint Framework Plan that sets out relevant works and their objectives for each financial year (Articles 4, para. 1, and 5, para. 1 of the relevant legislation<sup>5</sup>). The Framework Plan includes a formula grant scheme to support the construction and strengthening of flood defence structures and the relocation and dismantling of coastal flood embankments to restore flood plains. Under this formula, the federal government co-finances 60 per cent of the states' expenditures (Article 10). The states cover the remainder from their own resources and from EU funds.

The Framework Plan is complemented by Master Plans. To implement the National Programme, the federal government and the states agreed on a Master Plan on preventative flood defence. According to the Master Plan, the following operations and works are eligible for funding:

- Dismantling of flood embankments to improve flood defence, in

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<sup>4</sup> Budget Committee record 18/3071.

<sup>5</sup> Act on the Improvement of Agricultural Structures and Coastal Defence as at the date of its publication on 21 July 1988 (Federal Gazette BGBl. I p. 1055), most recently amended by Article 1 of the Act as from 11 October 2016 (Federal Gazette BGBl. I p. 2231).

particular to restore flood plains;

- Work to establish retention areas, such as flood retention basins and polders; and
- Pertinent strategic planning and condition surveys.

The environment ministry is a member of the cross-government conference of environment ministers and of the cross-jurisdictional Working Group on Water. Each year, a sub-group rolls out the National Programme and determines operations of high priority. These priorities govern the management of National Programme funds (grant application, allocation and disbursement).

Since FY 2015, the federal share in the National Programme has been budgeted in departmental budget No. 10 (in 2016: No. 60). In FY 2015, €20 million were earmarked for the National Programme, and from FY 2016, the budgeted annual total was €100 million. The agriculture ministry is responsible for managing these funds. From 2015 to 2018, a total of €156.3 million was given to the states. This makes up 48.9 per cent of the overall funds appropriated (€320 million).

### 3 Purpose of the Master Plan

According to the agriculture ministry<sup>6</sup>, Master Plans serve to *"provide a new impetus to implementing high-priority projects of coastal defence policy by means of additional federal funding."* As a result, the federal government recently rejected the move of the states to do away with the joint Master Plans. The government made the point for sustaining the National Programme *"since the funds are not allocated to the states according to a key, but according to priority and project progress."* The government stated that this was to *"avoid that funds expressly earmarked for protecting public goods of special significance or for fostering outstanding social policy goals are rechannelled to non-eligible projects."*

The Master Plan on preventative coastal defence stipulates the following:

- The federal government shall provide **capital** project funds to the states to co-finance urgent preventative flood defence projects (Master Plan, No. 3);

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<sup>6</sup> Budget Committee record 19/3199.

- In each respective year, the states may draw on the National Programme funds only if total spend on flood defence across all states taking all federal, regional and EU funds together has reached a fixed baseline amount (Master plan, No 4, **additionality principle**);
- The states shall report annually to the federal government on the operations for which the funds allocated in the Master Plan have been used. This reporting shall also provide information on the progress made of projects supported by the National Programme (Master Plan, No. 7, **reporting duty of the states**).

#### 4 Federal government reporting

We studied federal government reporting on the National Programme covering the years 2016 and 2017<sup>7</sup>. Our findings are set out below:

##### **Challenges in project implementation**

In its annual reports, the government made reference to frequent shortcomings in programme run (lengthy planning and approval procedures, court proceedings, lacking capacity of the construction contractors). However, the government did not break down the shortcomings it had stated to the individual projects.

The government also presented some case studies<sup>8</sup> and discussed project-specific weaknesses that occurred in implementation.

According to the agriculture ministry, the selected case studies were based on briefing information that the states had furnished to better understand the annual report. The environment ministry had collated any information received from the states.

##### **Presentation of the funds drawn**

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<sup>7</sup> The deadline for submitting the 2015 annual governmental report expired a few weeks after the Budget Committee had adopted the resolution to this effect on 13 April 2016. We therefore chose not to include this report in our work.

