

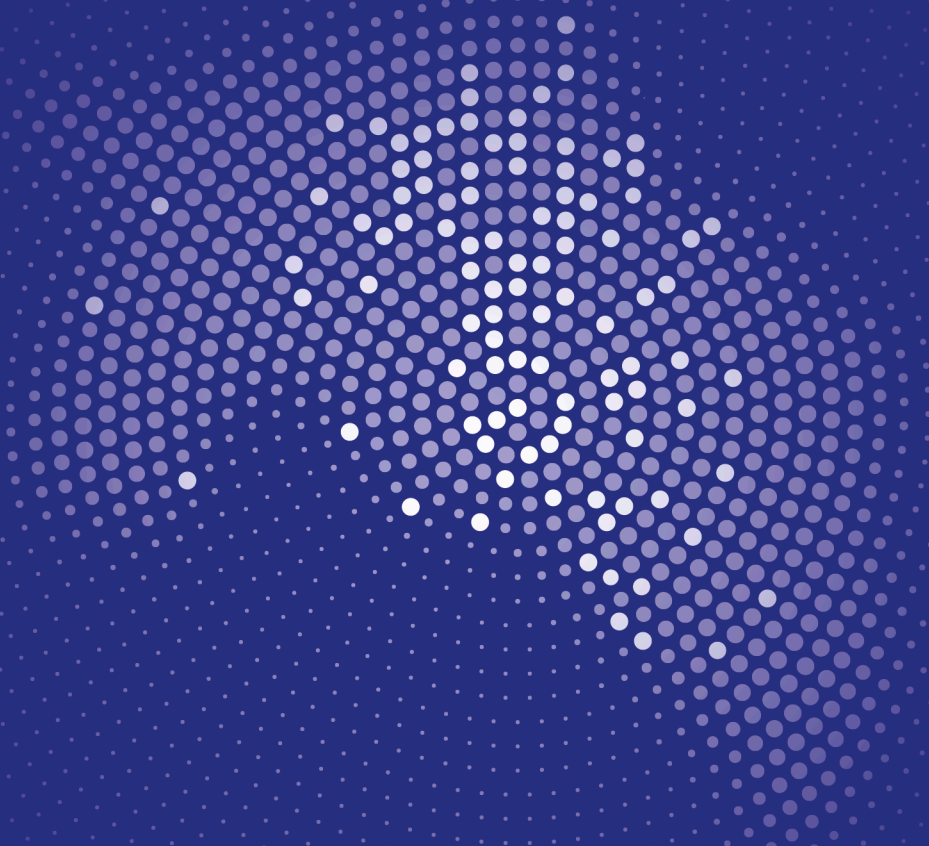


Tweede Kamer
DER STATEN-GENERAAL

Groningers before Gas

Parliamentary Committee of Inquiry
into Natural Gas Extraction in Groningen

1. Conclusions and recommendations



Insight into sixty years of gas extraction in Groningen

Gas extraction and gas revenues

The effect on Dutch prosperity



The *Gasgebouw*

Public-private partnership between the following parties: **Shell, ExxonMobil, EBN and State**

Exploitation of Groningen field: **Groningen Partnership**

Sale of Groningen gas: **GasTerra**

Management of both organisations consists of the same people (staff union)



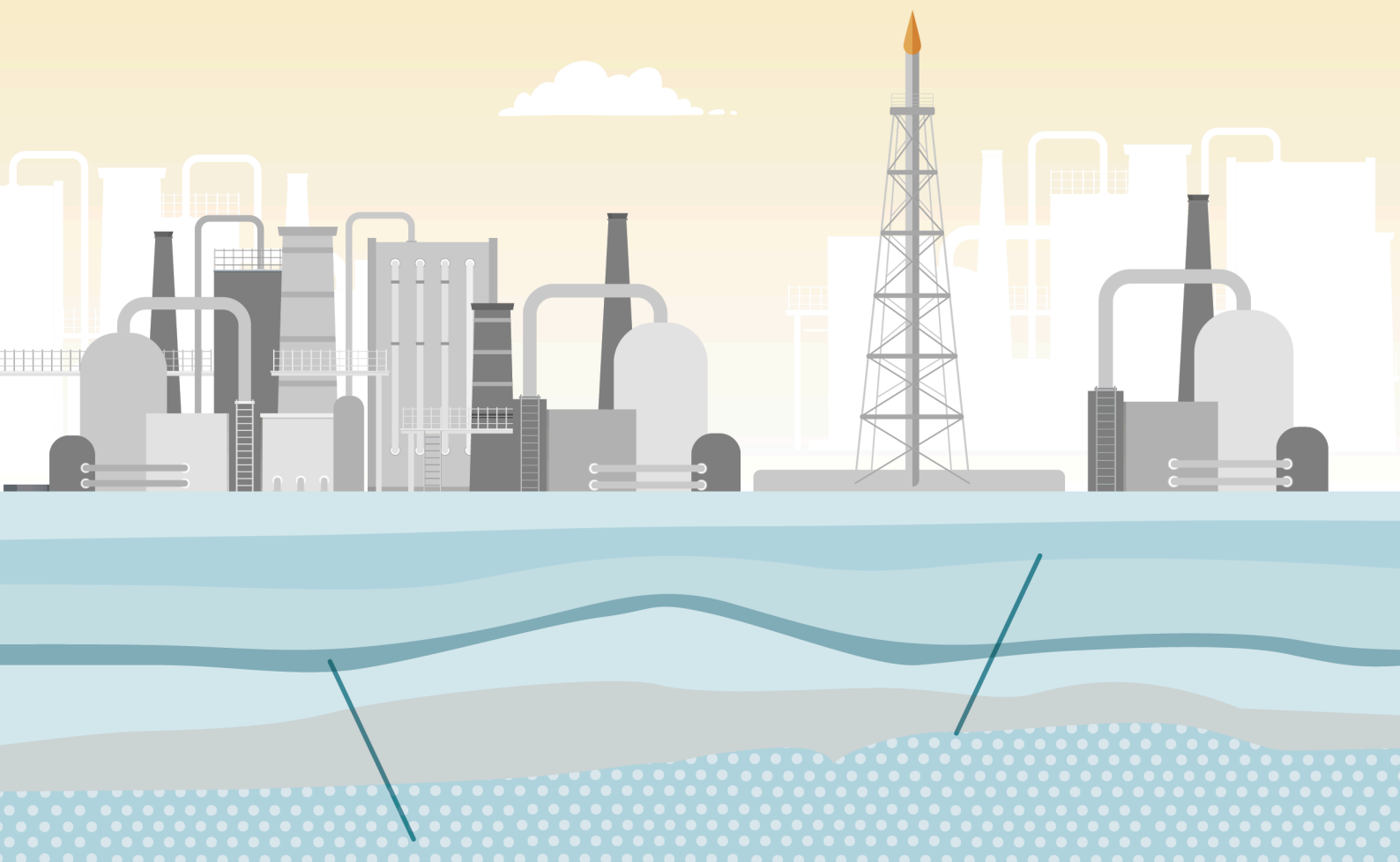
363 billion euro

to the Dutch national treasury in total



2,246 billion cubic metres

of natural gas extracted



Damage claims and reinforcement

The physical and social effects for the residents of the gas extraction area, status at 31/12/2022



267,466 claims for damage

due to earthquakes

↳ **approximately 85,000** addresses
suffered damage more than 1x



11,880 addresses

are not yet safe

for **7,289** addresses

it is not clear whether they are safe



1,615

earthquakes in Groningen



Many Groningen residents suffer from

stress and have health problems



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* Groningers refers to the people of Groningen.

Foreword

Groningen. A province where you can still see to the horizon almost everywhere. The steeples of village churches rising above green dwelling mounds, neighbourhoods with eighteenth-century houses alternating with streets of new-built terraced houses, large farmsteads behind stately façades; a unique landscape atop one of the largest natural gas fields in the world. By Dutch standards, it is sparsely populated but, from an international perspective, the hundreds of thousands of Groningen residents live in a gas extraction area that is one of the most densely populated extraction areas. And for far too long, these people of Groningen have been neglected.

Of course, and I repeated this fact at the start of each hearing, 60 years of gas extraction in Groningen has brought Dutch society a lot. The Groningen gas field made around 363 billion euro for our country and our national treasury. During the course of the years, it has financed the fulfilment of many important social wishes and needs. However, this gas extraction has proved to have an increasing downside. On a daily basis, many residents who live above the gas field still experience the damaging effects of the earthquakes that have been caused by the gas extraction, of which there have been 1,594 by now. Despite the decision, rightly taken, to discontinue the extraction of gas completely, there will still be lingering quakes for many years.

About a quarter of a million individual claims for damage have been dealt with so far, and these will certainly not be the last. Only about thirty per cent of the necessary preventative reinforcement of over 27,000 buildings, reinforcement that will ensure that people have sufficient time to leave their homes in the event of a heavy earthquake, has been completed. Completion is not expected before 2028 and, should new problems arise, may take even longer than that. The enormous number of damage claims and houses that need reinforcing, combined with the inability of the responsible private and public parties to deal with this adequately and in a timely fashion, has resulted in distress, and even in health problems, for far too many of those affected. Moreover, it has resulted in a significant breach of people's trust in the government – one that also affects younger generations and their future expectations.

The fact that this happened very gradually, and in a region that is not naturally in the spotlights, impeded acknowledgement of this distress for far too long. The unanimous decision of the Dutch House of Representatives in March 2019 to institute the most powerful political instrument – parliamentary inquiry – may be seen as an important first step in redressing this matter.

By its nature, the aim of a parliamentary inquiry is to establish the truth. This obviously applies to this inquiry as well, because answering the question as to how all of this could have happened requires a thorough reconstruction of the facts. The Committee of Inquiry provides this reconstruction in nine periods that span six decades. Thorough file research, many preliminary interviews behind closed doors and public hearings under oath were necessary to arrive at this. Additionally, the public hearings gave the Committee the opportunity to call decision-makers to account and to learn lessons for the future.

Groningen and the people of Groningen are special, it is a beautiful province, and locals use the slogan 'Nothing tops Groningen' (*Er gaat niets boven Groningen*) with justified pride. At the same

Foreword

time, the painful primary conclusion of this report is that, as far as gas extraction is concerned, the interests of the people of Groningen were ignored on a structural basis. In this sense, gas extraction topped the people of Groningen. The Committee finds it high time that the interests of the people of Groningen are lent the importance they deserve. This is the reason the Committee chose *'Groningers before Gas'* as a title for this report.

At the time, the distress suffered by aggrieved Groningen residents was what drove me to propose the motion, signed by the entire House, which called for this inquiry. It is a great honour for me to have served as chair of the Committee of Inquiry on which equally motivated, dedicated and helpful MPs serve. In this regard I extend a word of thanks to vice-chair Judith Tielen and members Stieneke van der Graaf, Hülya Kat, Barbara Kathmann, Anne Kuik and Peter Kwint. In our work we were superbly supported by a very expert complement of staff. Besides the clerk Miguel Israel and research coordinator Mirjan Bouwman, these were: Martijn Barth, Cora Bruijniks, Sybren Deuzeman, Lianne van Duinen, Iris Glas, Timon de Groot, Raber Hakim, Ilsa de Jong, Niels Kruithof, Tijs Manten, Rolf Noordsij, Arno Segeren, Maaïke van Slooten-Benders, Jeanine Verhoef, Manon Verhoeven and Ilse Zeemeijer. Together with these staff members, the Committee had many conversations with residents of Groningen.

Additionally, the Committee owes a debt of gratitude to the six members of our soundboard group. Carla van Baalen, Margriet Brandsma, Herman Bröring, Michel Dückers, Rob Govers and David Smeulders gave us a lot of valuable advice. Their willingness to provide us with commentary, each from the point of view of their own expertise, provided us with a useful mirror for judging our own work. On behalf of the Committee I would also like to thank the researchers from the Centre for Parliamentary History at Radboud University who conducted an independent discourse analysis of gas extraction in Groningen commissioned by us. We also acknowledge the willingness of the Netherlands Court of Audit to update the numbers regarding historical revenues from gas extraction.

The Committee thanks all the staff of the House of Representatives who contributed to the enablement of the Committee's work despite the Covid restrictions. In particular, we thank the parliamentary ushers Martin Jongejan, Marcel Twickler and Roberto Raymi Belleza for their tremendous services.

In conclusion, the Committee thanks all people, among whom many affected Groningen residents and their children, who received us so hospitably during remarkably useful working visits to Groningen and Drenthe. Visits to the affected area – seeing and hearing at first hand what the residents have experienced –enriched our insights significantly.

Based on its extensive factual reconstruction, the Committee has arrived at a sizable number of important findings, containing substantive conclusions as well as judgments. In the Committee's view, this constitutes fulfilment of the mandate it was given by the House of Representatives. The mandate did not specify the restoration of trust as an explicit goal of this inquiry. While the desire for this investigation to help in that regard was alive, it was clear that trust would have to be earned. It will take more than just this inquiry to restore the broken trust. However, it is the Committee's conviction that the recommendations it makes can lead to necessary improvements. The Committee hopes that this report will contribute to building new future prospects for the people of Groningen.

Tom van der Lee,
Chair, Parliamentary Committee of Inquiry into Natural Gas Extraction in Groningen



The members of the Parliamentary Committee of Inquiry into Natural Gas Extraction in Groningen. From left to right: Barbara Kathmann (PvdA), Hülya Kat (D66), Judith Tielen (VVD, vice-chair), Tom van der Lee (GroenLinks, chair), Anne Kuik (CDA), Stieneke van der Graaf (ChristenUnie) and Peter Kwint (SP).



The supporting staff of the Parliamentary Committee of Inquiry into Natural Gas Extraction in Groningen. From left to right: Iris Glas, Timon de Groot, Arno Segeren, Ilse Zeemeijer, Cora Bruijniks, Jeanine Verhoef, Niels Kruithof, Raber Hakim, Miguel Israel, Martijn Barth, Mirjan Bouwman, Sybren Deuzeman, Rolf Noordsij, Ilsa de Jong, Maaike van Slooten-Benders, Tijs Manten and Manon Verhoeven. Staff member absent from the photo: Lianne van Duinen

Contents

1	The story of natural gas in Groningen	13
1.1	A Tale of Two Worlds	14
1.2	Gas extraction in Groningen: source of prosperity for the Netherlands, source of concern for the residents of Groningen	15
1.3	Research questions, reading guide and procedure	21
2	Primary conclusion: Interests of the people of Groningen were structurally ignored during gas extraction	25
3	Where did things go wrong?	33
3.1	Conclusion 1. The gravity of the problems in Groningen has been consistently underestimated	34
3.2	Conclusion 2. Money dominates decisions regarding gas extraction	39
3.3	Conclusion 3. Security of supply as a smokescreen	43
3.4	Conclusion 4. Unsafety in Groningen lasts unacceptably long	46
3.5	Conclusion 5. Oil companies benefit from the confusion of roles at the ministry of Economic Affairs	49
3.6	Conclusion 6. Inflexible and closed <i>Gasgebouw</i> shows little appreciation of the interests of the outside world	53
3.7	Conclusion 7. Inadequate claims handling causes damage to the people of Groningen	60
3.8	Conclusion 8. Wavering approach to reinforcement has crippling effect on affected people of Groningen	64
3.9	Conclusion 9. Regional administrators not able to properly take care of the interests of the people of Groningen	67
3.10	Conclusion 10. Knowledge development about the Groningen field deliberately kept limited	71
4	Breaking the pattern	75
4.1	Empty promises	76
4.2	Apologies do not result in change for the better	77
4.3	Do now what has not been done	77

5 Recommendations	79
5.1 Debt of honour	82
5.2 Redeeming a debt of honour	83
Recommendation 1: Make claims handling easier, less harsh, and more humane	84
Recommendation 2: Give residents clarity about reinforcement quickly	88
Recommendation 3: Offer the region prospects for the future	90
Recommendation 4: See to it that there is enough money for all future costs	92
Recommendation 5: Strengthen the role of the regulator	95
Recommendation 6: Increase the importance of the public interest within departments	97
Recommendation 7: Strengthen the role of the House of Representatives	98
Recommendation 8: Structure future public-private partnerships better	101
Recommendation 9: Strengthen knowledge development on the subsurface	102
Recommendation 10: Commit to the spatial organisation of the subsurface	104
Recommendation 11: In conclusion: Invitation to the people of Groningen	105



Chapter 1

The story of natural gas in Groningen

1.1 A Tale of Two Worlds

'Of great importance to the energy supply of the country,' is how, in 1961, the Dutch minister of Economic Affairs De Pous introduces the gas deposit found at Slochteren. This is a remarkable find; at the time, the Groningen field is one of the largest gas fields in the world. The story about how the find is dealt with in the 60 years that followed and what the consequences of this are, depends on the perspective from which it is viewed, the Committee concludes. It is a tale of two worlds. The one world is that of the policy-makers, politicians, administrators, operators, commercial parties and regulators. This is a world of systems and procedures, laws, rules, protocols and agreements, budgets and profit and loss accounts. The other world is that of the residents of Groningen, their concerns regarding subsidence, earthquakes and safety, and of red tape, damage and consequences for their health.

In the first of these worlds gas extraction is seen from the perspective of the decision-makers. The other world is the living environment of the residents of the area who experience the actual/daily consequences of gas extraction. These two stories are so different that they hardly seem to be related even though they are in fact very closely entwined and both have consequences for the other. They are also both relevant if we are to understand how things could have got to this point. The Committee's wishes to give both these perspectives a forum in this report.

This inquiry provides insight into 60 years of gas extraction in Groningen and the consequences thereof. Gas extraction has brought the Netherlands a lot: revenue to bolster the national treasury, but also household comfort and prosperity for Dutch citizens. The revenues for the State were enormous: sixty years of gas extraction in Groningen earned the Netherlands more than 363 billion euro. However, it also cost a lot: there have been more than 267,000 claims for damage. As at early 2023, it is still unclear whether more than 7,000 homes are safe. More than 8,000 buildings have been reinforced, almost 12,000 have yet to be reinforced and many of the people of Groningen suffer from stress and have health problems.

The risks and damage caused by the gas extraction ultimately lead to the decision to discontinue the extraction of gas even before depletion of the gas field. How has it come to this? What happened in the world of the decision-makers, how did the Cabinet, the *Nederlandse Aardolie Maatschappij* (Netherlands Petroleum Company; NAM), Shell, ExxonMobil and others weigh up the various interests involved, and what are the consequences of this? What did decision-makers in The Hague decide, and how did this impact Groningen? The central question that the Committee answers in this report, is the following: *How did the decision-making regarding the gas extraction in Groningen, the claims handling process and reinforcement of buildings proceed at key points. What were the consequences of this, what interests and choices played a role and how were the interests of the residents of Groningen dealt with in all of this?*

An inquiry will not change much in the everyday lives of affected residents of Groningen. Neither will a parliamentary inquiry change much in terms of the reality of earthquakes, and the damage and adverse consequences thereof. Besides, an inquiry report will not restore the trust of residents of Groningen: once betrayed, trust is not built very easily again. However, the Committee hopes that the reconstruction of what happened, and hearing involved, expert and responsible parties in public, will contribute to recognition and acknowledgement of the distress inflicted on the people of Groningen. Besides this, the Committee wants its

recommendations to contribute towards building prospects for the future of Groningen and to the development of future national policy.

Before presenting its main conclusion in Chapter 2 of this book, the Committee first provides a brief account of the history of gas extraction in Groningen, written alternately from the two different perspectives: that of the decision-makers and that of residents.

1.2 Gas extraction in Groningen: source of prosperity for the Netherlands, source of concern for the residents of Groningen

Euphoria and vigorous gas extraction

The discovery of the gas deposits at Slochteren in 1959 is an occasion for euphoria in the Netherlands: a new source of energy and of revenue is found! And what a source it is: the Groningen field proves to be enormous. NAM starts extracting natural gas from the Groningen field in 1963, and very soon the use of natural gas takes off. The Netherlands switches to natural gas for cooking and heating en masse. Gas-dependent industry gets a considerable boost. The exploitation of the gas deposits in Groningen creates jobs and the gas revenues contributes most positively to national prosperity.

An important choice to make at the commencement of the gas extraction, is the manner of exploitation. The construction chosen is one in which oil companies and government collaborate. This construction will come to be called the '*Gasgebouw*' (gas structure). Within this *Gasgebouw*, partners make agreements regarding gas extraction, the sale, transport and distribution of gas, and the distribution of the gas revenues. The construction – later referred to as a public-private partnership – is unique and brings the government a lot of good. Nowhere else in the world does a government earn such a large proportion of the revenues from a gas field. Due to the energy crisis in the 1970s, the Cabinet wishes to exercise prudence in respect of 'our own' Groningen field. For this reason, the Cabinet starts focusing on drilling for new gas fields, with the sale of this gas being given preference; this is known as the 'small fields policy' (from 1974). In these years, the Groningen field increasingly plays the role of major reserve well, from which gas can be extracted very flexibly and rapidly, especially at peak moments during cold winters.

Unclear: what does the discovery of the gas deposits mean to residents of Groningen?

And while most of the Netherlands is in jubilant mood after the discovery of the gas deposits at Slochteren because of the new source of revenue, the inhabitants of Groningen are left in the dark. 'The Hague' shares very little information with the municipalities in Groningen: "*We, the municipal authority, know very little about the gas deposits. The top dogs do not say much,*" the municipal authority of Slochteren is quoted as saying in the local newspaper *Nieuwsblad van het Noorden*.¹ The residents do not know whether they will also benefit from the discovery of the Groningen gas. Will residents of Groningen be paying less for the gas than the rest of the Netherlands, as was the case for local residents with coal in Limburg?

¹ *Nieuwsblad van het Noorden* (29 June 1963).

Book 1

Conclusions and recommendations

For the residents, the extent and significance of the discovery of gas remains the stuff of rumours and speculation for a long time. In his public hearing, Herman de Muinck speaks of the enormous impression the gas extraction had made on him as a 10-year-old boy: *“As a child, I could read the entire series of De Kameleon books in the evening by the light of the flame from the drilling rig, the flame for gas flaring. You see, the pressure was enormous and it had to be flared. I even heard that people in the city of Groningen could see the lighting. It was a world wonder actually.”*²

More and more earthquakes, but gas extraction continues unabated

When gas extraction starts in 1963, in the first instance there seem to be hardly any adverse effects. It is only in 1972 that a study by NAM is published that mentions the subject of subsidence as a result of the gas extraction in Groningen. People are not overly concerned about this: with reference to the study, the minister of Economic Affairs mentions that subsidence due to gas extraction will happen evenly and will be limited and not result in damage to buildings. In the twenty years after 1963, earthquakes hardly happen, but every now and then there are reports of unexplained ‘earth tremors’. The earthquake in the vicinity of Assen in 1986 is a tipping point. This quake occurs in an area where earthquakes do not occur naturally, and the experts are taken by surprise. In the years following this quake, more – and heavier – earthquakes occur in the vicinity of gas fields. A geographer living in Assen, Meent van der Sluis, raises the alarm, asking whether there might be a connection with gas extraction. NAM and the Royal Netherlands Meteorological Institute (KNMI) deny this connection for the longest time and downplay the consequences of the gas extraction. This defensive attitude sets the tone of the debate during these years. It is only in 1993, after the publication of the multidisciplinary study of the Supervisory Committee of Research into Earthquakes (*Begeleidingscommissie Onderzoek Aardbevingen*, BOA), that NAM and the KNMI acknowledge a connection between the gas extraction and earthquakes. The BOA too, however, expects that the quakes will be limited in force and therefore only result in slight damage to buildings. No problems are envisaged: if there is to be damage, NAM must compensate this as, under civil law, NAM is legally liable for the damage. In the first thirty years after the commencement of gas extraction, the number of claim notifications is limited. At a fraction of the ample gas revenues, NAM can easily afford to compensate the damage arising from the gas extraction in these years.

Earthquakes become part of everyday life for residents of Groningen

The people of Groningen have questions about more than the extent of subsidence NAM envisaged as a result of the gas extraction. In 1976, they feel three light earth tremors and wonder what these are caused by. In Loppersum, teacups tinkle in the cabinets, and doors and windows rattle in their frames or posts. In the 1980s, the earth tremors are discussed occasionally in the Loppersum municipal council, *‘but outside of Loppersum no-one felt them, and there was no-one you could share your story with.’*³

2 Report of the public hearing of De Muinck, 27 June 2022.

3 Quote from a letter of former alderman Scheltens from the Loppersum municipality to the Parliamentary Committee of Inquiry, 7 September 2022.

The earthquake in the vicinity of Assen on Boxing Day in 1986 is a tipping point for residents too. There is growing disquiet among Northerners. Despite the fact that the earthquake does not last long, the police station is inundated with calls, the Nieuwsblad van het Noorden newspaper reports.⁴ “Questions from worried Assen residents came from all over the city.” In the newspapers, residents read that the KNMI does not recognise the earthquake: “We have never measured an earthquake in Drenthe before,” says Ritsema of the KNMI. In the Telegraaf newspaper of 30 December 1986, residents read about geographer Meent van der Sluis, a resident of Assen, warning that the earthquake ‘is a result of the gas field at Slochteren being emptied.’⁵ However, the authorities do not listen to Van der Sluis. NAM spokesperson Frank Duut indicates that he does not feel inclined to respond to such ‘nonsense’. “We resolutely dismiss this as a fairy tale,” he says.⁶

In the years following the earthquake in Assen in 1986, there are more quakes in the vicinity of gas fields. After the earthquake at Middelstum in 1994, the municipality of Loppersum (established in 1990) organises an information evening in the Vita Nova conference centre in Middelstum. The ‘Lopsters’, as residents of Loppersum are known, say to each other at the supermarket: “Do people in Middelstum really not know that we’ve been having earthquakes in Loppersum for twenty years now?”⁷ By now, the earthquakes are happening so regularly that they have become part of many Groningen residents’ everyday life.⁸ In 2003, therefore, residents do not act too shocked when there is an earthquake at Hoeksmeer with a magnitude of 3.0 on the Richter scale. The De Vries family are awoken by their beds being shaken this way and that, but they are not afraid, Erica de Vries responds to a question by NRC Handelsblad. “We felt it very clearly and immediately thought it was an earthquake. A strange experience, but we were not afraid.”⁹ On 8 August 2006 there is an earthquake at Middelstum, one with a magnitude of 3.5. This is the heaviest earthquake by far at the time. Some hours later it is followed by an aftershock with a magnitude of 2.5; this results in more than 400 claim notifications. Despite the magnitude of the earthquake it hardly warrants any attention outside of Groningen. Meanwhile, the residents of Groningen remain level-headed as always, as is evidenced by a newspaper article about a later quake in Loppersum in October 2008. The Dagblad van het Noorden writes: “Do we panic? Don’t be silly. Earthquakes are becoming part of life in the Groningen countryside near Loppersum.” Mayor Albert Rodenboog of Loppersum is quoted in the newspaper article: “If we were able to stop them, we would. But, well, the extraction of gas simply is a fact.”¹⁰ Frustration regarding the earthquakes steadily increases though. This leads to the establishment of the interest group Groninger Bodem Beweging in 2009.

4 Nieuwsblad van het Noorden (27 December 1986), p. 1.

5 De Telegraaf (30 December 1986), p. 7.

6 Hakkenes (2020).

7 Quote from a letter of former alderman Scheltens from the Loppersum municipality to the Parliamentary Committee of Inquiry, 7 September 2022.

8 Brouwer et al. (2022), p. 17.

9 NRC Handelsblad (24 October 2003), p. 2.

10 Brouwer, M. (31 October 2008), p. 3.

Repair of damage and reinforcement: prolonged processes and ever new protocols and institutions

In August 2012 an earthquake of a hitherto unknown magnitude occurs at Huizinge. With a magnitude of 3.6 on the Richter scale, this is the heaviest earthquake in Groningen to date. The Richter scale is logarithmic, which means that an earthquake of 3.6 is more than thirty times as heavy as one of 2.6, and therefore this quake causes far more damage than previous earthquakes. This can also be seen in practice. The scale of claim notifications by aggrieved residents changes for good at this point. Instead of tens or hundreds of claims, suddenly there are thousands of claim notifications per year. In the years following this, NAM, central government and other parties involved work towards solutions for taking care of the increasing numbers of claim notifications. This does not result in a proactive approach to the problem though. Central government adopts the stance that the handling of claims is the responsibility of NAM, because NAM is legally liable. The government wants as little involvement with this matter as possible. This proves to be an illusion. After briefly residing with Centrum Veilig Wonen (CVW), the handling of claims ends in public hands. The initiatives, claims protocols, regulations and bodies created for dealing with and accelerating the claims handling follow each other in rapid succession. However, the envisaged improvement and acceleration of the claims handling hardly comes about.

Due to continuing problems, there are efforts to put NAM at a distance from the handling of the claims. This ends up with the executive organisation Centrum Veilig Wonen in 2015. In 2018, the government is put in charge of the handling of claims." To this end, the Temporary Committee for Mining Damage in Groningen (*Tijdelijke Commissie Mijnbouwschade Groningen*) is established, and this will transition into the Institute for Mining Damage in Groningen (*Instituut Mijnbouwschade Groningen*) in mid-2020. By then, the number of claim notifications approaches tens of thousands per year. In 2021, the Instituut Mijnbouwschade Groningen receives more than 45,000 claim notifications, comparable to what it received the year before.

After the earthquake in Huizinge in 2012 proves that the damage caused by earthquakes can be sufficient to make buildings collapse, and that the safety of residents is endangered, preventive reinforcement of buildings is also initiated. Houses are reinforced to ensure that in the event of a heavy earthquake residents will have enough time to flee their house in time. After initially vesting responsibility for this operation with NAM and Centrum Veilig Wonen, in 2016 the coordination of the reinforcement operation is given to the National Coordinator for Groningen (Nationaal Coördinator Groningen, NCG), while the handling of claims remains with the CVW. A recurring theme with both the claim handling process and the reinforcement operation is the structural reluctance to acknowledge damages and to pay compensation. The matters often proceed at a painfully slow pace and decision-makers keep changing the rules and the institutions involved in an effort to bring an end to this slow pace. Both the claims handling and the reinforcement operation will ultimately be entrusted to public parties.

