

Supervisory Council of the Integrity Chamber Sint Maarten

Complaint Regulation Integrity Chamber Sint Maarten

Paragraph 1: General provisions

Definitions

Article 1

In this regulation, the following definitions shall apply:

- a. National Ordinance: National Ordinance of 18 December 2017 (Proclamation Sheet of Sint Maarten 2017, No. 41) for the establishment of the Integrity Chamber, as well as regulating the establishment, composition, duties and powers of the Integrity Chamber (National Ordinance Integrity Chamber);
- b. Integrity Chamber: Integrity Chamber as referred to in Article 2 of the National Ordinance;
- c. Supervisory Council: Supervisory Council of the Integrity Chamber as referred to in Article 13 of the National Ordinance;
- d. Complaint: complaint as referred to in Article 14, paragraph 2 of the National Ordinance;
- e. Written: by mail, e-mail or any other electronic means of communication, that allows a message to be sent that is legible and reproducible, unless explicitly stated otherwise;
- f. The hearing: a physical meeting of the Supervisory Council in Sint Maarten or an electronically facilitated meeting, at which the complainant is given the opportunity to further clarify his complaint orally, in principle in the presence of the Integrity Chamber, without prejudice to the specific provisions on this subject in this regulation.

Effect

Article 2

This regulation is adopted pursuant to article 14, paragraph 2 of the National Ordinance.

Nature and scope of the handling of complaints

Article 3

The Supervisory Council shall ensure independent, impartial and careful handling of complaints.

Recusal

Article 4

A member of the Supervisory Council shall recuse himself or herself in case facts or circumstances arise which could result in damaging his or her impartiality. Prior to the recusal, this member shall discuss the matter with the Supervisory Council.

Plenary session when handling a complaint

Article 5

1. The Supervisory Council hears the complainant and the Integrity Chamber and shall deliberate and decide on a complaint filed in plenary session.
2. In the event a member of the Supervisory Council is recused as is referred to in Article 4, the remaining members shall be deemed to constitute the full Supervisory Council for the purposes of the first paragraph of this article.

Scope

Article 6

This regulation concerns complaints about the legality and proportionality of the use of the investigative powers of the Integrity Chamber as referred to in Chapter 3, paragraph 3 of the National Ordinance.

Costs

Article 7

The complainant shall personally bear any costs incurred in the context of exercising the right to file a complaint.

Paragraph 2: The Right to file a complaint

The Right to file a complaint

Article 8

1. Any person involved and any administrative body involved shall have the right to file a complaint about the manner in which the Integrity Chamber has exercised its powers as referred to in Article 6.
2. Without prejudice to the provisions laid down in Article 7, the complainant may be assisted or represented by an authorized representative to represent his/her interest in the complaint procedure. The Supervisory Council may require a written authorization from an authorized representative.
3. The Supervisory Council may deny assistance or representation by a person against whom serious objections exist. That person and the person on whose behalf he is acting shall be notified of the denial in writing as soon as possible.
4. Paragraph 3 shall not apply with respect to lawyers.

The Notice of Complaint

Article 9

1. The notice of complaint shall be filed in writing and signed by the complainant or the complainant's authorized representative.
2. The notice of complaint shall include at least:
 - a. the name and address of the complainant;
 - b. the date;
 - c. a description of the act which is the subject of the complaint, including the location and the date on which this act took place or the date it came to the attention of the complainant;
 - d. the grounds on which the complaint is based.
3. The notice of complaint shall be written in the Dutch or the English language.
4. The notice of complaint (by mail) shall be addressed to:
supervisorycouncil@integritychamber.sx

Paragraph 3: The handling of the notice of complaint

Paragraph 3.1: Receipt and admissibility of the notice of complaint

Confirmation of receipt

Article 10

1. The Supervisory Council shall confirm in writing receipt of the notice of complaint within two weeks after receipt.
2. The acknowledgment of receipt shall be in the language referred to in the third paragraph of Article 9 in which the complaint is written.
3. The acknowledgment of receipt shall include at least the following information:
 - a. the date on which the complaint was received;
 - b. the time-frame for the handling of the complaint;
 - c. the adversarial procedure;
 - d. the possibility of consulting the text of the complaint regulation via the Internet.

Request for further argumentation

Article 11

In the acknowledgement of receipt, the Supervisory Council may request the complainant to send additional arguments or documents to further substantiate the complaint.

Notification to the Integrity Chamber

Article 12

The Supervisory Council shall notify the Integrity Chamber in writing of the receipt of a complaint.

Impact of ongoing investigation

Article 13

In principle, the filing of a complaint does not affect the conduct of an ongoing investigation concerning the complaint.

Admissibility

Article 14

1. The Supervisory Council may declare a complaint inadmissible if
 - a. the notice of complaint does not meet the requirements set out in article 9;
 - b. the complaint falls outside the scope of this regulation as referred to in article 6;
 - c. the complaint is evidently unfounded;
 - d. a requested authorization as referred to in article 8, paragraph 2, has not been submitted;
 - e. the complaint concerns behaviour about which a complaint was previously filed, which was settled with due observance of this Complaint Regulation;
 - f. the complaint concerns behaviour that took place more than six months after the conclusion of the investigation by the Integrity Chamber within which it occurred;
2. Additionally, the Supervisory Council may declare a complaint inadmissible if the interest of the complainant or the weight of the behaviour which the complaint covers is clearly insufficient;
3. The Supervisory Council shall notify the complainant of the inadmissibility in writing as soon as possible and in any case within four weeks after the confirmation of receipt of the notice of complaint, stating the reasons.
4. The Supervisory Council shall notify the Integrity Chamber of the statement of inadmissibility as referred to in the previous paragraph.

