



The State of Law Enforcement Sint Maarten 2023
Judicial cooperation between the countries

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Law Enforcement Council
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Contents

Foreword	5
1. Introduction	6
2. Council inspections 2023 and overarching topics Sint Maarten	8
2.1 Overarching topics relevant to Sint Maarten	8
2.2 Inspections 2023	9
2.3 Presenting reports and response to Parliament	11
2.4 Systemic failure to follow council recommendations	11
3. Developments in Sint Maarten based on the topics of judicial cooperation within the Kingdom	12
Introduction	12
3.1 Border control and migration	12
3.1.1 Cooperation agreements border protection and migration	12
3.1.2 Coast Guard	14
3.2 Undermining	15
3.2.1 Administrative approach to undermining	15
3.2.2 Approach to organized undermining crime	15
3.3 Strengthening the rule of law	16
3.4 Information- data exchange, sharing and processing	16
3.5 Legal framework	17
3.6 Approval of budgets and financial statements	18
3.7 Public Prosecutor's Office	18
3.8 Police	19
3.8.1 RST	19
3.8.2 National detectives Sint Maarten	19
3.8.3 Sint Maarten Police Force	20
3.9 Detention system	20
3.10 Prevention juvenile crime	21
3.11 Capacity issue	21
3.12 Declaration of conduct	22
3.13 Supervision	22
3.14 Goods and equipment	23
3.15 Workgroups	23

4. Cooperation between the countries	24
4.1 Regional police cooperation	24
4.2 Cooperation between the countries II: JVO.....	25
4.3 Cooperation between the countries III: forensic care and PIJ.....	27
4.4 Cooperation between the countries IV: information sharing within the Kingdom	27
4.5 Conclusion.....	28
5. In conclusion	29
Annex 1: Reports published by the Council on Sint Maarten.....	31

Foreword

Each year, the Council issues a report on the state of law enforcement (the State) for the Caribbean Netherlands, Curaçao and Sint Maarten. The State contains a more general picture of the developments in law enforcement and findings that transcend individual inspections. In addition to the state of affairs per (island) country on various relevant topics, the report also discusses judicial cooperation between the countries.

The Council notes that cooperation between the countries in the Kingdom is being sought in many areas. The constitutional constellation creates the preconditions for this, and the Charter offers this possibility. Moreover, in Kingdom Acts and other mutual arrangements, legal frameworks have already been created to anchor cooperation.

From a general perspective, the Council believes that there is still much ground to be gained in terms of the development of law enforcement in the countries. The challenges facing the countries are multifaceted and extensive. On the other hand, the Council notes reluctance to actively seek and exploit opportunities.

The Council hereby invites you to read the three States of Law Enforcement and looks forward to forthcoming developments particularly in the area of judicial cooperation between the countries.

THE LAW ENFORCEMENT COUNCIL

Mr. E.R.A. Morillo, chairman

Mr. M.R. Clarinda, council member

Mr. M.I. Koelewijn, council member

1. Introduction

The Law Enforcement Council (the Council) consists of a total of three members, all of whom are appointed by royal decree. Pursuant to the Kingdom Act on the Law Enforcement Council (Council Kingdom Act), the Council is tasked in the countries of Sint Maarten, Curaçao and for the Netherlands, as far as Bonaire, Sint Eustatius, and Saba (BES) are concerned, with the execution of general inspections regarding the effectiveness, quality and management of the judicial organizations. Furthermore, the Council is tasked with the general inspection of the quality and effectiveness of judicial cooperation between the countries.

The Council published 63 (follow-up) inspections from 2011 through 2023 for Sint Maarten on a variety of social issues (see [annex 1](#)). The Council conducts independent, professional, and objective inspections. The Council offers the reports with recommendations on specific topics to the Minister of Justice. The Minister is subsequently required to send the inspection report and its response to the Parliament of Sint Maarten within six weeks in accordance with the Council Kingdom Act. In addition, pursuant to Section 33 of the Council Kingdom Act, the Council produces an annual report on the State of Law Enforcement (the State). The State contains a more general picture of law enforcement developments and findings that transcend individual inspections. The State is presented directly to the Minister of Justice and Parliament each year.

The focus of the last State (2022) was on developments related to strengthening criminal law enforcement. In this context, the Council focused on the main highlights and bottlenecks of the judicial organizations as well as overarching themes. Furthermore, the Council's inspections in 2022 were discussed. In particular, the Council again called attention to the partial or total lack of essential preconditions at the various services such as financial, human, and material capacity, which in practice still have an impact on their operations. In this regard, the Council indicated:

'In light of the increasingly complex, changing and often cross-border crime, it is apparent that the pressure on the judicial organizations in Sint Maarten is increasing due to the partial or total lack of essential preconditions such as financial, human, and material capacity required for carrying out activities. The lack thereof makes the efficient handling of the limited capacity increasingly necessary and leads more and more to more intensive (inter)national and Kingdom cooperation and the increasing importance of research and reliable information gathering and sharing as a basis for choices and prioritization. The Council considers intensified cooperation in itself a good development, especially given the associated investments to date. However, like several other chain partners, the Council is concerned about the lagging investments in the local judicial organizations. Certainly in comparison with the supranational organizations. (...) If Sint Maarten wants a professional judicial chain and thus law enforcement that can tackle crime together with other relevant partners, substantial investments must be made in this. If this is not done, this will be at the expense of the effectiveness of law enforcement and with that the security of Sint Maarten will be compromised. The Council therefore specifically requests attention to this issue in this State and points to the associated risks if this is not done.'

The Council also pointed to the necessary and required investments for effective law enforcement. The Council indicated that failure to fulfill the essential preconditions necessitates the efficient use of limited capacity and has as a result that cooperation is or must be increasingly sought and is increased in intensity.

In its 2022 State, the Council indicated the following on cooperation at the national level and within the Kingdom:

'In its inspections and in various States, the Council has for several years emphasized the development of increasingly intensive cooperation at all kinds of levels. This also emerged as regards the year 2022. Within the Kingdom, cooperation takes place via the JVO, which addresses various common themes that transcend borders. These include topics such as migration, information, and data exchange, sharing and processing, and legislation. Regional cooperation is also becoming increasingly common. The Prison Directors' Consultation and the Board of Chiefs of Police ("CvK") are good examples of this. Especially on the initiative of the CvK, structural efforts are being made to intensify cooperation between the four police forces and in various fields. In this way, the safeguarding and anchoring of police cooperation in the Caribbean part of the Kingdom is steadily being achieved. The premise is that the various police forces should specialize to better assist each other. This is necessary given the fact that crime is becoming increasingly transnational and more complex. This requires a different and integrated approach. This police cooperation reminds the Council of the joint police facility mentioned in the Kingdom Act on Police, through which the aim was to make police officers, equipment, and resources available to the police forces at the very least for carrying out investigations. Although this provision did not get off the ground, its purpose does seem to be largely accomplished through the CvK. Also at the national level, the judicial organizations - partly due to the lack of capacity - are forced to cooperate in a more integral manner, including in multidisciplinary teams. Examples include the Alpha team and the asset recovery team. However, the Council found that participation by certain organizations was not taking place or was no longer taking place. 'For virtually all the judicial organizations, it is the case that as long as the preconditions for carrying out activities are not in place, scarce capacity and resources must be deployed optimally.'

The Council sees the subject of cooperation as a necessity for the law enforcement chain in Sint Maarten. The present State builds on the topic of cooperation where the (topics of) judicial cooperation between the countries is central. Chapter 2 contains an overview of the inspections conducted by the Council in 2023 and the resulting relevant overarching topics. In Chapter 3 the Council describes the developments in Sint Maarten and the state of affairs partly resulting from the agreements made on the basis of the subjects of judicial cooperation resulting from the Quadripartite Judicial Consultation¹. In Chapter 4, the Council describes overarching country cooperation centered on four topics. Finally, Chapter 5 contains closing remarks.

¹ Since the decision lists of the JVO are confidential, the Council only included more substantive information in its State when that information was available in other public information or from its reports. In other cases, the Council described the topics more generally.

2. Council inspections 2023 and overarching topics Sint Maarten

2.1 Overarching topics relevant to Sint Maarten

An overarching picture emerges from the Council's 2023 thematic inspections, which the Council specifically highlights in this chapter. These include the topics:

- Steering;
- Legal position of the Justice Ministry;
- Tier-3 status related to combating human trafficking; and,
- Combating the laundering of criminal monies and terrorist financing.

The Council also addresses the topics of presenting reports and systematic non-compliance with Council recommendations.

Steering

In its reports, the Council regularly points to the issue of steering by the Minister or Ministry as crucial. By this the Council does not only mean steering in general, but in particular the follow-up of the recommendations. Also in 2023, the Council found that the Ministry is struggling with financial and staffing bottlenecks, which continues to stagnate the follow-up of recommendations requiring support from the Ministry. The Ministry's lack of commitment - including in terms of support and steering - in addition to lack of capacity/staff is also due to continuity. The latter due to numerous staff changes as well as the failure to fill certain (critical) positions. The latter also applies to several services, including the National detectives and the Sint Maarten Police Force. In 2023 and early 2024, the Ministry did fill a number of vacancies within the Judicial Affairs Department.

Legal position Justice

In 2023, the legal position of justice personnel was also a prioritized issue and consequently a frequently recurring topic during that year. The necessary consultations, calculations and steps regarding the justice function book continued in 2023. On December 27, 2023, the justice legislative package consisting of the Legal Position Decree for Police, the Justice Function Book (2021) and the police scales was signed.² This will continue in 2024. It appears that not all function books have been completed. The Council asks that attention be paid to this as soon as possible to get this in order.