Incomprehensible bureaucracy and increasing dissatisfaction among the residents of Groningen

After the earthquake at Huizinge, the residents of Groningen are worried. This earthquake is not only heavier, but also lasts considerably longer. People run from their homes in fright. A much-viewed clip on YouTube showing tins of soup falling from supermarket shelves, gives an accurate view of the effects of the quake. In her public hearing, Frouke Postma-Doornbos from

Schildwolde gives a graphic account of how frightening such an earthquake can feel. She refers to an earthquake in 2017 during a garden party that she and her husband gave: *“It was a lovely day, a beautifully fine day. Warm weather. We stood in the garden, receiving our guests. Suddenly there was an earthquake of, I think, some 2.6 or 2.3; [...]. My experience of it was very intense. It was as if – and this might sound childish – a monster underground was opening its mouth. I had never experienced an earthquake while standing outside before. We were standing outside. The earth moved. There was a really scary sound. And there we were in our glad rags, with our guests arriving, bearing flowers. It was really... It was really intense.”*

The earthquakes cause a lot of damage. Initially, it is not clear to many residents where and how they can report any damage. Aggrieved residents told the Committee that they were never informed of the option of reporting damage to NAM, or that they cannot remember receiving information about this. How to report damage is a puzzle to them.

The numerous claim notifications soon result in a drawn out and incomprehensible bureaucratic nightmare, with the constant pressure of responding within reporting deadlines, and with unremitting uncertainty. The parties handling the claims, however, seem to be less stressed about deadlines. Claim notifications are processed slowly and the reinforcement operation, too, is very slow. The bureaucracy, heaps of paperwork and the fact that people submitting damage claims are often given the feeling that they are not trusted, lead to a lack of clarity, uncertainty and frustration among residents. Damage to one’s home, which takes forever to be resolved, is a profound and prolonged disruption of one’s daily life.

“Later on, in 2015, I started keeping count of how many people visited us about the damage to our home. And I don’t just mean builders and people coming to repair things, but just the people who had to make drawings, investigate, inspect, contact persons and so on. In the year 2015, I counted 60 individuals. Some of them came around multiple times,” Frouke Postma-Doornbos recounts in her public hearing.¹¹ Her account describes very well to what extent the damage handling can take over one’s life. The bother, paperwork, numbers of visits from various people involved and the uncertainty about whether and when damage will be repaired are aggravations to the people reporting damage. Moreover, often residents have a sense of not being taken seriously by NAM, and therefore no longer always report damage: *“The damage experts dismiss many matters. They say it’s caused by age. It’s rather difficult to prove that a crack was caused by the earthquake. Lots of people don’t bother to report damage anymore.”*¹²

The accumulation of damage due to recurring earthquakes, the lack of clarity regarding the reinforcement operation and the dissatisfaction about the slow settlement lead to increasing discontent among the residents of Groningen. At times it isn’t even the damage to someone’s house but the bureaucracy surrounding it that is the most annoying.¹³ Reporting damage and waiting for a response, an assessment, a damage report, compensation for the damage. Or waiting for clarity regarding the question of whether the house actually is safe or not, whether action is called for, or whether one can stay in the current house. Residents see that the

11 Report of the public hearing of Ms Postma-Doornbos, 26 September 2022.

12 Kelckhoven, van & Minkes (18 August 2012), p. 10.

13 “I’m waiting”: series of portraits in Dagblad van het Noorden.

neighbour across the street has received word, while they are still in the dark themselves. The long wait not only causes concern, it also has an ongoing effect on everyday decisions. Painting the living room walls makes no sense if there is still damage to be repaired, or applying for a new job elsewhere while it is still unclear whether you will be able to sell the house. The continuing uncertainty is enormously frustrating. During one of our working visits an aggrieved resident tells the Committee that the long wait is getting him down. He wants to know what he can expect. Will his house have to be demolished and rebuilt, or can it be fixed? Then at least he can get on with life again. As Melissa Dales put in it her public hearing: *“To wait is a verb. Waiting might confront you with something new that perhaps you hadn’t expected at all.”*¹⁴

Moreover, the earthquakes literally leave their mark on the provincial landscape. The damage is at such a large scale that entire towns are turned on their head completely. There are so many houses with new chimneys, houses being propped up, houses that have to be demolished and replaced with new-built ones, houses with cracks repaired but still visible on the outside.

Scaling down of gas extraction

The earthquake at Huizinge in 2012 prompts discussions about safe levels of gas extraction in Groningen, with residents of Groningen becoming steadily more vociferous. Initially, resistance and scepticism mark the stance of the knowledge institutes, the Ministry of Economic Affairs and operator NAM and its shareholders. At the beginning of 2013, the official regulatory body, State Supervision of Mines, puts the theme of ‘reduction of gas extraction’ on the political agenda. Remarkably enough, in this very year, 2013, the extraction of gas reaches record levels, which fact is met with outrage in Groningen and the House of Representatives.

As from 2014, the Cabinet scales down extraction in steps. After the earthquake at Zeerijp in 2018, another heavy quake with a magnitude of 3.4, the Cabinet decides to stop gas extraction completely by 2030. For many, this decision comes as a surprise. Moreover, the Cabinet announces that it expects gas extraction to fall below the level of 12 billion cubic metres per year by 2022, but possibly even a year earlier. In 2019 there is another quake with a magnitude of 3.4, this time at Westerwijtwerd. After this quake the Cabinet announces that gas extraction in Groningen could cease earlier than anticipated – in 2022 instead of 2030. As of 2022, extraction from the Groningen field will only be allowed in the event of an extremely cold winter. In the period after the earthquake at Huizinge, various expert opinions, court rulings and Cabinet decisions prove crucial and ultimately lead to the final discontinuation of natural gas extraction. Examples of these are the expert advice of State Supervision of Mines (2013), which calls for the scaling down of Groningen production as soon as is realistically possible to ensure the safety of the residents of Groningen, or the judgment of the Administrative Jurisdiction Division of the Council of State (2015) in which extraction decisions are nullified, and finally the various Cabinet decisions regarding the reduction or envisaged discontinuation of gas extraction from the Groningen field. In 2017, the court calls for an investigation into whether NAM employees are criminally liable for the damage caused by the gas extraction in Groningen. This results in a change of course and behaviour for Shell and ExxonMobil, too.

14 Report of the public hearing of Ms Dales, 12 September 2022.

The impending criminal case in 2017 adds vigour to the negotiations about revision of the partnership agreements started tentatively at the end of 2016. For the oil companies this criminal case lends urgency to the negotiations. The oil companies want the State to determine the level of extraction in the future and to introduce a duty of extraction for NAM. Following the introduction of a legal duty of extraction, the negotiations between the State and Shell and ExxonMobil carry on unabated, and these result in various agreements, the first of which is the Heads of Agreement (Akkoord op Hoofdlijnen), agreed in June 2018.

Living with uncertainty: damage to health

While gas extraction is being scaled down, the lack of safety and the red tape involved in the reparation of damage and reinforcement put the lives of many Groningen residents in a kind of limbo. This in turn causes health issues: people suffer from poor sleep as well as from stress.¹⁵ Research among Groningen residents shows that people who are involved in damage proceedings feel irritable, and suffer from insomnia and heart palpitations. They are tired, numbed and despondent.¹⁶ The very reinforcement operation, which is meant to make homes safer, paradoxically makes the lack of safety that people experience bigger. The Committee notices this during one of the working visits. One of the affected residents explains what it means to live in an unsafe house. She says that she and her family had never used to lose any sleep to worrying about quakes, but that they now sleep poorly. Children and young people also experience symptoms (including health symptoms) due to the earthquakes. Many of the children who live in damaged houses are worried. A small group of them sleep poorly or have nightmares. Children and young people facing a who might possibly have to move temporarily have difficulty coping with the uncertainty that this occasions. *“I would really like to know where I am going and what is going to happen. And I would like to go to a normal house. This is on my mind at night.”*¹⁷ Even little children use official jargon such as ‘interim homes’ and ‘reinforcement operation’ with such ease as to be disconcerting, the Committee notices during one of its working visits. Many children and young people feel that an injustice was being committed against them.¹⁸ Adults also feel this way. As far as that is concerned, residents of Groningen sometimes feel distrust regarding the decision to discontinue gas extraction: after all, loopholes remain which might entail the resumption of extraction. Moreover, not all Groningen residents are reassured about the effect of discontinuing gas extraction. What scares Groningen residents is the possibility of all parties leaving the province and there not being anyone left to hold liable for damage that might still occur later.

1.3 Research questions, reading guide and procedure

The stories given above about the gas extraction in Groningen differ from the start. What we see are two separate worlds: the world of the decision-makers and that of the residents. In 60 years, these worlds have inexorably grown further apart and face opposite directions. Both points of view are considered in this research.

15 “I’m waiting”: series of portraits in Dagblad van het Noorden.

16 Dückers et al. (January 2023).

17 Child Ombudsman (18 October 2017), p. 25.

18 Child Ombudsman (18 October 2017), p. 26.

Book 1

Conclusions and recommendations

The purpose of this research is to establish the truth and to arrive at an understanding of the decision-making regarding the gas extraction, the settling of claims and reinforcement of buildings in Groningen. This enables us to arrive at a considered judgment regarding the entire period and to learn lessons, so that we can contribute toward giving Groningen hope for the future as well as toward developing future policy.

The primary question of this report is: How did the decision-making regarding the gas extraction in Groningen, the claims handling, and reinforcement proceed at key points, what were the consequences of this, what interests and choices played a role and how were the interests of the residents of Groningen dealt with in all of this?

To be able to answer this primary question, the Committee will study the following subquestions, as these were formulated in the research proposal of the Parliamentary Committee of Inquiry into Natural Gas Extraction in Groningen:

1. What, in broad strokes, happened in the period 1959-2021 in respect of natural gas extraction in Groningen and the risks related to this? What were the milestones and crucial moments in the history of natural gas extraction in Groningen, and why? What knowledge was available at every point, and to whom?
2. How does the *Gasgebouw* work? Which parties were involved in the *Gasgebouw* and which interests and considerations played a role? What decisions were taken? What agreements were made and how did these change in the course of time?
3. What decisions did the Cabinet take regarding natural gas extraction in Groningen? How did these decisions come about, how was the House of Representatives informed and at what points was the House of Representatives able to influence the decision-making?
4. What roles did the Cabinet, House of Representatives, private parties, decentral authorities and local actors have in the decision-making, and what were the consequences of their actions for the residents of Groningen? In what way were residents of Groningen involved in the decision-making, what role did they have and how were their interests taken into account?
5. What lessons can be drawn from the analysis of the natural gas extraction in Groningen?

The answers to these research questions are given in Books 2 - 5 of this report. In the first book of this report, the Committee presents its conclusions in broad outlines with recommendations.

The Committee considered more subjects than were ultimately included in this report. Only those subjects that are necessary for substantiating the conclusions were covered in the report. Other subjects that were not necessary in this regard, such as concessions from the initial stages of the gas extraction, the operation of the market for gas and geopolitical factors in the early history, have been left out. The Committee made this choice in order to keep the report manageable in extent.

The Committee is aware of the fact that the harmful effects of the extraction of natural gas are not limited to the province of Groningen, but also occur just beyond its borders. As this problem mainly occurred in the province of Groningen, however, this report refers to 'Groningen and 'residents/people of Groningen' throughout. References to 'residents' might, however, just as well refer to residents of Drenthe and, in some cases, Friesland.

Reading guide

The Committee has documented its findings in this final report. It comprises a number of books. The first book contains the conclusions of the Committee of Inquiry and provides answers to the question of how it could come to this. Chapter 2 contains the primary conclusion and Chapter 3 contains the subconclusions. Chapter 4 goes into the many promises that were made to residents of Groningen. Chapter 5 contains the recommendations of the Committee.

Books 2, 3 and 4 contain the chronological account of the facts. These set out the developments regarding gas extraction in Groningen in the period 1959 to 2022. In these books, the Committee maps out the relevant events and presents its findings in this regard. The Committee has chronicled this account of the facts in chronological order. The account is divided into nine periods. These cover the periods between two major earthquakes in all cases. These earthquakes are what turned gas extraction from a success story to a headache, and what often served as catalysts for breakthroughs in the decision-making. All of the periods are described in the same manner. Each of the chapters is built up in the following manner. The introduction into the period is followed by Section 2 in which the development of knowledge regarding subsidence and earthquakes and the risks these hold are covered. Section 3 describes the partnership in the Gasgebouw and the decision-making regarding the level of gas extraction. Section 4 covers damage and reinforcement. Following this, Section 5 covers what happened in the area of Groningen, and how the negotiations regarding compensations were conducted. Findings regarding the period are described in the final Section 6.

The fifth book contains a number of substantive theme chapters (Chapters I to IX) and the research justification (Chapter X and Annexes 1 to 11). Together, Books 2 to 5 contain the substantiation of the conclusion and the recommendations contained in the first book.

Procedure

For this research, the Committee of Inquiry demanded documents underlying the decisions that were taken from 50 different involved parties and persons. A total of 631,500 digital documents were provided and ten metres of physical documents. In 69 public hearings and 126 preliminary interviews behind closed doors, the Committee heard many representatives of government bodies, oil companies and civil organisations tell what their considerations had been, and affected residents talked about their experiences. Twenty-two technical briefings were organised in Spring and Autumn of 2021 and in Spring of 2022. Specialists discussed themes such as health and wellbeing within the context of gas extraction, the operation of the domestic and international gas market, finance streams, liability law, and regulatory governance with the Committee.

This information gives a unique picture of a multifaceted and complex issue, of which all parties involved only had partial knowledge. No-one had the full overview of all information and, without exception, the sub-aspects were complex. This is why this report is so extensive; there were so many different aspects that needed to be described. In this first book, the Committee formulated its conclusions, judgments and recommendations in broad outlines as far as possible. In order to keep the content accessible and readable, the Committee has been sparing with details, but these are dealt with in Books 2 to 5.

Book 1

Conclusions and recommendations

During a visit to various educational institutions in the earthquake area, the Committee also spoke to pupils and students. The Committee also undertook a number of working visits to the region; here it conducted probing conversations with residents, farmers and business people regarding their experiences of the consequences of gas extraction. These discussions made a lasting impression on the members of the committee. They gave the committee members good insight into the enormous effect that the damage and reinforcement operation have in everyday life. The Committee could see how far-reaching, disruptive, frustrating and emotional this is for the residents, farmers and business people. Telling their story again meant reliving it. Without the cooperation of all these people the Committee would not have been able to write this report. The Committee would like to take this opportunity once more to thank the affected people who received the Committee for their openness and hospitality.

The Committee wishes not only to thank all the people in Groningen who were prepared to receive the Committee and share with them their penetrating stories, but literally also to 'give them a face' in this report. Interviewees were asked whether they would like to be photographed at a location of their choosing. Photos of those residents who chose to do so are shown at the beginning and end of each chapter of this report. In this way we emphasise the fact that this report is not only about policy, rules and decisions, but about people first and foremost. About the people of Groningen who experience the consequences of gas extraction – the positive and the negative – day in and day out, in some cases.



Chapter 2

Primary conclusion: Interests of the people of Groningen were structurally ignored during gas extraction

Primary conclusion: Interests of the people of Groningen were structurally ignored during gas extraction

Sixty years of gas extraction in Groningen brought the Netherlands considerable prosperity, but cost the people of Groningen a lot. By now there have been almost 1,600 earthquakes in Groningen, and every month sees new quakes added to this number. Up to the end of 2022, there have been more than 267,000 reports of damage, of which 230,000 have been handled. Of these cases, 85,000 concerned more than one incidence of damage. And precisely the fact that damage is repeated is crippling. Every new earthquake causes disquiet and fear in the people of Groningen. The days when this was only about ‘cups tinkling in the cabinet’ are long past. What is involved is the real concern about whether the baby can be put to bed upstairs safely in a home that used to be considered safe, but has since been declared unsafe. It is the stress and the enormous mental threshold having to check the house for cracks again after the umpteenth quake— residents know how much effort and energy it costs to get damage repaired. It is having to postpone decisions regarding whether or not to accept a new job because the house can’t be sold. In short: what is involved is a life in unsafety and constant uncertainty – when will it finally come to an end?

The Committee finds that the situation that has developed can justifiably be called ‘disastrous’. This might seem like a quite a bold claim, but few people realise that there are few situations in the Netherlands that have negatively affected such a large number of people. To compare: the number of residents who have suffered damage is equal to the residents of the cities of Leiden and Alkmaar together.

According to the Committee, the answer to the central question of how this situation could have come about lies in the fact that the worlds of the decision-makers on the one hand and the residents on the other are strictly separate and totally different. For the State and for the oil companies, the extraction of natural gas was so successful and so lucrative that they were blind to the long-term risks and to the signs from the outside world, which were growing increasingly forceful. It was only once other parties demanded these be attended to, that there was a change in the matter – albeit reluctant. A combination of advisory reports by the regulatory body, the State Supervision of Mines, public pressure from the region and judgments from the Administrative Jurisdiction Division of the Council of State eventually made the Cabinet decide to scale down gas extraction gradually. Ultimately, gas extraction is to be discontinued, even though the Groningen soil still holds considerable reserves of extractable gas.

According to the Committee, this could have been different if the concerns of the people of Groningen had been attended to earlier. As it is, the gas extraction in Groningen has proved to be an unprecedented system failure by public as well as private parties who failed in the execution of their duty. For too long, no real choices were made and decision-makers skirted their responsibilities as well as the risks. Gas extraction meant ignoring the interests of the people of Groningen in systemic fashion. Here the Committee explains how it arrived at this conclusion. To do this, we step back in time.

Partnership between state and oil companies successful in maximising the revenue from the gas field

Upon the discovery of the large gas field at Slochteren, decisions need to be made as to the best options for extracting the gas that had been discovered. Which party has the expertise required to do this? And can the gas field be operated in a manner that will allow all of the gas from the gas field to be extracted? This thought process results in what is currently known as a public-private partnership. The State decides to participate in the Groningen Partnership (Maatschap Groningen) and in the public limited company Nederlandse Gasunie together with the predecessors of Shell and ExxonMobil.

In 1963, NAM is granted the rights to extract the gas from the gas field at Slochteren. These are perpetual rights and, in a practical sense, this makes NAM the owner of all the gas in the Groningen field. At the same time, the State reaches supplementary agreements regarding a share in the costs and revenues and regarding the appointment of a government representative. Together, all of the partnership agreements between the State and the oil companies – regarding extraction by NAM and sale by Gasunie - subsequently becomes known as the '*Gasgebouw*'. This set of agreements assures the State of continued influence on the manner and speed of extraction.

A special construction is chosen to structure the Groningen Partnership (Maatschap Groningen): that of an undisclosed partnership. A remarkable choice. This construction accommodates the wish of the oil companies to not make public the participation of the State in the extraction and sale of gas, so that this will not become known to other countries and other oil companies. Among other things, the construction of an undisclosed partnership has the advantage that there is no requirement to publish annual reports. This has the effect of withdrawing the substantial share of the State in the exploitation of the gas field from outside view. In this way the revenue from gas extraction in Groningen end up in the national treasury on the quiet, and do not endanger the interests of oil companies Shell and ExxonMobil in other parts of the world. There might otherwise be a risk of other nations demanding a comparable share in the exploitation as the Dutch State.

The natural gas and the construction that has been chosen for extraction and sale are to ensure the Netherlands great prosperity. All of the parties to the *Gasgebouw* have the same aim: to maximise the value of Groningen gas without disrupting the broader energy market. This does not only concern the highest price for a cubic metre of gas, but the strategic application thereof as well, by not using the gas in power plants, for example. Power plants can run on other fuels pretty well. Shell and ExxonMobil get very good returns on their investments in Groningen. And the State gets the lion's share of the revenues, which are to increase even further in the decades that follow. In other words: the Netherlands as a whole takes great advantage from the construction strategically chosen in 1963. As far back as the 1970s, the gas revenues to the Dutch State run into billions. This revenue reaches its peak in 1985. In that year, the gas revenues, converted into euros, are 11 billion euro per year, which amount to 5% of the total Dutch economy. The gas profits from Groningen form the financial basis of the Dutch welfare state. According to the Netherlands Court of Audit (2022), allowing for inflation,

the gas revenues for the State to the present amount to 454 billion euro in total¹⁹, of which - according to Shell's calculations - 363 billion euro²⁰ is from the Groningen field. The partnership construction conceived in the early 1960s is exceptionally effective because all of the parties have the same objective. All of the parties to the *Gasgebouw* benefit from the highest possible revenues from the sale of gas. More to the point: this is the only aim that is ever laid down in all agreements. No agreements are made about public interests other than the value maximisation for the State.

Construction is hidden from view of the outside world

The construction chosen for the *Gasgebouw* is successful in maximising the revenues from the Groningen field, as laid down in the partnership agreements in 1963. However, the Committee also concludes that the construction has many disadvantages. One of these is the fact that the partnership agreements remain secret to a large extent, and are therefore hidden from view for the outside world. Competitors, and therefore the rest of the outside world, do not get any idea of the day-to-day affairs of the partnership. This lack of transparency also makes it difficult for the House of Representatives and for the people of Groningen to understand how the partnership structure actually works. Information relating to the *Gasgebouw* is not necessarily shared with the outside world. This makes it difficult to influence the decision-making. A clear illustration of this is the fact that the partnership agreement from 1963 is only made public in 2018, after the resident of Groningen Sijbrand Nijhoff found it in the National Archives. The Committee deems it unwise that information regarding the partnership in the *Gasgebouw* was kept secret for so long and in such a structural manner.

A second important aspect is the autonomy of the government representatives. The government representatives and supervisory directors in the *Gasgebouw* are civil servants. For a long time it is unclear what the mandate of the government representatives and supervisory directors is, and in the course of time, not involving the minister in the gas extraction in Groningen gradually becomes common practice. The Committee has the impression that for a long time the civil servants rather do not bother the minister with the extraction and sales policy applying to the Groningen natural gas. This means that, to an important degree, the strategy of the *Gasgebouw* is withdrawn from the minister's view. This also means that it is withdrawn from parliamentary supervision: due, among other things, to this way of doing things, the House of Representatives is given inaccurate, incomplete or incorrect information regarding important developments in the gas dossier.

Safety of the people of Groningen ignored for too long

An important shortcoming of the chosen partnership construction is that other public interests that become obvious in the decades that follow, such as the safety and health of residents, are not put on the agenda. They were preconditions under the provisions in the Mining Act, but hardly ever feature in the decision-making process or not at all. Public interests other than

19 Netherlands Court of Audit (2022).

20 Shell. Written information giving an overview of the total cost and income per year of the natural gas extraction from the Groningen field by Shell, including a specification of the amounts from the natural gas extraction that went to other parties in the *Gasgebouw* via Shell, 8 April 2021.

maximising the revenues for the State and ensuring security of supply are not safeguarded in the *Gasgebouw* as it was structured in 1963.

Signals from outside the Gasgebouw are not picked up

If, in an organisation, certain public interests are not safeguarded, signals from outside might still form a reason to change the organisation in such a way as to allow these interests to count after all. In its investigation, the Committee identified various moments which could have been a reason to change the organisation of the *Gasgebouw* such that other public interests would have become a more obvious part of the decision-making.

This might have happened, for example, in 1993, when the Supervisory Committee of Research into Earthquakes (*Begeleidingscommissie Onderzoek Aardbevingen*, BOA) found that there was a correlation between gas extraction and earthquakes. This could have been a reason to map out structurally and systematically what consequences gas extraction has. The coming into effect of the Mining Act in 2003 might also have been a suitable point at which to revise the partnership within the *Gasgebouw*. From this moment on, mining concessions are no longer granted in perpetuity, but have an end date. However, this principle is not applied to gas extraction from the Groningen field.

The expert opinion of State Supervision of Mines in January 2013, which makes it clear that the increasingly heavier earthquakes might result in casualties, might also have been reason to better protect the interests of the people of Groningen. In early 2013, the regulator emphatically states that, in order to safeguard the safety of the people of Groningen, production needs to be reduced as speedily as is realistically possible. Although this advice does resonate with the odd party, it does not result in a single initiative to reduce the gas extraction as a precaution – not even slightly. Likewise, neither the 2015 report of the Dutch Safety Board nor the torch marches in Groningen in 2016, 2017 and 2018, in which thousands of the people of Groningen actively vent their concerns about the gas extraction, are considered reasons for substantial amendments in order to lend more weight to the interests of the people of Groningen.

Security of supply as a smokescreen

Often, parties to the *Gasgebouw* use security of supply as an argument for not making any adjustments to the *Gasgebouw*. Security of supply of natural gas in the Netherlands is uncommonly high. For Gasunie and GasTerra, the high security of supply is an important selling point. The reliability of Dutch gas supply results in a higher selling price than that of comparable gas from other sources. For the Ministry of Economic Affairs, too, security of supply is an important objective, since security of supply is important for various economic sectors in the Netherlands. Households in the Netherlands benefit from the high security of supply too; never at any moment has there not been gas for heating or for cooking.

The Ministry of Economic Affairs uses this high standard at various times to argue that, from the point of view of security of supply, the gas extraction cannot be scaled down. This is the case, too, at moments when there certainly are other ways – albeit sometimes at considerable cost – in which to guarantee security of supply. Security of supply is used as a smokescreen; the outside world is consciously kept none the wiser. For far too long, security of supply is seen and presented as a fact that could not be influenced.

Book 1

Conclusions and recommendations

Problems fundamentally underestimated

The parties to the *Gasgebouw* fundamentally underestimated the problems that gas extraction occasions. For a long time, the possibility of gas extraction causing earthquakes is not taken seriously. Once it becomes clear that there is a correlation after all, the estimates of the possible maximum magnitude of earthquakes remain too optimistic for far too long. The underlying uncertainty analyses are not carefully read by all parties, even including operating company NAM.

Options for reducing the number of earthquakes are not seriously investigated. The damage caused by the earthquakes and the input necessary to resolve the claims for damage are chronically underestimated. This also applies to the extent of and handling of reinforcement. The implementation problems in terms of handling damage claims and the reinforcement of houses, mean that a problem is actually added for residents of Groningen instead of one being solved.

Developments in the outside world ultimately make drastic steps unavoidable

Since none of the above signals are really heeded and the problems of Groningen residents are so structurally underestimated, parties external to the *Gasgebouw* start seeking effective ways to exert influence on the source of the problem: the level of gas extraction. The House of Representatives is unsuccessful, but a number of parties from Groningen manage to. The authorities and interest groups in Groningen appeal against the extraction plans. The first appeal is against the extraction decision taken by the minister in 2013 regarding the first extraction plan submitted by NAM after the quake near Huizinge. The Council of State rules for parties from Groningen in November 2015. In a preliminary ruling, the Council of State sets the extraction level lower than the minister has done. Later on, too, the Council of State corrects the minister by further reducing gas extraction.

In the meantime, interest groups are seeking effective ways of exerting influence on the gas extraction in Groningen. Applying pressure or making a moral appeal to the oil companies (and even to the State) do not make much of a dent. Unexpectedly, they find the oil companies' Achilles heel at last: forcing a court decision requiring the Public Prosecution Service to investigate whether NAM is liable for criminal prosecution. This proves to be a game changer. The criminal case the interest groups initiate has enormous impact on the decision-making within the *Gasgebouw*. Under the threat of criminal prosecution due to the gas extraction, Shell and ExxonMobil no longer want NAM to be liable for the consequences of gas extraction.

The underestimation of the impact of the gas extraction on residents of Groningen by all parties to the *Gasgebouw* ultimately leads to NAM losing its moral licence to operate in the region (read: public backing). Parties to the *Gasgebouw* become convinced of the fact the discontinuing gas extraction is becoming inescapable. It is minister of Economic Affairs Wiebes who submits this decision to the Council of Ministers in 2018 after the quake at Zeerijp, but even in 2017 both of the shareholders in NAM have plans on the table for discontinuing the gas extraction.

Exit strategy not considered

The agreed discontinuation of the gas extraction exposes another shortcoming of the original structure of the *Gasgebouw*. At the start of the partnership, long-term agreements regarding

gas extraction were documented. However, despite warnings from civil servants at the ministry of Finance in 1963, adequate guarantees to manage the discontinuation of the partnership, otherwise known as an exit strategy, were not built in. This results in ongoing negotiations between the State and the oil companies regarding the conditions under which the phasing out of the gas extraction can take place. The last gas reserves that cannot be extracted are the source of arguments, as are the costs yet to be incurred in the settlement of claims for damage as a result of the gas extraction, and also the completion of the reinforcement operation. Once again, the residents are saddled with the consequences of this. Since, at the commencement of the gas extraction, the State, Shell and ExxonMobil had not come to agreements regarding the discontinuation of extraction, the discontinuation results in extensive negotiations about the distribution of costs and revenue. This not only concerns the costs and revenue of the gas extraction, but also the costs of claims for damage and of reinforcement. This is reflected in the handling: the parties stall because they do not know which costs they themselves must bear. This means that, even in the twilight hours of gas extraction, due to the absence of an exit strategy the partnership in the *Gasgebouw* causes damage to Groningen.

Excuses are made, but the promised improvement does not materialise

In the course of time, many parties to the *Gasgebouw* offered the residents of Groningen their apologies and promised improvement. This just shows that the analysis that things went wrong during the gas extraction in Groningen is shared by a great many parties. This is what the NAM CEO, Gerald Schotman, says in 2015: *“I sincerely regret the fact that the earthquakes cause problems for so many people and I wish to offer my apologies for this.”*²¹ A year later, Shell CEO Marjan van Loon says: *“We, too, fully acknowledge the fact that, of course, the people of Groningen bore the brunt of most of the burden of gas extraction, which was what the prosperity of the Netherlands was built on. I apologise. Sorry.”*²² In 2019, on behalf of the Cabinet, the Prime Minister apologised comprehensively for three different aspects of the dossier, which the daily newspaper Trouw summarises as follows: *“For the fact that safety never played a role in the gas extraction area, for the fact that the government underestimated the gravity of the situation for far too long, and for the fact that in the handling of claims speed and expeditiousness were consistently thwarted by legal precision.”*²³

What strikes the Committee is the fact that as of yet the promised improvements have not materialised. Although there have been many attempts, the residents of Groningen have not seen much improvement. In practice, meeting-room solutions intended to lessen the distress for residents of Groningen do not really make much of a difference. It is the Committee’s opinion that apologies only have value if they actually lead to things getting better.

