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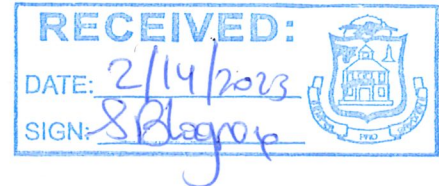
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Parliament of Sint Maarten
Staten van Sint Maarten



LETTER OF ADVICE

The Honorable Prime Minister/Minister of General Affairs, S. Jacobs
Government Administration Building
Soualiga Road no. 1
Philipsburg
Sint Maarten



Philipsburg, February 13th, 2023

Our reference: SER/23/CB/30

Re: Request to conduct research on the placement of lottery booths in lower income areas

Honorable Prime Minister Jacobs,

On May 6th, 2022, the Social Economic Council (hereafter: SER) received the solicited advice request from the Cabinet of the Prime Minister/Minister of General Affairs, Ms. Silveria Jacobs, concerning a request to conduct research on the placement of lottery booths in lower income areas. The advice request originated from Parliament on October 29th, 2020 and was submitted by Member of Parliament (hereafter: MP) Melissa D. Gumbs, faction leader of the Party for Progress.¹

The advice request from MP Gumbs highlighted concern for the growing number lottery booths and kiosks considering the economic effects of the COVID-19 pandemic.² From a 2017 study by the Gambling Research Exchange, the advice request referenced the higher prevalence of gambling among populations experiencing poverty than amongst the general population.³ The advice request poses three questions to be answered by the SER:

1. The number of lottery booths on island prior to Hurricanes Irma and Maria as compared to the number today (2020);
2. The socio-economic impact on the communities in which these lottery booths are placed; and
3. The support available to those who may suffer from gambling addiction in these communities.

The following advice of the SER has reviewed the legislative background of lottery booths, the data and information available regarding the questions posed in the advice request. In addition, the advice also outlines general concerns and advice of the SER regarding this topic.

¹ In accordance with article 2 of the SER Ordinance the SER advises the government on all important social and economic matters. In absence of a direct legal basis to provide advice to the Parliament of Sint Maarten, advice requests from Parliament are accepted by the Prime Minister which are sent to the SER on behalf of the requesting Member of Parliament.

² Solicited Advice request "Requesting a study on the social- economic impact of the placement of lottery booths in lower areas." with reference number: 9-136-20/21.

³ Ibid.



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Disclaimer:

In accordance with article 2 of the SER Ordinance⁴ the SER advises the government on all important social and economic matters. In absence of a direct legal basis to provide advice to the Parliament of Sint Maarten, advice requests from Parliament are accepted by the Prime Minister which are sent to the SER on behalf of the requesting Member of Parliament. The SER notes, that the request from the MP is dated October 29th, 2020. However, the official request was received by the SER on May 6th, 2022. As a result, and in conjunction with being understaffed, the advice was drafted upon the available data received up until the first quarter of 2021. Therefore, the statements and conclusions drawn within this advice represent views that are based on the data that was available at that time.

General concerns of the SER regarding the draft ordinance on the placement of lottery booths:

1. Considering that currently no viable data is available on the magnitude of gambling addiction on Sint Maarten, since 1995;
2. Taking into consideration that as of February 2021, with 7 operational license holders, Sint Maarten housed approximately 360 number lottery ticket venues resulting in an average of 22.5 registered vending locations⁵ and 6.9 lottery booths per square mile.⁶
3. Taking into consideration that Sint Maarten has approximately 3.2 times as many registered lottery booths per square mile compared to the number of booths that are permitted on other islands, such as Curacao⁷, and that on Sint Maarten lottery booths outnumber casinos 8 to 1.⁸
4. Taking into consideration that article 12 of the Economic, Social and Cultural Rights Treaty⁹ in conjunction with article 21 of the Constitution of Sint Maarten¹⁰, constitutes a legal obligation for country Sint Maarten to take the necessary steps to provide adequate care for persons suffering from mental illnesses such as gambling addiction;
5. Considering the severe increase in persons requesting mental health care and the low number of psychiatrists on Sint Maarten.¹¹
6. Taking into consideration that there are currently no forms of specialized care for persons suffering from a (gambling) addiction¹²;
7. Taking into consideration that the Department of Economy, Transportation and Telecommunication (hereafter: ETT) of the Minister of Tourism, Economic Affairs, Traffic and Telecommunications (hereafter: TEATT) is challenged with documenting all lottery booths on Sint Maarten as lottery license holders do not consecutively inform the Department of ETT of

⁴ Article 2 paragraph 1, National Ordinance SER, AB 2010, GT no. 19.

⁵ Of which include supermarkets, mobiles, and machines.

⁶ Data received from the Department of ETT by e-mail.

⁷ Gaming Control Board Curacao, Regulations on number lotteries, <https://www.gamingcontrolcuracao.org/regulation/numbers-lottery>

⁸ In 2020, Sint Maarten had 13 operational casino licenses and approximately 360 sale points of which 111 lottery booths.

⁹ New York, 19 December 1966, Trb. 1969, 100.

¹⁰ Article 21, Constitution of Sint Maarten, AB 2010, GT no. 1.

¹¹ Interview with the TPF dated January 18th, 2022.

¹² General Audit Chamber, Mini Audit September 2021, Responsible Gaming, p. 7.



