

## Introduction

In the second progress report on St. Eustatius of 14 November 2018<sup>1</sup>, I promised your House to assess the state of affairs on St. Eustatius as of 1 September 2019 on the basis of the criteria included in that letter. With this letter I will inform your House about the results. The purpose of the test is to gain insight into the moment at which local democracy can be fully or partially restored and at which elections can be held for the island council. Elections are essential for the local population; in this way they are represented in the island government. To this end, it must be able to exercise its right to vote and to be able to be elected to a position in the democratic system.

In order to be able to place the outcome of the test in the right context, the reason for the intervention is described first. This is followed by the outcome of the assessment and, finally, an indication of what the outcome - in relation to the reason - should lead to in the Cabinet's opinion. The interests of the population, such as the right to vote and stand for election on the one hand and the right to good governance and noticeable improvements in the neglected state of the island on the other, are paramount.

## Reason for the intervention

### Report of the Committee of Wise Men

Because of the ongoing concerns about the state of the administration of the public body St. Eustatius, the then Minister of the Interior and Kingdom Relations (BZK) asked on May 24, 2017 a Commission of Wise Men (further: the commission) to investigate the functioning of the public body and to report to him about it, including conclusions and recommendations. On 5 February 2018 the Committee presented its report.<sup>2</sup> The Committee established that St. Eustatius was both socio-economically and physically in a severely neglected state and that there was an unfavourable business and investment climate with elements of arbitrariness. According to the committee, the administrative situation was characterised by lawlessness, financial mismanagement, ignoring other legal authorities, discrimination, intimidation and the pursuit of personal power. The relations between the coalition and the opposition and between the Dutch and St. Eustatius governments were severely disrupted or almost completely broken. In the Island Council, the Public Entities of Bonaire, St. Eustatius and Saba Act (WolBES) and the Public Entities of Bonaire, St. Eustatius and Saba Finance Act (FinBES) were banned by motion. The committee established that the administration of St. Eustatius had turned away from the existing legal and state order and was no longer prepared to relinquish the autonomies that had been appropriated arbitrarily. Citizens indicated that politicians and administrators bought support with promises, forgiving jobs and vilifying the Netherlands. Moreover, according to citizens and entrepreneurs, there was an administrative culture of legal inequality, arbitrariness and exclusion, maintained by a small group.

The committee concluded that the possibilities to improve the situation by using the regular instruments had been exhausted. In view of the administrative disorder in almost all areas and the lawlessness within the board, the committee concluded that there had been a gross neglect of duties. According to the Committee, allowing the situation at that time to continue would be disastrous for the population and the island. There can only be one

answer to this, according to the Committee: administrative intervention by the Netherlands - among other things through the appointment of a government commissioner - on the basis of Article 132(5), in conjunction with Article 132a(2) of the Constitution.

#### Cabinet response

The picture of the administrative situation outlined by the Committee exceeded the Cabinet's suspicions, as it stated in its response to the report.<sup>3</sup>

The Cabinet shared the Committee's view that it is impossible for an administrative body in the Netherlands to turn away from the existing legal and constitutional order. Together with the Committee, the Cabinet concluded that the situation of disorder could no longer be allowed in the interests of the population. The situation would have far-reaching consequences for the daily life of the population; after all, any backlogs in projects to improve roads, water supplies, housing and waste processing are directly felt by the Stadians.

By means of a Temporary Act on the neglect of tasks in St. Eustatius, the Cabinet wanted to try to turn the situation around by means of an intervention due to the gross neglect of tasks. On the basis of this law a government commissioner has been appointed, who provides for the administration of St. Eustatius until such time as that administration may be considered capable of properly fulfilling its own tasks. The island council has been dissolved for this purpose and the island deputies and the acting governor are dismissed from their function. The government commissioner exercises all tasks and powers of the island government.

The intervention was intended to ensure that the island's administration was in order and that the conditions for sustainable improvement were met. It must be prevented that a situation such as the one that has arisen will occur again after a return to the regular administrative relations. On 6 February 2018, both Houses unanimously adopted the Bill on the Temporary Abandonment of Tasks Act of St. Eustatius.<sup>4</sup> The Act has an intended end date of 17 March 2021, although the Cabinet initially already took into account a longer lead time.

