

**MEMORANDUM OF REPLY**

I have read with interest the preliminary report of the Permanent Committee on Kingdom Relations regarding the present Bill. Below I will address the questions raised in this report, wherever possible in the same order and in their mutual context.

**Questions from members of the parliamentary Labour Party (PVDA)**

COVID-19 has had a major negative impact around the world, and St Eustatius is no exception. The members of the parliamentary PVDA ask whether this will have implications for the elections scheduled for 21 October 2020. The members also ask what the consequences will be for the achievement of the various projects, whether the government can estimate what the expected delay for each project will be, and whether the government expects the potential (or further) delay of projects due to COVID-19 to negatively affect the election.

The consequences of the COVID-19 crisis impose an extra burden on St Eustatius. To date, the public body has spent a great deal of time and energy dealing with the situation, and the crisis is not over yet. In the present circumstances there is no reason to think that the elections planned for the autumn will not be able to go ahead because of the COVID-19 situation. The Ministry of the Interior and Kingdom Relations is explicitly monitoring the possible impact of the COVID-19 crisis on the organisation of the elections. The most desirable outcome would be that the elections can be held without restrictive measures. However, the government and the public body will jointly assess how the elections will be affected if restrictions are still in place and physical distancing (1.5m) has to be observed. In this connection the government would also refer to the letter from the Minister of the Interior and Kingdom Relations to the House of Representatives of 22 May 2020.<sup>1</sup>

The delays that have arisen in ongoing projects relate mainly to the fact that the required materials and workers have no access to the island. This is a particular issue with regard to the infrastructure projects, which have been delayed by several months as a result. In each case, an assessment is currently being made of whether extra labourers can be granted access to the island as 'essential workers', so that the projects can be resumed and the delays limited. These individuals would however have to spend two weeks in quarantine before starting work.

Although the COVID-19 crisis has placed an additional burden on St Eustatius, there is currently no reason to assume that the conditions for holding island elections, as set out in the explanatory memorandum to the Bill, cannot be met. The government therefore still expects that those conditions will be met in good time.

The members of the parliamentary PVDA ask whether any research has recently been done among the island's relatively small population to survey whether the island council's lack of formal powers would discourage them from voting, particularly the part of the population that is satisfied with the policy put in place by the government commissioner to date. The members ask the government to describe what measures will be taken to encourage as much voter turn-out as possible.

When the island council's powers were originally restricted, the government noted from the outset that the limited set of powers would be gradually developed into a comprehensive package of powers. This means the island council's powers will be expanded in the second phase. When it takes office, the island council will have a number of scrutinising powers, the right to amend and initiate legislation and the power to adopt ordinances. The island council can thus scrutinise the

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<sup>1</sup> Parliamentary Papers, House of Representatives, 2019/20 session, 35 165, no. 21.

administrative actions of the government commissioner and can influence the administration of the island through its power to adopt ordinances.

The people of St Eustatius are being involved and included in various ways in the developments taking place on the island. They have been informed several times, for example, about the plans to extend the administrative intervention by law and to hold island council elections. Both plans were mentioned in the letter to the House of 24 September 2019, an English version of which has also been made available.<sup>2</sup> The islanders were briefed on the content of this letter during a town hall meeting in September 2019. Subsequently, the legislative process was initiated, during which the civil society advisory council was consulted through the intermediary of the government commissioner.

A public information campaign has been launched in the run-up to the elections to inform the people of St Eustatius about the election and the various administrative authorities and their powers. This campaign is aimed at reaching a broad public, ranging from voters to politicians (or prospective politicians) and other interested parties. The first session took place on 20 February 2020. The main message was that anyone with the right to vote or stand for election could exercise that right, and that both existing and new political parties were encouraged to participate. This information campaign has been delayed because of the COVID-19 crisis. During this time the information campaign has been moved online, but the aim is still to provide prospective politicians with clear information about what local politics has to offer and give them the opportunity to discuss this with experts from the Association of Netherlands Municipalities (VNG) and the Netherlands Institute for Multiparty Democracy (NIMD). A second session was held on 24 June, and the next is scheduled for 8 July. Other than providing this kind of information, we will have to wait for election day to discover what level of enthusiasm exists among potential voters.

