



**FOLLOW-UP INSPECTION ON THE IMPLEMENTATION OF
RECOMMENDATIONS ON THE APPROACH TO HUMAN
TRAFFICKING AND HUMAN SMUGGLING AND THE
PROSTITUTION POLICY AND ENFORCEMENT IN SINT
MAARTEN**

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LAW ENFORCEMENT COUNCIL

March 2024

Contents

Abbreviations	6
Foreword	7
Summary and recommendation.....	8
Summary	8
Recommendations	9
1. Introduction	13
1.1 Rationale.....	13
1.2 Central question.....	13
1.3 Scope of the inspection	13
1.4 Assessment framework	13
1.5 Method of approach	14
1.6 Reading guide	15
2. Research findings: state of affairs recommendations to approach human trafficking and human smuggling.....	16
2.1.1 Recommendations 2019.....	16
2.1.2 State of affairs 2023.....	16
2.1.3 Assessment recommendation 1a en 1b.....	21
2.2 Strategic vision and policy human trafficking and human smuggling and (operational) cooperation	22
2.2.1 Recommendation 2019 and response letter 2022.....	22
2.2.2 State of affairs 2023.....	23
2.2.3 Assessment.....	25
2.3 Interministerial taskforce and periodic consultation	27
2.3.1 Recommendation 2019 and response letter 2022.....	27
2.3.2 State of affairs 2023.....	27
2.3.3 Assessment.....	28
2.4 Different forms human trafficking in (integrated) approach	29
2.4.1 Recommendation 2019	29
2.4.2 State of affairs 2023.....	29
2.4.3 Assessment.....	30
2.5 National coordinator human trafficking and human smuggling Sint Maarten	30
2.5.1 Recommendation 2019	30
2.5.2 State of affairs 2023.....	30
2.5.3 Assessment.....	31

2.6 National Reporting Bureau on Human Trafficking	31
2.6.1 Recommendation 2019	31
2.6.2 State of affairs 2023.....	32
2.6.3 Assessment.....	32
2.7 Regional crime picture analysis and human trafficking study CARRIBEAN FORUM (CARIFORUM)	33
2.7.1 Recommendation 2019	33
2.7.2 State of affairs 2023.....	33
2.7.3 Assessment.....	34
2.8 Uniformity and continuity operational cooperation	34
2.8.1 Recommendation 2019	34
2.8.2 State of affairs 2023.....	34
2.8.3 Assessment.....	35
2.9 Follow-up recommendations prostitution policy and enforcement in Sint Maarten	35
2.9.1 Recommendation 2019	35
2.9.2 State of affairs 2023.....	36
2.9.3 Assessment.....	36
3. Overarching picture and recommendation(s).....	38
3.1 Answering the central research question and sub-questions.....	38
3.2 Recommendation	39
Appendix 1 Follow-up recommendations Prostitution policy and enforcement Sint Maarten	43
Recommendation 9a Codified system of laws and regulations	43
Recommendation 2016 / 2019.....	43
State of affairs 2023.....	43
Assessment.....	43
Recommendation 9b Evaluation policy and enforcement	44
Recommendation 2016 / 2019.....	44
State of affairs 2023.....	44
Assessment.....	44
Recommendation 9c Chain cooperation and joint responsibility.....	44
Recommendation 2016 / 2019.....	44
State of affairs 2023.....	44
Assessment.....	45
Recommendation 9d Effective controls, enforcement and trainings	45
Recommendation 2016 / 2019.....	45
State of affairs 2023.....	45

Assessment.....	46
Recommendation 9e Feedback and information sharing administrative and criminal enforcement.....	46
Recommendation 2016 / 2019.....	46
State of affairs 2023.....	46
Assessment.....	46
Recommendation 9f Adequate facility for sheltering victims.....	46
Recommendation 2016 / 2019 and response letter 2022	47
State of affairs 2023.....	47
Assessment.....	47

Abbreviations

<i>Abbreviation</i>	<i>Meaning</i>
CBA	Crime picture analysis (<i>Criminaliteitsbeeldanalyse</i>)
CMM Aruba	Human trafficking and human smuggling coordination center Aruba (<i>Coördinatiecentrum mensenhandel en mensensmokkel Aruba</i>)
ICSM	Intelligence Center Sint Maarten
IGD	Immigration and Border Protection Services (<i>Immigratie- en grensbewakingsdienst</i>)
IRC	Immigration Research Center
DIOC	Development of information organizations Caribbean (<i>Doorontwikkeling informatie organisaties Cariben</i>)
JVO	Judicial Quadripartite Consultation (<i>Justitieel Vierpartijen Overleg</i>)
KPSM	Sint Maarten Police Force (<i>Korps Politie Sint Maarten</i>)
LCSM	National Coordinator Sint Maarten (<i>Landelijk coördinator Sint Maarten</i>)
MvJ	Minister of Justice (<i>Minister van Justitie</i>)
OM	Public Prosecutor's Office (<i>Openbaar Ministerie</i>)
PHIOC	Platform Heads of Information Organization Caribbean (<i>Platform Hoofden Informatie Organisatie Cariben</i>)
RST	Detective Cooperation Team (<i>Recherchesamenwerkingsteam</i>)
TEZVT	Tourism Economic affairs, Transportation and Telecommunications (<i>Toerisme economische zaken, vervoer en telecommunicatie</i>)
UMM	Unit human smuggling and human trafficking (<i>Unit mensenhandel en mensensmokkel</i>)
VSA	Public Health, Social Development and Labor (<i>Volksgezondheid, Sociale ontwikkeling en Arbeid</i>)

Foreword

The Minister of Justice requested that the Council¹ carry out a follow-up inspection in 2023 regarding the state of affairs on the implementation of fifteen recommendations from 2019 made by the Council to improve the issue of human trafficking, human smuggling; and the prostitution policy and its enforcement. The Council granted this request.

The phenomena of human trafficking and human smuggling are global problems. They are serious crimes with different characteristics and forms. Numerous international treaties to prevent and combat them have been entered into, among other things. The subject of prostitution, and ultimately its policy and enforcement, is also related to it, among other forms of sexual exploitation. This inspection covers the topics of human trafficking, human smuggling, and the prostitution policy and its enforcement.

According to the Council, the results of this inspection demonstrate the urgency for urgent (re)prioritization of the integrated approach to human trafficking and human smuggling. After all, only one of the nine recommendations has been implemented. Furthermore, it demonstrates the need for updating the prostitution policy in order to then properly enforce it. None of these six recommendations has been followed up. Sint Maarten's Tier-3 status over the past three years also highlights this, which may entail certain sanctions. The Council assumes that the Minister of Justice, at the least, but also fellow Ministers recognize the need for prioritization and take appropriate actions in the shortest possible time, also within the inter-ministerial cooperation.

Although steps are certainly being taken in some areas, in the Council's view these are mostly still in the early stages of cooperation. Their concrete results have yet to be seen. Here too, the Council emphasizes the indispensable support of the relevant minister(s) for the necessary integral approach to human trafficking and human smuggling.

The Council will closely monitor the (progress of the) follow-up of the recommendations by the Minister of Justice.

The Council thanks the organizations and individuals involved for their input. The Council invites you to read the state of affairs regarding the follow-up of the recommendations in the report.

THE LAW ENFORCEMENT COUNCIL

Mr. E.R.A. Morillo, chairman

Mr. M.R. Clarinda, council member

Mr. M.I. Koelewijn, council member

¹ Article 21 Kingdom Act Law Enforcement Council

Summary and recommendation

Summary

The Law Enforcement Council inspected the extent to which the recommendations on the approach to human trafficking and smuggling and the prostitution policy and its enforcement have been followed. The central question for this inspection is as follows: *To what extent has the Council's recommendations on the approach to human trafficking and human smuggling and the enforcement of the prostitution policy been followed (2019 report)?*

Follow-up of recommendations

In 2019, the Council published a report on the approach to human trafficking and smuggling, in which it made nine recommendations to the Minister of Justice. The ninth recommendation concerned the follow-up of the six recommendations previously made (in 2016) in the context of the prostitution policy and its enforcement. In 2023, the Council therefore reviewed the state of affairs in the follow-up of a total of fifteen recommendations.

Overarching analysis / answer to central question

The following main conclusions and overarching analysis follow from the inspection.

Main conclusion 1: The approach to human trafficking and human smuggling is (still) inadequate.

One of nine recommendations has been followed

The Council concludes that only one of the nine recommendations has been followed. It concerns recommendation three on the establishment of a taskforce and periodic consultations. The Council is of the opinion that the taskforce plays a key role in the interministerial cooperation needed in the integrated approach to human trafficking and human smuggling. The Council emphasizes that administrative support is indispensable in its success.

Eight of the nine recommendations not followed

The Council concludes that eight of the nine recommendations have not been followed. This means that the vast majority of recommendations have not been followed. These are the recommendations on the national, interregional and international information position (recommendation 1), a strategic vision and policy (recommendation 2), the forms of human trafficking and human smuggling (recommendation 4) and the support of the national coordinator (recommendation 5). It also concerns the recommendations on the National Reporting Bureau (recommendation 6), the regional crime picture (recommendation 7), operational cooperation (recommendation 8) and the follow-up of the recommendations on the prostitution policy and enforcement (recommendation 9). The compliance rate is **11%**.²

Initial phase

Although steps are certainly being taken in certain areas, according to the Council, these are often still in the early stages of cooperation. The concrete results of this remain to be seen. Once again, the Council emphasizes the involved minister(s) indispensable support for the necessary integrated approach to human trafficking and human smuggling.

Main conclusion 2: Insufficient substantial progress has been made with regard to the prostitution policy and its enforcement in Sint Maarten.

² The compliance percentage as an indicator is calculated by adding 1 point to each recommendation that has been followed, a 1/2 point to each recommendation that has been partially followed and no points are awarded if a recommendation has not been followed. Then, the number of points awarded is divided by the total number of recommendations and multiplied by 100 and results in the compliance percentage.

None of the recommendations followed

None of the recommendations about the prostitution policy and its enforcement have been followed. This concerns the recommendations on a comprehensive, codified system of laws and regulations (recommendation 9a), policy evaluation (recommendation 9b), chain cooperation (recommendation 9c), effective controls (recommendation 9d), administrative and criminal enforcement (recommendation 9e) and adequate care facilities (recommendation 9f). The compliance percentage is therefore **0%**.

Council's concerns

The Council expresses serious concerns given that no substantial progress has been made on this subject in the seven years since the last report. The Council reiterates that this not only means that the women in question have been in a vulnerable position for years in the period that they were on Sint Maarten, but that it also leaves the door open to unacceptable risks of crimes such as sexual exploitation. It is time to work towards closing this door as quickly as possible. Since the topics of human trafficking, human smuggling and the prostitution policy have similarities, support from the involved minister(s) is indispensable in tackling these serious topics.

In conclusion

Prosecution, Protection, Prevention and Partnership

The approach to human trafficking and human smuggling is based on four main pillars, namely: Prosecution, Protection, Prevention and Partnership. These 4Ps form a framework for an effective integrated approach using so called barrier models. Based on the state of affairs in the follow-up of the recommendations, the Council concludes that development can be seen in particular in the 4th P, namely partnership. This is a good start, but much more development must be pursued to properly organize and implement the other three pillars. The fact that Sint Maarten has been ranked with a Tier-3 status for three consecutive years emphasizes the urgency. It is now up to the involved minister(s) to prioritize the integrated approach to human trafficking and human smuggling, make the necessary decisions and facilitate those involved as best as possible in this joint fight. This also includes the subject of prostitution policy and its enforcement.

Steering on the follow-up of recommendations

The Council is aware of the multitude of recommendations that need to be followed up, including those in the context of human trafficking, human smuggling and the prostitution policy and its enforcement. And the fact that priorities must be set given the ministry's human, financial and material resources is unavoidable. However, the Council is of the opinion that precisely for this reason, for the purpose of steering and follow-up, a plan of action could be drawn up to determine priorities, map out the requirements and provide guidance for matters such as a realistic timetable, key players and financing. Among other things, formulating a response to the reports offered could help with the implementation of this because it can often outline the intended direction and approach. Furthermore, the Council believes it would be a good idea for the Minister of Justice to draw up a report six months after the publication of an inspection report on the specific state of affairs in the (progress of the) follow-up of the recommendations. In the Council's opinion, the foregoing can also contribute to better control and monitoring of the follow-up of the recommendations.

