

Complaint Arrangement of the Joint Court of Justice of Aruba, Curaçao, Sint Maarten, and Bonaire, Sint Eustatius, and Saba

Introduction

In this Complaint Arrangement the legal stipulations (articles 53 and 64 of the National Decree which governs the legal status of the Joint Court of Justice are outlined). Said legal stipulations regard the complaints as to the manner in which a judge of the Court behaved towards the party concerned or someone else in a certain matter. If in the text that follows the behavior of the Court is mentioned, it can also denote the behavior of a judge. The Complaint Arrangement does not limit the current legal stipulations which govern complaints.

Article 1 Definition

The aforementioned arrangement includes the following terms as per specification under points a. through d., and are defined as follows:

- a. Board: the Board of the Joint Court of Justice of Aruba, Curaçao, Sint Maarten, and Bonaire, Sint Eustatius, and Saba, pursuant to Article 40 of the Royal Decree which governs the Joint Court of Justice (hereinafter referred to as “the Court”).
- b. Court: the Joint Court of Justice, and the Courts in First Instance of Aruba, Curaçao, Sint Maarten, and of Bonaire, Sint Eustatius, and Saba.
- c. Accused: the person against whose conduct or negligence thereof the complaint is filed.
- d. Complaint: an expression of dissatisfaction as to the conduct of the Court which can regard both the treatment as well as the management.

Article 2 Right of Complaint

1. Everyone has the right to file a complaint with regard to the manner in which the Court acted towards him/her in a certain matter. No complaints may be filed as to the content neither the motivation of the judges’ decision nor with regard to the realization of a judicial ruling, inclusive of the framework within which the decisions made are of procedural tenor.
2. The conduct of a person, employed at the Court, is considered as the conduct of the Court, insofar as this conduct can be attributed to the Court.
3. Those persons employed at the Court are categorized, and defined as follows:
 - a. The members, and acting members of the Court.
 - b. The acting judges at the Courts of First Instance.
 - c. The judges that are assigned to special tasks pursuant to Article 11 of the National Ordinance which governs Administrative Proceedings Curaçao, the National Ordinance which governs Administrative Proceedings Sint Maarten, and the BES Administrative Proceedings Law, BES being the abbreviation for Bonaire, Sint Eustatius, and Saba.
 - d. The trainee judges, and the judicial officers in training employed at the Court.
 - e. The court officials who are employed at the court.
 - f. Other persons employed at the Court which are not mentioned under points a. through e.

4. Court employees may only file a complaint insofar as they are the litigant or the party(ies) concerned in a case that is pending before the Court. A litigant or party concerned in a similar lawsuit may be legally assisted by a Court employee, who may also appear as an expert or a witness in said case.
5. Complaints may be filed either in writing or verbally.
6. No appeal may be lodged against a ruling regarding the handling of a complaint as to the conduct on the part of the Court.

Article 3A Verbal Complaint

1. A complaint which is filed verbally is put in writing by the employee assigned to that task by the Court, and shall be subsequently submitted to the complainant for the attesting of his/her signature thereto, thus confirming the accurate recording thereof.
2. A complaint which is recorded in writing, and subsequently signed by the complainant qualifies as a plaint, and shall be handled thus as per stipulations outlined hereinafter.

Article 3B Plaint

1. A plaint must be signed, and shall enclose at least:
 - a. the name, and address of the complainant;
 - b. the date;
 - c. a description of the conduct against which the complaint is leveled, and insofar as possible the point in time that particular conduct was displayed.
2. Plaints, which do not carry a date, are considered as having been dated on the day of receipt thereof.
3. In the event a plaint is drawn up in another language other than Dutch, Papiamentu or English, and a translation thereof is essential for the efficient handling of said plaint, the submitter of the plaint is responsible for the translation.
4. In the event the complainant is underage, respectively under legal restraint, the complaint must be signed by the authoritative parent, guardian or the curator.

Article 4 No obligation to handle a complaint

1. The board of the Court is not obligated to handle the complaint if it concerns conduct :
 - a. with regard to which the complainant has already filed a complaint which was settled with due observation of this arrangement;
 - b. which took place more than a year prior to the submission of the complaint;
 - c. that could have been submitted to the evaluation of a judicial instance by initiating legal proceedings to this effect.
 - d. as long as there is an ongoing criminal investigation ordered by a member of the Counsel for the Prosecution of one of the aforementioned countries or if the conduct forms a part of the investigation or legal pursuit of a punishable act, and with regard to said punishable act there is a criminal investigation in progress ordered by a member of the Counsel for the Prosecution of one of the countries in question.
2. The board of the Court is not obligated to handle the complaint if the interest of the complainant or the weight of the conduct apparently is insufficient.

