



2020
YEAR REPORT



OMBUDSMAN

SINT MAARTEN

2010-2020

Constitution of St Maarten

We the People of St Maarten

Affirm that we acknowledge the guiding principles of Almighty God as the core of our values. Inspired by the exercise of our universal right to self-determination as expressed in the referendum of 23 June 2000 with which we freely chose for the status of Country within the Kingdom of the Netherlands.

Resolved to work together, with our partners in the Kingdom of the Netherlands, with our neighbors in French Saint Martin and with all peoples of the world on the basis of freedom, equality, peaceful co-existence and international solidarity.



Table of Content

Foreword	4
Executive Summary	5
I. Introduction	6
II. Activities	6
III. Complaints handled.....	10
IV. Systemic Investigations	14
V. 2010-2020: A decade of Ombudsmanship.....	18
VI. Financial Reporting.....	23
Appendices.....	24

Foreword



2020 marked the tenth year of Sint Maarten obtaining an autonomous status as a constituent state within the Dutch Kingdom. The road traveled was not without its challenges. One such major challenge has been the instability of government. This phenomenon has had its influence on investigations

carried out by the Ombudsman during the last 10 years. Responses by government to queries of the Ombudsman as well as the execution of recommendations were met with constant delays. The recommendations issued by the Ombudsman in various systemic investigations such as Cadastre, Rental Tribunal and PJIAE remained unexecuted. During an orientation meeting in February 2020 with the newly sworn in members of parliament, the Ombudsman emphasized the task of the Ombudsman and the role of parliament to hold the ministers accountable for their (in)actions in order to promote good governance. Notwithstanding the above mentioned, the Ombudsman continued its mission during the past ten years unabated as protector of the rights of the people and guardian of the Constitution of Sint Maarten.

Following its motif 'continued growth of the institution through awareness' the Ombudsman was set out to launch an outreach program into the effectiveness of the Financial Aid Ordinance and policies. This however did not materialize as a result of the outbreak of the Covid-19 on the island, followed by a total lockdown. The Ombudsman and her team were able to swiftly shift to working remotely and remained available to the public via email. Many complaints from tenants and landlords regarding the nonpayment of rental fees as well as concerns about urgent matters such as food distribution, online education and social distancing regulations reached the Bureau Ombudsman during the lockdown period. This prompted the Ombudsman to issue a press release informing the general public that based on the 'Landsverordening huur' (National Ordinance Rent) terminations of rental agreements as well as subsequent evictions without a decision from the Rental Tribunal or the Court of First Instance are unlawful. Affected tenants were urged to contact the 'Korps Politie Sint Maarten' (KPSM) when faced with an illegal eviction. Because of the urgency of the matter a letter was sent to the Prime Minister reiterating the importance of a good functioning Rental Tribunal.

Having observed the social distancing regulations established by government, the Bureau Ombudsman reopened its door to the public in May 2020 providing the much-needed service during the ongoing pandemic.

In October 2020, the Ombudsman hosted a virtual 'Ombudsmediation' hearing to re-establish dialog between government and the Committee of Civil Servants Unions (CCSU), following a complaint filed by the unions against the Ministers of General Affairs and Finance, alleging that both ministers violated the laws regarding the handling of the labor rights of civil servants.

In November 2020, the Bureau Ombudsman participated in a round table discussion hosted by the National Ombudsman regarding an investigation into the bottlenecks that Caribbean Students encounter when studying in the Netherlands.

The Bureau also assisted by distributing a questionnaire amongst the (ex) students of Sint Maarten in this regard. A report entitled 'concerns of Caribbean students' was the result of the collaboration. The Ombudsman urged the Minister of Education in an interview with the Daily Herald in December 2020 to establish a workgroup with representatives from the Education Ministries of all countries within the Dutch Kingdom in order to jointly tackle the challenges of the students.

Despite the unprecedented times the Ombudsman conducted and concluded a systemic investigation into the KPSM parking and towing policy. The report entitled 'KPSM towing policy' was complimented with a short video to reach a wider audience.

The core task of the Ombudsman is the investigation of Propriety applied by government bodies and government agencies in their relationship and dealings with the public. The scope of Propriety goes beyond the law; it reflects the norms expected from government in executing the laws, policies, and established procedures. Government is expected to be open and clear, respectful, involved and result oriented, honest, and trustworthy. Just like the past ten years, the Ombudsman will continue to hold government to these fundamental norms in the coming decade and beyond.

Notwithstanding the difficult year behind us, I am pleased to present my Annual Report 2020 to the Parliament and the people of Sint Maarten.

Gwendolien Mossel, LL.M.
Ombudsman Sint Maarten



Executive Summary

I. Introduction

With the theme 'continued growth of the institution through awareness' the Ombudsman ventured into 2020. With the very positive reception of the Home Repair Report, which was a result of the Outreach Program in 2019 the Ombudsman planned on executing a similar outreach regarding Financial assistance in 2020. Unfortunately, these plans never came into fruition. The onslaught of the COVID-19 (corona virus) pandemic changed plans all over the world, Sint Maarten included. From mid-March the country went into lockdown for approximately two months, which essentially coincided with swearing in of a new government, the tenth cabinet since 10 October 2010. This was preceded by the installation of a new Parliament in February, as a result of the parliamentary elections a month earlier. The fifth election since becoming a country within the Kingdom of the Netherlands.

II. Activities

Despite operations being severely limited by the pandemic and the subsequent lockdown the Ombudsman Bureau remained active as possible. Several letters of concern were issued to the government. The Ombudsmen of the Kingdom also sent a joint letter to the Prime Minister of the Netherlands concerning the slow pace of home repair on the island as well as the conditions placed upon Sint Maarten by the Netherlands in connection with its request for liquidity support. The Ombudsman also concluded a systemic investigation regarding the towing policy of the Sint Maarten Police Force. As a result of the pandemic travel was limited. Many conferences were postponed, and others reverted to a virtual platform.

III. Complaints handled

A total of 47 complaints were filed in 2020 including 2 systemic investigations initiated by the Ombudsman. Of the complaints filed, 5 complaints could not be handled as they were either filed against a non-administrative body or retracted. The ministries accounted for 32 complaints and private entities with public authority, '*zelfstandige bestuursorganen*' (ZBO) cases totaled 10. A total of 11 cases were closed in the intervention stage, this means that a comprehensive response was provided by the administrative body within the allotted timeframe given by the Ombudsman to address the complaint, before going over to an in-depth investigation. Fourteen (14) complaints from 2019 and 17 complaints from 2020 were closed in 2020, totaling 31 closed complaints in 2020. There are 15 cases open from 2019 and 30 open cases from 2020.

IV. Systemic Investigations

The report entitled 'KPSM towing policy, investigation into the towing policy of the St. Maarten Police Force' concluded that parking in Philipsburg is not adequately organized. There is no comprehensive parking policy plan. A proper towing policy does not exist, and the one that is currently in place is not being followed. As a result, towing is chaotic and insufficiently regulated. The broader and more overarching issue is that there is no established Development Vision or Plan for Philipsburg. On the basis of the report several recommendations were provided to the Minister of Justice. The Minister responded positively to most of the recommendations.

V. 2010-2020: A decade of Ombudsmanship

From 2010 - 2020 a total of 680 complaints have been investigated and 2442 information windows (IW's) handled. The Ministry of Justice has consistently been the ministry with the most complaints.

Up until 2020 the complaints against the Ministry of Justice represented approximately 20% of all complaints investigated by the Ombudsman. The Ministry of VROMI is second with a total of 16%, the Ministry of VSA is third (13%), then the Ministry of TEATT with 12%, followed by the Ministries of General Affairs (12%), Finance (9%) and Education, Culture, Youth and Sport (6%). The total of complaints against ZBO's are 12%. The lack of full comprehension and acceptance by government (i.e. ministers) about the Ombudsman's role continues to be a key challenge of the institution. This is inseparably linked to the many changes in government over the past ten years. This lack of continuity of the Council of Ministers, as the previous Ombudsman would continuously say is akin to 'moving two steps forward three steps backward each time'.

VI. Financial Reporting

The annual budget of the Ombudsman for 2020 amounted to Nafl. 1.409.723,00. Based on the unaudited financial report for the year 2020 a total of Nafl. 1.239.910,28 was spent.

I. Introduction

With the theme 'continued growth of the institution through awareness' the Ombudsman ventured into 2020. With the very positive reception of the Home Repair Report, which was a result of the Outreach Program in 2019 the Ombudsman planned on executing a similar outreach regarding Financial assistance in 2020. The objective was to further analyze the effectiveness of the National Ordinance Financial Assistance, which was one of the bottlenecks identified in the Home Repair Report, as well as continuing to promote awareness on the role of the institution.

Unfortunately, these plans never came into fruition. The onslaught of the COVID-19 (corona virus) pandemic changed plans all over the world, Sint Maarten included. From mid-March the country went into lockdown for approximately two months, which essentially coincided with swearing in of a new government, the tenth cabinet since 10 October 2010. This was preceded by the installation of a new Parliament in February, as a result of the parliamentary elections a month earlier. The fifth election since becoming a country within the Kingdom of the Netherlands.