The members of the parliamentary PVDA ask the government to discuss the expected degree of support for the government commissioner among the members of the island council. Coalition-forming is not necessary, which means it is conceivable that the government commissioner will be opposed by the island council at every turn. The members ask what the government expects in this regard, and how, if such a scenario should come to pass, it will prevent the commissioner's position from being weakened.

In the course of the above-mentioned information campaign, both established and prospective political players have expressed interest in participating in the island council elections. How much enthusiasm there is for participating in elections will become apparent on nomination day. The voters on St Eustatius will determine the composition of the island authorities. It is not up to me to make predictions in that regard.

Whatever the composition of the island council, it is crucial that the members of the council and the government commissioner work together effectively. The commissioner will work hard to make this happen. Furthermore, the next phase will be launched only when this is considered a responsible course of action.

Besides the restriction of the island council's powers under the Bill, the council will be restricted in its actions only if the government commissioner does not approve a decision it has made. Approval may not be withheld arbitrarily, but only on the grounds laid down in the Bill (see section 10). The power of approval is intended to act as a safety net and a legal basis for action if the situation so requires. This makes it possible to legally safeguard the progress and positive developments on the island. These are factors the government commissioner must weigh up. However, good governance is not something that can be achieved just by passing a law. Of at least equal importance is the willingness of the future members of the island council and island executive to engage in constructive cooperation and communication with one another and with the government commissioner, and their willingness to perform their tasks and exercise their powers in the

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<sup>2</sup> See <https://english.rijksdienstcn.com/documents/publications/bzk/statia/letter-of-september-2019/letter-of-24-september-2019>.

collective interest of the public body and the people of St Eustatius.

It follows from the foregoing that any differences of opinion between the island council and the government commissioner about what exactly is in the interests of the island and its inhabitants should first and foremost be resolved through cooperation and consultation. If this fails, the government commissioner has the final say.

The Bill also provides for the eventual restoration of the official position of the Kingdom representative within the administrative structure of St Eustatius. The members of the parliamentary PVDA ask whether the government shares the members' view, and endorses the advisory opinion of the Council of State, that quite apart from the constitutional structure of the Kingdom it is desirable to encourage regional cooperation among Saba, St Eustatius and St Maarten. The members ask whether it is possible to transfer powers and tasks formally vested in the Kingdom representative to the Representative of the Netherlands in St Maarten, and if so, whether the government is prepared to do so.

When it comes to promoting regional cooperation it is necessary, first and foremost, for the Caribbean countries and islands themselves to recognise the added value of such cooperation. When that is plainly the case, the government will also work to encourage regional cooperation. An example in this connection is the establishment of a ferry connection between the three islands. The public bodies of Saba and St Eustatius are currently working on an initial joint proposal for an improved ferry connection between the three islands. The aim is to achieve more frequent and reliable ferry services at a lower fare. The relevant ministries in The Hague are supporting this process where necessary.

Under section 187, subsection 2 of the Public Bodies (Bonaire, St Eustatius and Saba) Act (WOLBES), the Kingdom representative holds a seat in a public body designated by Royal Decree (Bonaire, St Eustatius and Saba). Although the Minister of the Interior and Kingdom Relations may grant an exemption for one year, in principle the Kingdom representative's actual place of residence is located on one of the three islands (section 198, WOLBES). Furthermore the Kingdom representative requires permission from the Minister of the Interior and Kingdom Relations if he or she wishes to remain outside the public bodies for longer than six weeks (section 199, WOLBES). Finally, the government would refer to article 3 of the Representative of the Government of the Netherlands in Aruba, Curaçao and St Maarten (Status) Decree. Under this provision the Representative acts 'only' as the representative of the government of the Netherlands in its dealings with the governments of Aruba, Curaçao and St Maarten. Given the constitutional differences between the countries and the islands of the Kingdom, it is not possible to transfer tasks and powers to the Representative of the Netherlands in St Maarten without a legislative amendment. Regardless of any constitutional differences, moreover, the differences in scale and in the local situation require a different role from the Representative.

It would not be sensible for this memorandum of reply to speculate on potential future developments concerning the Caribbean Netherlands in general and the Kingdom representative in particular. This will depend on the further elaboration of the planned measures the government set out in its response to the advisory opinion of the Council of State and the Interministerial Policy Review on Kingdom Relations,<sup>3</sup> in which the government explained how it proposes to organise the coordination of policy in The Hague and improve cooperation between the European and Caribbean parts of the Netherlands and the quality of local governance.