Because in the opinion of the Cabinet the welfare of the people on St. Eustatius is paramount in the intervention, the recommendations of the Committee to tackle the socio-economic and physical disadvantages have been adopted. In addition to the budgets made available by the ministries for this purpose for reconstruction (hurricanes Irma and Maria), funds from the regional envelopes for the Caribbean Netherlands mentioned in the coalition agreement were also made available. A targeted and combined deployment of these resources should lead to visible results for the population of St. Eustatius.

#### State of affairs and review

Before assessing the state of play against the progress of the criteria set out in the second progress report of 14 November 2018, I shall outline the measures taken and the results achieved so far in the socioeconomic and physical spheres, as well as the post-hurricane reconstruction in September 2017. This will make it clear to your Chamber where St. Eustatius stands at the moment. The results achieved are immediately visible (physical

domain) and noticeable (socio-economic domain) for the population. They show that good local government, in cooperation with the Dutch central government, can actually bring about improvements in the living environment and living conditions.

I will then move on to assessing the state of affairs on the basis of the progress made with regard to the aforementioned criteria, which relate to financial management, the administrative structure and the civil service. The following measures will be taken on the basis of the Temporary Act in order to promote the proper functioning of the board in the future:

- cleaning up the population administration,
- high-quality management of administrations such as the tax administration and the land register function,
- Adapt incorrect and outdated regulations,
- reorganize the civil service and provide proper procedures and work instructions,
- describe policy frameworks for the public sector body,
- organising and monitoring and enforcement instruments,
- equip public bodies to implement supervision and enforcement,
- Introduce a multi-annual training programme for civil servants and politicians,
- Digitizing and centralizing financial processes,
- Setting up a planning and control cycle in accordance with FinBES,
- implementing actions under the Financial Management Action Plan,
- Set the court of auditors (function).

Status of the socio-economic and physical domain and reconstruction

The socio-economic domain

Within the socioeconomic domain, important first steps have been taken at the level of social services in the Dutch Caribbean. Recently, the benchmarks for a social minimum have been established, which concerns the raising of certain benefits and allowances, the lowering of social security charges and measures to lower the cost of living.

In social housing the Dutch housing corporation Woonlinie is willing to cooperate with Stacia Housing Foundation (SHF) and the local government, initially on the basis of a pilot project. This year, the Ministry of the Interior and Kingdom Relations will make structural funds available for social housing to reduce the rental charges by means of a landlord's contribution. Together with the public body, we are working on a rental points system, a liberalisation limit and the establishment of a rental commission. To this end, the Act on measures for the Caribbean Netherlands housing market has been drawn up (Bulletin of Acts and Decrees 2017, 189), which is expected to come into effect on January 1, 2020.

From 1 January, a number of facilities in the field of social support will be structurally financed by the hospital. The care contract between the hospital and the BES Healthcare Insurance Office has been extended with regard to meal facilities, tailor-made transport, domestic help and housing adjustments. In the coming period, 5 sheltered houses will be realized in the Lodi district.

With the Sports and Performance Agreement concluded in May 2019, it has become possible to retain the neighbourhood coaches and to structurally increase the range of exercise on offer. The Cruijff Court has now been refurbished and the renovation of the

clubhouse, the expansion of the fitness centre and the improvement of the car park at the sports grounds are in the pipeline.

Information campaigns on domestic violence and child abuse will make these issues more discussable and the assistance more effective. The Multidisciplinary Consultation Collaboration Covenant concluded in March 2019 (MDO - a network cooperation between the healthcare and criminal justice chains) will also contribute to prevention, assistance and the fight against crime.

The BES(t) 4 kids<sup>6</sup> programme, which was ratified by the three public bodies and four ministries in February 2019, will enable a powerful impulse to be given to childcare and pre-school and after-school facilities, both at an educational level and in a spatial sense. St. Eustatius has been energetic in taking up this challenge: the Gwendolyn van Putten school, in close cooperation with the Buzzy Bees child care, has started the 'Early childhood development' course. This in order to be able to meet the new demand and quality requirements. This course brings together new students and childcare staff; both groups consider this to be very valuable.

In March 2019, the local tourism office and the Rijksdienst voor Ondernemend Nederland (RVO) developed a tourism television<sup>7</sup> for St. Eustatius, which will be followed by an implementation plan.