Recommendations

In view of the current state of affairs, the Council formulated two new recommendations about the subject information position. In addition, the Council recommends that the Minister prioritizes the implementation of the recommendations that have not yet been followed.

The Council also requests the Minister of Justice to draw up a report on the concrete state of affairs in the (progress of) the follow-up to the recommendations six months after publication of this inspection report. The tables below show the state of affairs.

The tables show the state of affairs. In Table 1, the Council shows the status of the follow-up to the recommendations made in 2023 for each topic and, where relevant, the newly formulated recommendations for the relevant topic (colored grey). Table 2 shows the state of affairs in 2019 and 2023 for the recommendations regarding the prostitution policy.

Table 1: Overview of the state of affairs recommendations human trafficking and human smuggling

	Recommendations report Approach human trafficking and human smuggling	State of affairs 2023 recommendations already made	New recommendations 2023
	To the Minister of Justice		
Information position	1. a) Promote the ability of the Intelligence Center Sint Maarten to build a sound intelligence position in the field of human trafficking and human smuggling.* b) Promote that – in relation to the above – countries work together towards building an interregional and international intelligence position in the area of human trafficking and human smuggling.*	Not followed The Council reiterates its recommendation	-
Information position	c) Provide a chain-wide/integral analysis initiated by the ICSM on the nature and extent of human trafficking and smuggling in Sint Maarten. Determine a realistic timeline for this.** d) Make agreements with the RST and other relevant organisations such as the KPSM and ICSM whether – and if so how – an interregional and international information position in the field of human trafficking and human smuggling can be built.**	-	2 new recommendations 2023
Strategic vision and policy	2. Expand administrative commitment by developing a strategic vision and policy on human trafficking and human smuggling that facilitates, structurally secures, and advances the growing operational cooperation in Sint Maarten in this regard.	Not followed The Council reiterates its recommendation	-
Task force & periodic consultations	3(a). Together with the ministries, organizations, and the national coordinator of Sint Maarten, establish a task force and regular consultations that will energize combating and preventing human trafficking and human smuggling and jointly set priorities. Consider the following: the drafting of a joint agenda that includes a limited number of priorities per year. One priority that can be realized in the short term, is, for example an awareness campaign. Another priority, perhaps a more comprehensive one, for which several concrete steps can be taken in any given year, is for example the accommodation and follow up care for victims. Formulate a joint plan of approach for each priority	Followed	-

	(including timetable, people responsible for acting and funding) and monitor progress in the task force/regular consultation. Specifically examine how law enforcement, government, aid providers, NGOs, and the public and private sectors can support each other.		
Facilitation of task force	3b Take the lead towards the relevant ministers to facilitate the task force at a ministerial level in what is needed and to take the necessary decisions for the purpose of combating and preventing human trafficking and -smuggling.	-	New recommendation 2023
Forms of human trafficking	4. Take all forms of human trafficking into account in the (integral) approach to combat and prevent these types of crime, including criminal exploitation.	Not followed The Council reiterates its recommendation	-
Support LCSM	5. Accommodate the support requirements of the National Coordinator in Sint Maarten, so that he can fulfill the agreements established in the MoU.*	Not followed The Council reiterates its recommendation	-
Organisation NRB	6. Organize the National Reporting Bureau on Human Trafficking in a structured manner or safeguard its tasks, so that the reporting, monitoring, and information functions are properly fulfilled. When considering and deciding on the way in which the NRB (or its functions) should be organized, prioritize the NRB's vision and the way its tasks are actually performed.	Not followed The Council reiterates its recommendation	-
Research results	7. Follow (via the national coordinator) the research for the establishment of the regional CBA and the CARIFORUM human trafficking study, review the research results and where relevant translate them into the approach on human trafficking and human smuggling in Sint Maarten.	Not followed The Council reiterates its recommendation	-
Working arrangements	8. Promote uniformity and continuity within operational cooperation by ensuring that working arrangements, for example on occasions when scaling up and/or transferring, are documented, and known to the profession.	Not followed The Council reiterates its recommendation	-
Follow-up of recommendations prostitution policy	9. Follow up on the 6 recommendations outlined in the report Prostitution policy and enforcement in Sint Maarten (2016). See the following table for recommendations 9a to 9f.	Not followed The Council reiterates its recommendation	-

* The Council has included a similar recommendation in the reports of the Caribbean Netherlands and Curaçao (2019).

** The Council has included a similar recommendation in the follow-up inspection of the Caribbean Netherlands (2024).

Table 2: Overview of the state of affairs recommendations prostitution policy

	Recommendations report prostitution policy	Status 2019	Status 2023
	To the Minister of Justice		
Closed system of laws and regulations	9a. Provide a complete overall system of laws and regulations for the purpose of law enforcement.	Not followed	Not followed The Council reiterates its recommendation
Evaluation policy and enforcement	9b. Evaluate the policy and its enforcement, where possible in cooperation with the other ministers concerned. Provide suggestions for adjustments where necessary or desirable. Involve all relevant interests.	Not followed	Not followed The Council reiterates its recommendation

Chain collaboration and responsibilities	9c. Promote working chain collaboration and joint responsibility for the objectives of the policy.	Not followed	Not followed The Council reiterates its recommendation
Controls, enforcement and training	9d. Prescribe effective controls and enforce the laws and other rules imposed strictly. Provide training for inspecting personnel to recognize abuses.	Not followed	Not followed The Council reiterates its recommendation
Administrative and criminal enforcement	9e. Take care of good feedback and sharing of information between the administrative and criminal enforcement.	Not followed	Not followed The Council reiterates its recommendation
Adequate facilities	9f. Take care of adequate facilities for the care of victims of trafficking, exploitation and forced prostitution.	Not followed	Not followed The Council reiterates its recommendation

1. Introduction

1.1 Rationale

The Law Enforcement Council (Council) is charged with the general inspection of the organizations of the judicial chain in Curaçao, in Sint Maarten and in the Netherlands as regards Bonaire, Sint Eustatius and Saba. The Council is also charged with the general inspection of the judicial cooperation between the countries. Pursuant to article 21, second paragraph of the Kingdom Act Law Enforcement Council, the Council can conduct an inspection at the request of the Minister of Justice (MvJ).

By letter dated May 22, 2023, the Minister of Justice requested the Council to conduct a review inspection of the follow-up to nine recommendations of the report on the approach to human trafficking and human smuggling.³ The ninth recommendation relates to the follow-up of the six recommendations from the Council's earlier 2016 report "The prostitution policy and its enforcement in Sint Maarten".⁴ The Council granted this request.

1.2 Central question

The central question of this inspection is as follows:

To what extent has the Council's recommendations on the approach to human trafficking and human smuggling and enforcement of prostitution policy (2019 report) been followed up?

To answer the central research question, the Council established the following sub-questions:

- 1. What is the status of the follow-up to the first eight recommendations of the report on the approach to human trafficking and human smuggling?*
- 2. What is the status of the follow-up of the six recommendations from the report on enforcement of the prostitution policy in Sint Maarten (ninth recommendation in the report tackling human trafficking and human smuggling)?*

1.3 Scope of the inspection

In this report, the Council describes the status of the follow-up of the recommendations made for Sint Maarten as part of the reports on the approach to human trafficking and human smuggling (2019) and the prostitution policy and enforcement (2016; review 2019). The inspection period is from 2019 to mid-2023.

1.4 Assessment framework

In this follow-up inspection, the Council assessed the extent to which the MvJ has followed up on the recommendations from the aforementioned reports. As such, the recommendations form the assessment framework. These are the following recommendations:

Table 3: Overview of recommendations approach to human trafficking and human smuggling

Recommendations report Approach to human trafficking and human smuggling
To the Minister of Justice

³ The Council works in accordance with an annual plan, which includes the ability to conduct unannounced inspections in addition to inspecting topics included in the annual plan. The latter allows the Council room to respond to current issues that arise during the calendar year, if necessary. The Council utilized this space in the annual plan to meet the Minister's request.

⁴ Based on the findings and conclusions in the 2019 report on the approach to human trafficking and human smuggling, the Council also considered the inspection into the approach to human trafficking and human smuggling as a follow-up investigation into the status of the six recommendations made in the report on the prostitution policy and enforcement in Sint Maarten. In 2019, it turned out that none of the six recommendations had been followed up. The Council therefore called on the Minister of Justice to still address the recommendations made in 2016. And to include the relevant findings regarding human trafficking from this inspection.

1. a) Promote the ability of the Intelligence Center Sint Maarten to build a sound intelligence position in the field of human trafficking and human smuggling. * b) Promote that – in relation to the above – countries work together towards building an interregional and international intelligence position in the area of human trafficking and human smuggling *
2. Expand administrative commitment by developing a strategic vision and policy on human trafficking and human smuggling that facilitates, structurally secures, and advances the growing operational cooperation in Sint Maarten in this regard.
3. Together with the ministries, organizations, and the national coordinator of Sint Maarten, establish a task force and regular consultations that will energize combating and preventing human trafficking and human smuggling and jointly set priorities. Consider the following: the drafting of a joint agenda that includes a limited number of priorities per year. One priority that can be realized in the short term, is, for example an awareness campaign. Another priority, perhaps a more comprehensive one, for which several concrete steps can be taken in any given year, is for example the accommodation and follow up care for victims. Formulate a joint plan of approach for each priority (including timetable, people responsible for acting and funding) and monitor progress in the task force/regular consultation. Specifically examine how law enforcement, government, aid providers, NGOs, and the public and private sectors can support each other.
4. Take all forms of human trafficking into account in the (integral) approach to combat and prevent these types of crime, including criminal exploitation.
5. Accommodate the support requirements of the National Coordinator in Sint Maarten, so that he can fulfill the agreements established in the MoU. *
6. Organize the National Reporting Bureau on Human Trafficking in a structured manner or safeguard its tasks, so that the reporting, monitoring, and information functions are properly fulfilled. When considering and deciding on the way in which the NRB (or its functions) should be organized, prioritize the NRB's vision and the way its tasks are actually performed.
7. Follow (via the national coordinator) the research for the establishment of the regional CBA and the CARIFORUM human trafficking study, review the research results and where relevant translate them into the approach on human trafficking and human smuggling in Sint Maarten.
8. Promote uniformity and continuity within operational cooperation by ensuring that working arrangements, for example on occasions when scaling up and/or transferring, are documented, and known to the profession.
9. Follow up on the 6 recommendations outlined in the report Prostitution policy and enforcement in Sint Maarten (2016). See the following table for recommendations 9a to 9f.

* The Council included a similar recommendation in the reports of the Caribbean Netherlands and Curaçao.

Table 4: Overview recommendations prostitution policy

Recommendations report prostitution policy	Review 2019
To the Minister of Justice	
9a. Provide a complete overall system of laws and regulations for the purpose of law enforcement.	Not followed
9b. Evaluate the policy and its enforcement, where possible in cooperation with the other ministers concerned. Provide suggestions for adjustments where necessary or desirable. Involve all relevant interests.	Not followed
9c. Promote working chain collaboration and joint responsibility for the objectives of the policy.	Not followed
9d. Prescribe effective controls and enforce the laws and other rules imposed strictly. Provide training for inspecting personnel to recognize abuses.	Not followed
9e. Take care of good feedback and sharing of information between the administrative and criminal enforcement.	Not followed
9f. Take care of adequate facilities for the care of victims of trafficking, exploitation and forced prostitution.	Not followed

1.5 Method of approach

Based on the previous reports, among others, an orientation took place which served as a basis for the drawn-up plan of approach. The inspection began with a written questionnaire which was distributed to the Ministry of Justice, the Public Prosecutor's Office (OM), the Sint Maarten Police Force (KPSM), the Immigration and Border Protection Service (IGD) and the Detective Cooperation Team (RST)⁵. These organizations were asked to describe the state of affairs regarding the follow-up of recommendations from the perspective of the respective

⁵ As for the RST, in consultation with the latter, use could be made of the responses from the written questionnaire completed by the RST for the purposes of the review inspection on the approach to human smuggling and human trafficking in the Caribbean Netherlands (2023).

organization. Subsequently, (additional) interviews were held with representatives of the Ministry of Justice, the KPSM, the IGD and the Labor Inspectorate.⁶

The Council then analyzed the information and prepared the draft report. This draft report was presented by the Council to both the ministry and the organizations involved for their reactions. The Council then processed the reactions and adopted the report.