Despite the challenges of the lockdown the Ombudsman Bureau continued to work remotely.

With the assistance of the virtual platforms such as Zoom, and Microsoft Teams communication was maintained with Bureau personnel and numerous meetings were held both locally and internationally. Letters of concern were sent to government regarding various aspects of the government's handling of the pandemic, in particular regarding complaints about evictions and the crucial role of the Rent Tribunal that is charged with the settling of disputes concerning rental prices and the termination of lease agreements. Interestingly, the Ombudsman concluded a systemic investigation in 2018 that highlighted the challenges of this same institution. Regrettably, many of the recommendations made in that report remain unexecuted until present.

Now in its 10th year since the birth of the institution, the Ombudsman continues to struggle with non-responses from government to its investigations. This consistent change of government and by extension ministers is no small contributing factor in this regard. Although many ministers have previously been members of Parliament and have applauded and championed the role and importance of the institution, a change in attitude is often observed when the switch is made to the executive branch. While many may not readily acknowledge this, despite the lack of capacity and the challenges of governing in the midst of a crises, the adage 'actions speak louder than words' rings true. In essence the Council of Ministers - as an institution - lack the full comprehension of the Ombudsman institution and has consequently not yet entirely accepted the Ombudsman's role in our democracy.

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. Considering that this is our 10th anniversary, the institutions accomplishments over the past 10 years will be highlighted in chapter 5. The Year Report will conclude in chapter 6 with the financial reporting.

II. Activities

Despite operations being severely limited by the pandemic and the subsequent lockdown the Ombudsman Bureau remained active as possible. With many persons losing their jobs and income and therefore their ability to pay their rent¹, many complaints were received during the early months of the pandemic regarding (illegal) evictions. The Ombudsman immediately informed the public that in the event of disputed termination of a rental lease agreement and subsequent eviction by the landlord, this can only be done with permission of the Rent Tribunal or the Court of First Instance. The Ombudsman advised the general public that in the case of an unlawful eviction, tenants are advised to contact the police. This action was followed up with letters of concern to the government, particularly on matters relating to the pandemic and the lockdown, regarding inter alia: food distribution, social instance, the continuance of education, maximum prices, and the Sint Maarten Stimulus & Relief Plan (SSRP).

In May the General Audit Chamber published the report: '[Focus Audit on the Reconstruction Funds for Sint Maarten](#)'. The impetus for the audit was the Ombudsman's [Home Repair Report](#).

The General Audit Chambers report corroborated what was previously established by the Ombudsman's report regarding the slow pace of home repair. From the \$548.5 million made available by the Dutch Government to the Sint Maarten, via a Trust Fund, managed by the World Bank in November 2017, only \$32 million or 5.8 percent was spent on projects by the start of 2020. This fact as well as concerns in reference to the conditions placed upon Sint Maarten by the Netherlands in connection with its request for liquidity support, was addressed in a [joint letter](#) of the Ombudsmen of the Kingdom² to Prime Minister Rutte. The Ombudsmen of Sint Maarten and Curaçao also collaborated with the National Ombudsman in an investigation into bottlenecks of former students from the Caribbean Netherlands (Bonaire, Sint Eustatius, and Saba), Aruba, Curaçao and Sint Maarten. This [report](#) was published in December.

¹ According to the 2019 Labor Force Survey, by the Department of Statistics, 61% of all housing units on Sint Maarten are rental units.

² The Ombudsman of Sint Maarten, the Ombudsman of Curaçao and the National Ombudsman.



The Ombudsman concluded a systemic investigation regarding the [towing policy](#) of the Sint Maarten Police Force. This report was also complimented by a [short film](#). The method of accompanying reports with short videos, that can be quickly and widely disseminated via social media, as a way to engage the public, is an approach the Ombudsman will continue in the future

As a result of the pandemic, 2020 was a year like no other. Many conferences were cancelled or postponed. Others reverted to a virtual platform. The Ombudsman attended several of these virtual sessions organized by the Caribbean Ombudsman Association (CAROA) and the Latin American Ombudsman Institute (ILO), who have engaged in a process to cooperate more in the future. One of the positives of the pandemic is how we all have adapted to virtual meetings and conferences. While these will never replace the importance of face-to-face encounters, virtual gatherings should continue to be embraced post pandemic as they are an effective tool and provide considerable cost savings to government as an alternative to travel. The pandemic has also forced government to accelerate the modernization of its services. In this regard the project Digital Government, in which the Ombudsman is a stakeholder, could not be timelier.



Meeting Integrity Chamber



Meeting CCSU



Ombudsman donation to K1 Britannia Foundation



Emancipation Day



All masked up



Zoom Meeting

III. Complaints handled

By the end of the first quarter of 2020, it was clear that year plans for (systemic) investigations by the Ombudsman would have to be shelved. Instead, the island, like most of the world, was going through a health and subsequent economic crisis, therefore an approach was adapted to focus on the immediate needs and interests of the people. Due to the lockdown on-going cases were put on hold until such was lifted. 47 new complaints were registered in 2020 including two systemic investigations. Approximately 250 inquiries were made at the Information Window (IW), compared to 313 in 2019. In times of crisis, tending to acute needs are very important as such our IW's, especially during the lockdown, were focused on de-escalation and problem-solving efforts. Persons inquiring for assistance pertaining to disputes with their landlords were especially concerning. This resulted in the Ombudsman expressing these concerns regarding the rights and responsibilities of tenants and landlords through the media. Also, signals of persons being laid off or receiving extremely low wages were reaching the Bureau. It is no doubt that the effects of the pandemic impacted the number of inquiries and all aspects of the operation of the Bureau, however the (types of) complaints are also an indicator of the magnitude of issues that persons are dealing with, and they are no less concerning. The Ombudsman remains committed to being the voice of the people as we persevere through this crisis.

Statistics

A total of 47 complaints were filed in 2020 including 2 systemic investigations initiated by the Ombudsman. Of the complaints filed, 5 complaints could not be handled as they were either filed against a non-administrative body or retracted. The ministries accounted for 32 complaints and private entities with public authority, 'zelfstandige bestuursorganen' (ZBO) cases totaled 10.

A total of 11 cases were closed in the intervention stage, this means that a comprehensive response was provided by the administrative body within the allotted timeframe given by the Ombudsman to address the complaint, before going over to an in-depth investigation. Fourteen (14) complaints from 2019 and 17 complaints from 2020 were closed in 2020, totaling 31 closed complaints in 2020. There are 15 cases open from 2019 and 30 from 2020.

In 2020, the most complaints were filed against two Ministries and one ZBO, 8 cases each: Ministry of VROMI, Ministry of Justice and SZV. Most complaints against SZV were medical insurance coverage/premiums or pension related. For SZV it is noteworthy to mention that 6 cases were closed in the intervention stage ranking this institution as the highest in number of cases closed in intervention. Most complaints against the Ministry of Justice concerned the Immigration department. The Ombudsman noted an improvement in the handling of cases by installing a complaint liaison for the Ministry, the Ombudsman continues to monitor this Ministry and implores all departments to adapt an active role in addressing complaints and in particular the recommendations provided by the Ombudsman.

The Ombudsman remains extremely concerned about the ability of the Ministry of VROMI to address the inquiries, applications and concerns of the public considering the structural deficiencies within the Ministry and the lack of resources to address imminent matters. For the Ministry of VROMI most complaints were filed against the departments of Domain Affairs and Inspection. While the Ministry was tied with 2 administrative bodies in the number of cases for 2020, there are still 9 open cases from 2019, most of which are not or insufficiently addressed by the Ministry. This brings the total amount of open cases for the Ministry of VROMI to 17.

	Year	
	2019	2020
TOTAL COMPLAINTS	54	47
Complaints closed in the year	55	31
Open complaints	29	35
Total ministry cases	49	32
Total ZBO cases	5	10

Fig. 1: New complaints registered in 2019 & 2020.

There was a slight drop in complaints submitted in 2020 compared to 2019. Next to the role the pandemic undoubtedly played in this regard, the Intervention proposal and even the assistance the Bureau offers in the Information Window stage assists in preventing cases from going into a full investigation. Many cases that could otherwise become an official complaint followed by an investigation were closed in the IW or Intervention stage. The Ombudsman continues to adapt approaches to be more efficient in addressing the complaints of the public. Ultimately, the cooperation of the administrative bodies is the deciding factor in when and how a complaint is resolved.



	Year	
MINISTRIES	2019	2020
Public Housing, Spatial Planning, Environment, and Infrastructure	20	8
Justice	8	8
General Affairs	2	6
Finance	7	4
Education, Culture Youth Affairs and Sports	1	3
Tourism, Economic Affairs, Transportation and Telecommunication	5	2
Public Health, Social Development and Labor	5	1
Other	1	5
ZBO	2019	2020
Sociale Ziektekosten Verzekering (SZV)	2	8
SXM Housing & Dev. Foundation	1	1
Bureau Telecommunicatie & Post (BTP)	0	1
NRPB	1	0
Total	54	47

Fig. 2: Incoming complaints registered per ministry in 2020 compared to 2019.