Tier-3 status

In 2023, Sint Maarten obtained Tier 3 status from the Trafficking in Persons Office of the U.S. Department of State for the third year in a row.³ In their "trafficking in persons" report, the department indicates that the government of Sint Maarten does not fully meet the minimum standards for eliminating human trafficking. And that Sint Maarten is also making insufficient efforts to that end. The Council reiterates the urgency to ensure that Sint Maarten meets the minimum standards. In its last report, the Council indicated in that regard that it is of the opinion that prioritizing the formulation of a strategic vision and completion

² Press release December 27 2023, [THE HISTORIC SIGNING OF THE NATIONAL DECREE MARKS A PIVOTAL MOMENT IN ST. MAARTEN AS MINISTER OF JUSTICE CO-SIGNS LEGISLATIVE PACKAGE \(sintmaartengov.org\)](#)

³ [Sint Maarten - United States Department of State](#)

of the National Action Plan will be an important guide to achieve and build upon the minimum standards required.⁴

Combating money laundering and terrorism financing

The Caribbean Financial Action Task Force (CFATF) has identified Sint Maarten as a country with strategic weaknesses to combat money laundering and terrorist financing. A mutual evaluation will commence in 2024 by the CFATF. In preparation for this, Sint Maarten is conducting a national risk assessment. This was also being worked on in 2023. The Council emphasizes that if Sint Maarten does not comply with the recommendations of the FATF, this will have far-reaching consequences, which ultimately (could) also affect individual citizens. The Office for the Reporting of Unusual Transactions (MOT) plays an important role in combating, among other things, money laundering and terrorist financing.⁵ For the fight to be effective, it is very important that the MOT has sufficient manpower and resources. This is currently not the case. The Council calls attention to this.

2.2 Inspections 2023

Below is a summary of the inspections that the Council initiated or conducted in 2023. The reports concern in no particular order:

General review: follow-up inspections in the form of sub-inspections

Since 2020, the Council has been conducting sub-inspections to review the status of follow-up on recommendations from 2012 to 2018.¹ This general review is conducted in sub-inspections and results in voluminous reports. The Council conducted its fourth sub-inspection in 2023. The review covered the following three reports, "Police Education in Sint Maarten", "Bureau of Internal Affairs Police Force Sint Maarten", and "Use of force by and against the police in Sint Maarten". This fourth sub-inspection revealed that out of a total of 30 recommendations, 20 recommendations were fully followed, 4 recommendations were partially followed, and 6 recommendations were not followed. The Council is of the opinion that the follow-up is going in the right direction, given the compliance percentages respectively amount to 100% for the BIZ report, 64% for the report on police education and 69% for the report on force by and against the police.

Arrest team Sint Maarten

An arrest team (AT) is the police's most extreme means of force. The deployment of an arrest team is aimed at preventing or controlling violence and minimizing the danger to the police and third parties. In view of the contribution that the arrest team makes to the maintenance of the rule of law and to the safety of citizens and investigating officers, the Council carried out an inspection into the presence of the necessary guarantees and preconditions for the safe and professional functioning of the AT. The Council conducted this inspection in 2023 and presented the report to the Minister of Justice in January 2024.

In its report, the Council considers that the AT - despite its (capacity) limitations - performs its work professionally and the team is internally managed by the commanders of the KPSM. In the area of external accountability by the responsible administrative authorities and support and the necessary financial,

⁴ Law Enforcement Council (2024). Follow-up inspection of the recommendations regarding the approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten.

⁵ Law Enforcement Council (2022). Combating money laundering and the financing of terrorism in Sint Maarten.

human and material capacity arising from the existence of a professional AT, the Council believes there are still some gains to be had.

Review human trafficking and human smuggling

Human trafficking and human smuggling are serious crimes of a global nature. Among other things, numerous international treaties to prevent and combat them have been entered into. The topic of the prostitution policy and its enforcement is also linked to this, due in part to it taking the form of sexual exploitation.

The Minister of Justice requested the Council to conduct a follow-up inspection in 2023 on the status of the follow-up of the Council's previous recommendations to improve the topics of human trafficking, human smuggling (2019); and the prostitution policy and its enforcement (2016). The Council conducted this inspection in 2023 and the report was presented to the Minister of Justice in March 2024.

In its inspection, the Council concluded that the approach to human trafficking and human smuggling falls short. Insufficient substantial progress has also been made on the topic of the prostitution policy and its enforcement. Apart from one recommendation, none of the recommendations have been followed. According to the Council, the results of the inspection demonstrate the need for urgent (re)prioritization of the integrated approach to human trafficking and human smuggling. Furthermore, it demonstrates the need for updating the prostitution policy in order to subsequently enforce it properly. Sint Maarten's Tier-3 status over the past three years also underscores this. Failure to update the prostitution policy will have negative consequences. The Council assumes that the Minister of Justice in any case understands the need for prioritization and will take appropriate actions as soon as possible, also within the inter-ministerial cooperation.

Detention inspections & monitoring recommendations CPT: the care and treatment of persons with mental and/or behavioral disorders in the criminal justice chain

The Council, at the request of the JVO, has been monitoring the follow-up to the recommendations of the Council and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) since 2016. The Council has continued monitoring the follow-up of the recommendations in the year 2023. In each case, the Council incorporates these recommendations into its own inspections on a particular topic and the monitoring of its own recommendations.

The inspection into the care and treatment of persons with mental and/or behavioral disorders in the criminal justice chain began in September 2023. Because there is a high degree of interdependence between the two topics, it was chosen to address both topics in one inspection.

During the orientation phase, it emerged that via a Kingdom-wide JVO workgroup, the countries are currently in the process of establishing a business case on behalf of forensic care within the Caribbean part of the Kingdom. Based on exploratory talks, desk research and developments to date, the Council has chosen to initiate and limit this inspection to the monitoring of developments and, in any case, holding periodic talks with the (members of the) workgroup. In June 2024 an evaluation moment will take place based on the developments until then. Then it will be decided whether and if so when the in-depth inspection will be carried out.

Processing of police data

Based on article 18 of the Mutual Regulation between Curaçao, Sint Maarten and the Netherlands regarding the processing of police data, the Council is charged with the supervision of compliance with this mutual regulation and the national regulations for its implementation. In 2015, the Council carried out an inspection into the exchange of police data in Sint Maarten. In doing so, the Council focused, among other things, on the processing of police data. The Council began mapping its supervisory task in the fall of 2023 and continued this in 2024.

An overview of all reports published by the Council in Sint Maarten as well as current ongoing inspections is shown in [annex 1](#).

2.3 Presenting reports and response to Parliament

In recent years the Council has been pointing out the responsibilities of Parliament as well as the Minister of Justice in each State. This because for years the reports of the Council on Sint Maarten are not or not consistently in accordance with the Kingdom Act Council submitted to Parliament with a response. Since the reports with responses are still not consistently offered to Parliament, the Council again points out everyone's responsibilities in this regard as well as the specific control and budgeting role of Parliament.

2.4 Systemic failure to follow council recommendations

In its States, the Council also dwells on the subject of systematic non-compliance with recommendations. In the event that the Minister of Justice systematically fails to comply with the recommendations of the Council, the Council may communicate this to the representative body of Sint Maarten and the Council of Ministers of the Kingdom (article 32 Kingdom Act Council). Whether it is the case that the Minister systematically fails to comply with the recommendations is decided by the Council on the basis of at least two follow-up inspections following an established inspection report. In its State of 2022, the Council already indicated that there are several reports where it is the case that the Council has conducted two follow-up inspections. These were on the topics: investigation and prosecution policy OM, Crime Prevention Fund, victim support, criminal seizure and the prison. In 2023, the following topics were added: police education, use of force by the police, human trafficking and human smuggling, and the prostitution policy and its enforcement. The Council points out that topics are inextricably linked and that failure to follow recommendations on one topic may also have negative consequences on other topics. And ultimately can undermine confidence in criminal law enforcement.

3. Developments in Sint Maarten based on the topics of judicial cooperation within the Kingdom

Introduction

The JVO has proven to be a flexible and constant collaboration. It demonstrates the countries' commitment to the consultations and results in the necessary agreements on judicial cooperation for the benefit of law enforcement for the benefit of the countries, including Sint Maarten. There are fixed agenda items, and each country can and does raise common topics of its own accord.

In this chapter (in random order) based on the various recurring topics of the JVO the state of affairs of the topics relevant to Sint Maarten are highlighted from Sint Maarten's perspective for the period from 2020 to 2023. Some of the topics will be discussed in more detail in Chapter 4 as overarching topics which result in judicial cooperation. These are the topics of police cooperation, the JVO, forensic care and Pij, and information sharing within the Kingdom.

