



Sociaal Economische Raad
Social Economic Council

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LETTER OF ADVICE

To the honorable Minister of Health, Social Development and Labor, Mr. Emil Lee
Honorable Prime Minister of Sint Maarten, Mr. W. Marlin
Clem Labega Square
Philipsburg
Sint Maarten



Philipsburg, August 18th, 2016

Our reference: SER /16/BP/65

Re: Letter of advice concerning the draft decree, containing general measures, temporary cessation of Country contribution to the General Insurance Special Medical Costs and Sickness Fund [Landsbesluit, houdende algemene maatregelen, van de houdende besparing van de Landsuitgaven in verband met de ziektekosten door de bijdrage van het Land aan het Algemeen Fonds Bijzondere Ziektekosten en de premie voor de ziekteverzekering op nihil te stellen].

Honorable Minister Lee,

In reply to your request for advice which was received by our Council on July 7th, 2016, concerning the temporary cessation of the contribution of Country Sint Maarten to the General Insurance Special Medical Costs and Sickness Funds [In Dutch: Algemene Verzekering Bijzondere Ziektekosten (AVBZ) en Ziekteverzekering (ZV) fondsen], hereafter draft decree, the Social Economic Council (SER) informs you as follows.

Background

The SER recognizes that the Government of Sint Maarten faces financial difficulties and needs to take measures to improve its finances. The explanatory memorandum states that the draft decree is one of the measures to manage [beheersen] the expenditure of country Sint Maarten and to comply with the instruction [aanwijzing] from the Kingdom Government of September 4th, 2015.

The Kingdom Government instructs Sint Maarten to:

1. compensate for the deficits accumulated in 2010- 2014;
2. amend the 2015 budget and multi-annual budget to include all costs related to the public pension scheme and the healthcare system to avoid further payment arrears;
3. settle its payment arrears (mainly with SZV and APS);
4. implement measures related to the retirement and healthcare system to safeguard the financial sustainability for the mid-term future¹.

The explanatory memorandum refers to instructions 2 and 4, and states that the proposed measures are essential to manage the expenditure of country Sint Maarten.

¹ Aanwijzing Sint Maarten, page 6 (downloaded 19-07-2015 from <http://www.sintmaartengov.org/government/AZ/laws/AFKONDIGINGSBLAD/AB%2028%20Biilage%20Aanwijzing%20SXM%20getekend%20door%20Koning.pdf>)

18-08-2016



Measures in the draft decree

The draft decree contains two measures to decrease the expenditure of country Sint Maarten. Both measures are for the duration of six years (2016-2021). The yearly contribution of country Sint Maarten to the AVBZ fund will decrease from NAfl. 25.- to nil (0) per inhabitant [ingezetene]. This will decrease the expenditure of country Sint Maarten by approximately NAfl. 1,000,000 yearly. The premium paid by country Sint Maarten to the Sickness fund [ZV], 2.1% of daily pay [dagloon] per employee, will be paid for by the employee. This will decrease the expenditure of country Sint Maarten by approximately NAfl. 10,000,000 yearly. This means that the premiums of employees paid to the Sickness fund [ZV] increase from 2.1% to 4.2%.

The explanatory memorandum states that the measures in the current draft decree are an extension of the earlier temporary cessation with (almost) the same measures for the years 2014 and 2015². This temporary cessation of two years was not sufficient to manage [op orde brengen] the finances of government, and therefore both measures need to be extended for another 6 years.

Summary

Government has not sufficiently argued why a period of 6 years is needed to manage its expenditure and avoid payment arrears. The SER understands the reason to pass on the premium contribution of country Sint Maarten for employees to employees given the extension of coverage for their family members in 1996. The SER agrees that the AVBZ fund is healthy, but adds that the fund also needs to be sustainable for the future. The SER contends that the income of the Sickness Fund by [ZV] premiums is affected by approximately NAfl. 3,000,000 on a yearly basis. The SER urges government to start the legislative procedures in a timely manner to avoid retroactive aspects in laws unless they clearly fit the legal grounds to do so.

The SER kindly refers to the elucidation for the full argument of the SER.

Advice

The SER is aware of ongoing processes that impact the financial sustainability of the healthcare funds, such as healthcare reform and the division of assets of the Netherlands Antilles [boedelscheiding] however, based on the available information, the SER unanimously advises government as follows:

- to adjust the period of temporary cessation to 3 years (2016, 2017, 2018), and only after an evaluation that concludes that the aims of the draft decree are still served (manage expenditure and comply with instruction), continue with the cessation for another three years.
- to adjust the explanatory memorandum, elaboration of article 1, paragraph 3, the text 'can discontinue' [kunnen opheffen] with 'discontinue' [opheffen] or words of similar meaning, given the importance the draft decree gives towards the responsibility of government for the protection of elderly and people with a disability and the improvement of their health and wellbeing.

² Landsbesluit, houdende algemene maatregelen, van de 10^{de} januari 2014 tot vaststelling van de jaarlijkse bijdrage van het Land aan het Algemeen Fonds Bijzondere Ziektekosten en tot tijdelijke nultelling van de bijdrage van het Land aan het premiepercentage voor de ziekteverzekering (AB 2014, no. 2.). In this decree the payments to AVBZ fund are decreased to NAfl. 25, and decreased further to nil (0) for the years 2014 and 2015.