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the Ministry of TEATT of new locations in conjunction with the temporary nature of lottery booths in Sint Maarten, therefore the actual number of lottery booths may in fact be much higher;

8. Taking into consideration that there are no limitations as per the number of sales points a lottery license holder may establish with their license;
9. Taking into consideration that current legislation does not incorporate any form of social responsibility or obligations towards the lottery license holder to actively prevent and or reduce gambling addiction in Sint Maarten; and
10. Taking into consideration, seemingly the Ministry of TEATT issues lottery licenses indefinitely¹³ contrary to the temporary term of 5 years laid down in the Lottery Ordinance.¹⁴

Advice:

The SER unanimously advises the Government of Sint Maarten the following:

Compliance and enforcement

1. For the government to accelerate enforcement and compliance activities, while requesting the necessary data of which lottery license holders must comply within 3 months. In the event of non-compliance, the government can withdraw¹⁵ or impose fines¹⁶.
2. The Lottery License Decree 3bis (hereafter: Decree 3bis) should be amended to include article 3ter of the Lottery Ordinance, or a new Decree this is specifically drafted to regulate article 3ter of the Lottery Ordinance to specifically ensure proper regulation of lotteries and their sales points.
3. To include the limitation of the number of sales points and resellers allowed per permit holder as a condition of all permits, through the invocation of article 2, paragraph 1 section C of the Decree 3bis.
4. To enforce the ability to apply fines in the event of non-compliance, in combination with the increase of the current maximum penalty which remains at NAF 5.000.¹⁷
5. To expand the legal provision, by amending article 4 paragraph 3 of the Lottery ordinance. As a result, the amendment will grant the Minister the ability to request funding from **all** lottery license holders, to contribute, via the government or other governing body, to a cause of social interest related to the (prevention of) social issues caused by gambling addiction.
6. To execute and share the contents of an audit on all lottery license holders and lottery booths to gain an in depth understanding of the magnitude of the lottery booth gambling industry on Sint Maarten.¹⁸ To increase due diligence when enforcing compliance of applicable laws and in the

¹³ Interview with the Department of ETT, 20 May 2022.

¹⁴ Article 3 paragraph 3 in conjunction with article 3ter paragraph 4 of the Lottery Ordinance, AB 2013, GT no. 121.

¹⁵ Article 6ter, Lottery Ordinance, AB 2013, GT no. 121.

¹⁶ Article 8, Lottery Ordinance, AB 2013, GT no. 121.

¹⁷ Ibid.

¹⁸ The audit can provide updated and accurate data; verification of provided data; ensure compliance with local tax legislation and reporting obligations; and ultimately aid in determining this industry's local tax contribution.



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event the government opts for the implementation of a Gaming Control Board, to then allow this entity to investigate alternative ways to enforce compliance within the gaming industry.

Social Responsibility

7. The introduction of structural allocation of gambling tax revenues towards programs that prevent and effectively reduce the risk of developing a gambling addiction. Including the funding of programs geared towards improving the level of provided care to persons suffering from such mental illnesses
8. The introduction of Social Responsibility for Lottery and Casino license holders, through the implementation of a legal framework, within which these license holders are prohibited from selling lottery tickets to vulnerable persons, which include persons (potentially) suffering from a serious gambling addiction.
9. The introduction of a prohibition to prevent such establishments being placed within a 100-meter radius of vulnerable establishments, such as schools but also hospitals, clinics, churches, banks, rehabilitation centers etc.
10. The introduction of a limitation on the number of lottery booths and resellers placed in lower income communities, seeing the increased risks of developing a gambling addiction for persons stemming from lower income communities and living near a gambling facility.
11. The introduction of a legal basis to include the coverage of care for mental illness within the insurance packages as addiction care provided by the Mental Health Foundation (hereafter: MHF) or the Turning Point Foundation (hereafter: TPF) currently is not covered.^{19 20}

We trust to have informed you sufficiently herewith.

Should you require any additional information after reading the above, please feel free to contact us at your earliest convenience.

Respectfully,

Ir. Damien D.E. Richardson
Chairman

Gerard M.C. Richardson
Secretary-General

Cc: Member of Parliament Melissa D. Gumbs, faction leader of the Party for Progress.

¹⁹E-mail dated January 17th, 2023 received from the Ministry of Public Health, Social Development and Labor and Interview dated January 18th, 2023 with the TPF.

²⁰ Interview dated January 18th, 2023 with the TPF.



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Advice Highlights

In this letter of Advice which regards the social effects of the placement of lottery booths in lower income communities, the SER has emphasized its concerns regarding the current legal inconsistencies in the current legislation that regulates lottery booths. As the Department of ETT of the Ministry of TEATT has informed the SER that the Ministry is currently in the process of reviewing its laws, the SER has also advised and has pointed out where these laws can be improved. Furthermore, the SER has, based on the available data, mapped out the placement of lottery booths in the various neighborhoods on Sint Maarten allowing for a glimpse into the unregulated reality of lottery booths. The SER has pointed out various legal tools that can aid the Government in its task to regulate such, such as through the imposing of fines and stricter permit conditions, to which the license holder must adhere.