The agricultural and livestock sector offers more sustainable perspectives, but this requires a structural availability of water and a change in the culture of the livestock farmers to keep the livestock within fenced off terrain.

#### The physical domain

The restoration of the eroded cliff cascade will be completed by the end of 2018. The further stabilisation of the cliff started in January 2019. This project will be completed in March 2020. The government commissioner has now made efforts to provide adequate rain shelter for the island, with a view to curbing erosion, but also to be able to provide water to the agricultural and livestock sectors. This approach is anchored in all plans for the construction and renovation of roads and the restoration of the cliff and coastal strips. Rijkswaterstaat is currently working on measures to tackle the erosion of the coastal strips.

The road plan, consisting of four projects, provides for the paving of roads in the Cherry Tree district, the renovation of the road to Jeems, the road between the hospital and two schools and the renovation of the road between the seaport and the airport. The last two projects require additional funding.

The completion of the Cherry Tree project has been delayed. The main reason for this was a difference of opinion about the materials to be used in order to achieve a sustainable and maintenance-free road on Statian soil. The final rejection of the type of cement proposed by the contractor has led to the order of a new type of cement. New agreements have been made between the public body and the contractor about the conditions under which the contractor will still finish the project, with a delayed delivery date of March 2020 at the latest.

At the beginning of next year, a new protective structure at the seaport will be completed (with funding from the 10th EDF project). This will be followed by the start of the hardening of the subsurface of the container port, which will increase the storage capacity. The

measures for further improvement of the seaport are part of the elaboration of the measures for the coastal strip in Lower Town.

A new airport terminal and control tower are planned for 2020; the plans have been shared and discussed with the inhabitants. The project has been put out to tender and construction will start this autumn.

The waste management system, which was renewed in 2018, tackles waste processing in a professional and structural manner, supported by the financing of a new incinerator. The collection and removal of end-of-life vehicles has now been integrated into the activities of the new waste management company after the first phase, in which some 300 end-of-life vehicles were removed at the end of 2018.

#### Reconstruction

More than 100 houses with hurricane damage have been repaired, as well as the damage to the 6 cemeteries, a church tower, a ruin wall and the fence of the old administration office. With money from integral resources, work is currently underway on the repair of the last 30 houses. Stenapa, the manager of the national parks, is responsible for projects such as reforestation, protection of breeding sea turtles, the placement of coral ladders and protection of iguanas. The projects have been partially completed, the cultivation for reforestation takes about two years. Other reconstruction funds have been used to finance erosion projects, waste management (incinerator) and part of the road plan (rainwater conduction and storage).

The establishment of an Emergency Operations Centre (EOC) was financed with previously unused budgets. Since the beginning of this year, the EOC has been able to fulfil its role in crisis and disaster management.

The hurricanes of September 2017 have placed great demands on the capacity of, among other things, the civil service. With regard to all the measures mentioned above, the local employees have always made a firm commitment.

In the fourth progress report, scheduled for November 2019, I will, as usual, discuss in more detail the state of play of the support measures and the results achieved, as well as the corresponding budgets.

#### Assessment of the state of affairs criteria for financial management, management structure and official organisation

The situation on St. Eustatius turned out to be even more serious than expected at the start of the intervention, and as time went on, new issues arose about which I informed your House. A detailed assessment overview can be found in the appendix, which contains not only the state of affairs, but also - as far as possible - the expected end dates. In this letter I will confine myself to the following summary of the results of the assessment.

#### Financial management

Good financial management is the foundation for good governance. The disorderly financial management on St. Eustatius did not only originate in the years of the last local government (March 2015 - January 2017), but has been on the agenda since 10-10-10 - and presumably even before that. The first designation dates from 2011 and successive directors have not succeeded in turning the tide. The Financial Management Action Plan drawn up by the Government Commissioner in October 2018 therefore contains a large number of projects

based on an almost complete professionalisation of financial management. Approximately half of the measures have been started, a third has partly started and about 20% of the measures have yet to be started. Given the large number of measures, this is a good start. Ultimately, we will work towards an unqualified auditor's report for the financial year 2021.