The members of the parliamentary PVDA ask whether the government can sketch a timeline of when it expects the full restoration of administrative relations to be completed. They also ask whether the government believes it is conceivable that a complete normalisation will not be possible for at least the next 10 years, and if so, whether it would consider this acceptable.

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<sup>3</sup> Parliamentary Papers, House of Representatives, 2019/20 session, 35 300-IV, no. 11.

No timeline has been set for the gradual phasing out of the administrative intervention. One phase will follow the next as soon as the conditions set out in the explanatory memorandum to the Bill have been met. To avoid the extra pressure of deadlines, the intervention will be phased out on the basis of the progress made. The focus will therefore be on meeting the conditions for good governance and not on speed. After its re-establishment, the island council will be jointly responsible for the nature and speed of progress and the achievement of goals.<sup>4</sup>

Despite the absence of deadlines, section 21 of the Bill provides that the legislation will be repealed on 1 September 2024, although it may, if necessary, be extended for a maximum of one year. The guiding principle is still that the administrative intervention should be as short as possible, but as long as necessary. The government believes that all the conditions can reasonably be met within the period laid down in the Bill.

### **Questions from members of the parliamentary Christian Union:**

St Eustatius, like the rest of the world, is facing various threats related to COVID-19. The members of the parliamentary Christian Union asked what impact these threats are having on the island, and what effect this has had on the administrative vision underlying this Bill. The members ask the government to explain the current situation and whether it will lead to specific challenges of its own, whether administrative or otherwise.

As indicated previously, the COVID-19 crisis has placed an extra burden on the administration of St Eustatius, and it will take time and effort to deal with the impact as effectively as possible. The situation has created extra governance challenges, as explained in the latest progress report on St Eustatius, dated 29 May 2020.<sup>5</sup> That report also deals with the measures that have been taken to date.

Where food aid is concerned, an assessment is currently under way across all three islands of the Caribbean Netherlands to determine whether the current aid being provided is sufficient. The government informed the House of Representatives by letter of 19 June 2020<sup>6</sup> about a subsequent package of emergency measures for the Caribbean Netherlands. The first emergency package will be extended by four months, and a number of supplementary measures will be taken.

The members of the parliamentary Christian Union understand that the people of St Eustatius are being subjected to water rationing. They ask the government to explain the problem in more detail and describe the impact of rationing on the public and the business community, and also in relation to the hygiene requirements that are essential for practical COVID-19 measures and protecting the population.

All residents of St Eustatius have access to water in their homes. However, a small section of the population is dependent on the water supply network for drinking water, and therefore during times of rationing, has no direct access to drinking water. The structural solution to St Eustatius's drinking water problem – replacement of the main distribution pipe and enhancement of the island's production and storage capacity – will be completed by the end of 2020. For more detailed information concerning this issue, the government would refer to its answers to the questions posed by MP Nevin Özütok, which are included in the letter to the House of 19 June 2020.<sup>7</sup> In addition, the Minister of Infrastructure and Water Management is still in consultations with St Eustatius regarding the implementation of the motion submitted by MP Antje Diertens et al., which requested that an emergency measure be taken while the structural solution is being carried out. The Minister will provide an update in this regard soon.

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<sup>4</sup> In this connection the government would also refer to the motion submitted by MP Nevin Özütok et al., requesting the government to urge the government commissioner to draw up a timetable, in consultation with the island council, for the restoration of normal administrative relations. Parliamentary Papers, House of Representatives, 2019/20, 35 422, no. 8.

<sup>5</sup> Parliamentary Papers, House of Representatives, 2019/20 session, 35 300-IV, no. 56.

<sup>6</sup> Parliamentary Papers, House of Representatives, 2019/20 session, 2020Z11635, no. 6.

<sup>7</sup> <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/06/19/beantwoording-kamervragen-van-het-lid-ozutok-gl-over-watertekort-op-sint-eustatius>.

The four phases outlined in the explanatory memorandum will take time to complete. The members of the parliamentary Christian Union observe that we are dealing with a set of intractable problems, with a large number of difficult social, economic, cultural and political issues playing out simultaneously. The members ask whether it would be realistic to assume that the restoration process will take considerably longer than was expected back in 2018, and perhaps longer even than is expected today.

