



OMBUDSMAN

SINT MAARTEN

2021
YEAR
REPORT



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Foreword



The task of the Ombudsman is to promote good governance in all aspects. This stance includes a standard of good public health within our society.

At the end of February 2021, the government of Sint Maarten launched its vaccination campaign, with the assistance of the Netherlands who supplied the Pfizer vaccine. The Ombudsman joined this campaign, informing the public of the importance of getting vaccinated. The message was one of not only protecting ourselves and loved ones but everyone around us. Special emphasis was placed on persons who were unable to take the vaccine and therefore were dependent on the choice of others to get vaccinated to help reduce the spread of the virus.

The public was also encouraged to gain a better understanding of the vaccination process by doing their own research via the official webpage of the government and consulting their general practitioner, in order to avoid misinformation which had become prevalent via many sources.

In her task as guardian of the constitution, the Ombudsman submitted the three national ordinances, in connection with cuts to the employment benefits of all (semi) public sector workers, to the Constitutional Court for review in April 2021. The Ombudsman is contented with the fact that the verdict has provided the necessary clarity regarding the incompatibility with article 16 of the Constitution, among others to government. One of the important observations that the Court made was that Sint Maarten does not have an established poverty line and the importance of data gathering.

The Ombudsman had the privilege to speak during one of the workshops held at the International Ombudsman Institute (IOI) World Conference in May 2021 on the topic of poverty and social inclusion. The aim of the presentation was to call attention to a more progressive tool to amplify the voices of the most vulnerable in our midst and make a difference for those who feel unheard, by means of utilizing alternative forms of media such as videos or animation.

As protector of the rights of the people, the Ombudsman expressed her concern in a *‘zorgbrief’* (letter of concern) regarding the decision of the Minister of Public Housing, Spatial Planning, Environment and Infrastructure (VROMI) to allocate parcels of land in the area known as ‘Over the Bank’ without honoring the existing project in said area. The Ombudsman noted that the standard of legal certainty (*‘opgewekt vertrouwen’*) is essential in any state of law and it requires legitimate expectations to be honored by government. Rather than answering the questions posed by the Ombudsman, the Minister responded in a manner disregarding the authority of the person and the institution of the Ombudsman, a High Council of State. In exercising their supervisory role, Parliament in a public meeting held on October 20, 2021, passed a motion of disapproval (*‘afkeuring’*) against the Minister by a majority of the members present.



The members of Parliament furthermore unanimously urged the Minister to retract his letter, which was subsequently done.

During the presentation of the 2020 Year Report to Parliament, the Ombudsman duly informed the members of Parliament of the lack of capacity within the Ministry of VROMI which has become a serious structural issue that has rendered the Ministry of VROMI unable to address the concerns of the public.

In accordance with the standard of adequate organization of services, an administrative body is required to organize their administration and operation in a manner which guarantees proper service to the public. The fact that 50% of the complaints this year were filed against the Ministry of VROMI confirms the above-mentioned inefficiency.

Notwithstanding the challenges this institution faces, the Ombudsman remains committed to continue voicing the concerns of the people and addressing the Constitutional Court, whenever there is a legitimate possibility that a law contravenes the Constitution and in doing so fulfill her role as Protector of the rights of the people, and Guardian of the Constitution. It is therefore with great pleasure that I present my Annual Report 2021 to the Parliament and the people of Sint Maarten.

Gwendolien Mossel, LL.M
Ombudsman Sint Maarten



Executive summary

I. Introduction

The operations of the Bureau Ombudsman generally returned to normal in 2021. Although communication via virtual platforms continued, regular face-to-face interaction resumed taking the established COVID-19 safety protocols into consideration. The Ombudsman continues to be extremely concerned with the functioning of the Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure (VROMI). The growing inability of the ministry to address the inquiries, applications and concerns of the public is alarming. In this regard two letters of concern were issued to the minister. As a result of the conditions imposed by the Netherlands to continue to receive liquidity support, considering the socio-economic and financial malaise caused by the pandemic, the parliament adopted three national ordinances that temporarily introduced a 12.5% cut to the employment benefits of all (semi) public sector workers. After careful consideration, the Ombudsman submitted the three national ordinances to the Constitutional Court for review.

II. Activities

In March, a virtual Caribbean Ombudsman Association (CAROA) board meeting was held. This meeting was convened to discuss the future of CAROA. This meeting was convened to discuss the future of CAROA. With two board members demitting office in January 2021 the CAROA board no longer had the required complement of board members. When no other members made themselves available to replace the departing colleagues, the President convened an urgent extraordinary session with all members to discuss the way forward. On April 26, the Ombudsman submitted the three national ordinances, in connection with cuts to the employment benefits of all (semi) public sector workers, to the Constitutional Court for review. The International Ombudsman Institute (IOI) World Conference was held virtually from May 26-27. The conference was initially scheduled for May 2020 in Dublin, Ireland but was postponed as a result of the pandemic. The Ombudsman was one of the speakers during one of the workshops held during the conference and spoke on the topic of poverty and social inclusion. Much emphasis was placed on the Ministry of VROMI during the month of September. Two letters of concern were issued to the minister. The systemic investigation into the procurement procedure of *Sociale Ziektekosten Verzekering* (SZV) for the selection of medical aid equipment (glucometers), which started in 2020, was completed in December.

III. Complaints Handled

The year 2021 was marked by phased reopening of the island and thus increased interaction with government and the public. The Ombudsman fulfills an important informative and referral function within society, as persons come to the Ombudsman with both private and government related concerns. Persons also contact the Bureau for information regarding an array of issues including their legal rights. This stage of information provision and/or referral is called the 'Information Window' (IW). There were 293 IWs registered in 2021, compared to 250 in 2020. In 2021, a total of 64 new complaints were filed and 2 systemic investigations were initiated by the Ombudsman.



IV. Systemic Investigations

In accordance with the National Ordinance Ombudsman, the Ombudsman is authorized to initiate an investigation on its own initiative when there are indications or suspicion that certain administrative tasks are structurally hampered, or for whatever reason not properly executed. In 2021 two systemic (own motion) investigations were initiated and one was concluded. In September the investigation regarding the tendering and awarding process of the solid waste collection 2021-2026 was started. This was followed by the investigation into the (re)allocation of parcels of lease land in Over the Bank in October. The Final Report regarding the systemic investigation into procurement procedure of SZV for the selection of medical aid equipment (glucometers), which was initiated in August 2020, was published in December.

V. Constitutional Court

Pursuant to article 127, paragraph 3 of the Constitution, the Ombudsman as the ‘Guardian of the Constitution’ has the authority to challenge newly ratified laws, which the Ombudsman considers to be in contravention with the Constitution. The Constitutional Court operates outside the regular court system. It conducts normative review in abstract proceedings before laws come into force. On April 26th, 2021, the Ombudsman submitted three national ordinances, in connection with cuts to the employment benefits of all (semi) public sector workers, to the Constitutional Court for review. The main reasons why the Ombudsman was of the opinion that the national ordinances were unconstitutional, were twofold. The Ombudsman considered the ordinances in contravention with article 15 of the Constitution, which protects the right to property; in addition, she considered the national ordinances in contravention with article 16 of the Constitution, which guarantees the principle of equality. Infringement on the right of property is only allowed when the restriction is prescribed by law, in the general interest of the people and it passes what is called a ‘fair balance’ test.

VI. Financial Reporting

The total annual budget of the Ombudsman for 2021 amounted to Naf1.1.290.118,00. Based on the unaudited financial report for the year 2020 a total of Naf1.1.273.237,19 was spent.



I. Introduction

After suffering the distress of the coronavirus pandemic in 2020, Sint Maarten, while still enduring the effects of the ongoing pandemic, returned to calm in 2021 and experienced some economic recovery. Through the assistance of the Netherlands the vaccination campaign commenced in early 2021, with the first vaccine administered on the island in February.

