



Parliament of Sint Maarten

Staten van Sint Maarten

Parliamentary Year 2014-2015-062

**National Ordinance to amend the National
Ordinance Administrative Jurisdiction**

**Report
No. 5**

Parliament in its meeting of the Central Committee has exchanged views with the Government on the Draft National Ordinance to amend the National Ordinance Administrative Jurisdiction.

Parliament considers the present draft to be adequately prepared when the questions below are answered in time for the public meeting so that the draft can be discussed in a public meeting.

The United Democrats-faction has taken note of the draft. The faction would like for the Government to explain what the essence is of the draft national ordinance at hand. According to the faction the national ordinance regulates where a citizen can go with a decision of Government he/she doesn't agree with.

The Sint Maarten Christian Party-faction has taken note of the draft with interest. The faction explains that this is one of the national ordinances that was on its way to the Parliament of the Netherlands Antilles before October 10, 2010. The Government of the Netherlands Antilles actually submitted the draft on October 6, 2010, only 4 days before the dissolution of the Parliament of the Netherlands Antilles. The national ordinance has been at the Parliament of Sint Maarten since 2015 and only now, after 3 years, the Parliament is handling it. The National Ordinance Administrative Jurisdiction has been in force for 9 years in the Netherlands Antilles before October 10, 2010 and it was deemed a good piece of legislation that served its purpose well. Nevertheless it had to be tweaked here and there, hence this amendment. The judicial department of the Netherlands Antilles drafted this national ordinance and it was subsequently scrutinized by the Council of Advice of the Netherlands Antilles.

The faction supports this draft national ordinance because the rights of the people, when it comes to disputes with the Government and legal redress, are well protected with this draft national ordinance. However the faction has a problem with the procedure. The faction is of the opinion that this draft national ordinance should not have come to the Central Committee at this stage. It should have been sent to one of the Permanent Committees of Parliament, perhaps the Committee of Justice. A few weeks ago there was a discussion in the Central Committee whether it makes sense to have so many Committees at all. In favor of having Committees but not for show or in name but that would work and be effective, a Committee could have done the work instead of the Central Committee.

Also, the faction notes that the documentation sent by the secretariat pertaining to this national ordinance didn't include the original national ordinance (the one being amended by this draft: the National Ordinance Administrative Jurisdiction). The original national ordinance was based on the "Staatsregeling van de Nederlandse Antillen" and the "Samenwerkingsregeling Nederlandse Antillen en Aruba". Both pieces of legislation have become obsolete since the Netherlands Antilles doesn't exist anymore. The faction is of the opinion that it makes no sense to continue to look at the draft because the original national ordinance needs to be aligned first. Therefore the faction proposes for the Government to consider revising the original national ordinance. The draft should be handed back to Government with the request for Government to update the national ordinance. Additionally, before resubmission to Parliament the draft should be sent to the Council of Advice in order for this entity to scrutinize the draft to the reality of Sint Maarten.

The National Alliance-faction has taken note of the draft and stresses the importance for Government to give a presentation in the Central Committee when draft national ordinances are being handled by said Committee in order to educate the public.

How will this draft national ordinance improve the functioning of Government right now? And the cooperation between Curaçao and Sint Maarten?

The United St. Maarten Party-faction has taken note of the draft and mentions that cases in our legal structure, whether criminal, civil or administrative, tend to run for extensive periods of time. It is good to see that appeal periods are being amended to 6 weeks. What other aspects of efficiency and processes of administrative court need to be addressed?

After the passing of hurricane Irma the Court delayed several cases. Was that something decided on by the Court itself or is that inbedded in our legislation? So what happens in cases of emergency or disaster?

Where backlog is concerned, have we addressed the situation from a current perspective? What are the operations of the administrative court at this stage? Does the court see a significant backlog? What is the workload of the court like? Has there been any consultation with the court pertaining to its workload to figure out if there are any additional changes necessary for this court to conduct its work more efficiently?

Where it pertains this national ordinance and its interaction with other legislation and changes to legislation that Parliament is currently handling. Has the Government taken into consideration some of the other amendments that have been coming to Parliament lately to ensure that there are no conflicts? The faction refers to the changes to the National Ordinance General Land Taxes. If we change the way we report financial information, does this have any implications in the way a possible dispute is handled? Is this something that the administrative court should handle and is there a situation of possible conflict?

Are there any financial implications related to the draft amendment? For example, additional staff necessary. Or maybe financial savings? Are representation costs covered in any way? What is the cost budgeted by Government for cases in which Government is the defendant (administrative court)? How much does this cost the country on an annual basis?

Representation cost for citizens who would like to make use of this court. If someone can't afford a lawyer, does this also apply to representation in the administrative court? Do we have any statistics as to how much Government has supported individuals in this need? One of the key factors why persons refrain from making use of the court system, is the financial element. What support is there available for

representation? And in terms of public relations to inform the public on their rights in using this court? How many cases have Government lost? Can the amount of NAfl. 4.5 million in budget be clarified? The faction is interested to know the budget for legal costs not for the court itself. Has Government found itself exceeding the budget?

The faction mentions that due to the complexity of the cases in the administrative court, lawyers often refrain or recommend clients not to make use of this court. Do these amendments lessen the complexity of the administrative court to the benefit of our citizens?

This report is to be considered as Final Report.

Stipulated in the meeting of the Central Committee of June 11th, 2018.



The Reporter,

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