In the very first progress report on St Eustatius,<sup>8</sup> dated 31 May 2018, the government reported that the situation on the island was extremely serious and that the backlogs and neglect were more severe than previously thought. That situation demanded – and still demands – a major and labour-intensive administrative response. Since that time, progress has undeniably been made in all areas. At the same time, a great deal of work remains to be done before the local island authorities can be deemed capable of functioning independently. The guiding principle is that the administrative intervention should be as short as possible, but as long as necessary. If the conditions specified in the explanatory memorandum are fulfilled, this will provide a sound basis for the local authorities to begin their tasks. As explained previously, there is no specific timeline attached to this process: steps toward the full restoration of normal administrative relations will be taken on the basis of the results that have been (and have yet to be) achieved.

In the first phase the new island council will have barely any powers. The members of the parliamentary Christian Union ask whether this might lead to a process of marginalisation and frustration. They also ask how the government intends to manage the transition from one administrative phase to another. Will all the conditions set out in the transition schedule<sup>9</sup> apply equally? And might the model of a gradual assumption of powers be a source of conflict in relations between the government commissioner, the new island council, the new island executive and the new governor?

The transition from phase 2 to phase 3 (full restoration) is especially key in this regard. The members ask who will have the final say, and what role has been assigned to the new island council in weighing up the decision.

The original restriction of powers does not alter the fact that the new island council will, from the moment it takes office, be able to exert influence on the administration of the island and pursue policy in cooperation with the government commissioner. When it takes office, the island council will have a number of scrutinising powers, the right to amend and initiate legislation and the power to adopt ordinances. The island council will thus scrutinise the administrative actions of the government commissioner and can influence the administration of the island through its power to adopt ordinances. The council's limited powers will gradually develop into a comprehensive set of powers. For example, the island council will obtain increased powers in the second phase.

The transition between the different phases will always be marked by the issuing of a Royal Decree setting the date on which the next phase will take effect. On that date the Bill will be amended to enable the members of the body concerned to be appointed and allow that body to perform its statutory tasks and exercise its statutory powers itself. In order to proceed to a subsequent phase, the conditions attached to the phase in question, as set out in the explanatory memorandum to the Bill, must be met. The States General are expressly involved in every transition because the draft Royal Decrees regulating the entry into force of the separate sections are sent to both Houses of Parliament in the course of a preliminary parliamentary scrutiny procedure, together with notes explaining the date chosen for the start of a new phase.

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<sup>8</sup> Parliamentary Papers, House of Representatives, 2017/18 session, 34 877 D.

<sup>9</sup> Parliamentary Papers, House of Representatives, 2019/20 session, 35 422, no. 3, paragraph 3.2.8. Phasing-out table.

The second progress report, dated 14 November 2018,<sup>10</sup> set out 12 criteria for reorganising the administrative structure with a view to long-term continuity. In the Bill, these criteria serve as conditions for completion of phases and are thus being fulfilled step by step. Each criterion is equally important for achieving good governance. Transition to the next phase can take place only if the conditions have been met and the powers concerned are expected to be exercised properly in the longer term. Achieving the necessary results is a responsibility shared by the government commissioner, the island council and – at a later stage – the members of the island executive. The input of the island authorities is of value in determining whether a phase has been completed. As administrative relations currently stand and under the new legislation, the decision on whether to move from one phase to the next lies with the government.

The members of the parliamentary Christian Union also request clarification of the role of the Kingdom representative in the successive phases of restoring normal administrative relations. The same applies to the Kingdom representative's role in financial management and supervision.

Pursuant to section 12 of the Bill, the Kingdom representative may not perform his tasks or exercise his powers under the WOLBES in respect of the public body of St Eustatius until the third phase (see section 16 of the Bill) takes effect. This is a continuation of the current section 6, subsection 1 of the Temporary Act on Neglect of Duty in St Eustatius. No approval by the Kingdom representative as referred to in section 126, subsection 2 of the WOLBES (appointment of island secretary) and section 168, subsections 3 (appointment of officials) and 4 (conclusion of public service contracts) is required until such time as the members of the island executive are appointed and, in that capacity and on the basis of section 13 of the Bill, again fulfil the tasks conferred on them on the basis of the WOLBES, with the exception of tasks relating to section 168, subsection 1 (c) (civil service organisation) of the WOLBES. Provision for this last point is made in section 13, subsection 4 of the Bill. This is logical given that, up until that point, the government commissioner is already performing those tasks on the basis of his appointment by the government.