The operations of the Bureau Ombudsman generally returned to normal in 2021. Although communication via virtual platforms continued, regular face-to-face interaction resumed taking the established COVID-19 safety protocols into consideration. The Ombudsman continues to be extremely concerned with the functioning of the Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure (VROMI). The growing inability of the ministry to address the inquiries, applications and concerns of the public is alarming. In this regard two letters of concern were issued to the minister. One regarding the organization and functioning of the ministry and the other concerning the allocation of lease land in the area known as Over the Bank. The latter resulted in the initiation of a systemic investigation into the subject matter. After receiving multiple complaints from companies that participated in the collection of solid waste tendering process 2021- 2026, who expressed concerns regarding the credibility, reliability, and transparency of same, the Ombudsman launched a systemic investigation on this topic as well.

As a result of the conditions imposed by the Netherlands to continue to receive liquidity support, considering the socio-economic and financial malaise caused by the pandemic, the parliament adopted three national ordinances that temporarily introduced a 12.5% cut to the employment benefits of all (semi) public sector workers. After careful consideration, the Ombudsman submitted the three national ordinances to the Constitutional Court for review. Although the challenge was unsuccessful, the Court established that it was understandable that the Ombudsman referred the laws to the Court for review.

In a survey conducted by the Ombudsman in preparation for the court proceedings affected persons were requested to rank their present quality of life (the degree to which an individual is healthy, comfortable, and able to participate in or enjoy life events). Approximately 50% (1734) of all persons affected by the national ordinances participated in the survey. 87 % of respondents indicated that their quality of life was poor or average, (just) 14% indicated that their standard of life was good or very good.

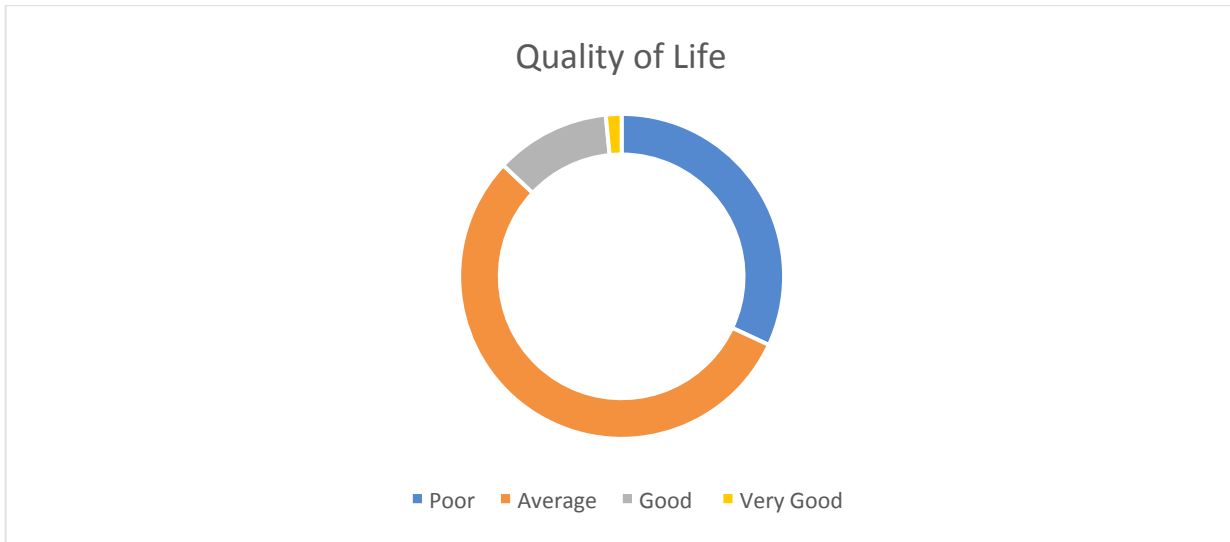


Fig. 1: Quality of life

97% of respondents indicated that they were very or slightly concerned that, because of the cuts, they would be unable to adequately provide for their families.

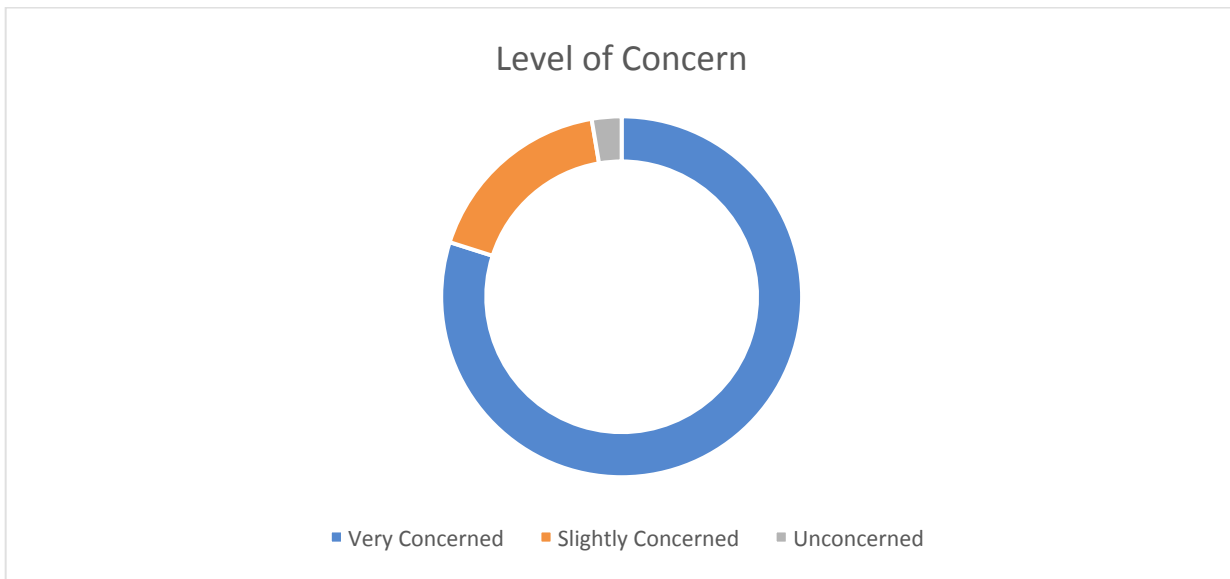


Fig. 2: Level of concern

While not a scientific poll, the survey paints a troubling picture, which is an indication of the level of (hidden) poverty on our island. In this regard it is noteworthy to mention the appeal of the court, in its verdict, to the Sint Maarten and the Dutch governments to not lose sight of the human dimension, in terms of how temporary the temporary national ordinances should ultimately be.

A summary of the main activities for the year will be provided in chapter 2. The complaints handled, including statistics will be discussed and analyzed in chapter 3, followed by systemic



investigations in chapter 4. The Constitutional Court case and the decision will be addressed in chapter 5. The Year Report will conclude in chapter 6 with the financial reporting.

II. Activities

While life as we knew it prior to pandemic had not resumed, with the roll-out of the vaccination campaign in February, some sense of normalcy returned. Although virtual interaction was still prevalent, face-to face-meetings could be held again. In March, a virtual Caribbean Ombudsman Association (CAROA) board meeting was held. This meeting was convened to discuss the future of CAROA. With two board members demitting office in January 2021 the CAROA board no longer had the required complement of board members. When no other members made themselves available to replace the departing colleagues, the President convened an urgent extraordinary session with all members to discuss the way forward. During the meeting strategies were discussed to improve and strengthen the ailing association. The future will determine how these strategies turn out. During the session, the National Ombudsman of the Netherlands (including the BES¹ islands) was elected as Vice-President and the Ombudsman of Grenada as general board member. Due to the ongoing challenges of the association and the pandemic, it was also decided to postpone the 11th Biennial CAROA Conference, which was scheduled for May/June 2021, to a later - yet to be determined - date.

