

Letter of 5 October 2020 from the State Secretary for the Interior and Kingdom Relations, Raymond Knops, to the House of Representatives presenting a progress report on elections in St Eustatius

Introduction

In February 2018 the government intervened in the administration of St Eustatius due to gross neglect of duty by the island authorities. This intervention was carried out under the Temporary Act on Neglect of Duty in St Eustatius. Since then, strenuous efforts have been made to end the gross neglect of duty on every front and meet the conditions for sustainable good governance, so that new island authorities can perform their tasks properly and independently. Since March 2020, the difficult circumstances arising from the COVID-19 pandemic have compounded the challenge. Under the St Eustatius Administrative Provisions (Restoration) Act, which entered into force on 16 July 2020, the administrative intervention is being extended and then gradually phased out.

The second progress report on St Eustatius¹ set out 12 key criteria for good governance which have been used in an earlier progress evaluation. The criteria are elaborated on in the annexe to the third progress report.² They serve as benchmarks for the completion of the phases set out in the St Eustatius Administrative Provisions (Restoration) Act. Once all the island's administrative bodies have been restored, all these conditions will have been met, and the presumption is that the local authorities will be able to function independently.

Thanks to all the work carried out by the government commissioner and his deputy, his team and the public body, and the improvements that have now been made with regard to the public body, the conditions for holding island council elections have been met and the first phase envisaged in the St Eustatius Administrative Provisions (Restoration) Act can commence on 21 October 2020. This major advance is in the interests of the people of St Eustatius, who, by electing an island council, will take an important step towards the restoration of democracy.

The purpose of this letter is to inform the House of the progress made in respect of the above-mentioned conditions. In particular, it deals at length with the current situation and results achieved regarding the criteria to be met before elections can be held and the first phase can begin. The sixth regular progress report later this year will inform the House further about developments and projects unrelated to the aforementioned criteria.

General picture

Since the intervention began, a great deal of work has been done in St Eustatius. Although there have been some difficulties and significant challenges remain, progress has been made on every front. I have kept the House informed through the periodic progress reports.

As well as preparing for the elections and implementing the many projects, since March 2020 the government has also been focusing on managing the COVID-19 pandemic. In St Eustatius, as elsewhere, the pandemic remains an ongoing reality, especially now the number of infections is on the rise. Controlling the pandemic and its impact places heavy demands on the government commissioner and his team. This is consuming time and energy that cannot be devoted to projects.

The Dutch government's various support packages have made it possible to considerably lessen the financial impact on businesses and the public. Nevertheless, the crisis is taking a major economic and psychological toll on society. Although the island's isolated geographical location provides protection against the large-scale introduction of the virus, it also creates other problems, such as limited supply routes and a lack of affordable flight connections.

Building consensus through dialogue and transparency remains a top priority for the government commissioner. The public is still being informed of developments in weekly radio broadcasts, and

¹ Parliamentary Papers, House of Representatives 2018/19, 35 000-IV, no. 29.

² Parliamentary Papers, House of Representatives 2018/19, 35 000-IV, no. 57.

the Civil Society Advisory Council is involved in whatever matters need to be addressed. This involvement takes the form of monthly meetings (now held virtually) for discussing topical issues like COVID-19 along with other matters such as stray livestock. There is also regular consultation with the Central Dialogue. In preparing for the elections, political parties and other stakeholders will be invited to participate in live or online meetings in the hope that this dialogue will support the transition to the restoration of democracy. The government commissioner has also initiated consultations with the leaders of island's political parties on the COVID-19 situation to discuss any issues and concerns.

In the next periodic progress report, which will be sent to the House in the autumn, I will take a closer look at developments in St Eustatius and present details of how all the projects are progressing. I will also address the latest COVID-19 situation on the island and its knock-on effects.

Election preparations

The island council elections in St Eustatius will be held on 21 October 2020. The candidate nomination procedure has now been completed. Three lists were submitted, naming a total of 26 candidates. Although COVID-19 presents certain logistical challenges, there are no problems at present with regard to preparing and organising the elections.

In principle, all elections in both the European and Caribbean parts of the Netherlands should be organised in a way that allows voters to go to a polling station and vote there safely, and enables the members of the electoral committee to do their work safely. Whether or not that is possible depends not only on the prevailing coronavirus situation and the measures required to control the spread of the virus, but also on the safeguards applicable to elections in the Netherlands, such as voter accessibility and the verifiability and transparency of the results. Everything is being done to comply with those safeguards.

Regular consultations take place with the government commissioner on how the elections on polling day can be organised in the light of COVID-19, the measures applicable in St Eustatius under the emergency ordinance, and the electoral safeguards.