Furthermore, when the members of the island executive are appointed and the island executive re-assumes these tasks, responsibility for supervision will be assigned to the government commissioner instead of the Kingdom representative. Provision for this is made in section 13, subsection 3 (a newly proposed section 10). Under section 16 of the Bill, as soon as the governor can properly perform his tasks, the position of government commissioner will cease to exist and the Kingdom representative will again perform all the tasks in accordance with section 73 of the WOLBES (Tasks relating to appointment of governor).

Once all regular tasks are being performed by the relevant administrative authorities, it would also be desirable to have a means of keeping a finger on the pulse, for example by making good use of approval, annulment and substitution as standard instruments of supervision. During this third phase, both the Kingdom representative and the governor can again submit decisions for annulment. If the island authorities fail to exercise their delegated competences (or fail to do so properly), the Kingdom representative may do so instead.

To carry out intensified supervision, the Kingdom representative needs to have sufficient information about the policy of the island authorities. The Bill therefore grants the Kingdom representative the right to attend the meetings of the island council and the island executive, even if they take place behind closed doors. The Kingdom representative is also given the right to inspect all documents available to the island authorities (section 16 of the Bill in conjunction with section 12 (new)). The Kingdom representative thus acts as an extra link in the supervision system with a view to safeguarding long-term improvements and compliance with the conditions for good governance.

The development of a new generation of committed public administrators on the island will be essential to the achievement of a properly functioning Stavian government. A lasting restoration of normal administrative relations will not be possible without robust administrative capacity. The

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<sup>10</sup> Parliamentary Papers, House of Representatives, 2018/19 session, 35 000-IV, no. 29.

members of the parliamentary Christian Union are interested in the government's view on this point. They ask whether there have been any signs of increased administrative capacity on St Eustatius, and if so, what those signs are. They further ask what is working well, where improvement is needed, to what extent support concerning this key issue is being arranged from the Netherlands, and how the government would assess the operational capacity of the civil service organisation.

The members would like to know how we can prevent the need for another intervention in a few years' time.

The aforementioned 12 criteria for good governance make up the conditions that are divided over the various phases laid down in the Bill. During each phase a number of conditions must be met in order to proceed to the next phase. By the time normal administrative relations have been fully restored, all the conditions for good governance will have been met. A sound basis for good governance will then have been created and new local authorities will be expected to be able to function independently and effectively.

The entire administrative intervention is aimed at improving the island's administrative capacity so that the local authorities can again operate independently and properly perform their tasks. Since the very start of the intervention in February 2018, the conditions for good governance have been a key focus. For example, good financial management and a properly functioning civil service organisation are indispensable requirements for a public body's administrative stability. Achieving improvements with respect to these and other conditions are still explicit areas of focus. Results are being achieved step by step, and this is increasing the administrative capacity of St Eustatius. The periodic progress reports deal with these results in more detail. It is worth stressing the importance of preserving both past and future achievements in the long term and of implementing the agreed measures.

The same applies to the civil service organisation. Holding island elections is conditional upon completing the reorganisation of the civil service, including official procedures and work instructions. This reorganisation must have been completed by then. It should be noted that formal completion is what is required to meet this criterion. The culture change, which is also necessary, will require more time.

The reorganisation is a complex task and still requires an enormous amount of work. Currently, a number of key positions are being filled. These include a deputy island secretary and a director of operational management, two positions that will ensure a more robust public body. The culture change, which will encompass leadership training and an integrity management plan, will be a lengthy process.

Preventing a recurrence of the pre-intervention situation once normal administrative relations are restored is absolutely essential. The Bill therefore contains a good many safeguards designed to minimise the risk of relapse. To enable new local authorities to perform their tasks properly, the administrative structure, including the civil service organisation and financial management, must not only be in good order but also have been reorganised with a view to long-term continuity. It will then be up to the island's future administrators to maintain the system and maintain the local population's trust in democracy and the legal order. By the time the governor takes office and the position of government commissioner is no longer necessary, the conditions for good governance will also have been met.

Enhancing the island's administrative capacity will also involve a cultural shift. An energetic and enterprising political culture is needed. The members of the parliamentary Christian Union would like the government to clarify the current state of affairs with regard to this culture change and the conditions necessary to achieve it. They request that the government set out the positive and less positive developments, what the current situation is like on balance, and where extra attention is required.