Finally, the SER has analyzed in this letter of advice governments responsibility as is concerns the provision of care to persons at risk and or suffering from the negative effects of the placement of lottery booths, such as the development of serious gambling addictions. In its advice, the SER has advised to expand health insurance coverage²¹ to include such mental illnesses and structurally redirect funding from tax revenues and license holder contributions to projects that prevent, reduce and provide care for persons suffering from serious gambling issues. Finally, the SER has addressed the inclusion of more social responsibility in its laws and regulation towards lottery license holders and the placement of booths, as these are predominantly placed in lower income communities in Sint Maarten. The SER has pointed out that studies²² have shown that the placement of lottery booths in lower income communities, disproportionately affects the poor, as these persons are more prone to developing serious gambling problems. However, the SER understands that although lottery license holders have a social responsibility towards the community within which the lottery booths are established, ultimately the government must ensure that the proper laws and regulations are in place to protect vulnerable groups within the community.

²¹ The Ministry of Public Health, Social Development and Labor, has informed the SER that the Ministry is looking into the inclusion of such care into the National Health Insurance, which is aimed towards "guaranteeing affordable, accessible, sustainable, quality health and wellness for the population of St. Maarten". Correspondence January 17th, 2023.

²² Grace M. Barnes, Research Article: "Effects of neighborhood disadvantage on problem gambling and alcohol abuse," published in: *Journal of Behavioral Addictions* 2(2), p. 82–89 (2013), DOI: 10.1556/JBA.2.2013.004, April 12, 2013. <https://akjournals.com/view/journals/2006/2/2/article-p82.xml>.



1.1. Legislative framework of the establishment of Lottery Booths

The legislative framework surrounding lottery booths includes one National Ordinance²³, two National Decrees^{24,25}, and a Ministerial Regulation²⁶. Since October 10th, 2010, there has been one policy issued in relation to the Lottery Ordinance and one amendment made to this policy. The Lottery Ordinance²⁷ contains rules regulating the establishment and operating of lotteries. The relevant minister is identified as the Minister of TEATT.²⁸

While the Lottery Ordinance regulates multiple forms of lotteries, the advice request from MP Gumbs, specifically refers to lottery booths. The types of lotteries which are sold within lottery booths fall under article 3ter of the Lottery Ordinance. Article 3ter allows for the Minister of TEATT to “grant a license to legal entities established in Sint Maarten to build and maintain: a number lottery; a lotto; a sweepstakes; a scratch lottery”.²⁹ While article 3ter regulates the above listed lotteries in the Ordinance, the National Decree 3bis currently regulates these forms of lotteries.³⁰

In addition to the Lottery Ordinance, supporting decrees and regulation, the SER has found that two policies have been issued since 10-10-10 regarding lottery licenses. In 2012, former Minister of TEATT, Mr. Romeo Pantophlet³¹, issued a Lottery License Policy raising the limit on lottery licenses to 7 licenses. The previous limit was 4 licenses and the increase to 7 was justified as creating additional jobs and tax revenue.³² In 2019, former Minister of TEATT, Mr. Stuart Johnson, issued an amendment to the Lottery License Policy regarding lottery licenses. The policy placed a moratorium on the construction or erection of lottery booths on the island.³³ The moratorium was motivated as giving “the Ministry an opportunity to determine the best methodology to properly allocate the number of allowed lottery booths and other types of sales outlets per license holder, in such a way that it is fair and acceptable to all parties as well in the general best interest”.³⁴

The amended policy also implemented a branch license “for every location selling lottery tickets for and on behalf of the lottery company”.³⁵ Lottery companies were given 6 weeks from the publication of the

²³ Lottery Ordinance, AB 2013, GT no. 121.

²⁴ National Decree entailing General Measures, for the implementation of articles 3bis, third and fifth paragraphs and 4, second paragraph of the Lottery Ordinance, AB 2013, GT no. 97.

²⁵ AB 2013, GT no. 363, National Decree entailing general measures, in implementation of Article 5 of the Lottery Regulation.

²⁶ AB 2013, GT no. 79, Ministerial Regulation, establishing the framework for forms necessary to apply for a lottery license, to establish and maintain a number lottery, scratch lottery and a lottery consisting of sweepstakes or lotto.

²⁷ Lottery Ordinance, AB 2013, GT no. 121.

²⁸ Article 2, paragraph 1, Lottery Ordinance, AB 2013, GT no. 121.

²⁹ Article 3ter, paragraph 1, Lottery Ordinance, AB 2013, GT no. 121.

³⁰ National Decree entailing general measures, to implement the articles 3bis, third and fifth paragraph and 4, second paragraph of the Lottery Ordinance, AB 2013, GT no. 97.

³¹ Lottery License policy December 4, 2012.

³² Ibid.

³³ Amendment lottery license policy, 27 September 2019.

³⁴ Amendment lottery license policy, 27 September 2019.

³⁵ Ibid.



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policy to submit requests for branch licenses of all their sales locations.³⁶ The branch licenses were to be regulated in accordance with the Business Regulation for Companies.³⁷ In addition, the policy also applied a branch license fee of NAF 1250 in accordance with the National Ordinance regulating the Levying and Collection of Precario Duties and Fees.³⁸ The motivation provided at the time, concerns “an undesirable development in the lottery gaming industry” with “[t]he sporadic erection of lottery booths and the illegal sale of lottery games the most pressing”.³⁹

In 2020, former Minister of TEATT, Mrs. Mellissa Arrindell-Doncher, issued a public announcement suspending the requirement of a branch license and the payment of a branch license fee.⁴⁰ However, the moratorium regarding the erection of lottery booths remained in effect. No motivation was provided within the public announcement.

