

2. Towards better inter-administrative relations

2.2.7.1 Administrative power

Making possible the use of executive committees, similarly to the way in which this possibility already exists for municipalities. The establishment of an executive committee is a discretionary power, so the administrative bodies of the public entities may – within the frameworks of the law – consider whether and if so, in what way they wish to make use of this new possibility.

Article-BY- article EXPLANATORY NOTES

Article I (WoIBES)

Article I, Part W (Articles 56a, 56b and 56c of WoIBES)

Articles 56a to 56c provide rules on the temporary replacement of island commissioners during pregnancy and childbirth or illness. This rule is based on the principle of 'comply or explain'. The leave scheme largely corresponds to that for aldermen (Articles 45 to 45b of the Municipalities Act) and members of the Provincial Executive (Articles 44 to 44b of the Provinces Act).

The proposed Article 56a regulates the right to leave during pregnancy, childbirth and illness. If a request for leave is submitted to the executive council, the island commissioner concerned must provide a medical statement confirming the pregnancy or long-term illness. In the special case where the island commissioner concerned is unable to submit the request in person and the continuity of the island administration urgently requires the member of the Island Executive to be replaced, the request may be submitted by the island governor. The leave is granted for a fixed period of sixteen weeks. If the island commissioner has not recovered by the end of this period, a new request may be made. A maximum of three requests may be made by an island commissioner per term.

Article 56b states that the executive council will decide on a request for leave as soon as possible and no later than on the fourteenth day after the request has been submitted.

Article 56c regulates the appointment of a replacement for the island commissioner who has gone on leave. It is up to the island council to assess whether a replacement should be appointed. If replacement is opted for, the regular appointment procedure will apply. Article 56c(1) also makes it possible to add an extra island commissioner during the leave, even if the maximum number of island commissioners is thereby exceeded. Article 38(1) does not apply in that case. After the fixed leave period of sixteen weeks, the replacement is automatically dismissed. A dismissal decision is not required. The replacement may also end at the end of the term of the council or in the event of the dismissal of the entire council before the end of the term. In the latter case, the term of office of both the island commissioner on leave and his or her replacement will end.

Furthermore, the replacement is a full island commissioner. The rules set out in WoIBES for island commissioners apply in full.

Article I, Paragraphs III to LLL, SSS, VVV, AAAA, CCCC, DDDD, LLLL and KKKKK (Articles 117a to 121, 140, 157, 166, 168a, 169a, 181a, 181b and 229 of WoIBES)

These changes make it possible for the island council, the executive council and the island governor to establish executive committees. This represents a harmonisation with the Municipalities Act.

The new Article 117a (similar to Article 83 of the Municipalities Act) regulates the establishment of the executive committees. These committees exercise powers that have been delegated by the island council, the executive council or the island governor. Executive committees are established by the body that delegates its powers, which also regulates the committee's tasks, powers, composition and working method. Paragraph 4 states that the meetings of executive committees

that exercise powers delegated from the island council are public. This is similar to island council meetings, which are also public. The articles on the public notification of the meeting (Article 20(2)), immunity (Article 23) and public or closed nature of the meetings (Article 24(1) to (6)) apply *mutatis mutandis*. Unlike in the Municipalities Act, a decision to hold the meeting behind closed doors may be overturned by the chair. This is in line with the applicable rules for the island council (Article 24(4)). The mandatory public meetings rule does not apply to executive committees established by the executive council or the island governor. However, under Paragraph 5, meetings may be held in public if this is necessary in view of the nature and scope of the delegated powers.