Complaints per Ministry

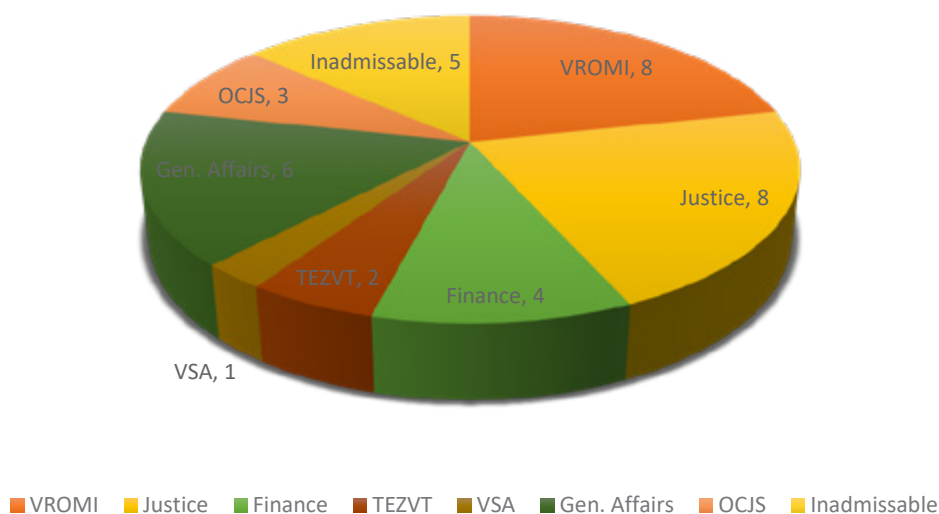


Fig.3 Complaints per Ministry

A compilation of the total recorded standards of proper conduct that were violated in 2020 shows that the standards of Active and adequate information provision (13), Adequate organizations of services (8) and Promptness (4) remain the highest. This shows that in engaging with the public administrative bodies should actively share relevant information regarding the topic at hand. Additionally, not enough information is published concerning government matters and policies leading persons to ask questions that could have 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. The reoccurring violation of the standard of adequate organization of services signifies 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 deficiencies 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.

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 2019 and 2020 were 54 and 56.

Standards of proper conduct	2019	2020
Active and adequate information provision	10	14
Adequate organization of services	13	8
Promptness	19	4
Legitimate expectation (legal certainty)	2	2
Fair play	4	1
Reasons	2	1
Cooperation	0	1
Correct treatment	0	1
Generosity	1	0

Fig. 4: Comparison standards of proper conduct violated in 2020 vs 2019.

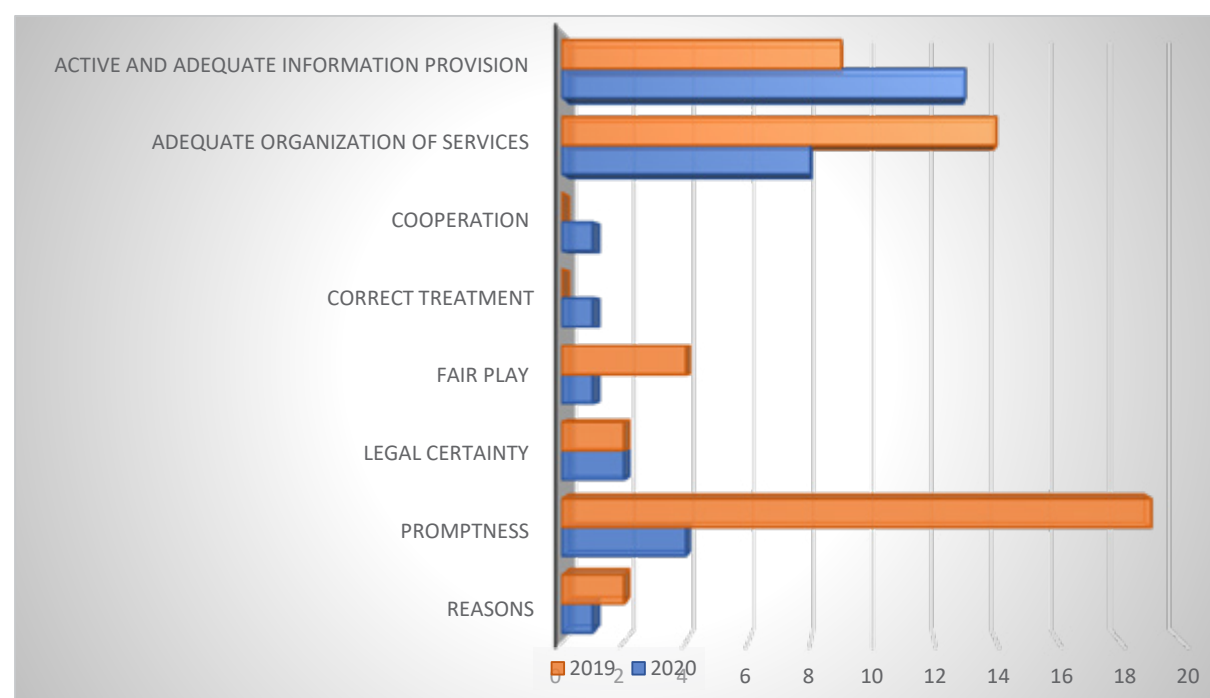


Fig. 5: Comparison standards of proper conduct violated in 2020 vs 2019.

Complaint topics 2020

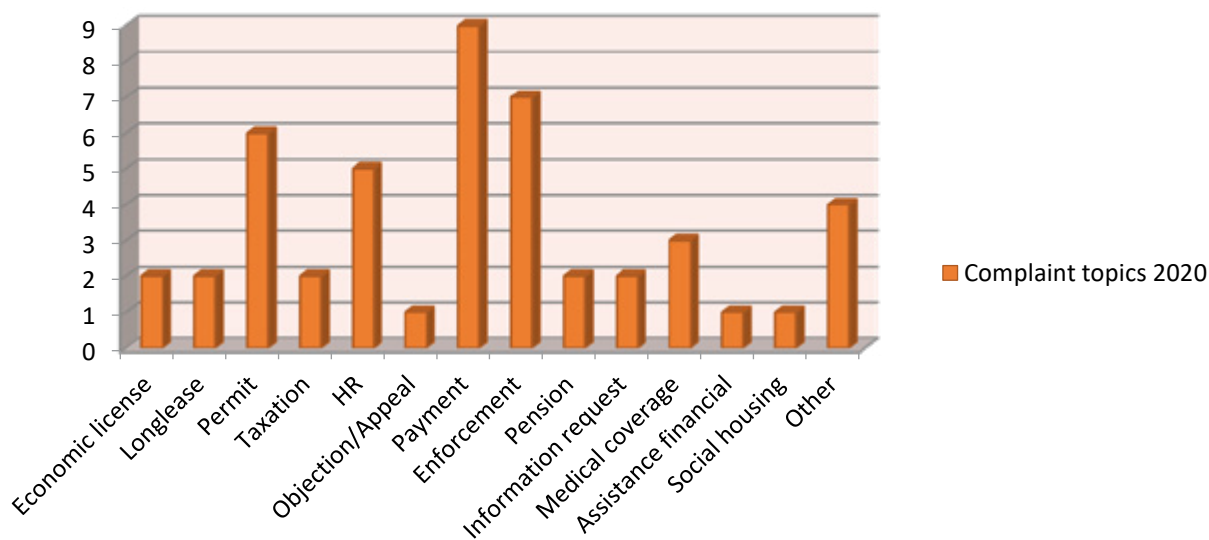


Fig. 6: Complaint topics 2020

Social Economic Council (SER) complaint

An investigation that requires special attention is the complaint of the SER against the Ministry of General Affairs. Pursuant to article 23 of the National Ordinance Ombudsman, parliament was provided a copy of said report.

The complaint centered around - inter alia - whether the Secretary General of the Ministry of General Affairs was structurally undermining the independence of the SER. Although the Ombudsman concluded that there was insufficient evidence to prove structural undermining, the investigation underscored the importance of the responsibility of both parliament and government recognizing and facilitating the independent functioning of the institution.

The Ombudsman noted in the report: "The SER is an independent advisory body and should be able to function -unencumbered- as such. The qualification that is usually given by the government administration that the independence of the SER is not equal to the independence of the High Councils of State is inaccurate. The basis for this thought process cannot be found in legislation nor literature. The High Councils of State and the SER, as an advisory body, have been delineated with specific and separate roles by the Constitution and regulatory laws, however in terms of their independent function vis-à-vis government, the institutions are equal in the eyes of the law."

The investigation shows that the incorrect assessment of the SER's independent functioning was held not only within the Ministry of General Affairs but across ministries, over several ministers and SG's. The Minister of General Affairs has largely agreed with the recommendations provided in the Final Report and has directly implemented some.

