



OMBUDSMAN

SINT MAARTEN

2019

ANNUAL REPORT





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Foreword



The year 2019 marks the beginning of the tenure of the second Ombudsman of Sint Maarten. I would like to extend gratitude to the former Ombudsman for bringing the Institute to its present standard and paving the way to succeed her. The Ombudsman aims to bridge the gap between the public and government by raising the level of service provided by government to a higher standard, as well as promoting awareness of the role of the Ombudsman by using new approaches such as infomercials and short films through social media in order to engage the youth. The

Ombudsman also introduced an alternative way of resolving conflicts between government and citizens through 'Ombudsmediation'. Mediation within the mandate of the Ombudsman.

My first year as Ombudsman was very insightful and dynamic. Despite the challenges Sint Maarten and in particular the government continue to face; the Bureau remains focused in continuing to assist government in achieving a deeper level of good governance.

Fighting poverty and protecting fundamental rights were the two primary topics on the agenda during a meeting held with the Ombudsmen of the Kingdom in Saba in January 2019.

A study of poverty-related problems of those entitled to the general old-age pension (AOV) who live on or below the poverty threshold in the Caribbean Netherlands, was done by the National Ombudsman of the Netherlands and resulted in a report entitled "[Focus on the elderly in the Caribbean Netherlands \(CN\)](#)". The report revealed that elderly who live on or below the poverty threshold in the Caribbean Netherlands face several problems. They hardly have money to cover their basic needs, there are too few (care) facilities and they don't know which benefits they might be entitled to. The Ombudsman notes that the conclusion of the study done by the National Ombudsman of the Netherlands can be applied directly to the situation in Sint Maarten.

With the theme "reaching out and empowering the people" the Ombudsman embarked on a Community Outreach program by taking the initiative to reach out to the citizens following many concerns about the recovery process and promises that were made to the people following the hurricanes in 2017. During the months of March, April and May 2019 town hall meetings were held in Dutch Quarter, Philipsburg, Cay Hill, South Reward, Belvedere and St. Peters, with the assistance of the Community Councils. Due

to non-cooperation or not having a functioning community council, some districts were not visited. Following these meetings, a number of interviews and home visits were conducted by the Ombudsman with persons who shared their personal experience relating to roof /home repair, as a result of the damages suffered from Hurricane Irma. A culmination of the interviews as well as information received from various stakeholders regarding the various roof and home repair projects resulted in a comprehensive report entitled: 'Home Repair. A revelation of a social crisis'. The report was complemented by a short film, released shortly after the report was presented to the President of Parliament mid October 2019 in the midst of yet another period of instability in government.

Besides the slow pace of the reconstruction the Ombudsman revealed the lack of social / affordable housing on the island and the challenges of the Sint Maarten Housing Development Foundation (SMHDF) as well as the need for improved (post) disaster planning.

On 30 October 2019 the Ombudsman attended the annual meeting of the Ombudsmen of the Kingdom held in the Netherlands where she had the opportunity to sit in a meeting with His Majesty King Willem-Alexander. The meeting was part of King Willem-Alexander's visit to the National Ombudsman of the Netherlands. During said meeting the Ombudsman took the opportunity to present her aforementioned report and short film to the King and expressed her concerns regarding the slow pace of the home repair, as many persons continue to live in dismal conditions two years and counting with little or no other prospects for improvement.

Following the annual meeting of the Ombudsmen, the Ombudsman attended the 2019 edition of the "Poldershop" in The Hague. Said event was a forum with several members from the International Ombudsman Institute (IOI) European Region discussing the use of criteria (law, treaties, norms) to assess the actions of government when concluding or providing recommendations after investigation of a complaint. Attending the forum added much value to the work and function of the Ombudsman. The results and input from this "Poldershop" will be used to develop an [IOI Best Practice Paper](#) on the topic, which will be made available to all members in 2020.

It gives me great pleasure to present the year report 2019 to the Parliament and the people of Sint Maarten in my capacity as Ombudsman of Sint Maarten.

Gwendolien Mossel, LL.M.
Ombudsman Sint Maarten

Executive Summary

I. Introduction

Effective January 1, 2019, Ms. Gwendolien Mossel was appointed by the Parliament of Sint Maarten as Ombudsman of Sint Maarten for a seven-year term, in accordance with article 2 of the National Ordinance Ombudsman. The new Ombudsman immediately set out to introduce herself to the community via a Community Outreach Program. The objective of the program was threefold. First it was to introduce the new Ombudsman to the people of Sint Maarten. Secondly, it was to visit the districts to seek out the concerns, grievances and complaints of the people, particularly the most vulnerable, and finally to promote awareness on the role of the institution.

II. Activities

In addition to the Outreach Program, the Ombudsman attended the 10th biennial Caribbean Ombudsman Association (CAROA) Conference, held on the island of Bermuda with the theme: "Strengthening the role and performance of the Ombudsman and Human Rights Institutions in the Caribbean and Latin America". In an effort to improve and reactivate the working relationship between CAROA and the Latin American Ombudsman Institute (ILO), the Secretary General of the Bureau participated in the institutions 10th General Assembly which was held in San Salvador. The Ombudsman also attended Ombudsmen of the Kingdom consultations, a cooperation platform developed by the Ombudsmen of the Kingdom of the Netherlands, in Saba and The Hague.

III. Complaints handled

In 2019 the newly appointed Ombudsman took a dual approach to complaint handling; dealing with regular complaints but also taking the past as well as current signals, pertaining to home repair and conducting community outreach, into consideration. The community outreach entailed conducting in depth interviews with stakeholders as well as complainants, this also included 6 townhalls and home visits. A total of 54 new complaints from the regular complaint procedure and 16 complaints concerning the systemic investigation into home repair were registered. A total of 313 inquiries were made at the Information Window (IW), compared to 414 in 2018. A significant amount of IW's registered were related to civil cases e.g. lease agreements and employment, followed by ZBO's and human resource topics. The Ombudsman has, in an effort to increase efficiency in the (corrective) measures to be taken by government bodies, strategically shift focus to a more result-oriented approach when issuing recommendations (when possible).

IV. Systemic Investigations

In 2019 the Ombudsman concluded one systemic investigation, namely on the Procurement Management Policy of the Princess Juliana International Airport Operating Company N.V. (PJIAE), at the level of the functionally responsible government body (i.e. the Ministry of TEATT). The investigation was initiated in the third quarter of 2018, however was completed in April 2019, due to the poor responses from the minister. The Ombudsman determined that the Procurement Management Policy (PMP) is insufficiently transparent at the level of the functionally responsible government body for PJIAE/government. The evaluation criteria used in the tendering and selection of bidders appear not to be accessible to interested (third) parties and the public in general.

V. Outreach Program / Home Repair report

In 2019 the Ombudsman and her team ventured out into community to seek out the concerns, grievances and complaints of the people. The result of the Community Outreach Program was presented in the report; 'Home Repair: a revelation of a social crisis'. The report provided an overview of the home repair developments and progress of same. The report included identified bottlenecks such as slow pace of the home repair, policies that are restrictive to the non-elderly, non-assistance to catastrophic damages, the unavailability of affordable housing etc. Recommendations were provided to government as well.

VI. Constitutional Court

Although there were no new cases presented by the Ombudsman to the Constitutional Court in 2019, the Ombudsman reviewed three critical legislations in connection with the Financial Action Task Force (FATF) issued recommendations. These laws were: "*Landsverordening Grensoverschrijdende geld transporten, Landsverordening Meldpunt ongebruikelijke transacties en Landsverordening Bestrijding witwassen en terrorismefinanciering*". The review of the ratified legislations gave rise to privacy related concerns pertaining to the '*Landsverordening Witwassen en terrorisme financiering*', which warranted further research into a possible violation of article 5 of the Constitution, regulated in the National ordinance protection of personal data (hereinafter: Personal data protection law) and other international regulations.

VII. Financial Reporting

The total budget provided to the Ombudsman in 2019 amounted to Nafl. 1.514.363,00.