3.1 Border control and migration

3.1.1 Cooperation agreements border protection and migration

Passenger information border protection

In the context of this topic, cooperation and expertise sharing occurs via the JVO regarding the use of passenger information for border protection.⁶ This includes active sharing and utilization of experiences and best practices by the countries in the design, implementation and execution of the Advance Passenger Information (API). As part of the above, draft legislation was made available in Sint Maarten in the last quarter of 2023 on not only the Advance Passenger Information System but also for the Passenger Name Record.⁷ The conceptualization of legislation is part of the project called, Automated Border Control. In addition, a cooperation agreement was signed in December 2023 for a new Border Control Management System called Radex for the Immigration and Border Protection Service.⁸

Strengthening border control

Strengthening border control is also one of the topics in this framework. A baselines project was already launched in 2019, which has continued in subsequent years.⁹ These are proposals for improvement to strengthen border control, including the purchase of cargo scanners, these have now been purchased for Sint Maarten. But also includes, for example, identifying quick wins such as the joint education and training of border services and further cooperation within multidisciplinary teams at the border.¹⁰ In 2021, also within this framework, the protocol Strengthening Border Control Caribbean Countries was signed

⁶ [The Daily Herald - Justice Ministers discuss range of issues during JVO meeting; Chamber letter](#) from the Minister of Justice and Security dated February 13, 2020, 2816083

⁷ Press release Government of Sint Maarten, November 1 2023, see [Advance Passenger Information System and Passenger Name Record Legislation Draft Presented to Minister of Justice, Ms. Anna E. Richardson \(sintmaartengov.org\)](#)

⁸ Press release Government of Sint Maarten, December 29 2023, see [SIGNING CEREMONY WITH GAMMA IT SOLUTION SIGNIFIES LAUNCH OF THE RADEX BORDER CONTROL MANAGEMENT SYSTEM FOR ST. MAARTEN \(sintmaartengov.org\)](#)

⁹ [Chamber letter](#) from the Minister of Justice and Security dated February 13, 2020, 2816083

¹⁰ [Chamber letter](#) from the Minister of Justice and Security dated August 31, 2020, 35300 IV, nr. 72.

and funds were made available on this basis for the purchase of equipment and resources. In 2022, within the framework of the protocol, the aforementioned plan of action was drawn up for the various judicial organizations and this was continued in 2023. The Netherlands has also provided for structural deployment of personnel of the Royal Netherlands Marechaussee (KMar), Customs Netherlands and the Coast Guard and for the necessary finances. For example, it was agreed under the protocol that the KMar would play a major role in strengthening border control in Sint Maarten, among other places.¹¹ This resulted, in among other things, that 71 fte KMar will be deployed on the islands, of which 11 fte in Sint Maarten.

Immigration chain

The countries, Curaçao, Sint Maarten and the Netherlands have agreed on a mutual arrangement on cooperation in the area of the immigration chain.¹² The purpose of the cooperation is: close cooperation between the countries' immigration chains. The countries are cooperating for the purpose of a good and effective implementation of the foreigners policy and citizenship law in the countries and to combat illegal immigration and human trafficking and smuggling.¹³ A concerted effort has been made by the JVO to sustain this cooperation within the immigration chain, in part by means of (sub) workgroups.¹⁴ The cooperation includes knowledge transfer, technical assistance, education and training and the exchange of best practices. Cooperation agreements have also been made regarding the return and repatriation of migrants. See further chapter 4.

Furthermore, cooperation in the JVO context also allows for a regional pilot. For example, a pilot was started in 2022 and continued in 2023 whereby identity cards can be used for travel in the Caribbean part of the Kingdom until the end of 2023.¹⁵

Cross-border crime

In the fight against cross-border crime, the biennial crime picture analyses are an important source for the policy of the Detective Cooperation Team (RST). Information exchange and sharing is particularly important in cross-border crime, which is why the police forces are dedicated to optimizing it as well.¹⁶ For example, the CvK together with the project group Information Coordination and the Platform Heads Information Organization Caribbean have worked on a plan of approach in this context.¹⁷ The Netherlands is making 2.5 million euros available for optimization for the period from 2022 to 2024. The focus is on strengthening information hubs and the inter-insular information coordination point facilitated by the RST, training and necessary ICT facilities. The role of the Coast Guard is also very important in this topic. Accordingly, the JVO outlines the Coast Guard's policy priorities: combating the transportation of illegal

¹¹ X Defense Kingdom budget 2023, P. 63; [X Defensie Rijksbegroting 2023 | Begroting | Rijksoverheid.nl](#)

¹² Mutual Regulation Curaçao, Sint Maarten and the Netherlands pursuant to Art. 38, paragraph 1, Charter for the Kingdom of the Netherlands (cooperation in the area of the immigration chain).

¹³ Article 1 Mutual Regulation Curaçao, Sint Maarten and the Netherlands pursuant to Art. 38, paragraph 1, Charter for the Kingdom of the Netherlands (cooperation in the area of the immigration chain).

¹⁴ [Chamber letter](#) from the Minister of Justice and Security dated August 31, 2020, 35300 IV, nr. 72.

¹⁵ [Traveling with identity cards in the Caribbean region of the Kingdom except Aruba – Ministry of Justice \(ministryofjusticesx.com\)](#); [Chamber letter](#) from the Minister of Justice and Security dated April 4, 2023, 4411397.

¹⁶ Article 39 Kingdom Act Police of Curaçao, of Sint Maarten and of Bonaire, Sint Eustatius and Saba; [Chamber letter](#) from the Minister of Justice and Security dated May 9, 2022, 4003446.

¹⁷ Law Enforcement Council (2024). Follow-up inspection of the recommendations regarding the approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten.

goods, human smuggling, human trafficking, and (the facilitation of) terrorism in the Caribbean region.¹⁸ In the 2022 JVO, the Coast Guard Justice Policy Plan 2022-2025 was adopted.

Approach human trafficking and human smuggling

The (strengthening of the) approach to human trafficking is a topic that is firmly on the agenda as of 2021, with the country coordinators on human trafficking playing a coordinating role in the cooperation. This has resulted, at the request of the JVO, two years later, in 2023, in a new Memorandum of Understanding (MoU) on cooperation between the Netherlands, Curaçao, Aruba and Sint Maarten to prevent and combat human trafficking and human smuggling.¹⁹ As agreed, the MoU was evaluated in 2022 and in early 2023 the countries agreed by signing to the minimally modified new version.²⁰ In Sint Maarten in mid-2023, efforts were made, among other things, to raise awareness within the civil service of the various ministries and departments by having a three-day training course on human trafficking and human smuggling conducted by the Coordination Center on Human Trafficking and Migrant Smuggling Aruba.

Court of Guardianship

The JVO also often formalizes cooperation agreements. So too, for example, in the context of migration. In 2022, a Memorandum of Understanding was established between the various Courts of Guardianship of the Caribbean countries. The agreements concern evacuation of children during and after a natural disaster within the Kingdom.²¹ This is of yearly importance at least for Sint Maarten, as the country is located in the hurricane belt.

3.1.2 Coast Guard

Duties Coast Guard

Based on the Kingdom Act Coast Guard for Aruba, Curaçao and Sint Maarten as well as the public entities of Bonaire, Sint Eustatius and Saba, the Coast Guard is charged with supervisory and investigative tasks.²² This includes: general police duties, including operations to combat narcotics trafficking and smuggling, counterterrorism, border control, customs supervision, environmental and fisheries supervision, and shipping supervision. In addition, the Coast Guard also provides services. The vision of the Coast Guard is: "From 2025, the Coast Guard will fulfill its mission through independent 24/7 Intelligence Driven Policing (IGP) in the maritime domain." The Coast Guard is the prime example of judicial cooperation between nations and, due to its broad mission, is a topic that is also addressed in the JVO. This is done in part by regularly reflecting on current developments.²³

Support center Sint Maarten

¹⁸ [Chamber letter](#) from the Minister of Justice and Security dated November 22, 2022, 4288546.

¹⁹ [Chamber letter](#) from the Minister of Justice and Security dated September 7, 2021, 3409051.

²⁰ Law Enforcement Council (2024). Follow-up inspection of the recommendations regarding the approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten; [Chamber letter](#) from the Minister of Justice and Security dated April 4, 2023, 4411397.

²¹ [Chamber letter](#) from the Minister of Justice and Security dated November 22, 2022, 4288546.

²² [wetten.nl - Regeling - Rijkswet Kustwacht voor Aruba, Curaçao en Sint Maarten alsmede voor de openbare lichamen Bonaire, Sint Eustatius en Saba - BWBR0023731 \(overheid.nl\)](#)

²³ Chamber letter from the Minister of Justice and Security dated August 31, 2020, 35300 IV, nr. 72; see [Kamerbrief over periodieke rapportage rechtshandhaving hoofdlijnen JVO | Kamerstuk | Rijksoverheid.nl](#)

As already indicated in the 2022 State, the Coast Guard, based on several "Long Term Plans" will focus on sufficient personnel and adequate equipment in the coming years. For Sint Maarten specifically, efforts have also been made in 2023 to recruit for the Coast Guard Basic Training, which started in August 2023. For this purpose, a collaboration with the local university of Sint Maarten has been established. A point of attention remains the (im)possibilities regarding the maritime border with the French side. Furthermore, the Coast Guard is working on a new function book for the Coast Guard Caribbean Region. The goal is to present the function book to the countries for approval in early 2024. Related to this is the persistent bottleneck of the lack of national decrees for part of the Coast Guard personnel on Sint Maarten. The Council has been asking attention for years for the legal position of justice personnel.