1.2. Legal Concerns of the SER

1.2.1. Legal Basis

The SER notes, that the continued use of article 3bis instead of article 3ter Lottery Ordinance, leaves room for confusion and uncertainty, as article 3bis of the Lottery Ordinance concerns lotteries in relation to sports betting and not lotteries related to number lotteries, lotto, sweepstakes, and scratch lotteries. The SER has established that in practice, Decree 3bis is used to regulate lotteries stipulated in article 3ter of the Lottery Ordinance.^{41,42}

The SER notes that the inconsistency regarding the implementation of Decree 3bis regarding article 3ter of the Lottery Ordinance is not the only one present. The Decree refers to “article 3bis, paragraph 4, under e” of the Lottery Ordinance in article 1, paragraph 8. However, “article 3bis, paragraph 4, under e” does not exist in the Lottery Ordinance. In article 2, paragraph 1, the Decree refers to “article 5, paragraph 2” of the Lottery Ordinance, however, no such paragraph exists in the Lottery Ordinance. Consequently, the SER can establish that there are legal inconsistencies regarding the legislations regulating lotteries. The SER considers it of great importance that the Government of St. Maarten rectifies the legal inconsistencies to avoid possible abuse of these errors.

1.2.2. Limitation on Lottery Booths

In an interview with the Department of ETT, the SER was made aware that while the moratorium remained in effect on the erection of lottery booths, the Department of ETT is unable to enforce the

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Lottery License Amendment 24 April 2020.

⁴¹ Interview with the Department of ETT, 20 May 2022.

⁴² The Explanatory notes of the Lottery Ordinance state, that at the time of implementation, due to the lack of a first draft of the additional decree required to properly execute article 3bis, the Council of Ministers was mandated to establish the Decree 3bis applicable to both 3ter and 3bis forms of lotteries. This approach was taken as a temporary and transitional measure to allow for proper execution at the time of implementation of the Lottery Ordinance. Nevertheless, the Decree contains an article which solely references the lotteries outlined in article 3ter of the Lottery Ordinance.



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policy.⁴³ Their inability to enforce the moratorium results from the wording of the policy, “to construct or erect any more booths on the island”⁴⁴. According to the Department of ETT, due to the focus on the physical location, the enforcement of the moratorium falls on the Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure.⁴⁵ Furthermore, the Department of ETT has stated that it is unable to control the opening of new locations stemming from the lottery license in which article 12 states, “The lotteries are organized in one or more locations set up for this purpose”.⁴⁶

The SER is of the opinion that the Department of ETT inability to effectively institute a moratorium on sales points of lotteries stems from the absence of legislation that properly regulates lotteries and their sales points. The SER has found that if the Department of ETT wished to maintain a moratorium on the opening of additional sales points, the correct legal tools could have been applied by the Department of ETT, as the regulating of economic licenses and the conditions to which the license holder must adhere, to operate falls within the purview of the Ministry of TEATT.⁴⁷ As licenses are granted temporarily, upon the request for renewal, the permit conditions can include the suggested limitations. Moreover, based on article 2, paragraph 1, section c of the Decree 3bis, the license can be granted for (a) specific location(s).⁴⁸ Therefore, the SER advises that upon renewal, permit conditions should include a limitation of the number of sales points allowed per permit holder, through the invocation of article 2, paragraph 1 section C of Decree 3bis.

1.2.3. Enforcement of the Law

The main concern of the SER regarding the lottery license is that the license holders are not adhering to the rules and regulations outlined in their lottery license.⁴⁹

In relation to the placement of lottery booths, permit conditions have stated that a lottery license holder is obligated to “Within two months after the start of the lottery business, an overview must be sent of the locations from which the lottery tickets are sold. In addition, the license stipulates that each new point of sale must be reported to the Finance and the Economic Permits Department.⁵⁰ However, lottery license holders are not reporting new sales points and are thus not adhering to articles stipulated in their permit. The Department of ETT has informed the SER that due to the lack of enforcement powers aside from the ability to deny or withdraw a license the entire license itself, structural non-compliance amongst lottery license holders remains an issue. In addition, the Ministry has informed the SER, that the Ministry is also unable to apply fines or penalties for “minor” cases of non-compliance.⁵¹

⁴³ Interview with the Department of ETT, 20 May 2022.

⁴⁴ Policy amendment 2019.

⁴⁵ Interview with the Department of ETT, 20 May 2022

⁴⁶ Documentation provided by the Department of ETT, 20 May 2022.

⁴⁷ Article 2, of the Decree 3bis, AB 2013, GT no. 97.

⁴⁸ Article 2, paragraph 1, section C, Decree 3bis, AB 2013, GT no. 97.

⁴⁹ Interview with the Department of ETT, 20 May 2022.

⁵⁰ Interview with the Department of ETT, 20 May 2022.

⁵¹ In the SER’s interview with the Department of ETT on 20 May 2022, the SER was informed that the only penalty that the Ministry could use when lottery license holders are not adhering to the requirements of their permits is revoking the license.