On April 26, the Ombudsman submitted the three national ordinances², in connection with cuts to the employment benefits of all (semi) public sector workers, to the Constitutional Court for review. The International Ombudsman Institute (IOI) World Conference was held virtually from May 26 - 27. The conference was initially scheduled for May 2020 in Dublin, Ireland but was postponed as a result of the pandemic. The Ombudsman was one of the speakers during one of the workshops held during the conference and spoke on the topic of poverty and social inclusion. The Bureau Ombudsman participated in the Justice Conference in July and gave a presentation regarding the role of the institution to the attendees. After months of preparation that included numerous meetings with the law firm of Hoeve & Rogers, the firm that represented the Ombudsman during the proceedings at the Constitutional Court, the court hearing was held on 20 August. Many other activities preceded the hearing such as the survey that was carried out amongst all (semi) public sector workers and meetings with various stakeholders. In August, the Ombudsman met with the Minister of Education, Culture, Youth and Sport (ECYS), drs. R. Samuel, together with her colleague the National Ombudsman of the Netherlands, Mr. R. van Zutphen, to discuss his report which was published in December 2020, regarding the bottlenecks of former students from the Caribbean Netherlands.

Much emphasis was placed on the Ministry of VROMI during the month of September. The two aforementioned letters of concern were issued to the minister. In the letter of concern concerning Vineyard heights/ Over the Bank, the Ombudsman expressed her concerns regarding the decision

¹ Bonaire, St. Eustatius, and Saba, also referred to as the Caribbean Netherlands.

² The temporary National Ordinance Covid-19 cuts, temporary National Ordinance to amend the terms of employment of political authorities and temporary National Ordinance on the standardization and adjustment of employment at (semi-) public sector entities.



of the minister to allocate parcels of land without honoring the existing project in said area. The minister was reminded that government is continuous, as such agreements/decisions made by previous ministers should in principle be honored. In the second letter, the Ombudsman expressed her concerns about the organization and functioning of the Ministry of VROMI. In the correspondence the Ombudsman conveyed that the ability for the ministry to respond to letters, applications and complaints of the public has come from her vantage point to a virtual halt. Many complaints against the ministry remain unanswered or insufficiently answered to be able to address the grievances of the citizens. Investigations and reports by the Ombudsman have not led to any meaningful change in the operations of the ministry, on the contrary a precipitous decline has been identified. The systemic investigation regarding the collection of waste tendering process was also initiated in September.

The annual Ombudsman retreat took place in October, after being cancelled the previous year. The activities were scaled back due to financial constraints, however the Ombudsman found it important to continue with the yearly tradition, especially during these challenging times. The retreat allows staff to perform activities and get to know colleagues in an out of the office setting which, improves team spirit and morale.

The [decision](#) of the Constitutional Court was rendered on 1 November, just under 10 weeks after the hearing. Although the court did not rule in favor of the Ombudsman, the exercise proved worthy. Continuing to foster and grow the relationship and cooperation between Ombudsman institutions in the Kingdom of the Netherlands, the annual Ombudsmen of the Kingdom meeting was held in November on Sint Maarten. During the two day event meetings were held with the Governor, drs. E. Holiday, the Prime Minister, Ms. S. Jacobs, and the Director of the Sint Maarten Development Fund (SMDF), Ms. M. Brooks.

The [systemic investigation](#) into the procurement procedure of *Sociale Ziektekosten Verzekering* (SZV) for the selection of medical aid equipment (glucometers), which started in 2020, was completed in December. SZV agreed with most of the recommendations provided in the final report.



Pictorial 2021



Submission of petition to Constitutional Court



Constitutional Court Case meeting



Memorial Day



**Covid vaccine info session with Mrs. Bregje
Boetekees (WYC)**



CFT



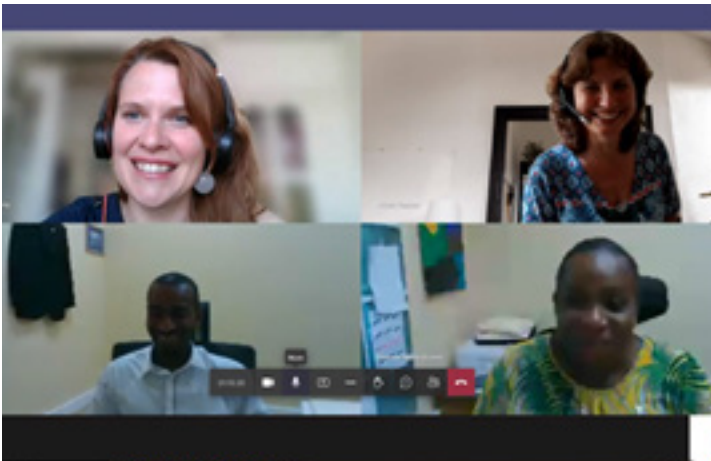
President of Parliament and Mr. P. Choharis



WICSU/PSU Union



President of USM



Nationale Ombudsman /BOBM



**Nationale Ombudsman, Minister ECYS and
Ombudsman Sint Maarten**



**Office Lunch @ the Source Restaurant/
Sundial School**



Radio Interview with Mr. R. Cantave (94.7 FM)



Breast Cancer Awareness Screening



Mini Retreat



Integrity Chamber



***Ombudsmen of the Dutch Kingdom w/
Excellency Governor drs. E. Holiday***



III. Complaints Handled

The year 2021 was marked by phased reopening of the island and thus increased interaction with government and the public. The Ombudsman fulfills an important informative and referral function within society, as persons come to the Ombudsman with both private and government related concerns. Persons also contact the Bureau for information regarding an array of issues including their legal rights. This stage of information provision and/or referral is called the ‘Information Window’ (IW). There were 293 IWs registered in 2021, compared to 250 in 2020. The civil cases, followed by Immigration & Naturalization and Domain Affairs rank the highest amongst the complaints/concerns at the Information Window.

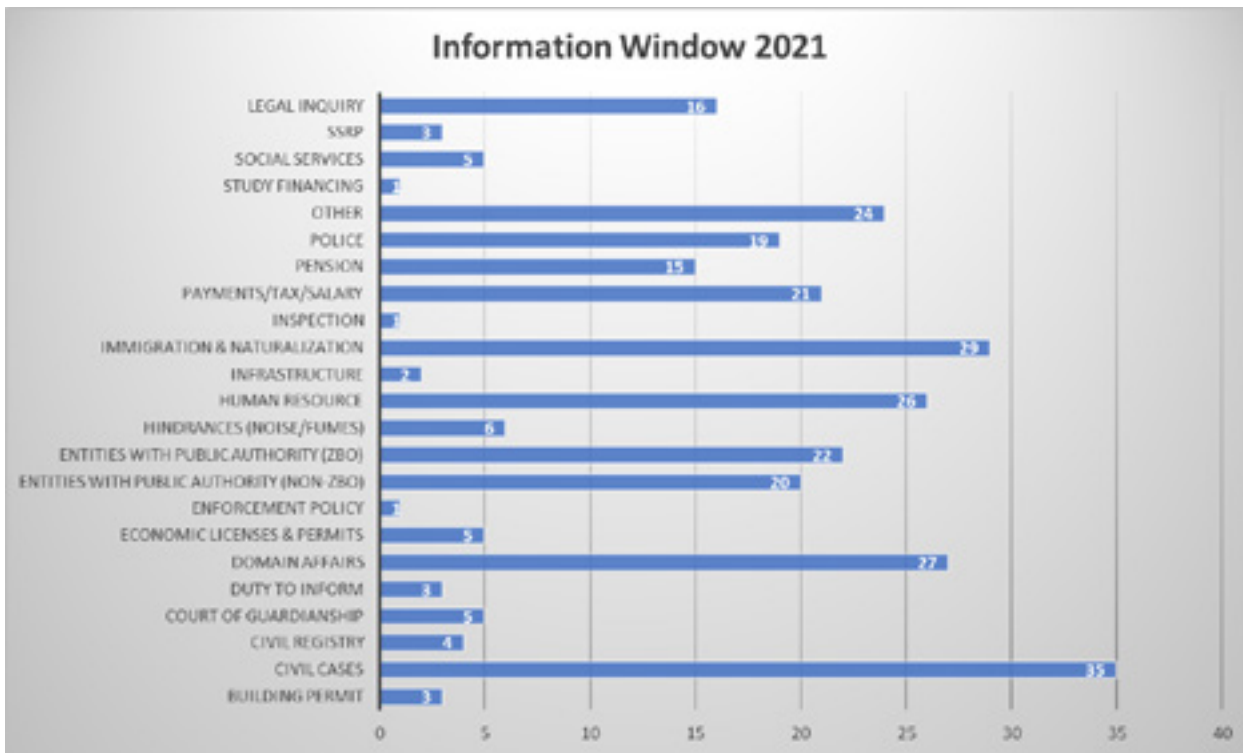


Fig. 3: Information Window's 2021

Complaint Statistics

In 2021, a total of 64 new complaints were filed and 2 systemic investigations were initiated by the Ombudsman. The ministries accounted for 60 complaints, while private entities with public authority, ‘*zelfstandige bestuursorganen*’ (ZBO) amounted to four (4) complaints and two (2) complaints against non-administrative bodies³.