3.2 Undermining

3.2.1 Administrative approach to undermining

In its most recently published report, the Council gave an update on the topic of the administrative approach to undermining.²⁴ In 2021, the JVO decided to establish a project group on the administrative approach to undermining in which the countries are represented. The intention is for the project group to facilitate the drafting of a problem analysis, the drawing up of an inventory of existing initiatives in and wishes of the countries and the drafting of plans of approach to arrive at an administrative approach.²⁵ In 2022, three country reports on administrative approach were prepared for Aruba, Curaçao and St. Maarten. The reports in turn served as the basis for drafting the national plans of approach. Starting in 2022, the Netherlands has made a total of 1 million euros available annually for the administrative approach to undermining in Curaçao, Aruba and Sint Maarten. Only initiatives approved by the workgroup on the administrative approach to undermining for the participating countries can be financed with the funds. If approved, the funds will be deposited in the bank account of the Crime Prevention Fund and the advisory procedure must subsequently be followed to make payments. By the end of 2022, the first grant applications were submitted and approved by Sint Maarten, among others. Two participants from Sint Maarten initially participated in the project group and this has now become one person. The "Protocol on the Administrative Approach to Organized and Undermining Crime in the Caribbean Countries of the Kingdom" was signed by all countries in 2023.²⁶ The Minister of Justice asked the Council, also in this context, to conduct a follow-up inspection in 2023 on the state of affairs with regard to the follow-up of the Council's previously made recommendations to improve the topics of human trafficking and human smuggling.

3.2.2 Approach to organized undermining crime

The 2023 JVO emphasized that the approach to organized undermining crime is a top priority of the countries.²⁷ In this context, the Netherlands is working on an undermining program plan for Latin America and the Caribbean. Further realization will be done in cooperation with the Caribbean countries of the Kingdom in 2024.

²⁴ Law Enforcement Council (2024). Follow-up inspection of the recommendations regarding the approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten.

²⁵ [Chamber letter](#) from the Minister of Justice and Security dated September 7, 2021, 3409051.

²⁶ AB 2023, no 63.

²⁷ [Four Ministers of Justice successfully concluded their first bi-annual Judicial Four Party Consultation \(JVO\) for 2023. – Ministry of Justice \(ministryofjusticesx.com\)](#); [Chamber letter](#) from the Minister of Justice and Security dated April 4, 2023, 4411397.

3.3 Strengthening the rule of law

The strengthening of the rule of law has been on the agenda since the 2021 JVO. The measures to strengthen the rule of law of the countries that are part of the country packages are discussed during that time. The agreement is that follow-up actions can be discussed in the JVO, but only insofar as it concerns Kingdom-wide agreements and the progress of Kingdom-wide workgroups.²⁸ As part of the country package, the Netherlands is making available a one-time amount of 30 million euros for the construction of a new prison in Sint Maarten as well as structural improvement of the prison system. Furthermore, the investments from the country package also include the strengthening of border control (see paragraph 3.1).

3.4 Information- data exchange, sharing and processing

Harmonization and the sharing of data

Information and data exchange, sharing and processing is an important issue for cooperation at the judicial level between the countries. The new European rules on information sharing with third countries have implications for information sharing with Caribbean countries.²⁹ The JVO therefore focuses on the harmonization of personal data protection, the sharing of police and judicial and criminal procedure data, the coordination of information and the Foundation for Management ICT Law Enforcement (SBIR). Now that the Kingdom has different protection regimes for personal data, in practice this creates bottlenecks when sharing data. Therefore, the goal is to work toward a harmonized minimum level of data protection. This will benefit not only functional data sharing in police cooperation and investigation, but also data sharing in the public and private sector and data sharing with third countries.³⁰ In particular, the legislative aspect is one of the topics examined as well as the intention to achieve a consensus Kingdom Act and possibly a shared supervisor.³¹ The countries have made choices and in 2023 the countries - including Sint Maarten - were still conceptualizing the foregoing. The drafts of the legal text and the Explanatory Memorandum of the first two chapters of the consensus Kingdom Act were ready in 2023. Additionally, the financial implications need to be outlined and subject to an implementation assessment, which has been done for Chapter 1. The Netherlands is considering how to provide legislative assistance to the countries for implementation. Given that the legislative process will take several years, a temporary solution will be sought for the sharing of police data. See further chapter 4.

Further efforts are also on equivalent police and border systems for easy and quick exchange of information.³² As indicated earlier, Sint Maarten, for example, has invested in the Radex system, the same system that Aruba already uses.

Resiliency justice chain Sint Maarten

In today's society, almost all (critical) processes and services are completely dependent on a power supply and digital processes and systems.

²⁸ [Chamber letter](#) from the Minister of Justice and Security dated February 18, 2021, 35570 IV, nr. 33.

²⁹ [The Daily Herald - Justice Ministers discuss range of issues during JVO meeting](#); [Chamber letter](#) from the Minister of Justice and Security dated February 13, 2020, 2816083; [Chamber letter](#) from the Minister of Justice and Security dated February 18, 2021, 35570 IV, nr. 33.

³⁰ [Chamber letter](#) from the Minister of Justice and Security dated September 7, 2021, 3409051.

³¹ [Chamber letter](#) from the Minister of Justice and Security dated August 31, 2020, 35300 IV, nr. 72.

³² [Chamber letter](#) from the Minister of Justice and Security dated August 31, 2020, 35300 IV, nr. 72.

This dependency ensures that a disruption or degradation of these processes and systems can quickly lead to disruption of society or parts thereof. Protecting information from one or more threats from digital incidents is therefore of great importance in the government's information supply process.

The government, including the justice chain, possesses highly sensitive and personal information, and citizens must be able to trust that the government is properly securing that information. The damage that can be caused within judicial organizations by this type of incident can include damage to the reliability of information systems, limitation of availability, violation of the confidentiality and/or integrity of stored information and disruption of the continuity of business processes.

In addition to the legal obligation, also given the nature and scope of the information under their custody, it is necessary for the (judicial) organizations to be well prepared and as well protected as possible against digitalized crime.

It is a topic with such far-reaching implications that it must be approached from a holistic perspective. In 2023, through funding from the Sint Maarten Recovery, Reconstruction and Resilience Trust Fund, the government of Sint Maarten launched the "Sint Maarten Digital Government Transformation Project", of which security is a component.³³ The Council notes that it is certainly important for the justice chain to have digital resilience in place. This is not only applicable within local organizations, but also for both local, regional and international secure sharing of (sensitive) data. The foregoing has been brought to the attention of the Minister of Justice by the Council on several occasions.

3.5 Legal framework

Code of Criminal Procedure

During the JVO, the process of creating a new Codes of Criminal Procedure was also discussed.³⁴ The objective is to have the same codes for the Caribbean countries of the Kingdom, concordant implementation legislation and joint entry into force of the codes. As far as Sint Maarten is concerned, the new Code of Criminal Procedure has not yet entered into force. It has been pending consideration in Parliament since 2022. The handling date in 2023 was not yet known. The Council notes that there is still no prospect of an end date and that this delay also affects the aforementioned joint effort.

Administrative procedures law

The four countries established an official workgroup to explore the possibilities for a uniform regulation of administrative procedures law for Aruba, Curaçao, Sint Maarten and the Dutch Caribbean.³⁵ This is still ongoing in 2023.

Treaties

In 2021, within the framework of international cooperation in combating cross-border crime, two treaties were signed by the Minister of Justice and Security on behalf of the Kingdom. These are the Treaty on

³³ See [Digital Government Transformation Project – National Recovery Program Bureau \(nrpbxm.org\)](#); and [Digital Government Transformation Project Marks Success with Introduction Meeting \(sintmaartengov.org\)](#)

³⁴ [Chamber letter](#) from the Minister of Justice and Security dated February 18, 2021, 35570 IV, nr. 33.

³⁵ [Chamber letter](#) from the Minister of Justice and Security dated August 31, 2020, 35300 IV, nr. 72.

Mutual Legal Assistance in Criminal Matters and the Treaty on Extradition between the Kingdom of the Netherlands and the United Arab Emirates. In 2022, Sint Maarten, among others, indicated that they considered co-notification desirable. The Treaty on Mutual Legal Assistance entered into force for Sint Maarten as of January 1, 2024.³⁶ This does not apply to the other treaty.

The three Caribbean countries wish to amend the Extradition Decree of Aruba, Curaçao and Sint Maarten to regulate the abbreviated extradition procedure.³⁷ The intended amendment will enable co-adoption of the Third Additional Protocol to the European Convention on Extradition of the Council of Europe for the three countries. The amendment was presented to the Kingdom Council of Ministers at the end of August 2023 and will be submitted to the Council of State for its opinion.

The countries were informed by the Netherlands of the Ljubljana-The Hague Treaty on international cooperation in the investigation and prosecution of genocide, crimes against humanity, war crimes and other international crimes.³⁸ The countries, including Sint Maarten, have yet to decide whether they wish to co-adopt it.

3.6 Approval of budgets and financial statements

During the JVO, annual plans and reports, budgets and the financial accounts of joint services are also approved.³⁹ Not only extraordinary situations such as the Covid pandemic but also the financial situations of certain countries, including Sint Maarten, necessitate in certain cases that the relevant minister cannot give approval, only partial approval or approval with reservations. As far as Sint Maarten is concerned, for years now the annual plan and budget of various organizations such as the RST, the Attorney General's Office and the Public Prosecutor's Office, the Common Court of Justice, the Foundation for Management ICT Law Enforcement as well as the Law Enforcement Council have often been approved with reservations or not yet approved pending approval of the country's budget.⁴⁰ The above was also the case for Sint Maarten in 2023. As a result, the disbursement of funds to the organizations is also delayed with all its (possible) consequences for adequate operations. See further chapter 4. For a possible solution, a workgroup was set up in 2021 to see in which way possible financial positions can be sustainably secured. This workgroup was still active in 2023.