3. The complainant shall be notified by the board of the non-handling of the complaint filed as soon as possible, however, within four weeks following receipt of said complaint.

Article 5 Acknowledgement of receipt; obligation to forward or return, and administration

1. The board of the Court acknowledges in writing receipt of the plaint, and therewith the notification of the date of receipt of said plaint.
2. The board of the Court shall send a copy of the plaint with enclosures to the person against whom the complaint has been filed.
3. The board of the Court shall immediately forward a plaint for handling to another instance authorized to do such under simultaneous notification thereof to the complainant.
4. The board of the Court shall return a plaint which is neither intended for the Court nor shall be forwarded as soon as possible to the complainant.
5. The board of the Court shall register, and keep an account of all incoming plaints, and shall see to it that the phase ranging from the registration to the handling thereof is followed through diligently.
6. The number of registered complaints shall be published annually, and the nature of each complaint shall be specified.

Article 6 Opportunity to be heard

1. The board of the Court shall grant both the complainant as well as the accused the opportunity to be heard.
2. If the complaint is obviously unfounded or the complainant waives the right to be heard, the complainant shall not be heard.
3. The accused shall not be heard if the complaint is not dealt with, if the complaint is obviously unfounded or if the accused waives the right to be heard.
4. The board can instruct a member of the board to hear the complainant or the accused. In that case the board shall appoint an employee of the Court as secretary. The employee whose conduct or negligence the complaint is related to, may not be appointed as secretary.
5. An account shall be drawn up of the hearing.

Article 7 Assistance rendered to the complainant

1. Both the complainant and the accused may be represented by an authorized representative or an attorney.
2. The board of the Court may ask the authorized representative or attorney for a mandate.
3. The second paragraph does not apply to attorneys.

Article 8 Settlement by mutual agreement

1. In each phase of the handling of the complaint the board can verify as to whether or not the complainant shall be satisfied with an amicable settlement of his complaint.
2. As soon as the Court settles the complaint to the utter satisfaction of the complainant, the complaint proceedings may be terminated. In that case the complainant shall receive a written notification of the termination thereof. The accused shall be given a copy of this notification.

Article 9 Handling and decision

1. The board of the Court shall handle the complaint within six weeks – in the event the first paragraph of article 11 is applied – within ten weeks following receipt of the plaint.
2. The board of the Court can prorogue the handling for four weeks at the most. Both the complainant as well as the accused shall receive written notice thereof.
3. If the complaint regards a member of the board of the Court, said member shall not participate in the handling of the complaint.

Article 10 Settlement

The board of the Court shall notify in writing both the complainant as well as the accused of the results of the investigation conducted as to the complaint, and of possible conclusions related thereto.

Article 11 Complaint Advice Committee

1. The board of the Court can, depending on the nature of conduct described in the complaint, can entrust a complaint advice committee with the consultative voice in said case. A complaint advice committee consists of three members. In that case articles 12, and 13 are applicable.
2. The board of the Court shall appoint the members of the complaint advice committee, among whom the chairperson, a secretary, and their respective substitutes.
3. That person against whose conduct a complaint is filed shall not form a part of the complaint advice committee.
4. The board of the Court can only give the complaint advice committee useful pointers.

Article 12 Calling in the complaint advice committee

1. As soon as the board of the Court decides to call in the complaint advice committee, the board shall notify the complainant, and the accused that the complaint advice committee is in charge of rendering advice with regard to the complaint.
2. The complaint advice committee shall hear the parties concerned.
3. The complaint advice committee can entrust a chairperson or a member with the hearing of the complainant, and the accused.
4. The complaint advice committee shall decide as to whether or not article 6, second paragraph is applicable.
5. The complaint advice committee shall submit a report containing the findings of the investigation conducted, together with the advice, and possible recommendations, to the board.
6. The report shall include an account of the hearing.

Article 13 Divergent conclusion of the Court as to the advice of the complaint advice committee

In the event the conclusions of the board of the Court deviate from the advice given by the complaint advice committee, the reason for the same shall be included in the conclusions, and the advice shall be sent together with the notification thereof, as per specification in article 10.

Article 14 Official Title, Publication, and Implementation

1. This arrangement can be quoted as the Complaint Arrangement of the Joint Court of Justice.
2. This arrangement has been published on the website of the Joint Court of Justice (www.gemhofvanjustitie.org). The National Decree which governs the legal status of the Joint Court of Justice has also been published on www.wetten.overheid.nl or on other public sources.
3. The legal stipulations regarding the behavior of judges were implemented on October 10, 2010. The additional stipulations which fall under this Complaint Arrangement entered into force on September 1, 2013, and are not applicable to complaints submitted prior to said date.

Thus established in more detail by the Board of the Court,
on January 24, 2014