On election day, account will be taken of the COVID-19 measures in various ways, in accordance with the guidelines that the Minister of the Interior and Kingdom Relations issued to the municipalities and public bodies on 1 September. This includes marking the routes voters should follow at polling stations, ensuring the availability of hand sanitiser, and installing hygiene screens between electoral committee members and voters. Extra resources have been allocated to the BES fund for this purpose. The public body will establish an extra voting location, to reduce voter numbers at each one. Before going to the polling station, voters will be asked to answer the health check questions which are universally applicable in the Netherlands. Anyone who answers one or more questions with 'yes' can authorise someone else to vote on their behalf. Voters will be notified of these measures via a public information campaign prior to election day.

Measures to contain the spread of coronavirus focus on minimising the size of gatherings, staying at home as much as possible and avoiding crowding. Although this is not the case at present, coronavirus-related measures could make it impossible to properly fulfil the electoral safeguards. If so, the elections will have to be postponed, as was the case in several neighbouring countries earlier this year.

To increase turnout, the National Office for the Caribbean Netherlands is currently conducting a campaign to encourage people to vote. In the near future, the public will also be informed about the first phase set out in the St Eustatius Administrative Provisions (Restoration) Act.

Through the Minister of Foreign Affairs, I have invited an independent, regional observer mission to monitor the elections and issue a report. A mission of this kind will also highlight possible areas for improvement in the electoral process. The observers have already arrived in St Eustatius and begun their quarantine period.

Motion by MP Chris van Dam

In response to the motion submitted by MP Chris van Dam et al.,³ calling for a coordinator to be appointed as soon as possible to act as clerk to the island council and organise the new clerk's office pending the permanent appointment of a clerk once the island council has taken office, I can inform the House that on 4 August 2020 the government commissioner of the public body appointed a coordinator/clerk, who has already started work.

1. Conditions prior to phase 1

In phase 1, there will only be an island council, in addition to the government commissioner. The island council will be elected at the start of phase 1. The council can immediately perform most of its tasks and exercise most of its powers. Some of its powers will be restored in a later phase.

1.1. Electoral register ready

An assessment of whether members of the public meet the requirements set out in the Elections Act has ensured that the electoral register is sufficiently reliable. This was determined with the support of the National Office for Identity Data by conducting house-to-house visits to check whether the individuals registered in the Personal Information System for the Netherlands Antilles and Aruba (PIVA) actually live on the island and hold a valid identify document and/or residence permit.

1.2. Reorganisation of civil service ready

The reorganisation of the civil service began in July 2018 with the drafting of the human resources plan. This was discussed with the relevant trade union and laid down in an organisation order. The new organisational structure was put in place on 1 September 2019. Next, the staff were posted or transferred, with the vast majority retaining their positions. A large number of the public body's staff who could not immediately be placed in a job have since been assigned to vacant positions. Customised positions were created for a small number of staff, and redundancy arrangements were made in isolated cases. Any outside positions held by these employees were checked and recorded.

In recent months the public body has worked hard to fill vacancies, including a number of key positions, such as the operational management director and customer liaison, the head of management support and a deputy island secretary. As of 1 July 2020, 149 of the 162.5 FTEs in the public body were occupied. The recent filling of several key positions will increase the public body's capacity to flesh out its long-term organisational structure and enable it to focus more on the large-scale projects that need to be carried out. The previously appointed change manager is working on a cultural change process to further improve the civil service organisation. As the House has already been informed, this process will not be completed until after the elections.

1.3. Procedures and work instructions for civil service and clerk's office ready

In 2019 a large proportion of the procedures and work instructions were updated, including those for the clerk's office. Since then, however, there have been many changes within the public body. In June 2020 the procedures and work instructions were analysed to see whether they are up to date and complete. It was found that some descriptions still need updating and some are still missing. In addition, not everything is described at the same instruction level.

The public body has selected the most critical procedures and work instructions, and is busy reviewing them. The new procedures and work instructions will be completed by 21 October and will be available for all staff. These include in any event vulnerable procedures relating to the financial process, the election procedures and the procedures and instructions for the clerk's office. The procedures and work instructions for the island executive (a condition for phase 2; see 2.1) have also been labelled as critical by the public body and have already been completed and

³ Parliamentary Papers, House of Representatives 2019/20, 35 422, no. 9.

introduced. A number of less critical process descriptions and work instructions will take more time. They will be completed as soon as possible, and in any event before the end of phase 1.

1.4. Court of Audit established

Although the Public Bodies (Bonaire, St Eustatius and Saba) Act (WOLBES) provided for a joint Court of Audit for the BES islands, such a body was never put into operation. The Court of Audit's task is to audit the efficiency, effectiveness and regularity of the island authority's governance. A local Court of Audit is essential to ensuring transparent public accountability and local-level control.