A total of 28 of the aforementioned cases were closed in 2021. Nine (9) cases were closed in the interventions stage, this means that the administrative body responded, by addressing the complaint or requesting additional time, within the allotted timeframe provided by the Ombudsman. Nine (9) cases could not be handled as they were either filed against a non-administrative body, unfounded, withdrawn or did not fulfill the requirements to pursue an

³ These complaints were against NV GEBE and the Joint Court of Justice.



investigation. Lastly, ten (10) cases were closed in relation to systemic investigations. An additional 17 cases were closed that were filed in 2020. This includes the systemic investigation against SZV and 5 from 2019. This brings the total of closed cases in 2021 to 50. There are 38 open cases from 2021.

	<i>Year</i>	
	2020	2021
TOTAL COMPLAINTS⁴	47	66
Complaints closed in the year	31	50
Open complaints	35	38
Total ministry cases	32	60
Total ZBO cases	10	4
Other		2

Fig. 4: Total Complaints Topics 2021

A total of 32 (admissible) complaints were investigated against the Ministry of VROMI. None of those cases were closed through an intervention proposal, meaning no attempts were made to resolve these cases in the initial timeframe given by the Ombudsman. Ten (10) cases were closed by the Ombudsman as those cases formed part of the basis for two (2) Systemic Investigations initiated by the Ombudsman. As of December 2021, 22 cases were still open. Most complaints were filed against the department of Domain Affairs (19 complaints) and the department of Infrastructure (6). For the year 2020, seven (7) of the eight (8) cases were still open and for the year 2019, seven (7) of the 21 cases were still open. This amounts to a total of 36 open cases for the Ministry of VROMI.

The second highest amount of complaints were levied against the Ministry of TEZVT with five (5) complaints. Three (3) complaints were filed against the Inspectorate and two (2) against the Department of Economic Licenses.

The Ministries of Justice, Finance and OCJS all accounted for four (4) complaints each. However, the Ministry of Justice still has five (5) open cases from 2018, the relevant department heads must assume responsibility for the resolution of the cases, post haste. This brings the total open Immigration cases up to seven (7).

⁴ Includes the systemic investigations.



Fig. 5: Complaint Topics 2021

The Ombudsman noted a sharp increase in complaints for the year 2021 and attributed this to the rise in complaints against the Ministry of VROMI. This ministry has been one of the top ministries with the most complaints for a few years now. The Ombudsman has declared the capacity and policy related challenges as structural and therefore urgent. As previously stated, the Bureau employs a method where in the ‘Information Window’ stage assistance is offered in attempts to prevent an investigation. The Ombudsman notes also the adaptation of a complaint liaison, capable and authorized to properly follow up on the progress of the complaint handling within the ministry, improves the efficiency of managing complaints. This is evident with the Ministry of Justice, as the institution of the liaison together with the willingness of the minister has aided in reducing the amount of complaints. In absence of a complaint liaison and/or the lack of cooperation from within the ministry it is immediately noticed in the handling of the complaints.



	<i>Year</i>	
	<i>2020</i>	<i>2021</i>
MINISTRIES		
Public Housing, Spatial Planning, Environment, and Infrastructure	8	32
Tourism, Economic Affairs, Transportation and Telecommunication	2	5
Justice	8	4
Finance	4	4
Education, Culture Youth Affairs and Sports	3	4
General Affairs	6	3
Public Health, Social Development and Labor	1	3
Other	5	9
ZBO	<i>2020</i>	<i>2021</i>
Sociale Ziektekosten Verzekering (SZV)	8	1
SXM Housing & Dev. Foundation	1	1
Bureau Telecommunicatie & Post (BTP)	1	0
Total	<i>47</i>	<i>66</i>

Fig.6: Complaints by Ministries

Violated standards

The Ombudsman measures government conduct by the manner in which the standards of propriety were observed in a particular case. An investigation is concluded with a report including the findings, judgement, and recommendations. The judgement entails the indication of which standards were (partially) violated. As in previous years the standards: Active and adequate information provision, Adequate organization of services and promptness remain high on the list of standards to incorporate in the modus operandi of government. An analysis of the most violated standards reiterates the Ombudsman's call for a proactive approach to providing relevant, accurate and adequate information to the public and parties in concrete cases. Secondly, the ability to adequately serve the public is contingent on an efficient and capable workflow and civil service. This includes management and leadership training, hiring, and providing refresher courses & retraining of the existing civil service (capacity building), adequate and fair application of HR-procedures, and clear workflow with division of tasks including adaptation for absence/sick leave etc. A prime example is the Department of Domain Affairs, that now represent about a third of overall complaints due to the lack of attention of the organizational breakdown over the years. The standard of Promptness remains the third highest violated standard, and a consequence of insufficient information provision and inadequate organization of government services, because of the inability to provide a response within a legal or reasonable timeframe. Noteworthy to mention is the increase in the violation of the standard of Cooperation. Oftentimes, inter-ministerial cooperation is needed to make a decision. This lack of cooperation is increasingly stalling the decision-making process. The need for more inter-ministerial coordination is imminent. This is especially visible between the ministries of VROMI and TEZVT.



Standards of proper conduct	2020	2021
Active and adequate information provision	14	12
Adequate organization of services	8	8
Promptness	4	5
Cooperation	1	5
Reasons	1	3
Reasonableness & proportionality	0	3
Legitimate expectation (legal certainty)	2	2
Fair play	1	1
Correct treatment	1	1
Information gathering	0	1