Based on the unaudited financial report for the year 2019, a total of Nafl. 1.379.352,52 was spent.



I. Introduction

In 2019 the Ombudsman institute of Sint Maarten experienced a changing of the guard. Effective January 1, 2019, Ms. Gwendolien Mossel was appointed by the Parliament of Sint Maarten as Ombudsman of Sint Maarten for a seven-year term, in accordance with article 2 of the National Ordinance Ombudsman.

Per the same date, after valiantly serving the institute and the country of Sint Maarten for 8 years, Dr. Nilda Arduin was honorably discharged as Ombudsman. In January 2019 during a farewell ceremony hosted in her honor, Dr. Arduin was conferred, by His Excellency Governor drs. Eugene Holiday, as *Officer in the Order of Orange-Nassau*. Dr. Arduin was recognized for her important contribution to the Ombudsmanship locally, regionally and internationally.

The newly appointed Ombudsman immediately set out to introduce herself to the community via a Community Outreach Program. The objective of the program was threefold. First it was to introduce the new Ombudsman to the people of Sint Maarten. Secondly, it was to visit the districts to seek out the concerns, grievances and complaints of the people, particularly the most vulnerable, and to promote awareness on the role of the institution. The result of the Outreach Program was presented in the report; '[Home Repair: a revelation of a social crisis](#)'. A [short film](#) to complement the report was also released.

The Systemic investigation regarding the procurement process/ Procurement Management Policy at the Princess

Juliana International Airport Operating Company (PJIAE), initiated in June 2018, was concluded in April 2019.

Just as in previous years, Sint Maarten continues to struggle with maintaining a stable government. The Marlin-Romeo cabinet, the eight cabinet in nine years since attaining country status on October 10, 2010, lost its majority in parliament in September 2019. As a result, new elections were scheduled in January 2020. This consistent change of government and by extension ministers continues to pose a significant challenge to the institution as it relates to the handling of complaints. Complaint investigations start at the respective departments; however, the ministers are ultimately responsible. It is the minister's responsibility to follow-up on the recommendations issued by the Ombudsman in order to promote good governance and improve service. While governing is intended to be continuous, the reality is more complicated and as long as the instability of government continues, the goal of good governance as envisioned and championed by the institution will be increasingly onerous to attain.

A summary of the main activities along with the pictorial will be provided in chapter 2. The complaints handled, including statistics will be discussed and analyzed in chapter 3, trailed by the systemic investigations in chapter 4. The Community Outreach Program will be highlighted in Chapter 5. A detailed analysis of the program is available in the Home Repair report. Although no laws were presented to the Constitutional Court for review, an extensive analysis was made of the National Ordinance regarding the combatting of money laundering and terrorism financing, which will be handled chapter 6. The Year Report will conclude in chapter 7 with the financial reporting.

II. Activities

The year 2019 was a very active year for the Bureau. With the launch of the Community Outreach Program plans were made to visit all of the districts of Sint Maarten. The Outreach Program was preceded with a media blitz. The community was informed of the program via press releases, flyers were distributed and the Ombudsman as well as the entire staff of the Bureau conducted interviews on various radio programs informing the public about the program and its objectives. Considering that to achieve our objective we would be requesting the active participation and involvement of the various community councils on the island; the program was preceded by an informational meeting whereby all of the community councils were invited. The respective district councils were requested to identify the most pressing/urgent cases of the less fortunate within their community where government action is required.

Though the initial concept of the program was to cover multiple topics that particularly affected the vulnerable within the society, it became obvious that the main challenge that persons were confronted with was the slow pace of the home repair programs in the aftermath of Hurricane Irma that devastated the island in September 2017. To gather more information about the rebuilding

process, meetings were held with stakeholders such as: The National Recovery Program Bureau (NRPB), Ministries of VSA and VROMI, Sint Maarten Housing Development Foundation (SMHDF), Sint Maarten Development Fund (SMDF) and Red Cross. Meetings were also held with numerous persons who had been affected by the hurricane and residents of the Transitional Shelter (T-Shelter), managed by Dr. J. Enterprises, where persons lived who became homeless as a result of the hurricane.

In our quest to continue to build on the relationships with the private entities with public authority (ZBO's) that we investigate, a workshop was held with the SZV. SZV continues to promptly respond and cooperate with the investigations of the Ombudsman as well as follow-up on recommendations.

The Ombudsman attended the 10th biennial Caribbean Ombudsman Association (CAROA) Conference, held on the island of Bermuda with the theme: "Strengthening the role and performance of the Ombudsman and Human Rights Institutions in the Caribbean and Latin America". The conference was followed by a training themed "advancing the Ombudsman's impact, role, service and performance" led by Dr. Victor Ayeni who is a well-known international authority on the Ombudsman and related oversight institutions. In an effort to improve and reactivate the working relationship between CAROA and the Latin



American Ombudsman Institute (ILO), the Secretary General of the Bureau participated in the institutions 10th General Assembly which was held in San Salvador. The Ombudsman also attended Ombudsmen of the Kingdom consultations, a cooperation platform developed by the Ombudsmen of the Kingdom of the Netherlands, in Saba and The Hague.

Other noteworthy activities in 2019 included discussions with the Ministry of Education, Culture Youth and Sport

(ECYS) regarding the United Nations Convention on the Rights of the Child and the possibility of adding Children Ombudsman tasks to the authority of the Ombudsman in the future, meetings with Sint Maarten's representative in the Kingdom Council of State, the Minister Plenipotentiary, representatives of the General Audit Chamber of the Netherlands and attending the Anti-Money Laundering Awareness and National Risk Assessment Conference organized by the Ministry of Justice.

Pictorial



Meeting with Sint Maarten Development Fund/NO & OBM SXM



Farewell reception former Ombudsman with former & present staff members



Royal decoration former Ombudsman, Dr. Nilda Arduin



Meeting Progress Cte. Prison & Police



Meeting Ombudsmen of the Kingdom & HRH King Willem Alexander



Presentation Home Repair report to caretaker Prime Minister Wycliffe Smith



Community Outreach Meeting Down Street



Introductory meeting Maria van der Sluijs-Plantz, St. Maarten Rep. Kingdom Council of State



Meeting Minister Plenipotentiary, Jorien Wuite



Meeting Public Prosecutor, Mirjam Mol & Policy Advisor, Brenda Koek



Meeting Minister TEATT, Stuart Johnson



Meeting VROMI representatives, Louis Brown & Kurt Ruan



CAROA Conference 2019



Meeting Ministry VSA representatives



Leadercast 2019, BOBM female staff



Expert meeting Kinderombudsman Curaçao



SZV presentation to staff Bureau Ombudsman



Meeting Council of Ministers



Presentation Home Repair Report to President of Parliament, William Marlin



High Councils SXM—Team Building Activity



Presentation 2018 Year report to Prime Minister, Leona Romeo-Marlin



Meeting SMHDF representatives



Site visit BOBM staff to Dr. J. Enterprises (T-Shelter)



Team Ombudsman



BOBM employees personal donation to one of the winners of School Ombudsman Project and Teen Carnival Queen Shaneisha Robinson