1.6 Reading guide

This report is structured in the following manner. After the introductory Chapter 1, Chapter 2 presents the research findings and their assessment. Chapter 3 contains an overall picture, the answers to the main and sub-questions, and the recommendations. Furthermore, Appendix 1 contains the findings and assessment of the subject of prostitution policy.

⁶ The inspectorate TEZVT was also approached for an interview.

2. Research findings: state of affairs recommendations to approach human trafficking and human smuggling

The Council concluded in its 2019 report that there is no insight into the nature and extent of human trafficking and human smuggling. In addition, the Council identified areas for improvement in areas such as the formulation and establishment of a strategic vision and policy, the support of the national coordinator of human trafficking, and the (continued) development of the National Reporting Bureau on Human Trafficking. Furthermore, the Council observed that no follow-up had been given to the six recommendations formulated in the 2016 report on the prostitution policy and its enforcement. The Council therefore formulated a total of nine recommendations at the time.

Response letter 2022

After presenting the report in 2019, the MvJ did not formulate a response regarding the follow-up of the report's recommendations. However, in April 2022, the minister did offer a 24-page letter called "*Response report recommendations Law Enforcement Council*" to the Parliament of Sint Maarten.⁷ Where relevant, the Council cites this '2022 response letter' in this report. In those cases where the Council does not refer to the '2022 response letter' in a paragraph, this is because the Minister did not address the issue in the letter.

Below, the Council describes the state of affairs in 2023 on the implementation of the recommendations and provides its assessment of them.

2.1 Information position on human trafficking and human smuggling

2.1.1 Recommendations 2019

In 2019, the Council formulated the following two recommendations:

Recommendation 1:

1a) Facilitate the Intelligence Center Sint Maarten in building a sound intelligence position on human trafficking and human smuggling.*

b) Promote - in relation to the above - that the countries work jointly towards building an interregional and international intelligence position on human trafficking and human smuggling.*

** The Council included a similar recommendation in the reports of the Caribbean Netherlands and Curaçao.*

2.1.2 State of affairs 2023

The Council first discusses the interregional and international information position (recommendation 1b) on human trafficking and human smuggling and then addresses the information position in this area in Sint Maarten (recommendation 1a).

Findings 2023

⁷ Minister of Justice, Letter about '*Recommendations of the Law Enforcement Council*', April 4th, 2022. With the letter, the minister intended to address overdue responses to the Council's reports offered up to that time. Given that the Council made many and varied recommendations in its reports up to that time, the Minister explains in the letter that not every recommendation was discussed individually, but that the Minister addressed several recurring themes. The Minister also discusses recent developments and expected outcomes.

Recommendation 1b Interregional and international information position⁸

Steering group Information Coordination⁹

The Steering Group Information Coordination has formulated strategic tasks that have been translated into the 'plan for the further development of information organizations in the Caribbean' (DIOC) by the Platform Heads of Information Organization Caribbean (PHIOC; a form of inter-insular cooperation by and with the local police forces). The plan was adopted in the JVO of July 2021. For the period from 2022 to 2024, 2.5 million euros in incidental funds have been made available by the Ministry of Justice and Security for the implementation of the said plan.¹⁰

Establishment of interinsular partnership

The RST and the KPSM both indicate that work has been underway for several years toward the establishment of interinsular cooperation. This will enable information cooperation between the countries and thus the strengthening of the information position, both locally and interinsularly. The goal is to facilitate well-founded decision-making in the central and local steering groups by, first, facilitating interinsular information exchange. As well as, secondly, jointly compiling more complete crime pictures and information products on cross-border, transnational and shocking to the rule of law.

The RST initially had a coordinating role, but this has changed to a more facilitating role since 2022, according to the KPSM. The KPSM points out that the DIOC implementation team (plan) and the RST are jointly shaping inter-insular cooperation, which is in the development phase. The force further points out that harmonization of legal, organizational and technical aspects is essential for the establishment and further development of inter-insular cooperation. An inventory of the current needs and expectations of the countries was conducted in 2022. This shows that the further development of the information organizations of the local forces is an important prerequisite for inter-insular cooperation.¹¹ In late 2022, a plan of action was created for a test case to establish a process for joint information processing. This plan is in the implementation phase at the time of the Council's review.¹²

RST

The Minister of Justice and Security of the Netherlands indicates in his policy response ¹³ to the report on human trafficking and human smuggling in the Caribbean Netherlands as follows:

'One of the tasks of the Detective Cooperation Team (RST) is to investigate cross-border crime, including human trafficking and human smuggling. The January 2019 JVO adopted the information coordination memorandum, in which it was agreed to establish an interinsular information hub at the RST. In January 2020, the JVO adopted the policy plan for detective cooperation 2020-2023, which

⁸ For this section, the Council used the findings of the Council's report (2023) entitled 'Immigration policy and the approach to human trafficking and human smuggling in the Caribbean Netherlands. A follow-up inspection on the implementation of the recommendations from the reports 'Aliens policy (2017)' and 'The approach to human trafficking and human smuggling (2019)'. See also note 3.

⁹ In response to the JVO's desire in 2019 to achieve a prominent position of information gathering and sharing, the Information Coordination Project Group was co-founded with the task of not only optimizing but also structuring the exchange of information within the Kingdom. The Project Group has since become a steering group.

¹⁰ Memo of Sint Maarten Police Force for the purpose of questions of inspection MHMS, Sept. 1, 2023.

¹¹ The Council already indicated this in its 2019 inspection report (section 4.3)

¹² In view of confidentiality, the Council cannot and will not incorporate further information about this in this inspection report.

¹³ Page 2 of the Appendix to the Policy Response the Inspection Report Approach to Human Trafficking and Human Smuggling by the Law Enforcement Council, May 20, 2020, [Rijksoverheid.nl](https://rijksoverheid.nl)

further defined the contours. This information hub will collect the overarching information for the deployment of the central RST teams. This information hub will further ensure enhanced information coordination, further mapping the visibility of cross-border crime including human trafficking and human smuggling and the connection to crime shocking to the rule of law. The team makes overarching data analyses, which include international interfaces. International information is accessed through this team, also for use by local partners.'

This response of the Minister of Justice and Security is also of importance for Sint Maarten, because in the protocol on specialized detective cooperation between the Kingdom countries it has been agreed, among other things, that the detective cooperation, in addition to the availability of detective facilities, capacity and expertise, also includes the improvement of the joint processing of detective information.¹⁴ The response of the relevant minister reflects the state of affairs and agreements made regarding the information hub at the RST.

With regard to human trafficking and human smuggling, no separate agreements have been made in Sint Maarten by the Ministry of Justice with the RST on building an interregional and international information position. The RST collects signals about forms of crime that fall within its mission statement. That mission statement is articulated in its four-year policy plan.¹⁵ Human trafficking and human smuggling are among them. However, the RST indicates that human trafficking and human smuggling were not among the strategic themes on which the RST actively gathered information.¹⁶ The RST has not produced any analyses and/or information products on human trafficking and human smuggling in the period 2020 to date. A ("proprietary") interregional view of the nature and extent of human trafficking and human smuggling in the Caribbean is therefore lacking, according to the RST.

Recommendation 1a Information position Intelligence Center Sint Maarten (ICSM)

Intelligence Center Sint Maarten (ICSM)

Information hub

The Intelligence Center Sint Maarten (ICSM) based on a cooperation agreement has been functioning since 2019 as an information hub where the designated coordinators of the various judicial services and the National Security Service Sint Maarten contribute, share and/or request information for the benefit of the subject matter they are concerned with. Data from closed investigations, among other things, is shared and made available to member agencies. A workspace at the KPSM has also been set up for ICSM members to search for or enrich information for their ongoing investigations. In May 2023, the Immigration and Border Protection Service (IGD) joined the ICSM and cooperation is currently being further developed. Furthermore, in addition to the cooperation within the ICSM, the last 1.5 years have been devoted to knowledge development through the participation of ICSM members in several training courses.¹⁷ The ICSM meets quarterly, and the members discuss the work and any bottlenecks, among other things. It is also the intention of the ICSM to focus on a common topic in the near future.

¹⁴ Amendment to the Protocol on specialized detective cooperation between the countries of the Kingdom of Aruba, Curaçao, Sint Maarten and the Netherlands, Stc. 2019, 38964

¹⁵ Policy plan on detective cooperation in the Caribbean part of the Kingdom 2020-2023.

¹⁶ The RST indicates in its reaction to the draft report on human trafficking and human smuggling from the Caribbean Netherlands that migration crime does belong to the strategic themes in 2024 on which information will be actively gathered.

¹⁷ The trainings given were BIOC Basic Intelligence Orientation Course; BOA Basic Analyst Training; Threat Assessment/Measures Advisor; and BOI Basic Intelligence Training. Still on the to-do-list are: trainings through the Interpol platform and linking databases and tools made available by Interpol. KPSM memo '2023 answers KPSM questions inspection MHMS' September 1, 2023.

Building an information position

The inspection further shows that in recent years the ICSM has been engaged in building its information position in general. However, this was not specifically related to building an information position on human trafficking and human smuggling. Nor was this stimulated or promoted by either the Minister or the Ministry of Justice. There was no steering on this subject. However, information (trends) was shared within the ICSM, both solicited and unsolicited, with various members who are involved in combating human trafficking. This included routes, landing spots, nationalities and suspects. Furthermore, ICSM can be called upon in specific human trafficking or smuggling cases. And this does happen, according to interviewees. For example, the UMM initiated a human trafficking case in response to an official report provided by the ICSM.

Judicial versus administrative support

As the approach to human trafficking and human smuggling has both an administrative (administrative) and repressive side, support has been provided for the judicial/repressive side by the ICSM. However, there is no similar support for the administrative side, an interviewee noted. The police/intelligence information is not set up to (be able to) make it directly available - to, for example, the national coordinator of human trafficking and human smuggling for Sint Maarten (LCSM) - for realizing administrative results. There is still work to be done to better align this.

Information position human trafficking and human smuggling by other local agencies

Immigration Research Center

Pursuant to the Mutual Regulation on Strengthening Border Control, the IGD, with the support of the Royal Netherlands Marechaussee, has established the Immigration Research Center (IRC) information component. Here both operational and open data is collected. The LCSM¹⁸ is also the project leader for the further establishment of the IGD's information management and intelligence capability and charged with further developing the plan for it. The IRC consists of a coordinator as head and two IGD staff members. The coordinator also participates in the ICSM on behalf of the IGD. The IRC is still in the start-up phase. The IGD would like to be information driven and is aware that this requires a good and reliable internal administration. The IGD is therefore currently focusing on getting the administrative part of enforcement in order and up to date. The project leader also sees a role for the IRC in the administrative (administrative) approach to human trafficking.

Protocol border control

In article 7, first paragraph, of the 'The Protocol on Strengthening Border Control in the Caribbean Countries' (Border Control Protocol), it can be read that the countries express their desire to cooperate intensively in the area of combating transnationally organized and undermining cross-border crime and improving border control at airports and maritime borders. According to the second paragraph, the cooperation specifically includes, among other things, countering illegal migration and migration crime (human trafficking, human smuggling). Furthermore, the same article states, among other things, that cooperation

¹⁸ The tasks of the LCSM are contained in the Memorandum of Understanding of cooperation to prevent and combat human trafficking and human smuggling concluded between Aruba, Curaçao, Sint Maarten and the Netherlands.

specifically includes "strengthening the information position and information exchange enabling more targeted surveillance".¹⁹

Intelligence center border

In 2021 (based in part on the earlier 2018 plan), a plan of action was prepared by the relevant judicial organizations in accordance with the protocol and was also approved.²⁰ The LCSM indicates that the plan includes the establishment of an Intelligence Center Border (ICB). The establishment of the ICB has not yet taken place.

The KPSM further indicates that the plan of approach working group is considering how the ICSM could contribute to the objective of 'strengthening the information position and information exchange' included in the plan of approach to border control.

Nature and extent of human trafficking and human smuggling in practice

Insight nature and scope

Based on the interviews, it is apparent that there is limited insight into the nature and extent of human trafficking and human smuggling in Sint Maarten, but trends are visible. The current picture is mainly based on the work and experiences to date, available operational and confidential information and indications from the field, according to almost all interviewees.

The approach to human trafficking is much more complex than human smuggling and therefore more dependent on being able to identify, obtain signals and distribute information. Human trafficking also often involves persons without legal residence, because these persons are often in a vulnerable situation, according to the OM.

