



# Parliament of Sint Maarten

## Staten van Sint Maarten

Parliamentary Year 2017-2018-104

**National Ordinance to establish the Integrity Chamber, as well as to regulate the structure, composition, tasks and powers of the Integrity Chamber  
(National Ordinance Integrity Chamber)**

**Report  
No. 5**

Parliament in its meeting of the Central Committee has exchanged views with the Government on the Draft National Ordinance to establish the Integrity Chamber, as well as to regulate the structure, composition, tasks and powers of the Integrity Chamber (National Ordinance Integrity Chamber).

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 People's Party-faction** with interest has taken note of the draft. The faction would like clarity on the difference between a binding advice and an instruction. What is a binding advice? An advice can never be binding. It is up to the Minister or Council of Ministers to follow the advice yes or no. In addition to that, where the word Council of Ministers is used, this needs to be replaced with Council of Ministers of Sint Maarten in order for there not to be a misunderstanding which Council of Ministers is referred to. Can Parliament be provided with a copy of the presentation the Minister has given? The matter of integrity on Sint Maarten didn't start after hurricane Irma but dates back to 2015 when certain agreements were made and even back to 2010 when Sint Maarten became a country. Was the main reason why the Constitutional Court rejected the old draft because of the fact that it was not sent to the Council of Advice? Isn't it so that the Secretary General agreed in May 2017 to handle this draft in Parliament by October 31, 2017? In actuality before the natural disaster took place. The faction doesn't find the aid should have been linked to the acceptance of the draft ordinance in Parliament, but the reality is that the draft would have been sent to

Parliament anyway as per the agreement for further handling. In the further report mention is made that due to the deadline there was a rush to send the draft to Parliament. Because of this no consultation took place between Sint Maarten and the Netherlands where it concerns changes that were made in the draft. Can clarity be provided on this? On page 2 reference is made to the fact that after the approval of the draft this will be sent to Government. This should be the Governor. In the Protocol a shared budget was agreed upon from 2015 to 2018 when Sint Maarten would take over. What is the agreement in this respect? In the old draft a breakdown was given of how much the Integrity Chamber would cost including salaries etc. In the new draft only a total amount is given. What is the reason for this? Can one of the countries decide not to adhere to the Protocol any longer? Can every Government make changes to the Protocol? Within 4 weeks after receipt of the advice, the Government or Government owned company needs to react and indicate how the advice will be executed. Is the Integrity Chamber mainly meant for Government and Government owned companies and not for private companies in the private sector? Are the two main tasks of the Integrity Chamber giving advice on policies and procedures to promote integrity at Government and Government owned companies? What role will the Integrity Chamber play in connection with screening of ministers? The second task is to investigate potential integrity breaches. Can this be clarified? Reference is made to the actions and inactions of directors of Government owned companies. Can this be elucidated? The evaluation period of this law is 4 years. What can be done in case before that time things are discovered that need to be changed? What kind of mechanism is in place? What happens in case during the investigation punishable acts are discovered?

**The Democratic Party-faction** with interest has taken note of the draft and asks that all correspondence between Sint Maarten and the Netherlands concerning the aid after hurricane Irma, border control and Integrity Chamber be provided to Parliament. The faction makes reference to the answers given by the Government of Sint Maarten in connection with questions posed during a Central Committee meeting that took place on April 18, 2017 and asks which were the main objections of the Government with regards to the Integrity Chamber. Does the Government consider the Integrity Chamber delayed or (partially) rejected? In case of rejection, which part? Can the Government confirm that the Protocol of 2015 has been

reactivated? And if so, why has this Protocol been reactivated? On July 6, 2017 the Government agreed to the establishment of an Integrity Chamber. After that the Government deemed an Integrity Chamber of such importance that it considered it necessary to anchor this in the Constitution. Does the Government still think that the appointment of a person to the Integrity Chamber by the Kingdom Council of Ministers is an infringement on our autonomy? Isn't it so that with the reactivation of the Protocol, the Government already agreed to the appointment of a third person to the Integrity Chamber by the Kingdom Council of Ministers? Didn't this form part of the Protocol of 2015? The Government has chosen for the zbo construction in this draft. In the elucidation the Integrity Chamber is compared to a permanent advisory body. How does the Government see the control of this institution? There is a difference between control of a zbo and a High Council of State. What is the status of the Protocol of 2015? When did Government agree with the conditions of Integrity Chamber and border control? To whom was this communicated and how? Are the other parts of the Protocol of 2015 still in effect and executed?

**The National Alliance-faction** with concern has taken note of the draft and indicates that the draft looks a lot like the draft from 2015 that was approved by Parliament and then rejected by the Constitutional Court. Are there (specific) changes in this draft compared to the old draft? Is there anything on paper where it states that when Parliament approves the draft, Sint Maarten will receive the 550 million euro in aid as promised? The faction can't agree to this draft without this promise being on paper.

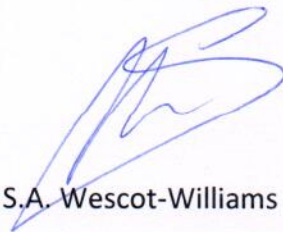
What is a zbo? When this organization has been established, can Parliament demand for its members to come to Parliament to give account? Can an escape clause be added to the Protocol in case the 550 million is not given? Can Parliament amend this national ordinance before the 4 years has passed? Can the Integrity Chamber start an investigation in businesses in the private sector and under which circumstances? Is permission needed from the owner of a house when the Integrity Chamber decides to enter? The reason why the Ombudsman brought the old National Ordinance Integrity Chamber to the Constitutional Court is because certain articles infringed on the human rights of citizens. What changes were made in this respect to this draft? Is this draft for Government, Parliament or all citizens of Sint Maarten? What is the definition of an integrity breach?

**The United St. Maarten Party-faction** with alarm has taken note of the draft. The faction indicates that in January 2017 this Parliament took a unanimous decision with respect to the Integrity Chamber. It's incomprehensible that certain Members of Parliament suggest that this draft should be sent first to the Ombudsman and other advisory bodies. This means that in fact these Members of Parliament don't know what their role is. In addition to that Members of Parliament agree to a draft without knowing the contents. No Member of the Second Chamber or Minister in the Netherlands can demand for this Parliament to approve legislation. That means that they will sit on the chair of the Members of Parliament of Sint Maarten. And then it makes no sense anymore that the people of Sint Maarten elect Members of Parliament. Members of Parliament have not even had enough time to study the draft.

This report is to be considered as Final Report.

Stipulated in the meeting of the Central Committee of December 8<sup>th</sup>, 2017.

The Reporter,



S.A. Wescot-Williams