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The SER has observed that in accordance with article 8 of the Lottery Ordinance, persons that do not adhere to the laws, regulations or permit conditions of a lottery license, may be given a fine of NAF 5.000 or up to 6 months in jail. Article 8 grants the opportunity to apply fines ranging up to NAF 5000. Therefore, the SER sees no limitations for the Department of ETT to enforce the stipulated conditions of the permit. Furthermore, the SER does, however, question, whether a fine of NAF 5.000 is sufficient to deter license holders from acting in contravention of the laws. The SER has concluded this because the Ministry has reported difficulties in enforcing compliance.⁵²

1.2.4. **Granted for an indefinite period**

Finally, the SER has gathered that it appears that lottery licenses are being issued for an indefinite period, however article 3 paragraph 3 in conjunction with article 3ter paragraph 4 of the Lottery Ordinance, explicitly state that a number lottery license may not be issued for a period exceeding 5 years and can be extended for a period of up to 5 years.⁵³ The SER would like to emphasize the importance of a recurring period within which the license holder is reassessed for compliance with the regulations and conditions to which the licenses are subjected to, in addition to the negative social impact a lottery can have in its surrounding area. In addition, it provides the Department of ETT with the opportunity to adjust the conditions based on which the license is granted allowing for additional scrutiny. Based on research conducted by the SER, the SER has learned that in Curacao, lottery licenses are granted for a maximum of 1 year.⁵⁴ The SER further notes, that permits granted in violation of the law are grounds for withdrawal⁵⁵ and in principle are null and void⁵⁶.

1.3. **Legal Revisions**

The SER is aware that the Ministry of TEATT is currently in the process of reviewing its legislation and policies in relation to lotteries. Consequently, the legal inconsistencies raised by the SER should be clarified and adjusted. The decree 3bis should be amended to include article 3ter of the Lottery Ordinance, or a new Decree should be specifically drafted to regulate this article. In amending Decree 3bis, legal inconsistencies should also be rectified. Furthermore, a national decree regulating article 3ter of the Lottery Ordinance better regulates sales points. The SER is of the opinion that legislation should regulate the number of sales points allowed per permit holder and the fines and penalties for non-compliance of the relevant legislation should be increased and enforced. The urgency to amend the legislation to properly regulate lotteries, the issued licenses, and the sales points of such are evident to the SER considering the Department of ETT's inability to enforce its own moratorium. Sint Maarten does not have an independent regulatory body and or supervisor of the gambling sector⁵⁷ such as a Gaming commission or Gaming Control Board (Curacao) that supervises and guarantees the proper enforcement

Given the circumstances for which license holders do not comply, the Department of ETT considers revoking a license as an extreme measure that should not be applied.

⁵² Interview with the Department of ETT, by email, 20 May 2022.

⁵³ Information provided by the Department of ETT, 20 May 2022.

⁵⁴ <https://www.gamingcontrolcuracao.org/regulation/numbers-lottery>.

⁵⁵ Article 6ter paragraph 1 section b of the Lottery Ordinance, AB 2013, GT no. 121.

⁵⁶ Article 3:39 and further, Civil Code Sint Maarten, AB 2013, GT no. 826.

⁵⁷ [Will Curacao Gambling Reforms Affect St Maarten Casinos? – St. Maarten Government News \(sxmgovernment.com\)](#).



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of local gaming laws, however the section casino control within the ministry of TEATT assumes this role.

2. Lottery Booths on Sint Maarten, prior to hurricane Irma and Maria as compared to 2020.

2.1. Available data on the placement of registered Lottery Booths

The SER has established the existence of a total of 7 lottery licenses issued on Sint Maarten, as of December 31st 2020, of which all were operational in 2020.⁵⁸ In total, the 7 lottery license holders have established approximately 360 facilities⁵⁹ through which tickets for diverse number lotteries are sold.⁶⁰ The data also combines the sale of lottery tickets through mobile phones and machines. In its research the SER has found that between 2019 and the first quarter of 2021,⁶¹ from the 360 locations, a total of 111 booths were registered as locations from which lottery tickets are physically being sold on Sint Maarten. The SER was unable to obtain data from registered lottery booths dating prior to 2019.

The SER would like to note that in accordance with the Lottery Ordinance and the conditions under which a license is issued, license holders are legally obligated to inform the Department of ETT in the event additional locations are established in addition to existing lottery booths. However, in practice license holders do not meet this obligation⁶² and therefore the data on the number of active booths may not align with the actual number of lottery booths on Sint Maarten up until the first quarter of 2021.⁶³ The SER would like to point out that these numbers, (111 lottery booths) may at this point have significantly increased by now. The SER notes that the maximum lottery booths, lottery license holders may establish in Curacao is capped to 362 locations. Each permit grants the possibility to open 70 locations. To provide additional context to allow for a better understanding of these numbers, Sint Maarten consists of 16 square miles, whereas Curacao consists of 171 square miles. This translates to 2.11 locations per square miles as opposed to 6.9 lottery booths per square mile on Sint Maarten. The SER would like to reiterate that the total of 111 locations spread over 16 square miles, only depicts the total of registered lottery booths. As previously mentioned, in practice most lottery license holders do not adhere to the obligation to register new sale points.⁶⁴ The SER would like to further reiterate that the negative effects of gambling, which are discussed in chapter 3, can pose a significant social threat to society. Thus, the SER would like to stress the importance of data to allow for sound evident-based formulation and implementation of policies. Without specific data reflecting Sint Maarten's reality, policies will continue to lack an approach that effectively addresses Sint Maarten's societal issues.