However, progress towards the end result has been slower than expected. This is partly due to external factors, but the ICT supplier of the 18 modules is not yet fulfilling its obligations sufficiently. The government commissioner has asked the company to pay due attention to this. After all, digitisation is one of the most important building blocks. There are also internal causes. For example, there was initially too little communication between the Finance unit and the employees of the other units. As a result, it was not immediately clear to those employees what was expected of them, which did not benefit the support base for the measures to be taken. A second internal cause of the delay is the resistance to what employees feel is too bureaucratic: all activities must be recorded (in good time). Overcoming this resistance requires perseverance and continuous guidance. A third internal cause is the confluence of a multitude of projects and actions, while at the same time there is a lack of qualified financial staff.

I conclude that a lot of work has been done by many, but that there is also a lot of work to be done. The completion of the measures will take more time than previously expected. Full implementation, by the way, can only be said to have taken place when future directors have also familiarised themselves with the other working methods.

#### Governance structure

Administrators can carry out their administrative tasks properly if the local legislation and regulations, the administrations and official processes are in order. Support from a qualified civil service also reduces the administrative burden. As in the case of financial management, the administrative structure has been neglected for some time.

Administrations, such as those for licensing, subsidy granting, taxation and population administration, must be reliable and up to date. Population administration, which is also important for the electoral register and other administrations and clients - in health care, education and social services - is in fact 'the mother of all administrations'. Its quality was insufficient, which is why the Netherlands provides support and expertise with the aim of improving the quality of personal data and transferring knowledge.

Recently, the basis was laid for cleaning up through the implementation of the street names and house number project, which is also physically known to the inhabitants.

Cleaning up is a laborious and labour-intensive project, because departure and newcomers have by no means always left or registered. The lack of - sufficiently trained - personnel has also contributed to this. The research into personal lists will continue until the spring of 2020, although the electoral register is now largely in order.

It is intended that Kadaster Nederland will take over the Kadaster function; the legislative proposal to that effect is under discussion. This law regulates the transfer of the land registers in the Caribbean Netherlands to Kadaster Nederland. The purpose of the Act is to

guarantee the continuity and quality of the land registers on the islands and to improve legal certainty.

Work is in progress on the administrations for the granting of permits and subsidies and the personnel and salary administration; additional measures are currently required. The administration of the social housing at SHF is not in order, but with the arrival of Woonlinie the quality will be improved.

The Belastingdienst Caribisch Nederland is in principle prepared to take over the collection and collection tasks. At the moment it is being investigated whether the systems of the public body and the tax authorities already connect sufficiently to each other in order to be able to make that takeover run smoothly and a covenant is in preparation in which the agreements about this will be laid down. Such a measure not only provides efficiency, but can also serve as an example for the ways in which cooperation between the public body and the government services can be given practical form and at the same time facilitates the transfer of knowledge.

The public sector body has over a hundred regulations and related decisions, many of which were not up to date. Since then, a number of regulations have been repealed (lost in importance) and a number have been amended, partly because of the contra-*legem* provisions. In view of the considerable work that has been done to date, an important step forward has been taken. It is expected that it will be completed by mid-2020. Currently, priority is given to regulations with a financial impact.

With regard to the supervision and enforcement function, 15 employees of the public body and a few other organisations have been trained as Extraordinary Police Officers (BAV-Pol). The official organisation

After a process that took more than a year, a new organisational structure was introduced on 1 September 2019, in which the separation of functions and the bundling of knowledge are the guiding principles. Working in a different context of official craftsmanship requires a break from years of habits and customs. An adequate training and education programme is therefore indispensable, all the more so because in recent years there has been a lack of sufficient (further) training and education. In order to achieve sustainable effectiveness and quality improvement, the training programme that has been drawn up will continue for a number of years. A training programme is also planned for (future) politicians at an appropriate time.

A different way of working, in which more cooperation and registration of activities form the core, requires a new process organisation. The process descriptions and procedures are being worked on. For example, a new template has been developed for a decision memo and the Executive Council's decision list. In this way, a clear decision-making line is set up and the decision can also be published immediately. The next step is to include all employees in this new working method.

In order to improve the service to citizens and working conditions, a new administrative office is planned. At present, the employees of the public body are spread over more than 10 different locations, which means that the quality of service and mutual cooperation is far from optimal. With a new administrative office, the internal services will be able to work better together, while at the same time the public body and the RCN will be housed together. A more up-to-date ICT infrastructure and equipment is necessary. In the meantime, the first phase of this project has started, in which the six most crucial

departments are connected to each other by means of a network structure. The intention is that the other departments will also be connected to this network, but for this purpose an additional budget will be sought.