Fig.7: Standards of proper conduct

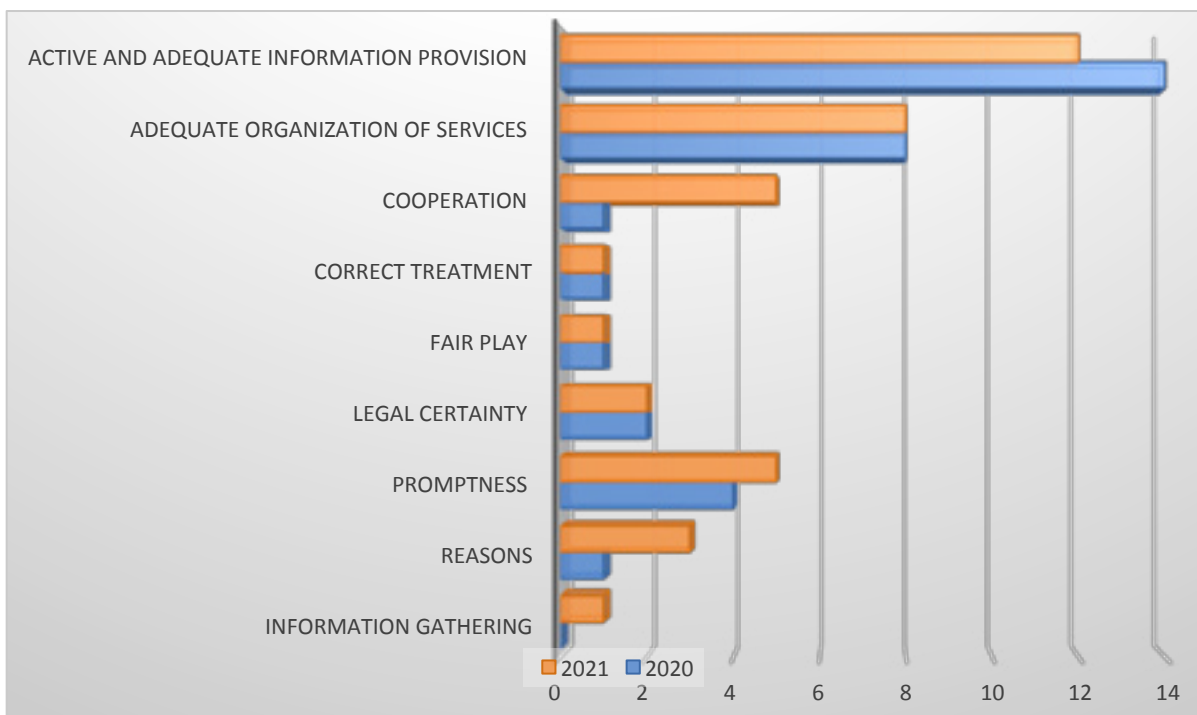


Fig. 8: Standards of proper conduct

Recommendations

Article 16, paragraph 6, of the National Ordinance Ombudsman stipulates that the Ombudsman can provide administrative bodies with recommendations to take (corrective) measures. Reports of the Ombudsman often include these recommendations. The article further states that the administrative bodies should inform the Ombudsman if and in which way the recommendations will be followed/executed. As such it is up to the discretion of the Ombudsman to provide recommendations to an administrative body, however once a recommendation is provided, the administrative body in turn is obliged to follow up on the recommendation or properly motivate



its decision not to do so. There is a noted lack of follow up by a majority of the ministries on the recommendations of the Ombudsman, usually signifying no corrective measures were taken to address the complaints. It should be noted that more than one recommendation can be issued in an individual case. The total amount of recommendations issued by the Ombudsman for 2020 and 2021 were 56 and 40.

IV. Systemic Investigations

In accordance with the National Ordinance Ombudsman, the Ombudsman is authorized to initiate an investigation on its own initiative when there are indications or suspicion that certain administrative tasks are structurally hampered, or for whatever reason not properly executed. In 2021 two systemic (own motion) investigations were initiated and one was concluded. In September, the investigation regarding the tendering and awarding process of the solid waste collection 2021-2026 was started. This was followed by the investigation into the (re)allocation of parcels of lease land in Over the Bank in October. The Final Report regarding the systemic investigation into procurement procedure of SZV for the selection of medical aid equipment (glucometers), which was initiated in August 2020, was published in December. In this chapter an overview of the concerns and considerations that prompted the investigations as well as the conclusions of the completed investigation, will be provided.

A. Systemic Investigation regarding the tendering and awarding process of the solid waste collection 2021-2026

History

On 25 and 31 March 2021 respectively, complaints were filed with the Ombudsman against the Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure (VROMI) by two bidders that participated in the collection of the solid waste tendering process, who both expressed concerns regarding the credibility, reliability, and transparency of same. At least two other bidders did not file complaints with the Ombudsman, however, via their legal representatives, expressed similar sentiments about the tender process to the Minister of VROMI.

Complainant letters which were addressed to the Minister, were ultimately responded to through the intervention of the Ombudsman. Subsequent follow-up meetings and/or correspondence also took place between the Ombudsman, complainants, and the Ministry of VROMI. Via emails of 10 and 22 June 2021, the Ombudsman informed the Minister that a proper assessment of the bidding process could not be made without the complete file, which includes the tender documents for all 24 companies (that submitted bids) as well as the internal awarding advice and full scoring breakdown/sheet of all bidders. On 25 June 2021, the requested documentation was provided by the Minister.

Considering the complaints/concerns received, as well as the findings in the preliminary research of the tendering process, and the importance of transparency of procurement



procedures and policies of government, the Ombudsman informed the Minister by letters dated 27 August 2021 that she has refrained from further investigating the previously submitted complaint(s) and will proceed with a Systemic Investigation into the tendering and awarding process of Solid Waste Collection 2021-2026, in the general interest of the public.

Resolution(s)

As a result of the above stated the Ombudsman resolved to conduct a systemic investigation regarding:

- The tendering and awarding process of the solid waste collection 2021-2026; transparency of the pertinent procedures and policies and evaluation by the evaluation committee.

The formal Notification of Systemic Investigation (NOSI) was presented to minister on 17 September 2021. The investigation is expected to be completed in 2022.

B. Systemic Investigation into the (re)allocation of parcels of lease land in Over the Bank

History

In 2016 the Council of Ministers (COM) approved the development of the area known as ‘Over the Bank’ (*Meetbrief* 162/2014) by a private contractor. Based on this decision the Minister allocated lots to approximately 50+ individuals who were informed by the Department of Domain Affairs to pay a fee to Kadaster to have a Certificate of Admeasurement (CA) drafted at their personal expense. Once the Certificate of Admeasurement was drafted the Ministry would have finalized the decree in order for the applicants to proceed to the notary. However, this process was halted as a lien had been placed on the property. Applicants were subsequently informed in 2016 by the Minister of Public Housing, Spatial Planning, Environment, and Infrastructure (VROMI) that the requested parcels could not be allocated at the time due to an ongoing lawsuit with a third party. The Minister further informed applicants that the Ministry would make every effort on behalf of Country Sint Maarten to issue the right of long lease to each applicant once a verdict is rendered by the Court in favor of Country Sint Maarten. In 2018 the disputed parcel was awarded to Country Sint Maarten.

On 5 July 2019, a complaint was filed with the Ombudsman regarding the non-response to a request for a status update dated 4 June 2019 for a request for domain land submitted in 2016. The investigation of the Ombudsman had established that Complainant was awarded a parcel of land located in the area known as “Over the Bank” then given a draft decree dated 7 September 2016. In accordance with the process Complainant was advised by the Ministry to pay for a Certificate of Admeasurement (*‘meetbrief’*) in order to finalize the decree with the information received from Cadastre. After having paid a fee to Cadastre, Complainant was subsequently informed, via the Ombudsman, that the Ministry could not honor his request as the area does not have infrastructure to reach the property. Through the investigation of the Ombudsman, it was further established that based on the internal process followed by the Ministry, the Minister is



required to provide Complainant with a decision. However, the Ministry did not complete the process for the transfer to take place at the notary. To date of this Notification of a Systemic Investigation (NOSI) Complainant has not been provided with a decision on to his request for domain land nor has the Minister provided the Ombudsman with a response to the findings and recommendations issued in the [final report](#) of 9 July 2021.

During the COM press briefing of 25 August 2021, the Minister informed the general public about upcoming plans for the development of the area known as Over the Bank. During said press briefing the Minister stated that several steps are being taken to realize the project 'Vineyard Heights'. These steps include the issuing of 25 individual parcels, charging the 'Stichting Overheidsgebouwen' Sint Maarten (SOG) to manage and seek financing to develop the area, and sending out a tender for infrastructure in the area.

Following the announcement of the Minister, the Ombudsman sent a letter of concern dated 9 September 2021 to the Minister requesting clarity on the process used to allocate domain land to the 25 applicants mentioned in the press briefing. In response to the questions posed by the Ombudsman the Minister stated that the Ministry was not in possession of the files/documents cited by the Ombudsman and requested that the Ombudsman provide the Ministry with copies of the documentation referenced in said letter. In response to the request of the Minister the Ombudsman informed the Minister that the letter of concern was an attempt to receive clarity from the Minister regarding his plans. The Minister was further informed that if no response is received the Ombudsman will proceed with an investigation into the matter. By letter dated 17 September 2021 the Minister informed the Ombudsman that the Ministry was in the process of gathering all internal documents regarding the area known as Over the Bank.

The Minister further stated that in order to expedite the process the Ministry would require that all the pertinent information regarding the case be provided by the Ombudsman. The Minister concluded by stating that the Ministry will not be able to provide an adequate response "within the unreasonable timeframe indicated by the Ombudsman.