⁵⁸ General Audit Chamber Sint Maarten, Mini Audit: Responsible Gambling, September 2021. P.5.

⁵⁹ The facilities include, booths, containers, machines placed in businesses, sales through mobile phones and the head offices from which the license holders operate.

⁶⁰ The SER received the provided data from the Department of ETT by e-mail. The data covers registrations between 2019 and the first quarter of 2021.

⁶¹ Ibid.

⁶² Reference is made to paragraph 1.2.3 Enforcement of the Law.

⁶³ Interview with the Department of ETT, 20 May 2022.

⁶⁴ Reference is made to paragraph 1.2.3. Enforcement of the Law.



2.2. Geographical Distribution of the number of Lottery Booths up until 2021

Based on the data provided by the Department of ETT, the SER has found that the number of lottery booths registered between 2019 and 2021 consists of approximately 111 locations. The 111 booths are divided over 9 districts, namely: Upper Prince's Quarter, Lower Prince's Quarter, Little Bay, Cole Bay, Simpson Bay, Philipsburg, Cul-de-Sac, Cay Bay and Location Unknown⁶⁵. 75% of the 111 lottery booths are in Cole Bay, Upper and Lower Prince's Quarter and Cul-de-Sac. The districts Cole Bay followed by Lower Prince's quarter have the highest number of Lottery Booths, whereas Simpson Bay and Little Bay have the lowest number of Lottery Booths. The SER notes further, that as of 2017, Lower Prince's Quarter (10.833), followed by Cul-de-Sac (8.588) and Cole Bay (7.194) are also the most heavily populated districts on Sint Maarten.⁶⁶ As these areas are highly populated and have a high population density, in comparison to other districts, the SER has derived that these areas house the largest portion of lower income communities. As such 75% of the number of lottery booths are placed in the top 3 most populated areas consisting of significantly more people stemming from lower income communities than other districts. The SER notes further, that 25% of all sale points are in Lower Prince's Quarter, which includes booths, mobiles and machines. See Table 1.

Table 1: provides an overview of the registered sale points from 2019 up until the 2nd quarter of 2020.

Location Sale Points 2019 - 2020									
District	Cay Bay	Cole Bay	Cul de Sac	Little Bay	Lower Prince's Quarter	Philipsburg	Simpson Bay	Upper Prince's Quarter	Location Unknown**
Registered Lottery Booths	2	25	19	5	23	10	2	15	10
Registered mobiles	2	15	14	3	35	8	0	9	63
Registered Machines	1	6	14	1	20	8	6	3	0
Other*	0	9	1	1	11	9	2	0	4
Total	5	55	48	10	89	35	10	27	77

* Include headquarters, offices, and containers.
 ** Location unknown as these locations are registered as future booths of which the location must be determined, or the registered address is unclear.

Graph 1: Overview of registered lottery booths on Sint Maarten between 2019 – 2020.

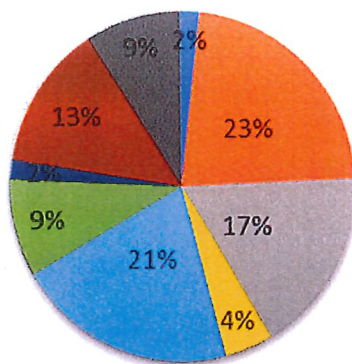
⁶⁵ A total of 10 booths were not categorized at the time the information was shared with the SER, and therefore are registered as blank.

⁶⁶ Department of Statistics Sint Maarten, Sint Maarten Statistical Yearbook 2017, p. 50.



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Registered Lottery Booths



■ Cay Bay ■ Colebay ■ Cul de Sac
■ Little Bay ■ Lower Prince's Quarter ■ Philipsburg
■ Simpson Bay ■ Upper Prince's Quarter ■ Location Unknown**

3. The socio-economic impact on the communities in which these lottery booths are placed on Sint Maarten.

3.1. Lower Income Communities

There SER is aware that there are many factors that can play a role in the development of a gambling addiction, such as biological, cultural, physiological and environmental factors. The placement of lottery booths focuses on the environment within which a person lives, such as the distance from a sale point or number of sale points in their direct surroundings. The placement of lottery booths in lower income communities' ties into the social and economic standing of persons living in these communities and their motivation to improve their socioeconomic standing.

The SER is aware, that most people participate in lotteries with the sole intention to win a monetary prize. As such, people with significantly fewer financial capabilities are more likely to participate in such gambling activities, as they are more motivated to improve their socioeconomic standing.

In 2019, the General Audit Chamber published a report on Responsible Gambling within which various studies⁶⁷ were presented, that depict a positive correlation⁶⁸ between the number of legal gambling

⁶⁷ Alegria AA, Petry NM, Hasin DS, Liu SM, Grant BF, Blanco C. Disordered gambling among racial and ethnic groups in the US: results from the national epidemiologic survey on alcohol and related conditions.

⁶⁸ The studies suggest that as the number of lottery booths in a location increases, so does a person's risk of developing a serious gambling problem.