#### Administrative opinion results of testing

The decision to carry out the administrative intervention was exceptional and was therefore not taken lightly. A decision to terminate a contract deserves the same well-considered approach. As indicated in the Cabinet's response to the Committee's report, the intervention should not take longer than necessary. At the same time, when returning to regular administrative relations, there should be no risk of reversion to the situation prior to the intervention. I would like to point out that there has been inadequate management since 10-10-10 and probably even before that, partly due to an inefficient and ineffective administrative structure, a neglected civil service and inadequate financial management.

In many cases there were feelings of powerlessness on the part of successive administrations, based on the view that the state of neglect of the island could hardly be tackled, if at all, with available funds from the local budget. However, in the last administration there was a lack of will, ultimately resulting in a situation in which the administration no longer showed respect for the rule of law and dissenters.

The Cabinet is obliged to the population to enable a new local government to carry out its tasks properly. This means that the administrative structure, including the official organisation and financial management, not only has to be in order, but must also be set up in a sustainable manner. It is then up to the future administrators to maintain the sustainable structure and to give shape to the public's confidence in democracy and the rule of law.

Against this background, I note that a great deal of work has been done after a year and a half, that the issues are clearly identified and that it is clear what improvements are needed. At the same time, I note that there is a multitude of problems, more than was originally thought, and that the workload for the current administration, but especially for the civil servants, is heavy. This still extensive and labour-intensive administrative task inevitably leads to the conclusion that a decision to fully restore democracy and the associated regular administrative relations is not yet justified. In addition, the administration and civil servants also have the task, together with the European-Dutch government, of supervising the projects that result from the supporting measures with which the neglect in the physical and socioeconomic field is tilted towards visible and noticeable improvements.

On the other hand, I am confident that the administrative and official involvement and ambition will ensure a situation in which, in a year's time, there will be sufficient institutional stability to organise elections for the island council, as a first step towards completely ending the administrative intervention. It is therefore my intention to organise elections for the Island Council on 21 October 2020.

#### Follow-up process for administrative intervention

The starting point of the Temporary Law is that the conditions in St. Eustatius must be improved to such an extent that the administration is permanently able to carry out its tasks properly. The Temporary Act provides for a deadline for elections to the Island Council on 17 March 2021 and the expiry of the Temporary Act, after the admission of the members to the Island Council. This would mean that the return of the Island Council would mark the end of the administrative intervention at once. In the advice accompanying the Temporary Act<sup>9</sup>, the Council of State referred to the desirability of a transitional regime for the end of the administrative intervention. The government then indicated that it would consider how such a transitional regime could be shaped.<sup>10</sup>

As outlined above, it is not my expectation that, despite all the steps that have now been taken, the situation will be improved in the short term to such an extent that a new Executive Council will have sufficient basis to be able to perform its duties properly. More time is also needed to put financial management and the official organisation in order. It is therefore necessary to specify an extension of the administrative intervention. I therefore intend to submit a legislative proposal to achieve a continuation of the administrative facilities on St. Eustatius with a gradual return to the regular situation. I see the contours of this as follows.

#### Gradual return

I intend to reduce the regular administrative relations in four phases along the lines of the WolBES and FinBES. The transition from one phase to the next is determined on the basis of the results achieved and the achievement of standards to be set.

The first phase is the holding of elections for a new island council. The Island Council will have the monitoring task as far as the right to ask questions, the right of interpellation and also the possibility to submit motions are concerned. It is also conceivable to grant the power to adopt regulations, including the right of amendment and right of initiative.

At this stage, there is no Executive Council and no Island Governor. The government commissioner continues to exercise the duties of these bodies, as well as the other powers not assigned to the Island Council.

One of the conditions for the transition from the first to the second phase is that the civil service is organised and provided with work instructions in such a way that it can support the future Executive Council in the execution of its tasks. Another possible condition is that supervision and enforcement is in order.