By email that same day, an extension was granted to the Minister to respond by 24 September 2021. On 21 September 2021, the Minister suggested that the Ombudsman may have a conflict of interest based on the requests for clarification. By email that same day, the Secretary General (SG) of the Ombudsman responded to the Minister by stating that there is no conflict of interest. The SG further referred the Minister to the explanatory notes of the National Ordinance Ombudsman on 'own motion investigations'. By email dated 24 September 2021 the Minister responded to some of the questions posed by the Ombudsman by stating that "*the Ministry is gathering information on the matter at hand for the area known as Over the Bank/ Vineyard Heights and will be starting an official investigation*". In the response of the Minister a memo was also provided which indicated that the department of Domain Affairs had started retrieving all documentation on file pertaining to the issuance of land in long lease at Over the Bank during the years 2016 and 2017. According to the Head of the Department of Domain Affairs the department has not been able to locate any of the decrees within the department.



On 20 October 2021 two motions, one being a motion of disapproval (*'afkeuring'*), were passed against the Minister regarding the issuance of long lease land in the area known as Over the Bank. The Minister was instructed by Parliament to present a policy on the issuance of domain land within 120 days of the meeting and cease the issuance of long lease land in the area known as Over the Bank. The Minister was further instructed to execute the advice provided by the Gibson & Associates and establish a policy and provide an update within three (3) months.

Resolutions

As a result of the above stated the Ombudsman resolved to conduct a systemic investigation regarding:

- The process and procedures followed by the Ministry of VROMI to award the 50+ individuals draft decrees in the area known as Over the Bank;
- The process and procedures followed by the Ministry of VROMI to award 25 individuals parcels in the area known as Over the Bank;
- The internal administrative system used to archive the process to allocate long lease land.

The Notification of Systemic Investigation (NOSI) was presented to minister on 10 November 2021. The investigation is expected to be completed in 2022.

C. Systemic Investigation into procurement procedure of SZV for the selection of medical aid equipment (Glucometers)

History

On 26 May 2020, a complaint was filed with the Ombudsman against *'Sociale Ziektenkosten Verzekering'* SZV regarding alleged faulty glucose testers being provided as the sole option under the insurance of SZV. Complainant made reference to ongoing communication regarding this matter with SZV, that began in March 2020. According to Complainant several other persons living with diabetes have received inaccurate readings after using the Perfect 3 glucose meter (Perfect 3) provided by SZV. Complainant emphasized the importance of the accuracy of meters being provided by SZV, as faulty results could have detrimental effects on the health of persons living with diabetes, in particular pensioners. On 19 May 2020 SZV informed Complainant that a response including a solution would be made available by 22 May 2020, however no response or interim solution was provided to Complainant, including up until the Ombudsman closed Complainant's individual case to proceed with a systemic investigation into the procurement of the Perfect 3 (Perfect 3).

In response to the investigation of the Ombudsman, SZV informed the Bureau Ombudsman by letter dated 10 June 2020 that prior to receiving complaints from persons insured by SZV, there was initially no specific procedure in place to ensure the quality of the Perfect 3. In said letter SZV stated that the glucose meters currently being insured by SZV are not faulty and persons insured by SZV were informed to visit their general practitioner if they suspected a faulty



reading had occurred. SZV further stated that a pilot study would be carried out to ensure the quality of the newly proposed glucose meters and once the results are available persons insured by SZV and health care providers would be notified accordingly.

During a radio talk show on 17 June 2020, five individuals including a district nurse called in indicating that they had similar experiences as complainant with the new glucose meters (Perfect 3) being provided by SZV. Upon further investigation the Ombudsman was informed, by the Operations Manager of the White and Yellow Cross Care Foundation (WYCCF), the Sint Maarten Medical Association (SMA) and Windward Islands Medical Association (WIMA), on separate occasions that the test results of the Perfect 3 were not reliable and many persons living with diabetes under their direct care reverted to the Freestyle Precision glucose meter (Freestyle Precision), previously insured by SZV. To guarantee the safety and well-being of their clients, the WYCCF decided to immediately stop using the Perfect 3 and were forced to pay for the test strips for their clients as SZV does not refund the cost. According to WYCCF and WIMA the price of the strips of the Freestyle Precision are fairly expensive, especially for pensioners that receive '*algemene oudersdomsverzekering*' (AOV) pension as their only source of income. These pensioners have no alternative but to use the Perfect 3 as it is the only glucometer covered by SZV medical coverage.

The WYCCF notified SZV on 9 January 2020 of complaints regarding inaccurate readings being produced by the newly introduced Perfect 3. By email that same day, the Unit Operations Manager at SZV informed the WYCCF that a response would be forthcoming. Approximately five (5) months later SZV provided WYCCF with a general letter dated 7 May 2020 addressed to the Sint Maarten Medical Center (SMMC), WYCCF, General Practitioners (GPs) and persons insured under SZV.⁵ In said letter the Director of SZV (Director) stated that an assessment was done by a third party to test the quality of the Perfect 3 meter against international standards and that the Perfect 3 meter was found to be of good quality and fulfilled the relevant criteria for international standards set for glucose meters. The Director further acknowledged that the new meters were not properly introduced to the stakeholders and that human error could influence the glucose readings. Lastly the Director stated that despite the positive assessment SZV has decided to look into the introduction of a new meter by the supplier, Medicosmetics N.V. (MC). The WYCCF, SMA and WIMA have all requested the results of the test carried out by SZV via the laboratory, however to date of this final report this has not been provided to them by SZV.

The WYCCF further claims that MC lacks the infrastructure and logistics to supply the needs of all their clients. Previously, there would be a procedural document with clear instructions on which medical aid requires approval from a GP, specialist and/or SZV, this document has been promised but not delivered, which is not transparent. Secondly, the location of MC has also presented various bottlenecks, as most seniors/persons living with disabilities may not have access to a vehicle nor is there direct public transportation available to the location. Persons living with diabetes and insured under SZV are provided with one (1) box of strips (containing 30 strips) per month; thus, are required to find their way to MC once a month to pick up their

⁵ Although addressed to SZV insured clients, it is unclear how this letter was distributed to them. This letter was not distributed through the media.



strips. In addition, according to the WYCCF, the duty of care towards clients imposed on pharmacies is lacking. MC is not bound by the same requirement applicable to pharmacies with regard to the duty of care to clients.

On 2 July 2020 SZV provided the Ombudsman with a digital copy of a presentation SZV received from Sint Maarten Laboratory Services NV (SLS), that conducted the research on the glucose meter as well as a digital copy of the report on this issue.

Considering mentioned history, including the non-conclusive response from SZV to the queries from the Ombudsman, an in-depth systemic investigation was initiated.

Resolution

The Ombudsman resolved to conduct a systemic investigation regarding:

1. The procurement procedure of SZV as it relates to the selection of the supplier for medical aid equipment, in particular the process of selecting the Perfect 3 glucometer, including the strips, and service level to SZV clients in need of such;
2. The procedures used by SZV to select and acquire medical aid products and the role of the Inspectorate of Public Health (Inspectorate) in the process;
3. The role of the Inspectorate in the chain of procurement and approval of medical aid suppliers, medical aid products for public consumption, complaints levied concerning medical aid products and SZV;
4. Transparency to stakeholders (SZV clients, WYCCF, GPs and others) with regard to complaints levied to SZV and the test results carried out by SZV.

Conclusion

The Ombudsman concluded in the Final Report dated 30 December 2021, and SZV has since acknowledged, that the new glucometer was not properly introduced to its insured clientele (persons living with diabetes). There was no information provided to properly facilitate the transition from the Precision Freestyle to the Perfect 3. According to SZV's interpretation of the results, based on research conducted by Sint Maarten Laboratory Services (SLS) in January 2020, human error was the (likely) cause of the many complaints of irregular reading on the glucometer. SZV further informed the Ombudsman that a new glucometer would be introduced to SZV insured in the future. At the writing of this year report it is unclear if this was done.