The Ombudsman hereby reiterates one recommendation: "Government and in particular the Minister (Ministry) of AZ must respect the Independence of the SER and actively seek ways and means to ensure such e.g., revisit all services between government and SER, revisit/draft the policies to effectuate smooth execution, reinforce the policies, increase awareness within the Ministry/Parliament." The recommendation to increase awareness about the functioning of the SER and its independence is in accordance with article 23 of the National Ordinance SER and is also a task for Parliament. This also applies to the other independent advisory bodies such as the High Councils of State. As the Ombudsman resolved in the report, the important role of these advisory bodies must be understood, respected and their independent functioning protected.

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 2020 the Ombudsman concluded one systemic investigation, namely: an investigation into the towing policy of the Sint Maarten Police Force (KPSM).

History

For years there have been complaints about the unregulated towing of vehicles in Philipsburg. A quick search on the world wide web reveals numerous complaints from citizens and visitors to the island about their towing misfortunes on Sint Maarten. The situation or the 'racket', as it was referred to by a local newspaper back then, came to a head in March of 2012. The Minister of Justice at the time vowed that 'years of traffic infractions particularly relating to parking and the towing of vehicles will come to an end'. The Minister of Justice further stated that the police would soon start fining persons and companies for illegally placing 'no parking' signs, blocking public parking spaces and illegally towing vehicles. Anno 2020, eight (8) years later, there has been some improvements, however regrettably the problem of towing in Philipsburg remains insufficiently regulated.

A recently concluded [report](#)³ of the Ombudsman, in January 2020, based on a complaint submitted by a citizen, exposed the challenges that still exist as it relates to the towing of vehicles in Philipsburg. The Final Report concluded that the complaint was founded. The standards of active and adequate information provision, adequate organization of services, correct treatment and fair play were violated. Furthermore, that Ombudsman concluded that the 'Korps Politie Sint Maarten' (KPSM) acted improper. The limited cooperation received from KPSM during the aforementioned investigation⁴ as well as their response to the Final Report prompted the Ombudsman to look further into the actual towing policy of the OM/KPSM and the execution of same in practice. Additionally, another facet that is inextricably linked to the towing policy is the lack of a parking policy in Philipsburg.

The Minister of Justice alluded to this in 2012 when he explained that persons and companies were illegally placing no parking signs in public parking spaces or on public property and subsequently illegally towing vehicles.

Bottlenecks and challenges

The report identified numerous bottlenecks and challenges which are highlighted below.

Lack of a Philipsburg parking policy plan

A parking policy plan does not exist for Philipsburg. The issues surrounding parking have been repeatedly highlighted in various development plans and reports⁵. These reports concluded that parking, particularly in Philipsburg, is one of the main challenges facing Sint Maarten.

A parking policy plan is a crucial component of the overall vision and development of the capital of the country. Fortunately, the parking problem has been identified, however this has not led to concrete plans for implementation of solutions or the development of a comprehensible parking policy plan and subsequently a sustainable parking policy.

Insufficient and inadequate traffic (parking) signage

There are presently insufficient (non) parking signs erected in the Philipsburg area. Without enough traffic signs citizens and visitors are unaware where can and more importantly where cannot be parked. Additionally, where signs are placed, based on a parking permit, these (signs) are not in accordance with the official models that are required by the Road Traffic Ordinance. Although VROMI is required to provide the required traffic signage, these are usually unavailable. Signs are therefore usually paid for by the business or the individual requesting the parking permit and manufactured by local signage companies, not necessarily keeping with the requirements (models) established by law, which also results in the signage not being uniform.

Lack of a formal parking permit policy; existing procedures are unclear and not consistently applied

Based on the Road Traffic Ordinance, parking permits are issued by or on behalf of the Minister of Justice. Requests for parking permits must be submitted to the KPSM. After approval by the Minister of Justice, the relevant traffic (parking) sign is placed by the Ministry of VROMI.

The Ombudsman has observed however that the present procedure is vague and adhoc. The Minister of Justice has also confirmed that a formal policy that governs the issuance of parking permits does not exist. In some cases, requests are submitted to the Ministry of VROMI and in others to the KPSM. Denials are also issued by the Ministry of VROMI as well as KPSM, even for the same case. The procedure regarding the application process and subsequent approval or denial of the request is therefore unclear. Citizens must be aware where a request for a parking permit should be submitted and who is responsible for the approval or denial. Presently it appears that both ministries are (equally) responsible. This can be confusing to the public.

³ Towing in Philipsburg: FR 2018 00450.

⁴ The investigation took over 12 months to complete due to the non-responses from KPSM.

⁵ Greater Great Bay Area, Development Perspective 'Friendly Island' Dutch Sint Maarten (NA), Teun Koolhaas Associates (TKA) / Architecture & Urban Design, 2003 | Starting Points Greater Philipsburg Development Plan, Royal Haskoning DHV, November 2013.



Inconsistent enforcement of the Traffic Ordinance and towing policy

The towing of cars is not consistently executed. Even in cases where there is a clear violation of the Traffic Ordinance and the towing policy, illegal parking is tolerated. Consequently, citizens recognize that insufficient action is being undertaken by the police to curb the practice with the consequence that the problem proliferates further. The police then adopt a zero-tolerance approach to tackle the situation that has gotten out of hand. The problem would not develop or worsen and the need to resort to zero tolerance would not be necessary.

Towing policy not being properly executed by KPSM

KPSM is not enforcing its own policy, which specifically states that PV's or police reports must always be made up and must describe the degree of the nuisance, as well as incorrect parked vehicles would only be towed if they were a nuisance or danger to traffic. As we established, PV's are seldom made up. As a consequence, citizens are oblivious to what rule was violated, which frustrates and limits the possibility to successfully object to their vehicle being towed. This practice is in violation of the standard of Fair Play, which requires that administrative bodies provide the citizen the opportunity to properly utilize procedural opportunities provided for by law and otherwise. Also, in the event of damages to vehicles that are scratched or dented in the process of towing, often times these claims are disputed by the towing companies which results in citizens having to cover these expenses themselves.

Towing not properly outsourced

It is unclear how the two towing companies were selected.

Based on a letter dated 10 April 2017 from the KPSM to Leap Year and Hungry's Towing, they were charged, on a rotating basis, with the towing of vehicles. The Ombudsman was unable to establish if official towing permits were granted. While the single page letter, signed by all parties, is referred to as an SLA by KPSM, it is actually a misnomer to designate that distinction to the document in question as it does not meet the minimum standards required for such. An SLA should include not only a description of the services to be provided and their expected service levels, but also metrics by which the services are measured, the duties and responsibilities of each party, the remedies or penalties for breach, and a protocol for adding and removing metrics. Most of these mechanisms are absent in the document.

Furthermore, shortly after receiving the document one of the towing companies was unable to obtain a liability insurance and therefore was allegedly (partially) disqualified from participating. Hence, only one company has been executing towing services as it relates to parking violations until present.

Towing policy, fees are not published, and fines are inconsistently issued and collected

The public at large is unaware of the policy. The fees for towing are also not officially published. Citizens are therefore unaware what the applicable fees are.

When confronted with the fact that their vehicle has been towed away, many are dependent on the company informing them what the fees are. This creates the possibility for abuse. Additionally, payments can only be made in cash, which is also unsafe.

With regard to the fines for violations ("overtredingen") that, based on the Road Traffic Ordinance (article 119⁶), can be issued, statistics from the OM's 2019 annual report show that a total of 2001⁷ traffic fines were issued, totaling an amount of ANG. 320.950. However, from the aforementioned amount only ANG. 180.766 was actually collected, just over 50%. The statistics also show a downward trend in the number of fines issued when compared to 2017 and 2018.

In 2017 a total of 3093 fines were issued and in 2018, a total of 2379. There is a drop off of 35% when comparing the 2017 and 2019 figures⁸. With reference to the number of fines collected based on the fines issued, figures for 2017 are unavailable, in 2018 ANG. 187.700 was collected (the total amount of fines issued was unavailable). The disparity between fines issued and collected is obvious. In 2016 for example, the written-out fines totaled ANG. 1.112.300, on the other hand fines that were actually collected/paid were ANG. 334.120, just 30%. In 2015 ANG. 187.095 was collected (the total amount of fines issued was also unavailable). In addition, the process in which the fines are issued and processed is archaic. In this day and age, the process is still executed manually.

⁶ A distinction is made between "misdrijven" (crimes) and "overtredingen" (violations). The maximum fines for crimes are ANG. 5000.00, and a maximum of ANG. 300.00 for violations.

⁷ These are fines issued by the KPSM, Coastguard and the Ministry of TEATT (Tourism, Economic Affairs, Transport and Telecommunication).

⁸ According to the OM's 2016- and 2017-year reports, the significant increase in the total of fines issued in 2016 (and to a lesser extent 2017) is the result of retroactive posting and processing of the fines issued in the preceding years, 2013 through 2017.