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- to start legislative procedures in a timely manner so that laws only come into effect retroactively if they clearly fit the legal grounds to do so. Possible discussions on this issue take away attention from the policies that matter. Therefore, the SER advises to refrain from such action.
- to continue with the legislative process of the draft decree taken the above into account

We trust to have informed you sufficiently herewith.

Respectfully,

A handwritten signature in blue ink, appearing to read 'OBrysonPantophlet', written over a horizontal line.

Oldine V. Bryson- Pantophlet
Chairwoman

A handwritten signature in blue ink, appearing to read 'Gerard M.C. Richardson', written over a horizontal line.

Gerard M.C. Richardson
Secretary-General



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Elucidation

The Social Economic Council (SER) has evaluated the social and economic consequences of the draft decree, containing general measures, and came to the following considerations

Concerning the number of years of the cessation (6).

The government states that it needs 6 years for the necessary reforms of the finances of government and the healthcare system. The SER agrees that the finances of government and the healthcare system need reform, and supports this. The SER remarks that both measures decrease the expenditure of government, and therefore aid to avoid further payment arrears, but both measures are not needed to reform the healthcare system. The latter can be done separately. Government has not argued why a period of 6 years is needed to manage its expenditure and avoid payment arrears.

Concerning the reason to pass on the contribution of country Sint Maarten to employees

The SER established that in 1996 the contribution of country Sint Maarten (former Netherlands Antilles) to the Sickness fund [ZV] was introduced to extend the coverage of the sickness insurance to, under certain conditions, family members of employees and former employees [gewezen werknemers] and their family members. This extension of coverage [uitbreiding kring verzekerden] moved participants of the Pro-Pauper (PP) fund to the Sickness fund [ZV]. The contribution of country Sint Maarten (former Netherlands Antilles) compensated the Sickness fund for this extension of coverage³. This contribution by country Sint Maarten is now passed on to employees, and this results in a premium contribution of 4.2 percent for employees. Country Sint Maarten still pays the full premium for the former employee and their family members⁴. As the premiums have not been changed since 1996, the government argues that current employees continue to benefit from the extension of coverage to their family members, and therefore this measure is reasonable. The SER understands this.

Concerning the financial consequences for the General Insurance Special Medical Costs fund (AVBZ).

The government argues that the fund has not encountered negative consequences for the years 2014 and 2015, and is currently healthy. The SER agrees that the capital (NAfl. 60,690,000), the yearly premiums (NAfl. 20,490,000 without the contribution of country Sint Maarten) and the yearly expenditure (NAfl. 11,360,000) in 2014 show a healthy fund⁵. The SER adds that any extension of coverage would additionally influence the finances of the AVBZ fund, and that this fund must also be kept healthy for the long term, including possibly extra coverage and ageing of the population. The SER suggest adjusting the explanatory memorandum, elaboration of article 1, the text 'can discontinue' [kunnen opheffen] with 'discontinue' [opheffen] or words of similar meaning.

³ PB 1996, no.8 and PB 1996, no. 61.

⁴ Landsverordening regelende het recht van de werknemer op tegemoetkoming bij ziekte (AB 2013, GT, no. 802), article 8, sub 7.

⁵ Uitvoeringsorgaan sociale- en ziektekosten verzekeringen Sint Maarten, Jaarverslag 2014, page 19.



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Concerning the financial consequences for the Sickness fund (ZV)

The government states that no negative consequences related to the measures have become apparent, insofar as these consequences are not disproportionate to the aim of the draft decree. The SER contends that there are negative financial consequences for the Sickness fund [ZV] related to the compliance rate of payment of Sickness fund [ZV] premiums. The compliance rate of the 2.1% premiums paid by government to the Sickness fund [ZV] is 100%, either paid directly or administratively in arrears. The SER learned from execution agency SZV that the compliance rate for the Sickness fund [ZV] premiums is approximately 70%; approximately 30% of the premiums could not be collected in 2014. SZV expects the compliance rate to increase the coming years. The government states that the yearly contribution to the fund is approximately NAfl. 10,000,000 (2012). Once the contribution of the country was passed onto the employee, in reality only approximately 70% of the premiums of the employees could be collected by SZV in 2014. Consequently, the income of the Sickness Fund [ZV] by premiums is affected by approximately NAfl. 3,000,000 on a yearly basis. The SER notes that this consequence goes against the aim of the draft decree because it aims to comply with the instruction of the Kingdom government: safeguard the financial sustainability of the retirement and healthcare system for the mid-term future.

Concerning the retroactive aspect of the draft decree.

The government argues that that the draft decree is an extension of existing regulations and that SZV informed the general public about the premiums. The retroactive aspect of the draft decree is that it reaches back to January 1st, 2016, after it comes into effect. The SER urges government to start legislative procedures in a timely manner to avoid retroactive aspects in laws unless they clearly fit the legal grounds for retroactivity. This avoids discussions on the legality of decrees if these come into effect retroactively.