

## **TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 28)**

### **National ordinance prosecution of political authorities<sup>1</sup>**

#### **Article 1**

The following definitions apply for the purposes of this national ordinance and the provisions based on it:

- a. political authority: the minister or the Member of Parliament;
- b. Court: The Common Court of Justice of Aruba, Curaçao, Sint Maarten, and of Bonaire, Sint Eustatius and Saba, in council chamber.

#### **Article 2**

The prosecution of a political authority suspected of a crime shall take place only following a prosecution order of the Court, on a requisition of the Attorney-General.

#### **Article 3**

If the requisition does not fall within the competence of the Court, the Court shall declare that it is not competent to hear the case.

#### **Article 4**

If the Attorney-General's requisition is apparently inadmissible, without further investigation, the Court may not grant the Attorney-General permission to prosecute.

#### **Article 5**

The Court shall not decide before hearing the suspect, or at least before correctly summoning the accused, except in the cases referred to in Articles 3 and 4.

#### **Article 6**

1. The suspect has the right to the support of counsel.
2. The suspect is not required to answer questions put to him in chambers. The accused shall be notified of this before the hearing. The notice shall be recorded in the statement.

#### **Article 7**

Except in the cases referred to in Articles 3 and 4, the president of the Court shall permit the accused and his counsel to take cognizance of documents relating to the case if so requested. Inspection shall take place in the manner determined by the president. The president may exclude certain documents from inspection, officially or on the requisition of the Attorney-General, in the interests of the protection of personal privacy, the detection or prosecution of criminal offences or on serious grounds based on the general interest

#### **Article 8**

The hearing of the suspect may also be delegated to one of the members of the Court.

#### **Article 9**

1. If the Attorney-General's requisition is admissible and the Court takes the view that prosecution should take place, the Court shall order prosecution for the offence to which the requisition relates or for the offence as described by the Court in its order.
2. The Court may also refuse to issue such an order on grounds based on the general interest.
3. In all other cases, the Court shall reject the requisition.
4. Before deciding, the Court, if it regards further investigation as desirable, shall hand the documents to the examining judge, indicating the subject and scale of the investigation and, if necessary, the way in which this should be conducted. Article 359(2) of the Code of Criminal Procedure applies.

#### **Article 10**

Articles 38 up to and including 42 of the Code of Criminal Procedure concerning hearings in council

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<sup>1</sup> This issuance takes place on the basis of the additional Article II of the Constitution.

chamber apply to this national ordinance.

**Article 11**

1. The Court shall hand down an administrative decision, stating its reasons, at the earliest opportunity.
2. The Clerk of the court shall immediately send a copy of the administrative decision to the Attorney-General and to the suspect.

**Article 12**

If the Court has handed down an order for the prosecution of a political authority suspected of a crime, the prosecution shall take place by the Attorney-General or another member of the Department of Public Prosecutions to be designated by the Attorney-General.

**Article 13**

The members of the Court who handed down the order shall not take part in the adjudication of the case, either in the first instance or on appeal.

**Article 14**

This national ordinance applies only to the prosecution of a political authority for a crime committed after the Constitution takes effect.

**Article 15**

This national ordinance may be referred to as the 'National ordinance prosecution of political authorities'.

Issued on the *twenty-first* of December 2010  
The Minister of General Affairs,  
S.A. Wescot-Williams