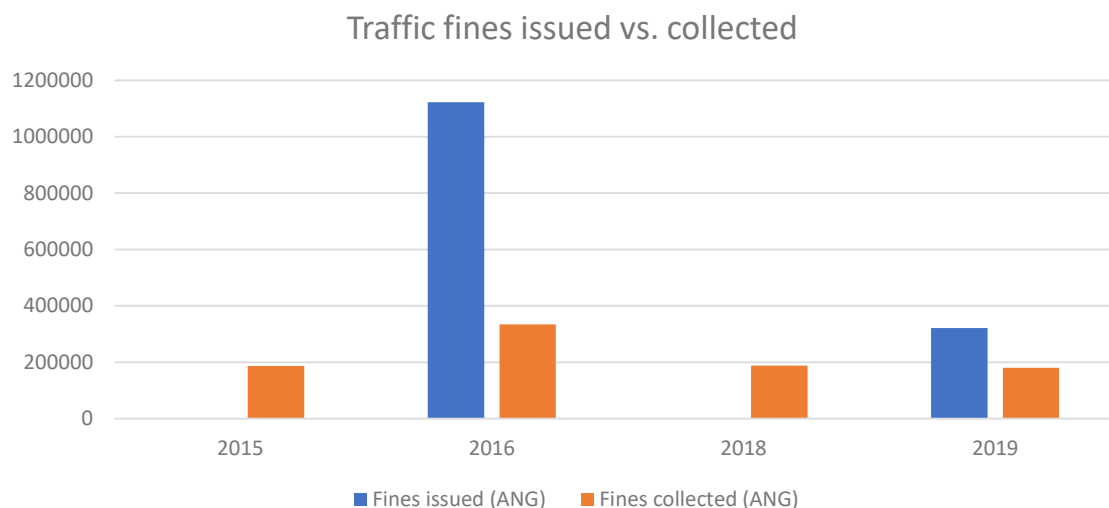


Fig. 7: Traffic fines issued versus collected.

The illegal practice of selling unclaimed vehicles allegedly tolerated with the approval of KPSM

There is no basis in the Road Traffic Ordinance for the practice of selling unclaimed vehicles. Towing companies are therefore handling in contravention of the law - allegedly - with the endorsement of the police. KPSM in collaboration with various stakeholders instituted an official bill of sale⁹ document in May of 2016¹⁰.

The objective was to structure the procedure of transferring ownership of vehicles via a standardized bill of sale whereby the selling of stolen vehicles could be effectively tackled. In the past anyone selling a vehicle, could easily make their own bill of sale, sometimes even handwritten ones and the vehicle would be transferred between the seller and the buyer without any possible control or real time information of the vehicle, the buyer or seller. By regulating the document, it removes the uncertainties as it relates to ownership of the vehicle and protects the buyer from possibly purchasing a stolen vehicle and losing their money in the process. It would appear that KPSM is undermining their own program with their alleged actions.

Government is exposing itself to liability

KPSM has outsourced an activity that they, by law, are responsible for to a third party. They have entered into an SLA with these parties to execute this task, on their behalf.

The SLA is being inadequately enforced and supervised. Consequently, based on jurisprudence and the law it can be established that if (the) towing companies are negligible in performing their task and this is attributable to the failure of the KPSM in the execution of their supervision obligation, the KPSM (government) can be held responsible for damages based on the civil code.

Conclusion

Parking in Philipsburg is not adequately organized. There is no comprehensive parking policy plan. A proper towing policy does not exist, and the one that is currently in place is not being followed. As a result, towing is chaotic and insufficiently regulated. The broader and more overarching issue is that there is no established Development Vision or Plan for Philipsburg. This however does not absolve government from its responsibility to adequately organize its services. Government is required to organize its administration and operation in a manner which guarantees proper service to the public. Proper service refers to the principle of meticulousness in the administration. Proper service also includes organizing the administration in a manner that is lawful, effective, transparent, accessible, equipped to provide prompt service and information. The administration of KPSM is inadequately organized. A proper record keeping of vehicles towed and the subsequent payments made thereafter are non-existent. There is no proper data on "*proces verbalen/ mutaties*" regarding parking violations and the towing of pertinent vehicles. There is no written published policy regarding the process of towing of vehicles.

While the ambition of KPSM to reach the standards of 'integrity' and 'transparency', as envisaged in the SLA, is applaudable, these positive attributes do not translate in comparable and discernable actions in the execution of the towing policy. Although improvements have been made over the past years, towing in Philipsburg remains insufficiently regulated and supervised.

⁹ The Daily Herald March 22, 2016: 'Police work towards regulating bill of sale'.

¹⁰ It is unclear if this target date was met or if the program was ever implemented. The bill of sale was to be only available on-line, however at present (September 2020) this feature on governments website (www.sintmaartengov.org) is non-responsive (inactive).



Recommendations

Based on the findings in the report, the Ombudsman issued the following recommendations.

Creation of a Philipsburg parking policy plan

Government should revisit the numerous Philipsburg Development Plans and draft a comprehensive parking policy plan for the city. In the eventual implementation of the parking policy government should ensure that the proper infrastructure is in place, such as signs, parking machines, a parking reference system or perhaps one or more parking garages¹¹ with which the desired direction to the policy can be given. Government will also need to, directly or indirectly, have an organization that can implement the parking policy, including providing the necessary information to the public. It should also be noted that parking when properly regulated, can generate much needed revenue¹² for the country.

Draft and implement a comprehensive towing policy with proper checks and balances

KPSM must establish a comprehensive towing policy. One that encompasses all of the phases: outsourcing, execution, control, and supervision. In terms of the execution, matters that need to be addressed are: proper data base for 'proces verbalen/mutaties', official (uniform) parking signage, payment possibilities other than cash and ensuring that in the event of damages to vehicles towing companies cannot absolve themselves from their responsibility without verifiable evidence, such as providing photos of the vehicle prior to and after towing.

Establish a parking permit policy

The procedure that is required to obtain a parking permit should be documented and properly regulated via a policy so that it is clear to the general public, including the possible grounds for denial and objections.

Amend and update Road Traffic Ordinance

The Road Traffic Ordinance should be amended to facilitate the introduction of modern enforcement tools such as wheel clamps etc. The procedure for the seizure and selling of unclaimed vehicles must be included in the ordinance as well.

More consistency in the execution of (targeted) traffic checks and the issuing of fines as well as modernizing the process

Traffic checks must be carried out with more consistency. According to the OM, there are no fixed agreements with the KPSM about the regularity or dates of traffic checks. The norm for traffic checks, according to the OM Carib guidelines¹³, is 4000 per annum. That norm has not been realized for some time (see fig. 8). The system /process of issuing fines must also be updated as this is (still) being done manually. Automating the process would increase efficiency and effectiveness.

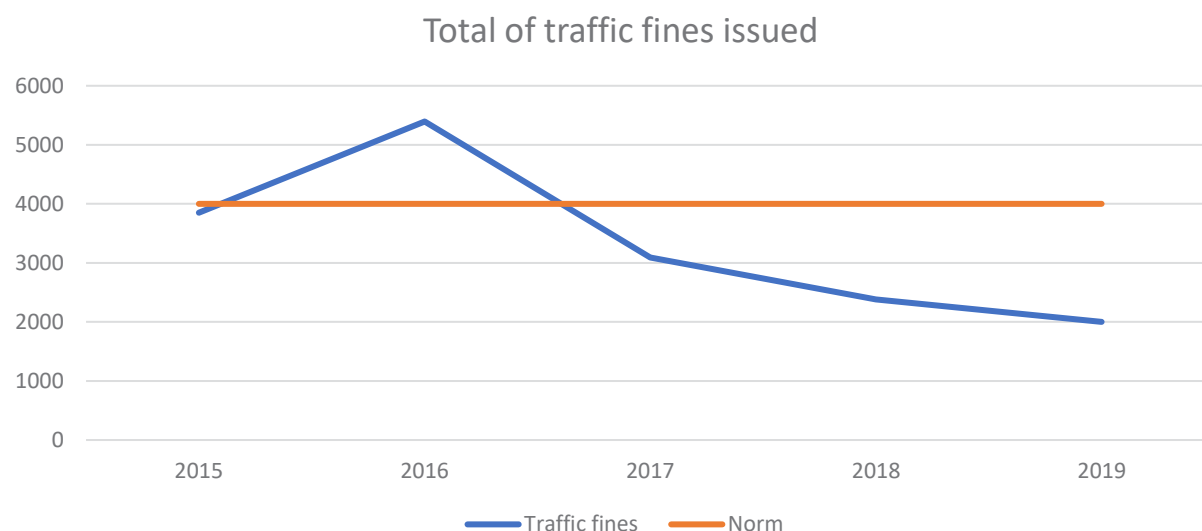


Fig. 8: Total of traffic fines issued.

¹¹ The Daily Herald April 20, 2016: 'APS to build 400-space multi-storey parking lot'. According to the article, the project was slated to start in 2016. However, has not started to date.

¹² The parking facility on the Clem Labega Square, managed by government, generated ANG. 100.247 in 2018 ('Ontwerpbegroting 2020 land Sint Maarten').