The new Article 118a (comparable to Article 85 of the Municipalities Act), Paragraph 1, states that the body that has established the executive committee regulates the manner in which it accounts for its actions. The basic principle here is that the executive committee is accountable to the body that has established it. The executive council and the island governor are accountable to the island council for the actions of an executive committee. The establishing body also regulates the supervision of the exercise of the powers, insofar as this is necessary in view of the nature and scope of the delegated powers (Paragraph 3). This may include, for example, the approval of decisions of the executive committee. In that case, Part 10.2.1 of the General Administrative Law Act (*Algemene wet bestuursrecht*; hereinafter: Awb) on approval is applicable *mutatis mutandis*. Under Paragraph 2, the island council, the executive council or the island governor is authorised to annul written and unwritten decisions of an executive committee pursuing any legal consequences. Together with the power to annul, the power to suspend is also granted. Parts 10.2.2 and 10.2.3 of Awb therefore apply *mutatis mutandis*. For the sake of completeness, it should be noted that these parts do not preclude the possibility of appeal against an annulment decision. The latter is explicitly regulated in Article 229 of WolBES (compare Article 281a of the Municipalities Act).

Article 121(2) is amended so that the members of the executive of an executive committee may also receive a fixed remuneration for their activities in special cases.

Under Article 140 of WolBES, the island administration (executive council or island governor) is authorised to impose an order subject to a penalty. The executive committee may hold this power if it has been expressly delegated to it (Paragraph 4). The executive committee also only has the power to grant an authorisation to enter premises if this has been expressly delegated to it. On this point, also compare Article 125(4) of the Municipalities Act.

The amended Article 166 (compare Article 156 of the Municipalities Act) and the new articles 168a and 181a of WolBES (compare Articles 165 and 178 of the Municipalities Act) lay down the possibility for the island council, the executive council and the island governor, respectively, to delegate powers to an executive committee established by them. Not all powers may be delegated. Powers that may not be delegated are mentioned, *inter alia*, in Article 156(2) with regard to the powers of the island council and in Article 181a(2) with regard to the powers of the island governor. The list is not exhaustive. This is expressed with the words 'in any case'. In addition, powers may exist which, by their very nature, are incompatible with delegation to an executive committee. As the delegation of powers to executive committees by the executive council or the island governor also has consequences for political accountability for the exercise of the powers delegated to these committees, provision has been made for the island council to make its wishes and concerns known prior to a delegation decision (Articles 168a(3) and 181a(4)).

The new Articles 169a and 181b (compare Article 167 and 179 of the Municipalities Act) state that the rules on the exercise of powers by the executive council and the island governor also apply to executive committees to which powers have been delegated by these bodies. If the powers have been delegated by the executive council, an exception has been included that the rules regarding the meetings of this body do not apply *mutatis mutandis*. The reason for this is that the rules on meetings do not relate to the delegated power itself, but to the working method of the executive council. It should also be noted that the meetings of the executive council are closed and this also applies, in principle, to the executive committees established by them. However, it may be decided

to make the meetings public if the nature and scope of the delegated powers make this necessary (see also Article 117a(5)).

Article 229a (similar to Article 123 of the Municipalities Act) is new and concerns

substitution in the event of dereliction of duty in a situation where joint governance has been required on the part of an executive committee. The basic principle here is that the body that has delegated powers to an executive committee is also designated as the body that is authorised to take the decision that the executive committee has not taken or has not taken properly. Such a rule is necessary because the task delegated to the executive committees is required by the legislators from the island administration. The rule in Article 229a ensures that the legally required task will be carried out. In addition, the rule clarifies which body is obliged to intervene in the event of dereliction of duty in a joint governance situation.

7. Financial implications

7.1 Structural costs and savings

The structural costs associated with the proposed amendments to the law are estimated at €1,485,000 per year. These costs mainly arise from the establishment by the public entities of a process for collaboration with the European Netherlands, the strengthening of the island governor's cabinet, the increase in the number of island council members and island commissioners, the leave scheme for island commissioners and the additional efforts required from the Ministry of BZK to ensure the prerequisites in terms of training and development, administrative and executive power and strengthened administrative relations.