Human trafficking

Regarding insight into the nature and extent of human trafficking, several interviewees indicate that informal signals and risks in particular are known to the investigation services that there may be human trafficking in various areas in Sint Maarten such as in the adult entertainment industry, the labor domain (construction and hospitality) or in the case of vulnerable groups in the more informal sector such as the domestic workers. However, signals about human trafficking do not reach the police and the prosecution sufficiently. There are no criminal investigations underway. Interviewees indicate that local insight into the nature and extent of human trafficking is lacking.

Through cooperation, consultation and exchange of information, investigative agencies and other stakeholders seek to better understand the nature and extent of human trafficking. The inter-ministerial task force (see [recommendation 2.3](#)) is used as an example. The Human Trafficking and Human Smuggling Unit (UMM) further notes the intention to focus more on the detection of human trafficking in the near future (see also below under human smuggling). This is also partly because of the current Tier-3 status of Sint Maarten. After completion of the currently ongoing investigation into human trafficking by the UMM, the OM and the UMM will prioritize a concrete human trafficking case. However, the lack of capacity and the whims of the day will continue to affect its implementation, according to the UMM.

Human smuggling

¹⁹ [wetten.nl - Regeling - Protocol inzake de Versterking grensoezicht in de Caribische landen van het Koninkrijk van 05-02-2021 - BWBR0045143 \(overheid.nl\)](#)

²⁰ Minister of Justice, Letter about 'Recommendations of the Law Enforcement Council', April 4th, 2022

Interviewees further indicate that the current signals investigated and the few cases conducted relate exclusively to human smuggling. The UMM indicates that it receives the most information on human smuggling through the Coast Guard. A major trend currently is the legal entry into Sint Maarten and subsequent smuggling of people (including Haitian, Dominican, Colombian, Chinese and Indian people) primarily by water - via both the Dutch and French sides - to the United States Virgin Islands and the British Virgin Islands in particular. Sint Maarten still plays an important role as a transit island and is thus not the final destination. However, good local insight into the nature and extent of human smuggling is lacking, according to the interviews.

If there is information exchange in the context of cooperation with other (island) countries, this concerns operational/tactical information in the field of human smuggling. The UMM indicates that the KPSM cooperates in various areas with the *Police Aux Frontières*, however, due to capacity shortages it cannot, for example, act when (smuggling) vessels leave the island on the French side. The Franco-Dutch treaty on the control of persons establishes cooperation and information exchange between the two countries. However, it does not cover maritime border control, which partly hinders the effectiveness of combating human smuggling. It was indicated in response that negotiations are currently underway between decision-makers on both sides to better regulate this issue. Furthermore, there is also counter-surveillance of human smugglers. The OM indicates that it continues to combat human trafficking and human smuggling and encourages the prioritization of this among chain partners.

Possible solutions

One of the interviewees indicates that the multidisciplinary controls (see also [recommendation 2.3](#)) can help improve information gathering and sharing with the police and the OM as well as with other ministries. In this way, the serious undesirability and consequences of human trafficking can be communicated to companies and individuals from different disciplines. Furthermore, a (social) media campaign, a hotline, education and the creation of general awareness in society for this theme are put forward by several interviewees as possible solutions to draw more attention to the issue and thus gain more insight into it.

2.1.3 Assessment recommendation 1a en 1b

State of affairs information position

The Council notes that the recommendations on facilitating the building of an interregional and international information position and building a sound information position specifically in the area of human trafficking and human smuggling have not been followed. A local, interregional and international picture of the nature and extent of human trafficking and human smuggling is lacking to date. Nevertheless, the Council notes that steps have been taken by the RST and the PHIOC, among others, to intensify inter-insular cooperation. This led, for example, to a plan of action to achieve joint information processing in 2022. Concrete results of this are pending.

And while the ICSM has made efforts to improve its information position in general, this has not been done for human trafficking and human smuggling specifically. The minister or the ministry could have assisted this by prioritizing and facilitating the necessities for building an information position on human trafficking and human smuggling by the ICSM. The Council suggests that the ICSM consider the topic of human trafficking and human smuggling when deciding on a joint topic for 2024. In this way, according to the Council, "two birds with one stone" can be killed.

Opportunities and areas of concern

Furthermore, with the intended establishment of the IRC and ICB, the Council sees opportunities to obtain a better insight into the nature and scope as well as a better information position. However, the Council also notes that care must be taken to ensure that an uncoordinated multitude of information centers can lead to inefficient use of limited (financial and human) capacity and fragmentation of information in general. Therefore, the Council still sees an integral role for the ICSM. The ICSM is the information hub for achieving the intended goal, namely an integral and chain-wide insight into the nature and extent of human trafficking and human smuggling.

Role Minister

Based on the above, the Council is of the opinion that the Minister should encourage the countries to jointly work towards building an interregional and international information position in the field of human trafficking and human smuggling. Also, that the minister should facilitate that the ICSM in particular is better able to build a sound information position specifically in the field of human trafficking and human smuggling.

New recommendations

Follow-up of the past recommendations as soon as possible is therefore necessary. This also requires steering of the implementation by the Minister or the Ministry of Justice by making agreements, making the necessary supplies and a feasible time schedule. According to the Council, the Minister can do this by, among other things, making concrete agreements with the RST and other relevant organizations such as the KPSM on whether and how a local, interregional and international information position can be built up in both areas. As well as by ensuring an integral analysis on the nature and extent of human trafficking and human smuggling in Sint Maarten. However, the manner of organization, further development, coordination and professionalization of the information organizations of the various relevant organizations is conditional.

Recommendations 1a and 1b have not been followed: local, interregional and international information position human trafficking and human smuggling is lacking.

Among other things, the Council believes that the Minister should:

- more concretely promote that the countries work together towards building an interregional and international information position in the field of human trafficking and human smuggling.
- should facilitate that the ICSM in particular is better enabled to build a sound information position specifically in the area of human trafficking and human smuggling.

The Council reiterates its recommendations already made and formulates two new recommendations.

2.2 Strategic vision and policy human trafficking and human smuggling and (operational) cooperation

2.2.1 Recommendation 2019 and response letter 2022

In 2019 the Council formulated the following recommendation:

Recommendation 2: Increase administrative engagement through the development of a strategic vision and policy regarding human trafficking and human smuggling that facilitates, structurally secures and advances the growing operational cooperation in Sint Maarten in this area.

In the 2022 response letter, the Minister states the following about inter-ministerial cooperation on page 8:

'The departments within the Ministry of Justice exist of work processes that are often linked to work processes or responsibilities of other ministries. Cooperation between the different ministries is imperative for functioning efficiently and effectively.'

Joint controls

A very recent example of inter-ministerial collaboration and bundling forces in the interest of the country St. Maarten regards the controls of the multidisciplinary teams. (...)'

The minister gives the objective of and some examples of the audits held. And indicates the intention to continue the joint audits in the context of compliance.

2.2.2 State of affairs 2023

Findings 2023

Strategic vision and policy

Strategic vision and policy

The Department of Judicial Affairs itself is not developing a strategic vision and related policy. The department indicates that this is not currently necessary, because both the project group on the administrative approach to undermining (see below) and the task force on human trafficking and human smuggling (see [recommendation 3](#)) are engaged in this. If, for example, legislation needs to be drafted or legislation or policy needs to be reviewed or supplemented, the ministry can be called upon, according to the ministry. The OM indicates that it is mainly up to the government to draw up a strategic vision and corresponding policy for this subject, but that the OM is always willing to think along and does so. To this end, it regularly sits down with the LCSM and other organizations.

Policy plan government

The LCSM, following a recommendation from the US Department of State to the government of Sint Maarten, is in the process of drafting the "National Action Plan on Human Trafficking and Human Smuggling" in cooperation with the Ministry of Justice. The OM regularly consults with the LCSM and has an advisory role in this regard. The document was in draft form at the time of the inspection. However, the LCSM indicates in response that the plan is now ready, and the formal advisory process (DIV16579) is underway for approval. The document is with JZ&W for review. When that is complete, the next step is a decision by the Council of Ministers. The document describes as a goal:

'To prepare and submit a comprehensive and strategic policy that underpins the national action plan for how the Government of Sint Maarten intends to execute its approach for combatting Human Trafficking and Human Smuggling across the paradigms of Protection, Prevention, Prosecution, and Partnership.'

(Operational) cooperation

In addition to developing a strategic vision and policy, there are a number of noteworthy developments in the area of the administrative approach to undermining, operational cooperation between ministries and joint training that are relevant to the aforementioned vision and policy. In addition, the U.S. Department of State's assessment on Sint Maarten's fight against human trafficking is also important to include in considerations about a strategic vision and policy.

Administrative approach undermining crime

Project group Administrative approach undermining crime

Several years ago, 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, make an inventory of existing initiatives and wishes of the countries and draw up plans of approach. In 2022, three country reports on administrative approach were prepared for Aruba, Curaçao and Sint Maarten. The reports in turn served as the basis for the preparation of the national plans of approach. Starting in 2022, the Netherlands will make a total of 1 million euros available annually for the administrative approach to undermining in Curaçao, Aruba and Sint Maarten. Only initiatives for the participating countries, approved by the working group on the administrative approach to undermining, 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 then be followed to make payments. The "Protocol on the administrative approach to organized and undermining crime in the Caribbean countries of the Kingdom" was signed by all countries in 2023.²¹

Focus in Sint Maarten

Two participants from Sint Maarten first participated in the project group and now it is just one person, being the person who is also LCSM and project leader IRC. The project group made a presentation on the subject of undermining to various stakeholders, including the Department of Judicial Affairs of the Ministry. Because there is less knowledge and insight into human trafficking compared to human smuggling, the project group intends to focus on this, among other things, within the broader framework of undermining. In this context, the project group will propose funding for research to develop an undermining picture focused on human trafficking, counterfeit products and their economic and social impact. As well as the proposal to fund research into substantiating the presence of human trafficking and counterfeit products within the supply and retail chain. Also, among the proposals will be the creation of a learning platform, accessible to all government personnel, and a general awareness campaign.

Operational cooperation ministries

Multidisciplinary team

In the area of operational cooperation between ministries, a multidisciplinary team consisting of different departments from different ministries has been formed as part of a collaborative effort. This team is made up of representatives from the Ministry of Justice, Ministry of Tourism Economic Affairs, Transport and Telecommunications (TEZVT) and the Ministry of Health, Social Development and Labor (VSA). Together, they conduct inspections in brothels, among other places. Although multidisciplinary checks take place, they are less regular and less large-scale than before. After protests arose from the business community about the nature and scope of multidisciplinary inspections, the government instituted a (temporary) arrangement. This was done to give this sector time to take the necessary measures to get the matters being inspected in better order.

Objective controls

The OM does not actively participate in the concrete (preventive) controls. It does emphasize that, from a human trafficking perspective, these joint inspections are not (primarily) about searching for persons without legal title in order to deport them. The OM indicates that this may be a consequence of the inspections, but believes that the employer who allows the

²¹ AB 2023, no 63

persons without legal title to work should also suffer the consequences. This does not appear to be the case now, according to the OM. It is primarily about catching signals of human trafficking and the right approach to the victims (who are often illegal) in order to obtain relevant information. Appropriate (after)care is also part of this, however that is not in place yet (see also [recommendation 9f](#) in annex 1). After consultation within the multidisciplinary team, it was agreed that the UMM would draw up a list of questions for the organizations involved to use. This is to ensure that the focus is not only on gathering their own necessary information, but also on broader information gathering for the purpose of picking up signals of, for example, human trafficking or exploitation.

Controls in practice

Depending on the need, the controls take place comprised of different organizations. It is the IGD that initiates the controls and draws up plans of action (operation plan) for the multidisciplinary controls. Based on this, the tasks and responsibilities are known, according to the IGD. In addition, the inspectorates of the other ministries also conduct their own inspections independently within their own fields as well. The focus on human trafficking specifically is still being developed and, where relevant, the labor inspection currently has more of a signaling function. For example, the labor inspection has switched to digital forms and plans to include specific questions about forced labor and human trafficking. This type of information can then be shared with relevant partners. Furthermore, it would be good if staff also took a course on the subject.

Training

Course for government departments and agencies

A three-day course took place on Sint Maarten in July 2023 at the formal request and initiative of the Minister of Justice and the National Reporting Bureau Sint Maarten. This course was provided by staff from the Aruba Coordination Center for Human Trafficking and Human Smuggling (CMM Aruba).²² Participants from various government departments and agencies were present, including those from the task force. Initiatives included discussion of relevant legislation, the difference between human trafficking and human smuggling, and awareness about and recognition of signs of human trafficking in Sint Maarten.