Furthermore, there are also cases where a payment is due, and this is not always done in a timely manner by a country. The signing of documents by the minister of a country is also sometimes delayed, such as approval and signing by Sint Maarten of the aforementioned MoU on human trafficking and human smuggling.

3.7 Public Prosecutor's Office

Public Prosecutor's Office

³⁶ <https://verdragen.nl/nl/Verdrag/Details/013728>

³⁷ [Chamber letter](#) from the Minister of Justice and Security dated September 26, 2023, 4868642.

³⁸ [Chamber letter](#) from the Minister of Justice and Security dated September 26, 2023, 4868642.

³⁹ [Chamber letter](#) from the Minister of Justice and Security dated August 31, 2020, 35300 IV, nr. 72.

⁴⁰ Press release January 23, 2020, [The Daily Herald - Justice Ministers discuss range of issues during JVO meeting](#)

The OM is also addressed as a topic in the JVO. This organization also has to contend with the fact that documents with financial consequences are approved with reservations or have to remain pending until the national budget of Sint Maarten is approved.

Furthermore, a number of years ago the Public Prosecutor's Office started a "professionalization Caribbean OM trajectory".⁴¹ To this end, the professionalization trajectory workgroup was established. This concerns the harmonization of the legal position and training of Caribbean prosecutors. The trajectory for the training of public prosecutors for the different countries is ongoing. A local prosecutor has been trained at Prosecutor's Office in Sint Maarten for the period from 2022 to 2023.⁴² The possibilities for continuation of the trajectory are being discussed by the countries.

3.8 Police

3.8.1 RST

Detective Cooperation Team (RST)

The RST is also a good example of cooperation between the countries, especially when dealing with the topic of cooperation in approaching cross-border crime. Among other things, policies for detective cooperation are discussed during the JVO. For example, there is a policy plan RST 2020-2023 on the basis of which, through plans, direction and focus is given to the deployment of detective capacity at both the RST and the police forces.⁴³ The intended forms of cooperation consist of: cooperation in combi teams within the police forces, including Sint Maarten, cooperation from the central RST location, cooperation in the field of information by among others strengthening the inter-insular information coordination⁴⁴ and mutual support in the field of scarce resources and expertise. Furthermore, based on analysis, cooperation will be prioritized and focused on disrupting illegal trade flows, addressing violence, monitoring financial flows, and conducting financial investigations, combating money laundering and the approach to corruption.⁴⁵

3.8.2 National detectives Sint Maarten

National detectives

Furthermore, the focus of the JVO is on cooperation between the national police forces. There are joint explorations for further cooperation for training, sharing of experts and internships.⁴⁶ The National detectives Sint Maarten is also still struggling with a shortage of personnel capacity in 2023, for instance the permanent filling of the critical vacancy for head of the National detectives has been vacant for a number of years.

⁴¹ [Chamber letter](#) from the Minister of Justice and Security dated February 18, 2021, 35570 IV, nr. 33.

⁴² 2022 Annual report Public Prosecutor's Office Sint Maarten.

⁴³ [Policy plan](#) detective cooperation in the Caribbean part of the Kingdom 2020-2023. [Chamber letter](#) from the Minister of Justice and Security dated February 13, 2020, 2816083.

⁴⁴ Law Enforcement Council (2024). Follow-up inspection of the recommendations regarding the approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten.

⁴⁵ [The Daily Herald - Justice Ministers discuss range of issues during JVO meeting](#); [Chamber letter](#) from the Minister of Justice and Security dated February 13, 2020, 2816083; [Chamber letter](#) from the Minister of Justice and Security dated May 9, 2022, 4003446.

⁴⁶ [Chamber letter](#) from the Minister of Justice and Security dated August 31, 2020, 35300 IV, nr. 72.

3.8.3 Sint Maarten Police Force

Regional police cooperation

Consultations are held by the JVO on the importance of regional police cooperation between the five police forces. In this context, the Netherlands has made structural financial resources available. The Board of Chiefs of Police (CvK) provides regular updates in the JVO, including efforts to further develop local information organizations, secure training in the region and further develop police leadership. See further chapter 4.

Police education

In 2023, the Council conducted a follow-up inspection on police education in Sint Maarten.⁴⁷ In its report, the Council indicated that although there is a basis for police education for both basic police training and specialized training, the KPSM is dependent (financially and in terms of expertise) on third parties (e.g. the Police Academy and through the CvK). The Council indicated that this creates risks and the need for Sint Maarten to regulate this itself by making a significant and continuous contribution to it.

Arrest team Sint Maarten

Through the CvK, cooperation in the field of training and education was initiated with the Special Interventions Service.⁴⁸ In mid-2023, this led to, among other things, training provided by the Service to Sint Maarten's arrest team.

3.9 Detention system

Sanction enforcement

The subject of the enforcement of sanctions is also one that is addressed at the JVO level. In addition to the mutual arrangements detention (ORD), attention is also paid to specialized detention regimes, the inspection of detention facilities, the quality of detention conditions, restorative justice and programs for a purposeful way to spend the day. Some of the topics are also linked to workgroups including the inter-island detention task force, which focuses on improving detention conditions. The focus is on the exchange of knowledge and expertise on training, treatment, certain regimes and reintegration. From 2022, for example, a pool of rotating PI employees and twinning with the Dutch Caribbean Judicial Institution have been deployed. However, the countries must provide their own budget and capacity. In the context of specialized detention regimes, an exploration of the possibilities of cooperation in the field of forensic care and TBS and PIJ measures has been underway for several years. In the 2021 JVO, due to the complexity, it was decided to set up a separate workgroup with substantive experts on PIJ and forensic care, with the task of drawing up a plan of approach and a cost estimate for realizing forensic care and PIJ in the Caribbean part of the Kingdom for juveniles and adults.⁴⁹ The Council previously recommended that the countries reach a workable solution for TBS and PIJ measures as soon as possible.⁵⁰ Also in 2023, the

⁴⁷ Law Enforcement Council (2023). General review recommendations Sint Maarten, sub-inspection 4: Bureau Internal Affairs of the Sint Maarten Police Force; Police education in Sint Maarten; Use of force by and against the police in Sint Maarten.

⁴⁸ Law Enforcement Council (2023). Arrest Team Sint Maarten. Inspection into the establishment and deployment of the Arrest Team of the Sint Maarten Police Force.

⁴⁹ [Chamber letter](#) from the Minister of Justice and Security dated September 7, 2021, 3409051; [Chamber letter](#) from the Minister of Justice and Security dated May 9 2022, 4003446.

⁵⁰ Law Enforcement Council (2022) Evaluation of the mutual detention arrangements. Inspection on the functioning of the four mutual detention arrangements.

JVO paid attention to this through updates from the workgroup, requests to involve the Ministers of Health and the facilitation of a baseline measurement of secure and forensic care in the countries. The workgroup has also been requested to prepare a business case for forensic care on all islands in the Caribbean part of the Kingdom by the Kingdom-wide workgroup. The intended deadline for its delivery is in 2024. There is therefore no joint solution yet, but work is being done in that direction. See further chapter 4.

UNOPS

The State of 2022 already indicated that the long-awaited agreement for the first phase as part of the construction of a new prison was signed in December 2022 by Sint Maarten, the Netherlands, and the United Nations Office for Project Services (UNOPS). Plans continued in 2023. In April 2023, UNOPS and Sint Maarten signed a Host Country Agreement, perpetuating UNOPS' presence on Sint Maarten through the opening of an office.⁵¹ Based on the foregoing, another positive step was taken towards a new prison. UNOPS then proceeded with the follow-up steps for the prison project by, among other things, conducting follow-up local research for the required information with the help of various stakeholders. The target date for signing the next required agreement in 2023 was not met. This is now targeted for the fall of 2024.

Police cells Sint Maarten

In May 2022, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Sint Maarten, among other places. The report on this was published in June 2023. Among other things, the report makes a number of recommendations for the police cells. One of these concerns the detention of persons not to exceed three days. The Minister of Justice decided in the last quarter of 2023 to change the responsibility for the police cells at the police headquarters from the prison and house of detention at Point Blanche to the Police Force Sint Maarten.⁵²

3.10 Prevention juvenile crime

Prevention

In 2022, on the initiative of the Minister of Justice of Sint Maarten, it was agreed during the JVO to establish a workgroup on the prevention of juvenile crime to explore cooperation options for the prevention of juvenile crime within the Kingdom. In 2023, the workgroup issued an advice on priorities for cooperation such as preventive behavioral interventions, joint training and the HALT approach. The Sint Maarten Council of Guardianship is particularly interested in the HALT registration system used by Aruba, Curaçao and the Caribbean Netherlands.