The problems in Groningen are not over

The discontinuation of gas extraction removes the primary cause of the earthquakes in Groningen. However, that does not mean the earthquakes and subsidence will immediately stop. There still are differences in pressure in the subsurface of Groningen which could lead to new quakes in the decades ahead. In Limburg, there are still incidents of damage due to

21 NAM (20 April 2015).

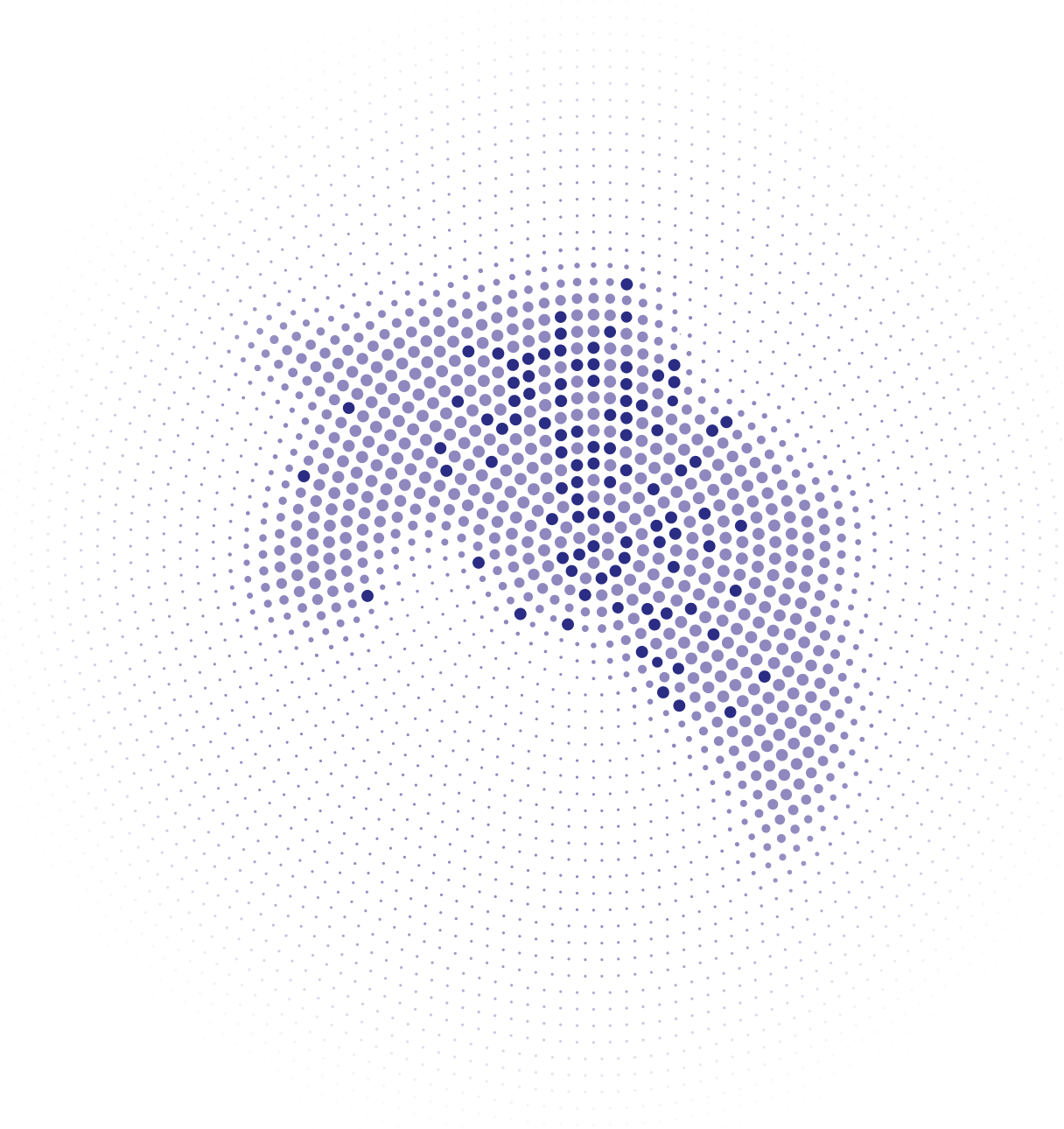
22 Hearing in the House of Representatives about the draft decision on gas extraction in Groningen, 8 September 2016.

23 Markus (4 June 2019).

Book 1

Conclusions and recommendations

mining, even almost 50 years after the last mine was closed down. The expectation is that in Groningen, too, (residual) damage from gas extraction will continue to occur for a long time. No-one can predict exactly how long this will be. There is a risk that for the people of Groningen things can become even trickier because of this. Once the gas extraction is fully discontinued and Shell and ExxonMobil dismantle NAM, there is a real likelihood that it will become even more difficult to have claims for damages honoured in the future. In Chapter 5, therefore, the Committee makes a number of recommendations to prevent this fear becoming reality. In other words, how can the situation be changed in such a way as to ensure that the interests of the people of Groningen no longer bring up the rear, but are actually given precedence over the interests of gas extraction?



Chapter 3

Where did things go wrong?

3.1 Conclusion 1. The gravity of the problems in Groningen has been consistently underestimated

The Committee notes that the problem of earthquakes in Groningen has been structurally and consistently underestimated, for tens of years. This starts with not only NAM, Shell and ExxonMobil, but also independent knowledge institutes and experts, denying for the longest time that gas extraction in Groningen leads to earthquakes. And when the correlation is acknowledged many years later, people continue to think that the maximum magnitude would not be too bad, and they ignore the high peak ground accelerations. Moreover, the extent of damage from earthquakes has been consistently assessed too low. The reinforcement operation, too, is underestimated from the start. The Committee takes a serious view of these underestimations: if the problem of earthquakes had been taken seriously from the start, much misery could have been avoided. Add to this the fact that not only the decision-makers in The Hague, but also the national media and a large part of the rest of the country, underestimated the problems in Groningen for the longest time. As the Committee sees it, this is partly the reason why the people of Groningen could not always count on solidarity from the rest of the country. Below, the Committee sets out the most important points at which the problem of earthquakes has been underestimated.

Denial of correlation between gas extraction and earthquakes for a long time

When gas extraction in Groningen starts, no-one knows that the gas extraction will lead to earthquakes. For the longest time it is thought that gas extraction only results in subsidence. An earthquake in the vicinity of Assen in 1986 changes this. For the Royal Netherlands Meteorological Institute (KNMI) the earthquake comes as a complete surprise. The question of whether there is a correlation with gas extraction is raised in the media. NAM denies this ('nonsense'). NAM later gets support from a report by the Massachusetts Institute of Technology (MIT), commissioned to check the NAM's subsidence numbers. In April 1990, MIT concludes that while the possibility could not be excluded, it is most unlikely that an earthquake caused by gas extraction – also known as an 'induced earthquake' – will occur. In its supporting report, MIT estimates the likelihood of an earthquake of magnitude 3 or more to be 'less than 10%' in the next fifty years. This estimate does not receive much attention, however, and – wrongly – does not elicit many questions from the parties involved.

While NAM continues to deny a correlation to the outside world, outsiders make an important contribution to a change of insight. Outsider Meent van der Sluis draws attention to the correlation between gas extraction and earthquakes. In 1990 he gets support from Hans Roest, a researcher at TU Delft, who states that while Van der Sluis's substantiation is not sound, his conclusion is. In 1993 the Platform of Independent Geologists (*Onafhankelijk Geologen Platform*) also reports that it is possible that gas extraction could result in slight earthquakes.

In the meantime, members of parliament increase political pressure following new quakes. In response, in 1990 the minister of Economic Affairs undertakes towards the House of Representatives to consider a multidisciplinary investigation. 1993 sees the publication of the final report of the Supervisory Committee of Research into Earthquakes (*Begeleidingscommissie Onderzoek Aardbevingen*, BOA), on which NAM, KNMI, the Geological Survey of the Netherlands and State Supervision of Mines are represented. In its report, BOA establishes that there is a correlation between gas extraction and earthquakes. That is 30 years after operations at the

Groningen field commenced. As far as the Committee is concerned, this is an incredibly long time, especially in view of the fact that the first questions regarding a possible correlation between gas extraction and earthquakes date from 1976. Moreover, in the ten years following the publication of the BOA report, very little is done with the new insights – apart from the inception of a working group on Earthquakes, which is later succeeded by the Technical Committee on Ground Movement. This committee advises the minister about the relation between earthquakes and gas extraction and provides information to residents.

For too long the idea has been: earthquakes no stronger than 3,9

The structural underestimation of the earthquake problem is also evident from the underestimation of the maximum possible magnitude of earthquakes. Originally, the maximum magnitude is set between 3.0 and 3.5 on the Richter scale - MIT (1990) reckons with a value of 3.0 and the BOA report (1993) estimates a magnitude of no more than 3.3. KNMI revises this number in a new study five years later, in 1998. In this study the maximum magnitude is estimated at 3.8 on the Richter scale. The damage caused by earthquakes of this magnitude would not be that serious and mostly lead to light damage to houses at large scale. KNMI updates the maximum magnitude to 3.9 in 2004.

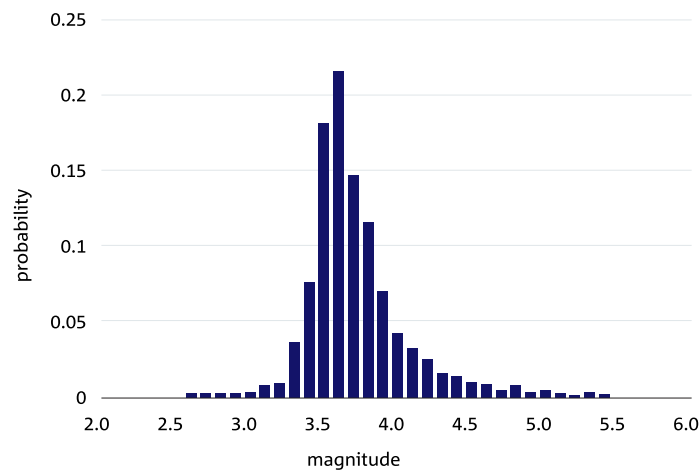


Figure 1.1 KNMI estimation of the maximum magnitude on the basis of earthquakes in Groningen in the period 1998-2003

Source: Eck, van et al. (2004).

This maximum magnitude of 3.8 or 3.9 on the Richter scale will dominate the political and public debate for years and will determine decision-making. However, in terms of the KNMI study (2004), it is also a serious underestimation of the maximum magnitude. The figure below shows that this is a probability distribution that gives estimations of maximum magnitude.²⁴

24 Eck, van et al. (2004).

There is an 84% probability that the heaviest earthquake will have a maximum magnitude of 3.9. To be able to make pronouncements regarding the heaviest earthquake imaginable, researchers generally apply a 95% confidence interval. The heaviest quake would then have a maximum magnitude of 4.0. Yet, in that case, there is still a 5% likelihood of heavier quakes being possible too. The values applied for the maximum magnitude therefore do not give an absolute maximum. Nowadays, NAM applies a range rather than a fixed number for the maximum possible magnitude, due to the great uncertainty in the calculation.

The Committee considers it objectionable that in all the years after the publication of the KNMI studies the maximum values mentioned in the summary are seen as an absolute upper limit by everyone, while the underlying estimates show that heavier earthquakes are also possible. In the period 1998 to 2012, none of the parties directly involved, whether researchers or academically trained staff of NAM, Shell or ExxonMobil, contradict the conclusion that no quakes heavier than 3.8 or 3.9 on the Richter scale are possible. As a result, everyone seems to suffer from the tunnel vision that earthquakes in Groningen can result in minor damage at most. NAM director Van de Leemput is not acquainted with the margin of uncertainty in the analysis: *“Well, as I saw it, 3.9 was the upper limit, and that’s apart from the fact that you never know exactly what might happen. 3.9 was a solid upper limit; that was my reading of the report.”*²⁵

The Committee has difficulty understanding how KNMI as compiler of the reports of 1998 and 2004 has not raised the alarm when researchers saw and heard how their conclusions were being interpreted. This fact has reinforced the tunnel vision, of which the people of Groningen have come to suffer the negative effects.

It is only at the end of 2012, after the heavy earthquake at Huizinge, that State Supervision of Mines comes to the conclusion that the maximum magnitude for earthquakes in Groningen of 3.9 on the Richter scale is no longer tenable. Deviating from what KNMI has been doing until then, two of the regulator’s employees make an analysis of the quakes that are related to the Groningen field only, instead of all of the gas extraction-related earthquakes. This analysis results in disconcerting new insights. The employees conclude that heavier earthquakes are definitely possible *and* that the maximum magnitude of the quakes cannot be determined on the basis of the limited data. The Committee considers it astonishing *and* commendable that, as relative outsiders, employees of State Supervision of Mines upset the conventional reasoning in such a short space of time. They have done this so convincingly that ultimately NAM as the operator, its shareholders Shell and ExxonMobil, and the knowledge institutes TNO and KNMI, who should actually have done this work, have no option but to concur with these most important new conclusions.

Extent and nature of the harmful consequences of earthquakes are consistently underestimated

The harmful consequences of earthquakes in Groningen are consistently underestimated. There are two reasons for this. The first is that, internationally, the Richter scale is usually used to indicate the magnitude of earthquakes. The use of this scale, however, gives a distorted picture

²⁵ Report of the public hearing of Mr Van de Leemput, 31 August 2022.

in the case of Groningen, since a quake of a certain magnitude will result in much greater damage in Groningen than elsewhere. This is because the Richter scale is a measure of the energy that is released during an earthquake. Natural earthquakes usually occur at a depth of some 10 to 100 kilometres. In these instances, the energy is spread over a much larger area than is the case with earthquakes induced by gas extraction. These usually occur at a much slighter depth, at approximately 3 kilometres. In the event of a shallow quake, a far greater portion of the energy reaches the surface. A quake of this kind can be felt far better and also causes much more damage.

The second reason why the effect of earthquakes in Groningen is underestimated is the soil itself. Natural earthquakes often occur in rocky structures; these absorb a large part of the energy of an earthquake. However, the soft clay and peat soil in Groningen does not do this. Even worse: in some cases the quakes resonate in the clay, which means that the vibrations are amplified at the surface and the earthquakes cause more damage.

Hence, a better measure of the damage caused by an earthquake is the ground acceleration that occurs during quakes. The quake at Huizinge in 2012, with a magnitude of 3.6 on the Richter scale, and that at Zeerijp in 2018, with a magnitude of 3.4 on the Richter scale, cause a maximum ground acceleration of 0.1g. This is equal to that of the quake in Roermond in 1992, which had a magnitude of 5.8 on the Richter scale. Since, for a long time, there was no measurement network for measuring the ground acceleration at the surface, awareness of the ground acceleration during earthquakes in Groningen was deficient. The use of the Richter scale for expressing the magnitude of earthquakes in Groningen contributes to the underestimation of the problems.

Scale and complexity of the reinforcement operation is systematically estimated too optimistically

It is as late as January 2013, after the publication of State Supervision of Mines' expert opinion, that it becomes clear that damage to buildings can be such that injury cannot be excluded. This marks the start of what is known as the reinforcement operation (*'versterkingsoperatie'*). Elements that could easily cause injury, such as ornaments or a chimney, are tackled, for example by replacing a brick chimney by a more light-weight one. It becomes clear very soon that these kinds of simple changes will not suffice. As far as some houses are concerned, there is a danger of collapse in the event of a heavy earthquake. Cases such as these require more constructive reinforcement.

In the first year, reinforcement measures are carried out on some 1,000 houses. In that first year, the Ministry of Economic Affairs agrees with NAM that 3,000 houses will be reinforced in 2015 and 5,000 more in 2016. These numbers prove to be far too optimistic. Reinforcing houses proves to be much more complex than initially thought. The number of houses that need to be reinforced grows much faster than the number of houses that have been reinforced. This pattern turns out to repeat itself in the years that follow. The number of houses needing inspection as to whether reinforcement measures are required keeps growing, and the planning for each house also needs to be moved forward.

By 2018, it is abundantly clear that the reinforcement operation, too, has been underestimated. Upon the discontinuation of extraction, minister Wiebes of Economic Affairs expects that the scale of the reinforcement operation could be brought back to 3,000 houses early in that year. However, the impact of discontinuing gas production proves to be much smaller than has been anticipated. By mid-2019, the number of homes waiting to be inspected stands at 26,000 again.

Impact of damage claims handling and reinforcement operation on residents is underestimated

The last of the underestimations of the problems in Groningen is that of the uncertainty residents experience regarding the damage claims handling and the reinforcement operation. The damage claims handling and reinforcement processes have an enormous impact on residents, as is described in Chapter 2. The bother, paperwork, numbers of visits from various people involved - these things demand a lot of time and patience of the residents affected. Besides this, the people affected often have grave concerns, about their safety, the lack of resolutions and the consequences that this has for the everyday lives. The impact of realising that their house might not be safe to live in is enormous. The study of the research programme *Gronings Perspectief* shows that a section of the residents, namely those who have suffered repeated damage, develop health complaints, which could lead to premature death. Recent research by this research team shows that the effects of the gas extraction problem remain as large as ever.²⁶

Children experience these effects just as adults do. Because of the earthquakes, children grow up in unnecessarily difficult circumstances, with their parents being stressed and being preoccupied. In her public hearing, the Child Ombudsman Margrite Kalverboer gives an example: *“I have spoken to a girl, a young adult girl, who now lives in Groningen and lived in the earthquake area throughout her youth. Quite simply, she is in mourning and feels sadness, because she realises that her entire youth was dominated by the earthquakes, the damage claims handling, her parents not being available to her.”*²⁷

Not only decision-makers, but the rest of the Netherlands as well as the media, underestimate the problems in Groningen

It is not only the professionals involved who underestimate the problems in Groningen as a result of the gas extraction. Part of the Dutch population, too, seems not to know about the problems the people of Groningen experience or not to take these seriously. This has surprised the Committee on repeated occasions. A sense of the gravity of the situation and the fundamental disregard for the interests of the people of Groningen seem often to have eluded the rest of the Netherlands. This seems to have been the case with the national media too for a long time. Why this is so, the Committee finds hard to explain.

An aspect that will have contributed to this is that the problem in Groningen manifests itself in such a way that people can easily ignore these problems. The problems regarding Groningen are quite aptly typified as a ‘disaster in slow motion’. It does not concern one disastrous occurrence of limited duration; the problems span various decades, with the consequences of

26 Dückers et al. (January 2023).

27 Report of the public hearing of Mrs Kalverboer, 14 October 2022.

each earthquake piling up on top of the previous consequences. This leads to an accumulation of problems.

Besides this, remoteness may also have contributed to the underestimation of the problems. The earthquake problem is set ‘all the way out in Groningen’. In interviews, the Committee regularly has heard mention of the fact that if this had all happened in the densely populated area of the Randstad, it would never have taken so long for the gravity of the matter and the interests of the residents to have become clear.

Another factor that may unintentionally have contributed to the underestimation of the consequences may have been the way many people of Groningen approach life and talk about their everyday affairs. As chaplain Melissa Dales says in her public hearing: *“I think this suits the Groningen mentality: things are the way they are, and we deal with this fact. We work hard; we don’t talk too much if it’s not necessary. And if we do need to talk, we use as few words as possible – we don’t waste words.”*²⁸ Whatever the case may be, in the Committee’s opinion, the fact that there is so little solidarity with the people of Groningen from the rest of the Netherlands must have contributed to them feeling neither heard nor seen. In this respect, the people of Groningen are let down.

Succession of underestimations proves disastrous for the people of Groningen

All together, the systematic underestimations in all these areas have resulted in there being insufficient consideration for the interests of the people of Groningen. There has been a systematic failure to recognise the distress of residents. The Committee labels this succession of underestimations by all of the parties involved as negligence in respect of the people of Groningen.

3.2 Conclusion 2. Money dominates decisions regarding gas extraction

The success of the partnership within the *Gasgebouw* stems from the mutual goal the parties to the *Gasgebouw* have agreed on and which they pursue: optimising the value of the Groningen field. For all of the parties to the *Gasgebouw* the focus primarily is the income from the extraction of gas. It is not surprising that financial considerations often play an important role in the decision-making. The degree to which the State has allowed itself to be led by money has elicited surprise among the Committee though. The Committee considers it self-evident that the distribution of costs and benefits would be one of the more important points of discussion in a partnership between the State and commercial parties. However, the great focus on the gas revenues and the fear of undoing agreements regarding the very favourable distribution thereof have contributed to the fact that other interests – such as guaranteeing safety, protecting property and promoting the health and wellbeing of citizens – have been lent insufficient weight in decision-making. The Committee is of the opinion that it is the State’s responsibility to look after these public interests and it finds that the State is seriously remiss in this regard. This one-sided focus is part of the reason why public interests other than the natural gas revenues have been considered in the *Gasgebouw* so inadequately. The Committee

²⁸ Report of the public hearing of Ms Dales, 12 September 2022.

Book 1

Conclusions and recommendations

will outline the most important points at which the financial interests prevailed in the decision-making about gas extraction in Groningen next.

National treasury key in natural gas policy from the start

Right from the start of the partnership (1963), renegotiations of the partnership agreements often concern finances, when one of the parties has the impression that it carries too great a portion of the costs, or seems set to get too small a share of the income. This starts in the 1970s, when high oil prices push gas prices up as well. At the time, the State increases its share of the income through the adoption of the windfall revenue allocation scheme (*meeropbrengstenregeling*, often abbreviated as 'MOR') to prop up the national budget. From then on, an even greater part of the gas revenues above a predetermined level goes to the State. For a limited part of the gas, a share of 95% of the total income even goes to the State.

The export of natural gas from Groningen is an important source of revenue for the State, which has ensured a positive balance of payments since as far back as the late 1960s. In 1981, the natural gas revenues are used to cement the formation of the second Van Agt Cabinet. The sale of an extra 4 billion cubic metres of gas creates the financial scope to allow the formation of the new Cabinet. Generally speaking, the natural gas revenues carry the State through the economically difficult 1980s.

Extra financial stimulus to maximise extraction

From 2010, GasTerra's policy is explicitly to get as close as possible to the multi-year production cap. This turns the production cap set by the minister into a sales target. This is a logical objective for the parties to the *Gasgebouw*, because increased production ensures increased revenues, generally speaking. Moreover, the bonuses offered within GasTerra act as an extra stimulus to approach the production cap as closely as possible.

Choosing money over safety results in record production in 2013

The high gas production in 2013 is a direct consequence of the strategy at the time of realising the highest possible production of gas from the Groningen field (i.e. approaching the cap as closely as possible) and thus generating the highest possible revenues. For many years, foreign sales contracts have been concluded in order for as much Groningen gas as possible to be sold, over and above the Dutch domestic needs. Since 2010, the GasTerra sales office has explicitly tried to increase the demand for gas from Groningen, for example by mixing Groningen gas with gas from other gas streams, or persuading electricity plants to switch to the use of Groningen gas. GasTerra also uses climate policy as an argument for having companies switch to natural gas, as this is less environmentally damaging than, for example, coal. The alarming opinion published by State Supervision of Mines in January 2013 does not manage to upset this strategy, not even after various parties in the *Gasgebouw* and beyond call for this to happen.

During the course of 2013 it becomes clear that production would not only not be scaled down in 2013, but would in fact be considerably higher than in the preceding years. When, in May 2013, GasTerra observes that due to the relatively low temperatures in spring, the gas production that year will be higher than expected before, the company seeks contact with the ministry of Economic Affairs. GasTerra realises that such high production might be a sensitive issue and indicates that at that point it could still influence the volume of production for the year. Ministry civil servants, however, inform GasTerra in June that it could proceed with that

year's production: *"This only shows that NL needs Groningen very much."*²⁹ This, according to the Committee, makes it abundantly clear that, at that point, the safety of the people of Groningen does not play a significant role at that time. The parties to the *Gasgebouw* are doing this purposefully: they realise very well how the gas production in 2013 could come across to the outside world. They emphasise the importance of 'how you explain it'.

Gas production scaled up in 2014 due to the national budget

For the State, too, finances are often decisive in decision-making. The gas revenues are a sufficiently unmissable part of state revenue that a reduction of these would leave a big gap in the national budget. In economically difficult times, most certainly, this carries considerable weight. That is the case in 2014, the first year in which a production cap is introduced. When, upon the advice of the State Supervision of Mines, minister of Economic Affairs Kamp initially proposes a cap of 40 billion cubic metres of gas, minister of Finance Dijsselbloem insists on higher production. In his public hearing, minister Dijsselbloem indicates that he *'had not been impressed by the quality of the substantiation of the opinions that were issued'*.³⁰ The European budgetary rules render a further reduction of gas production at that stage vulnerable, in the eyes of the Cabinet. *"As it is, a gradual reduction as discussed is an enormous loss for the budget,"* is what minister Dijsselbloem writes to minister Kamp on 10 January 2014.³¹ Ultimately, the cap is set at 42.5 billion cubic metres of gas. The Committee cannot comprehend the ease with which the minister of Finance questions the opinions of the regulator and disregards their content. Equally, it cannot comprehend the Cabinet decision to set the cap at 42.5 billion cubic metres, against the advice of State Supervision of Mines.

It soon transpires that the cap of 42.5 billion cubic metres of gas production for 2014 will not be that easy to achieve, partly because 2014 is a warmer year than average. That means that the demand for natural gas for the heating of buildings is lower. For the national budget, though, it is important that the planned gas revenues are realised, minister Kamp emphasises to GasTerra. Subsequently, great efforts are made to find enough potential markets in order to reach the production cap that is set despite the reduced demand.

Money decisive for aborting nitrogen plant

Roughly speaking, there are two routes to be followed in order to reduce production of Groningen gas. On the one hand, demand could be reduced by, for example, converting existing plants that run on Groningen gas such that they could also run on gas from other gas fields. On the other hand, supply could be increased by processing gas from other gas fields (small fields, or imported gas) such that it could still be used in existing plants. As far back as 2012, Gasunie Transport Services has the capacity to technically convert 20 billion cubic metres of gas from other fields into Groningen quality gas through the addition of nitrogen. In 2014, Gasunie Transport Services considers building an extra nitrogen plant and in this way creating more flexibility to allow Groningen-quality gas to keep being supplied, particularly at times of peak demand.

29 Ministry of Economic Affairs. Email exchange, 7 June 2013, 7:58. Subject: Gr production.

30 Report of the public hearing of Mr Dijsselbloem, 9 September 2022.

31 Email exchange between minister Dijsselbloem en minister Kamp, 10-11 January 2014. Subject: Re: Groningen.

Construction of a nitrogen plant requires a considerable investment, however, whereas at that stage it is not clear whether its capacity is actually needed. The oil companies lobby against the plant, because they are afraid that building the plant would contribute to the likelihood of a part of the gas from the Groningen field ultimately not being extracted. In order to have the plant operational in time, in 2016, Gasunie Transport Services insists that a decision has to be made. In the face of 500 million euro in construction costs the ministry of Finance decides not to proceed with the construction of a nitrogen plant and to move the decision on whether or not to proceed with construction forward for the next Cabinet to take. The scaling down of production from Groningen in later years is made more complex by this course of action, as the capacity of a nitrogen plant is sorely missed for the further scaling down of gas extraction in Groningen.

Oil companies concerned that all of the Groningen gas could not be extracted

From 2012 onwards, NAM and both its shareholders Shell and ExxonMobil resist the possibility of scaling down gas production from the Groningen field on an ongoing basis. Shell views this as an *'anchorless quagmire'*: once it has transpired that a lower production level is safer than a higher level, who knows where it would end, is their reasoning.³² Then surely, a gas production level of zero has to be the safest option. That would mean that possibly there is still (a lot of) gas left underground. From that perspective, NAM and its shareholders keep lobbying for gas production to be fixed at a certain level for a fixed period. They are lobbying against the nitrogen plant, as described above, because they fear that in the long term it will result in reduced production from Groningen, and they speak with the Cabinet and with administrators in Groningen formally and informally about the importance of maintaining production levels.

And yet, the scenario feared by the oil companies, of a large amount of unextracted Groningen gas remaining, will play out. In his public hearing, Filip Schittecatte of ExxonMobil says in this regard: *"That is a great pity. At the time of the AoH [Akkoord op Hoofdlijnen/Heads of Agreement], this already represented a significant value. I do not need to do the calculation to illustrate to you how this value today is of a completely different order."*³³ The nightmare scenario of not all of the Groningen gas ultimately being extracted plays a role in the failure to discontinue gas extraction for all these years.

Zero decision in 2018 a tipping point: financial arguments weigh heavily, but are no longer decisive

Financial arguments play a significant role in the 2018 decision to discontinue gas extraction completely as well. As soon as production levels decrease, the gas revenues also decrease substantially. Whereas the total natural gas revenues for the State are still 15.3 billion euro in 2013, these have dropped to 3.2 billion in 2017. The economic situation, however, is better: the situation is much more favourable in 2017 and 2018 than it had been in 2013 and 2014. This results in the absence of the gas revenues being less of a burden than it would have been before. The decision, in 2018, to fully discontinue gas extraction has a much smaller impact on the national budget than it would have had a few years before. This is replaced by the question as to how future expenses for damage claims and repair will affect the national budget. From

32 Memo Groningen production philosophy – story-line for dinner Economic Affairs/NAM Shareholders/NAM 8 April 2015.

33 Report of the public hearing of Mr Schittecatte, 5 October 2022.

2018 onwards, this question will have a more important role in decision-making. During this period, curbing the rising costs of particularly the reinforcement operation becomes a steadily more important financial argument.

Although the ministers involved indicate that safety considerations are the reasons for discontinuing gas extraction, favourable financial effects are put forward to persuade the ministers of the other ministries as well. The lower costs of a smaller reinforcement operation are also included in analyses. *“So the minister thought: In the Council of Ministers, I must have a story about finances so I can secure the support of my colleagues, the minister of Finance first and foremost. That explains the emphasis on: can’t we calculate that ‘accelerating to zero’ perhaps also holds a financial plus, since the damage claims as well as the costs of reinforcement would be less.”*³⁴

3.3 Conclusion 3. Security of supply as a smokescreen

The Groningen field is so big that extraction not only supplies in the demand from most of the Netherlands, but also leaves room for export to other European countries. Besides the demand for gas in the Netherlands being geared to the quality of Groningen gas, that in Germany, Belgium and France is too. One gas field being so dominant in turn results in the energy system becoming vulnerable. An outage in the Groningen field would mean that a large part of the Netherlands and part of the neighbouring countries could be without gas. Given the unique quality of the gas from Groningen, with a lower calorific value than gas from other fields, this is a problem that could not simply be solved by using gas from other fields. For this reason, consumers need guarantees that the Groningen-quality gas can be supplied. This argument of security of supply plays an important role in the decision-making about gas extraction for a long time. The Committee finds that in decision-making and communication regarding security of supply, it is viewed as a given, and immutable, while in fact it can be influenced through active policy. For years, the House of Representatives and the people of Groningen were wrong-footed by the argument that security of supply would not allow production to be reduced further, while this had certainly been possible.