Tier 3 status

In both 2021, 2022 and 2023, the U.S. Department of State's Trafficking in Persons Office gave Sint Maarten a Tier 3²³ rating in its report on combating human trafficking. The latest TIP-report²⁴ states the following:

“The Government of Sint Maarten does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so, even considering the impact of the COVID-19 pandemic, if any, on its anti-trafficking capacity; therefore, Sint Maarten remained on Tier 3. Despite the lack of significant efforts, the government took some steps to address trafficking, (...).”

2.2.3 Assessment

State of affairs strategic vision and policy

²² [St. Martin News Network - Sint Maarten Government Raises its Anti-Trafficking and Smuggling Awareness. \(smn-news.com\)](#)

²³ Tier 3: Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

²⁴ <https://www.state.gov/reports/2023-trafficking-in-persons-report/sint-maarten/>

The recommendation on increasing administrative engagement through the development of a strategic vision and policy for human trafficking and human smuggling that facilitates, structurally secures and advances the growing operational cooperation in Sint Maarten in this area has not been followed. As of 2019, the Minister nor the ministry has developed its own vision and policy regarding human trafficking and human smuggling to facilitate, secure and further develop the growing operational cooperation. However, the National Action Plan on Human Trafficking and Human Smuggling is in the making by the Council of Ministers, in which the Ministry of Justice, among others, is participating. While a joint strategic vision and policy is thus being developed, the final version, approval, implementation and results are yet to be seen.

Interministerial cooperation necessary

The Council agrees with the Minister that there are work processes that are linked to work processes or responsibilities of other ministries in such a way that they therefore require cooperation. According to the Council, this applies, among other things, to the necessary integral approach to human trafficking and human smuggling. For this, administrative involvement in the broad sense is indispensable, as the recommendation aims to achieve. Although steps are being taken to write a draft National Action Plan, a number of projects have been submitted by the project group on administrative undermining to gain more insight into the phenomenon of human trafficking, and cooperation and training is taking place at the operational level, four years after the report, this has not led to an available strategic vision and corresponding policy. It strikes the Council that there are many fragmented initiatives, but yet no broadly supported vision as a starting point for the various ministries, including that of justice. It is clear, however, that the various ministries are increasingly moving in the same direction and that there is a growing awareness that integral cooperation is required for these kinds of issues. This can be seen in the attention paid in the JVO, the cooperation in the task force, the multidisciplinary checks and the training provided.

Therefore, the Council certainly sees potential in the inter-ministerial cooperation required for the formulation of a strategic vision and policy where mutual use is made of each other's expertise and competences. However, the situation is such that it requires concrete action at the earliest possible moment. Its urgency is further emphasized by the fact that Sint Maarten has been afforded Tier-3 status for three consecutive years. The Council believes that prioritizing the formulation of a strategic vision and completion of the National Action Plan will be a good guide to achieve and build upon the minimum standards required.

Crime prevention fund

The Council has already carried out several inspections and recommendations on the Crime Control Fund. Its latest report showed that most of the recommendations had still not been followed, but the trajectories initiated were pointing in the right direction. The Council emphasized prioritization and implementation in the shortest possible time. In the meantime, the Council also suggested temporarily halting (applications for) funding of (new) projects pending completion of the initiated trajectories. In this context, the Council reiterated the importance of properly regulating the preconditions for the management and use of the fund.

Recommendation two has not been followed: a strategic vision and policy on human trafficking and human smuggling not yet developed.

The Council sees potential in the inter-ministerial cooperation needed to establish a strategic vision and policy where each uses the other's expertise and competences. However, the situation requires concrete action in the shortest possible term. The Tier-3 status of Sint Maarten also emphasizes this.

The Council reiterates its recommendation.

2.3 Interministerial taskforce and periodic consultation

2.3.1 Recommendation 2019 and response letter 2022

In 2019 the Council formulated the following recommendation:

Recommendation 3: Together with the relevant ministries, organizations and the national coordinator of Sint Maarten, form a task force and a periodic consultation that gives new impetus to combating and preventing human trafficking and human smuggling and where priorities are jointly set. This could include: drawing up a joint agenda with a limited number of priorities per year. One priority that can be realized in the short term, for example is an awareness campaign. And one perhaps more extensive priority for which a number of concrete steps can be realized in the year in question, for example the care and aftercare of victims. Draw up a joint plan of action for each priority (including timeline, action holders and funding) and monitor progress in the task force/periodic consultations. In doing so, look explicitly at how law enforcement, administration, aid, NGOs and the public and private sectors can reinforce each other.

2.3.2 State of affairs 2023

Findings 2023

Taskforce human trafficking human smuggling

Establishment and objective taskforce

At the initiative of the LCSM, an inter-ministerial task force on human trafficking and human smuggling was established in the second quarter of 2023, consisting of representatives from the Ministry of Justice (the OM, IGD, UMM/KPSM, Coast Guard, NRB/NRC), the Ministry of General Affairs (Department of Legal Affairs and Legislation), the Ministry of VSA (Department of Labor, Labor Inspection and CPS) and the Ministry of Tourism, Economic Affairs, Transport and Telecommunications (Department of Economy, Transport and Telecommunications, Inspection TEZVT). The IGD says it has not yet been able to participate, due to capacity issues. It will, however, be kept informed of progress via e-mail and provided with relevant documents. The goal of the task force is to achieve a joint integrated approach in combating and preventing human trafficking and human smuggling. This includes inter-ministerial consultation, cooperation, knowledge sharing, information exchange, training, defining strategies, developing and (legally) streamlining different approaches and creating a common ground.

Consultation

The task force on human trafficking and human smuggling meets monthly and has met four times up until the beginning of the fourth quarter of 2023. Currently, the task force is in a preparation, consultation, and training phase. The task force works with an agenda and minutes are taken by the LCSM. Inspectors have been able to view the detailed agenda and minutes of a meeting digitally. During the meetings, various topics are discussed, and everyone contributes information from their own fields. Topics covered so far include: modern slavery/exploitation in a domestic setting, construction labor, licensing and prostitution. If necessary, action takers are identified. One interviewee points out that in addition to consultation, actual enforcement should be pursued. There are good opportunities, according to one interviewee, when it comes to increasing awareness, strengthening and better coordinating cooperation, providing more human, financial and material resources and making

use of each other's expertise and competencies. The interviewees characterize the consultations as positive, but there is still a long way to go.

Priorities

A number of priorities have been set by the task force. This is firstly in the area of raising awareness in general and recognizing signs of trafficking, specifically by training those involved. And in September 2023, stakeholders from the KPSM, the IGD, the OM and the labor inspectorate also attended a three-day online module called "Law Enforcement Management training on Anti-human trafficking skills. This course was provided by the Warnath Group²⁵ in collaboration with CARICOM IMPACS. Furthermore, awareness training on the topic of human trafficking was also conducted by KPSM to various judicial organizations. Furthermore, an awareness training was conducted by the KPCN on Sint Eustatius in December 2023, to which 2 persons from the IGD were invited, among others.

In addition, the second priority set relates to updating the prostitution policy. The review of the policy and its updating has been forwarded to the LCSM and since it is not only a judicial matter, it has also been introduced and prioritized in the task force. It does indicate that there is no need to reinvent the wheel and that best practices are also being looked at. Several interviewees do point out that, given the composition of the Task Force and the integral subject of human trafficking and human smuggling, certain decisions on the subject require various ministers or the Council of Ministers to implement the plans. This currently applies specifically to (wanting to update) the prostitution policy. Indeed, stakeholders from other ministries are not bound by a possible request or order from the Minister of Justice. For this reason, efforts are currently being made to gain political and ministerial support for reviewing and updating the policy.

A third priority has been set to combat forced servitude in a domestic setting. Public awareness campaigns are envisaged as a starting point. The LCSM indicates that support has also been pledged from club owners and migrant organizations to cooperate with media publications on the listed criminal offenses. This campaign was planned for the last quarter of 2023 but has not yet started.

Joint controls

Currently no joint audits are taking place by the task force. This is because the task force is mainly in the preparation and consultation phase.

The OM indicates that they have the impression that various chain partners are on the same wavelength and are of the opinion that at some point club owners must also be punished administratively and/or criminally. This can be done by, for example, (temporary) closure or revocation of licenses. This requires each chain partner to consider what powers it has in this context.

2.3.3 Assessment

State of affairs taskforce and consultation

The recommendation to form a task force with relevant ministries, organizations and the LCSM and meet periodically has been followed. Periodic meetings are held using an agenda and minutes are taken. Joint priorities have been set, including a major priority of updating the prostitution policy. Work is also being done to record the agreements made and assign responsibilities to them. The variety of different departments and organizations participating

<https://www.warnathgroup.com/>

in the task force makes it possible to see how and where they can reinforce each other. The Council has the impression that this has given a strong impulse towards an inter-ministerial integral approach to human trafficking and human smuggling as well as the more specific subject of prostitution policy and its enforcement. The chosen joint priorities reflect the problems well and, in the Council's opinion, form a good basis for further cooperation.

New recommendation

The Council notes that several ministries are involved in the task force. As the subjects transcend ministries, there must be clarity from, and decisions taken by, the various ministries involved or the Council of Ministers. This is so that the fruits of the task force can be reaped and the (future) plans can actually be implemented. The Council therefore believes that the Ministry of Justice must make agreements with the other ministries about facilitating the task force, the interdepartmental decision-making authority and monitoring the progress of the agreements made in the task force. The Minister of Justice should take the lead in this.

Recommendation 3 has been followed: Interministerial taskforce and periodic meetings have been realised.

The Council believes that the joint priorities chosen are a good reflection of the current issues and provide a good basis for further cooperation.

The Council is issuing a new recommendation so that the plans of the task force can be effectively supported and implemented.

2.4 Different forms human trafficking in (integrated) approach

2.4.1 Recommendation 2019

In 2019 the Council formulated the following recommendation:

Recommendation 4: In the (integral) approach to human trafficking in Sint Maarten, take all the different forms, including criminal exploitation into account.

2.4.2 State of affairs 2023

Findings 2023

Forms human trafficking: general

The forms of human trafficking are: labor exploitation (forced labor or forced provision of services), sexual exploitation (forced provision of sexual services for payment), criminal exploitation (e.g., forced execution of crimes) and forced organ removal (forcibly donating organs).

Form: sexual and labor exploitation

Interviewees indicated that, in practice, when dealing with human trafficking, the main focus is on the forms of sexual (for example, in the adult entertainment industry) and labor exploitation (for example, in the construction industry). Little or no attention is paid to other forms of human trafficking.

Form: criminal exploitation and forced organ removal

The OM indicates that as far as the form of criminal exploitation is concerned, there is still much to be gained. During the aforementioned course given by the CMM Aruba, this form of human trafficking was specifically discussed. However, the signs are not easy to recognize

because the suspects in these cases are both perpetrators and victims, according to the OM. To combat this concretely, more training is needed for awareness, recognizing the signs in these cases and approaching potential victims.

The form of forced organ removal is not known to those queried as being an issue in Sint Maarten.

2.4.3 Assessment

State of affairs forms of human trafficking

The recommendation to consider all forms, including criminal exploitation, in the (comprehensive) approach to human trafficking in Sint Maarten has not been followed. In the Council's 2019 report it was already apparent that as far as human trafficking is concerned, in particular the manifestations of sexual and labor exploitation were mentioned, this is still the case. At the time, the Council also mentioned in particular the form of criminal exploitation, which in 2023 is still insufficiently addressed. The Council is pleased that a start has been made with paying specific attention to the subject in a training course. It is now important to continue this. Furthermore, the various forms must still be translated into the (comprehensive) approach to human trafficking. The Council believes that the draft National Action Plan, the task force and the operational cooperation offer good starting points for this.

Recommendation 4 has not been followed: Still insufficient attention for all forms of human trafficking.

The Council is pleased that a start has been made with paying specific attention to the subject in a training course. This now needs to be continued. Furthermore, the various forms of trafficking still need to be translated into the (comprehensive) approach to human trafficking.

The Council reiterates its recommendation.