Leave scheme for island commissioners	€70,000	€100,000	€100,000
Total	€845,000	€1,325,000	€1,485,000

2. Na kaminda pa mihó relashonnan intergubernamental

2.2.7.1 Poder administrativo

- Hasi posibel ku ta hasi uso di komishonnan gubernamental, komparabel ku loke ya ta posibel kaba serka munisipionan. Instalashon di un komishon gubernamental ta un kompetensia diskreshonal, pues e órganonan di gobernashon di e entidatnan públiko mes por konsiderá – den e kuadronan di lei – si, i si esei ta e kaso, di ki manera nan ta deseá di hasi uso di e opshon nobo akí.

SPLIKASHON SEGUN ARTIKULO

Artíkulo I (WolBES)

Artíkulo I, Parti W (e artíkulonnan 56a, 56b i 56c di WolBES)

E artíkulonnan 56a te ku 56c ta ofresé un areglo di remplaso temporal di diputadonan insular den kaso di embaraso, parto òf malesa. Base di e areglo akí ta e prinsipio di 'comply or explain'. E areglo di ferlòf ta kuadra pa gran parti ku esun di wethoudernan (artíkulonnan 45 te ku 45b di Lei di Munisipio) i di diputadonan (artíkulonnan 44 te ku 44b di Lei di Provinsia).

Den artíkulo 56a proponé, ta regla e derecho riba ferlòf den kaso di embaraso, parto i malesa. Den kaso di un petishon pa ferlòf na kolegio ehekutivo, e diputado insular konserní mester presentá un deklarashon médiko ku ta demostrá e embaraso òf malesa di durashon largu. Den e kaso partikular ku e diputado insular mes no por entregá e petishon i continuidad di gobernashon insular ta rekerí ku mester regla remplaso di e diputado insular, gezaghèber por hasi e solisitut. Ta duna ferlòf pa un periodo fiho di 16 siman. Si despues e diputado insular no a rekuperá, por hasi un petishon nobo. Un diputado insular por hasi máksimo tres petishon pa kada periodo di gobernashon.

Artíkulo 56b ta stipulá ku kolegio ehekutivo ta disidí mas pronto posibel riba un petishon pa ferlòf i pa mas tardá riba e di dieskuater dia despues ku a entregá e petishon.

Artíkulo 56c ta regla nombramentu di un remplasante pa e diputado insular ku a bai ku ferlòf. Ta na konseho insular pa evaluá si mester nombra un remplasante. Si skohe pa remplaso, e prosedura di nombramentu regular ta aplikabel. Tambe artíkulo 56c, promé insiso, ta hasi posibel pa amplia ku un diputado èkstra durante e ferlòf, te asta si surpasá ku esei e kantidat máksimo di diputado insular. Artíkulo 38, promé insiso, no ta aplikabel den e kaso ei. Despues di e periodo di ferlòf fiho di 16 siman e remplasante ta keda retirá pa lei. No tin mester di un desishon di retiro. E remplaso por terminá tambe na final di e periodo di gobernashon di e kolegio òf den kaso ku kolegio kompleto baha promé ku ora. Den e último kaso akí tantu e periodo di gobernashon di e diputado insular ku ta ku ferlòf komo di su remplasante ta terminá.

Mas aleu e remplasante ta un diputado insular ku tur derecho. E reglanan di WolBes pa diputadonan insular ta kompletamente aplikabel.

Artíkulo I, e Partinan III te ku LLL, SSS, VVV, AAAA, CCCC, DDDD, LLLL i KKKKK (e artíkulonnan 117a te ku 121, 140, 157, 166, 168a, 169a, 181a, 181b i 229 di WolBES)

Ku e kambionan akí ta hasi posibel pa konseho insular, kolegio ehekutivo i gezaghèber instalá komishonnan gubernamental. Ta trata di un harmonisashon ku e Lei di Munisipio.