¹³ OM Year Report 2019.

More action is undertaken to collect the issued fines

Just over 50% of the issued traffic fines were actually paid in 2019. Figures for 2018 indicate the same percentage (50%). Figures for 2017 are unavailable and in 2016, just 30% was collected¹⁴.

After the issuance of the Final Report, the Minister of Justice responded by stating that she generally agreed with all of the findings and recommendations. The minister further explained that the Ministry of Justice will initiate a multidisciplinary working group together with the colleagues of the Ministries of VROMI and TEATT to work out both short- and long-term solutions for the bottlenecks identified.

V. 2010-2020: A decade of Ombudsmanship

After Dr. Nilda Arduin was sworn in on October 10, 2010, as the first Ombudsman, the work to build the institution began in earnest. A comprehensive manual was compiled to describe the organization procedures and a strategic plan was established with the goal of creating a solid foundation. Work procedures were developed, and the necessary staff was recruited and trained. Awareness began by informing the public via district information sessions as well as the civil service via workshops what the tasks and responsibilities of the Ombudsman were. The process to make the term 'propriety' a household term was initiated. Standards of proper conduct were introduced. Support networks were established with the Ombudsman of Curaçao, the Ombudsman of Amsterdam, the National Ombudsman, and the International Ombudsman Institute (IOI), who provided additional training and exchange programs for the staff.

Procedures were established for the addressing and handling of requests submitted by the Ombudsman to the Constitutional Court, the sole court of this kind in the Dutch Kingdom.

The period 2010 – 2014 can be best characterized as the building phase of the institution.

2010-2020 in numbers

From 2010 - 2020 a total of 680 complaints have been investigated and 2464 information windows (IW's) handled. This includes six (6) systemic investigations, namely: Cadastre & Land Registry, Dismissal Advisory Committee, Rent Tribunal, Disaster Risk Reduction and Management, Procurement Management Policy of the Princess Juliana International Airport Operating Company N.V. (PJIAE) and the towing policy of the Sint Maarten Police Force (KPSM).

Complaints vs. Information Windows

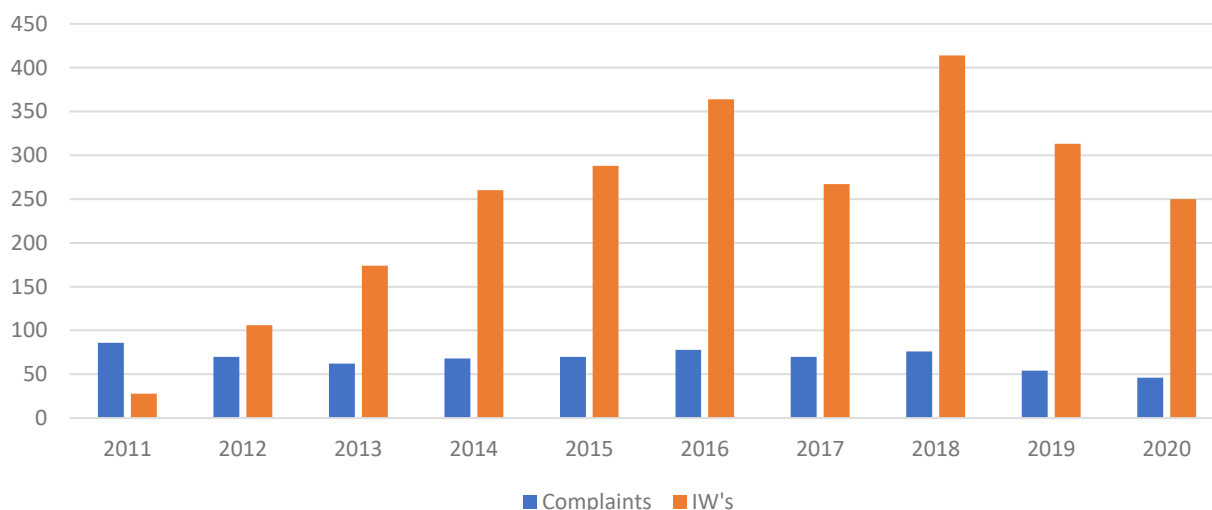


Fig.9: Complaints and IW's

Through the years the complaints investigated have remained more or less constant. Over the past two years however there has been a drop in complaints. The decline in 2019 was attributed to a drop in ZBO complaints. The pandemic, subsequent lockdown and the overall limited mobility of the public is a contributing factor in the reduction of the 2020 complaints. Despite the fact that complaints can be filed online, most persons prefer visiting the office and filing complaints in person. As far as the IW's are concerned, a consistent growth is observed until 2016. The drop in 2017 is a result of Hurricane Irma. In 2018 there was a considerable increase which tapered off in 2019 to normal levels. In 2020, as a result of the pandemic, a decrease was again observed.

¹⁴ OM year reports 2016 – 2019.



Complaints per Ministry & ZBO's

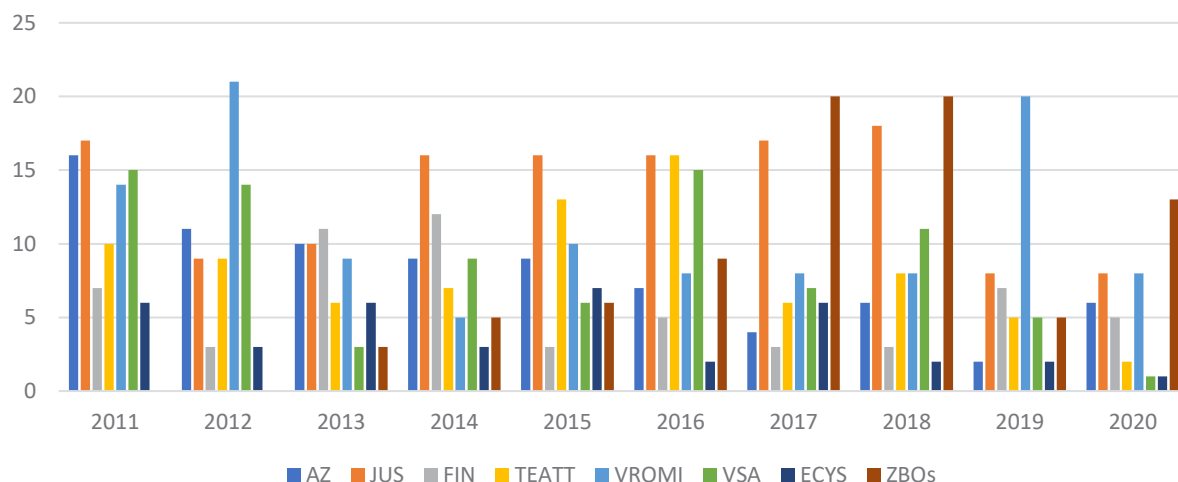


Fig.10: Complaints per ministry & ZBO's

The Ministry of Justice has consistently been the ministry with the most complaints. Up until 2020 the complaints against the Ministry of Justice represented approximately 20% of all complaints investigated by the Ombudsman. The Ministry of VROMI is running a close second with a total of 16%. The Ministry of VSA is third (13%), the Ministry of TEATT (12%) fourth, followed by the Ministries of General Affairs (12%), Finance (9%) and Education, Culture, Youth and Sport (6%). The total of complaints against ZBO's are 12%.

Justice vs. VROMI complaints

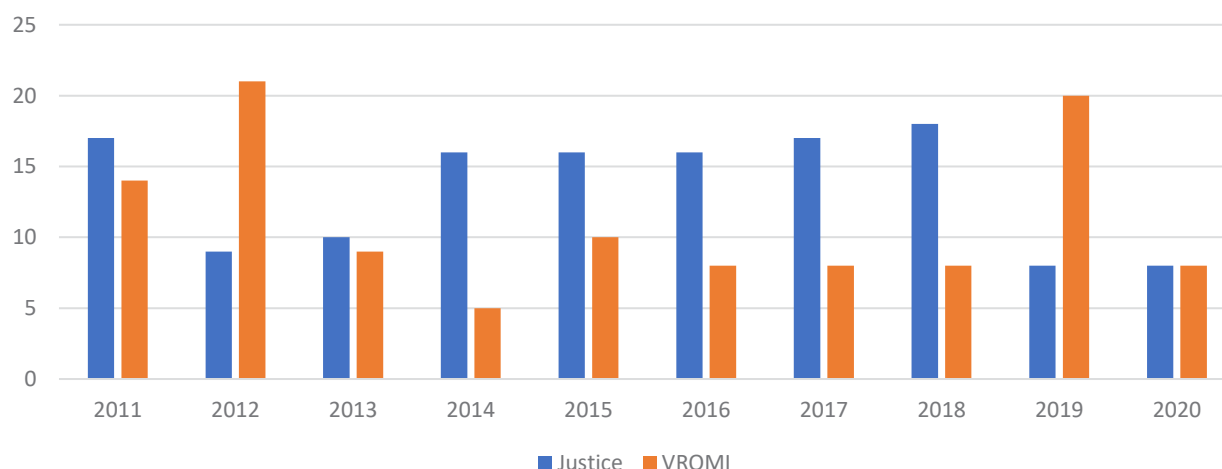


Fig. 11: Ministry Justice vs. Ministry VROMI complaints

As previously explained, the two main transgressors of propriety are the Ministries of Justice and VROMI. In 2019, for the first time since 2012, the Ministry of VROMI recorded the highest number of complaints. Although VROMI's complaints declined in 2020, along with the Ministry of Justice, both ministries recorded an equal number of complaints in 2020.

