



To His Excellency the Governor of Sint Maarten
drs. E.B. Holiday
Falcon Drive # 3
Harbour View
Sint Maarten

RvA No. SM/23-14-LB

Subject: Draft National Decree containing general measures amending the National Decree comparative testing cellular matter in connection with the automated mutual comparison of DNA profiles between the countries of the Kingdom (your reference number LH-14/0026).

Advice: With reference to your request dated December 12, 2014 for the opinion of the Council of Advice on the abovementioned subject and the discussion thereof at the meeting of the Council on April 7, 2015, and the adoption thereof at the meeting of the Council on April 7, 2015, the Council informs you as follows.

The purpose of the draft is to open up the possibility of automated comparison of DNA profiles between the DNA databanks of the countries of the Kingdom in the interest of effective criminal enforcement.

The examination of the draft does not give the Council reason to make substantive comments. The annex contains comments of an editorial nature, which form an integral part of the advice.

Conclusion

In conclusion, the Council asks the Government to adopt the National Decree, containing general measures in accordance with the draft.



Council of Advice
Raad van Advies

Strengthening Our Democracy

Thus adopted at the meeting of the Council of April 7, 2015.

The Secretary
[was signed:] _____
Mr. *mr.* A.G. Baly

The Vice-Chair
[was signed:] _____
Ms. *mr. drs.* M.C.C. Brooks-Salmon

[Stamp:]
COUNCIL OF ADVICE
St. Maarten



ANNEX to the advice of April 7, 2015, RvA No. SM/23-14-LB

Comments of an editorial and legal-technical nature

The draft contains a number of editorial imperfections. The Council gives the following non-exhaustive examples.

- a. In the proposed Article 23, fifth paragraph, subparagraph e, reference is wrongly made to subparagraph h of Article 1, first paragraph, of the Dutch Decree on DNA testing in criminal cases, instead of subparagraph i.
- b. The Council advises to replace the phrase “in the context of testing as referred to in article 79” in the proposed Article 23, fifth paragraph, subparagraph b, subparagraph c and subparagraph d by: in the context of comparative testing as referred to in Article 79.
- c. The explanatory notes to Article 1 state that a similar provision is included in the relevant legal regulations of the Netherlands, Aruba and Curacao. The Council notes that Saba, Sint Eustatius and Bonaire are not mentioned here.