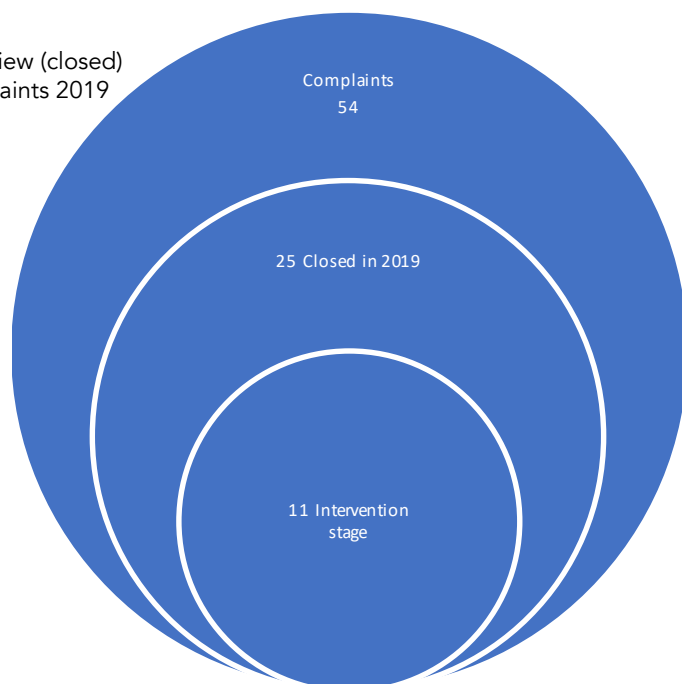
III. Complaints handled

In 2019 the newly appointed Ombudsman took a dual approach to complaint handling; dealing with regular complaints but also taking the past and current signals, pertaining to home repair and conducting community outreach, into consideration. The community outreach entailed conducting in depth interviews with stakeholders as well as complainants, this also included 6 townhalls and home visits. A total of 54 new complaints from the regular complaint procedure and 16 complaints concerning the systemic investigation into home repair were registered. A total of 313 inquiries were made at the Information Window (IW), compared to 414 in 2018. A significant amount of IW's registered were related to civil cases e.g. lease agreements and employment, followed by ZBO's and human resource topics. The Ombudsman has, in an effort to increase efficiency in the (corrective) measures to be taken by government bodies, strategically shift focus to a more result-oriented approach when issuing recommendations (when possible).

Statistics

In 2019 a total of 54 new complaints were registered, of which 49¹ complaints were made against the ministries and 5 were ZBO cases. There was a total of 25 complaints closed in 2019 of which 11 were closed in the intervention stage, this means that the government body responded within the one-week period given by the Ombudsman to address the complaint. A total of 29 complaints went over to 2020 for further investigation. A total of 30 complaints from 2018 were closed in 2019, this brings the total of complaints closed in 2019 to 55.

Fig 1:
Overview (closed)
complaints 2019



The Ministry of VROMI encompassed the majority of the complaints registered in 2019 with 20 cases (37.5%), followed by the Ministry of Justice with 8 and the Ministry of Finance with 7 complaints. Within the Ministry of VROMI, the department of Inspection received the most complaints (7), followed by Domain Affairs (6) and the Permits departments (3). These departments require dire attention in terms of adequate staffing and streamlining of policies in order to increase efficiency. Additionally, from the 29 open cases that went on to further investigation in 2020, 11 of those cases are from the Ministry of VROMI. Most complaints against the Ministry of Justice were against the Sint Maarten Police Force (KPSM) (4) followed by the Department of Immigration and Border Protection services (IBP) (2). Although the Ministry of Justice has a decrease in cases, it still has 5 cases (4 IBP and 1 KPSM) open from 2018. The Tax department registered the most complaints within the Ministry of Finance with 5 cases.

Compared to 2018 there was an overall drop in total complaints from 76 to 54 in 2019, that is a difference of 22 cases. This drop is attributed to the significant drop in ZBO cases, namely from 20 in 2018 to 5 in 2019, this represents a drop of 68%. In 2018, a majority of the ZBO complaints were against SZV, while only 2 cases were filed against SZV in 2019. SZV has made considerable efforts to address their internal procedures, adapt the recommendations given by the Ombudsman and address complaints in a timely manner resulting in positive results as is reflected in the drop of complaints in 2019.

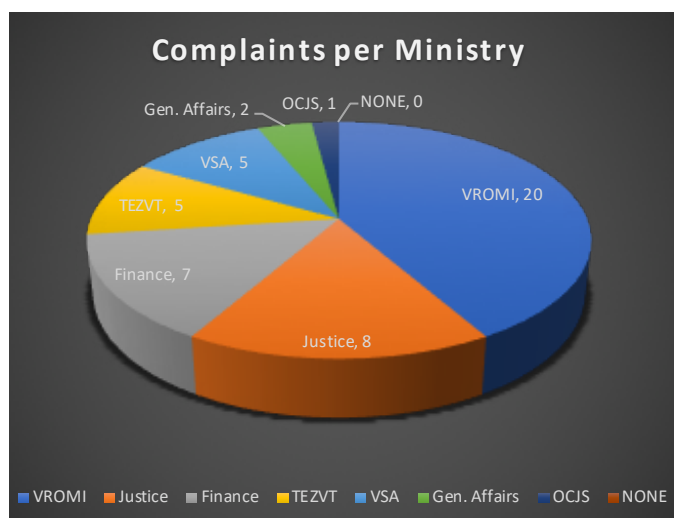


Fig 2: Pie chart complaints filed per Ministry in 2019

1. One complaint was of general nature not directed to any specific ministry or ZBO.



	Year	
	2018	2019
TOTAL COMPLAINTS SUBMITTED	76	54
Complaints closed in the year	36	55
Open complaints	40	29
Total ministry cases	56	49
Total ZBO cases	20	5

Fig 3: New complaints registered in 2018 & 2019

	Year	
	2018	2019
MINISTRIES		
Public Housing, Spatial Planning, Environment and Infrastructure	8	20
Justice	18	8
Finance	3	7
Tourism, Economic Affairs, Transportation and Telecommunication	8	5
Public Health, Social Development and Labor	11	5
General affairs	6	2
Education, Culture Youth Affairs and Sports	2	1
Other		1
ZBO	2018	2019
Sociale Ziektekosten Verzekering (SZV)	13	2
SXM Housing & Dev. Foundation	0	1
NRPB	0	1
F.A.V.E.	0	1
Algemeen Pensioenfonds St.Maarten (APS)	1	0
Rental Committee	1	0
Stichting Kadaster & Hypotheekwezen	3	0
Stichting Katholieke Onderwijs St. Maarten	1	0
Princess Juliana International Airport	1	0
Total	76	54

Fig 4: Incoming complaints registered per ministry in 2019 compared to 2018

A compilation of the total established violations of standards of proper conduct for 2019 shows that the standards of *Promptness* (19), *Adequate organizations of services* (14) and *Active and adequate information provision* (9) remain the highest. These trends show that government bodies continuously take longer than the legal time frame and/or what is deemed reasonable to respond to queries/applications from the public without providing a proper justification.

Also, that government bodies are not structured in an efficient manner that would facilitate the decision-making process e.g. (structurally) understaffed with no adaptation to the disabilities caused by the understaffing.

Equally, the distribution of queries/applications by the public to the relevant persons within the ministries/departments also require urgent attention. The duty of care 'zorgplicht' requires that once a document is received by basically any government body that it has also reached it's intended recipient. This also requires urgent attention, as not handling accordingly delays the handling of the public's matters even more. The third highest violation is that of Active and adequate information provision, this means that not enough information is published concerning government matters and policies leading persons to ask questions that could've been published online or a decision/inquiry/procedure is not adequately explained. This often occurs when a decision is delayed but the applicant is not informed that this may take longer or that additional information is needed. This standard has also been articulated in the National ordinance open government; it is often observed that this legislation is not adhered to adequately.