Only two parties have an idea of security of supply

Security of supply is a short- as well as a long-term issue. In the short term, the question whether on a few extremely cold days all Dutch people will be able to turn on the heating if they need it is important. In the long term, it concerns the question whether there will still be sufficient gas in a few years’ time. The term *‘voorzieningszekerheid’* (security of provision) is the Dutch term that is used. No calculations have ever been done prior to the earthquake at Huizinge to ascertain the level of production that will guarantee short-term security of supply. The size and high pressure of the Groningen field render such calculations unnecessary, because more than enough gas is directly available to satisfy the demand. This changes after the earthquake at Huizinge: the scaling down of gas extraction means that calculations to determine security of supply at declining levels of gas production become necessary.

34 Report of the public hearing of Mr Gaastra, 5 October 2022.

For relative non-insiders, such as the House of Representatives, it is extremely difficult to get an idea of levels of security of supply. At times, even the minister of Economic Affairs is not well informed on this issue. How much gas production is necessary to not endanger security of supply? Based on its insight into the market and all client contracts it holds, the GasTerra sales office is able to set a figure for the demand for gas at a particular temperature. Based on the volumes it transports, the transport company Gasunie Transport Services has insight into the demand for gas and the extent to which Groningen-quality gas can be produced. All of the remaining parties, within the *Gasgebouw* as well, take this information as a starting point. This applies to the operator NAM as well – it supplies as much gas as GasTerra indicates it needs – and the minister of Economic Affairs – he has to determine the maximum production level. It certainly also applies to other parties external to the *Gasgebouw*, such as the regulator State Supervision of Mines – for them it is impossible to make a proper estimation of the level of gas extraction that is needed to not endanger the security of supply.

For State Supervision of Mines, this lack of insight makes formulating an opinion about the scaling down of the production level exceedingly complex. At smaller gas fields, gas extraction would immediately have been discontinued when such heavy earthquakes occur, various inspectors general of State Supervision of Mines declare in their public hearings. Because the large gas field in Groningen is so important to the security of supply, the regulator does not have this option to use. However, as to how far gas extraction could be scaled back without endangering the security of supply, the State Supervision of Mines cannot say. This puts the regulator in quite a predicament. For the ministry of Economic Affairs, security of supply is a component of our national safety, since not being able to meet the demand for gas could result in, for example, seniors in old-age homes being stuck without heating. What is expected of the regulator is that it will draw up an opinion regarding a safe level of gas extraction while it does not know what exactly is needed to prevent supply problems. The inspectors general also indicate that they do not want to know this, so that they would not, consciously or unconsciously, be influenced by the level of gas extraction that is needed to ensure security of supply. In his public hearing, Inspector General of Mines Harry van der Meijden says: *“I was stuck with a dilemma in that I did not actually want to know, because that could affect my train of thought. If I knew what the minimum level needed to be, I could possibly allow myself to be led by this knowledge. I did not want that to happen. I wanted to prevent that happening.”*³⁵

Civil-servants do not inform the minister on security of supply

That the amount of gas that is necessary for security of supply is not an immutable fact, is clear as far back as 2012. In November 2012, at the request of the ministry, GasTerra informs that it is possible to bring 20 billion cubic metres of gas to the quality-level of Groningen gas. This would mean that extraction from the Groningen field (which is set at 42.5 billion cubic metres per year on the basis of the ten-year production cap) could be reduced considerably.

The Committee considers it unjustifiable that civil servants chose to seek advice from GasTerra but not from Gasunie Transport Services (GTS). As the transport company, GTS has to ensure that gas of the right quality ends up with the right user and therefore it should know what the

35 Report of the public hearing of Mr Van der Meijden, 27 September 2022.

market demand is, what capacity there is to produce Groningen gas and what problems might be encountered.

This information from GasTerra does not reach the other parties. The civil servants from the ministry of Economic Affairs who receive this information fail to share it with the minister. This means that minister Kamp bases his 2013 decision to first have closer investigations done before deciding about the level of gas production on incomplete assumptions regarding security of supply.

Security of supply most certainly guaranteed at a lower level of gas extraction

In the years after this, too, it becomes clear that the level of gas extraction needed to ensure security of supply is not an immutable fact. Time and again, the production reductions advised by State Supervision of Mines prove to be feasible without causing insurmountable problems for the security of supply. Even discontinuing gas extraction completely proves to be possible when alternatives for ensuring security of supply at lower levels of extraction from the Groningen field are seriously considered in 2018. This will not only be possible by converting the quality of gas from other fields, but also by converting the plants of large consumers of gas to allow for gas from other fields to be used. Inspector General of Mines Van der Meijden is surprised by this far greater flexibility of security of supply than that which he has been informed of in discussions with the ministry of Economic Affairs: *“There was annoyance because I found that scaling down did go quite smoothly every time in tandem with the advice given by us. You might miss something like that the first time, but the second time you start noticing. [...] Well, quite simply. The minister adopted our advice and security of supply was no issue.”*³⁶

Flat production

The discussions on an even extraction level profile, what is known as ‘flat production’, are a special point as far as security of supply is concerned. From the moment that State Supervision of Mines advises scaling down gas production as far as possible, the question is whether it matters if there are big fluctuations in production levels during the course of the year. There are theories claiming that the extent to which the ground moves (seismicity) is smaller if the fluctuations in extraction are smaller. The 2012 draft opinion by the State Supervision of Mines contains a phrase referring to shallow extraction. This is omitted from the final opinion due to the great uncertainty that surrounds it. From 2015 to 2018, State Supervision of Mines still advises that production fluctuations should be avoided. From 2019 onwards, flat production becomes less prominent in the opinions, because it has become sufficiently clear that reducing production is a more effective way of reducing seismicity.

What is complicated here is that flat production forms an obstruction to production curtailment. This has to do with the required security of supply. After all, security of supply combined with flat production means that the high production level that is necessary in winter must be the point of departure for the entire year. With flat, even extraction throughout the year, the high levels of extraction that are necessary in the winter must be connected to the same high level of extraction in summer. The various parties in the *Gasgebouw* seem to find flat

36 Report of the public hearing of Mr Van der Meijden, 27 September 2022.

production rather than a reduction of the total extraction a good way of achieving a reduction of seismicity.

Although State Supervision of Mines removes the reference to flat mining from its opinion in 2013, the minister of Economic Affairs Kamp indicates that he finds flat production, in particular, important: *“It was said: 30 billion in the case of maximum conversion, 40 billion if you apply shallow extraction. Even then, and for a few years after that, I was continually assured that shallow extraction really was necessary. The 40 billion had to be my point of departure. That was my point.”*³⁷

The Committee finds that the parties to the *Gasgebouw* seize upon the lack of clarity regarding the effect of flat mining on seismicity as an argument for scaling down extraction less rapidly.

Parties to *Gasgebouw* benefit from continuing lack of clarity regarding security of supply

At various points, the lack of clarity regarding the level needed for security of supply suits the parties of the *Gasgebouw*. While it is not sufficiently clear what level extraction can actually be scaled down to, the outside world cannot easily make pronouncements about this. The Committee has not found any evidence to suggest that, before 2018, the ministry of Economic Affairs actively seeks options for reducing the level of gas extraction at which security of supply is still guaranteed. The Committee finds this most objectionable. The Committee also finds it objectionable that, specifically, the ministry of Economic Affairs uses the negative consequences of gas production falling below the level of security of supply as a line of defence unnecessarily often. *“Surely you do not want senior citizens – somewhere in Limburg he said, I believe – to freeze”*³⁸ The ministry also uses as a defence the fact that hospitals will run into acute difficulties if gas production drops below the level of security of supply. That is also a form of unsafety. However, that would only occur in extremely exceptional cases. After all, in the event of acute supply problems, a number of major industrial consumers could be cut off without this creating safety issues. This is not the desired scenario, and the authority to do so has not yet been settled, but this will prevent the safety issue that the ministry of Economic Affairs refers to so often.

3.4 Conclusion 4. Unsafety in Groningen lasts unacceptably long

The Committee concludes that the safety and the health of the people of Groningen are involved in the decision-making regarding the Groningen gas extraction to an insufficient degree. It is only after the heavy earthquake at Huizinge in 2012 that a discussion about safe levels of Groningen gas extraction gets started. Yet it is only in 2017 that the safety of those living in the immediate vicinity is included in the Mining Act (in Section 13(d)).³⁹ In that year, the Administrative Jurisdiction Division of the Council of State gives the judgment that the interest of the safety of persons in the earthquake area must be fully incorporated in the decision-making. The Committee has difficulty understanding that it takes so long for the interests of safety and health to be given more weight and that it even takes a judgment by the highest

37 Report of the public hearing of Mr Kamp, 9 September 2022.

38 Report of the public hearing of Mr Rodenboog, 29 August 2022.

39 Bulletin of Acts and Decrees 2016, 554.

Administrative Court for any form of precaution – that measures be taken even if it is not sure that negative consequences will occur – to be applied. For far too long, safety is not afforded the primacy it deserves. Moreover, the definition of what constitutes safety is contested by the oil companies to this day. The Committee will explain this hereafter.

Peak extraction of 2013: it happens because it is allowed to happen

The year 2013 is a key point at which safety is not involved in the consideration of interests. In that year, significantly more gas is produced than in previous years. This is quite notable so soon after the heavy earthquake at Huizinge in 2012. A short time later, in January 2013, the regulator State of Supervision of Mines publishes its expert opinion recommending that extraction of gas from Groningen be scaled down as far as possible as soon as possible for the sake of the safety of the people of Groningen. Despite this advice, the minister of Economic Affairs does not curtail production from the Groningen field in that year. It is not the principle of precaution that prevails at that moment, but the fear of the parties in the *Gasgebouw* of making any changes that are not, in their view, strictly necessary. A production curtailment would limit the income from the gas extraction considerably. GasTerra does not change its strategy. In 2013, too, GasTerra aims to sell as much Groningen gas as possible. This results in a record level of 54 billion cubic metres of gas extraction- a year after the heaviest earthquake in Groningen taking place along with the urgent advice from the regulator to scale down gas extraction. Within the *Gasgebouw* everyone seems exceedingly pleased with the course that is followed in 2013. The Supervisory Board of GasTerra, including the government representative, approves giving the sales performance of GasTerra for 2013 an assessment score of 10 on a scale of 1 to 10.

Safety interest vested at the ministry of Economic Affairs but insufficiently recognised

In terms of the concession the government grants NAM (1963), NAM initially has to ensure that inconvenience or loss to adjacent properties is avoided as far as possible. The notes to the concession make clear that this concerns air or water pollution in particular. Later changes to the Groningen concession concern environmental aspects in particular. Although safety is an interest that is taken into account, all those involved actually understand this to mean: taking into account occupational safety and environmental aspects.

The operator NAM's duty of care forms a sufficient ground for government representatives in the *Gasgebouw* to introduce the safety interest. For a long time, the ministry of Economic Affairs has hardly considered the broad safety interest, namely the safety of the people of Groningen and of their homes. The official culture did not involve seeing the safety of citizens as a matter of government interest. This public interest was therefore also not or hardly introduced by government representatives in the *Gasgebouw*. In their view safety was primarily the responsibility of the regulator. In his public hearing, Stan Dessens, member of the Partnership Supervisory Board on behalf of EBN, says: *"At the time [after Huizinge], I wasn't preoccupied with safety to a great enough extent. I was much too stuck in the groove of mining damage, and of being able to repair and solve everything"*.⁴⁰ To the extent that safety was considered in decision-making, until 2017 a very narrow definition applied: only the physical safety of the

⁴⁰ Report of the public hearing of Mr Dessens, 31 August 2022.

Book 1

Conclusions and recommendations

working environment. The Committee finds it telling that in their public hearings various civil servants fail to mention safety in response to being asked what the public interests are that they represent.

Administrative court corrects the weighing of interests in decision-making

A judgment by the highest administrative court of the Netherlands, the Administrative Jurisdiction Division of the Council of State, is decisive in the weighing of safety in decision-making. In 2017, the Administrative Jurisdiction Division once more sets aside the consent and amendment decision of the minister. In the opinion of the Council of State, the minister of Economic Affairs should have better substantiated why he agreed to an extraction level of 21.6 billion cubic metres per year for a period of five years (the bottom limit assumed to assure security of supply) without assessing the risks. If the risks indeed cannot be weighed, *‘the minister might at least have been expected to investigate and set out in which alternative manner the safety interests of the people in the earthquake area could be involved in the decision-making,’* the Council of State opined in 2017.

Discussion on ‘what is safe?’ not settled yet

The Committee is most surprised by the great difference in how NAM and its shareholders, on the one hand, define safety with reference to gas extraction, and how the people of Groningen and other parties involved see it, on the other. According to the oil companies, at the start of this century, safety concerns ‘safe extraction processes’, with the safety of employees being safeguarded by numerous protocols and procedures. In terms of the safety of the people of Groningen, the standard that has applied as from 2015 is comparable with the norm for natural disasters: a likelihood of 1 to 100,000 of dying as a result of an event of this kind. The Committee assesses this safety standard as extremely one-sided. The standard only pertains to the physical safety risks of homes collapsing. Other aspects of safety, such as residents feeling unsafe in their own homes or dying prematurely due to the stress of the claims handling, are not involved in the definition of safety in any way whatsoever.

Application of the then effective safety standard for earthquakes in Groningen results in the absurd situation that oil companies conclude that extraction is ‘technically safe’ while on 8 October 2022 the earthquake at Wirdum with a magnitude of 3.1 on the Richter scale results in 19 reports of acutely unsafe situations. One of these reports results in safety measures having to be taken. By this technical definition of safety, a home that is shored up to prevent it collapsing is considered safe. This is at odds with safety according to the people of Groningen, who rightly assume safety to mean being able to live in a house safely. A house being shored up constantly reminds the resident of unsafety, and contributes par excellence to the feeling of not being safe in your own home. Moreover, the reinforcement operation only involves reinforcing houses to a safety level called ‘near collapse’. This means that in the event of a heavy earthquake occupants have half an hour in which to safely leave their home. Most Dutch people probably don’t even know that this understanding of the term ‘safety’ exists.

The Committee is of the opinion that for too long all of the parties to the *Gasgebouw*, with the government in the lead, have had too little concern or awareness of the safety of the people of Groningen. When the earthquake at Huizinge made clear that the safety of residents was not guaranteed in the event of a heavy earthquake, the minister of Economic Affairs wrongly did not apply the principle of precaution. Especially at time when the minister of Economic Affairs

did not yet have all the requisite knowledge at his disposal to allow him to make a considered judgement, as minister Kamp himself says in his public hearing, the principle of precaution should have outweighed the financial interest of the State.

The discussion regarding safety continues to this day. The decision to discontinue gas extraction is positive as far as the safety of the people of Groningen is concerned, but at the same time, that decision has set back the reinforcement operation considerably. Moreover, there will still be seismicity in Groningen for a long time, which means that the situation may remain unsafe for a long time. This will require long-term input from the government to resolve the safety problems. According to the Committee, this safety involves much more than safety of the working environment for gas extraction. It involves at least one completed reinforcement operation as well. The situation in Groningen has not reached that point yet.

3.5 Conclusion 5. Oil companies benefit from the confusion of roles at the ministry of Economic Affairs

The ministry of Economic Affairs plays a key role in decision-making regarding gas extraction. Not only is it the only ministry to be a party to the *Gasgebouw*, but it is the only policy-maker on energy affairs as well. All information and knowledge come together at this ministry. In addition to their job in support of the minister, some of the civil servants have independent positions in the *Gasgebouw*, and support the decision-making that takes place there regarding the extraction as well as the sale of gas. Besides this, they are involved in designing energy policy. At some points, this confusion of roles results in conflicts of interests within the ministry. This 'monopoly' at the ministry of Economic Affairs also results in the fact that for a long time there was little or insufficient consideration of public interests other than financial interests and security of supply. This suited the oil companies.

Almost all interests vested in Economic Affairs

Many different public interests play a role in the extraction of gas. In the Cabinet, the minister of Economic Affairs bears responsibility for the gas revenues, the security of supply and the safety of the people of Groningen. In most state shareholdings, for example, it is the ministry of Finance that holds the shares. This means that in state shareholdings the roles of policy-maker, on the one hand, and shareholder, on the other, are separate. In the *Gasgebouw*, both of these interests are in the hands of the ministry of Economic Affairs. Likewise, other public interests, such as that of the safety of the people of Groningen, their wellbeing and health, are not separately vested with another department. It is the task of the ministry of Economic Affairs to involve all of these interests in its considerations within the *Gasgebouw* and in making policy. This makes the ministry of Economic Affairs the market watchdog as well as a participant in the market. It determines the policy rules for the gas market in which it is itself an important player. This is exacerbated by the fact that as government representatives in the *Gasgebouw* civil servants have direct influence on the gas extraction. The Committee finds this mixing of the roles of the ministry of Economic Affairs incorrect. This should not be allowed to happen any more.

Too large primacy of civil servants at the ministry of Economic Affairs

While even at the establishment of the *Gasgebouw* the House of Representatives had questions about the lack of transparency, the importance of transparency has since then only increased. The fact that partnership agreements are not shared with the House of Representatives makes the House's job of controlling and influencing decision-making very difficult.

This control is made even more difficult by the fact that the minister of Economic Affairs is not always properly aware of all relevant information himself, although he is in fact the minister who bears political responsibility for the *Gasgebouw* and the decision-making within it. From 2010 onwards, there are various points at which relevant information held by civil servants is not shared with the respective ministers, the Committee has established.

Add to this the fact that a very small group of civil servants is responsible for all of the important decisions within the *Gasgebouw* regarding the Groningen field. Only one of the civil servants within this group has the geological background to be able to properly assess the significance of technical reports during the period 2010 to 2020.

Knowledge advantage not applied in 2012

In principle, all knowledge regarding gas extraction, gas revenues, security of supply and safety come together at the ministry of Economic Affairs. In 2013, however, this knowledge advantage is not used to arrive at a decision about a safe level of gas production. At the time, civil servants consciously do not draw all of the various lines together. The Committee finds that in this respect they have failed in the exercise of their public duty.

The first line is the expert opinion of the regulator that follows the heavy earthquake at Huizinge. State Supervision of Mines shares the first findings of its research into the quake at Huizinge towards the end of September 2012. It is immediately obvious that these findings will have far-reaching consequences. That month already, there is a discussion at the ministry to the effect that immediately curtailing gas production from the Groningen field would be the only way of reducing the risks in the short term. The only civil servant with a geological background at the ministry emphasises, moreover, that uncertainty is not a reason to postpone intervention. In his view, the principle of precaution is at issue, and 'buying time' by doing extra research is not appropriate. At that point already, it is clear that a change of this nature would be complicated, because it will have consequences for the security of supply. The outgoing minister of Economic Affairs at the time, Verhagen, is not informed of the alarming findings of State Supervision of Mines by the civil servants in his ministry. Neither do they share their own analysis with the minister: "[...] *there are so many points of uncertainty and such a lack of clarity that I am not going to submit this to an outgoing minister such as minister Verhagen,*" the top civil servant Dierikx declares in his public hearing.⁴¹

The second line is new information from GasTerra received by the ministry. This shows that annually 20 billion cubic metres of gas could be produced less without endangering security of

41 Report of the public hearing of Mr Dierikx, 8 September 2022.

3 Where did things go wrong?

supply. According to GasTerra, security of supply could be sufficiently ensured at an annual gas level of 27 billion cubic metres.

In the meantime, the alarming findings by State Supervision of Mines are closely followed within the *Gasgebouw*. The various parties are aware that the continuation of gas extraction from the Groningen field is hanging in the balance. They are in fact in favour of a strategy of 'buying time'. They warn that no hasty decisions should be taken. The civil servant from Economic Affairs who joins the meetings has, therefore, continually been well aware of the considerations of the parties to the *Gasgebouw* in this regard.

These two lines do not reach the minister of Economic Affairs. Towards the end of December 2012, after the new minister Kamp has been in office about two months, State Supervision of Mines provides extra explanation of its preliminary opinion. In the memoranda regarding the gas extraction and the earthquakes they provide to the minister in preparation of the dossier, the civil servants do not enumerate the possibilities there are to scale down gas extraction in the short term. Likewise they do not share with him the information from GasTerra that annually 20 billion cubic metres of gas could be produced less without endangering security of supply. Moreover, the minister is not actively informed of GasTerra's sales philosophy, and its desire to approach the extraction cap as closely as possible for 2013 as well. Unlike his civil servants, the minister does not know that, due to GasTerra's sales philosophy, gas production for 2013 will increase unless he intervenes. When, in January 2013, the minister needs to make a decision in answer to the opinion of State Supervision of Mines, an official memorandum does point out though that panic on the gas market might ensue if the minister reduces gas production in the middle of winter.

Minister Kamp's January 2013 decision to have studies conducted in various areas is, therefore, made on the basis of incomplete information, while information has in fact been gathered in many areas at the ministry during the preceding months. The selection of information that he receives emphasises the uncertainty of the scientific knowledge and does not fully go into the options there are available for cutting back production without problems relating to security of supply ensuing. The selection of this information is in line with the considerations that are weighed within the *Gasgebouw*. In the Committee's view, the official information the minister receives is geared far too much to the interests of the *Gasgebouw* and not to the public interest of safety for the people of Groningen. This happens at a time when the call to cut down gas production rings out clearly in Groningen and in the House of Representatives, and therefore should have been heard by these civil servants. The Committee deems the 2013 decision not to immediately cut back gas production even though this could be done without endangering security of supply to have been a gross infringement of the interests of the people of Groningen. It gives the Committee food for thought that the minister does not question his civil servants keenly as to this, but allows an atmosphere to continue in which the revenues and production levels take priority. The fact that the minister is not fully informed by his civil servants and that he does not manage to obtain all of the available information from the public administration, results in the House debate on the level of gas extraction not being held on the correct grounds. The Committee considers this a serious and imputable failure.

Minister discontinues gas production, but sets the reinforcement operation far back

Soon after the induction of the new Cabinet in 2017, an important decision regarding the extent of the gas production is taken. In October 2017, minister Wiebes takes over as minister of Economic Affairs and Climate Policy. After the heavy earthquake in Zeerijp (magnitude 3.4) in January 2018, State Supervision of Mines publishes another expert opinion in which it advises that gas production in Groningen be curtailed further, and the minister views this as a reason to cut back production as far as possible. The minister uses all of the options and powers he has to reduce gas production in Groningen to their fullest.

The approach of the new minister stands in contrast to the approach up to that point. Minister Wiebes puts up for discussion that which up to that point has been seen as fact, and cares little for events in the past. Consequently, great strides are taken quite rapidly to reduce the gas extraction. Simultaneously with the discontinuation of gas extraction, other far-reaching decisions are taken regarding the reinforcement operation. In this respect, the minister's approach turns out not to work well. Signals from the region that the approach adopted earlier is just picking up steam are not given the attention they deserved. In his respect, too, minister Wiebes chooses to view things with a fresh eye. This causes major delays for the reinforcement operation that has just got under way – and therefore sets it back by a considerable time.

Control function of House of Representatives hampered

The important role of the civil servants – alluded to as the ‘fourth power’ – in the *Gasgebouw* makes it difficult for the House of Representatives to exercise control over the minister. When in 2013 minister Kamp receives one-sided information from his civil servants to base his subsequent decisions on, the House of Representatives is also not fully informed of necessity. The House could not exercise its control function because one crucial element is missing from the information provided: the minimum level of security of supply. The Committee finds it surprising that, even during his public hearing in October 2022, the minister does not acknowledge his inability to inform the House of Representatives, a point of principle, and continues to hide behind the argument that this would have made no difference to his decision-making.

Prime minister does not correct, and therefore does not make the difference

The mixing of two roles within one ministry, that of policy-maker and of shareholder in the *Gasgebouw*, blurs the view the ministry of Economic Affairs has of the interests of the people of Groningen. The financial interest of a balanced national budget is vested in another ministry, though, the ministry of Finance. But the interests of the safety and health of the people of Groningen are not safely vested somewhere.

When the Dutch Safety Board recommended in 2015 that ministries other than Economic Affairs be involved in the decision-making regarding Groningen, the Cabinet writes the following to the House of Representatives: “*Since early-2013, all important decisions regarding the gas extraction in Groningen have been taken in the Council of Ministers.*”⁴² Since early 2013, the problems of gas production and earthquakes in Groningen are regularly discussed in the

42 Parliamentary document II 2014/ 2015, 33529, no. 143.

Council of Ministers, which indicates that gas extraction in Groningen and the consequences thereof are seen as a Cabinet-wide task. The prime minister also pays regular working visits to Groningen. Nonetheless, it appears from the public hearing of the prime minister that he has seriously underestimated the gravity and the urgency of the problems in Groningen for a long time. It is only in 2017, five and a half years after the heavy earthquake at Huizinge, that he realises how great the problem actually is: *“upon which I realised, by being there and looking people in the eye, what incredible pain there is, but also how complex it is.”*⁴³ The significance of the high production levels in 2013 only dawns on him in 2018, the prime minister says: *“I only really realised this in early 2018, after an interview with Jan de Jong. I went back and checked when it had first crossed my radar. And I see that it has first been part of a set of questions I am given for a press conference at the end of November 2013, and that it resurfaces twice in Council of Ministers meetings in early 2014. But if you were to ask me now ‘when did you first actually realise what a bizarrely high production level that was’, then that would be: as a result of that interview with Jan de Jong in 2018.”*⁴⁴

The fact that the prime minister insufficiently realises the gravity and urgency is also clear in 2016 when he reassures the Shell CEO Van Beurden that the extraction level of 27 billion cubic metres can most probably be maintained for a considerable time. The Committee establishes that the prime minister has not intervened timely in the policy of the minister in question and has not made a difference for the people of Groningen.

In 2019, the prime minister apologises extensively: *“For the fact that safety has never played a role in the gas extraction area, for the fact that the government has underestimated the gravity of the situation for far too long, and for the fact that in the handling of claims speed and expeditiousness have consistently been thwarted by legal precision.”*⁴⁵ However, this apology has not resulted in an essential change that would have made a difference to the people of Groningen either. The Committee is struck by the fact that the prime minister does elicit expectations and does show involvement when the matter of Groningen is moved to the Council of Ministers, including going on working visits and offering extended apologies. At the same time, the Committee concludes that in his role as prime minister, he – apart from thinking along with the minister in question – has not brought about any essential change in favour of the people of Groningen. Given the fact that the claims and reinforcement problems just kept dragging on, this would have been appropriate.

3.6 Conclusion 6. Inflexible and closed *Gasgebouw* shows little appreciation of the interests of the outside world

The basis for the partnership in the *Gasgebouw* was laid in the early 1960s. The weighing of considerations to reach a particular form of agreement is based on the situation at the time. It stands to reason that the world has changed in the 60 years since then, and that one could not have foreseen what changes the future would bring. What was known when the

43 Report of the public hearing of Mr Rutte, 13 October 2022.

44 Report of the public hearing of Mr Rutte, 13 October 2022.

45 Markus (4 June 2019).

partnership agreements were entered into was that these would apply for a long time. It is difficult to pass judgement on agreements reached so long ago and of which the full context cannot easily be understood. The Committee does find that, in addition to the rigid focus on maximising revenue, the lack of flexibility in the agreements also contributed to the problems that occurred in recent years. Besides this, insufficient agreements have been made regarding the termination of the partnership. The Committee explains certain of these elements below.

Consequences for Groningen are insufficiently explained

The public parties to the *Gasgebouw* do not regard it as their task to verify what the consequences of their decisions would be in Groningen and for the people of Groningen. The State shareholding Energie Beheer Nederland (EBN) does not feel responsible for the relation with or provision of information to society, the managing director Van Hoogstraten declares during his public hearing: *“The Groningen Agreement for Cooperation (Overeenkomst van Samenwerking Groningen) is very clear in this regard: the partners are not to present themselves as such.”*⁴⁶ In his public hearing too, former government representative of Economic Affairs Dessens declares that it is not his duty to speak to the people of Groningen: *“I therefore found it not to be my role, and I think that I would not have been well advised to strut around all important, saying: you just tell me about it; it’ll be... That was not what I was supposed to do, and that shouldn’t be.”*⁴⁷

Inflexible construction was a welcome excuse not to change anything

When the partnership in the *Gasgebouw* commences, certain agreements are made in perpetuity. NAM is given the concession for extraction of the gas in perpetuity and the partnership agreements are not given any end date either, nor are agreements for terminating the partnership made. How firmly the parties cling to the agreements is clear, for example, from the letter from the shareholders Shell and ExxonMobil to minister Kamp of Economic Affairs on 22 January 2016. *“[...] minimising the production of the Groningen gas without it being certain that safety considerations allow for this, this touches on the very core of our partnership. We therefore request that you abandon all measures aimed at not economically extracting all extractable reserves, or that could result in this.”*⁴⁸

The partnership agreements can be amended, but that will take extensive negotiation, with it not being clear in advance how the relations between the parties will change. Since all parties in the *Gasgebouw* benefit from the enormous gas revenues, nobody finds the idea of tinkering with the original agreements attractive. According to the Committee, the parties unjustly hide behind the difficulty of amending the agreements in order to allow the existing situation to continue. In his public hearing on 9 September 2022, minister Kamp of Economic Affairs verbalises it as follows: *“Ideally, I would not have set it up in this fashion. [...] But if I wanted to change it, I would have to make changes to the agreements under private law and as soon as you*

46 Report of the public hearing of Mr Van Hoogstraten, 06 October 2022.

47 Report of the public hearing of Mr Dessens, 31 August 2022.

48 Shell. Letter from CEO Van Loon to minister Kamp about the letter of 18 December 2015 to the House of Representatives regarding the gas extraction from the Groningen field, 22 January 2016.

do that: what I just said, if you renegotiate it the other party can do that too, and if you come with your own requirements the other party can do that too.”⁴⁹

Parties to *Gasgebouw* use their influence to have fine withdrawn

In 2010 it becomes known that the Netherlands Competition Authority (*Nederlandse Mededingingsautoriteit*, NMa) plans to fine GasTerra and Gasunie for abuse of their position of economic power. In the joint interest of all of the shareholders, civil servants of the ministry of Economic Affairs visibly put their access to NMa to use. In early 2011, NMa sanctions GasTerra to a fine of over 400 million euro. Shortly after this, the minister of Economic Affairs Verhagen plays an active role in persuading NMa differently. In a discussion with the chair of the Executive Board of NMa, he tries to get the fine undone. In return for a more extensive package of measures, NMa decides to withdraw the fine. The Committee finds this intervention by the minister of Economic Affairs improper, given the responsibility the minister bears for the independence of the regulator. Moreover, the Committee finds it odd that this is one of the very few moments in the gas extraction dossier at which civil servants use words such as ‘disaster’ and ‘disastrous’. This is in stark contrast to the language used in respect of the consequences of natural gas extraction for the residents.