3.11 Capacity issue

In 2023, the JVO reflected on the so-called capacity issue.⁵³ This concerned an imbalance or skewed growth within the law enforcement chain. To approach cross-border and undermining crime, certain law

⁵¹ Press release April 5, 2023, [Sint Maarten and UNOPS sign new host country agreement | UNOPS; UNOPS boosts Caribbean presence; opens office in Sint Maarten | United Nations in the Caribbean](#)

⁵² Press release November 6, 2023, [Urgent need to return police cells to Management of Police is vital to meet pressing needs of Point Blanche Prison \(sintmaartengov.org\)](#)

⁵³ [Four Ministers of Justice successfully concluded their first bi-annual Judicial Four Party Consultation \(JVO\) for 2023. – Ministry of Justice \(ministryofjusticesx.com\); Chamber letter](#) from the Minister of Justice and Security dated April 4, 2023, 4411397.

enforcement services have been strengthened through investments from the Netherlands. By comparison, the further development of the operational capacity of certain (local) judicial services has lagged, resulting in a mismatch between the capacity and development of the various services. In its 2022 State, the Council also addressed the theme of strengthening the rule of law Sint Maarten and the skewed growth.⁵⁴ The Council also indicated that the necessary investments are lagging and pointed to the effect of the failure to do so, being the consequences of this for the strengthening of the criminal law enforcement of the rule of law and thereby combating crime. In it, the Council also expressed its satisfaction that the topic was raised in the 2023 JVO. A workgroup on imbalance/capacity issue was formed to further explore the possible causes and for possible avenues for solutions and to continue discussions at the official level.⁵⁵

3.12 Declaration of conduct

The Netherlands has raised the topic of the exchange of judicial data between countries in the framework of the so-called VOG screening.⁵⁶ It was agreed to address it in 2024.

3.13 Supervision

Inspections request

The JVO also uses supervisory bodies to commission inspections of the detention system. For example, the Law Enforcement Council has been requested by the JVO to monitor the CPT's recommendations for Sint Maarten, among others, as early as 2016. Furthermore, in 2020, a request was made by the JVO to the Council to conduct a comprehensive evaluation of the ORDs. The report was presented to the relevant ministers in 2021. A writing group was set up to conceive a joint response. By 2023, no joint response had been received.

Crime Prevention Fund

The Council wrote three reports on the Crime Prevention Fund up until 2023. The last inspection was conducted by the Council at the request of the Minister of Justice in the context of the Sint Maarten Country Package. In this report, the Council noted that although there were developments being made in the right direction, crucial recommendations still needed to be followed up.⁵⁷ The Council repeats in this State what it recently indicated in one of its reports.⁵⁸ In that report, as far as the Crime Prevention Fund is concerned, the Council emphasized prioritization and implementation of the recommendations as soon as possible. The Council also suggested that in the meantime, the (applications for) financing of (new) projects be temporarily halted pending completion of the trajectories initiated. Furthermore, in this context, the Council reiterated the importance of properly regulating the preconditions for the management and use of the fund. The Council once again and now urgently calls attention to this in the State. As indicated earlier, funds will be deposited from the approach to administrative undermining into the bank account of the Crime Prevention Fund.

⁵⁴ Law Enforcement Council (2023). State of Law Enforcement Sint Maarten 2022.

⁵⁵ [Chamber letter](#) from the Minister of Justice and Security dated September 26, 2023, 4868642.

⁵⁶ [Chamber letter](#) from the Minister of Justice and Security dated September 26, 2023, 4868642.

⁵⁷ [Reports Sint Maarten – Law Enforcement Council \(raadrechtshandhaving.com\)](#)

⁵⁸ Law Enforcement Council (2024). Follow-up inspection of the recommendations regarding the approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten.

Supervisory committee on personal data protection on Sint Maarten

Although Sint Maarten has a national ordinance on personal data protection, no committee has been established to oversee the protection of personal data up until 2023.⁵⁹ The Council stresses the importance of having such a committee and urges the Minister to ensure this.

3.14 Goods and equipment

Specialized equipment

During the JVO, cooperation is also sought in the area of acquisition of specialized equipment from the European Netherlands by the police, prison and fire departments of the Caribbean countries. This is taking place through a workgroup composed of the CvK, the prison directors' consultation and the commanders' consultation of the fire departments. Furthermore, cooperation in the area of arms and ammunition has been further explored by the CvK.

3.15 Workgroups

Workgroups

Based on the various topics raised during the JVO, workgroups are frequently formed, for example in the area of improving and strengthening border control or improving data protection legislation.⁶⁰ The formation of workgroups can be delayed due to a country, including Sint Maarten, having to provide a new member and not meeting the deadline due to capacity issues.⁶¹ This can then hinder the ability to take up the topic in a (more) expeditious manner.

⁵⁹ [The Daily Herald - Justice Ministers discuss range of issues during JVO meeting](#)

⁶⁰ Press release January 23, 2020, [The Daily Herald - Justice Ministers discuss range of issues during JVO meeting](#)

⁶¹ [Four Ministers of Justice successfully concluded their first bi-annual Judicial Four Party Consultation \(JVO\) for 2023. – Ministry of Justice \(ministryofjusticesx.com\)](#)

4. Cooperation between the countries

4.1 Regional police cooperation

Context

Law enforcement is primarily the responsibility of the autonomous countries ((Caribbean) Netherlands, Aruba, Sint Maarten and Curaçao) within the Kingdom. The Council monitors existing forms of cooperation between the countries.

The need for cooperation is considerable. Since 2016, cooperation between the five police forces⁶² within the Kingdom has received an impulse through intensive regional cooperation that has been laid down in a joint declaration which was signed on November 9, 2016 (and ratified by the Ministers of Justice during the JVO of January 2017). The basic premise is that a joint approach to cross-border crime provides mutual benefits, for example with regard to information exchange and expertise. The Council outlines a number of developments below.

Information exchange

Improving information exchange between countries will eventually give impetus to intervention options, such as more theme-based approaches.⁶³ In 2022, an inventory of the countries' current needs and expectations was done. This revealed that the further development of the information organizations of local police forces is an important prerequisite for inter-insular cooperation.⁶⁴ At the end of 2022, a plan of action was made for a test case regarding a specific theme. The goal is to come up with a method for joint information processing between the countries. In 2023, the countries started with its implementation. The KPCN has a coordinating role in this. At the time that this State was written, this was still ongoing.

In relation to said information processing between the countries, the Council calls attention to the following. In its inspection report on the approach to human trafficking and human smuggling in Sint Maarten in 2019, the Council noted that there was no insight into the nature and extent of human trafficking and human smuggling.⁶⁵ In 2023, in its follow-up inspection, the Council again noted that this picture is still lacking in Sint Maarten. This also hinders the composition of an interregional and international picture. Therefore, in 2023 - as was the case in 2019 - the Council made recommendations to improve the information position within the Intelligence Center Sint Maarten, of which the KPSM is also part of.

Expertise/trainings

The Ministry of JenV, together with the National Police, supports the local Caribbean forces through the Quality Impulse Police Education Caribbean Netherlands. With this impulse, basic and specialized police training is provided. For example, a Master Tactical Leadership (MTL) - Caribbean has been developed as part of an MD program for the development of strategic leadership for the local forces. In addition, integrity is an important theme in the cooperation between the forces. In 2023, the forces took joint steps

⁶² National Police, KPCN, KPC, KPA, KPSM.

⁶³ See among others article 39 Kingdom Act Police of Curaçao, of Sint Maarten and of Bonaire, Sint Eustatius and Saba.

⁶⁴ Law Enforcement Council (2019). The approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten, p. 27; Law Enforcement Council (2024). Law Enforcement Council (2024). Follow-up inspection of the recommendations regarding the approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten., p. 22.

⁶⁵ Law Enforcement Council (2024). Follow-up inspection of the recommendations regarding the approach to human trafficking, human smuggling and the prostitution policy and its enforcement in Sint Maarten

in the development of integrity systems within the four local forces. For example, in 2023, all "internal affairs/investigations" employees of the forces have been trained in a uniform way that allows them to perform activities in other forces than just their own. Also, in 2023, a large group of managers from the four police districts completed an "in-company" training course on "Practical Leadership" (LPL), covering subjects such as: integrity issues, disciplinary procedures, complaints handling and personnel policy.

Kingdom-wide importance

The Council values the steps that have been and are being taken to intensify and safeguard police cooperation within the Kingdom. Also, in relation to undermining - which after all knows no national borders⁶⁶ the Council points to the Kingdom-wide importance of this cooperation. This also ties in with what has been indicated in section 3.2.2 about the approach to organized undermining crime.

Intensifying and securing police cooperation also requires structural financing. This is currently lacking and hinders a joint long-term approach.

Migration

The Netherlands, Curaçao and Sint Maarten have had a mutual arrangement since 2009 in which agreements have been made about the immigration chain.⁶⁷ The idea behind this is - given the mutual dependence in this area - to have the immigration chains in Curaçao, Sint Maarten and the Dutch Caribbean connect as well as possible. In recent years, these immigration chains were increasingly confronted with an influx of migrants, particularly from Venezuela, Peru, Colombia, Haiti, and the Dominican Republic. This brought with it a need for strengthened return cooperation. This led to the project CARINT: Caribbean Integrated Return Network. Exchange of knowledge, experiences and practices is central to this. The goal is to promote cooperation among Caribbean (island) countries to facilitate both voluntary and forced return of migrants to their countries of origin in a humane manner. In 2022-2023, this cooperation received a strong impetus. Among other things, integral process descriptions were drafted and contact persons for each country were appointed. A first joint repatriation flight to Venezuela was also carried out for several countries. Within CARINT, it is currently being considered how "pools" can be assembled and trained per country for escorting returns (escort).

4.2 Cooperation between the countries II: JVO

The countries of the Kingdom are bound to cooperate on certain subjects concerning justice.⁶⁸ On a governmental level, the ministers of justice of the countries have created a forum to guide that cooperation on policy: the Quadripartite Judicial Consultation. In the JVO, all border-transcending judicial issues are discussed and monitored. The JVO has regulations to which the countries have committed themselves. The JVO is held twice annually, usually in January and June.