Standards of proper conduct	2018	2019
Promptness	15	19
Adequate organization of services	13	14
Active and adequate information provision	10	9
Fair play	4	4
Reasons	3	2
Legal certainty	3	2
Proportionality	0	2
Generosity	0	1
Active and adequate information gathering	0	1
Cooperation	1	0
Correct treatment	2	0

Fig 5: Comparison standards of proper conduct violated in 2019 vs 2018

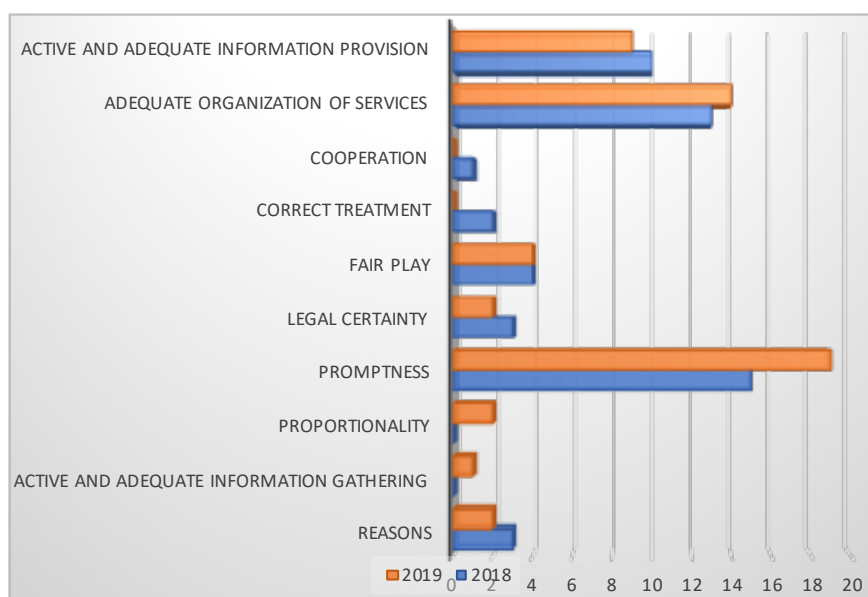


Fig 6: Comparison standards of proper conduct violated in 2019 vs 2018

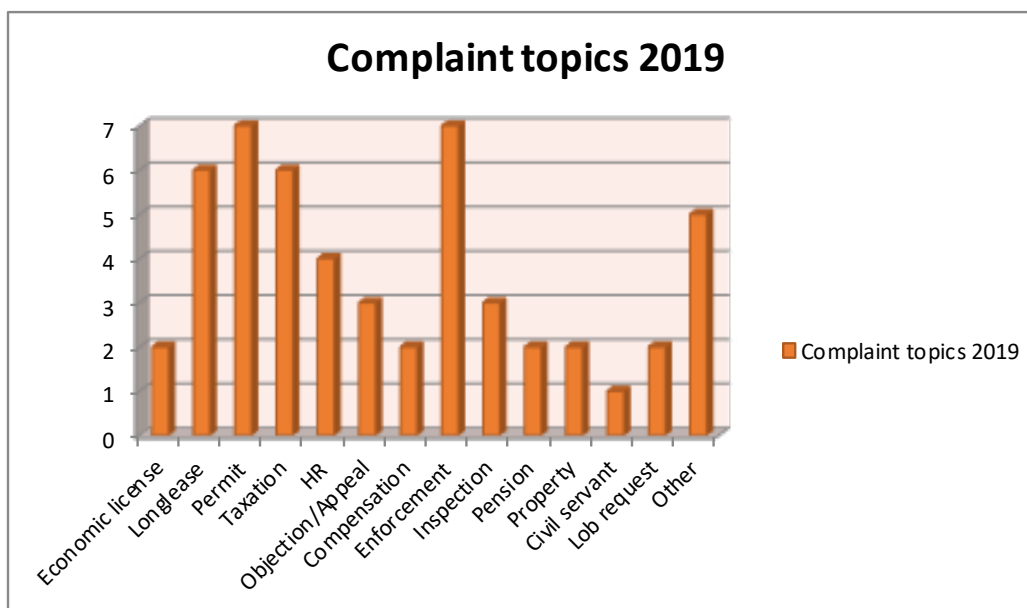


Fig 7: Complaint topics 2019

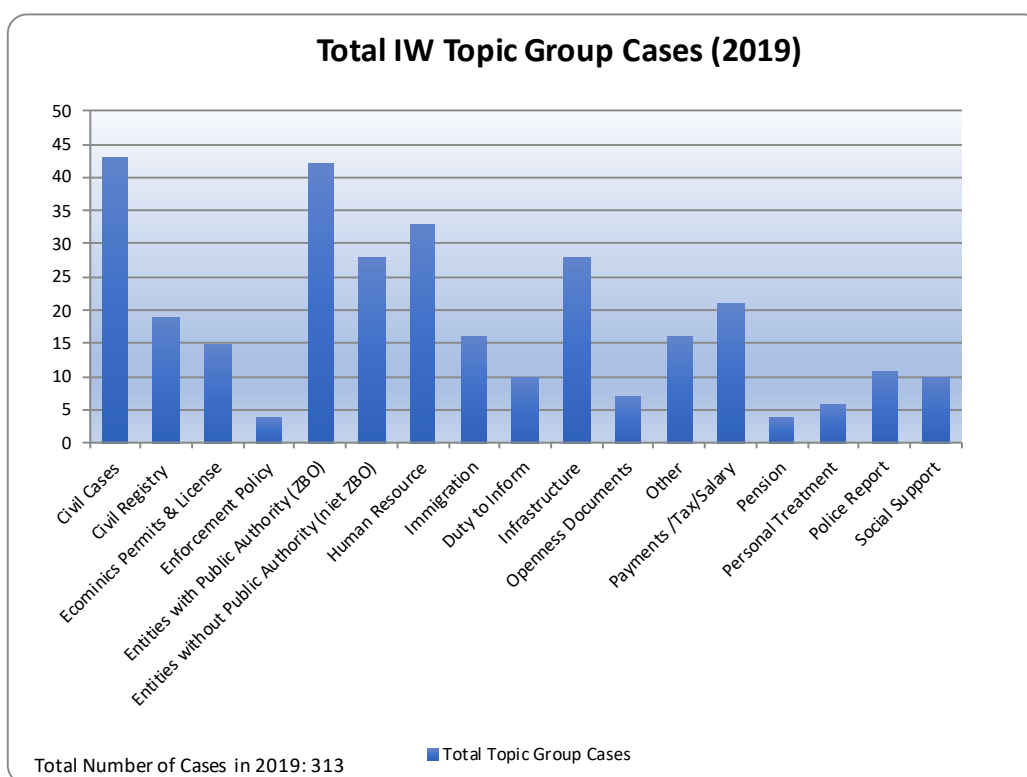


Fig. 8: Graph of information window topics registered in 2019

Recommendations

Article 16, paragraph 6, of the National Ordinance Ombudsman stipulates that the Ombudsman can provide administrative bodies with recommendations to take (corrective) measures.

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.

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 2018 and 2019 were 31 and 54 respectively; keeping the comparative average at 3 (2.45) per case. In 2019 the Ombudsman issued 21 recommendations to the Ministry of Justice, 11 to the

Ministry of Public Housing, Spatial Planning, Environment and Infrastructure (VROMI), 11 to the Ministry of Public Health, Social Development and Labor (VSA), 5 to Kadaster (ZBO), 2 to the Ministry of General Affairs and 1 to Ministry of Education, Culture, Youth & Sports (OCJS). The recommendation most given to government bodies is the recommendation to 'review system used to address incoming mail, letters, grievances and complaints.' This underscores the top 3 violated standards of proper conduct.

IV. Systemic Investigations

Pursuant to 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 2019 the Ombudsman concluded one systemic investigation, namely on the Procurement Management Policy of the Princess Juliana International Airport Operating Company N.V. (PJIAE), at the level of the functionally responsible government body (i.e. the Ministry of TEATT). The investigation was initiated in the third quarter of 2018, however was completed in April 2019, due to the poor responses from the minister. Although the history, concerns and the considerations for the investigation were previously covered in the 2018-year report, the conclusions and recommendations were not, as the final report was not completed. For the sake of posterity, the complete report will be addressed in the 2019-year report.

History

On 28 March 2018 a complaint² was filed with the Ombudsman against the Princess Juliana International Airport Operating Company N.V. (PJIAE) regarding a request from a company to PJIAE for an explanation why the company was not awarded the contract for which it submitted a tender.

Upon invitation from PJIAE the company submitted an offer for (a) project(s) for which bids were requested by PJIAE. As a reputable longstanding service supplier to PJIAE disclosure of the criteria used to award the project was requested. In addition, a copy of the Procurement Management Policy used by PJIAE was requested in order for the Complainant to familiarize himself and get a better understanding of the selection process and requirements in the tendering of future projects. By email dated 1 May 2018 Complainant was however informed that the Procurement Management Policy (PMP) is a confidential and internal document, and could not be shared with the Complainant.