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venues placed in a location and the development of gambling addictions. Furthermore, studies⁶⁹ have shown that lotteries found in disadvantaged neighborhoods disproportionately affect the poor as they are more prone to developing a serious gambling problem. On Sint Maarten, 75% of all lottery booths have been established in the most heavily populated and lower income communities.

Considering that the purchase of lottery tickets requires a lower input than a game played within a casino, considering that lottery booths outnumber casinos⁷⁰ roughly 8 to 1 on Sint Maarten and are predominantly placed in lower income communities, the SER acknowledges that the placement of these lottery booths on Sint Maarten, can disproportionately affect these communities.

The SER has found that these persons are more susceptible to developing a serious gambling problem as opposed to persons stemming from other communities. The SER would therefore like to remind the government of its responsibility towards such persons to ensure the limitation of the placement of lottery booths and other sale points in these communities.

3.2. **Other Vulnerable Groups**

In its research, the SER has established that many lottery booths are located within 100 meters of various vulnerable social groups, such as schools, clinics, churches, banks, rehabilitation centers, retirement homes etc. The SER is of the opinion that lottery license holders should not be permitted to establish sale points within the vicinity of establishments that cater to vulnerable groups, such as children and young adults, seniors or sick persons. In its research, the SER has found that the reason for this is because such person's good decision-making skills have usually not fully developed or have been affected. Within this group, youths between the ages of 18-24 are most likely to develop a gambling problem.⁷¹

The SER has established that many lottery booths are currently located within 100 meters of primary and secondary high schools although article 2, paragraph 1 section f of Decree 3bis, strictly prohibits sales to minors. Currently, lottery booths are placed anywhere with no restrictions. As the placement of lottery booths and other sale points is currently not regulated, the SER strongly suggests limiting locations, as to where lottery booths and other sale points may be placed. The SER refers to article 2, paragraph 1 section c, Decree 3bis.

3.3. **Safety of Lottery booth Structures**

In its research, the SER has established that the quality of the structures built to house the lottery sale points are often limited. The SER would like to remind the Ministry, of the Governments obligation to ensure, employers provide safe structures and safe working environments for their employees. The SER

⁶⁹ Grace M. Barnes, Research Article: "Effects of neighborhood disadvantage on problem gambling and alcohol abuse", published in: Journal of Behavioral Addictions 2(2), p. 82–89 (2013), DOI: 10.1556/JBA.2.2013.004, April 12, 2013. <https://akjournals.com/view/journals/2006/2/2/article-p82.xml>.

⁷⁰ Sint Maarten currently has 13 operational casino licenses and 111 registered lottery booths in 2020.

⁷¹ Young adults between the ages of 18–24 are more likely to engage in risky gambling behavior, due to the fact that their brains are still developing and until the age of 24 or 25 years, emotion and logic isn't fully obtained. As a result, good decision-making becomes more difficult. Reference: Responsible Gambling Council (RGC) Canada.



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would like to encourage the Ministry to utilize the ability to introduce structural requirements for lottery booths, pertaining to the spacing, lighting, furnishings, windows, ventilation, and hygiene, as conditions to lottery licenses. Such requirements can significantly improve the working conditions of employees, who often spend many hours in a confined space.⁷²

3.4. **Gambling Addiction on Sint Maarten.**

Currently there is no recent available data that depicts the scale on which the gambling addiction on Sint Maarten exists. The Ministry of Public Health, Social Development and Labor has informed the SER that the Ministry is currently in the process of assessing gambling addiction on Sint Maarten, and therefore could not provide any data on the number of gambling addicts. As a result, the exact number of persons that may suffer from a gambling addiction on Sint Maarten is still unknown and the SER was unable to determine the severity of gambling addiction on Sint Maarten. The SER did obtain data from the TPF which has provided the SER with the total number of persons suffering from all forms of addiction, to which the foundation has provided care. Also taking into consideration that many persons that suffer from an addiction are ashamed and therefore limit seeking help which may impact the numbers of persons that seek help.

Turning Point Foundation Patient Care			
Year	2020	2021	2022
Outpatient Care	0	27	40
Inpatient Care	11	11	18

The Government of Sint Maarten Casino Policy notes that in 1994, approximately 25% of residents took part in gambling, by 1995 this number had increased to 55%.⁷³ A study carried out in Curacao between 1995 and 2003 registered an increase of 6% in gambling of which casinos and the purchasing of number lottery tickets were the most common.⁷⁴ The study shows further that 12% - 31% of all participants in gambling result in problematic playing habits, of which a maximum of 3.2 - 6.9% will result in a serious gambling addiction.⁷⁵ In 1995, Sint Maarten's population consisted of 31.596 persons.⁷⁶ Applying the aforementioned statistics can provide a rough estimate of what the gambling addiction landscape may look like Sint Maarten. The above calculation provides for a rough estimated 250 persons suffering from a serious gambling addiction on Sint Maarten, not considering the increase in gambling between 2003 and 2023.

⁷² Article 2, paragraph 1 section D of the Decree 3bis, AB 2013, GT no. 97.

⁷³ Casino Policy 2005, Rules of the Game, dated June 2021, p. 3.

⁷⁴ Curacao Institute for Social and Economic Studies (CURISES), Gokproblematiek op Curacao, November 2003, p. 16.

⁷⁵ Ibid.

⁷⁶ Data provided by the Worldbank.