The members also ask about the current level of the Stavian public's trust in the island's politics and political institutions. Has there been any change, or is there a prevailing sense of political mistrust?

The government would first note that it is for the Stavian people themselves to take the initiative where building an energetic and enterprising political culture is concerned. This is not something that the Netherlands in Europe can 'give' St Eustatius, but something that must grow, above all once the local government takes over the reins once more.

As part of the aforementioned information campaign, public information sessions have been, and continue to be, organised. The first session (on 20 and 21 February 2020) generated interest among both established and prospective politicians. Plenty of interest was also evident at the second session (held on 24 June). Because of technical difficulties, this session (which was held online due to COVID-19 restrictions) did not go as planned. The poor connection meant that the questions posed by the participants will have to be answered at a later date. The organisers are currently exploring how to avoid similar problems when the next session is held. Considering that the administrative intervention itself prompted a wide range of responses, it goes without saying that the island elections will also prompt a wide range of different sentiments. The same is true of public trust in the island's politics and political institutions.

The members of the parliamentary Christian Union would like to know what conditions the government has attached to the holding of elections, and how these will affect the date on which new elections for the island authorities are held. The members have read that the 12 good-governance criteria the government introduced in the second progress report<sup>11</sup> serve as a roadmap. For the members, this raises the question of whether these criteria each weigh equally heavily or whether some are more important than others (and if so which ones) when it comes to determining the date of new elections.

In order for elections to be held, a number of conditions must be met: the electoral register must be prepared, the reorganisation of the civil service must be completed, the procedures and work instructions of the civil service and the registry must be completed, the court of audit must be established and a training programme must be available for prospective politicians. There is no reason to think these conditions will not be met before the planned elections this autumn.

These and the other criteria are conditions for good governance. If they are not met, the local authorities cannot be expected to properly and independently perform their tasks and exercise their powers. These criteria are therefore all equally important in ensuring that a new local government gets the best possible start.

The members of the parliamentary Christian Union ask how the island's population and civil society institutions feel about the new elections. Specifically they wish to know how big the risk is that the old political elite will simply reassert itself, neutralising the contributions of a new generation of competent and ethical administrators. What is the government's assessment, they ask, of the political arena in St Eustatius, and of the development of a new generation of politicians? Are new parties being established?

As noted previously, the Stavian people themselves bear the responsibility in this regard. What is more, the result of the elections cannot be anticipated. As part of the aforementioned information campaign, various public information sessions have been, and continue to be, organised. The first session (on 20 and 21 February 2020) generated interest among both established and prospective politicians. And despite the technical difficulties, the participants in the second session (on 24 June) also expressed considerable interest.

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<sup>11</sup> Parliamentary Papers, Senate, 2018/2019 session, 34 877, F, p 8-9.



The members of the parliamentary Christian Union ask whether an election date in the autumn of 2020 is too soon. If the election is held too soon, what will the associated risks be in this regard, and how will the government strike a balance between the democratic imperative of timely, regular elections with the presence of an administrative framework that can dynamically shape the resumption of the political process? The members of the parliamentary Christian Union further ask whether this is even feasible in the time available, not least for the Stavian political sphere and for the politicians themselves.

There is no reason at present to believe that the aim of holding elections this autumn is unrealistic. In this regard, sufficient account is being taken of the fact that a timely decision on the election date is important for the organisation of the elections, the public information campaign leading up to it, the registration of appellations of political parties and the organisation of political campaigns. The public body of St Eustatius is already making preparations to hold the elections. As usual, the Ministry of the Interior and Kingdom Relations is advising the public body on these preparations.

Given the widely shared wish among the people of St Eustatius to restore the island council as soon as possible, the government has decided to organise elections while at the same time extending the intervention and phasing out the current provisions gradually. The government commissioner will continue to be part of the island authorities even after the elections. This will make it possible to consolidate and build on the gains achieved so far, while at the same time holding out better prospects for the people of the island and allowing them to choose their own representation. Both these aspects are regarded as of great importance. The gradual phasing out of the provisions is precisely what makes holding island council elections this autumn a feasible prospect.

According to the members of the parliamentary Christian Union, there will be friction between the gradual withdrawal of the Dutch government's intervention and the restoration of the normal administrative situation. This will require transparency where policy on transferring powers is concerned. The members of the parliamentary Christian Union ask how this transfer will be organised. Which sectors will be addressed first, and which will follow later?