By email dated 22 June 2018 to the Chief Operating Officer (COO) of PJIAE, the Ombudsman attempted to resolve the Complaint via Intervention. After numerous correspondence between the Ombudsman, PJIAE and its legal representative, by letter dated 27 September 2018 the Ombudsman proceeded to refrain from further investigating the pertinent complaint, upon receipt of a rather vague response regarding allegedly the re-evaluation of the offers filed by the invited vendors against PJIAE's procurement policy and procedures. The PMP was however not submitted to the Ombudsman as requested.

Considering the nature of Complainant's request and transparency required from government owned or controlled private entities, the Ombudsman concludes that PJIAE is bound by the principles of propriety required from public bodies. The scope of propriety reflects the norms expected from (semi) government bodies in executing laws, policies and established procedures, among which are openness and transparency.

Summary of concerns

- After ample considerations and by mutual consent having identified and listed PJIAE as a private entity with public authority ('ZBO') in 2017, a sudden resistance occurred by the company to be investigated by the Ombudsman.
- The importance of transparency regarding the procurement policies and procedures of government bodies and entities directly or indirectly related to the government pursuant to the law; ministerial or functional responsibility.
- Good governance requires openness and accountability regarding procurement policies and procedures, which includes accessibility of the criteria and the selection procedures to the bidders, interested parties and the public in general.

2. Although only one official complaint was filed with the Ombudsman against PJIAE, the Ombudsman is aware of other formal complaints of other companies against PJIAE regarding the lack of transparency of the procurement process and the divergence of said process to standard industry practices.



Considerations

- The core of the complaint filed is a matter of good governance and in the general interest of the public;
- Government entrusted PJIAE with several tasks and authorities that traditionally are the responsibility of the government;
- There is no transparency regarding the Procurement Management Policy and selection process for procurement activities at PJIAE;
- The importance of transparency of procurement procedures and policies of government and related companies in general, in particular for bidders and interested (third) parties;
- The lack of clarity and/or accessibility of the tender process applied by PJIAE, a government related entity by law;
- The principles of good faith, reasonableness and fairness in procurement and contracting as standard principles that government owned companies are bound to, and required to uphold;
- The limited cooperation received from PJIAE's management and supervisory board, as well as the preliminary queries by the Ombudsman into the application of the procurement policy and procedures followed by PJIAE warrant a thorough investigation of the tender processes;
- Procurement processes by government owned companies in general require due attention, more so considering the administrative inquiry initiated by the Public Prosecutor into activities of the Port of Sint Maarten Group of Companies, a government related group of companies, reported in the media. Permission of the Joint Court was requested to investigate the tendering and contracting of Harbor projects;
- As a result of the passing of Hurricanes Irma and Maria in September 2017 the Princess Juliana International Airport reportedly sustained substantial damages of approximately US\$ 100 million, and is currently in a comprehensive rebuilding phase;
- Openness and transparency regarding PJIAE's procurement procedures being critical in the rebuilding process, in particular considering according to media reports the Sint Maarten Airport Reconstruction Project is one of the projects under preparation for funding via the Sint Maarten Recovery, Reconstruction and Resilience Trust Fund.

The main questions for consideration are:

- Is PJIAE's Procurement Management Policy in accordance with the fundamental principles of public procurement, and sufficiently transparent at the level of the functionally responsible government body for PJIAE/government?
- Are the evaluation criteria used in the tendering and selection of bidders accessible to interested (third) parties and the public in general?

Public Sector procurement

Public sector procurement is governed by the public procurement rules.

On Sint Maarten public procurement is governed by the National Ordinance on government accounting (*Comptabiliteitslandverordening, AB 2010, GT no. 23*). These rules set the basis for managing procurement and the various methods permitted under different circumstances. Public procurement must also adhere to certain international fundamental principles, such as transparency, integrity, economy, openness, fairness, competition and accountability.

The goal of public sector procurement is to award timely and cost-effective contracts to qualified contractors, suppliers and service providers for the provision of goods, work and services to support government, government agencies and public services operations. The aforementioned in accordance with principles and procedures established in the public procurement rules.

Public sector and private sector procurement organizations are designed to acquire goods and services. The main difference between these two types of organizations is the purpose for acquiring those goods and services. The public sector is focused primarily on a social benefit, while the private sector is profit centric.

In the public sector, the two main reasons for acquiring goods and services are: for supporting government (agencies) operations, and to provide public services. As a result, there must be an equal opportunity provided to each entity wishing to do business that meets the requirements.

As a government owned or State-owned company (SoC), PJIAE falls under the Public Sector. While the National Ordinance on government accounting does not apply to them, the fundamental procurement principles mentioned above apply unabridged.

Government's position

In the letter dated 19 November 2018 the Minister of TEATT referred to PJIAE's '*serious legal objections to the Ombudsman's jurisdiction in this matter*'.

It must be noted that the purpose of the investigation is to gain insight into the general procurement management policy of PJIAE. The initial complaint of a service provider to PJIAE was the genesis of the investigation, however not the subject nor the objective of this systemic investigation. '*PJIAE's serious legal objections to the Ombudsman's jurisdiction*' is therefore of no significance to the investigation, conducted at the level of the functionally responsible government body for PJIAE /Shareholder Representative.

This systemic investigation is a vital support to the Ministers statement in aforementioned letter that the '*rehabilitation and reconstruction of the airport is being closely monitored not only by the Ministry but also by COM and other stakeholders*'.

The Minister of TEATT further stated in his response dated 19 November 2018, that the Procurement Management Policy of PJIAE is an internal confidential document, without providing documentation to support this position. As a result, thereof, the Minister declined to provide information regarding the (general) tendering process and the accessibility of same to bidders and interested (third) parties. The Minister claims that the procurement management process is an operational matter and in accordance with government's arms-length policy and good corporate governance practices, the Shareholder's Representative does not interfere in such matters.

Transparency in public procurement is pivotal and does not cross the arms-length principle. Information on the public procurement process must be made available to all public procurement stakeholders: contractors, suppliers, service providers, and the public at large. As a public servant charged with responsibility for the airport, the Minister has the obligation, based on the principle of accountability, to report and/or answer to a designated oversight entity, in this case the Ombudsman, unless there are valid and legal reasons for keeping certain information confidential. Examples of confidential information are: proprietary information belonging to companies or individuals participating in the solicitation process, and certain security related procurements, to mention a few. Based on the answers provided by the Minister of TEATT, the Ombudsman was unable to determine if such reasons exist. The statement of the Minister in the letter dated 19 November 2018 that the procurement process of a public bid was classified as confidential, without providing proper evidence to substantiate this assertion, is particularly disconcerting.

Based on the principle of fairness, suppliers, contractors or service providers in general should have the right to challenge the procurement process whenever they feel they were unfairly treated or that the procuring entity failed to carry out the procurement process in accordance with the public procurement rules. Such challenges must be based on the solicitation documents and/or the public procurement rules, which should be transparent and certainly accessible to the functionally responsible Minister for evaluation of compliance with public procurement rules.

Functionally responsible government body for PJIAE /Shareholder Representative

In the response dated 15 January 2019, the Minister of TEATT stated that the Princess Juliana International Airport Holding company (PJIAH) is the functionally responsible governing body and not the Minister, considering that PJIAH transferred its assets to PJIAE and is wholly owned by the former.

The Minister further stated that PJIAE is accountable directly to PJIAH, which is in turn accountable to Government (the Shareholder's Representative, i.e. the Minister of TEATT).

Referring to the arms-length policy of government towards government-owned companies and entities in the letters dated 19 November 2018 and 28 February 2019, the Minister states that: *'there is a longstanding arms-length policy of government towards government-owned companies and entities, which constitutes an integral part of good governance and which was instituted precisely to take government out of daily operational matters of those companies and entities'*.