Standards of proper conduct

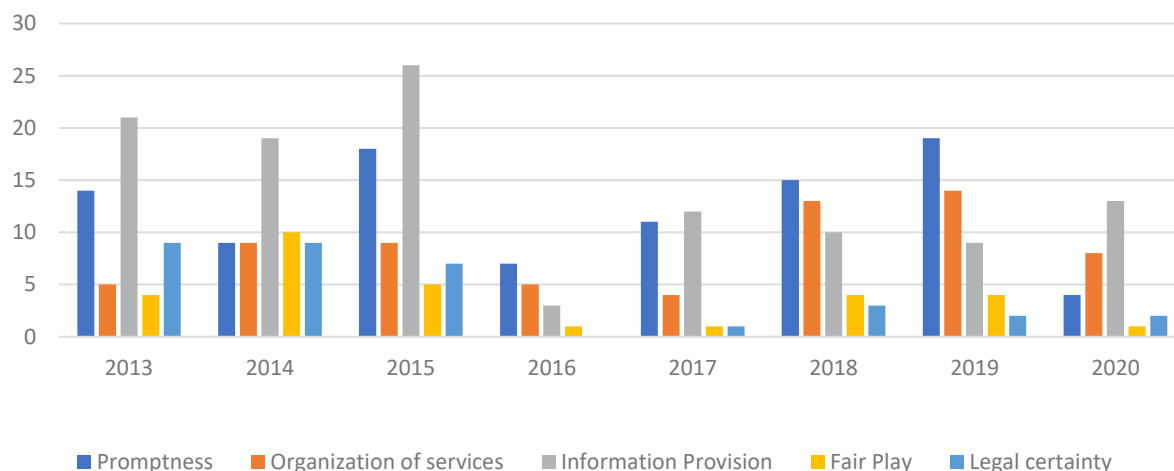


Fig. 12: Standards of proper conduct

In the chart above the top 5 of the violated standards of proper conduct are displayed. The main standards that are violated are: active and adequate information provision, promptness, and adequate organization of services, followed by legal certainty and fair play. The graph reveals that while the standard of active and adequate information provision continues to be consistently transgressed, there has been a steady decline over the past years. On the other hand, organization of services and promptness continues to be relatively high. This denotes that while government has improved in some areas, they have remained stagnant or even deteriorated in others.

Over the years we have seen that compliance with the Ombudsman's recommendations by adjusting policies or procedures resulted in greater efficiency in operation by some ministries, the Ministries of VSA and TEATT in particular. From 2017 a drop in complaints against these ministries has been observed. Although this might slightly differ on a year-to-year basis the aforementioned also applies to SZV. By and large SZV has made considerable efforts to address their internal procedures, accept the recommendations given by the Ombudsman and address investigations in a timely manner.

Systemic Investigations

In terms of the Systemic Investigations, the Bureau has had mixed results as far as the recommendations are concerned.

Cadastre & Land Registry

The reason for the [investigation¹⁵](#) was the issuance by the Cadastre of two written excerpts of the Public Register for the same parcel of land, on respectively December 14th and 15th 2010. The content of both certificates was not identical. The Ombudsman concluded that the conduct of the Cadastre was not proper with regard to the standard of administrative accuracy, specifically, adequate organization of services. Since then, we have seen some improvements at this agency. New software was launched in 2019, replacing the system that was in use for almost two decades. This innovation in technology should result in increased accuracy, improved productivity, and efficiency.

Dismissal Advisory Committee (DAC)

The [investigation¹⁶](#) was initiated as result of a complaint filed by a lawyer on behalf of GEBE N.V. The investigation focused on the functioning of the DAC and the decision-making procedure followed by the Secretary General (SG) of the Ministry of Public Health, Social Development and Labor (VSA) on petitions filed for dismissal. Considering a possible increase of petitions for dismissal to be filed by employers as a result of the effects of the hurricanes in September 2017 on business on Sint Maarten, the importance of the DAC in the decision-making process of the SG and the functioning of these entities had the full attention of the Ombudsman.

The Ombudsman concluded in the report that: (1) There are sufficient and adequate rules and regulations for the operation of the DAC in place. However, the formal implementation by publication of the Rules of Order and policy governing the advice procedure has not yet been executed, nor are they properly followed or visible in the advice of the DAC. (2) The decision-making process of the SG regarding a request to dismiss an employee is considered not to be transparent, efficient, and adequate to provide a properly motivated decision on a petition submitted by an employer, more so when taken independently. A proper link between the advice of the DAC and motivation of the decision taken by the SG remains obscure. (3) Proper application of the appendices listed in the

¹⁵ 'Openbaar Rapport' KH 270612.

¹⁶ FR 2017/00338.



National Decree regarding procedures (for) termination (of) employment, is required. The Minister of VSA informed the Ombudsman that the ministry agreed with the conclusions of the Ombudsman and will follow the recommendations presented, among which the installation of a new DAC.

Rent Tribunal (RT)

Following various complaints reaching the Ombudsman from citizens seeking a decision from the [Rent Tribunal](#)¹⁷ regarding housing disputes between tenant and landlord allegedly as a result of Hurricane Irma, preliminary investigations by the Ombudsman indicated an increase of visitors to the Rent Committee post-Hurricane Irma. However, the office of the Rent Tribunal is understaffed and -equipped to handle the increase of visitors. With poor infrastructure and no vehicle available to engage site visits in order to objectively and effectively execute its task, *the standard of proper conduct Fair play*, among others, was seriously under threat with regard to proper handling of requests filed with the Rent Tribunal post-Hurricane Irma. The Ombudsman concluded in her report that though the systemic investigation assisted in bringing the serious challenges of the RT to adequately execute its task to the forefront and understanding reached between government and the RT regarding steps to address and alleviate the most pressing matters on short term, the Ombudsman observes that this has not yet resulted in tangible decisions from the Council of Ministers and improvement of the critical situation. Unfortunately, until present many of the recommendations issued in the Final Report remain unresolved. These are in particular, an amended organizational structure of the RT, including realistic remunerations, established by National Decree and an annual budget, which includes all resources necessary that will allow the RT to effectively and efficiently execute its task pursuant to the law.

Disaster Risk Reduction and Management

The Disaster Management Plan requires that, for the effective prevention of disasters or serious incidents, preparatory work must be carried out by establishing sub-plans by the Emergency Support Function (ESF) groups. On the basis of these sub-plans, the departments, services and institutions must draw up their action plans. Notwithstanding queries from the Ombudsman at the time, neither (updated) sub-plans nor action plans were made available to the Ombudsman. A subsequent formal request to the Council of Ministers (COM) for plans of approach, policies/criteria, requirements, and selection procedures to provide relief and services to those in need, in particular regarding housing, also went unanswered. The Ombudsman concluded in the [Final Report](#)¹⁸ that: 'Notwithstanding the enormous activities engaged by government in the aftermath of the hurricanes, the structural absence of vital documents, among which sub- and action plans to be provided by the various ESF-groups, as well as external conditions such as the procedural rules to access the aid made available by the Netherlands through the Trust Fund, seriously impede the state of readiness of the country. Government is not sufficiently prepared for the effective prevention of major consequences a hurricane may have on the public of Sint Maarten, and deal with same in the aftermath of a possible disaster'. Responses to the Final Report received from the Prime Minister indicate that several of the recommendations have been followed. These include: completion of the sub-and action plans, increased staffing of the Emergency Operations Center (EOC), the importance of record keeping, the tackling of abandoned properties and the clearing up of the 'misunderstanding' regarding the request for military assistance of the Prime Minister being limited to offer assistance and to assess damage, whereas the request should have been to ensure public order and safety.

Procurement Management Policy of PJIAE N.V.

The genesis of the [investigation](#)¹⁹ was a complaint filed with the Ombudsman against the Princess Juliana International Airport Operating Company N.V. (PJIAE) regarding a request from the company to PJIAE for an explanation why the company was not awarded the contract for which it submitted a tender. The Ombudsman attempted to resolve the Complaint via Intervention. After numerous correspondence between the Ombudsman, PJIAE and its legal representative, the Ombudsman proceeded to refrain from further investigating the complaint. Considering the nature of Complainant's request and PJIAE having been identified and listed as a Private entity with Public authority (a 'ZBO'), as well as transparency required from government owned or controlled private entities, the Ombudsman decided that PJIAE is bound by the principles of propriety required from public bodies. The Ombudsman concluded in her report that it remained inconclusive whether PJIAE's Procurement Management Policy (PMP) is in accordance with the fundamental principles of public procurement, due to the limited cooperation received from government/the Minister of TEATT in terms of the unsubstantive answers provided.