Clear lack of foundation

Article 15

The Supervisory Council may declare a complaint to be evidently unfounded. It shall notify the complainant of this in writing as soon as possible and in any case within four weeks after receipt of the notice of complaint, stating the reasons. The Supervisory Council shall communicate this to the Integrity Chamber.

Paragraph 3.2: The handling

The hearing

Article 16

1. The Supervisory Council shall give the complainant and the Integrity Chamber an opportunity to be heard.
2. hearing the complainant may be waived in case:
 - a. the complaint is inadmissible;
 - b. the complaint is evidently unfounded;
 - c. the complainant has stated that he/she does not wish to exercise the right to be heard;
 - d. the complainant does not declare within the reasonable period set by the Supervisory Council that he/she wishes to exercise the right to be heard.
3. The hearing of the complainant and the Integrity Chamber will take place in each other's presence, unless
 - a. one of the circumstances as referred to in the previous paragraph under c. and d. occurs;
 - b. the Integrity Chamber declares that it does not wish to exercise the right to be heard;
 - c. serious circumstances oppose it.
4. In its invitation to the hearing, as well as during or after the hearing, the Supervisory Council may request the complainant and the Integrity Chamber to provide additional information about the circumstances that led to the complaint.
5. The hearing shall not be held in public.
6. A report shall be made of the hearing. When one of the circumstances mentioned in paragraphs 2 and 3 take place, the report shall make mention of this.

Withdrawal of complaint

Article 17

1. In case the complainant comes to the conclusion that during the handling of the complaint that the ground for his complaint is no longer valid, he shall communicate this to the Supervisory Council, which shall confirm the receipt of this communication in writing and make a report of it.
2. In the case referred to in the first paragraph, the Supervisory Council shall inform the complainant in writing that the complaint is settled in compliance with this regulation.

External expertise

Article 18

The Supervisory Council may request the assistance of external expertise for the purpose of handling the complaint. The confidentiality of the handling of the complaint is thereby guaranteed.

Time limit of settlement

Article 19

1. The Supervisory Council shall handle the complaint within ten weeks of receipt of the notice of complaint.
2. The Supervisory Council may postpone the handling for at most four weeks. The adjournment shall be communicated in writing to the complainant and to the Integrity Chamber.
3. Further adjournment is possible if and insofar as the complainant agrees to this in writing.

Deliberation and judgement

Article 20

1. The deliberations of the Supervisory Council shall not be held in public.
2. The Supervisory Council bases its judgement on the documents submitted as well as on the information presented at the hearing.
3. The judgement of the Supervisory Council shall not contain any minority positions.

Documents subject to confidentiality

Article 21

1. If written documents that are relevant for the Supervisory Council's judgement of the submitted complaint are subject to confidentiality, the Integrity Chamber shall communicate this fact to the Supervisory Council. In doing so, it shall make mention of the source of the imposition of confidentiality.
2. Documents as referred to in paragraph 1 may only be included by the Supervisory Council in its judgment on the complaint submitted without disclosing the contents of these documents to the complainant, if the complainant agrees to this. The following two paragraphs of this article shall be applicable where relevant.
3. In the event confidentiality of the documents referred to in paragraph 2 is imposed on these documents by a third party, the Integrity Chamber shall allow the Supervisory Council to peruse these for the purpose of judging the complaint after obtaining the consent of the third party concerned and for the sole purpose for which it is granted.
4. Should there be a need for confidentiality of documents referred to in paragraph 2 in the reasoned opinion of the Integrity Chamber itself, the latter shall allow the Supervisory Council to peruse these documents for the purpose of forming its opinion on the complaint and for the sole purpose for which it is granted.

5. In its judgement of the complaint filed, the Supervisory Council shall report the circumstances referred to in paragraphs one through four of this article.

Judgement

Article 22

The Supervisory Council shall inform the complainant and the Integrity Chamber in writing, stating reasons, of the findings of the investigation into the complaint, its judgment thereof, as well as any conclusions it may draw from this.

Paragraph 4: Confidentiality, processing of personal data, recording and archiving

Confidentiality

Article 23

1. Notwithstanding the provisions laid down in these regulations, members of the Supervisory Council shall, when handling complaints, keep confidential matters in confidence which come to their knowledge by virtue of their position or the confidentiality of which is or should reasonably be clear from the nature of the matter, from persons other than the other members of the Supervisory Council.
2. The members of the Supervisory Council shall not make any statements beyond the Supervisory Council about internal deliberations and exchanged arguments.

Recording and archiving

Article 24

The Integrity Chamber shall provide a facility for recording and archiving the judgments by the Supervisory Council of complaints submitted and the underlying documentation.

This registration and archiving is conducted separately from that of the Integrity Chamber.

Personal Data

Article 25

The management as referred to in the previous article shall be in accordance with the National Ordinance on Personal Data Protection and other applicable regulations.

Reporting

Article 26

The Supervisory Council shall include the report on the complaint handling in its annual report as referred to in Article 14, paragraph 4 of the National Ordinance.

Paragraph 5: Transitional and Final Provisions

Transitional Provision

Article 27

1. This regulation may be amended by the Supervisory Council.
2. Complaints already filed shall continue to be subject to the complaint regulation in full force and effect on the date of filing.

Publication

Article 28

1. This regulation shall be published
 - a. in de National Gazette of Sint Maarten;
 - b. on the website of the Integrity Chamber.

Entry into force

Article 29

This regulation shall enter into force following its adoption by the Supervisory Council.

Title

Article 30

This regulation may be referred to as Sint Maarten Integrity Chamber Complaint Regulation.

Adopted by the Supervisory Council on 29 November 2021.