Article 9 under f. of the National Ordinance structure and organization of country Sint Maarten (*'Landsverordening inrichting en organisatie landsoverheid'*) establishes that the Minister of TEATT is responsible for aviation services. The ministerial responsibility of the Minister of TEATT, as it relates to the Princess Juliana Airport, is furthermore underscored in other national ordinances and decrees such as the *'Luchtvaartlandsverordening'* (AB 2013, GT no. 377) and the *'Landsverordening vergoeding passagiersaccomodatatie'* (AB 2013, GT no.132).

The Procurement Management Policy of PJIAE is a matter of general policy and as such not subject to the so-called arms-length³ policy. The Corporate Governance Code establishes that the Shareholder Representative has a crucial role in establishing, maintaining, and the oversight of general policies.

Chapter V of the Code establishes that *'The General Shareholders' meeting must be able to exercise such influence on the **general policy** of the Managing Board and on the Supervisory Board of the corporation, as **to ensure that it plays a full-fledged role in the system of checks and balances within the corporation**'*.

Furthermore, the (revised) articles of incorporation of PJIAE and PJIAH in articles 20 and 21 respectively establishes that *'the rules stipulated in the National ordinance Corporate Governance and in the Corporate Governance Code, as well as all regulations resulting from aforementioned rules will be applicable to the company. The company has the obligation to comply with aforementioned rules and regulations.*

The Ombudsman further observes that the responses provided by the Minister are inconsistent with the present Governing Program 2018-2022, entitled 'Building a Sustainable Sint Maarten'. Under the theme, *'strengthen the relationship with government owned companies, foundations and ZBO's'*, it is stated that *'the government must play a more active role as shareholder of these companies, assisted by SOAB to create more transparency, improved services and create a higher level of corporate social responsibility'*⁴.

3. An arm's length body is an organization that delivers a public service, is not a ministerial government department, and which operates to a greater or lesser extent at a distance from Ministers (Government).

4. Governing Program 2018-2022: 'Building a Sustainable Sint Maarten', page 31.



Integrity Reports

In the letter dated 19 November 2018 two Reports were mentioned:

- Price Waterhouse Coopers' (PwC) 'Integrity Inquiry into the functioning of the government of Sint Maarten', which was completed in 2014;
- Transparency International's 'National Integrity System Assessment' which was executed in 2015.

The Minister alleged that *"none of the various integrity reports carried out recently by Transparency International, PwC, et al, pointed to any shortcomings in the Procurement Management Policies of PJIAE N.V."*

Although PJIAE's Procurement Management Policy was not a specific subject of these reports, both reports nevertheless identified key weaknesses in the integrity architecture of State-owned companies (SoC's).

The PwC report concluded that the overall integrity architecture maturity finding for the four SoC's (Harbor, Airport, GEBE and TElem), which includes the component of procurement, is considered to be 'low⁵'. The presently ongoing Emerald⁶ investigation pertaining to the Port of Sint Maarten Group of Companies only underscores the foregoing.

As it pertains to PJIAE, the PwC report further determined that: *'several of PJIAE's policies and procedures contain limited anti-corruption provisions including the Procurement Management Policy & Procedures (...)'*. Moreover, Transparency International's Report⁷ concluded that *'the legal framework for public procurement is limited and information on public procurement is not made public, making it difficult to access its effectiveness in practice'*. Consequently, the Ministers submission that *'none of the various integrity reports carried out recently by Transparency International, PwC, et al, pointed to any shortcomings in the Procurement Management Policies of PJIAE'*, does not coincide with the facts established in the abovementioned reports.

Conclusion

Considering the non-substantive and evasive answers provided by government/the Minister of TEATT, as well as the non-receipt of PJIAE's Procurement Management Policy, the Ombudsman is unable to make an assessment whether said policy is in compliance with the fundamental principles of public procurement. Nevertheless, based on the responses received from government, the Ombudsman concludes that the procurement process at PJIAE appears not to be sufficiently transparent at the level of the functionally responsible government body for PJIAE/government.

The responses provided by the Minister during this systemic investigation lacks substance; they were evasive, inconsistent and contradicting to established general principles and facts.

Furthermore, there seems to be insufficient understanding of the role and authority of the Ombudsman, the principle of continuity of government, as well as the force of the Corporate Governance Code.

The Ombudsman observes the need for a more professional and transparent approach to the management of PJIAE. The Arms-length policy by no means entails that a SoC is exempted from scrutiny and accountability.

Organizations charged with government tasks and/or provide a public service on behalf of the country should be held accountable to the pertinent Ministers and through them to Parliament. Clear and transparent information should be (made) available at all times to enable democratic scrutiny and accountability of the responsible parties.

The Ombudsman observes that considering the main questions, the facts and findings of the investigation, it remains inconclusive whether PJIAE's Procurement Management Policy (PMP) is in accordance with the fundamental principles of public procurement. However, the Ombudsman concludes that the PMP seems to be insufficiently transparent at the level of the functionally responsible government body for PJIAE/government.

The evaluation criteria used in the tendering and selection of bidders remain obscure to interested (third) parties and the public in general.

The Ombudsman observes that in the interest of managing the affairs of the citizens, the standard of *Active and adequate information provision* requires administrative bodies to actively and upon request provide adequate information to the public. To ensure a high level of credibility in public bodies, transparency is essential. Being open and clear in providing adequate information regarding plans and actions of the government, that affect the interest of the citizen is a requirement for enhancing the credibility of public bodies. The responses provided by the Minister during this systemic investigation lacked substance; they were evasive, inconsistent and contradicting to established general principles and facts. The standard of active and adequate information provision has not been observed.

5. Integrity into the functioning of the Government of St. Maarten, PwC Report, page 194.

6. Criminal Investigation in which the suspended Port St. Maarten Group of Companies Chief Executive Officer and another suspect are accused of defrauding the Port of US\$ 11 million dollars over a number of years.

7. National Integrity System assessment, St. Maarten 2015, Transparency International, page 64.

The Ombudsman further observes that the standard of *Reason* requires that actions taken by government should be carried by facts and logic communicated to the citizen. Proper reasons, motives and grounds should be provided and explained to the citizen with all decisions made by government. The Procurement Management Policy of PJIAE could not be provided as it is considered to be an internal confidential document. However, to substantiate this assertion, no proper reasons, motives and grounds were given. The standard of Reason is applicable.

The standard of *Fairplay* requires that administrative bodies and civil servants provide the citizen the opportunity to properly utilize procedural opportunities provided for by law and otherwise. The principle of Fairplay entails that a public body is expected to allow the citizen the opportunity to express and defend their views and opinions, while also being able to object the position and or point of view of a public body. The evaluation criteria used in the tendering and selection of bidders appear not to be accessible to interested (third) parties and the public in general. As such the standard of Fairplay has not been observed.

Judgement

Whether PJIAE's Procurement Management Policy is in accordance with the fundamental principles of public procurement remains inconclusive due to the limited cooperation received from government/the Minister of TEATT in terms of the insufficiently substantive answers provided. The PMP is insufficiently transparent at the level of the functionally responsible government body for PJIAE/government. The evaluation criteria used in the tendering and selection of bidders appear not to be accessible to interested (third) parties and the public in general.

The standards of proper conduct not being observed in the process, are among others: *Active and adequate information provision, Reasons and Fairplay*.

Recommendations

Considering the findings, the Ombudsman recommends as follows.

- Government should improve the legal framework for public procurement by enacting legislation or establish standardized procurement guidelines that require civil or social control mechanisms (for example tender boards) to monitor the processes of public contracting;
- Government should develop a classification of arm's length bodies (SoC's, ZBO's etc.) which sets out the legal status of each type and how they are held accountable;
- Government should provide a copy of PJIAE's Procurement Management Policy to the Ombudsman for perusal.
- Government as shareholder should ensure that PJIAE makes its Procurement Management Policy available to stakeholders.

The Final Report was provided to government in April 2019, no response has been received to date.