The transition between the different phases will always be marked by the issuing of a Royal Decree setting the date on which the next phase will take effect. On that date the Bill will be amended to enable the members of the body concerned to be appointed and allow the body to perform its statutory tasks and exercise its statutory powers. In order to transition to a new phase the public body must meet the conditions set out in the explanatory memorandum that correspond to the phase in question. The States General are expressly involved in every transition because the draft Royal Decrees regulating the entry into force of the separate sections are sent to both Houses of Parliament in the course of a preliminary parliamentary scrutiny procedure, together with notes explaining the date chosen for the start of a new phase.

The second progress report of 14 November 2018<sup>12</sup> set out 12 criteria for reorganising the administrative structure with a view to long-term continuity. In the Bill, these criteria serve as conditions for the completion of phases and are thus being fulfilled step by step. Each criterion is equally important for achieving good governance. Transition to the next phase can take place only if the conditions have been met and the powers concerned are expected to be exercised properly in the longer term. Achieving the required results is a responsibility shared by the government commissioner, the island council and – at a later stage – the island executive. The input of the island authorities is of value in determining whether a phase has been completed. In view of existing administrative relations, both generally and under the new legislation, the decision on whether to move from one phase to the next lies with the government.

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<sup>12</sup> Parliamentary Papers, House of Representatives, 2018/19 session, 35 000-IV, no. 29.

The members of the parliamentary Christian Union ask how the government envisions the gradual reduction of the 'span of control' of the government commissioner (and his support team).

The presence of the government commissioner, who will remain in office until the governor's appointment in the third phase, will ensure the continuity of projects and also provide a degree of control over the results still to be achieved and the administrative situation. On the basis of the results achieved, steps will be taken to end the intervention and the phasing-out will proceed accordingly. If the conditions laid down in the Bill are not met, it would not be a responsible course of action to proceed to the next phase. By applying this philosophy, the government will not expose new local authorities to the risks associated with moving too quickly, but will rather enable them to perform their tasks independently. As regards the objective assessment of whether or not a criterion is met, the government commissioner is responsible for the progress of the projects concerned. Ultimately, however, deciding whether sufficient progress has been made is a matter for the government.

The members of the parliamentary Christian Union ask what role the advice and communications of the civil society advisory council and the 'Central Dialogue Statia' played in the present Bill and the thinking behind the restoration of administrative relations. The members ask that the government discuss the input of the churches on St Eustatius and whether they have been assigned a proper role.

They further ask whether it would be unwise to dispense too soon with the civil society advisory council. They wonder why we are establishing more new bodies. Is such a move not excessive given the size of the island and the limited number of stakeholders?

The civil society advisory council was consulted when the Bill was drawn up. The advisory council's response has been taken into account in the legislative process and included in the explanatory memorandum to the Bill. At that time the Central Dialogue had not yet been established. The composition of the civil society advisory council is representative of the various groups and strata of Statian society. It includes people of different ages and occupations, for example from business, education, the church and healthcare. The input of the church thus falls under this umbrella.

The civil society advisory council was established at the start of the administrative intervention to provide the government commissioner with solicited and unsolicited advice, and has a statutory basis in the Temporary Act on Neglect of Duty in St Eustatius. This was a way of ensuring that the government commissioner, in the absence of an island council, could be informed about the views of the local community on matters relating to the administration of the island.

Once the island council has been reinstated, the civil society advisory council will no longer be needed to advise the government commissioner and ensure that his actions have public support. The government commissioner will instead be able to gauge the level of public support from the reaction of the island council, and the latter can take a position on the actions of the government commissioner by exercising its right to ask questions and call for an emergency debate.

In order to maintain his dialogue with the local population and civil society, as well as with the island council, the government commissioner is setting up a citizen participation council to replace the current civil society advisory council when the new island council takes office. The citizen participation council can be of value in shedding light on what exercises the residents of the island, for example what they consider important and what they expect of the island authorities. As it would not be desirable to have a second council with statutory status, besides the island council, the existence of the citizen participation council will not be guaranteed by law. This is unlike the current civil society advisory council, which was established under the Temporary Act on Neglect of Duty in St Eustatius.