The establishment of a separate Court of Audit for St Eustatius anticipates the amendment of the WOLBES provision on the joint nature of a Court of Audit. The Court of Audit was established on 14 May 2020, when its members were sworn in. In June, the members of the St Eustatius Court of Audit began the first round of interviews to obtain a general sense of the situation and decide what exactly the first audit should cover.

The focus of the first audit will be the quality of grant management in the public body, specifically with reference to grants awarded by the public body itself, e.g. to the public library, a historic buildings organisation and the tourist office. The audit will examine, among other things, the agreements made on how these local funds should be spent and the outputs to be delivered.

1.5. Training programme for prospective politicians initiated

In February the first information meeting was held in St Eustatius to encourage members of the public to pursue a career in local politics. The Association of Netherlands Municipalities (VNG), the Netherlands Institute for Multiparty Democracy (NIMD) and the Electoral Council gave presentations. Several meetings were subsequently held with various speakers from the region. These meetings, too, were aimed at informing the public about the opportunities available and generating enthusiasm for a possible career in politics. Due to the COVID-19 pandemic, online and physical meetings were organised in turn.

In early October, training courses will be offered to the candidates of the registered political parties. These courses will provide more in-depth information about the (still limited) powers of the island council after the elections. The courses will also focus on important skills, such as public speaking and debating. Due to the COVID-19 pandemic, the courses will be given online. Finally, an online course will also be offered on campaigning.

2. Conditions prior to phase 2

At the start of phase 2 (section 13 of the St Eustatius Administrative Provisions (Restoration) Act), the island council will appoint the ordinary members of the island executive. The other member of the island executive is the government commissioner.

2.1. Island executive procedures and work instructions completed

All the procedures and work instructions for the island executive have been completed and adopted by the government commissioner. The public body has been working on these new procedures for some time.

2.2. Ordinances adopted and in force

The public body has over 100 ordinances and associated orders, many of which were not up to date. Over 60% of all island ordinances and orders have now been checked for regularity and efficiency, and where necessary, they have been amended and updated. The financial ordinances, too, are currently being revised and, where necessary, updated. The content of the amended ordinances and island orders will be discussed with departments of the public body and other stakeholders on the island before they enter into force. The new ordinances and orders will also be published on the public body's website. This approach has been adopted to facilitate the

implementation and enforcement of local legislation and promote compliance. This project is expected to be completed before the end of 2020.

2.3. Permit and exemption system, grants system and land registry operational

In 2018 it was found that administrative systems were often not in order and had shortcomings (some of them serious). Since then, the public body has made a major effort to rectify this. About half of the 17 administrative systems have now been updated. The local Land Registry and Tax and Customs Administration are still being worked on. For instance, the Land Registry, in conjunction with the Dutch and Bonaire Land Registries, is implementing an action plan containing agreements on clearing backlogs. The BES Land Registry Act has now been passed by parliament and will enter into force on 1 January 2021. Under this Act, the land registry function in the Caribbean Netherlands will be performed by the Dutch Land Registry. It has been agreed that, once all financial ordinances have been modernised, the Tax and Customs Administration of the Caribbean Netherlands will take over responsibility for collecting and recovering local taxes.

2.4. Supervision and enforcement (policy & appointment and training of staff) operational

The public body still needs to take steps to put the supervisory and enforcement instruments in order. This function is still inadequate, which poses problems for infrastructure projects. My ministry is working with the public body to examine whether the European part of the Netherlands can provide support in this area. Certain improvements have, however, already been made. For instance, after the reorganisation a start was made on training existing supervisory and enforcement personnel.

3. Conditions prior to phase 2.1

At the start of phase 2.1 (section 14 of the St Eustatius Administrative Provisions (Restoration) Act), the tasks/powers of the island council and the island executive regarding the civil service, including the clerk's office, will be restored. This includes the taking of legal status decisions (appointment, suspension and dismissal of civil servants). In this phase the government commissioner will be responsible for the standard approval of decisions about personnel, instead of the Kingdom representative.

3.1. Skills training programme for civil servants completed

Under the organisation order adopted by the island executive, an annual training programme is provided for staff and managers. The programme provides general training to equip staff with the skills they need to perform their duties. Instruction is also given in project and programme management. Special grants are regularly provided for projects, which means a project-based approach is required. All policy officers and coordinators have been offered a training course on the policy cycle and how to organise it. Specific training courses will be provided later, based on interviews about personal development. This year, directors and business unit managers began a Management Development (MD) programme, which will continue until the end of the year. The course will cover joint leadership of the public body, including the structure of the interview cycle, tips for conducting 'bad news' interviews, and integrity. Cooperation among managerial staff will also be considered.

3.2. Training programme for members of the island council and island executive completed

After the elections on 21 October, officials will take stock of what training the elected island council members need, and every effort will be made to provide such training, alongside the courses that political parties organise for their own members. The focus may be on knowledge and/or skills. Training courses can be followed in groups or individually, for example by means of coaching. Further details still have to be worked out. The courses will not be mandatory.