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3.5. **Effects of Gambling addictions**

In its research⁷⁷ The SER has found that gambling addiction negatively impacts one's physical and mental health and may lead to other addictions such as alcoholism, depression and even suicide. The SER notes that many negative effects usually go beyond the addiction itself and can affect a person's direct (social) surroundings. Gambling addictions have been linked to domestic abuse, additional legal fees (divorce, arrests or bankruptcy), therapy costs, reduced job performance, job loss followed by unemployment, increased financial burden as a result of job loss for families. Ultimately, continuous gambling can lead to escalating debt and financial issues, with an increased urgency to continue the cycle by spending more time and energy gambling or attempting to cover it up. In the end, gambling addictions can lead to chronic stress that can lead to physical health conditions, such as cardiovascular disease, hypertension, and peptic ulcer disease.

As Sint Maarten, currently provides limited options for those seeking care for gambling problems, the high cost of living, the low minimum wage and limited social welfare on Sint Maarten, the effects of developing a serious gambling problem can be increasingly burdensome on Sint Maarten for persons with minimal financial capabilities.

4. **Medical Support for Gambling Addiction on Sint Maarten**

4.1. **Legal Social Responsibility**

The SER has found, that article 12 of the Economic, Social and Cultural Rights Treaty in conjunction with article 21 of the constitution of Sint Maarten, constitutes a legal obligation for country Sint Maarten to take the necessary steps to provide adequate care for persons suffering from mental illnesses which include ,mental illnesses such as (gambling) addiction. Therefore, Sint Maarten has recognized the right of every person to enjoy the highest attainable standard of physical and mental health. As such, the SER finds that the government of Sint Maarten is responsible to create an environment within which proper medical assistance for persons suffering from a mental illness such as a gambling addiction, is ensured.⁷⁸ Moreover, the treaty requires Sint Maarten to provide adequate care for the mental illness, in addition to all other forms of addiction.

4.2. **Care on Sint Maarten**

Persons suffering from a gambling addiction can visit their general practitioner and request a referral letter for specialized care. The patient may then be referred to the MHF for further assessment. As gambling addiction is currently not legally categorized as a mental illness, the MHF is limited in its functioning and its ability to provide care.⁷⁹ Although MHF is limited in its ability to assist, it has established working agreements with the TPF. MHF transfers its patients to the TPF once it has reached its limitations. The TPF is a non-profit institution that handles and provides specialized care for persons suffering from various addictions on Sint Maarten. The SER has found that the TPF manages a one-year program that assists in combatting addiction for patients that have been mandated by the court to

⁷⁷ W.R. Eadington, The Economics of Casino Gambling, Journal of Economic Perspectives, Volume 13, No. 3, 1999.

⁷⁸ New York, 19 December 1966, Trb. 1969, 100.

⁷⁹Mental Health Foundation 2019 Year Report, The Organizations Profile, p. 11.



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follow their program. Previously, the TPF offered a one-year program to persons committed to addressing their gambling addiction voluntarily, which was funded by the Ministry of Public Health, Social Development and Labor (hereafter Ministry of Public Health). However, as of 2016, the Ministry of Public Health no longer funds this program.⁸⁰

4.3. **The SER's findings**

The SER has found that in analyzing its care options for persons suffering from gambling addictions, the available care focuses on persons that have already developed a serious gambling problem and is not geared towards the prevention of developing a gambling addiction. However, the SER understands the financial position of the Government and recognizes that funds are limited. As such, the SER would advise the Government to structurally implement the allocation of earned gambling tax revenues or other financial contributions through the invocation of article 4 paragraph 3⁸¹ of the Lottery Ordinance. The SER is of the opinion that article 4 provides a legal basis to obligate lottery license holders to contribute, in addition to existing licensing fees, to projects of social significance, such as the program provided by the TPF.

5. **Social Responsibility**

Although the SER welcomes the economic incentives such as an increase in employment and increased revenues for government, the SER is of the opinion that the current legislation and its policies applicable to lottery booth holders and gambling institutions, does not encompass policies that promote the well-being of the community or lessen the negative effects of the placement of lottery booths in lower income communities. The SER would like to highlight the importance of implementing policies that promote social responsibility on the level of the lottery booth license holders, as these booths capitalize on gambling addicts and significantly contribute to the increase of gambling problems on the island.

The SER is of the opinion that it is also the responsibility of the legislature to ensure that vulnerable groups within our community are protected from excessive exposure to gambling venues through the incorporation of social responsibility, such as implementing laws that limit the distance within which lottery booths can be placed from vulnerable institutions, such as schools, hospitals, rehabilitation centers, clinics etc. and the limitation of the number of booths per license. It is the opinion of the SER, that there is an urgent need to place gambling on the Government's agenda to effectively enforce the Lottery Ordinance and improve the current laws and regulations to protect vulnerable groups within our society from excessive exposure to gambling facilities. Such an approach will further reduce the social cost of the limited regulation of lottery booths placement on Sint Maarten and will be more beneficial for the society.

⁸⁰ General Audit Chamber, Mini Audit September 2021, Responsible Gaming, p. 7.

⁸¹ Article 4 paragraph 3: Without prejudice to the second paragraph, the holder of a license as referred to in Article 3ter, third paragraph, owes a financial contribution to be determined by the Minister, which must be used in the manner to be indicated by the Minister for purposes of general social interest.