E artíkulo 117a nobo (komparabel ku artíkulo 83 di Lei di Munisipio) ta regla institushon di komishonnan gubernamental. E komishonnan akí ta ehersé kompetensianan ku konseho insular, kolegio ehekutivo òf gezaghèber a traspasá pa nan. E órgano ku ta traspasá su kompetensianan ta instituí komishonnan gubernamental. E órgano ei ta regla tarea-, kompetensia-, konstelashon i forma di traha di e komishon gubernamental. Den e di kuater insiso tin reglá ku reunionnan di komishonnan gubernamental ku ta ehersé kompetensianan traspasá di konseho insular, ta públiko. Esaki ta komparabel ku reunionnan di konseho insular ku tambe ta públiko. E artíkulonnan tokante

konvokashon públiko di e reunion (artíkulo 20, di dos insiso), imunidat (artíkulo 23) i e karakter públiko òf será di e reunionnan (artíkulo 24, promé te ku di seis insiso) ta igualmente aplikabel. E diferensia kompará ku Lei di Munisipio ta ku e presidente por revoká un desishon pa tene un reunion ku porta será. Esaki ta koherente ku e areglo vigente pa konseho insular (artíkulo 24, di kuater insiso). Pa komishonnan gubernamental instituí pa kolegio ehekutivo òf gezaghèber e areglo imponé ku nan mester ta habrí no ta konta. Sinembargo por regla, basá riba e di sinku insiso, ku e reunion ta públiko, si esaki ta nesensario relashoná ku karakter i alkansé di e kompetensianan traspasá.

Artíkulo 118a nobo (komparabel ku artíkulo 85 di Lei di Munisipio), promé insiso, ta stipulá ku e órgano ku a instituí e komishon gubernamental ta regla di ki forma ta duna kuenta i rason. Punto di salida den esei ta ku e komishon gubernamental ta duna kuenta i rason na e órgano ku a instituyé. Kolegio ehekutivo i gezaghèber ta duna kuenta i rason na konseho insular pa akshonnan di un komishon gubernamental. E órgano ku ta instituí, ta regulá ademas supervishon riba ehersisio di e kompetensianan, te asina leu ku esei ta nesensario relashoná ku karakter i alkansé di e kompetensianan traspasá (di tres insiso). Esaki por inkluí por ehèmpel aprobashon di desishonnan di komishonnan gubernamental. Den tal kaso sekshon 10.2.1 di e Lei general di derecho atministrativo (despues: Awb) tokante aprobashon ta igualmente aplikabel. A base di e di dos insiso, konseho insular, kolegio ehekutivo òf gezaghèber ta outorisá pa destruí desishon i otro desishon no skirbí di un komishon gubernamental, ku e intenshon pa tin kualkier konsekuensia hurídiko. Ku e kompetensia pa destruí ta duna tambe e kompetensia pa suspendé. E sekshonnan 10.2.2 i 10.2.3 di Awb pues ta igualmente aplikabel tambe. Pa ta mas kompleto al respekto mester remarká ademas ku e sekshonnan akí no ta stroba ku por apelá un desishon pa destruí. A regla e último akí eksplísitamente den artíkulo 229 di WolBES (kompará artíkulo 281a di Lei di Munisipio).

Ta modifiká artíkulo 121, di dos insiso, di manera ku e miembronan di direktiva diario di un komishon gubernamental tambe por risibí un kompensashon fiho pa nan trabounan den kasonan eksepsional.

A base di artíkulo 140 di WolBES, gobièrnu insular (kolegio ehekutivo òf gezaghèber) ta outorisá pa imponé un òrdu di ehekushon atministrativo. E komishon gubernamental por disponé di e kompetensia aki, si a traspasá esaki eksplísitamente pe (di kuater insiso). E komishon gubernamental tin tambe e kompetensia pa duna un apoderashon di entrada, solamente si a traspasá esaki eksplísitamente pe. Kompará den e sentido akí tambe artíkulo 125, di kuater insiso, di Lei di Munisipio.