V. Community Outreach Program / Home Repair report

In 2019 the Ombudsman and her team ventured out into community to seek out the concerns, grievances and complaints of the people. The result of the Community Outreach Program was presented in the report; 'Home Repair: a revelation of a social crisis'. The report provided an overview of the home repair developments and progress of same. The report included identified bottlenecks and provided recommendations to government. These will be highlighted in this chapter.

Bottlenecks

Slow pace of the Home Repair

In July 2018, the Ombudsman of Sint Maarten and the National Ombudsman of the Netherlands wrote a joint letter to Prime Ministers Leona Romeo-Marlin of Sint Maarten and Mark Rutte of the Netherlands expressing concerns regarding the slow pace of the reconstruction of Sint Maarten and urged both heads of government to speed up the recovery process. More than one year later since the issuance of said letter there has been little progress in terms of roof repair. The reasons for the delay have been well documented; Sint Maarten's lack of operational staff and expertise as well as the World Bank's⁸ bureaucratic, complex and time-consuming procedures. The legislation establishing the NRPB was ratified in October 2018. The grant agreement for the Home Repair Program was signed in November 2018 and the NRPB opened its doors in January 2019. At the time of the writing of the report a total of 14 homes had been repaired with the assistance of the Roof/ Home Repair program.

8. The World Bank's operations evaluation department concluded in a 2005 report entitled: 'Improving the World Bank's development effectiveness, what does evaluation show?', that 'The Bank has transformed itself significantly in the past 10 years, and should be ready for further adjustments to current climate of rapid change. Greater selectivity, more flexibility, and improved efficiency within its chosen areas of intervention are needed going forward if a global institution such as the Bank is to remain useful and relevant and show concrete results in a fast-changing world'.



Criteria restrictive to non-elderly

The White & Yellow Cross repaired the homes of their elderly clients. SMDF also repaired homes of the elderly. The NRPB home repair program also focusses, based on the criteria established by government, primarily on the elderly. The Ministry of VSA's policy⁹ document regarding Roof Repair, the precursor to NRPB's Home Repair program, established that the elderly and families with young children were the first priority. The same document establishes that pensioners who own their own home and have an income that does not exceed ANG. 4000,00 monthly as well as homeowners who rent out rooms or apartments and their total monthly income is less than ANG. 4000,00 will qualify for assistance¹⁰. It is however unclear what methodology was used to establish the ANG. 4000,00 threshold. Queries to the Ministry of VSA did not result in a clear answer. It should be noted that the ANG. 4000,00 income limit was established by the Council of Ministers.

Although it was important to ensure that the elderly was (firstly) taken care of, a vulnerable (non-elderly) section of the community has been excluded; persons who exceed the ANG. 4000,00 salary threshold. According to the NRPB, 29 persons that had applied for assistance did not qualify as a result of the income indication. While this figure does not seem significant, when one realizes that there are families and households behind those figures, it brings the issue into perspective. Consider for a moment person who are in need of help but did not bother to apply due to the established low salary threshold. Factor in extenuating circumstances, such as a single income household and the care for elderly parents, and this figure could potentially be much higher. While the criteria that is currently being used by the NRPB no longer specifies 'pensioners' but applicants or beneficiaries, it is safe to assume, considering the high prices of real estate on Sint Maarten, that there are not many beneficiaries, who are not pensioners, with an income of less than ANG. 4000,00 (gross) per month, who own their own home.

No immediate assistance for catastrophic damaged homes

The grant agreement for the Home Repair program does not include catastrophic damaged homes. This means that persons that require assistance to repair their catastrophically damaged homes will not qualify under the requirements of this Home Repair program. Assistance is limited to non-structural repairs, with improved standards. The NRPB has hinted that there are intentions to develop a Home Rebuilding program in the future. Further details were not provided.

Persons who cannot prove ownership (succession land)

A considerable number of persons are unable to provide proof of ownership of the property due to a succession conflict. As a result, while they have successfully completed the social assessment, they will not qualify for assistance under the Home Repair program. The NRPB has however indicated that their objective is to assist as many persons as possible. Consequently, the criteria will be relaxed as much as possible once persons can produce some form of legal document, short of a deed, confirming ownership or permission to stay on the property.

Unrealized targets

One of the main concerns from persons within the community regarding the Red Cross was that assistance seemed to have been designated to certain areas and not others. The Red Cross clarified that an agreement with government was the basis of their focus on districts that were considered to have suffered the most damage. A few organizations that set out to execute a huge number of roof repairs fell short of their targets. The common thread seems to be incorrect calculations of the damages due to lack of data. Additionally, many persons received building materials through the assistance of the Red Cross, the strategy, that through jollification or enlisting contractors' persons would be able to build back their homes, proved not to be successful as many could not afford the labor cost.

Inadequate repairs

Generally, most projects were limited by the available resources and scope of the project, most organizations acknowledged this restriction in the event it limited the execution. Some complaints from in and out of government pertaining to the execution of some roofs under in particular UNDP's project was reported. The Ombudsman has attempted to get clarification from UNDP pertaining to the project and the complaints, however had not received a response up to the time that this report was being finalized.

9. Post-Irma aid to homeowners. Returning dwellings to a livable state (phase 1) 'Roof Repair Assistance'.

10. The Ministry of VSA's policy document also established that applicants will be considered according to a broader criterion, which included owners with a higher income, in further phases.

Lack of social/affordable housing

The chronic lack of social housing on Sint Maarten, described by some as an epidemic, is a serious challenge and an ongoing concern. Many individuals are left with no choice but to remain in their current substandard living condition. In addition to the lack of social housing, which is attributed to skyrocketing rental prices and the insufficiently regulated housing rental market, which in some cases leads to exploitation (high prices, deplorable housing conditions, etc.) Furthermore, the organization (SMHDF) that is responsible for social housing is in dire straits. In short, the challenges are many and solutions are not readily available.

The expectation nevertheless is that some of the immediate concerns of the foundation will be addressed with the assistance of the Trust Fund in the form of home repairs, and technical assistance that will look at addressing the identified structural (organizational) deficiencies of the foundation.

Insufficient Post Disaster Planning

Insufficient post disaster recovery planning and an overall lack of data regarding the most vulnerable groups which resulted in poor communication from government with respect to relief procedures as well as insufficient cohesion between government agencies and aid organizations.

Shelter inhabitant's ineligible to receive financial assistance

Transitional shelter inhabitants are generally not qualified for government financial aid due to living in the temporary shelter and as a result having no expenditures, which limits the effectiveness of the shelter program. This occurrence does not coincide with the objective of the transitional shelter which is to get persons back on their feet and into society, leading their normal lives.

Neglect of undocumented persons

Undocumented persons form a part of the community and oftentimes, when employed, contribute to government coffers via the payment of taxes. However, insufficient attention is paid to these persons during the pre and post disaster phases.

Based on the identified bottlenecks the following recommendations were provided:

1. The present pace of home repair must be improved;
2. Government should review the criteria for eligibility for Home Repair, taking extenuating circumstances into consideration;
3. The need for proper data gathering and analysis, in terms of the population, especially regarding the elderly and other vulnerable persons, on which effective planning and policies can be based. This type of information is vital, particularly in the event of a natural disaster when fast decision-making is necessary;
4. There must be better controls and coordination by government on (international) organizations executing repair works to ensure the quality of the work carried out;
5. The National ordinance financial assistance must be reviewed and adjusted to tackle the challenges that persons currently face when transitioning from a temporary shelter/housing back into society;
6. The need for affordable housing must be addressed with absolute urgency. While this is primarily the task of SMHDF, government has an equally important role based on international human rights law, specifically the right to adequate housing.

The report was presented to government in October 2019, no response to the report has been received to date.

VI. Constitutional Court

Although there were no new cases presented by the Ombudsman to the Constitutional Court in 2019, the Ombudsman reviewed three critical legislations in connection with the Financial Action Task Force¹¹ (FATF) issued recommendations. These laws were: "*Landsverordening Grensoverschrijdende geld transporten, Landsverordening Meldpunt ongebruikelijke transacties en Landsverordening Bestrijding witwassen en terrorismefinanciering*".