The topics on the agenda at the JVO range from juvenile crime prevention to undermining, from prevention to forensic care, policymaking to state legislation.

Along these lines, joint steps are taken on many dossiers. This benefits law enforcement both nationally and Kingdom-wide.

⁶⁶ As can be seen, for example, in the Marengo trial: [Handlangers Taghi opgepakt op Curaçao - Curacao.nu](https://www.curacao.nu/handlangers-taghi-opgepakt-op-curaçao)

⁶⁷ Mutual arrangement between Curaçao, Sint Maarten and the Netherlands, as referred to in article 38, first paragraph of the Charter for the Kingdom of the Netherlands, regulating cooperation between the countries in the area of the immigration chain.

⁶⁸ For example: Kingdom Act Police, Kingdom Act OM, Kingdom Act Joint Court, Kingdom Act RvdRH, mutual arrangements, etc.

At the same time, it is also notable that there are agenda items that keep recurring without visible progress, are subject to (sometimes unexplainable) lengthy delays and sometimes even seem to disappear from the agenda.⁶⁹ This involves topics for which a decision is taken, for example, to create a steering, work or writing group. Subsequently, the formation of these groups depends on the availability of the participants in them. An example is the writing group set up to formulate a joint response to the report Evaluation of Mutual Arrangements Detention. Those involved indicate that it is crucial for progress on issues and/or dossiers that everyone contributes. This seems to be more difficult in practice than on paper. This makes the JVO less effective in terms of steering. On the one hand, the Council understands this: there are many topics for which only a limited number of people are available. However, capacity problems exist at all levels. The implementing organizations within the countries acknowledge this challenge to the Council as well. They are expected to come up with solutions. After all, doing nothing is not an option. Citizens must be able to rely on a government that protects law enforcement and thus a safe society.

The joint organizations within law enforcement also submit their annual plans and annual reports in the JVO for approval by the relevant ministers. These organizations are:

- Joint Court of Justice for Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba (Kingdom Act Joint Court of Justice);⁷⁰
- Public Prosecutor's Offices of Curaçao, of Sint Maarten and of Bonaire, Sint Eustatius and Saba (Kingdom Act OM);
- Public Prosecutor's Office of Aruba;
- Foundation for Management ICT Law Enforcement ("Mutual arrangement Cooperation ICT Law Enforcement Chain Aruba, Curaçao, St. Maarten and the Netherlands"); ICT Management);
- Law Enforcement Council (Kingdom Act Law Enforcement Council).

Furthermore, consent is required for the management and annual plans, as well as multi-year policy plans regarding detective cooperation in the Caribbean part of the Kingdom (Protocol on detective cooperation).

Budget issues

The annual plans and reports of the aforementioned organizations also contain the budgets, which - as mentioned above - require ministerial approval. These are placed on an annual agenda with the JVO so that they can receive approval on - at the latest - the dates stipulated by law for this purpose (ranging from April 1, July 1 and October 1 - depending on which organization is concerned). This working method is, in the opinion of the Council, structured and efficient in itself. However, in practice, it has become the norm rather than the exception that a budget cannot be approved on behalf of all countries because, as already indicated in paragraph 3.6, the country budgets have not yet been adopted. Sometimes approval follows in writing at a later date, but usually approval is not given until a subsequent JVO (5 months later) or at an even later date. Besides the fact that the approval comes (much) too late, the contributions granted per country are also (substantially) lower than budgeted where it concerns the contributions of Sint Maarten and Curaçao. Finally, the allocated contribution is not transferred immediately. This takes several months or even longer.

The organizations involved state increasingly that this state of affairs seriously jeopardizes their task performance.

⁶⁹ The latter is not to say that these topics have been forgotten; the Council has been able to observe that although these items have disappeared from the agenda, they are being tracked to see if and what developments are taking place in relation to them.

⁷⁰ The Council does not oversee the Joint Court of Justice. It is mentioned here in the context of the findings on cooperation between the countries (Art. 3 Kingdom Law Enforcement Council)

The Council can understand them in this and in so doing also sees serious risks to the rule of law. Under the Charter, the countries are independently obliged to ensure the rule of law; the Kingdom bears responsibility for safeguarding it.⁷¹ The Council therefore considers it incumbent on the countries to exercise fiscal discipline and reconsider their choices therein. The deterioration of the countries' rule of law is a danger to society and the Kingdom as a whole. The countries must fulfill their legal obligations in this regard.

Whereas the Council's inspection reports are addressed only to the Minister of Justice, this State of Law Enforcement is also addressed to Parliament.

4.3 Cooperation between the countries III: forensic care and PIJ

Care in a secure environment is ideally a theme that requires far-reaching cooperation between the countries.

The JVO has set up a Kingdom-wide workgroup with the task of formulating a "business case" in the field of forensic care, TBS and PIJ. The stabbing incident in June 2023 in the AH supermarket located right next to the Ministry of JenV in The Hague in which an employee of the store was killed contributed to a general sense of urgency to work out, among other things, basic forensic care for all countries in the Caribbean part of the Kingdom, including the financial and legal preconditions.

The Kingdom-wide workgroup on Forensic Care, chaired by the AG of Aruba, has aligned with the previously established workgroup on Mental Health (VWS). In April 2024, they jointly organized a Caribbean Kingdom Conference on Mental Health & Forensic Care "Care with Right and the Right to Care- In Search of Improvement in the Compulsory and Forensic Framework".

The JVO projects that a business case will be ready in 2024. The Council is following developments closely.

4.4 Cooperation between the countries IV: information sharing within the Kingdom

Information sharing within the Kingdom is of great importance to law enforcement. This is widely recognized and acknowledged. It also comes up frequently in the reports of the Council. In 2015 the Council paid extensive attention to it in its reports in all of the countries.

On May 25, 2018, the General Data Protection Regulation and EU Directive 2016/680 entered into force in the Netherlands. EU Directive 2016/680 on data protection in the police and justice domain was implemented in the Netherlands via the Police Data Act (Wpg) and the Judicial Data and Criminal Records Act (Wjsg).

During the drafting of the General Data Protection Regulation and the EU Directive, the consequences of their entry into force for the sharing of data within the Kingdom were not - or at least not sufficiently - considered. As a result, it is currently - since May 2018 - very complicated to share police and judicial data between the European part of the Kingdom and the Caribbean part of the Kingdom. Even sharing data within the Netherlands (European to Caribbean Netherlands) encounters limitations because of the level of protection required by the AVG / EU Directive is not / cannot be offered. This obviously has implications for criminal investigations. Where the Kingdom Act on Police speaks of an obligation of active sharing of data, this is currently not possible on the grounds mentioned above.

⁷¹ Article 43 Charter for the Kingdom of the Netherlands.

In addition, judicial documentation is not accessible, so, for example, applications for a Certificate of Good Conduct (VOG) can only be assessed to a limited extent - nationally. It has now occurred on several occasions that persons have been issued a VOG even though criminal records/sheets could not be included in the investigation. As a result, persons with a history of sex offenses, for example, can obtain a VOG for work in which they come into contact with minors.

Meanwhile, a consensus Kingdom Act is being drafted that aims to provide an appropriate, adequate, and equivalent level of protection in all countries for the processing of such data. It is expected to take at least several more years before this Kingdom Act is ready - and its implementation possible.

Interim-solution

Given the above, the responsible ministers do not consider it desirable and responsible to wait for the entry into force of the aforementioned Kingdom Act. Therefore, an interim solution is being sought. Meanwhile, the search for - or the development of - the interim solution has already taken two years. The Council understands that a number of preconditions must be met before implementation can proceed.

Although the urgency is underscored, some feel - understandably - that things are not moving fast enough.

4.5 Conclusion

The Council concludes that cooperation between the countries in the Kingdom is being sought in many areas. The political constellation creates the preconditions for this, and the Charter offers this possibility. Moreover, legal frameworks have already been created in Kingdom laws and other mutual arrangements to anchor or stimulate cooperation.

However, based on the above and its reports, the Council also concludes that the countries and the organizations are faced with many challenges when it comes to the subsequent interpretation and implementation of this cooperation. For example, in the field of combating cross-border crime, information exchange and the detention system (ORD), (structural) agreements have already been made. Dealing with these in practice comes up against all sorts of limitations. Sometimes these are different (legal) preconditions and other times it is a capacity issue. Moreover, the plans require additional investments in people and resources.

Forensic care, TBS and PIJ are a good example of an area where the need has been talked about for a long time, but where for many years there has been no progress beyond talking about it. The initiative to cooperate on this is highly encouraged. In this context, the Council wishes to emphasize that the effect of cooperation should also be viewed in the light of implementation in other areas and the limitations encountered.

Overall, the Council believes that there is still much ground to be gained in terms of the development of law enforcement in the countries. The challenges facing the countries are multifaceted and extensive. However, the Council observes reluctance to actively seek and exploit opportunities. In the opinion of the Council, the cooperation between the countries and as a Kingdom holds an important key to finding solutions that will benefit law enforcement in the countries and the Kingdom. A shared (long-term) vision is desirable.

5. In conclusion

For years, the Council has been pointing out the importance of cooperation not only in its inspections but also in its States of Law Enforcement. Because the Caribbean part of the Kingdom concerns small-scale (island) countries, commitment to international, Kingdom and regional cooperation is not only obvious but often necessary. This certainly applies to judicial cooperation between the countries.