2.5 National coordinator human trafficking and human smuggling Sint Maarten

2.5.1 Recommendation 2019

In 2019 the Council formulated the following recommendation:

Recommendation 5: Provide in the need for support of the country coordinator in Sint Maarten so that he can implement the agreements made in the MoU.*

2.5.2 State of affairs 2023

Findings 2023

Memorandum of understanding

The topic of human trafficking and human smuggling is one for which there is recurrent attention in the JVO. In 2022 an evaluation took place of the Memorandum of Understanding (MoU) on cooperation between the Netherlands, Curaçao, Aruba and Sint Maarten to prevent and combat human trafficking and human smuggling. The MoU was evaluated as agreed and in early 2023 the countries agreed to the minimally adjusted new version, according to the ministry. The MoU includes a number of tasks for the country coordinators. The MoU has been signed by all countries involved.

Support LCSM

The support needs of the LCSM have not been met. However, since September 2023, the LCSM has had an intern working on the topic of human trafficking and human smuggling for

the duration of three months. There is no budget available for the LCSM. Given the work involved, it would be good if this position were directly under the Secretary General of the Ministry of Justice (SG), according to the LCSM. There is no provision for this, and it would require a decision by the Minister and possibly modification of the Justice function book.

In practice

In practice, the LCSM has succeeded in connecting the representatives of the different ministries and on taking initiative through the task force on human trafficking and human smuggling (see [recommendation 2.3](#)). The LCSM indicates that the goal is also to establish procedures for all services to be provided in the area of human trafficking and human smuggling. De internationale organisatie voor migratie (IOM) has collaborated with the CMM Aruba and Human Trafficking Prevention Curacao²⁶ to establish a standard operating procedure that looks at, among other things, identifying, referring, assisting and protecting victims of human trafficking. A similar request from the LCSM is pending to assist Sint Maarten in this regard as well.

Consultation coordinators

As agreed on in the MoU, the country coordinators meet regularly and met in Curaçao in October 2023 to, among other things, discuss the state of affairs, determine strategies, share cooperation initiatives and discuss possible funding options for combating human trafficking and human smuggling in the countries and in the region. This included representatives from the KPSM/UMM, IGD and labor inspection (task force) to provide more information on the topic of human smuggling and trafficking.

2.5.3 Assessment

State of affairs support LCSM

The recommendation to meet the support needs of the LCSM to implement the agreements made in the MoU has not been met. The Council is deeply concerned about the vulnerability and risks created by placing various (demanding) functions and duties with a single person. As this is also the case with this recommendation, the importance of structural support becomes all the more apparent, especially in the context of continuity. The Council therefore believes that if the agreements made in the MoU are to be fulfilled in the short term, structural support of the LCSM is a precondition for this. The Council calls upon the Minister to take this up expeditiously. Especially in light of the work performed by the LCSM and those involved to date.

Recommendation 5 has not been followed: Failure to provide for structural support needs of the national coordinator.

The Council is of the opinion that structural support of the LCSM is a prerequisite for being able to fulfill the agreements made in the MOU within an acceptable time frame. The Council calls on the Minister to address this expeditiously.

The Council reiterates its recommendation.

2.6 National Reporting Bureau on Human Trafficking

2.6.1 Recommendation 2019

In 2019 the council formulated the following recommendation:

²⁶ [SOP-on-human-trafficking_31-Dec-2020_Final-updated-15112021-14213.pdf \(humantraffickingpreventioncuracao.com\)](#)

Recommendation 6: Organize the National Reporting Bureau on Human Trafficking structurally or safeguard its functions, so that the reporting, monitoring and information function is properly fulfilled. When considering and deciding on the organizational embedding of the NRB (or its functions), put the vision of - and actual task performance of - the NRB first.

2.6.2 State of affairs 2023

Findings 2023

National Reporting Bureau on Human Trafficking

The National Reporting Bureau on Human Trafficking (NRB) was part of the IGD as a project and never had its own budget. Interviewees indicated that the bureau had not been in operation in recent years. For several months, the LCSM has also been in charge of the (re)establishment of the NRB. It is currently staffed by the LCSM and two IGD employees and the temporary intern. The employees help where they can and do not fall under the LCSM. Also, the idea is to change the name to 'National Reporting Center' consisting of a number of departments including 'research & development' and 'support'. An email address has also been created by government IT for use by employees. The concept and structure will be similar to that followed for the embedment and setup of the CMM Aruba²⁷, according to the LCSM.

(Re)organisation NRB/NRC

The (re)organization of the office is at the stage in which the intended organization is being worked out in a draft document. And it is intended to fall directly under the SG of Justice, which requires a legislative amendment on the organization of the Justice Department and the Justice function book. This choice is based on the necessary multidisciplinary and cross-ministry cooperation, the broad international scope of the subject and the need of the Ministry of Justice to address this issue thematically. A decision on the formal embedding of the NRB has yet to be made by the Minister.

The NRB wants a tip line to fulfill its reporting function, however, capacity for this must first be formally arranged. For now, due to inactivity in recent years, the NRB has also not fulfilled its information function. A communication strategy will be available in the last quarter of 2023. The LCSM adds in its reaction that in February 2024 a (social) media team with experts will be on Sint Maarten to work on the document and where possible will result in adjustments.

2.6.3 Assessment

State of affairs National Reporting Bureau

The recommendation to structurally set up the National Reporting Bureau on Human Trafficking or to safeguard its tasks, so that the reporting center, and its monitoring and information function can be properly executed, has not been followed up. The (re)organization of the NRB is still in the initial phase, in which a choice must first be made for the organizational structure and possible associated procedures for its realization. In the Council's view, it is up to the Minister to determine under which or under whose authority the bureau falls, as long as the legal framework is observed. In view of the important reporting, monitoring and information function of the bureau, the Council urges the Minister to make a choice so that the bureau, which should have already existed for years, can carry out these functions. The Council

²⁷ [Home | CMM Aruba](#)

already gave some consideration to the deliberation and decision-making regarding the organizational embedding in its 2019 recommendation.

Recommendation 6 has not been followed: NRB is not yet structurally organized, and its tasks are not yet sufficiently secured.

The Council believes that it is up to the Minister to determine under which or under whose authority the bureau falls, as long as the legal framework is observed. Given the important reporting, monitoring and information function of the bureau, the Council urges the minister to make a choice so that the bureau can actually perform these functions.

The Council reiterates its recommendation.

2.7 Regional crime picture analysis and human trafficking study CARRIBEAN FORUM (CARIFORUM)

2.7.1 Recommendation 2019

In 2019 the Council formulated the following recommendation:

Recommendation 7: Follow (through the country coordinator) the research for the creation of the regional CBA and CARIFORUM human trafficking study, study the research findings, and where relevant, translate them to the approach to human trafficking and human smuggling in Sint Maarten.

2.7.2 State of affairs 2023

Findings 2023

Crime picture analysis (CBA)

The first CBA for Sint Maarten dates back to 2011. This was followed by the first biennial Regional Crime Picture in late 2019.²⁸ In 2022, an update of the Regional Crime Picture was published.²⁹ Both regional pictures addressed the state of affairs on human trafficking and human smuggling. The national coordinator indicates that he is aware of these documents. However, those involved are not yet at the stage where the research results as such have been studied to translate where relevant to the approach to human trafficking and human smuggling. The KPSM indicates that the various countries, including Sint Maarten, are working on a local CBA. The Third Regional Crime Picture 2023-2025 was commissioned by the Attorney General and is not publicly available. The information desk and some members of the ICSM contributed to it.

Prioritisation information position

The OM indicates that based on the regional Crime Picture, the strengthening of the information position on human trafficking is one of the priorities.

Cariforum

²⁸ Simone van der Zee commissioned by the RST (2019). Memo policy plan regional detective cooperation. Regional crime picture. Trends in the Dutch Caribbean 2020-2022.

²⁹ Simone van der Zee commissioned by the RST (2022). Memo policy plan on regional detective cooperation. Regional crime picture update. Trends in the Dutch Caribbean 2022-2023.

The study on human trafficking in the Caribbean Forum region was launched on July 19, 2019, but is not yet available, according to the firm conducting the study.^{30, 31, 32}

2.7.3 Assessment

State of affairs regional CBA's

The recommendation to follow (through the national coordinator) the research for the creation of the Regional Crime Picture, to study the research results and where relevant translate them to the approach to human trafficking and human smuggling in Sint Maarten has not been followed. The Council notes that the aforementioned task force is currently particularly in a preparatory and consultation phase in which priorities have been determined. And the national action plan, as indicated, is still in draft form. Although the crime pictures are known, there is no translation of the studies into an actual approach.

Cariforum disregarded

Since the human trafficking study is not yet available and depends on third parties, the Council has disregarded that part of the recommendation.

Recommendation 7 has not been followed: Regional Crime Picture is available and known but has yet to be concretely translated into approach. CARIFORUM study not yet available.

The Council notes that although the Crime Pictures are known, the studies have not yet been translated into an actual approach.

The Council reiterates its recommendation.

2.8 Uniformity and continuity operational cooperation

2.8.1 Recommendation 2019

In 2019 the Council formulated the following recommendation:

Recommendation 8: Promote uniformity and continuity in operational cooperation, by ensuring that working agreements, for example on times of scaling up and/or transfer, are recorded and known in the field.

2.8.2 State of affairs 2023

Findings 2023

Operational cooperation

What was stated about multidisciplinary controls in [recommendation 2.2](#) under the heading "Operational cooperation ministries" applies here as well. In addition to the multidisciplinary controls of the various ministries involved, operational cooperation also takes place between the judicial services. Depending on the need, this takes place in different compositions. An example is the cooperation between the IGD, customs and the UMM. The agreements on

³⁰ Zie <https://dpglobal.com/projects/>

³¹ In 2020, the study 'Latin America Organized Crime Study for the Kingdom of the Netherlands' was published. This study was conducted by international crime research and analysis firm InSight Crime on behalf of the Ministry of Foreign Affairs. The study is about cross-border organized crime in Latin America. And about its links to and effects on the Kingdom of the Netherlands. In the report, the subject of human smuggling and human trafficking is cited a number of times.

³² Furthermore, the article 'A critical approach to understanding human trafficking in the Caribbean' by Mauricia John (2020) in The International Journal of Human Rights is noteworthy. This article not only critically analyzes the countries most vulnerable to human trafficking, but also discusses governments that are in compliance, prevention strategies as well as possible policy recommendations.

cooperation, communication and exchange of information in these cases is not formalized as such and based mainly on informal contacts, according to those interviewed.

The OM in particular indicates that they see an improvement in cooperation between the various relevant chain partners. Interviewees point out that the various forms of cooperation take place on an informal basis and are based on verbal agreements, contacts and short lines of communication. There is not yet a situation whereby working agreements have been established in the operational setting.

Bottleneck language barrier

A specific bottleneck that emerges in human trafficking cases is currently the language barrier and availability of interpreters. In these types of cases, most suspects and victims speak only Spanish, Creole or Patois. The use of interpreters is indispensable for conducting investigations or interviewing these people. However, this is very costly and the financial resources for this are minimal and inadequate. There is also already a problem of arrears to interpreters, which does not contribute to a solution. In practice, an appeal is made to (some) colleagues within the KPSM who speak the languages, however, this is very time consuming in addition to their own work.

2.8.3 Assessment

State of affairs regarding the establishment of working agreements

The recommendation to promote uniformity and continuity in operational cooperation, by ensuring that working agreements, for example about when to scale up and/or transfers, are recorded and made known in the field, has not been followed. The Council therefore emphasizes once again the intended purpose of recording and publicizing working agreements, being uniformity and continuity. This is all the more true when the Council considers this more broadly from the perspective of inter-ministerial developments and cooperation.

Recommendation 8 has not been followed: Working agreements serving operational cooperation not established.

The Council emphasizes the intended purpose of establishing and publicizing working agreements, being uniformity and continuity. This is all the more true when the Council considers this more broadly from the perspective of inter-ministerial developments and cooperation.

The Council reiterates its recommendation.