SZV has a duty of care towards its insured population in accordance with the law, thus SZV is required to ensure that each medical aid and artificial aid device being provided to SZV insured has been thoroughly reviewed before being introduced. The Ombudsman understands that in order to keep healthcare affordable cost must be contained, however the quality of care must be maintained. A short-term saving on diabetes aids can result in an increase in costs in the longer term due to an increase in diabetes-related complications.

The assertion by SZV that information on the procurement procedure was not relevant for the scope of the investigation is incorrect. The procurement documents contain pivotal information



regarding the requirements and guidelines set by SZV during the process and is thus an integral part of the investigation. Furthermore, the inquiry by the Inspectorate of Health also included a request for the procurement documents to which it appears SZV did not comply.

While SZV is independent in its functioning, it is an administrative public entity governed by the laws applicable to it. Considering the evasive answers provided by SZV regarding SZV's procurement policy, the Ombudsman was unable to make a determination of the adherence of SZV's procurement policy to the fundamental principles of good governance and more specifically the principles of public procurement. Hence, the Ombudsman concludes that the procurement procedure of SZV is not transparent.

The investigation also identified a number of serious concerns regarding how the complaint procedure had been addressed, not only by SZV but the functionally responsible departments within the Ministry of VSA as well. During the course of the investigation the Ombudsman was informed by both the Inspectorate and the Department of Public Health (DPH) that SZV has the sole responsibility to ensure that products being introduced to the SZV insured meet safety requirements. However, SZV informed the Ombudsman that it is the responsibility of the medical aid's supplier to ensure that the safety requirements are met. The DPH also informed the Ombudsman that the Pharmaceutical Inspectorate is specifically tasked with handling and investigating complaints from the community or the pharmaceutical industry, ensuring the quality and safety of pharmaceutical products and issuing advice on request or its own initiative. According to the existing ordinance⁶ governing the working method of the Ministry, the Ombudsman notes that the Ministry has a responsibility to ensure that SZV works within guidelines that ensure the quality and safety of the types of medical aids that are introduced to SZV insured on Sint Maarten. Based on the responses received from DPH, the Division Pharmaceuticals has the authority to ensure that medical aid devices are safe based on its supervisory role.

However, the investigation of the Ombudsman has recognized that the division is only contacted when safety issues arise. As such, it is incumbent that the Ministry as a whole detect shortcomings in policy and legislation and develop the necessary policies to maintain and enhance the quality of healthcare on Sint Maarten.

Considering the facts and findings the Ombudsman concluded in the report that the standards of proper conduct not being observed are: Active and adequate information provision, active and adequate information gathering, adequate organization of services, reasons and proportionality.

The feedback received by SZV regarding the recommendations and findings was mainly positive, however their refusal to provide information regarding the procurement procedures does raise concern. No feedback has been received from government.

⁶ 'Organisatiebesluit Volksgezondheid, Sociale Ontwikkeling en Arbeid artikel 1 t/m11'.



V. Constitutional Court

Pursuant to article 127, paragraph 3 of the Constitution, the Ombudsman as the ‘Guardian of the Constitution’ has the authority to challenge newly ratified laws, which the Ombudsman considers to be in contravention with the Constitution. The Constitutional Court operates outside the regular court system. It conducts normative review in abstract proceedings before laws come into force.

On April 26th, 2021 the Ombudsman submitted the following three national ordinances, in connection with cuts to the employment benefits of all (semi) public sector workers, to the Constitutional Court for review: the Temporary National Ordinance Covid-19 cuts, Temporary National Ordinance to amend the terms of employment of political authorities and Temporary National Ordinance on the standardization of top incomes and adjustment of employment conditions at (semi-) public sector entities.

Due to the socio-economic, healthcare and mainly financial consequences of the COVID-19 pandemic for Sint Maarten, the government deemed it necessary to request financial assistance⁷ from the Netherlands. The Kingdom Council of Ministers agreed to provide such financial aid in the form of loans, divided in several tranches, provided that Sint Maarten would comply with several conditions, namely:

- Cuts amounting to 12.5% in the total package of employment conditions of the public sector, including civil servants employed by government;
- Maximization of salaries and employment conditions of top officials employed at the (semi) public sector entities by law;
- Reduction of 12.5% of the total package of employment conditions of the employees of the (semi) public sector entities by law and;
- Reduction of 25% of the total package of employment conditions of the Members of Parliament and Ministers.

In return for the financial aid, government agreed to abovementioned conditions which resulted in the establishment of the three aforementioned National Ordinances by Parliament and Government jointly⁸.

Grounds

The main reasons why the Ombudsman was of the opinion that the national ordinances were unconstitutional, were twofold. The Ombudsman considered the ordinances in contravention with article 15 of the Constitution, which protects the right to property; in addition, she considered the national ordinances in contravention with article 16 of the Constitution, which guarantees the principle of equality. Infringement on the right of property is only allowed when the restriction is prescribed by law, in the general interest of the people and it passes what is called a ‘fair balance’ test.

⁷ Article 36 of the Charter of the Kingdom.

⁸ Article 82 of the Constitution.



Besides the two aforementioned main reasons, the Ombudsman also argued that the national ordinances were in conflict with article 19 of the Constitution, which stipulates that the government should secure the means of subsistence of the population and achieve the distribution of wealth. The Ombudsman also found that the establishment of the national ordinances were in contravention with articles 44 and 61 of the Constitution, as well given the fact that the members of parliament were not able to vote freely and according to their own conviction and in so doing represent the public interest.

Judgement

After oral arguments were given by parties on 20 August, the Court decided on 1 November that, while it was understandable that the Ombudsman referred the case to the Court for review, the national ordinances were not in contravention with the Constitution, under the circumstances and given the dilemma of government. The Court decided given the dire financial situation the country found itself in, the temporary interference of the right to the peaceful enjoyment of possessions was not considered disproportionate. The Court further noted that: ‘the judicial restraint to be observed relates not only to the assessment of whether the public interest is served by the austerity measures contained in the national ordinances as conditions for liquidity support, but also to the assessment of the suitability and proportionality of these measures. In short, even if the Ombudsman could propose an alternative that could be said to be better than the one chosen by the legislator - without relying on hindsight - that would not be enough for the Constitutional Court to quash those measures. In a case such as the present, the Court will only be allowed to intervene if choices made by the legislator of Sint Maarten were manifestly without reasonable foundation’.

The Court agreed with the contention that the measures are incompatible with the non-discrimination principle, article 16 of the Constitution, insofar that certain public sector entities such as, but not limited to, the Integrity Chamber, Chamber of Commerce and Sint Maarten Housing Foundation were incorrectly not included in the annexes of the laws.

Government acknowledged that these agencies were indeed overlooked and promised (during the hearing) that the omissions would be corrected. Considering that the established unjustified unequal treatment will be lifted, the Court used its discretion, provided by the Constitution and the National Ordinance Constitutional Court, not to annul the law in question. The Court also agreed with the Ombudsman that the (initial) position taken by government, that in the event of a (real) promotion to a higher position, no corresponding higher wage (than the wage that was previously paid) would be possible, is at odds with the principle of equality. Government later abandoned this position. Additionally, it is the opinion of the Court that the legal text, even though the explanatory notes conflicts with this, allows an interpretation on the basis of which a higher wage is possible in the event of such a promotion, considering that such an explanation is also quite reasonable and in accordance with common sense. Therefore, in view of the government's statements, the Court assumed that the Sint Maarten Government is already following the reasonable explanation given. The Court took this as a basis and saw no reason to annul the provision in question under this circumstance.



The Court also deemed article 19 of the Constitution not to be in contravention with the Constitution. The Court followed the argument of government that the means of subsistence of the population (duty of care) is actually being secured by agreeing with the conditions of the Dutch government, in order to receive the necessary liquidity support. Furthermore, in fulfilling its duty of care the legislator (parliament) enjoys a wide margin of appreciation in regulating their social policy. This margin is even wider when the issues involve socio-economic emergency law(s). The Court also took into consideration that in the context of the appeal to article 15, the Court had already examined whether persons affected by the measures may have fallen below the 'poverty line' as a direct result of those measures and concluded that this was not the case.