One of the structural forms of Kingdom cooperation in judicial matters is the Quadripartite Judicial Consultation. The topics from these consultations and the state of affairs specifically for Sint Maarten were central to this State. During these consultations various important shared topics are discussed for the countries, resulting in, among other things, cooperation agreements, various workgroups to concretize these and, depending on the topic, human, material and/or financial support to be able to implement the agreements. All this in order to strengthen cooperation and thus be able to jointly deal with topics that transcend national borders.

Over the years many initiatives can be seen to have emerged from the cooperation and progress has been made on several complex issues. The concrete initiatives and their results can be seen, among other things, for Sint Maarten in the strengthening of border control, resources, and financial support. However, the issues are so extensive that it often takes months or years to achieve the intended improvement, making commitment very important. It is therefore positive that there is and remains continuous attention to various topics at the JVO. And that the different countries also take initiatives to address different topics. The cooperation contributes, among other things, to more concordance between the countries, (the drafting of) necessary legislation, MoU's, solutions for data sharing between the countries, necessary materials as well as various trainings due to funds made available. In addition, bottlenecks are also emerging at the Kingdom level, affecting cooperation. This particularly concerns capacity, finances and required decision-making. This causes delays in being able to fulfill the agreements made or causes the intended results not to be achieved. Examples include approval of annual accounts, the inability to provide capacity (on time) for a workgroup and delayed decision-making.

All of the topics have a common denominator: all countries want to strengthen the law enforcement chain to continue tackling increasingly complex and often cross-border crime. At a time when crime has become borderless, it is becoming increasingly apparent that countries need each other. Cooperation is and will therefore continue to be necessary. The JVO therefore remains an important and powerful consultative body.

In Sint Maarten, many developments again took place in 2023. In particular, the progress in the area of detention and the justice function book stands out. Furthermore, the cooperation in the area of policing, the training provided in 2023, the cooperation between the Courts of Guardianship regarding HALT and the deployment of (possible) specialized equipment as well as a new system can be named as positive developments. In addition, there are also topics that require further efforts. These are topics such as combating human trafficking and money laundering and terrorist financing. The partial or total lack of essential preconditions at the various services such as financial, human, and material capacity remains a persistent problem. The Council believes that in addition to a vision for law enforcement, a combination of steering, prioritization, a substantial investment in and between the services as well as cooperation is the key. In 2023, the Council once again notes and expresses its gratitude for the judicial staff's continued

commitment every day to ensure a safer society. As always, the Council looks forward to upcoming developments.

Annex 1: Reports published by the Council on Sint Maarten

Reports 2012-2023

Nr.	Publication-year	Topic report	Organisation(s)	Individual response MvJ
Finalized reports				
1.	2012	Complaint process	KPSM	Yes
2.	2012	Juvenile probation services	Court of Guardianship	Yes
3.	2012	Victim support	Diverse AO (KPSM, OM)	Yes
4.	2012	Investigation process detectives	KPSM	Yes
5.	2013	Detention capacity	Prison system	Yes
6.	2013	Border control movement of persons	IGD	Yes
7.	2013	OM in the incident-based investigation	OM	Yes
8.	2013	Police education	KPSM	Yes
9.	2013	Adult probation	SJIB	Yes
10.	2014	Criminal seizure	KPSM	Yes
11.	2014	Security and safety detention	Prison system	No
12.	2014	Security of authority figures	Diverse AO (VDSM, KPSM, OM)	No
13.	2014	Enforcement of fines, damages and dispossessions	OM	No
14.	2014	Admission and expulsion of foreigners	IGD	No
15.	2014	Use of force	KPSM	No
16.	2014	Review complaint process	Diverse AO (KPSM, OM)	No
17.	2015	Review juvenile probation services	Court of Guardianship	No
18.	2015	Approach robberies	KPSM	No
19.	2015	Prevention juvenile crime	Diverse AO (KPSM, OM)	No
20.	2015	Uitwisseling politie en justitiële gegevens binnen het Koninkrijk	Diverse AO (KPSM, OM)	No
21.	2015	Treatment of persons with addiction or behavioral disorder within the criminal justice system	Diverse AO (KPSM, OM, MHF, SJIB, TPF, Prison system)	No
22.	2015	Investigative and prosecutorial policies of the OM	OM	No
23.	2016	Review adult probation	SJIB	No
24.	2016	Review investigation process detectives	KPSM	Yes
25.	2016	Bewaking en beveiliging van personen en objecten	Diverse AO (KPSM, OM)	No
26.	2016	Review victim support (first review)	Diverse AO (KPSM, OM)	No
27.	2016	Prostitution policy and enforcement	Diverse AO (Administrative enforcers, KPSM, OM)	No
28.	2016	PI legal position detainees and personnel and organization	Prison system	No
29.	2016	Juvenile Rehabilitation Center Miss Lalie Center	Prison system	No
30.	2017	PI internal security and security society	Prison system	No
31.	2017	PI dealing with detainees and social integration	Prison system	No
32.	2017	Review border control movement of persons	IGD	No
33.	2017	Review OM incident-based investigation	OM	No
34.	2017	Review Police education	KPSM	No
35.	2018	Forensic investigation	Diverse AO (KPSM, LR)	Yes
36.	2018	Review PI internal security and security society	Prison system	Yes
37.	2018	Review PI legal position detainees and personnel and organization	Prison system	Yes
38.	2018	Review enforcement of fines, damages and dispossessions	OM	No

39.	2018	Coast Guard	Coast Guard	Yes
40.	2018	Bureau internal affairs	KPSM	Yes
41.	2018	Cooperation parquets public prosecutors	OM	No
42.	2019	Crime Prevention Fund	Diverse AO (KPSM, OM, Ministry of Justice)	No
43.	2019	Review Criminal seizure	KPSM	No
44.	2019	Review prison, MLC, police cells and border hospice Simpson Bay (second review)	Prison system	No
45.	2019	Review investigative and prosecutorial policies of the OM	OM	No
46.	2019	Review Victim support (second review)	Diverse AO (KPSM, OM)	No
47.	2019	Review Use of force	KPSM	No
48.	2020	Approach human trafficking and human smuggling	Diverse AO (KPSM, OM)	No
49.	2020	Approach drug crime and drug related problems	Diverse AO (KPSM, OM)	No
50.	2020	Review Admissions and expulsion foreigners	IGD	No
51.	2020	Domestic violence	Diverse AO (KPSM, OM, VR, SJIB, Safe Haven)	Yes
52.	2021	General review Sub-inspection 1 Juvenile Delinquency Prevention; Miss Lalie Center Juvenile Rehabilitation Center; and Juvenile and Adult Probation Services	Diverse AO (KPSM, OM, VR, SJIB, prison system)	No
53.	2021	Review National detectives	National detectives	No
54.	2021	General review Sub-inspection 2 Crime Prevention Fund; Investigative and prosecutorial policies of the OM; Enforcement of fines, damages and dispossessions; The OM in incident-based investigation; and Cooperation between parquets OM	Diverse AO (OM, LR, KPSM, Ministry of Justice)	No
	2022	In the letter dated April 4, 2022, the Minister of Justice offered a general response to the Council's recommendations to the Parliament. In it, general issues were addressed.		
55.	2022	Evaluation mutual arrangements detention	Diverse AO (PPG/OM, Ministry of Justice, prison)	Pending ⁷²
56.	2022	Illegal firearms	Diverse AO (OM, KPSM, Ministry of Justice, Customs, KW)	Yes
57.	2022	Money laundering and terrorism financing	Diverse AO (PPG/OM, KW, KPSM, Ministry of Justice, Customs, MOT)	No
58.	2022	Second follow-up inspection Crime Prevention Fund	Ministry of Justice	No
59.	2023	General review Sub-inspection 3 Investigation process detectives; Approach robberies, Criminal seizure; and Forensic investigation	Diverse AO (KPSM, OM, LR and Ministry of Justice)	No
60.	2023	Lead time: the prioritization, steering, and monitoring of (complex and simple) criminal cases	Diverse AO (KPSM, OM, LR)	No
61.	2023	Enforcement of public order during extraordinary circumstances	Diverse AO (KPSM, Ministry of Justice)	No
62.	2023	General review recommendations Sint Maarten Sub-inspection 4: Bureau of Internal Affairs of the Sint Maarten Police Force; Police education in Sint Maarten; Use of force by and against the police in Sint Maarten.	KPSM	No

⁷² This inspection was conducted at the request of the Ministers of Justice (and Security) of Aruba, Curaçao, the Netherlands and Sint Maarten. The ministers intend to formulate a joint response.

63.	2023	Arrest team Sint Maarten Inspection into the organization and deployment of the arrest team of the Sint Maarten Police Force.	KPSM	Yes
64.	2023	Follow-up inspection human trafficking and human smuggling and the prostitution policy and its enforcement	Diverse AO (KPSM, OM, IGD and Ministry of Justice)	Yes
Running inspections in 2024				
65.	2023	Detention inspection & monitoring recommendations CPT: the care and treatment of individuals with mental and/or behavioral disorders in the criminal justice chain	Diverse AO (Prison, KPSM, OM, MHF, TPF and Ministry of Justice)	-
66.	2024	Immigration detention (treatment)	IGD	-
67.	2024	General review recommendations Sint Maarten Sub-inspection 5 Immigration and Border Protection Service: border control on the movement of persons; and the Admission and expulsion of foreigners	IGD	-

Colophon

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