Close partnership complicates the regulator’s job

What else is striking, is how short the lines of communication are between the *Gasgebouw* and the ministry of Economic Affairs. This can be seen, for example, from the fact that top civil servants often end up somewhere else in the *Gasgebouw* in a next step in their careers. These short lines of communication are not surprising; the parties to the *Gasgebouw* speak to each other regularly. Not only at the meetings themselves, but also at the dinners that are planned the evening before on a fairly standard basis. During these dinners all of the difficult points in the next day’s meeting are discussed. Points on which no agreement is reached in the evening are removed from the agenda for the following day. In this way, the communal dinner contributes to the maintaining and reinforcing of the inward-looking culture of the various parties to the *Gasgebouw*, with the civil servants belonging just as much as the commercial parties do. An ‘old boys’ network’ is at play. In this closed culture marked by informal discussion, there is not much opportunity for signals from outside to penetrate, not even ones emanating from important parties such as the regulator. Behind closed doors signals of this nature are put down as ‘merely a view’.

The short lines are also evident at more formal occasions. At the decision-making in 2012 about gas production in 2013, for example, NAM is given ample opportunity to explain its point of view to the ministry of Economic Affairs, among others during the regular meeting structure of the *Gasgebouw*. In its turn, NAM always proves to be well informed on deliberations within the ministry and the developments in this regard. Until 2017, NAM contributes to the writing of the answers of the minister of Economic Affairs to parliamentary questions. During the selection procedure for a new inspector general for State Supervision of Mines in 2014, the representative of the sector organisation of the oil companies is present at the interview of the intended inspector general too. When later this same inspector general comes to explain

⁴⁹ Report of the public hearing of Mr Kamp, 09 September 2022.

a study to the minister of Economic Affairs, to his amazement, and unannounced, he finds the representatives of NAM, Shell and ExxonMobil at the table as well. Shell and ExxonMobil, the shareholders of NAM, have short lines of communication with the ministry and the Cabinet as well. This is true for Shell in particular. The Shell chief executive has discussions with the prime minister every year and indicates viewing him as a friend.⁵⁰

These short lines are also visible when NAM has to answer questions by the regulator State Supervision of Mines. An example is when, in 2018 after the quake in Zeerijp and according to protocol, within 48 hours NAM has to put forward measures to contain the risks of earthquakes as well as possible. Despite the fact that the regulator asks for measures, the ministry of Economic Affairs lets NAM know that concrete measures are not necessary. The regulator still observes that the distance between NAM and the ministry is extremely small. *“I got a sense of “them all being hand in glove”, which I found most disconcerting, because that makes the performance of my duties a lot more complicated,”* Inspector General of Mines Theodor Kockelkoren says during his public hearing.⁵¹

The Committee observes that the partnership in the *Gasgebouw*, which had worked so successfully during the first few decades, developed a blind spot for the interests of the people of Groningen. Their culture of standing close together to protect the joint interests in confidentiality was so strong that it left insufficient room for critical response from the outside world. Other public interests such as the safety, health and wellbeing of the population, were approached from the point of view of ‘damage control’: they needed to prevent these things hampering the economic interest of the gas extraction. The Committee finds it objectionable that civil servants from the ministry of Economic Affairs went along with this culture of defending these joint interests for so long and that for a long time they were not corrected as to this by their minister or state secretary. Moreover, it is the Committee’s opinion that the State, NAM, Shell and ExxonMobil hid behind the partnership agreements far too easily.

Regulator unable to make a difference for a long time

The Committee is of the opinion that the regulator State Supervision of Mines failed to get involved for too long. The heavy earthquake at Westeremden and Middelstum in 2006, with a magnitude of 3.5, could have led to a similar analysis of the earthquakes in Groningen as in 2012. In 2006, however, the regulator did not possess the necessary expertise to be able to make this analysis. This meant that State Supervision of Mines was unable to perform its important role of monitoring safety.

The Committee has enormous appreciation for the intervention of State Supervision of Mines in 2012. The rapid analysis that was done then, the involvement of other parties in the investigation and the well-considered opinion in January 2013 represent an adequate performance of the regulatory role of State Supervision of Mines. In subsequent years, however, it proves more difficult for State Supervision of Mines to keep up this performance of the role. The Committee has in mind, amongst others, the opinion from 2014 to close the Loppersum clusters, which does not explicitly state that the prior opinion from 2013 to curtail the gas

50 Report of the public hearing of Mr Van Beurden, 13 October 2022.

51 Report of the public hearing of Mr Kockelkoren, 14 October 2022.

extraction as much as possible as fast as possible still applies. State Supervision of Mines implies that the new opinion is a supplement to the previous opinion from 2013, but other parties did not understand it to mean that. The fact that State Supervision of Mines does not make this explicit in the 2014 opinion, contributed to the confusion among other parties.

Collective responsibility of the parties to the *Gasgebouw*

Taking stock of all of the facts, the Committee finds that, together, the parties to the *Gasgebouw* failed in their collective responsibility to ensure responsible gas extraction and failed in their duty of care. This cannot always be traced back to malicious intent and also not always to individual parties. The parties held on to each other as a collective in a partnership construction and culture that was based far too little on long-term planning and was uninclined to receive dissenting signals from outside. Consequently, even parties external to the *Gasgebouw*, such as the regulator or the House of Representatives, could not always perform their roles well. Below, the Committee enumerates a number of points that in its view involved objectionable actions.

Oil companies have forfeited their license to operate

The Committee observes that NAM and both of its shareholders within the *Gasgebouw* structurally underestimated the problems in Groningen. For too long, the oil companies thought that the problems could be solved by organising the damage claim system better. Once it became clear that the damage claim handling and the reinforcement were costing steadily more, the oil companies via NAM explicitly worked at limiting the costs of both of these operations. The Committee notes that the shareholders played a large role in this. On the rare occasions NAM responds to signals from the outside world sympathetically, it would often be the shareholders Shell and ExxonMobil that would hit the brakes. The legal departments of the oil companies seem to be afraid of creating precedents for the rest of the world of too generous compensation of affected parties.

Moreover, the oil companies did not sufficiently realise that their license to operate was hanging in the balance. They eventually lost this. By ignoring the safety of the people of Groningen and clinging to high extraction levels for too long, they ultimately got their fingers burnt: gas extraction was discontinued while there was still gas underground that could have been extracted.

The Committee deems the complete discontinuation of gas extraction to have been an unavoidable step after the slow response to the alarm signals given by the regulator State Supervision of Mines since the end of 2012. With their explicit request in 2017 that a duty of extraction be introduced, the oil companies effectively ceded their control of the underground reserves to the government. They did this for strategic reasons: to prevent the possibility of criminal prosecution. Since the duty of extraction has been introduced, NAM is no longer responsible for the fact that gas is extracted. After all, NAM extracts gas under commission from the government. The Committee therefore finds it startling that, after the 2019 decision to scale down gas extraction even more quickly, the oil companies submitted a claim to the State for the approximately 30 billion cubic metres of gas that cannot be extracted in comparison with the scaling down schedule set in the 2018. The oil companies' request for a duty of extraction means that any right of extraction they had has lapsed. As the Committee sees it, therefore, not

Book 1

Conclusions and recommendations

being able to extract the last of the gas is the choice and responsibility of the oil companies just as much as of the State.

Ministers of Economic Affairs respond to the situation too late

The Committee observes in this investigation that all parties structurally underestimated the gravity of the problems in Groningen. Government members are continually informed too late of what is really going on, which results in decisions being taken too slowly. Minister Kamp scales down the gas extraction considerably after unmissable signals from State Supervision of Mines and the Council of State, but not after extraction reached a record high. It is his successor minister Wiebes who accelerates the scaling down, even before the next expected expert opinions. He in turn also ignores signals from the region. Despite repeated calls from administrators from the region not to make changes to the reinforcement operation, minister Wiebes sets back the reinforcement operation considerably by re-evaluating the operation and 'pressing pause'. It is only as late as 2022, when state secretary Vijlbrief of the Rutte IV Cabinet is made responsible for gas extraction in Groningen, that the signals from Groningen finally garner the appreciation they deserve.

The Committee is aware of the difficult situation in which, particularly, minister Kamp found himself by his civil servants not sufficiently informing him of the situation at the time. At the same time, the Committee observes that the minister failed to ask probing questions to access all the relevant information.

House of Representatives cannot control the dynamics within the *Gasgebouw* and cannot make a difference

Combined with the complexity of the subject matter, the closed culture and frequent informal meetings between the parties in the *Gasgebouw* make it very difficult for the House of Representatives to get an idea of what is going on. At various important moments the House of Representatives received incomplete or incorrect information, which meant that it could not exercise its control function properly.

In the 1990s, parliamentary questions result in the establishment of the Supervisory Committee of Research into Earthquakes (*Begeleidingscommissie Onderzoek Aardbevingen*, BOA), which considers a correlation between earthquakes and the gas extraction possible. This constitutes an important recognition. At other moments, however, the House omitted to do certain things. In June 1996, already, PvdA MP Witteveen-Hevinga proposes that the House investigate the Dutch natural gas policy or has it investigated. This proposal receives majority support and the House starts preparing an investigation proposal. Ultimately, though, the investigation is not conducted, because the House of Representatives no longer supports the prepared proposal.

The heavy quake at Westeremden and Middelstum (3.5 on the Richter scale) in August 2006 does not elicit a response from the House of Representatives. After the heavy quake at Huizinge in August 2012, while the House of Representatives is in summer recess, it likewise remains remarkably quiet. The PvdA asks written questions, but no debate follows. In 2012, the House of Representatives does not attend to the earthquake in Huizinge.

3 Where did things go wrong?

This changes in the years that follow. From the moment in 2013 that the regulator State Supervision of Mines advises a production curtailment, the number of House of Representatives debates increases. As from 2019, there is a debate on the situation in Groningen once every six weeks. However, this attention does not bring the people of Groningen a fundamental solution. The House of Representatives does have results on certain points, though: both the introduction of the legal evidentiary presumption as the investigation into NAM's offer for old damage claims result in supplementary payments for a number of Groningen residents. At the same time, interventions by the House of Representatives contribute to the growth of the proverbial administrative spaghetti in Groningen.

The threat of a House of Representatives closely scrutinizing everything happening in Groningen seems to affect the actions of the Cabinet as well. For example, ministers at the Norg Agreement (*Norg Akkoord*), having negotiated with the oil companies, rather opt for arbitration because an amount determined by an arbiter is easier to explain to the House of Representatives than the costly result of negotiations by the Cabinet itself.

All in all, the resulting picture is one of a House of Representatives that only realises at a late stage what is going on and can then only be of limited value to the people of Groningen. In his public hearing on 5 September 2022, Jelle van der Knoop of the Groninger Bodem Beweging expresses his disappointment in what the House of Representatives managed to achieve: *“One should be able to expect that the House of Representatives stands side by side with citizens. If the fact that things are not going as they should is well known for a long time and it takes eight years before the government has assumed the responsibility of a private company, the liability... Surely that is crazy?”*⁵²

The picture seems clear: in 60 years of gas extraction, the House of Representatives managed to do little for the people of Groningen. An important comment here, however, is that the House was regularly given incomplete, wrong and inaccurate information. Information regarding the level of gas extraction at which security of supply could be guaranteed as well as further information regarding the high level of extraction in 2013 is missing. While in 2014 minister Kamp gives no fewer than three reasons for the record level of extraction in 2013, he does not mention that this extraction level is also higher because Groningen gas has been mixed in (in technical terms ‘mixed away’) with other gas streams. When this does become clear during a reconstruction for the Dutch Safety Board in 2015, the House of Representatives is still not informed of this. Partly due to this structural lack of information, the House of Representatives could not adequately perform its control function. At the same time, accessing information is not entirely beyond the power of the House: the House of Representatives has difficulty piercing the coalition agreements.

52 Report of the public hearing of Mr Van der Knoop, 05 September 2022.

3.7 Conclusion 7. Inadequate claims handling causes damage to the people of Groningen

Whereas the two worlds of gas extraction decision-makers on the one hand and residents of the extraction area on the other are largely separate, they touch of necessity in the handling of claims for damage due to gas extraction and the reinforcement of buildings. What is striking here is the absolute dominance of the world of rules, procedures and agreements above that of residents who simply want to have their house be their house again. For residents, waiting for claims handling often also means waiting with maintenance that was already planned. Not painting while there are still cracks to be fixed. Not having a new kitchen installed while it is not yet clear how much damage to the house will be compensated. Residents lose the direction over their own lives, because they are waiting for the handling of their damage claims. The manner in which these systems are organised now and have been organised in the past has contributed to the size of the problem to a large extent. Where quick and adequate handling might have contributed to keeping the problems manageable, the exact opposite happened: prolonged claims procedures result in cares and bureaucracy for so many people that they lead to health problems. The Committee finds this most objectionable since, besides the underestimation of the extent of the problems, there is also a combination of ignorance, disruption and, even, unwillingness.

People who bring damage claims are viewed with distrust and end up in a prolonged and complex claims system

From the moment that damage can be reported, the people of Groningen are faced with distrust. Initially, this is because the correlation between gas extraction and earthquakes is still denied. When in 1993 the Supervisory Committee of Research into Earthquakes (BOA) establishes a correlation between the gas extraction and the earthquakes that had been occurring, the consequences this might have for claims handling are hardly considered. A damage fund for individuals is not instituted; an information leaflet is the extent of it. People in Groningen do not always report earthquake damage in those years, because they do not know that it is earthquake damage, because they do not know that they can report damage or because they consider it pointless to do so. It is only in 2012, after the heavy earthquake at Huizinge, that people in Groningen start reporting their damage in droves. NAM regards this large number of reports with a certain distrust too, which is wrong. The large numbers are not only caused by relatively large numbers of people in Groningen suffering damage during the heavy earthquake, but also by the fact that more residents get to know about damage claim handling from seeing how their neighbours and acquaintances approach it.

What makes reporting damage complicated, is that the resident has to show that the damage to his/her house has been caused or exacerbated by an earthquake. This is a heavy burden of proof, partly because it is difficult to show when and how cracks developed in houses built on the soft Groningen soil. This allows NAM to turn down damage assessed by the Platform of Independent Geologists to be typical earthquake damage.

NAM and its shareholders try to keep damage compensation structurally limited and keep control of the system as long as possible. To this day, NAM maintains that it only needs to compensate damage that it is legally liable for. NAM finds that it does not need to pay for additional costs or for loss or damage of which it cannot be proved irrefutably that it has been

3 Where did things go wrong?

caused by gas extraction. That might sound logical at first, but in practice it causes problems for residents. If a home qualifies for 'demolition-newbuild', NAM refuses to pay the extra costs of making the newbuild house energy neutral, for example, while that is a statutory requirement for newly built homes.

Additionally, NAM and its shareholders are structurally prepared to invest money in refuting claims even if the damage claim is lower than the costs of refuting the claim. This strategy leads to unnecessarily long claims handling proceedings and inherent uncertainty for residents.

Attempts by regional powers and the House of Representatives in the 1990s to reverse the burden of proof and have this lie with the causer of the damage, are not successful. Amendments that are submitted during the consideration of the Mining Act (2003) to reverse the burden of proof, are not adopted. At the end of 2016, at last, what is known as an 'evidentiary presumption' is included in the act, which means that the mining damage in Groningen is deemed to have been caused by NAM unless another exclusionary cause can be identified. However, because the legal liability of NAM is still leading in the handling of claims, Instituut Mijnbouwschade Groningen (IMG) has limited options for resolving the problems of affected people satisfactorily. Under the Temporary Groningen Act, in principle, IMG compensates only the damage for which NAM is liable.

The application of the evidentiary presumption therefore remains the subject of discussion. The application and refutation of the legal evidentiary presumption sometimes leads to complicated technical and legal questions about which lawyers do not agree, for example, regarding the causal link between the damage and the cause of the damage. The legal discussions and heaps of reports they generate do no help an affected person. While the legal evidentiary presumption is meant to strengthen the position of an affected person, in practice it does not always work this way.

Legal position of residents not well organised

A second important aspect of the handling of damage claims is the great inequality in the legal position of the party reporting the damage and the party responsible for the damage. Whereas for individual people from Groningen there is quite a barrier to securing the services of a lawyer to contest a decision, for the oil companies as well as for the State, securing the services of a large number of lawyers from prestigious firms to refute claims and objections takes very little effort.

The inequality already existed at the time of the private damage claims regime (until March 2018), when damage claims were handled by NAM and Centrum Veilig Wonen, but continues to exist under public law (since 2018). The major difference between these two regimes is that under public law affected parties no longer face NAM, but they face the State (IMG). For affected people, this feels even worse: in the few cases in which they end up in court, they find the government against them, while the government should actually be in the affected people's corner, with taxpayers' money being used to refute their objections. Affected resident Annemarie Heite did not mince matters during her public hearing: *"There too an affected party doesn't stand a chance, faced by a State Advocate who can conjure as many experts as he likes*

*from the hat and, bizarrely, can actually litigate the citizen to bits and be paid with taxpayers' money. This phenomenon hasn't actually changed."*⁵³

The Committee notes that at the transition to claims handling under public law, the minister of Economic Affairs failed to foresee that affected parties would be litigating against the government and that in this way the government would become part of the problem. While only a small part of those affected end up in court, before the administrative court their position seems to be less strong than was envisaged when claims handling was transitioned to administrative law. There is very little proof in practice for the assumption that the administrative court would provide better protection for the weaker position of the aggrieved party. There have been very few cases in which aggrieved parties successfully refute the expert opinion of Instituut Mijnbouwschade Groningen in court; in most cases, the court rules that IMG has refuted the legal evidentiary presumption.

Changing schemes cause inequality before the law

The legal position of residents vis-à-vis the party responsible for the damage is therefore one of inequality. Additionally, it is striking how much the relative position of residents differs. Since 2012, claims handling has taken place on a large scale. One after the other, various institutions get to deal with this, each with its own protocol for handling claims. There are dozens of schemes, with as many conditions among them. For residents it is difficult to understand why their neighbour can qualify for certain payments but they themselves not. There are not only general subsidy measures, but customized schemes as well. There are payments for physical damage and also for indirect loss such as depreciation. One measure applies equally to everyone, while another requires individual assessment. It also happens that a scheme is replaced by a more or, conversely, less favourable scheme, which works out better or worse depending on when the affected party suffers the damage. In practice, this means that it cannot be taken for granted that equal cases actually are handled equally.

While the schemes might be introduced with the very best of intentions of providing affecting resolutions for affected people who might otherwise miss the boat, the way they work out perfectly illustrates the enormous gap between residents and decision-makers. As more and more new schemes are conceived, it simply becomes more and more complicated for affected people to navigate a course through the schemes. This is symptomatic of the world of rules and procedures: every loophole in a rule gets plugged by a new rule. While that plugs the hole for the organisation charged with implementing the rules, it increases the maze of rules for affected people.

Discontinuation of *Arbiter Bodembeweging* a loss for Groningen residents

The Earthquake Arbiter (*Arbiter Bodembeweging*) gets under way in 2016. This gives the people of Groningen access to an easy way of settling a dispute about the damage claim. Residents appreciate the fact that right from the start of the *Arbiter Bodembeweging*, arbiters apply a form of evidentiary presumption, even before this is statutorily introduced. The burden of proof is thus laid with NAM, and it has to prove that damage was not caused by earthquakes.

⁵³ Report of the public hearing of Ms Heite, 01 July 2022.

The arbiter does not always give a ruling; in many cases NAM and the affected party come to agreement in the process of arbitration without a ruling being given.

In a few cases, NAM sent directing letters regarding the direction the ruling should take. In his public hearing, former arbiter Pieter Schulting has this to say about this practice: *“We cannot have private exchanges with one of the parties on substantive issues. But NAM actually continued to the very last to do that very thing.”*⁵⁴ The fact that rulings by the arbiter are binding on NAM ‘in principle’, gives NAM reason to consider not following rulings by the arbiter: *“That pattern repeated itself, more often towards the end, with NAM warning: be careful, we’ll take the matter to court. Or... ‘we’ll take the matter to court’? ‘We won’t follow your ruling.’”*⁵⁵ The Committee finds it disgraceful that NAM did not always allow the arbiters to do their work undisturbed.

The *Arbiter Bodembeweging* is only active for a brief period. Damage occurring after 31 March 2017 and which therefore falls under the new damage claim protocol is no longer dealt with by the arbiter. The Committee finds it regrettable that the transition of claims handling to public law also brings an end to this accessible way for people of Groningen to deal with prolonged conflicts regarding damage claims.

Faulty damage claim system results in damage to health

The prolonged, complicated and unpredictable procedures that residents who have suffered damage have to deal with, not only has consequences for the period in which the damage can be repaired. They also have a major impact on the health and wellbeing of the people of Groningen. The prolonged damage claim procedures cause major uncertainty for affected parties. Having to follow the many complicated steps in the system, given all the requisite technical knowledge, timely responses and understanding of complicated procedures that this involves, is a cause of stress.

What distinguishes the negative impact of the prolonged claims handling from many other negative things that can happen to people, is its repetitive nature. There are 85,000 reports of repeated damage. These affected people are caught in situations where the damage from a previous claim has not yet been resolved while a second earthquake has caused new damage in the meantime. In her public hearing, affected party Frouke Postma-Doornbos explains how both a certain routine as a certain hopelessness follows: *“Now if there has been an earthquake, and if we have the courage, we do a round of the house and report the damage.”*⁵⁶

As a problem, the health damage resulting from the prolonged and unpredictable handling of physical damage claims is at least as big as the cracks in houses. The Committee deems the parties to the *Gasgebouw* to be responsible for these problems, which might have been far less severe if damage claims had been handled in a more flexible and humane way.

54 Report of the public hearing of Mr Schulting, 14 September 2022.

55 Report of the public hearing of Mr Schulting, 14 September 2022.

56 Report of the public hearing of Ms Postma-Doornbos, 26 September 2022.

Damage claims to continue for years

It is important to note that the effects of the earthquakes are not over by a long shot. The expectation of State Supervision of Mines is that while the earthquakes will grow fewer in number and smaller in extent, earthquakes and the damage they cause will be an issue for dozens of years. While the reinforcement operation will have been completed at some stage and all unsafe houses will have been reinforced, that moment is not on the horizon for damage claims yet. What is more, reinforced houses can suffer damage again during earthquakes. For this reason, the Committee deems it all the more important to arrange claims handling well for the long term too, so that residents are given prospects for the future again.

3.8 Conclusion 8. Wavering approach to reinforcement has crippling effect on affected people of Groningen

Alongside the claims handling operation, a reinforcement operation starts in Groningen in 2013. When after the quake at Huizinge the regulator State Supervision of Mines notes that earthquakes can become so heavy as to cause injury to residents, a start is made with the preventive reinforcement of homes. This happens without anyone having an idea of what the reinforcement operation should actually entail, how large the operation will become or what the operation will mean to the region. The Committee is of the opinion that this lack of clarity regarding the reinforcement of houses still applies today. When residents are informed that their house must undergo a safety assessment, they are often left in uncertainty for a long time as to the results of the assessment. In her public hearing, Susan Top articulates it as follows: *“You’ve received a letter which says: your home is unsafe because it does not meet the standard. Where up to that point you may perhaps have felt a bit of a distance and have thought ‘well, that doesn’t concern me,’ all of a sudden you have a letter which clearly sets it out in black and white [...] it gets under your skin.”*⁵⁷ And once residents have finally heard that their house is unsafe, it takes a long time before their house has actually been reinforced. Will a limited adaptation to the construction suffice, or will the home perhaps need to be demolished and rebuilt? The Committee finds this prolonged lack of clarity particularly objectionable, due to the enormous impact a reinforcement verdict on one’s own home and waiting for the reinforcement to commence has on residents.

The Committee notes that in addition to the fact that the operation was enormously underestimated, the countless changes of policy within a short period of time also caused a lot of damage. The endless wrangling and consulting about the manner of reinforcement by many of those involved within and outside the Gasgebouw caused great distress and uncertainty for affected residents of Groningen. The Committee will explain this hereafter.

Continuing lack of clarity regarding reinforcement

In the initial years of the reinforcement operation, while this still takes place under the direction of NAM, no constructive reinforcement of buildings actually takes place. The focus is on removing and replacing dangerous elements, such as chimneys. The reinforcement operation

⁵⁷ Report of the public hearing of Ms Top, 27 June 2022.

only gets under way on a larger scale in 2016. Hans Alders takes over the reinforcement operation as National Coordinator for Groningen (*Nationaal Coördinator Groningen*) at that point, and safety and building standards are introduced that houses in Groningen have to meet. Principles for the implementation of the reinforcement operation are drawn up to adhere to during the work. But even so, a lack of clarity shrouds the reinforcement of buildings. The cause is that executing a reinforcement operation demands a combination of knowledge of what happens underground (the frequency and magnitude of earthquakes) and knowledge of what this results in above the surface (the vibrations that the earthquakes cause at the surface and the vulnerability of structures to these vibrations). It is precisely this combination of knowledge which is lacking. While there are risk analyses that give estimates of the risks to buildings, individual inspection of homes remains necessary. Moreover, at the insistence of NAM, due to the continuous development of knowledge *and* changes in the gas extraction levels (and therefore different results from the risk analyses), the building standards are also changed in the interim. This results in ever new insights into the question of when a house actually does or does not meet the standard, and which reinforcement measures might be necessary.

Avoidance of unnecessary reinforcement results in delay

In 2016 and 2017, the reinforcement operation gradually starts to gain structure. The National Coordinator Groningen, who is at the helm of the operation from then on, works with a few relatively basic, but logically thought through principles. The reinforcement activities start with homes at the centre of the earthquake area and then proceed away from the centre. Additionally, priority is given to buildings that house lots of people, in other words: schools and hospitals first and barns and storage facilities last.

The reinforcement of schools, particularly, proves successful. By pooling various funds and with an extra contribution from central government, many schools are renewed or made safe in a reasonably short period of time, ex-National Coordinator for Groningen Hans Alders tells the Committee: *“Look at the schools programme. In the area, Groningen has the most modern stock of schools in all of the Netherlands for primary education. That is gigantic. Not for me. But it happened across denominations, across town limits. People said: we are going to make a virtue of an accident. Fantastic!”*⁵⁸ The secret behind this success is the commitment of all the parties involved, owners as well as managers, who are prepared to look further than the limits of their own organisations. All financial means are pooled. Not only NAM, but also the other ministries involved, manage to find project funds. Besides the schools, the care institutions are also successfully tackled. Unfortunately, these turn out to be exceptions to the rule.

The fact that NAM and its shareholders keep emphasising that the latest standards be applied proves to be a major impediment for the rest of the reinforcement operation. Every time there are improved insights into the way earthquakes cause damage to houses in Groningen, or when the likelihood of earthquakes becomes smaller due to the curtailment of gas extraction, NAM insists that this has to be reflected in the building standards applied in the assessment of the risks. This can result in homes that have already been inspected having to be assessed

58 Report of the public hearing of Mr Alders, 28 September 2022.

again using the newer standard. The government goes along with this and publishes five new standards in a period of six years.

When in 2018 minister Wiebes decides to discontinue gas extraction entirely, part of the reason is to reduce the extent of the reinforcement operation, which is proceeding very slowly. Theoretically, this decision may have accelerated the operation (by reducing its scope), but in practice the opposite happens. The process is brought to a partial halt in anticipation of new calculations of the effect the lower extraction levels will have on the need to reinforce houses. As a result, some of the parties involved with the execution of the reinforcement drop out. Engineering companies and building contractors, for example, stop waiting for reinforcement jobs and rather assume other work.

Ongoing discussion on area-led or property-led approach impedes progress

Besides this, the repeated switches in the character of the reinforcement operation impede progress. Until 2016, the focus is primarily on the safety of buildings. Dangerous elements are tackled, and each individual house is assessed in an effort to make it safe. When the reinforcement operation is put under the direction of the National Coordinator for Groningen (NCG), the character of the operation changes. The number of homes that qualify for drastic measures is so large that it becomes clear that coordination between owners, residents and municipalities is unavoidable. From a practical point of view, terraced houses belonging to housing corporations can only be dealt with together. The reinforcement operation, however, also provides an opportunity to tackle other problems in the area. The region might as well make use of this opportunity, for example, to replace sewerage or involve matters pertaining to population shrinkage in the operation as well. After being more area-oriented between 2016 and 2018, the approach to the reinforcement operation changes again in early 2018 along with the decision to completely discontinue gas extraction in Groningen.

The expectation is that the discontinuation of gas extraction will lead to a reduction in unsafety in Groningen, and therefore in 2018 minister Wiebes of Economic Affairs has yet another analysis done of the unsafe houses in Groningen. The accent is now on reinforcing the most unsafe houses as quickly as possible, even though both the region and the NCG indicate that they do not deem this approach feasible. From the moment the minister of the Interior and Kingdom Relations takes over responsibility for the reinforcement operation in 2019, it is exactly the regional issues that receive more attention again.

These continual changes of approach clearly illustrate that the reinforcement operation lacks focus. The safety of a house is the exclusive focus one moment, and the next moment this changes and more area-related aspects are considered again. Irrespective of which approach is chosen, it is clear that only limited scaling up is possible. Each separate house needs to be visually inspected to establish whether or not it fits a pre-determined typology. For those houses that do not fit the typology, an individual calculation must be done, and this is followed by an assessment. For houses that do fit the typology, a general calculation for that type of house (typology) suffices. As long as the visual inspection of a property has not yet taken place, it is impossible to assess its safety. The Committee finds it bewildering that even as this report is being written, it is still not clear which houses are and which are not safe. And it is still not certain that this will be the case at the end of 2023, as has been promised.

Jammed reinforcement operation leads to distrust

The Committee notes that all of the changes in course have structurally led to delays. The damage done is even bigger than this, though. The continual changes have also contributed to distrust among the people of Groningen, since each change in the structure of the reinforcement operation also means a change for residents. Residents of Groningen who, in some cases, have waited years for a reinforcement advice, still do not know where they stand. Some of these people have been living in an unsafe house all along or have spent long periods in temporary emergency housing. It is painful that while waiting for the reinforcement advice or the reinforcement itself, residents need to be confronted with non-stop bickering about the approach to be followed.