3.3. Personnel policy operational and amended legal status rules adopted

Personnel policy is in order. This means that relevant decisions (e.g. on pay, working hours and leave, health and working conditions) have a statutory basis (legislation on bonuses, alcohol and drugs, pay, etc.). A review will be conducted before the end of 2020 to see whether anything needs updating.

The guidelines for legal status regulations are being followed. Efforts are being made to establish an objections committee and an integrity committee. Both committees will be independent. The public body aims to complete this process in the first quarter of 2021.

4. Conditions prior to phase 2.2

At the start of phase 2.2 (section 15 of the St Eustatius Administrative Provisions (Restoration) Act), the tasks and powers of the island council and the island executive will be restored under the Public Bodies (Bonaire, St Eustatius and Saba) Finances Act (FINBES). The government commissioner, rather than the Kingdom representative, is responsible for the standard approval of all decisions under the FINBES. This applies to all decisions of the island executive, including those of a financial nature, and those of the island council if an adopted ordinance is financial in nature.

4.1. Financial processes digitalised and centralised

The digitalisation of the financial records system was completed on 1 April 2020, but centralisation will take more time. A standard procedure is followed to ensure accuracy and manage changes. An IT management system is still in the process of being set up. The Central Government Audit Service (ADR) is preparing to audit how access to the financial records system is organised and managed.

4.2. Planning and control cycle in compliance with FINBES

The public body is working hard to bring the organisation of the planning and control cycle into line with the FINBES. The aim is for documents (annual accounts, draft/final budget, budget amendments and implementation reports) to be distributed on time. With the timely completion of the second implementation report, a start has been made on producing reports that comply with the classification requirements set out in the Public Bodies (Bonaire, St Eustatius and Saba) Budget and Accounts Decree (BBV BES).

The end result of this quarterly report has been discussed with the public body's departments (directors and business unit managers). Alignment with the standard planning and control (P&C) process is the goal.

The public body has also begun drawing up the 2021 budget so that this part of the P&C cycle is also formulated locally. Drawing up a good budget has proved difficult due to the backlog in annual accounts (2017 and 2018) and external factors that are hard to predict. In this quarter, too, there have been ongoing efforts to gradually clean up the seriously contaminated records of revenues and receivables. The annual accounts for 2019 and those for subsequent years will largely be compiled by the public body's own Finance Business Unit. The plan is to achieve alignment with the standard P&C cycle by the end of 2020.

4.3. Financial management action plan implemented

Since 2019 enormous backlogs have been cleared with a view to bringing the public body's financial records fully up to date as quickly as possible and ensuring that financial accounts can pass the accuracy and regularity tests. The next specific objective is a sound budget for 2021. The end result will then be a clean audit opinion on the part of an external accountant. This will require a well-designed and well-functioning administrative organisation and internal control (AO/IC) system.

Despite all the progress that has been made, efforts to improve financial management are lagging behind when it comes to the implementation and organisation of specific internal controls in the public body and the implementation of a procedure for the proper performance of the role of budget holder and for budget management. However, work on this is ongoing, in conjunction with other measures from the financial management action plan.

Implementing financial management measures is an ongoing challenge, mainly due to the lack of the necessary expertise on the island. The Finance Department is still a point of concern, and requires substantial investment in human and other resources, in addition to external assistance.

5. Phases 3 and 4

In phase 3 (section 16 of the St Eustatius Administrative Provisions (Restoration) Act) a governor will be appointed. All the above-mentioned conditions will then have been fulfilled and all support measures implemented. The gross neglect of duty will have ended and the position of government commissioner will cease to exist. Once the extra powers of the Kingdom representative in phase 3 are deemed to be no longer necessary, phase 4 will follow (section 21 of the St Eustatius Administrative Provisions (Restoration) Act), in which those supplementary powers will be terminated. The administrative situation will then have been fully normalised, in line with the WOLBES and the FINBES.

Conclusion

The island council elections on 21 October will usher in a new phase of the administrative intervention in St Eustatius, marking a key step in the restoration of democracy on the island. After that date, the government commissioner and the island council will have the joint task of further shaping the future of St Eustatius in the interests of the island and its inhabitants and achieving further progress.

There is still much organisational work to be done to ensure long-term good governance, and even in these challenging times the government commissioner and his deputy, the local team, the public body and the relevant ministries in The Hague are continuing to work hard to achieve this. After the elections I hope that the island council will actively participate in the day-to-day administration of the island. In line with the motion submitted by MP Nevin Özütok,⁴ the government commissioner is also working with the island council to develop a roadmap that will guide further progress towards the full restoration of normal administrative relations.

⁴ Parliamentary Papers, House of Representatives 2019/20, 35 422, no. 8.