<sup>8</sup> 2016 annual report: fluvial embankment relocation/lowering Weil/Breisach (Rhine), fluvial embankment relocation in the north of Sandau (Elbe), controlled flood retention Riedensheim (Danube);  
2017 annual report: retention basin Elz estuary (Rhine), fluvial embankment relocation Niederalteich (Danube), new construction of the pumping station Eich (Rhine), polder Löbnitz (Elbe).

The annual government reports provided data on the overall funds drawn. Data was broken down by state but not by project. The annual reports merely stated individual project costs (broken down by year) to be shouldered by the federal government, the states and third parties.

The agriculture ministry sent us the 2017 cross-jurisdictional reporting on flood defence and related water management projects run under the Framework Plan and the Master Plan. The reports presented information on total flood defence spend in the past year under the Master Plan (federal and states funds). Data was broken down by state. The reports on the Framework Plan also distinguished between spend on projects recently approved or already underway. The reports on the Master Plan also included a breakdown of spend by funding purposes (dismantling of flood embankments, restoration of retention areas and strategic planning). Expenditure on flood defence or the data on the federal co-financing allocated was not broken down by project in the two Plans.

### **Use of funds for additional projects**

The current baseline total (see No. 3) is €227.4 million and includes federal co-financing, state and EU funds. According to flood defence reporting, this equates to the average actual spend on flood defence in the years from 2009 to 2013 (Master Plan, No. 3).

In the annual reports to the Budget Committee, the government pointed out that at the time of reporting, the final figures required from Master Plan reporting of the states had not yet been available. Based on the fund applications, the government assumed that the baseline amount had been reached. The agriculture ministry pointed out to us that it relied also on oral information provided by the state officials in charge.

### **Use of funds for capital works**

The annual reports of the federal government did not provide any information on whether the states had used the federal formula grants solely for funding capital works.

According to the agriculture ministry, the government currently does not verify whether the states actually use the federal budget funds for capital works. The agriculture ministry added that the government's responsibility was limited to

legal oversight of regional and national flood defence activities. By implication, the government was not authorised to verify whether the states used the National Programme funds in a reasonable way. By implication, this legal oversight means that the states are obliged to report on request to the government on the implementation of the Framework Plan (part of which is the Master Plan on "preventative flood defence work") and on the general status of flood protection work (Article 9, para. 2 of the Act). The agriculture ministry was of the opinion that this requirement was basically met by the current reporting practice of the states. The ministry stated that the government had a right of further review only if evidence supported a possible reimbursement of federal funds. Currently, such evidence was not available on the flood investment expenditures of the states.

We found that the states' Master Plan reporting did not provide any information on the extent to which the states use National Programme funds for capital works.

## 5 Audit conclusions and recommendations

With its resolution of 2016, the Budget Committee has made the point that speedy implementation of the National Programme and the targeted use of related funds are matters of high priority. To ensure close parliamentary programme monitoring, meaningful and comprehensive government reporting on all aspects of the Budget Committee's resolution is needed. We hold that the current reporting format does not meet these requirements.

1. The annual government reports did not detail the projects for which the states had used the National Programme funds in the previous year. In addition, the government stated the reasons for any delays in drawing funds in general terms only and on the basis of a few case examples. Since so far funds allotted to the national Programme have been underused, we consider that parliament may have a keen interest in the matter. The Master Plan expressly stipulates that each year, the states shall report to the government on: "*(...) the projects for which they have used the federal funds and on the project progress made.*"<sup>9</sup>

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<sup>9</sup> Master Plan, No. 7.

We recommend complementing future annual government reports by a project-related comparison of the proposed versus the actual use made of federal funds. In this comparison, the government should present any challenges that have impeded or prevented an outflow of funds for the respective project. The government should urge for input from the states by making reference to the Master Plan regulations that were agreed by the two government levels. The Master Plan places a higher burden on the states for reporting than the Framework Plan.