As stated in the explanatory memorandum to the Bill, members of the civil society advisory council consider the planned date of the new elections in the autumn to be rather optimistic. The members of the parliamentary Christian Union do not feel this is an encouraging sign. They ask why this date was chosen and to what extent a balance was struck between speed and due care.

The aim is to hold the island council elections this autumn. 21 October 2020 was mentioned as the target date in the letter to the House of 24 September 2019 and was chosen because it was thought that the conditions specified in the explanatory memorandum could be met by that date. If elections for the island council are held this autumn, there will be sufficient time both to organise the elections and to meet the conditions.

The government has decided to organise elections for a new island council while at the same time extending the intervention and gradually phasing out the current provisions. It is precisely the gradual phasing-out of the current provisions, alongside the viability of the planned date, that makes it possible for the government to heed the broadly held desire of the Stavian people to elect a new island council this autumn. The expectation that local authorities can function independently is not a requirement in this respect. After the elections the government commissioner will remain part of the island authorities, and this will make it possible to consolidate and build on the gains achieved so far, while at the same time holding out better prospects for the people of the island and allowing them to choose their own representation. Both these aspects are regarded as of great importance.

The members of the parliamentary Christian Union ask how the results achieved in the past two years relate to this modest phasing-out plan. Are these achievements and improvements proportionate? Are they visible to the people of the island? How does the 'average' Stavian view the results achieved to date? What is the status of the island's vulnerable groups in this regard (such as people reliant on social assistance, single parent families and elderly people)? Do they see new prospects for the future?

The government would refer in this connection to the interim progress reports on St Eustatius.<sup>13</sup> These describe all the projects and set out the results achieved to date. The reports also show that the performance and improvements are both tangible and visible to the population, and proportionate for the island. Were that not the case, the Bill would be premature.

The working relationship between Dutch government ministries and the island authorities of St Eustatius has been a constant source of annoyance and dissatisfaction. The members of the parliamentary Christian Union ask whether that working relationship has structurally improved over the past two years, and what lessons the government has drawn from this experience in terms of the future, democratically legitimate administration of the island.

In various policy fields a clear improvement in the cooperation between the ministries in The Hague and the authorities in St Eustatius has been observed since the administrative intervention. At civil service level, too, there is more consultation and more frequent contact. The relevant interministerial committee in this regard is the Caribbean Netherlands Steering Committee. For example, the Ministry of Infrastructure and Water Management and the public body's Department of Economic Affairs, Nature and Infrastructure are collaborating closely on the contracting and implementation of numerous projects. In addition, the long-standing wish to house the public body's civil service organisation and the central government bodies in a centralised office building is now coming to fruition. Consultation and cooperation in areas such as legal advice, social provision, and agriculture and conservation are leading to greater transfer of knowledge and concrete results. In this way the government and the public body hope to lay the foundations for a constructive long-term working relationship based on mutual understanding and trust.

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<sup>13</sup> Parliamentary Papers, House of Representatives, 2017/18 session, 34 775-IV, no. 41, Parliamentary Papers, House of Representatives, 2018/19 session, 35 000-IV, no. 29, Parliamentary Papers, House of Representatives, 2018/19 session, 35 000-IV, no. 57, Parliamentary Papers, House of Representatives, 2019/20 session, 35 300-IV, no. 36 and Parliamentary Papers, House of Representatives, 2019/20 session, 35 300-IV, no. 56.

The Netherlands' intervention in the administration of St Eustatius was unprecedented. The members of the parliamentary Christian Union underscore the importance of learning from this radical intervention. The members ask how these 'lessons learned' will be put into practice.

Lessons that have broader relevance within the Kingdom will be incorporated in the further elaboration of the planned measures the government set out in its response to the advisory opinion of the Council of State and the Interministerial Policy Review on Kingdom Relations,<sup>14</sup> in which the government explained how it proposes to organise the coordination of policy in The Hague and improve cooperation between the European and Caribbean parts of the Netherlands and the quality of local governance. The elaboration of these measures is being coordinated by the Ministry of the Interior and Kingdom Relations. That will require a carefully crafted approach, which also takes account of possible amendments to the WOLBES. In this way, the relevant experience gained in the course of the intervention will be incorporated more broadly.

R.W. Knops  
State Secretary for the Interior and Kingdom Relations

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<sup>14</sup> Parliamentary Papers, House of Representatives, 2019/20 session, 35 300-IV, no. 11.