

Press release

Advisory Board in Annual Report 2016:

"Rule of Law is the foundation of everything"

With 63 requests for advice, 13 more than the year before, 2016 was again a productive year for the Advisory Board (Raad van Advies).

The Board issued 54 opinions in that year. Nine requests have been returned, partly due to incompleteness in the official preparation.

In a paragraph of the annual report on the quality of legislation, the Advisory Board states that more attention is needed for the editorial and technical legal legislative preparation. The

The Advisory Board's annual report is divided into four clear chapters.

Among the chapters 'production' is shown that 15.7% of the number of advice requests are marked as urgent advice.

These are a variety of projects from final exams of H.A.V.O., V.W.O. and V.S.B.O., simplification and digitization of the procedural law, and the redistribution of voting districts for Parliament election.

In three of the advices the Board had fundamental objections that only a rigorous adaptation of the law could eliminate.

That judgment concerned the projects retirement fund for ex members of the island Board of Curaçao and rules for gambling and the installation of a Budget Chamber.

The Board also gave twice advice without being asked to do so.

In the first not requested advice the Board addressed a conflict resolution in the Kingdom. In this advice the Board concluded that only an independent judicial body authorized to resolve disputes on the explanation of the Statuut, can resolve conflicts in the Kingdom.

The second unrequested advice was about the sanction regulation 2016 that prohibits the government and private businesses to do business with Yemen. This based on decision of the United Nations and accepted by the Kingdom.

Rule of Law

In a readable essay, the annual report also focuses on a current topic. This year prof. mr. A. van Rijn wrote about the rule of law that provides the basis for a justified society. To show how it should not be, Van Rijn showed the experiment that the government started in 2015 by putting mailboxes in some neighborhoods for people to get their mail as a group.

That experiment did not have a legal basis. "The government has no right to act without a legal basis, otherwise obligations turn in to arbitrariness and rights would be a favor."

The Rule of Law also requires the right to be established in accordance with established procedures.

That applies to the whole interplay between parliament, government and case law.

A core of this combination of forces is free and secret elections that gives the citizen

real influence on the functioning of the system. "Everything stands and falls with free and secret elections."

Tension in the interaction between people, politics and justice is normal.

Especially when the consensus about the values that we share seems to break down. The small scale of Curaçao makes the system more vulnerable. Because it depends on relatively few actors who often know each other well. Next to a solid degree of decency, the small scale demands that all actors keep their role, regardless of whether they are the Parliament, the Government, the Advisory Board, the Governor, the General Audit Room, the Ombudsman or the Judge.

Fundamental rights

The Advisory Board says in its annual report that while preparing some law projects they did not verify or did not do it sufficiently to see if the rules were compatible with stipulations on fundamental rights in the Statuut, Constitution and international agreements. This governs among all the rules on active and passive voting rights.

Regarding the first one. The initiators in Parliament want to change the electoral rules in such a way that active voting rights are restricted to residents with Dutch nationality born in Curaçao (children of the soil), and residents with the Dutch nationality, not born in Curaçao, has been continuous residents for at least five years here before the date of the posting of the candidates for Parliament election.

The intention is to protect Curaçao from out-of-proportion effects of an influx of people from the Netherlands.

Regarding the passive voting, the initiators in Parliament want to achieve that members are temporarily suspended for a provisional detention because of committing certain crimes and for conviction and detainment for committing those crimes, even if that conviction is not irrevocable. The initiative design actually limits the right to be elected as a member of Parliament.

The Advisory Board considers in both cases that initial design is not compatible with stipulations about fundamental rights in the Statuut, the government regulations and international treaties.

Transparency

The Advisory Board met in 2016, 24 times, with an average attendance rate of 83.2%. In addition, a total of 17 meetings were convened in work groups of administrative and legal affairs and of economic and financial matters.

To promote transparency in a democratic constitutional state, the Board opened a website (www.raadvanadvies.cw) to have all advices available for those interested. The website also gives general information on the tasks and the structure of the Advisory Board.

Willemstad, June 20, 2017

On behalf of the vice-president of the Advisory Board,

Mrs. Mr. C.M. Raphaëla

secretary