2.9 Follow-up recommendations prostitution policy and enforcement in Sint Maarten

2.9.1 Recommendation 2019

In its 2021 study on dealing with human trafficking and human smuggling, the Council also included the six recommendations on the prostitution policy already made in 2016. In its 2021 report, the Council noted:

“That so far none of the above recommendations have been followed up. The continuing lack of clarity in regulations and policy regarding prostitution complicates the approach to prostitution-related crimes and makes the position of sex workers in Sint Maarten more vulnerable. Partly as a result of the criminal case against Casa Blanca and Hypnotic, the Council emphasizes that a tolerance policy should create the conditions under which prostitution may be practiced. This tolerance policy can in no way condone exploitation within prostitution; in the opinion of the Council, such reasoning should therefore

be emphatically rejected. Based on these findings and conclusion, the present inspection can also be considered a follow-up inspection to the report Prostitution Policy and Enforcement in Sint Maarten. The Council called on the Minister of Justice to follow-up on the recommendations made in 2016 and to include the relevant findings from the inspection regarding human trafficking.”

In 2019 the Council formulated the following recommendation:

Recommendation 9: Follow up on the 6 recommendations from the report Prostitution Policy and Enforcement in Sint Maarten (2016).

2.9.2 State of affairs 2023

Findings 2023

Findings chapter 2 applicable

Since the trafficking in persons can take the form of sexual exploitation (providing forced sexual services for payment) among other things, what has been stated (in general terms) in the findings in Sections 2.1 (nature and scope), 2.2 (strategic vision and policy), 2.3 (inter-ministerial task force) and 2.4 (forms of human trafficking) also applies here.

General picture

In [annex 1](#) the findings for prostitution policy are presented for each recommendation (9a through 9f). The general picture based on these findings is that no actual progress has been made on any of the subjects for the improvement of the prostitution policy and its enforcement. This is both in terms of legislation and policy and in terms of chain cooperation, effective inspections, information sharing between administrative and criminal enforcement, and adequate facilities. According to interviewees, progress remains primarily stalled in the necessary comprehensive legislation, updating of policy and interministerial involvement and responsibility. There have been developments in some areas that can contribute to the issues mentioned, but these are often still in the early phase rather than in the actual implementation phase. All interviewees specifically emphasize their serious concerns in the area of adequate care for victims. And indicate that this situation is untenable and unsustainable.

Steering in the follow-up of all the recommendations

The Ministry of Justice has indicated that no concrete steering has been given to the follow-up of the recommendations, neither those on the subject of human trafficking and human smuggling, nor those on the prostitution policy and its enforcement. The LCSM indicates that the aforementioned draft National Action Plan also addresses the follow-up of the Council's nine recommendations.

2.9.3 Assessment

State of affairs regarding follow-up of recommendations on the prostitution policy and its enforcement

None of the six recommendations regarding legislation, policy, chain collaboration, effective inspections, information sharing between administrative and criminal enforcement, and adequate facilities have been followed up. The Council concludes that insubstantial progress has been made with regard to the prostitution policy and its enforcement. Essentially, the situation is virtually the same as it was in 2019. This not only ensures that the women in question have (remained) in a vulnerable position for years, but also still leaves the door open for unacceptable risks for crimes such as sexual exploitation. The Council emphasizes that administrative support and cooperation between the ministries involved in bringing about a

codified system of legislation and updating the prostitution policy in particular is an indispensable and urgent necessity. The success of the developments initiated in the area of the prostitution policy and its continued progress also depend heavily on this. This applies in particular to cooperation in the interministerial task force, the prioritization of the review of the prostitution policy and cooperation in multidisciplinary inspections. The Council urges the minister to take the lead in the necessary urgent attention to the prostitution policy and its enforcement and (the steering in) the follow-up of the recommendations in that context. The Council points out that if the Minister systematically fails to follow up on the Council's recommendations, the Council has the authority to notify the representative body of the country concerned and the Council of Ministers of the Kingdom.³³ Whether it is the case that the Minister has systematically failed 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. For the subject of the prostitution policy and its enforcement, two follow-up inspections have now determined that none of the recommendations have been acted upon. Prioritization of the subject is therefore called for.

The six recommendations have not been followed: insufficient progress on the prostitution policy and its enforcement.

The Council urgently requests the minister to take the lead in the needed urgent attention to the prostitution policy and its enforcement and (the steering in) the follow-up of the recommendations in that context.

The Council reiterates its six recommendations on the prostitution policy and its enforcement.

³³ Article 32 Kingdom Act Law Enforcement Council.

3. Overarching picture and recommendation(s).

In chapter two and Appendix 1, the Council presented the state of affairs on the nine recommendations from the report on the approach to human trafficking and human smuggling (including enforcement of the prostitution policy). In this final chapter, the Council presents an overall picture of the results of this inspection. The Council does this by answering its central research question and sub-questions. The Council concludes with its recommendations.

3.1 Answering the central research question and sub-questions

The central research question addressed, "*To what extent has the Council's recommendations on the approach to human trafficking and human smuggling and the enforcement of the prostitution policy been followed up?*"

The sub-questions addressed:

1. *What is the state of affairs on the follow-up of the first eight recommendations of the report on the approach to human trafficking and human smuggling?*
2. *What is the state of affairs on the follow-up of the six recommendations from the report on enforcement of the prostitution policy in Sint Maarten (ninth recommendation in the report on the approach to human trafficking and human smuggling)?*

Below, the Council formulates its two main conclusions and its concluding remarks.

Main conclusion 1: The approach to human trafficking and human smuggling is (still) not adequate.

One out of nine recommendations followed

The Council concludes that only one of the nine recommendations has been followed. This concerns recommendation three on establishing a task force and periodic consultations. The Council believes that the task force is an important pivotal element in the necessary inter-ministerial cooperation in the comprehensive approach to human trafficking and human smuggling. The Council emphasizes that administrative support is indispensable in its success.

Eight of nine recommendations not followed

The Council concludes that eight of the nine recommendations have not been followed. This means that the vast majority of the recommendations have not been followed. It concerns the recommendations on the national, interregional and international information position (recommendation 1), a strategic vision and policy (recommendation 2), the various forms (recommendation 4) and the support of the national coordinator (recommendation 5). Furthermore, it concerns the recommendations on the National Reporting Bureau (recommendation 6), the regional CBA (recommendation 7), operational cooperation (recommendation 8) and the follow-up to the recommendations on the prostitution policy and enforcement (recommendation 9). The compliance rate is **11%**.³⁴

Early stages

Although steps are certainly being taken in some areas, these are mostly still in the early stages of cooperation, according to the Council. Their concrete results have yet to be seen. Again, the Council emphasizes the indispensable support of the administration for the necessary integrated approach to human trafficking and human smuggling.

Main Conclusion 2: Insufficient substantial progress made on the prostitution policy and enforcement in Sint Maarten.

None of the recommendations followed

³⁴ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

None of the recommendations on the prostitution policy and its enforcement have been followed up. These are the recommendations on a codified system of laws and regulations (recommendation 9a), evaluation of policy (recommendation 9b), chain cooperation (recommendation 9c), effective inspections (recommendation 9d), administrative and criminal enforcement (recommendation 9e), and adequate care facilities (recommendation 9f). The compliance rate is therefore **0%**.

Council concerns

The Council expresses its serious concerns given that seven years later no substantial progress has been made on this issue. The Council reiterates here that this not only ensures that the women in question (have continued to) be in a vulnerable position for years during their time in Sint Maarten, but also leaves the door open for unacceptable risks for crimes such as sexual exploitation. It is time to work towards closing this door as soon as possible. Since the topics of human trafficking, human smuggling and prostitution policy have common ground, it also applies here that support from the relevant minister(s) is indispensable in addressing these serious issues.

In conclusion:

Prosecution, Protection, Prevention and Partnership

The approach to human trafficking and human smuggling is based on four main pillars, namely: Prosecution, Protection, Prevention and Partnership. These 4Ps form a framework for an effective integrated approach using barrier models. Based on the state of affairs in the follow-up of the recommendations, the Council concludes that development can be seen especially in the 4th P, being partnership. This is a good start, however much more development must be pursued to also properly set up and implement the other three pillars. The fact that Sint Maarten has been granted Tier-3 status for three consecutive years emphasizes the urgency. It is now up to the relevant minister(s) to prioritize the integrated approach to human trafficking and human smuggling, to take the necessary decisions and to facilitate those involved as much as possible in the joint fight against this. This includes the subject of the prostitution policy and its enforcement.

Steering of follow-up recommendations

The Council is aware of the multitude of recommendations that require follow-up, including those related to human trafficking, human smuggling and prostitution policy and its enforcement. And that given the ministry's human, financial and material resources, that priorities must be set, is unavoidable. However, the Council is of the opinion that this is precisely why, for the purpose of steering and monitoring, an action plan could be drawn up, for example, to determine the priorities, identify the requirements and provide guidance on matters such as a realistic time schedule, action holders and financing. The formulation of a response to the offered reports, among other things, could help in the implementation of this because it can often outline the intended direction and approach. Furthermore, the Council believes it would be a good idea for the Minister of Justice to draw up a report six months after the publication of an inspection report on the concrete state of affairs in the (progress of the) implementation of the recommendations. According to the Council, the foregoing can also contribute to better steering and monitoring of the follow-up of the recommendations.

3.2 Recommendation

Given the current state of affairs, the Council formulates two new recommendations on the information position and a new recommendation on facilitating the task force. In addition, the Council recommends that the minister address as soon as possible the recommendations that have not yet been followed up.

The Council also requests the Minister of Justice to prepare a report six months after publication of this inspection report on the concrete status of the (progress of the) follow-up of the recommendations.

The tables show the state of affairs. In Table 7, the Council shows the status of the follow-up of the recommendation in 2023 for each subject and where relevant to the subject in question,

the newly formulated recommendations (colored gray). Table 8 shows the status in 2019 and 2023 for the recommendations on the prostitution policy.

Table 5: Overview state of affairs recommendations human trafficking and human smuggling

	Recommendations report Approach human trafficking and human smuggling	State of affairs 2023 recommendations already made	New recommendations 2023
	To the Minister of Justice		
Information position	1. a) Promote the ability of the Intelligence Center Sint Maarten to build a sound intelligence position in the field of human trafficking and human smuggling. * b) Promote that – in relation to the above – countries work together towards building an interregional and international intelligence position in the area of human trafficking and human smuggling *	Not followed The Council reiterates its recommendation	-
Information position	c) Provide a chain-wide/integral analysis initiated by the ICSM on the nature and extent of human trafficking and smuggling in Sint Maarten. Determine a realistic timeline for this.** d) Make agreements with the RST and other relevant organisations such as the KPSM and ICSM whether – and if so how – an interregional and international information position in the field of human trafficking and human smuggling can be built.**	-	2 new recommendations 2023
Strategic vision and policy	2. Expand administrative commitment by developing a strategic vision and policy on human trafficking and human smuggling that facilitates, structurally secures, and advances the growing operational cooperation in Sint Maarten in this regard.	Not followed The Council reiterates its recommendation	-
Task force & periodic consultations	3(a). Together with the ministries, organizations, and the national coordinator of Sint Maarten, establish a task force and regular consultations that will energize combating and preventing human trafficking and human smuggling and jointly set priorities. Consider the following: the drafting of a joint agenda that includes a limited number of priorities per year. One priority that can be realized in the short term, is, for example an awareness campaign. Another priority, perhaps a more comprehensive one, for which several concrete steps can be taken in any given year, is for example the accommodation and follow up care for victims. Formulate a joint plan of approach for each priority (including timetable, people responsible for acting and funding) and monitor progress in the task force/regular consultation. Specifically examine how law enforcement, government, aid providers, NGOs, and the public and private sectors can support each other.	Followed	-
Facilitation of task force	3b Take the lead towards the relevant ministers to facilitate the task force at a ministerial level in what is needed and to take the necessary decisions for the purpose of combating and preventing	-	New recommendation 2023

	human trafficking and -smuggling.		
Forms of human trafficking	4. Take all forms of human trafficking into account in the (integral) approach to combat and prevent these types of crime, including criminal exploitation.	Not followed The Council reiterates its recommendation	-
Support LCSM	5. Accommodate the support requirements of the National Coordinator in Sint Maarten, so that he can fulfill the agreements established in the MoU. *	Not followed The Council reiterates its recommendation	-
Organisation NRB	6. Organize the National Reporting Bureau on Human Trafficking in a structured manner or safeguard its tasks, so that the reporting, monitoring, and information functions are properly fulfilled. When considering and deciding on the way in which the NRB (or its functions) should be organized, prioritize the NRB's vision and the way its tasks are actually performed.	Not followed The Council reiterates its recommendation	-
Research results	7. Follow (via the national coordinator) the research for the establishment of the regional CBA and the CARIFORUM human trafficking study, review the research results and where relevant translate them into the approach on human trafficking and human smuggling in Sint Maarten.	Not followed The Council reiterates its recommendation	-
Working arrangements	8. Promote uniformity and continuity within operational cooperation by ensuring that working arrangements, for example on occasions when scaling up and/or transferring, are documented, and known to the profession.	Not followed The Council reiterates its recommendation	-
Follow-up of recommendations prostitution policy	9. Follow up on the 6 recommendations outlined in the report Prostitution policy and enforcement in Sint Maarten (2016). See the following table for recommendations 9a to 9f.	Not followed The Council reiterates its recommendation	-

* The Council included a similar recommendation in the reports of the Caribbean Netherlands and Curaçao (2019).