3.9 Conclusion 9. Regional administrators not able to properly take care of the interests of the people of Groningen

While the province and municipalities in the gas extraction area only have a right to be consulted about extraction activities, they are faced with the negative consequences of these activities in their area. Regional administrators hear first-hand stories from residents, see damage to buildings and experience what earthquakes do to communities. During the public hearings, the Committee was left with the impression that these were committed regional administrators who care for the residents and give their best efforts to take care of their interests. However, the Committee must note that regional administrators have not been sufficiently successful in taking care of these interests. The Committee will explain this below.

Location a complicating factor in many respects

When it comes to standing up to represent their residents, regional administrators were at a disadvantage from the very start due to the location and characteristics of their area. To start off with, the region is literally remote from the political decision-making centre of The Hague. Moreover, it is a region made up of mostly smaller municipalities, with a limited body of public servants and relatively little experience of urban renewal processes – which is relevant for the reinforcement operation. Furthermore, Groningen is a province that has been lagging behind economically for years and faces a shrinking population and unemployment. The region's dependence on the oil companies for job opportunities for their residents puts regional administrators in a difficult position: having to weigh the economic interest of gas extraction against the interest of safety. The region has therefore been at a relative disadvantage from the moment the problems start.

Add to this the fact that, until the last municipal redivision (in 2020), many of the municipalities are very small. Small municipalities have limited capacity and expertise they can use. In his public hearing, former mayor of Groningen Jacques Wallage says: *"I think that [...] the fact that the municipalities were facing a municipal redivision played a very important role. According to a great many experts, they were simply too small."*⁵⁹ Former member of the Provincial Executive William Moorlag also thinks the fact the municipalities are so small was to Groningen's

59 Report of the public hearing of Mr Wallage, 05 September 2022.

detriment: *“Sometimes I definitely had the idea that for some people the whole issue was ‘too big to handle’. I had that feeling myself.”*⁶⁰

Adverse effects for the region: business conditions under pressure

The negative effects of gas extraction for the region extend to more than building damage to individual properties. Regional business conditions as a whole are under pressure. Settling in the region becomes less attractive for companies and individuals. Farming enterprises are faced with damage to their operational structures (manure pits and barns) and businesspeople with damage to their business premises. If anything, there are even fewer suitable schemes for them than for residents. Houses that have suffered structural damage are more difficult to sell, and due to large-scale reinforcement the area has lost some of its original character. The future and conservation of historical buildings, including many valuable churches and characterful farmsteads, are not sure at all. The Committee deems it correct that administrators of Groningen, a region that has always had economic issues, have demanded attention for the business conditions in the region.

Disruption of communities due to differences in treatment

Besides this, the region is confronted by a disruption of local communities. This is serious, especially for an area in which community has always been important. The disruption can be traced to the considerable differences in damage repair and reinforcement. Even though neighbours, relatives and friends might seem to be facing the same kind of problem, the treatment of the problem can be quite different. Where someone lives, the moment at which they report their damage, the choices they make: all of these things can influence the manner in which the handling of the damage claim proceeds. Consequently, the outcome of the process can differ between residents and their neighbours. The same applies to the reinforcement operation; here the differences are even more pronounced. Sometimes you see houses that were slated for demolition and replacement by new buildings under a previous regime directly adjacent to houses that are judged to require only slight structural changes. In the villages of Groningen, this inequality is felt, and it generates feelings of envy and suspicion. How did the neighbours manage to arrange that?

The use of a particular verb illustrates this very well: the word in question is the verb ‘to get’ (in Dutch: *‘krijgen’*), and it is heard a lot in the region. The Committee also heard it a lot during the conversations and hearings. It is used in the context of the compensation that affected people receive or the manner in which the reinforcement operation is performed. It however suggests that these things are gifts; consider yourself lucky if you get one. ‘The neighbours managed to get demolition-newbuild.’ However, this is a realistic measure that people simply are entitled to in order to enhance their safety.

In turn, this inequality affects the social cohesion within districts and villages, the Committee observes. This is exacerbated by the impact, mentioned before, of the stress on health and wellbeing. The result is that some of the affected people can no longer muster the energy to

60 Report of the public hearing of Mr Moorlag, 14 September 2022.

attend a birthday party at the neighbours, or to volunteer for a shift at the sports club canteen, since the conversation invariably turns to damage claims, reinforcement and who 'got' what.

The appearance of villages in Groningen under a stealthy threat

The old villages and centres in Groningen often have a characteristic look, with little churches built on mounds, characteristic buildings and old farmsteads. The typical character of villages in Groningen is under threat from the reinforcement operation, especially as more and more properties need to be reinforced. Whole streets sometimes need to be dug up. Listed buildings have protected status during the reinforcement operation, but other characteristic buildings do not have this status. This means that there is sometimes a danger of demolition: if improvement of the current home is not economically viable, the home must be demolished and replaced with newly built property. If, due to the uncertainty about their earthquake resistant character, another investor or owner cannot be found, this means that buildings that lose their function may end up vacant and derelict, even listed ones. In this way, the earthquakes and the reinforcement operation constitute a stealthy threat as far as the appearance of villages in Groningen is concerned.

Focus of regional administrators on compensation is understandable

Viewed statistically, Groningen is one of the richest regions in Europe, because in European statistics the gas revenues are attributed to the region of Groningen. In practice, however, Groningen has only benefited very slightly from the gas revenues. Via the national budget, the gas revenues are divided among all of the Dutch population, with the people of Groningen receiving the same as all other Dutch people. The establishment of a national Economic Structure Enhancing Fund (FES) in 1995 that was filled with the gas revenues, or part thereof, did little to change this. Even worse, from that moment onward, the North got even less than average. A global estimate shows that only 1% of the FES funds to 2006 went to the Northern Netherlands. Often, the province of Groningen has felt like a kind of extractive colony (*wingewest*), and the Committee concludes that this feeling is based on fact.

Given this conclusion, the Committee finds it logical that in the course of 60 years of gas extraction regional administrators often called for compensation of the adverse effects of the gas extraction. Not considering the matter of how the compensation was extended in practice – this was a legitimate call. In terms of compensation packages, regional administrators have achieved quite a bit. Since the very first administrative agreement in 2014, the region has been compensated for the adverse effects of gas extraction to a certain degree. This compensation is not proportionate to the total gas revenues that the Netherlands as a whole has benefited from. If the region were to have received direct payments for the gas extraction, the series of support and compensation programmes (*Langman-akkoord*, *Regio Specifiek Pakket Zuiderzeelijn*, the administrative agreement of 2014, *Nationaal Programma Groningen*, 2020 administrative arrangements) and all of the managerial discussions in this regard may not even have been necessary.

The Committee observes in this regard that, from the point of view of the affected residents, the compensation measures brought very little resolution and that it is doubtful whether they have sufficiently contributed to the achievement of the goals set. This is, on the one hand, because, when agreeing these kinds of compensation packages, negotiators tend to lead one to believe that these amounts are higher than they actually are. This can be done, for example,

by including amounts that would have gone to the region in any case in the calculations again, by including amounts not spent from a previous package in the calculation or by including in the calculation the intention of extending the package. The Committee came across examples of all three of these methods. On the other hand, the fact is that this money is spent on local or regional projects that may be of importance to decentral administrators and to future generations, but that do not necessarily make a difference to affected residents.

Regional administrators have little influence on decision-making

For a long time, administrators could exercise very little influence on the level of gas extraction, while this level was a determinant of the safety and damage repair interests of their residents. This is the opinion of many regional administrators themselves. In his public hearing, former mayor of the municipality of Slochteren Geert-Jan ten Brink says in this regard that he worked hard to get extraction levels down for his residents, *'but the minister wouldn't listen to me'*.⁶¹

In his hearing, former member of the Provincial Executive Eikenaar says that he had the feeling that unfortunately he had not succeeded in exercising enough influence: *"I was convinced that if all those reports, which contained all of those arguments, did not move the politicians and administrators here in The Hague, there was only one route left to take. Or rather, there were two routes. The first was to go to court and to the Council of State. And the second was to increase the political and social pressure as much as possible. I cannot with any conviction say that that... Sorry. I cannot say that that succeeded. It did not succeed. We are where we are now. I cannot therefore say: this method brings success. That is not the case, because there is no success."*⁶²

Not only was the working method of administrators from Groningen not always successful, it may even have harmed relations, in the region itself as well. The experiences with the Dialogue Table (*Dialoogtafel*) (2014-2015) illustrate this. This was a consultation table at which the government organisations, NAM and civil organisations talked about the effects of the gas extraction together. The supplementary administrative agreement concluded between central government and the region in 2015, for example, was not submitted to the *Dialoogtafel*. Likewise, the province of Groningen failed to discuss with the *Dialoogtafel* an important study about the number of houses that needed to be reinforced. Along with Jacques Wallage, the Committee thinks that at that point the interests of the impending Provincial Executive elections seem to weigh more heavily than the interests of the residents. Consequently, civil organisations are not involved in this study while, according to the objectives of the *Dialoogtafel*, they should be. Wallage has this to say: *"We promised the civil organisations that they would be given the opportunity to exercise influence in advance on important components. And you are quite right: this is an approach to which, to put it politely, a great many administrators still need to grow accustomed."*⁶³ The failure of the *Dialoogtafel* is the reason for the establishment of the *Groninger Gasberaad* in 2016.

Ultimately, the legal route proves successful for the regional administrators, and particularly concerning decisions regarding the level of gas extraction. When, in 2014, the regional

61 Report of the public hearing of Mr Ten Brink, 03 October 2022.

62 Report of the public hearing of Mr Eikenaar, 26 September 2022.

63 Report of the public hearing of Mr Wallage, 05 September 2022.

administrators avail themselves of the possibility of appealing against extraction decisions (rights that they have formally had since 2003), this proves to be a fairly successful route. Together with other parties, they have appealed against every extraction decision since 2014. The route towards more safety for residents thus follows the legal track.

3.10 Conclusion 10. Knowledge development about the Groningen field deliberately kept limited

While there may be ample expertise available regarding the extraction of gas when extraction starts in Groningen, expertise regarding the effects that gas extraction has underground and above the surface is much more limited. That is not surprisingly, really. The Groningen field is one of the largest gas fields in the world and, compared to gas fields abroad, it is situated in a relatively densely populated area. Surprisingly enough, these two particular aspects of the Groningen field do not constitute a reason to initiate large-scale studies into effects above the surface. For far too long, the research that is done takes place in the closed stronghold that is the mining sector, which means there is very little stimulus to arrive at fundamentally new insights. The Committee finds it hard to understand that a gas field as important to the Netherlands as this was studied so little, so late and by such a limited group of experts (which include the operator). The Committee identifies the following aspects.

Initial ignorance understandable given unique characteristics of the Groningen field

The Groningen field is unique in a number of aspects and, because of this, very little knowledge is available concerning the effects of gas extraction from a field like this. After all, the composition of the soil in Groningen is different from that of extraction areas in other countries. This is decisive for the effects above the surface. Knowledge about what exactly happens in the soil of Groningen and about induced earthquakes has yet to be acquired. The Committee has understanding for the fact that in the initial years the knowledge about the effects of gas extraction from the Groningen field is limited. However, when research is done in the 1970s into the subsidence that may be expected as a result of the gas extraction from the field, the information from this research is not immediately shared with the outside world. This only happens in answer to questions from MP Terlouw (D'66). The Committee finds it objectionable that, right from the early years, communication about the availability or lack of availability of knowledge was not transparent and that, instead, there were a lot of hollow reassuring words. This accusation applies specifically to NAM and its shareholders, but also to the knowledge parties.

Systematic research only gets going at a late stage

It is only in the 1990s that knowledge about gas extraction and earthquakes gradually starts growing. This knowledge is concentrated with very few parties only (KNMI, the Geological Survey of the Netherlands, State Supervision of Mines, TNO, TU Delft, NAM), who work closely together from the start. However, the acquired knowledge is not very systematic. Seismologist Annemarie Muntendam-Bos says about the scientific field: *“Very tentatively there was, from an international perspective, some knowledge about quakes caused by human activity, what are*

Book 1

Conclusions and recommendations

known as induced earthquakes. [...] Actually, it was limited to the few things a seismologist would look at from time to time.”⁶⁴

In 1993, the Supervisory Committee of Research into Earthquakes (*Begeleidingscommissie Onderzoek Aardbevingen, BOA*) establishes that there is a correlation between gas extraction and earthquakes occurring. It is striking that this fact is not considered a reason to launch large-scale public research into earthquakes, even though there already are relatively heavy quakes in the years following that. In 1994, for example, there is a quake with a magnitude of 2.9 on the Richter scale at Middelstum, followed by two heavy earthquakes at a gas field in the vicinity of Alkmaar.

Immediately after the BOA report is published, the ministry of Economic Affairs institutes the Earthquakes working group, with experts from State Supervision of Mines, the knowledge institutes and oil companies. This working group is meant to be a platform for sharing knowledge. The Earthquakes working group is discontinued when in 1999 the ministry of Economic Affairs institutes the Technical Committee on Ground Movement (*Technische commissie bodembeweging, Tcbb*). The introduction of the Mining Act in 2003 serves as an important impulse for new research. The Mining Act obliges oil companies to set out what the harmful effects of mining might be and how these can be avoided. The oil companies try to meet this requirement with the minimum of effort.

In 2013, new research is again commissioned by the government, when minister Kamp of Economic Affairs commissions fourteen one-off studies in order to cover important blind spots in the knowledge development. While informative, the research results at that stage clearly show how much knowledge is still missing. Even at that point, no further systematic research follows, despite the fact that the need for it seems obvious. It is only after the recommendation by the Dutch Safety Board in 2015 based on its research into earthquake risks in Groningen, that the research programme DeepNL is started in 2017. This programme is financed by NAM and the Dutch Research Council (NWO). It is a multi-year research programme into the dynamics of the deep subsurface under the influence of human interventions. In the same year, the ministry of Economic Affairs launches the knowledge programme on the effects of mining called *Kennisprogramma Effecten Mijnbouw*. Given that the gas extraction started in 1963, the Committee finds the launch of these large-scale research programmes much too late: only after about 50 years of gas extraction in the Netherlands. What is more, these research programmes are only set up after it becomes clear in practice how harmful the lack of knowledge is. In the eyes of the Committee the prolonged lack of public attention, coordination and funds is reprehensible. Moreover, it had very serious consequences.

Closed knowledge stronghold that is the mining sector blocks dissenting views

In the Netherlands, the knowledge development on gas extraction and earthquakes is concentrated within a very small number of parties. From the very start, they work together closely, often commissioned by the government (the ministry of Economic Affairs) or oil companies, and by their participation in various committees and platforms, they determine the

64 Report of the public hearing of Ms Muntendam-Bos, 29 August 2022.

research agenda to a large extent. This is an early forerunner of what is currently praised as the ‘triple helix’, in which the government, business community and science work together to create innovations and new insights. In the case of the gas extraction in Groningen, however, the knowledge partnership shows fundamental flaws.

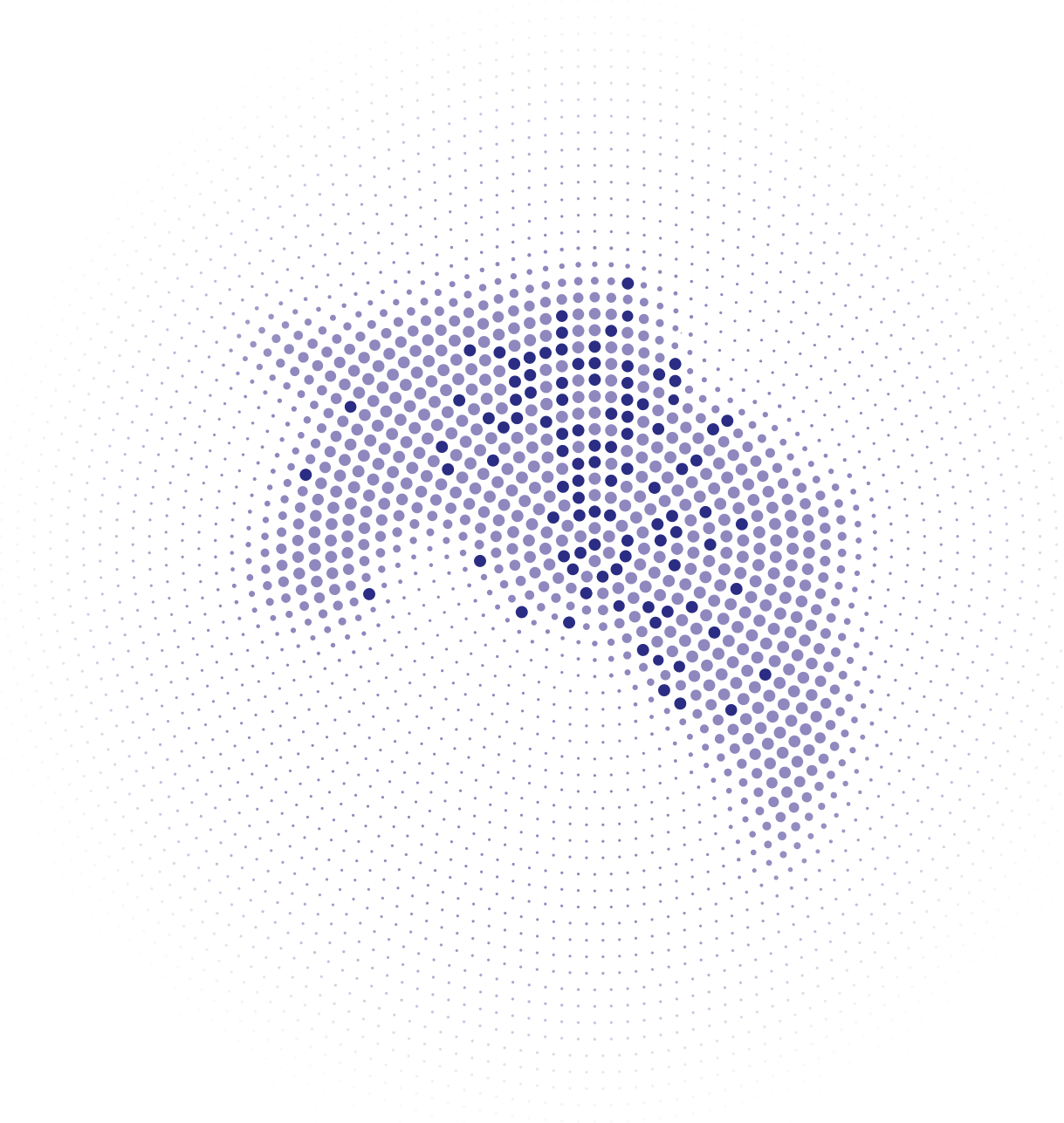
Firstly, in terms of the knowledge development regarding the Groningen field, NAM has had a monopoly for a very long time. This is not strange in view of the statutory research obligation under which the operator, in this case NAM, must itself do research or have research done into the effects of its mining activities. This is laid out in the 1960s in the Mining Regulations 1964, thereafter in the Mining Act 1903 and since 2003 in the Mining Act. NAM does not often ask outsiders for critical verification of the modelled assumptions about the effects of gas extraction for the people of Groningen. The Committee finds it objectionable that for a long time NAM held a knowledge monopoly, and that this was not examined by anyone.

Secondly, another feature of this closed stronghold is that for a long time its members were not open to critical comments from outsiders. It was very difficult for independent researchers to be taken seriously by the established parties. The Committee is of the opinion that this left too little scope for dissenting voices and that this allowed the established research paradigm at the time that gas extraction cannot lead to heavy earthquakes and that earthquakes cause little damage to remain intact.

The Platform of Independent Geologists, established by a number of geologists in 1993 to provide a *‘dissenting voice from the academic world’*, forms an important exception to this. It is an important initiative since it makes geological knowledge available to residents and interest groups as well. In his public hearing on 28 June 2022, geologist Peter van der Gaag indicates how difficult it is to enter this mining sector as an outsider: *“If you are a soloist or a small company with five staff members, you’re either regarded as a know-it-all, or it’s a question of “mind your own business, that’s our work!””*⁶⁵

All in all, the closed stronghold, NAM’s knowledge monopoly and the limited scope for dissenting voices to be heard led to the fact that the established research paradigm remained intact until 2012; that was much too long. For this reason, the focus of the research questions remained on gas extraction for too long, instead of on the effects of gas extraction. The Committee finds that, for far too long, there was a blameworthy lack of ambition to increase the expertise.

65 Report of the public hearing of Mr Van der Gaag, 28 June 2022.



Chapter 4

Breaking the pattern

4.1 Empty promises

This report opened with the picture we painted in Chapter 1 of two different tales of gas extraction in Groningen, one told from the perspective of the decision-makers and one from the perspective of the residents. These stories are very different from the start. What we see are two separate worlds, growing steadily more opposed to each other. It starts in the 1960s: jubilation among politicians in The Hague and oil companies upon the discovery of the Groningen gas field, and a new source of revenue, as opposed to a lack of clarity among the population of Groningen. From here onwards, the two worlds gradually drift apart. Government, companies and policymakers optimise the gas extraction and the expansion of the energy market within the closed *Gasgebouw*. Meanwhile, among the people of Groningen there is growing concern about subsidence and earthquakes. The divide deepens when the earthquakes start increasing in number and in magnitude, and as the people of Groningen are increasingly confronted with damage and insecurity. The red tape, continuing uncertainty and - at times even - desperation, are very hard on the people. A *'life on hold'* causes damage to health, not only for adults but also for children and young people. Deep distrust takes root among the people of Groningen. This is because they themselves are viewed with distrust. And because gas extraction is not discontinued after a warning from the regulator, but increases instead. Because residents sense that NAM is disinclined to tackle claims handling and reinforcement quickly. Because it takes so long before the government intervenes in the damage claims handling and reinforcement process. Because geopolitical developments reopen the discussion on possibly keeping the Groningen field open again. And who will help the people of Groningen once the institutions handling the damage claims and the reinforcement have left Groningen and the Groningen field is closed?

The divide between these two worlds is deep, and for many people in Groningen all trust is lost completely. The trust of the people of Groningen was not lost in one go. It suffered a succession of smaller and larger dents during the course of many years, leaving it steadily more compromised. Time and time again, explicit as well as implicit promises are not honoured. A number of conspicuous examples are sketched below.

Generous compensation

After the heavy earthquake at Huizinge, it is said that the people of Groningen must be generously compensated for the damage they suffer. In 2013 NAM promises to be generous, various motions in the House of Representatives call for generous compensation, and in 2022 the coalition agreement makes mention of a more generous completion of the reinforcement and repair operation. Although this sounds positive, a kind gesture towards the people of Groningen, in reality nobody knows what 'generous' actually means. IMG defines it differently from how residents do. The people of Groningen most certainly do not experience this generosity, because in practice there is hardly any implementation of a generous compensation or reinforcement operation. On the contrary, payment of damage that does not strictly resort under the legal liability of NAM is a constant subject of dispute.

Broken promises about a speedy reinforcement operation

There is a constant call for speedy implementation of the reinforcement operation. Yet, promises are broken time and again. The permits have not been finalised, there is a shortage of interim homes or there is no contractor available to start the work. In practice, this means that promises previously made are not honoured. Consequently, ten years after the earthquake

at Huizinge, there are almost 12,000 addresses regarding which it is still not clear whether they are safe or unsafe. The trust among the people of Groningen, fragile as it is, suffers another knock.

People of Groningen queuing up

On the day the fourth Cabinet led by Prime Minister Rutte takes office, the new Cabinet presents a coalition agreement that calls for a *'more generous handling of the reinforcement and repair operation'*. The very same day, the *Verduurzaming en Verbetering Groningen* (Sustainability and Improvement of Groningen) subsidy scheme is opened. There are 53,000 households in the earthquake area that qualify for this subsidy but the budget covers only about half of this. This discrepancy leads to long queues, both physical and digital, of people from Groningen who realise that if they do not join the queue right away they might be too late. The number of applications indeed vastly exceeds the budget. A few days after the scheme opens, the Cabinet decides to make sufficient funds available to cover all applications after all. These long queues are a shameful spectacle, especially considering that various parties warned in advance that the budget was insufficient and also warned that it will affect the awarding of subsidies. This shameful spectacle is even worse as it fits into a pattern of continually making promises that are not fulfilled and of good intentions that turn out wrong in practice.

4.2 Apologies do not result in change for the better

The empty promises are a disappointment again and again, and create the impression that the people of Groningen are not taken seriously. This impression is reinforced when a NAM CEO, a Shell CEO and the prime minister offer their apologies, but these apologies have hardly any effect in terms of the intended betterment. Although a lot has been tried since then, the people of Groningen have not noticed much of a change yet.

This is exceedingly worrisome for a situation that the Committee typified as 'disastrous' earlier in this report. The Committee supports the call by Susan Top who, as secretary to the *Groninger Gasberaad*, worked to promote the interests of affected Groningen residents for seven years. Towards the end of her public hearing, Top refers to a statement made by minister Wiebes who, during a working visit to Groningen, calls the way the consequences of gas extraction were dealt with *'government failure of un-Dutch proportions'*. She says: *"What did Wiebes call it? Government failure of un-Dutch proportions. I think you must learn from this, otherwise the question might eventually be just how un-Dutch it is."*⁶⁶

4.3 Do now what has not been done

How sombre the image might be that the three examples above portray, it also shows that, especially in recent years, those responsible have tried to improve the situation that has arisen. The Committee finds it important to emphasise this. There were also good intentions and efforts for plans for improvement. Putting changes into practice proves to be tricky though. This is a dilemma. On the one hand there is the great desire to improve matters (and in fact

66 Report of public hearing of Ms Top, 27 June 2022.

Book 1

Conclusions and recommendations

sometimes to realise small improvement steps), and on the other hand there is the extent to which change can be effected by government policies, which keeps proving to be more limited than anticipated.

The difficult thing is that those involved cannot simply start with a clean slate. Every attempt at improvement builds upon the situation that already exists and takes place within the socioeconomic and societal context of that moment. The Committee believes that it is important to break out of the pattern of 'making promises and not honouring them'. To do that though, the requisite decisiveness must be combined with a sense of reality. What is feasible, given that real-life practice is intractable? The Committee is of the opinion that reaching pragmatic solutions that accommodate the people affected is more important than containing costs. The main conclusion the Committee draws in this report is that the interests of the people of Groningen have been systematically ignored. It is time now to put the interests of the people of Groningen first. In the next chapter, the Committee makes recommendations to ensure that priority is given correctly: Groningers before Gas.

Chapter 5

Recommendations

Redeeming a debt of honour

A full list of the recommendations

1. Make claims handling easier, less harsh, and more humane

2. Give residents clarity about reinforcement quickly

3. Offer the region prospects for the future

4. See to it that there is enough money available for handling of claims, reinforcement and future costs

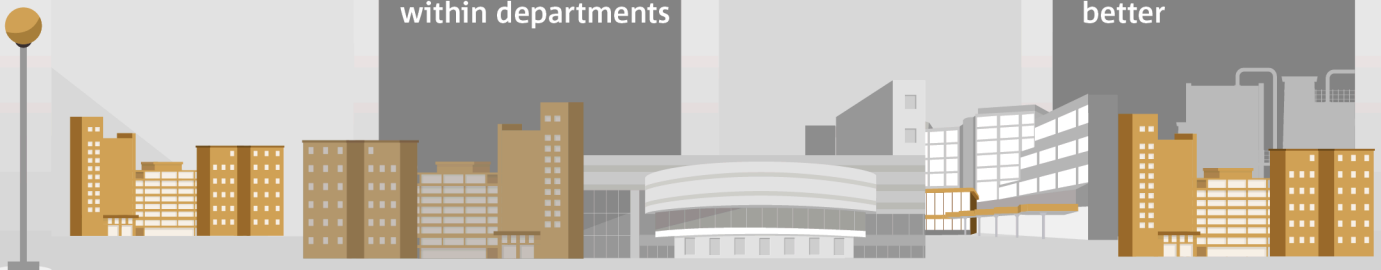


5. Strengthen the role of the regulator

6. Increase the importance of the public interest within departments

7. Strengthen the role of the House of Representatives

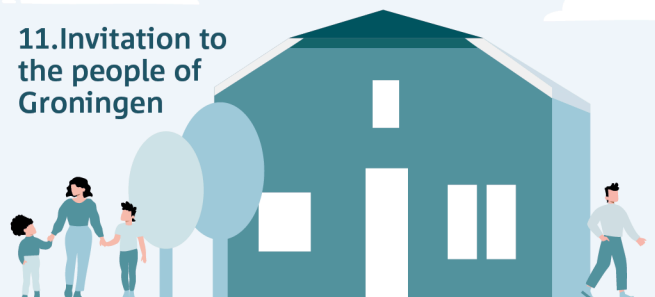
8. Structure future public-private partnerships better



9. Strengthen the knowledge development of the subsurface

10. Commit to spatial organisation of the subsurface

11. Invitation to the people of Groningen



Action points for parties involved

● Central government/
State

● Province and
Municipalities

- 1
 - Expand the legal mandate of IMG to allow more accommodating handling of damage claims
 - Give affected parties more time to lodge objections
 - Be more accommodating regarding evidentiary presumption
 - Prioritise the resolution of multiple damage claims
 - Develop a standard for repeated damage
 - Investigate options to improve the handling of damage claims with large numbers of affected parties that get the central government involved
 - Tackle complex damage claims
 - Provide assistance to affected parties
- 2
 - Organise the reinforcement project from the bottom up
 - Do not implement any more major structural changes now
 - Prioritise reinforcement above other local by-laws
 - Give residents a choice as to the building standard that applies to their home
- 3
 - Provide prolonged financial support to earthquake areas
 - Leave Groningen in a neat state once gas extraction in Groningen stops
- 4
 - Make provisions together for all future costs and be transparent in this regard
 - Waive any claim to non-extracted gas
 - Reduce the implementation costs and end the discussion about invoices
- 5
 - Use the findings from this investigation in parliamentary debate about regulators
 - Introduce a collegiate board for regulators
 - Give the regulator greater powers of escalation
- 6
 - Add reference to the public interest to the oath of office of civil servants
 - Incorporate further stimuli for dissenting thought within ministries
 - Become more attuned to sounds from the outside world
- 7
 - Properly discharge the duty to inform the House of Representatives
 - Improve the bridging function between decision-makers in The Hague and the residents of the country
 - Commission an annual 'State of claims handling and reinforcement in Groningen'
 - Give the House of Representatives better insight into the considerations in decision-making on major public interests
 - Provide clarity as to the Parliamentary Inquiries Act 2008 and the Rules of Procedure
- 8
 - Make agreements regarding the exit strategy in advance
 - Make explicit which public interests are at stake in the public-private partnership
 - Give the people living in the direct vicinity a place in the public-private partnership
- 9
 - Ensure that there is sufficient knowledge of the subsurface within your own organisations
 - Study subsurface and surface and the relation between them
- 10
 - Develop a safety and risk strategy for underground activities of national interest
 - Involve people living in the direct vicinity in the construction of large-scale underground facilities in advance
- 11
 - Responsible parties, enter into dialogue with the residents of Groningen regarding how this debt of honour is to be redeemed

6 Cabinet (including minister of Economic Affairs and Climate Policy)

4 House of Representatives

5 Oil companies

2 Knowledge parties

6 Other parties (SSM, IMG, CBS)

6

4

5

2

6

5.1 Debt of honour

In the recent past, countless individuals and organisations have invested thought in how the situation in Groningen might be improved. All of the studies about and analyses of the gas extraction in Groningen and how its effects were dealt with contain recommendations for improvement. In 2015, for example, there was an important study by the Dutch Safety Board, which was followed by a second one in 2017, containing recommendations for ensuring that safety is given sufficient attention in the decision-making regarding gas extraction from the Groningen field. Also in 2017, both the National Ombudsman and the Child Ombudsman published reports in which they made recommendations for learning from the reinforcement operation in Groningen. The past two years have seen the publication of various evaluation and advisory reports: a broad evaluation of remote government organisations (2021), followed by an advice from the Inspection Council on the independence of central government inspections (2022) and an evaluation report on the Temporary Groningen Act (*Tijdelijke wet Groningen*, 2022) containing recommendations about the independent handling of damages. In the same period, the report of the temporary committee Executive Organisations *Stuck between service and policy (Uitvoeringsorganisaties Klem tussen balie en beleid)* (2021), a committee of the House of Representatives, was published, containing useful tips for improving the execution of policy. And at the initiative of the Groninger Gasberaad and the Groninger Bodem Beweging, the *Sociaal Handvest (Social Charter)* (2022) was published that set out basic principles for policy regarding the gas extraction problem in Groningen. What can a report by the Parliamentary Committee of Inquiry into Natural Gas Extraction in Groningen add to this pool of wisdom?