The argument of the Ombudsman that the parliament/members of parliament did not have a choice, pursuant to articles 61 and 44 of the Constitution, was also rejected by the Court. The Court established that it is precisely the task of the parliament to make difficult choices such as the present one in difficult circumstances. Partly for this reason, it would be a far-reaching unconstitutional violation of the autonomy of the parliament if a judicial authority were to interfere with such choices - on the basis of an assumed legally binding mandate and the resulting lack of independence of the people's representatives concerned - by thwarting legislation resulting from those choices and declaring said legislation non-binding.

In its verdict, the Court made a few 'closing observations'. These will now be highlighted.

Absence of poverty line

The Court noted that Sint Maarten has not established a poverty line. The court therefore assumed that the subsistence threshold or poverty line is lower than the statutory minimum wage, although it is not certain to what extent this corresponds with reality, due to governments lack of concrete data. The Court also pointed out the present amounts for social assistance are very well below the statutory minimum wage.

Democratic deficit

Although not argued by the Ombudsman, the Court also stated in no uncertain terms that it does not have the power to give an opinion on the legality of the position of the Netherlands when imposing conditions on Sint Maarten as a condition for liquidity support. For example, because this would be contrary the autonomy of Sint Maarten guaranteed by the Kingdom Charter or to proportionality requirements. The Court acknowledged that even though these are important questions, these cannot be addressed by the Constitutional Court. The Ombudsman notes that this underscores the democratic deficit within the Kingdom of the Netherlands and the urgent need for a dispute regulation.

Human dimension

Finally, the court concluded by reiterating that constitutional review is an abstract review in advance, which must be based on the facts as they can be established at the moment. As time goes on, the Court notes, it will become increasingly clear what the actual effects of these national ordinances are on the life of the ordinary citizen of St. Maarten. This will undoubtedly



influence the decision as to how temporary these temporary national ordinances should ultimately be, and that both the Sint Maarten and the Dutch governments will not lose sight of the human dimension.

The Court also referenced the provision in article 119 of the Constitution, whereby affected persons can test the practical implementation and application of the national ordinances in concrete terms against the fundamental rights laid down in the Constitution, while also examining any additional adverse circumstances in the specific case, which were not foreseen by the legislator.

VI. Financial Reporting

The 2021 annual budget (general and capital ledger) of the Ombudsman amounted to Naf. 1.290.118,00. Based on the unaudited financial report for the year 2021 a total of Naf. 1.273.237,19 was spent from the budget of Sint Maarten (see appendices 1 and 2). The budget was therefore exceeded by Naf. 13.119,19. As a result of budget reductions several line items, in particular legal and other professional fees, were negatively affected. At the same time additional expenses were incurred for the engagement of legal services with regard to the Constitutional Court case in connection with cuts to the employment benefits of all (semi) public sector workers.

Expenditures in 2021	Amount	2021 Budget
		1.260.118,00 ⁹
		30.000,00 ¹⁰
Total Operational Expenses	1.273.237,19	
Not spent		16.880,81

⁹ General ledger.

¹⁰ Capital ledger.



**BALANCE SHEET
DECEMBER 31 2021**

CURRENT ASSETS:		
Money Card WIB	2,253	
Petty Cash Account WIB (new)	1,575	
Cash on Hand	282	
Petty Cash WIB Naf Account (old)	<u>60</u>	
TOTAL CURRENT ASSETS:		4,170
OTHER CURRENT ASSETS:		
Prepaid Expense	<u>12,266</u>	
Total Other Current Assets		<u>12,266</u>
TOTAL CURRENT & OTHER ASSETS	NAF:	16,436
FIXED ASSETS:		
VEHICLES:		
Vehicles	110,551	
Acc.Depr'n 31/12/2017	<u>(88,441)</u>	
Book-Value:	22,110	-
OFFICE EQUIPMENT:		
Fotocopier Machine	15,895	
Acc.Depr'n 31/12/2017	<u>(12,716)</u>	
Book-Value:	3,179	
ICT Equipment	293,127	
Acc.Depr'n 31/12/2017	<u>(244,896)</u>	
Book-Value:	48,232	
Projector & Screen	2,034	
Acc.Depr'n to 31/12/2017	<u>(2,034)</u>	
Book-Value:	-	
Televisions	3,119	
Acc.Depr'n 31/12/2017	<u>(3,119)</u>	
Book-Value:	-	
Office Furniture	79,894	
Acc.Depr'n 31/12/2017	<u>(37,947)</u>	
Book-Value:	41,947	
TOTAL FIXED ASSETS:		115,468
LEASEHOLD IMPROVEMENT:		
Archive Room	5,733	
Acc.Depr'n 31/12/2017	<u>(2,836)</u>	
Book-Value	2,897	
Server Room	8,910	
Acc.Depr'n 31/12/2017	<u>(7,306)</u>	
Book-Value	1,604	
Renovation Kitchen	8,736	
Afschrijving Renovatie Keuken	<u>(5,589)</u>	
Book-Value:	3,147	
TOTAL LEASEHOLD IMPROVEMENTS:		<u>7,648</u>
TOTAL ASSETS IN NAF:		<u><u>139,551</u></u>
LIABILITIES:		
Current Liabilities		
-		
Other Current Liabilities:		
AOV.AWW Payable	55,634	
FZOG Payable	14,172	
Pension Payable	114,176	
Sickness Premium Payable	8,858	
Accrued expenses	<u>8,194</u>	
Total Other Current Liabilities:	201,034	
TOTAL LIABILITIES:		201,034
CAPITAL:		
Capital		<u>(61,483)</u>
TOTAL LIABILITIES & CAPITAL NAF:		<u><u>139,551</u></u>

This report has not been audited.



INCOME STATEMENT FOR THE YEAR 2021

BUDGET	Budget Allocated	NAF:	1,260,118
OTHER OPERATING EXPENSES:			
	Travel & Accommodation Expense	(9,103)	
	Electricity Expense	18,199	
	Water Expense	2,952	
	Road Tax	-	
	Gasoline Expense	1,757	
	Office Supplies Expense	3,710	
	Kitchen Supplies Expense	2,371	
	Computer & Internet Expense	1,652	
	Subscription Fees Expense	-	
	Books & Other literature Expense	277	
	Repairs & Maintenance Expense-Building	-	
	Repairs & Maintenance Expense-Vehicle	6,362	
	Repairs Hardware Expense	3,483	
	Other Repairs & Maintenance Expense	148	
	Rent Expense	133,587	
	Insurance Expense - Vehicle	2,677	
	Insurance Expense- Building	1,993	
	Advertisement Expense	1,196	
	Telephone Expense	15,100	
	Postage Expense	413	
	Legal & Other Professional Fees Expense	64,395	
	Training & Courses Expense	2,669	
	Membership Fees Expense	1,302	
	Miscellaneous Expense -Bank Charges	454	
	Interest Expense	-	
	Exchange Rate Difference	-	
	Other Goods & Services Expense	128,088	
	Cleaning Supplies Expense	2,786	
	TOTAL EXPENSES:	386,468	
PERSONNEL COSTS:			
	Salaries & Wages Expense:		
	Gross Salary	682,176	
	Vacation Allowance	21,319	
	Other Remuneration & Allowances	28,332	
	Child Allowance	5,040	
	Bonus	2,064	
	Retroactive Salary	-	
	Employer Pension Premium	78,421	
	Employer's AOV.AWW Pemium	38,780	
	Employer AVBZ Premium	3,194	
	Advanced Salaries	-	
	Total Salaries Expense-Ombudsman & Staff	859,326	
	TOTAL PERSONNEL & OTHER OPERATING EXPENSES		1,245,794
	SURPLUS, before Depreciation Expense & Incidental Income:		14,324
	SURPLUS, before Depreciation Expense & Incidental Income: b/f		14,324
DEPRECIATION EXPENSE:			
	Depreciation Expense-See Depreciation Schedule:		27,443
	NET SURPLUS:	NAF	(13,119)

This report has not been audited.



OMBUDSMAN

SINT MAARTEN