** The Council included a similar recommendation in the follow-up inspection of the Caribbean Netherlands (2024).

Table 6: Overview state of affairs recommendations prostitution policy

	Recommendations report prostitution policy	Status 2019	Status 2023
	To the Minister of Justice		
Closed system of laws and regulations	9a. Provide a complete overall system of laws and regulations for the purpose of law enforcement.	Not followed	Not followed The Council reiterates its recommendation
Evaluation policy and enforcement	9b. Evaluate the policy and its enforcement, where possible in cooperation with the other ministers concerned. Provide suggestions for adjustments where necessary or desirable. Involve all relevant interests.	Not followed	Not followed The Council reiterates its recommendation
Chain collaboration and responsibilities	9c. Promote working chain collaboration and joint responsibility for the objectives of the policy.	Not followed	Not followed The Council reiterates its recommendation
Controls, enforcement and training	9d. Prescribe effective controls and enforce the laws and other rules imposed strictly. Provide training for inspecting personnel to recognize abuses.	Not followed	Not followed The Council reiterates its recommendation

Administrative and criminal enforcement	9e. Take care of good feedback and sharing of information between the administrative and criminal enforcement.	Not followed	Not followed The Council reiterates its recommendation
Adequate facilities	9f. Take care of adequate facilities for the care of victims of trafficking, exploitation and forced prostitution.	Not followed	Not followed The Council reiterates its recommendation

Appendix 1 Follow-up recommendations Prostitution policy and enforcement Sint Maarten

In 2016, the Council released the report the Prostitution Policy and Enforcement in Sint Maarten. At that time, it was found that the policy is not conclusive and there is virtually no cooperation between the administrative and criminal enforcement agencies. All respondents indicated that there were opportunities to be had here, however, no one took the first step to achieve a structural integrated approach. In 2016, the Council made six recommendations to the Minister of Justice. In its 2021 inspection on the approach to human trafficking and human smuggling, the Council included these six recommendations. None of the recommendations were found to have been followed. The Council again recommended follow-up.

Below, the Council describes in addition to [paragraph 2.9](#) state of affairs in 2023 for each recommendation and provides its assessment for each recommendation.

Recommendation 9a Codified system of laws and regulations

Recommendation 2016 / 2019

The Council formulated the following recommendation:

Recommendation 9a: Ensure a codified system of laws and regulations for the purpose of law enforcement.

State of affairs 2023

Findings 2023

Legal framework

The ministry indicates that there is not yet a codified system of laws and regulations for the purpose of law enforcement. This still needs to be addressed. Also, the draft national ordinance licensing sex businesses - as in 2016 - is still in draft form. According to the ministry, the status of the draft ordinance is that it is still in the formal process, but has not yet been submitted for consideration by Parliament. Furthermore, it is pointed out by several interviewees that it would be good to improve the position of the women in question in prostitution and enshrine it in law, such as registration as a sole proprietorship, for example, so that they would then be less dependent and vulnerable.

The LCSM adds, in its reaction, that the advisory report on the "National Action Plan on Human Trafficking and Human Smuggling" (DIV 16579), cited in section 2.2.2, also addresses this issue.

Assessment

State of affairs codified system

The recommendation to ensure a codified system of laws and regulations for law enforcement has not been followed. There are no changes in the legal framework compared to 2016 and 2019. The Council sees a codified system of laws and regulations as a prerequisite for the

further design and updating of prostitution policy. This topic should therefore be addressed as a priority.

Recommendation 9a is not followed-up: There is not yet a codified system of laws and regulations.

Recommendation 9b Evaluation policy and enforcement

Recommendation 2016 / 2019

The Council formulated the following recommendation:

Recommendation 9b: Evaluate the policy and its enforcement, where possible in cooperation with the other relevant competent ministers. Make suggestions for adjustments, where necessary or desirable. Include all relevant interests.

State of affairs 2023

Findings 2023

Evaluation policy and enforcement

The interviewees indicate that following up on this recommendation is partly dependent on following up on recommendation 9a. Several interviewees indicate that evaluation of the policy and its enforcement has not taken place. Just like indicated in [paragraph 2.3](#), the subject of prostitution and policy evaluation is one of the priorities of the Task Force on Human Trafficking and Smuggling. The findings discussed there apply in full here. The review of the policy has yet to get underway and depends on agreement from various ministers, according to interviewees.

Assessment

State of affairs evaluation

The recommendation to review the policy and its enforcement, where possible in cooperation with the other relevant competent ministers, has not been followed. Since an evaluation of the policy has not yet taken place, the Council assesses this recommendation as not followed. The Council considers it a good choice of the task force to choose among its priorities the evaluation of the prostitution policy. Administrative support and the necessary decisions are now pending. The results have yet to be seen.

Recommendation 9b is not followed-up: Its policies and enforcement have not yet been evaluated. However, there have been developments.

Recommendation 9c Chain cooperation and joint responsibility

Recommendation 2016 / 2019

The Council formulated the following recommendation:

Recommendation 9c: Promote chain cooperation and shared responsibility for policy objectives.

State of affairs 2023

Findings 2023

Follow-up policy

Interviewees indicate that following up this recommendation depends on following up recommendations 9a and 9b. According to interviewees, promoting (inter-ministerial) chain cooperation is primarily a government task. Chain cooperation was initiated several months ago with the creation of the Task Force on Human Trafficking and Human Smuggling. See also [recommendation 3](#).

Assessment

State of affairs follow-up policy

The recommendation to promote chain cooperation and joint responsibility for policy objectives has not been followed. As recommendations 9a through 9c are inextricably linked, a comprehensive legal framework and evaluation, updating and setting of policy objectives is needed before this recommendation can be implemented. A good start has been made in inter-ministerial cooperation in the form of the task force. This should now be further developed so that it can form a good basis for, among other things, joint responsibility for the objectives of the policy.

Recommendation 9c is not followed-up: No chain cooperation and shared responsibility for policy objectives yet.

Recommendation 9d Effective controls, enforcement and trainings

Recommendation 2016 / 2019

The Council formulated the following recommendation:

Recommendation 9d: Ensure effective inspections and strictly enforce legislation and other imposed regulations. To this end, provide, in part, training for inspection personnel on how to recognize abuses.

State of affairs 2023

Findings 2023

Controls and enforcement

The findings on multidisciplinary inspections also apply here, given that inspections are also carried out in brothels. The findings included in [recommendation 2](#) are also relevant here. As indicated earlier, the inspections take place less frequently than before.

A number of interviewees, based on their experience in the field, have the impression that there is little or no forced prostitution in the sense that those involved would not come to Sint Maarten voluntarily or would not know what they are coming here for. This is hardly the case. However, there are situations where coercion may be an issue once they are on Sint Maarten, for example in the case of monetary debts, abuses or actual exploitation.

Trainings

A course took place in 2022 for those involved in multidisciplinary audits on recognizing abuses. The CMM Aruba also conducted the aforementioned course in mid-2023.

Assessment

State of affairs controls and enforcement

The recommendation to ensure effective inspections and strict enforcement of legislation and other rules imposed was not followed. In order to achieve this, training for inspection personnel on recognizing abuses was to be provided in part. The Council notes that it is good that implementation through training has begun. However, the recommendation's goal of effective inspections and strict enforcement of rules has not yet been achieved. Therefore, the recommendation was assessed as not followed.

Recommendation 9d is not followed-up: No structural effective controls and strict enforcement of legislation yet.

Recommendation 9e Feedback and information sharing administrative and criminal enforcement

Recommendation 2016 / 2019

The Council formulated the following recommendation:

Recommendation 9e: Ensure proper feedback and information sharing between administrative and criminal enforcement.

State of affairs 2023

Findings 2023

Administrative and criminal enforcement

Several interviewees indicated that the LCSM has regular consultations with the OM. The OM is also one of the participants in the human trafficking and human smuggling task force. In terms of information sharing, the OM is gradually seeing improvement. Especially during consultations, relevant information is being shared between the various chain partners. The OM does point out that it is not necessary to wait until a subsequent consultation to share information, but that it is desirable to do so earlier so that, for example, a criminal investigation can be started. The short lines of communication could facilitate this.

Assessment

State of affairs administrative and criminal enforcement

The recommendation to ensure proper feedback and information sharing between administrative and criminal enforcement has not been followed. The Council notes that this too is still in its infancy. There is an awareness that feedback and information sharing is necessary to tackle both human trafficking and human smuggling, but also in the context of the prostitution policy and its enforcement. However, this still needs to be translated into a concrete working method.

Recommendation 9e is not followed-up: Still working on proper feedback and information sharing between administrative and criminal enforcement.

Recommendation 9f Adequate facility for sheltering victims

Recommendation 2016 / 2019 and response letter 2022

The Council formulated the following recommendation:

Recommendation 9f: Provide adequate facilities for sheltering victims of trafficking, exploitation and forced prostitution.

The minister, in the 2022 response letter on page 21, states the following about the foundation for victim assistance:

'On Wednesday, September 8, 2021, the Victim Support Services Foundation (VSS) was officially established under my leadership. (...) VSS was established to supervise victims of life crimes, serious car accidents, burglaries/break-ins with heavy violence/force or with the use of a firearm (or other weapons) and will mainly function in close collaboration with three official bodies to ensure the proper functioning of the foundation: namely, the Ministry of Justice via the SJIB Probation Service, the Public Prosecutor's office and the KPSM'. (...)
In February of this year the Ministry of Justice together with VSS launched the management and staff positions of the foundation. (...) The VSS Foundation will become fully operational in 2022.'

State of affairs 2023

Findings 2023

Structural facility victim assistance

In Sint Maarten, there is generally no structural provision for victim assistance. A foundation has been established with a board, however there is no actual assistance from this foundation yet. The office does not yet have housing and staff, which has to do with the necessary finances.

Care for victims of human trafficking, exploitation and forced prostitution

All interviewees agree that there are also no facilities specifically to physically accommodate victims of human trafficking, exploitation and forced prostitution. In case the victims are also illegal persons, often the only option is to physically house them in immigration detention. According to several interviewees, this is far from an ideal situation. Not only for the welfare of the victims themselves, but certainly also in those cases where they want to secure the cooperation of these victims in a criminal law sense. In its reaction, the LCSM points in this context to the Minister of Justice's existing policy since 2015. This concerns temporary residence for victims and witnesses of human trafficking during the period that they cooperate in the criminal investigation against traffickers. However, no permits in this framework have been granted.³⁵

Interviewees further suspect that unfamiliarity with assistance and relevant other agencies also hinders many victims from seeking help. One interviewee points out that if services are well organized and people know where to go, it could possibly turn out that the problem is bigger than currently believed.

Assessment

³⁵ Office for monitoring and combating trafficking in persons (2023). 2023 Trafficking in Persons Report: Sint Maarten.

Status of adequate provisions for sheltering victims

The recommendation to ensure adequate facilities for sheltering victims of trafficking, exploitation and forced prostitution has not been followed up. For years, the Council has stressed the urgency of establishing a victim support office to actually provide the necessary assistance to victims. The Council has also noted several times that recommendations on this subject have not been followed. In its latest State of Law Enforcement (2022), the Council pointed out its authority to scale up in the event that the minister systematically fails to follow the Council's recommendations. However, the foregoing has still not led to the desired results. The Council therefore once again urges the Minister to provide for the adequate facilities for sheltering victims, including those of human trafficking, exploitation and forced prostitution. As the drafting of a standard operation procedure for Sint Maarten for victims of human trafficking (see [paragraph 2.5](#)) aims, among other things, to ensure that all relevant stakeholders deal efficiently and effectively with human trafficking, the Council believes that such a procedure will also be able to benefit the adequate care of victims.

Recommendation 9f is not followed-up: Still no adequate facilities for sheltering victims of trafficking, exploitation and forced prostitution.

Colophon

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