2. At the point of time when the government needs to submit the annual report to the Budget Committee, the government can only roughly estimate whether or not the baseline amount has been reached. Such a projection relies on targeted figures.

The additionality of National Programme investments reflects the political will to make a significant funding effort that exceeds by far funding for preventative flood defence. We suggest submitting future annual reports to the Budget Committee only once data on the baseline amount is available. To implement this recommendation, the Budget Committee needs to adopt a resolution to this effect.

3. Currently, the government does not verify if the states comply with the requirement set forth in the Master Plan to use the federal programme funds for capital works.

The government should urge the states to include in their respective reports relevant information on the scope of federal funding used for capital projects. The Master Plan provisions on the reporting duties of the states should be amended as needed.

## 6 Comments of the federal government

In consultation with the environment ministry, the agriculture ministry has commented on our audit recommendations:

1. The agriculture ministry made reference to the decision of the Budget Committee of 13 April 2016 and stated that this resolution requested information in case Master Plan projects were delayed or impeded. The government promised to supplement its future reports with information on increased or reduced funding needs broken down by project. The

agriculture ministry added that supplementing state reports by a comparison of actual against targeted use of funds would place an additional burden on reporting efforts. The agriculture ministry acknowledged our findings and stated that it would engage with the states to explore options for making the annual report more meaningful and presentable.

2. The agriculture ministry stated that as a result of the high priority that the states give to flood defence, the baseline amount had easily been reached in recent years. However, the figures from the states needed to verify as to whether the baseline amount had actually been reached did not become available until the end of June each year. The ministry stated that the government had taken up one of our earlier audit recommendations and in September 2016 requested the rapporteurs on departmental budgets 10 and 16 to shift the deadline for submitting annual government reporting to 1 July each year. The agriculture ministry deplored that the request for shifting the deadline had not been met. The ministry added that if the Budget Committee adopted a resolution to this effect, the annual report could be shifted to the beginning of July each year.
3. The agriculture ministry pointed out that the Master Plan funds given to the states were earmarked solely for capital works and related strategic planning and condition surveys. The government considered engaging with the states to explore options for amending Master Plan reporting accordingly.

## 7 Final audit conclusions

We uphold our opinion that the current programme reporting practice of the federal government needs to be strengthened to ensure a close parliamentary monitoring of National Programme implementation.

1. The purpose of the National Programme is to synchronise flood defence and flood protection of the population nationwide across the regions concerned. To this end, the government makes available a significant amount of funding to the states to help speed up implementation of specific projects. We consider it mandatory for the government to report in detail to the Budget Committee on the use made of the federal funds received for individual projects and on any challenges arising. Such

detailed information on individual project implementation is the only way to provide assurance on whether or not the population can be better protected over the medium term. We hold that information limited to the expenditure proposed, general challenges in project run and selected case examples are no substitute for detailed high-quality reporting. The reporting provisions applicable to the Master Plan clearly illustrate that the government has identified the need for such detailed information. The government needs to make sure to receive relevant project information from the states. The government should incorporate such information into the annual programme report to the Budget Committee.

2. Furthermore, assurance needs to be provided that the states actually use the programme funds for the capital works set out in the Master Plan and not to cover current expenditure. To check the states' compliance, the states need to furnish expenditure data broken down by project (types of expenditure on human resources, goods and capital projects) and add other supplementary information to their reports as appropriate. The government should therefore engage with the states to discuss instruments that are fit for the purpose of providing assurance on the appropriate use of capital investments. In future reporting to the Budget Committee, the government should specify to what extent the states have used the programme funds for capital works.

We also recommend that the Budget Committee postpone the deadline for federal government reporting from 31 May to 1 July each year. According to the federal government, by that time, reliable assessments can be made of whether the baseline amount has been reached (No. 6) and whether the additionality principle has been complied with in line with the spirit of the Master Plan.

Michael Reinert  
Senior Audit Director

Thomas Schmidt-Wegner  
Audit Director