Den artíkulo 166 modifiká (kompará 156 di Lei di Munisipio) i e artíkulonnan 168a i 181a nobo di WolBES (kompará artíkulonnan 165 i 178 di Lei di Munisipio) tin poné e posibilidat pa respetivamente konseho insular, kolegio ehekutivo i gezaghèber traspasá kompetensia pa un komishon gubernamental instituí pa nan. No ta tur kompetensia por ser traspasá. Den entre otro artíkulo 156, di dos insiso insiso, nan ta ser mensioná pa loke ta trata kompetensianan di konseho insular i artíkulo 181a, di dos insiso, pa loke ta trata e kompetensia di gezaghèber. E lista ku enumerashon no ta limitativo. Esaki ta keda ekspresá ku e palabranan 'en todo kaso'. Ademas por tin kompetensianan ku pa motibu di nan naturalesa ta oponé kontra traspaso pa un komishon gubernamental. Komo ku traspaso di kompetensia na komishonnan gubernamental di parti di kolegio ehekutivo òf gezaghèber tin konsekuensianan tambe pa dunamentu di kuenta i rason polítiko relashoná ku ehersisio di kompetensianan ku a delegá na e komishonnan akí, a krea e posibilidat pa konseho insular por ekspresá su deseo- i opheshonnan promé ku tuma un desishon di traspaso (artíkulonnan 168a, di tres insiso, i 181a, di kuater insiso).

E artíkulonnan 169a i 181b nobo (kompará artíkulonnan 167 i 179 di Lei di Munisipio) ta stipulá ku e reglanan tokante ehersisio di kompetensia di parti di kolegio ehekutivo i gezaghèber, ta konta tambe pa komishonnan gubernamental na kua a traspasá e kompetensianan di e órganonan akí. Si kolegio ehekutivo a traspasá e kompetensianan akí, e ora ei a inkluí komo eksepsion ku e reglanan tokante reunionnan di e órgano akí no ta igualmente aplikabel. Motibu di esaki ta ku e reglanan tokante reunionnan no ta referí na e kompetensia traspasá mes, pero na e manera di traha di kolegio ehekutivo. Tokante e reunionnan di kolegio ehekutivo ta remarká si, ku esakinan

ta será i ku esaki ta konta en prinsipio tambe pa e komishonnan gubernamental ku el a instituí. Sinembargo por disidí ku e reunionnan ta habrí, ora karakter i alkanse di e kompetensianan trasladá ta hasi esaki nesesario (wak tambe artíkulo 117a, di sinku insiso).

Artíkulo 229a (komparabel ku artíkulo 123 di Lei di Munisipio) ta nobo i ta pèkurá pa sustitushon den kaso di negligensia di tareanan kaminda ta eksigí kogobernashon di parti di un komishon gubernamental. Punto di salida pa esaki ta ku e órgano ku a traspasá e kompetensianan na un komishon gubernamental ta apuntá tambe komo e órgano outorisá pa sòru pa tuma e desishon ku e komishon gubernamental no a tuma òf no a tuma na drechi. Un areglo asina ta nesesario, pasobra e legisladó di gobièrnu insular ta eksigí e tarea traspasá pa e komishon gubernamental gobièrnu insular. Ku e areglo den artíkulo 229a ta garantisá ku ta ehekutá e tarea ku lei ta eksigí. Ademas e areglo ta aklará kua órgano ta obligá pa intervení den kaso di negligensia di tarea den kaso di kogobernashon.

7. Konsekuensianan finansiero

7.1 Gastunan i ekonomisashon struktural

Ta kalkulá e gastunan struktural relashoná ku e kambionan di lei proponé riba €1.485.000 pa aña. E gastunan ta debí prinsipalmente ku e entidatnan públiko mester organisá un proseso di kooperashon ku Hulanda Oropeo, fortifikashon di gabinete di gezaghèber, oumento e kantidat di miembronan di konseho insular i diputadonan insular, e areglo di ferlòf pa diputadonan insular i esfuersonan adishonal di parti di ministerio di BZK pa garantisá kondishonnan esensial riba tereno di kapasitashon i desaroyo, poder atministrativo i di ehekushon i fortifikashon di e relashonnan atministrativo.

Areglo di ferlòf pa diputadonan insular	€70.000	€100.000	€100.000
Total	€845.000	€1.325.000	€1.485.000