Fix it!

Although the reports and evaluations mentioned above each have their own focus, what they have in common are that the recommendations they make all boil down to the essence of the matter, which is: 'Fix it for once and for all!' This turns out to be more easily said than done though. Part of the findings of the Committee is that each change in the system, each change of the rules and each new solution that is put forward also contributes to the different treatment of the persons affected and therefore also to the inequality between them. The unequal treatment leads to envy, because certain affected parties seem to be better off than others. Each change, moreover, contributes in making the system more complicated. Each new measure aimed at fixing a perceived fault, contributes to the further complication of the maze of rules that affected parties have to navigate through. How to escape this situation?

Moral perspective: a debt of honour

The Committee notes that for a long time one element was missing from the debate on the many reports and recommendations: the moral perspective. The Committee finds that the Netherlands owes Groningen a debt of honour, and that it must redeem it. The term 'debt of honour' has been used more often in connection with the gas extraction in Groningen, and the House of Representatives recently unanimously referenced to this debt of honour to Groningen.⁶⁷ The Netherlands has benefited from the revenues from natural gas for the last few decades. The natural gas revenues were an important cornerstone of our national prosperity. But Groningen is left with the consequences: the damages, the effects for the Groningen

⁶⁷ Parliamentary document II 2022/23, 36200-XIII, no. 93.

landscape, the pain experienced by the people of Groningen. In the Committee's opinion, there is a price tag to how the people of Groningen have been forgotten. In the first place, the State and the oil companies together need to make the first move in redeeming this debt of honour that the Netherlands owes Groningen. This is not about liability, but about a moral obligation to address the damage and pain caused to Groningen and the people of Groningen, and - inevitably - to make extra means available for this. This is not limited to money, but also concerns manpower, attention and the position of the region relative to other regions in the Netherlands.

5.2 Redeeming a debt of honour

Establishing that the Netherlands owes Groningen a debt of honour raises the question of how this debt can be redeemed. According to the Committee, this lies in accommodating Groningen and the people of Groningen, in more than one respect. Above all, there is the moral obligation of the Cabinet to honour the promise to close the Groningen field in 2023 or at the latest 2024. Furthermore, the parties involved should not only meet their legal obligations to affected people in terms of damage repair and reinforcement, but especially their moral obligation. And besides this, the region must be given prospects for the future. There are many aspects to meeting a debt of honour. These include acknowledging the distress experienced by the people of Groningen, paying more political and social attention to their problems, deploying extra people power for claims handling and reinforcement and the means to fund this deployment and raising awareness beyond Groningen of the distress experienced by the people of Groningen. Another aspect involves – as formulated in the 2022 *Social Charter* – making Groningen liveable again and giving the region a sustainable economic perspective. After all, the negative effects of the gas extraction extend to more than individual loss or damage. An entire region and future generations are affected. Long-term prospects of this kind require strengthening of the living and working climate in the region, to make the region more attractive to both businesses and individuals as a place to settle. Add to this the need to address rehabilitation and development of the character of the area and the preservation of cultural heritage.

The Committee has set out the redemption of this debt of honour in a number of recommendations which it explains according to themes in this chapter. These recommendations pertain, in the first instance, to easing and simplifying the damage claims handling, improving the implementation of reinforcement and organising financial solutions for this. Additionally, the recommendations focus on improvement for the region. Furthermore, the recommendations concern the strengthening of the controlling role of the regulator and the House of Representatives; more attention to the public interest at ministries, and better organisation of public-private partnerships. Finally, the Committee presents recommendations about knowledge development and more government control on the spatial development of the subsurface.

Recommendation 1: Make claims handling easier, less harsh, and more humane

Although it has taken long enough, considerable progress has been made in terms of damage claims handling in Groningen. Since 2019, Instituut Mijnbouwschade Groningen (IMG) has handled 170,000 damage claims (status at January 2023)⁶⁸, bringing the total number of damage claims handled to above 230,000.⁶⁹ Yet the Committee has seen that the claims handling process is still not functioning as it should. Simple cases of damage are handled more smoothly than before, but it is exactly the progress of the settlement of the more complex damage claims that is lagging behind. Moreover, there are new reports of damage after each new earthquake. Subsidence caused by gas extraction also still causes damage. As the residents have been dealing with the negative sides of the claims handling for so long now, it is the Committee's opinion that the problems regarding claims handling must be given the highest priority. The Committee makes the following recommendations for improvement:

Cabinet, expand the legal mandate of the IMG to allow more accommodating handling of damage claims

It is IMG's statutory duty to apply the provisions of the Dutch Civil Code in the handling of claims. IMG may only pay damages if it has been proved that NAM is legally liable for the damage. The liability clause and the binding force of the Dutch Civil Code result in strict application of the law and limit smooth, accommodating handling of all damage claims. As a nondepartmental public body (*zelfstandig bestuursorgaan, zbo*), IMG cannot simply choose to execute a duty outside its legal remit. In order to enable IMG to work in a more accommodating manner, the Committee calls for a broadening of the framework within which IMG operates. Currently, IMG may only pay out damages that can be recovered from NAM. As NAM is only prepared to compensate damage for which it is legally liable, IMG is bound by this liability. Broadened authority and an own budget to go with it will allow IMG to handle more damage claims smoothly and more generously. The authority could be broadened, for example, by extending the legal mandate or by enabling supplementary policy to be made in addition to the law. In this way, IMG will no longer be compelled to apply the law strictly, to the detriment of affected parties. The Committee calls on the Cabinet to make extra means available to IMG pending a future broadening of the legal framework, to allow IMG to handle damage claims more smoothly by adjusting its policy.

The broadening of the legal statutory framework might then also involve employees of IMG being afforded a broader mandate. This would allow them to take decisions independently, where applicable, and so allow complex and distressing damage claims to be resolved outside the applicable frameworks. The Committee supports the investigation of State Secretary Vijlbrief into options for expanding the powers of IMG.

68 IMG. Online dashboard, consulted on 25 January 2023.

69 See Chapter VIII in Book 5.

IMG, allow affected parties more time to lodge objections

Recent research has shown that relatively many appeal cases arise from the period for raising objections being exceeded.⁷⁰ It is the Committee's opinion that these types of formalities should not be allowed to hinder claims handling. The Committee therefore calls on IMG to be less strict when terms are exceeded, as there often are good explanations for a deadline being exceeded. Besides which: IMG does not always manage to meet all the set decision terms for all claims itself. The Committee shares the opinion of many of the people of Groningen that it is not right to apply the terms very strictly for the affected parties themselves.

IMG, be more accommodating regarding evidentiary presumption

The Committee also finds IMG unnecessarily strict when handling two specific types of cases. The first involves the use of what is known as the 'vibration tool' (*trillingtool*) with which after an earthquake IMG determines how high the vibration speed at an address was. If the tool does not reach a predetermined threshold value, the likelihood of such a vibration causing damage is so small that IMG does not apply the evidentiary presumption. At that point, an affected party must prove that the quake caused the damage. This approach by IMG is contrary to the spirit of the Temporary Groningen Act. As the Committee sees it, this approach is an unnecessary limitation of the rights of affected parties. The Committee calls on IMG not to use the vibration tool like this any longer.

The second case is that for each claim, IMG investigates whether the evidentiary presumption can be rebutted instead of applying the evidentiary presumption as standard. According to the Committee, IMG has made far too little use of the option to award compensation without further investigation into other possible causes. If IMG were to apply this option more often, it would indeed be able to sometimes compensate claims more generously.

In conclusion, the Committee advises that subsidies for legal, constructional and financial assistance be made available even before this has been legally arranged. Recent research has shown that affected parties who receive legal, structural and financial assistance are significantly better off than affected parties who do not receive assistance, or only receive one form of assistance.⁷¹ In view of this, and considering the gravity of the problems affected parties face in respect of damage claim handling and reinforcement, the Committee asks the Cabinet to consider subsidising legal, structural and financial assistance in anticipation of the coming into effect of the amendments to the Temporary Groningen Act with regard to the reinforcement of building in the province of Groningen.

IMG, prioritise the resolution of multiple damage claims

There are thousands of affected parties who have multiple claims. In almost all of the cases this concerns situations where the damage from a previous claim has not yet been resolved while a second earthquake has caused new damage in the meantime. It is especially affected

70 In a recent judgment, the Administrative Jurisdiction Division was accommodating when a term was exceeded (Council of State (*RvS*) 11 January 2023, ECLI:NL:RVS:2023:84).

71 Bröring et al. (October 2022).

parties with multiple claims who suffer from stress and have health problems. For this reason, the Committee finds that the resolution of multiple damage claims must be accelerated. This will bring a lot of good: for individual residents and business people, and therefore also for the community of Groningen. The Committee finds that the resolution of multiple damage claims must be prioritised. In doing so, IMG could be more accommodating, as advocated above, to spare these affected parties the burden of lengthy administrative procedures.

Government, develop a standard for repeated damage

Besides this, the Committee finds it important that a standard for the acceptability of repeated damage be developed. There is no such standard at the moment. For how long and how often may a company or organisation actually keep causing damage? Damage suffered by an individual is settled via the legal liability of NAM, irrespective of whether it is the first time that damage of this kind occurs, or the umpteenth. This applies not only to mining in Groningen, but also to other industrial activities in the Netherlands. Repeated damage might result in extra damage, as is clear from the situation in Groningen. A subsequent earthquake can lead to extra damage if a home has suffered previous damage that has affected its structure. Moreover, research shows that health problems occur particularly in the case of repeated damage, due to the stress caused by such repetitions. The Committee therefore deems it right to establish a separate standard for repeated damage. While there is no such standard yet, IMG might apply an increase to the compensation if affected parties have repeated damage after a subsequent earthquake. Moreover, the Committee advises IMG to prioritise the handling of claims by affected parties who have previous instances of damage.

Cabinet, investigate options to improve the handling of damage claims with large numbers of affected parties that gets central government involved

In Groningen enormous numbers of affected parties experience damage as a result of the gas extraction. Affected parties had to litigate for long – and often without the benefit of legal expenses insurance – against the liable party, NAM. In this dossier, the government has ultimately assumed the execution of the claims handling as well as the reinforcement operation.

The Committee deems it wise for the Cabinet to explore how affected parties can be better helped if similar situations present themselves again. This might, for example, involve developing an assessment framework for central government for situations where they get involved in the handling of damage claims at this scale.

IMG and the Special Situations Committee, tackle the complex damage claims

Besides multiple damage claims, there are also hundreds of complex damage claims. These complex damage claims often concern farmers or people who have their own, small business. These businesspeople often not only face damage to their business premises, but also have extra expenses due to the damage. Examples of this are business premises at risk of collapse, which means loss of income for a businessperson. Or a farmer with a crack in a manure pit, as a result of which water ends up in the manure. He or she must then dispose of the manure, which entails huge expense. This makes the claims handling difficult. Moreover, complex claims

are generally those set against the background of other major issues. These might involve divorce, business succession, or a change of zoning plan. In cases like these, the resolution of the damage claim is hampered by simultaneous developments at the company or in the private domain, or by municipal policy changes.

Besides extra costs, complex damage claims also entail an extra burden for the affected parties. Often the affected party has not only to deal with NCG and/or IMG, but also with a bank that will not grant a mortgage or a municipality that will not grant a permit. In the case of complex damage claims, often the affected party has already spent a lot of money on legal assistance.

The Committee is of the opinion that these complex damage claims must be resolved. To this end, sufficient capacity and means must be made available to the parties currently looking for resolutions for these kinds of complex cases, such as the Special Situations Committee (*Commissie Bijzondere Situaties* (CBS) and the *Interventieteam Vastgelopen Situaties* (IVS), so that they can keep doing their work. In cases where an amended zoning plan hampers a resolution, a municipality should reconsider this amendment.

In this regard, the Committee does realise that it will not be possible to compensate all affected parties in a manner that will satisfy them. Some of the affected parties have been caught in such misery for so long that a generous financial compensation will not erase the psychological distress, or will not bring sufficient relief from the dead-end situation. Nonetheless, this does not release the parties involved from their duty to strive for solutions that all concerned find satisfactory.

Government, provide assistance to affected parties

For some of the affected parties, the fact is that the psychological damage is of such a nature as to necessitate counselling. This applies not only to adults, but to children as well. Affected parties are sometimes caught in misery for years, with the damage suffered as a result of the earthquakes determining their lives to a large extent. This also impacts children and young people, some of whom grow up in a family situation in which there is insufficient attention for them. Another group among the affected parties have lost a lot of their 'get up and go': the ability to make a plan, to get into action, to keep going and to deal with adversity.⁷²

The Committee finds that authorities must provide assistance for these affected persons. A sound programme of social care that is easily available, for example, at schools and in community centres, can help affected parties get going again. A programme of this kind must offer not only psychological assistance, but also offer broader healthcare or legal assistance, and not only to individuals, but guidance to groups of people in a community or neighbourhood as well.

72 WRR (2017).

Recommendation 2: Give residents clarity about reinforcement quickly

In the previous chapter, the Committee concluded that there was a wavering approach to reinforcement, which was forever swinging from a property-led approach to an area-led approach and back. These continuous switches of approach have caused unrest and distrust among residents and have had a disastrous effect on the progress of reinforcement. The reinforcement operation is expected to last for a number of years yet. For the remaining years, the Committee's advice is to opt for a broader approach which includes the following elements:

Government, organise the reinforcement project from the bottom up

The past few years have shown that speeding up the reinforcement operation is difficult. Irrespective of whether the operation is approached from an area or risk perspective, the fact remains that every house has to be assessed individually. That takes time. The Committee therefore finds it inappropriate to make rash promises to residents. It is better to sketch realistic ambitions, while still making the very best efforts. The urgency for the smoothest possible completion of the reinforcement operation remains great.

The Committee finds it important that the wavering nature of the reinforcement operation is brought to an end. For the remaining years of the reinforcement project, a clear choice needs to be made. Given that it has been established that neither approach is necessarily faster, but that an area-led approach offers other advantages, the Committee explicitly advocates an area-led approach. An area-led approach offers the possibility of incorporating neighbourhood- or town-level issues in the reinforcement operation. Moreover, this approach will result in greater equality between residents in the treatment of their homes, municipalities will be better able to keep track of the effects of the altered appearance of the neighbourhood in question, an area-led approach will benefit the cohesion in a village, and will allow homes that are due for reinforcement to be made more sustainable at the same time.

In this regard it is important to note that reinforcement is not only an individual issue, but expressly a community issue too. Reinforcement must revolve around the question of what a neighbourhood or town needs; it must look beyond what single homes need. For this reason, the Committee finds an area-led approach preferable. This choice does however mean that it will not always be possible to accommodate individual wishes. This simply is reality: when tackling a row of houses the wishes of all of the residents will not all be honoured if these are contradictory. However, involving the residents at an early stage and taking stock of their wishes for their homes and direct living environment, and organising joint consultations with and between residents of a neighbourhood to arrive at a well-supported plan for the street or district will contribute to the realisation of as many of the individual wishes as possible.

According to the Committee, an area-led approach is not at odds with safety. These two things are not opposites, but are extensions of one another: an area-driven approach also ensures safety. Prioritising within the area-driven approach (tackling those neighbourhoods with the most unsafe houses and the houses that are unsafest first) will allow this approach to be

implemented without jeopardising safety. Acute reports of unsafety (after an earthquake, for example) are always separate projects, anyhow.

By calling for an area-led approach, the Committee does not wish to give the impression that this will solve all future problems in one go. The public hearings and interviews that were held during the parliamentary inquiry, have made it clear to the Committee that the manipulability and scalability of the reinforcement operation are limited. A recent opinion from Bernard Wientjes regarding the town approach (2022) also identifies a number of points for improvement. What is important is that the government allows time and space for the chosen direction of the town approach to prove itself.

Government, do not implement any more major structural changes now

The reinforcement approach and the handling of damage claims are two separate processes. For residents, this does not make sense. They see damage repair and reinforcement as one and the same thing: *'Something is wrong with the house and it must be fixed.'* The possibility of bundling these processes is therefore being mooted in public debate. While this is substantively understandable, the Committee does not consider this a good solution at this stage. After all, the Committee has seen that every past attempt at improvement, involving new organisations or reorganisations, in turn caused yet other, and new, problems. Almost always, this resulted in delays. A delay of this kind is undesirable. An umpteenth delay will not help residents of the extraction area. For this reason, the Committee does not advocate a large-scale system change in the approach. In hindsight, the Committee does not consider it sensible to have drawn the two processes apart. But integrating the projects that have grown historically at this stage would cause unwanted delays of both of the operations and only put the residents further back in time. This does not affect the need for closer collaboration between IMG and NCG, however. In the Committee's view, this is necessary. In the Committee's opinion, implementing a concrete and customer-oriented one-service desk approach, so that affected parties do not need to wonder where the best place would be to start a combined damage claim and reinforcement procedure, would greatly contribute to reducing the litigation burden for residents.

Municipalities and province, prioritise reinforcement above other local by-laws

Municipalities can help the reinforcement operation by removing obstacles that might hinder a smooth reinforcement operation. According to the Committee, the implementation of area- or town-led reinforcement should be given priority above local by-laws and spatial plans. Allow safety to take first place and give residents scope to arrange temporary living space on their property and allow temporary semi-permanent occupancy of holiday homes.

Government, give residents a choice as to the building standard that applies to their home

The Committee has seen that in the past changes to the building standards have had major consequences for the reinforcement of homes. Sometimes this resulted in homes initially qualifying for reinforcement and then, after a change of standard, no longer qualifying. The Committee wants this uncertainty removed for the residents. Every change in the standards causes new uncertainty and a lack of clarity for residents, and the Committee finds this

undesirable. For this reason, the Commission's advice is that in the future residents may choose which standard they would like their house to be assessed against, the old or the new. Sometimes this is not possible, for example when residents live together in a terrace or in an apartment building. In these cases, it is the responsibility of the NCG to sit down with the residents at an early stage and to discuss the options openly and arrive at a decision that has broad support, even if that costs extra money.

Recommendation 3: Offer the region prospects for the future

In addition to the moral debt to residents, the Committee finds that the Netherlands also needs to redeem a moral debt to the region as a whole. After all, the negative effects of the gas extraction extend to more than damage to buildings, and affect an entire region. Long-term prospects of this kind require strengthening of the living and working climate in the North to make the region more attractive to both businesses and individuals as a place to settle. Repair and development of the regional character and preservation of its cultural heritage are also necessary. The region needs to be given better prospects for the future. The fact that the earthquake area of Groningen has been designated a 'NOVI' area can create opportunities in this regard.⁷³ In respect of these areas from the National Strategy on Spatial Planning and the Environment (*Nationale Omgevingsvisie*, NOVI) the region and central government join forces in tackling projects together. Examples in this case would be the extensive reinforcement project in the earthquake area, sustainability, dealing with population shrinkage and the energy transition. The drastic reinforcement operation also involves the rapid reinforcement and conversion of cultural heritage. The Committee advocates two additional points:

Government, provide prolonged financial support to earthquake areas

Offering Groningen prospects for the future will require more money than just what is needed for the damage repair and reinforcement measures. This is a fact. Money is also needed to tackle other tasks simultaneously when homes and buildings in an area are being repaired and reinforced. Examples are insulating buildings, making public spaces more climate adaptive, or installing solar panels atop public buildings. Additionally, one could consider money for public amenities that strengthen the attractiveness of an area, such as a swimming pool, library or community centre to serve as a meeting place for residents.

⁷³ Parliamentary document II 2021/22, 34682, no. 92. Since then the name for the NOVI areas is NOVEX area. NOVEX stands for National Strategy of Spatial Planning and the Environment Extra (*Nationale Omgevingsvisie Extra*).

A number of times in the past, the region has made ad hoc administrative agreements with central government that included one-off budgets for, among other things, the compensation of residents and providing future prospects. However, these were always components of a total package, with the administrators agreeing what they wanted to spend the resources from the agreement on and the funding only lasting a few years. Up to now, the area fund from the 2020 Administrative Agreement provides means for this, but this fund is finite.

The Committee's advice is instead to choose structural financing involving greater involvement of locally elected peoples' representatives. Examples of this might be a surcharge on the Provincial and Municipal Fund, to be divided over the earthquake area and fixed for the long term. This is a way of safeguarding resources for the long-term regional investment in the area. More importantly: these resources are spent via the regular democratic processes. Municipal councils and the Provincial Council may participate in decision-making regarding what these funds are spent on. What is important, is that these are structural additional resources for the province of Groningen and for earthquake municipalities, over and above the usual division of Provincial and Municipal Funds.

Parties to the *Gasgebouw*, leave Groningen in a neat state once gas extraction in Groningen stops

"We have the best of intentions. Of that I am convinced. We want to do good, we want to do the right thing, we want to honour our liability, we want to be generous, we want to help Groningen," Johan Atema, current managing director of NAM said in his public hearing.⁷⁴ As to how he wished to leave the Groningen gas sites that needed to be closed behind, Atema said, among other things: *"We will do that in consultation with the surrounding area [...]. But where we identify an opportunity to redevelop a site together and the surrounding area into something new that can be of use or benefit to them, we will do that. We will invest in that. [...] This is the generosity on the flip side that I hope we will have opportunities to show."*⁷⁵ The Committee applauds these intentions, and calls on the authorities and the regulator to hold NAM to this. The Committee urges the shareholders to keep giving NAM the means to do so.

Additionally, the Committee emphasises the importance of NAM remaining accessible to residents of Groningen as long as this is necessary. This is not only about leaving the province in a clean state, but also about establishing a point of contact for future questions and problems arising from the gas extraction. Even once gas extraction is discontinued, it will remain important that there is a party of this kind and that it remains there.

74 Report of the public hearing of Mr Atema, 12 October 2022.

75 Report of the public hearing of Mr Atema, 12 October 2022.

Recommendation 4: See to it that there is enough money for all future costs

In this investigation, the Committee observes that financial considerations have often dominated the decision-making and the handling of damage claims and reinforcement. Even though by now these are less dominant, they understandably still play a role in the decision-making. However, as long as NAM and the State keep bickering about how the account is settled, in practice this will continue to be a hindrance to the affected parties.

The Committee therefore considers it important that efforts be made to arrive at solutions rapidly for these financial aspects. The State as well as Shell and ExxonMobil recently resumed talks to make agreements regarding the financial settlement of the gas extraction. The Committee concluded earlier that the State as well as the oil companies have a debt of honour to Groningen, and both parties must redeem this debt. This means that the parties responsible - State, Shell and ExxonMobil - will have to pay more than what they have been counting on until now. It is not only about the legal liability and the technical safety. The commitment must be towards removing uncertainty and stress-related health risks for the people of Groningen and giving them prospects for the future again. Redeeming a debt of honour involves more than the mere settlement of a legal dispute.

The affected parties must experience no more hindrance from the tug of war between the State and the oil companies regarding the costs of the handling of damage claims and the costs of reinforcement. All parties must shoulder their responsibility in this respect. The Committee fleshes this out below:

State and oil companies, make provisions together for all future costs and be transparent in this regard

Ten years after the earthquake at Huizinge, the extent of the reinforcement operation is finally becoming apparent. By now, too, ample experience has been gained in the handling of damage claims. There is an estimate of the costs currently envisaged for the period 2022 to 2028. The envisaged account amounts to almost 8 billion euro, and there may still be costs after 2028 as well. NAM and EBN have made provision for up to 5 billion euro. To a large extent, their shareholders (Shell and ExxonMobil, and the State, respectively) will have to provide financing of the future costs of damage claims handling and reinforcement, since there is hardly any revenue from the Groningen field anymore. An interesting circumstance is, however, that EBN and NAM - and the shareholders of NAM most certainly - are experiencing a major unexpected windfall in the form of the increased gas prices.

It is the Committee's opinion that in the years ahead there can be no buying out of liabilities and future costs by any of the parties. Great uncertainty still surrounds the currently estimated earthquake costs, more particularly regarding how long quakes will still occur in Groningen, and the magnitude of these quakes. Additionally, there is too much uncertainty regarding how many reinforcements will still be required to be able to arrive at a realistic buy-out amount that will also cover the long term. What is more important, in the Committee's opinion, is ensuring that the various parties make sufficient provision to allow them to guarantee that the costs

will be covered in the long term as well. This not only concerns costs of damage claims and reinforcement, but also the costs of, for example, subsidence and the final closure and clean-up of the extraction sites.

At the moment, residents of Groningen are concerned about the question of whether once gas extraction has been discontinued the parties will still be approachable for damage that has occurred or may yet occur. For this reason the Committee considers it important that henceforth the State and the oil companies jointly give an updated and transparent overview of all the costs that can still be expected and the means reserved for this. The joint reserves must demonstrably be sufficient to cover all the envisaged costs. The Committee calls for money to be made available to cover future costs of, among others, further damage, reinforcement and the clean-up of gas wells. The Committee additionally appeals to the other parties from the *Gasgebouw*. Like the government, they must, in the Committee's opinion, set aside funds to be used for investments in the province and for building future prospects. In the Committee's opinion, actively giving the province something in return and paying back some of the gas revenues forms part of redeeming a debt of honour.

Oil companies, waive any claim to non-extracted gas

In 2018, the Minister of Economic Affairs announced that gas extraction would be discontinued in 2030. This date was later brought forward to 2023. The State Secretary of Mining Vijlbrief recently confirmed that he wished to discontinue gas extraction in 2023 or 2024.⁷⁶ Practically, this means that the extraction of gas from the Groningen field will cease while there is still extractable gas underground. In 2018, the State reached an agreement with the oil companies according to which Shell and ExxonMobil waive a claim on the value the remaining gas represents, because safety considerations preclude further extraction. Yet the oil companies are now requesting to be compensated for loss of income due to the expedited scaling down of gas extraction. The Committee deems this claim to be unjustified. A legal argument for regarding this claim as unjustified is the fact that any right to extraction has lapsed as a consequence of the oil companies (themselves) requesting the State to assume responsibility via a duty of extraction for NAM. An even more fundamental argument, in the Committee's opinion, is the fact that the safety of the residents of Groningen necessitates accelerated scaling down. Both partners, the State and the oil companies, should see the consequences of this decision as a joint contribution to the safety of the residents of Groningen and not as grounds for contesting each other's rights in court.

In the Committee's view, the fact that extraction can no longer be done safely is the crux of the matter, and it trumps all other arguments. Therefore, it is the Committee's view that the oil companies must waive any claim to compensation for gas not extracted.

76 Parliamentary document II 2022/23, 33529, no. 1115.

Parties to the *Gasgebouw*, reduce the implementation costs and end the discussion about invoices

The Committee found the bickering about invoices for damage claims and reinforcement very strange indeed. The wish not to pay more than is strictly necessary from the point of view of liability necessitates rounds of inspection and assessment by experts to determine what will be compensated. In part, this has resulted in disproportional implementation costs. For every euro paid out to compensate damage in 2020, 56 cents' worth of implementation costs was incurred. The Netherlands Court of Audit has calculated that by 2021, this has increased to 74 cent for every euro paid out.⁷⁷ The costs for deployment of experts comprise a large part of the implementation costs: IMG incurs great expense to deploy claims experts to assess the damage to buildings. The State must use the claims experts to establish for each house whether the damage was actually caused by earthquakes resulting from the extraction of gas. Only then can the State recover the costs of repair from NAM, as described by the Netherlands Court of Audit in its accountability audit.

The Committee is positive about the new schemes that have now been introduced to reduce the implementation costs: the fixed compensation for damage repair⁷⁸ and the typology approach for reinforcement. These measures may be expected to have an effect on the implementation costs from 2022 onwards – a next accountability audit of the Netherlands Court of Audit may evidence this. The Committee appreciates not only the better balance between implementation costs and compensation for damage that will have been achieved, but also the concomitant reduction of red tape that residents have to cope with. After all, the reason for the high implementation costs is the extensive inspections required at address level to make an assessment and calculation, which leads to tome-like reports. Frequently, residents experience this process as tricky and cumbersome. In this way, lowering implementation costs through a certain level of standardisation will help minimise the red tape. Fixed compensation for damage repair will obviate the need for damage assessment in a house. The typology approach will still involve inspection of the house, but the assessment and calculation that follows will be limited if the house falls into one of the fixed home type categories. The Committee encourages a further reduction of the implementation costs.