The Ombudsman observed that 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 recommendation of the Ombudsman that 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, was never formally responded to by government and/or PJIAE N.V. The Ombudsman did however take note

¹⁷ FR 2018/00036.

¹⁸ FR 2018/00035.

¹⁹ FR 2018/00399.

of a motion passed by the Parliament of Sint Maarten on 27 August 2020. The motion underscored the need to facilitate fairness, transparency and encourage the participation of small and medium-sized enterprises in public procurement. One of the resolutions of said motion determined that government should establish a national procurement policy to guide the public bidding process for government and government owned companies.

Constitutional Court

Based on article 127 of the Constitution of Sint Maarten and article 17 of the National Ordinance of the Constitutional Court, the Ombudsman may submit new national ordinances that appear to be in conflict with the Constitution to the Constitutional Court for review. This must be done in writing within 6 weeks after ratification by government. The Court can decide on partial or total annulment of the challenged laws.

Thus far, the Ombudsman has taken two laws to the Constitutional Court for review, namely the amended [Penal Code](#)²⁰ of Sint Maarten in 2013 and the National Ordinance to establish the [Integrity Chamber](#)²¹ in 2015/2016. Both challenges were successful, with the latter national ordinance being struck down in its entirety.

Accomplishments and challenges

The Ombudsman has come a long way since October 10, 2010. The institution was built from the ground up, customized to serve and protect the rights of the people. One of the major accomplishments, since that day, is the public awareness of the role of the Ombudsman. Residents were initially of the belief that government was doing them a favor. Thanks to an intense awareness campaign, citizens became, and are now more willing, to hold government accountable.

Another major accomplishment is the quashing of the privacy invading Integrity Chamber law which proved the importance of the Constitutional Court in a young democracy.

With the verdict of the Constitutional Court, the Ombudsman proved that the rule of law, justice and fairness must prevail at all times.

The lack of full comprehension and acceptance by government (i.e. ministers) about the Ombudsman's role continues to be a key challenge. This is inseparably linked to the many changes in government over the past ten years. This lack of continuity of the Council of Ministers, as the previous Ombudsman would continuously say is akin to 'moving two steps forward three steps backward each time'.

The constant change of the persons at the helm affects awareness of the role and responsibilities of the Ombudsman. However, the lasting damage is in the form of incomplete remedying of policies and directives. Civil servant's hands are tied on the recommendations the Ombudsman makes. When the minister changes, he or she has to learn about an issue and take time to make a decision; that way the work of the Ombudsman is affected. A ministry may improve its service to the public and better its administration, but the signing off of policies lag behind without an informed minister. This creates a vacuum. Our short-term recommendations are followed most of the time, but the long-term recommendations lag behind, the latter oftentimes depend on the 'manager' of the ministry – the minister – who may change within a short scope of time.

In the current times in which we are living, whereby Sint Maarten is forced to comply with draconian conditions handed down by the Netherlands in order to qualify for much needed liquidity loans, the parting advice to government and parliament of past Ombudsman

Dr. Nilda Arduin seems more pertinent now than ever: "If we do our homework, we will not be at the mercy of the Netherlands, and we need to not act on emotion, rather we should on sound argument²²".

Considering that the period 2010 - 2014 is recognized as the building phase of the institution, the period 2015 - 2020 (and onward) can be best characterized as the learning, growing, and adjusting phase. As a country and as an institution we are not there yet. Government can and must do better. But Sint Maarten is not unique. 10 years is a relatively short time span. The world is constantly changing and the Ombudsman as well as government, just like other organizations, must continue to learn and adjust, where necessary, in order to remain effective and provide service to the public.

20 8 november 2013, zaak 2013/1.

21 7 juli 2016, zaak 2015/1.

22 The Daily Herald, 31 December 2018.



VI. Financial Reporting

The annual budget (general and capital ledger) of the Ombudsman for 2020 initially amounted to Nafl. 1.521.417,00. As a result of the cuts to the employees' benefits package the budget was reduced to 1.409.723,00, which in addition to a 50% reduction in vacation allowance included cuts to training (93%) and travel and accommodation (80%).

Based on the unaudited financial report for the year 2020 a total of Nafl. 1.239.910,28 was spent from the budget of Sint Maarten (see appendices 1 and 2).

Expenditures in 2020	Amount	2020 Budget
		1.335.723,00 ²³
		74.000,00 ²⁴
Total Operational Expenses	1.239.910,28	
Not spent		169.812,72

²³ General ledger
²⁴ Capital ledger



Appendices



BALANCE SHEET DECEMBER 31 2020

CURRENT ASSETS:

Money Card WIB	94	
Petty Cash Account WIB (new)	648	
Cash on Hand	290	
Petty Cash WIB Naf Account (old)	60	
TOTAL CURRENT ASSETS:		1,092

OTHER CURRENT ASSETS:

Prepaid Expense	12,266	
Total Other Current Assets		12,266

TOTAL CURRENT & OTHER ASSETS NAF: 13,357

FIXED ASSETS:

VEHICLES:

Vehicles	110,551	
Acc.Depr'n 31/12/2017	(80,508)	
Book-Value:	30,043	-

OFFICE EQUIPMENT:

Fotocopier Machine	15,895	
Acc.Depr'n 31/12/2017	(12,716)	
Book-Value:	3,179	

ICT Equipment	293,127	
Acc.Depr'n 31/12/2017	(233,487)	
Book-Value:	59,640	

Projector & Screen	2,034	
Acc.Depr'n to 31/12/2017	(2,034)	
Book-Value:	-	

Televisions	3,119	
Acc.Depr'n 31/12/2017	(3,119)	
Book-Value:	-	

Office Furniture	79,894	
Acc.Depr'n 31/12/2017	(31,556)	
Book-Value:	48,338	

TOTAL FIXED ASSETS: 141,201

LEASEHOLD IMPROVEMENT:

Archive Room	5,733	
Acc.Depr'n 31/12/2017	(2,513)	
Book-Value	3,220	

Server Room	8,910	
Acc.Depr'n 31/12/2017	(6,593)	
Book-Value	2,317	

Renovation Kitchen	8,736	
Afschrijving Renovatie Keuken	(4,915)	
Book-Value:	3,821	

TOTAL LEASEHOLD IMPROVEMENTS: 9,357

TOTAL ASSETS IN NAF: 163,915

LIABILITIES:

Current Liabilities

Other Current Liabilities:

AOV.AWW Payable	55,634	
FZOG Payable	14,172	
Pension Payable	114,176	
Sickness Premium Payable	8,858	
Total Other Current Liabilities:		192,840

TOTAL LIABILITIES: 192,840

CAPITAL:

Capital (28,925)

TOTAL LIABILITIES & CAPITAL NAF: 163,915

This report has not been audited.



INCOME STATEMENT FOR THE YEAR 2020

BUDGET

Budget Allocated	NAF:	1,335,723
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OTHER OPERATING EXPENSES:

Travel & Accommodation Expense	-
Electricity Expense	8,102
Water Expense	802
Road Tax	-
Gasoline Expense	3,366
Office Supplies Expense	3,896
Kitchen Supplies Expense	2,403
Computer & Internet Expense	3,029
Subscription Fees Expense	450
Books & Other literature Expense	291
Repairs & Maintenance Expense-Building	-
Repairs & Maintenance Expense-Vehicle	5,070
Repairs Hardware Expense	70,946
Other Repairs & Maintenance Expense	-
Rent Expense	133,587
Insurance Expense - Vehicle	3,521
Advertisement Expense	10,696
Telephone Expense	14,195
Postage Expense	209
Legal & Other Professional Fees Expense	844
Training & Courses Expense	5,006
Membership Fees Expense	-
Miscellaneous Expense -Bank Charges	381
Interest Expense	10
Exchange Rate Difference	4
Other Goods & Services Expense	58,042
Cleaning Supplies Expense	3,365
TOTAL EXPENSES:	328,218

PERSONNEL COSTS:

Salaries & Wages Expense:	
Gross Salary	682,176
Vacation Allowance	21,319
Other Remuneration & Allowances	28,332
Child Allowance	5,590
Bonus	5,004
Retroactive Salary	-
Employer Pension Premium	101,277
Employer's AOV.AWW Pemium	37,392
Employer AVBZ Premium	3,159
Advanced Salaries	-
Total Salaries Expense-Ombudsman & Staff	884,250

TOTAL PERSONNEL & OTHER OPERATING EXPENSES	1,212,467
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SURPLUS, before Depreciation Expense & Incidental Income:	123,256
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SURPLUS, before Depreciation Expense & Incidental Income: b/f	123,256
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DEPRECIATION EXPENSE:

Depreciation Expense-See Depreciation Schedule:	27,443
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NET SURPLUS:	95,813
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NAF

This report has not been audited.



OMBUDSMAN

SINT MAARTEN