In the second phase, the Island Council will regain the authority to appoint and dismiss deputies. As part of the Executive Council, the deputies have the authority to carry out autonomous and co-administration tasks, including those relating to supervision and enforcement. Decision-making in the financial field and the official organisation remain with the government commissioner. No governor is appointed at this stage either. His duties and the unallocated powers of the island council and the deputies also remain with the government commissioner. However, it could be considered to have the island secretary appointed by Royal Decree in this phase. This would enable the island secretary to obtain a stronger and more neutral position.

In order to move on to the third phase, I am thinking of making the completion of the implementation of all supporting measures in the field of financial management, the administrative structure and the civil service conditional.

In the third phase, there will be full recovery. The Island Council and the Executive Council will have budgetary rights, the other powers from the WolBES and the FinBES and the responsibility for the official organisation. A governor is appointed who will exercise all his duties and powers. The idea is to include a provision in the law whereby the government commissioner will remain in office as supervisor for some time to come. What I can also well imagine is that the Island Governor will be given the authority to approve personnel decisions - which is now the responsibility of the Kingdom Representative. It is conceivable that the Island Governor could also be assigned a supervisory function, aimed at good governance and orderly financial management. Strengthening the position of the governor makes a good contribution to the prevention of irregularities.

In the fourth phase, the administrative intervention is terminated and the government commissioner is dismissed. The important advantage of the phased approach is that the Island Council can quickly return as a parliament. By means of this phased approach, the deputies also have the opportunity to gradually regain their position in the new constellation.

On the one hand, a gradual transition to the full restoration of the regular situation allows for a soft transfer, including enrichment of administrative practice. On the other hand, the activities that are still necessary can be carried out to enable the future Statiaan administration to carry out its tasks in accordance with the requirements of good governance, without loss of momentum and under the leadership of the government commissioner.

In order for the various phases to start at the right time, it is necessary to make explicit which results must be achieved, as discussed in the assessment paragraph of this letter. By granting the budget right to the Island Council and the powers of deputies for decisions concerning the finances and the official organisation at a later stage, the government commissioner will be given the opportunity to complete this work in a sustainable manner, as well as to further shape the intended results of the supporting measures.

For the inhabitants of St. Eustatius the orderly restoration and functioning of democracy and the administration is of great importance. My intention to extend the administrative intervention means that the provision continues for longer than was intended in the realization of the Temporary Law, even though at the time a longer lead time was already taken into account. I consider this inevitable given the current situation on St. Eustatius. At the same time, I think it would be desirable for the legislative proposal to include a step-by-step restoration of the regular administrative relations. This transitional regime offers the prospect of a return to the regular situation.

Finally

Over the past year and a half, the government commissioner and his officials have gained a good insight into issues that have arisen as a result of neglecting their duties. Much has been set in motion and much has been achieved in some areas. The test shows that the

administrative task is extensive and laborious. The results of the test also show that there is not yet a moment to point out for a complete return to democracy. It is insufficiently justified to be satisfied with the results achieved and still to be expected from the intervention and the supporting measures taken. I would be doing the population a disservice, but also the future administrators and the civil service a disservice.

I have taken seriously the seriousness and extent of the gross neglect of duties by deliberately taking the exceptional decision to intervene. This therefore obliges us to give the subsoil for the embedding of the work the necessary time, even if this will take more time than I might have hoped for. I am firmly convinced that it is important to offer the population and (future) politicians prospects by setting a date for the elections and by shaping a transitional regime with a gradual return of the democratic institutions. From my point of view, I am confident that the work of the Government Commissioner and his officials will lead to satisfactory results, enabling a new administration to fulfil its tasks properly and to build on a solid administrative and financial foundation.

I derive this confidence from the visits I regularly make to St. Eustatius, and I am pleased that other members of the Cabinet, such as the Prime Minister, the Ministers of Justice and Security, Agriculture, Nature and Food Quality, Infrastructure and Water Management and the State Secretaries of Health, Infrastructure and Water Management and Social Affairs, have also found it important to enter into dialogue on the spot with the population, authorities, the Government Commissioner and his officials. I did the same on 23 September last, when I presented my intentions regarding the future of St. Eustatius to the inhabitants at a public meeting. After all, the intervention and the subsequent implementation of projects have always been aimed at improving the situation of the inhabitants of St. Eustatius in particular. That is what all efforts have been aimed at.

The State Secretary of the Interior and Kingdom Relations,

R.W. Knops