Besides this, considerable savings can be made by not organising the settlement and accounting of implementation costs in detail at 'micro level' via invoices, but to make agreements regarding settlement at 'macro level'. This can be done, for example, by setting up a joint fund that parties deposit into or make payments from pro rata. This could reduce the costs currently incurred by accounting via invoices, and would moreover speed up handling times.

77 Netherlands Court of Audit (2022).

78 In addition to a fixed compensation of €5,000 for smaller damage claims, on 21 January 2023 IMG announced extending the fixed compensation to compensation of up to €10,000 for larger damage claims.

Recommendation 5: Strengthen the role of the regulator

The question as to the role of the regulator is an important one in almost every parliamentary inquiry. This is true for this inquiry too, in which the regulator played a crucial role in enforcing safety for the people of Groningen. The Committee notes that the regulator was not always able to make enough of a difference in this case. On the one hand, this is because for a long time the regulator did not have enough properly qualified staff; did not have certain powers or guarantees of the independence of the position within the ministry. On the other hand, the regulator did not have powers for intervening in a system that was so big and so important to the energy supply in the Netherlands.

House of Representatives, use the findings from this investigation in parliamentary debate about regulators

The issue of regulators is one that is under ongoing consideration. What is the best way for a regulator to position him/herself? What powers are needed and what guarantees need to be given to guarantee the independence of the regulator? The Committee advises the House of Representatives to use the findings from this investigation in the current political debate regarding regulators.

It is the Committee's view that this investigation into the Groningen dossier shows how useful it can be for an inspectorate to draw up its own working programme, independently disseminate its opinions and, if asked to do so, can address the House of Representatives without being dependent on the Minister or the departmental management. Moreover, it is important that budget and staff considerations within an inspectorate are fully transparent, to the House as well. These examples of guarantees of independent supervision are also found in the recommendations made by the Inspection Council for the new State Inspectorate Act (*Wet op de rijksinspecties*).⁷⁹ The Committee's advice is that these recommendations be incorporated in the new State Inspectorate Act.

Central government, introduce a collegiate board for regulators

Besides this, the Committee advises that the possibility of state inspectorates opting for a collegiate board be incorporated in the Act. This means that there would not be a single inspector general but a board, as is already the case for certain regulatory authorities (such as the Netherlands Authority for Consumers and Markets) and the Dutch Authority for the Financial Markets. Often, a board of this kind consists of three persons. The Committee recognises the advantages of a board of this kind, because the course that a collegiate board adopts does not depend on a single person and a board is less susceptible to possible external influences than a single person might be. Besides this, this kind of board offers an alternative to the management model in which an inspector general's performance is assessed by the secretary general.

79 Inspection Council (September 2022).

Book 1

Conclusions and recommendations

In the specific case of the State Supervision of Mines, the Committee advises that the inspector general of Mines be supported by two other board members in a collegiate board and, additionally, a Supervisory Board be set up. This would mean that the inspector general is no longer dependent on the secretary general of Economic Affairs and Climate Policy for his assessments, and it would also strengthen the autonomy of the State Supervision of Mines to supervise a number of underground activities, part of which are new ones.

Government, give the regulator greater powers of escalation

The question of how regulators can effectively supervise systems that are ‘too big to fail’ merits specific attention. This question played an important role in Groningen since, in contrast to smaller gas fields, the Groningen field could not simply be closed. The mandate that the regulator received from the Ministry of Economic Affairs included the possibility of closing gas fields in the event of compelling safety issues. However, the Groningen field was excluded from this mandate, as this gas field was too important to Dutch energy provision for it to be allowed to be closed. Thus the State Supervision of Mines had no effective means of intervention.

Other regulators also sometimes have to deal with players or interests that are so big that no effective measures are possible in practice. Examples of these are Schiphol and the Dutch Railways. The Committee advocates giving regulators greater powers of escalation in such cases. The measures suggested below therefore do not apply to regular situations, but specifically apply to matters that are so crucial to society that they cannot just be closed down. To start off with, the Committee notes that it is ill-advised, whichever system it concerns, to make society so dependent on one supplier or service that it cannot be closed down. Therefore the Committee deems exceptions to the power of intervening in a system to be undesirable.

There are various possibilities for expanding the power of escalation. The Committee considers it important that inspectorates are given the power to bring a material point of concern to the attention of the House of Representatives directly. This would supplement a recent initiative by the House of Representatives itself to include in its Rules of Procedure that a House minority (of at least 50 MPs) may invite an inspector general to a round-table discussion, hearing or technical briefing.

The Committee advises furthermore that the power of escalation to involve the Cabinet, if an inspector general does not receive an adequate response from the minister in question, be incorporated in the Act. The Committee suggests giving inspector generals the right to explain their opinions regarding systems that are ‘too big to fail’ in the Council of Ministers. The Cabinet as a whole will then decide whether the advice of the regulator is to be followed, or whether other interests prevail.

Recommendation 6: Increase the importance of the public interest within departments

Generally, public employees choose a position with the government because public service matters to them – this was clear to the Committee in this case too. There are a great many public employees who have worked very hard – and continue to do so – in hopes that they can contribute to finding a solution for the problems in Groningen. However, the investigation also shows that civil servants are inclined to look after the sectoral interests of their own department above all and to shield the minister as far as possible. These interests can be at odds with the public interest, as this parliamentary inquiry has shown.

Government, add reference to the public interest to the oath of office of civil servants

Upon appointment, civil servants take an oath of office in which, among other things, they swear or affirm that they will perform the duties entrusted to them faithfully and conscientiously. Shielding the minister is an example of a duty entrusted to a civil servant to which he/she is bound under his/her oath of office. It is notable that serving the public interest is not explicitly mentioned in the oath of office. Against this background, the Committee supports the announcement by Minister Bruins Slot of the Interior and Kingdom Relations to revise the oath of office of civil servants.⁸⁰ The new version of the oath of office makes it clearer that civil servants work in the general interest of society.

Government, incorporate further stimuli for dissenting thought within ministries

Adding a reference to the public interest to the oath of office is one example of an incentive to better serve the public interest. The Committee deems it important that more stimuli are built in to promote dissenting thought and to broaden the narrow interpretation of each own department into a more general interest. This could be a way of making the fate of the affected parties and the trustworthiness of the government resonate. The temporary commission on executive organisations (the Bosman Committee) has already pointed out the importance of a safe reporting culture for civil servants in executive organisations. This applies to civil servants who make policy as well. Here too it is important that civil servants feel safe enough to voice dissenting opinions.

If discussions conducted within the department are broader and more comprehensive, the minister will be better informed and thus the House of Representatives will be as well. A crucial precondition is that civil servants must feel confident (safe) enough to voice critical input. A change of culture within departments will be necessary to achieve this.

80 Ministry of the Interior and Kingdom Relations (20 January 2023).

Government, become more attuned to sounds from the outside world

In this investigation the Committee also noticed how difficult it is for sounds from the outside world to penetrate and affect policy. Civil servants and ministers alike have noted that being present in Groningen, speaking to affected parties, is the only way in which they actually get to experience the stories as real. With the physical distance to The Hague being so big, it is even more difficult for the accounts of affected parties to resonate in policy. The Committee therefore considers it a very good initiative by state secretary Vijlbrief to work in Groningen regularly. This is an initiative worth emulating. The Committee advises central government to consider how the relationship with the region and with individual citizens might be strengthened, for example, by deploying regional ambassadors or representatives, preferably ones that live in the region, or by looking into how spreading out government services might contribute to this in small measure.

Recommendation 7: Strengthen the role of the House of Representatives

From its investigations, discussions and public hearings, the Committee noticed that the gas extraction dossier is exceedingly complex. There are countless different aspects to it and many different parties. Moreover, parties to the Gasgebouw were not particularly keen to show their hand. The Committee has concluded that there was no single party that had a full overview: everyone saw only a few pieces of the puzzle. This complicated the supervisory role of the House of Representatives, particularly on the occasions when the House was given incorrect, incomplete or inaccurate information. And, unfortunately, that happened often in this case. The Committee identifies the following options for strengthening the role of the House of Representatives.

Cabinet, properly discharge your duty to inform the House of Representatives

The Committee cannot sufficiently stress how necessary the Cabinet's duty to inform is for the supervisory job of the House of Representatives. Debates in the House of Representatives can only be conducted on the correct basis if this duty is properly fulfilled. Article 68 of the Constitution provides for the duty to inform the House of Representatives. This article also lists the exceptions that may be allowed in the interests of the State. The Committee advocates that House-wide discussions be held on the duty to inform. In the Committee's opinion, a joint debate about the implementation of article 68 can contribute to clearer and less ambiguous provision of information to the House - without having to resort to the extreme of always having to send along all documents that preceded a policy decision. It is hoped that the working group installed in response to the motion proposed by MPs Leijten and Arib will provide a good point of departure.⁸¹

81 Parliamentary document II 2020/21, 35752, no. 11.

House of Representatives, improve your bridging function between decision-makers in The Hague and the residents of the country

In its parliamentary inquiry, the Committee noticed how important it is that signals from residents of Groningen are picked up by policy-makers in The Hague. According to the Committee, the House of Representatives has a crucial role as a bridge between these two worlds. This is not an unexpected message: this is, after all, the essence of the role of the House as representatives of the people. During the 60 years of gas extraction in Groningen, however, fulfilling this role proved to be tough. How can a Member of Parliament attend to the stories of Groningen residents without getting bogged down in a world of analyses, protocols and exceptions? The Committee finds that the House of Representatives must reflect internally on the question: how can the House bridge the distance between itself and residents? Initiating this dialogue does not mean that an MP will be able to resolve every situation and every call for help, even if only because situations and calls for help from various residents are sometimes contradictory or resolving them can take time. The objective of this dialogue is to foster awareness of this role in a time in which the Netherlands faces great challenges, ones that directly affect the world of its residents. And then, too, it must not be forgotten that being open to the experience of and questions from citizens of the country is not the responsibility of the House of Representatives alone: ministries must also pick up on signals from society.

Minister of Economic Affairs, commission an annual 'State of damage claims handling and reinforcement in Groningen'

One better way of structuring the provision of information to the House of Representatives is presenting an annual 'State of Groningen after gas extraction', in which the progress on various important indicators is described and put together. This will involve a bundling of the activities of the Institute Mining Damage Groningen, the National Coordinator for Groningen and other authorities and parties focusing on resolving all consequences of the gas extraction in Groningen. This report must attend to the developments in the health and wellbeing of the residents of Groningen, the number of unresolved damage claims, the progress of the reinforcement operation, projects aimed at the future, security of supply, the fill percentage of storage facilities, et cetera. Recurring information on indicators like these will give structured insight into developments on the gas dossier. The regulator State Supervision of Mines, the National Ombudsman and the Child Ombudsman could publish opinions of this every year. With reference to the reports, the House of Representatives could hold a plenary debate every year, but only once the relevant parties (including the regulator and the ombudsmen) have been heard by the House in round-table discussions or a hearing. More particularly, in the medium term a State of claims handling and reinforcement in Groningen of this kind could sustain attention for the progress in Groningen.

Cabinet, give the House of Representatives better insight into the considerations in decision-making on major public interests

In respect of the Groningen dossier, in most instances the House of Representatives was given a single policy proposal to decide on. This means that the House of Representatives is presented with decisions already made by the Cabinet. Where national public interests are concerned and in the balance, such as security of supply in this inquiry, the Committee deems it important that more insight is offered into the consideration process of the Cabinet. Holding a proper debate

and weighing arguments is only possible if the necessary information is on the table and there is insight into the Cabinet's considerations.

This can be done in different ways, for example if the Cabinet does not simply put one policy option to the House of Representatives, but sends two or three options, rejected by the Cabinet, along with the favoured option. In this way the House of Representatives gets to see what the options were and which arguments proved to be decisive. Another way of doing it is that the House of Representatives can be consulted earlier in the process to think along in order to arrive at all the possible options.

House of Representatives, provide clarity on the Parliamentary Inquiries Act 2008 and the Rules of Procedure

The Committee has three recommendations that relate to the activities of a commission of inquiry. The background and notes to these recommendations are given in the Chapter X Explanations in Book 5.

The first point concerns rendering assistance during closed preliminary interviews. Invitees are, rightly, allowed to be assisted during a closed preliminary interview. It is taken for granted that the assistance provider must assist the invitee. However, the committee of inquiry saw that in practice the provision of assistance was not always a free choice for the invitee, but that the employer had an interest in providing assistance. To avoid future confusion regarding the role of the assistance provider and the nature of the assistance provision, the Committee recommends to the House that in a next revision of the Parliamentary Inquiries Act 2008 the purpose of the assistance is described clearly and unambiguously.

Furthermore, in any revision of the Parliamentary Inquiries Act, the Committee of Inquiry recommends including an article providing for the autonomous responsibility of actors in making submissions to a commission of inquiry. That article would have to stipulate that actors may only agree with third parties regarding the content of the demand of a committee of inquiry if such is done with the explicit approval of the commission of inquiry.

In conclusion, the Committee has noticed that it is customary in the House when arranging the delegation to and participation in committees of inquiry that parliamentary groups each delegate one MP to participate in the committee of inquiry and that the Speaker appoints these members. It would be a good thing if this custom were to be formalised. The Committee recommends to the House that it includes in its Rules of Procedures that it is only at the institution of a committee that parliamentary groups put forward an MP to participate in the committee and that they do not do this once the inquiry has started. This would guarantee that parliamentary groups do not delegate MPs for participation in the interim, except after elections. The Committee further suggests including the provision that, as is the case for other committees, the Speaker of the House of Representatives decides on the composition of the committee of inquiry in order to enable the Speaker to ensure correct observance hereof.

Recommendation 8: Structure future public-private partnerships better

After the discovery of the gas reserves in Groningen, a decision needed to be made as to the best way to extract the gas that had been discovered. The structure that was chosen is what is currently known as a public-private partnership: the State participates together with oil companies in a Groningen Partnership. The parliamentary inquiry has shown that this form of partnership was extremely successful in maximising the revenues from the gas field, but that it gradually started to exhibit a number of serious shortcomings. The Committee therefore recommends that future public-private partnership in which the State might participate be structured better. For future public-private partnerships, the Committee advocates the following points:

Central government and private parties, make agreements regarding the exit strategy in advance

When the partnership between the State and the oil companies was entered into, agreements were reached regarding the gas extraction. However, no agreements were made regarding termination of the partnership. This has led to the parties involved negotiating non-stop about the conditions under which the partnership may be terminated. In public-private partnerships the State enters into in the future, this must be avoided by making clear agreements regarding the termination of the partnership. What happens if the public-private partnership comes to an end or needs to come to an end?

Central government, make explicit which public interests are at stake in the public-private partnership

In the public-private partnership of the *Gasgebouw*, clear agreements were made about the division of the revenue. At the time, no agreements were reached about other public interests. The interests of safety and the health of residents, for example, were not safeguarded and therefore were hardly or not part of the decision-making process at all. This proved to be disastrous for residents of Groningen. In future public-private partnerships, it is important that this mistake is not made again. Therefore, safeguard all the public interests concerned at the start of the partnership; formulate them explicitly and lay them down in the partnership agreements. Prevent the situation in which conflicting interests are vested in one person – as was the case with the *Gasgebouw*. The practice that has been established in the meantime is suitable: the minister of Finance is a shareholder and the minister of Economic Affairs acts as the representative of the State. If the State enters into a partnership agreement, the partnership agreements must be made public. In this way, the House of Representatives can check that public interests are sufficiently safeguarded in the agreements.

Central government and private parties, give the people living in the direct vicinity a place in the public-private partnership

When entering into a public-private partnership, it is important that the parties consider the consequences of their joint activity for the living environment of residents. This was absent from the public-private partnership in the *Gasgebouw*.

There are various possible ways of safeguarding the interests of residents. One of these is to give the people living in the direct vicinity a place in the partnership. This will allow signs from the region to be introduced and weighed in the decision-making. This does call for good agreements about the various responsibilities and roles of the participating parties.

Another way is to allow the people living in the direct vicinity to become co-owners of the new service. Residents might receive shares in the operator's company. In this way they share in the profits earned, but through their shares also have a voice in the operation.

Recommendation 9: Strengthen knowledge development on the subsurface

For the longest time, the development of knowledge regarding the consequences of the gas extraction in Groningen lagged behind; little was known about the relation between the subsurface and surface in particular. This contributed to the fact that the earthquake problem in Groningen was underestimated. The Committee notes that in this regard there has been a great improvement in the meantime. Research into gas extraction and earthquakes has become more systematic, with two national publicly funded research programmes, and NAM has lost its monopoly on knowledge. Dissenting voices, such as the studies into the effects of earthquakes on residents' health, now do penetrate the closed mining knowledge network better. There are two points which the Committee finds need more focused attention:

Authorities and regulator, ensure that there is sufficient knowledge of the subsurface within your own organisations

In its investigations, the Committee saw the risks involved in there not being enough employees with knowledge of the subsurface. This was the case particularly during the period after the quake at Huizinge, when there was only a single staff member schooled in geology at the Ministry of Economic Affairs. The vulnerability that a situation like this creates, is very clear from this investigation. The government and the regulator therefore need to be more aware of the need for ensuring knowledge within their own organisations. The Committee considers it important that they employ enough staff who have knowledge of the subsurface. This is the only way in which they can negotiate with mining companies on an equal footing. There is a need for staff who are aware of the latest insights into the subsurface, who can assess the

studies adequately, are able to ask the right questions and can keep probing into answers that are given. In the past, too much knowledge at central government was lost to outplacement, amongst others due to austerity measures and the need for civil servants to circulate. The Committee deems this undesirable. Especially for cases that run for decades, such as gas extraction in Groningen, there must be a sufficient level of in-house knowledge. This is not necessary to be able to conduct all analyses internally, but in order to be able to assess external reports properly and to be able to ask the right questions and properly judge where there might be significant uncertainty. For this in-house knowledge is indispensable.

Knowledge parties, study subsurface and surface and the relation between them

Considerable knowledge has been acquired in recent years regarding the relation between what is done to the subsurface and the consequences that this has at the surface. The Committee considers maintaining and expanding this knowledge base essential, both for the Groningen extraction and for future policy objectives in the Netherlands. In terms of the latter, the Committee has in mind other current and pending questions regarding the subsurface, such as geothermal issues, underground storage of CO₂ and hydrogen, underground infrastructure projects and salt extraction. The common denominator in all of these new developments is that they concern technological interventions in the subsurface that can have great consequences for the surface, including societal and social consequences. What has struck the Committee, though, is that the knowledge programmes on the subsurface are separate from the knowledge programmes on social aspects, a fact which has also been established by the evaluation study of the knowledge programme. The non-physical effects often form a real threat to the safety of residents. The Committee advises bringing together the knowledge regarding physical effects and non-physical effects in order to gain a good insight into the subsurface and surface effects of interventions in the subsurface.

The Committee considers it crucial that in the expansion of the knowledge base the knowledge parties actively seek gaps in the field of knowledge and that they are receptive to signals from external parties. What must be prevented is a situation where researchers - and users of knowledge - get stuck in a research paradigm for too long: in this case the paradigm that gas extraction could not result in powerful earthquakes and that earthquakes would not result in extensive damage. In developing knowledge, moreover, knowledge parties must be especially alert to the consequences of interventions in the subsurface that bear a minimal risk of damage but can have a great impact if the risk materialises. This risk must be borne in mind when calculating the likelihood of damage from earthquakes to existing homes, for example. If the likelihood of damage is small but there are many houses in the area, the potential damage is still great.

Recommendation 10: Commit to the spatial organisation of the subsurface

Underground activities can have serious, and prolonged, consequences, as this investigation has shown. It is expected that the number of underground activities that have consequences above ground will increase in the future, given projects for geothermal heating, underground storage of CO₂ and hydrogen, underground infrastructure projects and salt extraction. And all the while, the subsurface is already being used intensively in many places. In the Committee's opinion, this development warrants more focused governance of the subsurface. This recommendation is in alignment with a movement that has already started. In the past year, the Minister of Housing and Spatial Planning as well as the Cabinet members for Infrastructure and Water Management have advocated directing more attention to the subsurface.⁸² Under the flag of the National Strategy on Spatial Planning and the Environment 2021-2024 (*Uitvoeringsagenda Nationale Omgevingsvisie 2021-2024*), the central government and co-authorities are working on a cohesive policy for the use of the subsurface: the soil and subsurface implementation programme (*uitvoeringsprogramma Bodem en Ondergrond*).⁸³ To achieve prudent and optimum use of the subsurface, spatial planning of the subsurface will be made compulsory for central government as well as for municipalities and provinces.⁸⁴ Regarding the government's focus on the subsurface, the Committee advocates the following supplementary points:

Central government, develop a safety and risk strategy for underground activities of national interest

Developments in the subsurface demand timely attention to the possible risks of the subsurface activities for what happens at the surface. In view of the existing extraction activities and the large new projects in the context of the energy transition, the central government has to give priority to the development of an assessment framework for activities of national interest that can be used by the operators as well as the government to better prepare for risks and act more effectively in the event that the risks materialise. The Committee views this kind of assessment framework as a further concretisation of the principle of precaution, which incorporates the preconditions for the ongoing monitoring of safety and risks. Moreover, an assessment framework such as this enables dialogue on this subject between the departments in question, regulators (Inspectorate), the House of Representatives, affected parties and the parties responsible. This assessment framework could comprise various steps including the prior mapping out of risks occasioned by the underground activity and determination of who will be confronted with these, and the periodic assessment and monitoring of these risks and reports from the public regarding these. Central government must intensify the monitoring (or have it intensified) if the impact and risks for affected parties increase. It is important that central government keeps its finger to the pulse long term, and that it continues monitoring even once the initial risks seem to have abated but the concerns of the residents remain.

82 Parliamentary document II 2021/22, 34682, no. 92; Parliamentary document II 2022/23, 27625, no. 592.

83 Building on the principles from *Structuurvisie Ondergrond* (2018).

84 Parliamentary document II 2022/23, 27625, no. 592.

Government and operator, involve people living in the direct vicinity in the construction of large-scale underground facilities in advance

The Committee considers it important that authorities and operators involve people living in the direct vicinity in the construction of large-scale underground facilities at an early stage. This is important, also in view of the extraction activities and the large new underground projects in the context of the energy transition (such as geothermal heating and underground storage of hydrogen, CO₂ storage and heat networks). These are interventions that often occasion fundamental change in residents' living environment.

Early participation of citizens will be an important pillar of the Environmental and Planning Act which is due to come into effect on 1 January 2024. This will give signals received from citizens a role in the decision-making process regarding new spatial planning, projects and by-laws. The Committee considers this a good development. The way in which authorities or operators shape the participation of citizens may differ from one instance to the next. They can make use of a series of guides that have been developed to facilitate a good participation process, which also list success factors and preconditions.⁸⁵ The point of departure for participation processes must be that the parties involved are transparent upfront about what will be done with the input of citizens, which aspects have already been agreed and are no longer open to discussion, and whether politicians are bound by the results of the participation in advance. The Committee wishes to make one more appeal: the government or operators must not give citizens false hope. When you listen to citizens, avoid the pitfall of making promises that cannot be honoured. Therefore, be realistic in the promises you make, and indicate in timely fashion that something is not working.

Recommendation 11: In conclusion: Invitation to the people of Groningen

The Committee is of the opinion that the Netherlands must redeem the debt of honour it owes Groningen, and it has made a number of recommendations in this regard. It is with a certain bitterness that we note that things need never have deteriorated to this point, if any notice had been taken in time of the signs coming from Groningen. In the context of gas extraction in Groningen, the structures for partnership and dialogue were so opaque for such a long time that signs of this nature did not penetrate sufficiently. The severity of the situation and the misery in which residents found themselves: in the Committee's opinion, it took an unnecessarily long time before the parties to the *Gasgebouw* were fully aware of this.

85 See for example *Denkwijze(r) voor goede participatie*, www.iplo.nl.

Book 1

Conclusions and recommendations

This inquiry shows that the manner in which parties involved deal with dissenting voices and the extent to which they are open to signs from residents and other interested parties can make a great difference as far as preventing undesirable outcomes is concerned. It stands to reason that listening to what the people living in the direct vicinity experience, and listening to experts who point out problems, is worthwhile. Yet the Committee notes that this was seriously missing from this dossier. Far too often, decisions were made for the residents of Groningen: people talked about them, not with them.

For this reason, the Committee calls for this to be done in the future, when the debt of honour owed to Groningen is redeemed.

Therefore it is important that the responsible parties enter into dialogue with the residents of Groningen regarding how this debt of honour is to be redeemed. The Committee invites residents of Groningen to keep putting forward how, in their view, the damage to their vicinity can be repaired, and how Groningen can be brought to view the future with confidence again. This builds upon, but also goes further than, the one-time Conference of the North (*Conferentie voor het Noorden*) in Groningen about a long-term investment agenda suggested in the motion introduced by Van Wijngaarden et al. It also builds upon, but also goes further than, the programme 'Toukomst', under the flag of the *Nationaal Programma Groningen*. It involves residents of Groningen and social organisations finding their place in new decision-making: about the handling of damage claims and reinforcement and creating prospects for the future. In this way, the worlds of residents and decision-makers can be brought closer together - these two worlds that have been torn apart for so long. The interests of the people of Groningen must no longer be made subservient to the interest of gas extraction: Groningers before Gas!

Colofon

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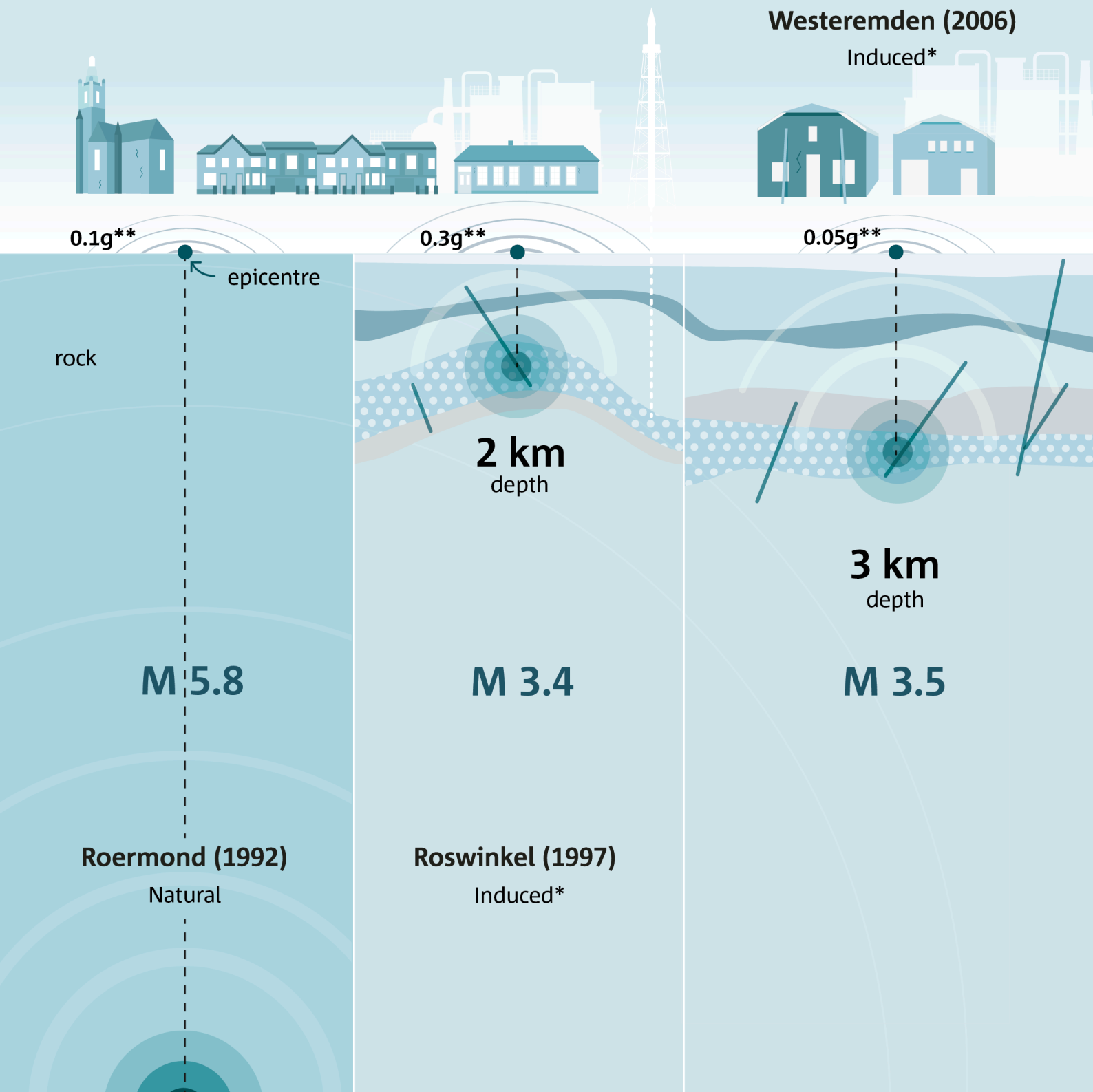
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Perspective on earthquakes in Groningen

Why quakes in Groningen cause so much damage, relatively speaking

Earthquakes in Groningen are hard to compare with natural earthquakes. Natural earthquakes occur at a depth of 10 to 100 kilometres. In Groningen, natural gas is extracted at a depth of 3 kilometres. This is where the quakes occur. These shallow earthquakes are clearly felt by people living in the direct vicinity. Add to this the fact that the peat and clay soil in Groningen reinforces the vibration of an earthquake. The Richter scale only indicates the strength of the earthquake and does not give any indication of what people experience above the surface.



Huizinge (2012)

Induced*

Zeerijp (2018)

Induced*

0.1g**

0.1g**

peat and clay soil

faults

salt layer
gas reservoir

3 km
depth

3 km
depth

M 3.6

M 3.4

Magnitude

***Induced**
caused by human activity

****Peak ground acceleration**

The peak ground acceleration is the highest ground acceleration measured during an earthquake. Damage at the surface is mainly caused by the ground acceleration. It is not only the movement at the surface that causes damage, but especially how fast the movement happens. The peak ground acceleration is expressed in g, gravitational acceleration. $G = 9.81 \text{ m/s}^2$. $0.1g = 0.98 \text{ m/s}^2$.



Tweede Kamer
DER STATEN-GENERAAL

Groningers before Gas

Parliamentary Committee of Inquiry
into Natural Gas Extraction in Groningen

The report is also available online:
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