The review of the ratified legislations gave rise to privacy related concerns pertaining to the '*Landsverordening Witwassen en terrorisme financiering*', which warranted further research into a possible violation of article 5 of the Constitution, regulated in the National ordinance protection of personal data (hereinafter: Personal data protection law) and other international regulations. While the Ombudsman acknowledged the need for implementing legislation to tackle the growing worldwide threats of money laundering, the avenues chosen must be weighed against of the right to privacy, which includes the right to data protection. In particular article 37 of said Ordinance warranted further analysis. This article seeks to limit the application

11. The Financial Action Task Force is the global money laundering and terrorist financing watchdog. The inter-governmental body sets international standards that aim to prevent these illegal activities and the harm they cause to society. As a policy-making body, the FATF works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas.



of the Personal data protection law should there be a need to do so in the interest of a proper execution of the ratified legislations in question. The Personal data protection law is of utmost importance in a democratic society as it guarantees that the processing of personal data is done within conformity of the law. It should be noted that as per article 42 of the National Ordinance Personal Data Protection, there should be a commission that oversees that protection of personal data. Said commission ensures that the processing of personal data is in accordance with said ordinance. In the event this commission is in fact established and operational, then this can be deemed as a safeguard to the protection of personal data.

Article 5 of the Constitution and the National ordinance protection of personal data, in particular article 35, provide criteria for limitations once certain criteria are met and can be justified after –amongst other things- a weighing of interests. The main criteria are that the restriction is regulated in a national ordinance, that it is legitimate and necessary in democratic society considering the interests it seeks to protect. The Ombudsman concluded that the limitations in the legislation, in particular article 37 of the Ordinance, is not in violation of article 5 of the Constitution.

In her advice, the Ombudsman also stressed the urgent need for an active Data protection commission in accordance with article 42 of the Personal data protection law. This Commission is imperative as it serves as a balance and safeguard for data protection of the citizens of Sint Maarten. In absence of this Commission the citizens are effectively without the safeguard necessary pertaining to data protection; solely the provision in the law is not sufficient.

Furthermore, the Ombudsman advises the Minister of Justice to actively provide information to the general public to raise awareness (public awareness campaigns, information folders at (non)financial institutions etc.) concerning the rights and obligations of citizens pertaining to these laws.

VII. Financial Reporting

The annual budget (general and capital ledger) of the Ombudsman for 2019 amounted to Nafl. 1.514.363,00. Based on the unaudited financial report for the year 2018 a total of Nafl.1.379.352,52 was spent from the budget of Sint Maarten (see appendices 1 and 2).

Expenditures in 2019	Amount	2019 Budget
		1.440.363,00 ¹
		74.000,00 ²
Total Operational Expenses	1.379.352,52	
Not spent		135.010,48

¹ General ledger

² Capital ledger

Appendices

BALANCE SHEET DECEMBER 31 2019		APPENDIX 1
CURRENT ASSETS:		
Money Card WIB	1,186.02	
Petty Cash Account WIB (new)	1,760.59	
Cash on Hand	299.01	
Petty Cash WIB Naf Account (old)	60.00	
TOTAL CURRENT ASSETS:		3,305.62
OTHER CURRENT ASSETS:		
Prepaid Expense	12,265.61	
Total Other Current Assets		12,265.61
TOTAL CURRENT & OTHER ASSETS	NAF:	15,571.23
FIXED ASSETS:		
VEHICLES:		
Vehicles	110,551.00	
Acc.Depr'n 31/12/2017	-72,575.00	
Book-Value:	37,976.00	-
OFFICE EQUIPMENT:		
Fotocopier Machine	15,894.90	
Acc.Depr'n 31/12/2017	-12,715.90	
Book-Value:	3,179.00	
ICT Equipment	293,127.36	
Acc.Depr'n 31/12/2017	-222,078.13	
Book-Value:	71,049.23	
Projector & Screen	2,034.20	
Acc.Depr'n to 31/12/2017	-2,034.20	
Book-Value:	0.00	
Televisions	3,118.80	
Acc.Depr'n 31/12/2017	-3,118.80	
Book-Value:	0.00	
Office Furniture	44,936.00	
Acc.Depr'n 31/12/2017	-25,164.30	
Book-Value:	19,771.70	
TOTAL FIXED ASSETS:		131,975.93
LEASEHOLD IMPROVEMENT:		
Archive Room	5,733.00	
Acc.Depr'n 31/12/2017	-2,189.80	
Book-Value	3,543.20	
Server Room	8,910.00	
Acc.Depr'n 31/12/2017	-5,880.60	
Book-Value	3,029.40	
Renovation Kitchen	8,736.00	
Afschrijving Renovatie Keuken	-4,241.60	
Book-Value:	4,494.40	
TOTAL LEASEHOLD IMPROVEMENTS:		11,067.00
TOTAL ASSETS IN NAF:		158,614.16
LIABILITIES:		
Current Liabilities		-
Other Current Liabilities:		
AOV.AWW Payable	55,634.31	
FZOG Payable	14,172.36	
Pension Payable	114,176.06	
Sickness Premium Payable	8,857.75	
Total Other Current Liabilities:	192,840.48	
TOTAL LIABILITIES:		192,840.48
CAPITAL:		
Capital		(34,226.32)
TOTAL LIABILITIES & CAPITAL NAF:		158,614.16

This report has not been audited



INCOME STATEMENT FOR THE YEAR 2019

APPENDIX 2

BUDGET

Budget Allocated

NAF:

1,440,363.00

OTHER OPERATING EXPENSES:

Travel & Accommodation Expense	42,190.45	
Electricity Expense	17,233.52	
Water Expense	1,764.97	
Road Tax	287.50	
Gasoline Expense	4,280.12	
Office Supplies Expense	8,103.69	
Kitchen Supplies Expense	3,084.45	
Computer & Internet Expense	3,304.80	
Subscription Fees Expense	136.50	
Books & Other literature Expense	982.95	
Repairs & Maintenance Expense-Building	39.96	
Repairs & Maintenance Expense-Vehicle	9,629.32	
Repairs Hardware Expense	18,463.50	
Other Repairs & Maintenance Expense	-	
Rent Expense	133,587.36	
Insurance Expense - Vehicle	4,689.58	
Advertisement Expense	27,134.26	
Telephone Expense	15,209.83	
Postage Expense	226.60	
Legal & Other Professional Fees Expense	7,524.72	
Training & Courses Expense	30,711.77	
Membership Fees Expense	1,019.03	
Miscellaneous Expense -Bank Charges	510.74	
Exchange Rate Difference	20.54	
Other Goods & Services Expense	83,853.82	
Cleaning Supplies Expense	3,173.72	
TOTAL EXPENSES:		417,163.70

PERSONNEL COSTS:

Salaries & Wages Expense:		
Gross Salary	668,671.09	
Vacation Allowance	37,328.08	
Other Remuneration & Allowances	28,332.24	
Child Allowance	4,545.00	
Bonus	6,588.00	
Retroactive Salary	-	
Employer Pension Premium	122,829.12	
Employer's AOV.AWW Pemium	30,888.84	
Employer AVBZ Premium	3,280.92	
Advanced Salaries	7,086.40	
Total Salaries Expense-Ombudsman & Staff	-	909,549.69

TOTAL PERSONNEL & OTHER OPERATING EXPENSES		1,326,713.39
SURPLUS, before Depreciation Expense & Incidental Income:		113,649.61

SURPLUS, before Depreciation Expense & Incidental Income: b/f		113,649.61
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DEPRECIATION EXPENSE:

Depreciation Expense-See Depreciation Schedule:		52,639.13
NET SURPLUS:	NAF	61,010.48

This report has not been audited



OMBUDSMAN

SINT MAARTEN

"The greatness of a community is most accurately measured by the compassionate actions of its members."

- *Coretta Scott King*

